

VICTORIA.



VOTES

AND

PROCEEDINGS

OF THE

LEGISLATIVE

COUNCIL.

SESSION

1856-7.

VICTORIA.



VOTES AND PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL

DURING THE SESSION

1856-7,

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

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4th Dec. 1. A Report of Sewerage and Water Commission.  
" 2. Regulations and Charges in the department of the Electric Telegraph.  
" 3. Report of the Acting Immigration Agent for the year 1855.  
11th Dec. 4. Report on projected Harbor and Jetty at Snapper Point.  
" 5. Despatch from the Right Honorable the Secretary of State for the Colonies, in reply to an Address from the late Legislative Council on the subject of the Russian War (23rd April, 1856).  
" 6. Despatch from Major-General Macarthur to the Right Honorable the Secretary of State, on the subject of Transportation, with an Enclosure (26th August, 1856).  
" 7. Despatch from the Right Honorable the Secretary of State, on the subject of Steam Postal Communication (18th June, 1856).  
" 8. Despatch from the Right Honorable the Secretary of State, announcing the appointment of Sir Henry Barkly as Governor of Victoria (5th July, 1856).  
" 9. Local Court Regulations for the Steiglitz District (5th December, 1856).  
" 10. Local Court Regulations for the Avoca District (9th December, 1856).  
" 11. Local Court Regulations for the Waranga District (7th October, 1856, and 28th November, 1856).  
" 12. Local Court Regulations for the Castlemaine District (18th January, 1856; 27th August, 1856; 5th September, 1856; 7th November, 1856; 28th November, 1856).  
" 13. Local Court Regulations for the Creswick District (15th of April, 1856; 12th September, 1856; 7th November, 1856; Frontage Series, 7th November, 1856).  
" 14. Local Court Regulations for the Ballarat District (8th April, 1856; 10th May, 1856; 3rd June, 1856; 12th June, 1856; 27th August, 1856; Surfacing Series, 27th August, 1856; 17th October, 1856).  
" 15. Local Court Regulations for the Hepburn District (8th April, 1856; Regulations undated; Regulations, 12th June, 1856; 26th September, 1856).  
" 16. Local Court Regulations for the Beechworth District (18th March, 1856; 8th April, 1856; 23rd May, 1856; 10th June, 1856; 15th July, 1856; 29th July, 1856; 16th September, 1856; 26th September, 1856; 7th October, 1856; 28th October, 1856).  
" 17. Local Court Regulations for the Mount Blackwood District (8th April, 1856; 12th September, 1856; 7th October, 1856; 4th November, 1856).  
" 18. Local Court Regulations for the Avoca District (2nd May, 1856; 28th October, 1856; Special for Avoca Lead, 28th October, 1856).  
" 19. Local Court Regulations for the Sandhurst District (General Regulations, 27th August, 1856; 3rd October, 1856).  
" 20. Local Court Regulations for the Yaekandandah District (26th March, 1856; April, 1856; 10th May, 1856).  
" 21. Local Court Regulations for the Heathcote District (16th May, 1856; 29th July, 1856).  
" 22. Local Court Regulations for the Raglan District (19th September, 1856).  
" 23. Regulations for the Chinese on the Gold Fields (19th March, 1856).  
" 24. Gold Fields General Regulations (1st April, 1856; 2nd May, 1856).  
" 25. Report of the Proceedings of the University of Melbourne.  
" 26. Supreme Court Rules (22nd May, 1856).  
" 27. Supreme Court Rules (14th March, 1856; 3rd April, 1856; 8th April, 1856).  
" 28. Return of Expenditure of the Corporation of Melbourne from 1st September, 1855, to 31st August, 1856).  
" 29. Return of Receipts and Expenditure for Fitz Roy Ward Improvement for the year ending 31st August, 1856.  
" 30. Return of Friendly Societies registered during the year 1855.  
" 31. Despatch from the Right Honorable the Secretary of State for the Colonies on the subject of a second contribution from the Colony of Victoria to the Patriotic Fund (30th July, 1856).  
" 32. Letter from the Honorary Secretary to the Royal Commission of the Patriotic Fund, acknowledging the receipt of the second contribution from the Colony of Victoria to the Patriotic Fund (7th December, 1855).  
" 33. Despatch from the Secretary of State on the subject of the Influx of Criminals Act.  
30th Dec. 34. Plans, Specifications, and Estimate of the Western Market Buildings in the City of Melbourne.  
" 35. Local Court Regulations, Steiglitz District (16th December, 1856, and 23rd December, 1856).

- 1856.
- 30th Dec. 36. Local Court Regulations, Waranga District (19th December, 1856).
37. List of Acts lately assented to by Her Majesty (Despatch No. 44, 26th December, 1856).
38. Despatch, with Enclosures on the subject of Remission Orders to Officers of the Honorable East India Company's Service.
39. Census, 1854.—"Civil Condition of the People."
40. Census, 1854.—"Occupations of the People."
41. Coasting Trade of Victoria.—Despatches.
42. Trade with Russia.—Despatch (18th April, 1856) from the Right Honorable the Secretary of State.
- 1857.
- 8th Jan. 43. Return of Crown Lands alienated and offered for sale in Victoria from 1st January, 1856, to 30th June, 1856.
44. Local Court Regulations.—District of St. Andrews (26th December 1856).
45. Local Court Regulations.—District of Hepburn (26th December, 1856).
46. Local Court Regulations.—District of Castlemaine (26th December, 1856).
47. Local Court Regulations.—District of Beechworth (26th December, 1856).
48. Local Court Regulations.—District of Avoca (26th December, 1856).
49. Census of Victoria, 1854.—"Education of the People."
50. Third Annual Report of Births, Deaths, and Marriages.
51. Patriotic Fund.—Despatch from the Right Honorable the Secretary of State for the Colonies, 4th October, 1856, enclosing an acknowledgment from the Honorary Secretary of the Patriotic Fund of a second contribution of £20,000 from Victoria to the Patriotic Fund.
52. List of Pensions granted under the 50th Section of the Constitution Act.
53. Statement of the distribution of amount authorized for Public Worship for the year 1855.
- 20th Jan. 54. Report on the Proposed New Lunatic Asylum.
55. Report of the Board appointed to inquire into and ascertain the difference which has been produced in the cost of building by the resolution of the operatives not to work more than Eight Hours per diem.
56. Census of Victoria, 1854.—"Birthplace of the People."
57. Health Officer, Reports:—(1.) Half-year ending 30th June, 1855.  
 (2.) Half-year ending 31st December, 1855.  
 (3.) Half-year ending 30th June, 1856.
58. Local Court Regulations.—Ballaarat (9th January, 1857).
59. Acts of Council assented to by Her Majesty.—(Despatch No. 65, 20th September, 1856.)
- 21st Jan. 60. Colonial Loans.—(Despatch 18th September, 1856, from Secretary of State.)
61. Account of Expenditure (under the Act 18 and 19 Vict., cap. 55), on account of the service for the year 1855.
62. Postal Communication.—(Despatches from Secretary of State, 16th September, 1856; 13th October, 1856; 18th October, 1856.)
63. Lands set apart for Religious and Educational Purposes during the year 1855.
64. Lands set apart for Religious and Educational Purposes during the year 1856.
- 27th Jan. 65. Despatch (Circular, 30th October, 1856, with enclosures), intimating Her Majesty's pleasure that the title of "Honorable" be conferred on the President and Members of the Council.
66. Local Court Regulations.—Heathcote (20th January, 1857).
67. Local Court Regulations.—St. Andrews (23rd January, 1857).
68. Local Court Regulations.—Hepburn (20th January, 1857).
- 29th Jan. 69. Correspondence relative to the establishment of Electro-Telegraphic Communication between the Australian Colonies.
70. Customs Duties.—River Murray.
71. Immigration from the United Kingdom.—(Summary Report of Emigration Commissioners.)
72. Immigration.—Correspondence relative to
73. Chinese Immigrants Fund.—(Regulations.)
74. Australian Lighthouses.
75. Passage of Baggage and Goods across the Isthmus of Suez.
76. Australian Tariffs.—Correspondence upon
77. Electric Telegraph.—Report of Superintendent.
- 11th Feb. 78. Denominational School Board.—Report 1855, and part of 1856.
79. Local Court Regulations.—Yackandandah (6th February, 1857).
- 17th Feb. 80. Vice-Admiralty Court.—Return to Address.
81. Copy of Contract with "European and Australian Royal Mail Company."
- 24th Feb. 82. Plan of Lady Bay, Warrnambool.—(Surveyed in 1853.)
83. Local Court Regulations.—Mount Blackwood (17th February, 1857).
84. Local Court Regulations.—Creswick (13th February, 1857).
85. Statistics of the Colony of Victoria for 1855.
- 25th Feb. 86. Report on the Yarra Bend Lunatic Asylum (1856).
- 10th March. 87. Local Court Regulations.—Beechworth (24th February, 1857).
88. Local Court Regulations.—Castlemaine (24th February, 1857).
89. Local Court Regulations.—Maldon (6th March, 1857).
- 27th May. 90. Local Court Regulations for the Maldon District (27th March, 1857).
91. Local Court Regulations for the Mount Blackwood District (1st May, 1857).
92. Local Court Regulations for the Creswick District (21st April, 1857, and 5th May, 1857).
93. Local Court Regulations for the Hepburn District (1st May, 1857).
94. Local Court Regulations for the Beechworth District (21st April, 1857).
95. Local Court Regulations for the Dunolly District (15th April, 1857).

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- 27th May. 96. Supreme Court Rules (15th February, 1857, Rules 11 and 19, chapter 2).  
 „ 97. Central Board of Health—Second Annual Report.  
 „ 98. Despatch from the Right Honorable the Secretary of State for the Colonies, conveying the Royal Assent to an Act of Council, 19 Victoria, No. 13 (18th December, 1856).  
 „ 99. Despatch from the Right Honorable the Secretary of State for the Colonies on Warlike Preparations during Peace (8th December, 1856).  
 „ 100. Despatch from the Right Honorable the Secretary of State for the Colonies on the subject of Alpacas (19th December, 1856).  
 „ 101. Health Officer.—Report for half year ending 31st December, 1856.  
 „ 102. Second Meteorological Report.—Victoria.
- 3rd June. 103. Local Court Regulations.—Steiglitz (22nd May, 1857).  
 „ 104. Local Court Regulations.—Waranga (22nd May, 1857).  
 „ 105. Local Court Regulations.—Heathcote (22nd May, 1857).
- 4th June. 106. Crown Lands Alienated (1st July to 21st December, 1856).
- 17th June. 107. Supplementary Regulation for the Chinese on the Gold Fields (2nd June, 1856).  
 „ 108. Receipts and Expenditure.—Melbourne and Hobson's Bay Railway, to 30th April, 1857.  
 „ 109. Friendly Societies.—Return of—(Registered 1856.)  
 „ 110. Local Court Regulations.—Fryer's Creek District (12th June, 1857).  
 „ 111. Local Court Regulations.—Mount Egerton District (2nd June, 1857).  
 „ 112. Local Court Regulations.—Castlemaine District (2nd June, 1857).  
 „ 113. Local Court Regulations.—Avoca District (2nd June, 1857).  
 „ 114. Local Court Regulations.—Buninyong District (2nd June, 1857).
- 18th June. 115. National Education Board—(Progress Report of, 1856).
- 14th July. 116. Penal Department.—(Report of Inspector General.)  
 „ 117. Regulations for the Chinese on the Gold Fields (6th July, 1857).  
 „ 118. Local Court Regulation.—District of Yackandandah (3rd July, 1857).  
 „ 119. Local Court Regulation.—District of Castlemaine (3rd July, 1857).  
 „ 120. Local Court Regulations.—District of Avoca (19th June, 1857).
- 22nd July. 121. Local Court Regulations.—District of Mount Blackwood (17th July, 1857).  
 „ 122. University of Melbourne.—Report of Proceedings, 1st May, 1856, to 30th April, 1857.
- 29th July. 123. Letters Patent, abolishing certain Offices.
- 30th July. 124. Lighthouses at Cape Schanck and Wilson's Promontory.—Report on (21st May, 1857).
- 4th August. 125. List of Acts lately assented to by Her Majesty.—Despatches No. 26, No. 27 (24th April, 1857), No. 28 (25th April, 1857).  
 „ 126. Local Court Regulations.—District of Mount Blackwood (24th July, 1857).
- 11th Aug. 127. Local Court Regulations.—Ballaarat District (4th August, 1857).
- 18th Aug. 128. Local Court Regulations.—Dunolly District (7th August, 1857).  
 „ 129. Local Court Regulations.—Beechworth District (7th August, 1857).
- 27th Aug. 130. Fourth Report of Commissioners of National Education (1856).  
 „ 131. Birth of a Princess.—Despatch from the Right Honorable the Secretary of State (20th April, 1857).  
 „ 132. Death of Her Royal Highness the Duchess of Gloucester.—Despatch from the Right Honorable the Secretary of State (11th May, 1857).  
 „ 133. Local Court Regulations.—Taradale District (21st August, 1857).  
 „ 134. Local Court Regulations.—Dunolly District (21st August, 1857).  
 „ 135. Lighthouses (Correspondence on).—In continuation of Papers presented during the Session.
- 1st Sept. 136. Administration of Oaths.—Circular Despatch from the Right Honorable the Secretary of State (20th May, 1857).
- 17th Sept. 137. Federation of the Australian Colonies.—Circular Despatch (17th June, 1857) from the Right Honorable the Secretary of State for the Colonies.  
 „ 138. List of Acts assented to by Her Majesty.—Despatches No. 40 (1st June, 1857) and No. 41 (4th June, 1857) from the Right Honorable the Secretary of State for the Colonies.  
 „ 139. Health Officer, Report of—Half year ending 30th June, 1857.  
 „ 140. Local Court Regulations.—District of Creswick (11th September, 1857).  
 „ 141. Local Court Regulations.—District of Heathcote (1st September, 1857, 11th September, 1857).  
 „ 142. Local Court Regulations.—District of Yackandandah (1st September, 1857).  
 „ 143. Local Court Regulations.—District of Avoca (1st September, 1857).  
 „ 144. Local Court Regulations.—District of Waranga (1st September, 1857).  
 „ 145. Botanic Garden, Melbourne.—Report on, by Dr. Ferdinand Mueller, 1857.
- 22nd Sept. 146. Regulations for Registration of Patents (9th September, 1857).
- 2nd Oct. 147. Agricultural and Live Stock Statistics.—Year ending 31st March, 1857.
- 13th Oct. 148. Local Court Regulations.—District of Heathcote (2nd October, 1857).  
 „ 149. Local Court Regulations.—District of Creswick (2nd October, 1857).  
 „ 150. Local Court Regulations.—District of Hepburn (2nd October, 1857).  
 „ 151. Supply of Water to Geelong.—Report of Chairman of Geelong Water Company (30th May, 1857).  
 „ 152. Supreme Court Rule (2nd October, 1857).
- 20th Oct. 153. Mining Resources of the Colony.—Second Progress Report of the Commissioners appointed to inquire into the Mining Resources of the Colony.
- 27th Oct. 154. Corporation of Melbourne.—Return of Expenditure.—Act of Council, 17 Victoria, No. 13 (from 1st September, 1856, to 31st August, 1857).  
 „ 155. Fitz Roy Ward Improvements.—Return of Moneys raised and received under the Act of Council, 17 Victoria, No. 31 (from 1st September, 1856, to 31st August, 1857).

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- 27th Oct. 156. Local Court Regulations.—District of Creswick (16th October, 1857).  
 „ 157. Local Court Regulations.—District of Fryer's Creek (16th October, 1857).  
 „ 158. Local Court Regulations.—District of Raglan (16th October, 1857).  
 „ 159. Local Court Regulations.—District of Castlemaine (16th October, 1857).  
 3rd Nov. 160. Return to an Order (13th October, 1857) of the Legislative Council for a Return of all Tenders for the £33,000 Debentures lately offered for Sale by the Government.
- „ 161. Astronomical Observatory.—(Half-yearly Report ending 30th June, 1857).  
 10th Nov. 162. Local Court Regulations.—District of Castlemaine (30th October, 1857).  
 „ 163. Local Court Regulations.—District of Beechworth (30th October, 1857).  
 „ 164. Local Court Regulations.—District of St. Andrew's (30th October, 1857).  
 „ 165. Local Court Regulations.—District of Ararat (30th October, 1857).  
 „ 166. Return to Address (6th October, 1857).—Report of Board of Inquiry in the case of John Langtree, Secretary to the Water and Sewerage Commission.
- 17th Nov. 167. Local Court Regulations.—District of Raglan (6th November, 1857).  
 18th Nov. 168. Copy of Despatch from the Secretary of State, acknowledging the receipt of an Address on the subject of Transportation of Felons (6th September, 1857).
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1856-7.

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VICTORIA.

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LEGISLATIVE COUNCIL.

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**STANDING ORDERS**

OF THE

LEGISLATIVE COUNCIL,

AND

**JOINT STANDING ORDERS**

OF

BOTH HOUSES OF PARLIAMENT.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

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- VI. How Order for Call of House to be forwarded.
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- CXIX. [J.O. 21.] Clerical Errors in Bills to be reported.  
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- CXXI. [J.O. 23.] Three to be a Quorum of Joint Library Committee.

# STANDING ORDERS.

## GENERAL CONDUCT OF BUSINESS.

I. That in all cases not hereinafter provided for, resort shall be had to the Rules, forms, usages, and practice of the Imperial Parliament of Great Britain and Ireland, which shall be followed so far as the same are applicable to the proceedings of this Council.

II. That the President shall take the Chair as soon after the time appointed for the Meeting of the Council as there shall be a quorum of members present; but if at the expiration of half an hour after the time appointed there be not a quorum, the President shall then take the Chair and adjourn the Council to the next sitting day.

III. That if at any time after the commencement of the business of the day, notice be taken that there be not a quorum of members present, the President shall forthwith count the House, and if there be not a quorum, shall, without question put, adjourn the Council to the next sitting day.

IV. Whenever the President shall by letter inform the Clerk of the Council that he is prevented attending in his place, or whenever the Clerk of the Council shall state that the President is unavoidably detained, the Chairman of Committees of the Council, if present, but if he shall be absent, then such other member as the Council may appoint, do perform the duties and exercise the authority of President in relation to all proceedings of this Council as Deputy President until the next meeting of the Council, and so on from day to day on the like information being given to the Council, until the Council shall otherwise order: provided that, if the Council shall adjourn for more than twenty-four hours, the Deputy President shall continue to perform the duties and exercise the authority of President for twenty-four hours only after such adjournment.

V. That no Order for a Call of the House shall be made for any day earlier than fourteen days from the date of such Order, inclusive of the day of such Order.

VI. That a Copy of the Order for a Call of the House, signed by the Clerk, shall be forwarded to each member of the Council.

VII. That whenever a Division shall be demanded by two members, the members present shall take their seats, the "Contents" on the right, the "Not Contents" on the left of the Chair respectively, and the President, or the Chairman, when the House is in Committee, shall appoint Tellers, one of either party, and shall declare which has the majority from written lists of the members voting on each side, to be handed to him by the Tellers.

VIII. On every division a bell shall be rung by the Clerk of the House, and the Usher shall ring bells communicating with the library and refreshment rooms; and as soon as the Usher shall report that the doors are locked, the President or Chairman of Committees, as the case may be, shall put the question a second time, and the Tellers shall forthwith proceed to count the members.

IX. That an entry of the Division Lists be made by the Clerk in the Minutes of the Proceedings.

X. That all Addresses to the Governor shall be forwarded by the Clerk of the Parliaments through the Chief Secretary, unless otherwise ordered by the Council.

XI. That a member moving an Order of the Day, or an amendment, shall not be entitled to a reply.

XII. That no member shall digress from the subject matter of the question under discussion, or comment upon the words used by any other member in a previous debate, or upon any expressions said to have been used in the Legislative Assembly; and that all imputations of improper motives, and all personal reflections on members shall be considered highly disorderly.

XIII. That whenever any member shall make use of any expression personal and disorderly, or capable of being applied offensively to any other member, the member so offending shall be required to withdraw the expression, and to make a satisfactory apology to the Council.

XIV. That a member called to order shall sit down, unless permitted to explain.

XV. That when, in consequence of highly disorderly conduct, the President shall call upon any member by name, such member shall withdraw as soon as he has been heard in explanation; and after such member's withdrawal the Council shall at once take the case into consideration.

XVI. That any member or other person who shall wilfully disobey any lawful order of the Council, and any member or other person who shall wilfully or vexatiously interrupt the orderly conduct of the business of the Council, shall be held guilty of contempt.

XVII. That any member not attending in compliance with an Order for a Call of the House without reasonable excuse shall be held guilty of contempt.

XVIII. That no member shall absent himself during the session for more than one week without informing the President, nor for more than three consecutive weeks without express leave of absence from the Council, and any member wilfully infringing this Order shall be held guilty of contempt.

XIX. That any member or other person declared guilty of contempt shall be committed to the custody of the Usher by order of the President.

XX. That in cases of great emergency requiring an immediate remedy, the President shall commit on his own authority.

XXI. That the following scale of fees shall be payable to the Usher on the arrest or commitment of any person, and no person shall, without the express direction of the Council, be discharged out of custody until such fees be paid, or the session of Parliament concluded:—

	£	s.	d.
For arrest ... ..	50	0	0
For commitment ... ..	50	0	0
For each day's detention, including sustenance ...	5	5	0

XXII. That all fees payable under clause XXI. shall be paid to the account of a fund to be called the Legislative Council Standing Orders Fund, in the name of the Council, and shall be applied to such purposes as the Council shall direct in discharge of any expenses connected with the Standing Orders.

MOTIONS.

XXIII. That no Notice of Motion shall be received after the Council shall have proceeded to the Orders of the Day.

XXIV. That no member shall make any motion except an unopposed motion, but in pursuance of Notice openly given at a previous sitting of the Council and duly entered on the Notice Paper.

XXV. That it shall be in order, on the presentation of any document, except a Petition, to move, without Notice, that it be printed, and to appoint a day for its consideration.

XXVI. That Motions shall take precedence of Orders of the Day, except on days fixed for the consideration of Government business.

XXVII. That, except by leave of the Council, Motions shall be moved in the order in which they stand on the Notice Paper, and if not so moved or postponed, shall be struck out.

PUBLIC BILLS.

XXVIII. That before any Bill shall be read a third time the Chairman of Committees shall certify that it is in accordance with the Bill as agreed to by the Committee.

XXIX. That whenever the Governor shall transmit by message to the Council any amendment which he shall desire to be made in any Bill presented to him for Her Majesty's assent, the amendment shall be considered by the Council, and, if deemed necessary, referred to the Committee of the whole Council, which shall thereupon consider the same and also recommend such alterations in the Bill as may be necessary for incorporating the amendment therewith, and shall report such alterations to the Council.

XXX. That when the Council shall have agreed to any amendment proposed by the Governor, such amendment, together with the alterations rendered necessary to be made in the Bill presented to the Governor in consequence of such amendment, shall be forwarded to the Legislative Assembly for its concurrence.

XXXI. That whenever any Bill for repealing, altering, or varying all or any of the provisions of the Act, intituled, "*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 for substituting others in lieu thereof, shall have passed its second and third readings in the Council, with the concurrence of an absolute majority of the whole number of the members of the Legislative Council, the Clerk, or other proper officer of the Council, shall certify the fact on the Bill accordingly.

COMMITTEE OF THE WHOLE COUNCIL.

XXXII. That when any member shall have been appointed Chairman of Committees of the whole Council, he shall continue to act as such Chairman so long as the Session shall continue.

XXXIII. That, in Committee of the whole Council, ten members, exclusive of the Chairman, shall be a quorum.

XXXIV. That the Lists of Divisions in Committee of the whole Council shall be printed weekly.

XXXV. That Committees of the whole Council, to which Bills may be committed, have power to make such amendments therein as they shall think fit, provided they be relevant to the subject matter of the Bill; but if any such amendments shall not be within the title of the Bill, they do amend the title accordingly, and do report the same specially to the Council.

XXXVI. That, in going through a Bill, no questions shall be put for filling up words already printed in italics, and commonly called blanks, unless exception be taken thereto; and

if no alterations have been made in the words so printed in italics, the Bill shall be reported without amendment, unless other amendments have been made thereto.

XXXVII. That, unless otherwise directed, amendments made by the Assembly to public Bills shall not be considered in Committee on the same day on which such amendments may be brought up to the Council.

XXXVIII. That all questions of finance, or addresses to the Crown relating thereto, shall first be considered in Committee of the whole House.

XXXIX. That every Report from a Committee of the whole Council be brought up without any question being put.

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LAPSED QUESTIONS.

XL. That if a debate on any Motion, or Order of the Day, be interrupted by the Council being counted out, such debate may be resumed at the point where it was so interrupted, on motion upon notice.

XLI. That, if the discussion of any question in a Committee of the whole Council be interrupted for want of a quorum, the Council may order the resumption of such Committee on a future day, on motion upon notice, and the discussion of such question shall then be resumed at the point where it was so interrupted.

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SELECT COMMITTEES.

XLII. That no Select Committee shall consist of less than five nor more than ten members, without leave from the Council.

XLIII. That it shall not be compulsory on the President to serve on any Select Committee.

XLIV. That the Notice of Motion for the appointment of every Select Committee shall contain the names of the members whom the mover wishes to be appointed with himself on such Committee; but if the mover be desirous the Committee should be appointed by ballot, then the number only need be stated.

XLV. That, if upon any Motion for a Select Committee, any two members shall require it, such Committee shall be formed in the manner following, viz.:—Each member shall give in to the Clerk a list of the members whom he wishes to be appointed on such Committee, not exceeding the number proposed, inclusive of the mover; and if any list contain a larger number of names it shall be rejected, and the members who shall be reported by the Clerk to have the greatest number of votes shall be declared by the President to be the members of such Committee; and in any case of doubt arising from two or more members having an equality of votes, the President shall decide which shall serve on such Committee.

XLVI. That any Notice of Motion for discharging, adding, or substituting members of Select Committees shall contain the names of such members.

XLVII. That in all Select Committees three shall be a quorum.

XLVIII. That all questions shall be decided by a majority of voices, including the voice of the Chairman; and whenever the voices are equal, the Chairman shall have a second or casting vote.

XLIX. That if there shall not be a quorum of members present within one quarter of an hour after the time fixed for the meeting of any Select Committee, the Chairman may adjourn the meeting of the Committee to a future day.

L. That an entry be made on the Proceedings of the names of the members attending each Committee meeting, and of every motion or amendment proposed in the Committee, together with the name of the mover thereof; and if any division take place in the Committee, the Clerk do take down the names of the members voting in any such division, distinguishing on which side of the question they respectively vote, and that lists of the members so voting may be given in with the Report to the Council.

LI. That it be the duty of the Chairman of every Select Committee to prepare the Report.

LII. That the Chairman shall read to the Committee convened for the purpose of considering the Report the whole of his Draft Report, which, if practicable, shall be printed and circulated amongst the members of the Committee; and at some subsequent meeting of the Committee the Chairman shall read the Draft Report, paragraph by paragraph, putting the question to the Committee at the end of each paragraph, that it do stand part of the Report. That a member objecting to any portion of the Report do propose his amendment at the time the paragraph he wishes to amend shall be under consideration.

LIII. That every Report of a Select Committee shall be authenticated by the signature of the Chairman.

LIV. That a Committee consisting of five members, to be called the Standing Orders Committee, shall be appointed at the commencement of each session, and that the functions of such Committee shall not cease until their successors may be appointed.

## MESSAGES.

LV. That whenever a Message from the Governor shall be announced, the business before the Council shall be immediately suspended, and the bearer of the Message introduced into the Council Chamber to deliver the Message to the President.

LVI. That the President shall immediately read the Message to the Council, and, if necessary, a day shall be fixed for taking the same into consideration.

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 PETITIONS.

LVII. That it shall be in order to present any petition during the sitting of the Council, except during a debate, provided there be no interference with business under discussion.

LVIII. That it shall be incumbent on every member presenting a Petition to acquaint himself with the contents thereof, and to ascertain that it does not contain language disrespectful to any branch of the Legislature, or violate any of the Standing Orders of the Council.

LIX. That every member presenting a Petition to the Council shall affix his name at the beginning thereof.

LX. That every Petition must contain the prayer of the petitioners at the end thereof.

LXI. That every Petition must be signed by at least one person on every skin or sheet thereof.

LXII. That every Petition must be in the English language, or be accompanied by a translation, duly authenticated.

LXIII. That every Petition must be signed with their names by the parties whose names are appended thereto, and by no one else, except in cases of incapacity by sickness.

LXIV. That no letters, affidavits, or other documents shall be attached to any Petition.

LXV. That no Petition shall make reference to any debate in Parliament during the current session.

LXVI. That every member presenting a Petition to the Council, not being a Petition for a Private Bill, or relating to a Private Bill before the Council, do confine himself to a statement of the parties from whom it comes, of the number of signatures attached to it, of the material allegations contained in it, and to the reading of the prayer thereof.

LXVII. That every Petition, not being a Petition relating to a Private Bill, which, according to the rules of this House, can be received, be brought to the Table by the direction of the President, who shall not allow any debate, or any member to speak upon, or in relation to, such Petition.

LXVIII. That, in the case of such Petition complaining of some present personal grievance, for which there may be an urgent necessity for providing an immediate remedy, the matter contained in such Petition may be brought into discussion on the presentation thereof.

LXIX. That, subject to the above regulations, Petitions against any resolution or Bill imposing a tax or duty for the current service of the year may be received.

LXX. That no Petition, the prayer of which is for a distinct grant of money, shall be received by the Council.

LXXI. That no Petition shall be printed, unless the member moving the printing thereof shall state it to be his intention to make a motion upon the subject to which such Petition shall relate.

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 STRANGERS.

LXXII. That no strangers be admitted to the body of the Council Chamber within the Bar.

LXXIII. That members of the Legislative Assembly be admitted without order to the benches to the right of the President, outside the bar.

LXXIV. That accommodation be provided for the Speaker of the Legislative Assembly within the body of the Council Chamber.

LXXV. That the President only shall have the privilege of admitting strangers to the body of the Council Chamber outside the Bar; but every Member shall have the privilege of admitting by Orders strangers to the Gallery of the Council Chamber.

LXXVI. That, on the request of any Member, or in his own discretion, the President shall at any time order all strangers to withdraw, and such strangers shall immediately withdraw accordingly.

LXXVII. That it shall be the duty of the Standing Orders Committee to prescribe the arrangements for the opening and prorogation of Council, which arrangement it shall be the duty of the Usher to carry into effect under the direction of the President.

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 SUSPENSION OF STANDING RULES AND ORDERS.

LXXVIII. That (except in cases of urgent and pressing necessity) no Motion shall be made to dispense with any Sessional or Standing Order of the Council, without due Notice thereof.

## JOINT STANDING ORDERS OF BOTH HOUSES OF PARLIAMENT.

## 1.

## MESSAGES.

LXXIX. [1.] All communications between the Council and Assembly shall be by Message.

LXXX. [2.] Messages from one House to the other shall be in writing, and shall be communicated by the Clerk Assistant of each House respectively, unless the House transmitting the Message shall otherwise direct.

LXXXI. [3.] Members carrying any Message from either House of the Legislature to the other shall be announced at once, unless any Member shall be addressing the House, or unless the President or Speaker, as the case may be, shall be ascertaining the sense of the House upon any question, in which case the bearer of the message shall not be announced until the member shall have concluded his speech, or until the sense of the House shall have been declared by the President or Speaker, as the case may be; and the bearer of the Message shall be introduced by the Usher or Serjeant-at-Arms, and shall deliver the Message to the President or Speaker.

LXXXII. [4.] Messages carried by the Clerk Assistant of either House shall be delivered to the Usher or Serjeant-at-Arms, as the case may be.

LXXXIII. [5.] Bills, Votes, and Resolutions of either House of the Legislature, to which the consent of the other House shall be desired, shall be communicated to such other House by Message, and, in the first instance, without any reason being assigned for the passing such Bill, Vote, or Resolution.

LXXXIV. [6.] Bills, Votes, and Resolutions of either House of the Legislature, to which the consent of the other House shall have been desired, shall, if returned from such other House, be sent by Message; and, in the first instance, without any reason being assigned for passing, declining to assent to, or amending, as the case may be, such Bills, Votes, or Resolutions.

LXXXV. [7.] When either House of the Legislature shall not agree to any amendment made by the other House in any Bill, Vote, or other Resolution with which its concurrence shall have been desired, or when either House shall insist upon any amendment previously proposed by such House, and any communication shall be desired, then the communication shall be by Message, and the House transmitting such Message shall at the same time transmit written reasons for not agreeing to the amendment proposed by the other House, or for insisting upon any amendment previously proposed by the House sending such Message.

LXXXVI. [8.] The number of Members of each House appointed to serve on any Joint Committee shall be equal, and the Chairman thereof shall have a vote, but not a casting vote.

LXXXVII. [9.] At the commencement of each Session there shall be appointed by each House a Committee of five Members respectively to constitute a Joint Committee to manage the Library; another Committee of five Members of each House respectively to constitute a Joint Committee for the management of the Refreshment Rooms; another Committee of five Members of each House respectively to constitute a Joint Committee for the management and superintendence of the Parliament Buildings; and five Members shall form a quorum of each of the said Committees.

LXXXVIII. [10.] Every proposal for a Joint Committee not provided for in these Rules shall be by Message; shall state the object of such Committee, the number of Members to serve thereon, not less than ten nor more than fifteen; and the number of Members to form a quorum thereof; and the House whose concurrence shall be desired shall name the time and place of meeting.

## 2.

## BILLS.

LXXXIX. [11.] Every Bill shall be printed fair immediately after it shall have been passed in the House in which it originated; and the Clerk of the House in which the Bill shall have passed shall certify the passing thereof on such fair print, together with the day upon which the Bill did pass.

XC. [12.] If any amendment shall be made by the House to which the Bill shall be sent, such amendment shall be written on paper and attached to the Bill, and reference shall be made to the section and line of the Bill where the words are to be inserted or omitted, as the case may be, and such amendments shall be certified by the Clerk of the House in which it shall have passed.

XCI. [13.] When such Bill shall have passed both Houses of the Legislature, it shall be fair printed by the Government Printer, who shall furnish three fair prints thereof on vellum to the Clerk of the Parliaments.

XCII. [14.] Such three fair prints of each Bill shall be duly authenticated by the Clerk of the Parliaments.

XCI. [15.] The three fair prints of all Bills, except the Appropriation Bill, when passed, shall be presented to the Governor for Her Majesty's assent, by the Clerk of the Parliaments.

XCIV. [16.] In case of amendments to Bills, made upon a Message from the Governor, pursuant to the XXXVI. clause of the Constitution Statute, after such Bills shall have passed

the two Houses of Parliament, the Clerk of the Parliaments shall endorse the same on the original Bill and shall order three fair prints of the Bill on vellum as amended, and shall authenticate the same before they are presented for Her Majesty's assent.

XCIV. [17.] When the Governor shall have assented in the name of Her Majesty to any Bill, one of the fair prints thereof, on vellum, shall be deposited by the Clerk of the Parliaments with the Registrar of the Supreme Court, another shall be delivered to the Private Secretary of His Excellency the Governor, for transmission to Her Majesty's Principal Secretary of State for the Colonies, and the third shall be retained in the record office of the Parliament Houses.

XCVI. [18.] The Title of every Bill shall succinctly set forth the general object thereof.

XCVII. [19.] Every Act of the Legislature, commencing No. 1, from the 1st January, 1857, shall be numbered in regular arithmetical series, in the order in which the same shall be assented to by the Governor.

XCVIII. [20.] In case of unavoidable absence or illness of the Clerk of the Parliaments, the duties imposed upon him by these Rules shall be performed by the Clerk Assistant of the Legislative Council.

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STANDING ORDERS OF THE LEGISLATIVE COUNCIL ON PRIVATE BILLS.

XCIX. [1.] That until Special Standing Orders for the initiation of private Bills shall have been adopted, this Council will not enter on the consideration of any private Bill which has not first been considered by the Legislative Assembly, and referred by that body for the concurrence of this Council.

C. [2.] That every private Bill sent up from the Legislative Assembly, if accompanied by a printed copy of the report and proceedings of the Select Committee of that House to which it shall have been referred, shall be dealt with in the same manner as a public Bill, and shall not be referred to a Select Committee of this Council, unless the same shall be opposed, and then only by motion on notice to be made before the second reading.

CI. [3.] That every Select Committee on private Bills shall consist of five members, to be chosen by ballot, who shall choose their own Chairman, and of whom three shall form a quorum.

CII. [4.] That every one of such Committee of five do attend the proceedings of the Committee during the whole continuance thereof.

CIII. [5.] That members be exempted from serving on the Committee on any private Bill where they shall have any interest.

CIV. [6.] That members be excused from serving for any special reason, to be approved of in each case by the House.

CV. [7.] That if any member of such Committee is prevented from continuing his attendance, the Committee shall adjourn, and report the cause of such member absenting himself to the House, if then sitting, or at its next meeting, and shall not resume its sittings without leave of the House.

CVI. [8.] That each member of a Select Committee on a private Bill, before he shall be entitled to attend and vote thereon, shall sign a declaration that he has no personal interest in the Bill, and that he will never vote on any question which may arise in the Committee without having duly heard and attended to the evidence relating thereto.

CVII. [9.] That three clear days' notice be given of the meeting of such Committee.

CVIII. [10.] That such Committee shall meet on each consecutive sitting day from eleven to three o'clock.

CIX. [11.] That upon petition, praying to be heard on the merits against any Bill, leave be given to the Select Committee to hear the petitioners in person, by counsel or agents, and to receive such evidence as may be tendered, and the promoter shall be similarly entitled to reply thereto, if he shall think proper, and to adduce rebutting evidence, provided always that such petition be presented to the House before the third day on which the House shall sit after the day such Bill has been brought by message from the Legislative Assembly; provided also that it set forth specifically the objections of the petitioners to the said Bill, and be otherwise in strict conformity with the rules of the House.

CX. [12.] That the Chairman of every Select Committee shall make a report to the House on each several Bill referred for their consideration, and shall annex thereunto the minutes of the Committee.

CXI. [13.] That no private Bill which has been referred to a Select Committee shall be read a second time sooner than the sixth sitting day after the report from the Select Committee shall have been brought up.

CXII. [14.] That before any private Bill be read a first time in this Council, a sum of twenty pounds shall be paid into the hands of the Colonial Treasurer, for the public uses of the Colony, to meet the expenses of such Bill; and a certificate of that sum having been paid, to be filed with the Clerk, shall be produced by the member having charge of the Bill. And the promoter of the Bill shall also furnish at his own cost fifty fair printed copies of the same, and the same number of copies of any amended Bill, for the use of members, three clear days before the same shall be considered.

CXIII. [15.] That no private Bill shall pass through more than one stage on one and the same day.

CXIV. [16.] That every private Bill which shall have passed the two Houses of Legislature shall be presented to the Governor for the Royal Assent, and be numbered and published as a public Bill, and the expenses attending such publication shall be ascertained by the Clerk of the Parliaments, and be paid by the promoters of the Bill into the public Treasury, for the public uses of the Colony, before such Bill be presented for the Royal Assent.

CXV. [17.] That every promoter of a private Bill shall, at least ten days before the same is set down for the second reading, furnish to the Clerk of the Parliaments attested copies of all plans, sections, books of reference, estimates, and subscription contracts, or declarations in lieu of subscription contracts, laid before the Legislative Assembly, in pursuance of the Standing Orders of that House, and the Clerk of the Parliaments shall give a receipt for the same, in which the several documents shall be distinctly specified, which receipt the Member having charge of the Bill shall produce to the House before the Bill is set down for the second reading.

CXVI. [18.] That every Parliamentary agent and solicitor be considered personally responsible to the Council and to the President for any wilful violation of the rules, orders, and practise of Parliament; and for any such violation, and for any other wilful misconduct in prosecuting any proceeding before Parliament, shall be liable to an absolute or temporary prohibition to practise as a Parliamentary agent before this House at the pleasure of the President; provided that, upon the application of such agent, the President shall state in writing the grounds of such prohibition.

CXVII. [19.] That before the prayer of any Petition to be heard on the merits against any Private Bill be granted, the Petitioner shall deposit with the President a sum of fifty pounds, to be disposed of according to the decision of the Committee as hereinafter provided.

CXVIII. [20.] That it shall be competent for the Committee to order the return of the said deposit or of any part thereof to the Petitioner, or to order that the same be paid into the Treasury for the public uses of the Colony, or to direct that it be paid over to the promoters of the Bill, provided that the opposition should, in the judgment of the Committee, appear to have been frivolous.

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#### JOINT STANDING ORDERS OF BOTH HOUSES OF PARLIAMENT.

CXIX. [J.O. 21.] That upon the discovery of any clerical errors in any Bills which shall have passed both Houses of Parliament and before the same be presented to the Governor for the Royal Assent, the Clerk of the Parliaments shall report the same to the House in which the Bill originated, which House may deal with the same as with other amendments.

CXX. [J.O. 22.] The Clerk of the Parliaments shall be empowered to correct literal typographical errors in Bills that have passed the two Houses of Parliament.

CXXI. [J.O. 23.] That so much of the Joint Standing Order, No. 9, as requires that five members shall be present to form a quorum of the Library Committee be repealed, and that three members thereof do henceforth form a quorum.



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Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

FRIDAY, 21ST NOVEMBER, 1856.

Pursuant to Proclamation, the Council met.

Present:—John Allan, Esq., John Barter Bennett, Esq., William John Turner Clarke, Esq., James Cowie, Esq., Andrew Rose Cruikshank, Esq., John Pascoe Fawcner, Esq., Nehemiah Guthridge, Esq., James Henty, Esq., Stephen George Henty, Esq., Matthew Hervey, Esq., John Hodgson, Esq., John Hood, Esq., Robert Culbertson Hope, Esq., William Kaye, Esq., Donald Kennedy, Esq., Dennis Patrick Keogh, Esq., Thomas McCombie, Esq., Henry Miller, Esq., William Henry Fancourt Mitchell, Esq., James Frederick Palmer, Esq., John Hunter Patterson, Esq., Thomas Herbert Power, Esq., William Roope, Esq., James Stewart, Esq., James Ford Strachan, Esq., Robert Thompson, Esq., Daniel Joseph Tierney, Esq., George Urquhart, Esq., Charles Vaughan, Esq., Benjamin Williams, Esq.

At twelve o'clock the Clerk of the Council read the Proclamation convening the Parliament.

Commissioners, from His Excellency the Officer administering the Government, appointed to open the Parliament were then introduced to the Council Chamber by the Usher. The Senior Commissioner present desired the Usher to request the presence of the Members of the Legislative Assembly, to hear the Commission read for opening and holding this present Session of the Parliament.

The Assembly having presented themselves, the Commission was read by the Clerk as follows:—

*“VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth.*

To all to whom these presents shall come

GREETING—

WHEREAS, by Proclamation made on the first day of November now instant, by His Excellency MAJOR-GENERAL EDWARD MACARTHUR, the Senior Military Officer in command of our Land Forces in our Colony of Victoria, and the Officer administering the Government of our said Colony, the said EDWARD MACARTHUR did fix that the first Session of the Legislative Council and Legislative Assembly should commence and be holden on this day at twelve o'clock at noon, at the Parliament Houses on the Eastern Hill, in the City of Melbourne, and forasmuch as for certain causes the said EDWARD MACARTHUR cannot conveniently be present in person in the said Parliament at that time; NOW KNOW YE that we, trusting in the discretion, fidelity, and care of our trusty and well-beloved SIR WILLIAM A'BECKETT, Knight, our Chief Justice of our Supreme Court of Victoria, and REDMOND BARRY, EDWARD EYRE WILLIAMS, and ROBERT MOLESWORTH, Esquires, our other Justices of our said Court, do, by the advice of our Executive Council, give and grant by the tenor of these presents, unto the said SIR WILLIAM A'BECKETT, REDMOND BARRY, EDWARD EYRE WILLIAMS, and ROBERT MOLESWORTH, or any of them, full power in our name to begin and hold our said Parliament, and to do everything which for and by us, or the said EDWARD MACARTHUR, shall be there to be done, commanding also by the tenor of these presents, with the assent of our said Council, all whom it may concern to meet in our said Parliament that to the said SIR WILLIAM

A'BECKETT, REDMOND BARRY, EDWARD EYRE WILLIAMS, and ROBERT MOLESWORTH, or any of them, they diligently attend in the premises in the form aforesaid. IN TESTIMONY whereof we caused the Seal of our said Colony to be hereunto affixed.

WITNESS our trusty and well-beloved MAJOR-GENERAL EDWARD MACARTHUR, our Officer administering the Government of our said Colony of Victoria, at Government House, Melbourne, in our said Colony, this twenty-first day of November, in the year of our Lord One thousand eight hundred and fifty-six, and in the twentieth year of our Reign.

(L. S.)

EDWARD MACARTHUR,  
Major-General.

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

Entered on Record by me in Register of Patents, Book 9,  
pages 258 and 259, this twenty-first day of November,  
One thousand eight hundred and fifty-six.

WILLIAM C. HAINES,  
Chief Secretary and Registrar.

The Senior Commissioner informed the Members of the Legislative Council and of the Legislative Assembly that His Excellency the Officer administering the Government would in person declare the causes of his calling the Parliament, at two p.m., on Tuesday, the 25th instant, in the Legislative Council Chamber, and requested the Members of each House, in the meantime, to proceed to the choice respectively of a President and of a Speaker.

The Assembly withdrew.

The Commissioners withdrew.

A Commissioner from His Excellency the Officer administering the Government, to administer the Oath of Allegiance provided for by the 32nd clause of the Constitutional Act, was introduced by the Usher.

The Commissioner handed his Commission to the Clerk, who read it to the Council as follows:—

*VICTORIA, by the Grace of God, of the United Kingdom  
of Great Britain and Ireland, Queen, Defender of the  
Faith, and so forth.*

To REDMOND BARRY, ESQUIRE, one of the Judges of Our Supreme Court of  
Victoria,

GREETING—

WHEREAS by the Bill contained in the schedule to a statute passed in the session of Our Imperial Parliament holden in the eighteenth and nineteenth years of Our reign, intituled, "*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,*" it is enacted that no member either of the Legislative Council or of the Legislative Assembly shall be permitted to sit or vote therein respectively, until he shall have taken and subscribed before the Governor or before some person authorised by the Governor in that behalf, the oath in the said Bill mentioned. We do, therefore, by these presents, command and authorise you to proceed to the Parliament House, in the City of Melbourne, on Friday next, the twenty-first day of November instant, at twelve of the clock at noon, then and there to administer the said oath to the several members of the said Legislative Council. IN TESTIMONY whereof we have caused the Seal of our said Colony to be hereunto affixed.

WITNESS our trusty and well-beloved MAJOR-GENERAL MACARTHUR, our Senior Military Officer in command of our Land Forces in our Colony of Victoria, and Officer administering the Government of our said Colony, at Melbourne, in Victoria, this nineteenth day of November, One thousand eight hundred and fifty-six, and in the twentieth year of our Reign.

(L. S.)

EDWARD MACARTHUR.  
Major-General.

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

Entered on Record by me in Register of Patents, No. 9,  
page 254, this nineteenth day of November, One  
thousand eight hundred and fifty-six.

WILLIAM C. HAINES,  
Chief Secretary and Registrar.

The Clerk announced that he had received from His Excellency's Private Secretary the Writs returned for the election of Members, and read the substance of each Writ, together with the Return in full as endorsed upon each Writ as follows :—

CENTRAL PROVINCE.

I do hereby certify and return that—

John Hodgson,  
John Pascoe Fawkner,  
Henry Miller,

were duly elected in pursuance of this Writ.

John Hood,  
and  
Nehemiah Guthridge,

WILLIAM M. BELL,  
Returning Officer.

SOUTH PROVINCE.

I do hereby certify and return that—

Donald Kennedy,  
Thomas Herbert Power,  
William John Turner Clarke,

were duly elected in pursuance of this Writ.

Thomas McCombie,  
and  
John Barter Bennett,

J. B. WERE,  
Returning Officer.

SOUTH-WESTERN PROVINCE.

I do hereby certify and return that—

James Ford Strachan,  
Robert Culbertson Hope,  
James Henty,

were duly elected in pursuance of this Writ.

William Roope,  
and  
James Cowie,

BENJAMIN TINDALE,  
Returning Officer.

WESTERN PROVINCE.

I do hereby certify and return that—

Stephen George Henty, Esq.  
A. R. Cruikshank, Esq.  
D. J. Tierney, Esq.

were duly elected in pursuance of this Writ.

J. F. Palmer, Esq.  
C. Vaughan, Esq.

ROBT. BURKE,  
Returning Officer.

NORTH-WESTERN PROVINCE.

I do hereby certify and return that—

John Allan,  
Dennis Patrick Keogh,  
George Urquhart,

were duly elected in pursuance of this Writ.

John Hunter Patterson,  
William Henry Fancourt Mitchell.

WM. F. PRESHAW,  
Returning Officer.

EASTERN PROVINCE.

I do hereby certify and return that—

Mathew Harvey,  
James Stewart,  
Robert Thompson,

were duly elected in pursuance of this Writ.

William Kaye,  
Benjamin Williams,

LLOYD JONES,  
Returning Officer.

The Members individually approached the Table, and took and subscribed the Oath of Allegiance, each in order as enumerated in the Returns above recited, till the whole Council was sworn.

The Commissioner withdrew.

The Clerk announced that the time had arrived for proceeding to the election of a President of the Council.

ELECTION OF PRESIDENT.—Mr. Fawkner moved, That J. F. Palmer, Esq., be President.

Mr. Hervey seconded the nomination.

Mr. Palmer submitted himself to the judgment of the Council.

Mr. Hodgson supported the nomination; and

Mr. Palmer being unanimously called to the Chair, was escorted thereto by his proposer and seconder, and made his acknowledgment to the Council.



RECEPTION OF THE PRESIDENT ELECT BY HIS EXCELLENCY.—Mr. Mitchell announced that His Excellency the Officer administering the Government would be prepared to receive the President Elect on Monday, the 24th instant, at the Government Offices, at twelve o'clock.

Mr. Fawcner moved, That the Council adjourn until half-past eleven on Monday, the 24th instant.—Ordered.

The Council adjourned at a quarter past one o'clock.

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

## Minutes of the Proceedings

OF THE

# LEGISLATIVE COUNCIL.

MONDAY, 24TH NOVEMBER, 1856.

The Council met in accordance with adjournment.

At twenty-six minutes to twelve o'clock the President Elect took the Chair.

The House being reminded by the President Elect that His Excellency the Officer administering the Government would be prepared at twelve o'clock to receive the President Elect, proceeded to the Government Offices accordingly.

The Council having returned to the Council Chamber, the President reported that the Council had presented him at the Government Offices to His Excellency the Officer administering the Government, who had been pleased to approve of the choice made by the Council, and had addressed him in the following terms :—

MR. PRESIDENT :

I have great satisfaction in approving of the choice which the Legislative Council have made in electing you to preside at its sittings, and the more so because of your experience as Speaker in the late Legislative Council of this Colony, and not only on this account do I so express my approval, but because also of the dignity and ability with which I am persuaded you will fill your present high office.

Melbourne, 24th November, 1856.

The President then made and subscribed, and delivered to the Clerk of the Council the declaration required by the seventh clause of the Constitutional Act, and the following Members of the Council in the same manner made, subscribed, and delivered their declarations as hereunder set forth, viz. :—Messrs. Hodgson, Hood, Kennedy, Power, Vaughan, Mitchell, Urquhart, Hervey, Bennett, S. G. Henty, J. Henty, Fawcner, Stewart, Patterson, Allan, Clarke, Guthridge, Williams, McCombie, Tierney, and Thompson.

“ I, JAMES FREDERICK PALMER, 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 or tenements out of which such qualification arises are situate in the parish of Boroondara, in the county of or reputed county of Bourke, the descriptions of which lands and tenements are as follow :—Allotments numbers nineteen, twenty, and twenty-one, in section number six, and are in my own occupation, and used as a dwelling house. 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.

“ J. PALMER.”

“ I, JOHN HODGSON, 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 or tenements out of which such qualification arises are situate in the parishes of Boroondara and Jika Jika, in the county of or reputed county of Bourke, the descriptions of which lands and tenements are as follow :—

Twenty-eight acres, three roods, and thirty perches, with the buildings erected thereon, known as Stoodley Park, section seventy-seven ; also  
Three dwelling-houses in Wellington-street, East Collingwood ; also  
Eighteen acres of land in parish of Boroondara, lot 15 N 105 A ; also  
Twenty-four allotments of land in Elizabeth and Church streets, municipality of Richmond, each thirty-five feet eight inches by one hundred and thirty-two feet ;

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.

“JOHN HODGSON.”

“I, JOHN HOOD, 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 or tenements out of which such qualification arises are situate in the parish of Melbourne, in the county of or reputed county of Bourke, the descriptions of which lands and tenements are as follow: No. 109, 111, 115, 117, 119, and 121, Bourke-street east: 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.

“JOHN HOOD.”

“I, DONALD KENNEDY, 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 full value of five thousand pounds, sterling money, above all charges and incumbrances affecting the same: And further that the lands or tenements out of which such qualification arises are situate in the parish of Will-will-rook, in the county of or reputed county of Bourke, the descriptions of which lands and tenements are as follow:—All those pieces or parcels of land, being sections numbers one, six, eight, nine, ten, and fourteen of the said parish of Will-will-rook, bounded on the north by the boundary line dividing the said parish of Will-will-rook from the parish of Yuroke; on the east by sections numbers fifteen and eleven of the said parish of Will-will-rook; then again on the north by the said section number eleven; then again on the east by sections numbers five and two of the said parish of Will-will-rook; on the south by the boundary line dividing the said parish of Will-will-rook from the parish of Jika Jika; on the west partly by the Moonee Ponds, bearing in a north-westerly direction, and partly by section number seven of the said parish of Will-will-rook: 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

“DOND. KENNEDY.”

“I, THOS. HERBERT POWER, 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 full value of five thousand pounds, sterling money, above all charges and incumbrances affecting the same: And further, that the lands or tenements out of which such qualification arises are situate in the parish of Eumemering, in the county of or reputed county of Mornington, the descriptions of which lands and tenements are as follow:—Being grants from the Crown of portions numbers one, two, three, four, five, six, seven, and fifteen of the said parish, containing 1496a. 2r. 12p., and leased to Gustave Adolphe Van Leunep for a term of years, at a rent of five hundred pounds per annum: 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.

“THOS. H. POWER.”

“I, CHARLES VAUGHAN, Esquire, 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 or tenements out of which such qualification arises are situate in the parishes of Cut-paw-paw, Jika Jika, and Mulgrave, in the county of or reputed county of Bourke, in the said Colony, the descriptions of which lands and tenements are as follow:—

1. Twelve acres of land, being allotment seven of section eight of the parish of Cut-paw-paw, fronting Hobson's River, purchased from the Crown by me in September, One thousand eight hundred and fifty-two.
2. Several pieces or parcels of land, part of portion No. thirty-three, Jika Jika, purchased by me of W. S. Splatt, Esq., in April, One thousand eight hundred and fifty-four.
3. Several other pieces or parcels of land, being portions seventy-six and seventy-nine of the parish of Mulgrave, purchased by me of John Porter, Esquire, in November, One thousand eight hundred and fifty-four.

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.

“CHARLES VAUGHAN.”

"I, WILLIAM HENRY FANCOURT MITCHELL, 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 full value of five thousand pounds, sterling money, above all charges and incumbrances affecting the same: And further that the lands or tenements out of which such qualification arises are situate in the parishes of Keelbundora and Prahran, in the county of or reputed county of Bourke, the descriptions of which lands and tenements are as follow:

All that parcel of land at Heidelberg, in the parish of Keelbundora, and being part of portion 2 of the said parish, containing by admeasurement fifty-six acres one rood and four perches; and

All that parcel of land in the parish of Prahran, in the county of Bourke, and being part of portion No. 18 of the said parish, containing by admeasurement thirteen acres two roods and twenty-four perches:

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.

"W. H. F. MITCHELL."

"I, GEORGE URQUHART, 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 and 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 Gleneardook, in the county of Burk, the descriptions of which lands and tenements are as follow, viz: laying between Foolen Toolern and Gleneardook Creeks, being sections No. 15, 16, 17, 20 and 21, and the tenements thereon, now in my own occupation: And I further declare that I have not collusively or colourably obtained a title to or become possessed of the said lands and 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.

"GEO. URQUHART."

"I, MATTHEW HERVEY, 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 full value of five thousand pounds, sterling money, above all charges and incumbrances affecting the same: And further that the lands or tenements out of which such qualification arises are situate in the parish of Melbourne, and another not known, in the county of or reputed county of Bourke, the descriptions of which lands and tenements are as follow:

Allotment 6, sec. 43, Franklyn-street, N. Melbourne;

Thirty acres, Elsternwick, portion 40;

Lands in Atherton and Young streets, Collingwood, 250 feet;

House and land, corner Lonsdale and William streets, Melbourne;

2 stores, Market-square, Melbourne;

13 acres of land, dwelling-house and offices, St. Kilda;

the above in county Bourke. Also, as follows,

In country Lots 8 and 9, section L, town of Benalla;

Lots 5, 8, 13 and 16 of section 2, town of Wangaratta;

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.

"MATTHEW HERVEY."

"I, JOHN BARTER BENNETT, 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 or tenements out of which such qualification arises are situate in the parishes of Melbourne and Prahran, in the county of or reputed county of Bourke, the descriptions of which lands and tenements are as follow: Part of portion No. sixty-five, of the parish of Prahran, having a frontage of twelve chains and fifty links to the Dandenong Road, on which is erected my dwelling-house; and also that piece of land in Collins-street, Melbourne, on which are erected my offices: 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.

"J. B. BENNETT."

"I, STEPHEN GEORGE HENTY 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 or tenements

out of which such qualification arises are situate in the parish of Portland, in the county of or reputed county of Normanby, the descriptions of which lands and tenements are as follow :—Town allotments situated upon block number four, upon which are erected the stores of Messrs. Henty, Learmonth, and Co., residences of myself, Wm. Learmonth, Charles Arthur Dodd, F. Helpman, Brown, Dahl, Hearne, McEwen, and others: 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.

“ S. G. HENTY.”

“I, JAMES HENTY, 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 full value of five thousand pounds, sterling money, above all charges and incumbrances affecting the same: And further, that the lands or tenements out of which such qualification arises are situate in the parishes of Duneed, Paraparap, and Geelong, in the county of or reputed county of Grant, the descriptions of which lands and tenements are as follow :—

One thousand eight hundred and forty-three acres of land situate in the parishes of Duneed and Paraparap, part in my own occupation and part in the occupation of various tenants; also

Sundry allotments and buildings thereon, situate in Brougham-place, in the town of Geelong, all in the county of Grant;

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.

“ JAS. HENTY.”

“I, JOHN PASCOE FAWKNER, 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 clear value of five thousand pounds, sterling money, above all charges and incumbrances affecting the same: And further that the lands or tenements out of which such qualification arises are situate in the parishes of Melbourne, Jika Jika, Prahran and elsewhere, in the counties of or reputed counties of Victoria, the descriptions of which lands and tenements are as follow :—

Part of allotment No. 1, block No. 2, together with the buildings thereon, purchased June 1st, 1837, at the Crown Lands sale.

Lot G, No. 72, parish of Prahran, near Melbourne, bought of the Crown in 1850.

Lot 14, block 35, North Melbourne, bought at the land sale 1851.

Allotment, part of suburban 73, in East Collingwood, fronting Smith and Perry streets, with seven houses and other buildings, bought in 1853. Together with lands situate in Doutta Galla, Tullamarine, Will-will rook, St. Kilda, Benalla, Violet Town, Wyndham, Broadmeadows, and in the Quarries, all in fee simple:

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.

“ JOHN P. FAWKNER.”

“I, JAMES STEWART, 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 or tenements out of which such qualification arises are situate in the parish Jika Jika, in the county of or reputed county of Bourke, the descriptions of which lands and tenements are as follow: House and land in Victoria Parade, occupied by myself: 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.

“ JAMES STEWART.”

“I, JOHN HUNTER PATTERSON, 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 or tenements out of which such qualification arises are situate in the parish of Jika Jika, in the county of or reputed county of Bourke, the descriptions of which lands and tenements are as follow :—Being portion 131 bounded on the south by number 128 portion, on the east by the Plenty road, on the north by number 136 portion, and on the west by the Merrie Creek, containing 185 acres, together with two dwelling-houses in Carlisle-street, St. Kilda: 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.

“ J. H. PATTERSON.”

"I, JOHN ALLAN, 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 annual value of five hundred pounds, sterling money, above all charges and incumbrances affecting the same: And further that the lands or tenements out of which such qualification arises are respectively situate in the parishes of Castlemaine, Muckleford, Jika Jika, Moorabbin and Gnarwarre, in the counties of or reputed counties of Talbot, Bourke, and Grant, the descriptions of which lands and tenements are as follow: Six allotments of land situate in the parish of Castlemaine, in the county of Talbot, being allotments one, three, four, sixteen, seventeen, and twenty, of section twenty-one, township of Castlemaine, with the brewery in the occupation of Walter Smith, Esq., and other tenements thereon; another allotment of land situate in the said parish of Castlemaine, being allotment six of section eleven, township of Castlemaine, with the dwelling-house and buildings thereon, now in my occupation; ten acres of land situate on Muckleford Creek, in the said county of Talbot, now in the occupation of William Snell, as my tenant; piece of land situate in the parish of Jika Jika, in the county of Bourke, at the corner of Wellington and Derby streets, Collingwood, being part of portion number fifty-three, with the five brick and stone dwelling-houses or tenements thereon, now in the occupation of sundry tenants; piece of land situate in the parish of Moorabbin, in the said county of Bourke, being part of portion two, parish of Moorabbin, forming lots seven to thirteen inclusive, on the plan of subdivision, and having a frontage of five hundred and twenty-eight feet or thereabouts, to the Grand Esplanade; piece of land containing eighty-six acres or thereabouts, situate in the parish of Gnarwarre, in the county of Grant, being portion D of section twenty: 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.

"JOHN ALLAN."

"I, WILLIAM JOHN TURNER CLARKE, 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 or tenements out of which such qualification arises are situate in the parish of Melbourne, in the county of or reputed county of Bourke, the descriptions of which lands and tenements are as follow:—Auction Mart and Store in Collins street, in the occupation of Messrs. Fraser and Cohen: 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.

"WM. J. T. CLARKE."

"I, NEHEMIAH GUTHRIDGE, 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 or tenements out of which such qualification arises are situate in the parish of Jika Jika, in the county of or reputed county of Bourke, the descriptions of which lands and tenements are as follow: Nine acres of land at Northcote, with dwelling-house and out-buildings, in my own occupation, known as "Temple Park": 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.

"N. GUTHRIDGE."

"I, BENJN. WILLIAMS, 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 or tenements out of which such qualification arises are situate in the City of Melbourne and township of Sandhurst, the descriptions of which lands and tenements are as follow:—

House, No. 105 Queen-street, Melbourne;

Houses, 34 to 38 Bourke-street east, part of Union Hotel, Melbourne;

Land and buildings, Bay-street, Sandridge;

House and land, Ackland-street, St. Kilda;

House and land, Pall Mall, Sandhurst—the Victoria Hotel:

And I further declare, that I have not collusively or colourably obtained a title to or become possessed of the said lands and tenements, or any part thereof, for the purpose of qualifying or enabling me to be returned a Member of the Legislative Council of the Colony of Victoria.

"BENJ. WILLIAMS."

"I, THOMAS MCCOMBIE, 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 or tenements out of which such qualification arises are situate in the parish of Prahran and City of Melbourne,

in the county of or reputed county of Bourke, the descriptions of which lands and tenements are as follows :

1. All that piece or parcel of land, being part of allotment No. 11 of block nine of the City of Melbourne, fronting Great Bourke-street, and now in the occupation of Mr. Salomons and his tenants.
2. All that piece or parcel of land, being part of allotments 13 and 14 of section 29 of the City of Melbourne, fronting Gillford-street, in the occupation of Mr. Isacs, Widow Mahen, and her tenants.
3. All that piece or parcel of land containing 2 acres 2 roods in Prahran, east of St. Kilda, and marked in the Government Chart as No. 107, with the buildings thereon, occupied by Mr. C. R. Fentum.
4. All that piece or parcel of land containing 48 acres 1 rood and 24 perches, in the parish of Prahran, near Brighton, marked in the Government Chart as No. 33, with the buildings thereon, occupied by myself.

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.

“ THOS. McCOMBIE.”

“ I, DANIEL JOSEPH TIERNEY, 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 or tenements out of which such qualification arises are situate in the parishes of Sandhurst, Strathfieldsaye, Warrnambool, and Wangoom, in the county of or reputed counties of Villiers and other counties unnamed, the descriptions of which lands and tenements are as follow :—

- No. 1. Allotment nine, section three, in the parish of Strathfieldsaye.
- No. 2. Allotment 16, section 17 C, town of Sandhurst.
- No. 3. Allotment 6, section 13 C, town of Sandhurst.
- No. 4. Allotment 2, section 25, town of Warrnambool.
- No. 5. Allotment 1, section 25, town of Warrnambool.
- No. 6. Allotment 16, section 2, parish of Strathfieldsaye.
- No. 7. Allotment 36, section 2, parish of Strathfieldsaye.
- No. 8. Allotment 2, section A, parish of Wangoom.
- No. 9. Lot 53, portion 60, parish of Sandhurst.
- No. 10. Lot 54, portion 61, parish of Sandhurst.

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.

“ DANIEL JOSEPH TIERNEY.”

“ I, ROBERT THOMPSON, 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 or tenements out of which such qualification arises are situate in the parish of Yarram Yarram, and in Gipps' Land, counties unnamed, the descriptions of which lands and tenements are as follow :

- 1st. Various farms in the parish of Yarram, county unnamed, Gipps' Land.
- 2nd. 960 acres pre-emptive rights of Clyde Bank and Marley Point Stations, Gipps' Land, and houses, &c., thereon.
- 3rd. Stores and dwelling-houses at Port Albert, Gipps' Land.
- 4th. Dwelling-houses at Sale, Gipps' Land.
- 5th. Various farms adjoining Sale.

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.

“ ROB. THOMPSON.”

Mr. Mitchell moved that the House adjourn until half-past one o'clock on Tuesday, the 25th instant.

The question having been put on such adjournment, was passed.

The Council adjourned at twenty-six minutes to one o'clock.

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#### NOTICE OF MOTION.

*Tuesday, 25th November.—*

Mr. FAWKNER: To move, That the House proceed to the election of a Chairman of Committees, and that such Chairman be Mr. Hodgson.

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

No. 3.

# Minutes of the Proceedings

OF THE

# LEGISLATIVE COUNCIL.

TUESDAY, 25TH NOVEMBER, 1856.

In accordance with adjournment the Council met.

The President took the Chair at twenty-eight minutes to two o'clock.

**QUALIFICATION OF MEMBERS.**—The President announced that Honorable Members who had not made the requisite declaration as to their qualification could now do so.

Whereupon the following members, one by one, approached the Table, and made and subscribed and delivered to the Clerk their several declarations as hereunder set forth, viz. :—Messrs. Cruikshank, Keogh, Kaye, Miller, Cowie, Roope, Strachan, and Hope.

“ I, ANDREW ROSE CRUIKSHANK, 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 or tenements out of which such qualification arises are situate in the parish of Portland, in the county of or reputed county of Normanby, the descriptions of which lands and tenements are as follow :—All that allotment or parcel of land in our said territory, containing by admeasurement two roods, be the same more or less, situated in the town of Portland, parish of Portland, county of Normanby, being allotment number one of section number thirteen, bounded on the south by two chains fifty links of the north side of Julia-street, bearing east one degree thirty minutes south, commencing at the south-east corner of allotment number twenty, on the east by two chains of the west side of Percy-street, bearing north one degree thirty minutes east; on the north by a line bearing west one degree thirty minutes north two chains fifty links; and on the west by a line bearing south one degree thirty minutes west two chains to the south-east corner of allotment number twenty aforesaid; the bearings are true, variation five degrees thirty minutes east, being the allotment sold as lot 17, in pursuance of the Proclamation of 6th February, 1843, with all the rights and appurtenances whatsoever thereto belonging: 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.

“ ANDW. R. CRUIKSHANK.”

“ I, DENIS PATRICK KEOGH, 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 yearly value of five hundred pounds, sterling money, above all charges and incumbrances affecting the same: And further, that the lands or tenements out of which such qualification arises are situate in the parish of North Melbourne, in the county of or reputed county of Bourke, the description of which lands and tenements are as follow: Being part of allot. 14 sect. 22; 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,

“ D. P. KEOGH.”

“ I, WILLIAM KAYE, 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 or tenements out of which such qualification arises are situate in the parish of Prahran, in the county of or reputed county of Bourke, the description of which lands and tenements are as follow: 100 A and 100 B, containing dwelling-house: And I further declare, that I have not collusively or colourably obtained a title to or become possessed of the said lands and tenements, or any part thereof, for the purpose of qualifying or enabling me to be returned a Member of the Legislative Council of the Colony of Victoria.

“ WILLIAM KAYE.”



"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 or tenements out of which such qualification arises are situate in the parish of Barabool, in the county of or reputed county of Grant, the description of which lands and tenements are as follow: The Victoria Estate, on the Wauru Ponds: 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."

"I, JAMES COWIE, 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 or tenements out of which such qualification arises are situate in the parish of Corio, in the county of or reputed county of Grant, the description of which lands and tenements are as follow: Town of Geelong, allotments No. 1, 14 and 15 of section 58 B with dwelling house thereon. Allotments No. 14, 15, 19 and 20 of section 14, also in the town of 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.

"JAMES COWIE."

"I, WILLIAM ROOPE, 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 clear value of five thousand pounds, sterling money, above all charges and incumbrances affecting the same: And further, that the lands or tenements out of which such qualification arises are situate in the parishes of Corio and Moorpanyal, in the county of or reputed county of Grant, the descriptions of which lands and tenements are as follow: Mercantile premises (occupied by myself) on allotment No. 6 B of section 35, town of Geelong, parish of Corio.

Dwelling-house and land, being portions of allotments No. 6 of section No. 1; No. 7 of section No. 1, and No. 1 of section No. 2, in the parish of Moorpanyal; 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.

"WILLIAM ROOPE."

"I, JAMES FORD STRACHAN, 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 or tenements out of which such qualification arises are situate in the parish of Moorpanyal in the county of or reputed county of Grant the description of which lands and tenements are as follow: House and lands at Lunan situated on Corio Bay: 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.

"JAMES FORD STRACHAN."

"I, ROBERT CULBERTSON HOPE, 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 clear value of five thousand pounds, sterling money, above all charges and incumbrances affecting the same: And further, that the lands or tenements out of which such qualification arises are situate in the parishes of Gnarwarre and Carrung-e-murnong, in the county of or reputed county of Grant, the description of which lands and tenements are as follow: Five thousand acres of land in the parishes of Gnarwarre and Carrung-e-murnong, being comprised of the four most western sections of land in the parish of Gnarwarre, commencing at the River Barwon and proceeding south with the contiguous sections in the parish of Carrung-e-murnong: 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.

"R. C. HOPE."

SPEECH OF HIS EXCELLENCY THE OFFICER ADMINISTERING THE GOVERNMENT.—At five minutes past two the Usher announced that His Excellency the Officer administering the Government approached the Chamber.

The Members of the House went to meet His Excellency, and accompanied him to the Council Chamber.

His Excellency requested that Honorable Members would take their seats, and desired the Usher to request the presence of the Members of the Legislative Assembly in this House.

- The Speaker and the Members of the Legislative Assembly having been announced by the Usher, and having taken places provided for them outside of the Bar of the House, His Excellency requested the Members of both Houses to be seated, and addressed them as follows:—

MR. PRESIDENT AND GENTLEMEN OF THE LEGISLATIVE COUNCIL:

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY:

In discharging the honorable duty of opening the first Parliament of Victoria, I embrace with great satisfaction the opportunity which is afforded to me of congratulating you upon the attainment of the object for which the country has, during many years, struggled—the establishment, in the fullest degree, of the principle of self-government. I am confident that the people of Victoria not only value this privilege, but that they are prepared to meet the increase of responsibility which it imposes upon all, and that the removal of that apathy with which political affairs have hitherto been too generally treated will conduce to the happiness and prosperity of the whole community.

It will be your constant duty to watch the operation and to amend the defects of the fundamental law from which you derive your existence and your powers. It is undeniable that every Constitution has defects of more or less importance, and that reforms must be effected to cure them. The circumstances under which our charter was prepared and granted, render it likely that many changes will be necessary; but I shall not invite you during the present session to make alterations in the main features of the Constitution, other than those for which actual experience has already demonstrated the necessity. I do not conceive the position to be just, that no reform in one part of it ought to be attempted without at the same time dealing with its other component parts. While, therefore, I shall not recommend to you to recast the electoral division of the country, until the results of the census, which it will be proposed to take during this summer, are ascertained; or to deal with those abstract constitutional questions, the solution of which will be found rather in the results of legislation, and the confidence which the people place in their Representatives, than in any theory of representation; your attention will be drawn to the patent imperfection and inequality of the electoral franchise, and you will be asked to extend the basis of the suffrage, and to amend the law regulating the registration of Electors.

It will be one of your principal duties to promote the reform and maintain the efficiency of the public administration in its several branches.

The attention of my Government has been especially directed to the measures for re-organizing the civil service, which are being partially adopted in the United Kingdom, and I have had under my consideration the results of a careful enquiry, undertaken by a commission which I appointed to report upon these reforms. I shall submit to you a measure to give effect to the greater part of the suggestions emanating from them. It will provide that admission to the junior grade of the ordinary civil service be determined by a competitive examination, open to all persons, and conducted by a permanent Board; that the Service be divided into classes; and that promotion to a superior class shall depend solely upon ascertained fitness, and go in the entire service and not in a particular department.

Measures will be submitted to you for regulating the receipt and disbursement of the Revenue, and audit of the Public Accounts. It is my opinion that the functions of the Audit Department should be enlarged, and that it should possess powers similar to those of the Comptroller of the Exchequer and the Commissioners of Audit, the Auditor General being independent of the Executive Government, but liable to be removed from office by the Legislature. Your sanction will be also invited to the extension of facilities for the collection and disbursement of public moneys, and to the consolidation of departments. Bills for these purposes will be submitted to you.

The repeal of the laws regulating the sale and occupation of Crown Lands renders it necessary that I should call your early attention to this important subject. Bills will be laid before you, the main features of which will be the continuance of the system of sales by auction, and of the present upset price; provision for the more speedy issue of deeds of grant by dispensing with double registration; the concession of facilities to owners of land for contracting with persons desirous to mine for gold, saving inviolate the rights of the freeholder to the undisturbed possession of his land; the rescinding the existing Orders in Council, regulating occupation for pastoral and other purposes; the power of granting an interest to the present occupant, renewable until the land is required for sale or any public purpose, but subject to an acreable rent, to be periodically determined by an independent tribunal, according to the grazing capabilities of the land, and the advantages of its situation; and the adjustment of claims on account of actual losses sustained by occupants.

But the best regulations for the sale and occupancy of the Public Lands will do little for the settlement of the interior without the promotion of Public Works—especially Railways and other means of communication—and the extension of Municipal Institutions. My Government has been actively engaged in carrying out the views of the previous Legislature with reference to the completion of the line of Railway between Melbourne and Williamstown. The necessary surveys of the main lines proceeding from the sea-board to the great centres of population in the interior have been completed, and the most

eligible routes ascertained. Preparations have also been made for vigorously prosecuting without loss of time these important works, so soon as you shall have conceded the necessary powers. For this purpose measures for securing the construction of Railways in the most economical manner consistent with durability and perfect safety will be submitted to you. Preliminary steps have been also taken for extending the lines of Electric Telegraph to the northern and western frontiers, so as to connect all the principal towns and gold fields with Melbourne, should you sanction this important work.

I shall propose to you to vest the powers of the Central Road Board in the Commissioner of Public Works, and to make further provision for the local management of District Roads. In aid of their construction and for the improvement of the main lines of road a large expenditure will be required, but I am confident that the public capital cannot be better applied than in the permanent reduction of the cost of transport.

The operation of the Municipalities Act, and the amendments in it which experience has shewn to be desirable, will be brought under your notice. I cannot too strongly urge upon you the advantages, direct and indirect, to be derived from local institutions, whether in thinly or thickly peopled districts. They foster public spirit, and form schools in which aspirants for seats and honors in the Legislature are trained in the public business.

Your attention will be called to the subject of the Agriculture of this country, in order that such measures may be taken as will ascertain its capabilities, and will encourage the cultivation of those vegetable productions which are valuable either as articles of food or as materials employed in the arts and manufactures, and for growing which our soil and climate may afford peculiar facilities.

You will be invited to adopt measures of importance to the commerce and trade of the country. Bills relating to the management of the Customs and to Merchant Shipping will be proposed to you, the latter making provision for the examination of masters and mates in the Colonial Marine, and for the better protection and management of seamen.

I shall also direct your attention to the excessive restraints which are now put upon certain trades, especially on the sale of fermented and spirituous liquors, and upon distillation. The evils resulting from the prohibition of the latter and from the system under which the former is licensed are so flagrant and productive of so much public immorality, that in my opinion an entire change of the law is called for. You will be invited also to adjust the rates of fees paid upon other licenses.

I shall submit to you a measure to amend the laws relating to banking and the issue of notes payable on demand.

I have been, since the last session of the Legislature, in communication with the Governors of the neighbouring Colonies, with the object of making mutual arrangements of advantage to the commerce of Australia.

You will perceive from the papers which will be transmitted to you that the Governors of South Australia and Tasmania have agreed with me to propose to the respective Legislatures a scheme for connecting Melbourne with Adelaide and Hobart Town by means of the Electric Telegraph. I anticipate that by the concurrence of the Governor of New South Wales the union of the four principal towns of the Eastern Colonies will be completed.

Commissioners from the four Colonies have met in Melbourne, and have agreed upon a plan for the better lighting of the Australian coasts, and the maintenance of the lighthouses. This agreement will be submitted for your approval.

Lastly, I have addressed to each of the other Colonies a proposal for an assimilation of the Tariffs, and, in conjunction with New South Wales, I have called upon the Governor of South Australia to alter the arrangement under which dutiable goods are conveyed up the River Murray for consumption beyond the limits of that Province. Full particulars of these negotiations will be communicated to you.

It is my intention to submit for your consideration a measure for promoting Education by the establishment of an uniform and comprehensive system of Public Instruction, based upon, and in consonance with, the religious sentiments of the people.

The objects embraced by this measure will be, to make provision for Education in every part of the Country; to give to Local Boards, elected by the inhabitants of School Districts, power to levy School Rates, and determine the religious instruction in district schools, regard being had to parental authority and the opinions of the minority, who, under certain conditions, will be permitted to erect separate schools; to provide for a thorough inspection of all schools assisted from public funds; and for the transfer of the powers of the existing Boards of Education to a public department, responsible for the expenditure of the annual vote, and for the general regulation of secular teaching.

The difficulties which have rendered abortive previous attempts to establish a general system do not appear to me to afford sufficient justification for neglecting to make another effort to effect so desirable an object.

I shall also submit for your consideration an amendment of that section of the Constitution Act which devotes a portion of the public revenue to the promotion of religion; having for its object the admitting to a participation in this grant all subjects of Her Majesty whose religious tenets are not subversive of morality and good government.

You will be requested to consider the best means of providing for the education of deserted children and of juvenile criminals. The yearly increase of the tax upon private benevolence, and the amount of the charge made upon the public funds for charitable institutions, demand the most careful attention of the Legislature.

I shall cause various measures for improving legal procedure to be laid before you.

They will provide for the establishment, as far as Victoria is concerned, of a Court of Appeal for all the Australasian Colonies; for the transfer of the Criminal Jurisdiction of the Supreme Court to a Central Criminal Court; for the consolidation of the offices of Registrar General and Registrar of the Supreme Court; for an appeal from an erroneous sentence to a Superior Court without the fiat of the Attorney General, and for the transfer to a Grand Jury of the powers now vested in that officer of proceeding by information for political offences; for a more effectual method of recovering small debts and demands, and for amending the procedure in the County Courts; for altering the laws relating to Juries, and increasing the number of Special Jurors; for facilitating the transfer of real property, and the registration of transfers; for improving the laws relating to bills of lading; and for providing for the protection of persons having dealings with agents entrusted with the possession of goods.

I shall propose to you the enactment of a measure amending the Bankruptcy Laws, and providing for a more simple and effectual method of distributing Insolvent Estates.

Bills will also be laid before you for facilitating the acquirement of Patents, and diminishing the expense attendant thereon; and for affording a remedy to persons having claims against the Crown.

A Bill for the better management of the Gold Fields, with reference especially to facilities for the settlement of disputes arising from encroachments, and those connected with Mining Partnerships, will be presented to you.

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY:

The Estimates of Revenue and Expenditure will be laid before you without delay. I have endeavoured to effect in the expenditure of the Public Departments every economy consistent with the maintenance of their efficiency; and while I have succeeded in making reductions in these establishments, I have aimed at increasing the facilities to the public for the conduct of business.

I shall recommend to you to appropriate considerable sums for the purposes of Immigration. Great success has attended the alteration recently made in the regulations for the selection of Immigrants by their friends in this country; and I hope by the extension of this system, and by arrangements under which commercial enterprise will be more directly enlisted in this service, that we shall obtain a steady stream of assisted Immigration, at a cost to the Public Treasury decreasing from year to year.

I shall propose to you the discontinuance of the services of the Colonial Land and Emigration Commissioners, and the establishment of a distinct Agency for Victoria in the United Kingdom.

MR. PRESIDENT AND GENTLEMEN OF THE LEGISLATIVE COUNCIL:

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY:

I am happy to be able to congratulate you on our financial and commercial prosperity. Our credit is firmly established both at home and abroad; and the discoveries which are being almost daily made of new fields for labor induce the belief that no diminution in the yield of our mineral treasure need be apprehended.

The improvements which are being effected in the methods of working under the salutary regulations which the experience of the miners has enabled them to frame, have tended greatly to increase the proportion which the yield of gold has borne to the cost of its production.

I trust that avoiding every course likely to foster a spirit of undue speculation, you will, by wise legislation, enable Victoria so to avail herself of the advantages which Providence has bestowed upon her, as to become not only the most wealthy but the most honored of the Colonies of the Empire.

For myself, as one of the early colonists who landed with my late parents in Australia, and as bound to them by a grateful and filial remembrance, I cannot but express the sense which I entertain of the honor conferred upon me of representing Her Most Gracious Majesty in the Parliament of that country with which I have been so long connected by the ties of property and kindred.

His Excellency having retired from the Council Chamber,  
The Speaker and Members of the Legislative Assembly withdrew.

Mr. Mitchell moved, That the House do now adjourn until half-past three o'clock this day.

Ordered.

The Council adjourned at twenty-six minutes to three.

At half-past three o'clock the Council met according to adjournment, and the President took the Chair.

The Usher took the Oaths of Allegiance and Office at the direction of the President.

BILL FOR REGULATING JURIES: Mr. Mitchell moved the suspension of the Standing Orders, with a view to ask leave to bring in a Bill for Regulating Juries.

The Standing Orders being thereupon suspended,

Mr. Mitchell moved the first reading of a Bill for Regulating Juries.

Which being ordered—The Bill was read a first time.—Ordered to be printed, and read a second time on Tuesday, the 9th December next.

**HIS EXCELLENCY'S SPEECH.**—The President read the Speech delivered by His Excellency the Officer administering the Government, declaring the causes for Opening the Parliament.

**ADDRESS IN REPLY TO HIS EXCELLENCY'S SPEECH:** Mr. Bennett moved, That a Select Committee be appointed to prepare the Draft Address of the Legislative Council to His Excellency the Officer administering the Government, in reply to his Speech delivered to the Houses of Legislature, and that such Committee consist of Messrs. S. G. Henty, Henry Miller, T. H. Power, M. Hervey, D. P. Keogh, J. P. Fawkner, and the Mover.

Question—put and passed.

The Committee retired to prepare the Address, and at half-past four o'clock, Mr. Bennett, as Chairman of the Committee, brought up the Report of the Committee and read the same to the Council, and moved that the Report be received.

Ordered.

**MAY IT PLEASE YOUR EXCELLENCY—**

We, Her Majesty's dutiful subjects, the Members of the Legislative Council of Victoria, in Parliament assembled, desire to express our loyalty to our Most Gracious Sovereign, and to offer our thanks to your Excellency, as Her Majesty's Representative, for the Speech with which you have opened the first Parliament.

We unite with your Excellency in congratulating the country upon the establishment of the principle of self-government, and feel assured that it will greatly conduce to the happiness and prosperity of the community.

We concur with your Excellency, that it will be our duty to watch the operation of the Constitutional Act, and to make such changes in it, from time to time, as may be necessary.

The efficiency of the public administration in all its branches will claim our earnest attention, and we trust that the organization of the civil service will be materially improved by the suggestions emanating from the enquiry which has been instituted.

The measures which are to be submitted relating to the public revenue and accounts, as well as that relating to the consolidation of departments, will be diligently examined by us.

We are deeply impressed with the necessity for introducing a suitable law for regulating the sale and occupation of the public lands, and we shall gladly co-operate in framing a measure which may have for its object the settlement of this question in a satisfactory and equitable manner.

Railway communication with the great centres of population in the interior of this country, and the extension of the lines of electric telegraph, are subjects of which the importance cannot, in our opinion, be over estimated, and will demand the serious consideration of the Legislature.

The Council note that the powers of the Central Road Board have been transferred to the Commissioner of Public Works, and learn with satisfaction that further provision is to be made for the management of district roads; thus carrying out the formation of roads and bridges, the construction of which has already made some progress.

It has been abundantly proved in this country, that it is desirable to encourage the formation of local institutions for purposes of self-government, and we have much satisfaction in learning that improvements in the Municipalities Act will be brought under our notice.

We trust, that we shall be enabled, during the present Session, to adopt measures which will be beneficial to the Trade and Commerce of the Country, and give encouragement to Agriculture.

The Law which now imposes restraints on certain trades, will be diligently investigated by us, as well as the Laws relating to Banking, and the issue of Notes.

Our assimilation of the Tariffs in the Australian Colonies will, if it can be successfully carried out, meet with our cordial support; and we rejoice to hear that steps have been taken towards an improvement in the lighting of the coasts of the several Colonies.

We shall gladly give our best consideration to the creation of a comprehensive system of Public Education.

The expediency of amending that section of the Constitutional Act, which devotes a portion of the Public Revenue to the promotion of religion, will receive our careful consideration, and the necessity which would appear to exist of making some provision for the education of deserted children, and juvenile criminals, will not be overlooked by us.

The various measures for improving legal procedure for amending the Bankruptcy Laws, for the better management of the Gold Fields, and the other measures adverted to in your Excellency's Address, will receive our careful attention.

We believe, with your Excellency, that the financial credit of Victoria is most firmly established, that her mineral treasure is still unlimited, and that, under the practical experience of the miners themselves, the improved methods of working will continue to develop her mineral wealth for ages.

We congratulate your Excellency upon the high post which you have been called to fill in opening the first Parliament of Victoria, as the representative of Her Most Gracious Majesty, and it is our most ardent aspiration that Victoria may, by wise and prudent legislation, obtain that high position amongst the provinces of the empire which her vast internal resources will enable her to sustain.

Mr. Bennett moved, That the Address now read, be adopted as the reply of this Council to the Speech made by His Excellency to the Houses of Legislature at the opening of the Session.

Debate ensued.

Question—put and passed.

Mr. Bennett moved, That the Address now adopted be presented to His Excellency the Officer administering the Government by the President and the Members of Committee who have drawn up the Address.

Question—put and passed.

**ELECTION OF CHAIRMAN OF COMMITTEES :** Mr. Fawkner moved, That Mr. Hodgson be Chairman of Committees of this House during the present Session.

Mr. Clarke moved, That Mr. Robert Thompson be Chairman of Committees during the present Session.

Amendment moved by Mr. Bennett, That the words “during the present Session” be omitted.

Debate ensued.

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

Question—That Mr. Hodgson be Chairman of Committees of this House during the present Session—put.

Council divided.

Contents, 17.

Mr. Mitchell  
Mr. McCombie  
Mr. Keogh  
Mr. Patterson  
Mr. S. G. Henty  
Mr. Power  
Mr. Fawkner  
Mr. Hervey  
Mr. J. Henty  
Mr. Williams  
Mr. Hood  
Mr. Guthridge  
Mr. Cowie  
Mr. Thompson  
Mr. Allan  
Mr. Miller  
Mr. Vaughan, (*Teller.*)

Non-Contents, 11.

Mr. Stewart  
Mr. Kennedy  
Mr. Urquhart  
Mr. Clarke  
Mr. Hodgson  
Mr. Tierney  
Mr. Cruikshank  
Mr. Kaye  
Mr. Hope  
Mr. Bennett  
Mr. Strachan, (*Teller.*)

On the motion of Mr. Mitchell the House adjourned at twenty-five minutes to six o'clock until three o'clock on Wednesday, the 26th November.

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NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 26TH NOVEMBER.

1. MR. HOOD : To ask the Honorable Member holding a seat in the Executive Council, Mr. Mitchell, whether the Government intends submitting any measure for the introduction of Vote by Ballot in the Election of Members of Municipal Corporations, and District Municipalities.

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NOTICES OF MOTION :—

1. MR. MCCOMBIE : To move, That a Select Committee, consisting of Mr. Fawkner, the President, Mr. Mitchell, Mr. Hodgson, Mr. Hervey, Mr. Bennett, Mr. Hood, Mr. Miller and the Mover, be appointed to frame and bring up a series of Standing Orders for this Council, and also to confer with a Committee of the Legislative Assembly.
2. MR. 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. MR. MITCHELL: To move, That the House of Assembly be invited to confer with this House touching the appointment of a joint Library Committee.
4. MR. 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.
5. MR. HOOD : To move, The appointment of a Select Committee of five, to be chosen by ballot, to enquire into the working of the Penal Establishments of the Colony, with power to examine witnesses, and require the production of books and papers.  
*Contingent* on this motion being carried, That an Address be presented to the Officer administering the Government, praying His Excellency to respite the execution of the convict Melville, now under sentence of death, pending the enquiry.

TUESDAY, 2nd DECEMBER.

1. MR. CRUIKSHANK: To move, That an Address be presented to His Excellency the Officer administering the Government, praying that His Excellency will be pleased to cause to be laid upon the Table of this Council a detailed return of the number of Bonded Warehouses in the City of Melbourne, the names of the proprietors or occupiers, and the amount of fees paid by each under and since the passing of an Act by the late Legislature, intituled "*An Act to amend an Act for the general regulation of the Customs of the Colony of Victoria,*" Assented to 8th of April, 1854. Also a like return for the town of Geelong, and the other outports of this Colony.
2. MR. FAWKNER: To move, That a Committee of five Members be appointed, viz.: Messrs Hodgson, Hood, Hervey, the President, and the Mover, to draw up an Address to Our Sovereign Lady the Queen, praying Her to refuse Her assent to any and every measure by which the convicted felons of Great Britain can be sent or transported, not only to Australasia, but also prevented from landing in any of the adjacent islands; and that the President do present the said Address to His Excellency the Acting Governor, requesting of him to support the prayer of the Petition.

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TUESDAY, 9TH DECEMBER.

ORDER OF THE DAY:—

1. BILL FOR REGULATING JURIES—To be read a second time.

G. W. RUSDEN,

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

No. 4.

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

WEDNESDAY, 26<sup>TH</sup> NOVEMBER, 1856.

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

**PETITION.**—Mr. Kennedy presented a petition from Adam Cairns, D.D., and others, praying that this Honorable House would take the statements set forth in the Petition into consideration, and open their proceedings daily with prayer.

Petition received.

**REPLY TO HIS EXCELLENCY'S SPEECH.**—Mr. Mitchell stated that His Excellency the Officer administering the Government would be prepared to receive the reply of the Council to His Excellency's Speech to-morrow, at eleven o'clock.

**PETITION.**—Mr. Hervey presented a petition, praying that leave might be given to bring in a Bill to vest in Trustees the estate of the late Robert Anstruther Balbirnie Vans, late of Balmerino, in the parish of Prahran, for the benefit of persons interested in the will of the said Robert Anstruther Balbirnie Vans.

Petition received.

**STANDING ORDERS.**—Mr. McCombie moved, That a Select Committee, consisting of Mr. Fawkner, the President, Mr. Mitchell, Mr. Hodgson, Mr. Hervey, Mr. Bennett, Mr. Hood, Mr. Miller, and the Mover, be appointed, to frame and bring up a series of Standing Orders for this Council; and also to confer with a Committee of the Legislative Assembly.

Question—put and passed.

**DAYS OF BUSINESS.**—Mr. Mitchell moved, That this Council meet three days in the week, viz, Tuesdays, Wednesdays, and Thursdays; and that three o'clock be the hour of meeting on each day.

Amendment moved by Mr. Cruikshank, That the word "three" in the second line be omitted, with a view to insert the word "four" in place thereof.

Further amendment moved by Mr. Fawkner, That the word "and" be omitted after the word Wednesdays, and that the words "and Fridays" be added after the word Thursdays.

Further amendment moved by Mr. Guthridge, That the word "two" be substituted in place of the word "three," as the hour of meeting.

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

Question—That this Council meet three days in the week, viz., Tuesdays, Wednesdays, and Thursdays; and that three o'clock be the hour of meeting on each day—put and passed.

**GOVERNMENT BUSINESS.**—Mr. Mitchell 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.

**LIBRARY COMMITTEE.**—Mr. Mitchell moved, That the House of Assembly be invited to confer with this House touching the appointment of a Joint Library Committee.

Question—put and passed.

**PENAL ESTABLISHMENTS.**—Mr. Hood moved, pursuant to amended notice, The appointment of a Select Committee of seven members, to be chosen by ballot, to enquire into the working of the penal establishments of the Colony, with power to examine witnesses, and require the production of books and papers.

Debate ensued.

Question—put and passed.

The Council then proceeded to the ballot, and the following members being reported to have the greatest number of votes, were declared by the President to be the members of the Committee, viz.:—Messrs. Hood, Hervey, McCombie, Mitchell, Strachan, Miller, Cruikshank.



ADJOURNMENT.—Mr. Mitchell, with leave of the House, moved that the House at its rising adjourn until to-morrow at half past ten o'clock.

Debate ensued.

Question—put and passed.

The Council adjourned at five o'clock until half-past ten o'clock to-morrow.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 4TH DECEMBER.

1. MR. ALLAN: To ask the Officer representing the Government in this House whether the Government intend bringing forward any measure to cause the sum of £360,000, appropriated by a former Ministry, and any other sums since abstracted from the Emigration Fund, to be refunded for the legitimate purpose.

NOTICES OF MOTION:—

1. MR. CRUIKSHANK: To move, That an Address be presented to His Excellency the Officer administering the Government, praying that His Excellency will be pleased to cause to be laid upon the Table of this Council a detailed return of the number of Bonded Warehouses in the City of Melbourne, the names of the proprietors or occupiers, and the amount of fees paid by each under and since the passing of an Act by the late Legislature, intituled, "*An Act to amend an Act for the general regulation of the Customs of the Colony of Victoria*," assented to 8th of April, 1854. Also a like return for the town of Geelong, and the other outports of this Colony.
2. MR. FAWKNER: To move, That a Committee of five Members be appointed, viz.: Messrs. Hodgson, Hood, Hervey, the President, and the Mover, to draw up an Address to Our Sovereign Lady the Queen, praying Her to refuse Her assent to any and every measure by which the convicted felons of Great Britain can be sent or transported, not only to Australasia, but also prevented from landing in any of the adjacent islands; and that the President do present the said Address to His Excellency the Acting Governor, requesting of him to support the prayer of the Petition.
3. MR. HERVEY: To move, That the Petition of Agnes Balbirnie Vans and others, for a private Estate Bill, offered to the Council by him on the 26th November, 1856, be referred to two of the Judges of the Supreme Court of the Colony for their report thereon.
4. MR. MITCHELL: To move for leave to bring in a Bill to amend the law relative to Bills of Lading.

TUESDAY, 9TH DECEMBER.

ORDER OF THE DAY:—

1. BILL FOR REGULATING JURIES—To be read a second time.

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## MEETINGS

OF

## SELECT COMMITTEES.

Thursday, 28th November.

STANDING ORDERS—at 10 o'clock.

PENAL ESTABLISHMENTS—at 10 o'clock.

G. W. RUSDEN,

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

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PARLIAMENTARY PAPERS ISSUED THURSDAY MORNING, 27TH NOVEMBER.

Minutes of the Proceedings.—No. 3.

Proof of Minutes.—No. 4.

Bill for Regulating Juries.

Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

THURSDAY, 27<sup>TH</sup> NOVEMBER, 1856.

The Council met in accordance with adjournment.

PETITION.—Mr. Kennedy presented a petition, signed by the Moderator, on behalf of the Free Presbyterian Church, praying that it may be adopted as an Order of the House, that each day's proceedings be opened by prayer.

Petition received.

PENAL ESTABLISHMENTS.—Mr. Hood, with leave of the Council, moved, That the name of Mr. Thompson be substituted for that of Mr. Strachan on the Penal Establishments Committee.

Question—put and passed.

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—

John Barter Bennett, Esquire,  
John Pascoe Fawcner, Esquire,  
Stephen G. Henty, Esquire,  
R. C. Hope, Esq., M.D.,  
W. H. F. Mitchell, Esquire,  
T. H. Power, Esquire, and  
Chas. Vaughan, Esquire,

to be Members of a Committee to be called 'The Committee of Elections and Qualifications.'

" Given under my hand this twenty-seventh day of November, 1856.

" J. F. PALMER,

" *President.*"

REGULATING JURIES BILL.—Mr. Mitchell, with leave of the House, moved, That the Order of the Day for the second reading of "*The Bill for Regulating Juries*" be changed to Thursday, the 4th December.

Debate ensued.

Council divided.

Contents, 12.

Mr. Power  
Mr. Mitchell  
Mr. Strachan  
Mr. Vaughan  
Mr. Hodgson  
Mr. Hervey  
Mr. Miller  
Mr. S. G. Henty  
Mr. Kennedy  
Dr. Hope  
Mr. Roope  
Mr. Bennett (*Teller*).

Not Contents, 5.

Mr. Fawcner  
Mr. Keogh  
Mr. Thompson  
Mr. Hood  
Mr. Patterson (*Teller*).

PRESENTATION OF REPLY TO HIS EXCELLENCY'S SPEECH.—At a quarter-past eleven the Council adjourned, in order that the President and the Members of Committee who prepared the Reply to His Excellency's Opening Speech might present the same.

The Council having returned, the President reported that he had, in company with Members who prepared the Reply, presented the same to His Excellency, who had been pleased to make thereto the following answer :—

MR. PRESIDENT AND GENTLEMEN OF THE LEGISLATIVE COUNCIL—

I thank you for the loyal Address which you have now presented to me, and have to express my satisfaction at the assurance it contains, that the subjects I have brought under your notice will receive your serious consideration.  
27th November, 1856.

Mr. Mitchell, with leave of the House, moved, That the House at its rising this day, do adjourn until Thursday next, at the usual hour of meeting.

Question—put and passed.

Mr. Hood, with leave of the Council, moved, That the Committee of Enquiry on the Penal Establishments be allowed to sit during the adjournment of the Council during the ensuing week.

Debaté ensued.

Question—put and passed.

The Council then adjourned during pleasure, and having resumed at twenty minutes past two o'clock, adjourned until three o'clock on Thursday, the 4th December next.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 4TH DECEMBER.

1. MR. ALLAN : To ask the Officer representing the Government in this House whether the Government intend bringing forward any measure to cause the sum of £860,000, appropriated by a former Ministry, and any other sums since abstracted from the Emigration Fund, to be refunded for the legitimate purpose.

### NOTICES OF MOTION :—

1. MR. CRUIKSHANK : To move, That an Address be presented to His Excellency the Officer administering the Government, praying that His Excellency will be pleased to cause to be laid upon the Table of this Council a detailed return of the number of Bonded Warehouses in the City of Melbourne, the names of the proprietors or occupiers, and the amount of fees paid by each under and since the passing of an Act by the late Legislature, intituled, "*An Act to amend an Act for the general regulation of the Customs of the Colony of Victoria,*" assented to 8th of April, 1854. Also, a like return for the town of Geelong, and the other outports of this Colony.
2. MR. FAWKNER : To move, That a Committee of five Members be appointed, viz.: Messrs. Hodgson, Hood, Hervey, the President, and the Mover, to draw up an Address to Our Sovereign Lady the Queen, praying Her to refuse Her assent to any and every measure by which the convicted felons of Great Britain can be sent or transported, not only to Australasia, but also prevented from landing in any of the adjacent islands; and that the President do present the said Address to His Excellency the Acting Governor, requesting of him to support the prayer of the Petition.
3. MR. HERVEY : To move, That the Petition of Agnes Balbirnie Vans and others, for a private Estate Bill, offered to the Council by him on the 26th November, 1856, be referred to two of the Judges of the Supreme Court of the Colony for their report thereon.
4. MR. MITCHELL : To move for leave to bring in a Bill to amend the law relative to Bills of Lading.
5. MR. BENNETT : To move, That the proceedings of this Council be opened by prayer, and that a Select Committee be appointed for the purpose of preparing the form of prayer to be used in the Council on its opening each day, and that such Committee consist of Mr. Guthridge, Mr. Hodgson, Mr. Power, Mr. Fawkner, Mr. James Henty, and the Mover.

### ORDER OF THE DAY :—

1. BILL FOR REGULATING JURIES—To be read a second time.

MEETING  
OF  
**SELECT COMMITTEE.**

*Monday, 1st December.*

PENAL ESTABLISHMENTS—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, 4TH DECEMBER, 1856.

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

PETITIONS.—Mr. Kennedy presented a Petition from the Rev. J. Hetherington, Minister of the Scots Church, Melbourne, praying the House to take the premises into consideration, and open its proceedings with prayer.

Petition received.

Mr. Kennedy presented a similar Petition from the Rev. James Clow, Moderator of the Synod of Victoria.

Petition received.

Mr. Roope presented a similar Petition from Members of the Wesleyan Church and Congregation at Chilwell.

Petition received.

Mr. Roope presented a similar Petition from Members of the Wesleyan Methodist Church and Congregation at Newtown.

Petition received.

Mr. Roope presented a similar Petition from Members of the Wesleyan Church and Congregation at South Geelong.

Petition received.

PETITION.—Mr. Mitchell presented a Petition from Chinese storekeepers, miners, and others, now resident on and in the neighbourhood of the Bendigo gold field, in Victoria, praying for a repeal of the 4th clause of "*An Act to make provision for certain Immigrants,*" and for such further relief as will place them on an equality with other inhabitants of the Colony.

The President drew the attention of the Council to the fact that the Petition was in several respects irregular, and the Petition was received in consideration of the peculiar circumstances of the petitioners, all being foreigners, on the understanding that its reception should in no manner establish a precedent.

PAPERS.—Mr. Mitchell, by command of His Excellency, presented to the House—

1. A Report from the Sewerage and Water Commission.
2. Regulations and Charges in the Department of the Electric Telegraph.
3. Report of the Acting Immigration Agent for the year 1855.

Ordered to be printed.

PETITION.—Mr. Guthridge presented a Petition, signed by the Rev. D. J. Draper, praying, on behalf of the Wesleyan Methodist Church, that the proceedings of the House may be commenced each day with prayer.

Petition received.

ELECTIONS AND QUALIFICATIONS.—The President laid upon the Table the Warrant appointing the Committee of Elections and Qualifications.

PETITION.—Mr. Hodgson presented a Petition from members of the Church of England, in the Colony of Victoria, praying that the Legislative proceedings of each day may be commenced with prayer.

Petition received.

STANDING ORDERS.—Mr. McCombie, on behalf of the Chairman of the Standing Orders Committee, brought up a Progress Report, and, with leave of the Council, moved, That the Progress Report of the Standing Orders Committee be printed and made an Order of the Day for consideration on Tuesday next.

Question—put and passed.

Mr. Bennett, with leave of the Council, on behalf of Mr. Allan, who was absent, postponed the question standing in Mr. Allan's name, until Tuesday, the 9th December, 1856.

**BONDED WAREHOUSES.**—Mr. Cruikshank moved, in accordance with *amended* notice, That an Address be presented to His Excellency the Officer administering the Government, praying that His Excellency will be pleased to cause to be laid upon the Table of this Council a detailed return of the number of Bonded Warehouses in the City of Melbourne, the several dates when licensed, the names of the proprietors or occupiers, the several dates of payment, and the amount of fees paid by each under and since the passing of an Act by the late Legislature, intituled, "*An Act to amend an Act for the general regulation of the Customs of the Colony of Victoria*," assented to 8th of April, 1854. Also, a like return for the town of Geelong, and the other outports of this Colony.

Debate ensued.

Question—put and passed.

**TRANSPORTATION OF FELONS.**—Mr. Fawkner moved, in accordance with notice, That a Committee of five Members be appointed, viz., Messrs. Hodgson, Hood, Hervey, the President, and the Mover, to draw up an Address to our Sovereign Lady the Queen, praying Her to refuse Her assent to any and every measure by which the convicted felons of Great Britain can be sent or transported, not only to Australasia, but also prevented from landing in any of the adjacent islands; and that the President do present the said Address to His Excellency the Acting Governor, requesting of him to support the prayer of the Petition.

Debate ensued.

Question—put and passed.

**BALBIRNIE VANS ESTATE.**—Mr. Hervey, with leave of the Council, withdrew the Notice of Motion standing in his name, and obtained leave to bring in a Bill to vest in Trustees the Estate of the late Robert Anstruther Balbirnie Vans, late of Balmerino, and moved that it be now read a first time.

Question—put and passed.

Bill read a first time, and the question of its being read a second time ordered to stand an Order of the Day for Thursday, the 18th December, 1856.

**BILLS OF LADING.**—Mr. Mitchell, with leave of the Council, postponed the Notice of Motion standing in his name, until Tuesday, the 9th December, 1856.

**OPENING OF PROCEEDINGS WITH PRAYER.**—Mr. Bennett, in accordance with notice, moved, That the proceedings of this Council be opened by prayer, and that a Select Committee be appointed for the purpose of preparing the form of prayer to be used in the Council on its opening each day, and that such Committee consist of Mr. Guthridge, Mr. Hodgson, Mr. Power, Mr. Fawkner, Mr. James Henty, and the Mover.

Debate ensued.

Mr. McCombie moved the previous question.

Question—That this question be now put—put.

Council divided.

Contents, 12.  
Mr. Roope  
Mr. Urquhart  
Mr. Fawkner  
Mr. Stewart  
Dr. Hope  
Mr. Kennedy  
Mr. Patterson  
Mr. Hodgson  
Mr. Henty  
Mr. Stephen Henty  
Mr. Guthridge  
Mr. Bennett (*Teller*).

Not Contents, 12.  
Mr. Mitchell  
Mr. Hervey  
Mr. Power  
Mr. Clarke  
Mr. Thomson  
Dr. Tierney  
Mr. Vaughan  
Mr. Hood  
Mr. Keogh  
Mr. Cruikshank  
Mr. Strachan  
Mr. McCombie (*Teller*).

The President submitted to the Council the propriety of now deciding in what manner the vote of the President should be given.

Mr. Fawkner moved, That the President should, under the present circumstances, give his casting vote.

Question—put and passed.

The President then declared that on the previous question he gave his voice with the contents. The question was therefore passed.

Mr. Bennett's motion—That the proceedings of this Council be opened by prayer, and that a Select Committee be appointed for the purpose of preparing the form of prayer to be used in the Council on its opening each day, and that such Committee consist of Mr. Guthridge, Mr. Hodgson, Mr. Power, Mr. Fawkner, Mr. James Henty, and the Mover—put.

Council divided.

Contents, 12.

Mr. Roope  
Mr. Urquhart  
Mr. Fawkner  
Mr. Stewart  
Dr. Hope  
Mr. Kennedy  
Mr. Patterson  
Mr. Hodgson  
Mr. Henty  
Mr. Stephen Henty  
Mr. Guthridge  
Mr. Bennett (*Teller*).

Not Contents, 12.

Mr. Mitchell  
Mr. Hervey  
Mr. Power  
Mr. Clarke  
Mr. Thomson  
Dr. Tierney  
Mr. Vaughan  
Mr. Hood  
Mr. Keogh  
Mr. Cruikshank  
Mr. Strachan  
Mr. McCombie (*Teller*).

The contents and not contents being equal in number, the President gave his voice with the contents.

The question was therefore passed.

**BILL FOR REGULATING JURIES.**—Mr. Mitchell, with leave of the Council, postponed the Order of the Day as to the second reading of the Bill for Regulating Juries until the next day of meeting of the Council.

**ADJOURNMENT.**—Mr. Mitchell then moved, That the Council, at its rising, adjourn till Thursday, the 11th instant.

Question—put and passed.

**POSTPONEMENT OF QUESTIONS AND NOTICES OF MOTION.**—The several questions and notices set down for Tuesday, the 9th, and Wednesday, the 10th, were, with the leave of the Council, postponed until Thursday, the 11th instant.

**PENAL ESTABLISHMENTS.**—Mr. Hood moved, with leave of the Council, That the following eight members be added to the Select Committee on Penal Establishments, viz., Messrs. Clarke, Cowie, Guthridge, Keogh, Patterson, Stewart, Tierney, and Williams, and that the Committee have power to sit during the adjournment.

Question—put and passed.

**OPENING PROCEEDINGS WITH PRAYER.**—Mr. Bennett, with leave of the Council, moved, That the following nine names be added to the Committee for preparing the Prayer to be used on the opening of Council, and that leave be given to the Committee to sit during the adjournment, viz. :—The President, Messrs. Tierney, Patterson, Hervey, Thomson, Williams, Mitchell, Miller, and Vaughan.

Debate ensued.

Council divided.

Contents, 6.

Mr. Mitchell  
Mr. Fawkner  
Mr. Bennett  
Mr. Stewart  
Mr. Hodgson  
Mr. Patterson (*Teller*).

Not Contents, 6.

Mr. Power  
Mr. Clarke  
Mr. Thomson  
Mr. McCombie  
Mr. Hood  
Mr. Hervey (*Teller*).

The President gave his voice with the contents, stating that he did so in order that the previous vote of the Council might not be invalidated on a point of form.

The question was therefore passed.

The Council adjourned at a quarter past six o'clock until Thursday, the 11th December, at three o'clock.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 11TH DECEMBER.

1. MR. HOOD: To ask the honorable Member holding a seat in the Executive, Mr. Mitchell, if the Government contemplate bringing in any measure to amend, alter, or repeal the present law regulating the influx of Chinese into this Colony.
2. MR. HOOD: To ask the honorable Member holding a seat in the Executive whether the Government contemplate placing a sum on the estimates for 1857 for the erection of a jetty at St. Kilda, and if so, what amount.
3. MR. HOOD: To ask the honorable Member holding a seat in the Executive Council what sum the Government intend placing on the Estimates of 1857 for the endowment of Municipalities.
4. MR. HOOD: To ask leave to bring in a Bill to give remuneration to witnesses in actions.

## NOTICES OF MOTION:—

1. MR. McCOMBIE: To move, That a Select Committee of this House, consisting of Messrs. Hervey, Fawkner, Kennedy, Hood, Keogh, and the mover, be appointed to frame a circular letter to be addressed to the Legislatures of New South Wales, Van Diemen's Land, South Australia, and New Zealand, setting forth the necessity of uniform legislation for the whole of the Australian Colonies upon the following questions:—
  - (1.) The upset price of public lands.
  - (2.) The prevention of transportation to any part of Australasia, or to any island adjacent.
  - (3.) The coinage of money and the regulation of its value.
  - (4.) Postage and postal communication, both inland and to England.
  - (5.) The naturalization of aliens.
  - (6.) Military establishments.
  - (7.) Lighthouses, railways, tariffs of duties and excise, &c.
  - (8.) And suggesting that as those and many other subjects, not so much of a local as of a general character, and having reference to the trade, good government, prosperity, and progress of all the Australian Colonies, will frequently have to be debated, it would materially facilitate public business, if, in the absence of any federal union, delegates from the various Legislatures were to meet once a year to deliberate upon measures of the character referred to.
2. MR. HOOD: To move,
  - (1.) That it is expedient and necessary on the prospect of a general federation of the Australian Colonies, that the division of this vast Continental Island into distinct Colonies should be effected, so as to prevent any one Colony from possessing any extent of Territory disproportionate to that of the other Colonies adjoining it in the Australian group.
  - (2.) That this House has observed with great satisfaction that it is the intention of Her Majesty's Government to separate from New South Wales the territory extending northwards from the 30th parallel of latitude, and to erect it into a distinct colony.
  - (3.) That this measure is the more satisfactory to this House, as New South Wales, within the 30th parallel of latitude, would still be nearly three times the extent of this Colony, and ten times that of Tasmania, and as any addition to the territory of the older Colony would only increase this disproportion and render a general federation of the Australian Colonies the more impracticable.
  - (4.) That this House, therefore, trusts that Her Majesty's Government will not be dissuaded from carrying out its intention as indicated above, by the interested representations of those who would monopolise for their own colony an extent of territory disproportioned to that of the others adjoining it in the Australian group.
  - (5.) That an Address be presented to His Excellency the Acting Governor embodying these resolutions and requesting that His Excellency will transmit them to the Right Honorable the Secretary of State for the Colonies.
3. MR. McCOMBIE: To move for leave to bring in a Bill to regulate party fences in the Colony of Victoria.
4. MR. PATTERSON: To move for a return of all sums expended on the purchase of brood mares and entire horses, and in the management generally of the Government breeding stations at Dandenong.

*Contingent* on bringing up the Report of the Form of Prayer Committee—MR. BENNETT: To move, That the President be the person to offer up the prayer to be used in the Council.

## ORDER OF THE DAY:—

1. BILL FOR REGULATING JURIES—To be read a second time.

## MEETINGS

OF

# SELECT COMMITTEES.

*Friday, 5th December.*

PENAL ESTABLISHMENTS—at 2 o'clock.

*Monday, 8th December.*

FORM OF PRAYER—at 10 o'clock.

G. W. RUSDEN,

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



# Minutes of the Proceedings

OF THE

# LEGISLATIVE COUNCIL.

THURSDAY, 11TH DECEMBER, 1856.

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

**PETITION.**—Mr. McCombie presented a Petition from the Rev. John Dunmore Lang, praying that the House would take the premises into consideration, and institute a searching inquiry into matters relative to the trial and conviction of two young men, G. D. Lang, and F. L. Drake, in the Supreme Court of the Colony, in the year 1854.

Petition received.

**PAPERS.**—Mr. Mitchell, by command of His Excellency the Officer administering the Government, presented to the House the following Papers:—

1. Report on projected Harbor and Jetty at Snapper Point.
2. Despatch from the Right Honorable the Secretary of State for the Colonies, in reply to an Address from the late Legislative Council on the subject of the Russian War (23rd April, 1856).
3. Despatch from Major-General Macarthur to the Right Honorable the Secretary of State, on the subject of Transportation, with an Enclosure (26th August, 1856).
4. Despatch from the Right Honorable the Secretary of State, on the subject of Steam Postal Communication (18th June, 1856).
5. Despatch from the Right Honorable the Secretary of State, announcing the appointment of Sir Henry Barkly as Governor of Victoria (5th July, 1856).
6. Local Court Regulations for the Steiglitz District (5th December, 1856).
7. Local Court Regulations for the Avoca District (9th December, 1856).
8. Local Court Regulations for the Waranga District (7th October, 1856, and 28th November, 1856).
9. Local Court Regulations for the Castlemaine District (18th January, 1856; 27th August, 1856; 5th September, 1856; 7th November, 1856; 28th November, 1856).
10. Local Court Regulations for the Creswick District (15th of April, 1856; 12th September, 1856; 7th November, 1856; Frontage Series, 7th November, 1856).
11. Local Court Regulations for the Ballarat District (8th April, 1856; 10th May, 1856; 3rd June, 1856; 12th June, 1856; 27th August, 1856; Surfacing Series, 27th August, 1856; 17th October, 1856).
12. Local Court Regulations for the Hepburn District (8th April, 1856; Regulations undated; Regulations, 12th June, 1856; 26th September, 1856).
13. Local Court Regulations for the Beechworth District (18th March, 1856; 8th April, 1856; 23rd May, 1856; 10th June, 1856; 15th July, 1856; 29th July, 1856; 16th September, 1856; 26th September, 1856; 7th October, 1856; 28th October, 1856).
14. Local Court Regulations for the Mount Blackwood District (8th April, 1856; 12th September, 1856; 7th October, 1856; 4th November, 1856).
15. Local Court Regulations for the Avoca District (2nd May, 1856; 28th October, 1856; Special for Avoca Lead, 28th October, 1856).
16. Local Court Regulations for the Sandhurst District (General Regulations, 27th August, 1856; 3rd October, 1856).
17. Local Court Regulations for the Yackandandah District (26th March, 1856; April, 1856; 10th May, 1856).
18. Local Court Regulations for the Heathcote District (16th May, 1856; 29th July, 1856).
19. Local Court Regulations for the Raglan District (19th September, 1856).
20. Regulations for the Chinese on the Gold Fields (19th March, 1856).
21. Gold Fields General Regulations (1st April, 1856; 2nd May, 1856).

22. Report of the Proceedings of the University of Melbourne.
23. Supreme Court Rules (22nd May, 1856).
24. Supreme Court Rules (14th March, 1856; 3rd April, 1856; 8th April, 1856).
25. Return of Expenditure of the Corporation of Melbourne from 1st September, 1855, to 31st August, 1856.
26. Return of Receipts and Expenditure for Fitz Roy Ward Improvement, for the year ending 31st August, 1856.
27. Return of Friendly Societies registered during the year 1855.
28. Despatch from the Right Honorable the Secretary of State for the Colonies, on the subject of a second contribution from the Colony of Victoria to the Patriotic Fund (30th July, 1856).
29. Letter from the Honorary Secretary to the Royal Commission of the Patriotic Fund, acknowledging the receipt of the second contribution from the Colony of Victoria to the Patriotic Fund (7th December, 1855).
30. Despatch from the Secretary of State on the subject of the Influx of Criminals Act.

**ELECTIONS AND QUALIFICATIONS.**—The President, for the third time, laid upon the Table of the Council the Warrant appointing the Committee of Elections and Qualifications.

**POSTPONEMENT.**—Mr. Hood, with leave of the House, postponed until Thursday, 18th instant, his notice as to asking leave to bring in a Bill to give remuneration to witnesses in actions.

**UNIFORM LEGISLATION.**—Mr. McCombie moved, in accordance with notice, That a Select Committee of this House, consisting of Messrs. Hervey, Fawkner, Kennedy, Hood, Keogh, and the Mover, be appointed to frame a circular letter to be addressed to the Legislatures of New South Wales, Van Diemen's Land, South Australia, and New Zealand, setting forth the necessity of uniform legislation for the whole of the Australian Colonies upon the following questions:—

- (1.) The upset price of public lands.
- (2.) The prevention of transportation to any part of Australasia, or to any island adjacent.
- (3.) The coinage of money and the regulation of its value.
- (4.) Postage and postal communication, both inland and to England.
- (5.) The naturalization of aliens.
- (6.) Military establishments.
- (7.) Lighthouses, railways, tariffs of duties and excise, &c.
- (8.) And suggesting that as those and many other subjects, not so much of a local as of a general character, and having reference to the trade, good government, prosperity, and progress of all the Australian Colonies, will frequently have to be debated, it would materially facilitate public business, if, in the absence of any federal union, delegates from the various Legislatures were to meet once a year to deliberate upon measures of the character referred to.

Debate ensued.

Motion, by leave, withdrawn.

**GENERAL FEDERATION.**—Mr. Hood moved, in accordance with notice:—

- (1.) That it is expedient and necessary on the prospect of a general federation of the Australian Colonies, that the division of this vast Continental Island into distinct Colonies should be effected, so as to prevent any one Colony from possessing any extent of territory disproportionate to that of the other Colonies adjoining it in the Australian group.
- (2.) That this House has observed with great satisfaction that it is the intention of Her Majesty's Government to separate from New South Wales the territory extending northwards from the 30th parallel of latitude, and to erect it into a distinct Colony.
- (3.) That this measure is the more satisfactory to this House, as New South Wales, within the 30th parallel of latitude, would still be nearly three times the extent of this Colony, and ten times that of Tasmania, and as any addition to the territory of the older Colony would only increase this disproportion and render a general federation of the Australian Colonies the more impracticable.
- (4.) That this House, therefore, trusts that Her Majesty's Government will not be dissuaded from carrying out its intention as indicated above, by the interested representations of those who would monopolise for their own Colony an extent of territory disproportioned to that of the others adjoining it in the Australian group.
- (5.) That an Address be presented to His Excellency the Acting Governor embodying these resolutions, and requesting that His Excellency will transmit them to the Right Honorable the Secretary of State for the Colonies.

Debate ensued.

Motion, by leave, withdrawn.

**POSTPONEMENT.**—Mr. McCombie, with leave of the Council, postponed his notice of motion on the subject of Party Fences, until Tuesday, 15th December, 1856.

**GOVERNMENT HORSE STATION.**—Mr. Patterson, with leave of the Council, withdrew the notice of motion standing in his name.

**FORM OF PRAYER.**—Mr. Bennett, on behalf of the Chairman of the Form of Prayer Committee, brought up the form recommended, and moved that it be received.

Question—put.

Council divided.

Contents, 12.  
 Mr. Fawkner  
 Mr. Urquhart  
 Mr. Patterson  
 Mr. Stewart  
 Dr. Hope  
 Mr. Cowie  
 Mr. Miller  
 Mr. J. Henty  
 Mr. Bennett  
 Mr. Roope  
 Mr. Guthridge  
 Mr. Hodgson (*Teller*).

Not Contents, 14.  
 Mr. Mitchell  
 Mr. Thomson  
 Mr. Hood  
 Mr. McCombie  
 Mr. Keogh  
 Mr. Clarke  
 Mr. Allan  
 Mr. Kay  
 Dr. Tierney  
 Mr. Cruikshank  
 Mr. Vaughan  
 Mr. Power  
 Mr. Strachan  
 Mr. Hervey (*Teller*).

The question was therefore negatived.

**BILL FOR REGULATING JURIES.**—The Order of the Day for the second reading of the Bill for regulating Juries being read, it was moved by Mr. Mitchell that it be discharged.

Question—put and passed.

The Council adjourned at twenty minutes past four o'clock until the usual hour on Tuesday, the 16th December, 1856.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 16TH DECEMBER.

1. **MR. FAWKNER** : To ask Mr. Mitchell—

(1.) For what reason or purpose have the public been compelled to place two stamps upon every fourpenny stamped letter during the whole of the last eighteen months?

(2.) For what cause does the Postmaster of Victoria put the public to the double expense of paper, gumming and printing of two several stamps, in order to pay the sum of fourpence, one stamp of fourpence costing surely not more than either of the two stamps usually affixed on the fourpenny post letter?

(3.) What caused this increased expense? Was it owing to indolence, deficiency of information, or wilfulness? or was there any irremovable obstacle to the fabrication of a fourpenny stamp, whilst sixpenny, threepenny, twopenny, and penny stamps were plentiful?

2. **DR. TIERNEY** : To ask the Honorable Member holding a seat in the Executive (Mr. Mitchell) the number of immigrants sent to Warrnambool, during the last two years, specifying their occupation, distinguishing the number of male and female adults.

3. **MR. CRUIKSHANK** : To ask the Honorable Member holding a seat in the Executive Council, on what special mission and at whose instance did Her Majesty's Colonial steam sloop *Victoria* get up steam on Sunday, the 30th November, and proceed to the Heads, the names of the passengers thereto and therefrom, the quantity of coals consumed, and their cost per ton.

4. **DR. TIERNEY** : To ask the Honorable Member holding a seat in the Executive Council (Mr. Mitchell) if it be the intention of Government to supply the district of Warrnambool with suitable labor before the coming harvest season.

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### NOTICES OF MOTION :—

1. **MR. MCCOMBIE** : To move, That the Petition from the Rev. Dunmore Lang, presented by him on Thursday, 11th December, be printed.

2. **MR. FAWKNER** : To move for a return of all sorts of stamps on hand, May 15th, 1855, each description separate, and the cost of each sort and total expense to that date; a return of all sorts of stamps made, bought, or printed since the 15th of May, 1855; showing how many sixpenny stamps have been provided, how many sixpenny stamps have been used, how many sixpenny stamps remain on hand, together with their cost of production and the stated value of those remaining on hand. The same returns for the threepenny, the twopenny, and the penny stamps.

3. **MR. CRUIKSHANK** : To move for permission to introduce a Bill to amend the County Courts Act.

4. **MR. MCCOMBIE** : To move for leave to bring in a Bill to regulate Party Fences in the Colony of Victoria.

WEDNESDAY, 17TH DECEMBER.

NOTICE OF MOTION :—

*Contingent* on the Report of the Prayer Committee being adopted.

1. MR. STRACHAN: To move, That the President do attend on the days of meeting of this Council, at a quarter of an hour before three o'clock, and then read prayers to such members as may be present, and that the business of the Council do commence at three o'clock, or as soon after as a quorum is formed.

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THURSDAY, 18TH DECEMBER.

NOTICE OF MOTION :—

1. MR. HOOD: To move for leave to bring in a Bill to give remuneration to witnesses in actions.

ORDER OF THE DAY :—

1. BALBIRNIE VANS ESTATE BILL.—To be read a second time.

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MEETINGS  
OF  
**SELECT COMMITTEE.**

*Tuesday, 16th December, 1856.*

PENAL ESTABLISHMENTS—at 1 o'clock.

*Wednesday, 17th December, 1856.*

PENAL ESTABLISHMENTS—at 1 o'clock.

*Thursday, 18th December, 1856.*

PENAL ESTABLISHMENTS—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, 16TH DECEMBER, 1856.

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

**PETITION.**—REV. J. D. LANG.—Mr. McCombie moved, in accordance with notice, That the Petition from the Rev. J. D. Lang, presented by him on Thursday, the 11th December, be printed.  
Question—put and passed.

**POSTAGE STAMPS.**—Mr. Fawkner moved, in accordance with notice, For a return of all sorts of stamps on hand, May 15th, 1855, each description separate, and the cost of each sort and total expense to that date; a return of all sorts of stamps made, bought, or printed since the 15th of May, 1855; showing how many sixpenny stamps have been provided, how many sixpenny stamps have been used, how many sixpenny stamps remain on hand, together with their cost of production and the stated value of those remaining on hand.  
The same returns for the threepenny, the twopenny, and the penny stamps.

Question—put and passed.

Mr. Mitchell having laid on the Table the Returns moved for by Mr. Fawkner, moved that the same be printed.

Question—put and passed.

**COUNTY COURTS BILL.**—Mr. Cruikshank, in accordance with notice, moved for leave to bring in a Bill to amend the County Courts Act.

Question—put and passed.

Bill read a first time, and ordered to be printed.

**PARTY FENCES.**—Mr. McCombie, in accordance with notice, moved for leave to bring in a Bill to regulate Party Fences in the Colony of Victoria.

Debate ensued.

Question—put and passed.

Bill read a first time—ordered to be printed, and read a second time on Tuesday, the 23rd December.

**ADJOURNMENT OF THE HOUSE.**—Mr. Mitchell moved, with leave of the Council, That the House at its rising do adjourn until Tuesday, the 30th December.

Debate ensued.

Mr. McCombie moved, as an amendment, That the word “thirtieth” be left out, with the view to insert the words “twenty-third.”

Debate ensued.

Further amendment moved, That the words “sixth of January” be inserted in place of the words “twenty-third of December.”

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

Council divided.

Contents, 12.

Mr. Bennett  
Mr. Fawkner  
Mr. Mitchell  
Mr. Hodgson  
Mr. Patterson  
Mr. Urquhart  
Mr. Power  
Mr. Kennedy  
Dr. Tierney  
Mr. Kaye  
Mr. Cruikshank  
Mr. Vaughan (*Teller*).

Not Contents, 11.

Mr. Allan  
Mr. Hervey  
Mr. McCombie  
Mr. Thomson  
Mr. Keogh  
Mr. Hood  
Mr. Miller  
Dr. Hope  
Mr. Henty  
Mr. Stewart  
Mr. Guthridge (*Teller*).

The question was therefore passed.

Question—That the House at its rising do adjourn until Tuesday, the 30th December—put and passed.

**POSTPONEMENTS.**—Mr. Hervey, with leave of the Council, postponed the Order of the Day for the second reading of the Balbirnie Vans Estate Bill, from Thursday, the 18th December, until Tuesday, the 13th January, 1857.

Mr. McCombie postponed, with leave of the Council, the second reading of the Party Fences Bill, from Tuesday, 23rd December, until Tuesday, the 30th instant.

Mr. Hood, with leave of the Council, postponed the Notice of Motion standing in his name, to ask leave to bring in a Bill to give remuneration to witnesses in actions, from Thursday, the 18th, to Tuesday, the 30th instant.

**PENAL ESTABLISHMENTS COMMITTEE.**—Mr. Hood moved, with leave of the Council, That the Select Committee on Penal Establishments have leave to sit during the recess, and that three form a quorum of the said Committee.

Debate ensued.

Question—put and passed.

**IMMIGRANTS TO WARRNAMBOOL.**—Mr. Mitchell laid upon the Table a Return of the number of Immigrants forwarded to Warrnambool, during the years 1855 and 1856, and moved that the same be printed.

Question—put and passed.

The Council adjourned at thirteen minutes past four o'clock until three o'clock on Tuesday, the 30th December.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 30TH DECEMBER.

1. **MR. PATTERSON:** To ask the Honorable Member, Mr. Mitchell, on what grounds the Government has placed on the Estimates the salary of the Chairman of Committees of the Legislative Council at £400, while the Chairman of Committees of the Legislative Assembly is at £600; and whether the Government will so arrange that the salaries of the officers of both Houses of Parliament may assimilate.
2. **MR. PATTERSON:** To ask the Honorable Member, Mr. Mitchell, what is to be understood by the expression on the Estimates of 1st, 2nd, 3rd, and 4th Class Clerks; whether the classification is one of ability, merit, length of service, or pay; and whether the Government would alter the general classification to one of every department.

NOTICES OF MOTION:—

1. **DR. TIERNEY:** To move for a Return of the number of Newspapers posted in the various offices throughout the Colony during the last twelve months, showing the amount of revenue derived from such source.
2. **MR. FAWKNER:** To move, That the first Committee be re-appointed to prepare a form of Prayer to be used at the opening of the Council, such Committee to consist of Mr. Guthridge, Mr. Hodgson, Mr. Bennett, Mr. Jas. Henty, the President, and the Mover.  
*Contingent* upon the Report being brought up, on the motion of its being received, there be a call of the House.
3. **MR. HOOD:** To move for leave to bring in a Bill to give remuneration to witnesses in actions.

ORDER OF THE DAY:—

1. **PARTY FENCES BILL**—To be read a second time.

TUESDAY, 13TH JANUARY.

ORDER OF THE DAY:—

1. **BALBIRNIE VANS ESTATE BILL.**—To be read a second time.

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## MEETINGS OF SELECT COMMITTEE.

*Wednesday, 17th December, 1856.*

PENAL ESTABLISHMENTS—at 1 o'clock.

*Thursday, 18th December, 1856.*

PENAL ESTABLISHMENTS—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, 30TH DECEMBER, 1856.

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

PAPERS.—Mr. Mitchell, by command of His Excellency the Governor, presented to the House the following Papers:—

1. Plans, Specifications, and Estimate of the Western Market Buildings in the City of Melbourne.
2. Local Court Regulations, Steiglitz District (16th December, 1856, and 23rd December, 1856).
3. Local Court Regulations, Waranga District (19th December, 1856).
4. List of Acts lately assented to by Her Majesty (Despatch No. 44, 26th December, 1855).
5. Despatch, with Enclosures, on the subject of Remission Orders to Officers of the Honorable East India Company's Service.

MESSAGE FROM THE GOVERNOR.—Mr. Mitchell presented the following Message, No. 1, from His Excellency the Governor:—

VICTORIA.—ASSUMPTION OF OFFICE BY SIR HENRY BARKLY.

HENRY BARKLY,

*Governor.*

*Message, No. 1.*

Sir Henry Barkly informs the Legislative Council that, in virtue of a Commission under the Great Seal of Great Britain and Ireland, dated at Westminster, the ninth day of October, One thousand eight hundred and fifty-six, he has assumed the office of Captain-General and Governor-in-Chief of the Colony of Victoria.

*Government Offices,  
 Melbourne, 30th December, 1856.*

The Message was read by the Clerk and ordered to be printed.

REPLY TO THE GOVERNOR'S MESSAGE.—Mr. Mitchell moved, That a Committee be appointed to prepare a reply to the Governor's Message, such Committee to consist of Messrs. Fawcner, Kennedy, Power, Hood, and the Mover.

Question—put and passed.

The Council adjourned during pleasure, in order that the Committee might prepare an Address.

The Council having resumed, Mr. Mitchell brought up the Report of the Committee and moved that it be received.

The Report was read by the Clerk:—

We, the Members of the Legislative Council of Victoria, desire to convey to your Excellency the expression of our affection and loyalty to our Most Gracious Sovereign.

We receive with satisfaction the intelligence that your Excellency has been appointed to the high and responsible office of Governor of the Colony of Victoria, and we beg to assure you of our readiness to co-operate with your Excellency in advancing the welfare of this community.

Question—That the Report be adopted—put and passed.

CONFERENCE WITH THE LEGISLATIVE ASSEMBLY.—Mr. Mitchell moved, That a conference with the Legislative Assembly be desired, in order to communicate the Address to the Governor on his assumption of office, adopted by this Council, and to invite their concurrence thereto, and that Mr. Mitchell do proceed to the Assembly to demand such conference.

Question—put and passed.

MANAGEMENT OF CONFERENCE.—Mr. Mitchell moved, That Mr. Mitchell and the Members of the Committee who prepared the Address be the managers of such conference.

Question—put and passed.

**ELECTION PETITION.**—The President laid upon the Table a Petition addressed to himself, signed by William Hihett, praying that, on the grounds set forth in the said Petition, the election and return of William Kaye may be erased from the return of Members for the Eastern Province in the Legislative Council, and the name of William Hihett inserted instead thereon, and that such further proceedings may be taken thereon as the Council shall think fit.

**SWEARING OF MEMBERS OF ELECTION COMMITTEE.**—The following Members of the Committee of Elections and Qualifications were then sworn at the Table by the Clerk, in the manner prescribed by the Electoral Act of 1856—

John Barter Bennett, Esquire  
 John Pascoe Fawkner, Esquire  
 R. C. Hope, Esquire, M.D.  
 W. H. F. Mitchell, Esquire  
 T. H. Power, Esquire.

**PAPERS.**—Mr. Mitchell, by command of His Excellency the Governor, presented to the Council the following Papers:—

Census 1854—Civil Condition of the People.  
 Census 1854—Occupations of the People.

**NEWSPAPERS POSTED.**—Dr. Tierney, in accordance with notice, moved for a Return of the number of Newspapers posted in the various offices throughout the Colony during the last twelve months, showing the amount of revenue derived from such source.

Question—put and passed.

**FORM OF PRAYER COMMITTEE.**—Mr. Fawkner postponed the Notice of Motion standing in his name, for fourteen days, and with the leave of the Council amended its terms.

**REMUNERATION TO WITNESSES.**—Mr. Hood withdrew the Notice of Motion standing in his name.

**PARTY FENCES BILL.**—Mr. McCombie moved that this Bill be now read a second time.

Debate ensued.

Mr. Fawkner moved that the word “now” be omitted, and that the words “this day six months” be added after the word time.

Debate ensued.

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

**PAPERS.**—Mr. Mitchell, by command of His Excellency the Governor, presented to the Council the following Papers:—

1. Coasting Trade of Victoria. (Despatches.)
2. Trade with Russia. (Despatch 18th April, 1856, from the Right Honorable the Secretary of State.)

**SWEARING OF MEMBER OF ELECTION COMMITTEE.**—Mr. Vaughan was sworn at the Table by the Clerk in the manner prescribed by the Electoral Act of 1856.

**ADJOURNMENT.**—Mr. Fawkner moved, That the House, at its rising, adjourn until to-morrow at four o'clock.

Question—put and passed.

The Council adjourned at ten minutes to six o'clock.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

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WEDNESDAY, 31ST DECEMBER.

1. **Mr. FAWKNER:** To ask the Executive Member whether it is true, as reported at a public meeting at Richmond, 24th December, that the present Executive have agreed, at the instance of the Members for Richmond, to expend £42,000 on public works in the Richmond District. The words used were as follows:—“And Mr. Campbell and himself (S. G. Evans, M.L.A.), he was glad to say, had co-operated in many points. One vote of theirs (the two M.L.A.'s for Richmond) he presumed needed no explanation, viz., that they joined in *pinning* down the Government to undertake *without delay* to proceed with the expenditure of £42,000 on public works in the Richmond District.”

Also to ask, if this sum of £42,000 is granted to these two members of the Assembly, whether the rest of the sixty members are not, each two in number, entitled to demand an equal sum of £42,000, thus making up a round sum of one million two hundred and sixty thousand pounds (£1,260,000), simply for bridges and public works, how much money will be left for roads, &c.? Further to ask, what proportion of the £42,000, if it has really been so promised, can be expended, the Assembly having restricted the Government to the sum of £100,000, notwithstanding the two Richmond members voted virtually for the larger sum, viz., £250,000?



2. MR. CRUIKSHANK: To ask the Honorable Member representing the Executive in this Council, whether it is the intention of the Government to lay on the Table of this House any scheme for the appropriation of the £5000 reserved for the expenses of this Council, under part No. 4, in the schedule attached to the Constitutional Act.
3. MR. FAWKNER: To ask whether the Government made any inquiry into the charges which have been made against the Immigration Agent respecting the hiring of the immigrants, upon the arrival of the *Medway*, at Hobson's Bay.
4. MR. PATTERSON: To ask the Honorable Member, Mr. Mitchell, on what grounds the Government has placed on the Estimates the salary of the Chairman of Committees of the Legislative Council at £400, while the Chairman of Committees of the Legislative Assembly is at £600; and whether the Government will so arrange that the salaries of the officers of both Houses of Parliament may assimilate.
5. MR. PATTERSON: To ask the Honorable Member, Mr. Mitchell, what is to be understood by the expression on the Estimates of 1st, 2nd, 3rd, and 4th Class Clerks; whether the classification is one of ability, merit, length of service, or pay; and whether the Government would alter the general classification to one of every department.

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NOTICES OF MOTION:—

1. MR. FAWKNER: To move, That a Committee of five Members be appointed, to consist of the President, Messrs. J. B. Bennett, Hervey, Hodgson, and the Mover, to examine and report whether the laws of this Colony are not capable of considerable reform; and if so, to report such reforms to this Council as they consider are really required.
2. MR. MCCOMBIE: To move, That a Select Committee of this House be appointed to take into consideration the allegations contained in the Petition of the Rev. Dr. Lang of Sydney, in the case of George Dunmore Lang, and Frederick Lee Drake, and especially the facts and circumstances, bearing upon the case, that have come to light since the trial and conviction of these young men, in the month of December, 1854; and that the said Committee consist of the following Members, viz.:—Messrs. Guthridge, Hood, Dr. Tierney, Messrs. J. Henty, Stewart, and the Mover.

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TUESDAY, 6TH JANUARY.

NOTICE OF MOTION:—

1. MR. FAWKNER: To move, That a Select Committee of seven Members of this House be appointed to inquire into and report whether the policy of the Government in granting lands, and also in guaranteeing a large loan of money to the Corporation of Melbourne, has been properly carried out, by the erection of buildings in no manner serving the purposes of a public market, but more particularly used as a means of augmenting the Corporation revenues, to the great injury of the agriculturist, the market gardener, and other producers, and that Messrs. Hood, Kaye, Hodgson, Guthridge, Stewart, Power, and the Mover, be the Committee.

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TUESDAY, 13TH JANUARY.

NOTICE OF MOTION:—

1. MR. FAWKNER: To move, That a Committee be appointed to prepare a Form of Prayer to be used at the opening of the Council, such Committee to consist of Mr. Guthridge, Mr. Hodgson, Mr. Bennett, Mr. Stewart, Mr. McCombie, the President, and the Mover.

ORDER OF THE DAY:—

1. BALBIRNIE VANS ESTATE 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, 31ST DECEMBER, 1856.

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

PETITION.—Mr. Hodgson presented a Petition, signed by the Mayor of Melbourne, by order and on behalf of the Council of the City of Melbourne, praying that, in any enactment which may pass this Honorable House, the privilege of exemption from service on juries may be extended to them and to the several officers and servants of the Corporation.

Petition received.

CONFERENCE WITH THE LEGISLATIVE ASSEMBLY.—Mr. Mitchell stated to the Council that he had delivered to the Speaker of the Legislative Assembly the Message with which he was charged on the previous day, to desire a conference—that he had been requested to wait during the presentation of certain Petitions—that he had done so—but that, on being subsequently requested to receive a reply—he having in the meantime, after a lapse of two hours, learnt that this House had adjourned—he had thought it incompetent for him then to act on the part of the Council by receiving a Message, and had declined so to do.

ADDRESS TO HIS EXCELLENCY SIR HENRY BARKLY.—Mr. Mitchell moved, That the Address to His Excellency the Governor, adopted on the 30th instant, be presented to His Excellency to-morrow, at a quarter to one o'clock; by the President and the Members of the Council.

Question—put and passed.

POSTPONEMENT.—Mr. Fawkner, with leave of the Council, postponed his Notice of Motion concerning Law Reform until Thursday, 8th proximo.

PETITION OF DR. LANG.—Mr. McCombie moved, in accordance with notice, That a Select Committee of this House be appointed to take into consideration the allegations contained in the Petition of the Rev. Dr. Lang, of Sydney, in the case of George Dunmore Lang and Frederick Lee Drake, and especially the facts and circumstances, bearing upon the case, that have come to light since the trial and conviction of these young men, in the month of December, 1854; and that the said Committee consist of the following Members, viz. :—Messrs. Guthridge, Hood, Dr. Tierney, Messrs. J. Henty, Stewart, and the Mover.

Debate ensued.

Question—put.

Council divided.

Contents, 6.  
Mr. Hood  
Dr. Tierney  
Mr. Kennedy  
Mr. McCombie  
Mr. Mitchell  
Mr. Urquhart (*Teller*).

Not Contents, 9.  
Mr. Fawkner  
Mr. Williams  
Mr. Power  
Mr. Bennett  
Mr. Cruikshank  
Mr. Allan  
Mr. Stewart  
Mr. Vaughan  
Mr. Hodgson (*Teller*).

The question was therefore negatived.

DISCHARGE OF ORDER.—On the motion of Mr. Mitchell, the Order of the Day of the 4th December, for printing certain papers concerning the Sewerage and Water Commission, Electric Telegraph, and Immigration, was discharged.

ADJOURNMENT.—Mr Mitchell moved, That the House, at its rising, adjourn until Thursday, the 8th January, 1857.

Question—put and passed.

The Council adjourned at a quarter past five o'clock until three o'clock on Thursday, the 8th January, 1857.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 8TH JANUARY, 1857.

1. MR. FAWKNER: To ask the Executive Member whether it is true, as reported at a public meeting at Richmond, 24th December, that the present Executive have agreed, at the instance of the Members for Richmond, to expend £42,000 on public works in the Richmond District. The words used were as follows:—"And Mr. Campbell and himself (S. G. Evans, M.L.A.), he was glad to say, had co-operated in many points. One vote of theirs (the two M.L.A.'s for Richmond) he presumed needed no explanation, viz., that they joined in pinning down the Government to undertake *without delay* to proceed with the expenditure of £42,000 on public works in the Richmond District." Also to ask, if this sum of £42,000 is granted to these two members of the Assembly, whether the rest of the sixty members are not, each two in number, entitled to demand an equal sum of £42,000, thus making up a round sum of one million two hundred and sixty thousand pounds (£1,260,000), simply for bridges and public works, how much money will be left for roads, &c.? Further to ask, what proportion of the £42,000, if it has really been so promised, can be expended, the Assembly having restricted the Government to the sum of £100,000, notwithstanding the two Richmond members voted virtually for the larger sum, viz., £250,000?
2. MR. CRUIKSHANK: To ask the Honorable Member representing the Executive in this Council, whether it is the intention of the Government to lay on the Table of this House any scheme for the appropriation of the £5000 reserved for the expenses of this Council, under part No. 4, in the schedule attached to the Constitutional Act.
3. MR. FAWKNER: To ask whether the Government made any inquiry into the charges which have been made against the Immigration Agent respecting the hiring of the immigrants, upon the arrival of the *Medway*, at Hobson's Bay.
4. MR. PATTERSON: To ask the Honorable Member, Mr. Mitchell, on what grounds the Government has placed on the Estimates the salary of the Chairman of Committees of the Legislative Council at £400, while the Chairman of Committees of the Legislative Assembly is at £600; and whether the Government will so arrange that the salaries of the officers of both Houses of Parliament may assimilate.
5. MR. PATTERSON: To ask the Honorable Member, Mr. Mitchell, what is to be understood by the expression on the Estimates of 1st, 2nd, 3rd, and 4th Class Clerks; whether the classification is one of ability, merit, length of service, or pay; and whether the Government would alter the general classification to one of every department.
6. MR. FAWKNER: To ask Mr. Mitchell whether the Government intend to bring in a Bill to regulate the encroachments upon the streets and lanes of Melbourne (and towns in general), practised by builders when erecting or repairing buildings.
7. MR. CRUIKSHANK: To ask the Honorable Member holding a seat in the Executive Council if he can name a date as a limit within which the Returns moved for by him on the 4th instant will be laid on the Table of this House.

## NOTICES OF MOTION:—

1. MR. FAWKNER: To move, That a Committee of five Members be appointed, to consist of the President, Messrs. J. B. Bennett, Hervey, Hodgson, and the Mover, to examine and report whether the laws of this Colony are not capable of considerable reform; and if so, to report such reforms to this Council as they consider are really required.
2. MR. FAWKNER: To move, That a Select Committee of seven Members of this House be appointed to inquire into and report whether the policy of the Government in granting lands, and also in guaranteeing a large loan of money to the Corporation of Melbourne, has been properly carried out, by the erection of buildings in no manner serving the purposes of a public market, but more particularly used as a means of augmenting the Corporation revenues, to the great injury of the agriculturist, the market gardener, and other producers, as well as the owners of land and house property in the neighbourhood, and that Messrs. Hood, Kaye, Hodgson, Guthridge, Stewart, Power, and the Mover, be the Committee.

TUESDAY, 13TH JANUARY.

## NOTICE OF MOTION:—

1. MR. FAWKNER: To move, That a Committee be appointed to prepare a Form of Prayer to be used at the opening of the Council, such Committee to consist of Mr. Guthridge, Mr. Hodgson, Mr. Bennett, Mr. Stewart, Mr. McCombie, the President, and the Mover.

## ORDER OF THE DAY:—

1. BALBIRNIE VANS ESTATE BILL.—To be read a second time.

MEETING  
OF  
SELECT COMMITTEE.

*Thursday, 8th January, 1857.*

PENAL ESTABLISHMENTS—at 1 o'clock.

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

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

THURSDAY, 8TH JANUARY, 1857.

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

**REPLY OF THE GOVERNOR TO ADDRESS.**—The President announced to the House that the Address of the Council (adopted on the 30th December ultimo), to His Excellency Sir Henry Barkly on his assumption of office, had been presented on the 1st instant, and that His Excellency had been pleased to make the following reply:—

**MR. PRESIDENT AND GENTLEMEN OF THE LEGISLATIVE COUNCIL—**

I receive with much pleasure the assurance of your affection and loyalty towards our Most Gracious Sovereign.

I am gratified at the expression of your satisfaction at my appointment to this Government, and I can assure you that you may at all times rely on my co-operation in the furtherance of measures for the advancement of the Colony.

HENRY BARKLY.

**SWEARING OF MEMBER OF ELECTION COMMITTEE.**—Mr. Stephen G. Henty was sworn at the Table by the Clerk as a Member of the Committee of Elections and Qualifications, in the manner prescribed by the Electoral Act of 1856.

**PETITIONS.**—Mr. Patterson presented a petition from certain inhabitants at Creswick, showing that they labor under disadvantages from the absence of a court of justice thereat, and praying this Honorable House to take the premises into consideration.

Petition received.

Mr. Allan presented a petition from Alexander James Willis, complaining of his removal from office as a superintendent of a penal hulk, and praying that such steps may be taken in the matter as may be deemed meet by this Honorable House.

Petition received.

**ELECTION PETITION.**—Mr. James Henty moved that the petition of William Highbett, laid upon the Council Table on the 30th December by the President, be referred to the Election and Qualifications Committee.

Question—that the petition be so referred—put and passed.

The President appointed Wednesday, the 14th day of January, at eleven o'clock, as the first time of meeting of the Committee.

**PAPERS.**—Mr. Mitchell, by command of His Excellency the Governor, presented to the Council the following papers:—

1. Return of Crown Lands alienated and offered for sale in Victoria from 1st January, 1856, to 30th June, 1856.
2. Local Court Regulations.—District of St. Andrews (26th December, 1856).
3. Local Court Regulations.—District of Hepburn (26th December, 1856).
4. Local Court Regulations.—District of Castlemaine (26th December, 1856).
5. Local Court Regulations.—District of Beechworth (26th December, 1856).
6. Local Court Regulations.—District of Avoca (26th December, 1856).
7. Census of Victoria, 1854.—“Education of the People.”
8. Third Annual Report of Births, Deaths, and Marriages.
9. Patriotic Fund—Despatch from the Right Honorable the Secretary of State for the Colonies, 4th October, 1856, enclosing an acknowledgment from the Honorary Secretary of the Patriotic Fund of a second contribution of £20,000 from Victoria to the Patriotic Fund.

**LAW REFORM.**—Mr. Fawcner moved, in accordance with *amended* notice, That a Committee of five Members be appointed, to consist of Messrs. C. Vaughan, J. B. Bennett, Hervey, Hodgson, and the Mover, to examine and report whether the laws of this Colony are not capable of considerable reform; and if so, to report such reforms to this Council as they consider are really required.

Debate ensued.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—A Message from the Legislative Assembly being announced—

The Messenger, a Member of the Assembly, accompanied by another member, being introduced, delivered to the President the following Message :—

MR. PRESIDENT OF THE LEGISLATIVE COUNCIL—

The Legislative Assembly inform the Legislative Council that they have appointed a Library Committee, consisting of eight Members of the Assembly, and invite the Council to appoint four of their number to form, with the members appointed by the Assembly, a Joint Library Committee.

FRAN<sup>s</sup>. MURPHY  
*Speaker.*

The President requested the messenger to acquaint the Assembly that the Council would send a reply by a messenger of their own.

The Messenger withdrew.

DEBATE ON LAW REFORM RESUMED.

Question—That a Committee of five Members be appointed, to consist of Messrs. C. Vaughan, J. B. Bennett, Hervey, Hodgson, and the Mover, to examine and report whether the laws of this Colony are not capable of considerable reform; and if so, to report such reforms to this Council as they consider are really required—put.

Council divided.

Contents, 8.  
Mr. Stewart  
Mr. Williams  
Mr. Clarke  
Mr. Patterson  
Mr. Fawkner  
Mr. Hodgson  
Mr. Mitchell  
Mr. Urquhart (*Teller*).

Not Contents, 9.  
Mr. Allan  
Mr. Power  
Mr. Hervey  
Mr. Vaughan  
Mr. Hood  
Mr. McCombie  
Mr. Bennett  
Mr. Tierney  
Mr. Thomson (*Teller*).

The question was therefore negatived.

PUBLIC MARKET.—Mr. Fawkner, in accordance with notice, moved, That a Select Committee of seven Members of this House be appointed to enquire into and report whether the policy of the Government in granting lands, and also in guaranteeing a large loan of money to the Corporation of Melbourne, has been properly carried out by the erection of buildings in no manner serving the purposes of a public market, but more particularly used as a means of augmenting the Corporation revenues, to the great injury of the agriculturist, the market gardener, and other producers, as well as the owners of land and house property in the neighbourhood, and that Messrs. Hood, Kaye, Hodgson, Guthridge, Stewart, Power, and the Mover, be the Committee.

Debate ensued.

Amendment moved—That all the words after the word “the” in the second line, down to the word “neighbourhood” in the eighth line, be omitted, with the view to insert the words “purposes for which the Government has granted land and guaranteed interest on a large loan to the Corporation of Melbourne has been and is being now carried out.”

Debate ensued.

Mr. Fawkner having adopted the amendment,

Question—That a Select Committee of seven Members of this House be appointed to enquire into and report whether the purposes for which the Government has granted land and guaranteed interest on a large loan to the Corporation of Melbourne has been and is now being carried out, and that Messrs. Hood, Kaye, Hodgson, Guthridge, Stewart, Power, and the Mover, be the Committee—put and passed.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—Mr. Hervey moved, That it be made an Order of the Day for Tuesday, the 13th instant, to consider the Message received from the House of Assembly, relative to the appointment of a Joint Library Committee.

Question—put and passed.

PAPERS.—Mr. Mitchell, by command of His Excellency the Governor, presented to the House the following papers :—

1. List of Pensions granted under the 50th section of the Constitution Act.
2. Statement of the distribution of amount authorized for Public Worship for the year 1855.

The Council adjourned at twenty minutes to six o'clock until three o'clock on Tuesday, the 13th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

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TUESDAY, 13TH JANUARY, 1857.

## NOTICES OF MOTION :—

1. MR. FAWKNER : To move, That a Committee be appointed to prepare a Form of Prayer to be used at the opening of the Council, such Committee to consist of Mr. Guthridge, Mr. Hodgson, Mr. Bennett, Mr. Stewart, Mr. McCombie, the President, and the Mover.
2. MR. HODGSON : To move, That the petition presented by him on the 31st December, from the Mayor and Corporation of Melbourne, be printed.
3. MR. ALLAN : To move, That the Petition of Alexander Willis, presented 8th instant, be printed and referred to the Committee on Penal Establishments.

## ORDERS OF THE DAY :—

1. BALBIRNIE VANS ESTATE BILL.—To be read a second time.
2. MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—To be considered.

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WEDNESDAY, 14TH JANUARY.

1. DR. TIERNEY : To ask the Honorable Member, Mr. Mitchell, Can the Members of this House be supplied with copies of the Acts of Council now in force in this Colony ?

## NOTICES OF MOTION :—

1. MR. FAWKNER : To move, That the petition presented by T. McCombie, Esq., in the name of John D. Lang, D.D., be expunged from the records of this Council, together with all notices referring thereto.
2. MR. PATTERSON : To move, That the Petition received on 8th January, from the inhabitants of Creswick, be printed.
3. MR. CRUIKSHANK : To move, That the Bill to amend the "*County Courts Act*" be read a second time to-morrow.
4. MR. PATTERSON : To move, That a Committee of five Members be appointed to take the subject of the classification of Clerks into consideration, and to take evidence thereon and report to this House.

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MEETINGS

OF

## SELECT COMMITTEES.

*Tuesday, 13th January.*

PENAL ESTABLISHMENTS—at 1 o'clock.

*Wednesday, 14th January.*

ELECTIONS AND QUALIFICATIONS—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, 13TH JANUARY, 1857.

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

COUNCIL EXPENSES.—Mr Hervey, with leave of the Council moved, without previous notice, That a Select Committee be appointed to consider the inexpediency of subjecting to an annual vote of the Legislative Assembly the salaries of any of the officers connected with the Legislative Council, such Committee to consist of the following Members, viz:— Messrs. Bennett, Miller, Patterson, Power, Urquhart, Cruikshank, and the Mover.

Debate ensued.

Question—put.

Council divided.

Contents, 11.

Mr. Fawkner  
Mr. Hood  
Mr. Hodgson  
Mr. Urquhart  
Mr. Patterson  
Mr. Cruikshank  
Mr. Allan  
Mr. J. Henty  
Mr. S. G. Henty  
Mr. Williams  
Mr. Hervey (*Teller*).

Not Contents, 12.

Mr. Clarke  
Mr. Power  
Mr. McCombie  
Mr. Thomson  
Mr. Kay  
Mr. Tierney  
Mr. Guthridge  
Dr. Hope  
Mr. Cowie  
Mr. Bennett  
Mr. Roope  
Mr. Miller (*Teller*).

The question was therefore negatived.

FORM OF PRAYER. — Mr. Fawkner moved, in accordance with notice, That a Committee be appointed to prepare a Form of Prayer to be used at the opening of the Council; such Committee to consist of Mr. Guthridge, Mr. Hodgson, Mr. Bennett, Mr. Stewart, Mr. McCombie, the President, and the Mover.

Debate ensued.

Question—put.

Council divided.

Contents, 13.

Mr. Fawkner  
Mr. Urquhart  
Mr. Hope  
Mr. Guthridge  
Mr. Patterson  
Mr. Miller  
Mr. Bennett  
Mr. J. Henty  
Mr. S. G. Henty  
Mr. Williams  
Mr. Cowie  
Mr. Roope  
Mr. Hodgson (*Teller*).

Not Contents, 10.

Mr. Clarke  
Mr. Hervey  
Mr. Power  
Mr. McCombie  
Mr. Thomson  
Mr. Kay  
Mr. Tierney  
Mr. Cruikshank  
Mr. Hood,  
Mr. Allan (*Teller*).

The question was therefore passed.



**PETITION OF MAYOR AND CORPORATION OF MELBOURNE.**—Mr. Hodgson moved, in accordance with notice, That the Petition presented by him on the 31st December, from the Mayor and Corporation of Melbourne, be printed.

Question—put and passed.

**PETITION OF ALEXANDER JAMES WILLIS.**—Mr. Allan moved, in accordance with *amended* notice, That the Petition of Alexander Willis, presented 8th instant, be referred to the Committee on Penal Establishments.

The Petition was read by the Clerk.

Debate ensued.

Question—put and negatived.

**ADDRESS TO MAJOR-GENERAL MACARTHUR.**—Mr. Hodgson, with leave of the Council, without previous notice, moved: That a Select Committee be appointed to frame an Address to be presented to Major-General Macarthur, expressive of the high sense entertained by this House of His late Excellency's administration, upon his retirement from the government of the Colony; and that such Committee consist of Messrs. Mitchell, Hervey, Miller, James Henty, and the Mover.

Question—put and passed.

The Committee having brought up the Address, the Chairman (Mr. Hodgson) moved that it be read and received.

The Address was read by the Clerk, and, on the motion of Mr. Hodgson, was adopted, as follows, and ordered to be engrossed on vellum, and presented by the President and such Members of the House as may desire to attend.

SIR,

The Members of the Legislative Council gladly avail themselves of the occasion of your retirement from the Government to testify their esteem.

Under the good providence of God, your administration of the affairs of the Colony during the past twelve months has been attended with eminent success.

The judicious manner in which you have discharged both the public and private functions of your high office proves to us the soundness of your judgment and the excellence of your disposition.

Under your government the prosperity of the Colony has steadily advanced, while the loyalty of all classes has been conciliated by your personal virtues.

The Members of the Legislative Council desire to express their hope that you may long continue to enjoy the esteem of your fellow colonists, and long live to dignify the important trust reposed in you by the Queen, of Commander of the Forces in these Colonies.

**PAPERS.**—Mr. Hervey, in the absence of Mr. Mitchell, laid on the Table—

A Return to Address, adopted by the Council on the 4th December, on the subject of Bonded Warehouses.

**POSTPONEMENT.**—With leave of the Council Mr. Hervey postponed the Order of the day for the second reading of the Balbirnie Vans Estates Bill till Tuesday, the 27th instant.

**MESSAGE FROM THE LEGISLATIVE ASSEMBLY.**—Mr. Hervey moved, with reference to the Message from the Legislative Assembly delivered on the 8th instant, that a Message be communicated to the Assembly to the effect that the Members of the Legislative Council consider it inexpedient to proceed to the appointment of a Library Committee until the adoption of Standing Orders by the two Houses of Parliament, and that Mr. Hodgson be the bearer of the said Message.

Debate ensued.

Question—put and passed.

The Council adjourned at twenty minutes to seven o'clock until three o'clock on Wednesday, the 14th instant.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 14TH JANUARY, 1857.

1. **DR. TIERNEY:** To ask the Honorable Member, Mr. Mitchell, Can the Members of this House be supplied with copies of the Acts of Council now in force in this Colony?
2. **MR. ALLAN:** To ask the Officer representing the Government in this House, what steps are, or are about to be taken in reference to the memorial of the inhabitants of Newstead, respecting the erection of a permanent bridge over the Loddon, in that township.

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### NOTICES OF MOTION:—

1. **MR. FAWKNER:** To move, That the Petition presented by T. McCombie, Esq., in the name of John D. Lang, D.D., be expunged from the records of this Council, together with all notices referring thereto.
2. **MR. PATTERSON:** To move, That the Petition received on 8th January, from the inhabitants of Creswick, be printed.
3. **MR. CRUIKSHANK:** To move, That the Bill to amend the "*County Courts Act*" be read a second time to-morrow.
4. **MR. PATTERSON:** To move, That a Committee of five Members be appointed to take the subject of the classification of Clerks into consideration, and to take evidence thereon and report to this House.

THURSDAY, 15TH JANUARY.

NOTICE OF MOTION:—

1. MR. HOOD: To move, That an Address be presented to His Excellency, praying His Excellency to cause to be laid on the Table of this House the following Returns:—
- (1.) The gross amount received from the St. Kilda Toll.
  - (2.) The amount expended from its establishment up to 31st December, 1856, and how spent.
  - (3.) To what distance the repairs on the Brighton and Toorac roads respectively are paid out of the proceeds of the Toll in question.

TUESDAY, 20TH JANUARY.

1. MR. CRUIKSHANK: To ask the Honorable Member holding a seat in the Executive Council, Whether any information has been received by the Government of the grant by the Crown of letters patent constituting a Vice-Admiralty Court for this Colony, and of the appointment of Sir William A'Beckett as Judge, and of J. D. Pinnock, Esquire, as Registrar of the Court?

*Contingent.*—On the foregoing question being answered in the affirmative—Why such letters patent have not been proclaimed?

TUESDAY, 27TH JANUARY.

ORDER OF THE DAY:—

1. BALBIRNIE VANS ESTATE BILL.—To be read a second time.

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MEETINGS  
OF  
SELECT COMMITTEES.

*Wednesday, 14th January.*

ELECTIONS AND QUALIFICATIONS—at 11 o'clock.  
FORM OF PRAYER—at 1 o'clock.

*Thursday, 15th January.*

PENAL ESTABLISHMENTS—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, 14<sup>TH</sup> JANUARY, 1857.

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

FORM OF PRAYER.—Mr. Fawkner brought up the Report of the Form of Prayer Committee, and moved that it be received.

Question—put and passed.

Mr. Fawkner moved, That the adoption of the Report of the Form of Prayer Committee be made an Order of the Day for Wednesday, the 4<sup>th</sup> proximo, and that there be a call of the House for that day.

Ordered.

PETITION OF REV. DR. LANG.—Mr. Fawkner withdrew the notice of motion standing in his name.

PETITION FROM INHABITANTS AT CRESWICK.—Mr. Patterson, in accordance with notice, moved, That the Petition received on 8<sup>th</sup> January, from the inhabitants of Creswick, be printed.

Question—put and passed.

POSTPONEMENT.—Mr. Bennett, on behalf of Mr. Cruikshank, postponed his notice respecting the second reading of the County Courts Act until Tuesday, the 20<sup>th</sup> January.

CLASSIFICATION OF CLERKS.—Mr. Patterson moved, in accordance with *amended* notice, That a Committee of five Members be appointed to take the subject of the classification of Clerks into consideration, and to take evidence thereon and report to this House; such Committee to consist of the following members, viz., Messrs. Henty, Fawkner, Thomson, Tierney, and the Mover.

Question—put and passed.

ADJOURNMENT.—Mr. Hood moved, That the House at its rising adjourn till Tuesday, the 20<sup>th</sup> instant.

Question—put and passed.

The Council adjourned at half-past three o'clock, until three o'clock on Tuesday, 20<sup>th</sup> January, 1857.

NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 20<sup>TH</sup> JANUARY, 1857.

1. MR. CRUIKSHANK: To ask the Honorable Member holding a seat in the Executive Council, Whether any information has been received by the Government of the grant by the Crown of letters patent constituting a Vice-Admiralty Court for this Colony, and of the appointment of Sir William A'Beckett as Judge, and of J. D. Pinnock, Esquire, as Registrar of the Court?

*Contingent.*—On the foregoing question being answered in the affirmative—Why such letters patent have not been proclaimed?

2. MR. STEWART: To ask the Honorable Member holding a seat in the Executive Council (Mr. Mitchell), whether it is the intention of the Government to propose any measure for the protection of merchants and traders from pilfering and wholesale robbery by common carriers?

## NOTICES OF MOTION :—

1. MR. HOOD: To move, That an Address be presented to His Excellency, praying His Excellency to cause to be laid on the Table of this House the following Returns :—
  - (1.) The gross amount received from the St. Kilda Toll.
  - (2.) The amount expended from its establishment up to 31st December, 1856, and how spent.
  - (3.) To what distance the repairs on the Brighton and Toorac roads respectively are paid out of the proceeds of the Toll in question.
2. MR. HERVEY: To move, That an Address be presented to His Excellency the Governor, praying that he would withdraw for the present from the Estimates for 1857 the salaries of Officers of this House, and that he would immediately cause to be introduced into the House of Assembly a Bill to amend and enlarge the Schedule D of the Constitution Act, so as to cause it to embrace all the salaries and expenses connected with the Legislative Council.
3. MR. CRUIKSHANK: To move, That the Bill to amend the "*County Courts Act*" be read a second time to-morrow.

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TUESDAY, 27TH JANUARY.

## ORDER OF THE DAY :—

1. BALBIRNIE VANS ESTATE BILL—To be read a second time.

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WEDNESDAY, 4TH FEBRUARY.

## ORDERS OF THE DAY :—

1. CALL OF THE HOUSE.
2. ADOPTION OF REPORT OF FORM OF PRAYER COMMITTEE.

## NOTICE OF MOTION :—

*Contingent*—On the adoption of the Report of the Form of Prayer Committee—

Mr. FAWKNER: To move, That the prayer be read by the President on all days of meeting immediately before the commencement of business.

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MEETINGS  
OF  
**SELECT COMMITTEES.**

*Tuesday, 20th January.*

ELECTIONS AND QUALIFICATIONS—at 11 o'clock.

PENAL ESTABLISHMENTS—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> JANUARY, 1857.

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

**ADDRESS TO MAJOR-GENERAL MACARTHUR.**—The President announced that he had, accompanied by Members of the Council, presented to Major-General Macarthur the address adopted by the Council on the 13<sup>th</sup> instant, and that Major-General Macarthur had made thereto the following reply, which was read at the Table by the Clerk:—

MR. PRESIDENT AND GENTLEMEN OF THE LEGISLATIVE COUNCIL :

Truly thankful am I to you for the considerate Address which you have now the goodness to present to me, emanating as it does from that respected branch of the Legislature of Victoria whose important functions bear so close an affinity to those of the illustrious British Assembly long eminent for its enlightened piety, practical wisdom, and the dignified order of its proceedings.

That, during the last twelve months, the affairs of this portion of Her Majesty's dominions have, under God's good providence, been satisfactorily administered, can in no other manner be ascribed to me than in my endeavour to follow the path of duty which has been traced for general guidance by experienced statesmen and commanders.

The material prosperity of the country, indeed, depends no less upon the untiring energy of its inhabitants than on its mineral wealth, its other territorial resources, and maritime advantages; but its moral and political aspect will always claim continued attention as the universal stay and support of permanent welfare.

On this account I congratulate you on the extension of the means of religious and general education, and the judicious application of them to the circumstances of this community; and, what is of no less signal moment, I welcome the diffusion and practice of sound constitutional doctrines derived from their genuine British source.

Hence arises a well-grounded expectation that an ardent love of country will characterise the inhabitants of Victoria, and that their generous aspiration for its renown will never relax until they have placed it high in the rank of civilization and of nations.

Already do our Australian youth give earnest of future excellence by reason of the respect and affection which in England they obtain in the arduous lists of fame; while this, the country of their birth, is itself animated in the noble race by the praise and acknowledgments of our Gracious Sovereign for its munificent spirit publicly and privately displayed on the occasion of the late Crimean War.

Let me once more thank you, gentlemen, for the honor you have done me.

EDWARD MACARTHUR,  
Major-General.

Melbourne,  
20<sup>th</sup> January, 1857.

**ADDRESSES TO THE GOVERNOR.**—The President laid upon the Table a letter from the Under-Secretary, conveying His Excellency's desire that all addresses to him from the Legislative Council should be forwarded through the Honorable the Chief Secretary.

**PAPERS.**—Mr. Mitchell, by command of the Governor, presented to the House the following papers:—

1. Report on the proposed New Lunatic Asylum.
2. Report of the Board appointed to inquire into and ascertain the difference which has been produced in the cost of building by the resolution of the operatives not to work more than eight hours per diem.
3. Census of Victoria, 1854.—“Birthplace of the People.”
4. Health Officer, Reports:—
  - (1.) Half-year ending 30<sup>th</sup> June, 1855.
  - (2.) Half-year ending 31<sup>st</sup> December, 1855.
  - (3.) Half-year ending 30<sup>th</sup> June, 1856.
5. Local Court Regulations, Ballarat, 9<sup>th</sup> January, 1857.
6. Acts of Council assented to by Her Majesty. (Despatch, No. 65. 20<sup>th</sup> September, 1856.)

ST. KILDA TOLL.—Mr. Hood moved, in accordance with notice, That an Address be presented to His Excellency, praying His Excellency to cause to be laid on the Table of this House the following Returns :—

- (1.) The gross amount received from the St. Kilda Toll.
- (2.) The amount expended from its establishment up to 31st December, 1856, and how spent.
- (3.) To what distance the repairs on the Brighton and Toorak roads respectively are paid out of the proceeds of the Toll in question.

Question—put and passed.

POSTPONEMENT.—Mr. Hervey, with leave of the Council, postponed his notice of motion respecting Salaries of Officers of the House, until Wednesday, the 21st instant.

COUNTY COURTS ACT AMENDMENT BILL.—Mr. Cruikshank moved, in accordance with amended notice, That the second reading of the Bill to amend the County Courts Act be made an Order of the Day for Wednesday, 21st instant.

Question—put and passed.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—A Message from the Legislative Assembly was brought by Mr. Aspinall and others with the two Bills therein described :—

MR. PRESIDENT,—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, "*An Act to abolish the Property Qualification required by Members of the Legislative Assembly;*" and also a Bill, intituled, "*An Act for taking an Account of the Population;*" to which they desire the concurrence of the Legislative Council.

FRAN<sup>S</sup>. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 20th January, 1857.

The Messengers withdrew.

CENSUS BILL.—Mr. Mitchell moved, That the Bill, intituled, "*An Act for taking an Account of the Population,*" be printed and read a first time to-morrow.

Question—put and passed.

PAPERS.—Mr. Mitchell laid upon the Table a Return to an order of the Legislative Council for a Return of Newspapers posted in 1856, and moved that the same be printed.

Question—put and passed.

QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—Mr. Hood moved, That the Bill, intituled, "*An Act to abolish the Property Qualification required by Members of the Legislative Assembly,*" be printed, and read a first time to-morrow.

Question—put and passed.

The Council adjourned at twenty minutes past four o'clock until three o'clock on Wednesday, 21st instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 21ST JANUARY, 1857.

1. DR. TIERNEY : To ask the Honorable Member, Mr. Mitchell, Can the Members of this House be supplied with copies of the Acts of Council now in force in this Colony?
2. MR. ALLAN : To ask the Officer representing the Government in this House what steps are or are about to be taken in reference to the Memorial of the Inhabitants of Newstead, respecting the erection of a permanent bridge over the Loddon, in that township.

NOTICES OF MOTION :—

1. MR. CRUIKSHANK : To move, That the Return relative to Bonded Warehouses, laid on the Table of this House on the 13th current, be printed.
2. DR. TIERNEY : To move, That a Select Committee be appointed to take evidence and report on the desirability or otherwise of abolishing the Postage on Newspapers, such Committee to consist of Mr. Mitchell, Mr. Patterson, Mr. Clarke, Mr. Thomson, Mr. Hodgson, Mr. McCombie, and the Mover.
3. MR. MITCHELL : To move for leave to bring in a Bill to amend the Laws relating to Bills of Lading.
4. MR. HERVEY : To move, That an Address be presented to His Excellency the Governor, praying that he would withdraw for the present from the Estimates for 1857 the salaries of Officers of this House, and that he would immediately cause to be introduced into the House of Assembly a Bill to amend and enlarge the Schedule D of the Constitution Act, so as to cause it to embrace all the salaries and expenses connected with the Legislative Council.

ORDERS OF THE DAY :—

1. COUNTY COURTS BILL.—To be read a second time.
2. CENSUS BILL.—To be read a first time.
3. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—To be read a first time.

TUESDAY, 27TH JANUARY.

1. MR. KEOGH: To ask the Honorable Member holding a seat in the Executive whether any Bill for facilitating the transfer of real property and the registration of transfer, being one of the measures for improving legal proceedings referred to in the Address of His Excellency Major-General Macarthur on the opening of Parliament, and which he stated he would cause to be laid before Parliament, has been prepared, and if so, when it is intended to be brought into the House.

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ORDER OF THE DAY:—

1. BALBIRNIE VANS ESTATE BILL.—To be read a second time.

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THURSDAY, 29TH JANUARY.

NOTICE OF MOTION:—

1. DR. TIERNEY: To move for leave to introduce a Bill to regulate the sale and the keeping of Poisons.

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WEDNESDAY, 4TH FEBRUARY.

ORDERS OF THE DAY:—

1. CALL OF THE HOUSE.
2. ADOPTION OF REPORT OF FORM OF PRAYER COMMITTEE.

NOTICE OF MOTION:—

*Contingent*—On the adoption of the Report of the Form of Prayer Committee—

1. Mr. FAWKNER: To move, That the prayer be read by the President on all days of meeting immediately before the commencement of business.

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## MEETINGS OF SELECT COMMITTEES.

*Wednesday, 21st January.*

TRANSPORTATION OF FELONS—at 11 o'clock.

CLASSIFICATION OF CLERKS—at 12 o'clock.

*Thursday, 22nd January.*

PENAL ESTABLISHMENTS—at 12 o'clock.

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

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

WEDNESDAY, 21ST JANUARY, 1857.

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

PAPERS.—Mr. Mitchell, by command of the Governor, presented to the House the following Papers:—

1. Colonial Loans. (Despatch, 18th September, 1856, from Secretary of State.)
2. Account of Expenditure (under the Act 18 & 19 Vict., cap. 55), on account of the service for the year 1855.
3. Postal Communication. (Despatches from Secretary of State, 16th September, 1856; 13th October, 1856; 18th October, 1856.)
4. Lands set apart for Religious and Educational Purposes during the year 1855.
5. Lands set apart for Religious and Educational Purposes during the year 1856.

ST. KILDA TOLL—RETURN TO ADDRESS.—Mr. Mitchell laid upon the Table a Return to the Address adopted by the Council on the 20th instant, relative to the St. Kilda Toll, and moved that the same be printed.

Question—put and passed.

BONDED WAREHOUSES.—Mr. Cruikshank moved, in accordance with notice, That the Return relative to Bonded Warehouses, laid on the Table of this House on the 13th current, be printed.

Question—put and passed.

POSTAGE ON NEWSPAPERS.—Dr. Tierney moved, in accordance with *amended* notice, That a Select Committee of seven Members be appointed to prepare an Address to His Excellency the Governor, praying that he will cause to be introduced into the Legislative Assembly a Bill to abolish the Postage on Newspapers; such Committee to consist of Mr. Mitchell, Mr. Patterson, Mr. Clarke, Mr. Thomson, Mr. Hodgson, Mr. McCombie, and the Mover.

Debate ensued.

Question—put.

Council divided.

Contents, 13.

Mr. Bennett  
Mr. Patterson  
Mr. Thomson  
Dr. Hope  
Dr. Tierney  
Mr. McCombie  
Mr. Cruikshank  
Mr. Stewart  
Mr. Vaughan  
Mr. Allan  
Mr. Hood  
Mr. Keogh  
Mr. Hodgson (*Teller*).

Not Contents, 12.

Mr. Mitchell  
Mr. Fawkner  
Mr. Miller  
Mr. Strachan  
Mr. Power  
Mr. Hervey  
Mr. S. G. Henty  
Mr. Guthridge  
Mr. J. Henty  
Mr. Roope  
Mr. Cowie  
Mr. Urquhart (*Teller*).

The question was therefore passed.

BILLS OF LADING.—Mr. Mitchell, in accordance with notice, moved for leave to bring in a Bill to amend the Laws relating to Bills of Lading.

Question—put and passed.

Bill read a first time.—Ordered to be printed, and read a second time on Wednesday, the 28th instant.



**SALARIES OF OFFICERS OF THE HOUSE.**—Mr. Hervey moved, in accordance with *amended* notice, That an Address be presented to His Excellency the Governor, praying that he would immediately cause to be introduced into the House of Assembly a Bill to amend and enlarge the Schedule D of the Constitution Act, so as to cause it to embrace all the salaries and expenses connected with the Legislative Council.

Debate ensued.

Question—put and passed.

Mr. Hervey moved, with leave of the House, That a Select Committee of eight Members be appointed to prepare the Address; such Committee to consist of Messrs. Bennett, Miller, Patterson, Power, Urquhart, Cruikshank, McCombie, and the Mover.

Question—put and passed.

**COUNTY COURTS ACT AMENDMENT BILL.**—Mr. Cruikshank moved, That the "*Bill to amend the County Courts Act*" be now read a second time.

Amendment moved by Mr. Mitchell, That the Bill be read a second time this day six months.

Debate ensued.

Amendment and motion, by leave, withdrawn.

**CENSUS BILL.**—On motion of Mr. Mitchell, the Bill intituled "*An Act for taking an Account of the Population*" was read a first time, and ordered to be read a second time on Tuesday, the 27th instant.

**QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.**—On motion of Mr. Hood, the Bill intituled "*An Act to abolish the Property Qualification required by Members of the Legislative Assembly*" was read a first time, and ordered to be read a second time on Wednesday, the 11th February.

**ADJOURNMENT.**—Mr. Mitchell moved, That the House, at its rising, adjourn until Tuesday next.

Ordered.

On motion of Mr. Mitchell, it was ordered that the several Select Committees should have power to sit during the adjournment.

The Council adjourned at twenty-five minutes past five o'clock, until Tuesday, the 27th instant, at three o'clock.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 27TH JANUARY, 1857.

1. **MR. KEOGH:** To ask the Honorable Member holding a seat in the Executive whether any Bill for facilitating the transfer of real property and the registration of transfer, being one of the measures for improving legal proceedings referred to in the Address of His Excellency Major-General Macarthur on the opening of Parliament, and which he stated he would cause to be laid before Parliament, has been prepared, and if so, when it is intended to be brought into the House.
2. **MR. MILLER:** To ask Mr. Mitchell if any Despatch had been received by the Government of a similar nature to that laid on the Table of the Legislative Council in New South Wales, on the 15th instant, conveying instructions from Her Majesty as to the Title to which the President and Members of this Council shall be entitled.

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### NOTICE OF MOTION:—

1. **MR. CRUIKSHANK:** To move, That there be laid upon the Table of this House a copy of *all* correspondence between the Home Government and the Local Government on the subject of the establishment of a Vice-Admiralty Court in this Colony; also, a copy of *all* correspondence between the Local Government and His Honor Sir William a'Beckett on the same subject.

### ORDERS OF THE DAY:—

1. **BALBIRNIE VANS ESTATE BILL.**—To be read a second time.
2. **CENSUS BILL.**—To be read a second time.

WEDNESDAY, 28TH JANUARY.

### ORDER OF THE DAY:—

1. **BILLS OF LADING BILL.**—To be read a second time.

THURSDAY, 29TH JANUARY.

### NOTICE OF MOTION:—

1. **DR. TIERNEY:** To move for leave to introduce a Bill to regulate the sale and the keeping of Poisons.

WEDNESDAY, 4TH FEBRUARY.

ORDERS OF THE DAY:—

1. CALL OF THE HOUSE.
2. ADOPTION OF REPORT OF FORM OF PRAYER COMMITTEE.

NOTICE OF MOTION:—

*Contingent*—On the adoption of the Report of the Form of Prayer Committee—

1. Mr. FAWKNER: To move, That the Prayer be read by the President on all days of meeting immediately before the commencement of business.

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WEDNESDAY, 11TH FEBRUARY.

ORDER OF THE DAY:—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—To be read a second time.
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## MEETINGS OF SELECT COMMITTEES.

*Thursday, 22nd January.*

PENAL ESTABLISHMENTS—at 12 o'clock.

SALARIES OF OFFICERS OF THE HOUSE—at 12 o'clock.

*Monday, 26th January.*

CLASSIFICATION OF CLERKS—at 12 o'clock.

*Tuesday, 27th January.*

ELECTIONS AND QUALIFICATIONS—at 11 o'clock.

*Wednesday, 28th January.*

TRANSPORTATION OF FELONS—at 11 o'clock.

POSTAGE ON NEWSPAPERS—at 11 o'clock.

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

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

TUESDAY, 27<sup>TH</sup> JANUARY, 1857.

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

PAPERS.—The Honorable W. H. F. Mitchell, by command of His Excellency the Governor, laid upon the Table the following Papers :—

1. Despatch (Circular, 30th October, 1856, with enclosures), intimating Her Majesty's pleasure that the title of "Honorable" be conferred on the President and Members of the Council.
2. Local Court Regulations, Heathcote (20th January, 1857).
3. Local Court Regulations, St. Andrews (23rd January, 1857).
4. Local Court Regulations, Hepburn (20th January, 1857).

Severally ordered to lie on the Table.

VICE-ADMIRALTY COURT.—The Honorable A. R. Cruikshank moved, in accordance with amended notice, 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 copy of *all* correspondence between the Home Government and the Local Government on the subject of the establishment of a Vice-Admiralty Court in this Colony; also, a copy of *all* correspondence between the Local Government and His Honor Sir William a'Beckett on the same subject.

POSTPONEMENT.—The Order of the Day for the second reading of the Balbirnie Vans Estate Bill was postponed until Tuesday, the 3rd February.

CENSUS BILL.—The Honorable W. H. F. Mitchell 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 having reported that the Committee had agreed to the Bill without amendment, the Report was adopted.

Ordered that the Bill be read a third time on Thursday, the 29th instant.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—A Message from the Legislative Assembly was brought by Mr. Aspinall and another Member, with two Bills therein described :—

MR. PRESIDENT,—

The Legislative Assembly transmit to the Legislative Council a Bill intituled "*An Act for defining the Privileges, Immunities, and Powers of the Legislative Council and Legislative Assembly of Victoria respectively*;" also a Bill intituled "*An Act concerning Letters Patent for Inventions*;" to which they desire the concurrence of the Legislative Council.

FRAN<sup>S</sup>. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 27th January, 1857.

The Messengers withdrew.

PRIVILEGES BILL.—The Honorable W. H. F. Mitchell moved, That this Bill be now read a first time—printed—and read a second time on Thursday, the 29th instant.

Question—put and passed.

PATENTS BILL.—The Honorable W. H. F. Mitchell moved, That this Bill be now read a first time—printed—and read a second time on Wednesday, the 4th proximo.  
Question—put and passed.

The Council adjourned at half-past four o'clock until three o'clock on Wednesday, 28th instant.

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NOTICES OF MOTION AND ORDERS OF THE DAY.

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WEDNESDAY, 28TH JANUARY.

*Government Business.*

NOTICE OF MOTION :—

1. The Hon. W. H. F. MITCHELL : To move, That a Select Committee be appointed to consider and report upon the mode in which the Legislative Council Chamber shall be ornamented ; and that such Committee consist of Mr. Hood, Mr. Hodgson, the President, Mr. Miller, and the Mover.

ORDER OF THE DAY :—

1. BILLS OF LADING BILL.—To be read a second time.

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THURSDAY, 29TH JANUARY.

NOTICE OF MOTION :—

1. The Hon. DR. TIERNEY : To move for leave to introduce a Bill to regulate the sale and the keeping of Poisons.

ORDERS OF THE DAY :—

1. PRIVILEGES BILL.—To be read a second time.
2. CENSUS BILL.—To be read a third time.

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TUESDAY, 3RD FEBRUARY.

NOTICE OF MOTION :—

1. The Hon. J. ALLAN : To move, That an Address be presented to His Excellency the Governor, praying that he will be pleased to cause to be placed on the Table a Return of all Coroner's Inquests held in consequence of Deaths or Accidents that have occurred during the last eighteen months at the Crossing-place of the Loddon, in the township of Newstead, in consequence of no bridge being there ; also, the number of Acres of Land sold in that township, and the different thoroughfares which pass through that township.

ORDER OF THE DAY :—

1. BALBIRNIE VANS ESTATE BILL.—To be read a second time.

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WEDNESDAY, 4TH FEBRUARY.

*Government Business.*

ORDERS OF THE DAY :—

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

*General Business.*

2. CALL OF THE HOUSE.
3. ADOPTION OF REPORT OF FORM OF PRAYER COMMITTEE.

NOTICE OF MOTION :—

*Contingent*—On the adoption of the Report of the Form of Prayer Committee—

1. The Hon. J. P. FAWKNER : To move, That the Prayer be read by the President on all days of meeting immediately before the commencement of business.

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WEDNESDAY, 11TH FEBRUARY.

ORDER OF THE DAY :—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—To be read a second time.

MEETINGS  
OF  
SELECT COMMITTEES.

*Wednesday, 28th January.*

TRANSPORTATION OF FELONS—at 11 o'clock.

POSTAGE ON NEWSPAPERS—at 11 o'clock.

PENAL ESTABLISHMENTS—at 1 o'clock.

*Thursday, 29th January.*

CLASSIFICATION OF CLERKS—at 11 o'clock.

GRANTS TO CORPORATION OF MELBOURNE—at 11 o'clock.

*Friday, 30th January.*

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.

WEDNESDAY, 28TH JANUARY, 1857.

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

**POSTAGE ON NEWSPAPERS.**—The Honorable Dr. Tierney brought up a Report agreed to by the Committee appointed on the 21st instant, to prepare an Address to His Excellency the Governor, praying that he will cause to be introduced into the Legislative Assembly a Bill to abolish the Postage on Newspapers, and moved, That the same be received and printed, and that the adoption of the Report be made an Order of the Day for Thursday, the 29th instant.

Question—put and passed.

**LEGISLATIVE COUNCIL CHAMBER DECORATION.**—The Honorable W. H. F. Mitchell moved, in accordance with notice, That a Select Committee be appointed to consider and report upon the mode in which the Legislative Council Chamber shall be ornamented, and that such Committee consist of Mr. Hood, Mr. Hodgson, the President, Mr. Miller, and the Mover.

Question—put and passed.

**POSTPONEMENT.**—The Order of the Day for the second reading of the Bills of Lading Bill was postponed till Tuesday, the 3rd proximo.

The Council adjourned at half-past three o'clock until three o'clock on Thursday, the 29th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 29TH JANUARY.

1. The Hon. J. P. FAWKNER: To ask the Honorable the Member of the Executive Council whether any steps have been taken, or whether the Government do intend, to issue Stamps perforated, as they are in Britain.

### NOTICE OF MOTION:—

1. The Hon. DR. TIERNEY: To move for leave to introduce a Bill to regulate the sale and the keeping of Poisons.

### ORDERS OF THE DAY:—

1. PRIVILEGES BILL.—To be read a second time.
2. CENSUS BILL.—To be read a third time.
3. POSTAGE ON NEWSPAPERS.—Adoption of Report of Committee.

TUESDAY, 3RD FEBRUARY.

1. The Hon. J. H. PATTERSON: To ask the Honorable Member who represents the Government if the Government would allow the Castlemaine Gold Escort, when passing through the town of Taradale, to take charge of and convey to Melbourne any boxes or packages of gold that may be ready for transit.
2. The Hon. J. ALLAN: To ask the Honorable W. H. F. Mitchell why the amount voted for the erection of a Bridge across the Bullock Creek, on the road to Newbridge, from Sandhurst, voted last year, has not been applied.
3. The Hon. J. ALLAN: To ask the Honorable W. H. F. Mitchell whether it be the intention of the Government to instruct the Postmaster General to alter the hours of delivery of Letters from Castlemaine to Melbourne, as in accordance with present arrangements Letters posted on Fridays are not delivered in Melbourne until half-past Ten o'clock on Monday, and on all other days of the week not until the lapse of forty-one hours after the closing of the post in Castlemaine.

## NOTICES OF MOTION:—

1. The Hon. J. ALLAN: To move, That an Address be presented to His Excellency the Governor, praying that he will be pleased to cause to be placed on the Table a Return of all Coroner's Inquests held in consequence of Deaths or Accidents that have occurred during the last eighteen months at the Crossing-place of the Loddon, in the township of Newstead, in consequence of no bridge being there; also, the number of Acres of Land sold in that township, and the different thoroughfares which pass through that township.
2. The Hon. J. ALLAN: To move, That an Address be presented to His Excellency the Governor, praying that he will cause to be laid on the Table of this House the Correspondence between the officer ordered by Government to select a site for the Bridge over Bullock Creek, on the road between Sandhurst and Newbridge.
3. The Hon. T. McCOMBIE: To move, That a Select Committee of this House be appointed to examine into the working of the Act for the establishment of Municipal Institutions in Victoria, and the District Road Act, now in force, and report to this House if they can be improved; such Committee to consist of Messrs. Power, Hervey, Thomson, Tierney, Keogh, Urquhart, Miller, and the Mover.

## ORDERS OF THE DAY:—

1. BALBIRNIE VANS ESTATE BILL.—To be read a second time.
2. BILLS OF LADING BILL.—To be read a second time.

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WEDNESDAY, 4TH FEBRUARY.

*Government Business.*

## ORDERS OF THE DAY:—

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

*General Business.*

2. CALL OF THE HOUSE.
3. ADOPTION OF REPORT OF FORM OF PRAYER COMMITTEE.

## NOTICE OF MOTION:—

*Contingent*—On the adoption of the Report of the Form of Prayer Committee—

1. The Hon. J. P. FAWKNER: To move, That the Prayer be read by the President on all days of meeting immediately before the commencement of business.

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WEDNESDAY, 11TH FEBRUARY.

## ORDER OF THE DAY:—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—To be read a second time.

## MEETINGS

OF

## SELECT COMMITTEES.

*Thursday, 29th January.*

TRANSPORTATION OF FELONS—at 11 o'clock.

CLASSIFICATION OF CLERKS—at 11 o'clock.

GRANTS TO CORPORATION OF MELBOURNE—at 11 o'clock.

*Friday, 30th January.*

ELECTIONS AND QUALIFICATIONS—at 10 o'clock.

*Tuesday, 3rd February.*

LEGISLATIVE COUNCIL CHAMBER DECORATION—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, 29<sup>TH</sup> JANUARY, 1857.

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

**SALARIES OF OFFICERS OF THE HOUSE.**—The Honorable M. Hervey, as Chairman of the Select Committee appointed on Wednesday, 21st instant, to prepare an Address to His Excellency the Governor, praying that he would cause to be introduced into the House of Assembly a Bill to amend and enlarge the Schedule D of the Constitution Act, so as to cause it to embrace all the salaries and expenses connected with the Legislative Council, brought up the Report of the Select Committee, and moved that it be received, printed, and made an Order of the Day, for adoption on Tuesday, the 3rd proximo.

Question—put and passed.

**SALE AND KEEPING OF POISONS.**—The Honorable Dr. Tierney, in accordance with *amended* notice, moved for leave to introduce a Bill to regulate the sale and the keeping and the administration of Poisons.

Question—put and passed.

Bill brought in—read a first time—ordered to be printed—and read a second time on Thursday, the 12th proximo.

**PRIVILEGES BILL.**—The Honorable W. H. F. Mitchell 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 having reported that the Committee had agreed to the Bill, without amendment, the report was adopted.

The Honorable W. H. F. Mitchell moved, That this Bill be now read a third time.

Question—put and passed.

Bill read a third time, and, on the motion of the Honorable W. H. F. Mitchell, *passed*.

The Honorable W. H. F. Mitchell moved, That the Title of the Bill be, "*An Act for defining the Privileges Immunities and Powers of the Legislative Council and Legislative Assembly of Victoria respectively.*"

Question—put and passed.

**CENSUS BILL.**—The Honorable W. H. F. Mitchell moved, That this Bill be now read a third time.

Question—put and passed.

Bill read a third time, and, on the motion of the Honorable W. H. F. Mitchell, *passed*.

The Honorable W. H. F. Mitchell moved, That the Title of the Bill be "*An Act for taking an Account of the Population.*"

Question—put and passed.

**POSTAGE ON NEWSPAPERS.**—The Honorable Dr. Tierney moved, That the Report of the Select Committee on the subject of Postage on Newspapers, brought up on the 28th instant, be adopted.

Debate ensued.



Amendment moved by the Honorable J. P. Fawkner, That all the words after the word "That" be omitted, with a view to insert the words, "the Order of the Day for the adoption of the Report be discharged."

Question—that the words proposed to be omitted stand part of the question—put.  
Council divided.

Contents, 10.  
The Hon. T. McCombie  
J. Allan  
J. H. Patterson  
C. Vaughan  
J. B. Bennett  
Dr. Tierney  
R. Thomson  
D. P. Keogh  
B. Williams  
J. Hodgson (*Teller*).

Not Contents, 10.  
The Hon. W. H. F. Mitchell  
J. F. Strachan  
J. P. Fawkner  
N. Guthridge  
D. Kennedy  
T. H. Power  
W. J. T. Clarke  
M. Hervey  
S. G. Henty  
J. Henty (*Teller*).

The President gave his voice with the contents, stating that he did so in order that the question might be further considered in the Legislative Assembly.

The question was therefore passed.

Question—put—That the Report of the Select Committee on the subject of Postage on Newspapers, brought up on the 28th instant, be adopted.

Council divided.

Contents, 10.  
The Hon. T. McCombie  
J. Allan  
J. H. Patterson  
C. Vaughan  
D. J. Tierney  
R. Thomson  
D. P. Keogh  
B. Williams  
J. B. Bennett  
J. Hodgson (*Teller*).

Not Contents, 11.  
The Hon. W. H. F. Mitchell  
J. F. Strachan  
N. Guthridge  
J. P. Fawkner  
D. Kennedy  
T. H. Power  
W. J. T. Clarke  
M. Hervey  
W. Kaye  
S. G. Henty  
J. Henty (*Teller*).

The question was therefore negatived.

MESSAGE TO THE LEGISLATIVE ASSEMBLY.—The Honorable W. H. F. Mitchell moved, That the Chairman of Committees be the bearer of a Message to the Legislative Assembly, to acquaint them that the Legislative Council have agreed to the following Bills without any amendment:—

A Bill intituled "*An Act for defining the Privileges Immunities and Powers of the Legislative Council and Legislative Assembly of Victoria respectively;*" and

A Bill intituled "*An Act for taking an Account of the Population.*"

Question—put and passed.

PAPERS.—The Honorable W. H. F. Mitchell, by command of His Excellency the Governor, laid upon the Table the following Papers:—

1. Correspondence relative to the establishment of Electro-Telegraphic Communication between the Australian Colonies.
2. Customs Duties.—River Murray.
3. Immigration from the United Kingdom.—(Summary Report of Emigration Commissioners.)
4. Immigration.—Correspondence relative to
5. Chinese Immigrants Fund.—(Regulations.)
6. Australian Lighthouses.
7. Passage of Baggage and Goods across the Isthmus of Suez.
8. Australian Tariffs.—Correspondence upon
9. Electric Telegraph.—Report of Superintendent.

Severally ordered to lie on the Table.

PETITION.—The Honorable J. Allan presented a Petition, signed by the Chairman of the Local Court of Castlemaine, bringing before the Council suggestions for the better regulation of Local Courts, and the improvement of the Laws relating to the Gold Fields.

Petition received.

The Council adjourned at ten minutes past five o'clock until three o'clock on Tuesday, the 3rd February next.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 3RD FEBRUARY.

1. The Hon. J. H. PATTERSON: To ask the Honorable Member who represents the Government if the Government would allow the Castlemaine Gold Escort, when passing through the town of Taradale, to take charge of and convey to Melbourne any boxes or packages of gold that may be ready for transit.
2. The Hon. J. ALLAN: To ask the Honorable W. H. F. Mitchell why the amount voted for the erection of a Bridge across the Bullock Creek, on the road to Newbridge, from Sandhurst, voted last year, has not been applied.
3. The Hon. J. ALLAN: To ask the Honorable W. H. F. Mitchell whether it be the intention of the Government to instruct the Postmaster General to alter the hours of delivery of Letters from Castlemaine to Melbourne, as in accordance with present arrangements Letters posted on Fridays are not delivered in Melbourne until half-past Ten o'clock on Monday, and on all other days of the week not until the lapse of forty-one hours after the closing of the post in Castlemaine.
4. The Hon. A. R. CRUIKSHANK: To ask the Honorable W. H. F. Mitchell:—
  - (1.) The loss to the Colony on the purchase of Exchange by Government during the year 1856.
  - (2.) The like loss for the month of January, 1857.
  - (3.) Whether Exchanges during the above periods have been invariably purchased at lowest market rates.
5. The Hon. J. H. PATTERSON: To ask the Honorable W. H. F. Mitchell whether the Government have made any provision for paying the expenses of witnesses summoned to give evidence before Committees of this House.

## NOTICES OF MOTION:—

1. The Hon. J. ALLAN: To move, That an Address be presented to His Excellency the Governor, praying that he will be pleased to cause to be placed on the Table a Return of all Coroner's Inquests held in consequence of Deaths or Accidents that have occurred during the last eighteen months at the Crossing-place of the Loddon, in the township of Newstead, in consequence of no bridge being there; also, the number of Acres of Land sold in that township, and the different thoroughfares which pass through that township.
2. The Hon. J. ALLAN: To move, That an Address be presented to His Excellency the Governor, praying that he will cause to be laid on the Table of this House the Correspondence between the officer ordered by Government to select a site for the Bridge over Bullock Creek, on the road between Sandhurst and Newbridge.
3. The Hon. T. McCOMBIE: To move, That a Select Committee of this House be appointed to examine into the working of the Act for the establishment of Municipal Institutions in Victoria, and the District Road Act, now in force, and report to this House if they can be improved; such Committee to consist of Messrs. Power, Hervey, Thomson, Tierney, Keogh, Urquhart, Miller, and the Mover.
4. The Hon. M. HERVEY: To move that a Message be sent to the Legislative Assembly relative to that portion of the Standing Orders concerning both Houses of the Legislature.

## ORDERS OF THE DAY:—

1. BALBIRNIE VANS ESTATE BILL.—To be read a second time.
2. BILLS OF LADING BILL.—To be read a second time.
3. SALARIES OF OFFICERS OF THE HOUSE.—Adoption of Report of Committee.

WEDNESDAY, 4TH FEBRUARY.

*Government Business.*

## ORDERS OF THE DAY:—

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

*General Business.*

2. CALL OF THE HOUSE.
3. ADOPTION OF REPORT OF FORM OF PRAYER COMMITTEE.

## NOTICE OF MOTION:—

*Contingent*—On the adoption of the Report of the Form of Prayer Committee—

1. The Hon. J. P. FAWKNER: To move, That the Prayer be read by the President on all days of meeting immediately before the commencement of business.

WEDNESDAY, 11TH FEBRUARY.

ORDER OF THE DAY:—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—To be read a second time.
- 

THURSDAY, 12TH FEBRUARY.

1. SALE AND KEEPING OF POISONS BILL.—To be read a second time.
- 

MEETINGS  
OF  
SELECT COMMITTEES.

*Tuesday, 3rd February.*

ELECTIONS AND QUALIFICATIONS—at 10 o'clock.

TRANSPORTATION OF FELONS—at 12 o'clock.

LEGISLATIVE COUNCIL CHAMBER DECORATION—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, 3RD FEBRUARY, 1857.

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

**TOWNSHIP OF NEWSTEAD.**—The Honorable J. Allan moved, in accordance with notice, That an Address be presented to His Excellency the Governor, praying that he will be pleased to cause to be placed on the Table a Return of all Coroners' Inquests held in consequence of Deaths or Accidents that have occurred during the last eighteen months at the Crossing-place of the Loddon, in the township of Newstead, in consequence of no bridge being there; also, the number of Acres of Land sold in that township, and the different thoroughfares which pass through that township.

Question—put and passed.

**BRIDGE AT BULLOCK CREEK.**—The Honorable J. Allan, with leave of the House, withdrew the notice of motion standing in his name.

**MUNICIPAL INSTITUTIONS.**—The Honorable T. McCombie, with leave of the House, withdrew the notice of motion standing in his name.

**POSTPONEMENT.**—The Order of the Day for the second reading of the Balbirnie Vans Estate Bill was postponed until Tuesday, the 10th instant.

**BILLS OF LADING BILL.**—The Honorable W. H. F. Mitchell moved, That this Bill be now read a second time.

Debate ensued.

Question—put and passed.

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

The President left the Chair.

The Chairman of Committees having reported that the Committee had agreed to the Bill without amendment,

The Report was adopted.

Ordered that the Bill be read a third time on Tuesday, the 10th instant.

**SALARIES OF OFFICERS OF THE HOUSE.**—The Honorable M. Hervey moved, That the Report of the Select Committee appointed on the 21st ultimo to prepare an Address to His Excellency the Governor, be adopted.

Debate ensued.

Question—put and passed.

The Honorable M. Hervey moved that the Address be presented by the following members of the Council:—The Honorable H. Miller, W. H. F. Mitchell, J. B. Bennett, M. Hervey.

Question—put and passed.

**MESSAGE TO THE LEGISLATIVE ASSEMBLY.**—The Honorable M. Hervey moved, That a Message be sent to the Legislative Assembly, conveying the desire of the Council to establish joint Standing Orders; and in order to avoid inconvenient delays, to solicit a free conference on the subject, to consist of four members of the Legislative Assembly to meet four members of the Legislative Council.

Question—put and passed.

The Honorable M. Hervey moved, That the Honorable T. McCombie do accompany the Chairman of the Committees with the said Message.

Question—put and passed.

The Messengers returned from the Legislative Assembly and announced that the Legislative Assembly would return a Message by Messengers of their own.

The Council adjourned at five minutes past five o'clock until three o'clock on Wednesday, the 4th instant.

## NOTICE OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 4TH FEBRUARY.

*Government Business.*

## ORDERS OF THE DAY:—

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

*General Business.*

2. CALL OF THE HOUSE.
3. ADOPTION OF REPORT OF FORM OF PRAYER COMMITTEE.

## NOTICE OF MOTION:—

*Contingent*—On the adoption of the Report of the Form of Prayer Committee—

1. The Hon. J. P. FAWKNER: To move, That the Prayer be read by the President on all days of meeting immediately before the commencement of business.

TUESDAY, 10TH FEBRUARY.

1. The Hon. T. McCOMBIE: To ask—

- (1.) If it be the intention of the Government to place any sum of money upon the Estimates for the purpose of defraying the expense of an expedition into the interior of Australia with the view of exploring the same.
- (2.) If any communication has been received in reference to the exploring of the interior of this country from the Government of any of the Australian colonies since the present Government officials came into office.
- (3.) If any despatch or other communication has been received from the Imperial Government in reference to this subject.

## NOTICE OF MOTION:—

1. The Hon. T. McCOMBIE: To move for leave to bring in a Bill for appointing and empowering Commissioners to examine and report upon titles to land in the Colony of Victoria, and to enable His Excellency the Governor to appoint the Commissioners and to issue grants for the land favorably reported upon by the Commissioners.

## ORDERS OF THE DAY:—

1. BALBIRNIE VANS ESTATE BILL.—To be read a second time.
2. BILLS OF LADING BILL.—To be read a third time.

WEDNESDAY, 11TH FEBRUARY.

## ORDER OF THE DAY:—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—To be read a second time.

THURSDAY, 12TH FEBRUARY.

## ORDER OF THE DAY:—

1. SALE AND KEEPING OF POISONS BILL.—To be read a second time.

## MEETINGS

OF

## SELECT COMMITTEES.

*Friday, 6th February.*

ELECTIONS AND QUALIFICATIONS—at 11 o'clock.

*Tuesday, 10th February.*

TRANSPORTATION OF FELONS—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, 4TH FEBRUARY, 1857.

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

**SALARIES OF OFFICERS OF THE HOUSE.**—The Honorable M. Hervey informed the Council that the Report of the Select Committee adopted on the previous day had been presented this day to His Excellency the Governor, who had been pleased to reply, that he would refer the subject to his responsible advisers.

**PATENTS BILL.**—The Order of the Day for the second reading of this Bill was postponed until Tuesday next.

**CALL OF THE HOUSE.**—The Order of the Day for a Call of the House being called on, at the direction of the President, the Order of the House, made on the 14th January, was read at the table by the Clerk.

On motion made by the Honorable J. P. Fawkner, the names of the Members of the House were called over by the Clerk, 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.

The name of the Honorable A. R. Cruikshank, the only Member absent, was taken down.

The Honorable J. P. Fawkner moved, That the Honorable Andrew Rose Cruikshank, not having obeyed the Call of the House, is in contempt of the House.

Debate ensued.

Question—put.

Council divided.

Contents, 22.

The Hon. J. H. Patterson

J. Henty

W. H. F. Mitchell

J. P. Fawkner

C. Vaughan

T. H. Power

M. Hervey

J. Hodgson

N. Guthridge

H. Miller

D. Kennedy

G. Urquhart

B. Williams

Dr. Tierney

J. Stewart

Dr. Hope

W. Roope

R. Thomson

J. Cowie

S. G. Henty

W. J. T. Clarke

J. B. Bennett (*Teller*).

Not Contents, 5.

The Hon. D. P. Keogh

T. McCombie

J. Hood

W. Kaye

J. F. Strachan (*Teller*).

The question was therefore passed.

ADOPTION OF REPORT OF FORM OF PRAYER COMMITTEE.—The Honorable J. P. Fawcner moved, That the Report of the Form of Prayer Committee, received by the House on the 14th January, be adopted.

Debate ensued.

Amendment moved, by the Honorable T. McCombie, That all the words in the Form before the words "Our Father," be omitted.

Debate ensued.

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

	Contents, 14.
The Hon. J. H. Patterson	
C. Vaughan	
J. P. Fawcner	
J. Hodgson	
H. Miller	
N. Guthridge	
J. B. Bennett	
Dr. Hope	
B. Williams	
S. G. Henty	
W. Kaye	
W. Roope	
J. Cowie	
J. Henty ( <i>Teller</i> ).	

	Not Contents, 14.
The Hon. J. F. Strachan	
M. Hervey	
D. P. Keogh	
W. H. F. Mitchell	
T. H. Power	
Dr. Tierney	
T. McCombie	
J. Hood	
J. Stewart	
W. J. T. Clarke	
D. Kennedy	
R. Thomson	
G. Urquhart	
J. Allan ( <i>Teller</i> ).	

The President gave his voice with the Not Contents, stating that he did so in order that there might be as much unanimity as possible as to any form of prayer adopted by the House.

The question was therefore negatived.

Question—That the Form of Prayer as amended be adopted—put.

Debate ensued.

Amendment moved, by the Honorable J. F. Strachan, That the word "adopted" be omitted with a view to insert the words, "taken into consideration this day six months."

Debate ensued.

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

	Contents, 15.
The Hon. J. H. Patterson	
J. P. Fawcner	
J. Hodgson	
H. Miller	
N. Guthridge	
J. B. Bennett	
B. Williams	
G. Urquhart	
W. Roope	
J. Stewart	
D. Kennedy	
Dr. Hope	
J. Cowie	
S. G. Henty	
J. Henty ( <i>Teller</i> ).	

	Not Contents, 13.
The Hon. C. Vaughan	
W. H. F. Mitchell	
J. F. Strachan	
W. Kaye	
M. Hervey	
D. P. Keogh	
T. H. Power	
Dr. Tierney	
T. McCombie	
J. Hood	
W. J. T. Clarke	
R. Thomson	
J. Allan ( <i>Teller</i> ).	

The question was therefore passed.

Question—That the Report as amended be adopted—put and passed.

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

MR. PRESIDENT,

The Legislative Assembly inform the Legislative Council that, with reference to the Message from the Council, desiring a free conference on establishing Joint Standing Orders, the Legislative Assembly propose to give power to their Standing Orders Committee to communicate and consult with the Standing Orders Committee of the Legislative Council on that subject.

Legislative Assembly Chambers,  
4th February, 1857.

FRANS. MURPHY,  
Speaker.

The Honorable T. McCombie moved, That the Message be referred to the Standing Orders Committee.

Ordered.

READING OF PRAYER.—The Honorable J. P. Fawkner, in accordance with *amended* notice, moved, That the prayer now adopted, namely, the Lord's Prayer, be read by the President on all days of meeting immediately before the commencement of business.

Debate ensued.

Amendment moved by the Honorable Dr. Tierney, That the motion of the Honorable J. P. Fawkner cannot be received by the House.

Question—That the motion be not received—put and negatived.

Question—That the form of prayer now adopted, namely, the Lord's Prayer, be read by the President on all days of meeting immediately before the commencement of business—put.

Council divided.

Contents, 15.  
The Hon. J. H. Patterson  
J. P. Fawkner  
J. Hodgson  
H. Miller  
N. Guthridge  
B. Williams  
G. Urquhart  
J. B. Bennett  
J. Stewart  
Dr. Hope  
D. Kennedy  
W. Roope  
J. Cowie  
S. G. Henty  
J. Henty (*Teller*).

Not Contents, 13.  
The Hon. J. Allan  
C. Vaughan  
W. H. F. Mitchell  
W. Kaye  
M. Hervey  
D. P. Keogh  
T. H. Power  
Dr. Tierney  
T. McCombie  
J. Hood  
W. J. T. Clarke  
R. Thomson  
J. F. Strachan (*Teller*).

The question was therefore passed.

APOLOGY OF ABSENT MEMBER.—The Honorable J. Allan informed the House that he had learned that the Honorable A. R. Cruikshank, absent when the House was called over, was confined to his chamber by illness, and moved, That this apology for absence be accepted.

Question—put and passed.

ADJOURNMENT.—The Honorable W. H. F. Mitchell moved, That the House at its rising adjourn until Tuesday next.

Question—put and passed.

The House adjourned at five o'clock until three o'clock on Tuesday, the 10th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 10TH FEBRUARY.

1. The Hon. T. McCOMBIE : To ask—

- (1.) If it be the intention of the Government to place any sum of money upon the Estimates for the purpose of defraying the expense of an expedition into the interior of Australia with the view of exploring the same.
- (2.) If any communication has been received in reference to the exploring of the interior of this country, from the Government of any of the Australian colonies, since the present Government officials came into office.
- (3.) If any despatch or other communication has been received from the Imperial Government in reference to this subject.

2. The Hon. A. R. CRUIKSHANK : To ask the Honorable W. H. F. Mitchell—

- (1.) The loss to the Colony on the purchase of Exchange by Government during the year 1856.
- (2.) The like loss for the month of January, 1857.
- (3.) Whether Exchanges during the above periods have been invariably purchased at lowest market rates.

### NOTICES OF MOTION :—

1. The Hon. T. McCOMBIE : To move for leave to bring in a Bill for appointing and empowering Commissioners to examine and report upon titles to land in the Colony of Victoria, and to enable His Excellency the Governor to appoint the Commissioners and to issue grants for the land favorably reported upon by the Commissioners.
2. The Hon. J. P. FAWKNER : To move, That all Bills brought into this Council, whether by a Member or from the Assembly, be punctuated by the Clerk of this Council before they go to the second reading.
3. The Hon. J. F. STRACHAN : To move, That an Address be presented to His Excellency the Governor, praying that he may be pleased to lay on the Table of this House a Return of the numbers of registered voters in the respective districts of the Colony, and the numbers of votes polled in each district for Members of Council and Assembly respectively.



## ORDERS OF THE DAY:—

1. BALBIRNIE VANS ESTATE BILL.—To be read a second time.
2. BILLS OF LADING BILL.—To be read a third time.
3. PATENTS BILL.—To be read a second time.

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WEDNESDAY, 11TH FEBRUARY.

## NOTICE OF MOTION:—

1. The Hon. Dr. TIERNEY: To move, That a Select Committee be appointed to inquire into and report to this House upon the Capacity, Anchorage, and Safety of the Warrnambool Harbor (Lady Bay), with the view to have direct Emigration from the Mother Country to that Port; such Committee to consist of the Honorable the President, Messrs. Miller, Vaughan, Hood, and the Mover.

## ORDER OF THE DAY:—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—To be read a second time.

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THURSDAY, 12TH FEBRUARY.

## ORDER OF THE DAY:—

1. SALE AND KEEPING OF POISONS BILL.—To be read a second time.
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MEETINGS  
OF  
SELECT COMMITTEES.

*Tuesday, 10th February.*

ELECTIONS AND QUALIFICATIONS—at 11 o'clock.

TRANSPORTATION OF FELONS—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, 10TH FEBRUARY, 1857.

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

The President read the Prayer.

**PETITIONS.**—The Honorable A. R. Cruikshank presented a Petition from sheepholders in the District of Portland Bay, praying for alterations in the Scab Act, and moved that the same be received.

Petition received.

The Honorable J. Allan presented a Petition from certain inhabitants at Sandhurst, on the subject of the Qualification of Members of Assembly Bill, and moved that the same be received.

The Petition, being informal, was withdrawn.

The Honorable D. P. Keogh presented a Petition from certain inhabitants at Ballaarat, praying that the Qualification of Members of Assembly Bill may be passed by the Council, and moved that the same be received.

Petition received.

**STANDING ORDERS.**—The Honorable T. McCombie, without notice, by leave of the House, moved, That the Standing Orders Committee of this House be authorised to confer with the Standing Orders Committee of the Legislative Assembly.

Question—put and passed.

The Honorable T. McCombie moved, That a Message be sent to the Legislative Assembly to inform them that the Standing Orders Committee of the Council has been empowered to confer with the Standing Orders Committee of the Legislative Assembly, and that such Message be taken by the Chairman of Committees and the Mover.

Question—put and passed.

**TITLES TO LAND.**—The Honorable T. McCombie, in accordance with *amended* notice, moved for leave to bring in a Bill for appointing and empowering Commissioners to examine and report upon titles to land in the Colony of Victoria, and to enable His Excellency the Governor to appoint the Commissioners and to issue certificates for the land favorably reported upon by the Commissioners.

Debate ensued.

Question—put and passed.

Bill read a first time, ordered to be printed, and read a second time on Tuesday, the 24th instant.

**PUNCTUATION OF BILLS.**—The Honorable J. P. Fawcner moved, in accordance with *amended* notice, That all Bills brought into this Council, whether by a member or from the Assembly, whenever not previously pointed, be punctuated by the Clerk of this Council before they go to the second reading.

Debate ensued.

Motion, by leave, withdrawn.

**POSTPONEMENT.**—The Honorable M. Hervey, on behalf of the Honorable J. F. Strachan, with leave of the Council, postponed the Notice of Motion standing in his name respecting Voters for the Legislative Council and Assembly until Wednesday, the 11th instant.

**POSTPONEMENT.**—The Order of the Day for the second reading of the Balbirnie Vans Estate Bill was postponed until Tuesday, the 17th instant.

**BILLS OF LADING BILL.**—The Order of the Day for the third reading of the Bills of Lading Bill was postponed until the 11th instant.

**PATENTS BILL.**—The Honorable W. H. F. Mitchell moved, That this 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 President left the Chair.

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

The Council adjourned at twenty-five minutes to six o'clock until three o'clock on Wednesday, the 11th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 11TH FEBRUARY.

*Government Business.*

## ORDERS OF THE DAY:—

1. BILLS OF LADING BILL.—To be read a third time.
2. PATENTS BILL.—To be further considered in Committee.

*General Business.*

## NOTICES OF MOTION:—

1. The Hon. Dr. TIERNEY: To move, That a Select Committee be appointed to inquire into and report to this House upon the Capacity, Anchorage, and Safety of the Warrnambool Harbor (Lady Bay), with the view to have direct Emigration from the Mother Country to that Port; such Committee to consist of the Honorable the President, Messrs. Miller, Vaughan, Hood, and the Mover.
2. The Hon. J. F. STRACHAN: To move, That an Address be presented to His Excellency the Governor, praying that he may be pleased to lay on the Table of this House a Return of the numbers of registered voters in the respective districts of the Colony, and the numbers of votes polled in each district for Members of Council and Assembly respectively.
3. The Hon. J. H. PATTERSON: To move, That, with the Returns called for by the Hon. J. F. Strachan, there be produced for the information of this Council the manuscript copy of the Electoral Roll for the District of St. Kilda.

## ORDER OF THE DAY:—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—To be read a second time.

THURSDAY, 12TH FEBRUARY.

## ORDER OF THE DAY:—

1. SALE AND KEEPING OF POISONS BILL.—To be read a second time.

TUESDAY, 17TH FEBRUARY.

## NOTICES OF MOTION:—

1. The Hon. N. GUTHRIDGE: To move, That in the opinion of this Council all moneys voted by the Legislative Assembly for educational purposes, and placed in the hands of the Denominational School Board for administration, ought to be distributed among the various denominations receiving the same equally in proportion to the number of children educated by each denomination.
2. The Hon. T. McCOMBIE: To move, That an Address be presented to His Excellency the Governor, requesting that he will be pleased to lay on the Table of this House a copy of the Despatch from the Imperial authorities in reference to the expedition into the interior of North Australia.

## ORDER OF THE DAY:—

1. BALBIRNIE VANS ESTATE BILL.—To be read a second time.

TUESDAY, 24TH FEBRUARY.

## ORDER OF THE DAY:—

1. TITLES TO LAND BILL.—To be read a second time.

## MEETINGS

OF

## SELECT COMMITTEES.

*Thursday, 12th February.*

CLASSIFICATION OF CLERKS—at 11 o'clock.

TRANSPORTATION OF FELONS—at 2 o'clock.

*Friday, 13th February.*

ELECTIONS AND QUALIFICATIONS—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, 11<sup>TH</sup> FEBRUARY, 1857.

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

The President read the Prayer.

**PETITION.**—The Honorable J. Hood presented a Petition from Thomas Mason and others, praying that provision may be made to exempt Municipal Councillors and their officers from the duties of Jurors, and moved that the same be received.

Petition received.

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

(1.) Denominational School Board.—Report 1855 and part of 1856.

(2.) Local Court Regulations, Yackandandah (6th February, 1857).

**BILLS OF LADING 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—Bill, on 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 amend the Law relating to Bills of Lading.*"

Question—put and passed.

Ordered—That the Chairman of Committees, with another Member, do carry the Bill to the Legislative Assembly, and desire their concurrence thereto.

**PATENTS BILL.**—The Council went into Committee of the whole House further to consider this Bill.

The Chairman of Committees reported the Bill with amendments.

Report, on the motion of the Honorable W. H. F. Mitchell, adopted.

Bill ordered to be read a third time on Tuesday, 17th instant.

**WARRNAMBOOL HARBOR.**—The Honorable Dr. Tierney moved, in accordance with notice, That a Select Committee be appointed to inquire into and report to this House upon the Capacity, Anchorage, and Safety of the Warrnambool Harbor (Lady Bay), with the view to have direct Emigration from the Mother Country to that Port; such Committee to consist of the Honorable the President, Messrs. Miller, Vaughan, Hood, and the Mover.

Question—put and passed.

**VOTERS FOR THE LEGISLATIVE COUNCIL AND ASSEMBLY.**—The Honorable H. Miller, in the absence of the Honorable J. F. Strachan; in accordance with notice given, moved, That an Address be presented to His Excellency the Governor, praying that he may be pleased to lay on the Table of this House a Return of the numbers of registered voters in the respective districts of the Colony, and the numbers of votes polled in each district for Members of Council and Assembly respectively.

Question—put and passed.

**ST. KILDA ELECTORAL ROLL.**—The Honorable J. H. Patterson moved, in accordance with notice, That, with the Returns moved for by the Honorable J. F. Strachan, there be produced, for the information of this Council, the manuscript copy of the Electoral Roll for the District of St. Kilda.

Question—put and passed.

**QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.**—The Honorable J. Hood moved, That this Bill be now read a second time.

Debate ensued.

Amendment moved by the Honorable J. P. Fawcner, That the word "now" be left out, and the words "this day six months" be added after the word "time."

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

## Contents, 18.

The Hon. J. Hodgson  
W. H. F. Mitchell  
C. Vaughan  
D. P. Keogh  
M. Hervey  
G. Urquhart  
T. McCombie  
J. H. Patterson  
J. Allan  
N. Guthridge  
J. Henty  
Dr. Tierney  
J. Cowie  
Dr. Hope  
J. Stewart  
W. Kaye  
D. Kennedy  
J. Hood (*Teller*).

## Non Contents, 7.

The Hon. W. Roope  
S. G. Henty  
J. P. Fawcner  
T. H. Power  
R. Thomson  
B. Williams  
H. Miller (*Teller*).

The question was therefore passed.

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

On the motion of the Honorable J. Hood, the Council went into Committee of the whole House to consider the Bill.

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

MEETINGS OF COMMITTEES.—The Honorable T. McCombie moved, That the Standing Orders Committee have leave to sit on Friday next.

Question—put and passed.

The Honorable J. H. Patterson moved, That all Committees have power to sit during the adjournment of the House.

Question—put and passed.

VOTERS FOR THE LEGISLATIVE COUNCIL AND ASSEMBLY.—The Honorable W. H. F. Mitchell laid upon the Table the Return moved for by the Honorable J. F. Strachan.

Ordered to lie on the Table.

POSTPONEMENT.—The Order of the Day for the second reading of the Sale and Keeping of Poisons Bill, for Thursday, the 12th instant, was postponed until Tuesday, 17th instant.

The Honorable W. H. F. Mitchell moved, That the House at its rising adjourn until Tuesday next.

Question—put and passed.

The Council adjourned at twenty minutes past seven o'clock until three o'clock on Tuesday next.

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NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 17TH FEBRUARY.

## NOTICES OF MOTION :—

1. The Hon. N. GUTHRIDGE : To move, That in the opinion of this Council all moneys voted by the Legislative Assembly for educational purposes, and placed in the hands of the Denominational School Board for administration, ought to be distributed among the various denominations receiving the same equally in proportion to the number of children educated by each denomination.
2. The Hon. T. McCOMBIE : To move, That an Address be presented to His Excellency the Governor, requesting that he will be pleased to lay on the Table of this House a copy of the Despatch from the Imperial authorities in reference to the expedition into the interior of North Australia.

## ORDERS OF THE DAY :—

1. BALBIERNIE VANS ESTATE BILL.—To be read a second time.
2. PATENTS BILL.—To be read a third time.
3. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—To be further considered in Committee.
4. SALE AND KEEPING OF POISONS BILL.—To be read a second time.

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TUESDAY, 24TH FEBRUARY.

## ORDER OF THE DAY :—

1. TITLES TO LAND BILL.—To be read a second time.

WEDNESDAY, 25TH FEBRUARY.

## NOTICE OF MOTION:—

1. The Hon. J. HODGSON: To move for leave to introduce a Bill to amend the law relating to the Qualification of Electors to the Legislative Council and the law relating to the Qualification required by Members thereof.
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MEETINGS  
OF  
SELECT COMMITTEES.

*Thursday, 12th February.*

CLASSIFICATION OF CLERKS—at 11 o'clock.

TRANSPORTATION OF FELONS—at 2 o'clock.

*Friday, 13th February.*

STANDING ORDERS COMMITTEE—at 2 o'clock.

*Tuesday, 17th February.*

ELECTIONS AND QUALIFICATIONS—at 11 o'clock.

CLASSIFICATION OF CLERKS—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, 17<sup>TH</sup> FEBRUARY, 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 a Return to an Address of the Council of the 27th January, concerning the establishment of a Vice-Admiralty Court in the Colony.

Ordered to lie on the Table.

**PETITION.**—The Honorable J. Hood presented a Petition from S. J. F. Croad and others, praying that the Bill, intituled, "*A Bill to regulate the safe keeping and sale of Arsenic and other Poisons, and their administration,*" may not be passed by this Honorable House. Petition received.

**PAPERS.**—The Honorable W. H. F. Mitchell, by command of His Excellency the Governor, presented to the Council a copy of the contract entered into with the European and Australian Royal Mail Company for the conveyance of mails between the United Kingdom and Australia.

Ordered to lie on the Table.

**QUESTIONS OF FINANCE AND ADDRESSES TO THE GOVERNOR.**—The Honorable T. McCombie, with leave of the Council, moved, That all questions of Finance, and all Addresses to the Governor praying that he would place sums of money on the Estimates for particular purposes, be considered in full Council.

Debate ensued.

Question—put and negatived.

**EXPLORATION OF NORTH AUSTRALIA.**—The Honorable T. McCombie, in accordance with notice, moved, That an Address be presented to His Excellency the Governor, requesting that he will be pleased to lay on the Table of this House a copy of the Despatch from the Imperial authorities in reference to the expedition into the interior of North Australia.

Debate ensued.

Motion, by leave, withdrawn.

**POSTPONEMENT.**—The Order of the Day for the second reading of the Balbirnie Vans Estate Bill was postponed until Tuesday, 24th February, 1857.

**PATENTS BILL.**—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 Honorable W. H. F. Mitchell moved, That this Bill be now read a third time.

Question—put and passed.

Bill read a third time, and on the motion of the Honorable W. H. F. Mitchell, *passed.*

The Honorable W. H. F. Mitchell moved, That the title of the Bill be, "*An Act concerning Letters Patent for Inventions.*"

Question—put and passed.

Ordered, that the Chairman of Committees, with another Member, do carry the Bill to the Legislative Assembly, and desire their concurrence to the amendments in the Bill.

**QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.**—The Council resolved itself into a Committee of the whole House, further to consider this Bill.

The Chairman of Committees reported progress, and obtained leave to sit again on Tuesday, the 24th instant.

**SALE AND KEEPING OF POISONS BILL.**—The Honorable Dr. Tierney, with leave of the Council, withdrew this Bill, and moved, That a Select Committee of seven Members be appointed to inquire into the sale, safe keeping, and administration of Poisons and Narcotics, and to frame a Bill to carry out these objects, with power to call witnesses if necessary; such Committee to consist of the Honorable the President, the Honorable Messrs. Bennett, Hope, Hood, Fawcner, S. G. Henty, and the Mover.

Debate ensued.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—A Message from the Legislative Assembly was brought by Mr. Aspinall and another Member, in the following words:—

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, "*An Act to amend the Law relating to Drafts or Checks on Bankers;*" also, a Bill, intituled, "*An Act to amend the Laws relative to the vending of Fermented and Spirituous Liquors;*" to which they desire the concurrence of the Legislative Council.

FRAN<sup>s</sup>. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 17th February, 1857.

The Honorable W. H. F. Mitchell moved, That the Bill, intituled, "*An Act to amend the Laws relating to Drafts or Checks on Bankers;*" be read a first time.

Question—put and passed.

Bill read a first time, ordered to be printed, and read a second time on Tuesday, 24th instant.

The Honorable W. H. F. Mitchell moved, That the Bill, intituled, "*An Act to amend the Laws relative to the vending of Fermented and Spirituous Liquors;*" be now read a first time.

Question—put and passed.

Bill read a first time, ordered to be printed, and read a second time on Wednesday, the 25th instant.

SALE AND KEEPING OF POISONS BILL.—

Debate resumed.

Question—That a Select Committee of seven Members be appointed to inquire into the sale, safe keeping, and administration of Poisons and Narcotics, and to frame a Bill to carry out these objects, with power to call witnesses if necessary; such Committee to consist of the Honorable the President, the Honorable Messrs. Bennett, Hope, Hood, Fawkner, S. G. Henty, and the Mover—put and passed.

ADJOURNMENT.—The Honorable W. H. F. Mitchell moved, That the House at its rising this day adjourn until Tuesday next.

Question—put and passed.

The Honorable W. H. F. Mitchell moved, That all Committees have power to sit during the adjournment.

Question—put and passed.

ELECTORAL RETURNS.—The Honorable W. H. F. Mitchell moved, That the Return laid upon the Table on the 11th instant be printed.

Question—put and passed.

The Council adjourned at a quarter past five o'clock until three o'clock on Tuesday, the 24th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 24TH FEBRUARY.

1. The Hon. W. ROOPE: To ask the Honorable W. H. F. Mitchell why letters from the Colony to England, *viâ* Marseilles, were in Geelong on Thursday last, the 12th instant, charged an additional five (5) pence per quarter ounce, whereas in Melbourne, on the same day, three pence only per quarter ounce was demanded.
2. The Hon. J. H. PATTERSON: To ask the Honorable W. H. F. Mitchell whether, in the contemplated appointment of a Staff of Emigration Officers, it is the intention of the Government to adopt, in this instance, the recommendation of the Civil Service Commission, that is, to examine the various candidates before an independent tribunal as to their comparative ability for office, or whether they are to be appointed by personal interest or otherwise.
3. The Hon. T. McCOMBIE: To ask—
  - (1.) The reasons which have induced the Executive to remove the bridge over the Cannanook Creek at Frankston.
  - (2.) If it be the intention to take the same bridge off the Surveyor's line of road from Melbourne to Point Nepean.
  - (3.) If certain town allotments have not been sold in Frankston since the bridge referred to was erected.

NOTICE OF MOTION:—

1. The Hon. N. GUTHRIDGE: To move, That in the opinion of this Council all moneys voted by the Legislative Assembly for educational purposes, and placed in the hands of the Denominational School Board for administration, ought to be distributed among the various denominations receiving the same equally in proportion to the number of children educated by each denomination.



## ORDERS OF THE DAY:—

1. TITLES TO LAND BILL.—To be read a second time.
2. BANKERS' DRAFTS LAW AMENDMENT BILL.—To be read a second time.
3. BALBIRNIE VANS ESTATE BILL.—To be read a second time.
4. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—To be further considered in Committee.

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WEDNESDAY, 25TH FEBRUARY.

*Government Business.*

## ORDER OF THE DAY:—

1. SPIRIT MERCHANTS BILL.—To be read a second time.

*General Business.*

## NOTICE OF MOTION:—

1. The Hon. J. HODGSON: To move for leave to introduce a Bill to amend the law relating to the Qualification of Electors to the Legislative Council and the law relating to the Qualification required by Members thereof.

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TUESDAY, 3RD MARCH.

## NOTICE OF MOTION:—

1. The Hon. T. McCOMBIE: To move, That a Select Committee of this House be appointed to inquire and report upon the measures necessary to obtain for this House the advice of the highest legal functionaries on private Bills and other questions, where such advice is indispensable to the progress of legislation.

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MEETINGS  
OF  
**SELECT COMMITTEES.**

*Wednesday, 18th February.*

STANDING ORDERS COMMITTEE—at 1 o'clock.

SALE AND KEEPING OF POISONS BILL—at half-past 3 o'clock.

*Thursday, 19th February.*

CLASSIFICATION OF CLERKS—at 11 o'clock.

*Tuesday, 24th February.*

ELECTIONS AND QUALIFICATIONS—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, 24TH FEBRUARY, 1857.

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

The President read the Prayer.

**PENAL ESTABLISHMENTS.—RETURNS.**—The Honorable J. Hood, with leave of the Council, moved, That the following unopposed Returns be laid on the Table of the Council :—

- (1.) A Return, in precise accordance with a form to be supplied by the Penal Establishments Committee, of all articles, exclusive of articles of clothing or any articles supplied in compliance with requisitions from other departments of the Public Service, made on station at the manufacturing branch of the Penal Department, at the main depot, Pentridge Stockade, from the 1st day of July, 1855, to the 30th June, 1856.
- (2.) A Return, in precise accordance with a form to be supplied by the Penal Establishments Committee, of all prisoners discharged from the hulks or stockades by the Inspector General of the Penal Department from the 1st day of January, 1856, to the 1st day of January, 1857, with a statement of all additional punishments or sentences inflicted on them ; of the periods at which they were severally entitled by law to discharge by indulgence, with good conduct, and of the authority and circumstances under which they have been longer detained ; and further, for a statement whether prisoners or gangs of prisoners have been placed by the Inspector General's order or sanction, in chains, without any report to Government, they not having been sentenced in chains.
- (3.) For a Return, in precise accordance with a tabular form to be supplied by the Penal Establishments Committee, of the names, numbers, and other details of information referring to prisoners in the Melbourne gaols and in the Pentridge and Collingwood stockades, on whom additional sentences have been inflicted by the Visiting Justice of these prisons, from the 1st January, 1856, to the 1st January, 1857, and the authority and circumstances under which such sentences have been imposed.

Question—put and passed.

**TRANSPORTATION OF FELONS.**—The Honorable J. P. Fawcner brought up a Draft Report from the Select Committee on the Transportation of Felons, and moved that the same be received.

Question—put and passed.

The Report was read at the Table by the Clerk.

Ordered to be printed, and taken into consideration on Tuesday, the 3rd proximo.

**PAPERS.**—The Honorable W. H. F. Mitchell laid upon the Table the following Papers :—

- (1.) Plan of Lady Bay, Warrnambool (surveyed in 1853).
- (2.) Local Court Regulations, Mount Blackwood (17th February, 1857).
- (3.) Local Court Regulations, Creswick (13th February, 1857).
- (4.) Statistics of the Colony of Victoria for 1855.

**ADMINISTRATION OF JUSTICE BILL.**—The Honorable M. Hervey, with leave of the House, moved for leave to bring in a Bill for adopting and applying portions of an Act of the Imperial Parliament passed in the Session of the 19th and 20th years of the reign of Her Majesty Queen Victoria, in the administration of Justice in Victoria.

Question—put and passed.

Bill brought in—read a first time—ordered to be printed—and read a second time on Tuesday, the 3rd proximo.

**ADMINISTRATION OF EDUCATIONAL GRANTS.**—The Honorable N. Guthridge, in accordance with *amended* notice, moved, That the Council resolve itself into a Committee of the whole House, to consider the propriety of adopting an Address to His Excellency the Governor, conveying the opinion of this Council that all monies voted by the Legislative Assembly for educational purposes, and placed in the hands of the Denominational School Board for administration, ought to be distributed among the various denominations receiving the same equally in proportion to the number of children educated by each denomination.

Question—That the Council resolve itself into a Committee of the whole—put and passed.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—A Message from the Legislative Assembly being announced, the President took the Chair, and the following Message was brought by Mr. Aspinall and another Member :—

MR. PRESIDENT,

The Legislative Assembly inform the Legislative Council that they have taken into consideration the amendments made by the Legislative Council in a Bill, intituled, "*An Act concerning Letters Patent for Inventions,*" and that they disagree thereto, for the following reasons :—

That, as every person has a common law right to appear in person before any tribunal, the amendments are unnecessary, and tend to raise a doubt on a matter upon which no doubt can be entertained.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 24th February, 1857.

The Messengers withdrew.

The Honorable W. H. F. Mitchell moved, That the Message be taken into consideration on Thursday next.

Question—put and passed.

ADMINISTRATION OF EDUCATIONAL GRANTS.—Committee of the whole Council resumed.

STANDING ORDERS COMMITTEE.—The time appointed for a conference between the Standing Orders Committees of the Legislative Council and the Legislative Assembly having arrived, the Chairman of Committees reported progress, and obtained leave to sit again this day; and the Council adjourned during pleasure, that the said conference might take place.

The President having resumed the Chair, reported, That the Standing Orders Committee of the Council had conferred with the Standing Orders Committee of the Legislative Assembly.

ADMINISTRATION OF EDUCATIONAL GRANTS.—The Council again resolved itself into a Committee of the whole.

The Chairman of Committees reported that the Committee had agreed to the following resolution, and moved that the same be adopted by the Council :—

That an Address be presented to His Excellency the Governor, conveying the opinion of this Council, that all monies voted for Educational purposes, and placed in the hands of the Denominational School Board for administration, ought to be distributed on the following basis :—

- (1.) That one-ninth of the money be reserved for Expenses of Department and Contingencies.
- (2.) That two-thirds be set apart for support of Schools, and divided among the denominations in proportion to the number of Scholars connected with each denomination at the end of 1856.
- (3.) That two-ninths be applied towards the erection of School Houses, to be distributed among the denominations in proportion to their position on the Census.
- (4.) That the above shall only be applicable for the year 1857; and that this Council would urgently press upon the Government the necessity of at once bringing in a Bill embodying a comprehensive system of National Education.

Question—That the above Resolutions be adopted by the House—put and passed.

ROYAL ASSENT TO BILLS.—The Honorable W. H. F. Mitchell announced that he had been commanded by His Excellency the Governor to inform the Council that His Excellency would, on the following day, at four o'clock, come down to the House to give the Royal Assent to two Bills which have been passed by the Houses of Parliament.

PENAL ESTABLISHMENTS.—The Honorable J. Hood brought up a Progress Report from the Committee on Penal Establishments, and moved that the same be received.

Debate ensued.

Motion, by leave, withdrawn.

POSTPONEMENTS.—The Order of the Day for the second reading of the Titles to Land Bill and the Bankers' Drafts Law Amendment Bill were postponed severally until Wednesday, 25th instant.

BALBIRNIE VANS ESTATE BILL.—The Order of the Day for the second reading of the Balbirnie Vans Estate Bill was discharged.

POSTPONEMENT.—The Order of the Day for the further consideration in Committee of the Qualification of Members of Assembly Bill was postponed until to-morrow, to take precedence next after the Order for the second reading of the Spirit Merchants Bill.

The Council adjourned at six o'clock, until three o'clock on Wednesday, the 25th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 25TH FEBRUARY.

1. The Hon. W. ROOPE: To ask the Honorable W. H. F. Mitchell why letters from the Colony to England, *via* Marseilles, were in Geelong on Thursday last, the 12th instant, charged an additional five (5) pence per quarter ounce, whereas in Melbourne, on the same day, three pence only per quarter ounce was demanded.
2. The Hon. T. McCOMBIE: To ask the Honorable W. H. F. Mitchell the political grounds on the late Solicitor General and Colonial Treasurer were released from office and became entitled to pensions under part 6 of Schedule D.

## ORDERS OF THE DAY:—

1. SPIRIT MERCHANTS BILL.—To be read a second time.
2. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—To be further considered in Committee.
3. TITLES TO LAND BILL.—To be read a second time.
4. BANKERS' DRAFTS LAW AMENDMENT BILL.—To be read a second time.

## NOTICE OF MOTION:—

1. The Hon. J. HODGSON: To move for leave to introduce a Bill to amend the law relating to the Qualification of Electors to the Legislative Council and the law relating to the Qualification required by Members thereof.

THURSDAY, 26TH FEBRUARY.

1. The Hon. T. McCOMBIE: To ask if it is the intention of the Executive Government to reserve land for an enclosed park at Elsternwick, and if so, when the same will be surveyed and laid out, and opened for the public service.

## ORDER OF THE DAY:—

1. MESSAGE FROM THE LEGISLATIVE ASSEMBLY WITH PATENTS BILL.—To be considered.

TUESDAY, 3RD MARCH.

1. The Hon. W. ROOPE: To ask the Honorable W. H. F. Mitchell whether it be the intention of the Government to obtain for Victoria the same privileges as are enjoyed by the other Australian Colonies, of receiving from the United Kingdom by post, Books, Publications, or Works of Literature or Art, at a reduced rate of postage.

## NOTICE OF MOTION:—

1. The Hon. T. McCOMBIE: To move, That a Select Committee of this House be appointed to inquire and report upon the measures necessary to obtain for this House the advice of the highest legal functionaries on private Bills and other questions, where such advice is indispensable to the progress of legislation.

## ORDERS OF THE DAY:—

1. TRANSPORTATION OF FELONS.—Consideration of Report of Committee.
2. ADMINISTRATION OF JUSTICE BILL.—To be read a second time.

## MEETINGS

OF

## SELECT COMMITTEES.

Wednesday, 25th February.

ELECTIONS AND QUALIFICATIONS—at 10 o'clock.  
SALE AND KEEPING OF POISONS BILL—at 10 o'clock.

Thursday, 26th February.

CLASSIFICATION OF CLERKS—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, 25TH FEBRUARY, 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, by command of His Excellency the Governor, presented to the Council the following Paper:—

Report on the Yarra Bend Lunatic Asylum (1856).

ELECTIONS AND QUALIFICATIONS COMMITTEE REPORT.—The Honorable J. P. Fawcner brought up a Report from the Elections and Qualifications Committee, to whom the Petition of William Highett was referred on the 8th January by the Council, and moved that the same be read and received.

On motion of the Honorable T. McCombie, the Petition of William Highett, and the reference thereof to the Committee, were read, together with the Report brought up from the Committee.

Debate ensued.

The President ruled that the Council were bound to receive the Report from the Elections and Qualifications Committee appointed under the Electoral Act of 1856, without question put.

The Honorable N. Guthridge moved, That the ruling of the President be affirmed by the Council.

Debate ensued.

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 immediate attendance of the Legislative Assembly in the Council Chamber.

Mr. Speaker and the Legislative Assembly attending, His Excellency was pleased to assent, in the name of Her Majesty the Queen, to the following Bills:—

*“An Act for defining the Privileges, Immunities, and Powers of the Legislative Council and Legislative Assembly of Victoria respectively.”*

*“An Act for taking an Account of the Population.”*

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.”

“Parliament Houses,

“Melbourne, 25th February, 1857.”

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.

ELECTIONS AND QUALIFICATIONS COMMITTEE REPORT.—

Debate resumed.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—A Message from the Legislative Assembly was brought by Mr. Aspinall and another Member, in the following words:—

MR. PRESIDENT,

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, “An Act to make provision for Emigration from the United Kingdom and for other purposes.”

Also a Bill, intituled, “An Act to regulate the Importation, Carriage, and Custody of Gunpowder,”

to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
 Speaker.

Legislative Assembly Chamber,  
 Melbourne, 25th February, 1857.

The Messengers withdrew.

The Bills, on motion of the Honorable W. H. F. Mitchell, read a first time, ordered to be printed, and read a second time—the Emigration Bill on the 4th proximo, the Gunpowder Bill on the 5th proximo.

**ELECTIONS AND QUALIFICATIONS COMMITTEE REPORT.—**

Debate resumed.

Question—That the ruling of the President be affirmed by the Council—put.  
Council divided.

Contents, 8.  
The Hon. J. Hodgson  
H. Miller  
S. G. Henty  
J. B. Bennett  
Dr. Hope  
J. Cowie  
N. Guthridge  
W. H. F. Mitchell (*Teller*).

Not Contents, 15.  
The Hon. J. Henty  
D. P. Keogh  
W. J. T. Clarke  
R. Thomson  
T. H. Power  
T. McCombie  
J. P. Fawkner  
M. Hervey  
Dr. Tierney  
J. Hood  
J. Stewart  
C. Vaughan  
J. H. Patterson  
G. Urquhart  
J. F. Strachan (*Teller*).

The question was therefore negatived.

Debate resumed on the motion for the reception of the Report of the Committee.

The Honorable W. H. F. Mitchell moved the adjournment of the debate until to-morrow, to take precedence of all other business.

Question—That the debate be adjourned till to-morrow, to take precedence—put and passed.

**POSTPONEMENTS.—**The following Orders of the Day were postponed to the days named:—

1. "*Spirit Merchants Bill*"—26th February, 1857;
2. "*Qualification of Members of Assembly Bill*"—3rd March, 1857;
3. "*Titles to Land Bill*"—26th February, 1857;
4. "*Bankers' Drafts Law Amendment Bill*"—4th March, 1857.

The Council adjourned at a quarter to seven o'clock until three o'clock on Thursday, 26th instant.

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**NOTICES OF MOTION AND ORDERS OF THE DAY.**

THURSDAY, 26TH FEBRUARY.

1. The Hon. T. McCOMBIE: To ask if it is the intention of the Executive Government to reserve land for an enclosed park at Elsternwick, and if so, when the same will be surveyed and laid out, and opened for the public service.

**ORDERS OF THE DAY:—**

1. **ELECTIONS AND QUALIFICATIONS COMMITTEE REPORT.**—Adjourned debate.
2. **MESSAGE FROM THE LEGISLATIVE ASSEMBLY WITH PATENTS BILL.**—To be considered.
3. **SPIRIT MERCHANTS BILL.**—To be read a second time.
4. **TITLES TO LAND BILL.**—To be read a second time.

TUESDAY, 3RD MARCH.

1. The Hon. W. ROOPE: To ask the Honorable W. H. F. Mitchell whether it be the intention of the Government to obtain for Victoria the same privileges as are enjoyed by the other Australian Colonies, of receiving from the United Kingdom by post, Books, Publications, or Works of Literature or Art, at a reduced rate of postage.
2. The Hon. J. COWIE: To ask the Honorable W. H. F. Mitchell what became of the letters posted at Geelong prior to the 12th instant, upon which 3d. extra were paid, and whether they were sent *via* Marseilles.

**NOTICE OF MOTION:—**

1. The Hon. T. McCOMBIE: To move, That a Select Committee of this House be appointed to inquire and report upon the measures necessary to obtain for this House the advice of the highest legal functionaries on private Bills and other questions, where such advice is indispensable to the progress of legislation.

## ORDERS OF THE DAY:—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—To be further considered in Committee.
2. TRANSPORTATION OF FELONS.—Consideration of Report of Committee.
3. ADMINISTRATION OF JUSTICE BILL.—To be read a second time.

WEDNESDAY, 4TH MARCH.

## ORDERS OF THE DAY:—

1. BANKERS' DRAFTS LAW AMENDMENT BILL.—To be read a second time.
2. EMIGRATION BILL.—To be read a second time.

THURSDAY, 5TH MARCH.

## ORDER OF THE DAY:—

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

TUESDAY, 10TH MARCH.

## NOTICE OF MOTION:—

1. The Hon. J. HODGSON: To move for leave to introduce a Bill to amend the law relating to the Qualification of Electors to the Legislative Council and the law relating to the Qualification required by Members thereof.

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MEETINGS  
OF  
**SELECT COMMITTEES.**

*Thursday, 26th February.*

CLASSIFICATION OF CLERKS—at 1 o'clock.

*Friday, 27th February.*

SALE AND KEEPING OF POISONS BILL—at 12 o'clock.

G. W. RUSDEN,

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

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

THURSDAY, 26<sup>TH</sup> FEBRUARY, 1857.

The Council met in accordance with adjournment.

The Clerk informed the Council that he had been directed by the President to state that the President was unavoidably detained from the Council Chamber by illness.

The Honorable W. H. F. Mitchell moved, That the Chairman of the Committees do take the Chair during the absence of the President.

Question—put and passed.

The Deputy President took the Chair.

The Deputy President read the Prayer.

**ELECTIONS AND QUALIFICATIONS COMMITTEE REPORT.—ADJOURNED DEBATE.**—The Honorable W. H. F. Mitchell moved, That the adjourned debate be further adjourned until Wednesday, the 4<sup>th</sup> proximo.

Ordered.

**MESSAGE FROM THE LEGISLATIVE ASSEMBLY WITH PATENTS BILL.**—The Order of the Day for consideration of this Message being called on, the Honorable J. Hood moved, That the Honorable R. Thomson do take the Chair as acting Chairman of Committees while the Deputy President is officiating in the absence of the President.

Question—put and passed.

The Honorable W. H. F. Mitchell moved, That the Council waive the amendments transmitted with the Patents Bill to the Legislative Assembly.

Debate ensued.

Question—put and passed.

Ordered that the Bill as returned from the Legislative Assembly be now considered in Committee of the whole Council.

The Deputy President left the Chair.

The Acting Chairman of Committees having reported that the Committee had agreed to the Bill as originally transmitted from the Legislative Assembly, the Report was adopted.

The Deputy President having reported that the Acting Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as originally transmitted from the Legislative Assembly—The Bill, on motion of the Honorable W. H. F. Mitchell, *passed*.

The Honorable W. H. F. Mitchell moved that the title of the Bill be, "*An Act concerning Letters Patent for Inventions.*"

Question—put and passed.

**SPIRIT MERCHANTS BILL.**—The Honorable W. H. F. Mitchell moved, That this Bill be now read a second time.

Bill read a second time.

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

The Deputy President left the Chair.

The Acting Chairman of Committees having reported that the Committee had agreed to the Bill without amendment, the report was adopted.

The Deputy President having reported that the Acting Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as reported—Bill, on 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 amend the Laws relative to the vending of Fermented and Spirituous Liquors.*"

Question—put and passed.

**TITLES TO LAND BILL.**—The Order of the day for the second reading of this Bill was postponed till Tuesday next, to take precedence.

The Council adjourned at a quarter to six o'clock until three o'clock on Tuesday, the 3<sup>rd</sup> proximo.



## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 3RD MARCH.

1. The Hon. W. ROOPE: To ask the Honorable W. H. F. Mitchell whether it be the intention of the Government to obtain for Victoria the same privileges as are enjoyed by the other Australian Colonies, of receiving from the United Kingdom by post, Books, Publications, or Works of Literature or Art, at a reduced rate of postage.
2. The Hon. J. COWIE: To ask the Honorable W. H. F. Mitchell what became of the letters posted at Geelong prior to the 12th instant, upon which 3d. extra were paid, and whether they were sent *via* Marseilles.

## NOTICES OF MOTION:—

1. The Hon. T. McCOMBIE: To move, That a Select Committee of this House be appointed to inquire and report upon the measures necessary to obtain for this House the advice of the highest legal functionaries on private Bills and other questions, where such advice is indispensable to the progress of legislation.
2. The Hon. T. McCOMBIE: To move, That an Address be presented to His Excellency the Governor, praying that he will be pleased to delay the removal of the bridge at Cananook Creek until the opinion of the majority of the inhabitants of Frankston and its neighborhood can be ascertained.

## ORDERS OF THE DAY:—

1. TITLES TO LAND BILL.—To be read a second time.
2. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—To be further considered in Committee.
3. TRANSPORTATION OF FELONS.—Consideration of Report of Committee.
4. ADMINISTRATION OF JUSTICE BILL.—To be read a second time.

WEDNESDAY, 4TH MARCH.

## ORDERS OF THE DAY:—

1. BANKERS' DRAFTS LAW AMENDMENT BILL.—To be read a second time.
2. EMIGRATION BILL.—To be read a second time.
3. ELECTIONS AND QUALIFICATIONS COMMITTEE REPORT.—Adjourned debate.

THURSDAY, 5TH MARCH.

## ORDER OF THE DAY:—

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

TUESDAY, 10TH MARCH.

## NOTICE OF MOTION:—

1. The Hon. J. HODGSON: To move for leave to introduce a Bill to amend the law relating to the Qualification of Electors to the Legislative Council and the law relating to the Qualification required by Members thereof.

MEETINGS  
OF  
SELECT COMMITTEES.

*Friday, 27th February.*

SALE AND KEEPING OF POISONS BILL—at 12 o'clock.

*Tuesday, 3rd March.*

CLASSIFICATION OF CLERKS—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, 3RD MARCH, 1857.

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

The President read the Prayer.

**LEGAL ASSISTANCE.**—The Honorable T. McCombie, in accordance with *amended* notice, moved, That a Select Committee of this House be appointed to inquire and report upon the measures necessary to obtain for this House the assistance of the highest legal skill in all cases where such legal assistance may become necessary; such Committee to consist of the Honorable the President, the Honorable Messrs. Hodgson, Miller, Hervey, Fawkner, Bennett, Thomson, and the Mover.

Debate ensued.

Question—put and passed.

**TITLES TO LAND BILL.**—The Honorable T. McCombie moved that this Bill be now read a second time.

Debate ensued.

Bill read a second time.

Ordered that the said Bill be considered in Committee of the whole Council.

The President left the Chair.

The Chairman of Committees reported progress, and obtained leave to sit again on Tuesday, the 17th instant.

**QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.**—The Council resolved itself into Committee of the whole House, further to consider this Bill.

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

MR. PRESIDENT,

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, "*An Act for the Regulation of Sales by Auction;*"

Also, a Bill, intituled, "*An Act for the Interpretation of Legislative Enactments and for shortening the Language used therein;*"

Also, a Bill, intituled, "*An Act to amend An Act intituled 'An Act to make provision for certain Immigrants;'*"

to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chamber,  
Melbourne, 2nd March, 1857.

The Messengers withdrew.

The Bills, on motion of the Honorable M. Hervey, read a first time, ordered to be printed, and read a second time severally on the 10th instant.

**QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.**—The Council again resolved itself into Committee of the whole House, further to consider this Bill.

The Chairman of Committees reported the Bill.

Report, on the motion of the Honorable J. Hood, adopted.

Bill ordered to be read a third time on Tuesday, 10th instant.

**POSTPONEMENTS.**—The following Orders of the Day were severally postponed to the days named:—

"*Transportation of Felons*"—4th March, 1857.

"*Administration of Justice Bill*"—10th March, 1857.

The Council adjourned at five minutes to seven o'clock until three o'clock on Wednesday, the 4th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 4TH MARCH.

## NOTICES OF MOTION:—

1. The Hon. N. GUTHRIDGE: To move for leave to bring in a Bill to prevent the nuisance arising from the use of advertising carriages in the streets of Melbourne.
2. The Hon. T. McCOMBIE: To move, That an Address be presented to His Excellency the Governor, praying that he will be pleased to delay the removal of the bridge at Cannanook Creek until the opinion of the majority of the inhabitants of Frankston and its neighborhood can be ascertained.

## ORDERS OF THE DAY:—

1. BANKERS' DRAFTS LAW AMENDMENT BILL.—To be read a second time.
2. EMIGRATION BILL.—To be read a second time.
3. ELECTIONS AND QUALIFICATIONS COMMITTEE REPORT.—Adjourned debate.
4. TRANSPORTATION OF FELONS.—Adoption of Report of Committee.

THURSDAY, 5TH MARCH.

## ORDER OF THE DAY:—

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

TUESDAY, 10TH MARCH.

## NOTICE OF MOTION:—

1. The Hon. J. HODGSON: To move for leave to introduce a Bill to amend the law relating to the Qualification of Electors to the Legislative Council and the law relating to the Qualification required by Members thereof.

## ORDERS OF THE DAY:—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—To be read a third time.
2. ADMINISTRATION OF JUSTICE BILL.—To be read a second time.
3. AUCTIONEERS BILL.—To be read a second time.
4. INTERPRETATION OF ACTS BILL.—To be read a second time.
5. IMMIGRANTS LAW AMENDMENT BILL.—To be read a second time.

TUESDAY, 17TH MARCH.

## ORDER OF THE DAY:—

1. TITLES TO LAND BILL.—To be further considered in Committee.

## MEETINGS

OF

## SELECT COMMITTEES.

*Wednesday, 4th March.*

CLASSIFICATION OF CLERKS—at half-past 2 o'clock.

*Thursday, 5th March.*

LEGAL ASSISTANCE—at 2 o'clock.

*Friday, 6th March.*

WARRNAMBOOL HARBOR—at 10 o'clock.

G. W. RUSDEN,

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

Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

WEDNESDAY, 4TH MARCH, 1857.

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

The President read the Prayer.

PETITION.—The Honorable J. Henty presented a Petition, signed by T. Spencer Cope, Ballarat, praying that the Council would pass into law the Qualification of Members of Assembly Bill.

Petition received.

ADVERTISING VEHICLES.—The Honorable N. Guthridge, in accordance with *amended* notice, moved for leave to bring in a Bill to prevent the nuisance arising from the use of advertising vehicles in the streets of Melbourne.

Question—put and passed.

Bill read a first time—ordered to be printed—and read a second time on Wednesday, the 18th instant.

MESSAGE TO THE LEGISLATIVE ASSEMBLY.—The Honorable M. Hervey moved, That the Chairman of Committees, accompanied by another Member, do take a Message to the Legislative Assembly, to acquaint them that the Council do not insist on the amendments proposed to the "*Patents Bill*," and that the Council have agreed to the "*Spirit Merchants Bill*," without any amendment.

Ordered.

POSTPONEMENTS.—The following Orders of the Day were severally postponed by the Council to the days named, viz. :—

"*Bankers' Drafts Law Amendment Bill*"—5th March, 1857.

"*Emigration Bill*"—5th March, 1857.

ELECTIONS AND QUALIFICATIONS COMMITTEE REPORT—ADJOURNED DEBATE.—

Debate resumed on the question, That the Report of the Committee be received.

The Honorable T. McCombie moved as an amendment, That all the words after the word "That" be omitted, with a view to insert the words "in accordance with the Act 19 Victoria No. 12, and the Standing Orders of the Imperial Parliament, the present Elections and Qualifications Committee be dissolved."

Debate ensued.

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.

Council divided.

Contents, 10.

The Hon. W. J. T. Clarke

T. McCombie

J. H. Patterson

D. P. Keogh

M. Hervey

G. Urquhart

J. Stewart

J. Allan

Dr. Tierney

J. Hood (*Teller*).

Not Contents, 6.

The Hon. H. Miller

J. Cowie

Dr. Hope

S. G. Henty

J. P. Fawkner

J. Hodgson (*Teller*).

The question was therefore passed.

Question—That, in accordance with the Act 19 Victoria No. 12, and the Standing Orders of the Imperial Parliament, the present Elections and Qualifications Committee be dissolved—put and passed.

TRANSPORTATION OF FELONS.—The Report of the Committee appointed to prepare an Address to Her Majesty on the subject of the Transportation of Felons was, on the motion of the Honorable J. P. Fawkner, adopted.

**ADJOURNMENT.**—The Honorable M. Hervey moved, That the House at its rising adjourn until Tuesday, the 10th instant.

Question—put and passed.

Ordered, That the Select Committees of the House have leave to sit during the adjournment, and that the business set down on the paper for Thursday, the 5th instant, be postponed till Tuesday, the 10th instant.

The Council adjourned at six o'clock until three o'clock on Tuesday, the 10th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 10TH MARCH.

### NOTICES OF MOTION :—

1. The Hon. J. ALLAN : To move, That an Address be presented to His Excellency the Governor, embodying the following resolution for his consideration, with regard to the Report of the Elections and Qualifications Committee, and that such Address be presented to His Excellency by the President, with the said Report :—That, whereas, in a Report from the Committee of Elections and Qualifications, laid on the Table of this Council on Wednesday, the 25th ultimo, the election of W. Kaye, Esq., is declared to be void, and whereas in the same Report that gentleman is declared to have been guilty of a special act of bribery, under the Act of Council, 19 Victoria No. 11, Sec. 2, Sub Sec. 3, which was not one of the allegations contained in the Petition of William Highett, Esq., referred to the said Committee, and whereas a doubt has thence arisen whether the decision of the Committee as to the voidance of Mr. Kaye's election is founded on the special act of bribery set forth, or on any one or more of the allegations contained in the Petition of the said William Highett, and in order that substantial justice may be done in the case, it is expedient that inquiry be made whether the decision of the Committee was founded on any one or more of the allegations contained in the Petition of the said William Highett; so that if not so founded, the decision of the Committee may be held to be extra-judicial, and no action taken thereon by the Governor, this Council having distinctly asserted its exclusive right under the LXVII section of the Electoral Act of 1856, to deal with all decisions of the Committee of Elections and Qualifications on matters not referred for final determination; and that such Address be prepared by a Select Committee, consisting of the following Members :—The Honorable T. McCombie, M. Hervey, Dr. Tierney, J. Hood, and the Mover.
2. The Hon. J. HODGSON : To move for leave to introduce a Bill to amend the law relating to the Qualification of Electors to the Legislative Council and the law relating to the Qualification required by Members thereof.
3. The Hon. T. McCOMBIE : To move, That an Address be presented to His Excellency the Governor, praying that he will be pleased to delay the removal of the bridge at Cannanook Creek until the opinion of the majority of the inhabitants of Frankston and its neighborhood can be ascertained.

### ORDERS OF THE DAY :—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—To be read a third time.
2. ADMINISTRATION OF JUSTICE BILL.—To be read a second time.
3. AUCTIONEERS BILL.—To be read a second time.
4. INTERPRETATION OF ACTS BILL.—To be read a second time.
5. IMMIGRANTS LAW AMENDMENT BILL.—To be read a second time.
6. GUNPOWDER BILL.—To be read a second time.
7. BANKERS' DRAFTS LAW AMENDMENT BILL.—To be read a second time.
8. EMIGRATION BILL.—To be read a second time.

TUESDAY, 17TH MARCH.

### ORDER OF THE DAY :—

1. TITLES TO LAND BILL.—To be further considered in Committee.

WEDNESDAY, 18TH MARCH.

### ORDER OF THE DAY :—

1. ADVERTISING VEHICLES BILL.—To be read a second time.

## MEETINGS

OF

# SELECT COMMITTEES.

*Thursday, 5th March.*

LEGISLATIVE COUNCIL CHAMBER DECORATION—at 10 o'clock.

LEGAL ASSISTANCE—at 2 o'clock.

*Friday, 6th March.*

WARRNAMBOOL HARBOR—at 10 o'clock.

*Tuesday, 10th March.*

CLASSIFICATION OF CLERKS—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, 10<sup>TH</sup> MARCH, 1857.

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

**ROYAL ASSENT TO BILLS.**—The President informed the Council that an intimation had been received to the effect that His Excellency the Governor would, on the following day, come down to the House to give his assent to Bills.

**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,  
John Pascoe Fawkner,  
Stephen G. Henty,  
Dr. Hope,  
W. H. F. Mitchell,  
T. H. Power,  
Chas. Vaughan,

to be Members of a Committee to be called the Committee of Elections and Qualifications.  
Given under my hand this tenth day of March, 1857.

J. F. PALMER,  
*President.*

**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, Beechworth (24th February, 1857).
2. Local Court Regulations, Castlemaine (24th February, 1857).
3. Local Court Regulation, Maldon (6th March, 1857).
4. Return to Address of the Council of the 3rd February, 1857.—Township of Newstead.

Ordered, on motion of the Honorable W. H. F. Mitchell, that the Return relative to the Township of Newstead be printed.

**CANANOOK CREEK BRIDGE.**—The Honorable T. McCombie, in accordance with *amended* notice, moved that the following Address be presented to His Excellency the Governor, praying that he will be pleased to delay the removal of the Bridge at Cananook Creek until the opinion of the majority of the inhabitants of Frankston and its neighborhood can be ascertained.

MAY IT PLEASE YOUR EXCELLENCY,

The Legislative Council, having been made acquainted with the intention of the Executive Government to remove the present Bridge over the Cananook Creek, near Frankston, and that such intention is very generally disapproved of by the inhabitants of Frankston and adjacent country, who contemplate petitioning Your Excellency on the subject, do most respectfully pray that Your Excellency will interpose most graciously, and prevent the present structure from being interfered with until a reasonable time be afforded the parties more directly interested to take action in the matter, if they should see fit.

Question—put and passed.

**LEGISLATIVE COUNCIL DECORATION COMMITTEE.**—**PROGRESS REPORT.**—The Honorable J. Hodgson brought up a Progress Report, and moved that it be received.

The Report was read at the Table by the Clerk, adopted, and ordered to be printed.

**QUALIFICATION OF MEMBERS OF ASSEMBLY 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—Bill, on motion of the Honorable J. Hood, read a third time and *passed*.

Ordered that the Chairman of Committees, with another Member, do take a Message to the Legislative Assembly, to acquaint them that the Council have agreed to the Qualification of Members of Assembly Bill without any amendment.

POSTPONEMENTS.—The following Orders of the Day were severally postponed by the Council to the days named:—

- “Administration of Justice Bill”—to be read a second time, 17th March, 1857.
- “Auctioneers Bill”—to be read a second time, 11th March.
- “Interpretation of Acts Bill”—to be read a second time, 11th March.
- “Immigrants Law Amendment Bill”—to be read a second time, 11th March.
- “Gunpowder Bill”—to be read a second time, 11th March.
- “Bankers’ Drafts Law Amendment Bill”—to be read a second time, 11th March.

EMIGRATION BILL.—The Honorable W. H. F. Mitchell moved, That this Bill be now read a second time.

Debate ensued.

The Honorable T. McCombie moved, That the debate be adjourned to this day fortnight.

Question—That the debate be adjourned to this day fortnight—put.

Council divided.

Contents, 11.  
 The Hon. C. Vaughan  
 T. McCombie  
 J. Hood  
 J. Stewart  
 J. P. Fawcner  
 H. Miller  
 J. B. Bennett  
 N. Guthridge  
 M. Hervey  
 J. Henty  
 J. H. Patterson (*Teller*).

Not Contents, 7.  
 The Hon. J. Hodgson  
 T. H. Power  
 J. Allan  
 G. Urquhart  
 S. G. Henty  
 Dr. Tierney  
 W. H. F. Mitchell (*Teller*).

The question was therefore passed.

TITLE OF QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—The Honorable J. Hood obtained leave to move the Title of this Bill.

The Honorable J. Hood moved, That the Title of the Bill be, “An Act to abolish the Property Qualification required by Members of the Legislative Assembly.”

Question—put and passed.

The House adjourned during pleasure, while the Chairman of Committees proceeded to the Legislative Assembly with another Member, with the Message resolved upon this day.

The House having resumed, adjourned, on the motion of the Honorable W. H. F. Mitchell, at twenty minutes to six o’clock, until three o’clock on Wednesday, the 11th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 11TH MARCH.

1. The Hon. J. P. FAWKNER: To ask the Honorable Member holding a seat in the Executive, whether the Government have taken any steps, or whether they intend to instruct the proper law officer to take proper measures to repress the demoralizing schemes now prevalent, under the names of “Gift Enterprize,”—this moral pestilence of gambling lotteries.
2. The Hon. M. HERVEY: To ask for leave of absence from this Honorable House during the remainder of the year.

### NOTICE OF MOTION:—

1. The Hon. J. ALLAN: To move, That an Address be presented to His Excellency the Governor, embodying the following resolution for his consideration, with regard to the report of the Elections and Qualifications Committee, and that such Address be presented to His Excellency by the President, with the said Report:—That, whereas, in a Report from the Committee of Elections and Qualifications, laid on the Table of this Council on Wednesday, the 25th ultimo, the election of W. Kaye, Esq., is declared to be void, and whereas in the same Report that gentleman is declared to have been guilty of a special act of bribery, under the Act of Council, 19 Victoria No. 11, Sec. 2, Sub Sec. 2, which was not one of the allegations contained in the Petition of William Highett, Esq., referred to the said Committee, and whereas a doubt has thence arisen whether the decision of the Committee as to the voidance of Mr. Kaye’s election is founded on the special act of bribery, set forth on any one or more of the allegations contained in the Petition of the said William Highett, and in order that substantial justice may be done in the case, it is expedient that inquiry be made whether the decision of the Committee was founded on any one or more of the allegations contained in the Petition of the said William Highett;—and that such Address be prepared by a Select Committee, consisting of the following Members:—The Honorable T. McCombie, M. Hervey, Dr. Tierney, J. Hood, and the Mover.

## ORDERS OF THE DAY:—

1. AUCTIONEERS BILL.—To be read a second time.
2. INTERPRETATION OF ACTS BILL.—To be read a second time.
3. IMMIGRANTS LAW AMENDMENT BILL.—To be read a second time.
4. GUNPOWDER BILL.—To be read a second time.
5. BANKERS' DRAFTS LAW AMENDMENT BILL.—To be read a second time.

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TUESDAY, 17TH MARCH.

## ORDERS OF THE DAY:—

1. TITLES TO LAND BILL.—To be further considered in Committee.
2. ADMINISTRATION OF JUSTICE BILL.—To be read a second time.

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WEDNESDAY, 18TH MARCH.

## ORDER OF THE DAY:—

1. ADVERTISING VEHICLES BILL.—To be read a second time.

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TUESDAY, 24TH MARCH.

## NOTICE OF MOTION:—

1. The Hon. J. HODGSON: To move for leave to introduce a Bill to amend the law relating to the Qualification of Electors to the Legislative Council and the law relating to the Qualification required by Members thereof.

## ORDER OF THE DAY:—

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

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MEETINGS  
OF  
SELECT COMMITTEES.

*Wednesday, 11th March.*

WARRENAMBOOL HARBOR—at 1 o'clock.

CLASSIFICATION OF CLERKS—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, 11TH MARCH, 1857.

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

ELECTIONS AND QUALIFICATIONS COMMITTEE.—The President laid upon the Table for the second time the Warrant appointing the Committee of Elections and Qualifications.

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 immediate attendance of the Legislative Assembly in the Council Chamber.

Mr. Speaker and the Legislative Assembly attending, His Excellency was pleased to assent, in the name of Her Majesty the Queen, to the following Bills:—

“An Act concerning Letters Patent for Inventions.”

“An Act to amend the Laws relative to the vending of Fermented and Spirituous Liquors.”

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.

“Parliament Houses,  
“Melbourne, 11th March, 1857.”

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.

LEAVE OF ABSENCE TO A MEMBER.—The Honorable T. McCombie moved, That the Honorable M. Hervey be permitted to be absent from the deliberations of this House during the remainder of the year.

Debate ensued.

Council divided.

Contents, 12.  
The Hon. J. Hodgson  
G. Urquhart  
D. Kennedy  
J. Stewart  
J. Allan  
J. Hood  
D. P. Keogh  
T. McCombie  
T. H. Power  
J. Henty  
S. G. Henty  
J. H. Patterson (*Teller*).

Not Contents, 6.  
The Hon. Dr. Tierney  
H. Miller  
J. P. Fawcner  
J. B. Bennett  
N. Guthridge  
C. Vaughan (*Teller*).

The question was therefore passed.

ELECTIONS AND QUALIFICATIONS COMMITTEE REPORT.—The Honorable J. Allan, in accordance with amended notice, moved, That an Address be presented to His Excellency the Governor, embodying the following resolution for his consideration, with regard to the Report of the Elections and Qualifications Committee, and that such Address be presented to His Excellency by the President, with the said Report:—That, whereas, in a Report from the Committee of Elections and Qualifications, laid on the Table of this Council on Wednesday, the 25th ultimo, the election of W. Kaye, Esq., is declared to be void, and whereas in the same Report that gentleman is declared to have been guilty of a special act of bribery,

under the Act of Council, 19 Victoria No. 11, Sec. 2, Sub Sec. 3, which was not one of the allegations contained in the Petition of William Highett, Esq., referred to the said Committee, and whereas a doubt has thence arisen whether the decision of the Committee as to the voidance of Mr. Kaye's election is founded on the special act of bribery set forth, or on any one or more of the allegations contained in the Petition of the said William Highett, and in order that substantial justice may be done in the case, it is expedient that inquiry be made whether the decision of the Committee was founded on any one or more of the allegations contained in the Petition of the said William Highett; so that if not so founded, the decision of the Committee may be held to be extra-judicial, and no action taken thereon by the Governor, this Council having distinctly asserted its exclusive right under the LXVII section of the Electoral Act of 1856, to deal with all decisions of the Committee of Elections and Qualifications on matters not referred for final determination; and that such Address be prepared by a Select Committee, consisting of the following Members:—The Honorable T. McCombie, M. Hervey, Dr. Tierney, J. Hood, and the Mover. The Honorable J. P. Fawcner moved that the debate be adjourned to this day fortnight, and that there be a Call of the House on that day.

Question—That this debate be adjourned until Wednesday the 25th instant, and that there be a Call of the House on that day—put and passed.

POSTPONEMENTS.—The following Orders of the Day were postponed by the Council until Wednesday, the 25th instant:—

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

“*Interpretation of Acts Bill*”—to be read a second time.

“*Immigrants Law Amendment Bill*”—to be read a second time.

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

“*Bankers' Drafts Law Amendment Bill*”—to be read a second time.

Ordered that the Notices of Motion and Orders of the Day at present set down for intermediate days between this date and Wednesday the 25th instant, be set down for the last named day.

ADJOURNMENT.—The Honorable J. Hodgson moved, That the House, at its rising, adjourn until Wednesday, the 25th instant.

Question—put and passed.

CLASSIFICATION OF CLERKS—REPORT OF COMMITTEE.—The Hon. J. H. Patterson brought up the Report of the Committee appointed to take the subject of the Classification of Clerks into consideration, and moved that it be received and printed.

Ordered.

MEETING OF COMMITTEE.—The Honorable Dr. Tierney moved, That the Select Committee of the Council on Warrnambool Harbor have power to meet during the adjournment.

Ordered.

The Council adjourned at ten minutes to five o'clock until three o'clock on Wednesday, the 25th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 25TH MARCH.

1. The Hon. J. P. FAWKNER: To ask the Honorable Member holding a seat in the Executive, whether the Government have taken any steps, or whether they intend to instruct the proper law officer to take proper measures to repress the demoralizing schemes now prevalent, under the names of “Gift Enterprize”—this moral pestilence of gambling lotteries.

### NOTICES OF MOTION:—

1. The Hon. T. McCOMBIE: To move, That this Council disapproves of the nomination of the Honorable Messrs. J. B. Bennett, Dr. Hope, and W. H. F. Mitchell, as Members of the Committee of Elections and Qualifications.
2. The Hon. J. HODGSON: To move for leave to introduce a Bill to amend the law relating to the Qualification of Electors to the Legislative Council and the law relating to the Qualification required by Members thereof.

### ORDERS OF THE DAY:—

1. CALL OF THE HOUSE.
2. ADJOURNED DEBATE ON THE NOTICE OF MOTION OF THE HONORABLE J. ALLAN.—That an Address be presented to His Excellency the Governor, embodying the following resolution for his consideration, with regard to the Report of the Elections and Qualifications Committee, and that such Address be presented to His Excellency by the President, with the said Report:—That, whereas, in a Report from the Committee of Elections and Qualifications, laid on the Table of this Council on Wednesday, the 25th ultimo, the election of W. Kaye, Esq., is declared to be void, and whereas in the same Report that gentleman is declared to have been guilty of a special act of bribery, under the Act of Council, 19 Victoria, No. 11, Sec. 2, Sub Sec. 3, which was not one of

the allegations contained in the Petition of William Highett, Esq., referred to the said Committee, and whereas a doubt has thence arisen whether the decision of the Committee as to the voidance of Mr. Kaye's election is founded on the special act of bribery set forth, or on any one or more of the allegations contained in the Petition of the said William Highett, and in order that substantial justice may be done in the case, it is expedient that inquiry be made whether the decision of the Committee was founded on any one or more of the allegations contained in the Petition of the said William Highett; so that if not so founded, the decision of the Committee may be held to be extra-judicial, and no action taken thereon by the Governor, this Council having distinctly asserted its exclusive right, under the LXVII section of the Electoral Act of 1856, to deal with all decisions of the Committee of Elections and Qualifications on matters not referred for final determination—and that such Address be prepared by a Select Committee, consisting of the following Members:—The Honorable T. McCombie, M. Hervey, Dr. Tierney, J. Hood, and the Mover.

3. AUCTIONEERS BILL.—To be read a second time.
4. INTERPRETATION OF ACTS BILL.—To be read a second time.
5. IMMIGRANTS LAW AMENDMENT BILL.—To be read a second time.
6. GUNPOWDER BILL.—To be read a second time.
7. BANKERS' DRAFTS LAW AMENDMENT BILL.—To be read a second time.
8. TITLES TO LAND BILL.—To be further considered in Committee.
9. ADMINISTRATION OF JUSTICE BILL.—To be read a second time.
10. ADVERTISING VEHICLES BILL.—To be read a second time.
11. EMIGRATION BILL.—To be read a second time.

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MEETING  
OF  
**SELECT COMMITTEE.**

*Thursday, 12th March.*

WARRNAMBOOL HARBOR—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, 25<sup>TH</sup> MARCH, 1857.

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

The President read the Prayer.

**CALL OF THE HOUSE.**—The Order of the Day for a Call of the House being called on, the Order of the House made on the 11th instant was read at the table by the Clerk.

The names of the Members of the House were called over by the Clerk, 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; the name of W. Kaye, Esquire, by direction of the President, not being called for the last named province.

The names of Honorable Members absent were taken down.

**QUALIFICATION OF ELECTORS TO THE LEGISLATIVE COUNCIL, AND THE LAW RELATING TO THE QUALIFICATION REQUIRED BY MEMBERS THEREOF.**—The Honorable J. Hodgson, with leave of the Council, withdrew the notice of motion standing in his name.

**ELECTIONS AND QUALIFICATIONS COMMITTEE REPORT—ADJOURNED DEBATE.**—The names of the Honorable Members who were absent when the Order for the Call of the House was read being again called, it appeared that the absent Members were:—The Honorable A. R. Cruikshank, the Honorable M. Hervey, the Honorable R. Thomson.

The Honorable M. Hervey was absent by permission of the House.

The Honorable R. Thomson had transmitted written explanations of the causes of his absence, which were deemed satisfactory by the House.

The Honorable J. P. Fawcner moved, That the Honorable A. R. Cruikshank is in contempt of the House, in not having obeyed the Call of the House.

Question—put and passed.

Debate resumed on motion of the Honorable J. Allan.

**REPLY TO AN ADDRESS.**—The following Message from His Excellency the Governor was received and read:—Educational Grants, No. 8.—Adopted by the Council on the 24th February, 1857, on the motion of the Honorable N. Guthridge.

Reply—

I have received this Address, and the suggestions it contains shall be brought under the consideration of my responsible advisers.

HENRY BARKLY,  
 Governor.

Government Offices,  
 Melbourne, 24th March, 1857.

**ELECTIONS AND QUALIFICATIONS COMMITTEE REPORT—ADJOURNED DEBATE.**

Debate resumed.

The Honorable T. McCombie moved, That the Honorable William Kaye be requested to take his seat in this Council.

Debate ensued.

Motion, by leave, withdrawn.

The Honorable J. Hood moved, That the Council do now proceed to the next Order of the Day.

Debate ensued.

The Honorable T. McCombie moved as an amendment, That this House orders that the Report of the Elections and Qualifications Committee, presented on the 25th ultimo, and laid on the Table, shall remain there until it gives further directions in reference to the same, and it resolves that it will incur any responsibility and bear the President harmless from any consequences which may be feared from his not forwarding the said document to His Excellency the Governor.

Debate ensued.

Question—That the Council do now proceed to the next Order of the Day—put.  
Council divided.

Contents, 17.  
The Hon. W. H. F. Mitchell  
J. F. Strachan  
J. P. Fawkner  
J. Hodgson  
T. H. Power  
D. Kennedy  
H. Miller  
J. B. Bennett  
N. Guthridge  
B. Williams  
J. Hood  
Dr. Hope  
J. Cowie  
W. Roope  
J. Henty  
S. G. Henty  
C. Vaughan (*Teller*).

Not Contents, 8.  
The Hon. G. Urquhart  
J. H. Patterson  
T. McCombie  
J. Stewart  
J. Allan  
W. J. T. Clarke  
D. P. Keogh  
Dr. Tierney (*Teller*).

The question was therefore passed.

**ELECTIONS AND QUALIFICATIONS COMMITTEE.**—The President laid upon the Table, for the third time, the Warrant appointing the Committee of Elections and Qualifications.

**POSTPONEMENTS.**—The following Orders of the Day were postponed until the 15th April:—

- “*Auctioneers Bill*”—to be read a second time.
- “*Interpretation of Acts Bill*”—to be read a second time.
- “*Immigrants Law Amendment Bill*”—to be read a second time.
- “*Gunpowder Bill*”—to be read a second time.
- “*Bankers' Drafts Law Amendment Bill*”—to be read a second time.
- “*Titles to Land Bill*”—to be further considered in Committee.
- “*Administration of Justice Bill*”—to be read a second time.
- “*Advertising Vehicles Bill*”—to be read a second time.

**EMIGRATION BILL.**—The Honorable W. H. F. Mitchell moved, That the second reading of this Bill be postponed until the 15th April.

Debate ensued.

Question—put and passed.

**ADJOURNMENT.**—The Honorable W. H. F. Mitchell moved, That the House at its rising do adjourn till Wednesday, the 15th April.

Question—put and passed.

**MEETINGS OF COMMITTEES.**—The Select Committees on Warrnambool Harbor and on Grants to Corporations were empowered to sit on Thursday, the 26th instant.

The Council adjourned at half-past four o'clock until three o'clock on Wednesday, the 15th April.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 15TH APRIL.

1. The Hon. J. P. FAWKNER: To ask the Honorable Member holding a seat in the Executive whether the Government have taken any steps, or whether they intend to instruct the proper law officer to take proper measures to repress the demoralizing schemes now prevalent, under the names of “Gift Enterprize”—this moral pestilence of gambling lotteries.

### NOTICES OF MOTION:—

1. The Hon. T. McCOMBIE: To move, That this Council disapproves of the nomination of the Committee of Elections and Qualifications.
2. The Hon. J. H. PATTERSON: To move, That the Report on the Classification of Clerks, brought up on the 11th instant, be adopted.

### ORDERS OF THE DAY:—

1. AUCTIONEERS BILL.—To be read a second time.
2. INTERPRETATION OF ACTS BILL.—To be read a second time.
3. IMMIGRANTS LAW AMENDMENT BILL.—To be read a second time.
4. GUNPOWDER BILL.—To be read a second time.
5. BANKERS' DRAFTS LAW AMENDMENT BILL.—To be read a second time.
6. TITLES TO LAND BILL.—To be further considered in Committee.
7. ADMINISTRATION OF JUSTICE BILL.—To be read a second time.
8. ADVERTISING VEHICLES BILL.—To be read a second time.
9. EMIGRATION BILL.—To be read a second time.

MEETINGS  
OF  
**SELECT COMMITTEES.**

*Thursday, 26th March.*

WARRNAMBOOL HARBOR—at 10 o'clock.

GRANTS TO CORPORATIONS—at 10 o'clock.

*Wednesday, 15th April.*

GRANTS TO CORPORATIONS—at 10 o'clock.

WARRNAMBOOL HARBOR—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, 15<sup>TH</sup> APRIL, 1857.

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

The President read the Prayer.

COMPLETION OF THE COUNCIL CHAMBER.—The Honorable J. Hodgson, with leave of the House, moved, That the President be requested to communicate with the Commissioner of Public Works, and to express the dissatisfaction felt by the Members generally at the state of confusion and disorder of the Council Chamber, and the delay which has taken place in its completion.

Question—put and passed.

NOMINATION OF COMMITTEE OF ELECTIONS AND QUALIFICATIONS.—The Honorable T. McCombie moved, in accordance with notice, That this Council disapproves of the nomination of the Committee of Elections and Qualifications.

Debate ensued.

Question—put.

Council divided.

<p style="text-align: center;">Contents, 7.</p> <p>The Hon. J. Allan T. McCombie G. Urquhart J. Stewart Dr. Tierney W. J. T. Clarke J. H. Patterson (<i>Teller</i>).</p>	<p style="text-align: center;">Not Contents, 16.</p> <p>The Hon. W. H. F. Mitchell J. P. Fawkner C. Vaughan S. G. Henty T. H. Power J. Hodgson H. Miller Dr. Hope J. Hood W. Roope J. Henty J. Cowie D. Kennedy J. B. Bennett N. Guthridge J. F. Strachan (<i>Teller</i>).</p>
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The question was therefore negatived.

POSTPONEMENTS.—The following Orders of the Day were ordered to be postponed for one week:—

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

“*Interpretation of Acts Bill*”—to be read a second time.

“*Immigrants Law Amendment Bill*”—to be read a second time.

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

“*Bankers' Drafts Law Amendment Bill*”—to be read a second time.

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

“*Administration of Justice Bill*”—to be read a second time.

ADVERTISING VEHICLES BILL.—The Honorable N. Guthridge moved, That the Order of the Day for the second reading of the Advertising Vehicles Bill be discharged from the Notice Paper.

Ordered.

POSTPONEMENT.—The Order of the Day for the second reading of the Emigration Bill was postponed for one week.

ADJOURNMENT.—The Honorable J. P. Fawkner moved, That the House, at its rising, adjourn until this day week.

Question—put and passed.

MEETINGS OF COMMITTEES.—The Honorable J. P. Fawcner moved, That the Select Committee on Grants to Corporations have power to sit during the adjournment.

Ordered.

The Council adjourned at five minutes to four o'clock until three o'clock on Wednesday, the 22nd April.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

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WEDNESDAY, 22ND APRIL.

NOTICES OF MOTION :—

1. The Hon. J. H. PATTERSON: To move, That the Report on the Classification of Clerks, brought up on the 11th instant, be adopted.
2. The Hon. J. COWIE: To move for leave to bring in a Bill for regulating the construction of Buildings and Party Walls, and for the prevention of mischief by fire in the Town of Geelong.

ORDERS OF THE DAY :—

1. AUCTIONEERS BILL.—To be read a second time.
2. INTERPRETATION OF ACTS BILL.—To be read a second time.
3. IMMIGRANTS LAW AMENDMENT BILL.—To be read a second time.
4. GUNPOWDER BILL.—To be read a second time.
5. BANKERS' DRAFTS LAW AMENDMENT BILL.—To be read a second time.
6. TITLES TO LAND BILL.—To be further considered in Committee.
7. ADMINISTRATION OF JUSTICE BILL.—To be read a second time.
8. EMIGRATION BILL.—To be read a second time.

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## MEETING OF SELECT COMMITTEE.

*Friday, 17th April.*

GRANTS TO CORPORATIONS—at 10 o'clock.

G. W. RUSDEN,

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



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

WEDNESDAY, 22ND APRIL, 1857.

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

The President read the Prayer.

ADDRESS OF CONDOLENCE TO HIS EXCELLENCY THE GOVERNOR.—The Honorable J. P. Fawkner, with leave of the Council, moved, That a Select Committee, consisting of the Honorable Messrs. Miller, Bennett, Mitchell, Patterson, and the Mover, be appointed to prepare an Address expressive of the sympathy of this Council with His Excellency Sir Henry Barkly on his late bereavement.

Question—put and passed.

The Council having adjourned during pleasure, the Committee retired to prepare an Address. The Honorable J. P. Fawkner brought up the Address, and moved that it be read at the table and adopted.

The Address was read by the Clerk as follows:—

MAY IT PLEASE YOUR EXCELLENCY—

We, the Members of the Legislative Council, in Parliament assembled, are profoundly sensible of the affliction which has befallen you by the death of Lady Barkly.

In common with our fellow-colonists, we offer to you our sincere sympathy, and we pray that the same Divine Providence which has brought on you this calamity may sustain you under it.

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

The Honorable J. P. Fawkner moved, That the Address be presented by the President at the earliest opportunity.

Question—put and passed.

ADJOURNMENT.—The Honorable J. P. Fawkner moved, That the Council, at its rising this day, do adjourn until this day week.

Question—put and passed.

POSTPONEMENTS.—The Notices of Motion and Orders of the Day standing on the Notice Paper were postponed by the Council until Wednesday, the 29th instant.

The Council adjourned at twenty-two minutes past three o'clock until three o'clock on Wednesday, the 29th instant.

NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 29TH APRIL.

NOTICES OF MOTION:—

1. The Hon. H. MILLER: To move, That this Council cannot have confidence in any Government that is not represented by one or more responsible Minister or Ministers in this branch of the Legislature.
2. The Hon. J. H. PATTERSON: To move, That the Report on the Classification of Clerks, brought up on the 11th instant, be adopted.
3. The Hon. J. COWIE: To move for leave to bring in a Bill for regulating the construction of Buildings and Party Walls, and for the prevention of mischief by fire in the Town of Geelong.

## ORDERS OF THE DAY :—

1. AUCTIONEERS BILL.—To be read a second time.
2. INTERPRETATION OF ACTS BILL.—To be read a second time.
3. IMMIGRANTS LAW AMENDMENT BILL.—To be read a second time.
4. GUNPOWDER BILL.—To be read a second time.
5. BANKERS' DRAFTS LAW AMENDMENT BILL.—To be read a second time.
6. TITLES TO LAND BILL.—To be further considered in Committee.
7. ADMINISTRATION OF JUSTICE BILL.—To be read a second time.
8. EMIGRATION BILL.—To be read a second time.

## MEETINGS

OF

## SELECT COMMITTEES.

*Wednesday, 29th April.*

GRANTS TO CORPORATIONS—at 10 o'clock.

WARRNAMBOOL HARBOR—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, 29<sup>TH</sup> APRIL, 1857.

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

The President read the Prayer.

**PETITION.**—The Honorable J. H. Patterson presented a Petition from certain inhabitants of the town of Kyneton, praying that this Honorable House would take the subject matter into serious consideration, and exert their power and influence to cause a proposed Railway to the Murray River to pass in the closest possible proximity to the town of Kyneton, and also that a station may be there erected.

Petition received.

**PRESENCE OF STRANGER IN THE HOUSE.**—The Usher called the attention of the President to the fact that a stranger was within the precincts of the Council Chamber, namely, Mr. William Kaye, whose election for the Eastern Province had been declared void; and the President invited the Council to take some steps in the matter, with regard to excluding that gentleman from the Council Chamber.

Debate ensued upon the point of order, whether the President should act without instruction from the Council in excluding Mr. Kaye.

The Honorable H. Miller moved, That the Usher having called the attention of the President to the fact of a stranger being in the House, and the President having declined to act in the matter, this Council is of opinion that it is the bounden duty of the President to move in the matter, by virtue of his office, according to the usages of the Imperial Parliament, and in such manner as will assert the respect due to this Honorable Council.

Debate ensued.

Question put.

Council divided.

Contents, 12.

The Hon. J. P. Fawcner  
 J. Hodgson  
 C. Vaughan  
 J. Henty  
 N. Guthridge  
 D. Kennedy  
 T. H. Power  
 H. Miller  
 J. Hood  
 D. P. Keogh  
 J. B. Bennett  
 J. F. Strachan (*Teller*).

Not Contents, 6.

The Hon. G. Urquhart  
 T. McCombie  
 J. Stewart  
 W. J. T. Clarke  
 Dr. Tierney  
 J. H. Patterson (*Teller*).

The question was therefore passed.

**VACATION OF SEAT BY A MEMBER.**—The President informed the Council that he had received from the Honorable W. H. F. Mitchell a letter, stating that he had accepted office as Postmaster General, and that he had consequently vacated his seat in the Legislative Council.

**WARRNAMBOOL HARBOR COMMITTEE.**—The Honorable Dr. Tierney brought up the Report of the Select Committee appointed to inquire into and report to this House upon the capacity, anchorage, and safety of the Warrnambool Harbor (Lady Bay), with the view to have direct Emigration to that port, and moved that it be printed, and that its adoption be made an Order of the Day for Wednesday, the 27th May.

Ordered.

**CLASSIFICATION OF CLERKS COMMITTEE.**—The Honorable J. H. Patterson moved in accordance with notice, That the Report on the Classification of Clerks brought up on the 11th ultimo, be adopted.

Debate ensued.

Question—That the Report be adopted—put and passed.

The Honorable J. H. Patterson moved, with leave of the House, that it be referred to the Committee appointed to report upon the Classification of Clerks to prepare an Address in the terms contemplated by that Report.

Question—put and passed.

POSTPONEMENT.—The following Orders of the Day were postponed until Wednesday, 27th May.  
 “*Auctioneers Bill*”—to be read a second time.  
 “*Interpretation of Acts Bill*”—to be read a second time.  
 “*Immigrants Law Amendment Bill*”—to be read a second time.  
 “*Gunpowder Bill*”—to be read a second time.  
 “*Bankers’ Drafts Law Amendment Bill*”—to be read a second time.  
 “*Titles to Land Bill*”—to be further considered in Committee.

ADMINISTRATION OF JUSTICE BILL.—The Honorable J. Hood moved, That the Order of the Day for the second reading of the “*Administration of Justice Bill*” be discharged from the Notice Paper.

Ordered.

POSTPONEMENT.—The Order of the Day for the second reading of the Emigration Bill was postponed until Wednesday, the 27th May.

ADJOURNMENT.—The Honorable J. P. Fawcner moved, That the House, at its rising this day, adjourn until this day month.

Question—put and passed.

MEETINGS OF COMMITTEES.—The Honorable J. Hodgson moved, That the Select Committee on Legal Assistance have power to sit during the adjournment.

The Honorable Dr. Tierney moved, That the Select Committee on the Sale and Keeping of Poisons have power to sit during the adjournment.

Ordered.

The Council adjourned at twenty-five minutes past five o’clock, until three o’clock on Wednesday, the 27th May.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 27TH MAY.

### NOTICES OF MOTION :—

1. The Hon. H. MILLER: To move, That this Council cannot have confidence in any Government that is not represented by one or more responsible Minister or Ministers in this branch of the Legislature.
2. The Hon. J. COWIE: To move for leave to bring in a Bill for regulating the construction of Buildings and Party Walls, and for the prevention of mischief by fire in the Town of Geelong.
3. The Hon. T. McCOMBIE: To move, That an Address be presented to the Governor, praying that His Excellency will be pleased to lay on the Table of this House—
  - (1.) A copy of a protest made by The Honorable William Kaye against the issue of a new writ for the holding of, and the election for, the Eastern Province.
  - (2.) A copy of any opinion furnished to the Government by the Law Officers of the Crown relative to the said protest of the Honorable William Kaye, and the last election for the Eastern Province.

### ORDERS OF THE DAY :—

1. WARRNAMBOOL HARBOR COMMITTEE.—Adoption of Report.
2. AUCTIONEERS BILL.—To be read a second time.
3. INTERPRETATION OF ACTS BILL.—To be read a second time.
4. IMMIGRANTS LAW AMENDMENT BILL.—To be read a second time.
5. GUNPOWDER BILL.—To be read a second time.
6. BANKERS’ DRAFTS LAW AMENDMENT BILL.—To be read a second time.
7. TITLES TO LAND BILL.—To be further considered in Committee.
8. EMIGRATION 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> MAY, 1857.

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

The President read the Prayer.

**ELECTION OF MEMBERS.**—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, that a Writ, issued by the Governor on the 27th March, 1857, for the election of one Member to serve in the Legislative Council for the Eastern Province, had been returned to His Excellency, by which it appears, upon the authority of Lloyd Jones, Esq., the Returning Officer, that William Highett was duly elected; and that a Writ, issued by the Governor on the first day of May, 1857, for an election of one Member to serve in the Legislative Council for the North-western Province, has been returned to His Excellency, by which it appears, upon the authority of Wm. F. Preshaw, Esq., the Returning Officer, that William Henry Fancourt Mitchell was duly elected.

The letters were read at the Table by the Clerk.

**NEW MEMBERS.**—The Honorable William Highett and the Honorable William Fancourt Mitchell being severally introduced, took and subscribed the oath of allegiance provided for by the thirty-second clause of the Constitutional Act, and delivered to the Clerk of the Council the declaration required by the seventh clause of the Constitutional Act, as hereunder set forth.

“I, WILLIAM HIGHETT, 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 Richmond, in the county or reputed county of Bourke, the descriptions of which lands and tenements are as follows:

House and twelve acres of land, being part of section No. 37, situate at Richmond. And I further declare that I have not collusively or colorably 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.

“WILLIAM HIGHETT.”

May 27th, 1857.

“I, WILLIAM HENRY FANCOURT MITCHELL, 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 full 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 parishes of Prahran and Emberton, in the counties of or reputed counties of Bourke and Dalhousie, the descriptions of which lands and tenements are as follow:

All that parcel of land in the parish of Prahran, in the county of Bourke, and being part of portion No. 18 of the said parish, containing by admeasurement thirteen acres two roods and twenty-four perches.

All that parcel of land in the parish of Emberton, in the county of Dalhousie, containing by admeasurement six hundred and forty acres, and known as “Barfold,” on which are erected a dwelling-house and other buildings.

And I further declare that I have not collusively or colorably 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.

“W. H. F. MITCHELL.”

27th May, 1857.

**PETITIONS.**—The Honorable H. Miller presented a Petition from certain inhabitants of Prahran and neighborhood, praying that this Honorable House will reject the Bill intituled, "*A Bill to make provision for Emigration from the United Kingdom, and for other purposes.*"

Petition received.

The Honorable J. P. Fawcner presented a Petition from certain citizens of Melbourne, praying that this Honorable House will invest the administration of the Market Lands of the City in a Board so constituted with a due regard to the interests of both consumers and producers as to this House may seem meet, and urge upon the Government the appropriation of a sufficient extent of land as a Central Produce Market.

Petition received.

The Honorable J. Cowie presented a Petition from certain ironmongers and hardware merchants and dealers of Geelong, praying that greater quantities of gunpowder than are now allowed may be kept on ironmongers' premises.

Petition received.

**MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.**—The following Message from His Excellency the Governor was received, and was read to the Council:—

**MR. PRESIDENT AND HONORABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL—**

I thank you most cordially for the Address of Condolence transmitted to me on the occasion of the sad calamity which befell me in the death of Lady Barkly.

I regard such expressions of sympathy not as empty formalities, but as denoting an intercommunion of sentiment and of interests between us, which it will ever be my study to cherish.

**HENRY BARKLY.**

**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 for the Maldon District (27th March, 1857).
2. Local Court Regulations for the Mount Blackwood District (1st May, 1857).
3. Local Court Regulations for the Creswick District (21st April, 1847, and 5th May, 1857).
4. Local Court Regulations for the Hepburn District (1st May, 1857).
5. Local Court Regulations for the Beechworth District (21st April, 1857).
6. Local Court Regulations for the Dunally District (15th April, 1857).
7. Supreme Court Rules (15th February, 1857, Rules 11 and 19, chapter 2).
8. Central Board of Health—Second Annual Report.
9. Despatch from the Right Honorable the Secretary of State for the Colonies, conveying the Royal Assent to an Act of Council, 19 Victoria No. 13 (18th December, 1856).
10. Despatch from the Right Honorable the Secretary of State for the Colonies, on Warlike Preparations during Peace (8th December, 1856).
11. Despatch from the Right Honorable the Secretary of State for the Colonies, on the subject of Alpacas (19th December, 1856).
12. Health Officer—Report for half year ending 31st December, 1856.
13. Second Meteorological Report—Victoria.

**RESPONSIBLE MINISTER IN THE COUNCIL.**—The Honorable H. Miller moved, in accordance with notice, That this Council cannot have confidence in any Government that is not represented by one or more Responsible Minister or Ministers in this branch of the Legislature.

Question—put and passed.

**GEELONG BUILDING ACT.**—The Honorable J. Cowie obtained leave to bring in a Bill for regulating the Construction of Buildings and Party Walls, and for prevention of mischief by fire, in the town of Geelong.

The Honorable J. Cowie moved, That the Bill be read a first time and printed.

Debate ensued.

**MESSAGE FROM THE LEGISLATIVE ASSEMBLY.**—Messages from the Legislative Assembly were brought by Mr. Aspinall and another Member in the following words:—

**MR. PRESIDENT—**

The Legislative Assembly request that the Bill for the abolition of the Property Qualification required by Members of the Assembly may be returned from the Legislative Council to the Legislative Assembly, in order to enable the Assembly to take into consideration the Message of His Excellency the Governor proposing an amendment in that Bill.

**FRANS. MURPHY,**  
Speaker

Legislative Assembly Chambers,  
Melbourne, 27th May, 1857.

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council the Bill intituled, "*An Act to amend the Law relating to Bills of Lading*," and acquaint the Legislative Council that they have agreed to the same without any amendment.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 27th May, 1857.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled, "*An Act to consolidate and amend the Law of Evidence*;" also a Bill intituled, "*An Act for the enforcement of claims against the Crown*;" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 27th May, 1857.

The Messengers withdrew.

The Honorable W. H. F. Mitchell moved, That the consideration of the Messages be made an Order of the Day for Thursday, the 28th May.  
Ordered.

GEELONG BUILDING ACT.—

Debate resumed.

The Honorable H. Miller moved, That so much of the Standing Orders be suspended as will entitle the Bill introduced by the Honorable J. Cowie to be regarded as a Public Bill.

Debate ensued.

Question—put and passed.

Whereupon the Bill was read a first time, ordered to be printed, and read a second time on Wednesday, the 17th June.

ELECTION FOR EASTERN PROVINCE.—The Honorable T. McCombie, in accordance with notice, moved, That an Address be presented to the Governor, praying that His Excellency will be pleased to lay on the Table of this House—

- (1.) A copy of a protest made by the Honorable William Kaye against the issue of a new writ for the holding of, and the election for, the Eastern Province.
- (2.) A copy of any opinion furnished to the Government by the Law Officers of the Crown relative to the said protest of the Honorable William Kaye, and the last election for the Eastern Province.

Question—put and passed.

WARRNAMBOOL HARBOR COMMITTEE.—The Honorable Dr. Tierney moved, That the Report of the Warrnambool Harbor Committee, brought up on the 29th April, be adopted.

Debate ensued.

Question—put and passed.

POSTPONEMENTS.—The following Orders of the Day were postponed until Thursday, 28th May:—

- "*Auctioneers Bill*"—to be read a second time.
- "*Interpretation of Acts Bill*"—to be read a second time.
- "*Immigrants Law Amendment Bill*"—to be read a second time.
- "*Gunpowder Bill*"—to be read a second time.
- "*Bankers' Drafts Law Amendment Bill*"—to be read a second time.
- "*Titles to Land Bill*"—to be further considered in Committee.
- "*Emigration Bill*"—to be read a second time.

The Council adjourned at five minutes past five o'clock, until three o'clock on Thursday, the 28th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 28TH MAY.

1. The Hon. J. P. FAWKNER: To ask the Honorable the Postmaster General whether he will recommend to the Executive Government the urgent necessity there is in this rising Colony to check all gambling, whether by Europeans, Chinese, or others; and calling attention to the late gift enterprises, and the very dangerous results that are sure to follow therefrom, if not peremptorily restrained.
2. The Hon. J. HOOD: To ask the Honorable the Postmaster General whether the Government is prepared to bring in a Bill for the abrogation or modification of the fifty-third clause of the New Constitution Act.
3. The Hon. J. HOOD: To ask the Honorable the Postmaster General if the present Government is prepared to bring in any measure for the purpose of establishing one uniform system of education.

## NOTICES OF MOTION:—

1. The Hon. J. P. FAWKNER: To move, That the Petition presented by him on Wednesday, 27th instant, be referred to the Select Committee now sitting on the subject of Grants to Corporations.
2. The Hon. J. B. BENNETT: To move for leave to bring in a Bill to facilitate Leases and Sales of Settled Estates.
3. The Hon. J. P. FAWKNER: To move for a Return of all lands granted without purchase, to which trustees have been appointed and approved of, from the 1st January, 1857, to 30th April, 1857; a list of the names of the trustees; the purpose the lands were given or granted for; the quantity of land and place in which it is situate; the day of the acceptance of the trustees, and the day at which such acceptance appeared, together with the number of the *Gazette* in which they were published, designating the various sects for which they were made or granted.
4. The Hon. J. P. FAWKNER: To move, That a Committee of five Members be appointed to examine the present laws relating to the rights of Married Women to possess property, and also to inherit in all cases property in part of that possessed by their deceased husbands, and to provide for cases of continued absence, of malicious desertion, of conviction of felony, or of open adultery of husbands. To examine into the present Laws of Divorce, and to frame a Bill or Bills defining the rights of married persons, and these to include a simple Law of Divorce suitable to the requirements of the marriage state in this Colony.

*Contingent*—On the passing of the above Motion—That the Honorable John Hodgson, the Honorable S. G. Henty, the Honorable W. H. F. Mitchell, the Honorable J. H. Patterson, and the Mover, be Members of the Committee.

## ORDERS OF THE DAY:—

1. MESSAGE FROM LEGISLATIVE ASSEMBLY.—QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—To be taken into consideration.
2. MESSAGE FROM LEGISLATIVE ASSEMBLY.—BILLS OF LADING BILL.—To be taken into consideration.
3. MESSAGE FROM LEGISLATIVE ASSEMBLY.—EVIDENCE LAW AMENDMENT BILL—CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—To be taken into consideration.
4. AUCTIONEERS BILL.—To be read a second time.
5. INTERPRETATION OF ACTS BILL.—To be read a second time.
6. IMMIGRANTS LAW AMENDMENT BILL.—To be read a second time.
7. GUNPOWDER BILL.—To be read a second time.
8. BANKERS' DRAFTS LAW AMENDMENT BILL.—To be read a second time.
9. TITLES TO LAND BILL.—To be further considered in Committee.
10. EMIGRATION BILL.—To be read a second time.

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WEDNESDAY, 17TH JUNE.

## ORDER OF THE DAY:—

1. GEELONG BUILDING ACT.—To be read a second time.
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## MEETING

OF

## SELECT COMMITTEE.

*Friday, 29th May.*

GRANTS TO CORPORATIONS—at 10 o'clock.

G. W. RUSDEN,

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



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

THURSDAY, 28<sup>TH</sup> MAY, 1857.

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

The President read the Prayer.

PETITION.—The Honorable J. Hood presented a Petition from certain inhabitants of Victoria, praying this Honorable House to exercise the restrictive functions with which it is invested, and withhold its assent from the Emigration Bill now before it.

Petition received.

MARKET GARDENERS.—The Honorable J. P. Fawkner, in accordance with notice, moved, That the Petition presented by him on the 27<sup>th</sup> instant be referred to the Select Committee now sitting on the subject of Grants to Corporations.

Question—put and passed.

SETTLED ESTATES BILL.—The Honorable J. B. Bennett, in accordance with notice, moved for leave to bring in a Bill to facilitate leases and sales of settled estates.

Question—put and passed.

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

GRANTS OF LAND.—The Honorable J. P. Fawkner, in accordance with *amended* notice, moved, That an Address be presented to His Excellency the Governor, praying that he will cause to be laid on the Table of this House a Return of all lands granted without purchase, to which trustees have been appointed and approved of, from the 1<sup>st</sup> January, 1857, to 30<sup>th</sup> April, 1857; a list of the names of the trustees; the purpose the lands were given or granted for; the quantity of land and place in which it is situate; the day of the acceptance of the trustees, and the day at which such acceptance appeared, together with the number of the *Gazette* in which they were published, designating the various sects for which they were made or granted.

Debate ensued.

Question—put and passed.

RIGHTS OF MARRIED WOMEN AND LAW OF DIVORCE.—The Honorable J. P. Fawkner moved, in accordance with *amended* notice, That a Committee of five Members be appointed to examine the present laws relating to the rights of Married Women to possess property, and also to inherit in all cases property in part of that possessed by their deceased husbands, and to provide for cases of continued absence, of malicious desertion, of conviction of felony, or of open adultery of husbands or wives. To examine into the present Laws of Divorce, and to frame a Bill or Bills defining the rights of married persons, and these to include a simple Law of Divorce suitable to the requirements of the marriage state in this Colony.

Debate ensued.

Question—put.

Council divided.

Contents, 14.

The Hon. W. H. F. Mitchell  
J. Hodgson  
G. Urquhart  
S. G. Henty  
J. P. Fawkner  
D. Kennedy  
D. P. Keogh  
J. Stewart  
Dr. Hope  
W. Highett  
B. Williams  
J. Cowie  
W. Roope  
J. F. Strachan (*Teller*).

Not Contents, 8.

The Hon. T. McCombie  
J. Hood  
C. Vaughan  
Dr. Tierney  
H. Miller  
J. B. Bennett  
T. H. Power  
W. J. T. Clarke (*Teller*).

The question was therefore passed.

The Honorable J. P. Fawkner moved, in accordance with *amended* notice, That the Honorables J. Hodgson, S. G. Henty, W. H. F. Mitchell, D. Kennedy, J. B. Bennett, and the mover, be members of the Committee.

Question—put and passed.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—The Honorable W. H. F. Mitchell moved, That, in accordance with the request of the Legislative Assembly, the Bill for the abolition of the Property Qualification required by Members of the Legislative Assembly be returned to the Legislative Assembly.

Debate ensued.

The Honorable J. P. Fawkner moved, That all the words after the word "That" be omitted, with the view to insert the words—this House cannot accede to the request of the Legislative Assembly for the return of the "*Qualification of Members of Assembly Bill*" until Standing Orders are adopted for regulating such cases.

Debate ensued.

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

Council divided.

Contents, 19.

The Hon. W. H. F. Mitchell

J. Hodgson

Dr. Tierney

W. Roope

C. Vaughan

W. J. T. Clarke

J. Hood

T. McCombie

D. Kennedy

D. P. Keogh

Dr. Hope

T. H. Power

W. Highett

B. Williams

J. Cowie

H. Miller

J. B. Bennett

J. Stewart

J. F. Strachan (*Teller*).

Not Contents, 3.

The Hon. J. P. Fawkner

S. G. Henty

G. Urquhart (*Teller*).

The question was therefore passed.

Question—That, in accordance with the request of the Legislative Assembly, the Bill for the abolition of the Property Qualification required by members of the Legislative Assembly be returned to the Legislative Assembly—put and passed.

The Honorable W. H. F. Mitchell moved, That the Chairman of Committees and the Honorable C. Vaughan be the bearers of the Bill to the Legislative Assembly.

Question—put and passed.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—BILLS OF LADING BILL.—The Honorable W. H. F. Mitchell moved, That this Order of the Day be discharged.

Question—put and passed.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—EVIDENCE LAW AMENDMENT BILL.—CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—The Bills, on the motion of the Honorable W. H. F. Mitchell, read a first time, ordered to be printed, and read a second time severally on Wednesday, the 3rd June.

AUCTIONEERS BILL.—The Honorable W. H. F. Mitchell moved, That this 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 House.

The President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again on Tuesday, the 2nd June next.

Ordered.

POSTPONEMENTS.—The following Orders of the Day were postponed until Tuesday, the 2nd June next:—

"*Auctioneers Bill*"—to be further considered in Committee.

"*Interpretation of Acts Bill*"—to be read a second time.

"*Immigrants Law Amendment Bill*"—to be read a second time.

"*Gunpowder Bill*"—to be read a second time.

"*Bankers' Drafts Law Amendment Bill*"—to be read a second time.

"*Titles to Land Bill*"—to be further considered in Committee.

"*Emigration Bill*"—to be read a second time.

The Council adjourned at six o'clock until three o'clock on Tuesday, the 2nd June next.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 2ND JUNE.

1. The Hon. T. McCOMBLE: To ask the Honorable The Postmaster General if it be the intention of the Government to introduce in the present session of Parliament any Bill to alter or amend the Insolvent Laws of the Colony.
2. The Hon. DR. TIERNEY: To ask the Honorable the Postmaster General whether the Government will carry out the following recommendations of the Chief Harbor Master and other witnesses who have been examined before the Select Committee on Warrnambool Harbor.
  - (1.) Improving the facilities to enter the harbor by the erection of a new flagstaff furnished with a code of Marryatt's Signals.
  - (2.) Forwarding to the Commissioners of Emigration and to Lloyds', charts and sailing directions for the harbor, as the Port of Warrnambool is a fit and proper place whereunto to land immigrants direct from the United Kingdom.
  - (3.) The erection of a permanent lighthouse at the entrance of the harbor, but in the mean time to have a jetty-light.
  - (4.) The laying down an additional mooring.
  - (5.) The erection of quarters to accommodate a boat's crew at or near the jetty, the boat's crew and harbor master to form a water police.
  - (6.) To have a proper survey of the harbor made, with a view to ascertain the practicability of those more permanent future improvements that have been recommended.
  - (7.) The erection of a lighthouse at each of the western ports, as urged by Captain Ferguson in the year 1854.
  - (8.) The necessity of having a harbor of refuge on our southern coast.

*Contingent*—On the foregoing questions being answered—

The Hon. J. P. FAWKNER: To ask similar questions respecting the Harbors of Portland, Belfast, and Port Albert.

## ORDERS OF THE DAY:—

1. AUCTIONEERS BILL.—To be further considered in Committee.
2. INTERPRETATION OF ACTS BILL.—To be read a second time.
3. IMMIGRANTS LAW AMENDMENT BILL.—To be read a second time.
4. GUNPOWDER BILL.—To be read a second time.
5. BANKERS' DRAFTS LAW AMENDMENT BILL.—To be read a second time.
6. TITLES TO LAND BILL.—To be further considered in Committee.
7. EMIGRATION BILL.—To be read a second time.

WEDNESDAY, 3RD JUNE.

## NOTICES OF MOTION:—

1. The Hon. J. P. FAWKNER: To move, That a Select Committee of seven members be appointed to frame a Bill to control the flood of Chinese immigration setting into this Colony, and effectually prevent the Gold Fields of Australia Felix from becoming the property of the Emperor of China and of the Mongolian and Tartar Hordes of Asia.

*Contingent*—On passing of the above Motion—That the Honorable J. Henty, the Honorable J. Stewart, the Honorable T. McCombie, the Honorable J. F. Strachan, the Honorable N. Guthridge, the Honorable G. Urquhart, and the Mover, be members of the Committee.

## ORDERS OF THE DAY:—

1. EVIDENCE LAW AMENDMENT BILL.—To be read a second time.
2. CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—To be read a second time.

THURSDAY, 4TH JUNE.

## ORDER OF THE DAY:—

1. SETTLED ESTATES BILL.—To be read a second time.

WEDNESDAY, 17TH JUNE.

## ORDER OF THE DAY:—

1. GEELONG BUILDING ACT.—To be read a second time.

MEETINGS  
OF  
SELECT COMMITTEES.

*Friday, 29th May.*

GRANTS TO CORPORATIONS—at 10 o'clock.

*Tuesday, 2nd June.*

RIGHTS OF MARRIED WOMEN AND LAW OF DIVORCE—at 11 o'clock.

GRANTS TO CORPORATIONS—at 12 o'clock.

LEGAL ASSISTANCE—at half-past 1 o'clock.

*Wednesday, 3rd June.*

PENAL ESTABLISHMENTS—at 10 o'clock.

G. W. RUSDEN,

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

Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

TUESDAY, 2ND JUNE, 1857.

The Council met in accordance with adjournment.

The Clerk informed the Council that he had been directed by the President to state that the President was unavoidably detained from the Council Chamber by illness.

The Honorable W. H. F. Mitchell moved, That the Chairman of the Committees do take the Chair during the absence of the President.

Question—put and passed.

The Deputy-President took the Chair.

The Deputy-President read the Prayer.

AUCTIONEERS BILL.—The Order of the Day for the further consideration of this Bill in Committee of the whole Council being read, the Honorable W. H. F. Mitchell moved, That the Honorable J. Henty be Deputy-Chairman of Committees while the Honorable Chairman of Committees is acting as Deputy-President.

Question—put and passed.

The Deputy-President left the Chair.

The Deputy-Chairman of Committees reported progress, and asked leave to sit again this day six months.

Question—That the Report of the Committee be adopted—put.  
Council divided.

Contents, 13.  
The Hon. W. H. F. Mitchell  
J. F. Strachan  
J. Henty  
J. P. Fawkner  
S. G. Henty  
H. Miller  
T. H. Power  
J. B. Bennett  
D. Kennedy  
G. Urquhart  
J. Stewart  
C. Vaughan  
J. H. Patterson (*Teller*).

Not Contents, 6.  
The Hon. J. Hood  
T. McCombie  
N. Guthridge  
J. Cowie  
Dr. Tierney  
W. J. T. Clarke (*Teller*).

The question was therefore passed.

INTERPRETATION OF ACTS BILL.—The Honorable J. B. Bennett 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 Deputy-President left the Chair.

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

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council the "*Assembly Members' Qualification Bill*," together with the Message to the Legislative Assembly from His Excellency the Governor proposing an amendment in that Bill, and acquaint the Legislative Council that they have agreed to the amendment proposed by His Excellency the Governor, viz.: to insert in the 14th line (after money) "or of the annual value of two hundred pounds sterling money."

FRANS. MURPHY,  
Speaker.

## VICTORIA.

*Bill to abolish the Property Qualification.*

HENRY BARKLY,  
Governor.

Message No. 5.

The Governor, by the authority conferred upon him by the 36th clause of the Constitution Statute, returns to the Assembly, for amendment, the "*Bill to abolish the Property Qualification required by Members of the Assembly,*" which has been presented for the Royal Assent.

The Governor calls the attention of the Assembly to the circumstance that, in the first clause of the aforesaid Bill, where it purports to cite an extract from the Constitution Statute for the purpose of repealing the same, the words "or of the annual value of two hundred pounds sterling money" are obviously omitted from the extract; and he proposes for the consideration of the Assembly the amendment of the Act by inserting these words, in which amendment he trusts the Houses of Parliament will concur.

Government Offices,  
Melbourne, April, 1857.

The Honorable J. Hood moved, That the consideration of the Message from the Legislative Assembly, with the accompanying Message from His Excellency the Governor to the Legislative Assembly, be made an Order of the Day for Thursday, the 4th instant.

Ordered.

The Deputy-President left the Chair.

INTERPRETATION OF ACTS BILL.—The Deputy-Chairman of Committees reported the Bill with amendments.

The Honorable J. B. Bennett moved, That the Report of the Committee be adopted, and that the third reading of the Bill, with the amendments, be made an Order of the Day for Thursday, the 4th instant.

Ordered.

POSTPONEMENTS.—The following Orders of the Day were severally postponed to the days named:—

"*Immigrants Law Amendment Bill*"—to be read a second time, 3rd June.

"*Gunpowder Bill*"—to be read a second time, 10th June.

"*Bankers' Drafts Law Amendment Bill*"—to be read a second time, 3rd June.

"*Titles to Land Bill*"—to be further considered in Committee, 3rd June.

"*Emigration Bill*"—to be read a second time, 3rd June.

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

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NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 3RD JUNE.

1. The Hon. T. McCOMBIE: To ask if it is the intention of the Government to introduce the Publicans Bill during the present month, in order that the reduced licence fee may be recovered on the 1st day of July.

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ORDERS OF THE DAY:—

*Government Business.*

1. IMMIGRANTS LAW AMENDMENT BILL.—To be read a second time.
2. BANKERS' DRAFTS LAW AMENDMENT BILL.—To be read a second time.
3. EMIGRATION BILL.—To be read a second time.
4. EVIDENCE LAW AMENDMENT BILL.—To be read a second time.
5. CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—To be read a second time.

*General Business.*

6. TITLES TO LAND BILL.—To be further considered in Committee.

NOTICES OF MOTION:—

1. The Hon. J. P. FAWKNER: To move, That a Select Committee of seven members be appointed to frame a Bill to control the flood of Chinese immigration setting into this Colony, and effectually prevent the Gold Fields of Australia Felix from becoming the property of the Emperor of China and of the Mongolian and Tartar Hordes of Asia.  
*Contingent*—On passing of the above Motion—That the Honorable J. Henty, the Honorable J. Stewart, the Honorable T. McCombie, the Honorable J. F. Strachan, the Honorable N. Guthridge, the Honorable G. Urquhart, and the Mover, be members of the Committee.

## 2. The Hon. T. McCOMBIE : To move—

(1.) That it is the opinion of this House that the immediate cessation of bounty and assisted immigration, either of males or females, into the Colony of Victoria, would be injurious to the various branches of industry and contrary to the general prosperity of this country.

(2.) While admitting the paramount importance of a continuous supply of immigrants into the Colony, this House is, nevertheless, of opinion that the cost should be made a direct charge on the land instead of being defrayed from the Consolidated Revenue; and recommends (as soon as the arrangement can be legally carried out) that such expense shall be paid by land scrip, which shall be taken at the Treasury of Victoria in payment of land.

THURSDAY, 4TH JUNE.

## NOTICE OF MOTION:—

1. The Hon. J. P. FAWKNER: To move, That an Address be presented to the Governor, praying that His Excellency will be pleased to furnish this Council with a full return of the Immigration Remittances, in the terms of the advertisement, commencing from the day of the payment of the first money, and giving particulars of all sent for, together with the particulars of all that have arrived, in accordance with the form, section 2, of the address or notice from the Immigration Office of date May 1, 1857. Signed EDWARD BELL. "The names, ages, relationship, married or single state, occupation, and address of the persons for whom passages are requested;" according to the subjoined form:—

Christian and Surname at full length.	Age.	Married or Single.	Relationship to Applicant.	Trade or Calling.	Address at full length of the place or town, and street, where living in the United Kingdom.

## ORDERS OF THE DAY:—

1. SETTLED ESTATES BILL.—To be read a second time.
2. ASSEMBLY MEMBERS' QUALIFICATION BILL.—Consideration of Message from Legislative Assembly.
3. INTERPRETATION OF ACTS BILL.—To be read a third time.

TUESDAY, 9TH JUNE.

1. The Hon. J. H. PATTERSON: To ask the Honorable W. H. F. Mitchell if the Government would instruct the Surveyor at Heathcote to mark off from two to three miles of the main road from Heathcote towards Kilmore; and such miners' holes as are found to be on the road to be filled up, which at present endanger the lives and limbs of Her Majesty's subjects who travel by mail during the winter, as such expense would not exceed £200.
2. The Hon. J. H. PATTERSON: To ask the Hon. W. H. F. Mitchell if the Government would consent to establish for the next ensuing six months officers at all the crossings of the River Murray, to take an account of all stock passing over that river, distinguishing the fat from the store stock, and sheep from cattle; and at the end of that period, a return to be made out and presented to the members of both Houses of Parliament, that they may be made better acquainted with the true state of the importation from New South Wales of meat and store stock.

WEDNESDAY, 10TH JUNE.

## ORDER OF THE DAY:—

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

THURSDAY, 11TH JUNE.

1. The Hon. DR. TIERNEY: To ask the Honorable the Postmaster General, has the Public Pound about to be established on a valuable piece of ground in the centre of the Township of Sandhurst, opposite to the Mechanics' Institution, and close to the Roman Catholic Church, received the sanction of the Government; and if so, do the Government and Executive think that in a general and sanitary point of view the site is an eligible one.

WEDNESDAY, 17TH JUNE.

## ORDER OF THE DAY:—

1. GEELONG BUILDING ACT.—To be read a second time.

MEETINGS  
OF  
SELECT COMMITTEES.

*Wednesday, 3rd June.*

PENAL ESTABLISHMENTS—at 10 o'clock.

*Thursday, 4th June.*

RIGHTS OF MARRIED WOMEN AND LAW OF DIVORCE—at 11 o'clock.

*Thursday, 11th June.*

GRANTS TO CORPORATIONS—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, 3RD JUNE, 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, by command of His Excellency the Governor, presented to the House the following Papers:—

1. Local Court Regulations, Steiglitz (22nd May, 1857).
2. Local Court Regulations, Waranga (22nd May, 1857).
3. Local Court Regulations, Heathcote (22nd May, 1857).
4. Return to Address of the Legislative Council, 27th May, 1857.—Election for Eastern Province. (*Honorable T. McCombie.*)

Ordered to lie on the Table.

IMMIGRANTS LAW AMENDMENT BILL.—The Honorable W. H. F. Mitchell moved, That this Bill be now read a second time.

Amendment moved by the Honorable J. P. Fawcner, That the word "now" be left out and the words "this day six months" be added 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" proposed to be added be so added—put and passed.

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

BANKERS' DRAFTS LAW AMENDMENT BILL.—The Honorable W. H. F. Mitchell 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 having reported that the Committee had agreed to the Bill without amendments, the Report, on motion of the Honorable W. H. F. Mitchell, adopted, and the third reading of the Bill made an Order of the Day for Thursday, the 4th instant.

POSTPONEMENTS.—The following Orders of the Day were severally postponed until the days named:—

"*Emigration Bill*"—to be read a second time, Tuesday, 9th June.

"*Evidence Law Amendment Bill*"—to be read a second time, 9th June.

"*Claimants against Government Relief Bill*"—to be read a second time, 4th June.

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

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

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled "*An Act for granting a Duty of Customs on Opium,*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 3rd June, 1857.

The Messengers withdrew.

Ordered—That the said Message be taken into consideration on Tuesday, the 9th instant.

**TITLES TO LAND BILL.**—The Chairman of Committees reported progress, and asked leave to sit again on Tuesday, the 9th instant.

Ordered.

**POSTPONEMENTS.**—The Notices of Motion on the paper were severally postponed until Thursday, the 4th instant.

The Council adjourned at twenty minutes to five o'clock until three o'clock on Thursday, the 4th instant.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

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THURSDAY, 4TH JUNE.

1. The Hon. J. P. FAWKNER: To ask the Honorable the Postmaster General whether the premium (advertised in the *Argus*, 6th October, 1856) of one hundred pounds for the best designs for laying out the Royal, the Princes, and the South Parks has been awarded or paid; if so, to whom, and when was it paid or awarded; if it has not been awarded or paid, why not?

**NOTICE OF MOTION:—**

1. The Hon. J. P. FAWKNER: To move, That an Address be presented to the Governor, praying that His Excellency will be pleased to furnish this Council with a full return of the Immigration Remittances, in the terms of the advertisement, commencing from the day of the payment of the first money, and giving particulars of all sent for, together with the particulars of all that have arrived, in accordance with the form, section 2, of the address or notice from the Immigration Office of date May 1, 1857. Signed EDWARD BELL. "The names, ages, relationship, married or single state, occupation, and address of the persons for whom passages are requested;" according to the subjoined form:—

Christian and Surname at full length.	Age.	Married or Single.	Relationship to Applicant.	Trade or Calling.	Address at full length of the place or town, and street, where living in the United Kingdom.

2. The Hon. T. McCOMBIE: To move, That the following documents be printed as a portion of the Votes and Proceedings of the Legislative Council:—1. A copy of the Petition of William Hightt, Esq., against the return of William Kaye, Esq., as Member for the Eastern Province. 2. Copy of motion referring the said document to the Elections and Qualifications Committee of this House. 3. Report of the Elections and Qualifications Committee thereupon. 4. Notification of such Report by the Honorable the President to the Governor. 5. The Protest of William Kaye, Esq., against the issue of a new writ for the Eastern Province. 6. The opinion of the law officers of the Crown upon the said issue of a new writ for the Eastern Province and the Protest of the said William Kaye, Esq.
3. The Hon. J. P. FAWKNER: To move, That this House at its rising do adjourn to this day week, and the President be desired to inform the President of the Board of Land and Works that the Council have been compelled to take this course in consequence of the inconvenience to which they are exposed.
4. The Hon. J. P. FAWKNER: To move, That a Select Committee of seven members be appointed to frame a Bill to control the flood of Chinese immigration setting into this Colony, and effectually prevent the Gold Fields of Australia Felix from becoming the property of the Emperor of China and of the Mongolian and Tartar Hordes of Asia.  
*Contingent*—On passing of the above Motion—That the Honorable J. Henty, the Honorable J. Stewart, the Honorable T. McCombie, the Honorable J. F. Strachan, the Honorable N. Guthridge, the Honorable G. Urquhart, and the Mover, be members of the Committee.
5. The Hon. T. McCOMBIE: To move—
  - (1.) That it is the opinion of this House that the immediate cessation of bounty and assisted immigration, either of males or females, into the Colony of Victoria, would be injurious to the various branches of industry and contrary to the general prosperity of this country.
  - (2.) While admitting the paramount importance of a continuous supply of immigrants into the Colony, this House is, nevertheless, of opinion that the cost should be made a direct charge on the land instead of being defrayed from the Consolidated Revenue; and recommends (as soon as the arrangement can be legally carried out) that such expense shall be paid by land scrip, which shall be taken at the Treasury of Victoria in payment of land.

## ORDERS OF THE DAY:—

1. SETTLED ESTATES BILL.—To be read a second time.
2. ASSEMBLY MEMBERS' QUALIFICATION BILL.—Consideration of Message from Legislative Assembly.
3. INTERPRETATION OF ACTS BILL.—To be read a third time.
4. BANKERS' DRAFTS LAW AMENDMENT BILL.—To be read a third time.
5. CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—To be read a second time.

## TUESDAY, 9TH JUNE.

1. The Hon. J. H. PATTERSON: To ask the Honorable W. H. F. Mitchell if the Government would instruct the Surveyor at Heathcote to mark off from two to three miles of the main road from Heathcote towards Kilmore; and such miners' holes as are found to be on the road to be filled up, which at present endanger the lives and limbs of Her Majesty's subjects who travel by mail during the winter, as such expense would not exceed £200.
2. The Hon. J. H. PATTERSON: To ask the Hon. W. H. F. Mitchell if the Government would consent to establish for the next ensuing six months officers at all the crossings of the River Murray, to take an account of all stock passing over that river, distinguishing the fat from the store stock, and sheep from cattle; and at the end of that period, a return to be made out and presented to the members of both Houses of Parliament, that they may be made better acquainted with the true state of the importation from New South Wales of both meat and store stock.

## ORDERS OF THE DAY:—

1. EMIGRATION BILL.—To be read a second time.
2. EVIDENCE LAW AMENDMENT BILL.—To be read a second time.
3. MESSAGE FROM LEGISLATIVE ASSEMBLY—OPIUM BILL.—To be taken into consideration.
4. TITLES TO LAND BILL.—To be further considered in Committee.

## WEDNESDAY, 10TH JUNE.

## ORDER OF THE DAY:—

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

## THURSDAY, 11TH JUNE.

1. The Hon. DR. TIERNEY: To ask the Honorable the Postmaster General, has the Public Pound about to be established on a valuable piece of ground in the centre of the Township of Sandhurst, opposite to the Mechanics' Institution, and close to the Roman Catholic Church, received the sanction of the Government; and if so, do the Government and Executive think that in a general and sanitary point of view the site is an eligible one.

## WEDNESDAY, 17TH JUNE.

## ORDER OF THE DAY:—

1. GEELONG BUILDING ACT.—To be read a second time.

## MEETINGS

OF

## SELECT COMMITTEES.

*Thursday, 4th June.*

RIGHTS OF MARRIED WOMEN AND LAW OF DIVORCE—at 11 o'clock.  
 PENAL ESTABLISHMENTS—at 2 o'clock.

*Thursday, 11th June.*

GRANTS TO CORPORATIONS—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, 4TH JUNE, 1857.

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

PETITION.—The Honorable N. Guthridge presented a Petition signed by the Mayor of the City of Melbourne, praying this Honorable House to afford relief by sanctioning any enactment for restoring the original limits of Macarthur Ward, and repealing certain clauses in the Acts 18 Victoria No. 15, and 18 Victoria No. 32.

Petition received.

IMMIGRATION REMITTANCES.—The Honorable J. P. Fawkner, in accordance with *amended* notice, moved, That an Address be presented to the Governor, praying that His Excellency will be pleased to furnish this Council with a full return of the Immigration Remittances in the terms of the advertisement, commencing from the day of the payment of the first money, and giving particulars of all sent for, together with the particulars of all that have arrived, in accordance with the form, section 2, of the address or notice from the Immigration Office of date May 1, 1857. Signed EDWARD BELL. "The names, ages, relationship, married or single state, occupation, and address of the persons for whom passages are requested;" according to the subjoined form:—

Christian and Surname at full length.	Age.	Married or Single.	Relationship to Applicant.	Trade or Calling.	Address at full length of the place or town and street where living in the United Kingdom.	Return of those arrived.	Moneys paid by the Immigrants themselves.

Debate ensued.

Motion, by leave, withdrawn.

EASTERN PROVINCE ELECTION.—The Honorable T. McCombie, in accordance with *amended* notice, moved, That the following documents be printed as a portion of the Votes and Proceedings of the Legislative Council:—1. A copy of the Petition of William Hihett, Esq., against the return of William Kaye, Esq., as Member for the Eastern Province. 2. Copy of motion referring the said document to the Elections and Qualifications Committee of this House. 3. Report of the Elections and Qualifications Committee thereupon. 4. Notification of such Report by the Honorable the President to the Governor. 5. The Protest of William Kaye, Esq., against the issue of a new writ for the Eastern Province. 6. The opinion of the law officers of the Crown upon the said issue of a new writ for the Eastern Province and the Protest of the said William Kaye, Esq. 7. The opinion of the Attorney General given to the Honorable the President.

Question—put and passed.

ADJOURNMENT OF THE HOUSE.—The Honorable J. P. Fawkner, in accordance with notice moved, That this House at its rising do adjourn to this day week, and the President be desired to inform the President of the Board of Land and Works that the Council have been compelled to take this course in consequence of the inconvenience to which they are exposed.

Debate ensued.

Motion, by leave, postponed till Tuesday, the 9th instant.

CHINESE IMMIGRATION.—The Honorable J. P. Fawkner moved, in accordance with notice, That a Select Committee of seven members be appointed to frame a Bill to control the flood of Chinese immigration setting in to this Colony, and effectually prevent the Gold Fields of Australia Felix from becoming the property of the Emperor of China and of the Mongolian and Tartar Hordes of Asia.

Question—put and passed.

The Honorable J. P. Fawkner moved, That the Honorable J. Henty, the Honorable J. Stewart, the Honorable T. McCombie, the Honorable J. F. Strachan, the Honorable N. Guthridge, the Honorable G. Urquhart, and the Mover, be members of the Committee.

Question—put and passed.

IMMIGRATION.—The Honorable T. McCombie, in accordance with *amended* notice, moved, That it is the opinion of this House that the immediate cessation of bounty and assisted immigration, either of males or females, into the Colony of Victoria, would be injurious to the various branches of industry, and contrary to the general prosperity of this country.

Debate ensued.

Question—put and passed.

SETTLED ESTATES BILL—The Honorable J. B. Bennett moved, That this Bill be now read a second time.

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 a point of order to the President which had arisen in the Committee, viz., Whether ten Members are required in Committee of the whole Council, exclusive of the Chairman, to form a quorum.

The President ruled that the same number of Members are required in Committee as in the Council, viz., that ten Members, exclusive of the Chairman, are requisite to form a quorum.

The President left the Chair.

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

Ordered.

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

Crown Lands Alienated (1st July to 21st December, 1856).

Ordered to lie on the Table.

QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—The Message from the Legislative Assembly, conveying an amendment proposed by the Governor in this Bill, being read by the Clerk, the Honorable J. Hood moved, That the amendment be read a first time.

Amendment moved by the Honorable J. P. Fawkner, That the words "on Tuesday next" be added to the motion.

Question—That the words proposed to be added be so added—put.

Council divided.

Contents, 5.  
The Hon. J. B. Bennett  
J. P. Fawkner  
J. Cowie  
T. H. Power  
W. H. F. Mitchell (*Teller*).

Not Contents, 5.  
The Hon. N. Guthridge  
Dr. Tierney  
Dr. Hope  
J. Hood  
J. Hodgson (*Teller*).

The President gave his voice with the Not Contents.

The question was therefore negatived,

Question—That the amendment be read a first time—put.

Council divided.

Contents, 6.  
The Hon. N. Guthridge  
J. Hood  
J. Cowie  
Dr. Tierney  
Dr. Hope  
J. Hodgson (*Teller*).

Not Contents, 4.  
The Hon. J. P. Fawkner  
T. H. Power  
J. B. Bennett  
W. H. F. Mitchell (*Teller*).

The question was therefore passed.

The words, "or of the annual value of Two hundred pounds sterling money," were read by the Clerk.

The Honorable J. Hood moved, That the amendment be read a second time.

Question—put.

Notice being taken that a quorum of Members was not present, the President having counted the House, left the Chair at twenty-five minutes past six o'clock.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 9TH JUNE.

1. The Hon. J. H. PATTERSON: To ask the Honorable W. H. F. Mitchell if the Government would instruct the Surveyor at Heathcote to mark off from two to three miles of the main road from Heathcote towards Kilmore; and such miners' holes as are found to be on the road to be filled up, which at present endanger the lives and limbs of Her Majesty's subjects who travel by mail during the winter, as such expense would not exceed £200.
2. The Hon. J. H. PATTERSON: To ask the Hon. W. H. F. Mitchell if the Government would consent to establish for the next ensuing six months officers at all the crossings of the River Murray, to take an account of all stock passing over that river, distinguishing the fat from the store stock, and sheep from cattle; and at the end of that period, a return to be made out and presented to the members of both Houses of Parliament, that they may be made better acquainted with the true state of the importation from New South Wales of both meat and store stock.
3. The Hon. J. P. FAWKNER: To ask the Honorable the Postmaster General whether the premium (advertised in the *Argus*, 6th October, 1856) of one hundred pounds for the best designs for laying out the Royal, the Princes, and the South Parks has been awarded or paid; if so, to whom, and when was it paid or awarded; if it has not been awarded or paid, why not?

## NOTICES OF MOTION:—

1. The Hon. N. GUTHRIDGE: To move, That the Petition of the Mayor and Corporation of the City of Melbourne, presented to the Council on Thursday, 4th June, be printed.
2. The Hon. J. P. FAWKNER: To move, That this House at its rising do adjourn to this day week, and the President be desired to inform the President of the Board of Land and Works that the Council have been compelled to take this course in consequence of the inconvenience to which they are exposed.

## ORDERS OF THE DAY:—

1. EMIGRATION BILL.—To be read a second time.
2. EVIDENCE LAW AMENDMENT BILL.—To be read a second time.
3. MESSAGE FROM LEGISLATIVE ASSEMBLY—OPIUM BILL.—To be taken into consideration.
4. TITLES TO LAND BILL.—To be further considered in Committee.
5. SETTLED ESTATES BILL.—To be further considered in Committee.

WEDNESDAY, 10TH JUNE.

## ORDER OF THE DAY:—

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

THURSDAY, 11TH JUNE.

1. The Hon. DR. TIERNEY: To ask the Honorable the Postmaster General, has the Public Pound about to be established on a valuable piece of ground in the centre of the Township of Sandhurst, opposite to the Mechanics' Institution, and close to the Roman Catholic Church, received the sanction of the Government; and if so, do the Government and Executive think that in a general and sanitary point of view the site is an eligible one.

WEDNESDAY, 17TH JUNE.

## ORDER OF THE DAY:—

1. GEELONG BUILDING ACT.—To be read a second time.

## MEETINGS

OF

## SELECT COMMITTEES.

*Tuesday, 9th June.*

CHINESE IMMIGRATION—at 11 o'clock.

LEGISLATIVE COUNCIL CHAMBER DECORATION—at 12 o'clock.

STANDING ORDERS—at 1 o'clock.

*Wednesday, 10th June.*

CLASSIFICATION OF CLERKS—ADDRESS—at 12 o'clock.

*Thursday, 11th June.*

GRANTS TO CORPORATIONS—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, 9TH JUNE, 1857.

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

The President read the Prayer.

**PETITION OF MAYOR AND CORPORATION OF MELBOURNE.**—The Honorable N. Guthridge, in accordance with notice, moved, That the Petition of the Mayor and Corporation of the City of Melbourne, presented to the Council on Thursday, 4th June, be printed.

Question—put and passed.

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

**EVIDENCE LAW AMENDMENT BILL.**—The Honorable W. H. F. Mitchell 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 progress, and asked leave to sit again on Tuesday, 16th instant.

Ordered.

**RESTORATION OF LAPSED ORDERS OF THE DAY.**—The Honorable W. H. F. Mitchell, with leave of the Council, moved, That the Orders of the Day which lapsed on the 4th instant be restored to the Notice Paper for this day.

Question—put and passed.

**MESSAGE FROM LEGISLATIVE ASSEMBLY—OPIUM BILL.**—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 to-morrow.

**TITLES TO LAND 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.

**SETTLED ESTATES 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. B. Bennett moved that the consideration of the Report of the Committee be made an Order of the Day for Tuesday next.

Ordered.

**POSTPONEMENTS.**—The following Orders of the Day were postponed until Wednesday, 10th instant, in the following order:—

“*Interpretation of Acts Bill*”—to be read a third time.

“*Bankers' Drafts Law Amendment Bill*”—to be read a third time.

“*Claimants against Government Relief Bill*”—to be read a second time.

“*Qualification of Members of Assembly Bill.*”—Consideration of Message from Legislative Assembly.

The Council adjourned at half past five o'clock until three o'clock on Wednesday, 10th June.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 10TH JUNE.

*Government Business.*

## ORDERS OF THE DAY:—

1. OPIUM BILL.—To be read a second time.
2. INTERPRETATION OF ACTS BILL.—To be read a third time.
3. BANKERS' DRAFTS LAW AMENDMENT BILL.—To be read a third time.
4. CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—To be read a second time.
5. GUNPOWDER BILL.—To be read a second time.

*General Business.*

## NOTICE OF MOTION:—

1. The Hon. J. B. BENNETT: To move, That a Committee of seven members be appointed for the purpose of considering and reporting to this Council, what amount may be sufficient to meet the exigencies of this House during the current year.  
*Contingent*—That the Honorables W. H. F. Mitchell, H. Miller, T. McCombie, G. Urquhart, J. H. Patterson, S. G. Henty, and the Mover be members of the Committee.

## ORDER OF THE DAY:—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—Consideration of Message from Legislative Assembly.

THURSDAY, 11TH JUNE.

1. The Hon. DR. TIERNEY: To ask the Honorable the Postmaster General, has the Public Pound about to be established on a valuable piece of ground in the centre of the Township of Sandhurst, opposite to the Mechanics' Institution, and close to the Roman Catholic Church, received the sanction of the Government; and if so, do the Government and Executive think that in a general and sanitary point of view the site is an eligible one.

TUESDAY, 16TH JUNE.

## ORDERS OF THE DAY:—

1. EMIGRATION BILL.—To be read a second time.
2. LAW OF EVIDENCE BILL.—To be further considered in Committee.
3. TITLES TO LAND BILL.—To be further considered in Committee.
4. SETTLED ESTATES BILL.—Adoption of Report of Committee.

WEDNESDAY, 17TH JUNE.

## ORDER OF THE DAY:—

1. GEELONG BUILDING ACT.—To be read a second time.

## MEETINGS OF SELECT COMMITTEES.

*Wednesday, 10th June.*

CLASSIFICATION OF CLERKS—ADDRESS—at 12 o'clock.

LEGISLATIVE COUNCIL CHAMBER DECORATION—at 1 o'clock.

*Thursday, 11th June.*

GRANTS TO CORPORATIONS—at 11 o'clock.

*Friday, 12th June.*

STANDING ORDERS—at 11 o'clock.

*Tuesday, 16th June.*

CHINESE IMMIGRATION—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, 10TH JUNE, 1857.

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

The President read the Prayer.

**OPIUM BILL.**—The Honorable W. H. F. Mitchell moved, That this 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 agreed to the Bill without amendments.

The Report of the Committee, on motion of the Honorable W. H. F. Mitchell, adopted, and the third reading of the Bill made an Order of the Day for Tuesday, the 16th instant.

**INTERPRETATION OF ACTS BILL.**—The Honorable W. H. F. Mitchell moved, That this Bill be now read a third time.

Amendment, moved by the Honorable J. B. Bennett, That all the words after the word "now" be omitted, with the view to insert the words, "further considered in Committee of the whole Council."

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 now further considered in 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 Report of the Committee, on motion of the Honorable W. H. F. Mitchell, adopted, and the third reading of the Bill made an Order of the Day for to-morrow.

**BANKERS' DRAFTS LAW 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 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 amend the law relating to Drafts or Checks on Bankers.*"

Question—put and passed.

**CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.**—The Honorable W. H. F. Mitchell 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 progress, and asked leave to sit again on Tuesday next.

Ordered.

**GUNPOWDER BILL.**—The Honorable J. F. Strachan 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 progress, and asked leave to sit again on Wednesday next.

Ordered.

**EXIGENCIES OF THE COUNCIL.**—The Honorable J. B. Bennett, in accordance with notice, moved, That a Committee of seven members be appointed for the purpose of considering and reporting to this Council what amount may be sufficient to meet the exigencies of this House during the current year, and that the Honorables W. H. F. Mitchell, H. Miller, T. McCombie, G. Urquhart, J. H. Patterson, S. G. Henty, and the Mover, be members of the Committee.

Question—put and passed.

**QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—CONSIDERATION OF MESSAGE FROM LEGISLATIVE ASSEMBLY.**—The Message from the Legislative Assembly, conveying an amendment proposed by the Governor in this Bill being read by the Clerk, the Honorable J. Hood moved, That the amendment 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. Council divided.

Contents, 14.

The Hon. J. Hodgson  
J. Hood  
C. Vaughan  
J. H. Patterson  
J. Stewart  
D. Kennedy  
D. P. Keogh  
T. McCombie  
G. Urquhart  
Dr. Hope  
J. Cowie  
Dr. Tierney  
J. Allan  
J. Henty (*Teller*).

Not Contents, 9.

The Hon. J. P. Fawkner  
S. G. Henty  
W. J. T. Clarke  
H. Miller  
J. B. Bennett  
W. Roope  
T. H. Power  
W. Highett  
R. Thomson (*Teller*).

The question was therefore passed.

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

The words “or of the annual value of two hundred pounds, sterling money,” were read by the Clerk.

The Honorable J. Hood moved, That the amendment be now read a third time.

Question—put and passed.

The words “or of the annual value of two hundred pounds, sterling money,” were read by the Clerk.

The Honorable J. Hood moved, That the amendment proposed by the Governor, and adopted by this Council, in concurrence with the Legislative Assembly, be inserted in a fair reprint of the said Bill after the word “money,” occurring in the fourteenth line of the same.

Debate ensued.

Motion, by leave, withdrawn.

**LEGAL ADVICE.**—The Honorable J. P. Fawkner, with leave of the Council, moved, That the President be requested to obtain legal advice as to the manner in which the “*Bill to abolish the Property Qualification required by Members of the Legislative Assembly*,” as amended, should be dealt with by the Council.

Question—put and passed.

**POSTPONEMENTS.**—The Notices of Motion and Orders of the Day for Thursday, the 11th instant, were postponed until Tuesday, 16th instant.

**ADJOURNMENT.**—The Honorable J. Hodgson, with leave of the House, moved, That the House at its rising adjourn until Tuesday next.

Question—put and passed.

**SELECT COMMITTEES.**—The Honorable J. Hodgson, with leave of the House, moved, That all Select Committees be empowered to sit during the adjournment.

Question—put and passed.

The Council adjourned at twenty minutes to six o'clock until three o'clock on Tuesday, 16th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 16TH JUNE.

1. The Hon. DR. TIERNEY: To ask the Honorable the Postmaster General, has the Public Pound about to be established on a valuable piece of ground in the centre of the Township of Sandhurst, opposite to the Mechanics' Institution, and close to the Roman Catholic Church, received the sanction of the Government; and if so, do the Government and Executive think that in a general and sanitary point of view the site is an eligible one.
2. The Hon. J. P. FAWKNER: To ask the Honorable the Postmaster General what steps the present Government have determined to take with regard to classification and promotion of Clerks in the Civil Service.

## NOTICE OF MOTION :—

1. The Hon. J. STEWART: To move for leave to bring in a Bill, intituled, "*A Bill further to amend the Laws relating to Aliens in the Colony of Victoria.*"

## ORDERS OF THE DAY :—

1. EMIGRATION BILL.—To be read a second time.
2. LAW OF EVIDENCE BILL.—To be further considered in Committee.
3. TITLES TO LAND BILL.—To be further considered in Committee.
4. SETTLED ESTATES BILL.—Adoption of Report of Committee.
5. OPIUM BILL.—To be read a third time.
6. CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—To be further considered in Committee.
7. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—Consideration of Message from Legislative Assembly.
8. INTERPRETATION OF ACTS BILL.—To be read a third time.

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WEDNESDAY, 17TH JUNE.

*Government Business.*

## ORDER OF THE DAY :—

1. GUNPOWDER BILL.—To be further considered in Committee.

*General Business.*

## ORDER OF THE DAY :—

1. GEELONG BUILDING ACT.—To be read a second time.
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MEETINGS  
OF  
SELECT COMMITTEES.

*Thursday, 11th June.*

GRANTS TO CORPORATIONS—at 11 o'clock.

*Friday, 12th June.*

STANDING ORDERS—at 11 o'clock.

EXIGENCIES OF THE COUNCIL—at 10 o'clock.

*Tuesday, 16th June.*

CHINESE IMMIGRATION—at 11 o'clock.

CLASSIFICATION OF CLERKS—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, 16TH JUNE, 1857.

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

The President read the Prayer.

**EXIGENCIES OF THE COUNCIL.**—The Honorable J. B. Bennett, with leave of the Council, moved without notice, That it be a direction to the Select Committee on the Exigencies of the Council to include in their labors the future exigencies of the Council, as well as those of the current year, and to report in what manner these may best be provided for.

Question—put and passed.

**LAWS RELATING TO ALIENS.**—The Honorable J. Stewart, in accordance with notice, moved for leave to bring in a Bill further to amend the Laws relating to Aliens in the Colony of Victoria.

Question—put and passed.

Bill read a first time, ordered to be printed and read a second time on Tuesday, 30th instant.

**POSTPONEMENT.**—The Order of the Day for the second reading of the Emigration Bill was postponed until Wednesday, 17th instant.

**LAW OF EVIDENCE 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 having reported that the Committee had gone through the Bill, and had agreed to the same without amendments, the Report, on motion of the Honorable J. B. Bennett, adopted, and the third reading of the Bill made an Order of the Day for Wednesday, the 17th instant.

**TITLES TO LAND 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 Wednesday, the 17th instant.

Ordered.

**SETTLED ESTATES BILL.**—The Honorable J. B. Bennett 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 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 facilitate Leases and Sales of Settled Estates in the Colony of Victoria.*"

Question—put and passed.

**OPIUM 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 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 for granting a Duty of Customs on Opium.*"

Question—put and passed.

The Honorable W. H. F. Mitchell moved, That the Chairman of Committees and the Honorable J. B. Bennett be the bearers of a Message to the Legislative Assembly to acquaint them that the Legislative Council have agreed to the Bankers' Drafts Law Amendment Bill and the Opium Bill, without any amendment; and also of a Message transmitting to the Legislative Assembly the Settled Estates Bill, and desiring their concurrence thereto.

Ordered.

**CLAIMANTS AGAINST GOVERNMENT RELIEF 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.

POSTPONEMENTS.—The following Orders of the Day were postponed in the following order:—

- “*Qualification of Members of Assembly Bill*”—consideration of Message from Legislative Assembly, Tuesday, 23rd instant.  
 “*Interpretation of Acts Bill*”—to be read a third time, to-morrow.

The Council adjourned at twenty minutes to six o'clock until three o'clock on Wednesday, 17th instant.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 17TH JUNE.

*Government Business.*

ORDERS OF THE DAY:—

1. GUNPOWDER BILL.—To be further considered in Committee.
2. EMIGRATION BILL.—To be read a second time.
3. LAW OF EVIDENCE BILL.—To be read a third time.
4. CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—To be further considered in Committee.
5. INTERPRETATION OF ACTS BILL.—To be read a third time.

*General Business.*

ORDERS OF THE DAY:—

1. GEELONG BUILDING ACT.—To be read a second time.
2. TITLES TO LAND BILL.—To be further considered in Committee.

THURSDAY, 18TH JUNE.

1. The Hon. N. GUTHRIDGE: To ask the Honorable the Postmaster General whether the Government intend taking any steps for removing the Powder Magazine from its present dangerous proximity to the shipping and the City.
2. The Hon. DR. TIERNEY: To ask the Honorable the Postmaster General, has the Public Pound about to be established on a valuable piece of ground in the centre of the Township of Sandhurst, opposite to the Mechanics' Institution, and close to the Roman Catholic Church, received the sanction of the Government; and if so, do the Government and Executive think that in a general and sanitary point of view the site is an eligible one.

TUESDAY, 23RD JUNE.

ORDER OF THE DAY:—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—Consideration of Message from Legislative Assembly.

TUESDAY, 30TH JUNE.

ORDER OF THE DAY:—

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

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## MEETINGS OF SELECT COMMITTEES.

*Wednesday, 17th June.*

EXIGENCIES OF THE COUNCIL—at half-past 10 o'clock.

*Thursday, 18th June.*

STANDING ORDERS—at half-past 10 o'clock.

*Tuesday, 23rd June.*

SALE AND KEEPING OF POISONS—at 10 o'clock.

CHINESE IMMIGRATION—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, 17<sup>TH</sup> JUNE, 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, by command of His Excellency the Governor, presented to the House the following Papers:—

1. Supplementary Regulation for the Chinese on the Gold Fields (2nd June, 1856).
2. Receipts and Expenditure—Melbourne and Hobson's Bay Railway, to 30th April, 1857.
3. Friendly Societies, Return of—Registered, 1856.
4. Local Court Regulations, Fryer's Creek District (12th June, 1857).
5. Local Court Regulations, Mount Egerton District (2nd June, 1857).
6. Local Court Regulations, Castlemaine District (2nd June, 1857).
7. Local Court Regulations, Avoca District (2nd June, 1857).
8. Local Court Regulations, Buninyong District (2nd June, 1857).

Ordered to lie on the Table.

**GUNPOWDER 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.

**EMIGRATION BILL.**—The Honorable W. H. F. Mitchell moved, That this Bill be now read a second time.

Debate ensued.

Question—put.

Council divided.

Contents, 20.  
 The Hon. J. H. Patterson  
 W. H. F. Mitchell  
 J. F. Strachan  
 J. Henty  
 J. P. Fawkner  
 J. Hodgson  
 T. H. Power  
 G. Urquhart  
 J. B. Bennett  
 B. Williams  
 H. Miller  
 J. Stewart  
 D. Kennedy  
 Dr. Hope  
 J. Cowie  
 R. Thomson  
 Dr. Tierney  
 W. J. T. Clarke  
 S. G. Henty  
 C. Vaughan (*Teller*).

Not Contents, 3.  
 The Hon. J. Hood  
 D. P. Keogh  
 T. McCombie (*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.

**LAW OF EVIDENCE.**—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 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 consolidate and amend the Law of Evidence.*"

Question—put and passed.

Ordered—That the Chairman of Committees, with another member, do carry a Message to the Legislative Assembly, to acquaint them that the Legislative Council have agreed to the Bill without any amendment.

**CLAIMANTS AGAINST GOVERNMENT RELIEF 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 Tuesday next.  
Ordered.

**POSTPONEMENTS.**—The following Orders of the Day were postponed in the following order:—

"*Interpretation of Acts Bill*"—to be read a third time, Tuesday, 23rd June.

"*Geelong Building Act*"—to be read a second time, Tuesday, 23rd June.

"*Titles to Land Bill*"—to be further considered in Committee, Tuesday, 23rd June.

The Council adjourned at ten minutes past six o'clock until three o'clock on Thursday, 18th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY:

THURSDAY, 18TH JUNE.

1. The Hon. N. GUTHRIDGE: To ask the Honorable the Postmaster General whether the Government intend taking any steps for removing the Powder Magazine from its present dangerous proximity to the shipping and the City.
2. The Hon. DR. TIERNEY: To ask the Honorable the Postmaster General, has the Public Pound about to be established on a valuable piece of ground in the centre of the Township of Sandhurst, opposite to the Mechanics' Institution, and close to the Roman Catholic Church, received the sanction of the Government; and if so, do the Government and Executive think that in a general and sanitary point of view the site is an eligible one.
3. The Hon. J. HOOD: To ask the Honorable the Postmaster General if the Government intend to bring in a Bill this Session to amend the Insolvent Law now in force in the Colony.

ORDERS OF THE DAY:—

1. GUNPOWDER BILL.—To be further considered in Committee.
2. EMIGRATION BILL.—To be further considered in Committee.

TUESDAY, 23RD JUNE.

ORDERS OF THE DAY:—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—Consideration of Message from Legislative Assembly.
2. CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—To be further considered in Committee.
3. INTERPRETATION OF ACTS BILL.—To be read a third time.
4. GEELONG BUILDING ACT.—To be read a second time.
5. TITLES TO LAND BILL.—To be further considered in Committee.

TUESDAY, 30TH JUNE.

ORDER OF THE DAY:—

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

## MEETINGS

OF

## SELECT COMMITTEES.

Thursday, 18th June.

STANDING ORDERS—at half-past 10 o'clock.

EXIGENCIES OF THE COUNCIL—at half-past 1 o'clock.

Tuesday, 23rd June.

SALE AND KEEPING OF POISONS—at 10 o'clock.

CHINESE IMMIGRATION—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, 18TH JUNE, 1857.

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

The President read the Prayer.

**PETITION.**—The Honorable N. Guthridge presented a Petition from the Mayor, Aldermen, and Councillors of the City of Melbourne, under the common seal of the same, praying that this Honorable House will be pleased to take into consideration the want of proper underground sewerage in the city, and to adopt such measures in reference thereto as may seem fit.

Petition received.

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

National Education Board. Progress Report of 1856.

Ordered to lie on the Table.

**EXIGENCIES OF THE COUNCIL.—REPORT OF SELECT COMMITTEE.**—The Honorable J. B. Bennett, as Chairman of the Select Committee appointed to inquire and report upon the present and future exigencies of the Council, brought up the Report of the Committee, and moved that it be printed, and that its adoption be made an Order of the Day for Tuesday, the 23rd instant.

Ordered.

**STANDING ORDERS.—PROGRESS REPORT OF SELECT COMMITTEE.**—The Honorable T. McCombie brought up a Progress Report of the Select Committee appointed to prepare Standing Orders, and to confer with the Standing Orders Committee of the Legislative Assembly, and moved that the Progress Report be printed, and that its consideration in Committee of the whole Council be made an Order of the Day for Tuesday, the 23rd instant.

Ordered.

**GUNPOWDER 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.

**MESSAGE FROM THE LEGISLATIVE ASSEMBLY.**—A Message from the Legislative Assembly being announced, the President took the Chair, and the following Message was brought by Mr. Aspinall and another Member:—

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill, intituled "*An Act to reduce the fees payable for certain Licenses*;" also a Bill, intituled "*An Act for the continuation of Expiring Laws*," to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 18th June, 1857.

The Messengers withdrew.

The Honorable W. H. F. Mitchell moved, That the Bill, intituled "*An Act to reduce the Fee payable for certain Licenses*" be now read a first time, printed, and read a second time this day, after the disposal of the other Orders of the Day.

Question—put and passed.

The Honorable W. H. F. Mitchell moved, That the Bill, intituled "*An Act for the continuation of expiring Laws*" be now read a first time, printed, and read a second time on Tuesday, the 23rd instant.

Ordered.

The President left the Chair.



**GUNPOWDER BILL.**—The Chairman of Committees reported that the Committee had gone through the Bill and had agreed to the same with amendments.

The Honorable J. F. Strachan moved, That the Report be printed, and that its adoption be made an Order of the Day for Tuesday, 23rd instant.

Ordered.

**IMMIGRANTS HIRED FROM GOVERNMENT DEPÔTS.**—The Honorable J. Hood, with leave of the Council, moved for a Return of all Immigrants hired from the Government Depôts since the 1st January of the present year, in the annexed form :—

Date.	Name.	Place of Birth.	Age.	Occupation as entered on Ship.	Engaged as.	Em- ployer's Name.	Em- ployer's Residence.	Rate per an- num.	Term of engage- ment.

Debate ensued.

Question—put and passed.

**EMIGRATION 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 W. H. F. Mitchell moved, That the Report of the Committee be printed, and that its adoption be made an Order of the Day for Tuesday, the 23rd instant.

Ordered.

**LICENSE FEE REDUCTION BILL.**—The Honorable W. H. F. Mitchell 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 amendments.

The Honorable W. H. F. Mitchell moved, That the Report of the Committee 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 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 reduce the Fee payable for certain Licenses.*"

Question—put and passed.

The Honorable W. H. F. Mitchell moved, That the Chairman of Committees, with another member, do carry a Message to the Legislative Assembly, to acquaint them that the Legislative Council have agreed to the Bill, without any amendment.

Ordered.

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

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

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TUESDAY, 23RD JUNE.

1. The Hon. N. GUTHRIDGE: To ask the Honorable the Postmaster General what steps, if any, the Government intend to take respecting the sewerage of the City of Melbourne.
2. The Hon. DR. TIERNEY: To ask—
  - (1.) The Honorable the Postmaster General to call the attention of the Honorable the Commissioner of Customs to the Report of the Select Committee of this Honorable House on the subject of the Warrnambool Harbor, with a view to have direct emigration from the United Kingdom to that port, and to request that gentleman to forward to the Emigration Agent or the Commissioners of Emigration in London, and to Lloyd's the said Report, with charts and sailing directions for entering the port.
  - (2.) Will the Honorable the Commissioner of Customs recommend direct immigration to that port.

## ORDERS OF THE DAY :—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—Consideration of Message from Legislative Assembly.
2. CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—To be further considered in Committee.
3. INTERPRETATION OF ACTS BILL.—To be read a third time.
4. GEELONG BUILDING ACT.—To be read a second time.
5. TITLES TO LAND BILL.—To be further considered in Committee.
6. EXIGENCIES OF THE COUNCIL.—Adoption of Report of Select Committee.
7. STANDING ORDERS.—Progress Report of Select Committee to be considered in Committee.
8. EXPIRING LAWS CONTINUATION BILL.—To be read a second time.
9. GUNPOWDER BILL.—Adoption of Report of Committee.
10. EMIGRATION BILL.—Adoption of Report of Committee.

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TUESDAY, 30TH JUNE.

## ORDER OF THE DAY :—

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

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MEETINGS  
OF  
**SELECT COMMITTEES.**

*Tuesday, 23rd June.*

- SALE AND KEEPING OF POISONS—at 10 o'clock.  
CHINESE IMMIGRATION—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, 23RD JUNE, 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, by command of His Excellency the Governor, presented to the Council a Return to an Address moved for by the Honorable J. P. Fawkner, on the 28th ultimo, on the subject of Grants of Land, and moved that the same be printed.

Question—put and passed.

ADJOURNMENT.—The Honorable W. Highett, with leave of the Council, moved, without notice, That this House, at its rising this day, do adjourn to Tuesday, the 30th instant, for the purpose of affording members an opportunity of attending the opening of the Geelong and Melbourne Railway.

Question—put and passed.

POSTPONEMENT.—The Order of the Day for the consideration of the Message from the Legislative Assembly, on the subject of the Qualification of Members of Assembly Bill, was postponed until Tuesday, the 30th instant.

CLAIMANTS AGAINST GOVERNMENT RELIEF 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 without any amendment.

The Honorable W. H. F. Mitchell moved, That the Report of the Committee be adopted, and that the third reading of the Bill be made an Order of the Day for Tuesday, the 30th instant.

Question—put and passed.

INTERPRETATION OF ACTS BILL.—The Order of the Day for the third reading of this Bill being read, the Honorable J. B. Bennett moved, That it be discharged, and that it be made an Order of the Day to re-commit the Bill for further consideration in Committee of the whole Council on Tuesday, the 30th instant.

Question—put and passed.

GEELONG BUILDING ACT.—The Honorable J. Cowie 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 progress, and asked leave to sit again on the 1st July proximo.

Ordered.

TITLES TO LAND 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 Bill with amendments.

The Honorable T. McCombie moved, That the Bill be now further considered in Committee.

Ordered.

The President left the Chair.

The Chairman of Committees reported that the Committee had agreed to the Bill with further amendments.

The Honorable T. McCombie moved, That the Report of the Committee be adopted and printed, and that the third reading of the Bill be made an Order of the Day for Tuesday, the 30th instant.

Question—put.

A division was called for, but it appeared that there was but one Not Content, and therefore no division was taken.

The question was therefore passed.

**EXIGENCIES OF THE COUNCIL.**—The Honorable J. B. Bennett moved, That the Report of the Select Committee on the Exigencies of the Council be adopted.

Question—put and passed.

**STANDING ORDERS**—The Order of the Day for considering in Committee of the whole Council the Second Progress Report of the Select Committee on Standing Orders being read, the President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again on Tuesday, 30th instant.

Ordered.

**EXPIRING LAWS CONTINUATION BILL.**—The Honorable J. F. Strachan 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 progress, and asked leave to sit again on Tuesday next.

Ordered.

**GUNPOWDER BILL.**—The Honorable J. F. Strachan moved, That the Report of the Committee of the whole Council on this Bill, brought up on the 18th instant, be now adopted, and that the third reading of the Bill be made an Order of the Day for Wednesday next.

Question—put and passed.

**EMIGRATION BILL.**—The Honorable J. F. Strachan moved, That the Report of the Committee of the whole Council on this Bill, brought up on the 18th instant, be now adopted, and that the third reading of the Bill be made an Order of the Day for Wednesday next.

Question—put and passed.

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

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 30TH JUNE.

1. The Hon. J. STEWART: To ask the Honorable the Postmaster General whether or not he intends to afford the public facilities for ascertaining the weight of letters previous to posting at the General Post Office; also, whether he will cause the Postmasters throughout the Colony to have proper appliances for weighing letters for the benefit of the public.
2. The Hon. J. H. PATTERSON: To ask the Honorable the Postmaster General if it be the intention of the Government to continue the Electric Telegraph from Kilmore to Heathcote; and if so, has any contract been taken.
3. The Hon. S. G. HENTY: To ask the Honorable the Postmaster General if it is the intention of the Government to order a survey of the entire Coast Line from Port Phillip Heads round to the Western boundary of the Colony, as well as the anchorage of Warrnambool, Belfast, and Portland.

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### NOTICE OF MOTION:—

1. The Hon. J. P. FAWKNER: To move, That it be referred to the Decoration Committee to report:—
  - (1.) As to the expediency of replacing the present Dais by a Canopy of crimson velvet emblazoned with the Royal Arms, and of certain other alterations.
  - (2.) As to the propriety of some further measures being taken for the accommodation of the public, on the approaching prorogation of Parliament.

### ORDERS OF THE DAY:—

1. ALIENS BILL.—To be read a second time.
2. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—Consideration of Message from Legislative Assembly.
3. CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—To be read a third time.
4. INTERPRETATION OF ACTS BILL.—To be re-committed.
5. TITLES TO LAND BILL.—To be read a third time.
6. STANDING ORDERS.—To be further considered in Committee.
7. EXPIRING LAWS CONTINUATION BILL.—To be further considered in Committee.

WEDNESDAY, 1ST JULY.

ORDERS OF THE DAY :—

*Government Business.*

1. GUNPOWDER BILL.—To be read a third time.
2. EMIGRATION BILL.—To be read a third time. ]

*General Business.*

1. GEELONG BUILDING ACT.—To be further considered in Committee.

## MEETINGS

OF

**SELECT COMMITTEES.***Tuesday, 30th June.*

SALE AND KEEPING OF POISONS—at 11 o'clock.

CHINESE IMMIGRATION—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, 30TH JUNE, 1857.

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

The President read the Prayer.

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

Debate ensued.

Question—put and passed.

SALE AND KEEPING OF POISONS BILL.—REPORT OF SELECT COMMITTEE UPON.—The Honorable Dr. Tierney, as Chairman of the Select Committee appointed to inquire into the sale, safe keeping, and administration of poisons and narcotics, and to frame a Bill to carry out these objects, brought up the Report of the Committee, with a draft of a Bill thereto attached, and moved that the same be printed; and that the Bill be now read a first time.

Question—put and passed.

Bill read a first time, ordered to be printed, and read a second time on Tuesday, the 7th of July proximo.

POSTPONEMENTS.—The Honorable J. B. Bennett moved, That the several Orders of the Day on the Notice Paper be postponed until Tuesday next:—

“*Aliens Bill*” to be read a second time.

“*Qualification of Members of Assembly Bill*” consideration of Message from Legislative Assembly.

“*Claimants against Government Relief Bill*” to be read a third time.

“*Interpretation of Acts Bill*” to be re-committed.

“*Titles to Land Bill*” to be read a third time.

“*Standing Orders*” to be further considered in Committee.

“*Expiring Laws Continuation Bill*” to be further considered in Committee.

“*Gunpowder Bill*” to be read a third time.

“*Emigration Bill*” to be read a third time.

“*Geelong Building Act Bill*” to be further considered in Committee.

Debate ensued.

Question—put.

Council divided.

Contents, 12.

The Hon. W. H. F. Mitchell

J. Hodgson

J. Henty

J. B. Bennett

S. G. Henty

T. H. Power

D. Kennedy

C. Vaughan

W. Highett

J. Stewart

Dr. Hope

J. F. Strachan (*Teller*).

Not Contents, 7.

The Hon. R. Thomson

T. McCombie

W. Roope

J. Hood

Dr. Tierney

N. Guthridge

J. H. Patterson (*Teller*).

The question was therefore passed.

The Council adjourned at twenty-five minutes to four o'clock until three o'clock on Tuesday next, the 7th July.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 7TH JULY.

1. The Hon. R. THOMSON: To ask the Honorable the Postmaster General if it is the intention of the Government to appoint a General Sessions and County Court to be held at Sale, and if so, the date on which the Court will be opened.

## NOTICES OF MOTION:—

1. The Hon. J. HENTY: To move, That an Address be presented to His Excellency the Governor, praying that His Excellency will cause to be laid upon the Table of this House a 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; also, a 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.
2. The Hon. J. B. BENNETT: To move, That an Address be presented to His Excellency the Governor, embodying the Report of the Exigency Committee adopted by this Council.
3. The Hon. J. P. FAWKNER: To move, That it be referred to the Decoration Committee to report:—
  - (1.) As to the expediency of replacing the present Dais by a Canopy of crimson velvet emblazoned with the Royal Arms, and of certain other alterations.
  - (2.) As to the propriety of some further measures being taken for the accommodation of the public, on the approaching prorogation of Parliament.

## ORDERS OF THE DAY:—

1. ALIENS BILL.—To be read a second time.
2. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—Consideration of Message from Legislative Assembly.
3. CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—To be read a third time.
4. INTERPRETATION OF ACTS BILL.—To be re-committed.
5. TITLES TO LAND BILL.—To be read a third time.
6. STANDING ORDERS.—To be further considered in Committee.
7. EXPIRING LAWS CONTINUATION BILL.—To be further considered in Committee.
8. SALE AND KEEPING OF POISONS BILL.—To be read a second time.
9. GUNPOWDER BILL.—To be read a third time.
10. EMIGRATION BILL.—To be read a third time.
11. GEELONG BUILDING ACT BILL.—To be further considered in Committee.

## MEETING

OF

## SELECT COMMITTEE.

*Tuesday, 7th July.*

CHINESE IMMIGRATION—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, 7TH JULY, 1857.

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

The President read the Prayer.

**ROYAL ASSENT TO BILLS.**—The President informed the Council that he had been apprised, by a letter from the Private Secretary, to the effect that it is His Excellency's intention to proceed to the Legislative Council Chamber on Thursday, the 9th instant, at four o'clock, to assent, in Her Majesty's name, to certain Bills passed by the Legislative Council and Legislative Assembly.

**STANDING ORDERS.**—The Honorable J. Hodgson, with leave of the Council, moved, without notice, That the following Message be sent to the Legislative Assembly:—

A difficulty having arisen from the absence of Joint Standing Orders, regulating the manner in which amendments, which have been proposed by the Governor and adopted by the two Houses of Legislature, should be incorporated in the original Act, the Members of the Legislative Council invite the Members of the Legislative Assembly to appoint an early day on which the respective Committees on Standing Orders of the two Houses may confer on the subject of Joint Standing Orders; and for this purpose the Members of the Legislative Council herewith send a copy of Joint Standing Orders to which they have agreed in Committee, and to which they invite the concurrence of the other House, upon the same being approved by the Committees of Standing Orders of the two Houses.

Question—put and passed.

Ordered, That the Chairman of Committees, with another Member, be the bearers of the message to the Legislative Assembly.

**EXIGENCIES OF THE COUNCIL.**—The Honorable J. B. Bennett, in accordance with notice, moved, That an Address be presented to His Excellency the Governor, embodying the Report of the Select Committee on the Exigencies of the Council.

Debate ensued.

Question—put.

Council divided.

Contents, 13.  
The Hon. W. H. F. Mitchell  
T. McCombie  
C. Vaughan  
R. Thomson  
J. B. Bennett  
S. G. Henty  
W. Highett  
B. Williams  
T. H. Power  
N. Guthridge  
Dr. Tierney  
G. Urquhart  
J. H. Patterson (*Teller*).

Not Contents, 10.  
The Hon. J. P. Fawkner  
J. Henty  
J. Stewart  
D. P. Keogh  
W. Roope  
J. F. Strachan  
J. Cowie  
Dr. Hope  
D. Kennedy  
W. J. T. Clarke (*Teller*).

The question was therefore passed.

The Honorable J. B. Bennett, with leave of the Council, moved, without notice, That the Honorables S. G. Henty, W. H. F. Mitchell, T. McCombie, H. Miller, G. Urquhart, J. H. Patterson, and the Mover, be appointed a Select Committee to prepare the Address.

Question—put and passed.

The Council having adjourned during pleasure, the Select Committee prepared the Address. The President having resumed the Chair, the Honorable J. B. Bennett brought up the Address prepared by the Select Committee, and moved that it be adopted.



The Address was read at the Table by the Clerk.

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—

On the 29th January, 1857, the Members of the Legislative Council presented to you an Address, praying that Your Excellency would cause a Bill to be introduced into the Legislative Assembly for the purpose of amending and enlarging Schedule D. attached to the Act of the Constitution, so that it may embrace the Annual Expenditure of the Council.

The Members of the Legislative Council have now the honor to forward for Your Excellency's information a further Report on the same subject, which was unanimously adopted by this Council, and which they pray Your Excellency will give effect to in such manner as shall seem to Your Excellency most expedient.

Question—That the Address be adopted—put and passed.

PETITION.—The Honorable R. Thomson presented a Petition from certain inhabitants and resident landowners of Gipps Land, setting forth that the present is a proper season for making certain improvements in a road, and moved that it be received.

The President having pointed out an informality in the prayer of the petition, the same was by leave withdrawn.

PAPERS.—The Honorable W. H. F. Mitchell laid upon the Table certain Returns relative to Chinese Passengers and Gold shipped by Chinese, entered out and shipped from the Port of Melbourne, and moved that the same be printed.

Question—put and passed.

ALIENS BILL.—The Honorable J. Stewart 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 progress, and asked leave to sit again on Thursday, the 9th instant.

Ordered.

QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—CONSIDERATION OF MESSAGE FROM LEGISLATIVE ASSEMBLY.—The Order of the Day for the consideration of this Message was postponed by the Council until Thursday, 9th instant.

CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—The Order of the Day for the third reading of this Bill being read, the Honorable W. H. F. Mitchell moved, That the same be discharged, and that the Bill be now further considered in 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 an amendment.

The Honorable W. H. F. Mitchell moved, That the Bill, as amended, be printed, and that the adoption of the Report of the Committee be made an Order of the Day for Tuesday, the 14th instant.

Ordered.

INTERPRETATION OF ACTS BILL.—The Order of the Day for the recommittal 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 further amendments.

The Honorable J. B. Bennett moved, That the Bill, as amended, be printed, and that the adoption of the Report of the Committee be made an Order of the Day for Tuesday, the 14th instant.

Ordered.

TITLES TO LAND BILL.—The Honorable T. McCombie moved, That this Bill be now read a third time.

Debate ensued.

The Honorable J. H. Patterson moved, That all the words after the word "That" be omitted, with a view to add the words "the House do now put itself into Committee to re-consider the sixteenth clause."

Debate ensued.

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 House do now put itself into Committee to re-consider the sixteenth clause—put and passed.

The President left the Chair.

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

The Honorable T. McCombie moved, That the Bill, as amended, be printed, and that the adoption of the Report of the Committee be made an Order of the Day for Thursday, the 9th instant.

Ordered.

STANDING ORDERS.—The Order of the Day for the further consideration of Standing Orders 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, 8th instant.

Ordered.

POSTPONEMENTS.—The Honorable W. H. F. Mitchell moved, that the following Orders of the day be severally postponed until Wednesday, the 8th instant:—

“*Expiring Laws Continuation Bill*” to be further considered in Committee.

“*Sale and Keeping of Poisons Bill*” to be read a second time.

“*Gunpowder Bill*” to be read a third time.

“*Emigration Bill*” to be read a third time.

“*Geelong Building Act Bill*” to be further considered in Committee.

Question—put and passed.

The Council adjourned at ten minutes to seven o'clock until three o'clock on Wednesday, the 8th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 8TH JULY.

1. The Hon. T. McCOMBIE: To ask the Honorable the Postmaster General if it be the intention of the Government to make any alteration in the Distillation Laws of the Colony during the present session.

ORDERS OF THE DAY:—

*Government Business.*

1. EXPIRING LAWS CONTINUATION BILL.—To be further considered in Committee.
2. GUNPOWDER BILL.—To be read a third time.
3. EMIGRATION BILL.—To be read a third time.

NOTICES OF MOTION:—

*General Business.*

1. The Hon. N. GUTHRIDGE: To move for leave to bring in a Bill to provide for the flagging of footways in the City of Melbourne, and other places in the Colony of Victoria.
2. The Hon. J. HENTY: To move, That there be laid upon the Table of this House a 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; also, a 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.

ORDERS OF THE DAY:—

1. STANDING ORDERS.—To be further considered in Committee.
2. SALE AND KEEPING OF POISONS BILL.—To be read a second time.
3. GEELONG BUILDING ACT BILL.—To be further considered in Committee.

THURSDAY, 9TH JULY.

ORDERS OF THE DAY:—

1. ALIENS BILL.—To be further considered in Committee.
2. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—Consideration of Message from Legislative Assembly.
3. TITLES TO LAND BILL.—Adoption of Report of Committee.

TUESDAY, 14TH JULY.

1. The Hon. W. HIGHETT: To ask the Honorable the Postmaster General whether the Crown Solicitor has the sanction of the Government for charging a fee to individuals upon perusing documents officially referred to him by the Crown, and if so, whether that fee is retained by himself or paid over to the General Revenue of the Colony.

## NOTICE OF MOTION:—

1. The Hon. J. P. FAWKNER: To move, That it be referred to the Decoration Committee to report:—
  - (1.) As to the expediency of replacing the present Dais by a Canopy of crimson velvet emblazoned with the Royal Arms, and of certain other alterations.
  - (2.) As to the propriety of some further measures being taken for the accommodation of the public on the approaching prorogation of Parliament.

## ORDERS OF THE DAY:—

2. CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—Adoption of Report of Committee.
3. INTERPRETATION OF ACTS BILL.—Adoption of Report of Committee.

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WEDNESDAY, 15TH JULY.

1. The Hon. R. THOMSON: To ask the Honorable the Postmaster General if it is the intention of the Government to appoint a General Sessions and County Court to be held at Sale, and if so, the date on which the Court will be opened.

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MEETING  
OF  
**SELECT COMMITTEE.**

*Tuesday, 14th July.*

CHINESE IMMIGRATION—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, 8<sup>TH</sup> JULY, 1857.

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

The President read the Prayer.

**EXPIRING LAWS CONTINUATION 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 W. H. F. Mitchell moved, That the Report of the Committee 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 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 for the continuation of Expiring Laws.*"

Question—put and passed.

Ordered—That the Chairman of Committees, with another Member, do take a Message to the Legislative Assembly, to acquaint them that the Council have agreed to the Bill without any amendment.

**GUNPOWDER BILL.**—The Order of the Day for the third reading of this Bill being read, the Honorable J. F. Strachan moved, That the Bill be read a third time this day fortnight.

Debate ensued.

Question—put and passed.

**EMIGRATION BILL.**—The Order of the Day for the third reading of this Bill being read, the Bill, on motion of the Honorable W. F. H. Mitchell, read a third time and *passed*.

The Honorable W. H. F. Mitchell moved, That the title of the Bill be "*An Act to make provision for Emigration from the United Kingdom.*"

Question—put and passed.

Ordered—That the Chairman of Committees, with another Member, do take a Message to the Legislative Assembly, to acquaint them that the Council have agreed to the same with amendments.

**FLAGGING OF FOOTWAYS.**—The Honorable N. Guthridge, in accordance with notice, moved, That leave be given to bring in a Bill to provide for the flagging of footways in the City of Melbourne, and other places in the Colony of Victoria.

Question—put and passed.

Bill read a first time, and ordered to be printed.

The Honorable N. Guthridge moved, That the second reading of the Bill be made an Order of the Day for this day week.

Amendment moved by the Honorable J. P. Fawcner, That the word "week" be omitted, with the view to insert the word "fortnight" 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 second reading of the Bill be made an Order of the Day for this day fortnight—put and passed.

**CHINESE PASSENGERS, AND GOLD EXPORTED BY CHINESE.**—The Honorable J. Henty, by leave of the Council, in accordance with *amended* notice, moved, That the 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; also, a 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, ordered by the Council on the 7th instant to be printed, be referred to the Select Committee sitting on the subject of Chinese Immigration.

Question—put and passed.

**STANDING ORDERS.**—The Order of the Day for the further consideration of Standing Orders 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 that the Committee had gone through the Draft Standing Orders, and had agreed to the same with amendments.

The Honorable T. McCombie moved, That the Report of the Committee be printed, and that its adoption be made an Order of the Day for Wednesday, 15th instant.

Ordered.

**SALE AND KEEPING OF POISONS BILL.**—The Order of the Day for the second reading of this Bill being read, the Honorable Dr. Tierney 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.

**GEELONG BUILDING ACT 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 notice had been taken that a quorum of members was not present.

The President counted the House, and a quorum being present, the President left the Chair.

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

Ordered.

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

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 9TH JULY.

ORDERS OF THE DAY :—

1. **ALIENS BILL.**—To be further considered in Committee.
2. **QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.**—Consideration of Message from Legislative Assembly.
3. **TITLES TO LAND BILL.**—Adoption of Report of Committee.
4. **SALE AND KEEPING OF POISONS BILL.**—To be further considered in Committee.
5. **GEELONG BUILDING ACT BILL.**—To be further considered in Committee.

TUESDAY, 14TH JULY.

1. The Hon. W. HIGHETT: To ask the Honorable the Postmaster General whether the Crown Solicitor has the sanction of the Government for charging a fee to individuals upon perusing documents officially referred to him by the Crown, and if so, whether that fee is retained by himself or paid over to the General Revenue of the Colony.
2. The Hon. H. MILLER: To ask the Honorable the Postmaster General if it be the intention of the Government to issue a Proclamation, making the coin of the Sydney Mint a legal tender within this Colony; and if not, the reasons for excluding such coin from the Victorian currency.

NOTICE OF MOTION :—

1. The Hon. J. P. FAWKNER: To move, That it be referred to the Decoration Committee to report :—
  - (1.) As to the expediency of replacing the present Dais by a Canopy of crimson velvet emblazoned with the Royal Arms, and of certain other alterations.
  - (2.) As to the propriety of some further measures being taken for the accommodation of the public on the approaching prorogation of Parliament.

ORDERS OF THE DAY :—

1. **CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.**—Adoption of Report of Committee.
2. **INTERPRETATION OF ACTS BILL.**—Adoption of Report of Committee.

WEDNESDAY, 15TH JULY.

1. The Hon. R. THOMSON: To ask the Honorable the Postmaster General if it is the intention of the Government to appoint a General Sessions and County Court to be held at Sale, and if so, the date on which the Court will be opened.

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ORDER OF THE DAY:—

1. STANDING ORDERS.—Adoption of Report of Committee.

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WEDNESDAY, 22ND JULY.

ORDERS OF THE DAY:—

1. GUNPOWDER BILL.—To be read a third time.
2. FLAGGING OF FOOTWAYS BILL.—To be read a second time.

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MEETINGS  
OF  
SELECT COMMITTEES.

*Tuesday, 14th July.*

PENAL ESTABLISHMENTS—at 10 o'clock.

CHINESE IMMIGRATION—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, 9TH JULY, 1857.

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

The President read the Prayer.

**ALIENS 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.

The Honorable J. Stewart moved, That the Report of the Committee be printed, and its adoption be made an Order of the Day for Tuesday next.

Ordered.

**POSTPONEMENT.**—The Order of the Day for the consideration of a Message from the Legislative Assembly, with amendments made by the Governor to the "*Qualification of Members of Assembly Bill*," was postponed until Thursday, 16th instant.

**TITLES TO LAND 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 T. McCombie moved, That the Report be adopted.

Question—put and passed.

The Honorable T. McCombie moved, That this Bill be now read a third time.

Debate ensued.

Question—put and passed.

Bill, on the motion of the Honorable T. McCombie, read a third time and *passed*.

The Honorable T. McCombie moved, That the title of the Bill be "*An Act for appointing and empowering Commissioners to examine and report upon Claims to Land in the Colony of Victoria, and to entitle His Excellency the Governor to appoint the Commissioners, and to issue Certificates for the Land favorably reported upon.*"

Question—put and passed.

Ordered—That the Chairman of Committees, with another Member, do carry the Bill to the Legislative Assembly, with a Message desiring their concurrence thereto.

**SALE AND KEEPING OF POISONS BILL.**—The Order of the Day for the further consideration of this Bill in Committee being read, the President left the Chair.

**ROYAL ASSENT TO BILLS.**—The approach of His Excellency the Governor being announced by the Usher, the President took the Chair.

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.

Mr. Speaker and the Legislative Assembly attending, His Excellency was pleased to assent, in the name of Her Majesty the Queen, to the following Bills:—

"*An Act to amend the law relating to Bills of Lading.*"

"*An Act to amend the law relating to Drafts or Checks on Bankers.*"

"*An Act for granting a Duty of Customs on Opium.*"

"*An Act to consolidate and amend the Law of Evidence.*"

"*An Act to reduce the Fee payable on certain Licenses.*"

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.

"Parliament Houses,  
"Melbourne, 9th July, 1857."

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.

**SALE AND KEEPING OF POISONS BILL.**—The Honorable Dr. Tierney moved, That the House resolve itself again into Committee of the whole Council on the Sale and Keeping of Poisons Bill.

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 Dr. Tierney moved, That the Report of the Committee be printed, and that its adoption be made an Order of the Day for Tuesday next.

Ordered.

**LEAVE OF ABSENCE TO A MEMBER.**—The President informed the Council that the Honorable W. J. T. Clarke had made application for leave to be absent from the deliberations of the Council for a period of two or three weeks.

Ordered—That leave be given.

**GEELONG BUILDING ACT 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 ten minutes past six o'clock until three o'clock on Tuesday, the 14th instant.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 14TH JULY.

1. The Hon. W. HIGHETT: To ask the Honorable the Postmaster General whether the Crown Solicitor has the sanction of the Government for charging a fee to individuals upon perusing documents officially referred to him by the Crown, and if so, whether that fee is retained by himself or paid over to the General Revenue of the Colony.
2. The Hon. H. MILLER: To ask the Honorable the Postmaster General if it be the intention of the Government to issue a Proclamation, making the coin of the Sydney Mint a legal tender within this Colony; and if not, the reasons for excluding such coin from the Victorian currency.

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### NOTICE OF MOTION:—

1. The Hon. J. P. FAWKNER: To move, That it be referred to the Decoration Committee to report:—
  - (1.) As to the expediency of replacing the present Dais by a Canopy of crimson velvet emblazoned with the Royal Arms, and of certain other alterations.
  - (2.) As to the propriety of some further measures being taken for the accommodation of the public on the approaching prorogation of Parliament.

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### ORDERS OF THE DAY:—

1. CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—Adoption of Report of Committee.
2. INTERPRETATION OF ACTS BILL.—Adoption of Report of Committee.
3. ALIENS BILL.—Adoption of Report of Committee.
4. SALE AND KEEPING OF POISONS BILL.—Adoption of Report of Committee.
5. GEELONG BUILDING ACT BILL.—To be further considered in Committee.

WEDNESDAY, 15TH JULY.

1. The Hon. R. THOMSON: To ask the Honorable the Postmaster General if it is the intention of the Government to appoint a General Sessions and County Court to be held at Sale, and if so, the date on which the Court will be opened.
2. The Hon. R. THOMSON: To ask the Honorable the Postmaster General if it is the intention of Government immediately to appoint a Warden, or a Police Magistrate, and a Police Force for the Omeo Diggings, and if a sum has been put on the Estimates to erect the requisite buildings for them. Also, if it is intended to run a Post from Sale to the Mitchell, and thence to Omeo.

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### ORDER OF THE DAY:—

1. STANDING ORDERS.—Adoption of Report of Committee.

THURSDAY, 16TH JULY.

### ORDER OF THE DAY:—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—Consideration of Message from Legislative Assembly.



WEDNESDAY, 22ND JULY.

## ORDERS OF THE DAY :—

1. GUNPOWDER BILL.—To be read a third time.
  2. FLAGGING OF FOOTWAYS BILL.—To be read a second time.
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MEETINGS  
OF  
SELECT COMMITTEES.

*Tuesday, 14th July.*

PENAL ESTABLISHMENTS—at 10 o'clock.

DECORATION OF COUNCIL CHAMBER—at 10 o'clock.

CHINESE IMMIGRATION—at 11 o'clock.

*Wednesday, 15th July.*

GRANTS TO CORPORATIONS—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, 14<sup>TH</sup> JULY, 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, by command of His Excellency the Governor, presented to the Council the following Papers:—

1. Penal Department—Report of Inspector General.
2. Regulations for the Chinese on the Gold Fields (6th July, 1857).
3. Local Court Regulation, District of Yackandandah (3rd July, 1857).
4. Local Court Regulation, District of Castlemaine (3rd July, 1857).
5. Local Court Regulations, District of Avoca (19th June, 1857).

Ordered to lie on the Table.

PETITION.—The Honorable W. H. F. Mitchell presented a Petition, signed by the Chairman of the Local Court at Castlemaine, praying that measures may be taken to arrest the further Immigration of Chinese into the Colony.

Ordered to lie on the Table.

CLAIMANTS AGAINST GOVERNMENT RELIEF 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 W. H. F. Mitchell moved, That the Report be adopted.

Question—put and passed.

The Bill, on 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 for the Enforcement of Claims against the Crown.*"

Question—put and passed.

Ordered—That the Chairman of Committees, with another Member, do carry the Bill to the Legislative Assembly, with a Message to acquaint them that the Legislative Council have agreed to the Bill with an amendment, and to request their concurrence thereto.

INTERPRETATION OF ACTS 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 W. H. F. Mitchell moved, That the Report be adopted.

Question—put and passed.

The Bill, on 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 for the Interpretation of Legislative Enactments and for shortening the Language used therein.*"

Question—put and passed.

Ordered—That the Chairman of Committees, with another Member, do carry the Bill to the Legislative Assembly, with a Message to acquaint them that the Legislative Council have agreed to the Bill with amendments, and to request their concurrence thereto.

ALIENS 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. Stewart moved, That the Report be adopted.

Question—put and passed.

The Bill, on motion of the Honorable W. H. F. Mitchell, read a third time and *passed*.

The Honorable J. Stewart moved, That the title of the Bill be "*An Act to amend the Laws relating to Aliens in the Colony of Victoria.*"

Question—put and passed.

Ordered—That the Chairman of Committees, with another Member, do carry the Bill to the Legislative Assembly, with a Message requesting their concurrence thereto.

**SALE AND KEEPING OF POISONS 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 Dr. Tierney moved, That the Report be adopted.

Question—put and passed.

The Bill, on motion of the Honorable Dr. Tierney, read a third time and *passed*.

The Honorable Dr. Tierney moved, That the title of the Bill be, "*An Act to regulate the Safe keeping and Sale of Arsenic and other Poisons, and their Administration.*"

Question—put and passed.

Ordered—That the Chairman of Committees, with another Member, do carry the Bill to the Legislative Assembly, with a Message requesting their concurrence thereto.

**GEE LONG BUILDING ACT BILL.**—The Order of the Day for the further consideration of this Bill in Committee being read, the President left the Chair.

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

MR. PRESIDENT,

The Legislative Assembly invite the Legislative Council to appoint a Committee to co-operate with the Parliament Houses Committee of this House for the purpose of considering the various questions referred to that Committee.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 14th July, 1857.

The Messengers withdrew.

The Honorable W. H. F. Mitchell moved, That the consideration of the Message be made an Order of the Day for Wednesday, the 15th instant.

Ordered.

**GEE LONG BUILDING ACT BILL.**—The Honorable J. Cowie moved, That the House resolve itself again into Committee of the whole Council, on the Geelong Building Act Bill.

Question—put and passed.

The President left the Chair.

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

Ordered.

The Council adjourned at five minutes to five o'clock, until three o'clock on Wednesday, the 15th instant.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 15TH JULY.

1. The Hon. R. THOMSON: To ask the Honorable the Postmaster General if it is the intention of the Government to appoint a General Sessions and County Court to be held at Sale, and if so, the date on which the Court will be opened.
2. The Hon. R. THOMSON: To ask the Honorable the Postmaster General if it is the intention of Government immediately to appoint a Warden, or a Police Magistrate, and a Police Force for the Omeo Diggings, and if a sum has been put on the Estimates to erect the requisite buildings for them. Also, if it is intended to run a Post from Sale to the Mitchell, and thence to Omeo.
3. The Hon. H. MILLER: To ask the Honorable the Postmaster General if it be the intention of the Government to issue a Proclamation, making the coin of the Sydney Mint a legal tender within this Colony; and if not, the reasons for excluding such coin from the Victorian currency.

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### NOTICES OF MOTION:—

1. The Hon. W. H. F. MITCHELL: To move, That the Petition presented by him on the 14th instant, from the Chairman of the Castlemaine Local Court, be printed, and referred to the Select Committee sitting on the subject of Chinese Immigration.
2. The Hon. J. P. FAWKNER: To move, That it be referred to the Decoration Committee to report:—
  - (1.) As to the expediency of replacing the present Dais by a Canopy of crimson velvet emblazoned with the Royal Arms, and of certain other alterations.
  - (2.) As to the propriety of some further measures being taken for the accommodation of the public on the approaching prorogation of Parliament.

### ORDERS OF THE DAY:—

1. **STANDING ORDERS.**—Adoption of Report of Committee.
2. **CONSIDERATION OF MESSAGE OF LEGISLATIVE ASSEMBLY.**—Parliament Houses Committee.
3. **GEE LONG BUILDING ACT BILL.**—To be further considered in Committee.

THURSDAY, 16TH JULY.

ORDER OF THE DAY:—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—Consideration of Message from Legislative Assembly.

WEDNESDAY, 22ND JULY.

ORDERS OF THE DAY:—

1. GUNPOWDER BILL.—To be read a third time.
2. FLAGGING OF FOOTWAYS BILL.—To be read a second time.

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MEETINGS  
OF  
**SELECT COMMITTEES.**

*Wednesday, 15th July.*

PENAL ESTABLISHMENTS—at 10 o'clock.  
GRANTS TO CORPORATIONS—at 11 o'clock.  
STANDING ORDERS—at 2 o'clock.

*Tuesday, 21st July.*

CHINESE IMMIGRATION—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, 15TH JULY, 1857.

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

The President read the Prayer.

**ARREST OF CHINESE IMMIGRATION.**—The Honorable W. H. F. Mitchell, in accordance with notice, moved, That the petition presented by him on the 14th instant from the Chairman of the Castlemaine Local Court, be printed, and referred to the Select Committee sitting on the subject of Chinese Immigration.

Question—put and passed.

**DAIS IN THE COUNCIL CHAMBER.**—The Honorable J. P. Fawcner, in accordance with notice, moved, That it be referred to the Decoration Committee to report:—

- (1.) As to the expediency of replacing the present Dais by a Canopy of crimson velvet emblazoned with the Royal Arms, and of certain other alterations.
- (2.) As to the propriety of some further measures being taken for the accommodation of the public on the approaching prorogation of Parliament.

Debate ensued.

Motion, by leave, withdrawn.

**POSTPONEMENT.**—The Order of the Day for the adoption of the Report of the Committee of the whole Council on Standing Orders was postponed until Tuesday, the 21st instant.

**CONSIDERATION OF MESSAGE OF THE ASSEMBLY—PARLIAMENT HOUSES COMMITTEE.**—The Order of the Day for the consideration of the Message from the Legislative Assembly, inviting the Council to appoint a Committee to co-operate with the Parliament Houses Committee, being read, the Honorable W. H. F. Mitchell moved, That the Select Committee of this Council sitting on the Decoration of the Council Chamber be empowered to confer with the Parliament Houses Committee of the Legislative Assembly.

Question—put and passed.

**GEELONG BUILDING ACT 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 immediately.

Ordered.

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 adoption of the Report of the Committee be made an Order of the Day for Wednesday next.

Ordered.

**DECORATION OF COUNCIL CHAMBER.**—The Honorable W. H. F. Mitchell moved, That the Chairman of Committees, with another Member, do carry a Message to the Legislative Assembly to acquaint them that the Select Committee of the Council sitting on the Decoration of the Council Chamber has been empowered to confer with the Parliament Houses Committee of the Legislative Assembly on the various questions referred to that Committee.

Question—put and passed.

**ADJOURNMENT.**—The Honorable W. H. F. Mitchell moved, That the House at its rising adjourn till Wednesday, 22nd instant.

Question—put and passed.

**SELECT COMMITTEES.**—The Honorable J. P. Fawcner moved, That all Select Committees of the Council have power to sit during the adjournment.

Ordered.

**POSTPONEMENTS.**—The various Notices of Motion and Orders of the Day set down on the Paper for the 16th and 21st instant were ordered to be postponed till the 22nd instant.

The Council adjourned at half-past four o'clock until three o'clock on Wednesday, 22nd instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 22ND JULY.

1. The Hon. T. McCOMBIE : To ask the Honorable W. H. F. Mitchell if he is aware if any steps have been taken by the Imperial Government to make the Sydney sovereign a legal tender in Great Britain.

## NOTICE OF MOTION :—

1. The Hon. J. P. FAWKNER : To move, For a Return showing the date of appointment and place of service of all the paid magistrates of the territory, with a list of their attendances for the six months ending 30th June, 1857 ; also, a Return of the unpaid magistracy, an alphabetical list with date of each appointment, a list of the services they have performed during the last six months, and also the names or titles of the courts at which they have so adjudicated.

## ORDERS OF THE DAY :—

*Government Business.*

1. GUNPOWDER BILL.—To be read a third time.

*General Business.*

1. FLAGGING OF FOOTWAYS BILL.—To be read a second time.
2. STANDING ORDERS.—Adoption of Report of Committee.
3. GEELONG BUILDING ACT BILL.—Adoption of Report of Committee.
4. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—Consideration of Message from Legislative Assembly.

## MEETINGS

OF

## SELECT COMMITTEES.

*Thursday, 16th July.*

STANDING ORDERS—at 2 o'clock.

*Tuesday, 21st July.*

CHINESE IMMIGRATION—at 11 o'clock.

*Wednesday, 22nd July.*

PENAL ESTABLISHMENTS—at 10 o'clock.

GRANTS TO CORPORATIONS—at 11 o'clock.

G. W. RUSDEN,

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

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

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WEDNESDAY, 22<sup>ND</sup> JULY, 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, by command of His Excellency the Governor, presented to the Council the following Papers:—

1. Local Court Regulations, District of Mount Blackwood (17th July, 1857).
2. University of Melbourne, Report of Proceedings (1st May, 1856, to 30th April, 1857).

Ordered to lie on the Table.

PETITION.—The Honorable N. Guthridge presented a Petition from persons styling themselves a majority of the Directors of the Melbourne and Hobson's Bay Railway Company, praying that any Standing Orders of this Honorable House which may exist in relation to the passing of Private Bills may be suspended or dispensed with, in order that a Bill, applied for by the said Company, may be passed without being referred to any Standing Orders Committee.

Petition received.

STANDING ORDERS—THIRD PROGRESS REPORT.—The Honorable T. McCombie brought up a Third Progress Report from the Standing Orders Committee, and moved, with leave of the Council, that the same be printed, and taken into consideration with the second Order of the Day on the Notice Paper for this day.

Ordered.

RETURN OF MAGISTRATES, PAID AND UNPAID.—The Honorable J. P. Fawcner, 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, showing the date of appointment and place of service of all the paid magistrates of the territory, with a list of their attendances for the six months ending 30th June, 1857. Also, a Return of the unpaid magistracy, an alphabetical list with date of each appointment, a list of the services they have performed during the last six months, and also the names or titles of the courts at which they have so adjudicated.

Debate ensued.

Question—put and passed.

GUNPOWDER BILL.—The Order of the Day for the third reading of this Bill being read, the Honorable J. F. Strachan moved, That the Order of the Day for the third reading of the Bill be postponed until this day fortnight.

Ordered.

FLAGGING OF FOOTWAYS BILL.—The Honorable N. Guthridge moved, That this Bill be now read a second time.

Debate ensued.

Motion, by leave, withdrawn, and the second reading of the Bill, on motion of the Honorable N. Guthridge, made an Order of the Day for Wednesday, 29th instant.

STANDING ORDERS.—The Order of the Day for the adoption of the Report of the Committee of the whole Council on Standing Orders being read, the Honorable T. McCombie moved, That the Report be further considered in Committee of the whole Council, with the Third Progress Report of the Standing Orders Committee ordered to be printed this day.

Question—put and passed.

The President left the chair.

The Chairman of Committees reported, That the Committee had gone through the Joint Standing Orders for both Houses, and had agreed to the same as amended by the Standing Orders Committee in conference with the Standing Orders Committee of the Legislative Assembly, and embodied in the Third Progress Report of the Standing Orders Committee brought up this day.

The Honorable T. McCombie moved, That the Report of the Committee be printed, and its adoption made an Order of the Day for Tuesday next. -  
Ordered.

GEELONG BUILDING ACT 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. Cowie moved, That the Report be 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. Cowie, read a third time and *passed*.

The Honorable J. Cowie moved, That the title of the Bill be "*An Act for regulating the Construction of Buildings and Party Walls, and for the Prevention of mischiefs by Fire in the Town of Geelong.*"

Question—put and passed.

Ordered that the Chairman of Committees, with another Member, do carry the Bill to the Legislative Assembly, with a Message desiring their concurrence thereto.

QUALIFICATION OF MEMBERS OF ASSEMBLY BILL—MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—The Honorable J. Hodgson moved, That the Order of the Day for the consideration of this Message be postponed until this day week.

Amendment moved by the Honorable J. P. Fawcner, That the word "week" be omitted, with a view to insert the words "six months" in lieu thereof.

Debate ensued.

Question—that the word proposed to be omitted stand part of the question—put.

Council divided.

Contents, 12.

The Hon. W. H. F. Mitchell

G. Urquhart

C. Vaughan

J. Stewart

D. Kennedy

Dr. Hope

J. Cowie

J. Hood

T. McCombie

Dr. Tierney

N. Guthridge

J. Hodgson (*Teller*)

The question was therefore passed

Question—That the Order of the Day be postponed until this day week—put and passed.

CLASSIFICATION OF CLERKS.—The Honorable J. H. Patterson, as Chairman of the Select Committee, appointed on the 29th April, to prepare an Address to His Excellency the Governor, in the terms contemplated by the Report of the Select Committee on the Classification of Clerks, brought up the Address, and moved that the same be printed and taken into consideration this day week.

The Address was read at the Table by the Clerk.

Question—put and passed.

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.—Messages from the Legislative Assembly were brought by Mr. Aspinall and another Member in the following words:—

MR. PRESIDENT,

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, "*A Bill to consolidate and amend the Laws relating to the Customs;*"

Also, a Bill, intituled, "*A Bill to ratify an Exchange of Land between Her Majesty and the Corporation of the City of Melbourne, and for other purposes;*"

Also, a Bill, intituled, "*A Bill to reduce the Fees on Registering Friendly Societies;*"

to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 22nd July, 1857.

MR. PRESIDENT,

The Legislative Assembly return to the Legislative Council the Bill, intituled, "*An Act for the enforcement of Claims against the Crown,*" and inform the Legislative Council that the Legislative Assembly has disagreed to the amendment proposed by the Legislative Council; but have amended the same, as hereunder set forth.

Amendment in the Bill, intituled, "*An Act for the enforcement of Claims against the Crown:*"—

Clause VIII., line 4, omit all the words in the clause after the word Government.

FRANS. MURPHY,  
Speaker.

The Messengers withdrew.



On the motion of the Honorable J. F. Strachan, the Bill intituled "*An Act to consolidate and amend the Laws relating to Customs*" read a first time, ordered to be printed, and read a second time this day week

On the motion of the Honorable J. Hodgson, the Bill, intituled "*An Act to ratify an Exchange of Land between Her Majesty and the Corporation of the City of Melbourne*;" and the Bill, intituled, "*A Bill to reduce the Fees on Registering Friendly Societies*," severally read a first time, ordered to be printed, and read a second time this day week.

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

MR. PRESIDENT,

The Legislative Assembly transmit to the Legislative Council a Bill, intituled, "*An Act to enable the Melbourne and Hobson's Bay Railway Company to raise additional Capital and to extend the provisions of the Acts relating to the Company, and for conferring on the Company additional powers in relation to the undertaking, and for other purposes*," to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 22nd July, 1857.

The Messengers withdrew.

The Honorable W. H. F. Mitchell moved, That the consideration of the Message relating to the Bill, intituled, "*An Act for the enforcement of Claims against the Crown*," be made an Order of the Day for Wednesday, 29th instant.

Ordered.

The Honorable N. Guthridge moved, That the consideration of the Message relating to the Bill, intituled, "*An Act to enable the Melbourne and Hobson's Bay Railway Company to raise additional capital and to extend the provisions of the Acts relating to the Company, and for conferring on the Company additional powers in relation to the undertaking, and for other purposes*," be made an Order of the Day for Wednesday, the 29th instant.

Ordered.

ADJOURNMENT.—The Honorable W. H. F. Mitchell, with leave of the Council, moved, That the House at its rising this day, adjourn until Wednesday, the 29th instant.

Question—put and passed.

SELECT COMMITTEES.—The Honorable J. P. Fawcner moved, That all Select Committees of the Council have power to sit during the adjournment.

Ordered.

POSTPONEMENTS.—The Orders of the Day set down for Tuesday next were ordered to be postponed until Wednesday, the 29th instant.

The Council adjourned at half-past five o'clock until three o'clock on Wednesday, 29th instant.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 29TH JULY.

ORDERS OF THE DAY:—

*Government Business.*

1. CUSTOMS LAWS CONSOLIDATION BILL.—To be read a second time.
2. CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—Consideration of Message from Legislative Assembly.

NOTICES OF MOTION:—

*General Business.*

1. The Hon. T. McCOMBIE: To move, That an Address be presented to His Excellency the Governor, setting forth the financial evils likely to arise from the Proclamation of the 14th July, declaring the gold coin of the Sydney Mint a legal tender in Victoria, and praying His Excellency to impress upon the Imperial Government (through the Secretary of State for the Colonies) the absolute necessity of conceding to the coin of the Sydney Mint the same privileges as have been granted to the coin of the London Mint, thus making it a legal tender in Great Britain, and, as far as practicable, throughout the Empire; and, that until this is accomplished, that His Excellency will be graciously pleased to suspend the operation of the Proclamation above referred to.

*Contingent*—On the above being carried—That the above Address be framed by a Committee, to consist of the Honorables J. Hood, J. B. Bennett, J. Henty, J. Stewart, and the Mover.

2. The Hon. N. GUTHRIDGE: To move, That the Petition of the Directors of the Melbourne and Hobson's Bay Railway Company be taken into consideration, and the prayer thereof, for that all Standing Orders which stand in the way of the introduction of Private Bills be suspended in relation to this Bill, be granted.

ORDERS OF THE DAY:—

1. STANDING ORDERS.—Adoption of Report of Committee.
2. FLAGGING OF FOOTWAYS BILL.—To be read a second time.
3. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—Consideration of Message from Legislative Assembly.
4. CLASSIFICATION OF CLERKS.—Consideration of Address prepared by Select Committee.
5. MELBOURNE MARKETS BILL.—To be read a second time.
6. FRIENDLY SOCIETIES BILL.—To be read a second time.
7. MELBOURNE AND HOBSON'S BAY RAILWAY ACT AMENDMENT BILL.—Consideration of Message from Legislative Assembly.

WEDNESDAY, 5TH AUGUST.

1. GUNPOWDER BILL.—To be read a third time.

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MEETINGS  
OF  
SELECT COMMITTEES.

*Thursday, 23rd July.*

STANDING ORDERS—at half-past 10 o'clock.

*Tuesday, 28th July.*

GRANTS TO CORPORATIONS—at 11 o'clock.

*Wednesday, 29th July.*

PENAL ESTABLISHMENTS—at 10 o'clock.

*Thursday, 30th July.*

DECORATION OF COUNCIL CHAMBER—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, 29TH JULY, 1857.

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

The President read the Prayer.

**PENAL ESTABLISHMENTS.—REPORT OF SELECT COMMITTEE.**—The Honourable J. Hood, as Chairman of the Select Committee appointed to inquire into the working of the Penal Establishments of the Colony, with power to examine witnesses, and require the production of books and papers, brought up the Report of the Committee.

Ordered—That the Report lie on the Table.

**CUSTOMS LAWS CONSOLIDATION BILL.**—The Order of the Day for the second reading of this Bill being read, the Honourable 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 progress and asked leave to sit again to-morrow.

Ordered.

**POSTPONEMENT.**—The Order of the Day for the consideration of the Message from the Legislative Assembly with the "*Claimants against Government Relief Bill*," was postponed until after the Notice of Motion next upon the Paper.

**COIN OF THE SYDNEY MINT.**—The Honourable T. McCombie, in accordance with notice, moved, That an Address be presented to His Excellency the Governor, setting forth the financial evils likely to arise from the Proclamation of the 14th July, declaring the gold coin of the Sydney Mint a legal tender in Victoria, and praying His Excellency to impress upon the Imperial Government (through the Secretary of State for the Colonies) the absolute necessity of conceding to the coin of the Sydney Mint the same privileges as have been granted to the coin of the London Mint, thus making it a legal tender in Great Britain, and, as far as practicable, throughout the Empire; and that, until this is accomplished, His Excellency will be graciously pleased to suspend the operation of the Proclamation above referred to.

Amendment moved by the Honourable W. H. F. Mitchell, That all the words after the word "Empire" be omitted.

Debate ensued.

Further amendment moved by the Honourable J. P. Fawcner, That all the words after the word "That" be omitted, with a view to insert the words "a Select Committee be appointed to examine into the expediency of making the gold coin of the Sydney Mint a legal tender in Victoria, until it shall have been made a legal tender in Great Britain; and that the Honorable J. Hood, J. B. Bennett, T. McCombie, J. Henty, W. H. F. Mitchell, W. Highett, and the Mover, be members of the Committee."

Debate ensued.

With leave of the Council, the Honourable W. H. F. Mitchell withdrew the amendment moved by him.

With leave of the Council, the Honourable J. P. Fawcner amended the words of his amendment, so that it should stand as follows:—That a Select Committee be appointed to examine into the effect of the late Proclamation, making Sydney sovereigns a legal tender, and to report as to any steps which may be deemed expedient to nullify the injury likely to arise therefrom; the Committee to consist of the following Members, viz:—The Honorable J. Hood, J. B. Bennett, T. McCombie, J. Henty, W. H. F. Mitchell, W. Highett, and the Mover.

Debate ensued.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—The following Message was brought from the Legislative Assembly, and delivered to the Usher at the Bar :—

MR. PRESIDENT,

The Legislative Assembly transmit to the Legislative Council a Bill, intituled "*A Bill to enable the City of Melbourne Gas and Coke Company to raise the sum of One hundred and fifty thousand pounds by the issue of Thirty thousand shares of five pounds each in addition to their present capital of One hundred thousand pounds, and for other purposes;*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 29th July, 1857.

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.—The following Messages were brought from the Legislative Assembly by Mr. Aspinall and another Member :—

MR. PRESIDENT,

The Legislative Assembly transmit to the Legislative Council Joint Standing Rules and Orders for the Legislative Council and the Legislative Assembly, which were agreed to by a Joint Committee of both Houses, in which Legislative Assembly have agreed to the amendment hereunder written; and the Legislative Assembly desire the concurrence of the Legislative Council therein.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 29th July, 1857.

MR. PRESIDENT,

The Legislative Assembly transmit to the Legislative Council a Bill, intituled "*A Bill to enable the shareholders in a Joint Stock Insurance Company, carrying on business in the Colony of Victoria, under the name, style, or title, of 'The Colonial Insurance Company,' to sue and be sued in the name of the Managing Director for the time being of the said Company, and for other purposes,*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 29th July, 1857.

The Messengers withdrew.

The Bill, intituled, "*An Act to enable the City of Melbourne Gas and Coke Company to raise the sum of One hundred and fifty thousand pounds by the issue of Thirty thousand shares of five pounds each in addition to their present capital of One hundred thousand pounds, and for other purposes,*" on the motion of the Honorable H. Miller, read a first time.

Ordered—That it be printed, and that the second reading be made an Order of the Day for Tuesday next.

The Honorable J. Hodgson moved, That the Message from the Legislative Assembly with Joint Standing Orders be taken into consideration, with the Order of the Day for the adoption of the Report of the Committee on Standing Orders, this day.

Ordered.

The Bill, intituled "*An Act to enable the shareholders in a Joint Stock Insurance Company carrying on business in the Colony of Victoria under the name style or title of 'The Colonial Insurance Company' to sue and be sued in the name of the Chairman for the time being of the directors of the said Company, and for other purposes,*" on the motion of the Honorable C. Vaughan, read a first time.

Ordered—That it be printed, and that the second reading be made an Order of the Day for Tuesday next.

COIN OF THE SYDNEY MINT—Debate resumed.

The Honorable T. McCombie, with leave of the Council, adopted the amendment moved by the Honorable J. P. Fawkner.

Question—That a Select Committee be appointed to examine into the effect of the late Proclamation, making Sydney sovereigns a legal tender, and to report as to any steps which may be deemed expedient to nullify the injury likely to arise therefrom; the Committee to consist of the following Members, viz.:—The Honorables J. Hood, J. B. Bennett, J. P. Fawkner, J. Henty, W. H. F. Mitchell, W. Highett, and the Mover—put and passed.

The Honorable J. H. Patterson moved, That the Honorable H. Miller be a member of the Committee.

Debate ensued.

Question—put and passed.

**PETITION OF DIRECTORS OF MELBOURNE AND HOBSON'S BAY RAILWAY COMPANY.**—The Honorable N. Guthridge, in accordance with notice, moved, That the Petition of the Directors of the Melbourne and Hobson's Bay Railway Company be taken into consideration, and the prayer thereof—for that all Standing Orders which stand in the way of the introduction of Private Bills be suspended in relation to this Bill—be granted.

Debate ensued.

Motion, by leave, withdrawn.

**PAPERS.**—The Honorable W. H. F. Mitchell laid upon the Table a copy of Letters Patent abolishing the respective offices of Commissioner of Public Works, and Surveyor General or Commissioner of Crown Lands and Survey, and appropriating the sums payable to those officers to other purposes.

Ordered to lie on the Table.

**CLAIMANTS AGAINST GOVERNMENT RELIEF BILL.—CONSIDERATION OF MESSAGE FROM THE LEGISLATIVE ASSEMBLY.**—On motion of the Honorable W. H. F. Mitchell, the amendment made by the Legislative Assembly in this Bill was read three times, as follows, and agreed to :—

Clause VIII., line 4.—Omit all the words in the clause after the word Government—  
 “ Or unless a Petition of Right or *Monstrans de Droit* would lie in England if  
 “ the cause thereof arose in that country.”

Ordered—That a Message be carried to the Legislative Assembly to inform them, that the Legislative Council do not insist on the amendment made by the Legislative Council to the Bill, but have agreed to the amendment made by the Legislative Assembly.

**STANDING ORDERS, AND JOINT STANDING ORDERS FOR BOTH HOUSES.**—The Order of the Day for the adoption of the Report of the Committee of the whole Council being read, the Honorable J. Hodgson moved, That the Report, with the amendments made by the Legislative Assembly in the Joint Standing Orders, be considered in Committee of the whole Council.

Ordered.

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 severally postponed as follows :—

“ *Flagging of Footways Bill* ”—to be read a second time on 4th proximo.

“ *Qualification of Members of Assembly Bill* ”—Consideration of Message from Legislative Assembly, 5th proximo.

**CLASSIFICATION OF CLERKS.—CONSIDERATION OF ADDRESS PREPARED BY SELECT COMMITTEE.**—

The Honorable J. H. Patterson moved, That the Address to His Excellency the Governor, prepared by the Select Committee and ordered by the Council to be printed, on the 22nd instant, be adopted.

Question—put and passed.

**MELBOURNE MARKETS 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.

**FRIENDLY SOCIETIES 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, read a third time and *passed*.

The Honorable H. Miller moved, That the title of the Bill be, “ *An Act to reduce the Fees on Registering Friendly Societies.* ”

Question—put and passed.

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

MELBOURNE AND HOBSON'S BAY RAILWAY ACT AMENDMENT BILL.—CONSIDERATION OF MESSAGE FROM LEGISLATIVE ASSEMBLY.—The Honorable N. Guthridge moved, That the Bill accompanying the Message from the Legislative Assembly 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, 4th proximo.

The Council adjourned at six o'clock until three o'clock on Thursday, 30th instant.

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## NOTICE OF MOTION AND ORDERS OF THE DAY.

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THURSDAY, 30TH JULY.

NOTICE OF MOTION:—

1. The Hon. J. HOOD: To move, That the Report of the Select Committee on Penal Establishments, brought up by him on the 29th instant, be printed, and its consideration be made an Order of the Day for Wednesday, 5th proximo.

ORDERS OF THE DAY:—

1. CUSTOMS LAWS CONSOLIDATION BILL.—To be further considered in Committee.
2. STANDING ORDERS, AND JOINT STANDING ORDERS.—To be further considered in Committee.
3. MELBOURNE MARKETS BILL.—To be further considered in Committee.

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TUESDAY, 4TH AUGUST.

ORDERS OF THE DAY:—

1. MELBOURNE GAS AND COKE COMPANY'S BILL.—To be read a second time.
2. COLONIAL INSURANCE COMPANY'S BILL.—To be read a second time.
3. FLAGGING OF FOOTWAYS BILL.—To be read a second time.
4. MELBOURNE AND HOBSON'S BAY RAILWAY ACT AMENDMENT BILL.—To be read a second time.

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WEDNESDAY, 5TH AUGUST.

ORDERS OF THE DAY:—

1. GUNPOWDER BILL.—To be read a third time.
2. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—Consideration of Message from Legislative Assembly.

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## MEETINGS OF SELECT COMMITTEES.

*Thursday, 30th July.*

STANDING ORDERS—at half-past 10 o'clock.

DECORATION OF COUNCIL CHAMBER—at half-past 1 o'clock.

*Tuesday, 4th August.*

COIN OF THE SYDNEY MINT—at 1 o'clock.

*Wednesday, 5th August.*

GRANTS TO CORPORATIONS—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, 30<sup>TH</sup> JULY, 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, by command of His Excellency the Governor, presented to the Council the following Paper:—

Lighthouses at Cape Schanck and Wilson's Promontory—Report on.—(21st May, 1857.)

Ordered to lie on the Table.

PETITION.—The Honorable H. Miller presented a Petition from F. Cooper and five others, styling themselves Directors of the City of Melbourne Gas and Coke Company, praying for the suspension of any Standing Orders which may exist in relation to the passing of private Bills, in order that a Bill to enable the City of Melbourne Gas and Coke Company to raise the sum of One hundred and fifty thousand pounds by the issue of thirty thousand shares of Five pounds each, in addition to their present capital of One hundred thousand pounds, may be read a second time and passed without being referred to any Standing Orders Committee.

Petition received.

PENAL ESTABLISHMENTS.—REPORT OF SELECT COMMITTEE.—The Honorable J. Hood, in accordance with notice, moved, That the Report of the Select Committee on Penal Establishments, brought up by him on the 29th instant, be printed, and its consideration be made an Order of the Day for Wednesday, 5th proximo.

Question—put and passed.

CUSTOMS LAWS CONSOLIDATION 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.

STANDING ORDERS.—FOURTH PROGRESS REPORT.—The Honorable T. McCombie brought up a Fourth Progress Report from the Standing Orders Committee, and moved that the same be printed and taken into consideration with the next Order of the Day.

Ordered.

PETITION.—The Honorable C. Vaughan, with leave of the Council, presented a Petition from William Clarke and seven others, styling themselves a majority of the Directors of the Colonial Insurance Company, praying that any Standing Orders of this House which may exist in relation to Private Bills may be suspended, in order that a Bill to enable the Shareholders in a Joint Stock Insurance Company carrying on business in the Colony of Victoria, under the name, style, or title of the Colonial Insurance Company to sue and be sued in the name of the Chairman of the time being of the Directors of the said Company, and for other purposes, may be read a second time and passed without being referred to any Standing Orders Committee.

Petition received.

STANDING ORDERS, AND JOINT STANDING ORDERS.—The Order of the Day for the further consideration of the Standing Orders for the Council, and of Joint Standing Orders for both Houses of Parliament, 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 Standing Orders for the Council, and the Joint Standing Orders for both Houses of Parliament, and had agreed to the same as reported, with amendments.  
The Report, on motion of the Honorable T. McCombie, adopted as follows:—

## GENERAL CONDUCT OF BUSINESS.

I. That in all cases not hereinafter provided for, resort shall be had to the Rules, forms, usages, and practice of the Imperial Parliament of Great Britain and Ireland, which shall be followed so far as the same are applicable to the proceedings of this Council.

II. That the President shall take the Chair as soon after the time appointed for the Meeting of the Council as there shall be a quorum of members present; but if at the expiration of half an hour after the time appointed there be not a quorum, the President shall then take the Chair and adjourn the Council to the next sitting day.

III. That if at any time after the commencement of the business of the day, notice be taken that there be not a quorum of members present, the President shall forthwith count the House, and if there be not a quorum, shall, without question put, adjourn the Council to the next sitting day.

IV. Whenever the President shall by letter inform the Clerk of the Council that he is prevented attending in his place, or whenever the Clerk of the Council shall state that the President is unavoidably detained, the Chairman of Committees of the Council, if present, but if he shall be absent, then such other member as the Council may appoint, do perform the duties and exercise the authority of President in relation to all proceedings of this Council as Deputy President until the next meeting of the Council, and so on from day to day on the like information being given to the Council, until the Council shall otherwise order: provided that, if the Council shall adjourn for more than twenty-four hours, the Deputy President shall continue to perform the duties and exercise the authority of President for twenty-four hours only after such adjournment.

V. That no Order for a Call of the House shall be made for any day earlier than fourteen days from the date of such Order, inclusive of the day of such Order.

VI. That a copy of the Order for a Call of the House, signed by the Clerk, shall be forwarded to each member of the Council.

VII. That whenever a Division shall be demanded by two members, the members present shall take their seats, the "Contents" on the right, the "Not Contents" on the left of the Chair respectively, and the President, or the Chairman, when the House is in Committee, shall appoint Tellers, one of either party, and shall declare which has the majority from written lists of the members voting on each side, to be handed to him by the Tellers.

VIII. On every division a bell shall be rung by the Clerk of the House, and the Usher shall ring bells communicating with the library and refreshment rooms; and as soon as the Usher shall report that the doors are locked, the President or Chairman of Committees, as the case may be, shall put the question a second time, and the tellers shall forthwith proceed to count the members.

IX. That an entry of the Division Lists be made by the Clerk in the Minutes of the Proceedings.

X. That all Addresses to the Governor shall be forwarded by the Clerk of the Parliaments through the Chief Secretary, unless otherwise ordered by the Council.

XI. That a member moving an Order of the Day or an amendment shall not be entitled to a reply.

XII. That no member shall digress from the subject matter of the question under discussion, or comment upon the words used by any other member in a previous debate, or upon any expressions said to have been used in the Legislative Assembly; and that all imputations of improper motives, and all personal reflections on members shall be considered highly disorderly.

XIII. That whenever any member shall make use of any expression personal and disorderly, or capable of being applied offensively to any other member, the member so offending shall be required to withdraw the expression, and to make a satisfactory apology to the Council.

XIV. That a member called to order shall sit down, unless permitted to explain.

XV. That when, in consequence of highly disorderly conduct, the President shall call upon any member by name, such member shall withdraw as soon as he has been heard in explanation; and after such member's withdrawal the Council shall at once take the case into consideration.

XVI. That any member or other person who shall wilfully disobey any lawful order of the Council, and any member or other person who shall wilfully or vexatiously interrupt the orderly conduct of the business of the Council, shall be held guilty of contempt.

XVII. That any member not attending in compliance with an Order for a Call of the House without reasonable excuse shall be held guilty of contempt.

XVIII. That no member shall absent himself during the session for more than one week without informing the President, nor for more than three consecutive weeks without express leave of absence from the Council, and any member wilfully infringing this Order shall be held guilty of contempt.

XIX. That any member or other person declared guilty of contempt shall be committed to the custody of the Usher by order of the President.

XX. That in cases of great emergency requiring an immediate remedy, the President shall commit on his own authority.



XXI. That the following scale of fees shall be payable to the Usher on the arrest or commitment of any person, and no person shall, without the express direction of the Council, be discharged out of custody until such fees be paid, or the session of Parliament concluded:—

	£	s.	d.
For arrest ... ..	50	0	0
For commitment ... ..	50	0	0
For each day's detention, including sustenance ...	5	5	0

XXII. That all fees payable under clause XXI. shall be paid to the account of a fund to be called the Legislative Council Standing Orders Fund, in the name of the Council, and shall be applied to such purposes as the Council shall direct in discharge of any expenses connected with the Standing Orders.

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MOTIONS.

XXIII. That no Notice of Motion shall be received after the Council shall have proceeded to the Orders of the Day.

XXIV. That no member shall make any motion except an unopposed motion, but in pursuance of Notice openly given at a previous sitting of the Council and duly entered on the Notice Paper.

XXV. That it shall be in order, on the presentation of any document, except a Petition, to move, without Notice, that it be printed, and to appoint a day for its consideration.

XXVI. That Motions shall take precedence of Orders of the Day, except on days fixed for the consideration of Government business.

XXVII. That, except by leave of the Council, Motions shall be moved in the order in which they stand on the Notice Paper, and if not so moved or postponed, shall be struck out.

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PUBLIC BILLS.

XXVIII. That before any Bill shall be read a third time the Chairman of Committees shall certify that it is in accordance with the Bill as agreed to by the Committee.

XXIX. That whenever the Governor shall transmit by message to the Council any amendment which he shall desire to be made in any Bill presented to him for Her Majesty's assent, the amendment shall be considered by the Council, and, if deemed necessary, referred to the Committee of the whole Council, which shall thereupon consider the same and also recommend such alterations in the Bill as may be necessary for incorporating the amendment therewith, and shall report such alterations to the Council.

XXX. That when the Council shall have agreed to any amendment proposed by the Governor, such amendment, together with the alterations rendered necessary to be made in the Bill presented to the Governor in consequence of such amendment, shall be forwarded to the Legislative Assembly for its concurrence.

XXXI. That whenever any Bill for repealing, altering, or varying all or any of the provisions of the Act, intituled, "*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 for substituting others in lieu thereof, shall have passed its second and third readings in the Council, with the concurrence of an absolute majority of the whole number of the members of the Legislative Council, the Clerk, or other proper officer of the Council, shall certify the fact on the Bill accordingly.

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COMMITTEE OF THE WHOLE COUNCIL.

XXXII. That when any member shall have been appointed Chairman of Committees of the whole Council, he shall continue to act as such Chairman so long as the session shall continue.

XXXIII. That, in Committee of the whole Council, ten members, exclusive of the Chairman, shall be a quorum.

XXXIV. That the Lists of Divisions in Committee of the whole Council shall be printed weekly.

XXXV. That Committees of the whole Council, to which Bills may be committed, have power to make such amendments therein as they shall think fit, provided they be relevant to the subject matter of the Bill; but if any such amendments shall not be within the title of the Bill, they do amend the title accordingly, and do report the same specially to the Council.

XXXVI. That, in going through a Bill, no questions shall be put for filling up words already printed in italics, and commonly called blanks, unless exception be taken thereto; and if no alterations have been made in the words so printed in italics, the Bill shall be reported without amendment, unless other amendments have been made thereto.

XXXVII. That, unless otherwise directed, amendments made by the Assembly to public Bills shall not be considered in Committee on the same day on which such amendments may be brought up to the Council.

XXXVIII. That all questions of finance, or Addresses to the Crown relating thereto, shall first be considered in Committee of the whole House.

XXXIX. That every Report from a Committee of the whole Council be brought up without any question being put.

## LAPSED QUESTIONS.

XL. That if a debate on any Motion, or Order of the Day, be interrupted by the Council being counted out, such debate may be resumed at the point where it was so interrupted, on motion upon notice.

XLI. That, if the discussion of any question in a Committee of the whole Council be interrupted for want of a quorum, the Council may order the resumption of such Committee on a future day, on motion upon notice, and the discussion of such question shall then be resumed at the point where it was so interrupted.

## SELECT COMMITTEES.

XLII. That no Select Committee shall consist of less than five nor more than ten members, without leave from the Council.

XLIII. That it shall not be compulsory on the President to serve on any Select Committee.

XLIV. That the Notice of Motion for the appointment of every Select Committee shall contain the names of the members whom the mover wishes to be appointed with himself on such Committee; but if the mover be desirous the Committee should be appointed by ballot, then the number only need be stated.

XLV. That, if upon any Motion for a Select Committee, any two members shall require it, such Committee shall be formed in the manner following, viz. :—Each member shall give in to the Clerk a list of the members whom he wishes to be appointed on such Committee, not exceeding the number proposed, inclusive of the mover; and if any list contain a larger number of names it shall be rejected, and the members who shall be reported by the Clerk to have the greatest number of votes shall be declared by the President to be the members of such Committee; and in any case of doubt arising from two or more members having an equality of votes, the President shall decide which shall serve on such Committee.

XLVI. That any Notice of Motion for discharging, adding, or substituting members of Select Committees shall contain the names of such members.

XLVII. That in all Select Committees three shall be a quorum.

XLVIII. That all questions shall be decided by a majority of voices, including the voice of the Chairman; and whenever the voices are equal, the Chairman shall have a second or casting vote.

XLIX. That if there shall not be a quorum of members present within one quarter of an hour after the time fixed for the meeting of any Select Committee, the Chairman may adjourn the meeting of the Committee to a future day.

L. That an entry be made on the Proceedings of the names of the members attending each Committee meeting, and of every motion or amendment proposed in the Committee, together with the name of the mover thereof; and if any division take place in the Committee, the Clerk do take down the names of the members voting in any such division, distinguishing on which side of the question they respectively vote, and that lists of the members so voting may be given in with the Report to the Council.

LI. That it be the duty of the Chairman of every Select Committee to prepare the Report.

LII. That the Chairman shall read to the Committee convened for the purpose of considering the Report, the whole of his Draft Report, which, if practicable, shall be printed and circulated amongst the members of the Committee; and at some subsequent meeting of the Committee the Chairman shall read the Draft Report, paragraph by paragraph, putting the question to the Committee at the end of each paragraph, that it do stand part of the Report. That a member objecting to any portion of the Report do propose his amendment at the time the paragraph he wishes to amend shall be under consideration.

LIII. That every Report of a Select Committee shall be authenticated by the signature of the Chairman.

LIV. That a Committee consisting of five members, to be called the Standing Orders Committee, shall be appointed at the commencement of each session, and that the functions of such Committee shall not cease until their successors may be appointed.

## MESSAGES.

LV. That whenever a Message from the Governor shall be announced, the business before the Council shall be immediately suspended, and the bearer of the Message introduced into the Council Chamber to deliver the Message to the President.

LVI. That the President shall immediately read the Message to the Council, and, if necessary, a day shall be fixed for taking the same into consideration.

## PETITIONS.

LVII. That it shall be in order to present any petition during the sitting of the Council, except during a debate, provided there be no interference with business under discussion.

LVIII. That it shall be incumbent on every member presenting a Petition to acquaint himself with the contents thereof, and to ascertain that it does not contain language disrespectful to any branch of the Legislature, or violate any of the Standing Orders of the Council.

LIX. That every member presenting a Petition to the Council shall affix his name at the beginning thereof.

LX. That every Petition must contain the prayer of the petitioners at the end thereof.

LXI. That every Petition must be signed by at least one person on every skin or sheet thereof.

LXII. That every Petition must be in the English language, or be accompanied by a translation, duly authenticated.

LXIII. That every Petition must be signed with their names by the parties whose names are appended thereto, and by no one else, except in cases of incapacity by sickness.

LXIV. That no letters, affidavits, or other documents shall be attached to any Petition.

LXV. That no Petition shall make reference to any debate in Parliament during the current session.

LXVI. That every member presenting a Petition to the Council, not being a Petition for a Private Bill, or relating to a Private Bill before the Council, do confine himself to a statement of the parties from whom it comes, of the number of signatures attached to it, of the material allegations contained in it, and to the reading of the prayer thereof.

LXVII. That every Petition, not being a Petition relating to a Private Bill, which, according to the rules of this House, can be received, be brought to the Table by the direction of the President, who shall not allow any debate, or any member to speak upon, or in relation to, such Petition.

LXVIII. That, in the case of such Petition complaining of some present personal grievance, for which there may be an urgent necessity for providing an immediate remedy, the matter contained in such Petition may be brought into discussion on the presentation thereof.

LXIX. That, subject to the above regulations, Petitions against any resolution or Bill imposing a tax or duty for the current service of the year may be received.

LXX. That no Petition, the prayer of which is for a distinct grant of money, shall be received by the Council.

LXXI. That no Petition shall be printed, unless the member moving the printing thereof shall state it to be his intention to make a motion upon the subject to which such Petition shall relate.

#### STRANGERS.

LXXII. That no strangers be admitted to the body of the Council Chamber within the Bar.

LXXIII. That members of the Legislative Assembly be admitted without order to the benches to the right of the President, outside the bar.

LXXIV. That accommodation be provided for the Speaker of the Legislative Assembly within the body of the Council Chamber.

LXXV. That the President only shall have the privilege of admitting strangers to the body of the Council Chamber outside the Bar; but every Member shall have the privilege of admitting by Orders strangers to the Gallery of the Council Chamber.

LXXVI. That, on the request of any Member, or in his own discretion, the President shall at any time order all strangers to withdraw, and such strangers shall immediately withdraw accordingly.

LXXVII. That it shall be the duty of the Standing Orders Committee to prescribe the arrangements for the opening and prorogation of Council, which arrangement it shall be the duty of the Usher to carry into effect under the direction of the President.

#### SUSPENSION OF STANDING RULES AND ORDERS.

LXXVIII. That (except in cases of urgent and pressing necessity) no Motion shall be made to dispense with any Sessional or Standing Order of the Council, without due Notice thereof.

#### JOINT STANDING ORDERS FOR BOTH HOUSES OF PARLIAMENT.

##### I.

#### MESSAGES.

LXXIX. [1.] All communications between the Council and Assembly shall be by Message.

LXXX. [2.] Messages from one House to the other shall be in writing, and shall be communicated by the Clerk Assistant of each House respectively, unless the House transmitting the Message shall otherwise direct.

LXXXI. [3.] Members carrying any Message from either House of the Legislature to the other shall be announced at once, unless any Member shall be addressing the House, or unless the President or Speaker, as the case may be, shall be ascertaining the sense of the House upon any question, in which case the bearer of the Message shall not be announced until the member shall have concluded his speech, or until the sense of the House shall have been declared by the President or Speaker, as the case may be; and the bearer of the Message shall be introduced by the Usher or Serjeant-at-Arms, and shall deliver the Message to the President or Speaker.

LXXXII. [4.] Messages carried by the Clerk Assistant of either House shall be delivered to the Usher or Serjeant-at-Arms, as the case may be.

LXXXIII. [5.] Bills, Votes, and Resolutions of either House of the Legislature, to which the consent of the other House shall be desired, shall be communicated to such other House by Message, and, in the first instance, without any reason being assigned for the passing such Bill, Vote, or Resolution.

LXXXIV. [6.] Bills, Votes, and Resolutions of either House of the Legislature, to which the consent of the other House shall have been desired, shall if returned from such other House be sent by Message; and, in the first instance, without any reason being assigned for passing, declining to assent to, or amending, as the case may be, such Bills, Votes, or Resolutions.

LXXXV. [7.] When either House of the Legislature shall not agree to any amendment made by the other House in any Bill, Vote, or other Resolution with which its concurrence shall have been desired, or when either House shall insist upon any amendment previously proposed by such House, and any communication shall be desired, then the communication shall be by Message, and the House transmitting such Message shall at the same time transmit written reasons for not agreeing to the amendment proposed by the other House, or for insisting upon any amendment previously proposed by the House sending such Message.

LXXXVI. [8.] The number of Members of each House appointed to serve on any Joint Committee shall be equal, and the Chairman thereof shall have a vote, but not a casting vote.

LXXXVII. [9.] At the commencement of each Session there shall be appointed by each House a Committee of five Members respectively to constitute a Joint Committee to manage the Library; another Committee of five Members of each House respectively to constitute a Joint Committee for the management of the Refreshment Rooms; another Committee of five Members of each House respectively to constitute a Joint Committee for the management and superintendence of the Parliament Buildings; and five Members shall form a quorum of each of the said Committees.

LXXXVIII. [10.] Every proposal for a Joint Committee not provided for in these Rules shall be by Message; shall state the object of such Committee, the number of Members to serve thereon, not less than ten nor more than fifteen; and the number of Members to form a quorum thereof; and the House whose concurrence shall be desired shall name the time and place of meeting.

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## 2.

### BILLS.

LXXXIX. [11.] Every Bill shall be printed fair immediately after it shall have been passed in the House in which it originated; and the Clerk of the House in which the Bill shall have passed shall certify the passing thereof on such fair print, together with the day upon which the Bill did pass.

XC. [12.] If any amendment shall be made by the House to which the Bill shall be sent, such amendment shall be written on paper and attached to the Bill, and reference shall be made to the section and line of the Bill where the words are to be inserted or omitted, as the case may be, and such amendments shall be certified by the Clerk of the House in which it shall have passed.

XCI. [13.] When such Bill shall have passed both Houses of the Legislature, it shall be fair printed by the Government Printer, who shall furnish three fair prints thereof on vellum to the Clerk of the Parliaments.

XCII. [14.] Such three fair prints of each Bill shall be duly authenticated by the Clerk of the Parliaments.

XCIII. [15.] The three fair prints of all Bills, except the Appropriation Bill, when passed, shall be presented to the Governor for Her Majesty's assent, by the Clerk of the Parliaments.

XCIV. [16.] In case of amendments to Bills, made upon a Message from the Governor, pursuant to the XXXVI. clause of the Constitution Statute, after such Bills shall have passed the two Houses of Parliament, the Clerk of the Parliaments shall endorse the same on the original Bill and shall order three fair prints of the Bill on vellum as amended, and shall authenticate the same before they are presented for Her Majesty's assent.

XCV. [17.] When the Governor shall have assented in the name of Her Majesty to any Bill, one of the fair prints thereof, on vellum, shall be deposited by the Clerk of the Parliaments with the Registrar of the Supreme Court, another shall be delivered to the Private Secretary of His Excellency the Governor, for transmission to Her Majesty's Principal Secretary of State for the Colonies, and the third shall be retained in the record office of the Parliament Houses.

XCVI. [18.] The Title of every Bill shall succinctly set forth the general object thereof.

XCVII. [19.] Every Act of the Legislature, commencing No. 1, from the 1st January, 1857, shall be numbered in regular arithmetical series, in the order in which the same shall be assented to by the Governor.

XCVIII. [20.] In case of unavoidable absence or illness of the Clerk of the Parliaments, the duties imposed upon him by these Rules shall be performed by the Clerk Assistant of the Legislative Council.

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### STANDING ORDERS ON PRIVATE BILLS.

XCIX. [1.] That until Special Standing Orders for the initiation of private Bills shall have been adopted, this Council will not enter on the consideration of any private Bill which has not first been considered by the Legislative Assembly, and referred by that body for the concurrence of this Council.

C. [2.] That every private Bill sent up from the Legislative Assembly, if accompanied by

a printed copy of the report and proceedings of the Select Committee of that House to which it shall have been referred, shall be dealt with in the same manner as a public Bill, and shall not be referred to a Select Committee of this Council, unless the same shall be opposed, and then only by motion on notice to be made before the second reading.

CI. [3.] That every Select Committee on private Bills shall consist of five members, to be chosen by ballot, who shall choose their own Chairman, and of whom three shall form a quorum.

CII. [4.] That every one of such Committee of five do attend the proceedings of the Committee during the whole continuance thereof.

CIII. [5.] That members be exempted from serving on the Committee on any private Bill where they shall have any interest.

CIV. [6.] That members be excused from serving for any special reason, to be approved of in each case by the House.

CV. [7.] That if any member of such Committee is prevented from continuing his attendance, the Committee shall adjourn, and report the cause of such member absenting himself to the House, if then sitting, or at its next meeting, and shall not resume its sittings without leave of the House.

CVI. [8.] That each member of a Select Committee on a private Bill, before he shall be entitled to attend and vote thereon, shall sign a declaration that he has no personal interest in the Bill, and that he will never vote on any question which may arise in the Committee without having duly heard and attended to the evidence relating thereto.

CVII. [9.] That three clear days' notice be given of the meeting of such Committee.

CVIII. [10.] That such Committee shall meet on each consecutive sitting day from eleven to three o'clock.

CIX. [11.] That upon petition, praying to be heard on the merits against any Bill, leave be given to the Select Committee to hear the petitioners in person, by counsel or agents, and to receive such evidence as may be tendered, and the promoter shall be similarly entitled to reply thereto, if he shall think proper, and to adduce rebutting evidence, provided always that such petition be presented to the House before the third day on which the House shall sit after the day such Bill has been brought by message from the Legislative Assembly; provided also that it set forth specifically the objections of the petitioners to the said Bill, and be otherwise in strict conformity with the rules of the House.

CX. [12.] That the Chairman of every Select Committee shall make a report to the House on each several Bill referred for their consideration, and shall annex thereunto the minutes of the Committee.

CXI. [13.] That no private Bill which has been referred to a Select Committee shall be read a second time sooner than the sixth sitting day after the report from the Select Committee shall have been brought up.

CXII. [14.] That before any Private Bill be read a first time in this Council, a sum of twenty pounds shall be paid into the hands of the Colonial Treasurer, for the public uses of the Colony, to meet the expenses of such Bill; and a certificate of that sum having been paid, to be filed with the Clerk, shall be produced by the member having charge of the Bill. And the promoter of the Bill shall also furnish at his own cost fifty fair printed copies of the same, and the same number of copies of any amended Bill, for the use of members, three clear days before the same shall be considered.

CXIII. [15.] That no private Bill shall pass through more than one stage on one and the same day.

CXIV. [16.] That every private Bill which shall have passed the two Houses of Legislature shall be presented to the Governor for the Royal Assent, and be numbered and published as a public Bill, and the expenses attending such publication shall be ascertained by the Clerk of the Parliaments, and be paid by the promoters of the Bill into the public Treasury, for the public uses of the Colony, before such Bill be presented for the Royal Assent.

CXV. [17.] That every promoter of a Private Bill shall, at least ten days before the same is set down for the second reading, furnish to the Clerk of the Parliaments attested copies of all plans, sections, books of reference, estimates, and subscription contracts, or declarations in lieu of subscription contracts, laid before the Legislative Assembly, in pursuance of the Standing Orders of that House, and the Clerk of the Parliaments shall give a receipt for the same, in which the several documents shall be distinctly specified, which receipt the Member having charge of the Bill shall produce to the House before the Bill is set down for the second reading.

CXVI. [18.] That every Parliamentary agent and solicitor be considered personally responsible to the Council and to the President for any wilful violation of the rules, orders, and practice of Parliament; and for any such violation, or for any other wilful misconduct in prosecuting any proceeding before Parliament, shall be liable to an absolute or temporary prohibition to practice as a Parliamentary agent before this House at the pleasure of the President; provided that, upon the application of such agent, the President shall state in writing the grounds of such prohibition.

CXVII. [19.] That before the prayer of any Petition to be heard on the merits against any Private Bill be granted, the Petitioner shall deposit with the President a sum of fifty pounds, to be disposed of according to the decision of the Committee as hereinafter provided.

CXVIII. [20.] That it shall be competent for the Committee to order the return of the said deposit or of any part thereof to the Petitioner, or to order that the same be paid into the Treasury for the public uses of the Colony, or to direct that it be paid over to the promoters of the Bill, provided that the opposition should, in the judgment of the Committee, appear to have been frivolous.

Ordered—That the Standing Orders as now adopted be printed, and that the President present them to His Excellency the Governor for approval.

The Honorable T. McCombie moved, That the Select Committee on Standing Orders prepare an Address to His Excellency the Governor, embodying the recommendation in the Fourth Progress Report of the Select Committee on Standing Orders, with regard to Estate Bills.

Question—put and passed.

**MELBOURNE MARKETS 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 N. Guthridge 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 N. Guthridge, read a third time and *passed*.

The Honorable N. Guthridge moved, That the Title of the Bill be, "*An Act to ratify an Exchange of Land between Her Majesty and the Corporation of the City of Melbourne and for other purposes.*"

Question—put and passed.

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

**JOINT STANDING ORDERS.**—MESSAGE TO THE LEGISLATIVE ASSEMBLY.—The Honorable N. Guthridge moved, That a Message be taken to the Legislative Assembly, to acquaint them that the Council have agreed to the amendment made by the Legislative Assembly in the Joint Standing Orders for both Houses of Parliament, and have adopted the same as amended.

Ordered.

**ESTATE BILLS.**—ADDRESS TO HIS EXCELLENCY THE GOVERNOR.—The Honorable J. Hodgson brought up the Address to His Excellency the Governor, prepared by the Standing Orders Committee, embodying the recommendation in the Fourth Progress Report of that Committee with regard to Estate Bills, and moved that the same be adopted.

The Address was read by the Clerk.

*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, Her Majesty's most dutiful and loyal Subjects, the Members of the Legislative Council of Victoria in Parliament assembled, beg respectfully to request that Your Excellency will, in any Act which may hereafter be introduced into the Legislature for the appointment of an additional Judge of the Supreme Court, cause provision to be made to authorize the Legislative Council to submit any Petition for an Estate Bill, or any legal difficulty which may arise thereupon, for his opinion, in conformity with the practice of the mother country.

Question—That the Address be adopted—put and passed.

The Council adjourned at twelve minutes to six o'clock until three o'clock on Tuesday, the 4th proximo.

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## NOTICE OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 4TH AUGUST.

NOTICE OF MOTION:—

1. The Hon. C. VAUGHAN: To move, That the Petition presented by him on the 30th instant be taken into consideration with the second Order of the Day.

ORDERS OF THE DAY:—

1. MELBOURNE GAS AND COKE COMPANY'S BILL.—To be read a second time.
2. COLONIAL INSURANCE COMPANY'S BILL.—To be read a second time.
3. FLAGGING OF FOOTWAYS BILL.—To be read a second time.
4. MELBOURNE AND HOBSON'S BAY RAILWAY ACT AMENDMENT BILL.—To be read a second time.
5. CUSTOMS LAWS CONSOLIDATION BILL.—To be further considered in Committee.

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WEDNESDAY, 5TH AUGUST.

ORDERS OF THE DAY:—

1. GUNPOWDER BILL.—To be read a third time.
2. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—Consideration of Message from Legislative Assembly.
3. PENAL ESTABLISHMENTS.—Consideration of Report of Select Committee.

MEETINGS  
OF  
**SELECT COMMITTEES.**

*Tuesday, 4th August.*

DECORATION OF COUNCIL CHAMBER—at 12 o'clock.  
COIN OF THE SYDNEY MINT—at 1 o'clock.

*Wednesday, 5th August.*

GRANTS TO CORPORATIONS—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, 4TH AUGUST, 1857.

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

The President read the Prayer.

**APPROVAL OF STANDING ORDERS BY HIS EXCELLENCY THE GOVERNOR.**—The President announced to the Council that he had presented the Standing Orders of the Council to His Excellency the Governor, who had been pleased to approve of the same on the 3rd instant, together with the Joint Standing Orders of both Houses of Parliament.

**PETITION.**—The Honorable J. P. Fawcner presented to the Council a Petition from Ralph Ruddell, setting forth certain statements concerning the application of the said Ralph Ruddell to purchase certain land under a pre-emptive right, and praying that the circumstances may be taken into consideration by the Council.  
Petition received.

**COIN OF THE SYDNEY MINT.—SELECT COMMITTEE ON.**—The Honorable T. McCombie, with leave of the Council, moved, without notice, That the Select Committee on the Coin of the Sydney Mint have authority to examine witnesses and take evidence.  
Question—put and passed.

**MELBOURNE GAS AND COKE COMPANY'S BILL.**—The Order of the Day for the second reading of this Bill being read, the Honorable H. Miller moved that the same be discharged.

Question—put and passed.

The Honorable H. Miller, with leave of the Council, moved, That a Message be carried to the Legislative Assembly, to request 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.

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

1. List of Acts lately assented to by Her Majesty. Despatches No. 26, No. 27, (24th April, 1857). No. 28 (25th April, 1857).
2. Local Court Regulations. District of Mount Blackwood (24th July, 1857).

Ordered to lie on the Table.

**COLONIAL INSURANCE COMPANY'S BILL.**—The Order of the Day for the second reading of this Bill being read, the Honorable C. Vaughan moved, That the same be discharged.

Question—put and passed.

The Honorable C. Vaughan, with leave of the Council, 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.



**FLAGGING OF FOOTWAYS 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 on Thursday next.  
 Ordered.

**MELBOURNE AND HOBSON'S BAY RAILWAY ACT AMENDMENT BILL.**—The Order of the Day for the second reading of this Bill being read, the Honorable N. Guthridge moved that the same be discharged.

Question—put and passed.

The Honorable N. Guthridge 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.

**CUSTOMS LAWS CONSOLIDATION 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 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 without any amendment.

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 Thursday, the 6th instant.

**ATTENDANCE OF PRESIDENT AT SUPREME COURT.**—The President informed the Council that he had been summoned as a witness to attend at the Supreme Court, and was desirous to ascertain whether the Council would consent to his doing so, which consent was accordingly given.

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

MR. PRESIDENT,

The Legislative Assembly transmit to the Legislative Council the Reports and Evidence taken on the following Bills:—

“*The Melbourne Gas and Coke Company's Bill,*”

“*The Colonial Insurance Company's Bill,*”

“*The Melbourne and Hobson's Bay Railway Company's Bill,*”

in accordance with the Message of the Legislative Council.

FRANS. MURPHY,  
 Speaker.

Legislative Assembly Chambers,  
 Melbourne, 4th August, 1857.

The Honorable C. Vaughan moved, That the Message from the Legislative Assembly be taken into consideration on the second reading of each Bill referred to therein.

Question—put and passed.

The Council adjourned at ten minutes to five o'clock until three o'clock on Wednesday, the 5th instant.

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## ORDERS OF THE DAY.

WEDNESDAY, 5TH AUGUST.

### *Government Business.*

ORDER OF THE DAY:—

1. GUNPOWDER BILL.—To be read a third time.

### *General Business.*

1. The Hon. J. P. FAWKNER: To ask the Honorable the Postmaster General what expense will be incurred in furnishing the returns called for by the Honorable J. Hood on the subject of immigration.

ORDERS OF THE DAY:—

1. QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—Consideration of Message from Legislative Assembly.
2. PENAL ESTABLISHMENTS.—Consideration of Report of Select Committee.
3. MESSAGE FROM LEGISLATIVE ASSEMBLY.—To be considered at the second reading of the Melbourne Gas and Coke Company's Bill, the Colonial Insurance Company's Bill, and the Melbourne and Hobson's Bay Railway Act Amendment Bill.

THURSDAY, 6TH AUGUST.

## ORDERS OF THE DAY:—

1. FLAGGING OF FOOTWAYS BILL.—To be further considered in Committee.
  2. CUSTOMS LAWS CONSOLIDATION BILL.—To be read a third time.
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MEETINGS  
OF  
**SELECT COMMITTEES.**

*Wednesday, 5th August.*

GRANTS TO CORPORATIONS—at 11 o'clock.

*Thursday, 6th August.*

COIN OF THE SYDNEY MINT—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, 5TH AUGUST, 1857.

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

The President read the Prayer.

RESTORATION OF DISCHARGED ORDERS OF THE DAY.—The following Orders of the Day, discharged from the business paper of the 4th instant, were severally restored to the Notice Paper for Thursday, the 6th instant, viz. :—

“*Melbourne Gas and Coke Company's Bill*”—to be read a second time.

“*Melbourne and Hobson's Bay Railway Company Bill*”—to be read a second time.

“*Colonial Insurance Company's Bill*”—to be read a second time.

POSTPONEMENT.—The Order of the Day for the third reading of the Gunpowder Bill was postponed until Wednesday, 19th instant.

QUALIFICATION OF MEMBERS OF ASSEMBLY BILL.—CONSIDERATION OF MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—The Honorable J. Hood moved, That a Message be carried to the Legislative Assembly to acquaint them that this House has agreed to the amendment proposed by His Excellency the Governor, and agreed to by the Legislative Assembly, in the Qualification of Members of Assembly Bill, and conveyed to this House on the 2nd June last in a Message from the Legislative Assembly.

The Honorable J. P. Fawcner moved, as an amendment, That the words “this day six months” be added after the words “carried to the Legislative Assembly.”

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

Question—That a Message be carried to the Legislative Assembly to acquaint them that this House has agreed to the amendment proposed by His Excellency the Governor, and agreed to by the Legislative Assembly, in the Qualification of Members of Assembly Bill, and conveyed to this House on the 2nd of June last in a Message from the Legislative Assembly—put and passed.

PENAL ESTABLISHMENTS.—The Order of the Day for the consideration of the Report of the Select Committee on Penal Establishments being read, the Honorable J. Hood moved that the Report be now adopted.

Debate ensued.

Question—put and passed.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—The Order of the Day for consideration of the Message from the Legislative Assembly, with Reports of Select Committees, was postponed until Thursday, the 6th instant.

The Council adjourned at twenty-five minutes to five o'clock until three o'clock on Thursday, the 6th instant.

NOTICES OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 6TH AUGUST.

NOTICE OF MOTION:—

1. The Hon. T. McCOMBIE: To move, That a Select Committee of five Members of this House be appointed to inquire into the system of conveyancing now in general use in this Colony, and in what manner it may be rendered less expensive and more correct; and that such Committee have power to take evidence.

Contingent—On the above being carried, That the said Committee be elected by ballot.

## ORDERS OF THE DAY:—

1. FLAGGING OF FOOTWAYS BILL.—To be further considered in Committee.
2. CUSTOMS LAWS CONSOLIDATION BILL.—To be read a third time.
3. MELBOURNE GAS AND COKE COMPANY'S BILL.—To be read a second time, and *contingent* thereupon—The Message from the Legislative Assembly, with Report and Proceedings of a Select Committee of that House, to be considered.
4. MELBOURNE AND HOBSON'S BAY RAILWAY ACT AMENDMENT BILL.—To be read a second time, and *contingent* thereupon—The Message from the Legislative Assembly, with Report and Proceedings of a Select Committee of that House, to be considered.
5. COLONIAL INSURANCE COMPANY'S BILL.—To be read a second time, and *contingent* thereupon—The Message from the Legislative Assembly, with Report and Proceedings of a Select Committee of that House, to be considered.

TUESDAY, 11TH AUGUST.

1. The Hon. J. P. FAWKNER: To ask the Honorable the Postmaster General what expense will be incurred in furnishing the returns called for by the Honorable J. Hood on the subject of immigration.

WEDNESDAY, 19TH AUGUST.

## ORDER OF THE DAY:—

1. GUNPOWDER BILL.—To be read a third time.

## MEETINGS

OF

## SELECT COMMITTEES.

*Thursday, 6th August.*

COIN OF THE SYDNEY MINT—at 1 o'clock.  
STANDING ORDERS—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, 6TH AUGUST, 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 a Select Committee of five members of this House be appointed by ballot to inquire into the system of Conveyancing now in general use in this Colony, and in what manner it may be rendered less expensive and more correct; and that such Committee have power to take evidence.

Debate ensued.

Question—put.

Council divided.

Contents, 9.

The Hon. T. H. Power  
Dr. Tierney  
W. J. T. Clarke  
J. Cowie  
J. Hood  
B. Williams  
W. Roope  
T. McCombie  
J. H. Patterson (*Teller*).

Not Contents, 9.

The Hon. C. Vaughan  
J. Hodgson  
J. B. Bennett  
H. Miller  
W. H. F. Mitchell  
N. Guthridge  
Dr. Hope  
W. Highett  
J. F. Strachan (*Teller*).

The President gave his voice with the Contents, stating that he did so in order that the subject might be further considered.

The question was therefore passed.

The Council then proceeded to the ballot, and the following members being reported by the Clerk to have the greatest number of votes, were declared by the President to be the members of the Committee, viz.:—The Honorables T. McCombie, Dr. Tierney, W. J. T. Clarke, D. Kennedy, B. Williams.

**FLAGGING OF FOOTWAYS 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 Tuesday next.

Ordered.

**CUSTOMS LAWS CONSOLIDATION 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 motion of the Honorable J. F. Strachan, read a third time and passed.

The Honorable J. F. Strachan moved, That the title of the Bill be "*An Act to consolidate and amend the Laws relating to the Customs.*"

Question—put and passed.

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

**MELBOURNE GAS AND COKE COMPANY'S BILL.**—The Order of the Day for the second reading of this Bill, and, contingent thereupon, the consideration of the Message from the Legislative Assembly, with the Report and Proceedings of a Select Committee of that House, being read, together with the said Message, the Honorable H. Miller moved, That the 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 President left the Chair.

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

Ordered.

**MELBOURNE AND HOBSON'S BAY RAILWAY COMPANY BILL.**—The Order of the Day for the second reading of this Bill, and, contingent thereupon, the consideration of the Message from the Legislative Assembly, with the Report and Proceedings of a Select Committee of that House, being read, together with the said Message, the Honorable N. Guthridge moved, That the 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 President left the Chair.

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

Ordered.

**COLONIAL INSURANCE COMPANY'S BILL.**—The Order of the Day for the second reading of this Bill, and, contingent thereupon, the consideration of the Message from the Legislative Assembly, with the Report and Proceedings of a Select Committee of that House, being read, together with the said Message, the Honorable C. Vaughan moved, That the 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 President left the Chair.

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

Ordered.

The Council adjourned at twenty minutes after five o'clock until three o'clock on Tuesday, 11th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 11TH AUGUST.

1. The Hon. J. P. FAWKNER: To ask the Honorable the Postmaster General what expense will be incurred in furnishing the returns called for by the Honorable J. Hood on the subject of immigration.

### NOTICE OF MOTION:—

1. The Hon. J. F. STRACHAN: To move, That the third reading of the Gunpowder Bill, put down as an Order of the Day for the 19th August, be taken into consideration on Wednesday next.

*Contingent*—On the Gunpowder Bill passing the third reading—That a Message be sent to the Legislative Assembly, requesting their assent to the Bill with the amendments made by the Council.

### ORDERS OF THE DAY:—

1. FLAGGING OF FOOTWAYS BILL.—To be further considered in Committee.
2. MELBOURNE GAS AND COKE COMPANY'S BILL.—To be further considered in Committee.
3. MELBOURNE AND HOBSON'S BAY RAILWAY ACT AMENDMENT BILL.—To be further considered in Committee.
4. COLONIAL INSURANCE COMPANY'S BILL.—To be further considered in Committee.

WEDNESDAY, 19TH AUGUST.

### ORDER OF THE DAY:—

1. GUNPOWDER BILL.—To be read a third time.

## MEETINGS

OF

## SELECT COMMITTEES.

*Tuesday, 11th August.*

COIN OF THE SYDNEY MINT—at 1 o'clock.

STANDING ORDERS—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, 11TH AUGUST, 1857.

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

The President read the Prayer.

REPLY TO ADDRESS.—CLASSIFICATION OF CLERKS—The Honorable W. H. F. Mitchell presented to the Council the following Reply to an Address adopted by the Legislative Council on the 22nd July, 1857, on the motion of the Honorable J. H. Patterson.

HENRY BARKLY,  
*Governor.*

Having brought this Address under the notice of his responsible Ministers, His Excellency is advised that there does not exist at the present time any system of classifying Clerks except by salary, which is supposed to vary according to services rendered and length of service; nor is it the intention of His Excellency's Government during the present Session to take any steps in relation to the proposition made on this subject by a former Administration.

Government Offices,  
Melbourne, 10th August, 1857.

The Reply was read at the Table by the Clerk.

PETITION.—The Honorable J. F. Strachan presented a Petition signed by the Mayor of Geelong, praying that such measures may be adopted as will carry out the spirit of certain resolutions adopted at a public meeting at Geelong on the 28th ultimo, condemning any further increase of the Chinese race in Victoria.

Petition received.

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

Local Court Regulations—Ballaarat District (4th August, 1857).

Ordered to lie on the Table.

CHANGE OF AN ORDER OF THE DAY.—The Honorable J. F. Strachan, in accordance with notice, moved, That the third reading of the Gunpowder Bill, put down as an Order of the Day for the 19th August, be taken into consideration on Wednesday next.

Question—put and passed.

FLAGGING OF FOOTWAYS 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 the following point of order for the decision of the Council:—

Whether the Chairman of Committees can receive an amendment affecting the right of magistrates who are members of corporations to deal with matters affecting those corporations.

The President ruled that it would be competent for the Chairman of Committees to receive any such amendment, but that special repealing words, repealing portions of any Acts under which the powers of such magistrates are now exercised in the manner intended to be discontinued, would be requisite to give effect to the provisions contemplated.

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 on Wednesday, 12th instant.

Ordered.

MELBOURNE GAS AND COKE COMPANY'S 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 H. Miller moved, That the adoption of the Report of the Committee be made an Order of the Day for Wednesday, the 12th instant.

Ordered.

POSTPONEMENTS.—The following Orders of the Day were severally postponed until Wednesday, 12th instant:—

“*Melbourne and Hobson's Bay Railway Act Amendment Bill*”—to be further considered in Committee.

“*Colonial Insurance Company's Bill*”—to be further considered in Committee.

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

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

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WEDNESDAY, 12TH AUGUST.

### *Government Business.*

#### ORDER OF THE DAY:—

1. GUNPOWDER BILL.—To be read a third time.

#### NOTICES OF MOTION:—

1. The Hon. J. F. STRACHAN: To move, That the Petition from the Mayor of Geelong, presented by him on the 11th instant, on the subject of the Influx of Chinese, be printed, and referred to the Select Committee sitting on the subject of Chinese Immigration.
2. The Hon. J. F. STRACHAN: To move, *contingent* on the Gunpowder Bill passing the third reading—That a Message be sent to the Legislative Assembly, requesting their assent to the Bill with the amendments made by the Council.

### *General Business.*

#### ORDERS OF THE DAY:—

1. FLAGGING OF FOOTWAYS BILL.—To be further considered in Committee.
2. MELBOURNE GAS AND COKE COMPANY'S BILL.—Adoption of Report of Committee.
3. MELBOURNE AND HOBSON'S BAY RAILWAY ACT AMENDMENT BILL.—To be further considered in Committee.
4. COLONIAL INSURANCE COMPANY'S BILL.—To be further considered in Committee.

G. W. RUSDEN,

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

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## MEETINGS

OF

## SELECT COMMITTEES.

*Wednesday, 12th August.*

STANDING ORDERS—at 10 o'clock.

CONVEYANCING—at 12 o'clock.

*Thursday, 13th August.*

COIN OF THE SYDNEY MINT—at half-past 1 o'clock.



# Minutes of the Proceedings

OF THE

# LEGISLATIVE COUNCIL.

WEDNESDAY, 12TH AUGUST, 1857.

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

The President read the Prayer.

**GUNPOWDER BILL.**—The Order of the Day for the third reading of this Bill was postponed until after the Order of the Day for the further consideration of the Flagging of Footways Bill in Committee.

**PETITION AGAINST INFLUX OF CHINESE.**—The Honorable J. F. Strachan, in accordance with notice, moved, That the Petition from the Mayor of Geelong, presented by him on the 11th instant, on the subject of the Influx of Chinese, be printed, and referred to the Select Committee sitting on the subject of Chinese Immigration.

Question—put and passed.

**FLAGGING OF FOOTWAYS 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.

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.

**GUNPOWDER BILL.**—The Order of the Day for the third reading of this Bill was postponed until Wednesday, 19th instant.

**MELBOURNE GAS AND COKE COMPANY'S BILL.**—The Order of the Day for the adoption of the Report of Committee on this Bill being read, the Honorable H. Miller moved, That the Report 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.

**MELBOURNE AND HOBSON'S BAY RAILWAY 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 Tuesday, the 18th instant.

Ordered.

**COLONIAL INSURANCE COMPANY'S 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.

The Honorable C. Vaughan moved, That the adoption of the Report of the Committee be made an Order of the Day for Tuesday, the 18th instant.

Ordered.

**ADJOURNMENT.**—The Honorable H. Miller, with leave of the Council, moved, That the House, at its rising, adjourn till Tuesday next.

Question—put and passed.

**SELECT COMMITTEES.**—The Honorable H. Miller moved, That the Select Committee on Coin of the Sydney Mint be empowered to sit to-morrow.

Ordered.

**POSTPONEMENT.**—The Order of the Day for the third reading of the Gas and Coke Company's Bill on Thursday, the 13th instant, was postponed until Tuesday, the 18th instant.

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 Leases and Sales of Settled Estates in the Colony of Victoria,*" and acquaint the Legislative Council that they have agreed to the Bill with amendments, to which amendments they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 11th August, 1857.

The Honorable J. B. Bennett moved, That the consideration of the Message be made an Order of the Day for Tuesday, 18th instant.  
Ordered.

The Council adjourned at five minutes past five o'clock until three o'clock on Tuesday, 18th instant.

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## NOTICE OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 18TH AUGUST.

ORDERS OF THE DAY :—

1. FLAGGING OF FOOTWAYS BILL.—Adoption of Report.
2. MELBOURNE GAS AND COKE COMPANY'S BILL.—To be read a third time.
3. MELBOURNE AND HOBSON'S BAY RAILWAY ACT AMENDMENT BILL.—To be further considered in Committee.
4. COLONIAL INSURANCE COMPANY'S BILL.—Adoption of Report.
5. CONSIDERATION OF MESSAGE FROM LEGISLATIVE ASSEMBLY, WITH AMENDMENTS TO SETTLED ESTATES BILL.

WEDNESDAY, 19TH AUGUST.

ORDER OF THE DAY :—

1. GUNPOWDER BILL.—To be read a third time.

CONTINGENT NOTICE OF MOTION :—

1. The Hon. J. F. STRACHAN : To move, *contingent* on the Gunpowder Bill passing the third reading—That a Message be sent to the Legislative Assembly, requesting their assent to the Bill with the amendments made by the Council.

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## MEETINGS

OF

## SELECT COMMITTEES.

*Thursday, 13th August.*

COIN OF THE SYDNEY MINT—at half-past 1 o'clock.

*Tuesday, 18th August.*

CONVEYANCING—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, 18TH AUGUST, 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, by command of His Excellency the Governor, presented to the Council the following Papers:—

1. Local Court Regulations—Dunolly District (7th August, 1857).
2. Local Court Regulations—Beechworth District (7th August, 1857).

Ordered to lie on the Table.

FLAGGING OF FOOTWAYS 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 N. Guthridge moved, That the Order be discharged, and that the Bill be now further considered in Committee of the whole Council.

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 N. Guthridge moved, That the adoption of the Report of the Committee be made an Order of the Day for Wednesday, 19th instant.

Ordered.

MELBOURNE GAS AND COKE COMPANY'S 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 enable the City of Melbourne Gas and Coke Company to raise the sum of One Hundred and Fifty Thousand Pounds by the issue of Thirty Thousand Shares of Five pounds each, in addition to their present Capital of One Hundred Thousand Pounds, and for other purposes.*"

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.

MELBOURNE AND HOBSON'S BAY RAILWAY 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 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 transmit to the Legislative Council a Bill intituled "*An Act to amend the Law relating to Gold Coin;*"

Also a Bill intituled "*An Act to assimilate and simplify the Oaths of Qualification for Office, and to recognise and establish in Victoria the right of absolute civil equality of all Her Majesty's subjects, irrespective of religious belief;*"

to which Bills they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 12th August, 1857.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled "*An Act to direct the payment of certain Monies into the Consolidated Revenue,*" to which they desire the concurrence of the Legislative Council.

Legislative Assembly Chambers,  
Melbourne, 13th August, 1857.

FRANS. MURPHY,  
Speaker.

MR. PRESIDENT—

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

Legislative Assembly Chambers,  
Melbourne, 14th August, 1857.

FRANS. MURPHY,  
Speaker.

MR. PRESIDENT—

The Legislative Assembly request that the Bill intituled "*An Act to facilitate Leases and Sales of Settled Estates in the Colony of Victoria*" may be returned by the Legislative Council to the Legislative Assembly, in order that a clerical error in one of the amendments sent therewith may be rectified.

Legislative Assembly Chambers,  
Melbourne, 14th August, 1857.

FRANS. MURPHY,  
Speaker.

MR. PRESIDENT—

The Legislative Assembly request the concurrence of the Legislative Council in the appointment of a Joint Committee, to consist of three Members of each House, to manage the Refreshment Rooms of the Houses.

Legislative Assembly Chambers,  
Melbourne, 14th August, 1857.

FRANS. MURPHY,  
Speaker.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled "*An Act to enable the Shareholders of a Joint Stock Insurance Company established in the Colony of Victoria, under the style or title of 'The Australasian Fire and Life Insurance Company,' to sue and be sued in the name of the Chairman for the time being of the Board of Directors of the said Company, and to limit the liability of such Shareholders, and for other purposes,*" to which they desire the concurrence of the Legislative Council.

Legislative Assembly Chambers,  
Melbourne, 12th August, 1857.

FRANS. MURPHY,  
Speaker.

The Gold Export Duty Act Amendment Bill, the Oaths of Office Bill, the Fines Appropriation Bill, and the Juries Bill, were severally, on the motion of the Honorable W. H. F. Mitchell, read a first time, ordered to be printed, and read a second time as follows:—

"*Gold Export Duty Act Amendment Bill*"—Wednesday, 19th August, 1857.

"*Oaths of Office Bill*"—Tuesday, 25th August, 1857.

"*Fines Appropriation Bill*"—Tuesday, 25th August, 1857.

"*Juries Bill*"—Wednesday, 26th August, 1857.

SETTLED ESTATES BILL (MESSAGE FROM THE LEGISLATIVE ASSEMBLY, ASKING THE RETURN OF).—The Honorable W. H. F. Mitchell moved, That the Settled Estates Bill be returned to the Legislative Assembly as desired, and that a message be sent therewith, pointing out that certain words agreed to by the Council were omitted by means of a clerical error in the Bill as transmitted (viz., "or any other person or persons," after the word "judges," in Clause XXI.), and desiring the concurrence of the Legislative Assembly with the Bill, inclusive of the said words.

Ordered.

JOINT REFRESHMENT ROOMS COMMITTEE.—MESSAGE FROM LEGISLATIVE ASSEMBLY.—The Honorable J. Hodgson moved, That the Message from the Legislative Assembly, requesting the concurrence of the Council in the appointment of a Joint Refreshment Rooms Committee, be now considered.

Question—put and passed.

The Honorable S. G. Henty moved, That a Select Committee of three Members of this Council be appointed to co-operate with three Members of the Legislative Assembly on a Joint Committee to manage the Refreshment Rooms of the Houses; such Committee to consist of the following Members—the Honorables W. Highett, J. Stewart, and the Mover.

Question—put and passed.

The Honorable S. G. Henty moved, That a Message be carried to the Legislative Assembly to acquaint them that the Council have appointed three Members to act upon a Joint Refreshment Rooms Committee with a like number of Members of the Legislative Assembly, as requested in the Message brought from the Legislative Assembly this day.

Ordered.

**AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S BILL.**—The Honorable T. McCombie 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 a Message be carried to the Legislative Assembly to request 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.

**COLONIAL INSURANCE COMPANY'S BILL.**—The Order of the Day for the adoption of the Report of the Committee on this Bill being read, the Honorable C. Vaughan moved, That the Report 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.

**MELBOURNE AND HOBSON'S BAY RAILWAY ACT AMENDMENT BILL.**—The Honorable N. Guthridge moved, That the adoption of the Report of the Committee on this Bill be made an Order of the Day for to-morrow.

Ordered.

**CONSIDERATION OF MESSAGE FROM LEGISLATIVE ASSEMBLY, WITH AMENDMENTS TO SETTLED ESTATES BILL.**—The Honorable W. H. F. Mitchell moved, That the Order of the Day for the consideration of the Message be discharged.

Question—put and passed.

The Council adjourned at twenty-five minutes past five o'clock, until three o'clock on Wednesday, the 19th instant.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 19TH AUGUST.

### *Government Business.*

#### ORDERS OF THE DAY :—

1. GUNPOWDER BILL.—To be read a third time.
2. GOLD EXPORT DUTY ACT AMENDMENT BILL.—To be read a second time.

#### CONTINGENT NOTICE OF MOTION :—

1. The Hon. J. F. STRACHAN: To move, *contingent* on the Gunpowder Bill passing the third reading—That a Message be sent to the Legislative Assembly, requesting their assent to the Bill with the amendments made by the Council.

### *General Business.*

1. The Hon. W. HIGGETT: To ask the Honorable the Postmaster General whether it is the intention of the Government to appoint an officer to act as Sub-Treasurer for the district of Gipps Land.

#### NOTICE 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 cause an inquiry to be instituted into the allegations made against the Immigration Department, at a public meeting in Melbourne, by certain persons styling themselves the Wellington Emigrants.

#### ORDERS OF THE DAY :—

1. FLAGGING OF FOOTWAYS BILL.—Adoption of Report.
2. COLONIAL INSURANCE COMPANY'S BILL.—To be read a third time.
3. MELBOURNE AND HOBSON'S BAY RAILWAY ACT AMENDMENT BILL.—Adoption of Report.

TUESDAY, 25TH AUGUST.

#### ORDERS OF THE DAY :—

1. OATHS OF OFFICE BILL.—To be read a second time.
2. FINES APPROPRIATION BILL.—To be read a second time.

WEDNESDAY, 26TH AUGUST.

#### ORDER OF THE DAY :—

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

MEETINGS  
OF  
SELECT COMMITTEES.

*Wednesday, 19th August.*

CONVEYANCING—at half-past 12 o'clock.

COIN OF THE SYDNEY MINT—at half-past 1 o'clock.

*Thursday, 20th August.*

CHINESE IMMIGRATION—at 11 o'clock.

GRANTS TO CORPORATIONS—at 1 o'clock.

DECORATION OF COUNCIL CHAMBER—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, 19TH AUGUST, 1857.

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

The President read the Prayer.

**GUNPOWDER 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 motion of the Honorable J. F. Strachan, read a third time and *passed*.

The Honorable J. F. Strachan moved, That the title of the Bill be "*An Act to regulate the Importation, Carriage, and Custody of Gunpowder.*"

Question—put and passed.

**GOLD EXPORT DUTY ACT AMENDMENT 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.

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 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 print of the Bill was in accordance with the Bill as reported, the Bill, on 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 amend the Law relating to Gold Coin.*"

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.

**CONTINGENT NOTICE OF MOTION ON THIRD READING OF THE GUNPOWDER BILL.**—The Honorable J. F. Strachan moved, in accordance with *contingent* notice of motion, That a Message be sent to the Legislative Assembly, requesting their assent to the Bill, with the amendments made by the Council.

Debate ensued.

Question—put and passed.

**IMMIGRATION DEPARTMENT.**—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 cause an inquiry to be instituted into the allegations made against the Immigration Department, at a public meeting in Melbourne, by certain persons styling themselves the Wellington Emigrants.

Debate ensued.

Question—put.

Council divided.

Contents, 5.  
The Hon. T. McCombie  
Dr. Tierney  
J. B. Bennett  
J. Hood  
J. Allan (*Teller*).

Not Contents, 15.  
The Hon. J. H. Patterson  
C. Vaughan  
D. P. Keogh  
J. Hodgson  
W. H. F. Mitchell  
T. H. Power  
D. Kennedy  
Dr. Hope  
N. Guthridge  
J. Henty  
S. G. Henty  
H. Miller  
W. Highett  
B. Williams  
J. F. Strachan (*Teller*).

The question was therefore negatived.

**FLAGGING OF FOOTWAYS 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 N. Guthridge moved, That the Report be now adopted.

Question—put and passed.

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

**COLONIAL INSURANCE COMPANY'S 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 motion of the Honorable C. Vaughan, read a third time and passed.

The Honorable C. Vaughan moved, That the title of the Bill be "*An Act to enable the Shareholders in a Joint Stock Insurance Company, carrying on business in the Colony of Victoria, under the name, style, or title of 'The Colonial Insurance Company,' to sue and be sued in the name of the Chairman for the time being, of the Directors of the said Company, and for other purposes.*"

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to return the Bill, and to acquaint them that the Legislative Council have agreed to the Bill with amendments, to which they desire the concurrence of the Legislative Assembly.

**MELBOURNE AND HOBSON'S BAY RAILWAY 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 N. Guthridge moved, That the Report be now adopted.

Question—put and passed.

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

**SELECT COMMITTEES.**—The Honorable J. Hodgson moved, That the Select Committees of the House have power to sit during the adjournment.

Question—put and passed.

**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 return to the Legislative Council the Bill intituled "*An Act for the interpretation of Legislative Enactments and for shortening the language used therein,*" and inform the Legislative Council that the Legislative Assembly have disagreed to the amendments proposed by the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 18th August, 1857.

The Honorable J. F. Strachan moved, That the consideration of the Message be made an Order of the Day for Tuesday next.

Ordered.

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



## ORDERS OF THE DAY.

TUESDAY, 25TH AUGUST.

## ORDERS OF THE DAY:—

1. OATHS OF OFFICE BILL.—To be read a second time.
2. FINES APPROPRIATION BILL.—To be read a second time.
3. FLAGGING OF FOOTWAYS BILL.—To be read a third time.
4. MELBOURNE AND HOBSON'S BAY RAILWAY ACT AMENDMENT BILL.—To be read a third time.
5. INTERPRETATION OF ACTS BILL.—Consideration of Message from Legislative Assembly.

WEDNESDAY, 26TH AUGUST.

## ORDER OF THE DAY:—

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

## MEETINGS

OF

## SELECT COMMITTEES.

*Thursday, 20th August.*

CHINESE IMMIGRATION—at 11 o'clock.

GRANTS TO CORPORATIONS—at 1 o'clock.

*Tuesday, 25th August.*

CONVEYANCING—at half-past 12 o'clock.

COIN OF THE SYDNEY MINT—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.

TUESDAY, 25TH AUGUST, 1857.

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

The President read the Prayer.

**OATHS OF OFFICE 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.

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 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 to-morrow.

**FINES 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.

Question—put and 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 that the Committee had gone through the Bill, and had agreed to the same without any amendment.

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 print of this 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 direct the payment of certain Monies into the Consolidated Revenue.*"

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.

**FLAGGING OF FOOTWAYS 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 N. Guthridge read a third time and *passed*.

The Honorable N. Guthridge moved, That the title of the Bill be "*An Act to regulate the Flagging of Footways in Melbourne.*"

Question—put and passed.

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

**MELBOURNE AND HOBSON'S BAY 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 N. Guthridge, read a third time and *passed*.

The Honorable N. Guthridge moved, That the title of the Bill be "*An Act to enable the Melbourne and Hobson's Bay Railway Company to raise additional Capital and to extend the provisions of the Acts relating to the Company and for conferring on the Company additional powers in relation to the undertaking and for other purposes.*"

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 same without any amendment.

**INTERPRETATION OF ACTS BILL.**—The Order of the Day for the consideration of the Message from the Legislative Assembly with this Bill was postponed until Thursday, the 27th instant.

The Council adjourned at five minutes past four o'clock until three o'clock on Wednesday, 26th August.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 26TH AUGUST.

*Government Business.*

## ORDERS OF THE DAY :—

1. JURIES BILL.—To be read a second time.
2. OATHS OF OFFICE BILL.—To be read a third time.

*General Business.*

1. The Hon. B. WILLIAMS: To ask the Honorable the Postmaster General if the site for the intended Jetty at St. Kilda has been determined on, and if so, where situate. Whether Tenders for the erection of the same have been called for, and if not, when it is intended to do so.

## NOTICES OF MOTION :—

1. The Hon. T. McCOMBIE: To move, That the Australasian Fire and Life Insurance Company's Bill be read a first time.
2. The Hon. N. GUTHRIDGE: To move, That there be laid upon the Table of the House a Return showing the quantity of land in acres within the boundaries of the city of Melbourne sold by the Government from the 1st day of July, 1842, to the 30th day of June, 1857, inclusive; also the amount of money received for the same, distinguishing the quantity of land sold, and the amount of money received therefor, in each year of the above period; also a similar Return with respect to the municipality of Emerald Hill, from its formation to the 30th June, 1857.

THURSDAY, 27TH AUGUST.

## ORDER OF THE DAY :—

1. INTERPRETATION OF ACTS BILL.—Consideration of Message from Legislative Assembly.

TUESDAY, 1ST SEPTEMBER.

1. The Hon. W. ROOPE: To ask the Honorable the Postmaster General if any portion of the sum of one thousand pounds, voted by the Legislative Assembly, for repairs and additions during the current year to public buildings in Geelong has been appropriated; and if so, the amount expended on each building respectively.

## MEETINGS

OF

## SELECT COMMITTEES.

*Wednesday, 26th August.*

CHINESE IMMIGRATION—at 11 o'clock.  
 GRANTS TO CORPORATIONS—at 1 o'clock.  
 CONVEYANCING—at half-past 1 o'clock.  
 REFRESHMENT ROOMS—at 2 o'clock.

*Tuesday, 1st September.*

COIN OF THE SYDNEY MINT—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, 26TH AUGUST, 1857.

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

The President read the Prayer.

**JURIES BILL.**—The Order of the Day for the second reading of this Bill was postponed until after the disposal of the next Order of the Day.

**OATHS OF OFFICE 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 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 assimilate and simplify the Oaths of Qualification for Office and to recognize and establish in Victoria the right of absolute civil equality of all Her Majesty's subjects irrespective of religious belief.*"

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.

**LAND SOLD WITHIN THE BOUNDARIES OF THE CITY OF MELBOURNE.**—The Honorable N. Guthridge, in accordance with *amended* notice, moved, That there be laid upon the Table of the House a Return showing the quantity of land in acres within the boundaries of the city of Melbourne sold by the Government, to the 30th day of June, 1857, inclusive; also, the amount of money received for the same, distinguishing the quantity of land sold, and the amount of money received for the same, in each year of the above period; also, a similar Return with respect to the municipality of Emerald Hill, from its formation to the 30th June, 1857.

Question—put and passed.

**JURIES 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.

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.

**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 request that the Legislative Council will give leave to the Honorable George Urquhart, 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 Petition of Mr. John Snowball.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 25th August, 1857.

**MR. PRESIDENT—**

The Legislative Assembly request that the Legislative Council will cause the word "on" to be inserted after the word "payable" in the eleventh section of the Bill intituled "*An Act to consolidate and amend the Laws relating to the Customs,*" such word having been omitted by a clerical error.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 25th August, 1857.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council the Report and Evidence taken on the Australasian Fire and Life Insurance Company's Bill, in accordance with the Message of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 19th August, 1857.

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council the Bill intituled "*An Act to facilitate Leases and Sales of Settled Estates in the Colony of Victoria,*" and inform the Legislative Council that the Legislative Assembly have corrected the clerical error in the amendment transmitted with the Bill, and have agreed to the words "or any other person or persons," omitted in the XXXI. clause of the Bill, as transmitted from the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 19th August, 1857.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled "*An Act for the confirmation of certain Pensions,*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

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

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled "*An Act to amend an Act intituled 'An Act to enable the Trustees for the time being of certain portions of the Belfast Church of England Lands, in the Colony of Victoria, to sell certain portions of the said Lands,'*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

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

LEAVE FOR A MEMBER TO ATTEND A COMMITTEE OF THE LEGISLATIVE ASSEMBLY.—The Honorable W. H. F. Mitchell moved, That leave be given to the Honorable G. Urquhart to attend a Committee of the Legislative Assembly, if he be willing to do so.

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to acquaint them that leave has been given to the Honorable G. Urquhart, as requested by their message received this day, to attend a Committee of that House.

CUSTOMS LAWS CONSOLIDATION BILL.—MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—The Honorable W. H. F. Mitchell moved, That the message from the Legislative Assembly be taken into consideration to-morrow.

Ordered.

SETTLED ESTATES BILL.—MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—The Honorable W. H. F. Mitchell moved, That this Message from the Legislative Assembly, with amendments to this Bill, be taken into consideration to-morrow.

Ordered.

PENSIONS BILL.—The Honorable W. H. F. Mitchell moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time.—Ordered to be printed, and read a second time to-morrow.

BELFAST CHURCH OF ENGLAND LANDS ACT AMENDMENT BILL.—The Honorable C. Vaughan moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time.—Ordered to be printed, and read a second time to-morrow.

AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S BILL.—The Honorable T. McCombie moved, in accordance with notice, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time.—Ordered to be printed, and read a second time on Tuesday, 1st September.

ADJOURNMENT.—The Honorable W. H. F. Mitchell, with leave of the Council, moved, That the House at its rising adjourn until half-past three o'clock to-morrow.

Question—put and passed.

The Council adjourned at ten minutes to five o'clock until half-past three o'clock on Thursday, the 27th instant.

## ORDERS OF THE DAY.

THURSDAY, 27TH AUGUST.

1. The Hon. T. McCOMBIE : To ask if the Government intend to order an investigation into the circumstances attending the loss of the Steamer *Champion*, at Cape Otway.

## ORDERS OF THE DAY :—

1. INTERPRETATION OF ACTS BILL.—Consideration of Message from Legislative Assembly.
2. JURIES BILL.—To be further considered in Committee.
3. CUSTOMS LAWS CONSOLIDATION BILL.—Consideration of Message from Legislative Assembly.
4. SETTLED ESTATES BILL.—Consideration of Message from Legislative Assembly.
5. PENSIONS BILL.—To be read a second time.
6. BELFAST CHURCH OF ENGLAND LANDS ACT AMENDMENT BILL.—To be read a second time.

TUESDAY, 1ST SEPTEMBER.

1. The Hon. H. MILLER, on behalf of the Municipal Council of Maryborough, to ask the Honorable the Postmaster-General if tenders have been accepted for the erection of a sub-treasury and court house, or either of them, at Maryborough, as advertised in the *Government Gazette*, up to the 21st day of July last; and if so, when those works are to be commenced, or how otherwise the memorial of the Municipal Council on this subject, of the 1st day of July last, addressed to the Chief Secretary, has been disposed of.

## ORDER OF THE DAY :—

1. AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S BILL.—To be read a second time.

## MEETINGS

OF

## SELECT COMMITTEES.

*Thursday, 27th August.*

REFRESHMENT ROOMS—at 2 o'clock.

*Tuesday, 1st September.*

CONVEYANCING—at 12 o'clock.

COIN OF THE SYDNEY MINT—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, 27<sup>TH</sup> AUGUST, 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, by command of His Excellency the Governor, presented to the Council the following Papers:—

1. Fourth Report of Commissioners of National Education (1856).
2. Birth of a Princess—Despatch from the Right Honorable the Secretary of State (20th April, 1857).
3. Death of Her Royal Highness the Duchess of Gloucester—Despatch from the Right Honorable the Secretary of State (11th May, 1857).
4. Local Court Regulations—Taradale District (21st August, 1857).
5. Local Court Regulations—Dunolly District (21st August, 1857).

Ordered severally to lie on the Table.

INTERPRETATION OF ACTS BILL.—CONSIDERATION OF MESSAGE FROM LEGISLATIVE ASSEMBLY.—  
The Order of the Day for the consideration of this Message was postponed until Tuesday, the 1st September.

JURIES 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 W. H. F. Mitchell moved, That the adoption of the Report of the Committee be made an Order of the Day for Tuesday next.

Ordered.

CUSTOMS LAWS CONSOLIDATION BILL.—CONSIDERATION OF MESSAGE FROM LEGISLATIVE ASSEMBLY.—The Order of the Day for the consideration of this Message being read, the said Message was read at the Table by the Clerk.

The Honorable J. F. Strachan moved, That the word "on" be inserted after the word "payable" in the eleventh section of the Bill intituled "*An Act to consolidate and amend the Laws relating to the Customs.*"

Debate ensued.

Question—put and passed.

SETTLED ESTATES BILL.—CONSIDERATION OF MESSAGE FROM LEGISLATIVE ASSEMBLY.—  
The Order of the Day for the consideration of this Message was postponed until Tuesday next.

PENSIONS 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.

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 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 next.

MESSAGES FROM 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 regulate the Importation, Carriage, and Custody of Gunpowder,*" and inform the Legislative Council that the Legislative Assembly have agreed to all the amendments excepting 7, and that they have amended that amendment by inserting the word "October" instead of the word "August," and desire the concurrence of the Legislative Council therein.

Legislative Assembly Chambers,  
Melbourne, 26th August, 1857.

FRANS. MURPHY,  
Speaker.

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council a Bill intituled "*An Act to make provision for Emigration from the United Kingdom, and for other purposes,*" and inform the Legislative Council that the Legislative Assembly have agreed to the 3rd and 8th, and have disagreed to the 1st, 2nd, 4th, 5th, 6th, 7th, 9th, and 10th amendments made by the Legislative Council therein.

Legislative Assembly Chambers,  
Melbourne, 26th August, 1857.

FRANS. MURPHY,  
Speaker.

The Honorable W. H. F. Mitchell moved, That these Messages be severally considered on Tuesday next.

Ordered.

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

Lighthouses (Correspondence on).—In continuation of Papers presented during this Session.

Ordered to lie on the Table.

BELFAST CHURCH OF ENGLAND LANDS ACT AMENDMENT BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable C. Vaughan 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 C. Vaughan moved, That the adoption of the Report of the Committee be made an Order of the Day for Tuesday next.

Ordered.

ROYAL ASSENT TO BILLS, AND RESERVATION OF A BILL FOR SIGNIFICATION OF HER MAJESTY'S PLEASURE THEREON.—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.

Mr. Speaker and the Legislative Assembly attending, His Excellency was pleased to reserve, for the signification of Her Majesty's pleasure thereon, the following Bill:—

"*A Bill intituled 'An Act for the enforcement of Claims against the Crown.'*"

the reservation being read by the Clerk of the Parliaments in the following words:—

"I reserve this Bill for the signification of Her Majesty's pleasure thereon.

"HENRY BARKLY,  
"Governor."

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

"*An Act to Reduce the Fees on registering Friendly Societies.*"

"*An Act to ratify an Exchange of Land between Her Majesty and the Corporation of the City of Melbourne, and for other purposes.*"

"*An Act to Abolish the Property Qualification required by Members of the Legislative Assembly.*"

"*An Act to consolidate and amend the Laws relating to the Customs.*"

"*An Act to enable 'The City of Melbourne Gas and Coke Company' to raise the sum of one hundred and fifty thousand pounds by the issue of thirty thousand shares of five pounds each, in addition to their present capital of one hundred thousand pounds, and for other purposes.*"

"*An Act to amend the Law relating to Gold Coin.*"



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 Bill reserved and of the Acts assented to.

The Speaker and the Legislative Assembly withdrew.

His Excellency the Governor left the Council Chamber.

SELECT COMMITTEES.—The Honorable J. Hodgson moved, That the Select Committees of the Council have power to sit during the adjournment.

Question—put and passed.

The Council adjourned at five minutes to five o'clock until three o'clock on Tuesday, 1st September.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 1ST SEPTEMBER.

1. The Hon. H. MILLER, on behalf of the Municipal Council of Maryborough, to ask the Honorable the Postmaster General if tenders have been accepted for the erection of a sub-treasury and court house, or either of them, at Maryborough, as advertised in the *Government Gazette*, up to the 21st day of July last; and if so, when those works are to be commenced, or how otherwise the memorial of the Municipal Council on this subject, of the 1st day of July last, addressed to the Chief Secretary, has been disposed of.

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### NOTICES OF MOTION :—

1. The Hon. J. B. BENNETT: To move, That leave be given to him to bring in a Bill, to be intituled, “ *An Act to facilitate the transfer of Lands in Victoria.*”
2. The Hon. J. HOOD: To move, That there be laid upon the Table of this House—
  - (1.) The population of the parish of Moorooduc and the district of Point Nepean, classified according to their calling or pursuits.
  - (2.) The number of acres under cultivation in said districts.
  - (3.) The tonnage and value of imports into and exports from the said districts during 1856.
 Copy of Petition, if any, that has been presented to either the Legislature or the Executive, praying to have a Jetty erected at Schnapper Point.

### ORDERS OF THE DAY :—

1. AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S BILL.—To be read a second time.
2. INTERPRETATION OF ACTS BILL.—Consideration of Message from Legislative Assembly.
3. JURIES BILL.—Adoption of Report.
4. SETTLED ESTATES BILL.—Consideration of Message from Legislative Assembly.
5. PENSIONS BILL.—To be read a third time.
6. GUNPOWDER BILL.—Consideration of Message from Legislative Assembly.
7. EMIGRATION BILL.—Consideration of Message from Legislative Assembly.
8. BELFAST CHURCH OF ENGLAND LANDS ACT AMENDMENT BILL.—Adoption of Report.

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## MEETINGS OF SELECT COMMITTEES.

*Friday, 28th August.*

STANDING ORDERS—at half-past 1 o'clock.

REFRESHMENT ROOMS—at 2 o'clock.

*Tuesday, 1st September.*

CONVEYANCING—at 12 o'clock.

COIN OF THE SYDNEY MINT—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.

TUESDAY, 1ST SEPTEMBER, 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, by command of His Excellency the Governor, presented to the Council the following Paper:—

Administration of Oaths—Circular Despatch from The Right Honorable the Secretary of State (20th May, 1857).

TRANSFER OF LANDS BILL.—The Honorable J. B. Bennett, in accordance with Notice, moved, That leave be given to bring in a Bill to facilitate the Transfer of Lands in Victoria.

Question—put and passed.

Bill read a first time, ordered to be printed, and read a second time on Thursday, 10th instant.

MOOROODUC AND POINT NEPEAN DISTRICTS.—The Honorable J. Hood, in accordance with notice, moved, That there be laid upon the Table of the House—

- (1.) The population of the parish of Moorooduc and the district of Point Nepean, classified according to their calling or pursuits.
- (2.) The number of acres under cultivation in said districts.
- (3.) The tonnage and value of imports into and exports from the said districts during 1856.

Copy of Petition, if any, that has been presented to either the Legislature or the Executive, praying to have a Jetty erected at Schnapper Point.

Question—put and passed.

AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S BILL.—The Order of the Day for the second reading of this Bill was postponed until Wednesday, the 2nd instant.

INTERPRETATION OF ACTS BILL.—CONSIDERATION OF MESSAGE FROM LEGISLATIVE ASSEMBLY.—The Order of the Day for the consideration of the Message from the Legislative Assembly with this Bill being read, the Message was read at the Table by the Clerk.

The Honorable J. B. Bennett moved, That this House do not insist on the amendment made in the Bill.

Question—put and passed.

The Honorable J. B. Bennett moved, That the ninth clause of the Bill be now considered in Committee of the whole Council, with a view to insert therein certain words, *i.e.*, "and sums of money" after the word "fees" in the third line of the said clause.

Ordered.

The President left the Chair.

The Chairman of Committees reported that the Committee had agreed to the insertion of the words "and sums of money" after the word "fees" in the third line of the ninth clause of the Bill.

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

JURIES 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 W. H. F. Mitchell moved that the same be discharged.

Question—put and passed.

The Honorable W. H. F. Mitchell moved, That the Bill be now further considered in Committee of the whole Council, with a view to re-consider the Preamble.

Question—put and passed.

The President left the Chair.

The Chairman of Committees reported that the Committee had re-considered the Preamble, and had agreed to the same.

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 Wednesday, the 2nd instant.

**SETTLED ESTATES BILL.—MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—**The Order of the Day for the consideration of the Message from the Legislative Assembly with this Bill being read, the Message was read at the Table by the Clerk.

The amendments proposed by the Legislative Assembly were, on the motion of the Honorable J. B. Bennett, read three times severally, as follows :—

Clause 1. In line 2 omit “ of Council ”

Clause 23. Omit all the words from “ into ” in line 5, down to the word “ court ” in line 7.

Clause 31. Insert “ within ” after the word “ shall ” in line 1 ; omit “ immediately ” in line 2 ; insert “ fourteen days ; ” omit “ twenty-one ” in line 4 ; insert “ fourteen ; ” omit “ thirty-six days ” in line 7, and insert “ one month. ”

Question—That this Council agree to the amendments—put and passed.

The Honorable J. B. Bennett moved, That a Message be carried to the Legislative Assembly to acquaint them that this Council have agreed to the amendments proposed, and to point out that the words proposed by the Council for the agreement of the Legislative Assembly, viz , “ or other person or persons ” were proposed for insertion in Clause XXI. and not in Clause XXXI. as implied in the Message from the Legislative Assembly.

Question—put and passed.

**PENSIONS 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 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 for the confirmation of certain Pensions.* ”

Question—put and passed.

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

**GUNPOWDER BILL.—CONSIDERATION OF MESSAGE FROM LEGISLATIVE ASSEMBLY.—**The Order of the Day for the consideration of the Message from the Legislative Assembly with this Bill being read, the Message was read at the table by the Clerk.

The amendment proposed by the Legislative Assembly was, on the motion of the Honorable J. F. Strachan, read three times as follows :—

[Clause XXIX.] Insert the word “ October ” instead of the word “ August, ” and the said amendment was, on motion of the Honorable J. F. Strachan, agreed to by the Council.

Ordered—That a Message be carried to the Legislative Assembly, to acquaint them that the Council have agreed to the amendment.

**EMIGRATION BILL.—CONSIDERATION OF MESSAGE FROM LEGISLATIVE ASSEMBLY.—**The Order of the Day for the consideration of the Message from the Legislative Assembly with this Bill being read, the Honorable W. H. F. Mitchell moved, That the Order of the Day be postponed until Tuesday next.

The Honorable H. Miller moved, That the words “ Tuesday next ” be omitted, with a view to insert the words “ this day six months. ”

Debate ensued.

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 Order of the Day for the consideration of the Message from the Legislative Assembly with the Emigration Bill be postponed until this day six months—put and passed.

**BELFAST CHURCH OF ENGLAND LANDS ACT AMENDMENT BILL.—**The Order of the Day for the adoption of the Report of the Committee of the Council on this Bill was postponed until Thursday next.

The Honorable C. Vaughan, with leave of the Council, moved without notice, That a Message be sent 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.

**ADJOURNMENT.—**The Honorable W. H. F. Mitchell moved, That the House at its rising adjourn until Tuesday next.

Debate ensued.

Motion by leave withdrawn.

The Council adjourned at fifteen minutes to five o'clock until three o'clock on Wednesday, the 2nd instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 2ND SEPTEMBER.

*Government Business.*

## ORDER OF THE DAY :—

1. JURIES BILL.—To be read a third time.

*General Business.*

1. The Hon. W. ROOPE : To ask the Honorable the Postmaster General if any portion of the sum of one thousand pounds, voted by the Legislative Assembly for repairs and additions during the current year to public buildings in Geelong, has been appropriated; and, if so, the amount expended on each building respectively.

## NOTICES OF MOTION :—

1. The Hon. J. HODGSON : To move, That a Committee of five Members of this House be appointed to act with five Members of the Legislative Assembly as a joint Library Committee, and that such Committee consist of the Honorables the President, J. P. Fawkner, Dr. Hope, W. H. F. Mitchell, and the Mover.
2. The Hon. J. HODGSON : To move, That a Message be sent to the Legislative Assembly requesting them to authorise the Standing Orders Committee of that House to confer Standing Orders Committee of this House on the subject of the correction of typographical errors in Bills.

## ORDER OF THE DAY :—

1. AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S BILL.—To be read a second time.

THURSDAY, 3RD SEPTEMBER.

1. The Hon. B. WILLIAMS : To ask the Honorable Postmaster General—
  - (1.) Whether it is the intention of the Government to appoint any Customs or Revenue Officers at Welchpool, Corner Inlet.
  - (2.) If the Government intend to lay down buoys from the entrance of Corner Inlet to the Port of Welchpool.
  - (3.) Whether the Government intend to take any steps to ascertain if a Coal Field exists in the ranges between Alberton and Welchpool.

## ORDER OF THE DAY :—

1. BELFAST CHURCH OF ENGLAND LANDS ACT AMENDMENT BILL.—Adoption of Report.

THURSDAY, 10TH SEPTEMBER.

## ORDER OF THE DAY :—

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

MEETING  
OF  
SELECT COMMITTEE.

*Wednesday, 2nd September.*

REFRESHMENT ROOMS—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, 2ND SEPTEMBER, 1857.

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

**LAND SOLD WITHIN THE BOUNDARIES OF THE CITY OF MELBOURNE.**—The Honorable W. H. F. Mitchell laid upon the Table of the Council the following Paper :—  
Return to an Order of the Legislative Council (26th August, 1857).  
Ordered to lie on the Table.

**REFRESHMENT ROOMS COMMITTEE.**—The Honorable W. Highett, with leave of the Council, moved without notice, That, so far as the authority of this House extends, leave be given to the Joint Committee of the two Houses of Parliament, appointed to manage the Refreshment Rooms of the Houses, to manage and control the Stables.  
Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly, desiring their concurrence in extending the powers of the Committee.

**JURIES 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 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 for regulating Juries.*"

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.

**JOINT LIBRARY COMMITTEE.**—The Honorable J. Hodgson, in accordance with notice, moved, That a Committee of five Members of this House be appointed to act with five Members of the Legislative Assembly as a Joint Library Committee, and that such Committee consist of the Honorables the President, J. P. Fawcner, Dr. Hope, W. H. F. Mitchell, and the Mover.

Question—put and passed.

**TYPOGRAPHICAL ERRORS IN BILLS.**—The Honorable J. Hodgson, in accordance with notice, moved, That a Message be sent to the Legislative Assembly, requesting them to authorise the Standing Orders Committee of that House to confer with the Standing Orders Committee of this House on the subject of the correction of typographical errors in Bills.

Question—put and passed.

**AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S BILL.**—The Order of the Day for the second reading of this Bill being read, the Honorable T. McCombie moved, That the Bill be now read a second time.

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 return to the Legislative Council a Bill intituled "*An Act to enable the Shareholders in a Joint Stock Insurance Company carrying on business in the Colony of Victoria under the name, style, or title of 'The Colonial Insurance Company,' to sue and be sued in the name of the Chairman for the time being of the Directors of the said Company, and for other purposes,*" and inform the Legislative Council that the Legislative Assembly have agreed to the amendments made by the Legislative Council in this Bill.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 1st September, 1857.

**AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S BILL.—**

Debate resumed.

Motion—That the Bill be now read a second time—by leave withdrawn.

ADJOURNMENT.—The Honorable W. H. F. Mitchell, with leave of the Council, moved, That the House at its rising adjourn until Tuesday next.

Question—put and passed.

The Council adjourned at twenty-five minutes to six o'clock until three o'clock on Tuesday, the 8th instant.

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**ORDERS OF THE DAY.**

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**TUESDAY, 8TH SEPTEMBER.**

1. The Hon. J. HOOD: To ask the Honorable the Postmaster General what steps the Government intend to take in consequence of the rejection by this House of the Emigration Bill.
2. The Hon. T. McCOMBIE: To ask the Honorable the Postmaster General if the Government intend to open Labor Depôts in the interior, or adopt measures for the distribution of the large numbers of emigrants arriving and expected to arrive in Melbourne.

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**THURSDAY, 10TH SEPTEMBER.****ORDER OF THE DAY :—**

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

OF

**SELECT COMMITTEE.***Friday, 4th September.***REFRESHMENT ROOMS**—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, 8TH SEPTEMBER, 1857.

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

The President read the Prayer.

**LAPSED ORDER OF THE DAY.**—The Order of the Day for the adoption of the Report of the Committee of the whole Council on the Belfast Church of England Lands Act Amendment Bill, which lapsed on Thursday, the 3rd instant, was ordered to be restored to the Paper for Thursday, the 10th instant.

**PETITION.**—The Honorable T. McCombie presented a Petition from Messengers employed in the Legislative Council for an increase of salary.

Petition received.

The Honorable T. McCombie moved, That the Petition be referred to the Decoration of the Council Chamber Committee.

Question—put and passed.

**CONGRATULATION GIVEN TO THE PRESIDENT.**—The Honorable T. McCombie, with leave of the Council, moved without notice, That the congratulations of this House be offered to the President on the honor of Knighthood recently conferred upon him by Her Most Gracious Majesty the Queen.

Question—put and passed.

The President thereupon made acknowledgment to the Council.

**ADJOURNMENT DURING PLEASURE.**—On the motion of the Honorable W. H. F. Mitchell, the Council adjourned during pleasure.

The President took 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 regulate the Sale and Occupation of Crown Lands*," to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chamber,  
Melbourne, 3rd September, 1857.

**MR. PRESIDENT—**

The Legislative Assembly transmit to the Legislative Council a copy of the Report and Evidence taken on the Belfast Church of England Lands Act Amendment Bill, in accordance with the request of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 3rd September, 1857.

**MR. PRESIDENT—**

The Legislative Assembly acquaint the Legislative Council that they concur in the proposal of the Legislative Council to empower the Joint Refreshment Rooms Committee to manage the Stables attached to the Parliament Houses.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 3rd September, 1857.

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council the Bill intituled "*An Act for the Interpretation of Legislative Enactments and for Shortening the Language used therein,*" and acquaint the Legislative Council that they have agreed to the insertion of the words "and sums of money" in the ninth clause of the said Bill.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 2nd September, 1857.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled "*An Act to incorporate a Company to be called 'The Ballaarat Gas Company' and for other purposes,*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 1st September, 1857.

The Crown Lands 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 22nd instant.

The Honorable J. P. Fawcner, with leave of the Council, moved without notice, That there be a Call of the House on Tuesday, the 22nd instant.

Question—put and passed.

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, on the Ballaarat Gas Company's Bill, together with the Minutes of Evidence taken before the Select Committee.

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 till Tuesday next.

Question—put and passed.

SELECT COMMITTEES.—The Honorable T. McCombie moved, That all Select Committees of the Council have power to sit during the adjournment.

Ordered.

POSTPONEMENTS.—The several Orders of the Day set down for intermediate days were ordered to be postponed until Tuesday, 15th instant.

The Council adjourned at ten minutes to five o'clock until three o'clock on Tuesday, 15th instant.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 15TH SEPTEMBER.

1. The Hon. B. WILLIAMS : To ask the Honorable the Postmaster General—
  - (1.) Whether it is the intention of the Government to appoint any Customs or Revenue Officers at Welchpool, Corner Inlet.
  - (2.) If the Government intend to lay down buoys from the entrance of Corner Inlet to the Port of Welchpool.
  - (3.) Whether the Government intend to take any steps to ascertain if a Coal Field exists in the ranges between Alberton and Welchpool.
2. The Hon. T. McCOMBIE : To ask the Honorable the Postmaster General—
  - (1.) On whose application has a Post Office been granted to Frankston.
  - (2.) How near to Frankston is the Post Office situated.
  - (3.) Is the situation selected for the Frankston Post Office that best adapted for the public convenience.
3. The Hon. J. P. FAWKNER : To ask the Postmaster General—
  - (1.) Does Mr. Piper still continue a Crown Land Commissioner.
  - (2.) What return did he make of stock on the run of Mr. Beggs on the last return day.
  - (3.) How many stock did Mr. Beggs return on the latest return day and pay for.
  - (4.) Did Mr. C. L. C. Piper make any representations to the Government anent the stock grazing on Mr. Beggs's run either this year or at any other time.
4. The Hon. T. McCOMBIE: To ask if the Government has received an application from Major Charles Newman, for the remission usually allowed to an officer of his rank and service, and if there be any objection to his receiving the same.
5. The Hon. J. H. PATTERSON: To ask the Honorable the Postmaster General if he would cause a Return to be laid on the Table of the House of the Clerical Staff of the General Post Office, with the number of Sorters; specifying the particular duties of each branch, the number of hours employed daily, the salary of each, with any extra allowance that may be given for extra attendance beyond the usual office hours.



## NOTICES OF MOTION:—

1. 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. 39, 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 acquired 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.
2. The Hon. J. P. FAWKNER: To move, That the Honorable A. R. Cruikshank having been guilty of contempt of this House, be for the said offence committed to the custody of the Usher of this Council, and that the President do issue his warrant accordingly.

## ORDERS OF THE DAY:—

1. BELFAST CHURCH OF ENGLAND LANDS ACT AMENDMENT BILL.—Adoption of Report.
2. TRANSFER OF LAND BILL.—To be read a second time.

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TUESDAY, 22ND SEPTEMBER.

## ORDERS OF THE DAY:—

1. CALL OF THE HOUSE.
2. CROWN LANDS BILL.—To be read a second time.

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MEETINGS  
OF  
**SELECT COMMITTEES.**

*Thursday, 10th September.*

DECORATION OF COUNCIL CHAMBER (JOINT COMMITTEE)—at 11 o'clock.  
CONVEYANCING—at half-past 1 o'clock.

*Tuesday, 15th September.*

REFRESHMENT ROOMS—at 2 o'clock.

G. W. RUSDEN,

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

No. 68.

## Minutes of the Proceedings

OF THE

# LEGISLATIVE COUNCIL.

TUESDAY, 15TH SEPTEMBER, 1857.

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

The President read the Prayer.

**PETITION.**—The Honorable H. Miller presented to the Council a Petition from William Lowe, of Richmond, praying that this Honorable House will reject the Land Bill now under consideration.

Petition received.

**LETTER FROM THE HONORABLE A. R. CRUIKSHANK.**—The President informed the Council that he had received a letter from the Honorable A. R. Cruikshank on the subject of the resolution of the Council, whereby, on the 25th March, 1857, the said Honorable A. R. Cruikshank was declared to be in contempt of the Council.

The Honorable J. B. Bennett moved, That the letter from the Honorable A. R. Cruikshank be taken into consideration after the Notices of Motion this day.

Question—put and passed.

**PAPERS.**—The Honorable W. H. F. Mitchell laid upon the Table of the House a Return of the Clerical Staff of the General Post Office.

The Honorable J. H. Patterson moved that the Return be printed.

Question—put and passed.

**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. 39, 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.

Question—put and passed.

**TAKING A MEMBER INTO CUSTODY OF THE USHER.**—The Honorable J. P. Fawkner, in accordance with notice, moved, That the Honorable A. R. Cruikshank having been guilty of contempt of this House, be for the said offence committed to the custody of the Usher of this Council, and that the President do issue his warrant accordingly.

Debate ensued.

Question—put.

Council divided.

Contents, 8.  
The Hon. J. P. Fawkner  
N. Guthridge  
B. Williams  
J. B. Bennett  
T. H. Power  
W. Roope  
S. G. Henty  
G. Urquhart (*Teller*).

Not Contents, 16.  
The Hon. W. H. F. Mitchell  
H. Miller  
J. H. Patterson  
C. Vaughan  
J. Stewart  
T. McCombie  
J. Allan  
J. Hood  
W. J. T. Clarke  
Dr. Tierney  
Dr. Hope  
D. P. Keogh  
D. Kennedy  
W. Highett  
J. Hodgson  
J. F. Strachan (*Teller*).

The question was therefore negatived.

**LETTER FROM THE HONORABLE A. R. CRUIKSHANK—CONSIDERATION OF.**—The Letter from the Honorable A. R. Cruikshank was read at the Table by the Clerk as follows:—

No. 55 to 63, Little Collins-street west,

Tuesday, 15th September, 1857.

*To the Honorable the President of the Legislative Council, Victoria.*

SIR,

Since my return to the Colony I exceedingly regret to learn from the records of the Council that, on the 25th of March last, I was, on the motion of the Honorable J. P. Fawkner, voted in contempt in consequence of my not having attended a Call of the Council for that day. I had previously left the Colony without intimating to the Council that such was my intention, and requesting leave of absence, and in so doing I now feel assured that I acted discourteously; this I much regret, as such was not my intention, and I respectfully trust that the Council will accept this explanation as my apology. With reference to the question of the contempt itself, in not attending the Call, I beg to submit to the Council my assurance, that had the precedents of the Standing Orders by which the Council was then guided been strictly followed as I understood them, a gentleman in my absence would have appeared for me, and have satisfied the Council that I was abroad at the date the Call was made, which I find is generally received in the precedents as a sufficient excuse; yet I am not desirous to screen myself behind my reading of the precedents, even if correct, as the act of discourtesy committed would still be as flagrant under any circumstances.

Requesting the favor of your submitting this explanation to the Council on my behalf,

I am, Sir,

Your most obedient servant,

ANDREW ROSE CRUIKSHANK.

The Honorable J. B. Bennett moved, That the Order of the Day for the consideration of the letter from the Honorable A. R. Cruikshank be discharged.

Question—put and passed.

**BELFAST CHURCH OF ENGLAND LANDS 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 C. Vaughan moved, That the CXIIth Standing Order be suspended in order to enable the Bill to be proceeded with.

Question—put and passed.

The Honorable C. Vaughan moved, That the Report of the Committee of the whole Council on this Bill be adopted.

Question—put and passed.

Ordered—That the third reading of the Bill be made an Order of the Day for Thursday, the 17th instant.

**POSTPONEMENT.**—The Order of the Day for the second reading of the Transfer of Land Bill was postponed until Thursday, the 17th instant.

**ADJOURNMENT.**—The Honorable W. H. F. Mitchell moved, with leave of the Council, That the House at its rising adjourn until Thursday next.

Question—put and passed.

The Council adjourned at a quarter past four o'clock until three o'clock on Thursday, the 17th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 17TH SEPTEMBER.

1. The Hon. T. McCOMBIE : To ask the Honorable the Postmaster General—
  - (1.) On whose application has a Post Office been granted to Frankston.
  - (2.) How near to Frankston is the Post Office situated.
  - (3.) Is the situation selected for the Frankston Post Office that best adapted for the public convenience.

NOTICE OF MOTION :—

1. The Hon. N. GUTHRIDGE : To move, That the Return of Land sold within the Boundaries of Melbourne, laid upon the Table of this House on the 2nd instant, be printed.

ORDERS OF THE DAY :—

1. BELFAST CHURCH OF ENGLAND LANDS ACT AMENDMENT BILL.—To be read a third time.
2. TRANSFER OF LAND BILL.—To be read a second time.

TUESDAY, 22ND SEPTEMBER.

1. The Hon. B. WILLIAMS : To ask the Honorable the Postmaster General—
  - (1.) Whether it is the intention of the Government to appoint any Customs or Revenue Officers at Welchpool, Corner Inlet.
  - (2.) If the Government intend to lay down buoys from the entrance of Corner Inlet to the Port of Welchpool.
  - (3.) Whether the Government intend to take any steps to ascertain if a Coal Field exists in the ranges between Alberton and Welchpool.

ORDERS OF THE DAY :—

1. CALL OF THE HOUSE.
2. CROWN LANDS BILL.—To be read a second time.

## MEETING

OF

## SELECT COMMITTEE.

*Thursday, 17th September.*

DECORATION OF COUNCIL CHAMBER—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, 17<sup>TH</sup> SEPTEMBER, 1857.

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

The President read the Prayer.

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

1. Federation of the Australian Colonies—Circular Despatch (17th June, 1857) from the Right Honorable the Secretary of State for the Colonies.
2. List of Acts assented to by Her Majesty—Despatches No. 40 (1st June, 1857) and No. 41 (4th June, 1857) from the Right Honorable the Secretary of State for the Colonies.
3. Health Officer, Report of—Half year ending 30th June, 1857.
4. Local Court Regulations—District of Creswick (11th September, 1857).
5. Local Court Regulations—District of Heathcote (1st September, 1857, 11th September, 1857).
6. Local Court Regulations—District of Yackandandah (1st September, 1857).
7. Local Court Regulations—District of Avoca (1st September, 1857).
8. Local Court Regulations—District of Waranga (1st September, 1857).
9. Botanic Garden, Melbourne—Report on, by Dr. Ferdinand Mueller, 1857.

Ordered severally to lie on the Table.

SUSPENSION OF STANDING ORDER.—The Honorable T. McCombie moved, with the leave of the Council, without notice, That the XIXth Standing Order be suspended.

Question—put and passed.

The Honorable T. McCombie moved, with leave of the Council, without notice, That the Honorable A. R. Cruikshank's apology for the contempt he was guilty of towards this House be accepted, and that the vote of the 25th March last, declaring him in contempt, be rescinded.

Question—put and passed.

LAND SOLD WITHIN THE BOUNDARIES OF THE CITY OF MELBOURNE.—The Honorable N. Guthridge, in accordance with notice, moved, That the return of land sold within the boundaries of the City of Melbourne, laid on the Table of this House on the 2nd instant, be printed.

Question—put and passed.

BELFAST CHURCH OF ENGLAND LANDS 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 C. Vaughan, read a third time and *passed*.

The Honorable C. Vaughan moved, That the title of the Bill be, "*An Act to amend 'An Act to enable the Trustees for the time being of certain portions of the Belfast Church of England Lands, in the Colony of Victoria, to sell certain portions of the said Lands.'*"

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.

TRANSFER OF LAND 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.

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 for making and maintaining a Bridge over the Campaspe River at Echuca,*" to which they desire the concurrence of the Legislative Council.

Legislative Assembly Chambers,  
Melbourne, 15th September, 1857.

FRANS. MURPHY,  
Speaker.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled "*An Act to abolish State Aid to Religion,*" to which they desire the concurrence of the Legislative Council.

Legislative Assembly Chambers,  
Melbourne, 9th September, 1857.

FRANS. MURPHY,  
Speaker.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a copy of the Report and Evidence taken on the Ballaarat Gas Company's Bill, in accordance with the request of the Legislative Council.

Legislative Assembly Chambers,  
Melbourne, 8th September, 1857.

FRANS. MURPHY,  
Speaker.

MR. PRESIDENT—

The Legislative Assembly inform the Legislative Council that the Standing Orders Committee of the Legislative Assembly has been empowered to confer with the Standing Orders Committee of the Legislative Council on the subject of Typographical Errors in Bills, as desired by the Legislative Council.

Legislative Assembly Chambers,  
Melbourne, 15th September, 1857.

FRANS. MURPHY,  
Speaker.

The State Aid to Religion Bill, on the motion of the Honorable J. F. Strachan, read a first time, ordered to be printed, and read a second time on Tuesday next.

The Honorable J. H. Patterson moved, That the Message from the Legislative Assembly with the Echuca Bridge Bill be taken into consideration on Wednesday next, and that a Message be sent 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 Echuca Bridge Bill, together with the Minutes of Evidence taken before the said Committee.

Question—put and passed.

The Honorable J. Hood produced a certificate of the payment of the amount required to be paid to the Colonial Treasurer for the public uses of the Colony, before the first reading of a private Bill, and moved, That the Ballaarat Gas Company's Bill be now read a first time.

Question—put and passed.

Bill read a first time, ordered to be printed, and read a second time on Thursday, the 24th instant.

TRANSFER OF LAND BILL.—

Debate resumed.

Amendment moved by the Honorable T. McCombie, That all the words after the word "be" be omitted, with the view to insert the following words, "referred to the Conveyancing Committee now sitting, for their report thereupon."

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 the more easy recovery of certain Debts and Demands,*" to which they desire the concurrence of the Legislative Council.

Legislative Assembly Chambers,  
Melbourne, 16th September, 1857.

FRANS. MURPHY,  
Speaker.

The Honorable J. F. Strachan moved, That the Bill be now read a first time, ordered to be printed, and read a second time on Tuesday next.

Amendment moved by the Honorable J. P. Fawkner, That the word "Tuesday" be omitted, with a view to insert the word "Thursday" 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 Bill be now read a first time, ordered to be printed, and read a second time on Thursday next—put and passed.

#### TRANSFER OF LAND BILL.—

Debate resumed.

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.

Council divided.

<p style="text-align: center;">Contents, 7.</p> <p>The Hon. W. J. T. Clarke T. McCombie B. Williams J. Stewart D. Kennedy Dr. Tierney J. H. Patterson (<i>Teller</i>).</p>	<p style="text-align: center;">Not Contents, 9.</p> <p>The Hon. J. Allan Dr. Hope H. Miller J. B. Bennett G. Urquhart J. P. Fawkner T. H. Power W. Highett J. Hodgson (<i>Teller</i>).</p>
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The question was therefore negatived.

Amendment moved by the Honorable H. Miller, That the following words be added after the word "be," "referred to a Select Committee, 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."

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

Question—That the Bill be referred to a Select Committee, 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—put and passed.

STANDING ORDERS COMMITTEE.—The Honorable J. Hodgson moved, That the Standing Orders Committee have power to meet during the adjournment.

Ordered.

The Council adjourned at twenty minutes past six o'clock until three o'clock on Tuesday, 22nd instant.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 22ND SEPTEMBER.

1. The Hon. B. WILLIAMS : To ask the Honorable the Postmaster General—
  - (1.) Whether it is the intention of the Government to appoint any Customs or Revenue Officers at Welchpool, Corner Inlet.
  - (2.) If the Government intend to lay down buoys from the entrance of Corner Inlet to the Port of Welchpool.
  - (3.) Whether the Government intend to take any steps to ascertain if a Coal Field exists in the ranges between Alberton and Welchpool.
2. The Hon. T. McCOMBIE : To ask the Honorable the Postmaster General—
  - (1.) On whose application has a Post Office been granted to Frankston.
  - (2.) How near to Frankston is the Post Office situated.
  - (3.) Is the situation selected for the Frankston Post Office that best adapted for the public convenience.

#### ORDERS OF THE DAY :—

1. CALL OF THE HOUSE.
2. CROWN LANDS BILL.—To be read a second time.
3. STATE AID TO RELIGION BILL.—To be read a second time.

WEDNESDAY, 23RD SEPTEMBER.

#### ORDER OF THE DAY :—

1. ECHUCA BRIDGE BILL.—Consideration of Message from Legislative Assembly.

THURSDAY, 24TH SEPTEMBER.

## NOTICE OF MOTION :—

1. The Hon. DR. TIERNEY: To move, That there be laid upon the Table of this House a detailed Return of the annual charge on the revenue for the Light Ship at the entrance of the Channel leading to Melbourne, distinguishing the cost for repairs to the ship fastenings and boats, the sum expended on the maintenance of the light, and the expense for victualling and wages, for the last four years; and also for a Statement, showing the first cost of establishing the light and mooring her in her present position.

## ORDERS OF THE DAY :—

1. BALLAARAT GAS COMPANY'S BILL.—To be read a second time.
2. COUNTY COURTS BILL.—To be read a second time.

MEETINGS  
OF  
**SELECT COMMITTEES.**

*Tuesday, 22nd September.*

DECORATION OF COUNCIL CHAMBER—at 2 o'clock.

*Wednesday, 23rd September.*

TRANSFER OF LANDS BILL.—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, 22ND SEPTEMBER, 1857.

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

The President read the Prayer.

**PETITIONS.**—The Honorable H. Miller presented to the Council a Petition from certain inhabitants of Richmond, praying that the Council will reject the Land Bill now under consideration.

Petition received.

The Honorable J. Hood presented a similar Petition from certain inhabitants at Heidelberg.

Petition received.

The Honorable N. Guthridge presented a similar Petition from certain inhabitants of Emerald Hill.

Petition received.

The Honorable D. Kennedy presented a similar Petition from certain inhabitants of West Bourke.

Petition received.

The Honorable D. P. Keogh presented a similar Petition from members of the Municipal Council of Kilmore.

Petition received.

The Honorable N. Guthridge presented a similar Petition from certain inhabitants of Prahran.

Petition received.

The Honorable J. Hood presented a similar Petition from members of the Local Court at Dunolly.

Petition received.

The Honorable J. Hood presented a similar Petition from one Samuel Gordon.

Petition received.

**PAPERS.**—The Honorable W. H. F. Mitchell presented to the Council the following Paper :—  
Regulations for Registration of Patents (9th September, 1857).

Ordered to lie on the Table.

**DECORATION OF COUNCIL CHAMBER.—PROGRESS REPORT OF SELECT COMMITTEE.**—The Honorable J. Hodgson brought up a Progress Report from the Select Committee on the Decoration of the Council Chamber, to whom was referred on the 8th instant a Petition from the messengers employed in the Legislative Council, and moved that the same be read.

The report was read at the Table by the Clerk.

Your Committee have the honor to report that they have had under their consideration an application from the messengers of this House that their salaries at present at the rate of fifty shillings per week, may be increased to sixty shillings per week, so that they may be placed on a footing with those of the Legislative Assembly.

Your Committee have examined into the circumstances brought under their consideration, and are of opinion that the weekly pay of sixty (60) shillings is not more than sufficient to maintain in befitting decency the messengers of this House.

J. F. PALMER,

Chairman.

The Honorable J. Hodgson moved, with leave of the Council, without notice, That the report of the Select Committee be now adopted.

Question—put and passed.

The Honorable J. Hodgson moved, with leave of the Council, without notice, That an Address be presented to His Excellency the Governor, that he will take measures to place the messengers of this House upon a footing with those of the Legislative Assembly.

Question—put and passed.

**CONVEYANCING.—REPORT OF SELECT COMMITTEE.**—The Honorable T. McCombie brought up a Report from the Select Committee appointed on the 6th ultimo "to inquire into the systems of Conveyancing now in general use in this Colony, and in what manner it may be rendered less expensive and more correct," and moved that it be received, printed, and taken into consideration on Tuesday, 29th instant.

Question—put and passed.

**CALL OF THE HOUSE.**—The Order of the Day for a Call of the House being called on, the Order of the House made on the 8th instant was read at the table by the Clerk.

The names of the Honorable Members of the House were called over by the Clerk, 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 M. Hervey and R. Thomson. The Honorable M. Hervey was absent by permission of the House.

The Honorable J. Stewart moved, That as the infrequency of postal communication with Gipps Land prevented the Honorable R. Thomson from receiving intimation of the Call of the House in time to enable him to attend, the absence of the Honorable R. Thomson be excused.

Question—put and passed.

**CROWN LANDS 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 the view to add the words "this day six months," after the word "time."

**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 copy of the Report and Evidence taken on the Bill intituled "*An Act for making and maintaining a Bridge over the Campaspe River at Echuca,*" in accordance with the request of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 17th September, 1857.

**CROWN LANDS BILL.**—

Debate resumed.

The Council adjourned during pleasure.

The President resumed the Chair.

**PETITION.**—The Honorable D. P. Keogh presented a Petition from certain residents at Wangaratta, praying that the Council will reject the Land Bill now under consideration.

Petition received.

**CROWN LANDS BILL.**—

Debate resumed.

**PETITION.**—The Honorable J. Hood presented a Petition signed by certain inhabitants of Melbourne, praying that the Council will reject the Land Bill now under consideration.

Petition received.

**CROWN LANDS BILL.**—

Debate resumed.

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" proposed to be added after the word "time" be so added—put and passed.

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

Contents, 21.

The Hon. J. Hodgson  
J. Allan  
D. P. Keogh  
G. Urquhart  
J. Henty  
W. J. T. Clarke  
H. Miller  
J. B. Bennett  
T. H. Power  
S. G. Henty  
T. McCombie  
C. Vaughan  
D. Kennedy  
A. R. Cruikshank  
Dr. Tierney  
J. Cowie  
B. Williams  
J. Stewart  
J. P. Fawcner  
J. Hood  
N. Guthridge (*Teller*).

Not Contents, 6.

The Hon. J. F. Strachan  
Dr. Hope  
W. H. F. Mitchell  
W. Roope  
W. Highett  
J. H. Patterson (*Teller*).

The question was therefore passed.

**STATE AID TO RELIGION BILL.**—The Order of the Day for the second reading of this Bill was postponed until Tuesday next.

**ADJOURNMENT.**—The Honorable W. H. F. Mitchell, with leave of the Council, moved, That the House at its rising adjourn till Tuesday next.  
Ordered.

**SELECT COMMITTEES.**—The Honorable J. Hodgson moved, That all Select Committees have power to sit during the adjournment.  
Ordered.

**POSTPONEMENTS.**—The Honorable W. H. F. Mitchell moved, That the business set down for the 23rd and 24th instant be postponed until Tuesday, 29th instant.  
Ordered.

The Council adjourned at twenty minutes to eleven o'clock until three o'clock on Tuesday, 29th instant.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 29TH SEPTEMBER.

1. The Hon. T. McCOMBIE: To ask the Honorable the Postmaster General if the Government is aware of any Circular or Despatch having arrived in the Australian Colonies from the Imperial Authorities placing Indian Officers on the same footing in reference to Land Remission Orders as the Officers of the Line in the Queen's service.
2. The Hon. B. WILLIAMS: To ask the Honorable the Postmaster General—
  - (1.) Whether it is the intention of the Government to appoint any Customs or Revenue Officers at Welchpool, Corner Inlet.
  - (2.) If the Government intend to lay down buoys from the entrance of Corner Inlet to the Port of Welchpool.
  - (3.) Whether the Government intend to take any steps to ascertain if a Coal Field exists in the ranges between Alberton and Welchpool.

### NOTICES OF MOTION:—

1. The Hon. C. VAUGHAN: To move, That, with reference to the Belfast Church of England Lands Act Amendment Bill, so much of the Standing Order No. 114 as requires the expenses attending the publication of a private Bill to be paid by the promoters thereof, before the same be presented for the Royal Assent, be dispensed with.
2. The Hon. J. COWIE: To move, That an Address be presented to His Excellency the Governor, praying that he will cause to be laid on the Table of this House a Return of the Revenue and Expenditure of the Corporation of Geelong, under Act, 17 Vic. No. 23, from 1st September, 1853, to 31st August, 1857, the outlay upon public streets being distinguished from that on private streets, and the amount laid out on every public and private street being specified separately.
3. The Hon. DR. TIERNEY: To move, That there be laid upon the Table of this House a detailed Return of the annual charge on the revenue for the Light Ship at the entrance of the Channel leading to Melbourne, distinguishing the cost for repairs to the ship fastenings and boats, the sum expended on the maintenance of the light, and the expense for victualling and wages, for the last four years; and also for a Statement, showing the first cost of establishing the light and mooring her in her present position.

### ORDERS OF THE DAY:—

1. ECHUCA BRIDGE BILL.—Consideration of Message from Legislative Assembly.
2. BALLAARAT GAS COMPANY'S BILL.—To be read a second time.
3. COUNTY COURTS BILL.—To be read a second time.
4. CONVEYANCING.—Consideration of Report of Select Committee.
5. STATE AID TO RELIGION BILL.—To be read a second time.

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## MEETING OF SELECT COMMITTEE.

Wednesday, 23rd September.

TRANSFER OF LANDS BILL.—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, 29<sup>TH</sup> SEPTEMBER, 1857.

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

The President read the Prayer.

**ROYAL ASSENT TO BILLS.**—The President informed the Council that he had been apprised by a letter from the Private Secretary, that it is the intention of His Excellency the Governor to proceed to the Legislative Council Chamber on Friday, the 2nd proximo, at half-past four o'clock, to assent in Her Majesty's name to certain Bills passed by the Legislative Council and Legislative Assembly.

**TYPOGRAPHICAL ERRORS IN BILLS.**—The Honorable J. Hodgson, with leave of the Council, moved, without notice, That the following resolutions be agreed to as additional Joint Standing Orders of both Houses of Parliament:—

Upon the discovery of any clerical errors in any Bills which shall have passed both Houses of Parliament, and before the same be presented to the Governor for the Royal Assent, the Clerk of the Parliaments shall report the same to the House in which the Bill originated, which House shall deal with the same as with other amendments.

The Clerk of the Parliaments shall be empowered to correct typographical errors in Bills that have passed the two Houses of Parliament, subject always to a reference to the President.

Question—put and passed.

The Honorable J. Hodgson moved, That a message be carried to the Legislative Assembly, desiring their concurrence with the said Standing Orders as Joint Standing Orders of the Legislative Council and Legislative Assembly.

Question—put and passed.

**BELFAST CHURCH OF ENGLAND LANDS ACT AMENDMENT BILL.**—The Honorable C. Vaughan, in accordance with notice, moved, That, with reference to the Belfast Church of England Lands Act Amendment Bill, so much of the Standing Order No. 114 as requires the expenses attending the publication of a private Bill to be paid by the promoters thereof, before the same be presented for the Royal Assent, be dispensed with.

Question—put and passed.

**REVENUE AND EXPENDITURE OF THE CORPORATION OF GEELONG.**—The Honorable J. Cowie, in accordance with *amended* notice, moved, That there be laid on the Table of this House a Return of the Revenue and Expenditure of the Corporation of Geelong, under Act 17 Victoria, No. 23, from 1st September, 1853, to 31st August, 1857, the outlay upon public streets being distinguished from that on private streets, and the amount laid out on every public and private street being specified separately.

Question—put and passed.

**LIGHTSHIP IN CHANNEL LEADING TO MELBOURNE.**—The Honorable Dr. Tierney, in accordance with notice, moved, That there be laid upon the Table of this House a detailed Return of the annual charge on the revenue for the Light Ship at the entrance of the Channel leading to Melbourne, distinguishing the cost for repairs to the ship fastenings and boats, the sum expended on the maintenance of the light, and the expense for victualling and wages, for the last four years; and also for a Statement, showing the first cost of establishing the light and mooring her in her present position.

Question—put and passed.

**ECHUCA BRIDGE BILL.**—The Order of the Day for the consideration of the Message from the Legislative Assembly, with the Report and Proceedings of a Select Committee on this Bill being read, The Honorable J. H. Patterson produced a certificate of the payment of the amount required to be paid to the Colonial Treasurer for the public uses of the Colony by the promoters of this Bill, and moved, That the Bill be now read a first time.

Question—put and passed.

Bill read a first time, and ordered to be read a second time on Thursday, 1st October.

**BALLAARAT GAS COMPANY'S 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.

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.

**COUNTY COURTS 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 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 provide for the Collection and Payment of the Public Monies, the Audit of the Public Accounts, and the Protection and Recovery of the Public Property;*," also, a Bill, intituled, "*An Act to make Powers of Attorney valid in certain cases,*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 24th September, 1857.

The Honorable W. H. F. Mitchell moved, That the Audit Bill be read a first time.

Question—put and passed.

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

The Honorable W. H. F. Mitchell moved, That the Powers of Attorney Bill be read a first time.

Question—put and passed.

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

**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 concur with the Legislative Council in the insertion of the words "or any other person or persons" after the word "judges," in section XXI. of the Settled Estates Bill.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 29th September, 1857.

**CONVEYANCING.**—The Order of the Day for the consideration of the Report of the Select Committee of the Council on Conveyancing was postponed until Wednesday, 30th instant.

**STATE AID TO RELIGION 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 Council adjourned during pleasure.

Debate resumed.

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

Council divided.

Contents, 13.

The Hon. J. P. Fawcner  
W. H. F. Mitchell  
Dr. Hope  
T. H. Power  
J. Henty  
A. R. Cruikshank  
J. Hood  
J. Stewart  
W. Roope  
N. Guthridge  
J. Cowie  
C. Vaughan  
J. Hodgson (*Teller*).

Not Contents, 14.

The Hon. B. Williams  
J. H. Patterson  
G. Urquhart  
J. Allan  
D. Kennedy  
R. Thomson  
J. B. Bennett  
T. McCombie  
W. J. T. Clarke  
S. G. Henty  
D. P. Keogh  
W. Highett  
Dr. Tierney  
H. Miller (*Teller*).

The question was therefore negatived.

The Council adjourned at twenty-five minutes to nine o'clock until three o'clock on Wednesday, 30th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

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WEDNESDAY, 30TH SEPTEMBER.

1. The Hon. J. B. BENNETT: To ask the Honorable the Postmaster General whether the Government are aware that the mail from Melbourne to Ballaarat *via* Bacchus Marsh has for some time ceased to run, and that letters posted at Bacchus Marsh for Ballaarat, are brought down to Melbourne, thence to Geelong, and forwarded from Geelong by the night mail to Ballaarat, thus involving a delay of four days for the transit of communication which has been effected, until lately, in the same number of days.
2. The Hon. W. ROOPE: To ask the Honorable the Postmaster General whether the authorities here have received any communication from the Imperial Government relative to altering the present Postal arrangements between Great Britain and the Australian Colonies, involving the necessity of transshipping the mails and passengers at Point de Galle; and if so, what course they intend to pursue in regard to this matter.

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ORDERS OF THE DAY:—

1. BALLAARAT GAS COMPANY'S BILL.—To be further considered in Committee.
2. COUNTY COURTS BILL.—To be further considered in Committee.
3. CONVEYANCING.—Consideration of Report of Select Committee.

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THURSDAY, 1ST OCTOBER.

ORDERS OF THE DAY:—

1. ECHUCA BRIDGE BILL.—To be read a second time.
2. AUDIT BILL.—To be read a second time.
3. POWERS OF ATTORNEY 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, 30<sup>TH</sup> SEPTEMBER, 1857.

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

The President read the Prayer.

**BALLAARAT GAS COMPANY'S 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. Hood moved, That the adoption of the Report of the Committee be made an Order of the Day for 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 amending the Laws relative to the Gold Fields,*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 29<sup>th</sup> September, 1857.

The Bill, on the motion of the Honorable J. Hodgson, read a first time—ordered to be printed, and read a second time to-morrow.

**COUNTY COURTS 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 notice had been taken in Committee that a quorum of members was not present.

The President counted the House, and it being found that a quorum was present, the President left the Chair, and the Committee of the whole House was resumed.

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

Ordered.

The Council adjourned during pleasure.

The President resumed the Chair.

Committee of the whole Council on the County Courts 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 progress, and asked leave to sit again to-morrow.

Ordered.

**CONVEYANCING.**—The Order of the Day for the consideration of the Report of the Select Committee on Conveyancing was postponed until Thursday, the 1<sup>st</sup> proximo.

The Council adjourned at nine o'clock until three o'clock on Thursday, the 1<sup>st</sup> October.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 1ST OCTOBER.

## NOTICES OF MOTION:—

1. The Hon. T. McCOMBIE: To move—
  - (1.) That, in the opinion of this House, His Excellency the Governor and Executive Council ought, in accordance with powers vested in them by the Constitutional Act, frame new regulations for the apportionment of the £50,000 reserved for the advancement of the Christian religion in this Colony, under the 53rd clause of 18 and 19 Victoria.
  - (2.) That in such new regulations the sum so reserved may be apportioned to each denomination according to the relative proportion of the members of such denomination, as provided by the above Act; but that the monies so to be divided shall be distributed for the advancement of religion in the country districts, and that no part of the same shall be apportioned in aid of religion in any town or city having a population of twenty thousand persons, or any suburb of such city.
2. The Hon. W. H. F. MITCHELL: To move, That the Sessional Order of the 26th November, 1857, to the effect that the Council meet three days in the week, be suspended, and that the House at its rising on Thursday, 1st October, adjourn until three o'clock on Friday, 2nd October.

## ORDERS OF THE DAY:—

1. ECHUCA BRIDGE BILL.—To be read a second time.
2. AUDIT BILL.—To be read a second time.
3. POWERS OF ATTORNEY BILL.—To be read a second time.
4. BALLAARAT GAS COMPANY'S BILL.—Adoption of Report of Committee.
5. GOLD FIELDS MANAGEMENT BILL.—To be read a second time.
6. COUNTY COURTS BILL.—To be further considered in Committee.
7. CONVEYANCING.—Consideration of Report of Select Committee.

G. W. RUSDEN,

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



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

THURSDAY, 1ST OCTOBER, 1857.

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

The President read the Prayer.

REGULATIONS FOR DISTRIBUTION OF STATE AID TO RELIGION.—The Honorable T. McCombie, in accordance with *amended* notice, moved—

- (1.) That, in the opinion of this House, His Excellency the Governor and Executive Council ought, in accordance with powers vested in them by the Constitutional Act, to frame new regulations for the apportionment of the £50,000 reserved for the advancement of the Christian religion in this Colony, under the 53rd clause of 18 and 19 Victoria.
- (2.) That, in the opinion of this House, in such new regulations the sum so reserved may be apportioned to each denomination according to the relative proportion of the members of such denomination, as provided by the above Act; but that the monies so to be divided shall be distributed for the advancement of religion in the country districts, and that no part of the same shall be apportioned in aid of religion in any town or city having a population of twenty thousand persons, or any suburb of such city.

Debate ensued.

Question—put.

Council divided.

Contents, 10.  
The Hon. J. Allan  
W. Highett  
D. P. Keogh  
W. J. T. Clarke  
J. Stewart  
B. Williams  
R. Thomson  
D. Kennedy  
T. McCombie  
C. Vaughan (*Teller*).

Not Contents, 15.  
The Hon. J. H. Patterson  
W. H. F. Mitchell  
J. Hodgson  
H. Miller  
G. Urquhart  
J. Henty  
T. H. Power  
W. Roope  
Dr. Hope  
J. Hood  
S. G. Henty  
J. B. Bennett  
Dr. Tierney  
A. R. Cruikshank  
J. F. Strachan (*Teller*).

The question was therefore negatived.

SUSPENSION OF SESSIONAL ORDER.—The Honorable W. H. F. Mitchell, in accordance with notice, moved, That the Sessional Order of the 26th November, 1856, to the effect that the Council meet three days in the week, be suspended, and that the House at its rising on Thursday, 1st October, adjourn until three o'clock on Friday, 2nd October.

Question—put and passed.

ECHUCA BRIDGE BILL.—The Order of the Day for the second reading of this Bill was postponed until Friday, the 2nd instant, then to take precedence.

AUDIT 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.

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 request that the Legislative Council will make the following corrections in the Bill intituled, "*An Act to provide for the Collection and Payment of the Public Monies the Audit of the Public Accounts and the Protection and Recovery of the Public Property*" viz.:—

Section XXVIII.—Strike out the word "last," in line two.

Insert after the word "shall," in line eight, the words, "within two months next after the said statements accounts and receipts shall have been sent to them as hereinbefore directed."

Section LXIII.—Strike out the word "and," in line one; and insert in the same line, after the word "fifth," the words, "forty-fourth and forty-fifth."

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 30th September, 1857.

MR. PRESIDENT—

The Legislative Assembly acquaint the Legislative Council that they have agreed to the proposed Additional Joint Standing Orders, with amendments, to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 30th September, 1857.

The Honorable H. Miller moved, That the Message with corrections in the Audit Bill be referred to the Committee of the whole Council on that Bill.

Question—put and passed.

The Honorable J. Hodgson moved, That the consideration of the Message relative to the Additional Joint Standing Orders be made an Order of the Day for to-morrow.

Ordered.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR WITH AMENDMENTS IN THE BILL FOR THE CONTINUATION OF EXPIRING LAWS.—The Honorable W. H. F. Mitchell, by command of His Excellency the Governor, presented to the Council the following Message from His Excellency the Governor.

VICTORIA.—CONTINUATION OF EXPIRING LAWS BILL.

HENRY BARKLY,  
Governor.

Message, No.

In pursuance of the 18th and 19th Victoria, c. 55, Schedule section 36, the Governor transmits to the Legislative Council for their consideration the following amendments, which he desires to be made in the "*Bill for the Continuation of Expiring Laws*;" that is to say, to omit the words "divers Acts now in force," and substitute, "The Acts mentioned in the Schedule hereunto annexed;" to omit the words, "or shall be," and to add in a Schedule the dates and titles of the Acts to be continued.

Government Offices,  
Melbourne, 1st October, 1857.

The Honorable W. H. F. Mitchell moved, That the Message from His Excellency the Governor be taken into consideration after the disposal of the Order of the Day concerning the Audit Bill.

Question—put and passed.

AUDIT BILL.—Debate resumed.

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

Ordered.

The Council adjourned during pleasure.

The President resumed the Chair.

Committee of the whole Council on the Audit Bill resumed.

The Chairman of Committees reported that the Committee had gone through the Bill, and had agreed to the same with the corrections transmitted in the Message from the Legislative Assembly, which was referred to the Committee with the Bill.

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 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 provide for the Collection and Payment of the Public Monies the Audit of the Public Accounts and the Protection and Recovery of the Public Property.*"

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 the corrections transmitted in the Message from that House.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR WITH AMENDMENTS IN THE BILL INTITULED "AN ACT FOR THE CONTINUATION OF EXPIRING LAWS."—The amendments proposed by the Governor in this Bill, being read severally three times by the Clerk, were, on the motion of the Honorable W. H. F. Mitchell, severally agreed to as follows:—

Omit the words "divers Acts now in force," and substitute "the Acts mentioned in the Schedule hereunto annexed."

Omit the words "or shall be," and add in a Schedule the dates and titles of the Acts to be continued.

Ordered—That the Bill, together with the Message from His Excellency the Governor, be carried to the Legislative Assembly, with a Message, acquainting them that the Legislative Council have agreed to the amendments proposed by His Excellency the Governor.

POWERS OF ATTORNEY BILL.—The Order of the Day for the second reading of this Bill was postponed until Friday, 2nd instant.

BALLAARAT GAS COMPANY'S 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.

Question—put and passed.

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

POSTPONEMENTS.—The following Orders of the Day were severally postponed until Friday, the 2nd instant:—

"Gold Fields Management Bill—To be read a second time."

"County Courts Bill—To be further considered in Committee."

"Conveyancing—Consideration of Report of Select Committee."

The Council adjourned at half-past seven o'clock until three o'clock on Friday, the 2nd instant.

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## ORDERS OF THE DAY.

FRIDAY, 2ND OCTOBER.

1. The Hon. J. B. BENNETT: To ask leave of the Council to be absent for a month from Monday, the 5th instant.

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### ORDERS OF THE DAY:—

1. ECHUCA BRIDGE BILL.—To be read a second time.
2. POWERS OF ATTORNEY BILL.—To be read a second time.
3. COUNTY COURTS BILL.—To be further considered in Committee.
4. ADDITIONAL JOINT STANDING ORDERS.—Consideration of Message from Legislative Assembly.
5. BALLAARAT GAS COMPANY'S BILL.—To be read a third time.
6. GOLD FIELDS MANAGEMENT BILL.—To be read a second time.
7. CONVEYANCING.—Consideration of Report of Select Committee.

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## MEETING OF SELECT COMMITTEE.

Friday, 2nd October.

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

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

FRIDAY, 2ND OCTOBER, 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, by command of His Excellency, presented to the Council the following Paper:—

Agricultural and Live Stock Statistics (year ending 31st March, 1857).

Ordered to lie on the Table.

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 the Bill intituled "*An Act for the continuation of Expiring Laws,*" and inform them that the Legislative Assembly have agreed to the amendments proposed therein by His Excellency the Governor.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 2nd October, 1857.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled "*An Act to establish a Board of Land and Works,*"

Also, a Bill intituled "*An Act to authorize the raising moneys for the construction of certain Railways,*"

Also a Bill 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 Ballarat,*"

to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 2nd October, 1857.

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 on Tuesday, the 6th instant.

LEAVE OF ABSENCE TO A MEMBER.—The Honorable W. H. F. Mitchell, on behalf of the Honorable J. B. Bennett, in accordance with notice given, moved, That leave be given to the Honorable J. B. Bennett to be absent from the House for one month, from Monday, the 5th instant.

Question—put and passed.

**ECHUCA BRIDGE BILL.**—The Order of the Day for the second reading of this Bill being read, the Honorable J. H. Patterson moved, That the Bill be now read a second time.

Amendment moved by the Honorable Dr. Tierney, That the word "now" be omitted, with a view to add the words "this day month" after the word "time."

Debate ensued.

Amendment by leave withdrawn.

Question—That the Bill be now read a second time—put and 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 on Tuesday the 6th instant.

Ordered.

**POWERS OF ATTORNEY 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.

Question—put and 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 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 adoption of the report of the Committee be made an Order of the Day for Tuesday, 6th instant.

Ordered.

**COUNTY COURTS BILL.**—The Order of the Day for the further consideration of this Bill in Committee of the whole Council being read, the Honorable J. Hodgson moved, That the further consideration of the Bill in Committee be postponed until Tuesday next.

Debate ensued.

Question—That the further consideration of the Bill in Committee be postponed until Tuesday next—put and negatived.

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 Tuesday the 6th instant.

Ordered.

**ADDITIONAL JOINT STANDING ORDERS.**—The Order of the Day for the consideration of the Message from the Legislative Assembly on Additional Joint Standing Orders having been read, the Message was read at the Table by the Clerk, together with the amendments made by the Legislative Assembly as follows:—

Omit all the words after the word "originated" in the first proposed Order.

Insert the word "literal" after the word "correct" in the second proposed Order.

Omit all the words after "Parliament" in the second proposed Order.

The Honorable J. Hodgson moved, That this House disagree with the amendment in the first proposed Order.

Question—put and passed.

The Honorable J. Hodgson moved, That this House agree with the second and third amendments.

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to acquaint them that this House disagree with the first, and have agreed to the second and third amendments made by the Legislative Assembly.

**BALLAARAT GAS COMPANY'S 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, certain errors in the numbering of the clauses having been rectified in the Committee of the whole Council, 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 incorporate a Company to be called 'The Ballaarat 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 without any amendment in the body thereof, and to request them to concur in the rectification of the numbering of the clauses.

**GOLD FIELDS MANAGEMENT BILL.**—The Order of the Day for the second reading of this Bill was postponed until Tuesday the 6th instant.

**CONVEYANCING.**—The Order of the Day for the consideration of the Report of the Select Committee on Conveyancing was postponed until Tuesday the 13th instant.

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.

Mr. Speaker and the Legislative Assembly attending, His Excellency was pleased to assent, in the name of Her Majesty the Queen, to the following Bills:—

“An Act for the Continuation of Expiring Laws.”

“An Act to direct the Payment of certain Monies into the Consolidated Revenue.”

“An Act to enable the Melbourne and Hobson’s Bay Railway Company to raise additional Capital and to extend the Provisions of the Acts relating to the Company and for conferring on the Company additional Powers in relation to the Undertaking and for other Purposes.”

“An Act for Regulating Juries.”

“An Act for the Confirmation of certain Pensions.”

“An Act to regulate the Importation Carriage and Custody of Gunpowder.”

“An Act for the Interpretation of Legislative Enactments and for shortening the Language used therein.”

“An Act to amend ‘An Act to enable the Trustees for the time being of certain portions of the Belfast Church of England Lands in the Colony of Victoria to sell certain portions of the said Lands.’”

“An Act to provide for the Collection and Payment of the Public Monies, the Audit of the Public Accounts and the protection and recovery of the Public Property:”

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.

JOINT REFRESHMENT ROOMS COMMITTEE.—The Honorable W. Highett brought up a Report from the Joint Refreshment Rooms Committee, and moved that the same be now adopted.

The Report was read at the Table by the Clerk.

Question—That the Report be now adopted—put.

Council divided.

Contents, 12.  
The Hon. W. H. F. Mitchell  
J. F. Strachan  
C. Vaughan  
J. Hodgson  
W. Highett  
S. G. Henty  
J. Stewart  
R. Thomson  
J. Henty  
N. Guthridge  
W. Roope  
J. H. Patterson (*Teller*).

Not Contents, 5.  
The Hon. J. Allan  
Dr. Tierney  
T. H. Power  
J. Hood  
J. B. Bennett (*Teller*).

The question was therefore passed.

The Honorable W. Highett moved, That a Copy of the Report be carried to the Legislative Assembly with a Message desiring their concurrence therein.

Question—put and passed.

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 extend the right of voting and to provide for the Registration of Parliamentary Electors,” to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 2nd October, 1857.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled “An Act for the Construction of Railways,” to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 2nd October, 1857.

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 on Tuesday, the 6th instant.  
The Council adjourned at nine o'clock until three o'clock on Tuesday the 6th instant.

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NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 6TH OCTOBER.

NOTICES OF MOTION:—

1. The Hon. J. HOOD: To move, That the Minutes of Evidence taken before the Board lately appointed to investigate certain charges made against the Secretary of the Water and Sewerage Commission, together with the Report of said Board, be laid upon the Table of this House.
2. The Hon. T. McCOMBIE: To move, That the Bill intituled "*An Act to enable the Share-holders in a Joint Stock Insurance Company carrying on business in the Colony of Victoria under the name style or title of 'The Colonial Insurance Company' to sue and be sued in the name of the Chairman for the time being of the Directors of the said Company and for other purposes,*" be read a second time.

ORDERS OF THE DAY:—

1. BOARD OF LAND AND WORKS BILL.—To be read a second time.
2. RAILWAYS LOAN BILL.—To be read a second time.
3. MAIN TRUNK RAILWAY BILL.—To be read a second time.
4. ECHUCA BRIDGE BILL.—To be further considered in Committee.
5. POWERS OF ATTORNEY BILL.—Adoption of Report.
6. COUNTY COURTS BILL.—Adoption of Report.
7. GOLD FIELDS MANAGEMENT BILL.—To be read a second time.
8. ELECTORAL ACT AMENDMENT BILL.—To be read a second time.
9. RAILWAY CONSTRUCTION BILL.—To be read a second time.

TUESDAY, 13TH OCTOBER.

ORDER OF THE DAY:—

1. CONVEYANCING.—Adoption of Report of Select Committee.

G. W. RUSDEN,

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

Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

TUESDAY, 6TH OCTOBER, 1857.

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

The President read the Prayer.

**CHARGES AGAINST THE SECRETARY OF THE WATER AND SEWERAGE COMMISSION.**—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 this House the Minutes of Evidence taken before the Board lately appointed to investigate certain charges made against the Secretary of the Water and Sewerage Commission, together with the Report of the said Board.

Question—put and passed.

**AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S BILL.**—The Honorable T. McCombie, in accordance with *amended* notice, moved, That the Bill intituled "*An Act to enable the Shareholders of a Joint Stock Insurance Company, established in the Colony of Victoria under the title of 'The Australasian Fire and Life Insurance Company,' to sue and be sued in the name of the Chairman for the time being of the Board of Directors of the said Company, and to limit the liability of such Shareholders, and for other purposes,*" be read a second time.

Debate ensued.

Question—put.

Council divided.

Contents, 15.  
The Hon. J. Hodgson  
G. Urquhart  
W. J. T. Clarke  
S. G. Henty  
J. Allan  
C. Vaughan  
T. McCombie  
J. P. Fawkner  
J. Stewart  
Dr. Tierney  
J. Hood  
N. Guthridge  
J. Henty  
R. Thomson  
J. H. Patterson (*Teller*).

Not Contents, 7.  
The Hon. W. H. F. Mitchell  
H. Miller  
B. Williams  
*T. H. Power*  
Dr. Hope  
D. Kennedy  
W. Highett  
J. F. Strachan (*Teller*).

The Honorable T. H. Power having stated upon challenge that he believed he was a shareholder in the Australasian Fire and Life Insurance Company, the President disallowed his vote.

The question was therefore passed.

Ordered—That the Bill be considered in Committee of the whole Council on Wednesday, the 7th instant.

**PETITION.**—The Honorable J. P. Fawkner presented a Petition from Robert Benson and other members of the Local Court of the district of Castlemaine, praying that the Council will reject the Bill for the management of the Gold Fields now before the House.

Petition received.



**BOARD OF LAND AND WORKS 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.

Amendment moved by the Honorable J. P. Fawkner, That the word “now” be omitted, with a view to add the words “this day week” after the word “time.”

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.

Ordered—That the 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 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 to-morrow.

**POSTPONEMENTS.**—The following Orders of the Day were severally postponed until Thursday, the 8th instant :—

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

“*Main Trunk Railway Bill*”—to be read a second time.

**ECHUCA BRIDGE 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. H. Patterson moved, That the adoption of the Report of the Committee be made an Order of the Day for to-morrow.

Question—put and passed.

**POWERS OF ATTORNEY 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 W. H. F. Mitchell 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 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 make Powers of Attorney valid in certain cases.*”

Question—put and passed.

**COUNTY COURTS 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 W. H. F. Mitchell moved, That the Report of the Committee be now adopted.

Debate ensued.

The Honorable N. Guthridge moved, That the Order of the Day be postponed for one month.

Question—That the Order of the Day be postponed for one month—put and negatived.

Question—That the Report of the Committee on the County Courts Bill be now adopted—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 for the more easy Recovery of certain Debts and Demands.*”

Question—put and passed.

**POSTPONEMENTS.**—The following Orders of the Day were severally postponed as follows :—

“*Gold Fields Management Bill*”—to be read a second time Wednesday, 7th October.

“*Electoral Act Amendment Bill*”—to be read a second time Wednesday, 7th October.

“*Railway Construction Bill*”—to be read a second time Thursday, 8th October.

The Council adjourned at ten minutes past six o'clock until three o'clock on Wednesday, the 7th instant.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

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WEDNESDAY, 7TH OCTOBER.

*Government Business.*

**ORDERS OF THE DAY :—**

1. **BOARD OF LAND AND WORKS BILL.**—To be read a third time.
2. **GOLD FIELDS MANAGEMENT BILL.**—To be read a second time.
3. **ELECTORAL ACT AMENDMENT BILL.**—To be read a second time.

*General Business.*

1. The Hon. J. HOOD : To ask the Honorable the Postmaster General the reason why the Oaths of Office Bill, lately passed both branches of the Legislature, has not received the Royal Assent.

## ORDERS OF THE DAY :—

1. AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S BILL.—To be considered in Committee.
2. ECHUCA BRIDGE BILL.—Adoption of Report.

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THURSDAY, 8TH OCTOBER.

## ORDERS OF THE DAY :—

1. RAILWAYS LOAN BILL.—To be read a second time.
2. MAIN TRUNK RAILWAY BILL.—To be read a second time.
3. RAILWAY CONSTRUCTION BILL.—To be read a second time.

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TUESDAY, 13TH OCTOBER.

1. The Hon. Dr. TIERNEY : To ask the Honorable the Postmaster General—
  - (1.) If the Government would ascertain the amount of unclaimed balances that have been lying in the various banks in the Colony, from year to year, for the last ten years, to the credit of persons who have not claimed them, and who are supposed to have died intestate.
  - (2.) In case of any difficulty arising to the Government in ascertaining such information, would there be any objection to introduce a Bill for that purpose.
  - (3.) When such credit balances are ascertained, if there would be any objection on behalf of the Government to introduce a Bill to appropriate such amounts for the support and maintenance of the Orphans in this Colony.
  - (4.) How the monies which have come into the hands of the Government during the last six years from the Intestate Estates (unclaimed by next of kin) have been appropriated and distributed.

## ORDER OF THE DAY :—

1. CONVEYANCING.—Adoption of Report of Select Committee.

G. W. RUSDEN,

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

Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

WEDNESDAY, 7TH OCTOBER, 1857.

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

QUESTION OF ADJOURNMENT.—The Honorable J. H. Patterson, with leave of the Council, moved, That the House at its rising adjourn until Tuesday next.  
Question—put and negatived.

BOARD OF LAND AND WORKS BILL.—The Order of the Day for the third reading of this Bill being read, and 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 Honorable W. H. F. Mitchell moved, That the Bill be now read a third time.

Amendment moved by the Honorable J. Hood, That the Order of the Day for the third reading of the Bill be discharged.

Debate ensued.

Amendment, by leave, withdrawn.

Amendment moved by the Honorable Dr. Tierney, That the word “now” be omitted, with a view to add the words “this day three weeks” after the word “time.”

Debate ensued.

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

Contents, 12.

The Hon. J. F. Strachan  
J. Hodgson  
J. H. Patterson  
C. Vaughan  
G. Urquhart  
T. H. Power  
W. Highett  
D. Kennedy  
H. Miller  
J. Henty  
R. Thomson  
W. H. F. Mitchell (*Teller*).

Not Contents, 11.

The Hon. J. Stewart  
A. R. Cruikshank  
Dr. Tierney  
N. Guthridge  
J. Hood  
Dr. Hope  
T. McCombie  
D. P. Keogh  
J. Cowie  
W. Roope  
J. Allan (*Teller*).

The question was therefore passed.

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

Contents, 13.

The Hon. W. H. F. Mitchell  
J. Hodgson  
J. H. Patterson  
C. Vaughan  
G. Urquhart  
T. H. Power  
W. Highett  
D. Kennedy  
H. Miller  
J. Henty  
R. Thomson  
Dr. Hope  
J. F. Strachan (*Teller*).

Not Contents, 10.

The Hon. J. Stewart  
Dr. Tierney  
N. Guthridge  
A. R. Cruikshank  
J. Hood  
T. McCombie  
D. P. Keogh  
J. Cowie  
W. Roope  
J. Allan (*Teller*).

The question was therefore passed.

Bill read a third time, and on the motion of the Honorable W. H. F. Mitchell, *passed*.

The Honorable W. H. F. Mitchell moved, That the title of the Bill be, “*An Act to establish a Board of Land and Works.*”

Question—put and passed.

**GOLD FIELDS MANAGEMENT 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.

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.

Ordered—That the adoption of the Report of the Committee be made an Order of the Day for Tuesday next.

**POSTPONEMENTS.**—The following Orders of the Day were severally postponed until Tuesday, 13th instant:—

“*Electoral Act Amendment Bill*”—to be read a second time.

“*Australasian Fire and Life Insurance Company's Bill*”—to be further considered in Committee.

**ECHUCA BRIDGE 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. H. Patterson 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 next.

The Council adjourned at five minutes to six o'clock until three o'clock on Thursday, the 8th instant.

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## NOTICES OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 8TH OCTOBER.

NOTICE OF MOTION:—

1. The Hon. W. HIGHETT: To move, That the Report of the Joint Refreshment Rooms Committee, presented to the House on the 2nd instant, be printed.

ORDERS OF THE DAY:—

1. RAILWAYS LOAN BILL.—To be read a second time.
2. MAIN TRUNK RAILWAY BILL.—To be read a second time.
3. RAILWAY CONSTRUCTION BILL.—To be read a second time.

TUESDAY, 13TH OCTOBER.

1. The Hon. Dr. TIERNEY: To ask the Honorable the Postmaster General—

- (1.) If the Government would ascertain the amount of unclaimed balances that have been lying in the various banks in the Colony, from year to year, for the last ten years, to the credit of persons who have not claimed them, and who are supposed to have died intestate.
- (2.) In case of any difficulty arising to the Government in ascertaining such information, would there be any objection to introduce a Bill for that purpose.
- (3.) When such credit balances are ascertained, if there would be any objection on behalf of the Government to introduce a Bill to appropriate such amounts for the support and maintenance of the Orphans in this Colony.
- (4.) How the monies which have come into the hands of the Government during the last six years from the Intestate Estates (unclaimed by next of kin) have been appropriated and distributed.

ORDERS OF THE DAY:—

1. CONVEYANCING.—Adoption of Report of Select Committee.
2. GOLD FIELDS MANAGEMENT BILL.—Adoption of Report of Committee.
3. ELECTORAL ACT AMENDMENT BILL.—To be read a second time.
4. AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S BILL.—To be further considered in Committee.
5. ECHUCA BRIDGE BILL.—To be read a third time.

G. W. RUSDEN,

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

# Minutes of the Proceedings

OF THE

# LEGISLATIVE COUNCIL.

THURSDAY, 8TH OCTOBER, 1857.

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

The President read the Prayer.

**PETITION.**—The Honorable J. P. Fawcner presented to the Council a Petition from James E. Crook and others, of Bacchus Marsh, praying that the Council will prevent the Bill for constructing the line of Railway from Melbourne to Ballaarat by way of Geelong, and moved that the same be read and received.

The Petition was read at the Table by the Clerk.

Petition received.

**JOINT REFRESHMENT ROOMS COMMITTEE—REPORT OF.**—The Honorable W. Highett, in accordance with notice, moved, That the Report of the Joint Refreshment Rooms Committee, presented to the House on the 2nd instant, be printed.

Debate ensued.

Question—put and passed.

**RAILWAYS LOAN 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.

Amendment moved by the Honorable H. Miller, That all the words after the word “be” be omitted, with a view to add the words “referred to a Select Committee, to consist of ten Members, to be chosen by ballot, the Committee to have power to take evidence, to examine witnesses, and to report to the House at as early a period as possible.”

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

Question—That the Bill be referred to a Select Committee, to consist of ten members, to be chosen by ballot, the Committee to have power to take evidence, to examine witnesses, and to report to the House at as early a period as possible—put and passed.

The Honorable H. Miller moved, That the Standing Orders Nos. XLII. and XLV. be suspended, and that the present ballot be taken subject to the following conditions, viz.: That no member shall insert in the list given in by him more than two members of any one province, and should any such list include more than two members from any one province, it shall be rejected altogether.

Question—put and passed.

The Honorable H. Miller moved, That two additional members be added to the Committee.

Question—put and passed.

The Council then proceeded to the ballot, and the following members being reported by the Clerk to have the greatest number of votes, two ballot papers having been rejected in consequence of containing more than two members for one province, were declared by the President to be the members of the Committee, viz.:—The Honorables W. H. F. Mitchell, W. Highett, T. McCombie, H. Miller, J. Stewart, J. F. Strachan, J. P. Fawcner, T. H. Power, Dr. Hope, J. H. Patterson, S. G. Henty, J. F. Palmer.

The Honorable H. Miller moved, That the Select Committee have power to sit during the adjournment of the House.

Question—put and passed.

**MAIN TRUNK RAILWAY 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 referred to the Select Committee on Railways.

Question—put and passed.

**RAILWAY CONSTRUCTION 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 referred to the Select Committee on Railways.

Question—put and passed.

The Council adjourned at a quarter to seven o'clock until three o'clock on Tuesday, the 13th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 13TH OCTOBER.

1. The Hon. Dr. TIERNEY: To ask the Honorable the Postmaster General—
  - (1.) If the Government would ascertain the amount of unclaimed balances that have been lying in the various banks in the Colony, from year to year, for the last ten years, to the credit of persons who have not claimed them, and who are supposed to have died intestate.
  - (2.) In case of any difficulty arising to the Government in ascertaining such information, would there be any objection to introduce a Bill for that purpose.
  - (3.) When such credit balances are ascertained, if there would be any objection on behalf of the Government to introduce a Bill to appropriate such amounts for the support and maintenance of the Orphans in this Colony.
  - (4.) How the monies which have come into the hands of the Government during the last six years from the Intestate Estates (unclaimed by next of kin) have been appropriated and distributed.
2. The Hon. J. HOOD: To ask the Honorable the Postmaster General if the Oaths of Office Bill has been presented to the Governor for the Royal Assent; and if so, whether His Excellency has reserved it for the Queen's pleasure, or vetoed the Bill.

## NOTICES OF MOTION:—

1. The Hon. J. HOOD: To move, That a Select Committee of five Members, be appointed to consider the propriety of amending the Constitution Act, particularly as to the powers of this Council to amend the Appropriation Act.
2. The Hon. A. R. CRUIKSHANK: To move, That the following information may be laid on the Table of this House:—  
A Return of all Tenders received for the £33,000 Debentures lately offered for sale by the Government.
3. The Hon. J. F. STRACHAN: To move, That the petition presented by the Honorable J. P. Fawkner on the 8th instant, be printed.
4. The Hon. J. P. FAWKNER: To move, That the letter and application of Henry Russell be taken into consideration, and such determination as the merits of this case deserve may be then arrived at.

## ORDERS OF THE DAY:—

1. CONVEYANCING.—Adoption of Report of Select Committee.
2. GOLD FIELDS MANAGEMENT BILL.—Adoption of Report of Committee.
3. ELECTORAL ACT AMENDMENT BILL.—To be read a second time.
4. AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S BILL.—To be further considered in Committee.
5. ECHUCA BRIDGE BILL.—To be read a third time.

## MEETINGS

OF

## SELECT COMMITTEES.

*Monday, 12th October.*

RAILWAYS—at two o'clock.

*Tuesday, 13th October.*

GRANTS TO CORPORATIONS—at half-past one o'clock.

CHINESE IMMIGRATION—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, 13TH OCTOBER, 1857.

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

The President read the Prayer.

**PETITION.**—The Honorable W. H. F. Mitchell presented to the Council a Petition, signed by Charles F. Cameron, styling himself the Chairman of the Castlemaine Chamber of Commerce, praying that this Honorable House will sanction the formation of a direct line of railway from Melbourne to Sandhurst, *via* Castlemaine, with a continuation to the River Murray.

The Petition was read at the Table by the Clerk.

Petition received.

**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 Heathcote (2nd October, 1857).

2. Local Court Regulations—District of Creswick (2nd October, 1857).

3. Local Court Regulations—District of Hepburn (2nd October, 1857).

Severally ordered to lie on the Table.

**PROPRIETY OF AMENDING THE CONSTITUTION ACT.**—The Honorable J. Hood, in accordance with *amended* notice, moved, That a Select Committee of six Members be appointed to consider the propriety of amending the Constitution Act; particularly as to the powers of this Council to amend the Appropriation Act.

Debate ensued.

Question—put.

Council divided.

Contents, 8.  
The Hon. T. H. Power  
S. G. Henty  
J. Hood  
A. R. Cruikshank  
T. McCombie  
D. P. Keogh  
Dr. Tierney  
J. Allan (*Teller*).

Not Contents, 15.  
The Hon. J. H. Patterson  
W. H. F. Mitchell  
C. Vaughan  
G. Urquhart  
D. Kennedy  
J. P. Fawcner  
J. Stewart  
W. J. T. Clarke  
H. Miller  
W. Highett  
J. Henty  
Dr. Hope  
R. Thomson  
N. Guthridge  
J. Hodgson (*Teller*).

The question was therefore negatived.

**TENDERS FOR DEBENTURES.**—The Honorable A. R. Cruikshank, 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 all Tenders received for the £33,000 Debentures lately offered for sale by the Government.

Question—put and passed.

**PETITION FROM J. E. CROOK AND OTHERS, BACCHUS MARSH.**—The Honorable Dr. Hope, on behalf of the Honorable J. F. Strachan, in accordance with *amended* notice, moved, That the Petition presented by the Honorable J. P. Fawcner on the 8th instant be printed, and referred to the Select Committee on Railways.

Question—put and passed.

**CONVEYANCING.**—The Order of the Day for the adoption of the Report of the Select Committee on Conveyancing was postponed until Tuesday, 27th instant.

**GOLD FIELDS MANAGEMENT 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 W. H. F. Mitchell 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 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 for amending the Laws relative to the Gold Fields.*"

Question—put and passed.

**ELECTORAL ACT AMENDMENT BILL.**—The Order of the Day for the second reading of this Bill was postponed until after the consideration of the next Order of the Day.

**AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S 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 to the House the following point of order, viz. :— Whether a Member being a subscriber to an undertaking is entitled to vote on questions affecting the undertaking.

The President ruled, That any Member who has subscribed to a joint stock company, and who declares that he has sold his shares, and has no direct and separate pecuniary interest in the company, is entitled to vote on questions affecting the company.

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 T. McCombie moved, That the adoption of the Report be made an Order of the Day for Tuesday, the 20th instant.

Ordered.

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

1. Supply of Water to Geelong—Report of Chairman of Geelong Water Company (30th May, 1857).

2. Supreme Court Rule—(2nd October, 1857).

Ordered severally to lie on the Table.

**ELECTORAL ACT AMENDMENT BILL.**—The Order of the Day for the second reading of this Bill was postponed until Tuesday, the 20th instant.

**ECHUCA BRIDGE 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. H. Patterson, read a third time and *passed*.

The Honorable J. H. Patterson moved, That the title of the Bill be "*An Act for making and maintaining a Bridge over the Campaspe River at Echuca.*"

Question—put and passed.

**ADJOURNMENT.**—The Honorable W. H. F. Mitchell, with leave of the Council, moved, That the House at its rising adjourn until Tuesday, the 20th instant.

Question—put and passed.

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

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## ORDERS OF THE DAY.

TUESDAY, 20TH OCTOBER.

ORDERS OF THE DAY :—

1. AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S BILL.—Adoption of Report.
2. ELECTORAL ACT AMENDMENT BILL.—To be read a second time.

TUESDAY, 27TH OCTOBER.

ORDER OF THE DAY :—

1. CONVEYANCING.—Adoption of Report of Select Committee.

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## MEETINGS

OF

# SELECT COMMITTEES.

*Wednesday, 14th October.*

RAILWAYS—at a quarter past ten o'clock.

*Tuesday, 20th October.*

GRANTS TO CORPORATIONS—at twelve o'clock.

CHINESE IMMIGRATION—at one o'clock.

G. W. RUSDEN,

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



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

TUESDAY, 20TH OCTOBER, 1857.

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

The President read the Prayer.

ESTATE BILLS.—REPLY TO ADDRESS TO HIS EXCELLENCY THE GOVERNOR.—The Honorable W. H. F. Mitchell presented to the Council the following Reply to an Address from the Council to His Excellency the Governor, on the subject of Estate Bills:—

VICTORIA.—ESTATE BILLS.—

Reply to an Address adopted by the Legislative Council on the 30th July, 1857, on the motion of the Honorable John Hodgson :

I have to inform the Legislative Council, that there would be no objection to the course proposed, should a fifth Judge be appointed.

HENRY BARKLY.

Government Offices,  
Melbourne, 16th October, 1857.

LIGHTSHIP IN CHANNEL LEADING TO MELBOURNE.—RETURN TO ORDER.—The Honorable W. H. F. Mitchell laid upon the Table a Return to an Order of the Council made on the 29th September, 1857.

Ordered to lie on the Table.

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

Mining Resources of the Colony—Second Progress Report of the Commissioners appointed to inquire into the Mining Resources of the Colony.

Ordered to lie on the Table.

PETITIONS.—The Honorable W. H. F. Mitchell presented to the Council a Petition, signed by the Chairman of the Municipal Council of Castlemaine, praying that no deviation of the line of railway from the proposed Mount Alexander route *via* Castlemaine may be sanctioned.

Petition received.

The Honorable W. H. F. Mitchell presented to the Council a Petition, signed by J. Apperly, praying that the Council will affirm the propriety of proceeding with the construction of a line of railway along the Mount Alexander route, *via* Kyneton and Castlemaine to Sandhurst.

Petition received.

The Honorable J. Hood presented to the Council a Petition from John McCausland and others, praying that the Council will take into consideration the propriety of forming one main trunk line of railway from Melbourne to Ballarat, *via* Ballan, intersected at the latter township by a line from Geelong to Castlemaine and Sandhurst.

Petition received.

The Honorable J. Hood, with leave of the Council, moved, without notice, That the Petition be referred to the Committee sitting on the subject of Railways.

Question—put and passed.

REVENUE AND EXPENDITURE OF THE CORPORATION OF GEELONG.—RETURN TO ORDER.—A Return to an Order of the Council, made on the 29th ultimo, was laid upon the Table by the Clerk, as supplied by the Corporation of Geelong.

AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S 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 T. McCombie moved, That the Order of the Day be discharged and 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 the Committee had gone through the Bill and had agreed to the same with amendments.

The Honorable T. McCombie 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, 27th instant.

**ELECTORAL ACT AMENDMENT 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.

Question—put and passed.

Ordered—That the 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 W. H. F. Mitchell moved, That the adoption of the Report of the Committee be made an Order of the Day for Tuesday, the 27th instant.

Question—put and passed.

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

Question—put and passed.

**SELECT COMMITTEES.**—The Honorable J. P. Fawcner moved, That the Select Committees of the Council have power to sit during the adjournment.

Question—put and passed.

The Council adjourned at a quarter to six o'clock until three o'clock on Tuesday, 27th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 27TH OCTOBER.

1. The Hon. J. HOOD: To ask the Honorable the Postmaster General if the Board lately appointed to inquire into the conduct of Lieutenant Pasco have yet brought up a Report.
2. The Hon. DR. TIERNEY: To ask the Honorable the Postmaster General—
  - (1.) Is it true that the contractors of the railway from Saltwater River to Williamstown pay their workmen only once every month?
  - (2.) Is it true that the workmen were paid at the Railway Hotel (a public house on the line), deducting their board, &c., at said hotel from their wages?
  - (3.) Is it true that laborers were paid from 2s. 6d. to 9s. per day without any agreement to that effect?
  - (4.) Is it true that the men have refused to work because the contractors would only pay as they thought proper?
  - (5.) Were the contractors assaulted by the men on Saturday last?
  - (6.) In future contracts for railway works, would it not be desirable that the Government should fix a minimum price of daily wages to be paid by contractors to workmen employed on the lines, as well as the time and the manner of payments?
3. The Hon. DR. TIERNEY: To ask the Honorable the Postmaster General if the Government would consider it desirable to have the Chinese population vaccinated; if so, will the necessary instructions be issued for the properly carrying out the same to the Chinese protectors and other local authorities, and to the various public vaccinators throughout the Colony.

### NOTICES OF MOTION:—

1. The Hon. G. URQUHART: To move, That an Address be presented to His Excellency the Governor praying that he will cause to be laid upon the Table of this House copies of all the correspondence between the Chairman of the Geelong Railway Company and the Government, relative to the formation of a line of railway between Geelong and Ballarat.
2. The Hon. W. H. F. MITCHELL: To move for leave to bring in a Bill to correct certain errors in Acts of this session.

### ORDERS OF THE DAY:—

1. CONVEYANCING.—Adoption of Report of Select Committee.
2. AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S BILL.—To be read a third time.
3. ELECTORAL ACT AMENDMENT BILL.—Adoption of Report.

## MEETINGS

OF

## SELECT COMMITTEES.

Thursday, 22nd October.

CHINESE IMMIGRATION—at half-past eleven o'clock.

GRANTS TO CORPORATIONS—at twelve o'clock.

TRANSFER OF LAND BILL—at half-past one o'clock.

RAILWAYS—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, 27<sup>TH</sup> OCTOBER, 1857.

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

**PETITION.**—The Honorable J. F. Strachan presented a Petition, under the seal of the corporation of the town of Geelong, from the mayor, aldermen, and councillors of the town of Geelong, praying that the Council will favorably consider the Railway Bills now before the Council.  
Petition received.

**SELECT COMMITTEE ON RAILWAYS—REPORT OF.**—The Honorable H. Miller brought up a Report from the Select Committee on Railways, together with the evidence taken by the Committee, and moved, That the same be received and printed.

Question—put and passed.

The Honorable J. Hodgson moved, That the Report be now read.

Question—put and passed.

The Report was read at the Table by the Clerk.

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

1. Corporation of Melbourne—Return of Expenditure, Act of Council 17 Victoria No. 13 (from 1st September, 1856, to 31st August, 1857).
2. Fitz Roy Ward Improvements—Return of Moneys raised and received under the Act of Council 17 Victoria No. 31 (from 1st September, 1856, to 31st August, 1857).
3. Local Court Regulations—District of Creswick (16th October, 1857).
4. Local Court Regulations—District of Fryer's Creek (16th October, 1857).
5. Local Court Regulations—District of Raglan, (16th October, 1857).
6. Local Court Regulations—District of Castlemaine (16th October, 1857).

Ordered severally to lie on the Table.

**CORRECTION OF ERRORS IN ACTS BILL.**—The Honorable W. H. F. Mitchell, in accordance with notice, moved for leave to bring in a Bill to correct certain errors in Acts of this session.

Question—put and passed.

Bill brought in, read a first time, ordered to be printed, and read a second time on Tuesday, 3rd proximo.

**PETITION.**—The Honorable T. McCombie presented to the Council a Petition from John Hale and others, inhabitants of the Gap and Sunbury townships and adjacent districts, praying that the line of Railway from Melbourne to Castlemaine may be sanctioned by this Honorable House.

Petition received.

**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.

**SELECT COMMITTEES.**—The Honorable J. P. Fawcner, with leave of the Council, moved, without notice, That the Select Committees of the Council be empowered to sit during the adjournment.

**MOORODUC AND POINT NEPEAN DISTRICTS.—RETURN TO ORDER.**—A Return to an Order of the Council made on the 1st ultimo was laid upon the Table by the Clerk.

**CONVEYANCING.**—The Order of the Day for the adoption of the Report of the Select Committee on Conveyancing was postponed until Tuesday, the 10th proximo.

AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY'S BILL.—The Order of the Day for the third reading of this Bill being read, the Honorable T. McCombie moved, That the Bill be now read a third time.

Debate ensued.

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 was read a third time, and on the motion of the Honorable T. McCombie, *passed*.

The Honorable T. McCombie moved, That the title of the Bill be, "*An Act to enable the Shareholders of a Joint Stock Insurance Company established in the Colony of Victoria under the style or title of 'The Australasian Fire and Life Insurance Company' to sue and be sued in the name of the Chairman for the time being of the Board of Directors of the said Company and to limit the liability of such Shareholders 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 the concurrence of the Legislative Assembly therewith.

ELECTORAL 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 Report, on the motion of the Honorable W. H. F. Mitchell, 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 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 extend the Right of Voting, and to provide for the Registration of Parliamentary Electors.*"

Question—put and passed.

The Council adjourned at twenty minutes past four o'clock until three o'clock on Tuesday, the 3rd proximo.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 3RD NOVEMBER.

### NOTICES OF MOTION:—

1. The Hon. J. F. STRACHAN: To move, That the Petition of the mayor and corporation of Geelong, in support of the Railway Bills now before the House, be printed.
2. The Hon. H. MILLER: To move, That the Report of the Select Committee on Railways be taken into consideration.
3. The Hon. W. H. F. MITCHELL: To move, That—*Contingent* on the adoption of the Report of the Select Committee on Railways—
  - (1.) The Railway Loan Bill be read a second time.
  - (2.) The Main Trunk Railway Bill be read a second time.
  - (3.) The Railway Construction Bill be read a second time.
4. The Hon. T. MCCOMBIE: To move, That the Petition presented by him on the 27th October, from John Hale and others, be taken into consideration with the Report of the Committee of this House on Railroads when it comes on for consideration.
5. The Hon. J. HOOD: To move, That the Report of the Board appointed to inquire into the conduct of the Visiting Justice of the Penal Hulks, together with all correspondence that has taken place between the Government and that officer, be laid upon the Table of that House.

### ORDER OF THE DAY:—

1. CORRECTION OF ERRORS IN ACTS BILL.—To be read a second time.

TUESDAY, 10TH NOVEMBER.

### ORDER OF THE DAY:—

1. CONVEYANCING.—Adoption of Report of Select Committee.

## MEETING OF SELECT COMMITTEE.

Wednesday, 28th October.

GRANTS TO CORPORATIONS—at eleven o'clock.

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

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

TUESDAY, 3RD NOVEMBER, 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, by command of His Excellency the Governor, presented to the Council the following Papers:—

1. Return to an Order (13th October, 1857) of the Legislative Council for a Return of all Tenders for the £33,000 debentures lately offered for sale by the Government.
2. Astronomical Observatory.—(Half-yearly Report ending 30th June, 1857.)

Ordered severally to lie on the Table.

**POSTPONEMENTS.**—The Notices of Motion standing second and third on the Notice Paper were postponed until after the disposal of the fourth and fifth.

**PETITION OF THE MAYOR AND CORPORATION OF GEELONG.**—The Honorable J. F. Strachan, in accordance with *amended* notice, moved, That the Petition of the Mayor and Corporation of Geelong, in support of the Railway Bills now before the House, be printed, and referred to the Committee of the whole Council to which the Railway Bills may be referred.  
Question—put and passed.

**PETITION.**—The Honorable T. McCombie, in accordance with notice, moved, That the Petition presented by him on the 27th October from John Hale and others be taken into consideration with the Report of the Committee of this House on Railroads, when it comes on for consideration.

Question—put and passed.

**BOARD UPON CONDUCT OF VISITING JUSTICE OF PENAL HULKS.**—The Honorable J. Hood, in accordance with *amended* notice, moved, That the Report of the Board appointed to inquire into the conduct of the Visiting Justice of the Penal Hulks, together with all correspondence relating thereto that has taken place between the Government and that officer, be laid upon the Table of the House.

Question—put and passed.

**RAILWAYS.—REPORT OF SELECT COMMITTEE.**—The Honorable H. Miller, in accordance with *amended* notice, moved, That the Report of the Select Committee on Railways be adopted.  
Debate ensued.

**MESSAGES TO THE LEGISLATIVE ASSEMBLY.**—The Honorable W. H. F. Mitchell, with leave of the Council, moved, without notice, That Messages be taken to the Legislative Assembly to acquaint them that the Council have passed the Powers of Attorney Bill and Board of Land and Works Bill without any amendment; and the County Courts Bill, the Gold Fields Management Bill, and the Electoral Act Amendment Bill, with amendments, to which they desire the concurrence of the Legislative Assembly.

Question—put and passed.

The Honorable J. H. Patterson, with leave of the Council, moved, without notice, That a Message be carried to the Legislative Assembly to acquaint them that the Council have passed the Echuca Bridge Bill without any amendment.

Question—put and passed.

**RAILWAYS.—REPORT OF SELECT COMMITTEE.**—  
Debate resumed.

The Honorable C. Vaughan moved, That the debate be adjourned until to-morrow.

Question—put and passed.

**POSTPONEMENTS.**—The remaining Notice of Motion and the Order of the Day for the second reading of the Correction of Errors in Acts Bill were postponed until Wednesday, the 4th instant.

The Council adjourned at five minutes past six o'clock until three o'clock on Wednesday, the 4th instant.

NOTICE OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 4TH NOVEMBER.

ORDER OF THE DAY:—

1. ADJOURNED DEBATE ON THE MOTION OF THE HONORABLE H. MILLER FOR THE ADOPTION OF THE REPORT OF THE SELECT COMMITTEE ON RAILWAYS.

NOTICE OF MOTION:—

1. The Hon. W. H. F. MITCHELL: To move, That—*Contingent* on the adoption of the Report of the Select Committee on Railways—
  - (1.) The Railway Loan Bill be read a second time.
  - (2.) The Main Trunk Railway Bill be read a second time.
  - (3.) The Railway Construction Bill be read a second time.

ORDER OF THE DAY:—

2. CORRECTION OF ERRORS IN ACTS BILL.—To be read a second time.

TUESDAY, 10TH NOVEMBER.

ORDER OF THE DAY:—

1. CONVEYANCING.—Adoption of Report of Select Committee.

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MEETING  
OF  
SELECT COMMITTEE.

*Wednesday, 4th November.*

GRANTS TO CORPORATIONS—at eleven o'clock.

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

No. 82.

## Minutes of the Proceedings

OF THE

## LEGISLATIVE COUNCIL.

WEDNESDAY, 4TH NOVEMBER, 1857.

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

The President read the Prayer.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR, WITH AN AMENDMENT IN THE BOARD OF LAND AND WORKS BILL.—The Honorable W. H. F. Mitchell, by command of His Excellency the Governor, presented to the Council the following Message from His Excellency the Governor:—

VICTORIA.—BOARD OF LAND AND WORKS BILL—

HENRY BARKLY,

Governor.

Message No.

In pursuance of the 18th and 19th Victoria, c. 55, Schedule section 36, the Governor returns to the Legislative Council "*The Bill to establish a Board of Land and Works,*" and recommends the insertion of the following clause:—

VII. Notwithstanding the provision lastly hereinbefore contained, the third section of an Act of the Lieutenant-Governor and Legislative Council, passed in the sixteenth year of the Reign of Her present Majesty, intituled "*An Act for making and improving Roads in the Colony of Victoria,*" and also so much of the thirteenth section of an Act of the Lieutenant-Governor and Legislative Council, passed in the seventeenth year of the same Reign, intituled "*An Act to amend an Act intituled 'An Act for making and improving Roads in the Colony of Victoria,'*" as enacts that the monies raised by tolls or otherwise under or by virtue of the said first mentioned Act shall be applied in and towards the maintenance and repair of the road upon which or upon the main line of which such tolls shall be raised shall be and the same are hereby respectively repealed on and from the first day of January next after the passing hereof.

The Message was read at the Table by the Clerk.

The Honorable W. H. F. Mitchell moved, That the consideration of the Message of His Excellency the Governor be made an Order of the Day for to-morrow.

Question—put and passed.

PETITION.—The Honorable J. F. Strachan presented a Petition, signed by A. Thomson, praying that the Council will affirm the Railway Bill as passed by the Legislative Assembly, and carry out the lines of railway as indicated.

Petition received.

GRANTS TO CORPORATIONS—REPORT OF SELECT COMMITTEE.—The Honorable J. P. Fawcner brought up a Report from the Select Committee appointed to inquire into and report whether the purpose for which the Government has granted land and guaranteed interest on a large loan to the Corporation of Melbourne has been and is now being carried out, and moved that the same be received and printed.

Question—put and passed.

The Honorable J. P. Fawcner, with leave of the Council, moved, without notice, That the consideration of the Report be made an Order of the Day for Tuesday next.

Ordered.

RAILWAYS.—ADJOURNED DEBATE ON THE MOTION OF THE HONORABLE H. MILLER FOR THE ADOPTION OF THE REPORT OF THE SELECT COMMITTEE ON RAILWAYS.

Debate resumed.

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 the Legislative Assembly do not insist upon the first amendment as proposed by them in the Additional Joint Standing Orders, but have agreed to insert after the word "originated" the words "which House may deal with the same as with other amendments," and they desire the concurrence of the Legislative Council therein.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 3rd November, 1857.

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council a Bill, intituled "*An Act to incorporate a Company to be called 'The Ballarat 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,  
Melbourne, 3rd November, 1857.

The Honorable T. McCombie moved, That the Council agree with the amendment desired by the Legislative Assembly in the Additional Joint Standing Order proposed by this Council.

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 proposed by the Legislative Assembly.

RAILWAYS.—

Debate resumed.

Amendment moved by the Honorable G. Urquhart, That the word "adopted" after the word "be" be omitted, with the view to insert the words "referred back to the Select Committee for re-consideration."

Debate resumed.

Amendment by leave withdrawn.

Amendment moved by the Honorable T. McCombie, That the previous question be now put.

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 regulate the Residence of the Chinese Population in Victoria,*" to which the Legislative Assembly desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 4th November, 1857.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Copy of Resolutions agreed to by the Legislative Assembly on the subject of the Federal Union of the Australian Colonies, and request the concurrence of the Legislative Council in the appointment and selection of Delegates to carry out the recommendations contained therein.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 3rd November, 1857.

The Honorable W. H. F. Mitchell moved, That the Chinese Residents Bill be read a first time, printed, and referred to the Select Committee sitting on Chinese Immigration.

Question—put and passed.

The Honorable W. H. F. Mitchell moved, That the consideration of the Message on the subject of Federal Union of the Australian Colonies be made an Order of the Day for to-morrow.

Question—put and passed.

RAILWAYS.—

Debate resumed

The Honorable N. Guthridge moved, That the debate be adjourned until to-morrow, to take precedence.

Question—put and negatived.

The Council adjourned during pleasure.

The President resumed the Chair.

Debate resumed.

Question—That the previous question be now put—put.



Council divided.

Contents, 15.  
 The Hon. J. F. Strachan  
 J. H. Patterson  
 W. H. F. Mitchell  
 Dr. Hope  
 C. Vaughan  
 J. Henty  
 S. G. Henty  
 J. Allan  
 W. J. T. Clarke  
 W. Highett  
 J. Cowie  
 B. Williams  
 W. Roope  
 Dr. Tierney  
 H. Miller (*Teller*).

Not Contents, 11.  
 The Hon. A. R. Cruikshank  
 J. P. Fawcner  
 N. Guthridge  
 G. Urquhart  
 J. Stewart  
 D. Kennedy  
 J. Hood  
 T. McCombie  
 T. H. Power  
 D. P. Keogh  
 J. Hodgson (*Teller*).

The question was therefore passed.

Question—That the Report of the Select Committee on Railways be adopted—put and passed.

RAILWAY LOAN BILL.—The Honorable W. H. F. Mitchell, in accordance with notice, moved,  
 That the Railway Loan Bill be now read a second time.

Question—put.

Council divided.

Contents, 21.  
 The Hon. H. Miller  
 J. H. Patterson  
 W. H. F. Mitchell  
 Dr. Hope  
 C. Vaughan  
 J. Hodgson  
 J. Henty  
 S. G. Henty  
 J. Allan  
 W. J. T. Clarke  
 D. Kennedy  
 W. Highett  
 J. Cowie  
 B. Williams  
 G. Urquhart  
 D. P. Keogh  
 T. McCombie  
 Dr. Tierney  
 J. Stewart  
 W. Roope  
 J. F. Strachan (*Teller*).

Not Contents, 5.  
 The Hon. N. Guthridge  
 A. R. Cruikshank  
 J. Hood  
 T. H. Power  
 J. P. Fawcner (*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 Notices of Motion and the Order of the Day for the second reading of the Correction of Errors in Acts Bill, on the Business Paper, were postponed until to-morrow.

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

## NOTICE OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 5TH NOVEMBER.

NOTICE OF MOTION:—

1. The Hon. W. H. F. MITCHELL: To move, That—
  - (1.) The Main Trunk Railway Bill be read a second time.
  - (2.) The Railway Construction Bill be read a second time.

ORDERS OF THE DAY:—

1. BOARD OF LAND AND WORKS BILL.—Consideration of Message from His Excellency the Governor.
2. FEDERATION RESOLUTIONS.—Consideration of Message from Legislative Assembly.
3. RAILWAY LOAN BILL.—To be further considered in Committee.
4. CORRECTION OF ERRORS IN ACTS BILL.—To be read a second time.

TUESDAY, 10TH NOVEMBER.

ORDERS OF THE DAY :—

- 1. CONVEYANCING.—Adoption of Report of Select Committee.
- 2. GRANTS TO CORPORATIONS.—Consideration of Report of Select Committee.

G. W. RUSDEN,

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

# Minutes of the Proceedings

OF THE

## LEGISLATIVE COUNCIL.

THURSDAY, 5TH NOVEMBER, 1857.

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

The President read the Prayer.

**PETITION.**—The Honorable J. Henty presented a Petition from James Oddie and others, of Ballaarat, setting forth the advantages of constructing a Railway from the seaboard to the District of Ballaarat.

Petition received.

The Petition was read at the Table by the Clerk.

The Honorable J. Henty moved, with leave of the Council, without notice, That the Petition be referred to the Committee of the whole Council on the Railway Bills now before the House.

Question—put and passed.

**MAIN TRUNK RAILWAY BILL.**—The Honorable W. H. F. Mitchell, 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 progress, and asked leave to sit again after three-quarters of an hour.

Ordered.

The Council adjourned during pleasure.

The President having resumed the Chair—

The Council again resolved itself into a Committee of the whole upon the Main Trunk Railway Bill.

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

The Honorable W. H. F. Mitchell moved, That the Report of the Committee be printed, and its adoption be made an Order of the Day for Tuesday next.

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 return to the Legislative Council a Bill intituled "*An Act to enable the Shareholders of a Joint Stock Insurance Company established in the Colony of Victoria under the style or title of 'The Australasian Fire and Life Insurance Company' to sue and be sued in the name of the Chairman for the time being of the board of Directors of the said Company and to limit the liability of such Shareholders 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,  
Melbourne, 4th November, 1857.

**MR. PRESIDENT—**

The Legislative Assembly return to the Legislative Council a Bill intituled "*An Act to extend the right of Voting, and to provide for the registration of Parliamentary Electors,*" and acquaint them that they have agreed to the amendments made therein by the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 4th November, 1857.

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council a Bill intituled "*An Act for amending the Laws relative to the Gold Fields*," and inform the Legislative Council that the Legislative Assembly have agreed to the amendments made by the Legislative Council in clauses XXVII., LVIII., LXXI., and CXI., and that they have amended the amendment made by the Legislative Council in clause XX. of this Bill, by inserting the word "through" instead of the word "from," and have also, in consequence thereof, struck out of the 27th line of this clause the words "by the Clerk" for the following reason, viz. :—That the Clerk must, by the Audit Act, pay all monies received by him into the Treasury, and not directly to any person; to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 5th November, 1857.

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council a Bill intituled "*An Act for the more easy recovery of certain Debts and Demands*," and inform the Legislative Council that the Legislative Assembly have agreed to the amendments made by the Legislative Council in clauses III. and IX., XXI. and LXXII. of this Bill, and have amended the amendment made by the Legislative Council in clause XIII., by inserting the word "through" instead of the word "from," and have also, in consequence of such amendment, struck out of the twenty-seventh and twenty-eighth lines of this Clause the words "by the Clerk," for the following reason, viz. :—That the Clerk must, by the Audit Act, pay all monies received by him into the Treasury and not directly to any person; and that they have disagreed to the amendment made by the Legislative Council in the Second Schedule to this Bill, for the following reason, viz. :—That as by section XXII. the complaint must be of a "debt," and as the damage mentioned in the amendment is not legally a "debt," the requirements could not be complied with; to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 5th November, 1857.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled "*An Act for preventing the spread of Small Pox*," to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 5th November, 1857.

The Honorable W. H. F. Mitchell moved, That the Messages from the Legislative Assembly with amendments in the Gold Fields Management Bill, and the County Courts Bill, be made respectively Orders of the Day for Tuesday next.

Question—put and passed.

On the motion of the Honorable W. H. F. Mitchell, the Vaccination Law Amendment Bill read a first time, ordered to be printed, and read a second time on Tuesday next.

POSTPONEMENTS.—The Notice of Motion for the second reading of the Railway Construction Bill was postponed until Tuesday next.

The following Orders of the Day were severally postponed as follows :—

Board of Land and Works Bill.—Consideration of Message from His Excellency the Governor, Tuesday, 10th November, 1857;

Federation Resolutions.—Consideration of Message from Legislative Assembly, Tuesday, 10th November, 1857.

FEDERATION RESOLUTIONS.—The Honorable J. Hood, with leave of the Council, moved, without notice, That the Resolutions transmitted from the Legislative Assembly on the subject of the Federal Union of the Australian Colonies, be printed.

Question—put and passed.

RAILWAY LOAN 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 amendments.

The Hon. W. H. F. Mitchell moved, That the adoption of the Report be made an Order of the Day for Tuesday next.

Ordered.

CORRECTION OF ERRORS IN ACTS BILL.—The Order of the Day for the second reading of this Bill was postponed until Tuesday next.

The Council adjourned at twenty-five minutes past ten o'clock until three o'clock on Tuesday, the 10th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 10TH NOVEMBER.

1. The Hon. T. H. POWER : To ask the Honorable the Postmaster General for the returns of the computed cost of constructing the railway from Wyndham to Bacchus Marsh ; likewise the cost of the different stages from there to Castlemaine, by way of Ballaarat ; and also, if a reduction cannot be made by further survey and calculation, with the object of lowering the cost, and to what amount it may possibly be reduced.

## NOTICES OF MOTION :—

1. The Hon. W. H. F. MITCHELL : To move, That the Railway Construction Bill be read a second time.
2. The Hon. J. COWIE : To move, That the Returns laid on the Table of this House on the 20th October, relating to the expenditure of the Corporation of Geelong, under 17th Victoria No. 23, be printed.
3. The Hon. J. HOOD : To move for the following Returns—
  - (1.) The names, address, and as far as the Government can supply them, the calling or occupation of all parties who have purchased land from the Crown since 1st May, 1855, on any of the following proposed Lines of Railway within four miles on each side, together with the date of such purchase :—
    - (1.) Melbourne to Sandhurst, *via* Gisborne.
    - (2.) Melbourne to Ballaarat, *via* Ballan.
    - (3.) Geelong to Ballaarat direct.
4. The Hon. DR. TIERNEY : To move, That there be laid on the Table of the House copies of any correspondence that has taken place between the Central Board of Health and Mr. Knaggs relative to the Small-pox.
5. The Hon. J. HOOD : To move, 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.

## ORDERS OF THE DAY :—

1. CONVEYANCING.—Adoption of Report of Select Committee.
2. GRANTS TO CORPORATIONS.—Consideration of Report of Select Committee.
3. MAIN TRUNK RAILWAY BILL.—Adoption of Report.
4. GOLD FIELDS MANAGEMENT BILL.—Consideration of Message of Legislative Assembly.
5. COUNTY COURTS BILL.—Consideration of Message from Legislative Assembly.
6. VACCINATION LAW AMENDMENT BILL.—To be read a second time.
7. BOARD OF LAND AND WORKS BILL.—Consideration of Message from His Excellency the Governor.
8. FEDERATION RESOLUTIONS.—Consideration of Message from Legislative Assembly.
9. RAILWAY LOAN BILL.—Adoption of Report.
10. CORRECTION OF ERRORS IN ACTS BILL.—To be read a second time.

## MEETING

OF

## SELECT COMMITTEE.

Tuesday, 10th November.

CHINESE IMMIGRATION—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, 10TH NOVEMBER, 1857.

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

**APPROVAL OF JOINT STANDING ORDER BY HIS EXCELLENCY THE GOVERNOR.**—The President announced to the Council that His Excellency the Governor had been pleased to approve of the additional Joint Standing Orders on the subject of Correction of Errors in Bills, adopted by the Legislative Council and Legislative Assembly.

**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 Castlemaine (30th October, 1857).
2. Local Court Regulations—District of Beechworth (30th October, 1857).
3. Local Court Regulations—District of St. Andrews (30th October, 1857).
4. Local Court Regulations—District of Ararat (30th October, 1857).
5. Return to Address (6th October, 1857), Report of Board of Inquiry in the case of John Langtree, Secretary to Water and Sewerage Commission.

Ordered severally to lie on the Table.

**PETITION.**—The Honorable Dr. Tierney presented to the Council a Petition from certain Members of the Medical profession, deprecating the passing of "*The Bill for preventing the spread of Small Pox*," now before the Council, and moved that the same be read.  
The Petition was read at the Table by the Clerk.  
Petition by leave withdrawn.

**RAILWAY CONSTRUCTION BILL.**—The Honorable W. H. F. Mitchell, with leave of the Council, in accordance with *amended* notice, moved, That the second reading of the Railway Construction Bill be made an Order of the Day to be taken into consideration after the disposal of the other Orders of the Day.  
Question—put and passed.

**REVENUE AND EXPENDITURE OF THE CORPORATION OF GEELONG.**—The Honorable J. Cowie, in accordance with notice, moved, That the Returns laid on the Table of this House on the 20th October, relating to the expenditure of the Corporation of Geelong, under 17th Victoria No. 23, be printed.  
Question—put and passed.

**PURCHASES OF LAND ON PROPOSED RAILWAY LINES.**—The Honorable J. Hood, in accordance with notice, moved, That there be laid upon the Table of this House, a Return showing the names, address, and as far as the Government can supply them, the calling or occupation of all parties who have purchased land from the Crown since 1st May, 1855, on any of the following proposed lines of railway within four miles on each side, together with the date of such purchase:—

- (1.) Melbourne to Sandhurst, *via* Gisborne.
- (2.) Melbourne to Ballarat, *via* Ballan.
- (3.) Geelong to Ballarat direct.

Question—put and passed.

**PATENT SLIP.**—The Honorable J. Hood, in accordance with notice, moved, 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.

Question—put and passed.

POSTPONEMENTS.—The following Orders of the Day were severally postponed as hereunder set down:—

“*Conveyancing*”—Adoption of Report of Select Committee, 24th November, 1857.  
 “*Grants to Corporation*”—Consideration of Report of Select Committee,” 17th November, 1857.

MAIN TRUNK RAILWAY 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 W. H. F. Mitchell moved, That the Report of the Committee be adopted.

Question—put and passed.

The President having reported that the Chairman of Committees had reported that the fair print of this Bill was in accordance with the Bill as reported, the Honorable W. H. F. Mitchell moved, That the Bill be now read a third time.

Amendment moved by the Honorable J. P. Fawcner, That the word “now” be omitted, with the view to add the words “this day week” after the word “time.”

Debate ensued.

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

Contents, 14.  
 The Hon. J. Allan  
 W. H. F. Mitchell  
 J. F. Strachan  
 J. Hodgson  
 J. H. Patterson  
 W. J. T. Clarke  
 C. Vaughan  
 J. Henty  
 H. Miller  
 S. G. Henty  
 J. Cowie  
 Dr. Hope  
 W. Roope  
 W. Highett (*Teller*).

Not Contents, 11.  
 The Hon. N. Guthridge  
 G. Urquhart  
 J. P. Fawcner  
 T. McCombie  
 J. Hood  
 A. R. Cruikshank  
 D. Kennedy  
 Dr. Tierney  
 T. H. Power  
 B. Williams  
 J. Stewart (*Teller*).

The question was therefore passed.

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

Bill read a third time, and on the motion of the Honorable W. H. F. Mitchell, *passed*.

The Honorable W. H. F. Mitchell moved, That the title of the Bill be “*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 Ballarat.*”

Question—put and passed.

Ordered—That the Bill be carried to the Legislative Assembly with a Message to acquaint them that the Legislative Council have agreed to the Bill with amendments, to which they desire the concurrence of the Legislative Assembly.

POSTPONEMENTS.—The following Orders of the Day were severally postponed until Wednesday, 11th instant:—

“*Gold Fields Management Bill*”—consideration of Message from Legislative Assembly.

“*County Courts Bill*”—consideration of Message from Legislative Assembly.

“*Vaccination Law Amendment Bill*”—to be read a second time.

“*Board of Land and Works Bill*”—consideration of Message from His Excellency the Governor.

“*Federation Resolutions*”—consideration of Message from Legislative Assembly.

RAILWAY LOAN 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 W. H. F. Mitchell moved, That the Bill be now re-committed, with the view to effect an amendment in the third clause of the same.

Question—put and passed.

The President left the Chair.

The Chairman of Committees reported that the Committee had agreed to the Bill with an amendment in the third clause.

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 Bill was in accordance with the Bill as reported, the Honorable W. H. F. Mitchell moved, That the Bill be now read a third time.

Debate ensued.

Question—put.  
Council divided.

Contents 15.  
The Hon. J. Hodgson  
J. F. Strachan  
J. H. Patterson  
W. Highett  
J. Henty  
H. Miller  
J. Allan  
S. G. Henty  
J. Cowie  
Dr. Hope  
W. Roope  
C. Vaughan  
W. J. T. Clarke  
B. Williams  
W. H. F. Mitchell (*Teller*).

Not Contents, 9.  
The Hon. J. Stewart  
D. Kennedy  
G. Urquhart  
J. P. Fawcner  
T. H. Power  
J. Hood  
Dr. Tierney  
A. R. Cruikshank  
N. Guthridge (*Teller*).

The question was therefore passed.

Bill read a third time, and on the motion of the Honorable W. H. F. Mitchell, *passed*.  
The Honorable W. H. F. Mitchell moved, That the title of the Bill be "*An Act to authorise the raising Moneys for the construction of certain Railways.*"

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 an amendment, in which they desire the concurrence of the Legislative Assembly.

POSTPONEMENT.—The following Order of the Day was postponed until Wednesday, the 11th instant :—

"*Correction of Errors in Acts Bill*"—to be read a second time.

RAILWAY CONSTRUCTION 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.

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 W. H. F. Mitchell moved, That the Bill as amended be printed, and that the adoption of the Report of the Committee be made an Order of the Day for to-morrow.

Ordered.

ADDITIONAL JOINT STANDING ORDER.—The Honorable J. P. Fawcner, 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 Library Committee be repealed, and that three members thereof do henceforth form a quorum.

Question—put and passed.

Ordered—That a Message be sent to the Legislative Assembly desiring their concurrence in the proposed additional Joint Order.

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

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 11TH NOVEMBER.

### Government Business.

#### ORDERS OF THE DAY :—

1. GOLD FIELDS MANAGEMENT BILL.—Consideration of Message from Legislative Assembly.
2. COUNTY COURTS BILL.—Consideration of Message from Legislative Assembly.
3. VACCINATION LAW AMENDMENT BILL.—To be read a second time.
4. BOARD OF LAND AND WORKS BILL.—Consideration of Message from His Excellency the Governor.
5. FEDERATION RESOLUTIONS.—Consideration of Message from Legislative Assembly.
6. CORRECTION OF ERRORS IN ACTS BILL.—To be read a second time.
7. RAILWAY CONSTRUCTION BILL.—Adoption of Report.

### General Business.

#### NOTICE OF MOTION :—

1. The Hon. J. STEWART: To move for leave to bring in a Bill to provide for the adjustment of Weights and Measures in the City of Melbourne and Colony of Victoria.



TUESDAY, 17TH NOVEMBER.

ORDER OF THE DAY :—  
1. GRANTS TO CORPORATION.—Consideration of Report of Select Committee.

TUESDAY, 24TH NOVEMBER.

ORDER OF THE DAY :—  
1. CONVEYANCING.—Adoption of Report of Select Committee.

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MEETINGS  
OF  
SELECT COMMITTEES.

*Wednesday, 11th November.*

CHINESE IMMIGRATION—at 11 o'clock.

REFRESHMENT ROOMS—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, 11TH NOVEMBER, 1857.

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

The President read the Prayer.

**GOLD FIELDS MANAGEMENT BILL.**—The Order of the Day for the consideration of the Message from the Legislative Assembly with amendments in this Bill being read, the Message was read at the Table by the Clerk.

The Honorable W. H. F. Mitchell moved, That the Council agree with the amendment made by the Legislative Assembly upon the amendment made by the Legislative Council in clause XX. of the Bill, viz., by inserting the word "through" instead of the word "from," and also with the consequent striking out of the words "by the clerk," in the twenty-seventh line of the clause.

The clause was read at the Table by the Clerk.

Question—That the amendments proposed be agreed to—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to acquaint them that the Council have agreed to the amendments proposed.

**COUNTY COURTS BILL.**—The Order of the Day for the consideration of the Message from the Legislative Assembly with amendments in this Bill being read, the Honorable W. H. F. Mitchell moved, That this House agree with the amendment made by the Legislative Assembly upon the amendment made by the Council in clause XIII. of the Bill, viz., to insert the word "through" instead of the word "from," and also with the consequent striking out of the words "by the clerk" in the twenty-seventh and twenty-eighth lines of the clause.

Clauses XIII. and XXII. of the Bill were read at the Table by the Clerk.

Debate ensued.

Question—put and passed.

The Honorable W. H. F. Mitchell moved, That this Council do not insist upon the amendment made by the Council in the second schedule to the Bill.

Debate ensued.

Question—put.

A division was called for, but only one member appearing content, the question was negatived.

The Honorable W. H. F. Mitchell moved, That a Message be carried to the Legislative Assembly to acquaint them that the Council agree to the amendment made by the Legislative Assembly upon the amendment made by the Council in clause XIII. of the Bill, and also to the consequent amendment made in clause XIII. by the Legislative Assembly, but that the Council cannot forego the amendment made by the Council in the second schedule to the Bill.

Question—put and passed.

**VACCINATION LAW AMENDMENT 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.

**PETITION.**—The Honorable Dr. Tierney, with leave of the Council, presented a Petition from J. B. Motherwell, M.D., and others, praying that the Bill may not be passed, and moved, That the Petition be referred to the Committee of the whole Council, to whom the Bill may be referred.

Question—put and passed.

VACCINATION LAW AMENDMENT BILL.—Debate ensued.

Question—That the Bill be now read a second time—put and 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 that the Committee had gone through the Bill, and had agreed to the same without amendment.

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

Question—put and passed.

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 the Legislative Council to appoint a Committee of five members to confer with a Committee of the Legislative Assembly consisting of five members, upon the amendment made by the Legislative Council in the second schedule to the Bill intituled "*An Act for the more easy recovery of certain Debts and Demands.*"

FRANS. MURPHY,  
Speaker.

Legislative Assembly,  
11th November, 1857.

The Honorable W. H. F. Mitchell moved, That the Honorables H. Miller, Dr. Hope, J. F. Strachan, T. McCombie, and the Mover, be appointed as a Committee accordingly, with power to confer this day, at half-past five o'clock, in the Library.

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to acquaint them that the Committee has been appointed, with power to confer this day.

VACCINATION LAW 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 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 for preventing the spread of Small Pox.*"

Question—put and passed.

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

POSTPONEMENTS.—The fourth, fifth, and sixth Orders of the Day were severally postponed until after the disposal of the seventh.

RAILWAY CONSTRUCTION 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 W. H. F. Mitchell 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 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 for the Construction of Railways.*"

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 with amendments, and to desire their concurrence therein.

POSTPONEMENTS.—The following Orders of the Day were severally postponed until Tuesday, 17th November, 1857 :—

"*Board of Land and Works Bill*"—consideration of Message from His Excellency the Governor.

"*Federation Resolutions*"—consideration of Message from the Legislative Assembly.

CORRECTION OF ERRORS IN ACTS 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.

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 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 this 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 correct certain Errors in Acts of this Session.*"

Question—put and passed.

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

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, and that the Select Committees of the House have power to sit during the adjournment.

Question—put and passed.

The Council adjourned at twenty-five minutes to six o'clock until three o'clock on Tuesday, the 17th instant.

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## ORDERS OF THE DAY.

TUESDAY, 17TH NOVEMBER.

### ORDERS OF THE DAY:—

1. GRANTS TO CORPORATION.—Consideration of Report of Select Committee.
2. BOARD OF LAND AND WORKS BILL.—Consideration of Message from His Excellency the Governor.
3. FEDERATION RESOLUTIONS.—Consideration of Message from Legislative Assembly.

TUESDAY, 24TH NOVEMBER.

### ORDER OF THE DAY:—

1. CONVEYANCING.—Adoption of Report of Select Committee.

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## MEETINGS OF SELECT COMMITTEES.

*Thursday, 12th November.*

CHINESE IMMIGRATION—at 11 o'clock.

DECORATION OF COUNCIL CHAMBER (JOINT COMMITTEE)—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, 17TH NOVEMBER, 1857.

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

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—BOARD OF LAND AND WORKS BILL.—  
The Honorable W. H. F. Mitchell, by command of His Excellency the Governor, presented to the Council the following Message from His Excellency the Governor concerning a former Message from His Excellency the Governor on the subject of the Board of Land and Works Bill, presented to the Council on the 4th instant:—

VICTORIA.—BOARD OF LAND AND WORKS BILL.—

HENRY BARKLY,  
*Governor.*

*Message No.*

The Governor recommends to the Legislative Council the insertion of the words "by the Central Road," after the words "first mentioned Act," in the Message of 4th November. Government Offices,

Melbourne, 17th November, 1857.

The Honorable W. H. F. Mitchell moved, That the Message be considered with the second Order of the Day.

Question—put and passed.

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 Raglan (6th November, 1857).  
Ordered to lie on the Table.

CHINESE IMMIGRATION—REPORT OF SELECT COMMITTEE ON.—The Honorable J. P. Fawcner, as Chairman of the Select Committee "appointed to frame a Bill to control the flood of Chinese Immigration setting in to this Colony, and effectually prevent the Gold Fields of Australia Felix from becoming the property of the Emperor of China and of the Mongolian and Tartar hordes of Asia," to which Committee was referred, on the 4th instant, a Bill intituled "*An Act to regulate the residence of the Chinese Population in Victoria*," brought up the Report of the Committee, and moved that the same be received, printed, and taken into consideration to-morrow.

Question—put and passed.

COUNTY COURTS BILL.—REPORT OF SELECT COMMITTEE APPOINTED TO CONFER WITH A SELECT COMMITTEE OF THE LEGISLATIVE ASSEMBLY.—The Honorable W. H. F. Mitchell, as Chairman of the Select Committee appointed on the 11th instant to confer with a Committee of the Legislative Assembly upon the amendment made by the Legislative Council in the second Schedule to the Bill intituled "*An Act for the more easy recovery of certain Debts and Demands*," brought up the Report of the Committee, and moved that it be received.

The Report was read at the table by the Clerk.

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

Question—put and passed.

The Honorable W. H. F. Mitchell moved, That a Message be carried to the Legislative Assembly, to acquaint them that the Council do not insist upon the amendment made by the Council in the second Schedule to the Bill.

Question—put and passed.

GRANTS TO CORPORATION OF MELBOURNE—CONSIDERATION OF REPORT OF SELECT COMMITTEE ON.—The Order of the Day for the consideration of the Report of the Select Committee on Grants to the Corporation of Melbourne being read, the Honorable J. P. Fawcner moved, That the Report be now adopted.

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 return to the Legislative Council a Bill 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,*" and acquaint them that they have agreed to the amendments made therein by the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 11th November, 1857.

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 10th day of November instant.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 11th November, 1857.

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council a Bill intituled "*An Act to authorise the raising Moneys for the construction of certain Railways,*" and acquaint them that they have agreed to the amendments made therein by the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 11th November, 1857.

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council a Bill intituled "*An Act for the Construction of Railways,*" and acquaint them that they have agreed to the amendments made therein by the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 13th November, 1857.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled "*An Act to appropriate the Consolidated Revenue to the service of the year one thousand eight hundred and fifty-seven and for other purposes,*" to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 13th November, 1857.

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council a Bill intituled "*An Act to correct certain Errors in Acts of this Session,*" and acquaint them that they have agreed to the same without amendment.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 13th November, 1857.

MR. PRESIDENT—

The Legislative Assembly request the Legislative Council to concur in the correction of the following clerical errors reported by the Clerk of the Parliaments to have been discovered in the "*Right of Voting and Registration of Electors Bill,*" viz. :—

In clause XVIII. omit the words "the person so objecting shall also on or before the same day give or cause to be given to the registrar of such province or district as the case may be a notice according to the said form and"

In clause XIX. (third line of same) omit the word "seventh" and insert the word "sixth" in lieu thereof.

In clause XXII. omit the words "the persons so objecting shall also on or before the same days respectively give or cause to be given to the registrar of such province or district as the case may be a notice according to the said form and"

In clause XXXV. (line 21 of same) omit the words "said registrar or to the."

In the fifth schedule omit the words "To the registrar of the." Omit the word "you" after the words "I hereby give."

Omit the sixth schedule.

Omit the word "Seventh" at the head of the last schedule but one, and insert the word "Sixth" in lieu thereof.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chambers,  
Melbourne, 11th November, 1857.

The Appropriation Bill, on the motion of the Honorable W. H. F. Mitchell, read a first time, ordered to be printed and read a second time to-morrow.

The Honorable W. H. F. Mitchell moved, That this House concur in the correction of the clerical errors reported by the Clerk of the Parliaments to have been discovered in "*The Right of Voting and Registration of Electors' Bill*," as contained in the Message from the Legislative Assembly now received.

Question—put and passed.

GRANTS TO CORPORATION.—CONSIDERATION OF REPORT OF SELECT COMMITTEE.—  
Debate resumed.

Amendment moved by the Honorable J. B. Bennett, That all the words after the word "the" be omitted, with the view to add thereafter the words "first six clauses of the Report be adopted."

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

Question—That the first six clauses of the Report be adopted—put and passed.

The Hon. J. P. Fawcner moved, That the seventh and eighth clauses be now adopted.

Debate ensued.

Motion by leave withdrawn.

POSTPONEMENT.—The Order of the Day for the consideration of the Messages from His Excellency the Governor with amendments in the Board of Land and Works Bill was postponed until Thursday, the 19th instant.

FEDERATION RESOLUTIONS.—CONSIDERATION OF MESSAGE FROM LEGISLATIVE ASSEMBLY.—  
The Order of the Day for the consideration of the Message from the Legislative Assembly on the subject of the Federal Union of the Australian Colonies being read, the Honorable T. McCombie moved, That this House concur with the Resolutions of the Legislative Assembly on the subject of a Federal Union of the Australian Colonies.

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 the following clerical errors, reported by the Clerk of the Parliaments, have been amended by the Assembly, and in which they desire the concurrence of the Legislative Council.

In the County Courts Bill, clause XIII., lines 17 and 18, omit the words "by the Clerk of the Court;" and

In the Gold Fields Bill, omit the same words in clause XX., line 18; and in clause LXXXI., add the word "of" at the end of line 1.

Legislative Assembly,

Melbourne, 17th November, 1857.

FRANS. MURPHY,  
Speaker.

The Honorable W. H. F. Mitchell moved, That this House concur with the Legislative Assembly in remedying the clerical errors reported in the County Courts Bill, and the Gold Fields Management Bill, as desired 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 concurred in amending the clerical errors above enumerated.

FEDERATION RESOLUTIONS.—CONSIDERATION OF MESSAGE FROM LEGISLATIVE ASSEMBLY.—  
Debate resumed.

Question—That this House concur with the Resolutions of the Legislative Assembly on the subject of a Federal Union of the Australian Colonies—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to acquaint them that the Council concur with the Resolutions transmitted by the Legislative Assembly.

The Council adjourned during pleasure.

The President resumed the Chair.

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 provide for the Supervision of Railways*," to which they desire the concurrence of the Legislative Council.

Legislative Assembly Chambers,

Melbourne, 17th November, 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 to-morrow.

The Honorable W. H. F. Mitchell, with leave of the Council, without notice, moved, That the second reading of the Chinese Residents Bill be made an Order of the Day for to-morrow, after the disposal of the Order of the Day for the consideration of the Report of the Select Committee on Chinese Immigration.

Question—put and passed.

The Council adjourned at twenty minutes past six o'clock until three o'clock on Wednesday, the 18th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 18TH NOVEMBER.

## NOTICES OF MOTION :—

1. The Hon. J. HOOD: To move for copies of all correspondence that may have taken place between the Government, or the Head of the Survey Department, and Assistant Surveyor Wilnot, in reference to the changing the original site for church and school in the township of Avenel.
2. The Hon. J. HODGSON: To move—
  - (1.) That this House is of opinion that the contract entered into with the European and Australian Royal Mail Company has been conducted in a most unsatisfactory manner, and that all the penalties ought to be enforced.
  - (2.) That unless the Imperial Government have sufficient evidence to convince them that the terms and conditions will in future be faithfully carried out, this House would recommend that the contract be cancelled.
  - (3.) That an address be presented to His Excellency the Governor, praying that steps may be taken to give effect to these resolutions.

*Government Business.*

## ORDERS OF THE DAY :—

1. APPROPRIATION BILL.—To be read a second time.
2. SUPERVISION OF RAILWAYS BILL.—To be read a second time.

*General Business.*

## ORDERS OF THE DAY :—

1. CHINESE IMMIGRATION.—Consideration of Report of Select Committee.
2. CHINESE RESIDENTS BILL.—To be read a second time.

THURSDAY, 19TH NOVEMBER.

1. The Hon. DR. TIERNEY: To ask the Honorable the Postmaster General if the Government would ask information from the Registrar General as to the number of deeds of grant in his office bearing date before the year 1851.
  - (2.) Are there any title deeds or other deeds of record, or other necessary documents referring to this Colony in the Registrar General's office of New South Wales belonging to persons holding properties in this Colony.
  - (3.) If so, would the Government take measures to procure them.

## ORDER OF THE DAY :—

1. BOARD OF LAND AND WORKS BILL.—Consideration of Messages from His Excellency the Governor.

TUESDAY, 24TH NOVEMBER.

## ORDER OF THE DAY :—

1. CONVEYANCING.—Adoption of Report of Select Committee.

G. W. RUSDEN,

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



Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

WEDNESDAY, 18TH NOVEMBER, 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, by command of His Excellency the Governor, presented to the Council the following Paper:—

Copy of Despatch from the Secretary of State, acknowledging the receipt of an Address on the subject of Transportation of Felons (6th September, 1857).

Ordered to lie on the Table.

SITE FOR CHURCH AND SCHOOL AT AVENEL.—The Honorable J. Hood, in accordance with notice, moved, That there be laid upon the Table of this House copies of all correspondence that may have taken place between the Government, or the Head of the Survey Department, and Assistant Surveyor Wilmot, in reference to the changing the original site for church and school in the township of Avenel.

Question—put and passed.

The Honorable W. H. F. Mitchell having laid the Papers upon the Table, the Honorable J. Hood moved, That the Papers be printed.

Question—put and passed.

CONTRACT WITH EUROPEAN AND AUSTRALIAN MAIL COMPANY.—The Honorable J. Hodgson, in accordance with notice, moved—

(1.) That this House is of opinion that the contract entered into with the European and Australian Royal Mail Company has been conducted in a most unsatisfactory manner, and that all the penalties ought to be enforced.

(2.) That unless the Imperial Government have sufficient evidence to convince them that the terms and conditions will in future be faithfully carried out, this House would recommend that the contract be cancelled.

(3.) That an address be presented to His Excellency the Governor, praying that steps may be taken to give effect to these resolutions.

Debate ensued.

Motion by leave withdrawn.

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.

The Honorable J. P. Fawcner moved, That the debate be adjourned until to-morrow.

Debate ensued.

Question—That the debate be adjourned until to-morrow—put and passed.

SUPERVISION OF RAILWAYS 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.

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 amendment.

Ordered—That the adoption of the Report of the Committee be made an Order of the Day for to-morrow.

CHINESE IMMIGRATION.—The Order of the Day for the consideration of the Report of the Select Committee on Chinese Immigration being read, the Honorable J. P. Fawcner moved, That the Report be now adopted.

Question—put and passed.

CHINESE RESIDENTS 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.

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 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.

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 authorize the making of the St. Kilda and Brighton Railway,*" to which they desire the concurrence of the Legislative Council; and in consequence of the early termination of the present Session, the Legislative Assembly also transmit copies of the Report and Proceedings from the Select Committee on this Bill.

Legislative Assembly Chamber,  
Melbourne, 18th November, 1857.

FRANS. MURPHY,  
Speaker.

The Honorable W. H. F. Mitchell moved, That the CXII. Standing Order be suspended, in order that the first reading of the Bill might take place without the production by the member in charge of the Bill of a certificate of the payment of twenty pounds into the Treasury; such certificate to be produced subsequently.

Question—put and passed.

The Bill, on motion of the Honorable W. H. F. Mitchell, read a first time, and ordered to be read a second time to-morrow.

The Council adjourned during pleasure.

The President resumed the Chair.

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 making and maintaining of the Melbourne and Suburban Railway,*" to which they desire the concurrence of the Legislative Council; and in consequence of the early termination of the present Session, the Legislative Assembly also transmit copies of the Report and Proceedings from the Select Committee on this Bill.

Legislative Assembly Chamber,  
Melbourne, 18th November, 1857.

FRANS. MURPHY,  
Speaker.

The Honorable J. B. Bennett moved, That the Standing Order No. CXII. be suspended, with the view to enable the Bill to be read a first time, previous to the payment of the required sum to the public Treasury by the promoters of the Bill.

Question—put and passed.

The Bill, on the motion of the Honorable J. B. Bennett, read a first time, and ordered to be read a second time to-morrow.

The Council adjourned at half-past eight o'clock until three o'clock on Thursday, 19th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 19TH NOVEMBER.

1. The Hon. DR. TIERNEY: To ask the Honorable the Postmaster General if the Government would ask information from the Registrar General as to the number of deeds of grant in his office bearing date before the year 1851.
- (2.) Are there any title deeds or other deeds of record, or other necessary documents referring to this Colony in the Registrar General's office of New South Wales belonging to persons holding properties in this Colony.
- (3.) If so, would the Government take measures to procure them.

NOTICE OF MOTION:—

The Hon. T. McCOMBIE: To move, That there be laid upon the Table of this House a statement of the facts connected with the sale of land on Captain Hepburn's run.

## ORDERS OF THE DAY :—

1. APPROPRIATION BILL.—To be read a second time.
2. BOARD OF LAND AND WORKS BILL.—Consideration of Messages from His Excellency the Governor.
3. SUPERVISION OF RAILWAYS BILL.—Adoption of Report.
4. CHINESE RESIDENTS BILL.—To be read a third time.
5. ST. KILDA AND BRIGHTON RAILWAY BILL.—To be read a second time.
6. MELBOURNE AND SUBURBAN RAILWAY BILL.—To be read a second time.

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TUESDAY, 24TH NOVEMBER.

## ORDER OF THE DAY :—

1. CONVEYANCING.—Adoption of Report of Select Committee.

G. W. RUSDEN,

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

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

THURSDAY, 19TH NOVEMBER, 1857.

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

The President read the Prayer.

**ADJOURNED DEBATE — APPROPRIATION BILL.—SECOND READING.—**

Debate resumed.

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 that the Committee had gone through the Bill, and had agreed to the same without any amendment.

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 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 to the service of the year One thousand eight hundred and fifty-seven, 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.

**RIGHTS OF MARRIED WOMEN AND LAW OF DIVORCE.—**The Honorable J. P. Fawcner, as Chairman of the Select Committee "appointed to examine the present laws relating to the rights of married women to possess property, and also to inherit in all cases property in part of that possessed by their deceased husbands, and to provide for cases of continued absence, of malicious desertion, of conviction of felony, or of open adultery of husbands or wives; to examine into the present laws of divorce, and to frame a Bill or Bills defining the rights of married persons, and these to include a simple law of divorce suitable to the requirements of the marriage state in this Colony," brought up a Progress Report, with Evidence taken, and moved, with leave of the Council, without notice, that the Report and Evidence be received and printed.

Question—put and passed.

**PETITION.—**The Honorable J. Hood presented to the Council a Petition from Edward Potts and others, on the subject of licenses to reside on Crown lands.

Petition received.

**POSTPONEMENT.—**The Order of the Day for the consideration of the Messages from His Excellency the Governor, with amendments in the Board of Land and Works Bill, was postponed until after the disposal of the other Orders of the Day.

**SUPERVISION OF RAILWAYS 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 W. H. F. Mitchell 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 this 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 provide for the Supervision of Railways.*"

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.

CHINESE RESIDENTS BILL.—The Order of the Day for the third reading of this Bill being read, the Bill, on the motion of the Honorable W. H. F. Mitchell, read a third time and *passed*.

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 the following Resolutions, which have been adopted by the Legislative Assembly, respecting the management of the Refreshment Rooms of the Houses of Parliament, viz. :—

- (1.) That Colonel Farquharson be appointed to the charge of the domestic arrangements of the Parliament Houses and Stables, and that he be allowed in consideration thereof a salary of £100 per annum and suitably furnished apartments.
  - (2.) That Mr. Gregory be allowed £25 a month (payable monthly) towards defraying the expense of servants from the date of his resigning the former contract, and that he be allowed to continue the contract on probation, until the end of the present session, on the basis of the tariff already agreed on.
  - (3.) And that some person be appointed to take charge of the stables, at a salary of £50 per annum, with free quarters. In consideration of this salary a tariff for keeping the horses of members and attendance (to be supplied) to regulate the charges of the stable keeper be decided upon.
  - (4.) That the present occupant of the stables be employed for a probationary period, not exceeding three months, and, in the event of his not giving satisfaction, that he be dismissed from his employment,
- to which they desire the concurrence of the Legislative Council.

FRANS. MURPHY,  
Speaker.

Legislative Assembly Chamber,  
Melbourne, 18th November, 1857.

The Honorable J. Hodgson moved, That the Message be taken into consideration after the other Orders of the Day.

Question—put and passed.

CHINESE RESIDENTS BILL.—The Honorable W. H. F. Mitchell moved, That the title of the Bill be "*An Act to regulate the Residence of the Chinese Population in 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 same without any amendment.

ST. KILDA AND BRIGHTON RAILWAY BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Miller produced a certificate that the sum of twenty pounds had been paid into the Public Treasury by the promoters of the Bill, and moved that the Bill be read a second time.

Debate ensued.

Question—put and passed.

The Honorable H. Miller moved the suspension of the Standing Order No. CXIII., in order to enable the Bill to be considered in Committee of the whole Council this day.

Question—put and 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 that the Committee had gone through the Bill, and had agreed to the same without amendment.

Ordered—That the adoption of the Report of the Committee be made an Order of the Day for to-morrow.

MELBOURNE AND SUBURBAN RAILWAY 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.

The Honorable J. B. Bennett moved, That the Standing Order No. CXIII. be suspended, in order to enable the Bill to be considered in Committee of the whole Council this day.

Question—put and 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 that the Committee had gone through the Bill, and had agreed to the same without amendment.

Ordered—That the adoption of the Report of the Committee be made an Order of the Day for to-morrow.

POSTPONEMENTS.—The following Orders of the Day were severally postponed until to-morrow:—  
"Board of Land and Works Bill"—Consideration of Messages from His Excellency the Governor.

"Management of Refreshment Rooms"—Message from the Legislative Assembly.

SUSPENSION OF SESSIONAL ORDER.—The Honorable W. H. F. Mitchell, with leave of the Council, without notice, moved, That the Sessional Order of the 26th November, 1856, to the effect that the Council meet three days in the week, be suspended, and that the House at its rising adjourn until three o'clock on Friday, the 20th instant.

Question—put and passed.

The Council adjourned at seven o'clock until three o'clock on Friday, 20th instant.

## NOTICES OF MOTION AND ORDERS OF THE DAY.

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FRIDAY, 20TH NOVEMBER.

1. The Hon. G. URQUHART: To ask the Honorable the Postmaster General the number of men employed by the Government destroying the Thistles, and where employed.
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## ORDERS OF THE DAY:—

1. ST. KILDA AND BRIGHTON RAILWAY BILL.—Adoption of Report.
  2. MELBOURNE AND SUBURBAN RAILWAY BILL.—Adoption of Report.
  3. BOARD OF LAND AND WORKS BILL.—Consideration of Messages from His Excellency the Governor.
  4. MANAGEMENT OF REFRESHMENT ROOMS.—Consideration of Message from Legislative Assembly.
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TUESDAY, 24TH NOVEMBER.

## ORDER OF THE DAY:—

1. CONVEYANCING.—Adoption of Report of Select Committee.

G. W. RUSDEN,

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

Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

FRIDAY, 20<sup>TH</sup> NOVEMBER, 1857.

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

APPROVAL OF JOINT STANDING ORDER BY HIS EXCELLENCY THE GOVERNOR.—The President announced to the Council that His Excellency the Governor had been pleased to approve of the Additional Joint Standing Order on the subject of the Quorum of the Joint Library Committee, as adopted by the Legislative Council and Legislative Assembly.

TRANSFER OF LAND BILL—REPORT OF SELECT COMMITTEE ON.—The Honorable J. B. Bennett, as Chairman of the Select Committee to which was referred the Bill to facilitate the Transfer of Lands in Victoria, brought up the Report of the Committee, with Evidence, and moved, with leave of the Council, without notice, That the same be received and printed.

Question—put and passed.

ST. KILDA AND BRIGHTON RAILWAY 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 of the Committee be now adopted.

Debate ensued.

Amendment moved by the Honorable J. P. Fawcner, That all the words after the word "That" be omitted, with the view to insert the words "the Bill be now re-committed to the consideration of a Committee of the whole Council."

Debate ensued.

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

Contents, 11.

The Hon. W. H. F. Mitchell  
J. Hodgson  
C. Vaughan  
H. Miller  
J. H. Patterson  
W. Highett  
S. G. Henty  
T. H. Power  
J. Henty  
B. Williams  
W. J. T. Clarke (*Teller*).

Not Contents, 3.

The Hon. Dr. Tierney  
J. Hood  
J. P. Fawcner (*Teller*).

The question was therefore passed.

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

The Honorable H. Miller moved, That the Standing Order CXIII. be suspended in order to enable the Bill to be read a third time and passed this day.

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 H. Miller, read a third time and *passed*.

The Honorable H. Miller moved, That the title of the Bill be, "*An Act to authorise the making of the St. Kilda and Brighton Railway.*"

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.

MELBOURNE AND SUBURBAN RAILWAY 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 produced a certificate, shewing that the sum of twenty pounds had been paid into the public Treasury by the promoters of the Bill, and moved, That the Report of the Committee be now adopted.

Debate ensued.

Amendment moved by the Honorable J. Hood, That all the words after the word "That" be omitted, with a view to insert the words "the Bill be now re-committed to the consideration of a Committee of the whole Council."

Debate ensued.

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

<p style="text-align: center;">Contents 10.</p> <p>The Hon. W. H. F. Mitchell J. Hodgson H. Miller J. Henty W. Highett S. G. Henty J. H. Patterson T. H. Power C. Vaughan W. J. T. Clarke (<i>Teller</i>).</p>	<p style="text-align: center;">Not Contents, 4.</p> <p>The Hon. Dr. Tierney J. Hood B. Williams J. P. Fawcner (<i>Teller</i>).</p>
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The question was therefore passed.

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

The Honorable J. B. Bennett moved, That the Standing Order CXIII. be suspended, in order to enable the Bill to be read a third time and passed this day.

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 J. B. Bennett, read a third time and *passed*.

The Honorable J. B. Bennett moved, That the title of the Bill be, "*An Act for making and maintaining of the Melbourne and Suburban Railway.*"

Question—put and passed.

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

BOARD OF LAND AND WORKS BILL.—CONSIDERATION OF MESSAGES FROM HIS EXCELLENCY THE GOVERNOR.—The Order of the Day for the consideration of the Messages from His Excellency the Governor, with amendments in this Bill, being read, the Honorable W. H. F. Mitchell moved, That the House proceed to the next Order of the Day.

Question—put and passed.

MANAGEMENT OF REFRESHMENT ROOMS.—MESSAGE FROM THE LEGISLATIVE ASSEMBLY.—The Order of the Day for the consideration of the Message from the Legislative Assembly on the management of the Refreshment Rooms being read, the Honorable W. Highett moved, That a Message be transmitted to the Legislative Assembly, to acquaint them that the Council agree to the first, second, and third resolutions, transmitted from the Legislative Assembly on the 19th instant, but that they cannot agree to the fourth resolution; that this Council adopts the fourth resolution of the Joint Refreshment Rooms Committee, contained in their Report dated the 2nd October last, with which they request the concurrence of the Legislative Assembly.

Debate ensued.

The Message from the Legislative Assembly was read at the Table by the Clerk.

Amendment moved by the Honorable J. Hodgson, That this House concur with the resolutions transmitted from the Legislative Assembly on the subject of the management of the Refreshment Rooms and Stables.

Original motion, by leave, withdrawn.

Question—That this House concur with the resolutions transmitted from the Legislative Assembly on the subject of the management of the Refreshment Rooms and Stables—put and passed.

PROROGATION OF PARLIAMENT.—The President announced to the Council that he had been apprised by the Honorable the Postmaster General that it is the intention of His Excellency the Governor to proceed to the Legislative Council Chamber on Tuesday, the 24th instant, to prorogue the Parliament, at twelve o'clock.

ADJOURNMENT.—The Honorable J. B. Bennett moved, That the House, at its rising, adjourn until twelve o'clock on Tuesday next.

Question—put and passed.

The Council adjourned at ten minutes to six o'clock until twelve o'clock on Tuesday, 24th instant.



NOTICE OF MOTION AND ORDER OF THE DAY.

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TUESDAY, 24TH NOVEMBER.

1. The Hon. G. URQUHART: To ask the Honorable the Postmaster General the number of men employed by the Government destroying the Thistles, and where employed.
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## ORDER OF THE DAY :—

1. CONVEYANCING.—Adoption of Report of Select Committee.

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

Minutes of the Proceedings  
OF THE  
LEGISLATIVE COUNCIL.

TUESDAY, 24TH NOVEMBER, 1857.

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

**CHARGES AGAINST THE LATE SECRETARY OF THE SEWERAGE AND WATER COMMISSION.**—The Honorable J. Hood, with leave of the Council, moved, without notice, That the late Secretary of the Sewerage and Water Commission be permitted to examine and copy, if he think fit, the minutes of inquiry in his case now before this House.  
Question—put and passed.

**CONVEYANCING.**—The Order of the Day for the consideration of the Report of the Select Committee on Conveyancing being read, the Honorable T. McCombie moved, That the Order of the Day be discharged.  
Question—put and passed.

**APPROACH OF HIS EXCELLENCY THE GOVERNOR.**—The approach of His Excellency the Governor was announced by the Usher.

**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 the Legislative Council to concur in the correction of the following clerical error, reported by the Clerk of the Parliaments to have been discovered in the St. Kilda and Brighton Railway Bill, viz. :—  
In clause IV (line 3 of same) omit the word "four" before the word "thousand," and insert the word "five" in lieu thereof.

Legislative Assembly Chambers,  
Melbourne, 24th November, 1857.

FRANS. MURPHY,  
Speaker.

The Honorable W. H. F. Mitchell moved, That this Council concur with the Legislative Assembly in correcting the error reported, in the manner requested by the Legislative Assembly.

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly to acquaint them that this House concur in correcting the error as requested by the Legislative Assembly.

**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;

He 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 facilitate Leases and Sales of Settled Estates in the Colony of Victoria."

"An Act to enable the Shareholders in a Joint Stock Insurance Company carrying on business in the Colony of Victoria under the name style or title of 'The Colonial Insurance Company' to sue and be sued in the name of the Chairman for the time being of the Directors of the said Company and for other purposes."

"An Act to incorporate a Company to be called 'The Ballaarat Gas Company' and for other purposes."

- “ *An Act to make Powers of Attorney valid in certain cases.*”  
 “ *An Act for the more easy Recovery of certain Debts and Demands.*”  
 “ *An Act for making and maintaining a Bridge over the Campaspe River at  
 “ Echuca.*”  
 “ *An Act to establish a Board of Land and Works.*”  
 “ *An Act for amending the Laws relative to the Gold Fields.*”  
 “ *An Act to extend the right of Voting and to provide for the Registration of  
 “ Parliamentary Electors.*”  
 “ *An Act to enable the Shareholders of a Joint Stock Insurance Company  
 “ established in the Colony of Victoria under the style or title of ‘The  
 “ ‘ Australasian Fire and Life Insurance Company’ to sue and be sued in the  
 “ name of the Chairman for the time being of the Board of Directors of the  
 “ said Company and to limit the liability of such Shareholders and for other  
 “ purposes.*”  
 “ *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 to authorize the raising Moneys for the construction of certain Railways.*”  
 “ *An Act for preventing the spread of Small Pox.*”  
 “ *An Act for the Construction of Railways.*”  
 “ *An Act to correct certain errors in Acts of this Session.*”  
 “ *An Act to provide for the Supervision of Railways.*”  
 “ *An Act to regulate the residence of the Chinese Population in Victoria.*”  
 “ *An Act to authorise the making of the St. Kilda and Brighton Railway.*”  
 “ *An Act for making and maintaining of the Melbourne and Suburban Railway.*”

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.”

WITHHOLDING THE ROYAL ASSENT FROM A BILL.—His Excellency was pleased to withhold the Royal Assent from the following Bill, viz:—A Bill intituled “ *An Act to assimilate and  
 “ simplify the Oaths of Qualification for Office, and to recognize and establish in  
 “ Victoria the right of absolute civil equality of all Her Majesty’s subjects irrespective of  
 “ religious belief;*”

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.”

ROYAL ASSENT TO A BILL.—His Excellency was pleased to assent, in Her Majesty’s name, to the following Bill:—

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

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.”

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

His Excellency was then pleased to speak as follows: viz.

MR. PRESIDENT AND HONORABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL,

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY,

In releasing you from your attendance in Parliament, I desire to express my high sense of the zeal and assiduity with which you have applied yourselves to the duties of a very protracted Session, and of the cheerfulness with which you have devoted so large a portion of your time to the public business.

Although some of the measures to which my predecessor invited your attention at the opening of the Session have not been submitted for your consideration in consequence of unforeseen circumstances, I trust the omission will not ultimately prejudice the interests of the public, and that it will be conceded that, however desirable certain changes in the law may be, there is a limit to the number of questions with which the Legislature, even with the utmost industry, can deal satisfactorily in one Session.

In alluding to the discussions on the Bill for the sale and occupation of Crown Lands, to which so much time was devoted, I would express my hope that, although they

have led as yet to no legislation, they will be found to have had the effect of affording information and removing misconceptions, and thus of hastening the arrival of the time when such a settlement of this most important question may be accomplished, as may deal justly with all interests, and satisfy every reasonable expectation.

The Acts for enabling the Government to undertake at once the construction of Railways will prove most beneficial, not only in the ultimate effect they must have in enhancing the value of the public property and in materially diminishing the burthen which the want of cheap and rapid means of internal communication has imposed on the productive classes of the community, particularly of that portion of it resident on the Gold Fields, but in affording employment to the large number of immigrants who are now landing in the Colony, and to those who may hereafter arrive.

I trust that the Act for the Extension of the Franchise, and for introducing a more economical and efficient system of registration, may lead to a more thorough and equal representation of the various classes of the community, and when taken in connection with other measures of reform which will be laid before you in the next Session, remove every cause of just complaint, and increase general confidence in the Legislature.

The Act for the Management of the Gold Fields, by extending the powers of the local legislative bodies, will enable them to frame regulations to meet the exigencies arising from the improvements and alterations which experience has introduced in the method of mining. It also establishes tribunals of a constitutional character for dealing with cases of encroachment and other disputes which arise among miners.

It is with much satisfaction that I have given Her Majesty's assent to various important Bills affecting the administration of the law and relating to the operations of commerce. These Acts have been framed with a view to accomplish the great object, if not of codification, at least of consolidation, so that the whole of one subject is embraced by one Act.

GENTLEMEN OF THE LEGISLATIVE ASSEMBLY,

I desire to express my cordial thanks for the readiness with which you have provided the necessary supplies for carrying on the service of the Colony.

MR. PRESIDENT AND HONORABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL,

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY,

I feel assured that the constant attention to your Legislative duties during this very protracted Session must have involved a considerable sacrifice of your personal comfort and your private interests, more particularly in the case of those among you who reside in the remoter districts of the Colony. I therefore regret that the exigencies of the public service will render it necessary for me to call upon you to re-assemble after a very brief recess. I cannot, however, doubt that you will again give to the business of the country that attention which has so honorably characterized the discharge of your duties during the present Session.

I do now, in Her Majesty's name, prorogue this Parliament to Thursday, the Third day of December next, and it is hereby prorogued accordingly.

HENRY BARKLY,  
Governor.

24th November, 1857.

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 1856-7.

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### 1.—REPLY TO OPENING SPEECH OF THE OFFICER ADMINISTERING THE GOVERNMENT.

Appointed 25th November, 1856.

Mr. S. G. Henty,  
Mr. H. Miller,  
Mr. T. H. Power,  
Mr. M. Hervey,

Mr. D. P. Keogh,  
Mr. J. P. Fawcner,  
Mr. J. B. Bennett (*Mover*).

### 2.—STANDING ORDERS.

Appointed 26th November, 1856.

Mr. J. P. Fawcner,  
The President,  
Mr. W. H. F. Mitchell,  
Mr. J. Hodgson,  
Mr. M. Hervey,

Mr. J. B. Bennett,  
Mr. J. Hood,  
Mr. H. Miller,  
Mr. T. McCombie (*Mover*).

### 3.—PENAL DEPARTMENTS.

Appointed by Ballot 26th November, 1856.

Mr. M. Hervey,  
Mr. T. McCombie,  
Mr. W. H. F. Mitchell,  
Mr. J. F. Strachan,  
\* Mr. R. Thomson,  
Mr. H. Miller,  
Mr. A. R. Cruikshank,  
† Mr. W. J. T. Clarke,

† Mr. J. Cowie,  
† Mr. N. Guthridge,  
† Mr. D. P. Keogh,  
† Mr. J. H. Patterson,  
† Mr. J. Stewart,  
† Dr. Tierney,  
† Mr. B. Williams,  
Mr. J. Hood (*Mover*).

\* *Vice* Mr. Strachan, 27th November, 1856.

† Appointed 4th December, 1856.

### 4.—ELECTIONS AND QUALIFICATIONS.

Appointed by "President's Warrant," 27th November, 1856.

Mr. J. B. Bennett,  
Mr. J. P. Fawcner,  
Mr. S. G. Henty,  
Dr. Hope,

Mr. W. H. F. Mitchell,  
Mr. T. H. Power,  
Mr. C. Vaughan.

### 5.—TRANSPORTATION OF FELONS.

Appointed 4th December, 1856.

Mr. J. Hodgson,  
Mr. J. Hood,  
Mr. M. Hervey,

The President,  
Mr. J. P. Fawcner (*Mover*).

### 6.—FORM OF PRAYER.

Appointed 4th December, 1856.

Mr. N. Guthridge,  
Mr. J. Hodgson,  
Mr. T. H. Power,  
Mr. J. P. Fawcner,  
Mr. J. Henty,  
\* The President,  
\* Dr. Tierney,  
\* Mr. J. H. Patterson,

\* Mr. M. Hervey,  
\* Mr. R. Thomson,  
\* Mr. B. Williams,  
\* Mr. W. H. F. Mitchell,  
\* Mr. H. Miller,  
\* Mr. C. Vaughan,  
Mr. J. B. Bennett (*Mover*).

\* Subsequently appointed on same day.

## 7.—GRANTS TO CORPORATION OF MELBOURNE.

Appointed 8th January, 1857.

Mr. J. Hood,  
\* Mr. W. Kaye,  
Mr. J. Hodgson,  
Mr. N. Guthridge,

Mr. J. Stewart,  
Mr. T. H. Power,  
Mr. J. P. Fawkner (*Mover*).

\* Declared not duly elected.

## 8.—FORM OF PRAYER (No. 2).

Appointed 13th January, 1857.

Mr. N. Guthridge,  
Mr. J. Hodgson,  
Mr. J. B. Bennett,  
Mr. J. Stewart,

Mr. T. McCombie,  
The President,  
Mr. J. P. Fawkner (*Mover*).

## 9.—ADDRESS TO MAJOR-GENERAL MACARTHUR.

Appointed 13th January, 1857.

Mr. W. H. F. Mitchell,  
Mr. M. Hervey,  
Mr. H. Miller,

Mr. J. Henty,  
Mr. J. Hodgson (*Mover*).

## 10.—CLASSIFICATION OF CLERKS.

Appointed 14th January, 1857.

Mr. S. G. Henty,  
Mr. J. P. Fawkner,  
Mr. R. Thomson,

Dr. Tierney,  
Mr. J. H. Patterson (*Mover*).

## 11.—POSTAGE ON NEWSPAPERS.

Appointed 21st January, 1857.

Mr. W. H. F. Mitchell,  
Mr. J. H. Patterson,  
Mr. W. J. T. Clarke,  
Mr. R. Thomson,

Mr. J. Hodgson,  
Mr. T. McCombie,  
Dr. Tierney (*Mover*).

## 12.—SALARIES OF OFFICERS OF THE LEGISLATIVE COUNCIL.

Appointed 21st January, 1857.

Mr. J. B. Bennett,  
Mr. H. Miller,  
Mr. J. H. Patterson,  
Mr. T. H. Power,

Mr. G. Urquhart,  
Mr. A. R. Cruikshank,  
Mr. T. McCombie,  
Mr. M. Hervey (*Mover*).

## 13.—DECORATION OF COUNCIL CHAMBER.

Appointed 28th January, 1857.

The Hon. J. Hood,  
" J. Hodgson,  
" the President,

The Hon. H. Miller,  
" W. H. F. Mitchell (*Mover*).

## 14.—WARRNAMBOOL HARBOR.

Appointed 11th February, 1857.

The Hon. the President,  
" H. Miller,  
" C. Vaughan,

The Hon. J. Hood,  
" Dr. Tierney (*Mover*).

## 15.—SALE AND KEEPING OF POISONS.

Appointed 17th February, 1857.

The Hon. the President,		The Hon. J. P. Fawkner,
„ J. B. Bennett,		„ S. G. Henty,
„ Dr. Hope,		„ Dr. Tierney ( <i>Mover</i> ).
„ J. Hood,		

## 16.—LEGAL ASSISTANCE.

Appointed 3rd March, 1857.

The Hon. the President,		The Hon. J. P. Fawkner,
„ J. Hodgson,		„ J. B. Bennett,
„ H. Miller,		„ R. Thomson,
„ M. Hervey,		„ T. McCombie ( <i>Mover</i> ).

## 17.—ELECTIONS AND QUALIFICATIONS.

Appointed by "President's Warrant," 10th March, 1857.

The Hon. J. B. Bennett,		The Hon. W. H. F. Mitchell,
„ J. P. Fawkner,		„ T. H. Power,
„ S. G. Henty,		„ C. Vaughan.
„ Dr. Hope,		

## 18.—ADDRESS OF CONDOLENCE TO HIS EXCELLENCY THE GOVERNOR.

Appointed 22nd April, 1857.

The Hon. H. Miller.		The Hon. J. H. Patterson,
„ J. B. Bennett,		„ J. P. Fawkner ( <i>Mover</i> ).
„ W. H. F. Mitchell,		

## 19.—RIGHTS OF MARRIED WOMEN AND LAW OF DIVORCE.

Appointed 28th May, 1857.

The Hon. J. Hodgson,		The Hon. D. Kennedy,
„ S. G. Henty,		„ J. B. Bennett,
„ W. H. F. Mitchell,		„ J. P. Fawkner ( <i>Mover</i> ).

## 20.—CHINESE IMMIGRATION.

Appointed 4th June, 1857.

The Hon. J. Henty,		The Hon. N. Guthridge,
„ J. Stewart,		„ G. Urquhart,
„ T. McCombie,		„ J. P. Fawkner ( <i>Mover</i> ).
„ J. F. Strachan,		

## 21.—EXIGENCIES OF THE COUNCIL.

Appointed 10th June, 1857.

The Hon. W. H. F. Mitchell,		The Hon. J. H. Patterson,
„ H. Miller,		„ S. G. Henty,
„ T. McCombie,		„ J. B. Bennett ( <i>Mover</i> ).
„ G. Urquhart,		

## 22.—ADDRESS TO HIS EXCELLENCY THE GOVERNOR, ON THE EXIGENCIES OF THE COUNCIL.

Appointed 7th July, 1857.

The Hon. S. G. Henty,		The Hon. G. Urquhart,
„ W. H. F. Mitchell,		„ J. H. Patterson,
„ T. McCombie,		„ J. B. Bennett ( <i>Mover</i> ).
„ H. Miller,		

## 23.—COIN OF THE SYDNEY MINT.

Appointed 29th July, 1857.

The Hon. J. Hood,		The Hon. W. H. F. Mitchell,
„ J. B. Bennett,		„ W. Highett,
„ J. P. Fawcner,		„ H. Miller,
„ J. Henty,		„ T. McCombie ( <i>Mover</i> ).

## 24.—CONVEYANCING.

Appointed by Ballot, 6th August, 1857.

The Hon. Dr. Tierney,		The Hon. B. Williams,
„ W. J. T. Clarke,		„ T. McCombie ( <i>Mover</i> ).
„ D. Kennedy,		

## 25.—REFRESHMENT ROOMS—(JOINT COMMITTEE).

Appointed 18th August, 1857.

The Hon. W. Highett,		The Hon. S. G. Henty ( <i>Mover</i> ).
„ J. Stewart,		

## 26.—LIBRARY COMMITTEE—(JOINT COMMITTEE).

Appointed 2nd September, 1857.

The Hon. the President,		The Hon. W. H. F. Mitchell,
„ J. P. Fawcner,		„ J. Hodgson ( <i>Mover</i> ).
„ Dr. Hope,		

## 27.—TRANSFER OF LAND BILL.

Appointed 17th September, 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> ).

## 28.—RAILWAYS.

Appointed by Ballot, 8th October, 1857.

The Hon. W. H. F. Mitchell,		The Hon. T. H. Power,
„ W. Highett,		„ Dr. Hope,
„ T. McCombie,		„ J. H. Patterson,
„ J. Stewart,		„ S. G. Henty,
„ J. F. Strachan,		„ the President,
„ J. P. Pawcner,		„ H. Miller ( <i>Mover</i> ).

## 29.—AMENDMENT IN COUNTY COURTS BILL.

Appointed 11th November, 1857.

The Hon. H. Miller,		The Hon. T. McCombie,
„ Dr. Hope,		„ W. H. F. Mitchell ( <i>Mover</i> ).
„ J. F. Strachan,		



VICTORIA.

# LEGISLATIVE COUNCIL.

SESSION, 1856-7.

## WEEKLY REPORT OF DIVISIONS IN COMMITTEE OF THE WHOLE COUNCIL.

No. 1.

Extracted from the Minutes.

THURSDAY, 26TH FEBRUARY, 1857.

No. 1.—SPIRIT MERCHANTS BILL—Clause I.—The said fee for the registration of the premises of wholesale dealers in spirits shall be and the same is hereby abolished and in lieu thereof the several fees and duties mentioned and set forth in the second schedule to this Act shall be henceforth charged upon and payable by the several persons enumerated and described in the same schedule and no person shall after the first day of March in the year of Our Lord One thousand eight hundred and fifty-seven be deemed or taken to be registered as a spirit merchant or brewer respectively under the authority of the said Acts until such rates and sums shall have been respectively paid into the office of the "Treasurer" Provided that the fee for any registration under this and the said recited Acts shall only be in proportion to the period at which such registration shall be made and the period at which it shall expire every registration under this and the said recited Acts expiring on the thirty-first day of December in each year.

Motion made and question put—That, after the word "Treasurer" in the ninth line of the above clause, the following words be inserted, "or Sub-Treasurer of the district where such registration has been made."—(*Honorable J. F. Strachan.*)

Committee divided.

Contents, 7.  
The Hon. J. P. Fawkner  
W. J. T. Clarke  
J. F. Strachan  
D. P. Keogh  
Dr. Hope  
J. Cowie  
T. McCombie (*Teller*).

Not Contents, 12.  
The Hon. J. Henty  
J. Hodgson  
J. H. Patterson  
C. Vaughan  
J. Allan  
T. H. Power  
H. Miller  
J. Stewart  
J. B. Bennett  
W. H. F. Mitchell  
Dr. Tierney  
B. Williams (*Teller*).

VICTORIA.

# LEGISLATIVE COUNCIL.

SESSION 1856-7.

## WEEKLY REPORT OF DIVISIONS IN COMMITTEE OF THE WHOLE COUNCIL.

No. 2.

Extracted from the Minutes.

TUESDAY, 3RD MARCH, 1857.

No. 1.—QUALIFICATION OF MEMBERS OF ASSEMBLY BILL—Clause I.—“That” so much of an Act intituled “*An Act to establish a Constitution in and for the Colony of Victoria*” being Schedule I. of a certain Act of the Imperial Parliament passed in the eighteenth and nineteenth years of the reign of Her present Majesty intituled “*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*” as enacts “That no person shall be capable of being elected a member of the Assembly who shall not be legally or equitably seized of or entitled to an estate of freehold in possession for his own use and benefit in lands and tenements in Victoria of the value of two thousand pounds sterling money above all charges and incumbrances affecting the same”: And as further enacts “That if any person by this Act disabled or declared to be incapable to sit or vote in the Legislative Council or Legislative Assembly be elected and returned as a member to serve in the said Council or Assembly such election and return may be declared by the said Council or Assembly as the case may be to be void and thereupon the same shall become void to all intents and purposes and if any person so elected and returned contrary to the provisions of this Act shall sit or vote as member of the said Council or Assembly he shall be liable to pay two hundred pounds to be recovered by any person who shall sue for the same in any court of the said Colony having competent jurisdiction” in so far as such disability or incapacity would but for this Act have arisen from want of such property qualification in a person so elected or returned as a member of the Legislative Assembly but not further or otherwise And as further enacts “That every member of the Legislative Assembly shall after the election of the Speaker before he shall sit and vote in such Assembly make and subscribe a declaration under his hand and deliver the same to the Clerk of the Assembly at the place where and while the House is sitting with the Speaker in the Chair which declaration shall be in the form set forth in the schedule hereunto annexed marked B and that the said declaration shall be filed and kept by the Clerk with the other records of the office and that any member who shall sit or vote in the Assembly after the election of a Speaker before making such declaration as aforesaid shall be liable for every day on which he shall so offend to a penalty of *Two* hundred pounds” shall be and is hereby repealed *as from* the first day of March 1857 save only as to any election which may or shall have taken place before that day.

Motion made—That all the words after the word “That” in the first line of the above clause be omitted, with the view of substituting the following words:—“the eleventh section of an Act intituled ‘*An Act to establish a Constitution in and for the Colony of Victoria*’ being Schedule I. of a certain Act of the Imperial Parliament passed in the eighteenth and nineteenth years of the reign of Her present Majesty intituled ‘*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*’ be and is hereby repealed and that in lieu thereof the following be enacted:—

“No person shall be capable of being elected a member of the Assembly who shall not be of the full age of twenty-one years or who shall not be a natural born subject of the

Queen or have been naturalized by law for the space of five years and been resident in Victoria for the space of two years previous to such election and who shall not be legally or equitably seised of or entitled to an estate of freehold in possession for his own use and benefit in lands and tenements in Victoria of the value of one thousand pounds sterling money or of the annual value of one hundred pounds sterling money above all charges and incumbrances affecting the same Provided that no person shall be capable of being elected a member to serve in the Assembly who shall be a judge of any court of the said colony appointed during good behaviour or a minister of any religious denomination whatever may be his title rank or designation Provided further that no person who shall have been attainted of any treason or convicted of any felony or infamous crime in any part of Her Majesty's dominions shall be capable of being elected a member of the said Assembly."—(*Honorable J. B. Bennett.*)

Question put—That the words proposed to be omitted stand part of the clause.

Committee divided.

Contents, 15.  
 The Hon. The President  
 J. Hood  
 D. P. Keogh  
 J. H. Patterson  
 J. Stewart  
 C. Vaughan  
 G. Urquhart  
 T. McCombie  
 M. Hervey  
 J. Allan  
 Dr. Tierney  
 Dr. Hope  
 J. Cowie  
 N. Guthridge  
 J. Henty (*Teller*).

Not Contents, 8.  
 The Hon. W. J. T. Clarke  
 H. Miller  
 J. P. Fawcner  
 R. Thomson  
 T. H. Power  
 J. B. Bennett  
 B. Williams  
 J. F. Strachan (*Teller*).

VICTORIA.

# LEGISLATIVE COUNCIL.

SESSION 1856-7.

## WEEKLY REPORT OF DIVISIONS IN COMMITTEE OF THE WHOLE COUNCIL.

No. 3.

Extracted from the Minutes.

THURSDAY, 28<sup>TH</sup> MAY, 1857.

No. 1.—AUCTIONEERS BILL.—Proposed new clause.—“That from and after the passing of this Act it shall not be lawful for any licensed auctioneer to deal or trade in the wares goods land or interest or other articles he is called upon to sell in the course of his business as an auctioneer and any auctioneer so trading or dealing as aforesaid shall be liable on conviction to a fine not exceeding fifty pounds and the forfeiture of his licence.”

Motion made and question put—That the above proposed clause stand part of the Bill.—  
(*Honorable T. McCombie.*)

Committee divided.

Contents, 14.

The Hon. J. P. Fawcner  
S. G. Henty  
W. H. F. Mitchell  
J. Henty  
D. Kennedy  
D. P. Keogh  
J. Stewart  
T. McCombie  
B. Williams  
Dr. Hope  
W. Roope  
J. Cowie  
J. B. Bennett  
C. Vaughan (*Teller*).

Not Contents, 6.

The Hon. G. Urquhart  
T. H. Power  
W. J. T. Clarke  
Dr. Tierney  
W. Highett  
H. Miller (*Teller*).

LEGISLATIVE COUNCIL.

SESSION 1856-7.

WEEKLY REPORT OF DIVISIONS

IN

COMMITTEE OF THE WHOLE COUNCIL.

No. 4.

Extracted from the Minutes.

THURSDAY, 4TH JUNE, 1857.

No. 1.—SETTLED ESTATES BILL—Clause II.—It shall be lawful for the Supreme Court of the Colony of Victoria in its equitable jurisdiction if it shall deem it proper and consistent with a due regard for the interests of all parties entitled under the settlement and subject to the provisions and restrictions in this Act contained to “*authorise*” leases of any settled estates or of any rights or privileges over or affecting any settled estates for any purpose whatsoever whether involving waste or not provided the following conditions be observed:—

1st.—Every such lease shall be made to take effect in possession at or within one year next after the making thereof and shall be for a term of years not exceeding for an agricultural or occupation lease twenty-one years for a mining lease or a lease of water water-mills way-leaves water-leaves or other rights or easements forty years and for a building lease ninety-nine years.

2ndly.—On every such lease shall be reserved the best rent or reservation in the nature of rent either uniform or not that can be reasonably obtained to be made payable half-yearly or oftener without taking any fine or other benefit in the nature of a fine.

3rdly.—Where the lease is of any earth coal stone or mineral a certain portion of the whole rent or payment reserved shall be from time to time set aside and invested as hereinafter mentioned namely when and so long as the person for the time being entitled to the receipt of such rent is a person who by reason of his estate or by virtue of any declaration in the settlement is entitled to work such earth coal stone or mineral for his own benefit one-fourth part of such rent and otherwise three-fourth parts thereof and in every such lease sufficient provision shall be made to insure such application of the aforesaid portion of the rent by the appointment of trustees or otherwise as the court shall deem expedient.

4thly.—Every such lease shall be by deed and the lessee shall execute a counterpart thereof and every such lease shall contain a condition for re-entry on non-payment of the rent for a period of not less than twenty-eight days after it becomes due.

Motion made and question put—That after the word “*authorise*” in the fourth line of the above clause, the following words be inserted, “*within three months after application has been made to the Court in Equity.*”—(Honorable J. P. Fawkner.)

Committee divided.

Contents, 7.  
The Hon. T. H. Power  
J. P. Fawkner  
G. Urquhart  
W. J. T. Clarke  
J. Stewart  
T. McCombie  
J. H. Patterson (*Teller*).

Not Contents, 10.  
The Hon. Dr. Hope  
N. Guthridge  
D. Kennedy  
J. B. Bennett  
Dr. Tierney  
J. Hood  
W. H. F. Mitchell  
J. Cowie  
W. Highett  
J. F. Strachan (*Teller*).

No. 2.—SETTLED ESTATES BILL—Clause II.—Motion made and question put—That the Chairman report progress and ask leave to sit again on Tuesday.—(*Honorable J. P. Fawcner.*)

Contents, 6.  
 The Hon. T. H. Power  
 J. P. Fawcner  
 G. Urquhart  
 W. J. T. Clarke  
 J. Stewart  
 J. H. Patterson (*Teller*).

Not Contents, 9.  
 The Hon. Dr. Hope  
 N. Guthridge  
 J. B. Bennett  
 Dr. Tierney  
 J. Hood  
 W. H. F. Mitchell  
 J. Cowie  
 W. Highett  
 J. F. Strachan (*Teller*).

VICTORIA.

# LEGISLATIVE COUNCIL.

SESSION 1856-7.

## WEEKLY REPORT OF DIVISIONS

IN

## COMMITTEE OF THE WHOLE COUNCIL.

No. 5.

Extracted from the Minutes.

TUESDAY, 16TH JUNE, 1857.

No. 1.—LAW OF EVIDENCE BILL—Clause VIII.—On the trial of any issue joined or of any matter or question or on any inquiry arising in any suit action or proceeding in any court or before any person having by law or by consent of parties authority to hear receive and examine evidence the parties thereto and the persons in whose behalf any such suit action or proceeding may be brought or defended and the husbands and wives of such parties and persons respectively shall except as hereinafter excepted be competent “*and compellable*” to give evidence either in person or by deposition according to the practice of the court on behalf of either or any of the parties to the said suit action or proceeding.

Motion made—That the words “*and compellable*,” occurring in the sixth line of the above clause be struck out.—(*Honorable N. Guthridge*.)

Question—That the words proposed to be omitted stand part of the clause—put.

Committee divided.

Contents, 14.

The Hon. J. Henty  
The President  
W. H. F. Mitchell  
T. H. Power  
Dr. Hope  
J. B. Bennett  
D. Kennedy  
W. Highett  
H. Miller  
C. Vaughan  
B. Williams  
S. G. Henty  
D. P. Keogh  
J. H. Patterson (*Teller*).

Not Contents, 7.

The Hon. J. Stewart  
N. Guthridge  
Dr. Tierney  
G. Urquhart  
R. Thomson  
J. P. Fawcner  
T. McCombie (*Teller*).

No. 2.—TITLES TO LAND BILL—Clause I.—“*That*” it shall and may be lawful for the Governor to issue one or more commission or commissions under the seal of the said Colony as the same may become necessary and thereby to appoint two or more duly qualified persons to be commissioners for examining and inquiring into titles to land within the said Colony of Victoria and it shall be lawful for the Governor if he think fit to nominate one of the said commissioners to be president of the said commission and the said commissioners shall have full power and authority to hear evidence inspect documents and report upon all claims to land in the Colony of Victoria that shall or may be referred to them by those persons requiring the same under and by virtue of the provisions of this Act and each of the said commissioners shall before proceeding to act as such take and subscribe before one of the judges of the Supreme Court of the Colony of Victoria the oath set forth in the schedule hereunto annexed marked A and the Chief Secretary of the said Colony shall cause the said oaths so subscribed to be recorded in his office.

Motion made—That all the words after the word “*That*” in the first line of the above clause be struck out, with a view to insert the following words:—“*it shall be lawful for the Supreme Court of the Colony of Victoria in its equitable jurisdiction to examine into and investigate in a summary manner the title of any person or persons to land or other hereditaments in the said Colony with the view of issuing to such person or persons certificates of title hereinafter described in manner and subject to the provisions hereinafter contained.*”—(Honorable J. B. Bennett.)

Question—That the words proposed to be omitted stand part of the clause—put.

Committee divided—

Contents, 13.  
 The Hon. J. H. Patterson  
 J. P. Fawcner  
 T. H. Power  
 T. McCombie  
 D. Kennedy  
 J. Stewart  
 R. Thomson  
 H. Miller  
 C. Vaughan  
 Dr. Tierney  
 N. Guthridge  
 B. Williams  
 J. F. Strachan (*Teller*).

Not Contents, 7.  
 The Hon. W. H. F. Mitchell  
 W. Highett  
 J. Allan  
 Dr. Hope  
 J. B. Bennett  
 G. Urquhart  
 J. Hood (*Teller*).



VICTORIA.

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# LEGISLATIVE COUNCIL.

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SESSION 1856-7.

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WEEKLY REPORT OF DIVISIONS  
IN  
COMMITTEE OF THE WHOLE COUNCIL.

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No. 6.

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Extracted from the Minutes.

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TUESDAY, 7<sup>TH</sup> JULY, 1857.

No. 1.—STANDING ORDERS—No. 19.—That any member or other person declared guilty of contempt shall be committed to the custody of the Usher by order of the “*President*.”

Motion made—That the word “*President*” in the second line be struck out, with a view to insert the word “*Council*.”—(*The Honorable the President*.)

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

Committee divided.

Contents, 6.  
The Hon. Dr. Hope  
N. Guthridge  
J. Henty  
J. B. Bennett  
T. H. Power  
J. H. Patterson (*Teller*).

Not Contents, 5.  
The Hon. W. H. F. Mitchell  
The President  
Dr. Tierney  
J. Cowie  
J. F. Strachan (*Teller*).

VICTORIA.

LEGISLATIVE COUNCIL.

SESSION 1856-7.

WEEKLY REPORT OF DIVISIONS

IN

COMMITTEE OF THE WHOLE COUNCIL.

No. 7.

Extracted from the Minutes.

THURSDAY, 6TH AUGUST, 1857.

No. 1.—FLAGGING OF FOOTWAYS BILL—Clause I.—That where any footway on the side of any public street in the city of Melbourne is not now or at any time hereafter shall not be sufficiently paved or flagged *to the satisfaction of the council of the said city*, it shall be lawful for the said council to pave or flag the same, or such parts thereof as shall not be so done, and to ascertain, determine, and charge the said owners of the lands or tenements adjoining or abutting upon such footway, and being on the same side of the carriage-way, with their several proportionate parts of the expenses thereof, according to and coextensive with their respective lands or tenements adjoining or abutting on such footway, in the proportion of one shilling for every square foot of paving or flagging so laid; and such sum of one shilling for every square foot may be recovered as hereinafter mentioned.

Motion made—That the words "*to the satisfaction of the council of the said city*," occurring in the third line of the above clause, be struck out.—(*The Honorable J. B. Bennett.*)

Question—That the words proposed to be omitted stand part of the clause—put.  
Committee divided.

Contents, 6.  
The Hon. J. H. Patterson  
J. Hood  
C. Vaughan  
Dr. Hope  
N. Guthridge  
T. McCombie (*Teller*).

Not Contents, 8.  
The Hon. J. F. Strachan  
J. B. Bennett  
J. Cowie  
H. Miller  
W. Highett  
B. Williams  
W. Roope  
T. H. Power (*Teller*).

VICTORIA.

# LEGISLATIVE COUNCIL.

SESSION 1856-7.

## WEEKLY REPORT OF DIVISIONS IN COMMITTEE OF THE WHOLE COUNCIL.

No. 8.

Extracted from the Minutes.

TUESDAY, 18TH AUGUST, 1857.

No. 1.—FLAGGING OF FOOTWAYS BILL.—New Clause proposed by Honorable J. Hood—That any owner of property where the street is kerbed, &c., may give one month's notice to the city council of his intention to pave or flag the footpath abutting on such property, and in case the said council shall not before the expiration of the said month proceed to pave or flag such footpath, the said owner may pave or flag the same, and demand and recover from the city council the difference between the expense of such paving or flagging and the sum of one shilling per foot.

Motion made and question put—That the Honorable J. Hood have leave to withdraw the above clause.

Committee divided.

Contents, 8.  
The Hon. J. Allan  
D. P. Keogh  
Dr. Tierney  
J. Stewart  
D. Kennedy  
W. J. T. Clarke  
T. McCombie  
J. Hood (*Teller*).

Not Contents, 11.  
The Hon. H. Miller  
J. H. Patterson  
W. H. F. Mitchell  
T. H. Power  
S. G. Henty  
G. Urquhart  
Dr. Hope  
C. Vaughan  
N. Guthridge  
W. Highett  
J. Henty (*Teller*).

No. 2.—MELBOURNE AND HOBSON'S BAY RAILWAY ACT AMENDMENT BILL.—

Motion made and question put—That the Chairman report progress, and ask leave to sit again.  
(*Honorable J. Hood.*)

Committee divided.

Contents, 9.  
The Hon. D. P. Keogh  
J. Allan  
T. McCombie  
J. Hood  
D. Kennedy  
Dr. Hope  
B. Williams  
J. Stewart  
T. H. Power (*Teller*).

Not Contents, 11.  
The Hon. J. Henty  
C. Vaughan  
W. H. F. Mitchell  
H. Miller  
S. G. Henty  
The President  
G. Urquhart  
W. J. T. Clarke  
N. Guthridge  
W. Highett.  
J. H. Patterson (*Teller*).

VICTORIA.

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LEGISLATIVE COUNCIL.

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SESSION 1856-7.

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WEEKLY REPORT OF DIVISIONS

IN

COMMITTEE OF THE WHOLE COUNCIL.

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No. 9.

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Extracted from the Minutes.

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WEDNESDAY, 30<sup>TH</sup> SEPTEMBER, 1857.

No. 1.—COUNTY COURTS BILL.—Clause XXI. All pleas of personal actions where the amount claimed is not more than two hundred and fifty pounds whether on balance of account or otherwise and all pleas of personal actions where the amount claimed is more than the said sum if both parties or their respective attornies shall in writing under their hands consent thereto may be holden in the county court without writ and all such actions brought in the said court shall be heard and determined in a summary way according to the provisions of this Act. Provided always that such court shall not have cognizance of any action of ejectment or replevin or in which the title to any corporeal or incorporeal hereditaments or to any toll fair market or franchise shall be in question or in which the validity of any devise bequest or limitation under any will or settlement may be disputed or for any infringement of copyright or letters “*patent*” or for any malicious prosecution either of civil or criminal proceedings or for any libel or slander or for criminal conversation seduction or breach of promise of marriage or upon any charter-party of affreightment bill of lading or policy of assurance.

Motion made—That all the words after the word “*patent*” in the eleventh line of the above clause be omitted.—(*Honorable A. R. Cruikshank.*)

Question—That the words proposed to be omitted stand part of the clause—put.

Committee divided.

Contents, 8.  
The Hon. R. Thomson  
W. Roope  
G. Urquhart  
Dr. Hope  
T. H. Power  
J. B. Bennett  
The President  
W. H. F. Mitchell (*Teller*).

Not Contents, 2.  
The Hon. Dr. Tierney  
A. R. Cruikshank (*Teller*).

VICTORIA.

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# LEGISLATIVE COUNCIL.

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SESSION 1856-7.

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## WEEKLY REPORT OF DIVISIONS IN COMMITTEE OF THE WHOLE COUNCIL.

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No. 10.

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Extracted from the Minutes.

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TUESDAY, 13TH OCTOBER, 1857.

No. 1.—AUSTRALASIAN FIRE AND LIFE INSURANCE COMPANY BILL.—Motion made and question put—That the Chairman report progress and ask leave to sit again on Tuesday next.—  
(*The Honorable W. Highett.*)

Committee divided.

Contents, 8.  
The Hon. Dr. Hope  
G. Urquhart  
W. H. F. Mitchell  
W. Highett  
The President  
H. Miller  
D. Kennedy  
J. F. Strachan (*Teller*).

Not Contents, 10.  
The Hon. T. McCombie  
W. J. T. Clarke  
J. P. Fawcner  
C. Vaughan  
J. Allan  
S. G. Henty  
J. Stewart  
J. Hood  
Dr. Tierney  
J. H. Patterson (*Teller*).

VICTORIA.

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# LEGISLATIVE COUNCIL.

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SESSION 1856-7.

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## WEEKLY REPORT OF DIVISIONS

IN

## COMMITTEE OF THE WHOLE COUNCIL.

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No. 11.

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Extracted from the Minutes.

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TUESDAY, 20TH OCTOBER, 1857.

No. 1.—ELECTORAL ACT AMENDMENT BILL—Clause IV.—Every such male person as aforesaid who shall be seised at law or in equity of lands or tenements for his own life or for the life of any other person or for any larger estate of the clear value of fifty pounds or of the clear yearly value of five pounds shall be qualified to vote in the election of members of the Legislative Assembly for the electoral district in which such lands or tenements shall be situate.

Motion made and question put—That the above clause be struck out of the Bill.—(*The Honorable J. Hood.*)

Committee divided.

Contents, 3.  
The Hon. Dr. Tierney  
J. Hood  
D. P. Keogh (*Teller*).

Not Contents, 13.  
The Hon. J. H. Patterson  
J. Allan  
T. McCombie  
W. J. T. Clarke  
C. Vaughan  
J. P. Fawcner  
W. H. F. Mitchell  
A. R. Cruikshank  
T. H. Power  
H. Miller  
J. Cowie  
W. Highett  
G. Urquhart (*Teller*).

VICTORIA.

# LEGISLATIVE COUNCIL.

SESSION 1856-7.

## WEEKLY REPORT OF DIVISIONS

IN

## COMMITTEE OF THE WHOLE COUNCIL.

No. 12.

Extracted from the Minutes.

THURSDAY, 5TH NOVEMBER, 1857.

No. 1.—MAIN TRUNK RAILWAY BILL—Clause II.—It shall be lawful to make and maintain a railway commencing at “*the town of Geelong*” and terminating in the municipality of Ballarat in the line and upon the lands described in the schedule to this Act annexed and marked B and delineated in the plans deposited with the Clerk of the Legislative Council and with the Clerk of the Legislative Assembly and all proper works and conveniences in connexion therewith and to enter upon take and use such lands as shall be necessary for such purposes.

Motion made—That the words “*the town of Geelong*” in the second line be struck out, with the view to insert the words “*a point on the line to the Murray, such point to be within twenty miles of Melbourne.*”—(The Honorable J. Hood.)

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

Committee divided.

Contents, 12.  
The Hon. J. F. Strachan  
W. Highett  
J. Henty  
J. Cowie  
C. Vaughan  
S. G. Henty  
W. H. F. Mitchell  
W. J. T. Clarke  
Dr. Hope  
W. Roope  
J. H. Patterson  
H. Miller (*Teller*).

Not Contents, 9.  
• The Hon. G. Urquhart  
J. P. Fawkner  
D. P. Keogh  
J. Stewart  
D. Kennedy  
T. H. Power  
T. McCombie  
Dr. Tierney  
J. Hood (*Teller*).

No. 2. MAIN TRUNK RAILWAY BILL—Clause II.—It shall be lawful to make and maintain a railway commencing at the Town of Geelong and terminating in the municipality of Ballarat in the line and upon the lands described in the schedule to this Act annexed and marked B and delineated in the plans deposited with the Clerk of the Legislative Council and with the Clerk of the Legislative Assembly and all proper works and conveniences in connexion therewith and to enter upon take and use such lands as shall be necessary for such purposes.

Motion made and question put—That the above clause be struck out of the Bill.—(*The Hon. J. P. Fawkner.*)

Committee divided.

Contents, 9.  
The Hon. J. P. Fawkner  
J. Stewart  
D. Kennedy  
J. Hood  
D. P. Keogh  
T. H. Power  
T. McCombie  
Dr. Tierney  
G. Urquhart (*Teller*).

Not Contents, 12.  
The Hon. W. Roope  
W. J. T. Clarke  
C. Vaughan  
Dr. Hope  
J. F. Strachan  
S. G. Henty  
H. Miller  
J. Cowie  
W. H. F. Mitchell  
J. H. Patterson  
W. Highett  
J. Henty (*Teller*).

No. 3.—MAIN TRUNK RAILWAY BILL—Clause II.—It shall be lawful to make and maintain a railway commencing at the Town of Geelong and terminating in the municipality of Ballarat in the line and upon the lands described in the schedule to this Act annexed and marked B and delineated in the plans deposited with the Clerk of the Legislative Council and with the Clerk of the Legislative Assembly and all proper works and conveniences in connexion therewith and to enter upon take and use such lands as shall be necessary for such purposes.

Motion made and question put—That the above clause stand part of the Bill.—(*The Hon. W. H. F. Mitchell.*)

Committee divided.

Contents, 12.  
The Hon. W. J. T. Clarke  
W. Roope  
H. Miller  
J. F. Strachan  
J. H. Patterson  
S. G. Henty  
Dr. Hope  
J. Cowie  
C. Vaughan  
W. H. F. Mitchell  
W. Highett  
J. Henty (*Teller*).

Not Contents, 7.  
The Hon. J. P. Fawkner  
T. McCombie  
J. Hood  
Dr. Tierney  
J. Stewart  
D. P. Keogh  
T. H. Power (*Teller*).



# RETURN OF POSTAGE STAMPS.

LAI'D UPON THE COUNCIL TABLE BY MR. MITCHELL, AND ORDERED BY THE COUNCIL TO BE PRINTED, 16TH DECEMBER, 1856.

No. 1.  
RETURN, showing POSTAGE STAMPS on hand 15th May, 1855.

1d.	2d.	3d.	6d.	1s.	2s.	1s., registered.	6d., late.	Amount.
3,390,554	2,036,439	2,220,478	2,627,916	2,526,185	973,813	967,771	242,724	£ 402,698 s. 14 d. 2

A. McCRAE, Postmaster General.

No. 2.  
CONTRACTS, showing the COST of the above supply of STAMPS.

	1d.	2d.	3d.	6d.	1s.	2s.	1s., registered.	6d., late.	Amount.
Campbell ... ..	...	...	...	...	3,000,000	...	...	...	£ 480 0 0
Campbell ... ..	4,000,000	...	2,000,000	...	...	...	...	...	900 0 0
Campbell ... ..	500,000	2,000,000	500,000	...	...	...	...	...	400 0 0
Campbell ... ..	...	1,500,000	...	...	...	...	...	...	225 0 0
Calvert ... ..	...	...	...	3,250,000	...	...	1,000,000	250,000	1037 10 0
Calvert ... ..	...	...	...	...	...	1,000,000	...	...	275 0 0
Supervision ... ..	...	...	...	...	...	...	...	...	394 7 0
English Invoice	1,000,000	...	...	2,500,000	...	...	...	...	116 13 4
Plates for do. ...	...	...	...	...	...	...	...	...	305 0 0

A. McCRAE, Postmaster General.

No. 3.  
RETURN, showing the NUMBER of STAMPS taken into Stock since 15th May, 1855.

	1d.	2d.	6d.
English Stamps received prior to May, 1855, but since taken into stock ...	1,000,000	...	2,500,000
Portion of Campbell's contract completed in May, 1855 ... ..	...	922,500	...
	(Cost stated in No. 2.)		

A. McCRAE, Postmaster General.

No. 4.  
RETURN of the NUMBER of STAMPS used and remaining on hand.

	1d.	2d.	3d.	6d.	Amount.
Stamps issued since 15th May, 1855 ...	3,902,215	2,650,831	1,346,337	1,158,607	£ 84,133 17 6
Stamps remaining on hand 15th Dec., 1856	488,339	308,108	874,141	3,969,309	114,761 16 0

A. McCRAE, Postmaster General.

1856-7.

VICTORIA.

RETURN

OF THE

NUMBER OF IMMIGRANTS FORWARDED  
TO WARRNAMBOOL

DURING THE YEARS 1855 AND 1856.

LAI D UPON THE COUNCIL TABLE BY MR. MITCHELL, AND ORDERED BY THE COUNCIL  
TO BE PRINTED 16TH DECEMBER, 1856.

Date.	Adults.				Children.		Infants.		Souls.	Statute Adults.	Remarks.
	Married.		Single.		Male.	Female.	Male.	Female.			
	Male.	Female.	Male.	Female.							
1855.											
25th March ...	15	14	1	2	9	15	2	3	61	44	} Principally agricultural laborers and domestic servants.
25th August ...	7	9	...	25	7	4	1	2	55	46½	
1856.	nil.	nil.	nil.	nil.	nil.	nil.	nil.	nil.	nil.	nil.	
TOTAL ...	22	23	1	27	16	19	3	5	116	90½	

EWD. BELL,  
Immigration Agent.

Immigration Office, Melbourne,  
16th December, 1856.

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

1856-7.

VICTORIA.

NEWSPAPERS.

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL.

DR. TIERNEY.—30TH DECEMBER, 1856.

LAI D UPON THE COUNCIL TABLE BY MR. MITCHELL, AND ORDERED BY THE COUNCIL TO BE PRINTED, 20TH JANUARY, 1857.

RETURN of the Number of NEWSPAPERS posted in the various Offices throughout the Colony, for the Year 1856, showing the Amount of Revenue derived from such source.

	Number of Papers dispatched from various Offices.	Revenue derived from them.
Newspapers dispatched from Melbourne ... ..	1,477,901	£ s. d. 5324 11 9
Newspapers dispatched from Country Post Offices ...	266,495	1110 7 11
Totals ... ..	1,744,396	£6434 19 8

NOTE.—The Number of Newspapers received from Foreign Parts, and addressed to Country Post Offices, from which no Revenue therefore is derived, is estimated at 200,000.

A. McCRAE,  
Postmaster General.

General Post Office,  
Melbourne, 15th January, 1857.

By Authority: JOHN FERRES, Government Printer, Melbourne.

## VICTORIA.

## CENTRAL ROAD BOARD.—ST. KILDA TOLL.

## Return.

- (1.) The GROSS AMOUNT RECEIVED from the St. Kilda Toll.
- (2.) The AMOUNT EXPENDED from its establishment up to 31st December, 1856, and how spent.
- (3.) The DISTANCE to which the Repairs on the Brighton and Toorak Roads respectively have been paid out of the Proceeds of the Tolls.

## Return to Address:

MR. HOOD.—20<sup>TH</sup> JANUARY, 1857.

LAI D UPON THE TABLE OF THE COUNCIL BY MR. MITCHELL, AND ORDERED BY THE COUNCIL TO BE PRINTED, 21<sup>ST</sup> JANUARY, 1857.

	£	s.	d.
(1.) Gross amount of Receipts from St. Kilda Toll to 31st December, 1856	23949	1	8
(2.) Total amount of Expenditure for maintenance to 31st December, 1856—			
Brighton... ..	18229	9	8
Gardiner's Creek ... ..	6380	16	8
	£24610	16	4
(3.) The repairs are applied to the entire length of metalled road.			

1856-7.

VICTORIA.

BONDED WAREHOUSES.

Return to Address :

MR. CRUIKSHANK.—4TH DECEMBER, 1856.

LAI D UPON THE TABLE OF THE COUNCIL BY MR. MITCHELL, AND ORDERED BY THE COUNCIL TO BE PRINTED, 21ST JANUARY, 1857.

A. RETURN of the Number of Bonded Warehouses in the City of Melbourne, the several Dates when licensed, the Names of the Proprietors or Occupiers, the several Dates of Payment, and the Amount of Fees paid by each under and since the passing of An Act by the late Legislature, intituled, "*An Act to amend an Act for the General Regulation of the Customs of the Colony of Victoria,*" assented to 8th of April, 1854. Also, a like Return for the Town of Geelong and the other Outports of the Colony.

Office of Trade and Customs,  
13th January, 1857.

HUGH C. E. CHILDERS.

PORT OF MELBOURNE, 1854.

Name of Warehouse.	Name of Licensee.	Capacity this year.	Date of original Licence.	Fee.	Amount paid.	Date of payment.	Remarks.
Cole's ...	G. W. Cole ...	Tons. 1700	3 May, 1843 ...	£ 300	£ 200	4 May, 1854	Fee charged from 1st May, 1854. (Vide sec. 14 of 17 Victoria, No. 17.) * Licence cancelled 3rd December, in consequence of proprietor's insolvency.
Alison & Knight's ...	J. G. Foxton ...	4800	1 July, 1853 ...	450	300	28 April, 1854	
Zander's ...	E. Zander... ..	1200	1 May, 1854 ...	300	200	27 April, 1854	
Cooper's ...	F. Cooper... ..	1619	1 May, 1854 ...	300	200	20 April, 1854	
Lamont's ...	J. Lamont ...	1500	3 April, 1854 ...	300	200	1 May, 1854	
Beckwith's ...	Beckwith & Co. ...	1550	2 May, 1853 ...	300	200	1 May, 1854	
Grice's ...	Heape & Grice ...	1900	25 July, 1853 ...	300	200	28 April, 1854	
Nicholson's ...	W. Nicholson ...	2900	24 October, 1853	300	200	29 April, 1854	
Griffiths & Co.'s ...	Griffiths & Co. ...	850	31 July, 1853 ...	300	200	1 May, 1854	
Harkers' ...	G. & T. Harker ...	2411	1 March, 1854... ..	300	200	28 April, 1854	
Greeves's ...	Dr. Greeves ...	2391	12 January, 1854	300	200	27 April, 1854	
Bryant's ...	F. Bryant ...	810	1 February, 1854	300	200	17 June, 1854*	
Degraves's ...	Woolley & Robinson	2900	4 July, 1851 ...	300	200	20 May, 1854	
Goodman's ...	J. Goodman ...	1500	23 April, 1854 ...	300	200	25 April, 1854	
Loewe's ...	Loewe Brothers ...	1130	6 July, 1853 ...	300	200	8 May, 1854	
Kemmiss's ...	J. G. Foxton ...	1130	3 March, 1849... ..	300	200	27 April, 1854	

## PORT OF MELBOURNE, 1855.

Name of Warehouse.	Name of Licensee.	Capacity this year.	Date of original Licence.	Fee.	Date of payment.	Remarks.
Cole's ... ..	G. W. Cole ... ..	Tons. 3200	3 May, 1843 ... ..	£ 450	4 January, 1855	Addition made Jan., 1855.
Foxton's ... ..	J. G. Foxton ... ..	3500	1 July, 1853 ... ..	450	2 January, 1855	Portion given up 11th Oct., 1855.
Zander's ... ..	E. Zander... ..	1200	1 May, 1854 ... ..	300	3 December, 1854	
Cooper's ... ..	F. Cooper... ..	1619	1 May, 1854 ... ..	300	26 December, 1854	
Degraves's ... ..	Woolley & Robinson	2900	4 July, 1851 ... ..	300	6 January, 1855	
Bonar's ... ..	J. Lamont ... ..	1500	3 April, 1854 ... ..	300	28 December, 1854	
Beckwith's ... ..	Beckwith & Co. ... ..	1550	2 May, 1853 ... ..	300	5 January, 1855	
Grice's ... ..	Grice, Sumner & Co.	1900	25 July, 1853 ... ..	300	30 December, 1854	
Nicholson's ... ..	W. Nicholson ... ..	4500	24 October, 1853	375	2 January and 25 June, 1855 ... ..	Addition 1600 tons, June, 1855.
Griffiths & Co.'s ... ..	Griffiths & Co. ... ..	850	31 July, 1853 ... ..	300	30 December, 1854	
Harkers' ... ..	G. & T. Harker ... ..	4665	1 March, 1854... ..	600	4 January and 2 April, 1855 ... ..	Addition in April, 1855. Two licences were charged, there being two distinct warehouses.
Greeves's ... ..	Dr. Greeves ... ..	2391	12 January, 1854	300	30 December, 1854	
Goodman's ... ..	J. Goodman ... ..	1500	23 April, 1854 ... ..	300	2 February, 1855	
Loewe's ... ..	Loewe Brothers ... ..	1730	6 July, 1853 ... ..	300	8 January, 1855	Addition in Jan., 1855.

## PORT OF MELBOURNE, 1856.

Name of Warehouse.	Name of Licensee.	Capacity this year.	Date of original Licence.	Fee.	Date of payment.	Remarks.
Cole's ... ..	G. W. Cole ... ..	Tons. 3200	3 May, 1843 ... ..	£ 450	9 January, 1856	
Alison & Knight's	Alison & Knight... ..	2800	1 July, 1853 ... ..	300	26 February, 1856	Addition proposed for 1857:—Two stores, one 2016 tons and one 1006 tons=3022 tons.
Zander's ... ..	E. Zander... ..	2069	1 May, 1854 ... ..	300	7 January, 1856	Addition made 26th Sep., 1855.
Cooper's ... ..	F. Cooper... ..	1619	1 May, 1854 ... ..	300	2 January, 1856	
Degraves's ... ..	Woolley & Robinson	2900	4 July, 1851 ... ..	300	3 January, 1856	
Bonar's ... ..	J. Bonar ... ..	1500	3 April, 1854 ... ..	300	2 January, 1856	
Beckwith's ... ..	Beckwith & Co. ... ..	1550	2 May, 1853 ... ..	300	3 January, 1856	
Grice's ... ..	Grice, Sumner & Co.	1900	25 July, 1853 ... ..	300	3 January, 1856	
Nicholson's ... ..	W. Nicholson ... ..	4500	24 October, 1853	450	5 January, 1856	
Griffiths's... ..	Griffiths & Co. ... ..	850	31 July, 1853 ... ..	300	2 January, 1856	
Harkers' ... ..	G. & T. Harker ... ..	5791	1 March, 1854	450	2 January, 1856	Addition, Jan., 1856, 1126 tons. One licence only charged for, the buildings having been converted into one warehouse.
Greeves's ... ..	Dr. Greeves ... ..	2391	12 January, 1854	300	31 December, 1855	

## PORT OF GEELONG, 1854-6.

Name of Warehouse.	Name of Licensee.	Capacity.	Date of original Licence.	Fee.	Date of payment.	Remarks.
Strachan's ... ..	James F. Strachan	Tons. 1083 1922}	1854. Opened for reception of goods 18th Oct., 1848.	£ 200	18 May, 1854 ... ..	Warehouse enlarged, and tonnage thereof extended from 1083 to 1922 tons, Aug., 1854.
Strachan's ... ..	James F. Strachan	1922	1855. ... ..	300	27 June, 1855.	
Burrow's ... ..	William Burrow ... ..	750	Opened for reception of goods 8th Oct., 1855.	75	3 October, 1855.	
Strachan's ... ..	James F. Strachan	1922	1856. ... ..	300	19 February, 1856.	
Burrow's ... ..	William Burrow ... ..	750	... ..	300	16 February, 1856.	

## PORT OF PORTLAND, 1854-6.

Name of Warehouse.	Name of Licensee.	Capacity.	Date of original Licence.	Fee.	Date of payment.	Remarks.
			1854.			Exempt from annual fee, <i>vide</i> copy of authority annexed.
Gore's ... ..	Gore ... ..	...	1 June, 1848 ...	nil.	...	
Henty's ... ..	S. G. Henty ... ..	...	9 August, 1854 ...	nil.	...	
			1855.			
Gore's ... ..	Gore ... ..	...	1 June, 1848 ...	nil.	...	
Henty's ... ..	S. G. Henty ... ..	...	9 August, 1854	nil.	...	
			1856.			
Gore's ... ..	Gore ... ..	...	1 June, 1848 ...	nil.	...	
Henty's ... ..	S. G. Henty ... ..	...	9 August, 1854 ...	nil.	...	

## PORT OF WARRNAMBOOL, 1854-6.

Name of Warehouse.	Name of Licensee.	Capacity.	Date of original Licence.	Fee.	Date of payment.	Remarks.
			1854.			Exempt from annual fee, <i>vide</i> copy of authority annexed. * Bateman's Bonded Warehouse totally destroyed by fire on the 4th November, 1856.
Bostock's ... ..	George Bostock ... ..	Tons. 120	12 September, 1854	nil.	...	
			1855.			
Bostock's ... ..	George Bostock ... ..	120	12 September, 1854	nil.	...	
Bateman's ... ..	William Bateman, jun. ... ..	150	1 September, 1855	nil.	...	
			1856.			
Bostock's ... ..	George Bostock ... ..	120	12 September, 1854	nil.	...	
Bateman's* ... ..	William Bateman, jun. ... ..	150	1 September, 1855	nil.	...	

## PORT OF PORT ALBERT, 1854-6.

Name of Warehouse.	Name of Licensee.	Capacity.	Date of original Licence.	Fee.	Date of payment.	Remarks.
			1854.			Exempt from fee, <i>vide</i> the copy of authority annexed.
—	—	Tons. —	Nil.	—	—	
			1855.			
—	—	—	Nil.	—	—	
			1856.			
Turnbull's ... ..	David Turnbull ... ..	170	17 September, 1856	nil.	...	

## PORT OF PORT FAIRY, 1854-6.

Name of Warehouse.	Name of Licensee.	Capacity.	Date of original Licence.	Fee.	Date of payment.	Remarks.
			1854.			Exempt from fee, <i>vide</i> the copy of authority attached.
Rutledge's ... ..	Wm. Rutledge ... ..	Tons. 305	8 April, 1853 ...	nil.	nil.	
			1855.			
Rutledge's ... ..	Wm. Rutledge ... ..	305	8 April, 1853 ...	nil.	nil.	
Cowtan and Bland's	Cowtan and Bland	150	18 September, 1855	nil.	nil.	
			1856.			
Rutledge's ... ..	Wm. Rutledge ... ..	305	8 April, 1853 ...	nil.	nil.	
Cowtan and Bland's	Cowtan and Bland	150	18 September, 1855	nil.	nil.	

The following is the authority under which Bonded Warehouse Proprietors at Port Fairy, Portland, Port Albert, and Warrnambool are exempt from the payment of the licence fee on their stores:—

No. G.B.  
1208.

Colonial Secretary's Office,  
Melbourne, 28th April, 1854.

SIR,

I am directed to acknowledge the receipt of your letter of the 26th instant, No. 54/219, in which you request that warehouses at the outports, viz., Belfast, Portland, Warrnambool, and Port Albert, may be exempt from the payment of the licence fee on bonded stores.

2. In reply, I have to state that as the expense entailed by the bonded warehouses at those ports, from their not requiring any lockers, is inconsiderable, His Excellency the Lieutenant Governor has been pleased to sanction their exemption from the licence fee.

3. At the same time I have to remark, in reference to the last paragraph of your letter, that this exemption is only to last so long as it is warranted by the amount of bonded warehouse accommodation.

(Signed) I have, &c.,  
J. MOORE,  
A.C.S.

The Honorable the Collector of Customs, Melbourne.

*Copy of the letter alluded to in the above communication.*

Custom House,  
Melbourne, 26th April, 1854.

SIR,

I have the honor to request that I may be authorized to exempt from the payment of the licence fee on bonded stores the warehouses at the minor ports of the colony.

2. The limited amount of goods required to be bonded at those ports does not, in my opinion, justify the imposition of the fee; and as no lockers are required to be appointed to those stores, the additional expense entailed by them is inconsiderable.

3. It must be understood, however, that this exemption, if granted, would only last so long as it is warranted by the amount of bonded warehouse accommodation.

(Signed) I have, &c.,  
HUGH C. E. CHILDERS.

The Honorable the Colonial Secretary,  
&c., &c.



## VICTORIA.

## ELECTORAL RETURNS.

A RETURN of the Numbers of REGISTERED VOTERS in the respective Districts of the Colony, and the Numbers of VOTES POLLED in each District for Members of Council and Assembly respectively.

Return to Address:

THE HONORABLE JAMES FORD STRACHAN.—11<sup>TH</sup> FEBRUARY, 1857.

LAI D UPON THE TABLE OF THE COUNCIL BY THE HONORABLE W. H. F. MITCHELL,  
AND ORDERED BY THE COUNCIL TO BE PRINTED, 17<sup>TH</sup> FEBRUARY, 1857.

RETURN, showing Number of REGISTERED VOTERS in the respective Provinces of the Colony, and the Number of VOTES POLLED in each Province.

Province.	No. of Registered Voters.	No. of Votes polled.
Central ... ..	3,832	1,947
South ... ..	2,042	1,000
South Western ... ..	1,798	845
Western ... ..	1,283	541
Eastern ... ..	428	232
North Western ... ..	1,392	682
TOTALS ... ..	10,775	5,247

RETURN, showing Number of REGISTERED VOTERS in the respective Districts of the Colony, and the Number of VOTES POLLED in each District.

District.	Number of Registered Voters.	Number of Votes polled.	District.	Number of Registered Voters.	Number of Votes polled.
Melbourne ... ..	8,597	5,000	Brought forward...	34,124	17,133
St. Kilda... ..	2,286	1,435	North Grenville ... ..	1,131	No contest
Collingwood ... ..	4,112	2,191	Ovens ... ..	3,693	955
South Melbourne ... ..	1,593	994	Rodney ... ..	555	Not known
Williamstown ... ..	569	No contest	Loddon ... ..	3,284	520
Richmond ... ..	1,618	1,021	Talbot ... ..	5,056	1,002
Brighton... ..	792	391	East Bourke ... ..	1,922	1,058
Geelong ... ..	4,661	2,153	West Bourke ... ..	2,060	826
Portland ... ..	549	No contest	South Bourke ... ..	1,479	906
Belfast ... ..	387	259	South Grant ... ..	2,056	417
Warrnambool ... ..	476	No contest	Evelyn and Mornington	804	428
Colac ... ..	127	92	Anglesey ... ..	337	208
Kilmore ... ..	615	385	Dundas and Follett ... ..	280	132
Kyneton Boroughs ... ..	540	389	Normanby ... ..	436	No contest
Murray Boroughs ... ..	324	No contest	Villiers and Heytesbury	1,370	873
Alberton... ..	283	189	Polwarth, &c. ... ..	478	148
Castlemaine Boroughs...	1,015	558	Murray ... ..	292	142
Sandhurst Boroughs ... ..	2,232	1,108	Gipps' Land ... ..	396	No contest
North Grant ... ..	3,348	968	Wimmera ... ..	268	58
Carried forward ...	34,124	17,133	TOTALS ... ..	60,021	24,806

1856-7.

VICTORIA.

TOWNSHIP OF NEWSTEAD.

RETURN of all CORONERS' INQUESTS held in consequence of Deaths or Accidents that have occurred during the last Eighteen Months at the Crossing-place of the Loddon River, in the Township of Newstead, in consequence of no Bridge being there. Also, the NUMBER of ACRES of LAND sold in that Township, and the different Thoroughfares which pass through that Township.

Return to Address :

THE HONORABLE J. ALLAN.—3RD FEBRUARY, 1857.

LAI D UPON THE COUNCIL TABLE BY THE HONORABLE W. H. F. MITCHELL, AND ORDERED BY THE COUNCIL TO BE PRINTED, 10TH MARCH, 1857.

RETURN of all CORONERS' INQUESTS held in consequence of DEATHS or ACCIDENTS that have occurred during the last EIGHTEEN MONTHS at the CROSSING of the LODDON, in the Township of NEWSTEAD, in consequence of no BRIDGE being there.

Date.	Place.	Before whom.	Name of Deceased.	Verdict of Jury, or result of inquiry before Magistrate.	Observations.
Nil.	Nil.	Nil.	Nil.	Nil.	Nil.

NOTE.—The last deposition of a Coroner's Inquest held at Newstead bears date 8th October, 1855.

Registrar General's Office,  
13th February, 1857.

NORMAN CAMPBELL,  
Registrar General.

RETURN of all LANDS situated in the undermentioned TOWNSHIP which have been sold, together with the AMOUNT realized, and THOROUGHFARES passing through the same.

Town.	Area.			Amount.			Remarks.
	A.	R.	P.	£	s.	d.	
Newstead ... ..	22	2	19	565	1	7	

NOTE.—The Thoroughfares passing through this Township are the Roads from Castlemaine to Avoca, and Newstead to Daylesford.

Surveyor General's Office,  
Melbourne, 9th March, 1857.

For the Surveyor General,  
WILLIAM H. BUCKLEY.

1856-7.

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VICTORIA.

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EASTERN PROVINCE  
ELECTION.

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ORDERED BY THE COUNCIL TO BE PRINTED, 4TH JUNE, 1857.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

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THURSDAY, 4TH JUNE, 1857.

EASTERN PROVINCE ELECTION.—The Honorable T. McCombie, in accordance with *amended* notice, moved, That the following documents be printed as a portion of the Votes and Proceedings of the Legislative Council:—1. A copy of the Petition of William Highett, Esq., against the return of William Kaye, Esq., as Member for the Eastern Province. 2. Copy of motion referring the said document to the Elections and Qualifications Committee of this House. 3. Report of the Elections and Qualifications Committee thereupon. 4. Notification of such Report by the Honorable the President to the Governor. 5. The Protest of William Kaye, Esq., against the issue of a new writ for the Eastern Province. 6. The opinion of the law officers of the Crown upon the said issue of a new writ for the Eastern Province and the Protest of the said William Kaye, Esq. 7. The opinion of the Attorney General given to the Honorable the President.

Question—put and passed.

No. 1.

TO THE HONORABLE THE PRESIDENT OF THE LEGISLATIVE COUNCIL  
OF THE COLONY OF VICTORIA.

*The humble Petition of William Highett, of Richmond:—*

SHOWETH—

That your Petitioner was a candidate at the late election for members to serve in the Legislative Council, for the Eastern Province :

That William Kaye was, at the said election, returned as one of the members of the said Eastern Province in the Legislative Council :

That the said William Kaye was guilty of bribery at the said election, by agreeing with one William John Disher for a gift or loan of a certain sum of money, to procure or endeavour to procure said William Kaye's return as a member of the Legislative Council, at the said election, by corruptly influencing electors on said William Kaye's behalf :

That the said William John Disher, as the agent and on behalf of the said William Kaye, did advance and cause to be advanced, distribute and cause to be distributed, various sums of money amongst several of the electors at the said election, with the object and intent of corruptly influencing them and procuring them to record their votes in the said William Kaye's favor at the said election, and was thereby guilty of bribery :

That the said William John Disher, as the agent and on behalf of the said William Kaye, did provide and cause to be provided at the said William John Disher's expense, meat, drink, and entertainment to several of the electors at the said election, with the object of procuring the said William Kaye's return, by corruptly influencing said electors in recording their votes at the said election, and that the said William John Disher was thereby guilty of treating :

That, on the grounds hereinbefore set forth, the said William Kaye was not capable of being elected, nor is not a fit or eligible person to sit and vote as a member of the Legislative Council for the Eastern Province ; that your Petitioner therefore prays that the said election and return be declared to be void, and that the name of the said William Kaye be erased from the said return and the name William Highett inserted instead thereon, and that such further proceedings may be taken thereon, as to the said Council shall think fit.

And your Petitioner will ever pray.

WILLIAM HIGHETT.

Bank of Victoria,  
Melbourne, 19th December, 1856.

Received of W. Highett, Esq., on account of the President of the Legislative Council,  
the sum of One hundred pounds.

£100.

R. SHANN,  
Cashier.

*In the matter of the Petition of William Highett, against the return of William Kaye, as a  
Member for the Eastern Province.*

THE HONORABLE THE PRESIDENT OF THE LEGISLATIVE COUNCIL, &c., &c., &c.

SIR,

I have to inform you, that I have this day lodged to your credit with the Bank of Victoria, the sum of One hundred pounds, as required by the 71st clause of the Act of Council, No. 12, intituled, "*An Act to provide for the Election of Members to serve in the Legislative Council and Legislative Assembly of Victoria, respectively.*"

I have the honor to be,

Sir,

Your most obedient Servant,

WILLIAM HIGHETT.

No. 2.  

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THURSDAY, 8TH JANUARY, 1857.

ELECTION PETITION.—Mr. James Henty moved, That the petition of William Highett, laid upon the Council Table on the 30th December by the President, be referred to the Elections and Qualifications Committee.

Question—That the Petition be so referred—put and passed.

The President appointed Wednesday, the 14th day of January, at Eleven o'clock, as the time of meeting of the Committee.

No. 3.

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1856-7.

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VICTORIA.

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# REPORT

OF THE

SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL

ON

## ELECTIONS AND QUALIFICATIONS,

ON THE

### PETITION OF WILLIAM HIGHETT;

TOGETHER WITH THE

*Proceedings of Committee and Minutes of Evidence.*

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ORDERED BY THE COUNCIL TO BE PRINTED, 4TH JUNE, 1857.

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EXTRACTED FROM THE MINUTES.

THURSDAY, 27TH NOVEMBER, 1856.

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.

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

John Barter Bennett, Esquire,  
John Pascoe Fawkner, Esquire,  
Stephen G. Henty, Esquire,  
R. C. Hope, Esquire, M.D.,  
W. H. F. Mitchell, Esquire,  
T. H. Power, Esquire,  
Charles Vaughan, Esquire,

to be Members of a Committee to be called ‘The Committee of Elections and Qualifications.’

“Given under my hand this 27th day of November, 1856.

“J. F. PALMER,  
“President.”

THURSDAY, 4TH DECEMBER, 1856.

ELECTIONS AND QUALIFICATIONS.—The President laid upon the Table the Warrant appointing the Committee of Elections and Qualifications.

THURSDAY, 11TH DECEMBER, 1856.

ELECTIONS AND QUALIFICATIONS.—The President, for the third time, laid upon the Table of the Council the Warrant appointing the Committee of Elections and Qualifications.

THURSDAY, 8TH JANUARY, 1857.

ELECTION PETITION.—Mr. James Henty moved, That the Petition of William Highett, laid upon the Council Table on the 30th December by the President, be referred to the Elections and Qualifications Committee.

Question—That the Petition be so referred—put and passed.

The President appointed Wednesday, the 14th day of January, at Eleven o'clock, as the time of meeting of the Committee.



## REPORT.

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THE Honorable J. P. Fawkner, from the Select Committee on Elections and Qualifications, to which Committee was referred the Petition of William Highett, complaining of an undue election and return for the Eastern Province, informed the House that the Committee had determined—

- 1st. That William Kaye, Esquire, was guilty of bribery under the 3rd Clause of the 2nd Section of the Elections Regulations Act at the last election for the Eastern Province.
- 2nd. That William Kaye, Esquire, is not duly elected a Member of the Legislative Council for the Eastern Province ; that the last election for the said Eastern Province, so far as regards the return of the said William Kaye, Esquire, is a void election.
- 3rd. That the foregoing Resolutions be reported to the House.



# PROCEEDINGS OF THE COMMITTEE.

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WEDNESDAY, 14TH JANUARY, 1857.

*Members present :—*

J. B. Bennett, S. G. Henty, W. H. F. Mitchell, Chas. Vaughan, J. P. Fawkner, R. C. Hope, and T. H. Power, Esquires.

Mr. Fawkner chosen to be Chairman.

The Shorthand Writer was sworn by the Chairman.

Order, referring the Petition of William Highett against the return of William Kaye, read.

Petition of William Highett read.

Counsel for Petitioner : B. F. Bunny, Esq. Agent : William Kelly.

Counsel for Sitting Member : — Dawson, Esq. Agent : William Kerr.

Room cleared.

Committee deliberated.

The Committee agreed to the following resolutions :—

That Counsel will not be allowed to go into matters not referred to in their opening statement, 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 for 1856*," the question must be raised immediately after the decision on that particular case, unless the Committee shall otherwise decide.

That the Committee expect that, with respect to cases of bribery, which it is intended to bring home to the sitting member, or his agents, the counsel for the petitioner will now state the names of the electors bribed, and those of the persons who actually gave the bribes.

The Committee, however, reserve to themselves the power, under the special application of counsel, to proceed with any case which tends to inculcate any principal or agent, the knowledge of which case has been brought out before the Committee in the progress of the investigation, with the circumstances of which the parties could not be reasonably supposed to have been previously cognizant.

That, with respect to treating, the Committee will expect counsel to state the times and places where such treating is alleged to have taken place.

The Committee, however, reserve to themselves a discretionary power, as in cases of bribery.

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 the counsel and agents be informed 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.

Parties called in and informed of the above resolutions.

Adjourned till eleven o'clock on Monday, the 19th instant.

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MONDAY, 19TH JANUARY, 1857.

The Council having adjourned until Tuesday, the summons for the Committee Meeting was altered in conformity with the Electoral Act, to eleven o'clock on Tuesday, 20th January.

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TUESDAY, 20TH JANUARY, 1857.

*Members present :—*

S. G. Henty, Esq., T. H. Power, Esq., Chas. Vaughan, Esq.

No quorum having assembled after the lapse of half an hour from the time appointed, viz., eleven o'clock a.m., the members present adjourned the Committee until Thursday, 22nd instant, at eleven o'clock a.m.

THURSDAY, 22<sup>ND</sup> JANUARY, 1857.

The Council having adjourned over from Wednesday, the 21<sup>st</sup>, until Tuesday, 27<sup>th</sup> instant, the notices for the meeting of the Committee were fixed (as by the Act) for Tuesday, the 27<sup>th</sup> instant.

TUESDAY, 27<sup>TH</sup> JANUARY, 1857.

*Members present:—*

T. H. Power, Esq., in the chair.

C. Vaughan, Esq., Dr. Hope, J. B. Bennett, Esq., W. H. F. Mitchell, Esq.

The Shorthand Writer was sworn by the Chairman.

Mr. Bunny was heard to open the case on the part of the petitioner.

A list of persons treated, the person treating, the place and about the time handed in.

The Clerk of the Parliaments was called upon to hand in the writ and return for the election and the voting papers, which was accordingly done, the packets of papers being sealed.

*Mr. William Highett* sworn.—Examined by Mr. Bunny; cross-examined by Mr. Dawson.

*Mr. William Kelly* sworn.—Examined by Mr. Bunny; cross-examined by Mr. Dawson.

*Mr. E. O. Shee* sworn.—Examined by Mr. Bunny; cross-examined by Mr. Dawson.

On a proposition to put in certain declarations taken at Beechworth (an agent for the petitioner only being there present), Mr. Dawson objected.

Mr. Dawson heard on the point.

Mr. Bunny heard in support of the admission of the declarations.

Mr. Dawson heard in reply.

Room cleared.

Committee deliberated.

*Resolved*—That the declarations be not received.

Parties called in and informed thereof.

Committee decided not to entertain an application for costs of obtaining declarations.

Adjourned till Friday, 30<sup>th</sup> instant, at eleven o'clock.

FRIDAY, 30<sup>TH</sup> JANUARY, 1857.

The Council being adjourned from Thursday, and not meeting until Tuesday, 3<sup>rd</sup> February, the notice of meeting was fixed for Tuesday, the 3<sup>rd</sup>, as required by the Act.

TUESDAY, 3<sup>RD</sup> FEBRUARY, 1857.

*Members present:—*

The Honorables Chas. Vaughan, T. H. Power, J. B. Bennett, J. P. Fawkner.

At the request of the Honorable J. P. Fawkner, the Honorable J. B. Bennett was chosen to be Chairman for this day.

Mr. Bunny was heard in advocacy of adding names of persons alleged to have been treated.

Mr. Dawson heard in reply.

The Committee decided not to interfere with the reception of names; times and places of treating being only enforced by the resolution of 14<sup>th</sup> January.

*The Honorable William Kaye* (the sitting member) sworn.—Examined by Mr. Bunny; cross-examined by Mr. Dawson; further examined by Mr. Bunny.

*Mr. William John Disher* sworn.—Examined by Mr. Bunny; cross-examined by Mr. Dawson.

*Mr. William Kelly* sworn.—Examined by Mr. Bunny; cross-examined by Mr. Dawson.

*Mr. Henry Elmes Campbell* sworn.—Examined by Mr. Bunny; cross-examined by Mr. Dawson.

*Mr. William Daniel Bourke* sworn.—Examined by Mr. Bunny.

*Mr. Frederick Kidd* sworn.—Examined by Mr. Bunny; cross-examined by Mr. Dawson.

*The Honorable Benjamin Williams* sworn.—Examined by Mr. Bunny; cross-examined by Mr. Dawson.

*The Honorable James Stewart* sworn.—Examined by Mr. Bunny; cross-examined by Mr. Dawson.

By consent of both parties the Committee received the declaration of one Francis Belfield, made at Beechworth.

Committee adjourned till half-past four this day.

3RD FEBRUARY, 1857.

On resumption of the sitting of the Committee, the following Members were present :—

The Honorable J. B. Bennett, in the chair.

The Honorables T. H. Power, J. P. Fawkner, W. H. F. Mitchell, C. Vaughan, Dr. Hope.

Mr. Bunny was heard to sum up the case on the part of the petitioner.

Committee adjourned till Friday, 6th instant, at eleven A.M.

FRIDAY, 6TH FEBRUARY, 1857.

The Council being adjourned from Wednesday, the 4th instant, till Tuesday, the 10th instant, the meeting of the Committee was, in accordance with the Electoral Act, summoned for the last mentioned day.

TUESDAY, 10TH FEBRUARY, 1857.

*Members present :—*

The Honorable J. P. Fawkner, in the Chair.

The Honorables Charles Vaughan, T. H. Power, S. G. Henty.

Adjourned till Friday, 13th February, 1857.

FRIDAY, 13TH FEBRUARY, 1857.

The Council was adjourned from Thursday, the 12th, to Tuesday, the 17th, consequently the Committee was summoned as required by the Act for the last named day.

TUESDAY, 17TH FEBRUARY, 1857.

*Members present :—*

The Honorable J. P. Fawkner, in the chair.

The Honorables C. Vaughan, W. H. F. Mitchell, Dr. Hope, T. H. Power, J. B. Bennett, S. G. Henty.

Room cleared.

Committee deliberated.

Question—That Mr. Kaye be called upon for his defence—put.

Committee divided—

Contents, 4.  
The Hon. W. H. F. Mitchell  
J. B. Bennett  
Dr. Hope  
S. G. Henty.

Not contents, 2.  
The Hon. C. Vaughan  
T. H. Power.

The question was therefore passed.

Parties called in and informed—That the Committee had agreed not to require any defence by the sitting member on the question of treating, but desired to hear defence on the charge of bribery, under the second clause of 19 Victoria, No. 11.

Mr. Dawson opened the defence and obtained leave to be heard on Tuesday, 24th instant.

The Committee adjourned till Friday, 20th instant, at eleven o'clock.

FRIDAY, 20TH FEBRUARY, 1857.

The House having adjourned until Tuesday the 24th February, the Committee meeting was consequently postponed till that day.

TUESDAY, 24TH FEBRUARY, 1857.

*Members present:—*

The Honorable J. P. Fawkner, in the chair.

The Honorables T. H. Power, J. B. Bennett, C. Vaughan, W. H. F. Mitchell, Dr. Hope, S. G. Henty.

Mr. Dawson was heard in defence of the sitting member on the charge of bribery, under the 2nd clause of the Elections Regulations Act.

Room cleared.

Committee deliberated.

Question—That William Kaye, Esquire, was guilty of bribery under the 3rd clause of the 2nd section of the Elections Regulations Act at the last election for the Eastern Province—put.

Contents, 4.

The Hon. W. H. F. Mitchell  
J. B. Bennett  
S. G. Henty  
Dr. Hope.

Not Contents, 3.

The Hon. J. P. Fawkner  
T. H. Power  
C. Vaughan.

The question was therefore passed in the affirmative.

Counsel for the petitioner and for the sitting member called in and informed of the decision above arrived at.

Adjourned till Wednesday, 25th instant, at ten a.m.

WEDNESDAY, 25TH FEBRUARY, 1857.

*Members present:—*

The Honorable J. P. Fawkner, in the chair.

The Honorables T. H. Power, C. Vaughan, J. B. Bennett, S. G. Henty, Dr. Hope.

The Honorable the Solicitor General was admitted, and requested to give his opinion upon the question, whether the Committee could declare that William Highett, Esq., was duly elected in the place of William Kaye, Esq.

The Solicitor General gave his opinion and withdrew.

The Committee deliberated on the subject of costs, agreed, and informed Mr. Bunny, counsel for Petitioner, that they were unanimous that each party should pay his own costs.

The Committee altered the first resolution of the previous day to the following:—"That William Kaye, Esq., was guilty of bribery under the third clause of the second section of the Elections Regulations Act, at the last election for the Eastern Province."

The Committee also rescinded the second resolution arrived at on the previous day.

*Resolved—*

That William Kaye, Esq., is not duly elected a Member of the Legislative Council for the Eastern Province.

That the last election for the said Eastern Province, so far as regards the return of the said William Kaye, Esq., is a void election.

That the foregoing resolutions be reported to the House.

Chairman ordered to report to the Council.

# MINUTES OF EVIDENCE.

WEDNESDAY, 14TH JANUARY, 1857.

MEMBERS PRESENT:—Mr. Fawkner, in the chair; Mr. Bennett, Mr. Henty, Dr. Hope, Mr. Power, Mr. Vaughan.

The petition of William Highett—praying that, on the grounds set forth in the said petition, the election and return of William Kaye may be erased from the return of members for the Eastern Province in the Legislative Council, and the name of William Highett inserted instead thereon, and that such further proceedings may be taken thereon as the Council shall think fit—was read.

*Mr. William Kelly* appeared as agent for the petitioner.

*Mr. William Kerr* appeared as agent for the sitting member, Mr. Kaye.

The shorthand writer was sworn by the chairman.

*The committee room was cleared.*

After a short time the agents and parties were again called in, and informed by the chairman 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 the committee expect that, with respect to cases of bribery which it is intended to bring home to the sitting member, or his agents, the counsel for the petitioner will now state the names of the electors bribed and those of the persons who actually gave the bribes.
4. The committee, however, reserve to themselves a power, under the special application of counsel, to proceed with any case which tends to inculcate any principal or agent, the knowledge of which case has been brought out before the committee in the progress of the investigation, with the circumstances of which the parties could not be reasonably supposed to have been previously cognizant.
5. That with respect to treating the committee will expect counsel to state the times and places where such treating is alleged to have taken place.
6. The committee, however, reserve to themselves a discretionary power as in cases of bribery.
7. 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.
8. That the counsel and agents be informed that the committee will only hear one counsel on each side on the opening and summing-up of the case.
9. That should any point of law arise requiring argument, the committee reserve to themselves the power of hearing only one counsel on each side.

*Mr. Kelly* stated that it was proposed to take evidence on behalf of the petitioner by declaration at Beechworth in the manner provided by the 65th clause of the Electoral Act, and intimated that if the other side were willing to consent, he was now prepared to name the agent to represent the petitioner at the taking of such evidence.

*Mr. Kerr* submitted that it was not within the province of the committee to deal in any way with the preliminary arrangements for taking evidence in the manner proposed, this being entirely matter of arrangement between the parties.

*The committee deliberated.*

*The Chairman* intimated that it was the opinion of the committee that they should not interfere with the taking of such documentary evidence as the petitioner might see fit to procure, the reception or rejection of which would be decided on when the evidence in question was tendered to the committee.

*Mr. Kerr* applied to the committee to fix a day when the agent to the petitioner should furnish to the sitting member a statement of the cases of bribery on which it was intended by the petitioner to rely, together with the particulars specified in the resolutions arrived at this morning by the committee.

*The Chairman* intimated that the committee were of opinion that this statement should be furnished at the time when the counsel for the petitioner was heard to open the case in support of the petition.

Ordered—That this committee be adjourned to Monday next, at eleven o'clock.

TUESDAY, 20TH JANUARY, 1857.

MEMBERS PRESENT:—Mr. S. G. Henty, Mr. J. H. Power, Mr. C. Vaughan.

There not being a quorum within half an hour after the time appointed for the meeting of the committee,

*Ordered—That this committee be adjourned to Thursday next, at eleven o'clock.*

TUESDAY, 27TH JANUARY, 1857.

MEMBERS PRESENT:—Mr. Power, in the chair; Mr. Bennett, Dr. Hope, Mr. Mitchell, Mr. Vaughan.

In the absence of the Shorthand Writer (already sworn), the Assistant Shorthand Writer was sworn.

*Mr. Bunny* was heard to open the case on behalf of the petitioner, and handed in a list of parties treated, with the names of the parties treating, the place, and about the time.

George William Rusden, Esq., Clerk of the Parliaments, examined by *Mr. Bunny*.

G. W. Rusden,  
Esq.,  
27th Jan., 1857.

1. Do you produce the original writ and return and the different voting papers?—This is the writ—[*producing the same*]. It was issued on the 5th August, and was returnable on the 4th October. This—[*producing a sealed packet*]—is the packet of voting papers, “Used, but not allowed.” These I found within this building when I took office at the opening of Parliament; but not finding the other packet of voting papers, I wrote to the Chief Secretary. From him I learned that there was a parcel at the Treasury. I sent for it, and it was found there, and this—[*producing another sealed packet*]—purports to be the ballot papers used at the election. The two packets—the one sent by post and the one found at the Treasury—are still sealed as I received them.

William Highett, Esq., called in and sworn.—Examined by *Mr. Bunny*.

W. Highett, Esq.,  
27th Jan., 1857.

2. You are the petitioner in this case?—I am the petitioner in this case.  
3. Were you a candidate at the late election for the Eastern Counties in the Legislative Council?—For the Eastern Province I was.  
4. An unsuccessful candidate?—An unsuccessful candidate.

Cross-examined by *Mr. Dawson*.

5. How many candidates were there?—Eight.  
6. And five elected?—Yes.  
7. Where did you stand?—Sixth.  
8. Where did Mr. Kaye stand on the poll?—I believe fourth. The returns here show it.  
9. Were you up there yourself at the time?—I was.  
10. How long were you in the province—you were canvassing I suppose?—I was at Beechworth two or three days; three or four days before the polling.  
11. Before the polling. Were you there at the nomination?—The nomination was at Seymour.  
12. Were you not in the Eastern Province at all before the day of nomination, presenting yourself to the electors?—Not before the day of nomination; between the day of nomination and the day of polling I was.  
13. Prior to the day of nomination you were not?—No. I had been in the province before.  
14. So was Mr. Kaye, was not he?—I am not aware.  
15. Do you not know that Mr. Kaye is interested in the province, and connected with it by business relations?—I never heard it.  
16. You do not know that?—No; he may be.  
17. Have you not heard that Mr. Kaye was a settler in the Eastern Province many years?—I rather think differently; but I do not know.  
18. What is your connexion with the Eastern Province?—I have land and a station in the Eastern Province.  
19. How long a time elapsed between your appearance there the day of the nomination and the first time prior to the election, when you were in the Eastern Province?—Between the day of the nomination?  
20. The first time prior?—Previous to the nomination?  
21. Yes; about how long?—Some few years. The last time I was up at the station—I forget the date—it must have been some two or three years at any rate.  
22. What other candidate appeared for the first time for election purposes at the nomination?—I am not aware; I was not at the nomination.  
23. You were nominated in your absence?—I had a friend to nominate me.  
24. You were absent from the nomination?—I was absent.  
25. Then you did not present yourself to the electors as a candidate until after the nomination?—Not until after the nomination. Then I took a journey to Beechworth, and went through the province.



26. Was that the case with any other candidate besides yourself.—I do not know ; I have seen candidates up there. Mr. Stewart was up there.

27. Why I ask you is because, as regards Mr. Kaye, it has been made a great grievance of. However, you never ascertained the fact of who was in the field before you?—I saw them up there.

28. Prior to the nomination it seems to have been a great offence that Mr. Kaye did not come down at the day of the nomination?—I saw the public addresses.

29. You cannot answer the question, how many candidates had been seen in the Province prior to the day of nomination?—I do not know. I saw Mr. Williams up there, at Beechworth. Mr. Hervey was there when I was there, and Mr. Stewart was there, and Mr. Disher was there, as the agent of Mr. Kaye, and addressed a public meeting in my presence, as his agent.

30. *By Mr. Bennett.*—Were there any other agents there for other candidates?—I do not know of any other.

Re-examined by *Mr. Bunny.*

31. You possess considerable property up there?—Yes, I do.

32. Is the constituency a large one?—It is not a large constituency ; it is a large province ; but there are very few electors compared to the extent of the province.

33. You have been known up there some time I suppose?—From having a station up there, and business in the province.

*The witness withdrew.*

Mr. William Kelly called and sworn.—Examined by *Mr. Bunny.*

34. You are the agent of Mr. Highett in this business?—Yes.

35. Have you served any notice upon Mr. Kaye?—Upon his agent I have—Mr. Kerr.

36. What was the notice you served?—Shall I read it.

37. *Mr. Bunny [to Mr. Dawson].*—Do you admit the notice?—

38. *Mr. Dawson.*—Yes, I do.

39. *Mr. Bunny [to the witness].*—Is that a correct copy?—Yes.

*The same was delivered in and is as follows:—*

“EASTERN PROVINCE ELECTION PETITION.

“SIR,

“Take Notice, that I intend examining witnesses in the above matter, in conformity with the 65th section of the Electoral Act, before the Resident or Acting Magistrate at Beechworth, on Monday and Tuesday next, the 19th and 20th instant, on behalf of William Highett, the petitioner in said matter, and that I intend using their evidence so taken on the investigation to be had before the ‘Committee of Elections and Qualifications’ in the Legislative Council.

“To

“William Kaye, Esq., M.L.C.”

“WILLIAM KELLY,

“Parliamentary Agent,  
“32, Temple Court.”

Cross examined by *Mr. Dawson.*

40. Were you present at the examination of those different witnesses at Beechworth, or any of them?—No.

41. You know I believe that Mr. Kaye did not go down to Beechworth?—Mr. Kaye told me he would not go down, and the agent sent there made inquiries, and found no person there representing Mr. Kaye.

*The witness withdrew.*

Mr. Edward Obre Shee called and sworn.—Examined by *Mr. Bunny.*

42. Did you go to Beechworth a little time ago?—I did.

43. What are you?—I have been secretary to the Early Closing Association. I have recently resigned that situation.

44. *By Mr. Dawson.*—What are you now—agent to Mr. Highett, or what?—I was deputed by Mr. Highett to go to Beechworth.

45. *By Mr. Bunny.*—You were deputed by Mr. Highett to go to Beechworth—when?—I think on the 22nd of last month. At least, that was the day I left Melbourne, the 22nd of last month.

46. What did you do when you proceeded to Beechworth?—I called upon some people whose names had been previously given to me from whom it was probable I should collect evidence with respect to the recent election for the Upper House. I did so, and they gave me the names of parties that they thought might make statements.

47. What did you do—you found some people that could give evidence?—Yes.

48. What did you do?—I got declarations properly taken before Mr. Price, the resident warden there, on Monday week, the 19th.

49. A justice of the peace?—The acting magistrate.

50. Where were the declarations taken?—In the public court.

51. Was there any person appearing on behalf of Mr. Kaye there?—Not that I am aware of, the whole statement was public, and there were the professional men, such as the barristers practising in Beechworth.

52. What did they do?—They were present in court at the time.

53. Did you make any inquiries for Mr. Kaye, or any body on his behalf?—I did.

54. What was the result?—No one appeared there to be professionally occupied and engaged for him.

55. Do you recollect the day those declarations were taken?—Yesterday week, the 19th.

W. Highett, Esq.,  
continued,  
27th Jan., 1857.

Mr. W. Kelly,  
27th Jan., 1857.

Mr. E. O. Shee,  
27th Jan., 1857.

Mr. E. O. Shee,  
continued,  
27th Jan., 1857.

- power to compel them?—No; if I had, I might have got more evidence.  
57. I believe, while you were up there, you examined the copy of the account?—I did.  
[A copy of the account was handed to the witness.]  
58. Is that a copy of the account?—This is a copy of it.  
59. Did you see this copied out?—Yes.  
60. Did you see the person sign it at the end of it?—It was done in my presence.

*The same was handed in and is as follows:—*

“COPY OF ACCOUNT FURNISHED BY WILLIAM KAYE TO THE ELECTION AUDITOR.

“COLONY OF VICTORIA.

“Eastern Province Election.

“Account of expenditure of William Kaye, Esq., one of the Members of the Legislative Council of the Colony of Victoria, in connection with his return as a Member of said Council, incurred to the date hereof.

1856.		£	s.	d.
“16th September,	Nixon and Co.—printing	-	-	1 10 0
”	Clark and Co.—advertising Ovens paper	-	-	5 11 0
25th	” Wilson, Mackinnon, and Co.—printing, <i>Argus</i>	-	-	2 10 0
7th October,	Ditto advertising ”	-	-	25 11 2
”	W. J. Disher, agent, for travelling expenses, agency, scrutineers, &c.	-	-	200 0 0
24th	” E. Syme—weekly address	-	-	1 15 0
6th November,	Edgar Ray and Co.—advertising	-	-	2 15 0
10th December,	F. B. Franklyn and Co., do.	-	-	4 5 0
				£243 17 2

“Melbourne, 30th December, 1856.

“I, William Kaye, Esq., one of the Members of the Legislative Council, for the Eastern Province of the Colony of Victoria, do hereby certify that the above statement is a true and faithful account of expenditure, in connection with my return as a Member of said Council at the last Election.

(Signed) “WILLIAM KAYE.”

“I certify the above to be a copy of the original document furnished to me by William Kaye, Esq.

“HENRY B. A. STILES,  
“Election Auditor.”

61. *Mr. Bennett.*—Is this the original?

*Mr. Bunny.*—It is a certified copy.

*Witness.*—It was done at my request and in my presence.

62. That signature?—Yes, the whole document from end to end.

63. Did you compare it with the original?—*Mr. Stiles* and I compared it with the original document.

*Mr. Bunny* stated that, in case any question should arise upon this, he would call the attention of the committee to the 21st section of the 19th Victoria, No. 11, as to the election auditor being obliged to keep the account, and further stated that this was the best evidence that could be had.

Cross-examined by *Mr. Dawson.*

64. What do you call a declaration. What is your idea of a declaration. I suppose you had the Act pointed out to you before you went up?—I had a great portion of the Act with me.

65. A great portion?—I believe it was all.

66. How was this proceeding conducted; was the case put down in the watchhouse list, or what. It was in open Court, was it?—The Court where the police office cases are heard, and where the warden presides as judge.

67. And you appeared and examined those witnesses?—Those declarations were previously filled up and they were sworn.

68. Who filled them up?—They were filled up by *Mr. Mayne*, the barrister.

69. Where did you get those blank forms of declaration; they were forms before *Mr. Mayne* filled them up?—One had to be taken a second time.

Re-examined by *Mr. Bunny.*

70. Whose declaration is that—[*handing a declaration to the witness*]?—*Francis Belfield's*.

71. Was that sworn; did you see that sworn and signed?—I did.

72. In your presence?—In my presence.

73. Before the warden?—Before the warden, *Mr. Price*.

74. There is the warden's own signature to each of them?—Yes.

75. Did you see them signed by him?—I did.

Put that in.

*Mr. Dawson.*—No; I object to that.

*The witness was directed to withdraw.*

*Mr. Dawson* was heard to state his objection to the reception of the declarations as evidence against the sitting member; and also to apply to the committee not to decide to admit the declarations as evidence against the sitting member, without his being heard upon the question of agency.

*Mr. Bunny* was heard in support of his proposition to put in the declarations as evidence.

*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 declarations should not be received.

*Mr. Dawson* applied for payment of the costs incurred by the preceding adjourned meetings, the adjournments having taken place only for the purpose of enabling the petitioner to procure evidence, with which he ought, properly, to have been prepared.

*Mr. Bunny* was heard against the application.

*Mr. Dawson* was heard in reply.

*The Chairman* stated, that the committee were of opinion that the costs should abide the result.

*Ordered*—That this committee be adjourned to Friday next, at ten o'clock.

## TUESDAY, 3RD FEBRUARY, 1857.

MEMBERS PRESENT:—*Mr. Bennett*, in the chair; *Mr. Fawkner*, *Mr. Mitchell*, *Mr. Power*, *Mr. Vaughan*.

*Mr. Bunny* stated that, in consequence of the decision of the committee not to receive the declarations, the petitioner now proposed to put in a fresh list of names of persons treated—that one of the witnesses summoned refused to come unless brought by force, although he was properly summoned and had had his expenses tendered to him, and also a guinea a day for loss of time, and that therefore he (*Mr. Bunny*) applied for permission to insert fresh particulars in the list of places of treating handed in.

*Mr. Dawson* was heard to address the committee against the reception of a fresh list.

*The Chairman* stated that the committee were of opinion that, inasmuch as the resolution of the committee required only the names of places, a list of persons would be unnecessary to be handed in.

The Honorable William Kaye (a member of the Council) sworn.—Examined by *Mr. Bunny*.

76. You have lately been elected for the Eastern Province, in the Upper House?—Yes.
77. Did you ever go down to the district to canvass?—I went to the nomination.
78. To Seymour?—Yes.
79. Did you go to Beechworth?—I never went to Beechworth in my life.
80. Did you personally canvass any of the electors for the Eastern Province?—No, I did not; one or two in Gipps' Land I did, by letter.
81. Did you appoint any agent for carrying on your election?—At Beechworth.
82. Will you name who he was?—*Mr. Disher*.
83. He lives in Melbourne partially, does he not?—He does.
84. Do you recollect when he first went up to Beechworth?—I think it was about nine days before the election took place.
85. Before the polling?—Before the polling.
86. After the writ had been issued?—Yes.
87. Had you any special terms of agreement with him about your agency?—Yes.
88. Will you mention what they were?—I was to give him £200.
89. If he got you in?—No; for going up.
90. You agreed to pay him £200?—Yes.
91. Did you give him any money before he went up?—Not a shilling.
92. Not a cheque?—No cheque.
93. Have you paid the £200?—I have.
94. Do you remember how you paid it?—By a cheque of Kaye and Butchart.
95. Do you remember the date of the cheque?—I could not say.
96. Was it after the election?—After the election some three weeks or a month.
97. Was that the whole of the money you paid to him?—That was the whole of the money I paid to him.
98. Have you paid any debts that he contracted for you for the election?—I have paid on account of printing £4 or £5.
99. That is represented in this account here?—[*Handing the account, already delivered in, to the witness*]—Yes; one or two of those items.
100. Was that cheque of £200 payable to *Mr. Disher*?—Yes; to *W. J. Disher*.
101. Was not there any agreement whether he was to receive that, depending upon your success?—No.
102. That you swear?—That I swear.
103. What is *Disher*?—I believe he keeps an hotel.
104. Is he a married man?—I could not say; I am not aware of his circumstances.
105. Is he in the habit of going long journeys to do business without any pay?—No; I fancy he could not afford it from his circumstances.
106. Did he ask you for any money before he started?—No.
107. Have you got your cheque book with you, with the coupon of that cheque?—I have not. It was one of Kaye and Butchart's cheques.
108. And it was all paid in one sum of £200?—Yes.
109. What was he to do when he went up to Beechworth?—To canvass the electors on my behalf.

The Hon.  
William Kaye,  
examined,  
3rd Feb., 1857.

110. And to forward your election as far as he could?—Of course.
111. Did you point out any particular way in which he was to do his best for you?—  
I pointed out one particular way. I drew his attention to the fact of the Bribery Act.
112. You pointed out to him that he was not to get into that?—Yes.
113. You told him not to go and bribe?—I told him that in the presence of Mr. Stewart.
114. And he understood what you meant by that, I suppose?—I presume he did.
115. Did you say anything about treating?—I told him specially not to be doing anything improper, either treating or otherwise.
116. General instructions not to do anything wrong?—Not to do anything wrong.
117. Are you aware that Mr. Disher called meetings and addressed the electors there?—  
I am not aware that he called meetings. I believe there were meetings, at which the whole of the candidates addressed the electors.
118. Did you ever read a speech of his, in which he, what the Yankees call, "cracks you up a little"—[*handing a newspaper to the witness*]?—I have not read this.
119. You never remember seeing that?—No, I never saw that article.
120. Were you aware that he issued cards for you?—I believe he did issue cards.
121. Do you know where that was printed—[*handing a card to witness*]?—I cannot say. I believe one of those printing accounts is for the printing of that card.
122. Has Mr. Disher ever been in the habit of being employed by you?—Never.
123. When you paid him that £200, did he bring in any account?—No.
124. He was to receive £200 and do your work in canvassing the electors, and that was to be his bonus?—Yes.
125. And he was not to bring you in any account how he expended it?—He was to have £200 for his trouble and the expenses up.
126. Do you know how he lived at Beechworth?—I have not the slightest idea.
127. Do you know how much money he spent up there?—Not the slightest.
128. You never saw any account?—No, and I never asked him.
129. He never told you how much he made clear out of that amount?—No. He said a good deal of it had gone for expenses.
130. Can you make a pretty good guess what the expenses of going up and down to Beechworth are—the expenses of the coaches are pretty well known, are they not—do you know when he went up?—I think he started with a horse; he was a fortnight or three weeks away.
131. Are you sure he was there for a fortnight?—I could not say.
132. You said he went up about nine days before the polling?—About nine days before the polling.
133. Did he stop a fortnight after the polling?—No.
134. Did he come down immediately after the polling?—Yes; he came down within a week or ten days.
135. Then he was not there three weeks?—I could not exactly say whether he was there so long as three weeks or whether he was away; I do not say there.
136. Was he away on your especial work more than the nine days before the polling day?—Yes, because he would have to come down.
137. Adding to the polling day the time to come down, was he up at Beechworth more than seven days?—He was on the road; it takes five or six days to go up.
138. Then at Beechworth he could only have been about two or three days?—I could not say; I have no idea how many days he was there.
139. Do you remember the day he came back?—I could not say when he came back.
140. Do you remember when you had notice of this petition being presented?—No.
141. Do you remember any little expedition of Mr. Disher in a steamer lately?—Yes.
142. Do you know where he was going?—Yes.
143. Where?—To Sydney.
144. You saw him off, did you not?—I did not.
145. Did you not go down with him to the steamer?—I did not. He came to me a few days before he went and said he heard there was a petition against me, and asked if I should require him before the 27th. I said I thought not, because he said he would be that time before he got back.
146. Do you know what steamer he went in?—I could not say.
147. Do you know the day that the gentlemen who were going to play the cricket match went to Sydney in the *Telegraph*?—They went in two or three boats.
148. Do you remember when the *Telegraph* sailed with some of them?—I was down when the majority of the cricketers were sailing, but he was not in that steamer, it was the steamer previous he was in, I believe.
149. Was he not with you at that time?—No; he was not in that steamer at all.
150. By a steamer previously—do you mean previously on that day, or on a previous day?—  
On a previous day.
151. Were you down with him then?—I was not.
152. Do you remember who paid his passage money?—I do not know; I had nothing to do with his passage money.
153. Did not you think he was going to Moreton Bay?—I did not.
154. Did you expect him back when he came so soon?—I did.
155. You expected him back on the 27th?—I did.
156. And that was the day he came back?—Yes.

157. You were not surprised at seeing him?—I did not see him for a day or two after that.
158. Did you write to him at all while he was away?—I did.
159. He came and told you he was going to Sydney?—Yes.
160. Can you tell us anything that passed besides that?—He said, "I hear there is a petition against you, and I suppose you will want my evidence." I said, "I suppose so."
161. He thought you would want him?—Yes.
162. He did not say he thought he had better not be here to give his evidence?—Nothing of the kind.
163. And you did not say you would not want his evidence?—No; I asked him when he was coming back, and he said, if I required him he would stop; and I said, I did not know, it would be very important.
164. And you cannot exactly remember when this cheque was paid?—No, I cannot exactly say. I do not keep a memorandum of all the cheques I pay; I should have to keep a long one if I did.
165. Perhaps this being rather an important period in your life, you might remember something about it; it is not every day we are elected to a position of this kind and pay two hundred pounds for it?—I could not say.
166. Do you remember the day of the polling?—No, I do not.
167. Have you any idea; was it somewhere about the 16th of September?—I have no recollection whether it was September or October.
168. It was about a fortnight after that you paid him the two hundred pounds?—I did not pay it for a fortnight or three weeks after.
169. Was it about the 7th of October that you paid the money; it was you say about three weeks afterwards?—Yes, I think so.
170. After you felt sure of your position?—I was sure all through.

Cross-examined by *Mr. Dawson.*

171. You say, when you first employed Mr. Disher, Mr. Stewart was present?—Yes, when I had the conversation with him.
172. Upon the occasion on which you gave him instructions to go up and look after your interests?—When I was conversing with Mr. Disher.
173. Mr. Stewart is here, I believe?—Yes.
174. Will you recollect as precisely as possible what the exact terms of your instructions to Mr. Disher were?—To go up the country as my agent to Beechworth.
175. And with reference to the bribery and treating, you say you referred him to the Act?—Yes, I referred him specially to the Act, and said it was very stringent; and I made the remark, "If I do not get in, I do not care much; but I would not like you to bring me into a kind of disgrace by treating, or infringing the Act."
176. You gave him those express instructions in the presence of Mr. Stewart?—Yes; Mr. Stewart was present.
177. How soon after that did Mr. Disher go?—In a few days after that. I should say within perhaps three or four days.
178. During the time he was at Beechworth, did you have any communication from him to the effect that it was necessary to stimulate the diggers a little in behalf of your interest?—I do not remember having a letter from him. He said he did write a letter, but I never got it; he brought it to me and showed it to me afterwards.
179. Then in point of fact, do you know anything of a single man who voted for you, or who was asked to vote for you, receiving any inducement of any kind from Disher, or any person concerned for you?—Not the slightest.
180. If such a thing has been done, has it been done with your "knowledge, power, or consent?"—Not at all.
181. Has it been directly opposed to your "knowledge, power, and consent?"—Yes, and to my express wish.
182. You stood fourth on the poll, I believe?—Yes.
183. I believe you have some interest in the Eastern Province, irrespective of merely sending up an agent to ask those extremely willing electors to return you?—None whatever.
184. Have you not some landed or business connections there?—No.
185. You are the chairman of the Melbourne and Hobson's Bay Railway Company, I believe?—I am.
186. And you have been in the colony for some time?—Yes, fifteen years.
187. And have dealt in stock?—Yes.
188. Coming from all parts of the colony?—Yes.
189. And stations?—Yes. I have been a settler for many years.
190. You are well known to the settlers in the district of the Eastern Province?—Yes, and all over the colony.
191. The £200 was given to Disher as a sort of bonus or fee to act as your agent?—Yes.
192. To cover all his outlay, expenses, and every thing?—Exactly.
193. And also the incidental expenses of the election—scrutineers and so forth?—Yes, everything, except the small items of printing, which I paid.

Re-examined by *Mr. Bunny.*

194. Did you send in before, or at, the nomination, to the auditor, the name of Mr. Disher as your agent?—No, I did not.

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William Kaye,  
*continued,*  
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195. You knew, personally, nothing of this treating, if any has taken place?—Nothing at all.

196. But Mr. Disher was sent up the country to forward your election?—Of course.

197. Are there many settlers in that district?—Yes, there are.

198. Do you know whether the majority of the electors are settlers, or diggers and storekeepers?—I cannot say exactly how the majority would run.

199. Perhaps you are not so well known to the diggers as to the settlers?—I cannot for a moment suppose that I am.

200. It required, therefore, an energetic agent to bring you before them?—Of course.

201. You know the diggers' propensity, as hard working men; they are thirsty at times, so that any little stimulant of that kind would not be quite contrary to orders, would it?—If you will put a direct question I will give you a direct answer.

202. Would any stimulant to the diggers be contrary to your instructions to Mr. Disher?—Quite contrary.

203. Did you ask Mr. Disher, when he came down, whether he had acted according to your orders or not?—I did not.

204. Whatever he had done you remained in ignorance of it?—I was satisfied that Mr. Disher would do everything that he thought proper.

205. *By the Chairman.*—Was there any written agreement with Mr. Disher?—None whatever.

206. *By Mr. Mitchell.*—Did the proposition to employ Mr. Disher come from him or from you?—He had been up, I believe, as agent previously for Mr. Stewart, something about the election, and after having been up there and being acquainted with the electors, I thought I could not do better than employ him, as he would know the electors better than any other agent that I could employ.

207. *By the Chairman.*—What was the distinct agreement with reference to that £200 with Mr. Disher?—It was for work and labor done, I look upon it.

208. I did not ask you what you looked upon it as. Was there any agreement made when the £200 was mentioned—was there any agreement what that was for?—For work and labor done; to go up and canvass for me at Beechworth. I said I could not go up myself. He said he had been up for Mr. Stewart, and that he would go up for me.

209. He guaranteed to do the work of an agent for you for £200?—Yes.

210. *By Mr. Mitchell.*—Cannot you recollect whether the proposal came from Mr. Disher or from you?—I think myself that it came from Mr. Disher.

211. Can you remember what he offered to do—did he demand £200 from you?—Yes.

212. What for?—For going up and forwarding my interest at the election for the Eastern Province at Beechworth.

213. That was his reward, and upon those terms?—Upon those terms.

214. *By the Chairman.*—Did the agreement include the two—to act as your agent and forward your election?—Exactly; to act as my agent and forward my election.

215. *By Mr. Bunny—(through the Committee).*—Did he say, "You give me £200, and I will get you in?"—I cannot see how he could say that.

216. *By the Chairman.*—Did he say that?—No.

217. The £200 was not contingent on the result of the election in any way?—No, certainly not.

*The witness withdrew.*

Mr. William John Disher called and sworn.—Examined by *Mr. Bunny.*

218. Do you know Mr. Kaye, the member of the Eastern Province?—I do.

219. Do you remember the election for the Eastern Province?—Perfectly.

220. Do you remember going up to Beechworth for Mr. Kaye?—I do.

221. Did you have any agreement with Mr. Kaye as to your going up to Beechworth?—Yes.

222. Was it in writing?—No.

223. Do you remember what that agreement was?—There was no particular agreement.

224. No sum of money mentioned?—No.

225. Not at all?—Not at all.

226. What were you to do?—I was to represent his interest in the northern portion of the Eastern Province, in conjunction with two or three other gentlemen.

227. You did not receive any money to go up there?—None whatever.

228. And you were not to receive any money?—I was to receive all my expenses.

229. Then there was an arrangement about expenses?—Of course.

230. But no sum of money was mentioned?—Nothing definite.

231. And nothing contingent upon success?—Certainly nothing.

232. How much were you to be paid if he did not get in?—My expenses.

233. How much were you to be paid if he did get in?—There was nothing arranged.

234. Do you remember who first proposed the expedition, you or Mr. Kaye?—Myself, I think; I tendered him my services. I was going up for other candidates.

235. And you undertook to forward his election?—I did.

236. Did you give him any hopes of succeeding?—I did.

237. You thought you could manage the electors up there?—I knew them pretty well, very well.

238. Had you often been up to Beechworth?—I had been once before. I knew a great number of the residents there.

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239. What hotel were you stopping at?—At the Union; I think the name of it is Meldrum's.
240. How long were you stopping there?—About three weeks, I think; a fortnight or three weeks.
241. Do you remember when you went up?—Not the date, I do not. I went up at the same time as Mr. Hervey, Mr. Stewart, and Mr. Williams went up. I do not know the exact date.
242. Do you remember how long before the polling day?—I think about ten days.
243. How long were you absent from Melbourne?—To the best of my recollection, about three weeks.
244. What did you do when you were up there?—Not a great deal.
245. You lived pretty well, I suppose?—Yes.
246. Had you a pretty good establishment there—were you comfortable?—Yes, I had very good quarters.
247. Were there many dinner parties going on?—I had no dinner party.
248. No parties there of an evening at all?—None whatever.
249. Then you were living very quietly and moderately?—I lived comfortably, as I always do.
250. Can you tell the committee how much your tavern bill was?—I do not remember exactly, about six, or eight, or ten pounds—£6 or £8, I forget which.
251. And you were a fortnight there?—No, I was about ten days.
252. And you only paid six or eight pounds to Mr. Meldrum?—That was all.
253. Have you got the tavern bill?—No, I have not paid it yet.
254. Have you had it sent in?—No.
255. Then how do you know it is only six or eight pounds?—Because Mr. Meldrum told me so yesterday.
256. Was there any other expense you incurred there for any one else?—None whatever.
257. And you swear that all the expense you incurred at Meldrum's hotel during the ten days you were there was six or eight pounds?—I think so.
258. That you stick to?—I do not "stick to it." I say it and swear it.
259. Do you know the Commercial Hotel?—I do.
260. Did you ever go there?—Yes, very often.
261. Did you live entirely at the Union?—I lived entirely at the Union.
262. And never dined at the Commercial?—Never.
263. Never at all?—Never.
264. And never had a supper there?—Never.
265. Never had a wine party there?—Never.
266. Do you know the Star?—I do.
267. Did you ever dine there?—Yes.
268. How often?—Once.
269. Only once?—Only once.
270. Were you the party giving the dinner?—I gave the dinner.
271. How many were there?—Four or five, I think. I can enumerate them—Mr. Jameson, Dr. Murphy, and two other gentlemen, I think.
272. Electors?—Yes.
273. Dr. Murphy, the Speaker?—Yes.
274. Was he an elector?—He was an elector.
275. Any other elector?—I think there were two electors out of the four.
276. And those are the only expenses you incurred up there?—I was not representing Mr. Kaye's interest then. That was previous to the nomination altogether.
277. How long was the nomination before the polling?—About three weeks, I should think, or a month, perhaps.
278. The nomination was at Seymour, I think?—Yes.
279. Had you been to Beechworth before the nomination?—I had; and on that occasion I had this dinner party.
280. Then I am speaking of another occasion?—I never dined at the Star after.
281. During the ten days?—I never dined there during that time.
282. During those ten days all your personal expenses were at the Union?—Yes.
283. And they came to £6 or £8?—I think so.
284. And you have not paid them?—Which I have not paid.
285. Did you ever give a dinner party at the Union?—Never.
286. Did you ever have any people to dine with you there?—Never once.
287. Do you remember Mr. Hervey and Mr. Stewart up there?—I do.
288. Do not you remember any friends coming to dine with you—two or three friends?—No.
289. You do not remember that?—I do not know for what purpose; it was a public table.
290. There never was a private dinner party there?—Not that I know of.
291. Was there no private room there?—I do not know what you mean. Is it in reference to Mr. Kaye's election you are asking the question, or not?
292. I am asking about your proceedings there?—Then I decline to answer the question. I gave no public dinner on behalf of Mr. Kaye or any one else.
293. During the ten days you were there, between the nomination and the polling, you lived at the Union quietly, and without having any friends to see you or any dinner parties?—Exactly.

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continued,  
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294. Do you remember the 17th of September?—Not particularly; was that the day of election?
295. No; you do not remember the day?—I do not.
296. Nothing particular happened to you on the 17th of September?—I could not be sure; there may have been. I was nearly drowned one day—I do not know the date of that.
297. Do you remember going to the Commercial Hotel at Beechworth—do you remember meeting the electors at the Commercial Hotel?—I addressed the electors.
298. Do you remember when that was?—No.
299. Was it on a Saturday?—I should think it was on a Saturday; yes, I think it was.
300. Previous to the election?—I think it was a Saturday.
301. Do you remember what happened after the meeting was addressed?—Yes.
302. What took place—did you go home quietly to bed?—Mr. Highett invited the electors up stairs, and called for a bottle or two of wine and paid for it.
303. That you will swear?—I do.
304. How many electors did you invite up?—None whatever.
305. And you did not give any of them any drink?—No.
306. You never gave them anything to drink?—Never.
307. Have you received any money from Mr. Kaye?—Yes.
308. How much?—£200.
309. What was that £200 for?—Expenses.
310. Will you tell us the expenses; the ten days only amounted to £8. Then there is the journey backwards and forwards?—Yes, there is that very important item, and there is the risk of life.
311. How much did you put down for the risk. Did you give him in any account of the expenses?—No.
312. You did not?—I am not sure whether I did or not.
313. Can you swear you did not?—I do not think I did.
314. Did you or did you not; you must know?—I really could not say.
315. Are you in the habit of receiving £200 without knowing whether you make out an account or not?—I do not think I did.
316. Did you serve him with any account at all, and say, "Here are my expenses, and they are £200?"—I think not.
317. Do not you know very well you did not?—No.
318. How did you receive those £200?—By a cheque on the bank.
319. In whose name?—It was a cheque of the firm.
320. And drawn in your favor?—It was.
321. Just have the goodness to enlighten us how you made up this sum of £200; did Mr. Kaye ask you if it came to £200?—I do not know. We had not very much conversation on the subject. Mr. Kaye left the matter entirely to myself.
322. You said, "My charge is £200?"—I think I did.
323. And Mr. Kaye drew the cheque?—Yes, and expressed himself quite satisfied. I believe he asked Mr. Hervey and Mr. Stewart, who accompanied me, whether they thought it was too much; and they said no, that they did not think it was too much for what I had undergone.
324. For what you had done?—For what I had done.
325. I suppose he thought he had got in rather cheap?—Perhaps he did.
326. Did you pay any of the expenses of any other gentleman up there, at any of the hotels?—Of other candidates?
327. Yes?—No.
328. In fact, you have not paid any money, according to your own account?—I paid at Kilmore, Seymour, Benalla, Longwood, and Wangaratta.
329. That was going up and coming down?—Yes.
330. How much did that amount to—a pound a night?—More like £5 a night.
331. Five pounds a night at Kilmore and Wangaratta, and £8 for ten days at Beechworth—have you got any of those bills that you can let us see?—No; I never look at public-house bills.
332. Are you sure you paid £5 at Kilmore?—No.
333. Are you sure you paid more than thirty shillings?—At Kilmore?
334. Yes?—No, I do not think I did.
335. Will you swear you paid more than thirty shillings at Seymour?—I will swear it cost me more than £5 before I got to Seymour—it took me two days to get to Seymour.
336. Where did you stop after you got to Kilmore?—At Seymour.
337. Then how did it cost you £5 before you got to Seymour, if it only cost you thirty shillings at Kilmore?—There was the horse's food—my horse cost me thirty shillings at Kilmore—I was speaking of my own private expenses—I thought you alluded to that.
338. No; I am alluding to the money you spent at Kilmore—I asked you, "Can you swear you paid more than thirty shillings at Kilmore," and you said, you would not?—Yes; much more.
339. Can you swear you paid more than £2, horse and all?—Yes.
340. Three pounds?—I should think about £3.
341. Where did you spend the other £2 before you got to Seymour?—There was a bait on the road.
342. How many times did you bait on the road?—Twice.
343. It is fifty miles, is it not?—Twenty-five.



344. Seymour is twenty-five miles from Kilmore, and you baited your horse twice in that journey?—Yes.
345. And each bait cost how much?—Eight or ten shillings.
346. You are sure it is more than five shillings?—Yes.
347. Will you swear it is more than eight shillings?—It is of no moment; I cannot say to a shilling.
348. You say your expenses cost £200, and we cannot get beyond ten shillings for a feed of oats—How much money did you spend before you got to Beechworth?—I suppose about £25.
349. Had you that money in your pocket before you went?—No.
350. Was it on credit?—A good deal.
351. Have you paid it since?—Yes.
352. Since you got the £200?—Yes.
353. Will you swear that it was not before?—I will.
354. Have you been back then to pay it, or did you send the money up?—Another person paid it for me.
355. Will you tell who that person was?—No.
356. Do not you know who it was?—I do.
357. Was it Mr. Kaye?—No.
358. Can you mention his name?
- Mr. Dawson* objected to the name of a third party being brought before the committee. *The Chairman* intimated that the committee were of opinion that the question might be put.
359. *By Mr. Bunny.*—You say you paid £25 at different houses. I ask you who paid it?—*Mr. Stewart* paid that for me; either *Mr. Hervey* or *Mr. Stewart*.
360. These expenses, up as far as Beechworth, were not paid out of those £200?—No.
361. Now we come to the other question—that, not having paid your journey up, you have not paid any moneys out of this £200?—Yes, I have.
362. Then we will come down from Beechworth. How much did it cost you coming down?—I paid a good many expenses for advertising and printing.
363. How much did you pay for advertising and printing—do you remember?—No.
364. Were they £50?—No.
365. Not so much?—No.
366. Do you think you paid £20?—No.
367. Not so much as £20?—Not quite; very nigh to that.
368. Have you paid £5.—Yes, a good deal more than that.
369. Ten pounds?—Yes, I think it was about £20, or getting on to £20.
370. How much did it cost you coming back?—Not so much. It did not take so long to come back.
371. Did you pay the bills as you came?—No.
372. Then you have not paid anything but those £20 for advertising and printing?—That is all.
373. Have not those £20 for stationery been paid also by Mr. Kaye?—No.
374. Then if Mr. Kaye sent in an amount for stationery, does that include the £20?—It does.
375. So that if Mr. Kaye says he has paid £20 for stationery, you and he do not agree?—I do not recollect.
376. If Mr. Kaye says he has paid this £20, is it correct?—Yes, Mr. Kaye has paid it.
377. Then we come back to the question that you have not paid one single farthing?—I have not; but I had the money.
378. Though Mr. Stewart has paid it?—I paid the money to Mr. Stewart. We have a current account, and it is charged to my account there.
379. Perhaps all the rest of the story may be reduced in the same way. Do you mean to tell the committee now that you never gave the electors a dinner up at Beechworth, or treated them with wine or spirits, between the date of agreement with Mr. Kaye and the election—will you swear that, between the time when you agreed with Mr. Kaye to conduct his election and the polling-day, you never gave or offered any refreshment or treating to any electors at Beechworth—are you prepared to swear that?—I will swear that I never gave any man any refreshment—that is, in food; but I will not swear that I did not give a man a nobbler, or a glass of wine. I can swear that, from the peculiar business I have for many years been engaged in, I could not help that; but to do it with the intent of influencing any man's mind for one moment on behalf of Mr. Kaye, I did not do it. It is quite a matter of indifference to me. I am in the habit of going into a public hotel, and I always ask people what they will have, whether they are electors or not, it is immaterial to me.
380. Then in what way did you forward the interest of Mr. Kaye?—I was personally well known to every man at Beechworth.
381. And you thought that would be sufficient to secure Mr. Kaye's election?—Yes.
382. Did you ever mention about having printed cards for Mr. Kaye to him?—Yes, I sent him a copy.
383. Were those included in those printing accounts?—I think they were.
384. You did not pay for them?—Yes, I did.
385. And they have been paid for since by Mr. Kaye?—Yes.
386. When you went up to Beechworth you did not receive any money at all?—No, not a shilling.

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continued,  
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387. And there was nothing agreed upon for you to receive on your coming down?—  
Nothing at all. I endeavoured to get it, and I asked it from Mr. Benjamin Williams.
388. Would he not give it you?—He did not.
389. Do you remember, when you were at the Union Hotel, Mr. Highett coming up there?  
—Perfectly.
390. Do you remember saying anything to the landlord or his waiter about not letting Mr. Highett come into the hotel?—Yes; I did so.
391. Can you tell the committee what you said?—I said we wished to be alone, Mr. Stewart, Mr. Hervey, and I. We had been annoyed with Mr. Williams all the way up, and we wished to be alone at Beechworth.
392. How did Mr. Williams annoy you?—We could not go to the stables without his following us. We had influence, and he wanted to take up with our interest to secure his election. He wanted to hang to our coat tail, and we did not want to let him. Mr. Williams endeavoured by every means to get my influence to bear upon his election.
393. You seem to have been a sort of "King Maker"—did you really think you could have brought in any one you liked with your interest?—I think I could in Beechworth, when the whole of the candidates were entire strangers.
394. And simply by recommending the candidates and representing your knowledge of them?—Yes.
395. There was no occasion for you to resort to any other means?—No. Mr. Highett ruined his own cause by going himself. If he had sent an agent he would no doubt have been elected, and Mr. Kaye might have been in the same position as he is if he had gone up himself.
396. That might have been if Mr. Highett could have stopped here and said he did not know what was going on. Was not it because Mr. Highett went up there and did not do what the agents there were doing, that he was not elected? Was not Mr. Highett's want of success attributable to his having been there and to his not doing what the agents for the other candidates were doing?—No; I had it from the mouths of fifty people that Mr. Highett's not succeeding was the result of his coming himself. His appearance was so much against him, and he got into ridicule about five per cent., a subject that he had no knowledge of, or rather a per centage that he had no knowledge of, and they got the laugh against him.
397. If Mr. Highett had shown the same hospitality to the electors as some of the other gentlemen up there, he would have had a better chance, would he not?—I showed no hospitality to the electors.
398. None at all?—None in the world.
399. And never gave any drink to anybody?—Not with that object; and never at all, unless it was a simple nobbler.
400. Cannot you tax your memory with a single instance in which you said to any one, "Come and have something to drink," and "You cannot do better than vote for Kaye?"—Never; people who know me know better than that.
401. You never associated the name of Mr. Kaye with the offer of any refreshment?—Never.
402. You kept them entirely distinct?—Yes.
403. When you were canvassing you lost sight of your hospitality and your practice of giving drink to any person whenever you met them?—Perhaps I am too free with my money, and I frequently ask a man, if I meet him at the bar of a public house, to have a nobbler; it is my peculiar business that leads to those habits, and I did that at Beechworth the same as I would do it any where else, but to do it with any such object as to influence the election I never did.
404. Did you, under the peculiar circumstances of this case, allow the individual Disher to merge in the agent, and make use of your hospitality as an individual to the benefit of your principal?—I exerted myself to the best of my ability for Mr. Kaye, as well as I did for Mr. Stewart and Dr. Tierney.
405. In fact, your liberal propensities were made use of by those three gentlemen?—No, not in particular.
406. Were you not selected as their agent in consequence of your hospitable, generous style of doing things?—Perhaps so.
407. They thought you a sociable, conversational sort of fellow, eh?—Yes.
408. We will now go back to when Mr. Highett wanted to come in under the shadow of your wing. You induced the landlord to keep him out, did you not?—I stated to him, "There Mr. Highett is on the coach coming up the road, we had better not have him here, Mr. Meldrum; and he said simply that he had not got accommodation for him.
409. In fact, in consequence of your saying you did not want Mr. Highett there, Mr. Meldrum said he could not accommodate him?—I do not think it was on that account, I knew the house was crammed up, and I was shoved from one bed to another night after night; there was no sort of accommodation for Mr. Highett. Mr. Hervey occupied the best room, and Mr. Stewart the next, and if there was another good room, I got it myself.
410. Then it was unnecessary to tell the landlord not to take Mr. Highett in?—I did not want him to hang on to my coat tail.
411. You did not want him to see your tactics, in fact?—I wanted him to go on his own tactics, if he had any.
412. You did not want him to avail himself of your way of doing business to know how to conduct the election. You were conducting the business so well for Mr. Kaye, that you thought Mr. Highett might take a leaf out of your book?—I thought he had no right to take advantage of my previous knowledge—he had no knowledge of the people himself.

413. You would not speak for him, would you, from his being in the same hotel. His merely being in the same hotel does not look like availing himself of your presence in any way?— Perhaps you have never been connected with any electioneering here. Mr. W. J. Disher,  
continued.  
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414. I have not in this Colony?—There were eight candidates, and five to be elected; so that it was very easy for five to join together.
415. If you only wanted to put in three, why did you count to exclude Mr. Hightt?— I wanted to get in four. I also represented Mr. Thomson, of Gips' Land.
416. Did you get him in?—Yes, I did; I got them all four in.
417. Had not you, Mr. Stewart, and Mr. Hervey, plenty of good dinners there with the electors?—No.
418. Never one?—Never one; I am talking of myself.
419. Do you remember offering a Mr. Campbell some drink there?
- Mr. Dawson objected to the question, on the ground that Mr. Campbell's name was not included in the list of persons treated handed in by the petitioner.
- The Chairman intimated that the resolution of the committee only required the times and places at which treating was alleged to have taken place to be stated, and that consequently the committee were of opinion that the question might be put.
420. By Mr. Bunny—[to the witness].—You say you have given drink to some people at Beechworth?—Yes.
421. Did you ever give any to a man of the name of Campbell?—Not to my knowledge.
422. Do you know a solicitor up there of the name of Campbell?—Yes; he canvassed with Mr. Hightt, I think. I could not be sure about his name.
423. You do know Mr. Campbell, then?—If he is a sandy gentleman, that is the man. I remember him.
424. Do you remember ever offering him anything to drink?—No; I do not think I ever spoke to him in my life. I may have spoken to him on the day of election, but not previously.
425. Do you remember a Dr. Crawford?—I do know Dr. Crawford.
426. Do you know James Meldrum; I believe that is not the landlord?—I know James Meldrum.
427. That is not the landlord, is it?—I do not remember.
428. Is that the landlord of the Union?—He is the proprietor, but I think he is not the landlord.
429. Dr. Crawford and James Meldrum are both electors, I believe?—Yes, they are both electors.
430. Did you ever offer them any thing to drink?—Never in my life.
431. Never, at the Union Hotel?—Never in my life. Jemmy Meldrum I have five hundred times.
432. I thought you said you never had in your life?—Not Crawford.
433. Then you recollect giving James Meldrum some drink?—Yes.
434. But you do not remember giving Crawford any drink?—I never in my life gave him anything to drink.
435. But if Mr. Campbell comes here and swears you did give him drink, will that be false?—It is very likely I did.
436. You do not swear you did not, then?—No, I might have done so. I do not think I spoke to Campbell at all, until the day of the election.
437. Do you remember Belfield?—Yes.
438. Had you known him before?—Many years.
439. He is a jolly fellow, is he not?—He is a drunken fellow—he is a knacker.
440. Do you remember meeting him at the Star Hotel?—During that ten days?
441. Yes?—Never.
442. Do you remember meeting him at any other hotel, the Commercial Hotel?—Never.
443. Or the Union Hotel?—Never.
444. And you never gave him anything to drink?—Never in my life.
445. Between the time of the agreement and the election?—I may have given him one on the evening of the election, but never gave him any during that ten days. He kept a sly grog shop somewhere out of the town, and I remember seeing him coming out of the polling booth after he had polled, and I asked him whether he had exercised his franchise, and he said he had. Previously to that I had never met him during those ten days, and very likely I might then have given him a nobbler that night, for I saw him in a public room drunk.
446. You were there the day of the nomination, were not you?—I was not.
447. Do you remember the day of the polling up there?—Perfectly well.
448. Did not you ask Belfield on the polling day, and also on a previous occasion, to have some glasses of brandy and water?—Never; that is, not previous to his having polled. I am quite confident on that point. I thought of sending two or three messengers for him, and I wondered where he was, that he had not been in town on such an occasion; but I could not find any one who knew where his tent was, and the first time I saw him was after he came out of the polling booth after polling.
449. Why did you want to send for him?—To come up and vote.
450. Whom was he to vote for?—I do not know.
451. Did you ask him whom he was going to vote for?—I never asked him on behalf of Mr. Kaye.
452. Did you know whom he was going to vote for?—Never. I never asked him for Mr. Kaye; I did not know where to find him.

Mr. W. J. Disher,  
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453. You did not find him previous to the election?—Previously to the nomination I did.
454. Since you have been agent for Mr. Kaye?—No; I never met him since then, until on the day of the polling, after he had polled.
445. If he is prepared to swear that you did, what would you say?—I do not care what he swears.
446. You mean that he might be wrong?—Yes; I should be sorry for my word to be put in juxta position with the word of such a man as that.
457. Do you know a man of the name of Bourke?—Mr. Williams's scrutineer; I do.
458. Did you give him anything to drink?—I do not think it. I had no dealings with any of his party.
459. Whose party was he?—Williams's party.
460. Did not you want to bring him over to your party?—No, I should be very sorry.
461. His vote was worth having, was not it?—Yes; but I never had any confidence in him.
462. Then you did not give any refreshment to any man you could not rely on?—I never gave any refreshment at all.
463. You draw a subtle distinction between eating and drinking. I use the term refreshment in a general sense, in the way of drinking as well as eating?—If it was a man I knew, I would not ask him to drink with me, if I did not like him; but if it was a stranger, I would give him the benefit of the doubt, and ask him what he would have.
464. On the occasions of giving these people drink, did you ever give out any of the cards at the same time?—Never.
465. When did you give out the cards?—I gave them when I made a personal canvass with Mr. Hervey and Mr. Stewart.
466. When you made a canvass with Mr. Hervey and Mr. Stewart you gave Mr. Kaye's cards?—Yes.
467. Had Mr. Hervey and Mr. Stewart cards?—No; they were there in person.
468. And you never associated the gift of a card with the gift of a nobbler?—Never.
469. That you swear?—Confidently.
470. Did they ever follow each other pretty rapidly, if they were not simultaneous?—There never was occasion for it; all the cards were left at the people's own residences. I never gave the cards personally. I never gave them personally in public houses.
471. Did you ever give away any in the streets when you met any of the electors?—I do not think we did.
472. Do you recollect going to Sydney lately?—I do.
473. Can you tell the committee the day on which you went?—I forget the day of the month—it was last Thursday three weeks.
474. Do you remember the name of the boat you went by?—The *Telegraph*.
475. Was that the day some of the cricketers went?—The very day; I went with them.
476. Was anybody with you when you went. Did anybody that we know here go down to Sandridge with you, or meet you there?—My wife went, and I took my child.
477. Was Mr. Kaye down with you?—No.
478. Did not he see you off?—No.
479. Not in the *Telegraph*?—No. I saw Mr. Kaye in the morning, and I told him I would be back on the 27th; and he said, "Be sure you are, you will very likely be wanted," and I was back on the 26th.
480. And the boat started, when?—On the 8th, I think it was.
481. Did you intend going any further than Sydney?—I had not the slightest idea of it. My children were in Sydney, and I went to bring them from school.
482. Did Mr. Kaye know you were going?—Yes.
483. You told him?—Yes.
484. Do you remember any conversation you had with him on the subject?—I said, "I cannot wait, my children are away from school for the Christmas holidays, and I want to bring them home;" and he said, "Be sure you are back."
485. Did not you ask him if he would want you?—I knew he would want me.
486. Did not you say, you supposed your evidence would be wanted?—I suppose I might. We had no particular conversation upon the subject; that I am quite confident of.
487. Do you remember any of the people who were on board the *Telegraph*? Was Sir William a'Beckett there?—Yes; the Chief Justice and his brother.
488. You say that Mr. Kaye was not with you on this occasion, when you left by the *Telegraph*?—I am quite certain he was not.
489. And you did not see him on the quay, or anywhere near?—Never.
490. Did Mr. Kaye expect you back when you came?—Yes; I told him I would be back before the 27th.
491. Have you seen Mr. Kaye since you came back?—Yes; frequently.
492. Have you had any conversation with him about this inquiry?—No; not particularly. We have had conversations about other business; not upon this particularly.
493. You did not ask at all what you would have to say before the committee?—No, I did not require it; I can say enough for myself. I do not want any man to dictate to me what to say.
494. Have not Mr. Kaye and you come to any agreement as to the sort of evidence to be given?—Not the slightest.
495. Are you sure?—I am sure about it.

496. And there was no offer of Mr. Kaye's to pay your passage to Sydney?—No. I only wish he had. I cannot think what can have given rise to such an idea, I am sure. Mr. W. J. Disher,  
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Cross-examined by *Mr. Dawson*.

497. Before you made any agreement with Mr. Kaye to be his agent, had you been agent for two or three other gentlemen?—I had made arrangements with two others.

498. Do you recollect having an interview with Mr. Kaye, in the presence of Mr. Stewart, before you went up?—Yes.

499. Do you recollect a conversation in which Mr. Kaye requested you to be very particular as to not involving him in any breach of the Bribery Act?—Yes; I told him I had the Act in my pocket to guide me how to act.

500. Will you state to the committee what conversation you had with Mr. Kaye with reference to that subject upon that occasion?—I really could not. I do not recollect any conversation particularly, further than his cautioning me to be careful about bribing people. He said, "Be careful that you do not bribe people, or give them drink, or so on."

501. You distinctly recollect receiving that caution from Mr. Kaye in the presence of Mr. Stewart before you went up?—Yes, I think more than once he said, "Be careful about that."

502. You think he told you more than once not to infringe the provisions of the Act, in fact?—Yes; I had read the Act two or three times over, and knew exactly what conduct to pursue.

503. The £200 that you received was a sort of certain bonus to cover all your expenses and the remuneration for your exertions on Mr. Kaye's behalf?—It was.

504. Do you happen to recollect whether that was mentioned before you went up or not?—I do not remember whether it was mentioned.

505. It might have been?—It might have been, but I do not think it—I do not recollect it.

506. But still it might have been?—It might have occurred. I knew the task I had to undertake, and the fatigue and exposure I should have to undergo—it was an awful road.

507. The roads were bad about that time?—They were fearful. Mr. Hervey said he would not have gone up for £500 in consequence, and Mr. Highett's head, and coat, and hat went out through the top of the coach, I heard.

508. Then, in point of fact, if you did, during your visit to Beechworth at this time, give anybody drink, it was not with a view to influence them on behalf of Mr. Kaye?—Not in the slightest.

509. And his name was never mentioned so as to bring him into connection with anything of the kind?—No, and Mr. Hervey and Mr. Stewart will bear me out in that. I do not think I was five minutes out of their presence.

510. Was not Mr. Kaye's election, as far as you know, conducted with as much freedom from any breach of the Election Regulations as any election could be?—I never saw an election conducted so fairly and justly amongst the various competitors in my life. That was Mr. Hervey's opinion as well as mine, and I think he mentioned it to Mr. Highett; and he said that, even if he had been a defeated candidate, he would have complimented me on the manner in which I worked for Mr. Kaye, that he could not have found fault in the slightest way with any undue measures I took. He said so to myself, and I think he said so to Mr. Highett.

511. Then is it the fact that, before the £200 cheque was given you by Mr. Kaye upon your return after the election, Mr. Kaye asked some other gentlemen, who were present, whether they thought it fair?—Yes. I am sure he asked Mr. Stewart.

512. He asked Mr. Stewart if he thought it fair for your exertions and travelling expenses?—Yes.

513. And then, without any inquiry how you spent it, Mr. Kaye gave you the cheque?—He did.

514. *By Mr. Mitchell*.—Was there, or was there not, a distinct agreement between you and Mr. Kaye before you went up that you should receive £200?—I do not recollect it.

515. Was there or was there not, yes or no?—No.

516. *By the Chairman*.—Can you remember how long before the day of election it was that you went round with the cards and distributed them at the different dwelling houses?—It was from the time I arrived up to the day of election, I think.

517. Had you these cards printed when you went up?—No, I got them done at Beechworth. I might have commenced to distribute them fully eight hours after we got there. I do not think it was so much. We commenced our canvass on the following day after I arrived.

518. You went up a volunteer as Mr. Kaye's agent, you did not go up in your private capacity as a spirit merchant?—I went up in that way, though I did other business when I was up there. I had that in my eye at the time I went.

519. Did you give drink to any persons besides those you met in your business as a spirit merchant?—Yes, I have no doubt I did, but it arose in this way—it was a miserable hole and dreadful weather, and I could not live there without a nobbler or two, and I went in and saw people there and asked them, just as I usually do in any house in town. I would do it now—just a casual call.

520. *By Mr. Power*.—Were you not aware it was more necessary for you to be cautious on the occasion of an election, with those instructions which you have spoken of given you?—Perfectly.

521. And in the face of that you treated. You did not depart from your usual practice?—

Mr. W. J. Disher, I used all the precaution that was necessary; I never did anything of the kind when I thought I would bring Mr. Kaye or myself into question for a moment, and on many occasions I did not know who I was treating, as I very often do not know if I go into a house now, with a view of soliciting business. I ask the landlord first, and generally anybody else round about—it is a matter of daily occurrence, and it is expected of us.

522. Were you there seeking for business?—In prosecution of my business.

523. *By Mr. Bunny*—[through the Committee].—Did you do any private business up there at all during this period?—Yes, I did.

524. With whom?—With Mr. Meldrum for one. I asked Fisher for business—I did no business with him. I solicited business from Fisher, but he had a very large stock at the time.

525. Mr. Stewart is a wine and spirit merchant also, is he not?—Yes.

526. And Mr. Williams also?—Yes.

527. Did not you make those solicitations on behalf of Mr. Stewart?—On one occasion I did.

*The witness withdrew.*

Mr. William Kelly called and sworn.—Examined by *Mr. Bunny*.

528. You have seen Mr. Disher here to-day?—Yes.

529. And you have seen Mr. Kaye here to-day?—Yes.

530. Do you remember the 8th of January last?—I do not recollect the 8th of January particularly.

531. Do you remember the day the *Telegraph* sailed, with Sir William a'Beckett on board, for Sydney?—Yes, I do.

532. Did you see anybody at Sandridge on that occasion?—I saw in the first instance Mr. Stewart, and Mr. Disher, and Mr. Kaye, on the platform, at the terminus in town; and Mr. Goodman, and Mr. Mackinnon, jun., I think, also saw them there. I went down with the train, and Mr. Disher and Mr. Kaye went in the same carriage, I think, to the best of my recollection. I saw them afterwards on the pier at Sandridge, Mr. Kaye and Mr. Disher together; I walked down quite after them. I went to see the *Telegraph* off myself. Mr. Disher went on board the *Telegraph*, and Mr. Kaye returned. I heard Mr. Kaye swear to-day that he did not see Mr. Disher on that occasion. Mr. Goodman, I think, also saw Mr. Kaye and Mr. Disher together on that occasion, and young Mr. Mackinnon also.

Cross-examined by *Mr. Dawson*.

533. Do you remember the day particularly?—I remember the day particularly. I remember Mr. a'Beckett being on board; and Mr. Biers, whom I went to see, was on board on that occasion.

534. On board the *Telegraph*?—Yes; Mr. Biers, one of the umpires. I walked down the pier after getting out of the carriage, and Mr. Disher and Mr. Kaye were both before me walking down the pier.

535. Do not you know it to be a matter of fact that Mr. Disher went to Sydney to get his children back?—I do not know at all his object in going to Sydney. My reason for remembering it is, that Mr. Hihett came and told me that Mr. Goodman told him that Mr. Disher had gone; and then that brought it to my memory that I had seen him there.

536. It struck Mr. Hihett that Mr. Kaye was spiriting off his agent, because he was visiting a sister colony at the time of a most celebrated cricket match?—I only state the fact of having seen Mr. Kaye and Mr. Disher before they went into the train and after they came out of the train, and going down from the train to the boat. Mr. Goodman and Mr. Mackinnon, jun., saw them on the platform in town together. To the best of my belief, Mr. Goodman and Mr. Kaye had some conversation before the train started; for Mr. Goodman came from Sandridge and Mr. Kaye was going to Sandridge, and I believe they had some conversation.

Re-examined by *Mr. Bunny*.

537. You say you saw Mr. Disher go on board the *Telegraph*?—Yes; I think I saw him go on board.

538. *By Mr. Dawson*—[through the Committee].—Were they in the same carriage?—I will not be certain. They might not be in the same compartment, but I think they were in the same carriage. I could not swear even to their being in the same carriage, the same train I can swear to.

539. How far were you behind Mr. Disher?—Walking down the pier?

540. Yes?—I think about the length of this room.

541. And how far do you say Mr. Kaye was from Mr. Disher?—They were walking together, as I think. I am not exactly sure. I think they did walk to the end of the pier together to where the *Telegraph* was lying.

*The Chairman* stated that the committee thought it immaterial whether Mr. Disher went on board in company with Mr. Kaye or not.

*The witness withdrew.*

Mr. Henry Elmes Campbell called and sworn.—Examined by *Mr. Bunny*.

542. You are a solicitor?—Yes.

543. You live at Beechworth?—Yes.

544. Do you know Mr. Disher?—Yes.

545. Do you know the Commercial Hotel, Beechworth?—Yes.

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Mr. Henry Elmes  
Campbell,  
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546. Did you ever see Mr. Disher there?—Yes.

547. Do you remember when?—On one occasion it was, I think, the Saturday of the meeting about mid-day.

548. Do you remember the election for the Eastern Province?—Yes.

549. What meeting is this you are speaking of?—A meeting that was held for the purpose of the candidates addressing the electors, and it was on the day of this meeting, which was in the evening, that I saw him.

550. You saw Mr. Disher there, you say?—Yes.

551. Do you remember anything particular that he did?—He ordered some porter, I think—it was some porter or ale—some bottled porter or ale.

552. Where was he then?—Up stairs in the sitting room.

553. Was anybody there?—Yes, there were some dozen people there.

554. Did you know any of them personally by name?—There was Dr. Crawford.

555. Was he an elector?—Yes.

556. Do you know James Meldrum?—Yes; I believe he was there.

557. Is he an elector?—Yes.

558. Did you see Mr. Disher give him anything to drink?—Yes; I was passing through the room out to the verandah outside—I was with a friend, seeing some daguerreotypes, and Mr. Disher asked me whether I would have a glass of anything with him, and I declined. He had on the table some bottles of either ale or porter, I do not know which. He was drinking with the others at the same time. I think Dr. Crawford had some with him.

559. *By Mr. Dawson.*—You think so?—I have no doubt of it.

560. *By Mr. Bunny.*—Did you hear Mr. Disher order any drink?—He ordered some.

561. Did you hear him offer it to any parties besides yourself?—Yes; Dr. Crawford had a glass with him, I have no doubt.

562. Have you seen Mr. Disher since you have been down here?—Yes, I have.

563. Have you had any talk to him?—No; I have only said "good morning" to him.

564. You have had no conversation about this inquiry?—No.

Cross-examined by *Mr. Dawson.*

565. You were one of Mr. Hightett's party, were not you?—I was scrutineer for Mr. Hightett.

566. Nothing more?—Nothing more.

567. You took no interest in his election?—I went with him to the electors the day before the election; I introduced him to some of the electors, those that were in the township that I knew.

568. How long were you in this room you speak of, looking at the daguerreotypes?—I went to look at some daguerreotypes with a friend who was going to have his likeness taken; they were on the verandah, and I passed through the room.

569. And whom did you see when you were there?—Dr. Crawford and James Meldrum, and whom else I cannot recollect; there were others.

570. How long were you in the room altogether?—The same time it would take to pass from one side of the room to the other.

571. And you happened to be in the very nick of time while this was being given out in this way. Who ordered the porter?—Mr. Disher.

572. Was it brought in in the bottle?—Yes.

573. And glasses?—Yes, on a tray.

574. Who poured it out?—I do not know.

575. You do not know who poured it out?—I think it is possible Mr. Disher did.

576. Of course it is possible, but you do not know who poured it out?—He was standing at the corner of the table with it before him as I passed into the room.

577. Was the cork drawn?—Yes.

578. And the glasses filled?—Yes.

579. Who poured it out?—I will not swear that he poured it. I think it is very likely the waiter poured it out.

580. Did you see it poured out?—It was all poured out.

581. When it was brought in was the cork drawn or not?—It was drawn.

582. Was the corkscrew on the tray?—I cannot say.

583. If you took so much notice of it, cannot you say who poured out this porter into the glasses?—Very likely it was the waiter.

584. We do not want "very likely?"—Then I do not know. I cannot answer the question.

585. You cannot answer who poured it out, or who had any of it?—I say, who had some of it.

586. Who?—I saw Dr. Crawford have some.

587. How near was he to Mr. Disher at the time? Was Dr. Crawford standing or sitting when he drank it?—He was sitting on a bench as I passed.

588. How far from Mr. Disher?—About a yard and a half.

589. And you distinctly swear to his having taken a glass off the tray and helped himself to it—will you swear that?—He had a glass with Mr. Disher, but whether it was handed to him by Mr. Disher, or whether the waiter took it to him, I do not know.

590. Then you do not know that it was one of the glasses brought up?—He was drinking at the same time.

591. Will you undertake to swear that he drank some of the very identical porter out of

Mr. Henry  
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one of the very identical glasses that you swear the waiter brought in. Will you answer that question—yes or no. Will you swear that Dr. Crawford drank some of the identical porter out of one of the identical glasses the waiter brought in?—I believe he did.

592. Will you swear that upon your oath?—I saw Dr. Crawford drinking.

593. Will you undertake to swear to this committee, upon your oath, that it was some of the very same porter out of one of these glasses?—Yes I will.

594. Then who poured it out?—I tell you I do not know.

595. You were simply passing through at the time?—Yes, and I shook hands with Dr. Crawford.

Re-examined by *Mr. Bunny*.

596. Have you known Dr. Crawford long?—Yes, ever since I have been on the Ovens.

597. Was he in the habit of carrying glasses of porter about in his pocket?—I never saw him doing so.

598. Did you see any other porter in glasses in the room besides what you have mentioned?—No.

599. *By the Chairman*.—How long had you an opportunity of seeing Mr. Disher treating Dr. Crawford; was it only during the time you were passing through the room?—I was in the verandah, and had seen him in the room through the doors before I went into the room.

600. Had you seen what was going on in the room before you came into it?—Yes; I was backwards and forwards on the verandah, and merely passing through the room. I shook hands with Dr. Crawford, and I think with another gentleman, and during this time Mr. Disher asked me if I would join them, but I did not.

601. *By Mr. Power*.—Did you hear Mr. Disher order the ale or porter?—Yes.

602. You heard him order it?—Yes.

603. *By the Chairman*.—Where were you when you heard him order it?—Either on the verandah or just coming into the room; I think it was on the verandah. This daguerreotype gallery was a little room on the verandah.

604. Was there anybody else drinking in the room besides Dr. Crawford?—There were seven or eight people there, you say?—Yes, there were others there.

605. Was there other liquor on the table?—Yes, I think there was.

606. Was there other porter on the table, or ale, or whatever it was those two were drinking?—I do not think there was, but I am not positive about that.

607. And you are quite sure that the ale or porter Dr. Crawford drank was the ale or porter ordered by Mr. Disher?—I have no doubt it was. I have already stated it was handed to him from the porter he was drinking; from the same tray. He was sitting at the table, and it was handed from him to Dr. Crawford, or he came and took it, I am not positive which.

608. It was part of the porter produced to Mr. Disher's order?—Yes.

609. *By Mr. Fawkner*.—Can you swear Dr. Crawford did not have any porter himself there that day?—No, I cannot.

610. Can you swear that this porter he drank was not called for by Dr. Crawford himself?—I have said that this porter that I saw was sent for by Mr. Disher.

611. Then you never lost sight of it from the time it came in till he drank it?—I left him there.

612. If you did lose sight of it, how can you swear it was the same?—He ordered porter, and part of the porter he ordered was drunk by Dr. Crawford; porter or ale, I do not know which it was.

*The witness withdrew.*

William Daniel Bourke called and sworn.—Examined by *Mr. Bindon*.

Wm. D. Bourke,  
3rd Feb., 1857.

613. What are you?—I am at present in business at Snake Valley, near Beechworth.

614. Are you an elector for the Eastern Province?—Yes.

615. Do you remember the last election for the Eastern Province?—Yes.

616. Do you know Mr. Disher?—Yes.

617. Do you remember meeting him at Beechworth?—Yes.

618. Do you know the Star Hotel, at Beechworth?—Yes.

619. Did you ever meet Mr. Disher there?—Yes.

620. Do you know when?—A day or two before the election.

621. Did you see anything particular going on there in the way of drinking?—Yes, I saw some drinking.

622. Was he in a private room or at the bar?—At the bar.

623. Did you see him offer drink to any people there?—He asked me to drink, and I drank with him.

624. Did he pay for your drink?—Yes.

625. Did you see him offer drink to anybody else?—I did.

626. Did you see him pay for any drink?—I saw him bringing in the drink, I did not see him absolutely pay for it.

627. Do you know Mr. Belfield?—Yes.

628. Have you seen him lately?—Yes.

629. Did you hear him say anything about coming down to give evidence here?—He said he would not come down, unless he was obliged to do it.

630. Did he give any reason why he would not come down?—He said he did not wish to come.



631. Did he give any ground why he did not wish to come?

*Mr. Dawson* objected to the question.

*The Committee* decided that the question could not be put.

632. *By Mr. Fawkner*—You say he treated you?—He asked me to drink with him.

633. And you drank with him?—Yes.

634. Did he ask you to give your vote for the drink?—No, certainly not.

635. Did you hear him ask any person to give his vote to the sitting member, *Mr. Kaye*?—No, certainly not.

636. Were you friendly with *Mr. Disher* at the election?—I was agent for *Mr. Williams* at the election.

637. *By the Chairman*—Did you know *Mr. Disher* was agent for any one else?—I heard him say so. I was with *Mr. Williams*; at the time that I drank he was in my company.

*The witness withdrew.*

*Frederick Kidd* called and sworn.—Examined by *Mr. Bunny*.

638. Do you come from *Beechworth*?—I do.

639. Do you know the *Union Hotel*?—Yes.

640. Were you barman there at the time of the election?—Yes.

641. Do you remember *Mr. Disher* coming to the *Union Hotel*?—I do.

642. Do you remember how long he was there?—About eight or nine days, I think.

643. Do you remember how he was living there?—He was lodging in the house; he staid there; he was one of the members staying in the house. All the members staid there, except one or two.

644. Had he a private room?—I do not know. I know we gave them the best rooms we had in the house between them, that is *Mr. Stewart*, and *Mr. Disher*, and *Mr. Hervey*.

645. Was any dinner-giving going on during this period?—Yes, one or two.

646. In this room?—Not in the bedrooms, but in the parlor.

647. Had you no private sitting room?—The room was a public room, but whenever they dined it was generally kept to themselves.

648. What was the extent of these dinners, do you know; how many people were there generally?—From ten to twelve or fourteen.

649. Was *Mr. Disher* one of the parties giving the dinners?—He was there.

650. Who were the company; do you know—were they residents on the township?—Yes, there was *Captain Price*.

651. Were they voters?—I do not know. In one instance *Captain Price* was there, and *Dr. Crawford*, and there was *Mr. A. B. Pritchard*, and *Mr. Whitty* the auctioneer; I do not remember them all. I merely went up to serve the wine.

652. They were pretty liberal dinners, were not they?—Yes.

653. What is the *Beechworth* price per head for a good dinner?—We used to charge three shillings.

654. But for a private dinner?—I forget almost what we did charge; I believe I made out the bill.

655. Whom did you give the bill to?—I made out the bill to *Mr. Stewart*.

656. For all these dinners?—The whole of the account was lumped together, and I made it out in *Mr. Stewart's* name.

657. Has it been paid?—I believe there was an agreement made. It was made over to *Mr. James Meldrum*, the landlord's brother, to go to his debit on account of some transactions that took place between *Mr. Stewart* and him at *Wangaratta*; I did not see any money pass; I had to debit it to the account of *James Meldrum*. I understood there was something of the sort as a set-off between *Mr. Stewart* and *James Meldrum*.

658. Can you tell the committee the amount of this bill?—I do not remember exactly what it was.

659. Within a pound or two?—There was a small amount of money borrowed up there, and that was included in the bill. The bill was not a great bill in itself.

660. What was the amount of the bill?—If I recollect rightly, it was £100 and odd.

661. Was it £150?—I really cannot recollect exactly.

662. Are you sure it was not £150?—I would not be sure at all; I could not swear to it, either one way or another.

663. It might be £150?—It might be £150.

664. Was it in one amount, or were there different items?—I find the items in the day book separately.

665. Have you got your books here?—*Mr. Meldrum*, who is down as a witness, has brought the day book with him—you will see all in one page; *Mr. Hervey's* account, *Mr. Disher's* account, and *Mr. Stewart's* account. I put them down separately, so that if I had to make out the bills separately, I should know what I was about.

666. Who told you to make the bill out in the name of *Mr. Stewart*?—I went up and inquired, and *Mr. Stewart* said, "Make it out in my name."

667. Did you keep the book?—I did.

668. Did *Mr. Disher* order any of these dinners?—The order was generally given to *Mr. Meldrum*. I think it was in September he came up.—[*The account book was produced and explained by the witness.*]

669. Did *Mr. Disher* pay that little trifling amount? The only amount down to *Mr. Disher* is 11s.?—I do not know.

*Wm. D. Bourke,*  
*continued,*  
*3rd Feb., 1857.*

*Frederick Kidd,*  
*3rd Feb., 1857.*

Frederick Kidd,  
continued,  
3rd Feb., 1857.

670. It appears that from the 11th to the 16th the only expenses that Mr. Disher was put to were, "drink, 7s. 6d.," and a few glasses of ale; in all, £1 0s. 6d.?—Mr. Disher might have given orders to the servants to serve more drink, but I always put it down to Mr. Stewart.

671. Do you ever remember Mr. Disher giving orders for any of this drink?—No; I do not, individually.

672. Can you inform the committee how it is, that there is no horse, and no bed, and no dinner, and no breakfast, in this account—it seemed that Mr. Disher lived upon ale?—We do not take notice of that; we only take notice of the arrival of a gentleman, and when he goes away; we charge so much per meal, or so much per week. That account is only for drink alone.

673. Then it was a sort of distribution by lot who had to pay for this, and the other gentlemen never grumbled at being put down for the great bulk of it?—Mr. Stewart said —

*Mr. Dawson* objected to the witness stating what Mr. Stewart said.

*Mr. Bunny* was heard in support of the evidence.

*The Chairman* stated that the committee were of opinion that anything stated in the presence of Mr. Disher was evidence.

674. *By Mr. Bunny*.—When the bill was taken to Mr. Stewart, was Mr. Disher there?—I cannot remember.

675. Did you ever present any bill to Mr. Disher?—I did not; I asked whom I should make the bill out to, whether in one name or in three separately, and Mr. Stewart himself answered, that I could make it out in his name.

676. *By the Chairman*.—Was Mr. Disher present?—Mr. Disher was present when I asked that question about the bill, but I did not make the bill out till the next day.

677. *By Mr. Bunny*.—When Mr. Stewart said, "Make it out in my name," did Mr. Disher say anything?—No.

678. Do you know whether Mr. Disher has paid anything?—I believe it was to be share and share alike the whole bill.

679. What makes you believe that; did you hear the parties agree that it should be so?—Mr. Stewart observed to me, that it would not make any difference; I might make it out in his name, and it would be paid jointly.

680. Was that said in the presence of Mr. Disher?—I forget whether Mr. Disher was present at the time—that was the observation he made to me.

681. Do you know whether this bill has been paid?—I do not know, further than I told you just now, that part of the account was debited from Alexander Meldrum to James Meldrum.

682. There was no money passed, you say?—No money, that I am aware of.

683. Do you remember when Mr. Highett arrived at the Union Hotel?—I do.

684. Do you remember Mr. Disher saying anything to you about not letting him come in?—It was mentioned to me, certainly.

685. How was it mentioned; what did Mr. Disher say?—I was told —

686. *By the Chairman*.—What did Mr. Disher say?—Mr. Disher did not say anything to me about it.

687. *By Mr. Bunny*.—Did not Mr. Disher come to you when Mr. Highett was there?—No.

688. Did Mr. Stewart?—Yes.

689. Was Mr. Disher by?—I do not recollect. I was standing in the bar at the time.

690. Mr. Disher did not come to you at all about Mr. Highett?—He did not.

691. You were at the bar chiefly?—Yes.

692. Was Mr. Disher often at the bar?—He used to come into the bar.

693. Did you ever see him giving drink to anybody?—There was very little of that, I know, on the part of Mr. Disher. I do not remember any circumstance or particular instance where he came and shouted for anybody. Mr. Disher was in the bar on several occasions.

Cross-examined by *Mr. Dawson*.

694. He was in the bar on several occasions, and you do not remember any one instance in which he came forward and shouted, you say?—No.

695. There was very little of that sort of thing, you say, on the part of Mr. Disher?—Mr. Disher did not go very extensively in in our place at any rate—I do not know whether he did up stairs.

696. I am only asking you about what you saw yourself. You say there was very little of that sort of thing on the part of Mr. Disher?—Yes, in the bar.

*The witness withdrew.*

The Honorable Benjamin Williams (a Member of the Council) sworn.—Examined by *Mr. Bunny*.

The Hon.  
Benj. Williams,  
3rd Feb., 1857.

697. You are a member of the Legislative Council?—I am.

698. Do you remember the election for the Eastern Province?—I do.

699. Do you recollect going to Beechworth?—I do.

700. Do you remember meeting Mr. Disher there?—Yes.

701. Were you staying at the Union Hotel?—No.

702. Do you remember seeing any treating or giving refreshments to any voters by Mr. Disher while you were up there?—Yes, I did.

703. Can you mention any instances in which you saw him doing so?—Giving to voters?

704. Yes, or electors. I suppose you know the different parties there who were electors. Did you ever see him give to any person whom you knew to be an elector any refreshment or drink during the time between the nomination and the election at Beechworth?—Yes.

705. Can you mention any instances?—There is one gentleman who was interested for me, an elector. I believe on one occasion Mr. Disher did treat him, at least along with me; in fact, it was very general—drinking was very generally going on there.

The Hon.  
Benj. Williams,  
*continued,*  
3rd Feb., 1857.

706. Where?—At Beechworth.

707. Did you see Mr. Disher order any drink and give it to anybody?—Yes.

708. I believe Mr. Disher was not interested for you?—No.

709. Did you know whom he was acting for?—Yes.

710. For whom?—Mr. Kaye.

711. Did you hear him ever express that when he was giving any of those drinks?—

O yes.

712. Can you mention any instance of any words that he uttered?—I cannot. He generally put himself forward as Mr. Kaye's agent, and used to ask them, "When you vote for others, will you vote for Mr. Kaye. When you vote for Mr. Stewart, will you vote for Mr. Kaye."

713. Can you swear as to having ever heard Mr. Disher, while giving drink to anybody, put himself forward as Mr. Kaye's agent?—O yes.

714. Have you seen the two acts done together—the act of giving drink and the declaration of agency together?—I cannot charge my memory exactly.

715. Can you remember any instance in which, when he was asking a party to vote, he also asked the same party to drink?—No, I cannot.

716. You say he was continually putting himself forward as the agent of Mr. Kaye, and also continually asking people to drink?—Yes, he was generally asking, and he was very generally asked himself.

717. Do you know any instance of Mr. Disher endeavouring to persuade a party to vote for Mr. Kaye, do you remember his asking any person for a vote?—Yes.

718. Can you fix any particular place or time in any one instance?—I cannot.

719. Do you remember whether, in any of the hotels, you ever heard him ask any party to vote?—Yes, I have heard him very generally ask when there were electors by, when we have been in the hotel.

720. Did you see any drinking going on whilst this canvassing was going on?—O yes.

721. Did you ever hear Mr. Disher order any drink whilst this canvassing was going on?—Yes.

722. Did you see any money pass from Mr. Disher to anybody—did you ever see Mr. Disher give any money to an elector at Beechworth?—I cannot recollect.

723. You cannot remember?—No.

Cross-examined by *Mr. Dawson.*

724. When Mr. Disher has expressed himself as agent for Mr. Kaye, he has also expressed himself as agent for somebody else at the same time, and then asked, "Could you give a vote for Mr. Kaye as well?"—Yes.

725. His principal object has been to ask for somebody else, and then to get a vote thrown in for Mr. Kaye, in that way?—Yes, certainly.

Re-examined by *Mr. Bunny.*

726. He was canvassing for two parties?—Yes.

*The witness withdrew.*

The Honorable James Stewart (a Member of the Council) sworn.—Examined by *Mr. Bunny.*

727. You are a member of this House?—Yes.

728. Do you remember the election of the Eastern Province?—I do.

729. Do you know a person of the name of Disher?—I do.

730. Well?—Yes.

731. Do you remember being up at Beechworth with him?—Yes.

732. Do you remember his representing Mr. Kaye down there?—Yes.

733. Did you ever see him canvassing for Mr. Kaye?—Yes.

734. Did you ever see him treating or giving refreshments to any body?—Any spirits?

735. Spirits, wine, or beer?—Yes.

736. Frequently?—Pretty often.

737. While canvassing for Mr. Kaye, was this ever going on?—He was canvassing for others besides Mr. Kaye at the same time.

738. But he was canvassing for Mr. Kaye?—Yes.

739. Did you ever know him associate the giving of refreshment with canvassing for Mr. Kaye?—Never.

740. You never knew him ask a party to vote for Mr. Kaye whilst the refreshment was going on?—Never.

741. Have you seen him give refreshment to electors?—I have seen him give refreshment to many—I have no doubt some of them were electors. I do not know it of my own knowledge.

742. Do you know many of the electors there?—I only saw them at that time, I knew some of them before.

743. Were any you knew taking nobblers with Mr. Disher?—No.

744. Do you know whether he ever gave any dinners at the Union?—I am sure he did not.

745. Did not he join with some parties who did give dinners?—Never, to my knowledge.

746. Was not there a heavy bill to be made out?—Yes, there was.

The Hon.  
James Stewart.  
3rd Feb., 1857.

The Hon.  
James Stewart,  
cross-examined,  
3rd Feb. 1887.

747. Had not Mr. Disher something to do with that?—He had not.
748. Not at all?—No.
749. You do not mean that?—I do mean it.
750. Were not you asked whether the account should be made out in the joint name or separately?—Asked by whom?
751. The waiter?—In what joint names?
752. Mr. Disher's, Mr. Hervey's, and Mr. Stewart's?—Mr. Hervey's and Mr. Stewart's.
753. Not Mr. Disher's?—No.
754. Was not Mr. Disher one of the parties who gave orders on this occasion for the dinners?—No, he never did. I am speaking of the particular dinner you are alluding to, I presume. Of course we had a dinner every day.
755. Did not Mr. Disher ever entertain his friends to your knowledge?—Never.
756. Then Mr. Kaye's hospitality was not well represented by Mr. Disher in that event?—I cannot say as to that. I know he never did.
757. Do you know who paid Mr. Disher's expenses up there to Beechworth?—I suppose it was myself.
758. Then Mr. Disher had not to pay any expenses himself?—I expect to get it.
759. You wish you may get it, you mean. How do you expect to get it—from Mr. Disher?—Yes.
760. The whole of his expenses?—The travelling expenses, but not the expense of this dinner.
761. He was there a week or so at the hotel, was he not?—I suppose he was.
762. Who paid his expenses there?—It was included in our bill.
763. Do you expect to get that?—I should like to get it.
764. Did you ever ask for it?—I have done so.
765. But if he does not want to pay, I suppose you will not press him very hard?—I do not think I will.
766. You do not expect, at all events, that he will pay anything towards that dinner—he was a guest I suppose with the rest of them?—Yes.
767. Did he invite any of the friends, do you know?—He could not; he had not it in his power.
768. Who issued the cards of invitation?—There were no cards issued at all.
- Cross-examined by *Mr. Dawson.*
769. Were you present at the interview between Mr. Kaye and Mr. Disher before Mr. Disher went up?—I was present a day or two before.
770. Do you recollect Mr. Kaye giving Mr. Disher any general instructions as to how he was to conduct himself with reference to the election?—I heard Mr. Kaye give him an outline of what he was to do in going up the country.
771. Will you repeat to the committee what he said, as far as you recollect?—His expression was, "You are to take care and not to get me into a mess by being too fond of treating at public houses," and I also said so, knowing that Mr. Disher is one of those people who, if they have money in their pockets, will spend it, and sometimes when they have not.
772. Did Mr. Kaye in your presence distinctly warn Mr. Disher?—He did.
773. Will you try and recollect the exact warning that he gave him?—I cannot recollect the exact words.
774. The effect?—The effect was this—I am not sure whether we had not the Act reading over at the time, but I know Mr. Kaye was very anxious indeed that Mr. Disher should behave in a manner not to get him into trouble, and myself also told him so, because he was acting for me as well as for Mr. Kaye.
775. You both warned him; but Mr. Kaye especially, you recollect, warned him?—Yes.
776. May I ask you whether the election, as far as Mr. Kaye's interest was concerned, was carried out with that spirit as far as you could ascertain—did Mr. Disher act up to the spirit of his instructions in the proceedings he took on behalf of Mr. Kaye—did Mr. Disher, while acting as Mr. Kaye's agent, act up to Mr. Kaye's instructions, so far as you could observe?—Most distinctly.
777. Had you an opportunity of seeing Mr. Disher?—I had, every day.
778. Were you constantly with him during his canvass?—Not constantly, but very frequently; the fact of the matter was, that Mr. Disher knew many of the electors that I did not know, and I went with him for my own sake—not for Mr. Kaye's sake.
779. *By the Chairman.*—Did you hear any agreement made between Mr. Kaye and Mr. Disher previously to his going up?—I fancy I was present; I know I had a conversation with both parties respecting the amount, and I think I was present also.
780. What did Mr. Kaye tell you? If you had a conversation with both parties, you have no right to tell what Mr. Disher told you. What did Mr. Kaye tell you?—Mr. Kaye told me that Mr. Disher had asked him £200, and he said to me, he thought it was full much. I said, well, I did not think it was, because the expenses were great and the travelling at that time was very bad, and I thought £200 as little as he could offer.
781. That was before he went up?—Before he went up.
782. *By Mr. Bunny.*—The £200 was offered before he went up?—The agreement was, as far as I remember, that Mr. Kaye was to give Mr. Disher £200. Mr. Kaye said he thought it was over much, and I made the observation that I thought it was little enough; in fact, I thought it was too little.

*The witness withdrew.*

*Mr. Bunny* applied to be allowed to put in the declaration of Francis Belfield, that witness having positively refused to attend the committee.

*The Chairman* inquired whether *Mr. Bunny* could prove the service of the summons on Belfield.

*Mr. Dawson* stated that he would admit the service of the summons.

*The Committee deliberated.*

*The Chairman* intimated that the committee had decided that they would not reverse their decision at a former meeting relative to the reception of declarations.

*Mr. Bunny* applied to the committee to report the circumstance of the non-attendance of the witness Belfield to the Council; as with that a President's warrant might issue, and the proper officers of the Council be instructed to procure the attendance of the witness under arrest.

*The Chairman* inquired whether the examination of this witness would close the petitioner's case.

*Mr. Bunny* replied in the affirmative.

*Mr. Dawson* stated that, in order to close the inquiry, he would consent to the declaration of Belfield being put in, on condition that the other side would, if he thought it necessary, allow him to recall *Mr. Disher*, to ask him whether he had not for a long time known Belfield, and asked him to have many glasses of brandy and water.

*The Chairman* stated that *Mr. Disher* has already proved that.

*The declaration of Francis Belfield was delivered in and read as follows:—*

"I, Francis Belfield, of Beechworth, in the Colony of Victoria, gentleman, do solemnly and sincerely declare that I, being an elector entitled to vote in the election of members to represent the Eastern Province of the said Colony in the Legislative Council, was on two several occasions, between the day of nomination of candidates for the said province in the said Council and the day of polling at the said election, requested by William John Disher to accept glasses of brandy or other liquors in the Star Hotel, in Beechworth, and that the said William John Disher paid for such glasses of liquors; and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the ninth year of the reign of Her present Majesty, entitled 'An Act for the more effectual abolition of Oaths and Affirmations taken and made in various departments of the Government of New South Wales, and to substitute Declarations in lieu thereof, and for the suppression of voluntary and extra-judicial Oaths and Affidavits.'

(Signed)

"FRANCIS BELFIELD.

"Declared at Beechworth, in the Colony of Victoria, this nineteenth day of January, One thousand eight hundred and fifty-seven, before me,

(Signed) "M. PRICE, P.M."

*Mr. Bunny* inquired whether, in the event of the committee deciding against the sitting member, the other side would admit the petitioner, *Mr. Highett*, to be the next on the poll to the lowest elected candidate.

*Mr. Dawson* replied in the affirmative.

*Adjourned to this day, at half-past five o'clock p.m.*

TUESDAY, 3RD FEBRUARY, 1857.

[*Adjourned Meeting.*]

MEMBERS PRESENT:—*Mr. Bennett*, in the chair; *Mr. Fawkner*, *Dr. Hope*, *Mr. Mitchell*, *Mr. Power*, *Mr. Vaughan*.

*The Chairman* inquired whether *Mr. Bunney* wished to insist upon his right of again addressing the committee; as, if not, the committee were prepared to give a decision upon the matter.

*Mr. Bunny* replied, that he thought he could not safely leave the case without making some comments upon the evidence, and was heard to sum up the evidence on behalf of the petitioner.

*The Chairman* stated that the committee would not be in a position to say whether they would call upon *Mr. Dawson* to go into the case on behalf of the sitting member until they had the printed copies of the evidence before them, and that the committee would accordingly adjourn from time to time, *pro forma*, until they had had time to consider the evidence already given.

Ordered—That this committee be adjourned until Friday next, at eleven o'clock.

TUESDAY, 17TH FEBRUARY, 1857.

MEMBERS PRESENT:—*Mr. Fawkner*, in the chair; *Mr. Bennett*, *Mr. Mitchell*, *Mr. Vaughan*, *Dr. Hope*, *Mr. Henty*, *Mr. Power*.

*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 agreed not to require any defence by the sitting member on the question of treating, but desired to hear *Mr. Dawson* on the charge of bribery, under the second clause of

the 19th Victoria, No. 11. That, in order to afford Mr. Dawson an opportunity of looking into such authorities as he might wish to consult or otherwise, the committee would, if Mr. Dawson wished, at once adjourn to a future day.

*Mr. Dawson* stated that he would prefer availing himself of the offer of an adjournment.

*Ordered*—That this Committee be adjourned to Friday next, at eleven o'clock.

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TUESDAY, 24TH FEBRUARY, 1857.

MEMBERS PRESENT:—Mr. Fawkner, in the chair; Mr. Bennett, Mr. Henty, Dr. Hope, Mr. Mitchell, Mr. Power, Mr. Vaughan.

*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:—

“That William Kaye was guilty of bribery, under the 3rd section of the 2nd clause of the Elections Regulations Act, at the last election for the Eastern Province.”

*Ordered*—That this Committee be adjourned to to-morrow, at ten o'clock.

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WEDNESDAY, 25TH FEBRUARY, 1857.

MEMBERS PRESENT:—Mr. Fawkner, in the chair; Mr. Bennett, Mr. Henty, Dr. Hope, Mr. Power, Mr. Vaughan.

*Mr. Bunny* applied to be informed when the committee would entertain and determine upon the question of costs.

*The Committee deliberated.*

*The Chairman* stated that the committee were unanimously of opinion that each party should pay their own costs.

The Committee agreed to the following additional resolutions, viz. :—

“That William Kaye, Esq., is not duly elected a Member of the Legislative Council for the Eastern Province.”

“That the last election for the said Eastern Province, so far as regards the return of the said William Kaye, Esq., is a void election.”

“That the foregoing resolutions be reported to the Council.”

The Chairman was directed to report the above resolutions to the Council.

## No. 4.

Parliament Houses,  
Melbourne, 26th March, 1857.

SIR,

By direction of the President of the Legislative Council, I do myself the honor to transmit, for the information of His Excellency the Governor, the enclosed Report of the Elections and Qualifications Committee, in the matter of a Petition against the return of a Member for the Eastern Province.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed)

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

The Honorable the Private Secretary,  
&c., &c.

## No. 5.

VICTORIA.

## ELECTION FOR EASTERN PROVINCE.

RETURN to an Address of the Legislative Council, dated 27th May, 1857, for—

1. A copy of a Protest made by the Honorable William Kaye against the issue of a new Writ for the holding of and the election for the Eastern Province.
2. A copy of any opinion furnished to the Government by the Law Officers of the Crown, relative to the said Protest of the Honorable William Kaye, and the last election for the Eastern Province.

(The Hon. T. McCOMBIE.—27th May, 1857.)

Ordered by the Council to be printed 4th June, 1857.

Bourke-street west,  
Melbourne, 30th March, 1857.

SIR,

I have the honor herewith to transmit a protest against the issue of a new Writ of Election for the Eastern Province, as pursuant upon the finding of the Committee of Elections and Qualifications of the Honorable the Legislative Council, in the matter of the Eastern Province Election Petition, which I have to request you will have the goodness to lay before His Excellency the Governor.

I have, &amp;c.,

(Signed)

WILLIAM KAYE.

The Honorable the Chief Secretary.

(COPY.)—PROTEST.

WHEREAS the Committee of Elections and Qualifications of the Honorable the Legislative Council did, on the twenty-fourth day of February ultimo, resolve as follows :—

“That William Kaye has been guilty of bribery, under the 3rd section of the 2nd clause of the Elections Regulation Act.”

And did further, on the twenty-fifth day of February ultimo, resolve as follows :—

“That William Kaye, Esq., is not duly elected a member of the Legislative Council for the Eastern Province.”

And also :—

“That the last election for the said Eastern Province, so far as regards the return of the said William Kaye, Esq., is a void election.”

And whereas, on the said twenty-fifth day of February ultimo, an unsigned document was laid on the Table of the Honorable the Legislative Council, purporting to be a Report of the Committee of Elections and Qualifications of the Legislative Council, embodying the foregoing

EASTERN PROVINCE.—g.

resolutions, and reporting accordingly : And whereas, on the twenty-seventh day of March now instant there was officially issued by the Government a Supplement to the *Victoria Government Gazette*, containing a notice to the effect that Your Excellency, as Governor of the Colony of Victoria, has issued a Writ for a new Election for the Eastern Province, in consequence of the last election for the said Province, so far as regards the election of William Kaye, Esq., having been declared void : Now I, William Kaye, Esquire, sitting member of the Honorable the Legislative Council for the said Eastern Province, respectfully protest to Your Excellency against the issue of a writ for a new election for the said Eastern Province on the following grounds, viz. ;—

1st. Because the said unsigned document is not authenticated as a report of the Committee of Elections and Qualifications, and consequently cannot be received as such.

2nd. Because the reference made as regards bribery to the Committee of Elections and Qualifications was not to inquire whether William Kaye was guilty of bribery, under the 3rd section of the 2nd clause of the Elections Regulation Act, but whether he gave the money referred to as an act of bribery for a certain defined purpose, and consequently the Committee, in arriving at a resolution upon a question not referred to it, and assuming to decide upon it without reporting the same to the Council for its opinion and decision, exceeded its powers.

3rd. Because the resolutions of the Committee on the twenty-fifth February ultimo, hereinbefore quoted, being based on the unwarranted resolution of the previous day, are also in excess of the powers of the Committee.

4th. Because the Committee has only power to determine finally in questions actually referred to it.

5th. Because, being a determination upon a question not referred to the Committee of Elections and Qualifications, the resolution of the 24th February ultimo, hereinbefore referred to, should not have been acted upon by the Honorable the President of the Council as a final determination, but should have been laid before the House for its opinion and decision, as required by the 67th section of the Electoral Act of 1856, and should not have been notified to Your Excellency until the Council had confirmed the resolution of the Committee, and made such order therein as to the said House seemed proper.

6th. Because, even supposing the resolution of the Committee of Elections and Qualifications, finding that William Kaye has been guilty of bribery under the 3rd section of the 2nd clause of the Electoral Regulation Act to be such a resolution as the Committee was warranted to come to a final determination upon, the Committee is not invested with the power assumed of declaring, "that the last election for the said Eastern Province, so far as regards the return of the said William Kaye, Esquire, is a void election;" the power with which the Committee is invested by law leaving no option of declaring an election to be otherwise than "wholly void," if declared void at all, as has been done in this case.

7th. Because, therefore, Your Excellency, in attempting to give effect to the resolutions of the Committee of Elections and Qualifications, assumes functions and powers not only not appertaining to Your Excellency's office, but subversive of law, and invasive of the rights of protester and of the powers and privileges of the Honorable the Legislative Council.

Given under my hand at Melbourne, this thirtieth day of March, Eighteen hundred and fifty-seven.

(Signed) WILLIAM KAYE.

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## No. 6.

(COPY.)—OPINION.

16th April, 1857.

We have read Mr. Kaye's letter of the 30th March ultimo and his protest, and we are of opinion that no step can be taken by His Excellency the Governor under that protest.

None of the statutes which collectively make up the constitutional law of the colony provide that such a protest may be addressed to the Governor, nor is the Governor empowered to take any of its allegations into consideration.

The protest in fact is in the nature of an appeal to the Governor against a decision of the Elections and Qualifications Committee, an appeal which is not given by statute and which is not warranted by the law and custom of Parliament.

Although no particular form of notification of a vacancy is prescribed by the Electoral Act—although such notification is not even required to be in writing—we think it would have been better had the President himself, by some instrument under his own hand, notified the fact to the Governor that a vacancy had occurred.

(Signed) H. S. CHAPMAN,  
Attorney General.

Solicitor General.



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COPY OF OPINION FROM ATTORNEY GENERAL.

If the President order Mr. Kaye to be taken into custody wrongfully, he will be liable to an action of trespass.

The test of wrongfulness is, whether Mr. Kaye is or is not a member of the Legislative Council.

Although the Act provides that the decision of the Committee on Elections and Qualifications shall be final, I cannot doubt the power and authority of the Legislative Council, as guardian and judge of its own privileges, to decide whether the Committee has or has not acted without any jurisdiction or beyond its jurisdiction. Hence, if the Council decide that the Committee has acted without jurisdiction, and that therefore Mr. Kaye is still a member, I think the President would not be justified in removing him. Nor would the President, under such circumstances, be justified in swearing in another member, as such member would be one in excess of the number required by law.

If the Council approve of Mr. Kaye's right to sit, I think the President would not be justified in questioning his right to vote.

Whatever doubts have been raised as to the power of Colonial Legislatures over strangers offending against their rules, no doubt has existed as to their power over their own members and their own electors.

(Signed) H. S. CHAPMAN,  
Attorney General.

1856-7.

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VICTORIA.

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# GRANTS OF LAND.

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Return to Address:

THE HONORABLE J. P. FAWKNER.—28<sup>TH</sup> MAY, 1857.

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LAI D UPON THE COUNCIL TABLE BY THE HONORABLE W. H. F. MITCHELL, AND  
ORDERED BY THE COUNCIL TO BE PRINTED 23<sup>RD</sup> JUNE, 1857.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

A RETURN of all Lands granted without purchase, to which Trustees have been appointed and approved of, from the 1st January, 1857, to 30th April, 1857; a List of the Names of the Trustees; the Purpose the Lands were given or granted for; the Quantity of Land and Place in which it is situate; the Day of the acceptance of the Trustees, and the Day on which such acceptance appeared, together with the Number of the *Gazette* in which they were published; designating the various Sects for which they were made or granted.

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NOTE.—Although the words “given or granted” are used in the within Return, in accordance with the Honorable J. P. Fawkner’s Motion, none of the Lands mentioned therein have, as yet, been alienated from the Crown. Portions of ground, when applied for, have for several years past been set apart as sites for religious and educational purposes, and the names of Trustees for such sites approved of and gazetted when requested; but these portions of ground are nevertheless liable to be, and in some instances have been, resumed by the Government if not occupied by permanent buildings within a reasonable time, or if required for more important public uses; and it is only for the portions permanently occupied the Deeds of Grant now issue.

RETURN of all LANDS GRANTED WITHOUT PURCHASE to which TRUSTEES have been appointed and approved of from 1st January, 1857, to 30th April, 1857.

NAMES OF TRUSTEES.	Purposes the Lands were given or granted for.	Place where Land is situated.	Quantity of Land given.	When Trustees appointed.	When gazetted and Number of Gazette.	
					Date.	No.
The Lord Bishop of Melbourne, Venerable T. B. C. Stretch, Dr. Foster Shaw, Edward Willis, Charles Nantes, Frederick Champion, and Charles Sladen	Church of England Gram- mar School	Geelong ... ..	A. R. P. 3 0 0	1857. March 14	1857.	
Right Rev. J. A. Goold, Rev. Eugene O'Connell, John Connell, James Mahony, and Michael Egan	Roman Catholic Church, School, and Dwelling	Darley ... ..	2 0 0	March 28	April 3	34
Right Rev. J. A. Goold, Rev. John O'Connell, John P. Rowe, Daniel Hughes, and Thomas Tester	"	Prahran ... ..	2 0 0	February 14		
Right Rev. J. A. Goold, Rev. John Kennedy, John Connor, Daniel McAlary, and Patrick Skehan	"	Tarrawingee ... ..	2 0 0	February 23	March 6	23
Right Rev. J. A. Goold, Rev. H. Backhaus, Michael Brennan, John Glinnon, and John Daly ...	"	Long Gully ... ..	1 3 4	February 28		
Right Rev. J. A. Goold, Rev. Robert Downing, John Bryan Fitzgerald, Thomas Finn, and Simon Minogue	"	S. Portland ... ..	2 0 0	March 28	April 3	34
Right Rev. J. A. Goold, Rev. Eugene O'Connell, Philip Cantwell, James Egan, and Michael Shannon	"	Ballan ... ..	2 0 0			
Right Rev. J. A. Goold, Rev. John O'Connell, Edward Higgins, Andrew Doyle, and John Collins	"	Sandridge ... ..	1 0 0	April 18	April 24	42
Right Rev. J. A. Goold, Rev. R. F. Fennelly, George Russell, Jeremiah Coffee, and L. Proat ...	"	Creswick ... ..	2 0 0	"	"	"
Right Rev. J. A. Goold, Very Rev. J. B. Hayes, John Daly, David Fitzpatrick, and J. H. Dunne	"	Ballaarat ... ..	2 0 0	"	"	"
Right Rev. J. A. Goold, Rev. Patrick Smyth, Patrick Keating, Edward O'Keiffe, and L. Murphy	"	Castlemaine ... ..	2 0 0	April 27	May 1	46
Evan Davies, Lewis Jones, Thomas Morgan, David Williams, and Jenkin Davies ... ..	Church site for Welsh Cal- vinistic Methodists	Forest Creek Road	0 1 36	February 23		
William Vazie Simons, C. A. Kerr, Wm. Matthews, Robert Hocking, and John Louis Croom ...	Mechanics' Institute ...	White Hills ... ..	...	February 14	February 24	19
George Docking, Ellis Livock, William Rodgers, Thomas Barnes, and Robert Craig ... ..	Church sites for Primitive Methodists	Castlemaine ... ..	1 0 0	April 18		
George Docking, Arthur Budge, Elice Kirton, M. Leverington, and Richard Scantlebury ...	Industrial Purposes ... ..	Campbell's Creek ...	1 0 0	"		
National School Board ... ..	National School ... ..	Yangery ... ..	3 0 0	February 14		
Ditto ... ..	"	Colac ... ..	1 0 0	January 17		
Ditto ... ..	"	Hamilton ... ..	1 0 0	"		
Ditto ... ..	"	Whiroo ... ..	2 0 0	March 28		
Ditto ... ..	"	Belvoir ... ..	2 0 0	March 14		
Ditto ... ..	"	Benalla ... ..	1 0 0	January 17		
Ditto ... ..	"	Cavendish ... ..	1 0 0	"		
Ditto ... ..	"	Moonee Ponds ... ..	1 0 0	"		
Ditto ... ..	"	Wangaratta ... ..	0 2 0	"		
James Forrester Sullivan, E. N. Emmett, John Harney, William Harris, William Henry Neale, W. V. Simons, and Dugald McDougald	Cemetery ... ..	Warrnambool ... ..	1 2 0	April 20		
George Hope, William Lowe, and Duncan McCallum ... ..	Free Presbyterian Church Purposes.	Back Creek, Sand- hurst	20 0 0	March 28	April 3	34
		Yowang ... ..	2 0 0	March 3		

By Authority: JOHN FERRIS, Government Printer, Melbourne.

Department of Land and Works,  
Melbourne, 29th May, 1857.

DAVID MOORE.

1856-7.

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 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.

LAI D UPON THE COUNCIL TABLE BY THE HONORABLE W. H. F. MITCHELL, AND ORDERED BY THE COUNCIL TO BE PRINTED, 7TH JULY, 1857.

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 ... Sydney ...	337 1 2	340
August ...	Hong Kong ...	...	Sydney ...	1 98	
September ...	Hong Kong ...	...	...	279	99
October...	Hong Kong ...	...	Calcutta ...	457 1	279
November ...	Hong Kong ...	...	Adelaide ...	1 78	458
December ...	Hong Kong ...	...	Sydney ... Launceston ...	1 185 2	79
1857.					188
January ...	Hong Kong ...	...	Batavia ...	6 229	235
February ...	Hong Kong ...	...	...	174	174
March ...	Hong Kong ...	Singapore ...	Sydney ...	3 220 4	227
April ...	Hong Kong ...	...	...	280	280
May ...	Hong Kong ...	...	...	203	203
June ...	Hong Kong ...	...	Adelaide ... Sydney ...	387 1 4	392
Total Chinese departed for twelve months ...					2954

## No. 2.

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.	dwt.	ozs.	dwt.
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.

Department of Trade and Customs,  
Melbourne, 7th July, 1857.

## CLERICAL STAFF OF GENERAL POST OFFICE.

LAI'D UPON THE COUNCIL TABLE BY THE HONORABLE W. H. F. MITCHELL AND ORDERED BY THE COUNCIL TO BE PRINTED 15TH SEPTEMBER, 1857.

RETURN of the CLERICAL STAFF of the GENERAL POST OFFICE, with the number of SORTERS, specifying the particular duties of each branch, the number of hours employed daily, the salary of each, with any extra allowance that may be given for extra attendance beyond the usual office hours.

SITUATION.	NAME.	SALARY.	DUTIES OF EACH BRANCH.	HOURS EMPLOYED DAILY.	EXTRA ATTENDANCE.	EXTRA ALLOWANCE.						
<i>Secretary's Branch.</i>												
		Per Annum.										
Chief clerk	Augustus Langston	£700	} Correspondence.	} The clerks in the Secretary's and Accountant's branches work from 9 o'clock till 4 o'clock without any relaxation in the middle of the day.								
Clerk ...	Thos. W. Jackson	400										
" ...	Chr. Hemmy ...	350										
" ...	John L. Lewis ...	325										
Sorter ...	John Williams ...	14s. per diem										
<i>Accountant's Branch.</i>												
		Per Annum.										
Accountant	Bryant Waymouth	£600	} Cash and accounts.									
Clerk ...	James Wiles ...	350										
" ...	Wm. Galbraith ...	350										
" ...	Geo. Collett ...	350										
" ...	Jas. Longcroft ...	325										
<i>Stamp Office.</i>												
Inspector	John Alsop ...	600	Charge of stamps.									
Clerk ...	John B. Casey ...	325	Sale of stamps.									
Sorter ...	Wm. Brew ...	10s. per diem	Ditto.									
<i>Dead Letter Office.</i>												
		Per Annum.										
Inspector	Thos. Pellatt ...	£500	} Dead letter duty.									
Clerk ...	Thos. F. Clerke ...	400										
" ...	Thos. Blunn ...	350										
<i>Mail Branches.</i>												
Resident clerk	W. A. Grover ...	450	Resident clerk's duty and general superintendence of the mail branches.							} All the clerks in the mail branches of the department are required to be in attendance from 9 o'clock until 6 o'clock, one hour being allowed to each in the middle of the day. They consequently work eight hours a day.	} On the arrival and dispatch of the overland mail, say twice a month.	} Leave of absence after the press of business is over from 11 A.M., also an occasional day. <i>Note.</i> —In all cases when extra attendance is given a corresponding absence from duty is allowed.
Clerk ...	John Smith ...	450	Dispatch of inland mails.									
" ...	A. Sievwright ...	450	Ship mails received and newspaper room.									
" ...	Richd. Snow ...	400	Principal sorter } dispatched.									
" ...	J. C. Harrison ...	400	inland mails }									
" ...	Richd. Dunstone ...	400	Ditto ship mails }									
" ...	Edwd. D. Pitman ...	400	Charge of delivery room.									
" ...	Edwd. D. Pitman ...	400	Registry of letters.									
" ...	J. H. Gibbs ...	400	Dispatch of inland mails.									
" ...	H. J. N. King ...	400	Delivery of letters.									
" ...	Edwd. Slack ...	350	Dispatch of inland mails.									
" ...	W. Alexander ...	350	Registry of letters.									
" ...	Thos. Fagan ...	350	Delivery of letters.									
" ...	John O. Rose ...	350	Registry of letters.									
" ...	W. F. Crofts ...	325	Delivery of letters.									
" ...	A. W. Halifax ...	325	Dispatch of inland mails.									
" ...	* Hugh McLachlan	325	Opening of ditto.									
" ...	Thomas Baxter ...	325	Delivery of letters.									
" ...	Thomas Murray ...	325	Ditto.									
" ...	John Watt ...	325	Dispatch of ship mails.									
Sorter ...	Arthur J. Wyse ...	14s. per diem	Delivery of letters.									
" ...	R. L. Brown ...	12s. "	Dispatch of inland mails.									
" ...	A. L. Nicholls ...	12s. "	Delivery of letters.									
" ...	Robt. Kennedy ...	12s. "	Ditto.									
" ...	W. P. Newton ...	11s. "	Ditto.									
" ...	Wm. Baron ...	11s. "	Letter carrier's branch.									
" ...	Chas. Baker ...	11s. "	Ditto.									
" ...	John Johnstone ...	10s. "	Delivery of letters.									
" ...	Frank Lawrence ...	10s. "	Ditto.									

\* This clerk comes at 6 A.M. to open the night mails, and leaves at 1 P.M.

NOTE.—The clerks in the delivery room come at 8 A.M., in rotation to sort the letters, and leave at 5 P.M., thus working the same number of hours as the others.

The resident clerk has house, wood, &c., allowed for extra attendance and receipt of night mails. [See answer to question No. 587, page 25 of Report of Board on evidence taken.]

General Post Office,  
Melbourne, 15th September, 1857.

## VICTORIA.

LANDS SOLD WITHIN THE BOUNDARIES OF THE  
CITY OF MELBOURNE.

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL,  
THE HONORABLE N. GUTHRIDGE.—26TH AUGUST, 1857.

A RETURN, showing the quantity of LAND in acres within the boundaries of the City of Melbourne, sold by the Government to the 30th day of June, 1857, inclusive; also the AMOUNT of MONEY RECEIVED for the same, distinguishing the quantity of Land sold and the amount of money received for the same in each year of the above period. Also, a similar RETURN with respect to the Municipality of Emerald Hill, from its formation to the 30th June, 1857.

LAI D UPON THE COUNCIL TABLE BY THE HONORABLE W. H. F. MITCHELL, AND ORDERED BY THE COUNCIL TO BE PRINTED 17TH SEPTEMBER, 1857.

RETURN of all LANDS within the boundaries of the City of Melbourne, which have been sold from the foundation of the Colony to the 30th June, 1857; also, the AMOUNT of MONEY RECEIVED for the same in each year.

YEAR.	EXTENT.			PROCEEDS.			YEAR.	EXTENT.			PROCEEDS.		
	A.	R.	P.	£	s.	d.		A.	R.	P.	£	s.	d.
1837	84	2	8	6,791	0	0	1848	6	2	24	2,369	0	0
1838	31	3	12	6,918	13	0	1849	77	1	0	11,420	10	0
1839	343	2	8	7,900	2	0	1850	14	2	20	4,721	0	0
1840	nil			nil			1851	16	0	0	12,201	0	0
1841	2	0	35	2,236	5	0	1852	100	2	18	131,718	0	0
1842	nil			nil			1853	419	1	18	377,762	0	0
1843	nil			nil			1854	23	3	4	63,275	0	0
1844	0	1	36	360	0	0	1855	24	1	11½	17,351	0	0
1845	12	2	32	610	0	0	1856	8	1	24	7,763	7	9
1846	32	0	32	1,700	0	0	1857 to	10	1	19	16,690	10	0
1847	41	0	15	11,159	12	0	30th June.						

Public Lands Office,  
Melbourne, 2nd September, 1857.

DAVID MOORE.

RETURN of all LANDS within the Municipality of Emerald Hill which have been sold since its formation (May, 1855) to the 30th June, 1857; also, the AMOUNT of MONEY RECEIVED for the same in each year.

YEAR.	EXTENT.			PROCEEDS.			YEAR.	EXTENT.			PROCEEDS.		
	A.	R.	P.	£	s.	d.		A.	R.	P.	£	s.	d.
1855	0	2	26½	410	0	0	1857 to	0	2	0	710	0	0
1856	nil			nil			30th June.						

Public Lands Office,  
Melbourne, 2nd September, 1857.

DAVID MOORE.



1856-7.

VICTORIA.

EXPENDITURE

OF THE

CORPORATION OF GEELONG.

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL.

THE HONORABLE J. COWIE.—29TH SEPTEMBER, 1857.

ORDERED BY THE COUNCIL TO BE PRINTED 10TH NOVEMBER, 1857.

ACCOUNT of the EXPENDITURE of the sum of Two Hundred Thousand Pounds borrowed by the CORPORATION of GEELONG, under an Act of the Governor and Legislative Council, passed 11th April, 1854 (17 Victoria, No. 23).

EXPENDED ON PUBLIC STREETS.

	£	s.	d.
Moorabool-street—forming, metalling, curbing, and channelling ... ..	7,812	15	0
Bellerine street—forming, metalling, curbing, and channelling ... ..	6,121	12	8
Yarra-street—forming, metalling, curbing, and channelling ... ..	19,692	16	6
Corio-street—forming, metalling, curbing, and channelling ... ..	1,625	16	6
Malop-street—forming, metalling, curbing, and channelling... ..	6,830	0	0
Little Malop-street—forming, metalling, curbing, and channelling ... ..	3,380	9	0
Ryrie-street—forming, metalling, curbing, and channelling ... ..	7,813	3	10
Little Ryrie-street—forming, metalling, curbing, and channelling ... ..	2,275	0	0
Myers-street—forming, metalling, curbing, and channelling... ..	4,837	18	0
Little Myers-street—forming, metalling, curbing, and channelling ... ..	3,403	17	8
McKillop-street—forming and metalling ... ..	2,775	0	0
Maud-street—forming and metalling ... ..	602	0	0
Kilgour-street—forming and metalling ... ..	623	15	0
Fyans-street—forming, metalling, and paved crossings ... ..	1,447	5	0
Brougham-place—forming, metalling, curbing; and channelling ... ..	2,310	0	0
Victoria-terrace—forming and metalling ... ..	400	0	0
Ta Trobe-terrace—forming and metalling, and two culverts ... ..	5,352	9	8
Corio-terrace—forming, metalling, and cutting embankment ... ..	1,646	0	8
Swanston-street—forming and metalling ... ..	1,600	0	0
Gheringhap-street—forming and metalling ... ..	1,450	0	0
Pakington-street—forming and metalling, and repairing bridge ... ..	5,413	0	0
Mercer-street—forming, metalling, curbing, and channelling ... ..	13,008	17	9
Aberdeen-street—forming and metalling ... ..	1,310	10	0
Cavendish-street—forming and metalling ... ..	560	0	0
West Melbourne-road—forming and metalling ... ..	500	0	0
Fyan's-road—forming and metalling ... ..	120	0	0
Dam-road—fencing in and metalling ... ..	478	6	0
Waurm Ponds-road—building bridge ... ..	498	0	0
Colac-road—forming and metalling ... ..	2,400	0	0
Queenscliffe-road—forming and metalling ... ..	588	16	8
Point Henry-road—forming and metalling ... ..	842	5	0
Batesford-road—forming and metalling ... ..	3,400	0	0
German Town-road—forming and metalling ... ..	417	0	0
Regent-street—forming and metalling ... ..	78	0	0
Government lane off Corio-street—forming and metalling ... ..	125	0	0
Government lane off Little Malop-street—forming and metalling ... ..	12	12	0
Royal Mail-lane—curbing and channelling ... ..	79	10	0
Burrow-place—curbing and channelling ... ..	250	0	0
Rock of Cashel-lane—curbing and channelling ... ..	95	0	0
Iron Foot-Bridges, for streets ... ..	540	0	0
Day laborers employed in repairing and cleaning streets ... ..	5,858	14	5
Livery and keep of horses employed on streets ... ..	761	2	0
TOTAL ... ..	£119,336	19	7

## ACCOUNT OF EXPENDITURE BY THE CORPORATION OF GEELONG—continued.

## EXPENDED ON PRIVATE STREETS.

	£	s.	d.
Kardinia-street—forming, metalling, curbing, and channelling	890	10	10
Union-street—forming, metalling, curbing, and channelling	427	5	0
Weller-street—forming and metalling	1,086	16	0
Wellington-street—forming and metalling	1,080	0	0
O'Connell-street—forming and metalling	1,092	8	0
Collins-street—forming and metalling	440	0	0
King and Isabella streets—forming and metalling	106	0	0
William and Margaret streets—forming and metalling	475	0	0
Austin and Clarke streets—forming and metalling	2,273	8	0
Skene-street—forming and metalling	3,020	0	0
Villamanta, Spring, and Hope streets—forming and metalling	2,945	15	0
Autumn-street—forming and metalling	1,290	0	0
Britannia-street—forming and metalling	380	0	0
Coquette-street—building culvert	600	0	0
Gertrude and Park streets—making crossings	44	12	0
Aphrasia street—forming and metalling	425	0	0
Cumberland and Frederick streets—forming and metalling	480	0	0
Noble, Saffron, Clarendon, Russell, and Bond streets—forming and metalling	4,143	0	0
Nicholas and Short streets—forming and metalling	950	0	0
George-street, Kildare—forming and metalling	435	8	0
Spring-street—metalling	50	0	0
Thomson and Bright streets—forming and metalling	1,033	5	0
Naming private streets	22	11	3
<b>TOTAL</b>	<b>£23,690</b>	<b>19</b>	<b>1</b>

*Memo.*—The amounts expended on each street, as exhibited in the above accounts, do not include (save in a few instances) the cost of the materials, which were quarried and prepared under separate contracts, an account of which is furnished below; and I have no means of apportioning to each street the quantity and the cost of the metal, the curbing, and the pitchers used thereon.

HENRY ROEBUCK, Town Treasurer.

## AMOUNTS PAID FOR QUARRYING AND DRESSING MATERIALS USED ON STREETS OF GEELONG, AS PER THE ABOVE SCHEDULES, BUT NOT INCLUDED IN THE SUMS DEBITED TO EACH STREET THEREIN.

	£	s.	d.
Fyan's Reserve Quarry—materials quarried	11,014	5	0
Barwon Quarry ditto	3,374	11	0
Scott's Paddock Quarry ditto	7,620	18	0
Western Gully Quarry ditto	1,176	18	6
Marnockvale Quarry ditto	4,593	18	9
Eastern Reserve Quarry	9,953	16	0
Austin's Quarry	6,723	16	0
Breakwater Quarry	1,368	11	0
Private quarries	1,144	13	0
Metal broken by prisoners at the gaol	1,405	16	11
Materials supplied from Melbourne	189	9	0
<b>TOTAL</b>	<b>£48,566</b>	<b>13</b>	<b>2</b>

## EXPENDED ON OTHER PUBLIC WORKS.

	£	s.	d.
Haymarket—fencing and buildings	1,017	4	9
Slaughterhouses—fencing in and erection of	1,200	0	0
Town Hall—on account of erection of	9,590	0	0
Clock and Tower—on account of	300	0	0
Breakwater—widening	799	0	0
<b>TOTAL</b>	<b>£12,906</b>	<b>4</b>	<b>9</b>

## SUMMARY OF EXPENDITURE.

	£	s.	d.
Public Streets	119,336	19	7
Private Streets	23,690	19	1
Quarrying and preparing Materials	48,566	13	2
Other Public Works...	12,906	4	9
<b>TOTAL</b>	<b>£204,500</b>	<b>16</b>	<b>7</b>

The above abstract was prepared by the Town Treasurer of Geelong.

WM. WEIRE, Town Clerk.

Town Hall, Geelong,  
12th October, 1857.

1856-7.

VICTORIA.

CHURCH AND SCHOOL SITE AT AVENEL.

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL,  
DATED 18TH NOVEMBER, 1857—*for*

COPIES of all CORRESPONDENCE that may have taken place between the Government, or the Head of the Survey Department, and Assistant Surveyor Wilmot, in reference to the changing the original Site for Church and School in the Township of Avenel—(*The Honorable J. Hood*).

ORDERED BY THE LEGISLATIVE COUNCIL TO BE PRINTED 18TH NOVEMBER, 1857.

[COPY.]

Public Lands Office,  
Melbourne, 15th August, 1857.

SIR,

I have the honor to call your attention to the fact that the schoolmaster at Avenel has already erected his house on the ground marked by me as a church reserve for that parish. I noted at the last sale that lots 1, 2, 3, 4, of block IV. (should be block V.) had been also reserved for church purposes. Under the circumstances of the schoolmaster having built, and it being the wish of the majority of the parishioners that the church should be where the reserve, I would beg to suggest that that site be adopted, and the one tinted green (plan B) be cancelled, and the lots included in next sale. I See Plan A.  
Plan B.

I have the honor, &c.,  
(Signed) J. G. WILMOT.

The Honorable the President of the  
Board of Land and Works, Melbourne.

Mr. Wilmot's letter was forwarded, for the information of the Lord Bishop of Melbourne, on 31st August, 1857, and returned on 3rd September, 1857, along with the following minute and memorandum:—

I would beg to draw the attention of the Honorable the President of the Board of Land and Works to this memorandum of the Rev. W. Singleton, incumbent of Kilmore, under whose ministerial charge Avenel is at present placed.

(Signed) C. M.,  
3rd September, 1857.

*Memorandum for the Lord Bishop of Melbourne.*

Mr. Wilmot, the Assistant Surveyor, seems to have made some mistake.

*First.*—The allotments for Church of England purposes in Avenel, granted on application to Government upwards of two years ago, are 1, 2, 3, 4, of block V., and not IV.

*Second.*—The schoolmaster, a few months back, at Mr. Wilmot's suggestion, and by his advice, erected a calico habitation, which surely can scarcely be called a building.

*Third.*—The majority of the inhabitants much prefer the allotment granted to the land applied for, which is beyond the township, and half-a-mile from the bridge, whereas the land granted is near the bridge, and has a fine open space, not to be sold, of nearly one acre between it and Hughes's Creek.

(Signed) WM. SINGLETON.

Registry Office,  
Melbourne, 2nd September, 1857.

The above memorandum was forwarded to Mr. Wilmot, for explanation, on 7th September, 1857.

*Explanation.*

Survey Office, Benalla,  
7th November, 1857.

SIR,

Referring to Mr. Singleton's minute, attached to the accompanying correspondence, I cannot but express my surprise at the tenor of it, Mr. Singleton having stated the last time he was at Avenel "that he would do all he could to induce the Government to grant the site proposed on plan A."

I enclose a list of the names of those parties desirous of having the church reserve, as marked on plan A, also on plan B, from which you will perceive that my statement that the majority of the inhabitants were in favor of the site A was perfectly correct. The only signature in favor of the site B is that of a visitor in the township.

I have the honor, &c.,  
(Signed) J. G. WILMOT.

The Honorable the President of the  
Board of Land and Works, Melbourne.

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Survey Office,  
Benalla, 6th October, 1857.

Those persons anxious to have the Church of England reserve, as shown on plan A, will be kind enough to affix their signatures to this.

(Signed) Lloyd Jones  
John Bignell  
John Mills  
Solomon Rawson  
John Borrows  
William Campion  
John Gillespie  
Esau Shelton  
Richard Shelton  
John Shelton  
Richard Ward  
George Hodge  
Thomas Markas  
Francis Fordick.

A similar request, in regard to plan B, was signed by—  
John Mutton.

Department of Public Lands,  
Melbourne, 18th November, 1857.

1856-7.

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VICTORIA.

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ASSUMPTION OF OFFICE BY SIR HENRY BARKLY.

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ORDERED BY THE COUNCIL TO BE PRINTED, 30TH DECEMBER, 1856.

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HENRY BARKLY,

*Message No. 1.*

*Governor.*

Sir Henry Barkly informs the Legislative Council that, in virtue of a commission under the Great Seal of Great Britain and Ireland, dated at Westminster the ninth day of October, One thousand eight hundred and fifty-six, he has assumed the office of Captain-General and Governor-in-Chief of the Colony of Victoria.

*Government Offices,*

*Melbourne, 30th December, 1856.*

1856-7.

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VICTORIA.

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RESOLUTIONS ON THE SUBJECT OF  
FEDERAL UNION.

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*(Transmitted from the Legislative Assembly with Message of 3rd November, 1857.)*

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ORDERED BY THE LEGISLATIVE COUNCIL TO BE PRINTED 5TH NOVEMBER, 1857.

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1. That the Legislatures of New South Wales, South Australia, and Tasmania, be requested to select three Delegates each, two of whom might be Members of Assembly, and one a Member of Council, to meet three Delegates from this Colony.
2. That these Delegates assembled in Conference be empowered to frame a Plan of Federation, to be afterwards submitted for approval to the Colonial Legislatures, and to receive such further Legislative sanction as may appear necessary.
3. That the expenditure incident to the Conference shall be borne by the respective Colonies in whatever proportions may be fixed by the Conference itself.
4. That the Conference shall hold its meetings in whatever place the majority of the Delegates may determine, their decisions being interchanged in writing within a month of their elections being completed.

1856-7.

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VICTORIA.

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R E P O R T

OF THE

S E L E C T C O M M I T T E E

OF THE

LEGISLATIVE COUNCIL

ON

POSTAGE ON NEWSPAPERS.

---

ORDERED BY THE COUNCIL TO BE PRINTED, 28TH JANUARY, 1857.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

WEDNESDAY, 21ST JANUARY, 1857.

POSTAGE ON NEWSPAPERS.—Dr. Tierney moved, in accordance with *amended* notice, That a Select Committee of seven Members be appointed to prepare an Address to His Excellency the Governor, praying that he will cause to be introduced into the Legislative Assembly a Bill to abolish the Postage on Newspapers; such Committee to consist of Mr. Mitchell, Mr. Patterson, Mr. Clarke, Mr. Thomson, Mr. Hodgson, Mr. McCombie, and the Mover.

Debate ensued.

Question—put

Council divided.

Contents, 13.

Mr. Bennett  
Mr. Patterson  
Mr. Thomson  
Dr. Hope  
Dr. Tierney  
Mr. McCombie  
Mr. Cruikshank  
Mr. Stewart  
Mr. Vaughan  
Mr. Allan  
Mr. Hood  
Mr. Keogh  
Mr. Hodgson (*Teller*).

Non Contents, 12.

Mr. Mitchell  
Mr. Fawcner  
Mr. Miller  
Mr. Strachan  
Mr. Power  
Mr. Hervey  
Mr. S. G. Henty  
Mr. Guthridge  
Mr. J. Henty  
Mr. Roope  
Mr. Cowie  
Mr. Urquhart (*Teller*).

The question was therefore passed.



# REPORT.

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THE Select Committee of the Legislative Council appointed to prepare an Address to His Excellency the Governor, praying that he will cause to be introduced into the Legislative Assembly a Bill to abolish the Postage on Newspapers, have the honor to report to your Honorable House that they have agreed to the following Address.

D. J. TIERNEY,  
*Chairman.*

28th January, 1857.

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*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.*

## THE ADDRESS OF THE LEGISLATIVE COUNCIL OF VICTORIA.

The Legislative Council desire to convey to your Excellency the earnest wish of this House, that your Excellency will be good enough to cause to be presented to the Legislative Assembly, by a Member of your Excellency's Government, sitting in that House, "A Bill to abolish the Postage at present charged on the Conveyance of Newspapers," which postage the Legislative Council esteem injurious to the interest of the community.

1856-7.

VICTORIA.

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# REPORT

OF THE

SELECT COMMITTEE

OF THE

LEGISLATIVE COUNCIL

ON

SALARIES OF OFFICERS OF THE HOUSE.

---

ORDERED BY THE COUNCIL TO BE PRINTED 29<sup>TH</sup> JANUARY, 1857.

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By Authority:

JOHN FEBRES, GOVERNMENT PRINTER, MELBOURNE.

(*Extracted from the Minutes.*)

WEDNESDAY, 21ST JANUARY, 1857.

SALARIES OF OFFICERS OF THE HOUSE.—Mr. Hervey moved, in accordance with *amended* notice, That an Address be presented to His Excellency the Governor, praying that he would immediately cause to be introduced into the House of Assembly a Bill to amend and enlarge the Schedule D of the Constitution Act, so as to cause it to embrace all the salaries and expenses connected with the Legislative Council.

Debate ensued.

Question—put and passed.

Mr. Hervey moved, with leave of the House, That a Select Committee of eight Members be appointed to prepare the Address; such Committee to consist of Messrs. Bennett, Miller, Patterson, Power, Urquhart, Cruikshank, McCombie, and the Mover.

Question—put and passed.

# REPORT.

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THE Select Committee of the Legislative Council, appointed to prepare an Address to His Excellency the Governor, praying that he would immediately cause to be introduced into the House of Assembly a Bill to amend and enlarge the Schedule D of the Constitution Act, so as to cause it to embrace all the salaries and expenses connected with the Legislative Council, have the honor to report to your Honorable House that they have agreed to the following Address.

MATTHEW HERVEY,  
*Chairman.*

29th January, 1857.

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*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.*

**MAY IT PLEASE YOUR EXCELLENCY:**

We, the Members of the Legislative Council, are of opinion that it is derogatory to their body, injurious to their independence, and inconsistent with the dignity of this branch of the Legislature, that the allowances of the Honorable the President and Honorable the Chairman of Committees should be made the subject of an annual vote of the Legislative Assembly; and that such a course, if persisted in, would have a direct tendency in our opinion to impair that good understanding which ought to subsist between the two Houses of the Legislature.

We respectfully submit to your Excellency the necessity of legislative interference, and we pray that your Excellency will cause a Bill to be introduced into the Legislative Assembly for the purpose of amending and enlarging the Schedule D attached to the Act of the Constitution, in order that it may embrace the annual expenditure of the Council.

1856-7.

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VICTORIA.

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R E P O R T

FROM THE

S E L E C T C O M M I T T E E

OF THE

LEGISLATIVE COUNCIL

APPOINTED TO

PREPARE AN ADDRESS TO HER MAJESTY THE QUEEN

ON THE SUBJECT OF

TRANSPORTATION OF FELONS.

---

ORDERED BY THE COUNCIL TO BE PRINTED 24<sup>TH</sup> FEBRUARY, 1857.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

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THURSDAY, 4TH DECEMBER, 1856.

TRANSPORTATION OF FELONS.—Mr. Fawcner moved, in accordance with notice, That a Committee of five Members be appointed, viz., Messrs. Hodgson, Hood, Hervey, the President, and the Mover, to draw up an Address to our Sovereign Lady the Queen, praying Her to refuse Her assent to any and every measure by which the convicted felons of Great Britain can be sent or transported, not only to Australasia, but also prevented from landing in any of the adjacent islands; and that the President do present the said Address to His Excellency the Acting Governor, requesting of him to support the prayer of the Petition.

Debate ensued.

Question—put and passed.

# REPORT.

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THE Committee appointed by your Honorable Council to draw up an Address to our Sovereign Lady the Queen, praying her to refuse her assent to any and every measure by which the convicted felons of Great Britain can be sent or transported, not only to Australasia, but also prevented from landing in any of the adjacent islands, have the honor to bring up the following Address.

J. P. FAWKNER,  
*Chairman.*

24th February, 1857.

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TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble Petition of the PRESIDENT AND MEMBERS OF THE LEGISLATIVE COUNCIL of Victoria,  
RESPECTFULLY SHEWETH:

That the Government of Great Britain in the year 1803 attempted to found a Colony at Port Phillip, and for this purpose sent out, at great cost, two vessels with provisions and people. The attempt, however, resulted in total failure—and the people, although everything was provided for their use, were removed in 1804, and finally settled at Hobart Town.

In 1835 the free colonists of Van Diemen's Land projected the formation of a Colony at Port Phillip, and in August of the same year the first landing took place at Melbourne. These settlers required no assistance from the Government of Great Britain, nor did they receive any. In September, 1836, Sir Richard Bourke took possession of this settlement, made by a few energetic colonists at their own cost, and declared it to be part and parcel of the Colony of New South Wales. He also placed Captain Lonsdale in charge of it, to whom he assigned some score soldiers and laborers, with the usual officers.

For the first year or two the sister Colony of New South Wales advanced the funds to pay these officers, but as soon as the lands were open for sale, this money was repaid, and large sums over and above found an abiding place at Sydney, to the injury of the colonists of Port Phillip.

In 1851 your Majesty was pleased to form us into an independent Colony, and to confer on it the name of Victoria; nor was it long after this important event that gold in great abundance was found throughout the whole of the province.

Up to this period the convict element had not caused any great mischief. Owing to the fixed resistance of the colonists, the number of convicts was in fact inconsiderable. But when the news of our very rich gold fields reached the neighbouring colonies, the free by servitude, the ticket-of-leave holders, and the conditionally pardoned convicts poured in in vast numbers, so that it was calculated that the sixth of our entire adult male population bore the taint of convictism.

It has been charged upon the Governor of Van Diemen's Land, that he stimulated these men by granting them conditional pardons, which permitted them to leave that Colony, but did not allow them to proceed to Britain, the consequences of which were a great increase in the number of convicts, and hence robberies of the person and of dwellings, and outrages on the public roads in the immediate vicinity of Melbourne were the constant occurrences of the day. It was about this time that the *Nelson* was plundered by an armed banditti, and the whole of the gold (8000 ounces) carried off. On another occasion, one of the escorts of gold from the gold fields to Melbourne was stopped at noonday on the public highway and the men shot down recklessly. Murder and robbery became rife throughout the Colony, and the trials showed clearly that the convicts were the perpetrators, together with a few free colonists which they had seduced.

It was in consequence of this state of things that the Colony had to incur an expenditure of upwards of half a million of money per annum for prisons and police, a sum equal to two pounds per head of the whole population, so that if a tax in the same ratio were levied on the population of Great Britain, the sum would amount to a felon tax of fifty-six millions per annum. The exigency of the case was so great, that the Colonial Legislature was compelled to pass a stringent law to prevent the influx of criminals from Van Diemen's Land or elsewhere; yet despite all the precautions used, many of the transported felons of our fatherland have settled in these Colonies and do carry on their dreadful practices amongst us.

From this fearful augmentation of the convict element, the sufferings of the colonists have been so great, and their remembrance of them so vivid, that this Council feel constrained to urge upon your Majesty the propriety, and indeed the solemn necessity of your permitting no transported felons to be landed, not only in any of the Australian Colonies, but in any of the Islands adjacent thereto. They are convinced that it would be impossible to exclude permanently this class of persons from the Colony—that sooner or later they would find their way there, and that the consequences would be not only the commission of a great injustice to us, but, by weakening the restraints of vice, a great injustice also on the mother country.

We would also most respectfully call your Majesty's attention to the following remarks:— Order will perish, lawlessness, robberies, murder, and the most frightful crimes will be paramount, and the ten tons of gold per month sent from this Colony to the parent state, besides an annual exportation of wool amounting to 19,000,000 lbs., the vast employment thereby created and manufactures consumed by the Colonists, amounting to about thirty pounds per head per annum, will be seriously endangered, nay, may be partially, if not wholly, destroyed by means of the convict element.

If the people of Great Britain cannot bear the ticket-of-leave men re-entering their society, if Britain, with its twenty-eight millions, cannot receive into social life, after a probation of months or years, or the efflux of time, those convicts who serve out the various periods of their sentences, how can this Colony, with a limited population of about three hundred thousand, mostly Europeans, and exclusive of Chinese and other Pagans, pay for the coercion and punishment of Great Britain's offenders; and, what is still more serious, in what condition should we be, if the worst criminals of Great Britain, with a population of twenty-eight millions, are forced upon this limited society.

We therefore respectfully pray your Most Gracious Majesty to avert from this people the moral contagion and certain degradation which will most certainly ensue if the transported offenders of the fatherland are sent, allowed, or in any way permitted, to intrude themselves into this comparatively small community. Your Majesty has graciously conceded to us a large amount of political liberty, and you have conferred upon us your Royal name; on these accounts we are anxious to preserve our institutions uncontaminated. Being of opinion that the foundations of a vast empire are already laid in this hemisphere, which should bring glory to the British Crown, we are solicitous that no unhappy bias may be given to its nascent energies, and that nothing may be done to weaken the loyalty which we bear towards your Majesty's person.

And your Petitioners will ever pray.



1856-7.

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VICTORIA.

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PROGRESS REPORT

FROM

THE SELECT COMMITTEE

OF THE

LEGISLATIVE COUNCIL

ON

LEGISLATIVE COUNCIL CHAMBER  
DECORATION,

TOGETHER WITH

THE PROCEEDINGS OF THE COMMITTEE.

---

ORDERED BY THE COUNCIL TO BE PRINTED 10TH MARCH, 1857.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

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WEDNESDAY, 28TH JANUARY, 1857.

LEGISLATIVE COUNCIL CHAMBER DECORATION.—The Honorable W. H. F. Mitchell moved, in accordance with notice, That a Select Committee be appointed to consider and report upon the mode in which the Legislative Council Chamber shall be ornamented, and that such Committee consist of Mr. Hood, Mr. Hodgson, the President, Mr. Miller, and the Mover.  
Question—put and passed.

## PROGRESS REPORT.

---

THE DECORATION COMMITTEE have the honor to make the following Progress Report on the matters referred to them—

1. Your Committee are of opinion that it would be undesirable that strangers or any one, except members of the two Houses of Parliament and the officers of the establishment, should be admitted to the refreshment rooms. They would recommend that the President and Speaker should make such regulations as may be necessary until a joint Committee of the two Houses is formed.
2. In reference to the accommodations for the Press, it has been thought most desirable that the proprietors of the daily journals should be invited to confer with the architect, in order that the most convenient arrangement may be suggested, and the President has accordingly directed letters to be addressed to those gentlemen.
3. In reference to the accommodation of the Members, the Committee are of opinion that it would greatly conduce to the appearance of the house, no less than to the comfort of the Members, if the front benches were removed and those next immediately behind continued so as to form an uninterrupted ellipse, except at the entrance at the bar. The architects, who entirely approve of this suggestion, have been directed to communicate with the Commissioner of Public Works, and, with his sanction, to carry the same so far into effect, that the Council may be able to judge of its effect.
4. The Committee have also had under their consideration a representation from Mr. Russell, the housekeeper, pointing out the extreme inconvenience which he experiences for the want of some accommodation for himself and family on the premises, that it is impossible for him to exercise that control over his subordinates which is desirable, and that the records and property of the Council are exposed to much danger during the night. Your Committee fully concur in the propriety of some arrangement being made to obviate this inconvenience, but have not felt justified in taking any steps in the matter without the concurrence of the Council.

J. F. PALMER,

Chairman.

## PROCEEDINGS OF THE COMMITTEE.

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TUESDAY, 3RD FEBRUARY, 1857.

*Members present:—*

The Honorable the President, the Honorable W. H. F. Mitchell, the Honorable John Hodgson,

Mr. Knight called in and examined.

Committee adjourned *sine die*.

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THURSDAY, 5TH MARCH, 1857.

*Members present:—*

The Honorable the President, the Honorable John Hodgson, the Honorable John Hood.

*Resolved:—*

“That the Honorable the President and the Honorable the Speaker, if they be not unwilling, be requested to supervise all matters connected with the refreshment rooms until the appointment of a joint Committee.”

Committee adjourned to Council Chamber to inspect arrangement of seats.

Mr. Knight examined upon the subject of moving seats further back, and filling side entrances from division lobbies with seats.

Committee adjourned *sine die*.

1856-7.

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VICTORIA.

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R E P O R T

OF

THE SELECT COMMITTEE

OF THE

LEGISLATIVE COUNCIL

ON THE SUBJECT OF

CLASSIFICATION OF CLERKS,

WITH

PROCEEDINGS OF THE COMMITTEE AND MINUTES OF EVIDENCE.

---

ORDERED BY THE COUNCIL TO BE PRINTED 11<sup>TH</sup> MARCH, 1857.

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By Authority:

JOHN FEBRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

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WEDNESDAY, 14TH JANUARY, 1857.

CLASSIFICATION OF CLERKS.—Mr. Patterson moved, in accordance with *amended* notice, That a Committee of five Members be appointed to take the subject of the Classification of Clerks into consideration, and to take evidence thereon and report to this House; such Committee to consist of the following Members, viz. :—Messrs. Henty, Fawcner, Thomson, Tierney, and the Mover.

Question—put and passed.

# R E P O R T.

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YOUR Committee, having taken the evidence of such persons as to your Committee appeared most likely to be able to throw any light upon the subject of the classification of the clerks, as well as to represent the feelings and views of those most interested in the question, which evidence is appended, have now the honor to report to this Honorable House as follows:—

That your Committee are unanimously of opinion that the classification of clerks, as appears upon the Estimates for the present year, is not founded upon any system, and upon what data (if any) it has been arrived at your Committee are unable to discover; for whether you regard the classification as one of length of service, amount of emolument, or special duties performed, or any of these combined, it presents inconsistencies altogether irreconcilable with any systematic arrangement. Thus, if you take it for length of service, your Committee find that officers of long service are placed in lower classes than many who have comparatively speaking newly entered the service.

See Evidence—  
Messrs. Belcher,  
McDermott,  
Tyler.

If you take emolument, you find officers enjoying similar amount of salary in different classes.

See Evidence—  
Messrs. Belcher,  
McDermott,  
Tyler,  
Turner.

If you take special duties performed, you will find many officers performing special, and in some cases professional duties, placed in a lower class than others who perform most ordinary routine duties; and if you take a combination of these qualifications, you will find officers of long service performing most responsible duties and enjoying the highest rate of salary placed in a lower class than officers possessing none, or perhaps only one, of these requisites.

See Evidence—  
Messrs. Tomlins,  
Turner,  
Davidson,  
Tyler.

Messrs. Belcher and  
Tyler.

Your Committee are also of opinion that the classification, as it at present stands, has given most unqualified and almost universal dissatisfaction to those to whom it is intended to apply, and that in many instances it is positively unjust. Thus we find that some officers, who on account of their remaining with the Government during the period of excitement created by the first discovery of gold in this Colony were promised favorable consideration, and were in 1852 placed in the second class, are now, after an additional service of five years, instead of being promoted, reduced to the third class.

See Evidence generally.

Messrs. Siewright and  
Smith.

Your Committee would also observe that this classification has been made in an arbitrary manner, those affected by it (with one exception) not being aware such a document was being prepared, and they therefore had no opportunity either to urge their respective claims, or to appeal against the arrangement. In one case, however, it would appear that it became known that a classification was being made, and on representation an alteration was effected. If this could be done in one instance, your Committee are of opinion that all ought to have had a similar opportunity afforded them.

See Evidence generally.

Mr. McDermott.

Your Committee found that the whole of the evidence was so similar and corroborative, that they did not think it desirable to prolong the investigation, as had they done so, it might have caused considerable inconvenience as well as expense, without any corresponding benefit, as the witnesses examined being taken indiscriminately, their testimony

See Evidence generally.

may, it is presumed, afford a fair criterion of the sentiments generally of the clerks employed in the Civil Service.

Your Committee therefore, on a full consideration of the whole of the evidence, recommend that this Honorable House present an address to the Government requesting the disallowance of the present classification, and that if it be thought necessary or desirable to have any classification of clerks in the Civil Service, such classification should be a departmental and not a general one; at the same time throwing open the whole service to the competition of any of its officers of whatever class or grade, so that merit and capacity may, in whatever station found, be eligible for promotion.

Having now reported to your Honorable House upon the subject for which your Committee was appointed, your Committee desire, in reference to certain statements made by the witnesses during their examination by your Committee, to bring certain facts under the notice of this Honorable House, which although not directly affecting the classification of the clerks in the Civil Service, are most assuredly collaterally so, and intimately connected with the efficiency of the public service generally.

See letter from Chief Secretary.

Your Committee have had before them the Report of the Board appointed to inquire into the state of the Civil Service, the views of which the Chief Secretary has intimated to your Committee the Government are prepared to carry out, and would remark in reference to the recommendation of that Board, that Staff Officers should only be selected from the first and second classes, and that, as the classification at present stands, this recommendation would stultify another portion of that Report, which proposes that Clerks of Petty Sessions should be promoted to the Bench as Stipendiary Magistrates, yet how can this be done consistently when, with the exception of three cases, these officers are now placed in the third and fourth classes?

See Evidence—  
Messrs. Grover and  
Siewright.

Your Committee would also observe upon the state of the Post Office department, in which not only do those employed therein have to attend a greater number of hours than any other department, excepting that of the Telegraph Office, without receiving any extra remuneration, but are confined in a building which, from its construction and other nuisances connected with it, is rendered most prejudicial to the health of all employed, causing frequent absences from sickness, and thus throwing a great amount of additional work on those who are able to attend; and in the same department it appears that persons are rated in one grade, but employed in another—in fact, doing the duty of a superior class, but getting pay only as an inferior.

See Evidence—  
Mr. Penton.

See Evidence—  
Mr. Lewis.

Your Committee, in calling attention to the evidence in which these and other facts are disclosed, proving the general dissatisfaction at the present state of the Civil Service and the classification at present adopted, do not feel justified in making any recommendation in reference thereto, as they are subjects upon which strictly speaking your Committee were not appointed to report; at the same time, your Committee did feel that they were bound to direct attention to these facts, elicited as they were in the evidence given before them.

J. H. PATTERSON,

*Chairman.*



## PROCEEDINGS OF THE COMMITTEE.

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WEDNESDAY, 21<sup>ST</sup> JANUARY, 1857.

*Members present :—*

The Honorable J. H. Patterson, in the Chair.  
The Honorable J. P. Fawcner, the Honorable Dr. Tierney.

*Witnesses examined :—*

Philip Stanley Tomlins, W. Redmond Belcher, W. H. Buckley, and J. L'Estrange.  
Adjourned till Monday, 26<sup>th</sup> instant.

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MONDAY, 26<sup>TH</sup> JANUARY, 1857.

*Members present :—*

The Honorable J. H. Patterson, in the Chair.  
The Honorable Dr. Tierney, the Honorable S. G. Henty.

*Witnesses examined :—*

H. Davidson and G. F. Bartrop.  
Adjourned till Thursday, the 29<sup>th</sup> instant.

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THURSDAY, 29<sup>TH</sup> JANUARY, 1857.

*Members present :—*

The Honorable J. H. Patterson, in the Chair.  
The Honorable Dr. Tierney, the Honorable S. G. Henty, and the Honorable R. Thomson.

*Witnesses examined :—*

W. H. Snee, W. A. Grover, D. A. Turner, J. McDermott, and Edward Cotton.  
Adjourned till Thursday, 12<sup>th</sup> February.

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THURSDAY, 12<sup>TH</sup> FEBRUARY, 1857.

*Members present :—*

The Honorable J. H. Patterson, in the Chair.  
The Honorable R. Thomson, the Honorable Dr. Tierney.

*Witnesses examined :—*

Bryant Waymonth, A. Sievwright, J. C. Tyler, D. R. Penton, and John Smith.

A letter from the office of the Chief Secretary, on the Classification of Clerks, was laid before the Committee.

The Committee desire that the Clerk of the Council apply to the Honorable the Chief Secretary for a copy of the rider attached to the Report of the Board appointed to inquire into the arrangements for the best organization of the Civil Service of the Colony; and also, a copy of the evidence taken before that Board.

Adjourned till Tuesday, the 17<sup>th</sup> instant.

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TUESDAY, 17<sup>TH</sup> FEBRUARY, 1857.

No Quorum.

THURSDAY, 19TH FEBRUARY, 1857.

*Members present :—*

The Honorable J. H. Patterson, in the Chair.  
The Honorable R. Thomson, the Honorable Dr. Tierney.

A letter, from the office of the Chief Secretary, in reply to the request of the Committee to be furnished with a copy of the rider attached to the Report of the Civil Service Board, was laid before the Committee.

The Clerk was directed to desire the attendance of Professor Hearne.

The Committee desired that the Honorable the Treasurer be written to, and to state that, before closing their inquiry, they would be happy to receive any information he may lay before them as to the principle upon which the classification of the gentlemen engaged in the public service has been made, or, if the Treasurer would prefer it, the Committee would be glad to receive his evidence *vivâ voce*.

*Witnesses examined :—*

Francis R. Lempriere, H. C. Peters.

The Committee adjourned till Monday, 23rd instant, at twelve o'clock.

MONDAY, 23RD FEBRUARY, 1857.

*Members present :—*

The Honorable J. H. Patterson, in the Chair.  
The Honorable Dr. Tierney and the Honorable R. Thomson.

*Witness examined :—*

J. L. Lewis, who handed in a letter from the Secretary of the Post Office, and also correspondence with the Honorable the Treasurer.

Adjourned till Thursday, 26th February.

THURSDAY, 26TH FEBRUARY, 1857.

No Quorum.

TUESDAY, 3RD MARCH, 1857.

*Members present :—*

The Honorable J. H. Patterson, in the Chair.  
The Honorable J. P. Fawcner, the Honorable Dr. Tierney.

The Committee met, in accordance with notice, to consider the Report which was brought up by the Chairman.

Adjourned till half-past two o'clock on Wednesday the 4th instant, to further consider the Report.

WEDNESDAY 4TH MARCH, 1857.

*Members present :—*

The Honorable J. H. Patterson, in the Chair.  
The Honorable S. G. Henty, the Honorable J. P. Fawcner, the Honorable Dr. Tierney.

The Report was read by the Clerk.

To be further considered on Tuesday the 10th instant, at two o'clock.

## CORRESPONDENCE.

A.  
[COPY.]

58 | 57.

L.C.  
SIR,

Legislative Council Chambers,  
26th January, 1857.

By direction of the Chairman of the Select Committee of the Legislative Council on the Classification of Clerks, I have the honor to request you will be kind enough to furnish the Committee with the following information, viz.—

“What is the rule, or proposed rule, of the service in regard to promotion of clerks to a superior appointment. For instance—is a first, second, third, or fourth class clerk eligible to be appointed from such class respectively to a staff appointment—and if not, from what classes such appointments are proposed to be made?”

I have the honor to be,

Sir,

Your most obedient servant,

(Signed) G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

The Honorable the Chief Secretary,  
&c., &c., &c.

B.  
[COPY.]

G.B.

No. 57 | 205.

SIR,

Chief Secretary's Office.  
Melbourne, 31st January, 1857.

I have the honor to acknowledge the receipt of your letter of the 26th of January, intimating the desire of the Select Committee of the Legislative Council on the Classification of Clerks to be furnished with information as to “the rule, or the proposed rule, of the service in regard to promotion of clerks to a superior appointment.”

In reply, I am directed by the Chief Secretary to refer the Committee to the report of the Commissioners appointed to inquire into the organization of the Civil Service.

The Government propose adopting the rule laid down in that report.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed) J. MOORE.

The Clerk of the Legislative Council.

C.  
[COPY.]

81 | 57.

L.C.

SIR,

Legislative Council Chambers,  
13th February, 1857.

By direction of the Select Committee of the Legislative Council on the Classification of Clerks, I have the honor to convey to you the following extract from the Minutes of Proceedings of the Committee,

“Thursday, 12th February, 1857.

“The Committee desire that the Clerk of the Council apply to the Honorable the Chief Secretary for a copy of the rider attached to the report of the Board appointed to inquire into the arrangements for the best organization of the Civil Service of the Colony; and also, a copy of the evidence taken before that Board.”

I have the honor to be,

Sir,

Your most obedient servant,

(Signed) G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

The Honorable the Chief Secretary,  
&c., &c., &c.

D.  
[COPY.]

L.C.B.

No. 29.

SIR,

Office of Chief Secretary,  
Melbourne, 17th February, 1857.

By direction of the Chief Secretary, I have the honor to acknowledge the receipt of your letter of the 13th instant, containing an extract from the Minutes of Proceedings of the Select Committee on the Classification of Clerks, expressive of the desire of the Committee to be furnished with a copy of the “rider” attached to the report of the Civil Service Board; and also, of the evidence taken before that Board.

In reply, I am to inform you, that the rider to the report is not an official document, and has no reference whatever to the clerks in the employment of the Government.

It has been already mentioned in the Legislative Assembly, that the evidence given before the board is of a confidential character, and is not in the possession of the Government.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed) J. MOORE.

The Clerk of the Legislative Council,  
&c., &c., &c.

Treasury,  
Melbourne, 3rd March, 1857.

57 | 951.

SIR,

In compliance with the wish expressed in a resolution of the Select Committee of the Legislative Council on the Classification of Clerks, that I should afford them any information in my power as to the principle which had guided the Government in the classification of clerks in the service.

I have the honor to state that, in framing the Estimates for 1857, the Government proposed to adopt the four classes of clerks recommended by the Civil Service Board, assigning to each the following rates of salary, viz.:—To clerks of the 4th class, a salary commencing at £200 and increasing yearly by £10, until it should reach £300. To clerks of the 3rd class, a salary commencing at £300 and increasing yearly by £15, until it should reach £450. To clerks of the 2nd class, a salary commencing at £450 and increasing yearly by £25 to £600. And to clerks of the 1st class, a salary of from £600 to £800.

In order to apply this classification to the establishments as at present existing, two points had to be considered :—

1. The number of clerks of each of the four classes sufficient to carry on efficiently the duties of each office.

2. The apportionment of the clerks in each of the existing establishments amongst those classes.

In carrying out the first, the particular character of the office and the nature and importance of the duties to be performed in it, determined the particular talent and ability necessary for doing the work efficiently, and each of the classes into which it has been proposed to divide the service were supposed to represent the talent and ability required.

In classifying the clerks in one or other of the four classes, considerable difficulty arose in assigning to each person the place due to his talents, his experience, and particular knowledge of official routine and his general merits; and in the absence of competitive examination, to which it was not thought desirable the present clerks should be subjected, it was considered the least objectionable course to assume that the salary received by each clerk should generally be held to be an indication of his fitness for the particular class which came within the range of the salary received by him according to the above-mentioned scale.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed)

CHARLES SLADEN.

The Clerk of the Legislative Council,  
&c., &c., &c.,  
Melbourne.

# MINUTES OF EVIDENCE.

WEDNESDAY, 21st JANUARY, 1857.

MEMBERS PRESENT:—Mr. Patterson, in the chair; Mr. Fawkner, Mr. Thomson, Dr. Tierney.

Philip Stanley Tomlins, Esq., examined.

1. *By the Chairman.*—Will you be kind enough to inform the committee whether you are at the head of your department?—I am chief clerk to the law officers of the Crown.

P. S. Tomlins,  
Esq.,  
21st Jan., 1857.

2. How long have you been in that office?—Since November, 1854.

3. What is the salary attached to that office?—£600 a year.

4. Do you know how you are classed on the Estimates for 1857?—I see, according to the printed copies of them, that I am placed on the second class.

5. Do you know how this classification has arisen?—I have not the slightest idea.

6. You have had the same salary this year?—Yes; I never knew anything of any fresh arrangement being made, and although I am a chief clerk in the service I am put upon the second class.

7. Who was your predecessor; was he a professional man?—My predecessor was a barrister, Mr. McCreight, and the duties were prior to that performed by Mr. Adamson, now a member of the Legislative Assembly, assisting the Attorney General.

8. Has the situation undergone any change of classification since those gentlemen filled it?—This is the first time there has been any attempt at classification. Mr. McCreight is now Crown Prosecutor for the Western Division.

9. I think you stated that you are not aware how the classification has arisen. Have you ever been examined before any board as to your competency to fulfil the duties of your office? Never.

10. Do you know if any board has been established for such a purpose?—I am not aware. I was examined before the Civil Service Board, but was not with regard to my qualifications.

11. Have you any reason to complain of this classification, or do you complain about it?—No; I do not care twopence about it so long as my salary is not reduced. I do not look to position; my position was made long since.

12. *By Dr. Tierney.*—But supposing there was to be a first class clerk appointed, do not you think it would be unfair to have that person appointed over your head at the present time?—Most decidedly; it would be very unjust.

13. You are now classed on the second class—supposing a first class clerk were placed over you, would you think it a grievance?—I certainly should.

14. *By the Chairman.*—Have you any guarantee that it will not be done, seeing you are on the second class?—In reading the report of the Civil Service Board, I find that first and second class clerks were recommended to be eligible for what they termed “staff appointments,” and therefore I do not lose any ground by not being on the first class, inasmuch as I am, by this arrangement, eligible to be promoted at once to what is considered a staff appointment.

15. What are staff appointments?—Police magistrates, all judicial officers, Crown prosecutors, deputy sheriffs, &c.

16. Then a clerk in the second class can be transferred from the second class to a staff appointment at once, without going through the first class?—At once. I may perhaps be allowed to state that, when I said I did not feel aggrieved by being placed on the second class, I referred to the fact of my salary not being reduced. I find also that officers of older standing in this colony, and of equal merit, have been put into the second class, and therefore I do not feel aggrieved.

17. *By Mr. Fawkner.*—Do you know how the clerks are arranged in any of the other offices?—Only as I see here [*referring to the Estimates*]. I must say that if I had to rise to the first class previously to my becoming eligible for a staff appointment, I should have felt aggrieved.

18. Do you know any reason why the service should not be classified according to each particular department?—I think it would make the service too departmental. I do not see why there should not be a promotion throughout the whole, without reference to any particular department, and also you would have so many first and second class clerks, and you would not be able to ascertain their efficiency.

19. *By Dr. Tierney.*—Ought not the law department to be an exception to the general rule?—Yes, I think it should, and is, I find, made an exception, inasmuch as any one holding a position such as mine must be possessed of certain qualifications and certain knowledge, without which he would be unable to fulfil its duties.

20. Suppose a second class clerk in any other office, in case of a vacancy occurring, would he be competent to take the higher branches in your department?—He could not, unless he was legally educated; but I am not a professional man myself.

P. S. Tomlins,  
Esq.,  
continued,  
21st Jan., 1857.

21. *By the Chairman.*—What are the peculiar duties of your office?—The Local Courts upon the gold fields and the Municipal Councils are authorised by law to form rules and regulations, and to make by-laws—these are all submitted to the law officers of the Crown to be examined, lest they should be incompatible with each other and the general law of the land, and it falls to my duty to read them, and to see that they are consistent with their own jurisdiction and with the general law of the land, and that those bodies are not exceeding the powers accorded to them.

22. *By Dr. Tierney.*—Have you anything to do with clerks of petty sessions or police magistrates?—Yes; the whole of the returns from the clerks of petty sessions have to pass through my hands.

23. *By the Chairman.*—Then you perform the same duties as a professional man does?—I perform the same duties as Mr. McCreight and Mr. Adamson did perform.

24. *By Mr. Thomson.*—How long have you been in the Government service?—Upwards of twenty years, but not the whole time in this country. In Van Diemen's Land I was a police magistrate, and chairman of quarter sessions, and I also held the office of commissioner of the court of requests.

25. For a long period?—I was four years a police magistrate, and previous to that I was sixteen years chief clerk of police in Van Diemen's Land. I rose from one office to the other.

26. *By Dr. Tierney.*—To return again to that question, that a second class clerk would not be able to fill your present duties if taken from another office?—If he were, he must either have had previous experience or a legal education. He must have acquired legal knowledge which would fit him to undertake those duties which are quite professional.

27. Would you think that a person under you in your office would be better able to fill your office than if taken from a different office?—Yes, undoubtedly.

28. There is no first class clerk in your department?—No.

29. *By Mr. Thomson.*—Had you any notice given you as to what class you were to be put into?—None.

30. *By Mr. Fawcner.*—You are a first class clerk, though put down a second?—I am, clearly. I have not stated half my duties yet. For first, all the criminal depositions of magistrates and coroners have to be read by me before going to the Attorney General, and I have also much work in drafting bills introduced into the Parliament, and many other duties.

31. *By the Chairman.*—I find, on looking over the classification on the Estimates that whether you take the salary on the ground of length of service or the character of the gentleman who holds the appointment, there is no sort of system at all observed?—I cannot say that I understand the system, except that it has been made applicable to the office and not the man, but I know that there is one gentleman put on the first class, with the same salary as myself, whose duties are not at all professional, and whose length of service is far less than many who are put on the second class, with the same salary.

32. *By Mr. Thomson.*—Do you know anything about the cases of the third and fourth class clerks?—No, I do not; I take no notice of such arrangements. My duties require too much attention, so that I do not look after other things.

*The two following commissions were laid before the Committee by the witness :—*

By His Excellency Sir John Franklin Knight Commander of the Royal Hanoverian Guelphic Order Knight of the Greek Order of the Redeemer and a Captain in Her Majesty's Royal Navy Lieutenant-Governor of Van Diemen's Land and its Dependencies.

By virtue of the powers and authorities in me in this behalf vested know you that I have thought fit to constitute and appoint and by these presents do constitute and appoint you Philip Stanley Tomlins of Spring Bay in Van Diemen's Land Esquire as and to be a coroner in and for Van Diemen's Land and its Dependencies.

In testimony whereof I have hereunto set my hand and seal this twenty-sixth day of November 1840  
(One thousand eight hundred and forty).

(Signed) JOHN FRANKLIN.

(L.S.)

By his Excellency's command,  
M. FORSTER.

Seal of the  
Colony of  
Van Diemen's  
Land.

VICTORIA by the Grace of God of the United Kingdom of Great Britain and Ireland  
Queen Defender of the Faith.

*To our trusty and well beloved Philip Stanley Tomlins Esquire*

GREETING

We reposing especial trust and confidence in your loyalty integrity and ability have constituted and appointed and by these presents do constitute and appoint you the said Philip Stanley Tomlins Esquire to be Assistant Commissioner of the Court of Requests to be holden for the Sub-Police District of South Port in our Island of Van Diemen's Land to have hold exercise and enjoy the said office together with all and singular the rights privileges powers and authorities to the same belonging or appertaining or which of right ought to belong or appertain thereto unto and by you the said Philip Stanley Tomlins Esquire during our pleasure.

In testimony whereof we have caused these our letters to be made patent and the great seal of our said Island to be hereunto affixed.

Witness our trusty and well beloved Sir William Thomas Denison Knight our Lieutenant-Governor of our said Island and its Dependencies at the Government House Hobart Town in the said Island this twenty-seventh day of December in the twelfth year of our reign.

(Signed) W. DENISON.  
By His Excellency's command,  
J. E. BECHAM,  
Colonial Secretary.

*The witness withdrew.*

William Redmond Belcher, Esq., examined.

83. *By the Chairman.*—What are you?—I am chief clerk in the City Police Office.
84. How long have you been in that department?—I was appointed clerk of the bench on the 1st of November, 1843.
85. That is thirteen years?—I was previously a junior, and was fourteen months previous to that date in the office. I was promoted from the position of a junior to be chief clerk.
86. You have held that office thirteen years?—Yes.
87. What is the salary attached to that office?—I have £600 a year.
88. What is your classification on the Estimates?—Second class.
89. Do you know how that classification has arisen?—I do not.
40. Have you been examined before any board as to your competency to fulfil the duties of your office?—Never.
41. You can give the committee no information as to how the classification has arisen? No.
42. Are you the head of your department—is any one over you?—I am chief clerk.
43. Do you complain of this classification?—I do.
44. Have you made any complaint to the Government on the subject?—I have; I wrote a letter to Mr. Sturt, the resident magistrate, complaining of the classification as regards myself. I consider that my length of service entitles me to be on the first class. I am not complaining of the salary, for I consider that has nothing to do with it; but I may mention that previous to the period I have already stated I served in the Colonial Government four years—I am going on for nineteen years in the service altogether.
45. May I ask you whether you have ever been offered any other appointment?—Yes, an appointment as police magistrate at Kilmore, in January, of the year 1853.
46. Which you declined?—Which I declined for reasons then stated.
47. Can you give the committee any information as to how the other clerks are classed, I mean the third and fourth classes?—I cannot form any idea at all.
48. *By Mr. Thomson.*—Does it come within your knowledge that persons who have not been so long in the Government employment as you have been, and who have no larger salaries are made first class?—I am aware of it. I think I am the oldest officer in the service in the Colony, with the exception of Mr. Blair, the police magistrate of Portland, who is, I believe, the oldest in the Colony.
49. *By Dr. Tierney.*—I believe he was formerly clerk of the bench?—I think he was. In the Surveyor General's department there are two clerks rated as first class clerks, one of whom I am told has only been four and the other six years in the service.
50. Do you know their salaries?—£600, I believe. I find one in the Chief Secretary's department at £650, and in the Treasury one at £700, and I know neither of these men has seen anything like the same length of service as I have.
51. *By the Chairman.*—Have you received any reply to your communication to the Government?—Yes, there was a reply to Mr. Sturt that my position cannot be altered.
52. How many clerks are there in your department?—Three.
53. What is the classification of the other three?—One on the third, and the others on the fourth class.
54. Can you state the salary of the third class clerk?—£300 and £400 are their salaries. The clerk next to me has £400. He is on the third class, I think. I stated in my letter, as one of the reasons of my finding fault with the classification, as far as I am concerned that there is a great amount of responsibility attending my office. I receive all fees and fines, amounting to £10,000 a year, and I considered that something.
55. Will you mention the duties of your office?—Registering and arranging all matters for the magistrates to deal with. Receiving all fees and fines, and accounting for them to the amount of £10,000 a year. I think that amount of money will pass through my hands during twelve months.
56. *By Dr. Tierney.*—Have you any perquisites then?—None. I am also registrar under the Electoral Act.
57. And clerk of the peace?—No.
58. I have heard that some clerks of the bench in the country act as clerks of the peace also?—Yes.
59. And they have something extra allowed them?—I do not know.
60. And they are paid for being deputy registrars?—I really am not in a position to say.
61. You have none of those perquisites?—No, none at all.
62. How long have you been in the service, as compared with the police magistrate who receives £800 a year, at Portland?—We were in the public service together at the same time in New South Wales, but I do not think there is much difference in the length of our services.
63. What is he rated at?—[*The witness referred to the Estimates.*]—One police magistrate, £800 a year.
64. Have you anything further to communicate to the committee?—Nothing.

*The witness withdrew.*

W. R. Belcher,  
Esq.,  
21st Jan., 1857.

## William Henry Buckley, Esq., examined.

W. H. Buckley,  
Esq.,  
21st Jan., 1857.

65. *By Dr. Tierney.*—What is your office?—I am at present doing duty in the Surveyor General's department, but I am not now on the establishment.

66. You are doing duty in the Surveyor General's establishment, but are not on the staff?—No, I am not on the department for 1857. In 1856 I was chief clerk in the Surveyor General's office, but in consequence of having had two severe attacks of illness in the office, I am at present expecting superannuation, having applied in November last.

67. *By the Chairman.*—Are you down on the superannuation allowance on the Estimates?—Yes, I am.

68. When did you enter the civil service?—On the 1st May, 1840.

69. Is it your own wish to be superannuated?—No, it is not; but on the representations of my medical attendant the Surveyor General pressed it, and advised that either as regards a pension or a gratuity the Executive Council would act in a liberal manner towards me.

70. Then this is not a voluntary measure of your own?—No, it is not. I would rather remain still in office; but my medical attendant considers it necessary I should leave.

71. *By Dr. Tierney.*—Do you think yourself competent to the duties of the office?—I do; but, having had a fit in the office, the doctor spoke to Captain Clarke about my leaving, and I have acted in accordance with their wishes.

72. *By Mr. Fawcner.*—Did not you tell me twelve or eighteen months ago that you wished to retire?—Captain Clarke pressed me to do so, considering it a favorable time.

73. You were chief clerk in the Survey Office?—Yes.

74. How many years have you been chief clerk?—Since 1848. I was chief draughtsman and chief clerk since 1848, but gave up the former appointment in 1853.

75. What is the salary attached to the office?—£800 a year.

76. What is the classification that you are put down at?—I am in no class for 1857. My present salary is £800 a year. Captain Clarke requested me to remain in office until the Estimates were passed.

77. *By Dr. Tierney.*—How much retiring allowance do you expect?—£1600 is put down in the Estimates, but I do not consider it sufficient for the time I have been employed.

78. *By the Chairman.*—You have two clerks in your office at £600 a year; how are they classed?—They are both first class; one has been six years in the office, and the other only four. There are two second class clerks, one at £500 and the other at £450. Their length of service has been from four to five years. The accountant is put down second class. He has been about eighteen months in the service.

79. *By Mr. Thomson.*—The salary £500 a year?—Yes. It is a very responsible berth, or at least is considered so in the department.

80. *By the Chairman.*—Can you tell the committee whether there has ever been any board to examine those gentlemen as to their competency for office?—Not under a commission.

81. *By Mr. Thomson.*—You are pretty well acquainted with all the department. Does it appear to you that this is a fair classification of the men, taking into consideration their duties, length of service, and the salaries they receive?—I think they are generally classed too high.

82. Some are classed too high?—Yes, according to their length of service.

83. Others are classed too low?—I consider there should be four classes of clerks in the Survey Department.

84. *By Dr. Tierney.*—Do you not think there are parties placed on the second class who should have been on the first class?—I think clerks receiving £600 a year should be placed on the second class, unless they are chief clerks. Neither of those I have mentioned as being placed on the first class are chief clerks.

85. Have you any further communications which you desire to make to the committee?—None.

*The witness withdrew.*

## Joseph L'Estrange, Esq., examined.

J. L'Estrange,  
Esq.,  
21st Jan., 1857.

86. *By the Chairman.*—What situation do you hold in the Government service?—I am chief clerk in the Crown Solicitor's office.

87. How long have you been in that department?—I have been twelve years in the office, but only seven years on the establishment. I was five years in Mr. Gurner's private office. He was not allowed a clerk by Government until June, 1849.

88. How long have you been acting as chief clerk?—About five years; but when I first entered the service in June, 1849, and up to December, 1851, there was no other clerk in the office. I did all the work, and might be termed chief clerk then.

89. What is the salary attached to your office?—£600 a year.

90. What is your classification?—Second class. I see on the Estimates that there is provision for a first class clerk at £600 a year. I have not had time to speak to the Attorney General respecting the matter, but I have been led to understand that there is some desire to get a professional gentleman to attend to criminal prosecutions on the part of the Government at the police courts, and I presume that this is a provision for that purpose. I told Mr. Gurner that I should not like to go into the police courts to attend to these matters, but not having had time to speak to the Attorney General myself, I asked him to do so.



91. *By Mr. Thomson.*—How are you rated?—I am rated second class.

92. Have you any clerk over you?—No.

93. You are the head of your office, and still second class?—Yes, I consider I am a second class clerk at £600 a year, but still the head clerk of the department.

94. Do you consider that a fair arrangement?—I am satisfied with the arrangement, so long as they do not bring another clerk to perform similar service, and place him over me.

95. What are the peculiar duties you have to perform?—The chief duties are the criminal department, preparing informations and cases for prosecution before the Supreme and Circuit Courts; to write to the superintendents of police and attend to getting additional evidence, if required, in criminal cases; reading depositions to see if any other evidence is required, and if possible, to see that it is obtained.

96. How many clerks have you in your office?—Three, exclusive of myself.

97. How are they classed?—I think the one under me is put on the second class.

98. What is his salary?—£450 a year on the Estimates, I believe, second class. He has been in the office nearly five years.

99. What is the class of the others?—The fourth. One has only been a short time in the office, but he has been in the office of the Attorney General in Van Diemen's Land, and has had very great experience.

100. What is his salary?—£300 a year.

101. What class?—The fourth class. He has only been a short time in the service, and I expect that, if he go on as he has begun, he will be found a very efficient clerk. There is another at £250 a year, fourth class; he is merely a copying clerk.

102. *By the Chairman.*—Were you ever examined before any board as to your efficiency for office?—I was examined by a Government board when I was placed on the establishment. I think it was in September or October, 1849. At that time we could not be put on the establishment unless we passed a board examination.

103. Does that regulation exist now?—No, it has not been acted upon. It could not be carried out on account of the gold diggings. At that time we were obliged to get whom we could.

104. *By Mr. Thomson.*—Have you undergone an examination as to your classification upon the Estimates?—I have been examined lately, and admitted as an attorney, but not in reference to that classification.

105. *By the Chairman.*—Did you appear before the board that prepared the Civil Service List here?—No, I was not called upon.

106. But you heard that a board was sitting?—I heard so.

107. You cannot give the committee any information as to how this classification has arisen?—No.

108. You had no notice from the Government about it?—No.

109. You have no idea how it has been done?—Only from the statement of Mr. Sladen in the House, that it was difficult to classify the clerks, and that the salaries were taken as the guide.

110. It appears on the Estimate a first class clerk in the Crown Solicitor's office at a first class salary. You do not know for certainty that you are not in the first class?—I do not know whether I am or not. I inquired of Mr. Gurner, being aware that a clerk was going to attend to a particular portion of the department, and I asked why he was to be put on the first class.

111. Then you inferred that you were not to be the head clerk?—I inquired whether he had spoken to Mr. Stawell about it, and he said he had not, but recommended me to apply to him myself. Since then, however, I have not had time to ask him; but I am satisfied in my mind that this classification is not for me, but for one intended to be brought into the office.

112. Do I understand you that there is a clerk now put into that office?—No. The reason why I think it is not intended for me is, that I attend to criminal business, and the other is for civil.

113. Then you both receive the same salary, but with different classification?—Both the same salary, but if this party have to attend the Police Office and prosecutions of that kind, of course I cannot object to his being put on the first class, for I am not officially recognized as an attorney; I am only chief clerk.

114. But if this is not intended for you, your salary is not on the Estimates at all?—There is one at £600 a year, one at £450, second class, on the Estimates. The Chief Commissioner of Police spoke to me several times, that it is necessary to have somebody to attend to the professional business of the Police Office—to attend to cases of murder, &c., in the country; so I apprehend that the provision for first class clerk is merely preparing for that branch.

115. Have you any further information to offer to the committee?—No.

*The witness withdrew.*

*Adjourned to Monday next, at twelve o'clock.*

MONDAY, 26TH JANUARY, 1857.

MEMBERS PRESENT:—Mr. Patterson, in the chair; Mr. Henty, Dr. Tierney.

Henry Davidson, Esq., called in and examined.

Henry Davidson,  
Esq.,  
26th Jan., 1857.

- I am,
116. *By the Chairman.*—You are in the Surveyor General's department I believe?—
117. What is your salary?—I am down in the Estimates for £600 per annum. I am senior clerk in the department next to Captain Buckley.
118. How are you classed in the Estimates?—I believe in the first class.
119. Have you been long in the department?—Seven years the 20th of next June.
120. Are you the head of the Surveyor General's department on that class?—I am senior clerk under Captain Buckley, who is the oldest clerk in the office. I have always held that position in the office. I commenced with a salary of £90 a year, and have risen from that to my present salary.
121. Do you consider your position to be that of the head of the department?—In Captain Clarke's absence Captain Buckley has had the control of the department.
122. What do you term him?—To all intents and purposes, in the absence of the Surveyor General, he has been acting as Deputy Surveyor General. He has been chief clerk and draughtsman, and has had the control of the business of the department.
123. Are you not the head clerk of the department?—My duties are such that I consider myself as the senior clerk.
124. You are in the first class in the Estimates?—Yes; I am the senior of the two at £600 a year, and that is £75 less than I received last year.
125. Did you not say there was another first class clerk?—Yes, Mr. McDermott, who is placed on the first class with me.
126. And also, receives the same salary?—He is expecting to receive the same. He is about two and a half years my junior.
127. When did he enter the service?—Sometime about the year 1851. I cannot speak with certainty as to time, for in those days there was so much confusion owing to the resignation of clerks, &c., that we had no time to take note of dates.
128. What are the duties you have to perform in your office?—When applications are made for the survey of land, I have to see that they are attended to; to record the application and to refer it to the district surveyor to report upon. Upon his report being received, if I think it necessary I lay it before the Surveyor General, but if through my experience I perceive there is no objection to the application being granted, I refer to the district surveyor, and tell him to commence at once; but in almost all cases I refer such applications to the Surveyor General.
129. Then do you exercise a professional knowledge in your office?—I simply act as a survey managing clerk over sales of public lands.
130. *By Mr. Henty.*—You take upon yourself the responsibility of acting in the Surveyor General's absence?—Yes, but if I think any question might arise at a future period, I make a minute of the matter and place it in a portfolio with other papers, for the perusal of the Surveyor General, previous to taking any steps; otherwise I act as I have stated.
131. *By the Chairman.*—Then is the committee to understand that you were on the second class until this classification?—I have been in the first class from the commencement.
132. *By Mr. Henty.*—You invariably avoid the responsibility of acting when you can?—When I can; but supposing any one made an application for land, a letter has to be sent in acknowledgment; I have to reply to it.
133. *By the Chairman.*—Did you apply to be put on the first class?—I never asked for any thing since I entered the service.
134. Was there a board to examine you with reference to your classification?—I have not been examined by any board. I believe the reason why I have been placed on the first class is, that the Surveyor General thought me qualified for my duties.
135. Do you know if there was a board of examination when the classification was made?—I never heard of it. There has been a board of inquiry into the civil service. My duties are very heavy I assure you, so that I have not time to attend to the movements going on.
136. *By Mr. Henty.*—You are rated first class now?—Yes; the senior of the two first class of the department. I think that seniority ought to receive the preference as far as regards salary—especially if with seniority he has a little more intelligence than others, and sticks to his work and performs his duties satisfactorily. We have, however, a great many in our office, in other classes, who, if they had opportunity, would display a great amount of ability.
137. *By the Chairman.*—Were you brought up a professional surveyor?—No, I was not brought up to it.
138. How old are you?—Either twenty-four or twenty-five, I cannot at this moment say.
139. Can you give the committee any information as to how this classification has arisen? I believe it has been done to encourage those who are in the service to remain in it, and at the same time to induce them to put forth their best energies, having a guarantee that ultimately their services would be appreciated and rewarded.
140. Have you any official understanding with the Government that you are eligible for a staff appointment, or is it only supposition on your part?—I believe this classification of clerks is intended to guarantee that.
141. How have you arrived at that conclusion?—I have thought a good deal about it.

142. But what guarantee have you—you have no letter?—No.

143. You presume the head clerk takes precedence?—I have just glanced through the report furnished by the board, and I see it provides that, before a clerk joins the service in the future, he must be examined to ascertain if he is competent. If he is competent and performs his duties satisfactorily, he may be promoted to the first class.

144. Do you think the present classification of first, second, and third classes has arisen from that report?—I do not know.

145. *By Dr. Tierney.*—You say you will be put at the head of your department?—No, I do not expect it—I do not think it possible for one man alone to undertake the general supervision of the whole of the business—that is, to enter into the details of it. The work must be done by dividing it into branches to be performed satisfactorily.

146. Do you know if there is a secretary to be appointed for your department?—I am not aware.

147. If there is a secretary appointed, would he be put over you; how do you stand with regard to him?—The work of our department is so heavy, and must increase so much with the requirements of the country, that I think there must be a sub-division into branches.

148. Would you consider it a grievance if a secretary were appointed over you?—It would depend upon what the duties of the secretary were to be.

149. Then under certain circumstances you would consider it a grievance?—Under certain circumstances.

150. *By the Chairman.*—You can give the committee no information as to the classification of the second, third, and fourth classes?—I believe the classification has been made by the heads of the different departments—considering the duties their subordinates have to perform and the responsibility attached to each. I do not speak from actual information. I underwent an examination in 1850.

151. But you said you never were examined?—I understood the question to refer to the board appointed to inquire into the Civil Service. I misunderstood you. I was examined by a board of which Mr. Hoddle, late Surveyor General, and Captain McCrae were members; the name of the third I have forgotten. I underwent that examination in company with another clerk in the department, Mr. Fletcher.

152. What position does he now hold?—He resigned in 1852 to go to the gold fields. He was unsuccessful there, and all departments being very short handed, and he having been some time in the office prior to that, the gold fields not suiting him so well as he expected, he re-entered the service at a low salary.

153. What class is he in now?—He is one of the fifteen clerks, I believe, set down in the Estimates as second class. He may be one of them, I believe on a salary of £450.

154. *By Dr. Tierney.*—How long have you been in the service?—Seven years on the 20th June next.

155. Have you had a month's leave of absence?—I never had an authorized leave of absence during the whole time I have been in the service; I have been absent on account of illness.

156. Do you understand from this classification that the second, third, and fourth classes are eligible for staff appointments?—I think decidedly so. I consider that all the classes are eligible for staff appointments. I do not understand the system of classification.

157. You do not understand it!—but do you think a fourth class clerk is eligible for a staff appointment?—I do, if he has ability.

158. Then how do you account for his being in the fourth class?—There are many in the second and third classes who are equally capable as the first, but only in their particular duty; not in the general duty.

159. *By Dr. Tierney.*—Would you consider it fair if a second, third, or fourth class clerk in your office was placed above you, at the head of your establishment?—I should not consider it fair so long as I could perform my duties satisfactorily.

160. *By Mr. Henty.*—Do you consider the head of the department has power to place any one over you?—I should think it very unfair to do so, so long as I performed my duty satisfactorily.

161. Has the Surveyor General power to place any one over your head if he thinks proper?—I had rather not answer that question. I do not think he would do so.

*The witness withdrew.*

George F. Bartrop, Esq., called and examined.

162. *By the Chairman.*—What offices do you hold?—I am Clerk of Petty Sessions of Geo. F. Bartrop, Emerald Hill and St. Kilda, and Registrar and Chief Registrar of South Melbourne, St. Kilda, Esq., and Brighton Electoral districts. 26th Jan., 1857.

163. *By Dr. Tierney.*—How long have you been in the Government employ?—Three years in December last.

164. What were you previously to the appointments you now hold?—I was clerk in the Audit Office first; then in the Brigade Office, under the Major-General; then in the office of the Coroner; afterwards I was in the County Court of Castlemaine; then Clerk of the Petty Sessions at Heidelberg; and Deputy-Registrar of Warringal.

165. *By the Chairman.*—Were these considered steps of promotion?—It was this way—I was reduced from the Audit Office, and appointed by the late Sir Charles Hotham to the Brigade Office in the Commissariat department. The salary was not voted for my office, so His Excellency sent me down to the Coroner's Office, Melbourne. I was then appointed

Geo. F. Bartrop,  
Esq.,  
continued,  
20th Jan., 1857.

to the office of clerk and bailiff of the County Court, Castlemaine. I resigned that office at Castlemaine the day I got up there, and came down here, and at my own request I was appointed Clerk of Petty Sessions at Heidelberg, and Deputy Registrar of Births and Deaths, and afterwards Chief Registrar of the District of East Bourke.

166. *By Dr. Tierney.*—What are your salary and classification now?—My salary is £300 a year, and my classification the fourth class.

167. *By the Chairman.*—What are the duties you have to perform?—I am clerk of the two courts of Emerald Hill and St. Kilda. My duties are what I have stated as registrar and chief registrar of these three districts.

168. Do you receive any thing for travelling expenses?—No.

169. *By Mr. Henty.*—Nor anything beyond £300 a year?—No.

170. House rent?—No.

171. Were you examined before a board as to your competency for office before this classification took place?—No, I was not.

172. Can you give the committee any information as to how this classification has arisen? No, I am anxious to know.

173. Do you believe that, being on the fourth class, you are eligible for a staff appointment?—I am not, I imagine.

174. Are you at the head of your own department?—Yes.

175. Subject to no other clerk?—No.

176. You do not imagine you are eligible for a staff appointment?—I do not—I did before the classification was published. As registrar and chief registrar, there is no person between myself and the Chief Secretary.

177. Have you formed any opinion as to what classes on the Estimates are eligible for staff appointments?—I imagine that to get on the staff, I should prefer going out of office and making a direct application.

178. You do not rightly comprehend my question, I think—what classes do you think are eligible for staff appointments—first and second, or only the first?—I really do not know—until this classification I imagined I was eligible. I imagined I should have been appointed a police magistrate on the gold fields, after length of service.

179. *By the Chairman.*—Will you consider that you will have been fairly used if you have to go through all the classes, third, second, and first, before you get on the staff?—I should not consider it fair treatment of me to keep me going through all the classes, because of the long time it would take me. I have made application, because of that classification, to be removed from my present position to an office where I was more likely to be considered, for I fancy copying clerks are classed higher than myself in their branches of the service.

180. And you have two benches to attend; do you think your duties as onerous as the duties of the City Police Clerk?—Do you mean the chief clerk?

181. Do you consider that you have as onerous duties to perform as the head clerk of the City Police Office?—Yes; I had forty-one cases in one day during this month, and am not under supervision of a stipendiary magistrate at Emerald Hill.

182. Have you any considerable expense to incur in travelling from one court to another?—During the time of the compilation of the Electoral Roll I was compelled to keep a horse at my own expense, and now have a great deal of omnibus hire to pay.

183. Do you complain that your salary is not sufficient—having two benches to attend?—I think it is too low, for there are more cases in these courts than in many offices in the country where similar salaries are paid.

184. Have you been brought up a professional man?—No, I have not. I was in a lawyer's office for a short time, but I have had no regular legal education; I am now chief enumerator for the county of East Bourke, but I am to be paid extra for that.

185. *By Mr. Henty.*—That is the only extra you receive?—The only extra, but it is not at all connected with my duties as registrar.

186. *By the Chairman.*—You consider yourself aggrieved by the position in which you stand on the classification?—Yes; I find, according to the regulations, as I understand them, an increase of salary will not be made except by placing me on the third instead of the fourth class, which would entitle me to an increase.

187. Then there is an increase of salary attached to each class?—To every class except the fourth.

188. Will you describe the increase to each class, beginning with the first?—I do not know whether I am properly acquainted with it. I believe, had I been on the three senior classes, instead of the fourth, I should get an annual increase of £25, from which I am at present precluded.

189. The fourth class gets an increase?—I am at the top of the fourth class.

190. There is an increase in the fourth class, then?—Yes; it begins at £200, and rises to £300, and I am at the top of it.

191. *By Mr. Henty.*—What is the highest on the third class?—£450; so that if I had been placed in the third class, I should have increased to £450 by length of service.

192. *By the Chairman.*—From £300 to £450 for the third class?—Yes.

193. What for the second?—From £450 to £600.

194. What from the second to the first?—It is arbitrary; just as the Government may choose with each person. So that there may be £600 a year clerks, second class, and the same salary might be in the first. I was sent by the Honorable the Chief Secretary last year on special duty on account of the Electoral Act, so that I imagined he considered that I was fit probably for something better than to be placed on the fourth class.

195. *By Mr. Henty.*—Have you made application for promotion?—I have requested to be transferred to some other branch of the service. Geo. F. Bartrop,  
Esq.,  
continued,  
26th Jan., 1857.

196. *By the Chairman.*—Do you know of your own knowledge that there are third class clerks with the same salary as yourself?—I saw on the Estimates that there are several.

*The witness withdrew.*

*Adjourned to Thursday next, at eleven o'clock.*

THURSDAY, 29TH JANUARY, 1857.

MEMBERS PRESENT:—Mr. Patterson, in the chair; Mr. Henty, Mr. Thomson, Dr. Tierney.

Mr. William Henry Snee called in and examined.

197. *By the Chairman.*—What office are you in?—I am in the Crown lands office.

198. Are you the head clerk in that department?—I am acting senior clerk in that department—that is to say, there was a head clerk, but since the amalgamation of the offices I have taken quite a different position to what I did formerly.

199. How long have you acted in that capacity of senior clerk?—Twelve months, from the 26th January, 1856.

200. How is it that you were termed acting senior clerk?—I am not termed senior clerk. Mr. Smith, the former head clerk, went to England on leave; I then took his position and performed his duties.

201. How long has he been absent?—He went on leave for twelve months from January, 1856.

202. Has he returned?—No; and I think it is questionable whether he will be back for some time.

203. Was there any classification of clerks when Mr. Smith left?—None.

204. You do not know how you stood then?—I retained my position.

205. What is your classification on the Estimates now?—According to the Estimates, if it is £400 a year, I should be in the third class; that is what I am receiving at present, at least, up to the end of 1856.

206. Do you not know what salary you are getting now?—I have not yet received my salary, but I presume it will be the same as last year.

207. Do you know how that classification has arisen?—I do not.

208. Were you ever consulted about it in any way?—Never.

209. You were never examined before any board as to the classification of the clerks?—No.

210. Are you satisfied with that classification?—No; I cannot say that I am entirely. I am not satisfied with my position, because I have lost ground considerably by the amalgamation of the offices. I will explain how.—During the year 1856 I was second clerk in the Crown lands office. Mr. Smith, who was first clerk, went to England, and I took his post, and have acted in that capacity during the whole time he has been away. Since Mr. Smith's absence the offices have been amalgamated. I have lost my position from second clerk to about eighth.

211. *By Mr. Thomson.*—Amalgamated with what?—With the Surveyor General's office.

212. *By the Chairman.*—And you consider that unfair towards you?—I consider it objectionable in proportion to the salaries of other gentlemen who have been a less period in the service than myself.

213. How long have you been in the service?—Four years in about one month and a half.

214. What is the nature of your duties in the office?—I have the superintendence of the clerical duties of the department.

215. Do you exercise any professional knowledge in your office, such as surveyor?—None whatever; I have nothing to do with the survey, but merely the occupation of Crown lands.

216. Then you do consider it a hardship having other clerks put over you, you having before filled the position of first clerk of an office?—I do, and irrespective of that, from length of service alone, I am entitled to a higher salary than I get in proportion to what other clerks are receiving.

217. *By Mr. Henty.*—Are the two offices kept separate?—Entirely separate; but nominally, they are under one head.

218. Then you have still the management of your department?—Precisely, the clerical portion.

219. *By the Chairman.*—You still exercise the same functions that you have hitherto done as head clerk, although on the Estimates you rank as third class?—Yes, and my position is considerably lower than it would have been if the departments had not been amalgamated. In the early part of 1853, when I entered the service, I was getting £200 per annum, and towards the latter part of that year £300; I received, in 1854, £450. In 1855 they took off £100, and in 1856 I had an increase of £50, and during that year I was doing, as I said before, the duties of senior clerk.

220. What was the senior clerk's salary in 1854?—In 1854 he got £750, and in 1855, £600 a year.

221. Are you getting the same salary as he got?—No.

222. Although you perform the same duties?—Although I perform the same duties, and have been doing so for the last twelve months.

CLERKS.—c.

Mr. W. H. Snee,  
continued,  
29th Jan., 1857.

223. There was no increase to your salary specially as additional remuneration in consequence of your position as Mr. Smith's deputy?—I am not aware of it.

224. *By Mr. Henty.*—You are receiving the same salary that you would have been if Mr. Smith had been here?—Yes, I believe so.

225. Although doing his duties?—Yes.

226. *By the Chairman.*—Have you anything else that you wish to add to your evidence?—Only that there are some above me who have not been so long in the service, and there may be others below me who may have been longer.

*The witness withdrew.*

Mr. William Alfred Grover called in and examined.

Mr. W. A. Grover,  
29th Jan., 1857.

227. *By the Chairman.*—What office do you hold?—Resident clerk in the General Post Office.

228. How long have you been in that department?—Four years.

229. Are you the head clerk?—I am the head of the mail, and letter, and newspaper branches.

230. Then is there any other clerk in the department of a higher standing than yourself in the classification?—Only the secretary.

231. Is he termed a clerk?—He is not termed a clerk.

232. Then you are the head clerk?—I am the head clerk.

233. Might I ask you what your salary is?—£450 a year at present.

234. How are you placed on the Estimates as to the classification?—At the foot of the second class—the lowest pay of the second class.

235. Do you know how that classification has arisen?—No; I am not aware of the manner in which that has been brought about.

236. Were you ever examined before any board as to your competency for your office?—Never.

237. Do you know of any other clerk who was examined?—No.

238. Are you satisfied with that classification they have put you in?—No, I am not. I held the chief clerkship as one of the first class clerks for two years in this Colony when I first joined it—[*Vide Gazette notice, under date 15th April, 1853*].

239. *By Mr. Henty.*—It would have been more satisfactory if a board of inquiry had examined you as to your claims and capabilities?—Yes.

240. *By the Chairman.*—Then you would consider it a hardship for a first class clerk from any other department to be put over you?—I should.

241. And do you suppose that according to this classification such might occur?—It might occur. I have had seventeen years of Colonial service.

242. Where?—In Van Diemen's Land, and South Australia, and in this Colony.

243. In the postal department?—Not in the postal department, but in Government employment—in the offices of the Colonial Secretary and the Treasurer in Adelaide, and in the Police Department in Tasmania.

244. Will you state what your duties are in the office you now hold?—The general superintendence of all the mail, letter, and newspaper branches of the office, with a staff of from fifty-three to fifty-seven clerks and letter carriers under me, reporting upon matters connected with, and general attendance to, the conduct of the duties of that office; also, constant attention to the public applying for information. These are portions of my duties as chief clerk. I have also, as resident, received, opened, &c., during the last six months, between the closing hour of six p.m. and the opening one of nine a.m., 370 ship mails for this Colony, including eleven English contract mails, and 738 forward mails for other places; the contents of those eleven English mails were 159,455 letters and 234,550 newspapers.

245. *By Mr. Thomson.*—How many hours does that take you a day?—At present about ten and a half hours, and sometimes as much as sixteen hours a day.

246. *By the Chairman.*—Seldom less than ten hours?—Never less than ten. I have a statement with me that will show the length of attendance by the general mail and letter staff, My own attendance exceeds that by some hours, as before stated; so, also, to a certain extent, does that of the ship mail dispatching clerks.—[*The same was delivered in and is as follows:*]—

		Hours.	Total hours.
1856.			
October 15th to 21st—13 days,	at 9 hours	117	
" " 2 "	12 "	24	141
November 1st to 30th—24 "	9 "	216	
" " 1 "	12 "	12	228
December 1st to 31st—25 "	9 "	225	
" " 3 "	12 "	36	261
1857.			
January 1st to 24th—21 "	9 "	189	
" " 3 "	12 "	36	225
Total	...	...	855

247. *By Mr. Henty.*—You say you are in the receipt of £450 a year?—Yes, and since June last I have had a house, which was given for the extra night and morning duty to a junior

clerk previously, and now it is given to me in lieu of that salary I have lost, but it is not an equivalent to it.

248. *By the Chairman.*—Are you receiving the same salary that you formerly did?—No.

249. What was it formerly?—£900 a year in 1854, *i.e.*, £600 salary and £300 house allowance; but I was the following year reduced to £600, previous to my reduction in March, 1855, whereas the salaries that were raised with mine were kept up to the same ratio, some of them, while others were reduced in much smaller proportions.

250. *By Mr. Thomson.*—I observe in 1853 you were third officer in the Post Office?—Yes.

251. Now I see you are sixth. Will you explain how that happened?—I was re-instated the beginning of this year with my original title and position as chief clerk, and after being in the office in that capacity a week I was offered the resident clerkship.

252. *By the Chairman.*—Not the chief clerkship?—Not the chief clerkship.

253. Did the letter giving you the office style you chief clerk—was that promotion or reduction?—It was a re-instatement. I was re-instated first in my original position, and afterwards put further down the list.

254. How do you account for that?—Because the permanent appointment, the office of chief clerk, had been struck off the Estimates.

255. Then there is no chief clerk?—None.

256. *By Mr. Henty.*—But you are doing the duty?—Yes.

257. *By the Chairman.*—Without the title?—Yes, without the title.

258. *By Mr. Thomson.*—Or the pay?—Or the pay.

259. *By the Chairman.*—What was your position before this Estimate was printed; what did you consider your standing or classification?—My position was as chief clerk, and I consider myself that I ought to be one of the first class.

260. Did you look upon yourself as first class clerk in the department?—I did.

261. And you only found to the contrary when these Estimates were printed?—Yes. I may add, with regard to the house, that it is not a fit place for a family to live in; it is shut in, and within eight yards of my back door there is a range of seven privies, and water-closets, and places, the stench from which is insufferable, night and day; so much so, that Capt. McCrae has had to write to the Government stating that it affects the health of himself and the officers. The heat of the building is excessive; there is a difference of fifteen degrees in the iron buildings as compared with the brick ones, *i.e.*, of the dead letter, accountant's, and other enclosed rooms. The heat in the private dwelling is equal to that of the iron buildings, on account of its exposure to the sun. The thermometer has, on two nights lately, stood at 80° and 78° in the bedrooms.

262. *By Mr. Thomson.*—You mean from that, that having quarters is no advantage to you?—It is disadvantageous; in fact, I offered to give up the difference of salary and let some one else live there, but they would not allow it.

263. Do you know any other officer in your department who has been a long time in the service and who has been put low down?—There are; they are on a lower scale than the generality of officers of the same length of service.

264. They are lower classed?—They are lower classed than officers in other departments who have not been so long in the public service. They are generally not satisfied with the proposed scheme of classification.

265. The duties are very heavy in your department?—They are.

266. *By the Chairman.*—Did you ever apply to be put on the first class?—I applied to be re-instated in my old position several times.

267. Have you done so since the Estimates were printed?—Yes.

268. What has been the answer you have received?—That I ought not to apply for it, but be satisfied with what I have got, or something to that effect.

*The witness withdrew.*

Dominique Albert Turner, Esq., called in and examined.

269. *By the Chairman.*—In what department are you?—In the Prothonotary's department at the Supreme Court.

270. How long have you been in that department?—Four years.

271. Are you the head clerk there?—I am acknowledged by the Government as chief clerk; my original appointment was that.

272. Are you styled chief clerk?—My appointment was chief clerk of the Supreme Court, but by the arrangements of the different departments I am classed in the Prothonotary's department immediately.

273. How are you placed on the Estimates?—As chief clerk of the Prothonotary's office, second class.

274. Are you aware how this classification has arisen?—Not at all. I endeavored to ascertain, but could not.

275. Were you ever examined before any board as to your competency for office?—Never.

276. Did you hear of any board appointed for such a purpose?—No.

277. How do you account for some being placed on the first class and others on the second?—All my information is derived from a copy of the Estimates, on seeing which I was exceedingly dissatisfied, and felt quite disgusted with my position after the long period I have served the public here and elsewhere. I resigned an appointment in Tasmania to take this. I walked out of the one into the other.

D. A. Turner,  
Esq.,  
continued,  
29th Jan., 1857.

278. *By Mr. Henty.*—What salary do you receive—£600 a year?—I do not look so much to salary, that depends upon what the Legislature choose to vote for the salaries, but I feel hurt at being in a second class position.

279. *By the Chairman.*—What are the duties you perform in the office?—My chief duty is to tax attorneys' bills of cost between party and party and attorney and client.

280. Do you exercise any professional knowledge in your office?—Certainly; a wide discretion I have to exercise in assessing certain fees which attorneys are entitled to for business transacted.

281. Will you state to the committee an instance of that?—Yes; such as instructions for briefs and so on. Sometimes a very large amount is claimed; the outside, within the last three months, was £75, the minimum is taxed at £1, and my discretion has ranged between those sums.

282. *By Mr. Thomson.*—You have to tax those charges?—I have to examine into the briefs and see what is to be allowed. That is a duty performed at home by the masters of the courts. By rule of court I am required to perform that duty here, and also act in the Prothonotary's absence, and to do all his duties.

283. Those duties devolve upon you in his absence?—Yes; he is frequently in attendance upon the judges in court during the term, which is the busiest time, and the rush of taxation occurs then. Then judgments are signed, executions issued, and the heavy taxing takes place, and I am very heavily worked.

284. *By the Chairman.*—Have you ever taken any steps to have your name put on the first class?—No, because I understood Mr. Seward, in the Master-in-Equity's office, had appealed to the Attorney General, and the Attorney General had assigned some reason for not interfering. I applied to the head of my own department, and he said the judges had nothing to do with it.

285. Is Mr. Seward situated like yourself?—He is the chief clerk in the equity branch.

286. What is his salary?—The same as my own.

287. With the same classification?—Yes.

288. What is your idea of classification?—In my own case I think I ought to be placed in a better position. I ought to be in the first class, or else to be turned out as unfit for my office. I suppose the object of classification is to secure faithful and efficient officers.

289. What would you suggest as the proper mode of classification?—I think there should be three grades, and three classes in each grade:—

Grade 1.—Duties involving either professional acquirements, extraordinary intelligence, or great trust, entrance to be 3rd Class, say salary £500.

Serve two years, enter 2nd Class, say salary £600.

Serve three years, enter 1st Class, say salary £700.

Grade 2.—Duties involving either particular qualification, great care, or any degree of responsibility, entrance to be 3rd Class, say salary £350.

Serve three years, enter 2nd Class, say salary £400.

Serve five years, enter 1st Class, say salary £500.

Grade 3.—Ordinary clerical duties, entrance to be 3rd Class, say salary £250.

Serve two years, enter 2nd Class, say salary £300.

Serve three years, enter 1st Class, say salary £350.

Power to the Executive Council to shorten the periods of service for special or meritorious service, or to extend the same on account of irregularity or inattention.

The number of clerks of the 1st and 2nd grade, for the respective departments, to be defined by the Executive Council, and settled by a Committee of one of the Houses of Parliament.

*The witness withdrew.*

Mr. Joseph McDermott called and examined.

Mr. J. McDermott,  
29th Jan. 1857.

290. *By the Chairman.*—Would you look at that?—[handing a letter to the witness]—I am aware of this. Mr. Buckley asked me the question, would I wish to attend. I said not until I received a summons; I did not wish to attend voluntarily—he asked me in that way.

291. What was your objection to attend without a summons?—None whatever. Mr. Buckley came to me and said he had received a note from Mr. Patterson, and that he wished he would attend; but he said, as he did not now consider that he belonged to the office, he did not wish to go; but I think he said Mr. Patterson asked who was the next senior clerk to him, and he named, I believe, Mr. Davidson and myself. He then came to me and asked me, would I wish to go. I did not wish to refuse any information; but as I have a great deal of business to attend to at the office, a few hours' loss of time makes a great deal of difference in my work.

292. *By Mr. Thomson.*—You did not look upon that as an order to attend?—No; I should have been most happy to give all the information in my power.

293. *By the Chairman.*—What are you?—I am the senior clerk in charge of the general branch in the Surveyor General's Office.

294. How long have you held that situation?—About three years.

295. Were you styled chief clerk?—No, never.

296. How were you senior clerk then?—That has been my rank; it was stated so on the Estimates last year. I was styled one of the senior clerks.

297. The Government did not style you chief clerk.—No.



298. Who was the chief clerk?—Mr. Buckley.

299. What are the duties you have to perform in your office?—I have to write a great many letters, and I have got the superintendence of the records of the office; in fact, the general work. I now receive all papers and documents from Captain Clarke for distribution through the office; all the letters of moment that come into the office are brought to me to be recorded.

300. Do you exercise any professional knowledge in your office?—No.

301. You are not a surveyor by profession?—No.

302. You act more as secretary?—Yes.

303. I thought there was a secretary in the office?—I perceive that on the Estimates for this year there is an appointment of a secretary in relation to the occupation of public lands, but that has nothing to do with the general work of the office of the Surveyor General.

304. *By Mr. Henty.*—That is, secretary in the office of the Commissioner of Crown Lands?—Yes; it is the same department, Captain Clarke being Chief Commissioner of Crown Lands as well as Surveyor General.

305. But they are under two heads?—Yes.

306. That secretary is under the head of Crown lands occupation?—Yes.

307. *By the Chairman.*—Before this Estimate was published, were the clerks in the Survey office classified?—No.

308. When were you made aware of your being made a first class clerk?—Not until I saw it on the Estimates.

309. Did you consider, before these Estimates were published, that you were to be a first class clerk?—I considered I was entitled to it.

310. You had no knowledge of the classification going to take place before the Estimates were published?—I heard that a classification was to take place.

311. Did you apply to have your name put on the first class?—I applied to Captain Clarke. I had heard I was to have been placed on the second class; and as I had understood that there were other clerks, junior to me in other departments, who were to have been placed on the first class, I wrote to him, requesting him to bring my case under the consideration of the Executive.

312. And in consequence of your letter you were put on the first class?—I do not know that it was in consequence of my letter, because I cannot say that I know how I was to have been classed. It was only from hearsay.

313. And you never spoke to Captain Clarke on the subject?—Never, beyond writing to him.

314. You never spoke to him on the subject?—I cannot say I did; I do not recollect it. I wrote to him, I know.

315. How many first class clerks are there in your department?—By the Estimates I see there are two.

316. Has the other gentleman who is in the same classification as yourself been as long in the service as you?—Longer.

317. How long have you been in the service?—Five years altogether in the office, but holding the particular position which I do now, three years.

318. *By Mr. Thomson.*—Do you know any of the clerks in your department who have been longer in your office than yourself who are nevertheless below you?—I do not know any.

319. *By the Chairman.*—Can you say whether there are any in the office that have been longer even than you have been in the service, and are lower in the classification than yourself?—None.

320. Do you know that of your own knowledge?—Yes, there are none.

321. I suppose you are perfectly satisfied with this classification?—I cannot say that I am either satisfied or dissatisfied.

*The witness withdrew.*

Mr. Edward Cotton called in and examined.

322. *By the Chairman.*—In what department are you?—In the Attorney General's department.

323. In what department?—The County Court and General Sessions. I am only put down as clerk of the peace. I am registrar of the County Court as well; that is my chief business; but I am not down in the Estimates as registrar, and I am entered as of the second class. I consider myself as the head of a department. I hold a commission, and I do not consider myself a clerk while holding a commission like that—[*producing the same*].

324. *By Mr. Thomson.*—What is that commission?—As clerk of the peace. And then, again, as registrar of the County Court, I think I am not entitled to be considered a clerk.

325. *By the Chairman.*—How long have you held the office of Registrar of the County Court?—Nearly six years.

326. What is the salary you receive?—£600 a year as registrar of the County Court; and as clerk of the peace I am not aware what salary I receive.

327. I suppose the first announcement you had of the classification was when the Estimates came out?—Yes.

328. Were you ever consulted in any way about the classification?—Never.

329. Nor examined before any board?—Never.

330. Did you ever hear of any board examining any of the others?—Never.

CLERKS.—d.

Mr. E. Cotton,  
continued.  
20th Jan., 1857.

331. What are the duties you have to perform?—I have to issue all summonses, sign and issue executions, assist to receive and pay money; in fact, I assist in all the working of the office, and I am recognized by the Government as the head of the department. I sign all papers and requisitions, receive the money for payment of salaries. I am responsible for everything.

332. Do you consider it a responsible office?—Very.

333. How do you account for its being called second class?—I cannot understand it all.

334. You are not satisfied with that classification?—I am not. I consider myself as the head of the department. In fact, I do not consider myself a clerk.

335. *By Mr. Henty.*—You are the chief of your department?—Yes.

336. *By the Chairman.*—Have you ever remonstrated with the Government about this classification?—No; I did write to Mr. Sladen, drawing his attention to having left out the registrar of the county court in the Estimates, and I wanted him to put in the name of "Registrar;" because I considered, that having both offices, the registrar was the chief office, and the most responsible office to fill. As clerk of the peace, I have charge of important documents; but the work is not much.

337. You do not consider that you ought to be on the classification of clerks at all?—No. The work in the office is very great indeed. I have brought a return with me, which will show what work has been done, the number of summonses issued, and the money passing through my hands.

338. What is the largest amount you have there?—Under the extended jurisdiction, there are in one month 673 summonses; and the amount sued for is £36,533. I have paid £729 9s. 6d. in one month as the fees of office. I have to sign all those papers twice over, and swear the bailiffs to the service of the summonses besides.

339. How long have you been under the Government?—Six years next July.

340. In the same department?—Yes.

341. You held office as Serjeant-at-Arms?—Yes; I held that in conjunction with the other offices, until I found the work was too much for me, and then I resigned it.

*The witness withdrew.*

*Adjourned.*

THURSDAY, 12TH FEBRUARY, 1857.

MEMBERS PRESENT:—Mr. Patterson, in the chair; Mr. Henty, Dr. Tierney, Mr. Thomson.

Bryant Waymouth, Esq., called in and examined.

B. Waymouth,  
Esq.,  
12th Feb., 1857.

342. *By the Chairman.*—What office do you hold?—I am accountant in the Post Office.

343. How long have you been in that office?—Three years.

344. What are the duties you have to perform there?—That of accountant and cashier.

345. How many hours are you occupied in that department?—Nine hours a day are the hours for my office to be open, from 9 a.m. to 6 p.m.

346. Never more?—Yes, at times I have been there from seven o'clock in the morning till eight o'clock at night. At the time of the reduction of the staff, I was for three months early and late, and now, when necessary, I frequently take my work home at night after hours, as I cannot stand the stench of the office, it makes me so ill. There is a dreadful stench; an effluvia rises which I cannot stand.

347. Whence does it arise?—I suspect from under the floors.

348. What salary do you receive?—£600 a year.

349. Are the salaries at the Post Office uniform throughout?—No, they are not; some officers are higher paid (I imagine for the length of service) than others.

350. *By the Chairman.*—Will you give the committee a return of the officers, salaries, &c., at the country offices and in Melbourne, and a comparative statement between Melbourne and Geelong?—If the committee order it.—[*Vide Appendix A.*]

351. Can you state the comparative salaries between Melbourne and Geelong?—The rates of salaries appear higher in Geelong than in Melbourne, comparatively speaking. The postmaster gets £600 a year, a house, and every convenience found him, which I reckon equivalent to, say £700 or £750. The junior clerk gets £300, the one at £250 being a temporary clerk. Four of the junior clerks in Melbourne receive £250 a year; but I can give the return, as the committee wish it, with the permission of my chief.

352. What is your classification?—Second class.

353. How long have you been in that class?—Only this year; I have previously always considered my rank to be in the first class.

354. When did you become aware you were rated second class?—I saw it in a copy of the Estimates. In proof that I considered myself a first class clerk when I came over here, I went as chief clerk on the gold fields. I originally expected to hold office as assistant commissioner; but took that of chief clerk to train clerks. When I came from the gold fields I went as accountant to the Assay Office, an office that required some considerable calculations, some skill in estimating the value of gold at different rates. Then I entered as accountant to the Post Office, and last year I obtained a Royal Commission. Being one of the few who received that, and holding the office I do at present, I considered myself a first class clerk.—

[The witness, at the request of the committee, handed the Royal Commission to the committee for inspection.]—That is my appointment under the Royal sign manual, and it is paid for, as you will see by the Treasury receipt.

B. Waymouth,  
Esq.,  
continued,  
12th Feb., 1857.

355. You paid for it?—I did.

356. What sum did you pay?—I think it was thirty shillings.

357. And still you find yourself in the second class?—Yes.

358. Do you know how that classification has arisen?—I do not indeed.

359. Were you never consulted about it?—No.

360. Did you complain about being in the second class?—I wrote a letter to the Postmaster General stating the above facts, and bringing a proof of the sums of money passing through my hands and the amount I am answerable for, stating that I thought the accountant in the Post Office would be on the first class, and asking if he would have any objection to request the Government to re-instate me in my former class. The Postmaster General, I believe, recommended my application to the attention of the Government.

361. Will you furnish the committee with a copy of your letter and the reply that you received?—Yes, I will do so.—[*Vide* Appendix B].

362. I think I understood you to say you were never consulted about this classification?—No, as soon as I saw it, I thought the best course to adopt was to write to the Postmaster General.

363. Before this classification was published, did you suppose yourself first class?—I considered myself so.

364. Was the answer from the Government satisfactory to you?—No; the Government did not take the same view of it as I did. I based my plea also on the number of hours we worked compared with other departments. The Treasurer said he did not see that I worked harder than anybody else.

365. *By Dr. Tierney.*—How many are over you in the establishment?—Only one, the secretary. The inspector of country post-offices is a distinct office.

366. But in the post-office itself?—Only the secretary.

367. What salary does the secretary receive?—£700 a year.

368. You say you are nine hours a day occupied?—Yes; I have worked on Christmas Days and Good Fridays too.

369. And you seem to think the sanitary state of the Post Office is not in a very desirable state?—I go home five days out of six sick and with head aches, and I am sure it only arises from the smell of the Post Office.

370. You seem to think there is water underneath?—I do not know what it is.

371. Are there sewers underneath?—I have seen water oozing between the flags outside in Bourke-street after rain.

372. *By Mr. Henty.*—We were given to understand that the privies at the offices were very confined and close to the office?—They are very confined and close to the office; but it was not the privies alone.

373. *By Dr. Tierney.*—Are you aware whether the Postmaster, Capt. McCrae, can appoint or discharge a clerk in the Post Office at will?—Upon my word I do not know. I cannot answer that question.

374. Has he any control in his appointments?—I do not know; I cannot answer the question.

375. Have you heard any complaints from the clerks?—I have heard two or three clerks in the Post Office complain sadly—they made no secret of it, but stated publicly that they were dissatisfied. Are they dissatisfied with their present situations?—I will speak as far as my own department is concerned—they are not exactly dissatisfied, but the hours they work tell upon their health severely. If I want a clerk from another department, I have some difficulty to get one to come in. They do not get the same relaxation that exists in the other departments, and they feel the continued strain upon them as being excessive. They want to be put upon the same footing as other departments, where writing and accounts are carried on, and to work the same number of hours. I feel the number of hours very heavy.

376. The fact is, that you require more clerical assistance in the Post Office?—We have to work the usual hours, and at times over hours.

377. Do you not say that the present Post Office department would be more efficiently performed with more hands?—Either with more hands or fewer forms.

378. To carry out this work you require more assistance?—More assistance. They are dissatisfied in my office with the number of hours they work, compared with other departments, and also with the condition of the office.

379. And you think there are too many forms?—I think a modification might be made in the forms, but that is a subject not for me to speak on.

380. Do not you think any Government office and Post Office could be more efficiently managed if the clerks were thoroughly satisfied with their present condition?—Certainly. I am speaking of my own department. I do not think they can perform their work more efficiently than now, although they do it under the goad of a spirit of self-respect. If they knew they could go at four o'clock, and have the Saturday half holiday, as in other offices, I have no doubt they would work with greater energy.

381. *By the Chairman.*—Are the clerks in the Post Office in your department satisfied with the present classification?—No, they are not.

382. Have you ever known any positive ill effects arise from the sanitary state of the building—have you ever seen anybody faint from it?—I have seen my own clerks go home ill repeatedly.—I have been ill myself; so bad, that I could scarcely see with head-ache, but I would not give in. I have been obliged to do so, but it was only when I could not keep my head up,

B. Waymouth,  
Esq.,  
continued,  
12th Feb., 1857.

383. Is there any information you can give the committee on the subject, that you have not already done?—I think that accountant's clerks should be classed higher than a mere mechanical clerk, because it requires more training to make out an account than to copy a letter; and if a man can write or indite a letter and make out an account as well, I mean to say he should be a first class clerk.

384. *By Dr. Tierney.*—Are you obliged to give security at the Post Office?—Yes.

385. To what amount?—One thousand pounds, I think. Two persons in £250 each, and myself in £500.

386. *By the Chairman.*—Whether would you prefer, a departmental classification or a classification of the general service?—A classification of the general service. It would give a man an opportunity to move from one department to another.

387. Did you join the service under the impression that you could move from one office to another?—Yes, if I were fit for the office. I would wish to point out to the committee the number of hours we work compared to the accountant's office in London, Sydney, Adelaide, &c., where the hours are nine to four. We wish to be put on the same footing as other departments.

388. Did you apply to have this remedied?—The clerks have applied to the Treasury, but without success.

*The witness withdrew.*

Mr. Adolphus Sievwright called and examined.

Mr. A. Sievwright,  
12th Feb., 1857.

389. *By the Chairman.*—What is your occupation?—I hold an appointment in the Post Office.

390. What are the duties you have to perform in that office?—The receiving of foreign mails; superintending the letter carriers' and the newspaper department.

391. How long have you been in the office?—Seven years on the 1st of last January.

392. How long do these duties take you to perform?—From nine in the morning to six in the afternoon.

393. You are never later?—Oh! yes; I am frequently later and frequently earlier. I sometimes am there from six o'clock in the morning to six o'clock at night when the English mails arrive.

394. What are the greatest number of hours in the day you now work?—Twelve hours.

395. How often do you suppose you perform twelve hours' service?—I think about three days in a month.

396. What salary do you receive?—£450 a year.

397. Are the salaries in the postal department uniform?—No, they are not.

398. What is your salary, compared with the same office in Geelong?—I do not think there is the same office in Geelong.

399. Do you consider they are better paid in Geelong than Melbourne?—There is one receiving there £400 a year or £450, but he has not been so long in the service as I have. I have not looked at the Estimates closely.

400. What is your classification?—I am on the third class in the proposed Estimates.

401. How did you become aware of that classification?—Because I saw the amount put down in the proposed Estimates.

402. Then you were not in the third class before these Estimates came out?—In the year 1852 I was on the second class.

403. But since that time have you been on the second class?—The classification was done away with in 1853, and I presumed that when it was resumed, I should not have been placed lower.

404. How did you get into that second class?—I was recommended by the Postmaster General.

405. Who appointed you?—Mr. La Trobe, and he approved of the promotion.

406. Were you ever consulted in this classification?—No, not at all.

407. Do you know how it has arisen?—I have not the slightest idea.

408. Have you complained of it?—I have. I wrote, applying to be put on the second class, saying, that I had already held that position in the civil service; and the Treasurer said he did not question my fitness to hold that position, but he could not increase the number of second class clerks. It would not have increased the expenditure this year.

409. Could not you give the substance of your application?—The Postmaster General forwarded the application.

410. *By Mr. Henty.*—The amount of pay was not so much four years ago as now?—I was getting, in 1854, £500 and 50 per cent. on as an allowance for house rent.

411. *By Dr. Tierney.*—That was owing to the gold fields mania?—Yes, the 50 per cent. was.

412. *By the Chairman.*—You remained with the Government through the gold mania?—I did. When the gold mania broke out there was a circular came out, that the clerks were expected to sign an agreement to remain three months. The morning when it was to be signed, I went into the Postmaster and told him I had determined on leaving. I then went to His Excellency, and he said, those that remained would have a greater claim on the Government hereafter than any other and receive promotion; and in consequence of that intimation I remained.

413. And they have reduced instead of promoting you?—Yes.

414. *By Dr. Tierney.*—Are there any that came in subsequently that have higher

salaries than you have?—Yes, the secretary, the accountant, the inspector of stamps, the inspector of dead letters, and the inspector of country post-offices.

Mr. A. Stewwright,  
continued,  
12th Feb., 1857.

415. *By the Chairman.*—Are the clerks in your department satisfied or dissatisfied?—Some are dissatisfied with the classification.

416. Have you remonstrated with the Government in any way about it?—Yes; Mr. Smith and I, who were appointed on the same day, wrote the letter I have referred to, requesting to be placed in our former position. When the reductions were made in 1855, the understanding was that 50 per cent. was to be taken off, but in addition to that they took off £50 a year, or we should now be receiving £500 a year instead of only £450. At the time of the discovery of the gold fields I spoke of, Mr. Hinton and I were the only persons who could dispatch a foreign or inland mail, and it necessitated our remaining in the office frequently until one or two o'clock in the morning, because a person newly appointed in the Post Office department is of no use at all. They could not be entrusted with dispatching mails until they have learnt their duties. I was so completely overdone at that time, that I fainted twice in one day in consequence. All the establishment were over-worked; and it was in consideration of our remaining and being so worked that we were promised promotion hereafter.

417. And that has not been carried out?—No. I think I have been degraded as far as my position is concerned.

418. What accommodation does the office afford for performing your duties?—The office altogether is not fit for a post-office. The means of communication of all the different rooms are so far apart from one another, and the heat of the iron building during the day is so great, that not a day passes but somebody is ill through it and the stench. I have here a record of the range of the thermometer within the building, which will give the committee correct information as to the temperature.

*The witness handed in a table, of which the following is a copy:—*

1854.			1855.		
	From	To		From	To
November	20—79°	90°	March	3—77°	88½°
"	30—77	80	"	10—71	88
December	2—77	82	"	12—81	89
"	8—78½	93	"	13—81	91
"	9—74	80	"	16—73	89
"	11—80	97	"	17—79	83
"	12—80	85	April	17—74	82
"	16—77	85	"	18—75	81
"	22—77	87	October	23—78	87
"	27—84	89	"	24—83	89
			November	23—83	91
			December	28—79	87
1855.			1856—No account taken.		
January	4—77½°	89°	January	26—84	93
"	9—70	85	February	4—83	92
"	13—83	94	"	5—80	90
"	26—86	94½	"	6—79	88
"	29—89	100½			
February	13—78	88			
"	16—71	85			
"	17—78	91			
"	27—83	95			
"	28—85	96			
March	1—83	88			
			1857.		
			February	7—99½°	100°
			"	9—78	82
			"	10—74	82

419. *By Dr. Tierney.*—There is bad sewerage?—Yes, the sewerage is bad.

420. *By the Chairman.*—Have the clerks in the office ever complained to the Government about it?—I believe the resident clerk has complained to Mr. McCrae, but the building I believe was condemned by the Government.

421. *By Dr. Tierney.*—The privies are very close to the office?—Yes, they are right in the centre of the yard. Behind the privies, and in fact at every side, are certain offices of departments that the clerks use during the day.

422. You stated just now you have frequently to work extra hours. Are you ever paid for those extra hours?—No, we are not. Now, for instance, yesterday morning and this morning we were in attendance at six o'clock, and we remain until six o'clock at night. That is six hours extra. We are allowed to go and get some breakfast in the morning and to get lunch in the middle of the day, but that we are obliged to pay out of our own pockets. On account of the distance of the Post Office from my residence (I have a house in Richmond), that in winter time I have to rise at half-past four, so as to be in town by six, and then I have had frequently literally to feel my way down the streets—it being quite dark—an hour or so before day break.

423. Then you are short of hands?—Yes; I think for instance that this mail that was brought in yesterday should have been finished yesterday, but it was not possible. The papers will not be finished to-day, nor to-morrow, on account of the shortness of our hands. Of course we cannot commence before six o'clock a.m. We commenced then, but we could not open to the public before half-past eleven. In Sydney they have additional hands which they can call for and get the mail finished. In London they have also additional hands, so that they are never behind.

*The witness withdrew.*

John Chatfield Tyler, Esq., called and examined.

J. C. Tyler, Esq.,  
13th Feb., 1857.

424. *By the Chairman.*—In what department are you engaged?—In the office of the Commissioner of Trade and Customs.

425. How long have you been in the office?—I have been connected with the Customs department since 1853.

426. Were you in the Government employ before?—I was in the Audit Office.

427. Have you been in any other department?—No.

428. What are the duties you have to perform?—The duties of chief clerk in the department. I have all the correspondence, and everything connected with the department goes through my hands.

429. What is your salary?—Last year it was £500.

430. What is it now?—It is put down this year at £600. It was in consequence of the difference of arrangements in the office that it became necessary to appoint a chief clerk this year. The duties will be almost the same as before, with a little more responsibility.

431. What are you rated in the classification this year?—I am in the first class.

432. Were you in the first class last year?—There was no classification last year.

433. When were you made aware of this classification?—When I saw it in the Estimates.

434. You had no previous information about it?—No.

435. I understand you to say that there was no classification until this year?—Not until this year.

436. *By Dr. Tierney.*—What hours do you work?—From nine o'clock to four are the official hours; but during the present time, whilst the Parliament is sitting, they are frequently much later—generally until five, and perhaps later.

437. Were any of the clerks in the Customs department examined before the Civil Service Board?—There were one or two, I believe; I do not know exactly. I think Mr. Samuel Downing was one. I am not aware that there were any others. I believe one of the landing surveyors was examined—Mr. Richard Down.

438. Do you complain of the number of hours you are on duty?—I think they are rather long, considering that they are regular every day except Saturdays, when we close nominally at half-past twelve, but it is generally one or two before we get away. I think, taking the hours that clerks work in the English offices in London into consideration, we work longer here, and the climate is much more trying.

*The witness withdrew.*

Mr. David Russell Penton called and examined.

Mr. D. R. Penton,  
12th Feb., 1857.

439. *By the Chairman.*—What office do you hold?—I am station-master in the telegraph department, in Melbourne.

440. Are you the head of the department?—I am station-master. Mr. McGowan is superintendent.

441. Is he staying in town here?—Yes; he is superintendent of the department.

442. Does he superintend any other branches besides your own?—Yes, all throughout the country.

443. But you are virtually head of this department?—Yes, I am head clerk.

444. How long have you been in the Government service?—Nearly three years in that department.

445. Were you in the Government service before?—Never; I entered the service with this office.

446. What are the duties you have to perform?—Receiving and transmitting messages, that is my duty. The hours are from half-past eight in the morning till eight at night, but we are usually detained till from ten to twelve, if there are any reports to be received or forwarded to or from papers in the country.

447. Do you get extra pay for that?—No.

448. Your duties are from half-past eight in the morning to eight at night?—Yes.

449. You were informed of that on taking office?—Yes.

450. You get no extra pay?—No.

451. *By Dr. Tierney.*—You often stop till ten?—Yes, till ten and twelve o'clock. It depends upon the length of the debate.

452. *By the Chairman.*—What is your salary?—£350 a year.

453. What was your salary last year?—Last year £300. I was clerk and bookkeeper.

454. *By Mr. Thomson.*—What is your position in the Estimates now?—I am one of the eight station-masters.

455. *By Dr. Tierney.*—Will you have £350?—Yes.

456. *By the Chairman.*—You are paid monthly?—Yes.

457. What is your classification?—I suppose I am third class.

458. Do you know how your classification has arisen?—No, I do not.

459. You never were consulted about it?—Never.

460. When did you first become aware of being on the third class?—I was only thinking of it this morning.

461. Have you seen the Estimates?—Yes.

462. Did you see them before?—Yes, I saw them sometime ago, but I did not give them much attention. I suppose I am third class. I do not exactly know.

463. Would you feel yourself aggrieved if anybody was put over you with the same

salary and second class?—I should certainly. I consider I have been in the department so long, that I am qualified for that position.

464. Do you consider, as station-master, you should be first class?—Yes; although I do not understand the classifications.

465. *By Dr. Tierney.*—There appears under you an assistant station-master?—Yes.

466. Has he been long in that office?—He has only been there two months. He was probationer clerk until he became competent to take charge of an instrument.

467. *By the Chairman.*—What is his salary?—£300.

468. What is his classification?—Third class. We are all third class.

469. *By Dr. Tierney.*—You have been three years in your present office. Do you think it fair for the assistant station-master to be in the same class as yourself?—I do not understand the classification at all.

470. Does the assistant station-master remain all the time?—Yes, unless there is not work for two, when one goes.

471. *By the Chairman.*—Does it require both to be at work at the same time?—Yes, generally. We have two instruments—one north and the other the western line, requiring one at each.

472. How long can you be absent from the office?—We cannot be more than an hour for dinner.

473. Who takes charge at that time?—Oh! there is never much doing at that time—people are gone to dinner.

474. Then you are confined the whole time, except getting your meals?—Yes. It is twelve hours a day regularly, besides additional hours.

*The witness withdrew.*

Mr. John Smith called and examined.

475. *By the Chairman.*—You are in the Post Office, I believe?—Yes.

476. What are you in that office?—I am dispatching clerk.

477. How long have you been in the office?—Between seven and eight years.

478. What are the particular duties you have to perform?—Making up country mails and dispatching them. That is the duty I am performing at present.

479. Has that been your employment for seven years?—No; at first I was appointed to the accountant's department, in 1850. In that position I remained until 1852 when I was appointed resident clerk. In 1855 the chief clerkship was done away with; the duties then fell on me. I performed the duties of chief clerk and resident clerk. In the beginning of 1856 I was removed from the resident clerkship to make room for Mr. Grover.

480. How many hours a day does it take you to perform your duties?—I am generally at it all day; from nine to six we are on duty.

481. Are you ever longer?—Oh! yes; sometimes we commence at six o'clock. On the arrival of the English mails, we are obliged to be there at six o'clock.

482. When do you close?—We generally close at six o'clock at night; sometimes, on dispatching the English mails, some of the clerks are there till nine, ten, and eleven o'clock at night.

483. Do you get extra pay for this?—No.

484. Do you incur any expense by being confined so many hours?—Yes; by having to go down early it costs us for breakfast and lunch; because, on going away early, we do not take our lunch with us, and have to pay for breakfast and lunch too.

485. What salary do you receive?—£450 a year.

486. What is your classification on the Estimates?—Third class.

487. Where were you before?—On the 1st January, 1852, I was placed on the third class—I and Mr. Sievwright. On the 1st of June, we were placed on the second class; that was done on account of our having remained in the service at the time the rush took place to the gold-fields.

488. *By Dr. Tierney.*—During the gold excitement?—It was held out as an inducement that Government would remember us if we remained during that time. I could have had several good situations.

489. Have they performed that promise?—Not at all. I have been reduced to the position of a junior clerk. The taking away the house from me is equal to £100 a year, and I received no remuneration for it.

490. Were you resident clerk?—Yes, from 1852 to the beginning of 1856. In 1855, when the other Government clerks received 50 per cent. besides their salary for house rent, I did not receive that of course; they did not give me that, as I lived in the house. But in the face of that, when they took 50 per cent. off the other clerks' salaries, they took £150 from mine.

491. What was the ground?—I do not know, I never could tell that; besides, in 1855 I had much greater responsibility.

492. *By Dr. Tierney.*—Did you never remonstrate?—I remonstrated in the beginning of 1856. In 1855 my salary was only £350. I called on the Treasurer, and he made the resident clerk's salary £450; and immediately afterwards I was deprived of that situation, to make room for Mr. Grover.

493. Did you get any step of promotion in consequence of Mr. Grover being made resident clerk?—No; I was removed to make room for him, and am now doing junior clerk's work.

Mr. John Smith,  
continued,  
12th Feb., 1857.

494. Were you senior to Mr. Grover?—I am the oldest, with the exception of Mr. Sievwright, whose appointment dates the same as mine in the Post Office. Mr. Grover, in the first instance, was put over our heads.

495. How do you account for his being put over you?—I cannot account for it, excepting through interest. He was clerk in the Colonial Secretary's office in South Australia.

496. Do not you consider that very unfair?—Very unfair.

497. Has there ever been any complaint of your being inefficient?—No.

498. Did you ever get a severe reprimand that you should have been treated in that way?—No.

499. *By the Chairman.*—Have you ever complained of the classification?—Yes, through the Postmaster; and I believe it is his wish that I should be put on the second class.

500. Had you complained of the sanitary state of the department?—The iron building is certainly very hot.

501. Some gentlemen complain of the stench?—The stench from the water-closets is very bad. I have had my health good, and my wife and six children did not suffer while they lived there, except from heat.

502. Is there any rule in the civil service that, if officers become insolvent, they lose their situations?—I do not know that there is any rule; it is generally considered so.

503. Do you not think that the clerks should live within their means?—I think so. I do not think that any clerk should get into debt without the prospect of paying his debts.

504. *By Dr. Tierney.*—Are the clerks in the Post Office department, generally speaking, satisfied with the present salaries?—No, I do not think they are.

505. *By the Chairman.*—Are they satisfied with the classification?—No, they are not. They think there are many in the other Government departments better paid, considering the hours they work, than in the Post Office; that the Post Office department has always been treated with neglect, and that they have no remedy. They seem to think that they are treated as an inferior office, and that it is thought one of no consequence. And another thing they complain of—although they frequently go down to sort English mails, and do fifteen or sixteen hours' extra work, they cannot get even half a day in a week for recreation.

506. They never can get leave of absence?—Very seldom. They want to get it arranged to have half a day in the week—when they can be spared. They do not wish the office to be shut up, but they wish it to be understood that they are entitled to half a day a week.

507. *By Dr. Tierney.*—Could your department be efficiently performed with fewer forms than you have?—Yes, I think the time-bills at least might be done away with.

*The witness withdrew.*

*Ordered—That this Committee be adjourned to Tuesday next, at eleven o'clock.*

THURSDAY, 19TH FEBRUARY, 1857.

MEMBERS PRESENT:—Mr. Patterson, in the chair; Dr. Tierney, Mr. Thomson.

Mr. Francis Ross Lempriere examined.

Mr. Lempriere,  
19th Feb., 1857.

508. *By the Chairman.*—Will you state what office you are in?—I am clerk of petty sessions at Avoca, Lexton, and Amherst.

509. Are there three different courts?—Three benches I have to attend. I reside at Avoca and attend the other two benches.

510. How long have you been in that department?—Three years and eight months.

511. What are the duties you have to perform?—To attend upon the bench at Avoca, and attend at Amherst once a week, and Lexton once a month.

512. Have you any other offices but those?—Deputy registrar of births and deaths at Avoca.

513. What is your salary?—£300 a year.

514. Do you get any extra pay for those journeys you have to perform?—I get £50 as travelling expenses, but then I am compelled to keep a horse; there are no conveyances.

515. Will you state the distances you have to travel from one place to the other?—The distance from Avoca to Amherst is twelve miles, and to Lexton fifteen.

516. Have you any perquisites?—As deputy registrar.

517. What is that?—Last year I believe it amounted to about £8.

518. What is your classification?—I see by the Estimates I am fourth class.

519. Do you know how that has arisen?—I have no idea.

520. You have not been examined before any board, have you?—I have not.

521. Are you aware whether any other clerks have been examined?—I am not.

522. You never were consulted in any way about the classification?—Not at all.

523. Are you satisfied with that classification?—Decidedly not. I think it is very hard indeed upon me, after nearly four years' service, to be placed in a position from which I am not to expect promotion.

524. Are you aware whether in this classification you are eligible for a higher appointment?—I believe not, according to the report of the commissioners, which I have this day seen.

525. And you consider that treating you unfairly?—Most decidedly.

526. Have you ever remonstrated with the Government about your position?—I have as to the loss sustained in riding to the benches.



527. Have you a copy of that correspondence?—I have copies, but not with me. I can tell you the substance of the last letter received from the Attorney General. In answer to my letter of, I forget the date in August, the Attorney General informed me that my claim for further remuneration would be considered in the preparation of the Estimates for 1857—those are the exact words.

528. And has your claim been considered?—It has not. I see I am down for £50 per annum, the same as last year.

529. What does it cost you actually to perform those itinerating duties?—At present it costs me twenty-four shillings a week, that is five shillings a week more than the Government allow. Then I was compelled to purchase a horse, saddle, and bridle—the horse, saddle, and bridle that I have now cost me £34.

530. Do you know whether any other clerks have received any allowance for travelling in that way?—I know of one who received £80. He is bailiff to the gold fields, Avoca district. I am not positive whether it was forage allowance or travelling expenses, but he received £80.

531. Has he greater duties to perform than you have?—Yes; he is at great expense. He is an officer of the gold fields, and has to travel about the different gold fields in the Avoca district. There are officers receiving £80 a year for forage allowance, who do the same work as regards travelling as I do. There is the police magistrate—in the latter end of the year the police magistrate had another bench given to him, and that increased his work, but that is only within the last two or three months.

532. How did you stand before the Estimates for this year were brought out—what class did you suppose you were in?—I was not aware of any classes existing.

533. I suppose you thought you were the head of your department?—I am the first clerk in my own office—that is, I should have been, had an assistant clerk been rendered necessary; but it was not necessary to appoint an assistant clerk.

534. Did you ever occupy any other situation in the Government?—No.

535. Have the Government ever found any fault with you in any way?—No; none has been mentioned to me.

536. What do you consider you have lost by this reduction in 1856?—By the reduction on what I received in the latter end of 1855, though I have the same duty to perform, I lose £70 for the past year.

537. *By Mr. Thomson.*—How does that arise?—At the commencement of 1856, a notice appeared in the *Gazette* that all officers would receive an allowance in lieu of forage, and it was fixed by the board at six shillings per diem. I sent down vouchers for that amount up to April, and not until April did I ascertain that I was to receive only £50 a year. I was compelled to stable my horse during those three months at an immense cost, and I received £12 10s. instead of £29 odd. There was a notice signed by the Treasurer, in the *Government Gazette*, stating that we should receive six shillings a day; and then in April I was informed that I was to receive only £50 a year as travelling expenses; the allowance in lieu of forage was left out.

538. *By the Chairman.*—Have you written to the Government on that subject?—Yes; Mr. Orme wrote to the Attorney General and informed him of the small allowance I received, which comes to only fourpence a mile, going there and back, or rather eightpence going to the courts, which is less than one-half of what witnesses attending the circuit and criminal sessions get.

539. Is it more expensive to keep a horse where you are than it is nearer town?—The hay and corn are much higher.

540. From what cause is that?—From the cartage. About May I was allowed to run my horse in the paddock, which of course assisted me materially.

541. In what paddock?—The police paddock.

542. Has that indulgence been withdrawn?—No, it is still allowed me, but then horses require feeding; they cannot do their work unless they get oats; and oats now up there are fourteen shillings a bushel.

543. What was the reply of the Government on your complaint about this allowance?—Mr. Orme, the police magistrate, wrote to the Attorney General complaining of his reduction, and stating, of course, that I suffered more even than he did, and requesting that the amount might be increased.

544. What was the reply?—I believe the reply was, that they could not allow it, as it was not upon the Estimates for that year; there was no money voted further than what we were allowed.

545. Is the salary that you receive the uniform salary for all such services performed generally throughout the Colony?—The salary is the same as other clerks of the bench, with the exception of, I believe, at Ballarat and Castlemaine; but I know of another clerk of the bench who had merely to travel four miles, and it was not necessary for him to keep a horse, but still he got the same allowance.

546. With regard to this travelling to the different benches, would you tell the committee whether there is any public conveyance to those places?—No; there is a mail going to Burnbank, but then there is no way of getting back again; it merely passes through on Mondays and Wednesdays.

547. Are those the days you sit there; Wednesday is the day once in a month, but then the mail does not return.

548. What is the charge by the mail?—Thirty shillings, I think it was the last time I inquired.

549. How often have you to go there?—Once a month. At the commencement of the

Mr. Lampriere,  
continued,  
19th Feb., 1857.

year I had to travel there every week, and therefore required extra forage. I had to travel fifty-eight miles every week until about the middle of the year.

550. What number of miles do you travel per week now?—Three weeks out of the month I travel twenty-four miles a week, and the fourth week fifty-four.

551. Have you laid before the Government a statement of that?—Yes, it has all been pointed out.

552. And they would not allow you any more?—I got merely the promise, and I see by the Estimates that £50 is put down as the allowance; and, in fact, I have received £4 3s. 4d. for January, for my allowance from the Government, and I have received no notification of an increase, nor do I expect any.

553. Are you aware of any persons who have been a shorter time in the service than yourself who are rated in a higher position?—I knew nothing of the classing until I saw the Estimates to-day.

554. *By Dr. Tierney.*—I think, if you read the Civil Service Report, you will see that, as a clerk of petty sessions, you are not unfairly dealt with. In page 12 of this Report I find the following suggestion:—“We would also suggest the propriety of establishing a system of promotions of clerks of petty sessions to vacant stipendiary magistrates in all cases where it may not be deemed requisite to appoint a professional person?”—I was not aware of that; but supposing that clause to be acted upon, I should be perfectly satisfied.

*The witness withdrew.*

Mr. Hodgson Clarke Peters examined.

Mr. H. C. Peters,  
19th Feb., 1857.

555. *By the Chairman.*—What office do you hold in the Civil service?—I am at present clerk of petty sessions at McIvor.

556. Do you hold any other office?—I also discharge the duties of gold receiver; since I have been in Melbourne I have been told that I am to be removed and sent to Bendigo as clerk of the peace.

557. That is prospective?—Yes.

558. Are you a professional man?—I am a barrister by profession, and I produce my commission from Her Majesty's Supreme Court of Judicature for the province of New Brunswick.—[*The same was handed in and examined by the Committee.*]

559. What are the duties you have to perform?—The ordinary duties of a clerk of petty sessions, and I do not know whether I can say that of gold receiver. I am discharging those duties, and have been for many months, for which I receive no extra remuneration.

560. Have you any other duties to perform?—I am registrar of births and deaths and a commissioner for taking affidavits in the Supreme Court.

561. What salary do you receive?—The lowest salary that a clerk of petty sessions receives, namely, £300 a year.

562. Have you any extra pay for the extra duties you perform?—No extra pay at all.

563. Have you any perquisites?—I receive fees as Registrar of Births and Deaths—half a crown for every entry.

564. What would they amount to in a year?—About £10. It does not average £1 a month.

565. How are you classed in the Estimates?—In the fourth class.

566. Do you know how that classification has arisen?—I do not know the reason of it. I only know that it is so by seeing it in the Estimates.

567. Have you ever been examined before any board?—No; I never received any information that I was classed until I saw it in the Estimates.

568. Did you suppose from being the only clerk, that you were chief clerk?—I supposed from the length of time I had been in the service, and the various duties I have had to discharge since I have been in the service, that I should be placed in a better position than a fourth class clerk.

569. Then you disapprove of this classification?—I do disapprove of the way in which it has been carried on.

570. Have you remonstrated with the Government about it?—No, I have not, because I was not aware until I came to Melbourne what my class was; I had not an opportunity of doing so.

571. Had you not a copy of the Estimates?—No, I had no means of obtaining one.

572. You have stated that you were not consulted about the classification in any way?—No.

573. Have you ever occupied any other position under the Government?—For a year I was clerk of the peace as well as clerk of the bench at McIvor.

574. When did you lose that appointment, or what was the cause of your losing it?—The office was created in the year 1854, and at the end of the year the population decreased so much that the Government thought fit to abolish the appointment, and I was reduced again to be clerk of the bench.

575. Were you then acting under seal of office?—Yes; I have my commission here under the signature of Mr. La Trobe, the late Lieutenant Governor.—[*The witness produced the same.*]

576. When that office was done away with, did you expect to be placed in a similar one?—I thought, being recommended as I was informed I was by the judge of the court, who was the head of the department, that I should receive an appointment in some other district equivalent to the one which I then held, as several were created at the time, but I was passed over.

577. What was your salary when acting as clerk of the peace?—£350 a year, and I was

reduced to £250 when I was made clerk of the bench again. The salary of the clerk of the bench was only £250. The salary of clerk of the peace was £350.

Mr. H. C. Peters,  
continued,  
19th Feb., 1857.

578. Then you lost £100 a year?—Yes.

579. Was it not made up to you in any other way?—No.

580. *By Mr. Thomson.*—Is your salary now only £250 a year?—My salary now is £300 a year.

581. *By the Chairman.*—What is the amount of gold you now take in for the Government as gold receiver—you say you are merely acting as gold receiver—what is your authority for taking in the gold?—By direction of the Treasurer.

582. Is he the head of your department?—No, he has nothing to do with me.

583. Then how comes he to direct you?—There are only two civil officers at McIvor, the police magistrate and myself, and the police magistrate is also warden for the Waranga gold fields, a distance of thirty-five miles. He was frequently called away, and when he was absent he could not receive the gold, and the escort could not be dispatched. It was no part of my duty to do it, but rather than see the people inconvenienced, I was in the habit of receiving the gold, signing the receipts, and dispatching the escort for some months, although I had no specific authority for it; and last November a letter came asking why sometimes the escort receipts were signed by me and sometimes by Mr. Arnold. Mr. Arnold replied, that he was called sometimes from his duty and could not be there to receive the gold, and the Government said it was against the Government regulations that the receipts should be signed by more than one person, and they directed me to do that duty.

584. Do you consider yourself responsible for the gold?—I must be.

585. What is the amount of gold passing through your hands?—From 1,200 to 3,000 ounces a fortnight.

586. Do you consider that you are responsible for that?—If I discharge the duty I must do it effectually, and I must be responsible.

587. And you receive no pay for that?—No pay at all, and I must leave town to-morrow morning in order to reach McIvor in time to receive the escort and dispatch it on Saturday morning at eight o'clock.

588. *By Dr. Tierney.*—Have the Government asked you for any security?—I have given no security, and I have not been asked for any.

589. *By the Chairman.*—You would not give security unless you were paid for the office?—I do not think it would be fair to ask for it.

590. *By Dr. Tierney.*—Did Mr. Arnold give any security for it when he was gold receiver?—I believe not.

591. *By the Chairman.*—Have you ever written to the Government on the subject of being gold receiver?—I have not.

592. Have you ever written, complaining of not being paid for it?—I have not, because I was not sure that it was permanent, and seeing this report of the Civil Service Board, I waited until I saw what was done in the matter.

593. Have you seen the Civil Service report?—I have.

594. Are you aware whether, as a fourth class clerk, you are eligible for a staff appointment?—I see one clause in the report which recommends that police magistrates should be appointed from clerks of petty sessions, and I presume that police magistrates are first class.

595. Do you consider, having seen that report, that you are now acting under that clause?—If the report was a public document, I should fancy so; but I do not know at present what value is to be attached to the report.

596. Would you be satisfied if that clause were acted on?—I should be satisfied; and at the same time I think it only fair that it should be so; because I consider it extremely unfair, that after the length of time I have been in the service, and for some time receiving such a very small salary, that I should now be placed in the lowest class in the service, and only on the same footing as a man who entered the service last week; in fact, any body who entered yesterday could not be in a worse position than I am.

597. *By Dr. Tierney.*—Are there not cases in which a clerk of petty sessions would not be competent to fulfil the duties of police magistrate?—I never have met with any cases. I only know those in my own immediate neighborhood. A man who is appointed clerk of petty sessions, and discharges his duty faithfully and as he ought to do, has a most responsible office, because, where there is no stipendiary magistrate, he is the working head of the bench, and he is, or ought to be, responsible for the advice he gives the local magistrates, who generally look to him for advice in the discharge of their duties. A local magistrate is not supposed to be well up in the law, and the Acts of Council and sections, and so on, and the clerk ought to be able to point out to him the exact section and line, and word almost, under which he is to act; and the magistrate would then only have to exercise a degree of discretion on the facts without being called upon to possess legal knowledge as well.

598. *By the Chairman.*—What are the fees and fines which are collected in your office—what sum of money have you to return to the Government?—It varies. The amount is very small now, except in the licensing months, when the publicans pay their licences; it is then very large, but the ordinary fines and fees are only from about £15 to £30 a month.

599. What would they be in the licensing months?—There are fifteen public houses in the district; that would be £1,500.

600. And that all comes through your hands?—No, I issue the certificates and the Treasurer issues the licences, and the money is paid in Melbourne.

601. The public money which goes through your hands is very small then?—Yes, very small.

Mr. H. C. Peters,  
continued,  
10th Feb., 1857.

602. Are you aware of any one who has been a shorter time than yourself in the Government service, holding a higher classification with a less important office than yours?—I know so few Government officers, that I cannot say that I do know of anybody.

603. How long have you been in the Government service?—Since the 11th May, 1853.

604. Has any prospect of advancement been ever held out to you by the Government?—I was led to suppose that I should have been promoted, I cannot say from any distinct or positive assurance upon the point; but I thought at one time that I should have been promoted to be a police magistrate.

605. *By Dr. Tierney.*—Have there been any vacancies during your time?—There have been several vacancies in the bench to which I belong.

606. Were they barristers that were appointed to the vacancy in each case?—No, only in one instance.

607. Do you know of your own knowledge whether the others were professional men or not?—They were not professional men.

608. How many unprofessional men were appointed?—Two unprofessional men besides Mr. Dava, who was acting. The present magistrate, Mr. Arnold, was a police officer before he was appointed, and he is younger than myself.

609. Was he a police officer in the Government here?—He was an escort officer I believe, running the escort to Geelong.

610. Were there other police magistrates appointed in the Colony during your tenure of office?—There were several vacancies.

611. *By the Chairman.*—Was there ever any fault found with you by the Government with respect to the discharge of your duties?—Never, that I heard of. When I first entered the service I went in at a salary of £150 a year. I took the appointment because I looked upon it merely as a step to promotion. After I went there and found the salary was only £150 a year, I remonstrated with the Government, and the bench recommended an increase, and a letter was forwarded to the bench, acknowledging their recommendation, and saying it would be attended to. That letter was received, but I did not receive the increased salary. I have that letter with me.

*The witness delivered in the same, which is as follows:—*

No. 467 | 53.

GENTLEMEN,

Police Department, Chief Commissioner's Office.

I have the honor to acknowledge the receipt of your letter of the 30th ultimo, forwarding an application from Mr. Peters, the clerk of your bench, for an increase of salary, and to inform you that this gentleman's name is included in the Estimates, which it is proposed should have effect from the 1st July last, for salary at the rate of £250 per annum.

If the Legislative Council sanction this increase, it will be gratifying to the Lieutenant Governor to learn that it has been extended to a gentleman with regard to whose conduct and capacity you are able to speak so favorably.

The Bench of Magistrates, Heathcote.

I have, &c.,  
(Signed) W. H. F. MITCHELL.

612. Was that increased salary voted?—I cannot say, but I believe the Estimates that were proposed were voted. I applied for it, and I was told the letter was written under a mistake. I wrote to Mr. Mitchell's office for the back pay, and this is the letter—[*producing the same*]*—*which I received in reply from Mr. Anderson, who was the chief clerk in the office. This is not an official letter, but it was an answer to an official letter.

*The following paragraph from the letter was read:—*

MY DEAR SIR,

I have just received yours of the 4th, and, on referring to Mr. Mitchell's letter, I find your statement borne out. It was, however, evidently written under a mistake, as it is only the back pay or house allowance which reverts to the 1st of July, and not any increase in the amount of fixed incomes or salaries.

*Witness.*—When I was appointed clerk of the peace, I was made to pay five guineas for my commission, and the office only lasted a year.

*The witness withdrew.*

*Ordered—That this Committee be adjourned to Monday next, at twelve o'clock.*

MONDAY, 23RD FEBRUARY, 1857.

MEMBERS PRESENT:—Mr. Patterson, in the chair; Mr. Thomson, Dr. Tierney.

Mr. John Logsdon Lewis called in and examined.

Mr. J. L. Lewis,  
23rd Feb., 1857.

613. *By the Chairman.*—What position do you hold in the Post Office?—I am a clerk in the correspondence branch.

614. How long have you been in that position?—I entered the Post Office service first on the 19th of June, 1854. At that time I was appointed to the correspondence branch. I was dispensed with at the close of 1854 on account of the reductions which were then effected in the Government service. On the 21st of August, 1855, I was re-appointed to the Post Office.

615. Then you were out of the Government service for some time?—I was, for eight months.

616. What were you re-appointed as?—I was re-appointed to the charge of the registry

window—in the registered letter department, where I continued until the close of 1855. On the 1st of January, 1856, I was re-appointed to the correspondence branch, and up to the close of last year my salary was at the rate of £300 per annum. I entered the service at first at a salary of £450 per annum, in 1854.

Mr. J. L. Lewis,  
continued,  
23rd Feb., 1857.

617. *By Dr. Tierney.*—That was during the time of the gold mania?—It was before the great reductions were effected.

618. *By the Chairman.*—What do you get now?—I am informed by a letter I hold in my hand that I am to be classified since the 1st January, 1857, as a sub-sorter, at a daily rate of pay of 14s.

619. Will you read that letter?—It is as follows:—

G. D. 34, General Post Office, Melbourne,  
2nd February, 1857.

SIR,  
I am directed by the Postmaster General to acquaint you that from the 1st January last you are to be classified in this department under the denomination of sub-sorter.

I am, Sir, your obedient servant,  
A. LANGSTON, Secretary.

To Mr. John L. Lewis, Clerk, General Post Office.

I may be allowed to state that it will be perceived by that, that I have not only been reduced in pay, but I have lost my classification and grade as clerk in the Government service, and have no prospect of promotion.

620. Are you engaged in conducting the correspondence at this moment?—I am, and I received the note from the chairman of this committee in the correspondence room.

621. Have you complained of this?—I have.

622. Have you written to the Government on the subject?—I have addressed Capt. McCrae with a request that I may be restored to my rank and pay as a clerk, and I believe my communication has been transmitted with a favorable recommendation.

623. Has there been any reply to that note?—No, it only went in on Saturday.

624. *By Dr. Tierney.*—I believe you were requested by the chairman of this committee to attend here to-day?—I was.

625. *By the Chairman.*—You were never consulted about this reduction before it took place?—I was not. The first official intimation of it having taken place was by the note I have handed in.

626. *By Dr. Tierney.*—How many hours a day are you occupied?—From nine o'clock to six o'clock.

627. What is the amount of correspondence?—It varies considerably.

628. You spoke of the registry window. Is not the registration of letters an important department?—It is.

629. One requiring the services of a confidential person?—It is so. Very valuable documents pass through that office—bankers' parcels, and so on.

630. And you would not be put there unless confidence were placed in you?—I should think not.

631. Was there any complaint against you at the time you were removed from the registry department?—No. A vacancy occurred in the correspondence branch, through the appointment of one of that department to Beechworth, as postmaster. I was then re-instated to the correspondence department, as I was accustomed to the work of that branch. That was the reason of my being removed from the registry window.

632. There are other gentlemen in the Post Office who have been placed in the same position with yourself, are there not?—There are seven who have been reduced to being classified as sub-sorters besides myself.

633. *By the Chairman.*—Of course they knew you were coming here?—Yes; they were aware of my having been summoned to lay my case before the committee, and I appear here for them as well as for myself.

634. *By Dr. Tierney.*—Are there any persons, do you think, retained as clerks who were not in the establishment so early as you were?—No, I think not; I think they are all my seniors.

635. Do you consider that, at the present time, the Post Office is in an efficient state; or that more clerks are required?—I think the same number of clerks could be well employed with an additional number of sorters.

636. Has the Postmaster General the appointment of the clerks in the Post Office?—I believe the appointments are wholly in the hands of the Treasurer.

637. He has nothing to do with the appointment of any clerks in the Post Office?—Not for some time past, I think.

638. Do you not think an establishment would be more efficient if the head of the Department had control over the clerks, and had to do with their appointment?—I think he should be consulted, and his recommendation should have considerable weight in the appointment of any individual.

639. *By the Chairman.*—You stated that you were employed from nine o'clock to six?—Yes.

640. Does this new appointment involve more hours of labor?—It has not altered our position in any way.

641. Nor your hours of labor?—Not at all.

642. *By Mr. Thomson.*—Nor the duties you perform?—No.

643. *By Dr. Tierney.*—You are not doing the duty of sub-sorter?—It is an alteration of name and grade without any alteration in the nature of the duties I perform. At the same

Mr. J. L. Lewis,  
continued.  
23rd Feb., 1857.

time I may remark, that I may be called upon to attend at six o'clock in the morning, when mails come in.

644. *By the Chairman.*—Are you not liable at this moment while acting as you are doing now, to be sent away from the duty you are engaged upon to sort letters?—Certainly, at any moment.

645. In that case, you would have extra labor to perform, and extra hours if a mail was in?—Yes; and my duties would be of a subordinate nature.

646. Can you give any reason for this reduction?—I cannot tell. In the interview we had with Captain McCrae upon the subject, he intimated that there was no alternative for us but to accept the appointment or resign, and I accepted it conditionally upon the passing of the Estimates, and the decision of the Government being made known.

647. *By Dr. Tierney.*—Would you not think it very unfair for another person to be brought in as a clerk, and placed in that position as a clerk, whilst you were kept in a subordinate position?—Yes; I should think it necessary to resign under such circumstances. I should not be able to be re-appointed, I suppose, if this classification be carried out, without an examination and entering at the very lowest grade.

648. *By the Chairman.*—How did you stand as to classification before this reduction?—There was then merely the classification of the rates of pay; I was one of nine at £300 per annum.

649. What is the highest pay in your department?—£400 as clerk. The secretary has £700.

650. What are the duties of a sub-sorter?—The situation of a sorter is a subordinate one; and his duties consist of sorting letters, opening mail bags, sealing and tying up mail bags, carrying them to the car, and taking them from the mail dray; in fact, it is a modification of a messenger's duties for the performance of subordinate mechanical work.

651. *By Dr. Tierney.*—It requires scarcely any education to be a sorter?—No; it only requires a man just able to read and write, and to comprehend the direction of a letter.

652. Then it could be filled by any person who is possessed of little or no education?—Of a limited education.

653. Is your correspondence increasing?—Yes.

654. If you were taken out of the correspondence branch, do you believe that another clerk would have to be appointed to discharge the duties you are now performing?—Yes; the duties of that office are greatly increased, in consequence of the additional number of country post offices, which occasions extra correspondence, and also a general increase in the business of the department.

655. Are there more clerks in the correspondence department at the present time than there were a year ago?—No; the same number, four.

656. Do you think it is just on the part of the public to ask yourself or any other person to do the duty of a higher branch, which requires education, for the same rank and pay that a messenger would get in an office?—I think I am unjustly treated under those circumstances, and it is against that injustice I wish to appeal. My services are liable to be dispensed with at any time now at a day's notice, as I have been reduced from my position as a clerk to that of a sub-sorter at a daily wage.

657. Will you state in what departments those other clerks are who have been similarly reduced?—There are two clerks in the accountant's branch, four clerks in the general delivery room, and one of the two clerks who sell stamps to the public.

658. Do you think that those persons are now wanted in those several branches?—I do.

659. And that substitutes would be required in their stead, if they were taken away?—Yes. I do not think the convenience of the public would be adequately provided for if the number of clerks attending upon the public were diminished.

660. *By the Chairman.*—Are those clerks, or any of them, serving in the same situations which they filled before this reduction?—They are all in the same positions which they held before the reduction.

661. Although rated as sub-sorters?—Yes.

662. *By Mr. Thomson.*—And discharging the same duties?—Yes.

663. *By Dr. Tierney.*—How many persons are in the department where the stamps are sold?—Two.

664. Are there always two there?—Always two.

665. Are all those clerks whom you have mentioned dissatisfied with their present position?—Yes.

666. Would not any establishment go on better by having persons in it who were satisfied with their position?—Yes, decidedly.

667. Do you not think that any establishment would be more efficient, and that all things in it would go on better, if the men in it were comfortable in their situations?—Certainly.

668. *By the Chairman.*—Did you ever know in the Government service a similar case of a clerk acting in one capacity and rated in another?—Never, to my knowledge.

669. *By Dr. Tierney.*—In a sanitary point of view, do you consider yourself well situated?—We are most unfavorably situated.

670. Have you anything else to state to the committee?—Nothing else.

*The witness withdrew.*

*Ordered—That this committee be adjourned to Thursday next, at one o'clock.*

## APPENDIX A.

LIST of OFFICERS and others employed in the GENERAL POST OFFICE, MELBOURNE, showing the Dates of their several Appointments and Rates of Salary for 1856.

## MELBOURNE POST OFFICE.

Situation.	Name.	Date of First Appointment.		Salary.		Disrated on 1st January, 1857.	REMARKS.
		In Civil Service.	In Post Office.	Per Annum.	Per Diem.		
Secretary ...	Augustus Langston...	Oct. 8, 1849	July 1, 1851	700			
Accountant ...	Bryant Waymouth ...	April 6, 1852	April 1, 1854	600			
Inspector of Stamps	John Alsop ...	Jan. 5, 1854	Aug. 1, 1854	600			
Inspector of Dead Letters	Thomas Pellatt ...	Sept. 1, 1852	Sept. 1, 1852	500			
Resident Clerk ...	William A. Grover ...	Jan. 10, 1853	Jan. 10, 1853	450			
Clerk ...	John Smith ...	Jan. 1, 1850	Jan. 1, 1850	450			
" ...	Adolphus Sievwright	Jan. 1, 1850	Jan. 1, 1850	450			
" ...	Richard Snow ...	Feb. 20, 1852	Feb. 20, 1852	400			
" ...	J. C. Harrison ...	July 1, 1852	July 1, 1852	400			
" ...	R. Dunstone ...	Oct. 11, 1852	Oct. 11, 1852	400			
" ...	T. W. Jackson ...	June 1, 1853	June 1, 1853	400			
" ...	E. D. Pitman ...	Sept. 21, 1852	Sept. 21, 1852	400			
" ...	T. F. Clerke ...	Oct. 1, 1852	Oct. 1, 1852	400			
" ...	J. H. Gibbs ...	Nov. 19, 1852	Nov. 19, 1852	400			
" ...	Henry N. King ...	Mar. 19, 1853	Mar. 19, 1853	400			
" ...	James Willes ...	May 9, 1853	May 9, 1853	350			
" ...	Edward Slack ...	May 19, 1853	May 19, 1853	350			
" ...	Thomas Blunn ...	May 26, 1853	May 26, 1853	350			
" ...	William Galbraith ...	June 1, 1853	June 1, 1853	350			
" ...	H. H. J. Vaughan ...	July 15, 1853	July 15, 1853	350			
" ...	Wallace Alexander ...	Aug. 17, 1853	Aug. 17, 1853	350			
" ...	George Collett ...	Sept. 16, 1853	Sept. 16, 1853	350			
" ...	Thomas Fagan ...	Sept. 16, 1853	Sept. 16, 1853	350			
" ...	Charles Hemmy ...	Sept. 16, 1853	Sept. 16, 1853	350			
" ...	John O. Rose ...	Oct. 1, 1853	Oct. 1, 1853	325			
" ...	William F. Crofts ...	Oct. 1, 1853	Oct. 1, 1853	325			
" ...	A. W. Halifax ...	Nov. 1, 1853	Nov. 1, 1853	325			
" ...	J. H. Dobinson ...	Jan. 9, 1854	Jan. 9, 1854	325			
" ...	Hugh McLachlan ...	Jan. 9, 1854	Jan. 9, 1854	325			
" ...	Thomas Baxter ...	Jan. 21, 1850	Jan. 21, 1850	325			
" ...	James Longcroft ...	Dec. 19, 1853	May 8, 1854	325			
" ...	Thomas Murray ...	June 1, 1853	June 1, 1853	325			
" ...	John Watt... ..	April 7, 1853	April 7, 1853	325			
" ...	William Morison ...	Sept. 16, 1853	Sept. 16, 1853	300			
" ...	John L. Lewis ...	June 19, 1854	June 19, 1854	200			
" ...	S. B. Byrchall ...	April 1, 1853	April 1, 1853	300			
" ...	H. B. Bristow ...	June 12, 1854	June 12, 1854	300			
" ...	Laurence Bruce ...	May 12, 1856	May 12, 1856	250			
" ...	John B. Casey ...	Oct. 20, 1852	May 16, 1856	250			
" ...	John Williams ...	June 9, 1856	June 9, 1856	250			
" ...	R. L. Browne ...	Nov. 7, 1853	Aug. 5, 1856	250			
Sub-Sorter	William Baron ...	Mar. 1, 1852	Mar. 1, 1852	...	14s.	to Sorter, at 10s. 4/2 diem	
" Letter Carrier	Charles Baker ...	Sept. 10, 1852	Sept. 10, 1852	...	14s.	"	
" ...	T. C. Sampson ...	Dec. 1, 1852	Dec. 1, 1852	...	10s.	"	
" ...	William Impett ...	Dec. 16, 1852	Dec. 16, 1852	...	10s.	"	
" ...	R. C. Readshaw ...	Jan. 27, 1853	Jan. 27, 1853	...	10s.	"	
" ...	John Gibbs ...	Feb. 22, 1853	Feb. 22, 1853	...	10s.	"	
" ...	J. R. Hale ...	April 7, 1853	April 7, 1853	...	10s.	"	
" ...	Samuel Fielden ...	June 1, 1853	June 1, 1853	...	10s.	"	
" ...	J. Beatty ...	June 4, 1853	June 4, 1853	...	10s.	"	
" ...	John Sutton ...	July 1, 1852	July 1, 1852	...	10s.	"	
" ...	T. Tomkins ...	Mar. 1, 1854	Mar. 1, 1854	...	10s.	"	
" ...	Joseph King ...	Jan. 4, 1854	Jan. 4, 1854	...	...		
" ...	W. H. Peck ...	May 1, 1854	May 1, 1854	...	...		
" ...	G. Hayward ...	April 10, 1854	April 10, 1854	...	...		
" ...	William Cork ...	May 17, 1854	May 17, 1854	...	...		
" ...	John Johns ...	May 17, 1854	May 17, 1854	...	...		
" ...	William Sanderson ...	Feb. 7, 1854	Feb. 7, 1854	...	...		
" ...	Thomas Jarman ...	Oct. 31, 1853	Oct. 31, 1853	...	...		
" ...	J. Whitehead ...	Nov. 21, 1854	Nov. 21, 1854	...	...		
" ...	John Morris ...	Jan. 9, 1856	Jan. 9, 1856	...	...		
" ...	H. L. Jones ...	Jan. 9, 1856	Jan. 9, 1856	...	...		
" ...	William Sharvell ...	Feb. 23, 1856	Feb. 23, 1856	...	...		
" ...	Joseph Gibbs ...	May 29, 1856	May 29, 1856	...	...		
" ...	Henry Stokes ...	Oct. 6, 1856	Oct. 6, 1856	...	...		
Messenger	Edmund J. Cleary ...	May 13, 1856	May 13, 1856	...	...		
Inspector of Country Post Offices	Charles H. Watts ...	Feb. 1, 1853	Feb. 1, 1853	...	...		Resigned July 9, 1855; re-appointed February 15, 1856.

Re-appointed—  
 Jan. 22, 1855.  
 Mar. 20, 1855.  
 April 7, 1855.  
 Aug. 21, 1855.  
 Aug. 24, 1855.  
 Feb. 29, 1856.

Re-appointed—  
 Jan. 3, 1855.  
 Jan. 3, 1855.  
 Jan. 13, 1855.  
 Jan. 13, 1855.  
 April 2, 1855.  
 April 12, 1855.  
 April 19, 1855.  
 Oct. 26, 1855.

RETURN of OFFICERS and others employed in the POST OFFICE, GEELONG, showing the Dates of their several Appointments and Rates of Salary for 1856.

GEELONG POST OFFICE.

Situation.	Name.	Date of First Appointment.		Salary.		Disrated on 1st January, 1857.	REMARKS.
		In Civil Service.	In Post Office.	Per Annum.	Per Diem.		
Postmaster ...	William Thacker ...	June 12, 1846	June 12, 1846	600			
Clerk ...	J. A. Walpole ...	Jan. 1, 1852	Jan. 1, 1852	400			
" ...	Charles Rogers ...	Oct. 26, 1852	Oct. 26, 1852	300			
" ...	Richard Banks ...	Feb. 3, 1854	Feb. 3, 1854	300			
" ...	H. M. Chettle ...	Feb. 13, 1854	Feb. 13, 1854	300			Services dispensed with Jan. 1, 1855. Re-appointed 12 May, 1856. Temporary Clerk.
" ...	J. Hobday ...	Aug. 21, 1856	Aug. 21, 1856	250			
Letter Carrier ...	M. Alexander ...	Oct. 26, 1852	Oct. 26, 1852		10s.		
" ...	Alexr. Hill... ..	Mar. 1, 1853	Mar. 1, 1853		10s.		
" ...	Thos. Newland ...	Jan. 7, 1853	Jan. 7, 1853		10s.		
" ...	G. Gaylard ...	Jan. 20, 1855	Jan. 20, 1855		10s.		
" ...	W. H. Chandler ...	April 16, 1855	April 16, 1855		10s.		
" ...	T. Harrison ...	June 2, 1856	June 2, 1856		10s.		

General Post Office,  
Melbourne, 28th February, 1857.

B. WAYMOUTH,  
Accountant.

RETURN of OFFICERS and others employed in the undermentioned Offices, showing the Dates of their several Appointments and Rates of Salary for 1856.

BALLAARAT POST OFFICE.

Situation.	Name.	Date of First Appointment.		Salary.		Disrated on 1st January, 1857.	REMARKS.
		In Civil Service.	In Post Office.	Per Annum.	Per Diem.		
Postmaster ...	Charles H. Pain ...	...	April 1, 1852	450			
Clerk ...	Thomas Grant ...	...	Sep. 24, 1854	350			
" ...	J. P. Mabbott ...	...	May 3, 1854	350			
" ...	J. P. Croke ...	...	Mar. 29, 1856	300			

CASTLEMAINE POST OFFICE.

Situation.	Name.	Date of First Appointment.		Salary.		Disrated on 1st January, 1857.	REMARKS.
		In Civil Service.	In Post Office.	Per Annum.	Per Diem.		
Postmaster ...	Francis Fryer ...	...	April 1, 1851	450			
Clerk ...	Thomas Yates ...	...	Sept. 14, 1853	350			
" ...	E. H. Stodart ...	...	April 22, 1854	300			



## SANDHURST POST OFFICE.

Situation.	Name.	Date of First Appointment.		Salary.		Disrated on 1st January, 1857.	REMARKS.
		In Civil Service.	In Post Office.	Per Annum.	Per Diem.		
Postmaster... ..	David Stuart... ..	...	July 10, 1853	£ 450			
Clerk ... ..	G. W. Vibert... ..	...	June 8, 1854	350			
" ... ..	Edward Johnson ...	...	June 22, 1854	300			

## BEECHWORTH POST OFFICE.

Situation.	Name.	Date of First Appointment.		Salary.		Disrated on 1st January, 1857.	REMARKS.
		In Civil Service.	In Post Office.	Per Annum.	Per Diem.		
Postmaster... ..	Edwin R. Elliott ...	...	May 9, 1853	£ 450			
Clerk ... ..	T. P. J. Parry ...	...	Mar. 1, 1856	300			

## APPENDIX B.

[COPY.]

Accountant's Branch, General Post Office,  
Melbourne, 10th December, 1856.

SIR, I have the honor to bring my case under your notice, as regards my classification in the Estimates for 1857, being placed in the second class; whereas other accountants and officers of the same rate of salary are in the first class.

By this classification I am degraded one step, having hitherto held a first class rank. In proof whereof I may cite the fact of my having been one of a few who received a commission under Royal warrant as accountant to the Post Office.

I have every reason to hope that you are satisfied with the manner in which I have conducted myself and my office for now nearly three years. The gentleman sent round from the Audit Office to inspect the books expressed himself highly pleased with the manner in which they and the cash were kept. (I am performing the duties of cashier as well as accountant.)

The responsibility of my office is quite equal to that of any other officer of the same designation in the service, and I believe I give as high a bond.

So far from anticipating a reduction, even in class, I rather thought the Government would, taking into consideration the excess of work performed, being sixteen hours in the week more than that of accountants in other departments of the Government service, have granted me an increase as an equivalent.

Trusting you will take the above statements into your favorable consideration for representation to the Honorable the Treasurer,

I have the honor to be,

Sir,

Your most obedient servant,

(Signed) B. WAYMOUTH, Accountant.

To the Postmaster General,  
&c., &c., &c.,  
Melbourne.

[COPY.]

G.D. 66 | 360.

General Post Office,  
Melbourne, 16th December, 1856.

SIR,

With reference to your letter of the 10th instant (which the Postmaster General submitted for the Honorable the Treasurer's consideration), representing the amount of work you perform, and your presumed title to be ranked higher than a second class officer, I am directed to inform you that a reply has been received to the effect that the Government entertain a different opinion to that held and expressed by yourself, and consider that you have no ground for supposing that you work harder than other people.

I am,

Sir,

Your obedient Servant,

(Signed) A. LANGSTON, Secretary.

B. Waymouth, Esq., Accountant,  
Post Office, Melbourne.

1856-7.

VICTORIA.

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R E P O R T

OF

THE SELECT COMMITTEE

OF THE

LEGISLATIVE COUNCIL

ON THE SUBJECT OF

WARRNAMBOOL HARBOR,

WITH

PROCEEDINGS OF THE COMMITTEE AND MINUTES OF EVIDENCE.

---

ORDERED BY THE COUNCIL TO BE PRINTED 29TH APRIL, 1857.

---

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

---

WEDNESDAY, 11TH FEBRUARY, 1857.

WARRNAMBOOL HARBOR.—The Honorable Dr. Tierney moved, in accordance with notice, That a Select Committee be appointed to inquire into and report to this House upon the Capacity, Anchorage, and Safety of the Warrnambool Harbor (Lady Bay), with the view to have direct Emigration from the mother country to that port; such Committee to consist of the Honorable the President, Messrs. Miller, Vaughan, Hood, and the Mover.

Question—put and passed.

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WEDNESDAY, 29TH APRIL, 1857.

WARRNAMBOOL HARBOR COMMITTEE.—The Honorable Dr. Tierney brought up the Report of the Select Committee appointed to inquire into and report to this House upon the Capacity, Anchorage, and Safety of the Warrnambool Harbor (Lady Bay), with the view to have direct Emigration to that port, and moved that it be printed, that its adoption be made an Order of the Day for Wednesday, the 27th May.

Ordered.

# REPORT.

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THE SELECT COMMITTEE of the Honorable the Legislative Council, appointed to inquire into the Capacity, Anchorage, and Safety of the Harbor of Warrnambool, Lady Bay, with a view to ascertain the practicability of sending immigrant ships of large tonnage direct to that port, have the honor to submit to this Honorable House the following Report:—

Your Committee, in discharge of the duty intrusted to them, examined the witnesses whose testimony is hereunto attached, and would particularly direct the attention of this Honorable House to the evidence.

From the evidence of Captain Doran, who has been constantly employed in our western trade for the last two years, your Committee gather:—

That the moorings at present laid down at Warrnambool are sufficient to hold one or two vessels of from 600 to 700 tons in what may be denominated the outward harbor at Warrnambool, at which spot there have been two moorings laid down at the public expense, and that there is also room inside these moorings for vessels drawing sixteen to seventeen feet of water, which would be secure at their berths if found with the ordinary ground tackle. See Question 7

Captain Doran also states, that he had visited Warrnambool harbor "in all weathers, and never refused to go in;" and, further, that he had "never passed it without going in." See Q. 25.

Captain Doran also distinctly states, that "there would be no danger whatever in sending emigrant ships to Warrnambool," and yet further, that were a vessel even driven on shore, it would be problematical if there would be any injury to her hull, and there certainly could be no risk of human life. See Q. 30. See Q. 35.

Captain Doran continues, that "there are not more than two or three gales" of any violence "in the year," and that, even during their prevalence, the wind must blow from one of four points of the compass to give any concern to a vessel lying in this harbor. See Qs. 37, 38, 39, 40.

Captain Doran thinks that "a pilot could take a vessel in in any weather," and, that when in, she "would be perfectly safe." He also states that he has "brought immigrants from Portland and Melbourne," and has "never had any difficulty whatever in landing them." See Qs. 47, 49, 53, 54.

Your Committee would observe that, upon the testimony above, if it were found practicable to land immigrants brought, as it were, second hand to this port, there cannot be any reason why a difficulty should be raised to the labor required for this district being landed without resorting to a circuitous route.

The above testimony of Captain Doran is confirmed by the evidence of Captain Mills, the Harbor Master of Port Fairy and Warrnambool, in so far as the tonnage that could be secure in this harbor; and Captain Ferguson, the Chief Port and Harbor Master, likewise corroborates similar statements, and says that, "with proper precautions, a ship of moderate tonnage might leave England and land immigrants at Warrnambool in safety." See Qs. 19, 86, 88, 94, 95.

See Qs. 114,  
115. Your Committee would draw the attention of this House to the fact that Captain Ferguson gives the preference over Portland (which he otherwise thinks a better harbor than Warrnambool) for holding ground, and also states that, if a ship were commanded by a person having a knowledge of the harbor, equivalent to what he himself possesses, there would be no difficulty in getting into Warrnambool, but he at the same time states that he believes charts and clear sailing instructions ought to be sent to the Commissioners in addition to any existing ones.

See Qs. 123,  
124, 125, 85,  
86. Captain Ferguson endorses the validity of the opinions of Captain Doran as a practical man, and also gives weight to the evidence given by Mr. Liddell, the present pilot at Warrnambool.

See Q. 141. The evidence of Captain Ross, R.N., would lead to the opinion that the surveys of Mr. Barrow are entitled to be considered as authentic; but your Committee are inclined to think that it would be well that this gentleman, as the Marine Surveyor of the Colony, should be officially in a position to declare these surveys as entitled to every credence.

See Qs. 147,  
148, 152, 153,  
156, 159. Captain Campbell, now Harbor Master at Melbourne, "was acquainted with Warrnambool harbor—knew it, off and on, since 1838." He says he considers Warrnambool a good harbor, with moderately good ground tackle, even without moorings. And this witness endorses the testimony of Captain Mills's statement;—that his (Captain Mills's) opinion would be preferable to his own, from the fact that Captain Mills's opinions are grounded from circumstances gathered at a later date; he attributes the stranding of one of the ships that went ashore at Warrnambool, the *Clarence*, to want of judgment in handling her, and he considers that the addition of moorings, besides the ground tackle usually carried by ships, would materially enhance the safety of vessels; and he states, that a vessel secured to such moorings would ride out any gale.

See Qs. 170,  
186. Captain Campbell further alleges that, in the course of his trade with this place, so secure did he consider his position, that under ordinary circumstances he "did not even keep watch;" and, on being asked the main question of this inquiry, he also asserts, that there would be no objection to land emigrants at Warrnambool.

See Qs. 190,  
191, 192, 193,  
194, 195, 196,  
197, 201, 210. Captain Gray, who has been trading with Warrnambool since 1852, states, that "three vessels of 500 tons could ride safely in that harbor," and that it would likewise accommodate three or four others of smaller tonnage; and he also gives it as his opinion that there would be no danger whatever in sending emigrant ships direct from England to that port.

See Appendix  
A., Qs. 1, 2, 4,  
6, 7. By reference to the evidence in the Appendix A., taken by the Road Board at Warrnambool, it would appear that Captain Liddell seems to take a larger view of the capacity of this harbor than any of the other witnesses, and it must be remembered that the vocation of this witness, viz., the pilot of the port, would give him a greater facility to judge of its capabilities than any of the others previously examined.

See Qs. 15, 16,  
17, 18. This witness states, that "during two-thirds of the year the prevailing winds in this locality are from the north-west and south-west, and that, during these times, Warrnambool harbor is as completely sheltered as Port Phillip."

See Qs. 15, 16. Your Committee view this testimony as important, inasmuch as they can see no reason why the time when these winds are prevalent should not be selected for the arrival of immigrants destined for this locality.

Your Committee would draw the attention of this Honorable House to the fact that this last evidence is corroborated by the certificates of the Collector of Customs and Landing Waiter at Warrnambool.

See Qs. 19, 20,  
21, 38. Captain Reardon, who has been trading for eight years to Warrnambool, says that "three vessels of from 600 to 700 tons could be safely brought into Warrnambool bay, drawing eighteen feet of water, and in addition to these, ten or twelve smaller crafts of 150 to 200 tons, if properly

found with ground tackle, could at the same time lie there without inconvenience, and that there is no reason whatever why such vessels may not land and discharge both passengers and cargo with every safety."

Your Committee would specially direct attention to the statement of Captain Beauvais, of the brig *Maid of Julpha*, made to the Municipal Council at Warrnambool, for the purpose of being laid before this Committee. (See Appendix B.) He says that, having a vessel of his own, and finding an opening to trade with Lady Bay, but understanding that Warrnambool was a dangerous place, "I determined to examine for myself the safety or otherwise." He continues—"I came to Warrnambool and found, to my astonishment, a large quantity of kelp on the right of the entrance to Lady Bay, which convinced me that it would prevent any dangerous sea from running into the bay, and was agreeably surprised to find the reef on the opposite side of the bay meeting the seaweed within two points and a half, which in my opinion landlocks the harbor, or at all events renders it quite safe for shipping laying at anchor, which I have since experienced by anchoring my vessel in the bay." He has sailed to England, and returned from London to Warrnambool, where he discharged a full cargo, principally heavy goods, with perfect safety. He goes on to state—"A good landing can be securely effected at at all times. I am at present discharging a cargo brought by me from Hobart Town, and the confidence I felt in the safety of the bay on my first arrival from England is quite confirmed by experience;" also, that "my vessel is only partially insured, and the cargo, which is my own property, is '*wholly uninsured.*' My vessel is of three hundred tons burden, and I should feel equal confidence in bringing *one of a thousand tons burthen*, drawing seventeen feet of water. I consider the anchorage ground very good, and the moorings laid down by the Government are sufficiently firm to hold a vessel of a thousand tons burthen, and drawing seventeen feet of water, with perfect safety."

This statement is fully endorsed by Captain Brown, of the brigantine *Abbey*, also a trader to Warrnambool, and he also says—"That many masters of vessels sailing along this coast, did they know the harbor better, would often, under stress of weather, put in here as a place of refuge, rather than keep out to sea, or bear for the Otway, during the south-west gales which prevail on this coast, and which frequently continue for a fortnight at a time; and masters of vessels frequenting this part of the coast would do well to make themselves acquainted with this harbor."

Your Committee refer you to the statement of Captain Ferguson, the Chief Harbor Master of Victoria, addressed to the Collector of Customs relative to immigrant vessels sailing to the western ports, as also to Captain Mills's instructions. (See Appendix D (1) and (2).)

Your Committee would urge the immediate erection of a new flagstaff, furnished with Marryatt's code of signals, to be placed on the hill near to the old Police Station, and that a boat and boat's crew station near to the Jetty, so as always to be ready in case of need, should also be provided for, as recommended by Captain Ferguson. A signal light attached to the flagstaff would also be desirable.

Captain Ferguson, on being re-called, reiterates his opinion "that there need be no reason to look for danger in taking immigrant ships to Warrnambool;" he also informed your Committee that he has long since (in 1854) recommended that a lighthouse be erected at each of the western ports, and "that in 1855 I asked for a jetty light for each of these ports rather than have none, but the state of the finances prevented this being granted;" he further states "that I believe the lighthouses were sent for, but if they were not sent for, *they ought to be.*"

Your Committee have requested Captain Ferguson to have prepared proper sailing instructions for entering Warrnambool Harbor, which are appended to this Report. (See Appendix F.)

See Return to  
an Address of  
M. Nicholson,  
Esq., Council  
Proceedings,  
1853-4.

Your Committee are of opinion that the harbor accommodation at Warrnambool could be materially improved, as will appear from the following extracts from the "Report of the Survey of Lady Bay, by John Barrow, Assistant Engineer, 13th December, 1853," who states that :—

"The anchorage ground embraces an area of about fifty acres, varying in depth from two and three-quarters to six fathoms. The bottom throughout is a *calcareous* sand, and perfectly safe as a holding ground in all weathers.

"One of the most important features connected with Lady Bay is, the undoubted fact that it is gradually filling up with sand.

"I would beg to offer for your consideration a remedy to exclude this natural barrier to any improvements in the bay. I have, therefore, appended a plan and sections, to show the practicability of removing the evil by diverting the course of the Merri River from a spot above the influence of the sand hummock.

"The issue of this proposition would be to prevent sand being carried into the bay, and thereby deepen a space of about eleven acres abutting on the platform of rocks near the mouth of the river, to enable steamers and vessels of light draught to lie alongside.

"The current setting in through the openings between the islands would scour and remove the sand between the jetty and the rocks, giving at least twelve feet depth of water at all seasons; and should any further improvements be contemplated, a wharf could *easily be erected on the rocks, and a stone jetty run out to preserve smooth water*, which could be effected by an additional blocking up of the passage between the two outer islands, thus giving an additional embayed area in the spot indicating  $1\frac{3}{4}$  fathoms on the plan."

Mr. Pollard, an engineer, was duly summoned and attended the Committee, but a quorum not being present, he was not orally examined. The Chairman of the Committee then referred the questions, as will be found in his evidence, in the Appendix (E).

See Appendix  
E., Q. 4.

See Qs. 8, 9,  
10, 11, 12,  
13, 14, 15.

He says that, in 1854, he tendered to supply the harbor of Warrnambool with moorings suitable to its circumstances, and would draw the attention of your Honorable House to his professional opinion with regard to the improvements, both present and prospective, necessary for Lady Bay. Your Committee would call attention to the screw moorings recommended by this witness. (Appendix D (3) will show the cost of *four* moorings.)

See Q. 16.

Your Committee consider that the intended lighthouse should have immediate attention, but they leave the mode of construction entirely in the hands of that branch of the public service to which it properly belongs; but they consider, if the screw beacon, which has been recommended by Mr. Pollard, can be procured at no very great outlay, that its use at the entrance of Lady Bay, exposed as it would be to the south-east gales, would afford a fair opportunity of judging of its utility on all exposed positions on the sea coast.

See Qs. 17, 18,  
19.

As a prospective work, to insure the important trade of Melbourne, a harbor of refuge on our southern coast, your Committee would draw the attention of your Honorable House to the evidence of Mr. Pollard, who suggests that the four points of the compass from which the wind would blow directly into Lady Bay could be covered by a breakwater run 1,200 feet from the rocks on the western side of the bay.

Mr. Kerr, the resident engineer to the Warrnambool municipality, has reported on the harbor, to which particular attention is directed, as also to his evidence before the said municipality, and to that of the pilot, Mr. Liddell. (See Appendix G.)

Your Committee report to your Honorable House that there is nothing whatever in the evidence to show that immigrant vessels may not be sent with every safety to Warrnambool harbor (Lady Bay) under present circumstances, but when the new flagstaff is erected, and the pilot



supplied with Marryatt's signals, and sailing directions for the harbor are added, they can see no reason why any extra insurance or any other expense could be incurred by the country for vessels having immigrants on board for the western district, and why ships should not make Lady Bay at once without making the circuit to Port Phillip.

In conclusion, your Committee report to this Honorable House—

1. That the harbor of Warrnambool, even without any artificial appliances, is a fit and proper place whereunto to send immigrants direct from the United Kingdom.

2. That it is expedient to improve the facilities to enter the harbor by the erection of a new flagstaff furnished with a code of Marryatt's signals.

3. That it would be proper and useful to send to the Commissioners of Emigration and to Lloyd's charts and sailing directions for the harbor, in addition to any existing ones.

4. That it is essential to the complete safety of the harbor of Warrnambool to erect a permanent lighthouse at the entrance of the harbor, as recommended by the chief harbor master of the Colony; but in the mean time there should be a jetty light for the harbor.

5. That it would be necessary to increase the number of the moorings, and in ordering them to have regard to their holding ships of heavy tonnage.

6. That it would be advisable to erect quarters to accommodate a boat's crew at or near the jetty, and that the said boat's crew and harbor master should form a water police.

7. That it would be advisable to have a proper survey of the harbor made, with a view to ascertain the practicability of those more permanent future improvements that have been recommended by the witnesses who have been examined.

D. J. TIERNEY,  
Chairman.

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## PROCEEDINGS OF THE COMMITTEE.

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FRIDAY, 6<sup>TH</sup> MARCH, 1857.

*Member present:—*

The Honorable Charles Vaughan.

No Quorum.

Adjourned till twelve o'clock on Tuesday, 10<sup>th</sup> instant.

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TUESDAY, 10<sup>TH</sup> MARCH, 1857.

*Members present:—*

The Honorable Dr. Tierney, in the Chair.

The Honorable the President, the Honorable Charles Vaughan.

*Witness examined:—*

George Doran.

Adjourned till one o'clock on Wednesday, the 11<sup>th</sup> instant.

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WEDNESDAY, 11<sup>TH</sup> MARCH, 1857.

*Members present:—*

The Honorable Dr. Tierney, in the Chair.

The Honorable Charles Vaughan, the Honorable John Hood.

*Witnesses examined:—*

Charles Ferguson and Melville Ross, R.N.

Adjourned till half-past one o'clock on Thursday, 12<sup>th</sup> instant.

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THURSDAY, 12<sup>TH</sup> MARCH, 1857.

*Members present:—*

The Honorable Dr. Tierney, in the Chair.

The Honorable the President, the Honorable Charles Vaughan, the Honorable John Hood.

*Witnesses examined:—*

Alexander Campbell and George Gray.

Messrs. Noon and Benson did not attend, in consequence of having sailed from the port of Melbourne.

Adjourned till Wednesday, the 25<sup>th</sup> inst., at ten o'clock.

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WEDNESDAY, 25<sup>TH</sup> MARCH, 1857.

*Member present:—*

The Honorable Dr. Tierney.

No Quorum.

Adjourned till ten o'clock on Thursday, the 26<sup>th</sup> instant.

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THURSDAY, 26<sup>TH</sup> MARCH, 1857.

*Members present:—*

The Honorable Dr. Tierney, in the Chair.

The Honorable the President, the Honorable Charles Vaughan.

*Witness examined:—*

Charles Ferguson, who handed in a copy of a letter addressed to the Collector of Customs.

Adjourned till two o'clock, 15<sup>th</sup> proximo.

WEDNESDAY, 15<sup>TH</sup> APRIL, 1857.

*Members present:—*

The Honorable Dr. Tierney, in the Chair.

The Honorable the President, the Honorable Charles Vaughan.

Adjourned till Wednesday, 22<sup>nd</sup> instant, at two o'clock, to further consider the Report.

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WEDNESDAY, 22<sup>ND</sup> APRIL, 1857.

*Members present:—*

The Honorable Dr. Tierney, the Honorable Charles Vaughan.

No Quorum.

Adjourned till Wednesday, 29<sup>th</sup> instant, at half-past two o'clock.

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WEDNESDAY, 29<sup>TH</sup> APRIL, 1857.

*Members present:—*

The Honorable Dr. Tierney, in the Chair.

The Honorable the President, the Honorable John Hood, the Honorable Charles Vaughan.

The Report was further considered and adopted.

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# MINUTES OF EVIDENCE.

TUESDAY, 10TH MARCH, 1857.

MEMBERS PRESENT:—Dr. Tierney, in the chair; The President, Mr. Vaughan.

Captain George Doran called in and examined.

1. *By the Chairman.*—You are a master mariner?—I have been a master four years.
2. Were you in the western trade?—Principally between this and Adelaide and this and the western ports.
3. That is, including Warrnambool, Belfast, and Portland?—Yes.
4. How many years were you engaged in the western trade?—Two years.
5. You sailed to Warrnambool and Belfast?—I have commanded a steamer the last two years to the western ports.
6. You used to go and return twice a week?—I made a voyage each week.
7. What do you think of the present state of the harbor of Warrnambool?—The harbor at present is safe for one or two vessels. The present heavy moorings laid down are sufficient to hold a vessel of 600 or 700 tons. There is also room inside of the present moorings, as laid down, for a large vessel of about 400 or 500 tons, drawing say fourteen or fifteen feet of water, with good ground tackle of her own.
8. *By the President.*—That would be about three or four vessels altogether?—Two large vessels would lie there with safety at present. There are other moorings, but I do not know what they consist of. There is also room inside for six or seven small craft.
9. Will you point out where they are?—Yes.—[*The witness described the same on the plan.*]—The inner moorings are here, and the outer moorings here.
10. There are moorings outside?—There are two moorings there. There is anchorage all about the bay. There is a very heavy anchor laid down about here—[*pointing out the same*]. The flagstaff would bear north and by west. It would be about three cables' length from the outer ledge of the reef. The buoy on the outer ledge of the reef would bear about south.
11. There is a buoy there?—There was a buoy there—[*pointing to the plan*]—it is washed away. A 700 ton vessel could lie there, where this heavy anchor is.
12. *By the Chairman.*—Who laid those moorings down?—Captain Ferguson laid down the moorings.
13. *By the President.*—This mooring is available at present?—At present it is always available. The *British Maid*, a vessel of about 300 tons, laid there some time, but the outer mooring chain was too large for her hause pipe; a larger ship would have a larger hause pipe. There is a buoy to both those chains.
14. *By the Chairman.*—Are you obliged to use them?—No; we use our own anchor.
15. You consider them quite sufficient?—Quite sufficient.
16. Do you know Captain Mills?—Yes.
17. He is the harbor master for Belfast?—He is.
18. And I believe harbor master also for Warrnambool?—He is.
19. Captain Mills says, in a letter addressed to "The Chairman of the District Road Board of Warrnambool," dated "Belfast, 23rd February, 1857.—Sir, I have the honor to acknowledge the receipt of your letter, dated the 17th instant, requesting my opinion as to the capabilities of your port for the reception of immigrant ships. Without entering into detail, I beg to say that it is my decided opinion that, with the moorings at present laid down at your port, two vessels of the following tonnage and draft of water could be moored in your bay, in comparative safety, at any season of the year; and, more especially, if the said ships were merely to disembark their passengers and leave in ballast, as the time they might reasonably be expected to remain in port, would not exceed sixteen or eighteen days, viz.:—one vessel of not over 700 tons, with a draft of water not exceeding fifteen feet; and one vessel of 300 tons, not exceeding twelve feet draft of water. I have the honor to be, sir, your most obedient servant, J. B. MILLS, Harbor Master and Pilot."—Do you coincide in that opinion?—I would go further and say, I think two vessels drawing a few feet more water would be perfectly safe in all weathers. With ordinary precaution on the part of the masters of the vessels, two vessels of 700 tons and 500 tons respectively could lie with perfect safety in Warrnambool; the larger ship with the present moorings on board, and the smaller one with her own ground tackle.
20. *By the President.*—Supposing there were other vessels that were berthed before the arrival of an emigrant vessel, and had possession of those moorings, what would be the position which the emigrant vessel would then be in?—She would have to bring up with her own anchors, until she could get the moorings. I have never seen a larger vessel there than one of 250 to 300 tons. She was very light, and took those moorings in; the chain was too large, and they were forced to bend their own chain on to it, so that she was forced to trust to her own ground tackle.
21. Supposing a vessel were in, and had possession of those heavy moorings, would it be in the power of the harbor master, upon the arrival of a large emigrant vessel, to remove that vessel to another part?—The harbor master has that power.

Capt. Geo. Doran,  
continued,  
10th March, 1857.

22. And he might do so with safety?—Yes; a large ship could use her own tackle with both anchors down, and no fear.
23. Have you been in Warrnambool during a heavy gale from the south-east?—Yes.
24. The south-east is the principal bad wind?—The south-east is the principal, but I have known bad weather from the southward and westward. I have endeavored to come out with the *Queen* once or twice and could not do it, the wind and sea have been so strong.
25. *By the Chairman.*—I believe you have gone in there and have remained there from stress of weather?—I have been in in all weathers. I never refused to go in. I never passed it without going in.
26. *By the President.*—You have seen Warrnambool harbor under its disadvantages?—In every possible phase. It would frighten a stranger in the very worst weather.
27. *By Mr. Vaughan.*—Would you compare it with the other harbors of Belfast and Portland, to see how it seems by contrast?—I should say, and I have always said, that I prefer lying in Warrnambool in a gale of wind, to lying in Port Fairy. I have been lying in Port Fairy when a man has been thrown out of the harbor master's boat by the heave of the sea on to our deck.
28. *By the President.*—Would you say that of Portland?—No.
29. *By the Chairman.*—What are your reasons for saying so of Belfast?—It is more open to the ground swell. There is nothing to break the force of the sea. It comes rolling in there in terrific rollers.
30. Do you apprehend any danger would accrue by sending emigrant ships direct from England to Warrnambool, as regards either the safety of the ships or the landing of the passengers?—None whatever.
31. Could ships be boarded at all times outside of the harbor?—Not at all times. In very severe weather it would be impossible.
32. That is the exception to the general rule?—An exception not occurring above three or four times in the course of the year.
33. Should an emigrant vessel require the use of the moorings, are they sufficient for holding?—Perfectly sufficient.
34. Could vessels of 500 tons ride with their own ground tackle safely?—One vessel inside of the large vessel with the large moorings might lie in safety with her own tackle.
35. If by any mischance an emigrant vessel drove ashore from her anchors, would it be attended with loss of life?—None whatever. I can say I never saw a sufficient sea on the beach to do any injury at all. I question whether it would injure the hull of a vessel.
36. If vessels have gone on shore, what has been the cause of that?—Insufficient ground tackle, and inattention on the part of the masters. One vessel, the *Archer*—I knew her age and the state she was in when she went to take cargo, and I directed the attention of the captain to the fact of the ground tackle not being good enough—she went on shore, and after being three or four days with nobody to look after her, she floated off of her own accord and again went on shore.
37. What are the prevailing winds throughout the year?—From north to west and round to south.
38. *By the President.*—The south-east wind is the most dangerous?—Yes.
39. And that is the most rare wind?—The rarest wind. There are not more than two or three gales in the year. Warrnambool is peculiarly sheltered.
40. It is open about four points?—About four points.
41. Then there is nothing, with a south-eastern gale prevailing, to break the swell on coming in?—There are immensely large beds of kelp. There is never any swell in the harbor of Warrnambool to do any injury to a vessel riding there.
42. Kelp to the south-east?—Beds of kelp all the way from the reef, to the mouth of the Hopkins.
43. You are quite clear upon that point?—Quite clear. I have gone in at all hours of the night, and could generally ascertain where we were when I saw the kelp.
44. You have stated that the bay was good holding ground?—It is excellent holding ground.
45. Should you have any hesitation yourself in going in with a large vessel and discharging her cargo and passengers?—None whatever.
46. You think it would be perfectly safe to do so?—Perfectly safe—that is, my knowing the harbor. I am prepared to suggest some trifling improvements, so that a stranger could go in with equal confidence.
47. With a pilot, there is no difficulty in a vessel coming in—a pilot would take any vessel in, would he not?—Yes, in any weather.
48. Mr. Liddell is the pilot?—Yes.
49. Would not he be able to take any vessel in?—Yes, if he could board her outside, and in the event of his not being able to board her, he could communicate by signals, and tell her to make an offing until he could board her—that would be only in an extreme case.
50. *By the Chairman.*—You have read this evidence of Mr. Liddell's, the pilot of Warrnambool?—I have; and I agree with him generally, excepting where he states that "the ships would be comparatively safe."
51. You agree with him, excepting in his reply to the eighth question, wherein he states that "the ships would be comparatively safe?"—Yes; I think they would be perfectly safe.
52. You know Captain Reardon, who has been a good many years in the trade, I believe?—He has. I have read his evidence, and I agree with it generally, with the exception of the statement he makes here, that he has discharged cargo on the beach. I should not like to attempt that. That was previous to the jetty being erected.—[*vide* Appendix A.]

53. You, I believe, have brought some emigrants from Melbourne to Warrnambool?—I have, and from Portland to Warrnambool. Capt. Geo. Doran,  
continued,  
10th March, 1857.

54. And never had any difficulty in landing them?—None whatever.

55. Have you any suggestions to offer by which the capabilities of the harbor could be improved?—The present flagstaff is not efficient. In fact, it is perfectly useless. A superior flagstaff should be erected.

56. *By the President.*—In the same place?—In the same place, with Marryatt's code of signals and a good glass, so that large vessels could be seen at a distance. The flagstaff should be erected near the cutting through the hill—larger than the one that is there now, and a stone beacon should be built on the outer ledge of this reef—[*pointing to the plan.*] There is a good foundation. To a stranger the coast for seven or eight miles seems uniform, he sees no opening or no break in the land; but if the beacon were there and were whitewashed, or painted white on the outer ledge of this reef, it would enable him to see that; and if he were in possession of sailing directions, he could make that beacon and steer right in.

57. That is the eastern extremity?—The south-eastern extremity.

58. And it should merely be used as a beacon?—That is all—merely as a beacon; as a mark to show where the harbor is.

59. What height would you have it?—About forty feet, and being white, it would show as a mark against the dark line of the land.

60. And that would be very little expense?—Very little.

61. The sea does not break over it except in bad weather?—There is one portion above water which they could build it upon. I have seen the spray flying over it in very bad weather.

62. Is that a suggestion of your own?—Yes, it is a suggestion of my own.

63. Have you conversed with others upon the subject?—I have, with Captain Ferguson and with Captain Mills, at Port Fairy.

64. And they agree with you?—They agree with me, that there ought to be something built upon these rocks to show.

65. Those two points are with regard to the entrance of vessels—have you any remark to make as to the harbor itself when they are in?—I have examined the course of the Merri; the outlet from that river ought to be thrown out of the bay. That ought to be done as described by Mr. Barrow, and could be done with very little expense, and by cutting down the detached rocks that are nearly in the line, by prison labor or something of that sort, an effective breakwater would be made there—[*the witness described it on the plan*]—a vessel could lie there then with perfect safety. There is plenty of deep water inside there.

66. The swell that comes in from the south-west is not severe at all?—Only in bad weather; and the rush of water coming down here—[*pointing to the plan*]—throws the sand all over the bay.

67. That which you recommend now would be a work of considerable labor, would it not?—It would not cost much, I think. It is not of very great extent altogether.

68. *By the Chairman.*—Do you think that a wharf could ever be made there, so as that a vessel could be along side?—On this rock here—[*pointing to the plan*]—if stone could be piled on the present reef and made sufficiently high, a wharf could be made, so that a vessel could lie along side of it very easily.

69. *By the President.*—The present mode of lading and unlading merchandise is not a matter attended with much difficulty, is it?—There is the want of a crane on the jetty.

70. Of course there would be an advantage in a vessel coming along side of the jetty or wharf, but the disadvantage of loading and unloading by barges is not very considerable for the amount of trade there is there?—No, there is no detention from that at all. A crane is much wanted.

71. The jetty, I think, has lately been improved; have you been there lately?—I have not; there is a new jetty in the course of erection, I understand.

72. Are you of opinion that a new jetty and a crane will afford sufficient accommodation for the probable traffic of the place?—Quite sufficient, and for emigrant vessels too.

73. That improvement of diverting the Merri, which you speak of, is rather contemplating a future than a present state of things?—A future state of things rather than the present.

74. Are the moorings, such as there are, in your opinion, laid down with judgment?—The outer moorings, I think, are laid down for a vessel that could lie to them with perfect safety and are laid down properly.

75. Should there be more moorings laid down than there are, do you think?—I am personally of opinion those moorings at present laid down might be laid down a little further out so as to give more room inside, and that could be done without much labor; in fact the present harbor staff at Belfast could do it.

76. So that, by laying those moorings out a little further, you give considerable space inside?—For smaller vessels lying inside the larger ones.

77. Have you any further suggestions to offer to the committee?—No, nothing further than the beacon and that flagstaff, and the sailing directions, which should be printed and distributed, and notice of the marks of Warrnambool, which should be published in the papers at home and out here; with them I think no experienced master would hesitate to take a vessel into the port.

78. Would you consider it right for the Government to send emigrants to Warrnambool before those improvements with regard to the sailing directions were adopted?—I should think a vessel of 400 or 500 tons might be sent there with perfect safety, she is more easily handled than a larger vessel—by the bye, the pilot being there now would remove that difficulty, and if he is placed at once in possession of signals and a proper flagstaff, he could communicate at

Capt. Geo. Doran, once with a vessel outside in the event of the weather being so bad that he could not go out, but when once he could get on board, there would be no risk at all whatever.

*continued,*  
10th March, 1857.

79. You think that such sailing instructions could be given as, even without the improvements which you have suggested, would be sufficient to justify the Government sending emigrants to Warrnambool?—I do. Proper sailing directions given for the entrance of the port and the appearance of the land about the port to an experienced shipmaster would be quite sufficient to enable him to go in. If emigrants are sent there, it would be necessary to have an efficient boat's crew of nautical men, and a good whale boat, and then in almost any weather—excepting, perhaps, two or three very severe south-west gales, or equinoctial gales—the pilot would be able to get out.

80. I think you said you knew the harbor of Portland?—I do.

81. Do you conceive that it would be safe, under all circumstances, for emigrants to be sent to Portland?—It is perfectly safe; Portland is a very safe harbor.

82. *By the Chairman.*—Do you think you might send emigrants with safety to any of the three western ports?—I should have my doubts about sending an emigrant ship to Port Fairy, if I was the owner of her. There are very good moorings laid down there now; but large vessels run a great risk, from the terrific sea that runs in there in a south-east gale of wind. I have lost several anchors there. It would not be advisable for a stranger to attempt going into Warrnambool in the night.

*The witness withdrew.*

*Ordered—That this Committee be adjourned to to-morrow, at one o'clock.*

### WEDNESDAY, 11TH MARCH, 1857.

MEMBERS PRESENT:—Dr. Tierney, in the chair; Mr. Hood, Mr. Vaughan.

Captain Charles Ferguson examined.

83. You are the chief harbor master?—I am.

84. You laid down the moorings in Warrnambool harbor?—They were laid down under the personal superintendence of the harbor master of Belfast in August, 1854. I supplied the moorings and examined the ground, and fixed their positions two days before they were laid down.

85. Have you read this evidence of Captain Liddell's?—I have.

86. Do you agree with him as a whole?—Generally, I do. I think the answer to the sixth question exceeds the number I would give. He says, "I think seven vessels could find room without fouling each other." I think that three of that size and from six to eight of a smaller size would find shelter there in a gale of wind. In ordinary weather more vessels might lie there, but I am looking at their safety during a gale of wind.

87. With that exception, do you agree with Captain Liddell's evidence?—He considers the moorings sufficient for a vessel of 700 tons. I think the existing moorings are not sufficient for a vessel exceeding 500 tons, because the moorings are usually laid down extra strong; more so than a vessel would carry according to her own tonnage.

88. If an emigrant vessel had her own ground tackle, there would be no difficulty?—No, none; I do not state that as a difficulty, but as a difference of opinion.

89. If a large vessel had her own tackle, and that was perfect, there would be no difficulty in anchoring at Warrnambool?—No serious difficulty, but I think it would be prudent to limit the size to 500 tons.

90. You think moorings could be put down at the present time, so as to afford accommodation to 700 ton vessels?—Yes; by increasing the weight of the moorings.

91. Have you read Captain Reardon's evidence?—I have.

92. Do you agree with him?—Yes, in the main I do.

93. Have you read this letter from the harbor master, Captain Mills?—I have.

94. Is that a correct statement?—I agree with it as to draft of water, but would limit the larger vessels to 500 tons.

95. Do you think there would be any difficulty in landing passengers at Warrnambool?—I think not, if proper precaution be taken; there would be no more difficulty than in any other open bay; I think, with proper precautions, a ship of moderate tonnage might leave England with emigrants for Warrnambool direct, and land them as safely as at other places; they should have a very short detention there. The arrangements now in existence are insufficient and ought to be modified.

96. *By Mr. Hood.*—You know the three western ports, Portland, Warrnambool, and Belfast?—I do.

97. They are all open roadsteads?—Open to the south-east.

98. Is there any essential difference in the safety of the one over the other?—Portland has the advantage over the others.

99. Is that in depth of water, or in being better sheltered?—Better sheltered and larger, and the ocean swell is more regular and does not affect the ships so seriously as in the two other ports.

100. Then I am to understand there is not much difference between the safety of the two latter ports, Belfast and Warrnambool?—I think not.

101. A ship of 500 tons would be as safe in Warrnambool as Belfast?—Yes.

102. Tolerably safe in either?—Tolerably safe in either.

Capt. C. Ferguson,  
11th March, 1857.

103. How many days do the south-east winds prevail in the year?—These winds prevail in December, January, and February, but S.E. gales may occur during the other months of the year. Capt. C. Ferguson,  
continued,  
11th March, 1857.

104. Has that been more so this year than you ever experienced before?—Yes; we have had more easterly winds this season than usual.

105. *By Mr. Vaughan.*—Do you think there is any risk about safety?—No; not more so than in other open bays.

106. *By Mr. Hood.*—Would you, as an underwriter, charge a higher premium to a vessel going to Warrnambool than either of the other two ports?—Yes, I would over Portland Bay.

107. Over the other?—No.

108. You would make no difference between those two?—No.

109. From your knowledge of the ports of this Colony, suppose you were in London as an underwriter, what difference would you consider it would be fair to make between Warrnambool and Melbourne in insurance?—It is a difficult question to answer.

110. If the usual thing is 30s. to Melbourne, what should it be to Warrnambool?—I could scarcely say. The whole question resolves itself into the advantages and disadvantages, and the facilities you would give to the two places for dispatch. The insurance would certainly be higher for the western ports than Melbourne, Belfast and Warrnambool particularly.

111. Are there moorings laid down at Portland?—None; the ship hangs by her own anchors.

112. Is the nature of the mooring-ground the same in all three instances?—I should say the actual bottom is better at Belfast and Warrnambool than at Portland.

113. *By the Chairman.*—Do you think Warrnambool is as good a port for emigrants as Belfast and Portland?—I have already said that a ship of 500 tons could, with proper care, lie at Warrnambool and land her immigrants; but the agent in England should be instructed not to take up large vessels for the conveyance of emigrants to certain of the western ports, both for the safety of the ship, and there would not be so great a glut into the market.

114. Would you have any difficulty in coming into Warrnambool harbor with an emigrant vessel?—Not with the knowledge I have. I think it would be a very proper thing to send home to the Commissioners the charts and directions for the harbor, in addition to any existing ones.

115. And then you think there would be no difficulty, if such instructions were sent home?—Certainly not.

116. I believe, if there were a flagstaff properly erected and a beacon, those would be considerable improvements to the harbor?—In the Estimates there is provision made for a lighthouse, attached to which lighthouse there should be a flagstaff; and then, if that lighthouse be built where I think it should be, it would answer the two purposes of a flagstaff and a beacon. I am not aware where the place is spoken of for a beacon.

117. *By Mr. Vaughan.*—The lighthouse is of far more importance than the beacon?—It is a beacon by day and a light by night.

118. *By the Chairman.*—When those contemplated arrangements are carried out, you think there would be greater safety in coming in?—No doubt of it; it would be a good mark to strangers. There is very great sameness in the country coming along there; and a stranger requires some prominent mark, such as a lighthouse.

119. If a vessel went ashore on the beach at Warrnambool, would there be any danger?—There is always a certain amount of danger when a ship is driven on shore, but I do not think there would be much risk of life, at least, not more so than in other open bays if she merely went ashore from her anchors.

120. Is there anything else you would wish to recommend—could not the harbor of Warrnambool be improved very much in other ways?—I believe it could be. I could scarcely venture to give a strong opinion as to how it should be improved.

121. But you think it could be improved?—Undoubtedly; I may remark, that an additional whale boat is wanted there, and I am providing it. I believe no person could be competent to give an opinion until they went and resided there some time, and watched the action of the winds.

122. Or any person who was in the constant habit of going there?—My impression is that it would require an absolute watching for a period, to see the action of the wind on the water. It is exposed to the whole southern ocean. Consequently the action of the waves is very great, and that action should be watched.

123. Would you consider the opinion of Captain Doran as of any weight?—He is a good practical seaman; but the question of the improvements to the harbor is a question of engineering. The sailor may say what he wants, but it is for the engineer to say how the work is to be done; I mean in matters of so grave a nature as building breakwaters, and opening up the mouths of rivers, as in this case.

124. I am speaking as to going in and out of the harbor?—I would give weight to his opinion in matters relating to the navigation of the port.

125. He having had a good deal of experience in going in and out?—For a length of time, and commanding a steamer.

*The witness withdrew.*

Captain Melville Ross, R.N., examined.

126. *By the Chairman.*—What appointment do you hold?—That of marine surveyor to the colony. Captain M. Ross,  
R.N.,  
11th March, 1857.

127. You have heard Captain Ferguson's evidence?—I have in part.



Captain M. Ross,  
R. N.,  
continued,  
11th March, 1857.

128. Do you agree with him in part or in whole?—I have never been there.
129. Could you give the committee any opinion from the chart?—As far as the chart is concerned, from the nature of the bottom I see there, I think vessels of a certain tonnage might go in there with certainty, but not all ships—say a ship of about 500 or 600 tons.
130. The three western ports of Portland, Belfast, and Warrnambool have been surveyed by Mr. Barrow?—Yes.
131. Have you seen those surveys?—Yes.
132. And the reports?—Yes.
133. Have you surveyed Portland?—I examined Mr. Barrow's work, and took a few lines of soundings to see if they corresponded with Mr. Barrow's chart, and I found it correct.
134. That is, so far as Portland is concerned?—Yes.
135. You have not been to Belfast and Warrnambool?—No.
136. And never having been there, you cannot give any opinion upon them?—No.
137. From looking at the chart at the present time of Belfast and Warrnambool, do you think it desirable to have a proper survey of those ports?—Speaking of Portland, I do not see any occasion to re-survey it. I find Mr. Barrow's survey of Portland to be correct, and I have reason to believe the others are correct as well, as he surveyed them too.
138. You see several recommendations Mr. Barrow has made in regard to the improvement of Warrnambool harbor?—Yes.
139. Before those improvements so suggested were carried out, would you not think it desirable to have another survey made by the marine surveyor of the colony?—I think, myself, it would be as well, if there are any improvements to be made, that I should be sent down there to examine the ports, to verify Mr. Barrow's work.
140. Are you aware that, at the present time, there is a committee of the Legislative Assembly appointed to sit relative to the three western harbors, so as to carry out certain improvements in regard to those harbors?—I was not aware of it until this morning.
141. Before those improvements are carried out, would you think it desirable to have a proper survey of those three western ports?—I think it important that I should go and examine, to see that the surveys are correct; but, at the same time, I would not like it to be inferred that I considered Mr. Barrow to be wrong.
142. If a large sum was going to be laid out there, would not it be desirable to have all the information that could possibly be brought to bear upon it before the money was laid out?—Most decidedly.
143. And you would recommend that the place should be properly examined and the spots pointed out where it would be best to make the improvements?—Yes.

*The witness withdrew.*

*Ordered—That this Committee be adjourned to to-morrow, at half-past one o'clock.*

#### THURSDAY, 12TH MARCH, 1857.

MEMBERS PRESENT :—Dr. Tierney, in the chair; The President; Mr. Vaughan, Mr. Hood.

Alexander Campbell, Esq., examined.

A. Campbell, Esq.,  
12th March, 1857.

144. *By the Chairman.*—What office do you hold?—I am harbor master in Melbourne.
145. How long have you held that office?—Six years.
146. Previously to that, what part of the Colony had you been in?—I had been residing in Port Fairy for several years. I came there in 1837.
147. Then you are intimately acquainted with the western harbors?—Yes. I was not acquainted with Warrnambool before 1838. I have known it off and on since then. I was trading there then. I was trading for many years from Sydney to Belfast and Portland.
148. And Warrnambool?—And Warrnambool since it has been a place.
149. Warrnambool is a later settlement than Portland?—Yes.
150. Have you often gone into Warrnambool?—Yes.
151. You have traded there?—Yes.
152. For how many years?—I commenced in 1838.
153. What is your opinion with regard to the capabilities of Warrnambool harbor?—It is a very good little place.
154. Do you think the anchorage safe?—I do, with moderately good ground tackle.
155. In your time there were no moorings laid down, were there?—No.
156. Are you aware that there are moorings laid down now?—Yes, I have been told so. I have not been down there since they have been laid down.
157. Are you aware that they were laid down by Captain Ferguson, the chief harbor master?—I am not aware who laid them down.
158. Do you think a 500 ton vessel would ride safely in Warrnambool harbor?—I should think vessels of from 300 to 500 tons would, but I do not think they ought to exceed that.
159. Do you think Captain Mills, the harbor master there, is to be depended upon for his opinion on that point?—Yes, his opinion would be superior to mine, certainly, because he has been there since I have.
160. You would not have any doubt about going in with a 500 ton vessel, would you?—No; the people who have been there lately have advantages in giving an opinion, that I have not.

161. You were there before the moorings were laid down, and when the port was originally discovered?—Yes.

A. Campbell, Esq.,  
continued,  
12th March, 1857.

162. Even if an emigrant ship went ashore there, do you think there would be any danger to life or property?—I think, with usual care, there would not be the slightest danger; it would all depend upon proper care being taken.

163. Do you think that the vessels that did go ashore there went ashore in consequence of the want of proper tackling?—The vessel that I went to help off, the *Clarence*, went ashore from want of proper management, not from want of proper tackling. When she had thirty fathoms out, she ought to have had eighty or ninety out.

164. Have you read the report of Mr. Barrow, who surveyed Warrnambool harbor in 1853?—Yes.

165. You see by that report that moorings have been laid down since you were there?—Yes.

166. Do not you think that would make vessels more secure than in your time?—No doubt of it; but when I had a vessel trading there, I owned a portion of her myself, and we had such chains, that she could ride there at any time.

167. The holding ground is very good at Warrnambool, is it not?—I always found it so. The vessel that went ashore, the *Clarence*, parted her chains, whereas, if the holding ground had not been good, she would have dragged them. I differ from Mr. Barrow as to the filling up of the place, because I have found that it has filled up and then cleared itself again—that was the case when I was there.

168. What is your opinion of the safety of the harbor of Warrnambool when heavy gales come on?—I think, with the moorings there, that a vessel well found ought to ride out any weather I have ever seen during the time I have been on the coast.

169. Have you gone in yourself and remained there during bad weather?—I have.

170. Did you ever go ashore?—No, and I did not even keep a watch on deck; but we were particularly well found.

171. Therefore, if an emigrant vessel came to Warrnambool with her chains and anchor perfect, she might not require moorings at all?—She might not on all occasions, but I think it would be the safest plan to have them.

172. The steamers do not use moorings, do they?—No. I think it is unnecessary that they should do so, because they can go out at almost any time there.

173. You used to land goods before the jetty was built, I suppose?—Yes.

174. And passengers too, before the jetty was built?—I was not in the trade at that time.

175. Still, you have landed goods and passengers before there was any jetty?—Yes; several times.

176. And never had an accident?—No; the only accident I have known, was when the master and I believe one of the crew of a vessel called *The Brothers* were lost there.

177. Yourself?—I never had any accident; no person who understands a boat has any occasion to have an accident.

178. And with a little precaution, I suppose, there could be no accident?—No.

179. Supposing a lighthouse were erected there, would not that give greater safety?—Of course, at night it would.

180. *By Mr. Vaughan.*—And a better flagstaff?—I know nothing about the flagstaff; it may be a very good one, for all I know; it is six years since I was there.

181. *By the Chairman.*—Do you think that that is a good survey of the harbor, from what you see of it—the survey made by Mr. Barrow?—I do; the only difference I see is, that sometimes I have found the sand accumulate a good deal, and then, after a heavy gale of wind I have found it shift.

182. Still the accumulation of the sand would not do any injury to a vessel?—There would never be any accumulation there that would injure a vessel.

183. Have you anything else you wish to state as to Warrnambool harbor—if sailing instructions were sent home, do you think they would be useful—would there be any difficulty then?—No.

184. You are aware there is a pilot there—Captain Liddell?—Yes.

185. Do you think an emigrant vessel could go in in safety to Belfast and Portland harbors?—Portland harbor is far before any of the other places.

186. Would you have any objection yourself, if intrusted with a 500 ton vessel, to take emigrants to Warrnambool?—I should say not.

187. You know Captain Doran?—Yes.

188. *By Mr. Vaughan.*—And he must know Warrnambool well?—Yes.

189. Lately, I mean, he having traded there so many years?—Yes; no person's evidence can answer better than Captain Mills's statement.

*The witness withdrew.*

Captain George Gray examined

190. *By the Chairman.*—How long have you been engaged in maritime pursuits in this Colony?—I have been trading out of Warrnambool since the first of the year 1852.

Capt. Geo. Gray,  
12th March, 1857.

191. What is your opinion with regard to the capabilities of Warrnambool harbor?—With good ground tackling it is as capable of safety for vessels as any harbor I have been in along here.

192. As to the anchorage ground?—It is good holding, if the vessels are found in good tackle.

Capt. Geo. Gray,  
continued,  
19th March, 1857.

193. How many feet of water is there that a vessel can draw—sixteen or seventeen feet?—Yes.
194. Do you think a 500 ton vessel would safely ride in Warrnambool harbor?—I do, with the co-operations of the moorings with her own anchor.
195. With the present moorings?—With the present moorings laid down.
196. How many vessels of 500 tons do you think could ride there?—I would average three at the utmost.
197. Any others?—About three or four of smaller size.
198. If Captain Mills states "one vessel of not over 700 tons," do you think Captain Mills good authority?—I do think Captain Mills good authority.
199. He is harbor master?—For Port Fairy.
200. *By Mr. Vaughan.*—And Warrnambool?—He is the harbor master for both places.
201. *By the Chairman.*—Do you think any danger would accrue from sending emigrant ships direct from England to Warrnambool, as regards either the ships or the landing of passengers?—I do not.
202. Could ships, generally speaking, be boarded outside the harbor?—Generally they could with a good boat and crew.
203. Do you know how many moorings are laid down in Warrnambool?—Two moorings.
204. Should an emigrant vessel require the use of the moorings, are they sufficient for holding?—They are sufficient for holding.
205. Could vessels of 500 tons ride with their own ground tackle, if it was perfect, safely?—They could.
206. What distance would a 500 ton ship be from the jetty?—I would say about a quarter of a mile.
207. If by any mischance an emigrant vessel went ashore from her anchors, would it be attended with loss of life?—I do not think it would, except in one place where there is a sand spit about 300 fathoms to the north of the old jetty, which runs out a good way.
208. What are the prevailing winds throughout the year?—From north-west to south-west two-thirds of the year.
209. How do those winds affect Warrnambool harbor?—Vessels can lie in perfect safety with those winds.
210. Is not it completely sheltered from those winds?—Entirely sheltered.
211. Captain Liddell, the pilot for Warrnambool, states that, during those winds, the harbor is as smooth as Port Phillip harbor—would you go as far as that?—The south-west wind raises a sea.
212. *By Mr. Hood.*—Are you acquainted with Portland Bay and Belfast harbors?—I am.
213. Do you think a 500 ton vessel would ride as safely at Warrnambool as at either of those places?—Portland Bay is a larger harbor; but Warrnambool has the advantage over Port Fairy.
214. Do you think that Warrnambool harbor, as a port for emigrants to be sent to, is as safe as Belfast?—Perfectly as safe.
215. Is it as capacious; would it hold as many vessels safely at anchor at any one time?—I do not say it would.
216. Captain Liddell, in his evidence, which is before the committee, being asked his reasons for concluding that a 500 ton vessel would ride as safely at Warrnambool as at Portland Bay and Belfast harbors, says:—"In the first instance, Portland is open to the S.E. eight points, and Warrnambool not more than four points; and secondly, the S.E. swell does not affect the vessels at anchor at Warrnambool, being broken by the reef outside. Belfast harbor is also more exposed to the southerly wind." Do you agree with that?—That is quite correct. I would state the same.
217. How long would it take, at Warrnambool, to land 250 emigrants, in the ship's boats or with the boats available, in weather suitable for landing?—With the boats at the present time they could all be landed in one day; there is tonnage of boats equal to fifty tons there.
218. Do you know the country about Warrnambool well?—Not to any great extent.
219. You do not know whether 250 emigrants, which would be about the number a 500 ton ship would bring, would immediately find employment or not—do you believe that they would in that district?—I think so. I have a little to do there myself.
220. Do you think they would find employment in a few days?—I think they would as far as I have seen and know the requirements.
221. Are wages higher or lower there than in Melbourne?—They have been at an average to my knowledge higher. I paid £90 some months ago for a married couple at Warrnambool.
222. *By the Chairman.*—You know Captain Doran?—Yes.
223. He is a competent judge?—Yes, he ought to be, and I believe is.
224. He has brought emigrants backwards and forwards, there?—Yes, he has, for some time.
225. *By Mr. Hood.*—Captain Mills, in his letter, says that, with the moorings at present laid down at Warrnambool, "two vessels of the following tonnage and draft of water could be moored in your bay in comparative safety." I presume he means to say as safely as at Belfast and Portland?—That is I expect what he meant. That is what I would draw from it.
226. That would have been your opinion, if you had been asked?—Yes.

*The witness withdrew.*

*Ordered—That this Committee be adjourned to Wednesday, 25th instant, at ten o'clock.*

THURSDAY, 26TH MARCH, 1857.

MEMBERS PRESENT:—Dr. Tierney, in the chair ; The President, Mr. Vaughan.

Captain Charles Ferguson again called in and further examined.

227. *By the Chairman.*—Do you hand in a statement that you addressed to the Collector of Customs?—Yes ; that—[*producing the same*]—is it. It is a copy of a letter I sent to the Commissioner of Trade and Customs relative to emigrant vessels going to Belfast and Portland, and I make some remarks there also with reference to Warrnambool.—[*The same was handed in—Vide Appendix D.*]

Capt. C. Ferguson,  
26th March,  
1857.

228. I believe it was in reply to a question from the Collector of Customs that you forwarded that?—Yes ; the origin of that letter is this, the Commissioners for Emigration in England wrote out, asking some questions, and stating that objections had been raised in England by ship owners to vessels going to the western ports, in consequence of want of information and adverse opinions as to the roadstead. They wrote out asking for information. Mr. Childers forwarded me their letter and asked several questions relative to the prevailing winds, the size of the ships that ought to come to those places. That is the answer to those questions, from the harbor masters, and my own.

229. Do you think the reply of Captain Mills, the harbor master of Port Fairy and Warrnambool, applies to Warrnambool as well as to Port Fairy?—Yes ; the answer there given as to the kind of ships, except as to size, is equally applicable to Warrnambool as to Belfast. I think very great stress may be laid on his opinion as to the description of the vessels, from his long experience, and having noticed so many vessels riding in the harbor.

230. I believe you were not asked to report specially relative to Warrnambool harbor before?—Not specially ; the western ports simply.

231. You were asked by me to prepare some sailing instructions which you describe in your former evidence?—Yes, I was.

232. Have you sent down instructions with regard to them?—Knowing that Mr. Mills's local knowledge was so much superior to my own, I wrote to him to furnish me with the best instructions he could, having special reference to strangers arriving from seaward entering the port of Warrnambool. When they arrive I will revise them, and add such as may occur to me to guide vessels. After receiving them, it will be my business to forward them to the Government to have them gazetted as legal sailing instructions.

233. And you will also forward a copy to the committee, so that they may be attached to the report of the committee?—Yes.

234. I think you stated before that the present moorings were not sufficient for a 700 tons vessel without addition?—It would require heavier moorings.

235. You have seen the description of the screw moorings?—A considerable time since.

236. I believe they were brought under your notice by Mr. Pollard?—He did bring them under my notice, and I have observed them in various places.

237. What was and is your opinion of them?—My opinion was and is that they would be very valuable for securing vessels in a quiet harbor ; but I have doubts still (although we might test them in Warrnambool harbor) whether they would be really superior to the ordinary heavy single fluked anchor in a heavy sea-way. I think it will be found, on inquiry in England and other places, that they have been principally used stretching across rivers, where there is no great jerk.

238. I have been informed that, in the case of vessels properly secured with them, there would be no danger at all in any weather?—I think that, in ports such as Belfast and Warrnambool, where the sea in bad weather runs so high, cross, and irregular, the danger to be apprehended is not merely from the moorings parting, but in addition, a large ship high out of water, as emigrant vessels always are, would be apt, even if the moorings held on, to upset her windlass, and probably do herself other serious damage, if not wrecked altogether.

239. I thought you said you approved of them?—I suggested we should have them as being preferable.

240. In 1854?—In 1854.

241. You were furnished with the estimates?—I was.

242. You have not those at the present time?—I forwarded them to the Colonial Secretary. They were forwarded with the other papers.

243. What did the present moorings cost, including all extras since expended?—We have expended £1710 ls. upon moorings at Warrnambool since they were laid down originally. I sent some down five weeks ago at a cost of £360.

244. Is not there an item on the Estimates for a lighthouse for Warrnambool harbor? There is.

245. Do you remember any person submitting to you plans of lighthouses already erected on the British and American coasts, erected on screw piling in the sea?—I think Mr. Pollard, when he brought me down plans of the moorings, at the same time submitted plans of lighthouses. I had seen, in various magazines before, accounts of screw piles and lighthouses, and so on ; but I do not remember the cost.

246. Can you form any idea of the feasibility of the construction as applied to Warrnambool?—I do not think it would be applicable. The screw lighthouses are put on sand banks. Where they cannot get a solid foundation, they use the screw. My impression is, that the lighthouse at Warrnambool should be erected on the eastern rock.

247. Could you not bring it out, if you liked, into the sand, or erect it there?—You could do it ; but it would require to be exceedingly strong to resist the shock from the heavy

Capt. C. Ferguson,  
continued,  
26th March,  
1857.

sea to which, in bad weather, it would be exposed. A lighthouse erected on the eastern part of the rock would have a good solid base, and be less expense.

248. Would not it answer for a beacon and flagstaff during the day as well as a guide by night?—I have stated that in my former evidence.

249. Supposing a breakwater was run from the eastern rock 1,200 feet into the sea, would not the harbor be completely land-locked from all winds?—The harbor no doubt would be greatly improved by such a breakwater, if it really could be constructed out that distance; the eastern end would be in four fathoms, that is, twenty-four feet of water.

250. For future purposes, can the harbor be enlarged?—Yes. I believe it is quite possible to improve upon its present state, because it is in a state of nature now. In my evidence before, I think I stated I would decline giving a decided opinion—in fact, I could not give it professionally; it is a grave question, involving a heavy expenditure, and one for an engineer to decide.

251. *By the President.*—If I understand you correctly, if the moorings were strengthened and a lighthouse erected on the prominent part there, you think that Warrnambool harbor would be quite as safe a harbor to bring emigrants into?—Yes; with proper precautions taken, I think an emigrant ship might be taken there; the lighthouse might be erected within four months.

252. Was there a lighthouse recommended for this port?—There was a lighthouse recommended.

253. *By the commission?*—No. In my evidence before a Select Committee of the Legislative Council, in 1854, I urged that a lighthouse should be erected at each of the western ports, and in 1855 asked for a jetty light for each of these ports rather than have none, but the state of the finances prevented this being granted.

254. *By the Chairman.*—Do you believe it has been sent for?—I am not certain.

255. *By the President.*—Should it not be sent for—you think it ought to be?—Yes; all those lighthouses ought to be.

256. *By the Chairman.*—Do you think there ought to be a flagstaff?—That one there now is not a public flagstaff; I have no control over it. I think it is one erected by the inhabitants.

257. Do you think, if there were a flagstaff where the old one is, with a code of Marryatt's signals, it would be very useful?—Yes; I do not object to a flagstaff being erected forthwith; but you observe the distance is considerable from the jetty. One great defect there is, that the boat's crew live in the town, actually a mile away from the beach. I think that they should have quarters provided for them at the jetty, when, in the event of any casualty, they would be ready promptly to assist a ship coming in. That ought to be done without reference to anything else.

258. A flagstaff above there?—A flagstaff where the present one is would be exceedingly valuable, even as a land mark.

259. There would be no difficulty, the collector of customs living there now, would there?—It would be a better place. If you station the harbor master and his crew down here—[pointing to the plan]—he would be away from the flagstaff up there; but some person attached to the customs might have charge of it.

260. The customs' authorities there now, could they not do it?—I do not know the staff they have.

261. You do not press for the screw moorings?—I do not object to the screw moorings altogether; but I do not place the same stress upon them that I did when I read the account in 1854. The existing moorings we know have answered the purpose, and the others would be an experiment; and as we know this kind of moorings have answered elsewhere for centuries for ships, and answer at Belfast and Warrnambool at the present moment, I do not think it would be advisable to try the others in so open a roadstead, until we know more about them.

262. Would you recommend to the Government increasing the weight of the present moorings?—One additional heavy mooring.

263. *By the President.*—In your opinion, is not Portland harbor more susceptible of improvement than Warrnambool harbor; if any large expenditure were to be incurred, would not it claim the preference, looking upon it as a national object?—Looking upon it in the light of a harbor of refuge.

264. *By the Chairman.*—On the other hand, if those improvements were carried out, would not Warrnambool harbor be more sheltered than Portland?—In speaking of a harbor of refuge, it is generally understood as a place where a ship would run into in a storm, or seek shelter during adverse winds. Portland Bay offers greater facilities for the construction of such a harbor than either Belfast or Warrnambool. Too much stress must not be laid upon the fact of moorings being laid down at these ports—I mean as an inducement to masters to enter in bad weather—as moorings can only be picked up in fine weather; therefore, as vessels would only seek a harbor of refuge in bad weather, they should be so sheltered as to be able to ride by their own anchors. This they could more easily do at Portland than Belfast or Warrnambool, supposing a breakwater was constructed at each place.

265. But if you carried out this breakwater, would that be so?—You could not call it a harbor of refuge.

266. But if you render this breakwater perfect?—You would give it more shelter than you have at present, but there is considerable difficulty in picking up moorings, even in ordinary weather. I should be sorry to induce any man to run down to any place where he could not really find shelter, and perhaps lose every soul on board.

267. If this breakwater were made, would not it cover the four points of the compass, from which direction alone we have it in evidence that any sea-way can run into Warrnambool harbor?—If you could possibly do it so as to cover this point here—[pointing to the plan]—you

certainly would increase the shelter. A breakwater half a mile in length would prevent the swell rolling in to a great extent, and you would make a nice little harbor of it; but then it would simply be a small harbor when done. You would require to carry it out at a depth of thirty feet, and we have been for two years making a jetty at Gellibrand's Point with 300 convicts, and have only got it into twelve feet water now. I only mention that to show the nature of the work you propose for Warrnambool. It would be something like half the extent of Plymouth breakwater.

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268. *By the President.*—Do you not consider that the magnitude of the trade connected with Melbourne would justify the country in making Portland a harbor of refuge?—I do think that, considering the magnitude of the trade along our southern coasts, and the absence of such a secure harbor in southerly and easterly gales, the time is now come when we ought to have, if it is practicable, a harbor of refuge on that part of the coast.

269. Have you any doubt of its practicability?—I have no doubt of its practicability, barring the expense. I believe a breakwater could be run off the point there—[pointing to the plan]; but then you must carry it rapidly into deep water, and as a matter of course at an enormous expense.

270. *By the Chairman.*—Is not Portland more exposed to those severe gales than Warrnambool?—Yes, it is; but then you have a larger space. Whenever the sea runs between two narrow points, it is more troublous and more difficult to handle a ship in than where it comes in in a long swell. If Portland does not afford more shelter than Warrnambool, in Warrnambool you are confined in a smaller space, and ships riding there would ride with a short jerk.

271. Have vessels ever gone ashore at Portland?—Yes. Of the three western ports, the larger number of wrecks have taken place at Belfast.

*The witness withdrew.*

*Ordered—That this Committee be adjourned to Wednesday, the 15th April next, at two o'clock.*

# APPENDICES.

## APPENDIX A.

QUESTIONS PROPOSED BY A COMMITTEE OF THE ROAD BOARD AT WARRNAMBOOL, CONSISTING OF J. M. ALLAN, ESQ., CHAIRMAN; WM. PLUMMER, ESQ., THOS. TIERNEY, ESQ.

Captain Liddell, pilot at Warrnambool, examined.

Capt. Liddell.

1. How long have you been engaged in maritime pursuits in this colony?—Upwards of twenty years in the coasting trade and pilot service.
2. What is your opinion with regard to the capabilities of Warrnambool harbor?—I consider it safe anchorage for vessels well found with ground tackle, drawing not more than sixteen or seventeen feet water, which is the full draught of a 500 or 600 ton vessel.
3. Are you acquainted with Portland Bay and Belfast harbors?—Yes.
4. Do you think a 500 ton vessel would ride as safely at Warrnambool as at either of those places?—Yes, equally so.
5. State your reasons for such conclusion?—In the first instance, Portland is open to the S.E. eight points, and Warrnambool not more than four points; and, secondly, the S.E. swell does not affect the vessels at anchor at Warrnambool, being broken by the reef outside. Belfast harbor is also more exposed to the southerly winds.
6. How many vessels of 500 tons could ride safely together at Warrnambool?—I think seven vessels could find room without fouling each other.
7. Would this admit of small craft at the same time?—Yes, the harbor would admit of eight or nine small vessels inside the large ones.
8. Do you apprehend any danger would accrue by sending emigrant ships direct from England to Warrnambool, as regards either the ships or landing of passengers?—No, certainly not. Emigrants could be landed at all times with safety; and I have already stated that the ships would be comparatively safe.
9. Could ships be boarded at all times outside the harbor?—Generally speaking, they could be boarded without any difficulty whatever with a full crew and good boat. I have occasionally (but very rarely) witnessed such weather as would make it attended with risk.
10. How many moorings are laid down in Warrnambool harbor?—Two are laid down.
11. Should an emigrant vessel require the use of the moorings, are they sufficient for holding?—Yes.
12. Could vessels of 500 tons ride with their own ground tackle safely?—Yes, provided it was of the right sort. There are no moorings at Portland.
13. What distance would a 500 ton ship be from the jetty?—Not more than three or four cables' length.
14. If by any mischance an emigrant vessel drove ashore from her anchors, would it be attended with loss of life?—It would be almost impossible to lose any lives if common order was preserved, as it is a sandy beach, and a vessel would drive well up, the water being deep up to the beach.
15. What are the prevailing winds throughout the year?—From N.W. to S.W., at least two-thirds of the year.
16. How do these winds affect Warrnambool harbor?—The harbor is shut in and completely sheltered from these winds, and as smooth as Port Phillip harbor.
17. What is the average depth of water in which 500 ton vessels would ride?—Between five and seven fathoms.
18. Do you consider Warrnambool bay good holding ground?—Yes, first rate.

“Custom House, Warrnambool, 23rd February, 1857.

“I have no hesitation in endorsing Capt. Liddell's evidence. I was stationed at Portland nearly nine years, and have been at Warrnambool three years, and I have no doubt whatever, as far as my experience goes, but Warrnambool harbor is as safe as either of the western ports for vessels of comparatively small tonnage—say 500 tons.

“JOHN B. HOWARD,  
“Collector of Customs.”

“Custom House, Warrnambool, 24th February, 1857.

“I have been in Warrnambool nearly three years, and fully concur with Captain Liddell's evidence.

“W. FAWKNER,  
“Landing Waiter.”

Captain Reardon examined.

Capt. Reardon.

19. How long have you been engaged in maritime pursuits in the Colony?—About twelve years; eight of which have been in the Warrnambool trade.
20. From your experience, what sized vessel would you think could be brought into the Warrnambool Bay?—Vessels of from 600 to 700 tons; a vessel drawing eighteen feet water could lay with perfect safety.
21. How many vessels of the size you mention would you consider could lie with safety in the bay at once?—Three at least.
22. Are you acquainted with the harbors of Portland and Belfast?—I am.
23. Would you consider that vessels of the tonnage mentioned could lie as safely at Warrnambool as at either of the other ports?—Equally so.
24. How is Warrnambool protected from heavy gales?—By a reef extending southwards, eastward from the islands forming the bay.
25. What are the prevailing winds?—North-west and south-west; the only wind that at all affects the bay is the south-east, but this wind is seldom accompanied by a heavy sea.
26. In addition to the larger vessels, what small craft, say of 150 or 200 tons, would the bay accommodate?—From ten to twelve, provided that they were properly found with ground tackle.
27. You are aware that three vessels have at times been wrecked in Lady Bay?—Yes.
28. State whether, in your opinion, the vessels in question came on shore from stress of weather or insufficiency of ground tackling?—The *Enterprise* came on shore because she had only one anchor and no chain fit to hold her; the *Freedom* from sheer neglect; the *Archer* from total want of ground tackling, the

chain not having been sufficient to hold a vessel of forty or fifty tons; in fact, before I sailed for Sydney, prior to the wreck, I called the attention of the captain to the insecurity of his mooring chains, and offered him the use of a ten-inch coir rope of my own to use as a spring.

29. What was the tonnage of the *Archer*?—Say from 250 to 260 tons.

30. What was the size of her chain—was it new or old?—Three-quarter or seven-eighths chain, and quite worn out.

31. What is your opinion of the bay as holding ground?—Very good, being principally blue clay and sand.

32. Would you consider the present moorings sufficient to hold a vessel of 600 or 700 tons, provided they should be required?—I cannot say.

33. If an emigrant ship should by any mischance go on shore, would it be likely to be with any risk of human life?—None whatever, with proper caution on the side of the master.

34. State your reasons for this belief?—Being a sandy beach and deep close up. I never knew a heavy surf to run up.

35. What would be about the average depth of the bay?—From five to seven fathoms.

36. Did you ever land any goods previous to the jetty being built?—Yes; and also in open boats always in safety.

37. Would you hesitate to discharge and take in a cargo for a vessel of 600 tons?—Not in the least.

38. You would then consider that an emigrant vessel of 600 tons could with perfect safety enter, and lay and discharge her passengers and cargo in Warrnambool bay?—I should, and with every safety.

Capt. Reardon,  
continued.

## APPENDIX B.

STATEMENT MADE BY CAPTAIN BEAUVAIS, OF THE BRIG "MAID OF JULPHA," TO THE MUNICIPAL COUNCIL AT WARRNAMBOOL, RESPECTING THE SAFETY OF LADY BAY AS A HARBOR FOR SHIPPING.

Municipal Council Offices,

Warrnambool, 21st March, 1857.

Captain BEAUVAIS stated as follows:—

Two years ago I chartered my vessel for London from Port Fairy. Understanding that Belfast and Warrnambool were dangerous harbors, and the vessel being my own, I felt some hesitation about returning to these ports; but, on reflection, I determined to examine for myself their safety or otherwise. I came to Warrnambool, and found, to my astonishment, a large quantity of kelp on the right of the entrance to Lady Bay, which convinced me that it would prevent any dangerous sea from running into the bay. I was also agreeably surprised to find the reef on the opposite side of the bay meeting the seaweed within about two points and a half, which, in my opinion, land-locks the harbor; or, at all events, renders it quite safe for shipping laying at anchor, which I have since experienced, by anchoring my vessel in the bay. When I proceeded from hence (two years ago) for Port Fairy, although the water was comparatively smooth when I sailed, at the time of my arrival at Port Fairy, about two hours afterwards, the sea ran so high as to poop my vessel, the wind being easterly, and not the slightest change having taken place in the weather during the time; and my confidence in Lady Bay as a harbor is such, that I would prefer coming here, "uninsured," to going either to Port Fairy or Portland, "fully insured." Since then I have been to England, and returned from London to Warrnambool, where I discharged a full cargo, principally heavy goods, with perfect safety. A good landing can be securely effected at all times. I am at present discharging a cargo brought by me from Hobart Town, and the confidence I felt in the safety of this bay on my first arrival from England is quite confirmed by experience. My vessel is only partially insured, and the cargo, which is my own property, is wholly "uninsured."

My vessel is of 300 tons burthen, and I should feel equal confidence in bringing one of "a thousand tons burthen," drawing "seventeen feet water."

I consider the anchorage ground very good; and the moorings laid down by the Government are sufficiently firm to hold a vessel of 1,000 tons burthen, and drawing seventeen feet water, with perfect safety.

I would suggest that some "land-mark" should be erected on the end of the reef, for the guidance of captains of vessels entering the bay. The chimney of Mr. Riddle's mill seems to me admirably adapted for one land-mark, as it can be seen distinctly from a great distance.

(Signed) R. BEAUVAIS.

## APPENDIX C.

STATEMENT MADE BY CAPTAIN BROWN, OF THE BRIGANTINE "ABBAY," FORMERLY COMMANDING THE SCHOONER "RED ROVER."

Municipal Council Offices,

Warrnambool, 21st March, 1857.

Captain Brown stated as follows:—

After two years' experience on this coast, I quite coincide in all that has been stated by Captain Beauvais, of the brig *Maid of Julpha*, with respect to the safety of Lady Bay. During the whole of that time, though frequently experiencing much rough weather, yet, whilst at anchor in Lady Bay, I have never had cause to feel the least anxiety for the safety of my vessel.

I think that many masters of vessels sailing along this coast, did they know this harbor better, would often, under stress of weather, put in here as a place of refuge, rather than keep out to sea, or bear for the Otway, during the south-west gales which prevail on this coast, frequently continuing for a fortnight at a time.

Masters of vessels frequenting this part of the coast would do well to make themselves acquainted with this harbor.

(Signed) R. E. BROWN.

## APPENDIX D (1).

27th January, 1857.

SIR,  
I herewith forward sailing directions for the western ports, and a report from the harbor master at Capt. C. Ferguson, Belfast, relative to the size and description of vessels best adapted for riding out a gale in Port Fairy, which remarks I concur in, and as to description and draft of water, are also applicable to vessels bound to Warrnambool, limiting the size to five hundred tons register; but vessels of any size may be sent to Portland Bay.

WARRNAMBOOL HARBOR.—d.



Capt. C. Ferguson,  
continued.

With reference to the season of the year at which vessels may arrive in these harbors with the least risk of damage from adverse gales, it must be borne in mind that the bays are all open to easterly and south-easterly winds, from which direction we may look for a gale at any time from December to March, thus rendering the bays during these months more insecure than at any other season of the year; but with proper ground-tackle, and seeing that emigrant ships need not remain in port many days, I do not think there should be any restriction as to the season at which they may arrive, but would suggest that the dispatch of emigrant ships for the western ports should be so regulated that they would arrive before the wool season and harvest, when the services of the emigrants are most urgently required; and that to prevent a ship lying long in port, arrangements should be made to land the emigrants immediately the ship arrives, and that the usual fourteen lay days in the charter party be reduced to six.

These advantages might induce shipowners to tender for the western ports at as moderate a rate as for Melbourne.

In connection with this subject, I would strongly urge the propriety of the harbor masters at the outports being sworn in as water police officers, and the crew as constables, for the purpose of preventing desertion of seamen; an element which I have no doubt enters into the calculation of shipowners in tendering ships for these ports.

(Signed)

CHARLES FERGUSON,  
Chief Harbor Master.

The Honorable the Commissioner of Trade and Customs.

## APPENDIX D (2).

Belfast, Port Fairy, 19th January, 1857.

Capt. J. B. Mills.

SIR,  
I have the honor to acknowledge the receipt of your letter, dated 13th instant, and in reply beg to state, that in my opinion the most eligible vessels for conveying emigrants to this port are vessels of light draft with long easy bow and low wooded. A vessel of the above description might register 700 or 800 tons in fifteen or sixteen feet water; a vessel of this build would, in my opinion, ride easier than a full bowed ship of half the above tonnage.

A vessel with full bow, great beam, and high wooded, should not exceed 500 tons register, and the draft of water not more than sixteen feet. I have found that the latter description of vessel is more difficult to hold in this place than a long easy bowed vessel of double the tonnage. The worst riding vessels which I have found in this port is a vessel with a full bow, great beam, high transom, and fine run.

I would suggest that no vessel should be taken up to convey emigrants over 800 tons, with sixteen feet draft of water.

I also think, as another means of safety, that vessels coming to this port with emigrants should be restricted to a very small portion of cargo, so that they might be dispatched quickly.

With regard to vessels making this port from the westward, or vessels bound from England to this port, with emigrants, they should make the land to the westward—say Cape Bridgewater or Cape Nelson; and should it be late in the day, they should keep to the S.W. of the Lady Julia Percy Island, which is in longitude 142° east, until daylight, when, if the weather is moderately clear, they may run for Port Fairy. It would be advisable to sight the Percy Island before running for the port; its appearance is so remarkable that it could not be mistaken for any other land. It is about two and a half miles in circumference, is nearly a table top, with perpendicular and overhanging sides of dark rock, and is from 170 to 180 feet in height.

If this island is passed at a moderate distance to the southward and E.N.E. course, from thence would pass close to the south of Griffiths's Island, which is distant from the Percy about thirteen miles. This island forms the southernmost extremity of Port Fairy, and has a moderately high hill on its S.E., and which, when seen between west by south, and south by west, forms a sugar loaf; it also forms a saddle, when seen between south and east, and terminates the line of coast to the eastward of the Percy; at this point the land falls back to the northward to form the bay.

Sent to Commissioner of Trade and Customs, with memorandum attached.

I enclose a letter from Capt. Brunell, of the ship *Balnaguith*, to me, which, if annexed to this, may be of service to masters of vessels coming to this place.

I have the honor to be, Sir,

Your most obedient servant,

(Signed)

J. B. MILLS,  
Harbor Master and Pilot.

The Chief Harbor Master.

## APPENDIX D (3).

MEMORANDUM OF COST OF SCREW MOORINGS AND NECESSARY TACKLE FOR THE SAME AS SPECIFIED BELOW, AS REQUESTED BY THE CHIEF PORT AND HARBOR MASTER.

	£	s.	d.
Mr. N.W. Pollard. 2 screw moorings as per fig. 2, plate I, of Mitchell's pamphlet, with 36 in. flanges, at £35	70	0	0
2 screw moorings as per fig. 2, plate I, with 30 in. flanges, at £32 each	64	0	0
1 capstan head and wrought iron shaft, with connections, key joints, couplings, &c., to screw, 8 fathoms	95	0	0
1 box of tools, say chisels, hammers, punches, drills, &c.	5	0	0
180 fathoms 2 in., 75 fathoms 1½ in., 30 fathoms 2½ in. chain, in all 605 cwt., say 30 tons 5 cwt., at £18	544	10	0
4 pine buoys, with mooring rings, shackles, &c., at £35	140	0	0
Freight on 40 tons at £3 10s.	150	0	0
	1068	10	0
2½ per cent. commission on order	26	8	6
	1094	18	6

SIR,

I will guarantee to deliver the above from alongside the ship for the sum specified, say, One thousand and ninety-four pounds eighteen shillings and sixpence, in Hobson's Bay.

(Signed)

N. W. POLLARD.

Captain Ferguson, Chief Port and Harbor Master.

NOTE.—The Company will require payment to be made in London, and, on receipt of the money, will endorse the bill of lading to any party to whom we may be desired to address it.

## APPENDIX E.

BEING REPLIES TRANSMITTED TO THE HONORABLE DR. TIERNEY BY MR. N. W. POLLARD, C.E., IN ANSWER TO A SERIES OF QUESTIONS PROPOUNDED TO HIM.

1. What is your occupation?—I am a civil engineer.
2. Were you not at one time acting as agent for the Screw Pile Company?—I was authorized, on my arrival in this Colony, by the patentee's agents of Mitchell's screw piles and moorings, to introduce their improvements to those who might be charged with the harbor works of Victoria. Mr. Pollard, C.E.
3. Under whose notice did you bring them?—I brought them under the notice of Captains Clarke and Pasley, of the engineer-in-chief of the Melbourne and Hobson's Bay Railway Company, of the engineer-in-chief of the Mount Alexander and Murray River line, and of the chief port and harbor master, Captain Ferguson.
4. Were you not requested to estimate for the moorings required for Warrnambool harbor?—Through Captain Wing, then the assistant harbor master, I was requested by Captain Ferguson to give an estimate and tender for two screw moorings required at that time (1854) for the port of Warrnambool.
5. Were these estimates approved?—I made the estimates and submitted them to Captain Ferguson, by whom they were approved, and advised my constituents of the steps I had taken and the prices I had asked, which they endorsed.
6. What prevented your concluding the arrangements?—I daily expected to get the authority to forward the order, and believe I was prevented from doing so solely in consequence of the then deranged state of our revenue; but I received a letter from Captain Ferguson, in reply to my inquiry into the cause of delay, stating that he was waiting the authority of the Chief Secretary, which never reached my hand.
7. Were you not the superintending engineer of another Colony previous to coming to Victoria?—Previous to my coming to Victoria, I was engineer in charge of the public works of Trinidad; I was appointed to that office by the Governor, Lord Harris. During my administration of that department, I had the wharves and piers of the Colony under my superintendence.
8. Was not a pier constructed in that island on screw piling?—It became necessary to run a jetty into the sea, as a landing wharf, and it was determined to put this work down on the screw piles of Mitchell. When first recommended, I was opposed to their use, and was inclined to use hardwood piling, in which material I had had considerable experience. I was, however, overruled, and from the opportunity I have had of observing the superiority of screw piling, I would use no other but in very rare cases.
9. Is this pier at Trinidad open to the sea?—The pier at Trinidad, like the jetty at Warrnambool, is exposed to the direct action of the sea, and has resisted all its action.
10. In what do you consider this plan excels the ordinary method?—I consider the advantages of this mode of construction over that ordinarily in use is, that it is a work of greater stability; it costs less, and is constructed in less time as regards cost. They could have been put down for half what the present moorings have cost. I think my estimate was £1100, but I do not exactly remember the estimate.
11. Upon what do you found your opinion that this mode of construction would be applicable to Lady Bay?—I have not been at Warrnambool, but I have examined the plan now before me, and am of opinion that the jetty there would have been best constructed if this plan had been adopted. Several works of considerable magnitude are now extant both in England and Ireland to substantiate this opinion. At the breakwater at Portland the work is dependent on them; and they are the means used to secure the foundations of the New Westminster Bridge.
12. Why did you recommend screw moorings in preference to the ordinary ground tackle?—Compared with the usual ordinary mooring for ships, there can be no doubt that screw moorings are far preferable. They are immovable, and the sized ship that they will hold only depends on the depth to which you screw them down and the width of the flange, and does not depend on the weight. They are now in universal use in all the harbors of Great Britain.
13. Would the expense be greater?—In such a place as Warrnambool they could be laid down as cheaply, if not more so, than the ordinary moorings; and with the proper tackle, they could be put down and raised with the greatest facility, yet when fixed it is impossible to stir them.
14. What sized moorings would you use, and to what depth would you screw them at Warrnambool?—I would consider it prudent to screw down a mooring in this locality of somewhat large dimensions, say a four foot flange, from twelve to fifteen feet deep; and to insure the lasting of the cable coupling the buoy and screw, I would galvanize all the links in the cable and other iron work. This would insure its lasting many years, and would render any lifting to examine the tackle unnecessary.
15. Would such a mooring as you have described hold a heavy ship in a gale of wind?—A mooring such as I have described would hold any ship in the world, even in an open roadstead, against any gale of wind. With the cable strong enough, it would be impossible to move it. With such ground tackle, were Warrnambool open to all weathers, vessels would be perfectly safe, but so largely sheltered as it is, there could be no fear of either property or life.
16. State where you consider the best place would be for a lighthouse—what construction you would use—and about what would be the cost?—I understand that it is contemplated to erect a lighthouse at this place—[pointing to the plan]—but on looking at a plan of the harbor, it would appear that the most advantageous place for such a work would be on the rock that projects furthest out. In this position it might be the signal station, and would also serve as the beacon which is required to guide vessels in. I would recommend, if a lighthouse were placed in this situation, that it should be constructed of an iron skeleton frame, firmly and deeply dowelled into the rock, and that the iron should be galvanized to prevent corrosion. The skeleton frame would allow the sea spray no chance to injure the work, but it would break through it. Such a lighthouse could be brought out and erected complete with the necessary illuminating power, from £4,000 to £4,500. On the score of economy this would appear more advantageous; but if I could get a good depth of sand to screw into, I would rather recommend one clear from the shore, similarly screwed down on screw pilings to those already erected in England, Ireland, and America, in the most dangerous positions and subject to the most boisterous weather. Such a lighthouse might be put down to clear a ship of all danger from the reef, and never could be mistaken by passing vessels. The total cost of such a work fit to use would be £7,000 to £7,500. If painted white, it would serve for a beacon by day as well as a light by night, and would answer all the purpose of the flagstaff to signal from as well.
17. Could you suggest any improvement to this harbor beyond those named?—There can be no question the continuance of the spit of rocks would make Warrnambool both a convenient and perfectly safe harbor, and I believe this could be done with but comparatively small expense—the projecting rocks would have to be levelled and the spoil used to continue the reef to the point to which I have recommended the position of the last lighthouse. It could be continued out into the sea in the same manner as is now done and being done at Portland, on the southern coast of England, which is intended as a harbor of refuge. This work has been done entirely by convict labor, and I can see no reason why the short-sentenced or local convict labor of Victoria should not be similarly employed to make Warrnambool a harbor of refuge on our southern coast. It need not entail any costly expenditure; all that would be required would be to tow one of the hulks now moored off Williamstown to this place, with all her prisoners ready for the work—I believe that the difference of maintenance of the people would not be more, nor need the penal staff be increased. The only additional assistance

Mr. Pollard, C.E., *continued.* that would be required would be an engineer to direct the work, and possibly an assistant with a boat and a couple of hands; and I think the money would be well spent, for it would not be without its benefit to have a harbor of refuge on this part of the coast, independent of any service it might be to the district.

18. Would an inspection of the locality by parties conversant to carry out your ideas be serviceable?—If the marine surveyor of the Colony and the harbor master, aided by an engineer, were sent down, more correct data would of course be determined on, upon which calculations could be founded; and even supposing some of the works alluded to were reserved for future construction, I consider it would be an advantage to get the information that is wanted previous to any work being decided on.

19. Have you read Mr. Barrow's report on this harbor?—I have, and in the main points coincide with him. I cannot speak precisely of the value of the diversion of the Merri River, as I have not examined the locality; but, from the description Mr. Barrow gives, I should say it would accomplish all he contends for.

20. Are screw moorings and screw pier works confined to quiescent waters?—By no means; their great value is where there is a heavy sea-way to contend with. A simple ordinary mooring only holds a ship by the weight, a screw mooring holds her—first, by the weight of the mooring, and then, not only by the weight of the earth perpendicularly over the screw, but by the weight of the earth formed by an inverted cone having its apex at the screw, and the sides of the cone forming right angles to one another; so that, as compared with an ordinary mooring, the screw has from 50 to 150 times more holding power.

21. Is this principle of Mitchell's applied for beacons and buoys, jetties and lighthouses, exposed to the action of violent waves?—Decidedly, and so used, can never be moved. Many a vessel is lured on shore by ordinary buoys being shifted in a gale of wind, and so far from being of service to a vessel, may, on the contrary, lead her into danger; if screwed, it cannot move from the place it is put down. But wherever it would be necessary to put down a buoy as an entrance mark, I would always put a screw beacon in the place, because, during the action of a violent gale it sometimes becomes difficult to see a buoy; but if a screw-piled beacon were substituted and carried above the wave shock, and that it is secured in its perpendicular position by bracing screws around it, the small resistance of the iron rods to the sea would keep it safely. This, indeed, is the principle on which the screw lighthouses erected in the sea itself, to which I have alluded, depends, and I am decidedly of opinion that this mode of construction would be the best for all our western ports, and I told Captain Ferguson long ago, that if the principle were used instead of the floating light now moored off the Pope's Eye, in Port Phillip, the country would be saved one-half of the annual cost of keeping up this harbor guide.

## APPENDIX F.

### SAILING DIRECTIONS FOR THE PORT OF WARRNAMBOOL, BY J. B. MILLS, HARBOR MASTER, PORT FAIRY.

- Position of the port. Warrnambool, or Lady Bay, is distant about (13) thirteen miles east from Port Fairy, the flagstaff which stands to the south of the town, being in lat.  $38^{\circ} 24' 50''$  south, and long.  $142^{\circ} 32'$  east. The anchorage is about a mile and a quarter nearly south of the flagstaff.
- Description of Bay and anchorage. The bay is open from south to E.S.E., the anchorage being to the N.E. of the three small islands which form the S.W. limit of the bay, and shelter vessels laying at the proper anchorage from S.W. gales.
- Description of neighboring land. The anchorage is also in some degree protected from southerly winds by the detached reefs which extend between a quarter and half a mile to the south-east of the larger islands.
- Coast to the eastward of Warrnambool. The bay may be said to extend from the small islands to the S.W. to the mouth of the River Hopkins, to the eastward a distance of about ( $2\frac{1}{2}$ ) two and a half miles by the beach, the land in the immediate vicinity of the bay being composed of sand hummocks, without timber, very low on the N.W., and gradually rising to the eastward, where it terminates in a high bluff which forms the west head of the River Hopkins, off the mouth of which is a sunken reef extending nearly half a mile from the shore, the sea breaking on it when there is any swell setting in from the seaward.
- Coast to the westward of Warrnambool. The land behind the bay is tolerably high and well wooded, while that to the east of the Hopkins is clear of timber, grassy, and rises gradually from the coast for some distance to the eastward of the mouth of the river where it terminates in a high grassy down about one and a half mile from the coast. On the N.W. side of this clear land stand two bushy trees close together, and one solitary tree about three quarters of a mile to the S.E., and some distance further in the same direction may be seen a heavy belt of timber skirting the coast to the eastward beyond the bold projection which is about (15) fifteen miles from Warrnambool, the trend of the coast being about S.E. by E. and N.W. by W., and bold and clear of reefs.
- Warrnambool Hill. The coast for about (7) seven miles to the westward of Warrnambool is composed of moderately high sand hummocks, partly covered with brushwood, with a few bare sand patches, which show very conspicuously when seen from seaward, forming a great contrast with the coast further to the westward, which is formed of low grass hummocks.
- Tower Hill. The trend of the coast from the islands at Warrnambool is about N.W. by W. to Armstrong's Bay, and from thence W.S.W. to Port Fairy. Off Armstrong's Bay there are several sunken rocks, some of which extend a long mile off shore. From this bay to Port Fairy the coast is skirted by a sunken reef running parallel with the shore at half a mile distance. Vessels working up this part of the coast should therefore not stand too far in shore.
- Warrnambool Hill. On making Warrnambool from seaward, a look out should be kept for Warrnambool Hill, which, if seen, may be recognised by its resemblance to a cock's comb, being elongated and covered on the top with large bushy trees. It bears from the anchorage N.  $40^{\circ}$  E., seventeen miles, and may be seen from sixteen to eighteen miles off shore in moderately clear weather.
- Tower Hill. Tower Hill is conical and stands to the westward of some high table land eight miles N.E. of Saddle Hill. It bears from the anchorage N.  $21^{\circ}$  W. and may be seen the same distance from seaward as Warrnambool Hill.
- Warrnambool Hill. The table land round Tower Hill has lately been cleared of much of its timber, which makes some large trees that have been left standing on the summit very conspicuous. The hill itself has also been cleared of the bushy trees which made it so remarkable heretofore, and a beacon has been erected on the summit, which, with a good glass, may be observed some distance.
- Warrnambool Hill. The two hills would guide a vessel sufficiently near, so that the islands and clear land to the east of the Hopkins and the remarkable trees on its top might be seen.
- Warrnambool Hill. Strangers bound for Warrnambool from the westward will have no difficulty in making the port, if they sight Cape Nelson or Cape Bridgewater, the first named cape being on the same parallel of latitude as the islands at Warrnambool. The distance is about fifty miles, with the Lady Julia Percy Island laying right in the track and about mid-distance. This island lies nearly five miles off the coast, and is so remarkable in appearance, that if once seen it could not be mistaken for any other land. It is about one mile square and about 150 feet in height, table topped, with perpendicular or overhanging sides composed of dark looking

rocks, without timber and covered with grass. The island is only accessible by boat on the N.E. side, is steep too, and may be approached to within a short distance with safety with a commanding breeze.

As soon as this island is passed, the Saddle Hill on Griffiths's Island, near Port Fairy, may be seen standing boldly out, it being the termination of the line of coast from Portland Bay to Port Fairy; after passing which, the island off Warrnambool may be distinctly seen, as also the high clear land to the eastward of the River Hopkins with the remarkable trees before mentioned.

It is especially recommended that any person in charge of a vessel bound for Warrnambool, who may not be acquainted with this coast, should make the land, if possible, about Cape Bridgewater or Nelson, from whence a very few hours' run would take them to their destination. The remarkable character of the coast between these capes and Warrnambool renders the navigation most simple, and precludes the possibility of mistake.

Another advantage is, that, on the approach of a heavy S.W. gale, after making the land, with night coming on, Portland Bay affords good shelter until the gale abates, it being easy of access to strangers. Portland Bay a place of refuge in case of bad weather.

I consider this of great importance, as it would be dangerous to take Warrnambool Bay in a gale from S. or S.W., and should on no account be attempted, as the sea breaks with great violence across the mouth of the bay and for more than two miles out to sea.

Strangers making Warrnambool from the eastward, if, when nearing the port, they should discover that the sea is breaking across the mouth of the bay, should haul off and stand to the westward until the coast to the westward be opened clear of the islands, and the flagstaff be brought to bear N. half W., when it may be steered for and the bay entered by the south channel. By adopting this plan, the five-fathom bank may be cleared, on which the sea breaks with great violence, and continues breaking from this bank into the Hopkins's Reef, which renders the S.E. entrance very dangerous with a heavy swell. South channel.  
Five-fathom bank.

This bank is ( $\frac{3}{4}$ ) three-quarters of a mile S.E. half E. from the largest island, being of small extent, with a good channel of a quarter or half a mile wide between it and the detached reef to the S.E. of the islands, with from seven to eleven fathoms foul ground.

In working into the bay, with the wind at N.W., care must be taken not to stand too near the Hopkins's Reef, to avoid which, it is advisable to fetch as near the S.E. reef as consists with safety, before standing in on the port tack. By so doing, vessels of moderate sailing qualities would fetch far to windward of this danger, and in a tack or two gain an anchorage. Directions for vessels beating into the bay.

There is a good passage of one mile wide between the south-east reef and the Hopkins's Reef, with not less than four fathoms for ships working in. Eastern channel.

The soundings lessen gradually within the bay as the shore is approached.

The winds on this part of the coast, from the middle of November to the middle of March, are land and sea breezes, generally terminating with the equinoctial gales in March.

The weather from the middle of March to the end of April is very changeable, being for the most part light airs and calms with sudden and frequent changes. Winds and weather.

The westerly winds so prevalent on this coast set in about May and last till November, the former month being frequently the most stormy period of the year.

In June and July the weather is generally fine, the wind being for the most part off the land.

As a general rule, the weather on this coast is very uncertain, being subject to great and frequent changes at all seasons of the year, the barometer rising highest with the south-east wind, and falling with northerly or north-west winds.

The tides on this coast are much influenced by the winds. High-water takes place at full and change a few minutes before noon, but will often flow much later when the wind is strong from the westward. The rise and fall of tide seldom exceeds (5) five feet. Tides.

In fine weather the tides are regular, the flood setting along the coast to the westward, and the ebb to the eastward. Part of these directions may be considered superfluous, as there is a pilot at this port who will board all ships flying a pilot jack before they get into danger, should the sea not be breaking too heavy for his boat to go out.

The following moorings are at present laid down, viz.—

An anchor weighing 37 cwt. with 90 fathoms  $1\frac{3}{4}$  inch chain. This anchor lies in  $4\frac{1}{2}$  fathoms water. Also an anchor weighing 26 cwt., with 75 fathoms  $1\frac{3}{8}$  inch chain, and lying in three fathoms water. To the end of each chain is attached a barrel buoy painted white. Moorings.

## APPENDIX G.

SIR,

Warrnambool, 1st May, 1857.

I have the honor of herewith transmitting to you Mr. Town Engineer Kerr's report on the Warrnambool Harbor, together with a series of questions, put by the Municipal Council to Mr. Kerr and Captain Liddell, with their answers thereto, and which I trust you will find to be of service.

I have the honor to be, Sir,

Your most obedient servant,

SAMUEL MAC GREGOR,

Chairman, W.M.C.

The Hon. D. J. Tierney, M.L.C.

Town Surveyor's Office,

Warrnambool, 21st April, 1857.

GENTLEMEN,

I was requested by you a short time since to report on the harbor of Warrnambool as a place for shipping, but I hesitated to comply with the request, as I considered that masters of vessels who had visited the port, and men constantly engaged in nautical pursuits were far better qualified than myself to give an opinion on the subject. Having, however, now been desired to report on the best means of improving Lady Bay, so as to render it a safer place for shipping than it is at the present time, I have the honor to lay before you the following suggestions, which in my opinion would, if carried out, enable the end in view to be attained, and at a cost much lower than works of the magnitude of those proposed ordinarily require.

### BREAKWATER AND JETTY.

Advantage might be taken of the reef of rocks which extends from the sea coast at the mouth of the River Merri to a point bearing south  $45^{\circ}$  east twelve hundred yards (1200), (as shown on the accompanying tracing), for the construction of a breakwater and jetty which would render the bay a secure anchorage for shipping at all seasons of the year. The mode in which a breakwater is usually constructed is to throw down into the sea, in the

WARRNAMBOOL HARBOR.—e.

line of the proposed work, large blocks of stone, varying in weight from four to eleven tons, and to continue depositing stone until the work reaches the level of low-water mark; on the foundation thus formed a breakwater of solid masonry is built. The side of the breakwater next the shore should be finished with a slope of not less than 45°, and on the side exposed to the action of the sea, that portion of the work below the lowest water line should receive a slope somewhat less than one and a half base to one perpendicular. The portion between this point and the highest water line should receive a slope of six base to one perpendicular. The hardest description of stone is usually employed; it will therefore be apparent to all acquainted with the formation of the rocks in the vicinity of Lady Bay, that great difficulties would have to be overcome in constructing a breakwater such as I have described, as there is no stone with properties sufficiently cohesive effectually to resist the action of the waves. To obviate this difficulty, the plan that I would recommend to be adopted is to have a framework of timber, somewhat similar to the present jetty, consisting of four rows of piles, the outer rows of piles to be placed about two feet six inches from centre to centre, the two inner rows five feet from centre to centre; the whole to be firmly secured and bound together with caps and diagonal braces; the space between the rows to be filled up with the best description of stone to be had in the vicinity; the side exposed to the sea to be protected by stones being thrown down outside the piles to a breadth of ten feet, exclusive of the slope; and that portion of the jetty above low-water mark to be closely planked with four-inch planking. The portion of the work between A and B, as shown on the tracing, I would recommend to be left open, so as not to stop the current, which at the present time flows from that portion of the bay, as such current, in my opinion, tends in a great measure to prevent the sand which is brought down by the River Merri from being deposited in the bay. I would also recommend that the jetty and breakwater should be kept as close to the reef of rocks as practicable, in order to have as little filling as possible; and should any portion of the reef project beyond the inner face of the works in question, the same could easily be removed by blasting.

#### LIGHTHOUSE.

Were a breakwater, such as I have suggested, to be constructed, the head of the work would be admirably adapted as a site for the erection of a lighthouse. A lighthouse placed at that spot would not only be of material service to masters of vessels navigating along the coast, but would enable vessels to make and enter the bay during the night, which would add greatly to the commercial advantages of the harbor.

I have the honor to be, Gentlemen,

Your obedient servant,

A. KERR,

Town Surveyor.

The Chairman and Members of the  
Municipal Council.

#### EVIDENCE TAKEN AT THE MUNICIPAL COUNCIL, WARRNAMBOOL, ON THE 21ST APRIL, 1857, RESPECTING THE IMPROVEMENT OF THE HARBOR.

*Present*—Councillors Macdonald, Elliott, Bateman, Coulstock, and Denney.

In the absence of the chairman, Councillor Macdonald was voted to the chair.

The following questions were put to Mr. Kerr by *Councillor Bateman* :—

1. Are you engineer to the municipality?—Yes.
2. Before receiving your present appointment, did you hold office under any other corporate body?—Yes.
3. What, and for how long?—Melbourne; two years and a half.
4. The municipality of Warrnambool are now constructing a tramway from the town to the jetty?—Yes.
5. State when this work will be finished?—About six weeks.
6. Will this work, when completed, afford greater facilities for discharging and loading vessels?—Yes.
7. State generally the advantages to be derived when the tramway is completed over the present system?—Goods can be delivered in town, and shipped at a cheaper rate.
8. How much cheaper?—Four shillings per ton.
9. What is the present rate per ton?—Eight or ten shillings.
10. Then you think there would be a saving of fifty per cent.?—Yes.
11. Have you examined the Warrnambool harbor?—Yes; sufficiently for my report.
12. Do you think it possesses any natural facilities for making a secure harbor of refuge?—Yes.
13. State them?—If the breakwater proposed in my report was formed, it would render the harbor secure.
14. State the probable time it would require to complete such works (if undertaken)?—With sufficient labor it might require eighteen months.
15. If the harbor were formed as you propose, do you think that vessels drawing not more than twenty feet water could discharge cargo alongside the proposed breakwater with perfect safety in all weathers?—Yes.
16. Then, if your plan for improving the harbor was carried out, the tramway, now in course of construction, could be continued so as to join the breakwater, and vessels might then be discharged into trucks alongside, and the goods again discharged into sheds about to be erected at the terminus in town?—Yes.
17. Thereby saving time and avoiding the risk of damage to which cargo is liable, under the present system?—Yes.
18. Provided the breakwater and tramway were completed, could a vessel of 1000 tons be discharged in five days?—Yes.
19. How long will it take with the present accommodation to discharge a vessel of 1000 tons?—It would depend upon the weather.
20. In fine weather?—About four or five weeks.
21. If several large vessels were discharging at the same time, would the delay be much greater?—Most decidedly.
22. Why?—Because there is a want both of accommodation and labor.
23. *By the Chairman*.—Will the new jetty now in course of construction obviate the delay in landing and shipping goods?—No.
24. *By Councillor Bateman*.—If the breakwater and tramway were completed, how many vessels could discharge and load at the same time?—A dozen.
25. The present tramway would afford sufficient accommodation?—Yes.
26. Would these vessels be discharged with the same dispatch as the vessel of 1000 tons previously referred to?—Yes, with sufficient labor.
27. Would a lighthouse add to the security of the port?—Yes.
28. Where would you recommend it to be erected?—On the end of the proposed breakwater.
29. Have you seen Mr. Barrow's survey of the bay and his report?—I have seen the survey, but not the report.

The following questions were put by the *Chairman* to Captain Liddell:—

30. What is your name?—James Liddell.
31. What are you?—Pilot of the port of Warrnambool.
32. How long have you acted in that capacity here?—Three months and a half.
33. Had you any experience of the port previous to your present appointment?—Yes.
34. How long have you been acquainted with this port?—I was here for the first time about ten years ago.
35. Have you been employed in your capacity as a mariner at any of the other western ports?—Yes.
36. How long have you been acquainted with the other western ports?—About twenty-two years.
37. The municipality of Warrnambool are now constructing a tramway from the town to the jetty?—Yes.
38. Will this work, when completed, afford greater facilities for discharging and loading vessels?—Yes.
39. Have you examined the Warrnambool harbor?—Yes.
40. Do you think it possesses natural facilities for making a secure harbor of refuge?—Yes; great.
41. State them?—The reefs extending in a south-east direction are a natural protection, which could be taken advantage of by extending a breakwater more to the eastward along the reef.
42. Is it practicable to make a breakwater so that vessels not drawing more than eighteen feet water could discharge alongside?—Yes; if the natural outlet of the Merri River was not interfered with.
43. Provided the tramway and breakwater were completed, how soon could a vessel of 1000 tons be discharged?—If the breakwater was properly completed a vessel of that size might discharge in eight days.
44. How long would it take with the present accommodation to discharge a vessel of 1000 tons?—Five weeks in moderate weather.
45. If several large vessels were discharging at the same time, would the delay be much greater?—Yes; much.
46. Why?—For want of proper accommodation.
47. Will the new jetty now in the course of construction obviate the delay in landing and shipping goods?—No; the new jetty will afford less facility than the present one.
48. Why?—On account of its more exposed situation.
49. If the breakwater and tramway were completed, how many vessels could discharge and load at the same time?—Seven.
50. Would these vessels be discharged with the same dispatch as the vessel of 1000 tons previously referred to?—Yes; with sufficient labor.
51. Could a vessel of 500 tons lie here now in perfect safety?—Yes; in perfect safety.
52. How long would it take to land 300 immigrants?—Half a day.
53. Would there be any danger to immigrants landing at the present jetty?—None.
54. How long would it take to land 150 tons of immigrants' luggage?—About two working days.
55. Then you are of opinion that 300 immigrants, with their luggage, could be landed, and the vessel ready to go to sea in a week after the vessel arrived here?—In about eight days.
56. Would a lighthouse add to the security of the port?—Yes.
57. Where would you recommend it to be erected?—On the middle island.
58. Have you seen Mr. Barrow's survey of the bay and his report?—I have seen the survey, but not the report.
59. From your knowledge of the soundings, would you say it was correct?—Yes.

1856-7.

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VICTORIA.

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REPORT

OF THE

SELECT COMMITTEE

OF THE

LEGISLATIVE COUNCIL,

ON THE SUBJECT OF THE

EXIGENCIES OF THE COUNCIL.

---

ORDERED BY THE COUNCIL TO BE PRINTED, 18TH JUNE, 1857.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

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WEDNESDAY, 10TH JUNE, 1857.

**EXIGENCIES OF THE COUNCIL.**—The Honorable J. B. Bennett, in accordance with notice, moved, That a Committee of seven members be appointed for the purpose of considering and reporting to this Council what amount may be sufficient to meet the exigencies of this House during the current year, and that the Honorables W. H. F. Mitchell, H. Miller, T. McCombie, G. Urquhart, J. H. Patterson, S. G. Henty, and the Mover, be members of the Committee.

Question—put and passed.

TUESDAY, 16TH JUNE, 1857.

**EXIGENCIES OF THE COUNCIL.**—The Honorable J. B. Bennett, with leave of the Council, moved without notice, That it be a direction to the Select Committee on the Exigencies of the Council to include in their labors the future exigencies of the Council, as well as those of the current year, and to report in what manner these may best be provided for.

Question—put and passed.

THURSDAY, 18TH JUNE, 1857.

**EXIGENCIES OF THE COUNCIL.—REPORT OF SELECT COMMITTEE.**—The Honorable J. B. Bennett, as Chairman of the Select Committee appointed to inquire and report upon the present and future exigencies of the Council, brought up the Report of the Committee, and moved that it be printed, and that its adoption be made an Order of the Day for Tuesday, the 23rd instant.

Ordered.



*REPORT of the Committee appointed to consider and report to the Legislative Council what amount would be sufficient to meet the exigencies of the House during the current year, as also the future expenses of the Council, and as to the best manner in which these expenses should be provided for.*

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Your Committee, having examined into the machinery required for carrying out the duties and functions of this House, have estimated the sum necessary to cover its expenses during the current year at £8000.

Your Committee are not prepared to state the exact manner in which this sum should be appropriated, but they are of opinion, that the amounts set against the several services enumerated in the schedule attached hereto will be required.

Your Committee are unanimously of opinion, that it would ill comport with the dignity of the Council, that any of its officers should be placed on a lower estimate in reference to salary than those filling corresponding offices in connection with the Legislative Assembly; at the same time, they are of opinion that where the duties of any officer of the Assembly exceed in time and labor those of the corresponding officer of the Council, the latter should be supplemented, so as to place them as near as possible upon an equality.

Your Committee, in fact, consider the true principle to be, that the work of the officer should be raised to the salary, and not the salary reduced to the work. Your Committee, therefore, suggest that a larger amount of work may be imposed upon some of the officers of the Council, but that their number may be diminished.

With reference to the best manner in which the expenses of the Council should be provided for, your Committee conceive that the address presented by this Council to His Excellency the Governor, praying for an increase of the schedule, will, when complied with, best meet this requirement, and suggest that the amount of £5000 be at once submitted to the Governor as the extent of such increase. But as it will be impossible to accomplish this object during the present session, it will be necessary that a further sum be placed upon the Estimates for 1857, in order that the current expenses of the present year may be provided for.

In reference to the amendment suggested for this purpose, as also for the proposed increase of schedule, your Committee are of opinion that it would neither be consistent with the dignity of this House, nor with the independent position assigned to it by the Constitution, that the Legislative

Council should annually be dependent on a vote of the other branch of the Legislature, or should be under the necessity of submitting to that body annually the details of their expenditure. They therefore consider that both amounts should be taken in the gross, leaving it to this Council to recommend to the Governor such distribution of the vote as to them may seem fit and proper.

Your Committee cannot doubt that the Legislative Assembly will willingly confide in the discretion of the Legislative Council the power of regulating its own expenditure, especially as the Governor with his Executive Council will always have it in his power to refuse his sanction to any proposition which should not be in accordance with the other branches of the public service, and as any unexpended balance will lapse into the general revenue at the end of every year. By this course, it appears to your Committee, that the harmony between the two branches of the Legislature will not be liable to be disturbed on this point.

	£	s.	d.
President and Chairman of Committees ... ..	2600	0	0
Clerk of the Parliaments and Clerical assistance ... ..	2200	0	0
Usher and Domestic Establishment ... ..	700	0	0
Messengers ... ..	600	0	0
Fuel and Light ... ..	500	0	0
Stationery, including Engrossing, Postages, and Binding ... ..	400	0	0
Legal assistance and other expenses ... ..	1500	0	0
	<u>£8500</u>	<u>0</u>	<u>0</u>

J. B. BENNETT,  
Chairman.

## MINUTES OF PROCEEDINGS.

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FRIDAY, 12TH JUNE, 1857.

*Members present:—*

The Honorable J. B. Bennett, in the Chair; the Honorables W. H. F. Mitchell, S. G. Henty, G. Urquhart.

Committee deliberated.

The Honorable W. H. F. Mitchell proposed, That the salaries of the President, Chairman, Clerks, and other officers of the Legislative Council should be defrayed from the schedule, and that it should be recommended to the Council to address the Governor to place upon the Estimates the sum of £2,000 to meet the expenses of maintaining that portion of the Parliament Houses set apart for the Legislative Council.

Seconded by the Honorable S. G. Henty.

Committee adjourned till Monday, 15th instant, at ten o'clock.

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MONDAY, 15TH JUNE, 1857.

*Members present:—*

The Honorables J. B. Bennett, J. H. Patterson, S. G. Henty.

Committee deliberated

Committee resolved that the Chairman ask further powers from the Council, so as to include in the labors of the committee a consideration of the future exigencies of the Council, as well as those of the current year.

Committee adjourned until Wednesday the 17th instant, at half-past ten o'clock A.M.

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WEDNESDAY, 17TH JUNE, 1857.

*Members present:—*

The Honorables J. B. Bennett, G. Urquhart, J. H. Patterson.

The Honorable J. B. Bennett read draft Report.

Committee adjourned till half-past one on Thursday.

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THURSDAY, 18TH JUNE, 1857.

*Members present:—*

The Honorables J. B. Bennett, S. G. Henty, J. H. Patterson, H. Miller.

The Honorable S. G. Henty moved, That the Report brought up by the Honorable J. B. Bennett be adopted.

Seconded by the Honorable G. Urquhart and carried.

VICTORIA.

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Legislative Council

STANDING ORDERS COMMITTEE.

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ORDERED BY THE COUNCIL TO BE PRINTED, 4TH DECEMBER, 1856.

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PROGRESS REPORT.

*The Select Committee of the Legislative Council appointed "to frame and bring up a series of Standing Orders for this Council, and also to confer with a Committee of the Legislative Assembly" have the honor to submit the following Progress Report:—*

They suggest for adoption sixty-seven draft Standing Orders relative to the conduct of business in the Council. They have not yet agreed upon any resolution concerning business to be conducted by message or otherwise between the Council and the Assembly ; nor upon the subject of amendments to bills which may be suggested in one House with regard to bills originated in the other ; nor upon the final disposal of bills when passed.

J. F. PALMER,  
*Chairman.*

Parliament Houses,

27th November 1856.

# DRAFT STANDING RULES AND ORDERS OF THE LEGISLATIVE COUNCIL OF VICTORIA.

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## GENERAL CONDUCT OF BUSINESS.

I. That in all cases not hereinafter provided for, resort shall be had to the Rules, forms, usages and practice of the Commons House of Parliament of Great Britain and Ireland, which shall be followed so far as the same are applicable to the proceedings of this Council.

II. That the President shall take the Chair as soon after the time appointed for the Meeting of the Council as there shall be a quorum of members present; but if at the expiration of half an hour after the time appointed there be not a quorum, the President shall then take the Chair and adjourn the Council to the next sitting day.

III. That if at any time after the commencement of the business of the day, notice be taken that there be not a quorum of members present, the President shall, without question put, adjourn the Council to the next sitting day.

IV. Whenever the President shall by letter inform the Clerk of the Council that he is prevented attending in his place, or whenever the Clerk of the Council shall state that the President is unavoidably detained, the Chairman of Committees of the Council, if present, but if he shall be absent, then such other member as the Council may appoint do perform the duties and exercise the authority of President in relation to all proceedings of this Council as Deputy President until the next meeting of the Council, and so on from day to day on the like information being given to the Council, until the Council shall otherwise order: provided that if the Council shall adjourn for more than twenty-four hours the Deputy President shall continue to perform the duties and exercise the authority of President for twenty-four hours only after such adjournment.

V. That no Order for a Call of the House shall be made for any day earlier than fourteen days from the date of such Order, inclusive of the day of such Order.

VI. That a copy of the Order for a Call of the House, signed by the Clerk, shall be forwarded to each member of the Council.

VII. That whenever a Division shall be demanded by any member, the members present shall take their seats, the "contents" on the right, the "not contents" on the left of the Chair respectively, and the President, or the Chairman when the House is in Committee, shall appoint Tellers, one of either party, and shall declare which has the majority from written lists of the members voting on each side, to be handed to him by the Tellers.

VIII. That an entry of the Division Lists be made by the Clerk in the Votes and Proceedings.

IX. That all Addresses to the Governor shall be presented by the President unless otherwise ordered by the Council.

X. That no member shall digress from the subject matter of the question under discussion, or comment upon the words used by any other member in a previous debate; and that all imputations of improper motives, and all personal reflections on members shall be considered highly disorderly.

XI. That whenever any member shall make use of any expression personal and disorderly, or capable of being applied offensively to any other member, the member so offending shall be required to withdraw the expression, and to make a satisfactory apology to the Council.

XII. That a member called to order shall sit down unless permitted to explain.

XIII. That when, in consequence of highly disorderly conduct, the President shall call upon any member by name, such member shall withdraw as soon as he has been heard in explanation; and after such member's withdrawal the Council shall at once take the case into consideration.

XIV. That any member or other person who shall wilfully disobey any lawful order of the Council, and any member or other person who shall wilfully or vexatiously interrupt the orderly conduct of the business of the Council, shall be guilty of contempt.

XV. That any member not attending in compliance with an order for a call of the House without reasonable excuse shall be held guilty of contempt.

XVI. That no member shall absent himself during the session for more than three consecutive weeks at a time, without express leave of absence from the Council, and any member wilfully infringing this Order, shall be held guilty of contempt.

XVII. That the following scale of fees shall be payable to the Usher on the arrest or commitment of any person by order of the Council, and no person shall, without the express direction of the Council, be discharged out of custody until such fees be paid or the session of parliament concluded:—

	£	s.	d.
For arrest ... ..	50	0	0
For commitment ... ..	50	0	0
For each day's detention, including sustenance ...	5	5	0

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MOTIONS.

XVIII. That no Notice of Motion shall be received after the Council shall have proceeded to the business of the day, as set down in the Notice Paper.

XIX. That no member shall make any motion initiating a subject for discussion, but in pursuance of Notice openly given at a previous sitting of the Council, and duly entered on the Notice Paper.

XX. That it shall be in order on the presentation of any Document, except a Petition, to move, without Notice, that it be printed, and to appoint a day for its consideration.

XXI. That Motions shall take precedence of Orders of the Day, except on days fixed for the consideration of Government business.

XXII. That, except by leave of the Council, Motions shall be moved in the order in which they stand on the Notice Paper, and if not so moved or postponed, shall be struck out.

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PUBLIC BILLS.

XXIII. That before any Bill shall be read a third time the Chairman of Committees shall certify that it is in accordance with the Bill as agreed to by the Committee.

XXIV. That whenever the Governor shall transmit by message to the Council any amendment which he shall desire to be made in any Bill presented to him for Her Majesty's assent, the amendment shall be considered by the Council, and, if deemed necessary, referred to the Committee of the whole Council, which shall thereupon consider the same and also recommend such alterations in the Bill, as may be necessary for incorporating the amendment therewith, and shall report such alterations to the Council.

XXV. That when the Council shall have agreed to any amendment proposed by the Governor, such amendment, together with the alterations rendered necessary to be made in the Bill presented to the Governor in consequence of such amendment, shall be forwarded to the Legislative Assembly for its concurrence.

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COMMITTEE OF THE WHOLE COUNCIL.

XXVI. That when any member shall have been appointed Chairman of Committees of the whole Council, he shall continue to act as such Chairman so long as the session shall continue.

XXVII. That in Committee of the whole Council, *ten* members, exclusive of the Chairman, shall be a quorum.

XXVIII. That the Lists of Divisions in Committee of the whole Council shall be printed weekly.

XXIX. That Committees of the whole Council to which Bills may be committed have power to make such amendments therein as they shall think fit, provided they be relevant to the subject matter of the Bill; but if any such amendments shall not be within the title of the Bill, they do amend the title accordingly, and do report the same specially to the Council.

XXX. That in going through a Bill no questions shall be put for filling up words already printed in *italics*, and commonly called blanks, unless exception be taken thereto; and if no alterations have been made in the words so printed in *italics*, the Bill shall be reported without amendment, unless other amendments have been made thereto.

XXXI. That, unless otherwise directed, amendments made by the Assembly to public Bills shall be appointed to be considered on a future day.

XXXII. That every Report from a Committee of the whole Council be brought up without any question being put.

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LAPSED QUESTIONS.

XXXIII. That if a debate on any Motion, or *Order of the Day*, be interrupted by the Council being counted out, such debate may be resumed at the point where it was so interrupted, on motion upon notice.

XXXIV. That if the discussion of any question in a Committee of the whole Council be interrupted for want of a quorum, the Council may order the resumption of such Committee on another day, on motion upon notice, and the discussion of such question shall then be resumed at the point where it was so interrupted.

## SELECT COMMITTEES.

XXXV. That no Select Committee shall consist of less than *five* nor more than *ten* members, without leave from the Council.

XXXVI. That it shall not be compulsory on the President to serve on any Select Committee.

XXXVII. That the Notice of Motion for the appointment of every Select Committee shall contain the names of the members whom the mover wishes to be appointed with himself on such Committee; but if the mover be desirous the Committee should be appointed by ballot, then the number only need be stated.

XXXVIII. That if upon any motion for a Select Committee, any *two* members shall require it, such Committee shall be formed in the manner following, viz.:—Each member shall give in to the Clerk a list of the members whom he wishes to be appointed on such Committee, not exceeding the number proposed, inclusive of the mover; and if any list contain a larger number of names it shall be rejected, and the members who shall be reported by the Clerk to have the greatest number of votes shall be declared by the President to be the members of such Committee; and in any case of doubt arising from two or more members having an equality of votes, the President shall decide which shall serve on such Committee.

XXXIX. That any Notice of Motion for discharging, adding, or substituting members of Select Committee shall contain the names of such members.

XI. That in all Select Committees *three* shall be a quorum.

XLI. That all questions shall be decided by a majority of voices, including the voice of the Chairman; and whenever the voices are equal, the Chairman shall have a second or casting vote.

XLII. That if there shall not be a quorum of members present within one quarter of an hour after the time fixed for the meeting of any Select Committee, the Chairman may adjourn the meeting of the Committee to a future day.

XLIII. That an entry be made on the proceedings of the names of the members attending each Committee meeting, and of every motion or amendment proposed in the Committee, together with the name of the mover thereof; and if any division take place in the Committee, the Clerk do take down the names of the members voting in any such division, distinguishing on which side of the question they respectively vote, and that lists of the members so voting may be given in with the Report to the Council.

XLIV. That it be the duty of the Chairman of every Select Committee to prepare the Report.

XLV. That the Chairman shall read to the Committee convened for the purpose of considering the Report, the whole of his Draft Report, which if practicable shall be printed and circulated amongst the members of the Committee; and at some subsequent meeting of the Committee the Chairman shall read the Draft Report paragraph by paragraph, putting the question to the Committee at the end of each paragraph, that it do stand part of the Report. That a member objecting to any portion of the Report do propose his amendment at the time the paragraph he wishes to amend shall be under consideration.

XLVI. That every Report of a Select Committee shall be authenticated by the signature of the Chairman.

## MESSAGES.

XLVII. That whenever a Message from the Governor shall be announced, the business before the Council shall be immediately suspended, and the bearer of the Message introduced into the Council Chamber to deliver the Message to the President.

XLVIII. That the President shall immediately read the Message to the Council, and, if necessary, a day shall be fixed for taking the same into consideration.

## PETITIONS.

XLIX. That no Petition shall be presented after the Council shall have proceeded to Orders of the Day.

L. That it shall be incumbent on every member presenting a Petition to acquaint himself with the contents thereof, and to ascertain that it does not contain language disrespectful to the Council, or violate any of the Standing Orders of the Council.

LI. That every member presenting a Petition to the Council shall affix his name at the beginning thereof.

LII. That every Petition must contain the prayer of the petitioners at the end thereof.

LIII. That every Petition must be signed by at least one person on every skin or sheet thereof.

LIV. That every Petition must be in the English language, or be accompanied by a translation, duly authenticated.

LV. That every Petition must be signed by the parties whose names are appended thereto, and by no one else, except in cases of incapacity by sickness.

LVI. That no letters, affidavits, or other documents shall be attached to any Petition.

LVII. That no Petition shall make reference to any debate in the Council.

LVIII. That every member presenting a Petition to the Council, not being a Petition for a Private Bill, or relating to a Private Bill before the Council, do confine himself to a statement of the parties from whom it comes, of the number of signatures attached to it, of the material allegations contained in it, and to the reading of the prayer thereof.

LIX. That every Petition, not being a Petition relating to a Private Bill, which according to the rules of this House, can be received, be brought to the Table by the direction of the President, who shall not allow any debate, or any member to speak upon, or in relation to, such Petition.

LX. That in the case of such Petition complaining of some present personal grievance, for which there may be an urgent necessity for providing an immediate remedy, the matter contained in such Petition may be brought into discussion on the presentation thereof.

LXI. That, subject to the above regulations, Petitions against any resolution or Bill imposing a tax or duty for the current service of the year may be received.

LXII. That no Petition shall be printed unless the member moving the printing thereof shall state it to be his intention to make a motion upon the matter or subject to which such Petition shall relate.

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STRANGERS.

LXIII. That no strangers be admitted to the body of the Council Chamber within the Bar; but Members of the Legislative Assembly may be admitted without Order to the body of the Council Chamber outside the Bar.

LXIV. That accommodation be provided for the Speaker of the Legislative Assembly within the body of the Council Chamber.

LXV. That the President only shall have the privilege of admitting strangers to the body of the Council Chamber outside the Bar; but every Member shall have the privilege of admitting by Orders strangers to the Gallery of the Council Chamber.

LXVI. That on the request of any Member, or in his own discretion, the President shall at any time order all strangers to withdraw, and such strangers shall immediately withdraw accordingly.

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SUSPENSION OF STANDING RULES AND ORDERS.

LXVII. That (except in cases of urgent and pressing necessity) no Motion shall be made to dispense with any Sessional or Standing Order of the Council, without due notice thereof.



1856-7.

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VICTORIA.

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LEGISLATIVE COUNCIL.

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STANDING ORDERS COMMITTEE.

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SECOND PROGRESS REPORT.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

## EXTRACTS FROM THE MINUTES.

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WEDNESDAY, 26TH NOVEMBER, 1856.

**STANDING ORDERS.**—Mr. McCombie moved, That a Select Committee, consisting of Mr. Fawcner, the President, Mr. Mitchell, Mr. Hodgson, Mr. Hervey, Mr. Bennett, Mr. Hood, Mr. Miller, and the Mover, be appointed to frame and bring up a series of Standing Orders for this Council, and also to confer with a Committee of the Legislative Assembly.

Question—put and passed.

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THURSDAY, 4TH DECEMBER, 1856.

**STANDING ORDERS.**—Mr. McCombie, on behalf of the Chairman of the Standing Orders Committee, brought up a Progress Report, and with leave of the Council moved, That the Progress Report of the Standing Orders Committee be printed and made an Order of the Day for consideration on Tuesday next.

Question—put and passed.

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TUESDAY, 3RD FEBRUARY, 1857.

**MESSAGE TO THE LEGISLATIVE ASSEMBLY.**—The Honorable M. Hervey moved, That a Message be sent to the Legislative Assembly, conveying the desire of the Council to establish Joint Standing Orders; and in order to avoid inconvenient delays, to solicit a free conference on the subject, to consist of four Members of the Legislative Assembly, to meet four Members of the Legislative Council.

Question—put and passed.

The Honorable M. Hervey moved, That the Honorable T. McCombie do accompany the Chairman of the Committees with the said Message.

Question—put and passed.

The Messengers returned from the Legislative Assembly, and announced that the Legislative Assembly would return a Message by Messengers of their own.

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TUESDAY, 10TH FEBRUARY, 1857.

**STANDING ORDERS.**—The Honorable T. McCombie, without notice, by leave of the House, moved, That the Standing Orders Committee of this House be authorised to confer with the Standing Orders Committee of the Legislative Assembly.

Question—put and passed.

The Honorable T. McCombie moved, That a Message be sent to the Legislative Assembly to inform them that the Standing Orders Committee of the Council has been empowered to confer with the Standing Orders Committee of the Legislative Assembly, and that such Message be taken by the Chairman of Committees and the Mover.

Question—put and passed.

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TUESDAY, 24TH FEBRUARY, 1857.

**STANDING ORDERS COMMITTEE.**—The time appointed for a conference between the Standing Orders Committees of the Legislative Council and the Legislative Assembly having arrived, the Chairman of Committees reported progress, and obtained leave to sit again this day; and the Council adjourned during pleasure, that the said conference might take place.

The President having resumed the Chair, reported, That the Standing Orders Committee of the Council had conferred with the Standing Orders Committee of the Legislative Assembly.

## PROGRESS REPORT.

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THE SELECT COMMITTEE of the Legislative Council, appointed to frame and bring up a series of Standing Orders for this Council, and also to confer with a Committee of the Legislative Assembly, have the honor to submit the following Report:—

Your Committee have framed a series of Standing Orders for the conduct of the business of the Council, which they now bring up for the consideration of the Council.

As yet your Committee has not had opportunity to confer, as it is empowered to do, with the Standing Orders Committee of the House of Assembly respecting Joint Standing Orders.—These are however prepared by your Committee for such conference and are hereto attached.

Your Committee propose at a future time to bring up Orders for Private Bills, in completion of their labors.

J. F. PALMER.

# STANDING RULES AND ORDERS

OF THE

## LEGISLATIVE COUNCIL OF VICTORIA.

### GENERAL CONDUCT OF BUSINESS.

I. That in all cases not hereinafter provided for, resort shall be had to the Rules, forms, usages, and practice of the Commons House of Parliament of Great Britain and Ireland, which shall be followed so far as the same are applicable to the proceedings of this Council.

II. That the President shall take the Chair as soon after the time appointed for the Meeting of the Council as there shall be a quorum of members present; but if at the expiration of half an hour after the time appointed there be not a quorum, the President shall then take the Chair and adjourn the Council to the next sitting day.

III. That if at any time after the commencement of the business of the day, notice be taken that there be not a quorum of members present, the President shall forthwith count the House, and if there be not a quorum, shall, without question put, adjourn the Council to the next sitting day.

IV. Whenever the President shall by letter inform the Clerk of the Council that he is prevented attending in his place, or whenever the Clerk of the Council shall state that the President is unavoidably detained, the Chairman of Committees of the Council, if present, but if he shall be absent, then such other member as the Council may appoint, do perform the duties and exercise the authority of President in relation to all proceedings of this Council as Deputy President until the next meeting of the Council, and so on from day to day on the like information being given to the Council, until the Council shall otherwise order: provided that, if the Council shall adjourn for more than twenty-four hours, the Deputy President shall continue to perform the duties and exercise the authority of President for twenty-four hours only after such adjournment.

V. That no Order for a Call of the House shall be made for any day earlier than fourteen days from the date of such Order, inclusive of the day of such Order.

VI. That a copy of the Order for a Call of the House, signed by the Clerk, shall be forwarded to each member of the Council.

VII. That whenever a Division shall be demanded by two members, the members present shall take their seats, the "Contents" on the right, the "Not Contents" on the left of the Chair respectively, and the President, or the Chairman, when the House is in Committee, shall appoint Tellers, one of either party, and shall declare which has the majority from written lists of the members voting on each side, to be handed to him by the Tellers.

VIII. On every division a bell shall be rung by the Clerk of the House, and the Usher shall ring bells communicating with the library and refreshment rooms; and as soon as the Usher shall report that the doors are locked, the President or Chairman of Committees, as the case may be, shall put the question a second time, and the tellers shall forthwith proceed to count the members.

IX. That an entry of the Division Lists be made by the Clerk in the Minutes of the Proceedings.

X. That all Addresses to the Governor shall be forwarded by the Clerk of the Parliaments through the Chief Secretary, unless otherwise ordered by the Council.

XI. That a member moving an Order of the Day or an amendment shall not be entitled to a reply.

XII. That no member shall digress from the subject matter of the question under discussion, or comment upon the words used by any other member in a previous debate, or upon any expressions said to have been used in the Legislative Assembly; and that all imputations of improper motives, and all personal reflections on members shall be considered highly disorderly.

XIII. That whenever any member shall make use of any expression personal and disorderly, or capable of being applied offensively to any other member, the member so offending shall be required to withdraw the expression, and to make a satisfactory apology to the Council.

XIV. That a member called to order shall sit down, unless permitted to explain.

XV. That when, in consequence of highly disorderly conduct, the President shall call upon any member by name, such member shall withdraw as soon as he has been heard in explanation; and after such member's withdrawal the Council shall at once take the case into consideration.

XVI. That any member or other person who shall wilfully disobey any lawful order of the Council, and any member or other person who shall wilfully or vexatiously interrupt the orderly conduct of the business of the Council, shall be held guilty of contempt.

XVII. That any member not attending in compliance with an Order for a Call of the House without reasonable excuse shall be held guilty of contempt.

XVIII. That no member shall absent himself during the session for more than one week without informing the President, nor for more than three consecutive weeks without express leave of absence from the Council, and any member wilfully infringing this Order shall be held guilty of contempt.

XIX. That any member or other person declared guilty of contempt shall be committed to the custody of the Usher by warrant under the hand of the President.

XX. That the following scale of fees shall be payable to the Usher on the arrest or commitment of any person by order of the Council, and no person shall, without the express direction of the Council, be discharged out of custody until such fees be paid, or the session of Parliament concluded:—

	£	s.	d.
For arrest ... ..	50	0	0
For commitment ... ..	50	0	0
For each day's detention, including sustenance ...	5	5	0

XXI. That all fees payable under clause XX. shall be paid to the account of a fund to be called the Legislative Council Standing Orders Fund, in the name of the Council, and shall be applied to such purposes as the Council shall direct in discharge of any expenses connected with the Standing Orders.

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#### MOTIONS.

XXII. That no Notice of Motion shall be received after the Council shall have proceeded to the Orders of the Day.

XXIII. That no member shall make any motion initiating a subject for discussion, but in pursuance of Notice openly given at a previous sitting of the Council and duly entered on the Notice Paper, but with leave of the Council may move for unopposed returns.

XXIV. That it shall be in order, on the presentation of any document, except a Petition, to move, without Notice, that it be printed, and to appoint a day for its consideration.

XXV. That Motions shall take precedence of Orders of the Day, except on days fixed for the consideration of Government business.

XXVI. That, except by leave of the Council, Motions shall be moved in the order in which they stand on the Notice Paper, and if not so moved or postponed, shall be struck out.

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#### PUBLIC BILLS.

XXVII. That before any Bill shall be read a third time the Chairman of Committees shall certify that it is in accordance with the Bill as agreed to by the Committee.

XXVIII. That whenever the Governor shall transmit by message to the Council any amendment which he shall desire to be made in any Bill presented to him for Her Majesty's assent, the amendment shall be considered by the Council, and, if deemed necessary, referred to the Committee of the whole Council, which shall thereupon consider the same and also recommend such alterations in the Bill as may be necessary for incorporating the amendment therewith, and shall report such alterations to the Council.

XXIX. That when the Council shall have agreed to any amendment proposed by the Governor, such amendment, together with the alterations rendered necessary to be made in the Bill presented to the Governor in consequence of such amendment, shall be forwarded to the Legislative Assembly for its concurrence.

XXX. That whenever any Bill for repealing, altering, or varying all or any of the provisions of the Act, intituled, "*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 for substituting others in lieu thereof, shall have passed its second and third readings in the Council, with the concurrence of an absolute majority of the whole number of the members of the Legislative Council, the Clerk, or other proper officer of the Council, shall certify the fact on the Bill accordingly.

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#### COMMITTEE OF THE WHOLE COUNCIL.

XXXI. That when any member shall have been appointed Chairman of Committees of the whole Council, he shall continue to act as such Chairman so long as the session shall continue.

XXXII. That, in Committee of the whole Council, *ten* members, exclusive of the Chairman, shall be a quorum.

XXXIII. That the Lists of Divisions in Committee of the whole Council shall be printed weekly.

XXXIV. That Committees of the whole Council, to which Bills may be committed, have power to make such amendments therein as they shall think fit, provided they be relevant to the subject matter of the Bill; but if any such amendments shall not be within the title of the Bill, they do amend the title accordingly, and do report the same specially to the Council.

XXXV. That, in going through a Bill, no questions shall be put for filling up words already printed in *italics*, and commonly called blanks, unless exception be taken thereto; and if no alterations have been made in the words so printed in *italics*, the Bill shall be reported without amendment, unless other amendments have been made thereto.

XXXVI. That, unless otherwise directed, amendments made by the Assembly to public Bills shall not be considered in Committee on the same day on which such amendments may be brought up to the Council.

XXXVII. That all questions of finance, or Addresses to the Crown relating thereto, shall be considered in Committee of the whole House.

XXXVIII. That every Report from a Committee of the whole Council be brought up without any question being put.

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LAPSED QUESTIONS.

XXXIX. That if a debate on any Motion, or *Order of the Day*, be interrupted by the Council being counted out, such debate may be resumed at the point where it was so interrupted, on motion upon notice.

XL. That, if the discussion of any question in a Committee of the whole Council be interrupted for want of a quorum, the Council may order the resumption of such Committee on a future day, on motion upon notice, and the discussion of such question shall then be resumed at the point where it was so interrupted.

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SELECT COMMITTEES.

XLI. That no Select Committee shall consist of less than *five* nor more than *ten* members, without leave from the Council.

XLII. That it shall not be compulsory on the President to serve on any Select Committee.

XLIII. That the Notice of Motion for the appointment of every Select Committee shall contain the names of the members whom the mover wishes to be appointed with himself on such Committee; but if the mover be desirous, the Committee should be appointed by ballot, then the number only need be stated.

XLIV. That, if upon any Motion for a Select Committee, any *two* members shall require it, such Committee shall be formed in the manner following, viz.:—Each member shall give in to the Clerk a list of the members whom he wishes to be appointed on such Committee, not exceeding the number proposed, inclusive of the mover; and if any list contain a larger number of names it shall be rejected, and the members who shall be reported by the Clerk to have the greatest number of votes shall be declared by the President to be the members of such Committee; and in any case of doubt arising from two or more members having an equality of votes, the President shall decide which shall serve on such Committee.

XLV. That any Notice of Motion for discharging, adding, or substituting members of Select Committee shall contain the names of such members.

XLVI. That in all Select Committees *three* shall be a quorum.

XLVII. That all questions shall be decided by a majority of voices, including the voice of the Chairman; and whenever the voices are equal, the Chairman shall have a second or casting vote.

XLVIII. That if there shall not be a quorum of members present within one quarter of an hour after the time fixed for the meeting of any Select Committee, the Chairman may adjourn the meeting of the Committee to a future day.

XLIX. That an entry be made on the Proceedings of the names of the members attending each Committee meeting, and of every motion or amendment proposed in the Committee, together with the name of the mover thereof; and if any division take place in the Committee, the Clerk do take down the names of the members voting in any such division, distinguishing on which side of the question they respectively vote, and that lists of the members so voting may be given in with the Report to the Council.

L. That it be the duty of the Chairman of every Select Committee to prepare the Report.

LI. That the Chairman shall read to the Committee convened for the purpose of considering the Report, the whole of his Draft Report, which, if practicable, shall be printed and circulated amongst the members of the Committee; and at some subsequent meeting of the Committee the Chairman shall read the Draft Report, paragraph by paragraph, putting the question to the Committee at the end of each paragraph, that it do stand part of the Report. That a member objecting to any portion of the Report do propose his amendment at the time the paragraph he wishes to amend shall be under consideration.

LII. That every Report of a Select Committee shall be authenticated by the signature of the Chairman.

LIII. That a Committee consisting of five members, to be called the Standing Orders Committee, shall be appointed at the commencement of each session, and that the functions of such Committee shall not cease until their successors may be appointed.

## MESSAGES.

LIV. That whenever a Message from the Governor shall be announced, the business before the Council shall be immediately suspended, and the bearer of the Message introduced into the Council Chamber to deliver the Message to the President.

LV. That the President shall immediately read the Message to the Council, and, if necessary, a day shall be fixed for taking the same into consideration.

## PETITIONS.

LVI. That it shall be in order to present any petition during the sitting of the Council, provided there be no interference with business under discussion.

LVII. That it shall be incumbent on every member presenting a Petition to acquaint himself with the contents thereof, and to ascertain that it does not contain language disrespectful to any branch of the Legislature, or violate any of the Standing Orders of the Council.

LVIII. That every member presenting a Petition to the Council shall affix his name at the beginning thereof.

LIX. That every Petition must contain the prayer of the petitioners at the end thereof.

LX. That every Petition must be signed by at least one person on every skin or sheet thereof.

LXI. That every Petition must be in the English language, or be accompanied by a translation, duly authenticated.

LXII. That every Petition must be signed with their names by the parties whose names are appended thereto, and by no one else, except in cases of incapacity by sickness.

LXIII. That no letters, affidavits, or other documents shall be attached to any Petition.

LXIV. That no Petition shall make reference to any debate in Parliament during the current session.

LXV. That every member presenting a Petition to the Council, not being a Petition for a Private Bill, or relating to a Private Bill before the Council, do confine himself to a statement of the parties from whom it comes, of the number of signatures attached to it, of the material allegations contained in it, and to the reading of the prayer thereof.

LXVI. That every Petition, not being a Petition relating to a Private Bill, which, according to the rules of this House, can be received, be brought to the Table by the direction of the President, who shall not allow any debate, or any member to speak upon, or in relation to, such Petition.

LXVII. That, in the case of such Petition complaining of some present personal grievance, for which there may be an urgent necessity for providing an immediate remedy, the matter contained in such Petition may be brought into discussion on the presentation thereof.

LXVIII. That, subject to the above regulations, Petitions against any resolution or Bill imposing a tax or duty for the current service of the year may be received.

LXIX. That no Petition, the prayer of which is for a distinct grant of money, shall be received by the Council.

LXX. That no Petition shall be printed, unless the member moving the printing thereof shall state it to be his intention to make a motion upon the subject to which such Petition shall relate.

## STRANGERS.

LXXI. That no strangers be admitted to the body of the Council Chamber within the Bar.

LXXII. That members of the Legislative Assembly be admitted without order to the benches to the right of the President, outside the bar.

LXXIII. That accommodation be provided for the Speaker of the Legislative Assembly within the body of the Council Chamber.

LXXIV. That the President only shall have the privilege of admitting strangers to the body of the Council Chamber outside the Bar; but every Member shall have the privilege of admitting by Orders strangers to the Gallery of the Council Chamber.

LXXV. That, on the request of any Member, or in his own discretion, the President shall at any time order all strangers to withdraw, and such strangers shall immediately withdraw accordingly.

LXXVI. That it shall be the duty of the Standing Orders Committee to prescribe the arrangements for the opening and prorogation of Council, which arrangement it shall be the duty of the Usher to carry into effect under the direction of the President.

## SUSPENSION OF STANDING RULES AND ORDERS.

LXXVII. That (except in cases of urgent and pressing necessity) no Motion shall be made to dispense with any Sessional or Standing Order of the Council, without due Notice thereof.

# MESSAGES BETWEEN THE COUNCIL AND ASSEMBLY, AND RULES RESPECTING BOTH HOUSES.

- I. All communications between the Council and Assembly shall be by Message.
- II. Messages from one House to the other shall be in writing, and shall be communicated by two or more Members of either House respectively, as each House may direct.
- III. The bearer of any Message from either House of the Legislature to the other shall be announced at once, unless any Member shall be addressing the House, or unless the President or Speaker, as the case may be, shall be ascertaining the sense of the House upon any question, in which case the bearer of the Message shall not be announced until the member shall have concluded his speech, or until the sense of the House shall have been declared by the President or Speaker, as the case may be; and the bearer of the Message shall be introduced by the Usher or Serjeant-at-Arms, and shall deliver the Message to the President or Speaker.
- IV. Bills, Votes, and Resolutions of either House of the Legislature, to which the consent of the other House shall be desired, shall be communicated to such other House by Message, and, in the first instance, without any reason being assigned for the passing such Bill, Vote, or Resolution.
- V. Bills, Votes, and Resolutions of either House of the Legislature, to which the consent of the other House shall have been desired, shall if returned from such other House be sent by Message; and, in the first instance, without any reason being assigned for passing, declining to assent to, or amending, as the case may be, such Bills, Votes, or Resolutions.
- VI. When either House of the Legislature shall not agree to any amendment made by the other House in any Bill, Vote, or other Resolution in which its concurrence shall have been desired, or when either House shall insist upon any amendment previously proposed by such House, and any communication shall be desired, then the communication shall be by Message, and the House transmitting such Message shall at the same time transmit written reasons for not agreeing to the amendment proposed by the other House, or for insisting upon any amendment previously proposed by the House sending such Message.
- VII. That the number of Members of each House appointed to serve on any joint-committee shall be equal, and the Chairman thereof shall have a vote and likewise a casting vote.
- VIII. Every proposal for a joint-committee shall be by Message; shall state the object of such Committee, and the number of Members to serve thereon, and the House whose concurrence shall be desired shall name the time and place of meeting.
- IX. That upon the attendance of Mr. Speaker and the Legislative Assembly, pursuant to a message from the Governor to attend him in the Council Chamber, a chair shall be provided for the Speaker at the Bar of the House.

## BILLS.

- I. That every Bill shall be printed fair immediately after it shall have been passed in the House in which it originated; and the Clerk of the House in which the Bill shall have passed shall certify the passing thereof on such fair print, together with the day upon which the Bill did pass.
- II. That if any amendment shall be made by the House to which the Bill shall be sent, such amendment shall be written on paper and attached to the Bill, and reference shall be made to the section and line of the Bill where the words are to be inserted or omitted, as the case may be, and such amendments shall be certified by the Clerk of the House in which it shall have passed, and he shall also certify a fair print of the Bill as amended which shall be made and annexed to the original Bill, and so on *toties quoties* as often as amendments shall be made.
- III. When such Bill shall have passed both Houses of the Legislature, it shall be fair printed by the Government Printer, who shall furnish three fair prints thereof on vellum to the Clerk of the Parliaments.
- IV. That such three fair prints of each Bill shall be duly authenticated by the Clerk of the Parliaments.
- V. That the three fair prints of all Bills, except the Appropriation Bill, when passed, shall be presented to the Governor for Her Majesty's assent, by the Clerk of the Parliaments; but the Appropriation Bill shall be brought up by the Speaker to the Bar of the Council Chamber for the Royal assent.
- VI. That in case of amendments to Bills, made upon a Message from the Governor, pursuant to the XXXVI. clause of the Act of Constitution, after such Bills shall have passed the two Houses of Parliament, the Clerk of the Parliaments shall endorse the same on the original Bill and shall order three fair prints of the Bill on vellum as amended, and shall authenticate the same before they are presented for Her Majesty's assent.
- VII. That, when the Governor shall have assented in the name of Her Majesty to any Bills, one of the fair prints thereof, on vellum, shall be deposited by the Clerk of the Parliaments with the Registrar of the Supreme Court, another shall be delivered to the Private Secretary of His Excellency the Governor, to be by him transmitted to Her Majesty's Principal Secretary of State for the Colonies, and the third shall be retained as a record in the Parliament Houses.
- VIII. That the Title of every Bill shall succinctly set forth the general object thereof.
- IX. That every Act of the Legislature, commencing from the 1st January, 1857, shall be numbered in regular annual arithmetical series, in the order in which the same shall be assented to by the Governor, commencing No. 1 from the 1st of January in each year.



1856-7.

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VICTORIA.

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REPORT

OF THE

SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL

ON THE

SALE AND KEEPING OF POISONS,

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE AND MINUTES OF EVIDENCE.

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ORDERED BY THE COUNCIL TO BE PRINTED, 30TH JUNE, 1857.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

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TUESDAY, 17TH FEBRUARY, 1857.

**SALE AND KEEPING OF POISONS BILL.**—The Honorable Dr. Tierney, with leave of the Council, withdrew this Bill, and moved, That a Select Committee of seven members be appointed to inquire into the sale, safe keeping, and administration of poisons and narcotics, and to frame a Bill to carry out these objects, with power to call witnesses if necessary; such Committee to consist of the Honorable the President, the Honorables Messrs. Bennett, Hope, Hood, Fawcner, S. G. Henty, and the Mover.

Debate ensued.

**Question**—That a Select Committee of seven members be appointed to inquire into the sale, safe keeping, and administration of poisons and narcotics, and to frame a Bill to carry out these objects, with power to call witnesses if necessary; such Committee to consist of the Honorable the President, the Honorables Messrs. Bennett, Hope, Hood, Fawcner, S. G. Henty, and the Mover—put and passed.

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TUESDAY, 30TH JUNE, 1857.

**SALE AND KEEPING OF POISONS BILL—REPORT OF SELECT COMMITTEE UPON.**—The Honorable Dr. Tierney, as Chairman of the Select Committee appointed to inquire into the sale, safe keeping, and administration of poisons and narcotics, and to frame a Bill to carry out these objects, brought up the Report of the Committee, with a draft of a Bill thereto attached, and moved that the same be printed; and that the Bill be now read a first time.

**Question**—put and passed.

Bill read a first time, ordered to be printed, and read a second time on Tuesday, the 7th of July proximo.

## REPORT.

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THE Select Committee of the Legislative Council, to whom the "*Bill to regulate the Safe Keeping and Sale of Arsenic and other Poisons, and their Administration,*" was referred, have the honor to report to your Honorable House:—

That, after hearing evidence, they have the honor to report the Bill attached hereto.

D. J. TIERNEY,

*Chairman.*

## PROCEEDINGS OF THE COMMITTEE.

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TUESDAY, 24<sup>TH</sup> FEBRUARY, 1857.

*Members present:—*

The Honorable Dr. Tierney, in the chair.  
The Honorable the President, the Honorable J. Hood.

*Witness examined:—*

Dr. Wilmot.

Adjourned till ten o'clock on Wednesday, 25th instant.

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WEDNESDAY, 25<sup>TH</sup> FEBRUARY, 1857.

*Members present:—*

The Honorable Dr. Tierney, in the chair.  
The Honorable the President, the Honorable J. Hood.

*Witnesses examined:—*

Dr. Wilkie, Dr. Berndt, Dr. Youl.

Adjourned till ten o'clock on Tuesday, 3rd proximo.

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TUESDAY, 3<sup>RD</sup> MARCH, 1857.

*Members present:—*

The Honorable Dr. Tierney, in the chair.  
The Honorable the President, the Honorable J. P. Fawkner, the Honorable J. Hood.

*Witnesses examined:—*

Dr. Howitt, and Mr. Long, chemist.

Adjourned *sine die*.

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TUESDAY, 16<sup>TH</sup> JUNE, 1857.

*Members present:—*

The Honorable Dr. Tierney, in the chair.  
The Honorable the President, the Honorable J. P. Fawkner, the Honorable S. G. Henty.

*Witnesses examined:—*

Dr. William McCrea and Dr. James McCrea.

Committee deliberated.

Adjourned till Tuesday, 23rd instant, at ten o'clock.

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TUESDAY, 23<sup>RD</sup> JUNE, 1857.

*Members present:—*

The Honorable Dr. Tierney, the Honorable S. G. Henty.

No quorum.

Adjourned till eleven o'clock on Tuesday, 30th instant.

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TUESDAY, 30<sup>TH</sup> JUNE, 1857.

*Members present:—*

The Honorable Dr. Tierney, in the chair.  
The Honorable the President, the Honorable S. G. Henty, the Honorable J. B. Bennett.

Committee deliberated.

Clauses I., II., III., IV. drawn up and adopted; Clause XI. of the original Bill adopted as amended as Clause V. of the present Bill; Clause VI. drawn up and adopted.

The Chairman directed to report same to the House.

# MINUTES OF EVIDENCE.

TUESDAY, 24TH FEBRUARY, 1857.

MEMBERS PRESENT:—Dr. Tierney, in the chair; The President, Mr. Hood.

William Byam Wilmot, Esq., M.D., called in and examined.

W. B. Wilmot,  
Esq., M.D.,  
24th Feb., 1857.

1. *By the Chairman*—You are coroner?—I am.  
2. Have you been so many years?—For sixteen years.  
3. Have you considered the subject of this Bill?—I have done so; it has been very long under my notice.

4. Have you any objections to state to the first clause—do you think that poisons should be kept in secure packages, and that the word "Poison" should be inscribed thereon?—I have no difficulty upon that point; there cannot be too much precaution taken in the keeping of poisons.

5. What is your opinion in relation to druggists or chemists having poisons or narcotics for sale; could those things be kept more safely by them than they are now?—The term "Poison" is applicable to almost every medicine; it is such a general term.

6. Would you suggest that arsenic and other virulent poisons should be kept separate, or that they should have some distinctive mark, such as being kept in a different kind of bottle to the lesser poisons and narcotics?—I think so, as to arsenic especially, which has been sometimes mistaken for harmless medicines in common use.

7. And strychnine?—Yes; and strychnine also.

8. Do you think oxalic acid might be kept in the same way?—I think it is necessary.

9. Might there not be some little classification relative to poisonous drugs and others?—It would be useful.

10. It might be done?—Yes; it might.

11. *By the President*.—Have you known instances of poisoning to have occurred during the period of your coronership from mistakes in druggists' shops in this town?—I have unfortunately known a few.

12. Can you charge your memory with what the particulars of the cases were?—I recollect one case in which the essential oil of almonds was given for simple almond oil, and caused death.

13. *By Mr. Hood*.—Was that on account of the manner in which the poison was kept, or was it on account of the ignorance of the dispenser?—It was on account of the confused state of mind of the dispenser.

14. *By the President*.—Probably that would have been prevented had the bottle containing the essential oil of almonds been on a poison shelf?—It certainly would have prevented it. It arose in a great measure from the excited state of the dispenser during the pressure of business in the evening, he being a person unaccustomed to attend to a business of the kind.

15. When was this?—Several years ago.

16. Can you charge your recollection with the other cases?—An inquest was held a short time ago in a case where a person suddenly taken with cholera went to a druggist's shop and saw the assistant instead of the proprietor, and he administered a medicine in regard to which it was very difficult to say how far it might have caused the result, which was death.

17. What was the medicine?—It was a preparation of opium.

18. Then you think it was ignorantly administered?—Ignorantly administered.

19. By an incompetent person?—Yes.

20. That is not a case that would be obviated by a poison shelf or by any peculiar marks, I presume?—I think not.

21. Do you know of any other cases which have occurred where fatal effects have followed, which might have been prevented by the adoption of particular labels or separate shelves—a poison shelf for instance?—I do not know another instance.

22. You have attended as coroner in the case of a great number of suicides?—Yes.

23. Of violent deaths from poison?—Yes, a great many.

24. And I collect from what you have said, that the great bulk of those deaths were not from accident, but from design?—Yes, I think so.

25. You have been coroner a great many years, and I want to know if you could at all approximate the number of cases of poisoning, attended by death, which have come under your particular cognizance?—I have not the facts in my memory.

26. *By the Chairman*.—Have you ever held inquests on parties who have died, where it could not positively be ascertained what the cause of death was, but where the parties had been supposed to be drugged or "hocussed" by some narcotic?—There have been a great many cases where death has been the result of the intemperate use of ardent spirits, in some of which death has been attributed to the deleterious effect of some drug, what is called "hocussing," but which I, as a medical man, could not trace.

27. *By the President*.—You have been unable to verify that?—I have been unable to verify that.

W. B. Wilnot,  
Esq., M. D.,  
continued,  
24th Feb., 1857.

28. *By the Chairman.*—You are aware that there has been a great deal of suspicion attached to many cases of death?—There has been; but I cannot satisfy my mind as to any single instance in which death has resulted from the immediate effect of any deleterious drug. The person has been long in the habit of taking ardent spirits to excess, and the consequence has suddenly overtaken him.

29. Are you aware that medical men are very often called on to attend persons who have had administered to them some narcoti?—I have been called in as a medical man myself to persons who have taken laudanum designedly, but I do not recollect a single case where it has been administered by any party with an evil intent.

30. *By the President.*—May I ask you whether, in your opinion, such cases do frequently occur?—I have heard so much of it, that I think there must be some foundation for the reports.

31. From general report?—Yes.

32. Not from your own experience?—Not from my own experience.

33. *By the Chairman.*—Are you aware of a case very recently in which Dr. McCrea was sent for?—I am not.

34. *By the President.*—During your experience as coroner you have had to hold inquests in a great many cases of sudden death arising from poison in one shape or another?—I have, in a great many.

35. Do you suppose 100—can you at all approximate it?—Very likely 100; I cannot say.

36. *By the Chairman.*—Are there any statistics kept in the colony from which that might be ascertained?—The Government have them up to the year 1854. I have drawn out tables each year showing the causes of death in the case of every inquest I have held.

37. *By the President.*—Could you furnish the committee with such a table?—I have sent in my reports up to 1854; I will endeavor to obtain them, and I have got my own books. I know I have had three cases during 1856, two by strychnine and one by prussic acid.

38. Were they cases where those poisons were intentionally taken by the parties themselves?—Yes. With regard to the cases of poisoning from the careless placing of the poisons, I only recollect one case where I could satisfactorily trace it to that cause, and that is the one I have already mentioned, and I am sure; if that poison had been placed with the virulent poisons on a separate self, it would not have happened.

39. Would not it be desirable to classify a certain number of the more virulent poisons; such as, for instance, arsenic, oxalic acid, corrosive sublimate, strychnine, oil of bitter almonds, and prussic acid, and keep them, as suggested in this Bill, in bottles of a particular shape or color, and have them broadly and legibly inscribed with the word "Poison," and placed on a particular shelf, to be called the "Poison Shelf," so that no man could by accident take down one of those bottles mistaking it for another?—It would be most desirable.

40. You would not extend that classification very widely, would you?—No; because that would perhaps create the confusion you wish to avoid.

41. What are the particular poisons which you would yourself suggest should come under that category?—Especially oxalic acid, corrosive sublimate, strychnine, the essential oil of almonds, prussic acid, and arsenic.

42. *By the Chairman.*—As regards private individuals—we have heard of accidents occurring in the bush, and elsewhere in the Colony, from arsenic being thrown about carelessly in houses and at stations. Do you not think that there should be some provision so as to compel persons to have those poisons in secure packages, and also with the word "Poison" marked upon them?—I think so.

43. Are you aware that, at the present time, several persons are in the hospital from the fact of having taken arsenic through mistake, from it having got mixed with flour; and would you suggest that, in the case of private individuals, as well as of druggists, those precautions should be taken?—No private persons should keep such deleterious stuff; it ought to be thrown away. I think, for instance, in the case of arsenic, obtained for poisoning rats only, a sufficient quantity should be used and the remainder thrown away; and where it was bought for use for any specific purpose, it should be kept under lock and key.

44. In large stations, the servants of squatters, you think, should not be allowed to throw this poison about indiscriminately?—I think not.

45. *By the President.*—You are aware that, in the stores or stations, as they are called, arsenic is very frequently left in the same store where there are bags of flour?—I have heard so.

46. You are of opinion that that ought not to be?—I am, decidedly.

47. And wherever it is kept, whether in small quantities or large quantities, it should, in all such cases, be legibly labelled not only with the name of the poison itself, but the word "Poison" should be legibly written on the package?—Yes.

48. Do you think that poisons in bulk ought to be kept in the stores of this city with ordinary merchandise?—No.

49. Do you not think that it would tend to inspire greater caution in masters and owners of stations if they were made liable to a fine in the event of any accident arising from such improper keeping?—Under any circumstances I think so.

50. You think it would tend to inspire greater precaution, if not the agents, but the proprietors themselves, were made liable?—Yes.

51. *By Mr. Hood.*—Would you not go further, and say they ought to be liable to a penalty for the very fact of keeping them in that improper way, though no accident occurred at all?—I could not say as to that.

52. *By the Chairman.*—In regard to the second clause—do you think there ought to be

any restriction laid on the selling of narcotics, such as opium, Indian hemp, and those things given now for vile purposes?—I do not think any one should be permitted to sell them in any quantity, unless there were, upon the face of it, the prescription of some qualified medical man.

W. B. Wilnot,  
Esq., M.D.,  
*continued,*  
24th Feb., 1857.

53. Would you allow a person who was not known to get a little narcotic?—For certain purposes.

54. It has been stated that this Bill was too stringent, because a person could not get a little drop of laudanum for the toothache—that you would consider a great hardship?—Yes.

55. Still, you think something might be done without carrying it so far?—I do. But I would modify that by saying there might be a schedule of those narcotics.

56. There would be no objection you think to the following clauses down to clause VIII., supposing the poisons be scheduled?—No.

57. And none of those poisons to be colored except arsenic?—I can see no objection to that.

58. Do you agree to the principle of clause IX.—that any person should be punished for administering or attempting to administer laudanum, chloroform, or other stupifying or overpowering drug?—For vile purposes, certainly.

59. Are you aware of the fact, that many persons escape punishment at the present time, because the intent of committing a felony cannot be shown?—I know that.

60. Would you suggest any alteration in the latter part of the clause, or do you agree in the principle of the clause, taking the words, “natural guardian” to mean the person having charge of the girl?—I do not see any objection to the principle.

61. Do you agree to the principle of the tenth clause, or do you object to it?—I think that is very desirable.

62. *By the President.*—This clause says, if any person shall administer or attempt to administer laudanum in a brothel or lodging-house—that is a very wide term—might not that in your opinion act as a trap; would not it be very dangerous, and in fact very often prevent medicines being given with the *bonâ fide* intention of good, and very often with a good effect?—I think, if the same precaution were taken here as has been provided in the former case, it would be well that the schedule should apply, and that parties should know for what purpose it is applied for. It might be very oppressive to a person living in a lodging-house not to be able to get a simple soothing draft, or narcotic medicine, without consulting a medical practitioner.

63. *By the Chairman.*—Would you think then that in a brothel they ought to be allowed to use them?—For a certain purpose, certainly not.

64. Do you think that any person—man or woman, in a brothel—ought to be allowed to administer or attempt to administer laudanum or any other narcotic for the purpose of stupifying a party, and not be punished?—Certainly they ought to be punished if they gave a deleterious drug for a vile purpose.

65. It ought not to be given in a brothel, unless ordered by a medical man?—I think it might be useful to prevent it, as regards a brothel, and be a means of preventing crime; but I would not extend it to a lodging house.

66. You think that a woman owning a brothel ought not to be allowed to administer laudanum or any other stupifying drug to any young girl she may have inveigled in for base purposes?—She ought not.

67. *By the President.*—Are you aware, as a magistrate, that the law protects persons from that. Are you aware, for instance, that it is an illegal act, and punishable by law, for any person so circumstanced to administer drugs to persons for either robbing or violating them?—I am aware it is so.

68. Do you think that that law requires supplementation?—As a magistrate and as coroner, I am not aware of such necessity.

69. *By the Chairman.*—Are you aware, then, that persons have escaped being punished for administering or attempting to administer narcotics, because the law officers of the Crown could not prove the intent to commit felony?—I do not recollect any case based upon such a fact at the present time.

70. Do you see the difference between this clause and the criminal clause that is now in existence, it being necessary by the existing clause to show the intent, whereas it is not necessary to show the intent by this clause?—I am aware of the distinction.

71. Are you aware that wet-nurses, or other nurses, who have the care of children in this colony, do administer some narcotic to children for the purpose of sending them to sleep, so that they may go to their wash-tub or other business?—I am quite aware of that, and I believe it is the cause of numerous deaths in the cases of children.

72. Do you think, then, that those persons having the care of children, if they privately or secretly administer poison without consulting the parents or guardians of those children, ought to be punished?—I do.

73. There could be no objection to mothers of children, if they wished it, giving their children a little carminative?—I see great objection in a nurse taking upon herself the judgment of the mother or the medical man to give herself a little quiet.

74. Do you think that narcotics are given too indiscriminately to children at the present time in this colony?—I am sure they are.

75. By many persons?—By many persons.

76. There is a great mortality of children in Melbourne?—Yes, very great.

77. Do you suspect it is owing to any administration of narcotics?—I think many cases might be traced to the injudicious administration of narcotics here.

78. *By the President.*—More than in England?—It is a common practice, I know, in England.

W.B. Wilmot,  
Esq., M.D.,  
continued.  
24th Feb., 1857.

79. *By Mr. Hood.*—Do you think, if this eleventh clause was passed in its entirety, as it now stands, it would be practicable—could it be enforced?—I do not think it could be.

80. *By the President.*—Do you think any law could be devised to meet the case contemplated by that clause?—I believe the object of this clause is to prevent nurses and those who have the care of children from administering narcotics without the consent of the parent; and I know that it is the practice of nurses to give them without the knowledge of the parents.

81. In your opinion, could any law be devised to meet the class of cases contemplated by this clause?—I do not think there can.

82. *By the Chairman.*—Do you not think there could be some clause framed to meet the cases of persons having the care of children administering narcotics for the purpose of allowing them to go to their work?—I think that it ought to be punished where nurses upon their own responsibility do administer them.

*The witness withdrew.*

*Ordered—That this Committee be adjourned to to-morrow, at ten o'clock.*

WEDNESDAY, 25TH FEBRUARY, 1857.

MEMBERS PRESENT :—Dr. Tierney, in the chair; the President, Mr. Fawcner, Mr. Hood.

David Wilkie, Esq., M.D., called in and examined.

D. Wilkie, Esq.,  
M.D.,  
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83. *By the Chairman*—You are a physician practising in Melbourne?—I am.

84. And have been so for many years?—For about seventeen years.

85. I believe you only received a copy of this Bill last night?—Yes.

86. Do you think any private party having arsenic, corrosive sublimate, oxalic acid, and other virulent poisons, ought to have them kept in secure packages, with the word "Poison" inscribed upon them?—I think so.

87. Do you think that arsenic should be kept in the same room with provisions, such as flour and other matters—speaking now of large quantities?—I think not—it would be very desirable that they should be kept separate.

88. Would you suggest that poisons of the class of strychnine, arsenic, and the like, in private houses, should be kept under lock and key?—I think so. I think that they should be kept quite secure.

89. Do you think that persons should be careful not to have laudanum left incautiously about in private families?—I think it would be very desirable that laudanum should be always kept locked up, otherwise it might lead to accidental poisoning.

90. Do you think that cases, papers, bags, and casks which have contained arsenic ought to be destroyed by burning or other means?—Yes, I think it would be well that they should always be destroyed.

91. Would you have the kindness to inform the committee how you would wish to see poisons in chemists' and druggists' shops, or in wholesale houses kept—do you think they might be put up in any particular way, such as in colored bottles, or in a separate department?—In wholesale druggists' establishments they might be kept in a separate department, and they might be kept in jars of a particular shape, and the word "Poison," as well as "Arsenic," or whatever the poison was, written or painted on them.

92. Would you not think, in all cases, whether in wholesale, retail, or private houses, it would be well to have the word "Poison" painted on the jars?—On jars it might be.

93. Or on casks?—Yes; I should hardly think that a cask was a very secure way of packing arsenic.

94. Would you be so good as to enumerate what class of poisons you would include in your category?—It might be difficult to enumerate all, there are so many poisonous drugs.

95. Arsenic would be one?—Yes, arsenic, oxalic acid, strychnine, and prussic acid.

96. *By the President.*—If you were to make that list too extensive, you would rather defeat the very thing desired?—It would; I think it would require some discrimination.

97. At all events, those you have mentioned you think ought to be kept on a poison shelf? I think so.

98. And be labelled and marked?—Yes.

99. *By the Chairman.*—Oil of bitter almonds—would you include that?—Yes.

100. *By Mr. Hood.*—You have stated, that you thought it would be highly necessary and useful that private persons having poisons in their houses should be compelled to keep them under lock and key. Do you think it would be possible to legislate so as to compel them to do that?—It would be difficult to compel them.

101. Do you think it would be possible to compel private parties to keep and use strychnine anywhere but where they choose?—I think that if an Act were passed, inflicting a penalty upon anybody, and it became generally known, then private individuals would be much more cautious than they are at present. Certainly it would be difficult to compel it.

102. You think that the bare fact of such a law being in existence would make people more careful?—Yes, the breach of the law would render them liable to the penalty.

103. *By the Chairman.*—You recollect a case which occurred in this city, where a number of persons were poisoned from arsenic having become mixed with flour. Do you not think



that a person who allowed arsenic to be strewed about in such a careless manner would deserve some penalty for having it thrown about?—I think so.

104. *By Mr. Hood*.—In your practice, which has been an extensive one, have you ever met with any cases of poisoning resulting from accidents arising from arsenic or other poisons of that nature having been insecurely kept either in private houses or in shops?—No, I do not recollect that.

105. *By the President*.—In your practice, are you aware of cases of poisoning having occurred by accident either in the bush or elsewhere, not from arsenic only, but from any cause?—I do not recollect at the present moment.

106. Are you aware whether any cases have occurred from negligence or inattention in druggists' shops?—I cannot say it has been from negligence in druggists' shops. I remember cases of accidents from carelessness in druggists' shops, not in regard to arsenic, but in regard to other poisons.

107. In which fatal effects followed?—Yes.

108. Do you know what those cases were?—In one case the oil of bitter almonds was given instead of the oil of sweet almonds.

109. Do you know where that occurred?—I think in Dr. Wilmot's shop.

110. *By the Chairman*.—Have you ever known oxalic acid to be given in mistake for Epsom salts?—I have heard of it here, but I have not been called to a case of that kind. It is very likely to have occurred. There is a very great similarity between oxalic acid and sulphate of magnesia.

111. *By Mr. Hood*.—Have you ever known cases of death to have occurred owing to surgeons' prescriptions being improperly compounded, and doses of virulent poison being given in mistake?—I can recollect one case in my own practice where some powders were made up wrongly in a chemist's shop.

112. No legislative enactment, then, as to the safe keeping of poisons, would meet that case?—I think not.

113. *By the Chairman*.—What was that owing to; was it to the person being too young and incompetent?—It was a young man who prepared the powders. Dover's Powder was ordered with calomel, but instead of dividing the quantity ordered into six powders, the young man made up six powders, each containing the whole quantity.

114. Do you think that poisons, or drugs of a poisonous or narcotic tendency, should be compounded by young persons who may not be very efficient?—I think not.

115. *By the President*.—There are two parts of the subject—the first has relation to the safe keeping of poisons; and, as I understand you, you have spoken in regard to that as to druggists' shops, and you have stated that you think it expedient that there should be a poison shelf, and that every precaution should be used as to the appearance of the bottles, and their being marked with the word "Poison"—you think that that is a proper precaution?—Not to mark "Poison" on every bottle; but that there should be a part of the establishment set apart for those poison bottles, and that those poisonous medicines should be put in, say square-shaped bottles.

116. That would be merely superfluous precaution, which would lead to no harm?—It might be inconvenient, if the bottle were taken down, that the public should see that they were getting poison.

117. The other part of the subject is the safe keeping of poisons in private hands, that would be in shops or warehouses, or in private stores of individuals—are you of opinion that it would be a proper and efficient precaution if parties were, under the sanction of a penalty, compelled to keep those poisons which have been enumerated in a place quite apart from provisions, and in close packages, with the word "Poison" marked upon those packages in legible characters?—I do think so.

118. Would you be of opinion there should be a penalty attached to the breach of such a law, whether any evil consequences arose from it or not?—I think so.

119. Would not that rather expose masters to vexatious informations on the part of their servants, who might expose the poison, and then afterwards lay informations against their masters?—I think it would be better that the penalty should attach in all cases. The difficulty might be got over by a printed form or label being attached to every parcel of poisonous medicines with the word "Poison," and a caution that such parcel should be kept locked up under a penalty of £50. Any party having such a parcel in his house and not having it locked up, and an accident resulting, he surely would be to blame, or even if no accident at all resulted. I do not see that chemists would have much trouble in dispensing poisonous medicines under due regulations.

120. Would you apply that to all packages?—They might be locked up, I think.

121. Would you place the same description of label upon them?—Yes.

122. *By the Chairman*.—Those poisons being in jars, would you not prefer painting the words on the jars to putting them on in paper?—Yes; in the case of a jar it would be more secure.

123. *By Mr. Hood*.—In regard to a number of poisons, such as arsenic, corrosive sublimate, oxalic acid, strychnine, prussic acid, oil of bitter almonds, and opium, would you not think it would be a good thing that they should be registered in the case of the party importing them, and that the parties purchasing them should also register them at the Custom House, where they are holders of any quantity?—I think it would be a good thing.

124. You would not propose to class mineral acids with the poisons; you have never known accidents happen with them?—I have not; at the same time I think that, in chemists' shops, if there is a place set apart for poisonous drugs, the mineral acids might be very properly placed among them to prevent accidents.

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125. *By the President.*—Are not the mineral acids already kept sufficiently apart?—  
I am not aware that they are.

126. *By Mr. Hood.*—Do you think that any legislative enactment interfering with the free use of those acids would interfere with many manufacturing works?—I was not speaking with regard to the wholesale use of them, but the dispensing of them as drugs.

127. *By the President.*—You have never known any bad effects arise from negligence with regard to those mineral acids?—No.

128. *By the Chairman.*—Might not those regulations refer to both wholesale and retail dealers—that is, do you think that all druggists' and chemists' shops ought to be registered—taking parties selling retail as well as wholesale?—I think it would perhaps be desirable, though I cannot exactly see the object of it.

129. Do you think that the grocer who sells poisons—arsenic for instance—should be registered?—Every person selling poison to any one should be responsible for the result.

130. *By the President.*—He should label the poison?—Yes, and I think he should not sell it to a stranger.

131. *By the Chairman.*—In regard to the second clause of this act, do you think there ought to be any restriction on the sale of opium, laudanum, or any of the other narcotics?—There ought to be a restriction on the sale of opium in unsafe quantities or doses; there ought to be a restriction upon the sale of chloroform. Opium, of course, includes laudanum.

132. Would you explain how you would restrict parties in that respect?—I think, in regard to chemists and druggists, this clause, as it stands now, would prevent them selling any medicine or dispensing any medicine to the public without a prescription—any medicine containing opium, for instance; and I know that the public are in the habit of going to chemists and asking for a certain quantity of medicine, perhaps containing opium, and perhaps they get it, and no harm results from it. I suppose the object of this Bill is not to interfere with the rights of chemists and druggists in dispensing medicines to the public?

133. Certainly not. Do you think any druggist ought to sell laudanum or opium, or any other narcotic, to a person he does not know, and without registering it?—I think they ought not to sell any dangerous quantity of opium or laudanum to persons whom they do not know; but the difficulty might be got over by their bringing a letter, perhaps, from some person who knew them, as a sort of guarantee that the medicine was not purchased for any improper object.

134. Do you think there would be any great difficulty or delay attending the registration of opium and other narcotics as well as the more virulent poisons?—I think no difficulty would arise from it, because now most chemists enter the prescriptions in a book.

135. It would not be any great hardship if druggists were to register the narcotics they sell?—No; I do not see that it would be any hardship to the druggist to have to enter the fact of having sold an ounce of laudanum to a certain individual on a certain day.

136. *By the President.*—Would not it operate very injuriously to tie up the sale of opium and narcotics in the way you suggest, if a party had a very bad toothache, or a pain in the bowels, and went away at once to a chemist and asked for some laudanum, and was told he could not get it without calling in a medical man?—I drew the distinction between safe doses and unsafe quantities.

137. Would not what would be perfectly safe to an adult be fatal to an infant?—Most assuredly.

138. Then not knowing the object for which it was wanted, what you would consider safe for an adult might be applied with a fatal purpose to an infant?—It would be the duty of the chemist to inquire what it was for.

139. Then that leaves a discretion?—Yes; I am speaking of selling to unknown persons, not to known persons.

140. You have heard that it is proposed to prevent persons keeping improper houses from using those drugs for the purpose of stupefying those persons in places such as lodging-houses and brothels—would not those be the very persons who would be known to the druggists?—Yes.

141. Would you give a discretion to the druggist in regard to those improper characters?—It is a very difficult question.

142. *By the Chairman.*—Do you think a druggist should sell narcotics to prostitutes, or persons of bad repute, whom they knew to be of bad repute?—I think not, decidedly.

143. *By the President.*—Do you think that any restriction that you could place by law upon the sale of poisons would prevent those persons getting possession of those things if they wished?—I am afraid not; I think it would be inoperative.

144. *By Mr. Fawcner.*—Would not it throw a great impediment in the way of getting those things, and so tend to check it?—I think it would be well there should be some restriction, even if inoperative; it might make people more cautious.

145. *By Mr. Hood.*—If restrictions were put upon respectable druggists selling narcotics in this way, do you not think it would have a tendency to drive parties of less respectability into the trade, so as to supply the want?—I cannot exactly say as to that.

146. With regard to people keeping those houses of ill-fame, if there were restrictions placed upon the sale of those narcotics by regular druggists, is it not probable that some illicit sale would be established, and that that would become as perfectly well known to those parties as the sale of illicit spirits is on the gold diggings or elsewhere?—I think it is very likely it would be; but then it might be traced by the police and put down perhaps.

147. You have said you think it would be desirable to restrict the sale, though it should be inoperative—why?—I think that any enactment of this kind might be inoperative; at the same

time, when it was publicly and very generally known that the sale of laudanum was restricted, except in small quantities, and to parties who were well known to the chemists selling it, it would throw a difficulty in the way.

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148. It would be operative to a certain extent?—It would be operative of good, but inoperative as an Act, I think.

149. Would not it be operative against the respectable person who does not know of the secret sources of supply, but inoperative as regards those you specially wish to guard against?—This clause, No. 2, does not prevent the sale of narcotics to persons known, but only to persons unknown; I think the responsibility ought to attach to the chemists as to either unknown persons or persons of bad character.

150. *By the Chairman.*—Do you think it would lessen the crime of hoccussing at the present time, which is very prevalent, I believe, or to lessen crime altogether, if there were some restriction placed on the sale of laudanum?—I think it would tend to lessen the crime of hoccussing.

151. *By Mr. Hood.*—Is not it a well ascertained fact in this country and every other country, that where the licences for public-houses are very high, and the duty upon brandy and other spirits is also very high, that sly grog-selling prevails; and that, on the other hand, where the licences are made low, and where there is a low scale of duties, sly grog-selling is done away with?—I suppose it is.

152. *By Mr. Fawcner.*—Does that confer any good upon the public; does not it add to drunkenness or the contrary, that multiplying of public-houses?—It would be so, unless character were taken into consideration much more than at present.

153. Do you think it is possible to constitute a court here to examine chemists and druggists—are there any materials for constituting such a court as that—is it desirable, and have we the means?—I think it would be desirable that the qualifications of chemists and druggists should be ascertained; I think chemists and druggists ought to serve an apprenticeship, or, at all events, they should show that they were sufficiently acquainted with drugs, and doses, and properties, and that it would be safe for them to be allowed to dispense drugs.

154. Are you of opinion that it would be conducive to the welfare of the Colonies that the large importers of those drugs should be compelled to pay a fee upon them and warehouse them in a bonded warehouse?—I think it would be desirable, perhaps, that there should be a small fee upon them for the purpose of distinguishing them and keeping them separate.

155. Would not it conduce to the welfare of the community at large that those drugs should be sent out in packages so as not to leak out; that they should be sent out in tin or other cases properly soldered up, so that they should not leak out to mix with other goods?—In perfectly safe and secure packages.

156. Has it ever come to your knowledge that they have got mixed?—It has, both in the bush and in the town.

157. Are you of opinion that all packages containing poison should, immediately on landing, be conspicuously marked "Poison"?—Yes; I think that would be very proper.

158. *By the Chairman.*—Will you look at the ninth clause. Do you think that a person should suffer any punishment for administering or attempting to administer any laudanum, chloroform, or other stupifying or overpowering drug to any girl above two years of age and under fourteen, except ordered by a medical practitioner, or in the presence and with the consent of the guardian of the said child?—Yes; I certainly do.

159. *By the President.*—Why would you punish him?—I think the object is to deter persons from administering laudanum or chloroform for bad purposes.

160. You necessarily infer a bad intent?—I understand so, because, if a child happened to be ill and required a little laudanum, it would not come under this clause.

161. You would not punish him because you inferred a bad intent?—No.

162. What objection would their be to insert in the Bill, "for an evil intent"?—I think it would be better to stand as it is than to have "evil intent" put in. I can conceive of chloroform or laudanum being given for an improper purpose, but it might be impossible to prove it.

163. I will put a case:—A party is in the country; her child is very ill; she has no medicine herself; she applies to a neighbor, and says, "Here is a child very ill," and that party administers Dover's Powder, or a few drops of laudanum, which he thinks will do good to the child. It is given with a good intent; it turns out that the child dies; suspicion attaches, and, perhaps, more has been given than ought to have been given. Is that now punishable?—I think not; you suppose the medicine is given with the consent and in the presence of "the natural guardian," so that would not apply.

164. Then, if I understand your principle, you would allow a person to be convicted of an offence without evidence, upon mere presumption?—No; I apprehend that I have not said so.

165. If I understand you correctly, you say this—you would punish, because of the "evil intent" you would infer. That evil intent cannot be proved, and consequently you would condemn the person without evidence. If there is evidence to prove it, well and good; if there is not evidence to prove it, you condemn the man without; is not that the necessary logic of the case?—No; the man would be punishable for administering a dose of laudanum or chloroform without any reason whatever.

166. You say the man is punishable because there is an "evil intent" inferred—you would not punish the man without the "evil intent"?—No; I apprehend this punishment would not be a punishment for "evil intent;" the punishment for that would be a much more serious matter. This is merely to guard against idle administration of chloroform or laudanum.

167. If it were proved that it was administered with a good intent, you would not punish him?—No.

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168. Then if it is not a good intent, it is an "evil intent," and you punish him because it is an "evil intent." If it is for an "evil intent" you punish him, and you cannot prove that "evil intent;" do you not punish him without proof?—That may seem fair reasoning; but it does not exactly carry the idea I have in respect of this clause.

169. Is not it contrary to the principles of British law, that a man should be punished for an offence upon mere presumptive evidence?—I should not think it at all contrary to English law, that a man should be punished by a fine of £100 or two years' imprisonment for administering a narcotic dose without any reason whatever.

170. Do you not think it better that nine criminals should escape, than one innocent man should be punished?—I certainly do. At the same time, I think that might be carried too far in some cases.

171. *By Mr. Fawcner.*—On the contrary, should we not take every means to punish the guilty that are within our power?—I would object to the wording of this ninth clause. It might be altered in some respects; the principle I would not object to.

172. *By the President.*—Do you not think it rather dangerous that, in a law purporting to be for the safe custody and administration of poisons, you should introduce criminal matters, there being already a law upon the subject?—I cannot see any abstract objection to inflicting a penalty of £100 or two years' imprisonment, because it would be competent for the magistrate to fine only five shillings, or perhaps not fine at all.

173. *By Mr. Fawcner.*—Do you believe or know that those means have been taken with females?—I do not remember any individual instance at the present time, but I have no doubt that laudanum has been often used for improper purposes, for hocussing for instance; and no doubt it has been administered to young girls; and no doubt chloroform has been used; and I think that some penalty ought to be attached to administering those drugs without any reason whatever. I think that it would be better if the clause were altered to "apply a narcotic dose of laudanum." This would not apply to a very small dose. It is very difficult to administer chloroform with safety. It requires discrimination and judgment. Even medical men must feel more or less nervous in administering chloroform. In a new born infant, one drop of laudanum is fatal.

174. And even in the case of a girl of ten or fourteen years of age it might be dangerous might it not, unless applied with discrimination?—A teaspoonful would prove fatal to a girl of ten years of age.

175. *By the President.*—Would not a druggist, who should administer a dose of laudanum at all, in any form, whether by cotton to a tooth, or otherwise, to a girl applying at his shop for relief from tooth-ache, be exposed to the penalties of this Act?—Not in the way I wished it to be altered. I suggest the addition of the words "a narcotic, or stupifying dose." It would require to be proved that it was a narcotic and stupifying dose, otherwise it would fall to the ground. I think the fact of the child being stupified ought to be the test—the fact of the child being thrown into the narcotic state, and rendered perfectly unconscious. I think the penalty might attach to any person doing so; because it would be difficult to know what reason he could have for doing so.

176. Do you suppose a case of idle administration of laudanum ever occurs. Is it likely or probable that any person would idly administer laudanum or chloroform so as to stupify a person—do you think that it is at all within the range of probability?—I cannot say it is.

177. Then if it is so remote, you would not legislate for a case so barely possible?—If you legislate to keep poisons safely locked up, you may legislate for the administering of them.

178. *By the Chairman.*—Did you not say you thought, and still think, a person applying or attempting to apply laudanum or chloroform without the consent or direction of the parent or a medical man, to a child above two and under fourteen years of age, should be punished?—Yes; I think if there was no "evil intent," the penalty perhaps might be rather severe.

179. What would you reduce it to?—I think it would meet the case, to say not more than £50 penalty, or more than one year's imprisonment.

180. Did you not say, in the early part of your examination, and have you not repeatedly said since you sat down in that chair, you believed that narcotics were applied for bad purposes, and that you thought persons should be restrained from using them?—Yes, but not with reference to this clause.

181. Has it fallen within your experience that laudanum or chloroform have been applied to young girls under twelve or fourteen years of age for the purpose of having criminal connexion with them?—I do not recollect any case coming under my own notice, I am certain. I have read of it. I do not know any such case in Melbourne.

182. Do you think that such a thing takes place?—I have certainly read of it.

183. Have you heard from other medical men and other parties of it?—I know that it has been done.

184. *By Mr. Hood.*—Have you not met with cases where an extraordinarily small dose has had a stupifying effect?—In very young children a very small dose will sometimes produce a narcotic effect in the case of laudanum; but I apprehend that this clause is intended to punish persons who wilfully administer a narcotic dose of laudanum to a girl between two and fourteen years of age without any reasonable cause; and I think that, if a man were to take down a bottle that is labelled "Poison" and give a teaspoonful, or a narcotic dose of that poison, to a young girl, he might be punished for it without really any intent of guilt being proved against him, because, for anything that he knew to the contrary, that narcotic dose of poison might actually have poisoned that child. I think chloroform is a very objectionable thing to be used, except by a medical man. If the words "without reasonable cause" were introduced, that would give a man an opportunity of stating why he applied it.

185. *By the Chairman.*—Will you look at the tenth clause. Suppose you leave out the words "lodging-house," and let it apply only to "brothels;" have you any objection to that clause in that case?—May I ask if there is any penalty for administering laudanum in a public house—that is very often done with spirits.

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186. This only refers to a brothel—you think it ought also to include public-houses?—Yes; I think with regard to the tenth clause, it would be well to introduce "dangerous or poisonous doses."

187. If you put in the word "stupifying," would that meet your view?—Yes; "stupifying doses of laudanum, chloroform, or any other narcotic."

188. Have you any objection then that it should apply to lodging houses and to public-houses?—No; because I think the "stupifying doses" sufficiently guard against any improper conviction.

189. Have you any objection to the eleventh clause?—I think it would be proper to impose a penalty upon nurses giving laudanum to children under two years of age. This clause would refer to mothers as well.

190. How would you remedy that?—I can only say that in my experience I have not met with any cases where injurious consequences resulted from nurses giving laudanum; I have not met with such cases. I know that nurses do it, but I can see great difficulty in framing a clause to meet such a case without interfering with the rights of parents.

191. *By Mr. Fawkner.*—You have had a great deal of experience with mothers of children?—Yes.

192. And you know a great deal that is transpiring?—Yes

193. Do you believe that any law we could make upon that subject would be effective?—I am afraid not; I think nurses ought to be restricted from giving laudanum to infants; but I repeat, that I do not very well see how a law is to be framed that will not interfere with the rights of parents.

194. How would it be, "If any other person other than the parents" were put in?—It might be put thus—"If any person unauthorised by the parents shall privately administer."

*The witness withdrew.*

Adolph Berndt, Esq., M.D., called in and examined.

195. *By the Chairman.*—What are you?—I am a Doctor of Medicine.

196. Of what college?—Of Gottingen.

197. You are a legally qualified medical practitioner of this Colony?—I am.

198. By birth you are a Prussian?—I am.

199. You are now practising your profession in Melbourne?—Yes.

200. How long have you been practising here?—More than three years the second time.

201. You were practising here formerly?—I was.

202. How long were you in practice then?—A year.

203. Will you have the kindness to state whether you know that, in Prussia or other foreign countries anywhere, there is a restriction in regard to the safe keeping and sale of arsenic and narcotics?—There are such restrictions. To effect the better the safe keeping and sale of poisons the latter are classified—brought under certain heads—as inorganic poisons (metallic mineral poisons), and organic poisons (narcotics and drastics). The mineral poisons are subdivided in corrosive, astringent, irritant poisons, and caustics. Mercury and its preparations, especially its sublimate, arsenic and its preparations and compounds, belong to the first subdivision. Copper and its preparations, lead and its preparations, nitrate of silver; furthermore, phosphorus, iodina, tartar emetic, the alkalies and mineral acids, belong to the second, third, and fourth subdivisions. The head, narcotics, comprises belladonna, stramonium, hyoscyamus, opium and its constituents, lactuca, nux vomica and its constituents, as strychnine, acid boracic and its preparations, &c. Jalapa, aloe, colocynthides, croton oil, helleborus, veratria, &c., are drastics; and pulsatilla, aconite, colchicum, &c., are acrid narcotics. With regard to keeping poisons, there is a law as to who has a right to keep corrosive mineral poisons and narcotics, and only chemists and druggists dare keep them. Chemists are licensed to keep poisons, in consequence of being examined as regularly qualified chemists. They have to prove that by examination.

204. The fact is, they undergo a certain course of lectures and examination?—They have to go through a regular course of study. The wholesale druggists are not examined, but they have to show sufficient qualification that they are able to prepare those poisons in their laboratories.

205. *By Mr. Fawkner.*—If they are not examined, how do they show sufficient qualification?—By being able to make in their laboratories all preparations required, chemical as well as pharmaceutical, poisonous and not poisonous, to the entire satisfaction of the buyers, especially the chemists, who, being answerable for the purity of all preparations, have to examine them. Chemists only have a right to sell poisons in retail.

206. *By the Chairman.*—Would you mention, in relation to the safe keeping of poisons, how they are kept?—There are strict regulations. Those called corrosive mineral poisons are kept under lock and key, and for each separate class of poison there is a separate scale and spoon and the necessary implements for their use. The recipients of those poisons bear the signature of the poison, and, at the same time, there is the picture of a skull signed over every entrance of those places where the poisons are kept; that prevents, at once, their making any mistake. With regard to lead, phosphorus, tartar emetic and others, and the narcotics, every vessel containing those poisons is labelled with the name; also they have their separate place where they are to be found. Prussic acid has to be put in the same place as arsenic.

A. Berndt, Esq.,  
M.D.,  
25th Feb., 1857.

A. Bennett, Esq.,  
M. D.,  
continued,  
26th Feb., 1857.

207. The narcotics are kept by themselves?—Yes they are, and they have also another corner or part of the chemist's shop. The vessels containing them are red, or black, or some other color, bearing a proper label and name.

208. Would you have the kindness to mention what restriction there is on the sale of those articles. Suppose I wanted an ounce of arsenic, how should I be able to get it?—There is no difficulty in getting any poison, however strict the regulations are. You have to give a written notice to some chemist, and tell him you want an ounce of arsenic, say for the purpose of killing rats. You put down your name and residence; if you are known to the chemist, he will act as a witness, and he puts down his name as knowing you. However, if you are not known and are quite a stranger, you have to apply to some magistrate and get a notice. If you are known, you call the party who knows you in as a witness.

209. *By Mr. Hood.*—Are the committee to understand you, that if you want the use of arsenic to poison rats you must go to a magistrate?—Either to a magistrate, or if he can write, he puts down a notice and goes to a friend.

210. Supposing that law was in operation here, and a party was newly arrived here, and his shipmates were gone, and he wanted a few drops of laudanum—does that restriction you have named include laudanum?—It includes the whole.

211. *By Mr. Fawcner.*—Whether he requires a few drops or a larger dose?—The chemists in Prussia are especially prohibited from acting as doctors, and have to be specially cautious in selling laudanum or chloroform.

212. *By Mr. Hood.*—If that law was carried into effect, such as it is in Prussia, would not the effect be to hinder druggists from prescribing in any shape and form, or giving medicine to anybody?—It would, and I think beneficially so.

213. You said that, in the poisons, the chemists in Prussia include the corrosive, metallic, astringent, and irritant poisons, such as arsenic and its various salts, quicksilver and its various salts, and the various salts of lead, copper, antimony, tin, and gold and silver, I suppose?—Yes, the latter belong to the astringent poisons.

214. Those are included in the category of the poisons that none but the chemist is allowed to sell—how do the oil and colormen and painters manage to carry on their business?—They get, as far as I recollect, their poisons from the wholesale druggists, they receiving a written notice to sell poisons in larger quantities to painters and such men.

215. The painters can do what they like with them and use them up in their trade?—Yes.

216. What is the object of having the common blue stone of commerce—the sulphate of copper—included in the metallic, astringent, and irritant poisons?—In the first instance the law, being more or less known to the public, and the public knowing that it is poison, will be cautious; and, secondly, the man who gets it in large quantities by the wholesale druggist informs himself by putting down his name and giving a written notice, answering for any consequences that might happen.

217. *By Mr. Fawcner.*—Are those painters allowed to sell those poisons?—No; they are only for their own use.

218. They are not allowed to retail them?—No.

219. *By Mr. Hood.*—Who does retail paints and colors?—Chemists principally; and now there is a frequent alteration of the law, according as it is found there is something wrong. Wholesale druggists are not actually so strictly examined as the chemists; and they have not a right to make up prescriptions, but they must show ability to understand the poisonous nature of the drugs. Certain storekeepers may sell, say acetate of lead or carbonate of lead, but they are under the same restrictions as wholesale druggists.

220. Can any shopkeeper who chooses, in a town in Prussia, sell a quarter of a pound of vermilion (cinnabar)—can a painter sell it to me, if I want to use it for the purpose of painting—do you know how that is?—He dare not.

221. Who can do it?—Those who are licensed as wholesale druggists, or as shopkeepers coming under the same head as chemists.

222. Have you ever known, in your experience as a medical man, any person poisoned by taking a dose of bluestone—sulphate of copper?—I do not recollect any.

223. Have you ever read of a case of that kind?—I remember having read of some cases where the parties, escaping death, suffered infinitely from the corrosive effect of bluestone.

224. Then what is the object of including in the law that sulphate of copper as a violent irritant poison?—It has, at the same time, relation more or less to scientific classification. You cannot exclude those things, if you are to classify poisons.

225. You have been in Hamburgh?—Yes.

226. Does this law prevail there?—In every country in Germany there are peculiar regulations; but the most strict, and I think the most beneficial regulations, are in Prussia. At the same time, so far as I have the opinion of the public with me, the law does not impede trade, but facilitates it, in order to protect the public from being imposed upon.

227. You have heard of Mr. Jacob Bell, of London?—Yes.

228. Are you aware that he has, at least half a dozen times within the last fifteen years, attempted to introduce a modification of the Prussian law into the House of Commons?—I have heard so.

229. Do you know what has been invariably the fate of those measures so brought in there?—I do not know exactly.

230. Have they not been invariably thrown out?—I believe they have not been thrown out entirely. Some laws in existence in England appear to be the very copy of corresponding Prussian laws.

231. *By the Chairman.*—With regard to the sale of opium, is not there some little formula that has to be gone through, even if the person purchasing is known to the druggist?—Every chemist in our country is obliged to receive a written notice, and enter the contents into a book kept for that purpose. A. Berndt, Esq.,  
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continued,  
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232. There is not more trouble in doing that than there is in entering the prescription of a legally qualified medical man?—By no means. There is a schedule to be filled up, which is done very quickly.

233. Are the chemists obliged to mark the word "Poison" on the packages?—Yes; and not only that, they are obliged, before giving it into the hands of the customer, to sign down a skull and cross bones under it.

234. And they are obliged to pack it up safely?—Yes.

235. In any peculiar paper?—Everything that is for external use has to be put in either red or blue paper. I am of opinion that, in this country, organic poisons (narcotics) ought to be kept and sold only by chemists and wholesale druggists; as also the stronger corrosive mineral poisons, as arsenic, sublimate, &c.; but that oil and colormen ought to be allowed to keep and sell, under certain restrictions, those mineral poisons (specified) which commonly are used for painting and similar purposes. These three classes of tradesmen ought for this sake to be registered. I will not decide upon whether something should be paid for such registration.

236. Are they obliged, in getting registered in your country, to have any certificate as to character, or is every one allowed to sell those things?—I have met this question already, and mentioned that there are strict regulations concerning the safe keeping and sale of poisons. Chemists and druggists should prove to be trustworthy men, and should prove it by a good character, and by being subjected to an appropriate examination. I really think it high time that in Victoria such steps should be taken that no chemist or druggist ought to be allowed to open his shop for the sale of poisons and medicaments unless he have sufficiently shown, by an examination, that he is properly qualified. Men, to constitute a board of examiners, who are willing to do their work gratuitously, will easily be found. Some regulations ought, at all events, to be provided. With regard to the condition under which poison should be sold, I think it necessary that every one who intends to get poison, be it arsenic or strychnine, or what it may, laudanum, or chloroform, that he should be subjected to a certain inconvenience to write down his intention to the chemist or wholesale druggist, or the painter, stating he requires so-and-so much for such-and-such a purpose; or, if he cannot write his name, that he should put his cross and get somebody to state that that is the sign for Mr. So-and-so, without any other witness in this Colony. I think such steps ought to be taken as are not accompanied by uneasiness or will impede trade. At the same time, it will have the most beneficial moral effect; it might, for instance, prevent a man who intends to poison himself from doing so. When he came to write, it might produce some remarkable effect upon his mind, and induce him to alter his intentions; and it might tend to prevent, I will not say, crimes, but accidents at least.

237. Have you known many accidents to occur in Melbourne?—I know a case where some young man, instead of taking black draught, took medicine containing opium.

238. How was that given him?—It was standing in the same room, and I had to apply the usual means.

239. Have you known any mistakes about medicines being made?—I am sure there are many mistakes made.

240. You have stated in the *Medical Journal* something about mercury and other things?—Those came under my own observation.

241. Then you do not consider that laudanum, or chloroform, or those stupifying drugs generally, should be sold indiscriminately to people?—Most decidedly not.

242. Looking at the ninth clause, have you any objection to that clause?—I am of opinion that such persons ought to be punished.

243. *By Mr. Hood.*—What is the offence you would punish them for?—If there is no other offence, there is the offence of acting as a medical man with narcotics.

244. Suppose that the intention was good?—He might consult a medical man.

245. Supposing the medical man not to be within twenty miles, and a girl has got the colic, and the man gives her a narcotic medicine, would it not be a hardship upon the man to have to go to a magistrate and lose his time?—I do not approve of giving laudanum and chloroform to anybody. I object to the father and mother giving it, unless it can be proved they have sufficient knowledge to allow them to do it safely.

246. *By the Chairman.*—Supposing it to be given with a good intention to cure a person?—Under distinct circumstances, and if the good intention is proved, then the man ought not to be punished.

247. I think you have said before, that there would be no inconvenience, or scarcely any, in selling any person laudanum or anything else, if the Prussian plan was carried out?—That is my opinion; still I should propose to have it here modified. I would not have the witness; I think it is quite sufficient that the man should write down the notice or go to the chemist, the chemist having schedules ready for that purpose, for the man to sign his name; or if he could not write, to make his cross, the chemist certifying it.

*The witness withdrew.*

Richard Youl, Esq., M.D., called in and examined.

R. Youl, Esq.,  
M.D.,  
25th Feb., 1857.

248. *By the Chairman.*—Will you state your opinion on the first clause of this bill?—I quite agree with the first clause, that persons should be compelled to keep all poisons legibly marked, and that they should be kept in secure packages, and that they should also be separately kept. I have known several cases of poisoning by using bags for flour which had previously contained arsenic. At the Werribee there was a whole family poisoned, and one man died.

249. What is your opinion of the second clause?—I think that, in selling poisons in this way, they ought to be divided into two. There is a great difference between selling what may be called medical poisons, opium and those sorts of things, and arsenic and other things that are not used as a medicine. There is a great difference in selling narcotic poisons. I believe, at this particular moment, you may sell ten drops of opium and it is used as a medicine, and can scarcely come under the same restriction as belladonna. I know that that is a drug, from my experience, used for narcotising or hoccussing people; and therefore, if a person came into a chemist's shop and asked for five or ten grains of belladonna, there should be more restriction placed upon the sale of it than upon the sale of laudanum.

250. *By Mr. Hood.*—Do you think opium is ever used to "hocus" people?—I have never known opium used for "hoccussing" people.

251. Have you had beer and spirits, found in questionable places, analysed to ascertain that? I took great trouble some months ago to know if opium was used to adulterate beer and spirits—to ascertain by what means the opium recently imported had been consumed. I got beer and spirits from the lowest public-houses and sly grog-shops and places, and I had them all analysed, but I found no deleterious matter in any of them. I can furnish the committee with analyses of large quantities. They are all of a very low specific gravity, and contained a large quantity of treacle and coloring matter, but nothing deleterious whatever in any beer, ale, porter, spirits, rum, brandy, gin, and things sold usually in the neighbourhood of Stephen-street and Little Bourke-street, and no deleterious drug was found in any of them. I then set on foot another set of inquiries, which was from thieves, prostitutes, and the detective police, as to what were the means used for hoccussing. The result of those inquiries was, that the essential oil of tobacco was most frequently used.

252. Have you known tobacco put into beer?—Yes; but roughly done, not for the purpose of hoccussing. On the diggings, before there were any licensed houses, and when they had to make their spirits go a long way, they fancied that they strengthened them. It acted on the brain, and produced a certain effect; but it was not done to hocus the people, but to make the spirit, as I have said, go a long way. When I became coroner for the city, first of all there were a great many deaths occurring in lodging-houses. I gave notice I should hold a *post mortem* examination upon every person who died in a lodging-house without a medical attendant. I found all those persons had drunk most frequently porter, that they had become stupified, that they had lain there for some eight, ten, or twelve hours and died, and the cause of death was congestion of the brain. I have no doubt all those persons were hoccussed. The effect of my determination was, that it put an end to it at once. Five or six inquests put an end to it altogether.

253. *By the Chairman.*—You do think that hoccussing was practised?—I have no doubt that hoccussing was most extensively practised for the purpose of robbery in the lodging-houses of this town.

254. Was it in brothels?—The lodging-houses I speak of were both lodging-houses and brothels too. There were both men and women in them.

255. Do you think that applies to low public-houses?—I think that the hoccussing in low public-houses is done in the same manner; it is done with tobacco invariably. The men in their business who do those things are the most skilful in the world, and they would never leave a train of circumstances behind them, such as going to a chemist's to buy opium, and having a bottle about them which might be found, or be found lying about the house, or anything of that kind. When they have got a thing that is readily obtained, and is in every man's mouth, they will invariably use it. The mode in which persons who commit suicide procure opium is by buying from several chemists very small quantities, so that there would be no difficulty in any person with an intention to commit suicide getting the quantity required. I have scarcely ever found that the women who most frequently poison themselves with laudanum buy it all at the same chemist's.

256. Would not it be a kind of restriction?—It would be a very slight restriction. In the same way as if you make restrictions on the sale of spirits, you make a sly grog-shop; if you stopped the chemist, there would be a place opened in a week as well known to all persons who required it as this Council Chamber is, where they would go and get it.

257. Do they not go to the chemists for belladonna?—Yes; but you will find, I think, that there is not a chemist in Melbourne who would sell belladonna.

258. Hyoscyamus or digitalis, should those be scheduled?—I think, if you schedule too many, it would only tell persons that those were poisons. Belladonna, prussic acid, and colchicum are the three poisons of which you must be most careful, because they are known to all the public as poisonous medicines, and are things that are liable to be bought and sold.

259. *By Mr. Fawkner.*—Do chemists know the danger of selling them?—I do not think any chemist in Melbourne would sell belladonna.

260. Do you think oil of almonds should be scheduled?—Yes.

261. Oxalic acid?—I have known cases of mistake from its being given instead of Epsom salts.

262. Would you schedule any others?—Strychnine.



263. And arsenic of course?—Yes. But with regard to strychnine, my shepherds and overseers never go out without strychnine in their pockets; and they will place a bottle of strychnine outside their huts, and let it stand just the same as soda, upon a table. I think there ought to be some restriction on it.

264. Do you think arsenic ought to be allowed to be thrown about stations?—I think it should be mixed, and not be allowed to be kept in a store, except in a separate compartment and mixed.

265. For a sheepwash, it would not be hurt by being mixed with indigo or soot?—No.

266. You think arsenic ought not to be kept in the same place where flour is kept?—No; and if it were possible, they should not be allowed to carry arsenic in common bags down to the dipping places. The common practice is, to take a flour bag and put the arsenic in it, and that bag is put on one side, and sometimes it is taken for flour to be put into it.

267. Do you not think that immediately after using those bags for arsenic they ought to be burnt?—They ought to be burnt.

268. In relation to laudanum and all those other poisons, you have spoken of narcotics in houses—do you think it would be as well to keep those things under lock and key in private houses?—I think so.

269. And in druggists' shops you would suggest that the narcotics should be kept on separate shelves?—In separate places, and I think as soon as possible there should be a special shaped bottle for the purpose of selling poisons and medicaments used for external application.

270. Square bottles?—Yes; there should be what should be called the "Poison Shelf." At the present time that could not be carried out, and I would use a large yellow label, which is what is used in France, with "Poison" inscribed upon them in conspicuous letters, which should be put upon all liniments and medicaments for external application. With regard to poisons for sale in Ireland, they have a special shaped bottle, and I would have the word "Poison" upon those bottles.

271. What do you think about the registration of wholesale and retail houses registering the poisons at the Custom House or at the Police Office—do you think a person should get permission to sell?—I think it would be a good plan. A merchant here gets a consignment of everything, from boots to arsenic, and they are all bundled together into his store.

272. *By Mr. Hood.*—In doing that, you must classify special poisons?—Yes. I have known persons buying drugs at a sale, and having one thing delivered to them for another. I have heard of soda instead of arsenic; those things are never labelled.

273. *By the Chairman.*—Jars containing arsenic, ought they not to be painted?—They should have a yellow label.

274. Is not a label liable to fall off; would you not rather suggest that they should be painted—that the words "Arsenic" and "Poison" should be painted on the jar?—Yes.

275. And upon every cask?—Every cask should be marked "Poison." In fact, no cask containing poison should be allowed to be landed unless it was properly marked.

276. Parties who wished to sell arsenic, or any other of those poisons, should apply to a bench of magistrates, and bring a certificate of good character, the same as is done now for a lodging-house; the magistrate of the district granting a licence to sell arsenic?—I do not see how he is to be any judge of the capability of the person applying.

277. Not as to the fitness, but as to the respectability of the person?—I do not think it would be effective. I think that those things should be confined to the persons who are acquainted with them; that their sale should be confined to the chemist and druggist.

278. Might there not be some registration or restriction placed on them, so as to have competent persons only engaged in the sale of them. You are aware that grocers up the bush, at the present time, sell poisons without restriction?—Yes.

279. Ought they to have the same privileges in that respect as druggists?—No.

280. Will you come now to the ninth clause. I want to ask your opinion upon that. You heard Dr. Wilkie's examination, and his suggestion of the introduction of the words "stupifying or narcotic," and that reasonable cause should be shown?—Yes.

281. Do you agree with his evidence as a whole upon that?—No; I do not think that that clause is operative at all. I think it is inoperative in every way.

282. Why so?—You will never get a conviction. For example, a man may administer chloroform with a proper intention—of this I have known several instances. I have known a dentist administer chloroform to take out a tooth and, added to that, he has committed a rape. His giving the chloroform was perfectly just and right, he gave it to extract the tooth.

283. Ought not that man to be punished?—Yes; that was a case in which the man was punished; he was indicted for a criminal assault; it occurred in Paris.

284. In reference to this clause, are you aware, at the present time, that the Crown law officers of this Colony are obliged to abandon many cases of this kind that come before them, because they cannot show that the narcotic was administered, or attempted to be administered, with an intent?—I am not aware of that. I think the Vagrant Act gives you an opportunity of meeting every case.

285. Suppose a man in the guise of a gentleman, whom I would call a ruffian, attempted to administer this chloroform?—He would come as much within the restriction of the Vagrant Act as any other.

286. What was the reason some person was a few days ago discharged from the calendar at Geelong, relative to the administration of a narcotic, because the "intent" could not be shown—are you aware of that?—No; but in all those cases of administering narcotics to children, I believe the parents are the consenting parties in nine cases out of ten. The prostitution that goes on here goes on with the consent of the parents.

E. Youl, Esq.,  
M.D.,  
continued,  
25th Feb., 1857.

287. How many children are there in this colony unprotected—that is, without mothers, or without parents at all?—I think, if you were to collect a statistical return of the children of tender age who have been prostituted, and are not persons without guardians and friends, it is where they have got abandoned horrible mothers.

288. Suppose we come to the tenth clause, are you not aware that prostitutes at the present time in brothels seduce young girls?—I think their usual mode is by drink; it is not by drugs.

289. You think then those persons are stupified more from drink than anything else?—Yes; but their minds are thoroughly corrupt. You could form no idea of the contamination. Unless you came in contact with those children, you have no notion how thoroughly corrupt their minds are.

290. Coming now to the eleventh clause—are you aware that nurses having the care of children privately administer laudanum for the purpose of putting those children to sleep, and so of allowing them to follow their occupation?—It is done more frequently by the mothers than any one. Dalby's Carminative and Godfrey's Cordial are given to the children to enable the parent to go out. I have a return of cases of suicide and accidental poisonings.—[*The same was handed in—Vide Appendix*]—In the two cases of poisoning by arsenic, one was a woman who took some arsenic in a paper, instead of a seidlitz powder, and the other a case which occurred in some dining rooms in this town. In the district of Bourke county, last year, there was one case of accidental poisoning, where flour was put into a bag which had contained arsenic. Those four cases of the children were where the mothers gave too large a dose. I produce this return to show the favorite mode of committing suicide here is not poisoning.

291. Do you not think a person should be punished for having thrown about carelessly on a shelf or in a cupboard a small parcel of arsenic in a paper?—Yes.

292. Hocussing does exist here to some extent?—Yes, it does.

293. Do you not think there is a great mystery about it?—There is not a thief in Pentridge who is not aware of the usefulness of tobacco in that respect.

294. Through the Colony, do you not think that the free population are not aware of it?—I think that all persons likely to do it are perfectly acquainted with the mode of using tobacco for that purpose.

295. Do you think then that "hocussing" principally takes place among the prisoner population of this Colony—do you not think many persons coming down from the diggings have been hocussed by their mates and robbed?—They have only been hocussed by their mates when their mates have been originally from the other side. No one has any conception of the great amount of criminal knowledge there is in this country.

*The witness withdrew.*

*Ordered—That this Committee be adjourned to Friday next, at twelve o'clock.*

## TUESDAY, 3RD MARCH, 1857.

MEMBERS PRESENT:—Dr. Tierney, in the chair; The President, Mr. Fawcner, Mr. Hood.

Godfrey Howitt, Esq., M.D., called in and examined.

G. Howitt, Esq.,  
M.D.,  
3rd March, 1857.

296. *By the Chairman*—You are a physician?—I am.

297. Practising in Melbourne?—Yes.

298. You have been practising here for a good many years?—For seventeen years.

299. Have you considered the substance of this bill?—I have considered it.

300. In reference to the first clause, do you think there is any objection to have the word "Poison" written on arsenic, strychnine, and other poisons?—I think all poisons ought to be marked and ticketed "Poison."

301. Do you think they ought to be left carelessly about on shelves?—Certainly not.

302. Do you think that poisons should be kept in the same store with provisions?—Not unless they are under a separate lock and key, and in a place set apart for them.

303. Have you heard of such things?—I have heard of very strange proceedings with regard to poisons

304. Would not it be better to keep them separate from provisions?—Most decidedly.

305. Relative to the separation of poisons in chemists' shops, do you think that such poisons as arsenic, prussic acid, and laudanum, and others might be placed upon a separate shelf?—Prussic acid, and laudanum, and those things should, because I have known accidents happen not only in druggists' shops, but with regular medical men. I had a particular friend, a surgeon, who inadvertently had black draught and laudanum near together, and he laid his hand upon one instead of the other, and unfortunately caused the death of the party.

306. *By Mr. Hood.*—Do you not think it would meet the case better, to have those things in square bottles as well as in a different compartment?—I think every precaution ought to be made available.

307. *By the Chairman.*—As to the second clause—do you think that opium ought to be sold to unknown persons without any restriction—laudanum, belladonna, and things of that kind? Not in large quantities, most decidedly—in fact, not unless either by the advice of a medical man or in the presence of a witness, and showing for what purpose it is likely to be used.

308. What do you think of the slight caution of registering—just marking it down the same as is now done very generally in the case of prescriptions?—I look upon this clause with the schedule of poisons as a great good.

309. Then you would extend that to narcotics?—I think you ought to include all poisons and narcotics. G. Howitt, Esq.,  
M.D.,  
continued,  
3rd March, 1857.

310. *By Mr. Hood.*—Would not it be rather dangerous to use the generic term "Poisons"—might it not lead to irregularity—do you not think the poisons ought to be scheduled and a list given?—I think you ought not to terrify the public by telling them that almost everything is poison. I think more especially care ought to be taken in regard to those things that are liable to be mistaken for other things.

311. You would schedule them?—Yes; oxalic acid, for instance.

312. All the poisons you intended should come under that regulation?—Yes. I think there is one clause wants adding to this Bill; that is, exempting in some measure and not taking away the privileges the chemists enjoyed under the Apothecaries Act of 1815. There is a clause at the end of the Apothecaries Act of 1815, in which it says, it shall in no wise take away the privileges they have enjoyed from time immemorial—that is, of prescribing behind the counter. That does not appear to be included in the present Bill I hold in my hand.

313. *By the Chairman.*—You see no objection to the registering of arsenic, or to the use of the coloring matter?—Provided it is colored so that the coloring matter may be understood and not be injurious. In some cases the amount of coloring matter represented here would spoil the arsenic, and render it unfit for any purpose but agricultural.

314. *By Mr. Fawcner.*—Would not a small quantity of the thumb-blue discolor it enough?—If you color it enough to prevent its being mistaken for any other thing, that is sufficient. The difficulty is, that daily there are new poisons being compounded and brought into use. Chloroform would not have been included in any medical Bill of poisons two or three years ago.

315. *By the Chairman.*—Would you read this clause in the Bill:—"Provided always that where such arsenic is stated by the purchaser to be required not for use in agriculture, but for some other purpose for which such admixture" would "render it unfit, such arsenic may be sold without such admixture?"—I think that is very good.

316. You see there is a clause there to say it is not to be mixed if thought injurious?—Yes.

317. *By the President.*—Is it practicable to carry out any provision as to keeping poisons in private stores?—It may be difficult.

318. Do you think it is so practicable that we could legislate upon it?—There is no difficulty in making the law, but we find that the law will not carry things into effect. The Thistle Law of last year has not prevented the thistles coming close to the Parliament House.

319. *By the Chairman.*—Is not that because the law is not carried into effect?—Yes.

320. *By the President.*—Does not it appear to you that, by attempting to legislate upon such a subject, you would rather be laying traps for informations by your domestics and persons about you?—Of course there would be some cases of hardship; but I think you cannot be too strict in trying to make even the public a little more careful about poisons.

321. Are you, from your large experience here, aware of many instances of death which have arisen from the careless keeping of arsenic in private hands?—I do not think arsenic is generally kept in private houses.

322. Can you recall to your recollection any, and if any, how many, instances of death from neglect in keeping poisons in private hands?—I do not recollect one, I must say, in my practice, coming within my own experience. I may have heard of some by hearsay.

323. You are not aware of any?—Strictly speaking, I do not know of any case of poisoning by accident in a private family.

324. Would you consider, under those circumstances, that it is desirable to legislate upon the subject, when the accidents are so infrequent?—I think it is highly desirable that arsenic or any other poison should not be left about where poisoning might ensue.

325. *By Mr. Hood.*—Do you think that if a law was passed, imposing a penalty upon any person for having a pound of arsenic on a shelf in a store without being labelled, that would hinder it?—I cannot tell how far your passing this law would make people more careful.

326. *By the Chairman.*—You have heard of that case of the eating-house in this city?—Yes.

327. There arsenic was thrown about carelessly and got into the soup?—I have heard of that case.

328. As to the ninth clause, do you think a person should be punished for administering or attempting to administer laudanum or any stupifying drug to any girl for the purpose of committing a crime?—Does not that come under the criminal law at present?

329. Suppose you can prove the person attempted to administer any stupifying drug to a child, without the consent of her guardian, do you think he should be punished; do you think he ought to be allowed to do that?—If done with a criminal intent, decidedly he ought to be punished.

330. The present law is, that you must prove the intent, or you cannot punish the person?—I know persons are in the habit of giving a few drops of laudanum and a teaspoonful of castor oil to an infant laboring under diarrhoea. I see no evil in that.

331. That is given with the consent of the guardian?—Not always. The guardian might be a great many miles away.

332. Whoever has the care of the little girl, would you not call that the guardian—suppose it were the mistress of the child in the house?—I think you may be almost too stringent in some of those cases, so much so, as to do away with proper care and supervision of the children.

333. The ninth clause refers to infants, this refers to young girls. There is an Act at the present time nearly the same as that, with this exception, that you must prove the intent

G. Howitt, Esq., to commit a felony. I want to ask you, would you punish a person if you could prove that he administered or attempted to administer a stupifying drug for the purpose of stupifying a young girl; if you could prove it, do you think he ought to be punished?—It must be an "intent" if it is a "purpose."

334. The law says at the present time, with the intent of committing a felony?—Yes.

335. *By Mr. Fawkner.*—Could you discriminate, in the case of a young person, what amount would be a narcotic dose?—Even amongst children it is most difficult to decide. I have seen a child narcotised from one drop, and I have seen another not narcotised from five or six. It is difficult to decide. It seems to me a question whether the present law is not almost all that is necessary.

336. *By Mr. Hood.*—In fact, you must prove the man guilty before you punish him?—Yes. You ought not to prescribe severe penalties, unless upon strong evidence.

337. *By the Chairman.*—I will suppose a gentleman in town who has a little girl intrusted to him as a servant of from ten to twelve years of age—that the mistress happens to be away, and the servant man attempts to give laudanum to this child to stupify her, that he may commit a rape—the law would not overtake that person, because you must prove the intent to commit a rape, though you might prove the attempt to administer that narcotic?—I should think, proving the administration of the narcotic—you could not do more in the case you have contemplated.

338. Would you punish the person, then, for attempting to administer the narcotic under those circumstances?—I think he is highly culpable, and perhaps as criminal as in any other case—still I think the law would require proof.

339. The proof of attempting to administer or administering it?—I think it would depend upon the quantity administered in a great measure—you must look to motives.

340. *By the President.*—In your experience, which has been very great, have any cases of the kind here contemplated occurred—of girls from two to sixteen years old having had administered to them narcotics so as to stupify them?—I do not recollect a case, in my practice, coming under my cognizance at all.

341. Nor in your experience here?—No.

342. Your practice and your experience here are as large as any man's in the place?—That I cannot say.

343. You have been practising here a great many years?—Seventeen years.

344. *By the Chairman.*—Your practice is rather among the respectable classes?—All classes.

345. Have you ever attended professionally in brothels?—No. I have found myself two or three times in brothels, but without knowing it.

346. *By Mr. Hood.*—Have you ever met with cases known as "hocussing"?—I never saw a case, and I was pleading "guilty" the other day to not knowing what is the drug it is done with. A great many of the cases stated to have occurred from "hocussing" I could not refer to opium. It seemed to me to be more narcotising in its effect.

347. Oil of tobacco probably?—Perhaps a combination of the two; I suspect, from some of the symptoms, *coccus indicus*.

348. *By the Chairman.*—Indian hemp—have you known that to be used for the purpose of "hocussing"?—No.

349. *By the President.*—I think, as far as I understood you before, as to the ninth clause, you were not of opinion that it would be desirable to legislate for such cases?—I do not see the necessity for it. I think either in one shape or another the law would reach the case, if there was shown a real intent.

350. *By the Chairman.*—Will you point out the law?—I think even at the police office here, if you could show a man had been doing those things with an intent to commit a felony, cognizance would be taken of it.

351. Under what Act?—Under the Vagrant Act, I think.

352. *By the President.*—Are you able to form any opinion of the propriety of the tenth clause?—My opinion would be precisely the same as I gave in the last case, that I should think the law would reach it, if any real intent was proved; but still I should be sorry that the impression went abroad that I was favorable to narcotics being generally administered by any one.

353. *By the Chairman.*—You think they ought not?—Yes.

354. *By Mr. Fawkner.*—Except by a medical man?—Except by a medical man.

355. *By the President.*—Do you mean by that to say that, in the case of persons suffering from slight ailments, or in cases of sudden emergency, fathers of families and mistresses of servants should be prohibited from administering a little laudanum?—No; I have spoken clearly on that point before.

356. And in regard to an outlying population in distant parts, you would not consider it absolutely essential that they should have a medical man's advice at all?—Where the administration was in very minute doses, of course I should not.

357. Is it not the fact that there is no medicine perhaps in the pharmacopœia which is so frequently administered in small quantities as laudanum?—Yes, and in many cases with good effect.

358. Would not it be a great restriction upon the freedom that is enjoyed by all heads of families to prevent them administering a little laudanum in such cases?—I have spoken before in answer to one of the questions. I know it is a difficult thing to draw the line of demarcation between giving and not giving.

359. *By the Chairman.*—Do you think people ought to be particular about it?—Most decidedly; I have a very strong feeling with regard to the last case as to the administration by nurses. I lost a niece once entirely by the nurse drugging it with Godfrey's Cordial every night.

360. That was unknown to the parents?—They had not the slightest idea of it until my sister-in-law called my attention to it; and on cross questioning, I found the girl had been in the habit of doing it for three or four months.

G. Howitt, Esq.,  
M.D.,  
continued,  
3rd March, 1857.

361. Do you think, when children are given out to wet-nurses and other persons to be taken care of, that laudanum ought to be indiscriminately used by those parties?—I think not indiscriminately used.

362. Do you think nurses ought to be allowed to administer laudanum to infants?—Not nurse girls for the sake of getting rid of the annoyance of the childrens' crying. It ought to be entirely confined to persons of discretion.

363. And not be privately or secretly administered?—That is not desirable, because, if it is done privately, it is because the persons are convinced that they are doing what they ought not to do. I should distinguish the mother from the nurse girl.

364. *By Mr. Hood.*—Do you not think that, for one case where it is the nurse girl that does it, there are ten cases where it is the mother gives it?—I would allow a stronger privilege to the mother than to a nurse girl, because there is the counter-balancing feeling, although it might be absent in some cases.

*The witness withdrew.*

Mr. Daniel Rutter Long called in and examined.

365. *By the Chairman.*—Do you think that poisons ought to be kept in separate parts of druggists' or chemists' shops?—I think, as far as practicable, a cupboard should be allotted for them.

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366. A particular shelf?—As far as possible that would be desirable, and might be carried out, and is already with certain articles, such as prussic acid, the oil of bitter almonds, strychnine, and things of that sort.

367. Do you think it desirable to have poisons as much as possible classified, and to have them in square bottles, or in some bottle that might be distinguished from others?—Yes.

368. Do you think too they ought to be labelled with the word "Poison"?—Most decidedly, as they are now in respectable shops.

369. And they ought to be kept carefully?—Yes.

370. Are they so kept in private houses?—Not so generally as they ought to be. There is a great deal of difference. In some shops they will do it by placing them on a shelf higher than others. That was a precaution we took to place the dangerous things where they were less accessible. I prefer poisons being kept in a cupboard under lock and key. It is easily done.

371. Have you always seen that done in your own practice?—Yes, both here and at home, and in other shops in England.

372. You do not see any difficulty in doing that?—None whatever.

373. Do you think narcotics, such as opium, might be kept in the same way?—That might be easily done. Having octagon or square bottles for poisons would be an advantage.

374. When we say poisons, such as oil of bitter almonds, arsenic, and the more virulent poisons, might be scheduled to keep them separate?—Iodine, digitalis, strychnine, savine, and all those dangerous medicines, though not generally called poisons, might be so.

375. In fact, you found no difficulty in doing so in your own establishment?—I never would sell oil of bitter almonds, or allow it to be kept, nor would I allow confectioners to sell them. I knew a case in the City of Bath, in which Mrs. ——— and two children were buried in the same day, and a third child was nearly poisoned with oil of bitter almonds. That had such an effect on the druggist from whom it was obtained, that he poisoned himself a month afterwards.

376. In selling those kinds of articles, such as laudanum and many of those narcotics, might they not be registered?—I think the plan would be simply to have a book and register the name of the party applying and let them sign the book, or a witness for them. Our rule was, if we sold more than a dose of laudanum, to let two persons come for it.

377. And you never had any difficulty?—No. But we sold laudanum in larger quantities than doses. Where they came for a supply of medicine to take into the bush as a medicine chest, if the parties were known to a medical man that they could be trusted, we gave it them.

378. You did not find that injure your trade?—No. We frequently missed the sale of a small drop of laudanum, and I had a satisfaction in doing so. When I was a young man, I went to live at Cheltenham, in Gloucestershire. The first thing almost after I arrived there was my refusing to sell an ounce of laudanum to a person coming in. I said, "Get an order." I was told, "Mr. Long, we are in the habit of selling it to any one who asks for it. If Mr. ——— was here, he would." I said, "He is not here, and I will not." The woman who applied for it was in an exceedingly excited state. She went to another shop, and there she was refused; she went to a third, who was a man of very little experience in the drug business, where she got an ounce of laudanum; she took it, she fell on the pavement, and was taken away to the hospital and died, in spite of the stomach pump and all that could be done for her. That confirmed me in my resolution.

379. And you were always very particular afterwards?—I never would sell laudanum but by the order of a medical man, except when it was a very moderate dose, and then we would inquire for what purpose it was given. But it is a very difficult thing to legislate upon. There would be no difficulty in keeping a book.

380. And you think that ought to be done?—It would prevent a great many persons taking it.

381. Belladonna and those other narcotics you think ought not to be sold except in that way?—Belladonna, iodine, quinine, are very little known and seldom resorted to. Those might

Mr. D. R. Long, be scheduled. The great danger from poison I find is in strychnine, arsenic, prussic acid, and bitter almonds.

382. Have you ever known a case of this kind or heard of such—on a medical man's premises, there being a cask of arsenic, and the father going to it and using it as flour?—Yes, I recollect a case of that kind occurring on a Sunday night. The druggist being absent, his father supplied three persons with arsenic by mistake. The shop drawer being empty, he took from a cask what he supposed to be arrowroot, but which afterwards proved to be arsenic, and two out of the three persons died in consequence.

383. Do you think, if precaution had been taken in that case, death would not have resulted?—Of course not.

384. Do you think that in private houses poisons ought to be placed in the same room or on the same shelf with provisions?—They should be kept under lock and key.

385. A separate lock and key?—Yes, in a separate department.

386. Do you think that young boys ought to be allowed to sell arsenic in druggists' shops?—I think not, unless in the presence of the master. Certainly not young boys; the master or the assistant generally take the responsibility of doing it.

387. You think there can be no harm in coloring the arsenic a little?—No; under that clause, I think not.

388. As to giving laudanum to young children, I think you are of opinion that laudanum should not be given indiscriminately to children, and you yourself have never done so?—I think there are very few cases in which it is required, in which we should not think it necessary to call in a medical man. I have always avoided giving narcotics. I have given rhubarb and magnesia over the counter; beyond that, if a child is so ill as to require laudanum, generally speaking, I think it is found necessary to send to a medical man. I believe that, in the manufacturing districts of England, immense numbers of children are killed by Godfrey's Cordial. I never sold any in Melbourne during the sixteen years I have been here. I believe hundreds and thousands of children are killed in England by it. I think this is one point of importance to prevent—people who keep little stores and shops in the country are not aware of the danger; they frequently see a little good done by a little laudanum or Godfrey's Cordial, and it makes them bold; and if those persons were prevented keeping such things, it would prevent mischief. There is an immense number of cases in which, if people gave a dose of castor oil, or rhubarb and magnesia, they would be equally efficacious.

389. *By the President.*—Has it occurred in your experience to know of instances of death from the incautious administration of laudanum?—I have had persons bring children to my shop, and I have said, "You have been giving this child laudanum;" and they have denied it. I remember one instance in particular, in which I charged a woman with having given a child something. She strongly denied it; and I sent the child to Dr. Howitt. It was in a dying state. It had every symptom of having been poisoned with laudanum, but there was no way of proving it. The woman went from my shop, and said the child was in a fit, although I was thoroughly convinced it had been poisoned. I asked her afterwards how many children she had. She said this was the last, but she had had five. It was dead before it got to the doctor's. I could remember many cases where people have given their children opium enough to make them dangerously ill. I am very sure it is much more common by nurses and mothers than people are aware of.

390. You are aware it is a common report. I want to know whether, in your own experience, you have found it to be the case?—I have been sure that many children I have seen have been narcotised by spirits or opium by the mothers.

391. Would you distinguish one from the other?—I do not know that I could.

392. Would it not be much more natural that a certain class of persons should, and that they do, give their children spirits?—They are so fond of getting them off to sleep.

393. Would they not do that equally with spirits?—I think not. They have acknowledged it afterwards when I have charged them with it.

394. I want to separate what is matter of opinion from what has fallen within your direct knowledge?—I am sure I am clear in the instances which have occurred in which they have acknowledged they have given laudanum repeatedly. That has been the case not in a solitary one or two instances.

395. In deleterious quantities?—They would always say it was only a drop or two they had given.

396. You inferred there was more?—I have known children that have appeared in a dying state when they were in the place.

397. *By Mr. Hood.*—Admitting that that is the fact, how do you propose to reach those cases by legislating on the subject?—I see no other way than by the persons who keep these things being obliged to obtain a licence by applying to a bench of magistrates in some way. If the licences to sell drugs and narcotics were confined entirely to respectable men, that would be one way of preventing it.

398. I understood you to say you would not object to the selling of a dose of laudanum?—Not a single dose; but then I would question the person.

399. You mean a dose for an adult?—Yes.

400. A woman could get a dose for an adult, and that is ten doses for a child?—Yes, that is true.

401. And it is in evidence that, in almost every case of poisoning by laudanum under the coroner's observation, that laudanum was obtained by getting a dose at one time and a dose at another, until it got to be sufficient to produce ill consequences; how would you legislate to meet that?—I have seldom met with a case in which the party has not got as much laudanum without

much difficulty as they required in some places; for instance, a person coming into my shop and asking for an ounce of laudanum, I say "You must get an order from a medical man—we will give you a small dose." If you say that, they will generally say, "Oh, I can get it at another shop without any difficulty." Sometime ago a person was poisoned by laudanum in Melbourne. One of our neighbours came in to my son and said, "You were near getting into a scrape—you sold laudanum to a man and he has poisoned himself." He said "No, it could not be here; we have only sold so many drops in the course of the day." No doubt the man had got an ounce of laudanum and had taken it; and if some system of registration were adopted, that would protect a person from being charged wrongfully.

Ms. D. B. Long,  
continued,  
3rd March, 1857.

402. *By the President.*—Are you aware of many cases of poisoning in this place by laudanum?—I think I have heard of several.

403. Do you know of any yourself—can you charge your recollection with any?—This one that occurred not a great while ago. No doubt the man was poisoned with laudanum; the bottle was thrown into the water-closet. I cannot recollect where it occurred. My son was telling me of it; he was annoyed, because he was positive that during the day he had not sold any quantity.

404. The object of my question is to see whether those restrictions are restrictions in themselves, and how far they are productive of good effects, because it is an un-English thing to place restrictions upon a trade more than are necessary—is not that so?—Yes.

405. I want to see the supposed countervailing advantages by imposing those restrictions on the trade, and whether those things do frequently occur. I want to know from your extensive experience whether you can charge your memory with several distinct cases of persons who have poisoned themselves intentionally or unintentionally with laudanum?—You bring a few cases to my recollection. There was the poor woman at Cheltenham I refused to sell laudanum to. She went to another place and got it; she took it and died. Mr. ———, of ———, in Gloucestershire, a very highly respectable gentleman, got into some little difficulties: he went to the shop in which I was afterwards assistant, and asked how much laudanum would be a proper dose for a horse. The assistant said an ounce would be sufficient. He said, "I wish you would put me up a two-ounce bottle:" it was put up for him and he took it, and notwithstanding everything was done to save life, he died. Now in this colony I am certain there have been many instances of persons committing suicide with laudanum, though I cannot recollect the names and times.

406. You do not recollect instances, but you have a general impression upon your mind?—Yes.

407. *By the Chairman.*—Do you think females in brothels ever endeavour to get it, or do get it?—I think the men more frequently would do that. I never recollect a woman of bad character coming for laudanum.

408. Do you think the men endeavour to get it for the women?—I think so; but I cannot prove it. My impression is, that it is usually carried by men up into the bush to "hocus" any person they may meet with. I have known a man come into my shop and be exceedingly angry because I would not serve him with it, and bounce out of the shop, thus convincing me he was going to do something wrong with it.

409. *By the President.*—Do you think that any law will have the effect of preventing persons obtaining possession of poisons, more particularly of laudanum?—I think not. I think it may diminish the number of accidents. It may do some good.

410. *By the Chairman.*—Still, you think it would lessen it?—I think so, especially if it is confined to druggists to sell laudanum—I think it might throw obstructions in the way.

411. *By the President.*—With your experience, supposing a person in distress of mind attempts to commit suicide, and cannot accomplish it in one mode, will he not seek to do it by another mode?—True, he will; but many people who would do it with opium would not have the resolution to use a pistol or a razor.

412. *By the Chairman.*—Females for instance?—No; and there are persons who will do it by degrees by opium. There is as great an evil in the indiscriminate sale of laudanum and letting persons learn to take it and kill themselves by inches; it is almost as bad as destroying themselves outright at once. It appears to me, that it is not for the prevention of suicide alone that you are to legislate.

413. *By the President.*—Has it occurred in your experience to know of any instances in which laudanum has been employed in order to procure death by murder?—Why select laudanum?

414. Any poison?—Look at prussic acid.

415. Do you know of any such instances?—Why did Tawell use prussic acid? He was a druggist, and he knew that in a small quantity it would be difficult to detect it.

416. Have you ever known of any instances, and, if any, how many, during your long experience, where poisons have been bought for the purpose of being used to commit murder?—I do not remember any case.

417. Do you, under the circumstances, consider that the case is so exigent as to require legislative interference?—Certainly not to prevent murder.

418. *By the Chairman.*—From the careless use of arsenic, have you not known any cases of death to have occurred. I only remember the case of the eating-house now.

419. You believe that casks and other things which have contained poisons ought to be destroyed?—Yes; I think it might be practicable to introduce a short Bill.

420. *By the President.*—You say that you think it practicable to introduce a short Bill. Is that principally with a view to preventing the careless keeping and administering of poisons?—Principally with that view—that persons who have the care of those poisons shall be persons of some respectability and care.

421. *By the Chairman.*—Do you not think people ought to be particular and to discriminate

Mr. D. R. Long, whom they sell poisons to?—Of course they ought. With regard to "hocussing," I had it from the man's own mouth that he purchased some little ornamental kegs, and in one were three figs of tobacco evidently steeped in spirits till all the virtue was out of the tobacco.

422. *By the President.*—Would not that show the impracticability of any law?—Yes; but it is very well to punish them.

423. Would not the oil in any fig of tobacco kill half a dozen men?—Yes.

424. Does not it appear that, where there is so facile a mode of "drugging" and "hocussing," any attempt to make the law much more stringent than it is at present as to the sale of drugs would be inefficacious?—It is a very difficult subject certainly, I must say. I think it is desirable, but it is difficult to legislate upon it.

425. *By the Chairman.*—I think you stated that you considered that it would be a very good thing to be done, and that you would advise, and did advise, that all narcotics sold from a druggist's shop should be registered, and that there would be very little difficulty in doing that?—Yes, and very little trouble.

426. *By Mr. Hood.*—Provided the narcotics were specified in a schedule?—Yes.

427. *By the President.*—In the case of persons living in the country parts, in new formed villages, and gold fields, where there were no druggists, would you prevent the sale of laudanum altogether?—Yes I would, and the medical men should sell them, as the medical men do sell those things on the gold fields. I think the medical man is the man to have charge of them. If a druggist has his licence, and is a qualified druggist, let him keep them, but not every little druggist or storekeeper who chooses to keep them.

428. Then I understand you would compel any person requiring the administration of narcotics to go to a medical man?—It would be perfectly safe that the father of a family might be intrusted to give any medicine out of his medicine chest; but I was supposing where a person goes to a little store to get his laudanum or Godfrey's Cordial, that is quite a different thing.

429. Does not it place an enormous power of extortion in the hands of the medical men, if you compel every person with ailments to go to them?—If there is not a qualified druggist in the place, the medical man is the proper person to keep it.

430. You would not let any person but a medical man or a druggist keep or give out laudanum?—I said before, a person keeping a medicine chest for his own use, and that of his family, might be trusted to use it privately, not to sell it.

431. To give it out—suppose a man had a station?—The master of a station might occasionally prescribe.

432. Or his overseer?—Yes.

433. He is not to charge anything for it, but give what he pleases. What do you call a medicine chest; would you say two or three bottles would constitute a medicine chest?—No. If you go to a station, you will find half a dozen or a dozen useful medicines kept, and very frequently laudanum.

434. In the bush, for instance, perhaps there is a scattered population with a radius of twenty-five miles, and no medical man. A man is suddenly taken ill and his friends begin to think, where shall they go. They would be glad to get advice; but as they cannot get that advice, they think a little laudanum may do him good; where are they to go—you say they must go to a medical man, and to do that, they must go twenty-five miles perhaps. A druggist is quite out of the question, and if they go to a medical man, he may say, "I must go and see the man, I cannot prescribe from hearsay." By that you compel the person to seek the advice of a medical man at a cost he cannot possibly bear; would you prevent such a person obtaining any remedy of this kind, because he must go to a medical man?—Certainly not; I think that is a very different thing.

435. *By the Chairman.*—Would you prevent a settler in the bush, a farmer, or any private individual having a medicine chest?—I should be sorry to trust some farmers to keep a medicine chest; at the same time, there are men who have intelligence enough to be able to administer in common cases, but the instances where laudanum should be given are very few.

436. *By the President.*—Would you allow a cattle or horse doctor to administer laudanum to his fellow being?—No.

437. You object to all quackery?—Yes, I do.

438. Would you, by law, repress quackery?—Altogether; and it would be done away with, but that the newspapers get such a revenue from it.

439. *By Mr. Hood.*—You mentioned just now, that you would have no objection to settlers administering medicine to a small extent?—Simple safe medicines.

440. What objection would there be to an intelligent shopkeeper, say a grocer in a country village, where there was neither medical man nor druggist—why is a farmer or a settler more intelligent than a shopkeeper?—They have an interest in dosing people, as they are paid for it—where a farmer or settler would only give the little medicine that might be required. Great mischief is done by those little shopkeepers selling.

441. You say then, that the shopkeepers are not as well educated or as intelligent a class as the farmer and settler?—Yes.

442. Would you, if you saw the statistics of the colony, be surprised to find that they are much better educated than the farmers?—Perhaps they are.

443. How is a man up the country to get arsenic if he wants it to kill a dog?—If he cannot get it, there are other means of killing besides poisoning; besides, you cannot kill a dog by arsenic.

*The witness withdrew.*

*Ordered—That this Committee be adjourned.*



TUESDAY, 16TH JUNE, 1857.

MEMBERS PRESENT:—Dr. Tierney, in the chair; Mr. J. P. Fawkner, Mr. S. G. Henty,  
The President.

William McCrea, Esq., M.D., Chief Medical Officer, called and examined.

444. *By the Chairman.*—Have you considered the subject of the sale, safe keeping, and administration of poisons?—I have looked over the Bill. W. McCrea, Esq.,  
M.D.,  
16th June, 1857.

445. Do you think it necessary to legislate in regard to the sale, of poisons?—I think it would be advisable, certainly.

446. What do you think of the first clause?—I think it a very good clause.

447. Do you think it necessary that poisons should be kept in secure packages?—I do.

448. Would you on stations or any other places, even in druggists' shops, think that empty packages that have contained arsenic ought to be destroyed?—Decidedly.

449. Relative to the second clause, do you think that opium, or laudanum, or chloroform, or any preparations of opium should be sold indiscriminately to every person applying for them?—No; I do not think they ought.

450. Perhaps you will tell us your opinion of the second clause?—I think that those preparations of poison should be only sold by druggists to persons known to the vendor, or to some person accompanied by a person known to the vendor; and that, in case the sale of those things should take place, the name and address of the parties to whom they were sold should be taken down by the druggist.

451. This clause refers to opium and its preparations—to laudanum. Do you think that should be done in cases of the sale of those things?—I do, in every case of a sale of opium or any of its preparations, except when prescribed by a medical man.

452. Do you think laudanum should be sold?—I do not think any preparation of opium of any description should be sold by a druggist, except in the manner I have specified.

453. But in case a person needed a little laudanum?—If the person was not a medical man, I should recommend it not to be sold, except under the conditions specified. I believe, in ninety-nine cases out of a hundred, and even in a greater proportion than that, there is no necessity for any one but a medical man to administer laudanum for any purpose whatever.

454. *By the President.*—You would not allow a chemist and druggist to administer laudanum for toothache?—Certainly.

455. If a person came into a druggist's, having a pain in the bowels, and wanted to be relieved at once, then you would oblige him to go to a medical man before having laudanum administered to him?—In pain of the bowels, there is no necessity for a druggist to give laudanum; for there are so many other safe remedies. There are better remedies even in cases of toothache than laudanum. I see no necessity for administering it.

456. *By Mr. Fawkner.*—Suppose a person in the country is taken suddenly ill, and some one knows that laudanum would produce some good, were it administered; would you prevent its being administered in such a case?—I do not know exactly what you mean by some one.

457. I mean, that if one of a family is taken suddenly ill, and that the head of the family or another person has sufficient judgment to know that laudanum would be of service?—I do not think any one but a medical man would know when it was proper to administer those remedies.

458. I would put a case to you: Suppose a squatter—a man on a large station, who had a number of servants about it—suppose one of them was taken ill with colic or bowel complaint, or something of that kind, would you prevent that person having opium given for relief?—I would not admit that that squatter had any right to administer opium in any form, because there are plenty of better and safer remedies than it.

459. Then would you permit a person to lie ill and sick, ninety or a hundred miles up the country, just because a medical man was not near enough to administer relief?—In more than ninety-nine cases out of a hundred there is no absolute necessity for the administration of the preparations of opium by a non-medical person in any disease or casualty that may arise. In the greater portion of cases I have mentioned, other better and safer remedies can be administered.

460. But if those remedies are the only remedies known to the party?—If you will name a case, it will bring it more closely to the point.

461. *By the President.*—I should like to put one or two questions on this point. You are perfectly aware that opium is very extensively administered by non-professional persons at present, both here and at home?—Too extensively. I am convinced that it is frequently a cause of death in many cases where it is not suspected; in cases of children, I mean.

462. But, as it is extensively administered in families, would it not be a great infringement of private liberty to do away with the power of parties administering it in their own families?—I do not think people ought to have private liberty to do what is detrimental to their families.

463. Do you know of any other instances where a man's liberty is tied up—such as in taking or giving to his friends wine or spirits, or a variety of other things. Do you know of any other instances in which a man's liberty is narrowed so that he cannot do as he pleases, or in which he is restricted from giving such things as he thinks fit, when it is done with good intentions, in any other country?—I do not exactly understand your question. I think the tendency of all law is to restrain individual action for the benefit of the public.

W. McGree, Esq.,  
N. D.,  
continued,  
10th June, 1857.

464. Is any man compelled to go to an attorney to have a cause pleaded—may he not go to the court himself?—I believe, in many cases, he is obliged to go to an attorney; that is my impression. I am not a lawyer, and therefore cannot say.

465. Do you not consider that the case ought to be a very strong one to render it necessary to place so great a restriction upon private liberty as this Bill proposes?—I do not consider it a great restriction at all, I consider it a very useful restriction, and not a great one, for there is not one case in a thousand in which better remedies might not be administered than the drugs proposed to be restricted.

466. Would you not consider it a great restriction upon a private man's liberty, if he believed that opium was a useful remedy, to prevent his using it—would you not consider it a hardship to have to send for a doctor fifty or a hundred miles at great expense before such remedies could be administered?—I should not, certainly. I should not think that ought, for a moment, to be taken into consideration where the public safety is involved. I should not think it a great restriction to prevent a person doing that, the practice of which is detrimental to individuals and the public.

467. *By Mr. Fawcner.*—You are aware that this subject has been mooted in England, and the attempt to legislate upon it has uniformly failed?—I am aware.

468. Are you aware of the reasons why it has failed?—Because legislators could not agree upon the points to be legislated upon—upon the actual restrictions to be placed upon the sale of those things. I believe all English legislators consider that restrictions ought to be placed upon the sale of poisons; and it is because they have not been able to agree upon the restrictions that it has not been done.

469. But do not you think that all the practical advantages required would be gained by preventing the sale of laudanum, or its compounds, or any other poisons, in such quantities as would be manifestly dangerous?—I do not; I will tell you why. I last night looked over the latest edition of Taylor's work on poisons, and I there saw, in looking over the cases of poisoning, there are three cases on record where death resulted from administering one-tenth of a grain of opium given as laudanum—that is, two drops of laudanum. There is one case where half a dram of syrup of poppies caused death. A case of half a dram of Godfrey's Cordial, containing one thirty-second part of a grain of opium, causing death. One case of forty drops of Dalby's Carminative, equal to one-ninetieth of a grain of opium, causing death. One case of one dram of paregoric, equal to one-fourth of a grain of opium, causing death. One case of four grains of Dover's Powder, equal to half a grain, causing death. The last case related is by Dr. Smith, in the *Lancet* in April, 1857, a case in which an infant died by taking one-twentieth of a grain of opium. I think for those reasons, and because opium in England is given to a very considerable extent to children, with I believe more frequent fatal effect than is generally known—for these reasons I would restrict the sale of opium entirely to medical prescriptions; and I do not think it would interfere with the liberty of the subject in any way, for many diseases would then be treated by other remedies with better effect.

470. *By the President.*—Are you not aware that, in the recorded cases of poisoning, there are cases of death being caused by eating mushrooms, limpets, and other articles of common food—even from eating strawberries. You will find all these things in the records of medicine—we could, on the same grounds as you take, limit very narrowly the catalogue of articles of food?—I have not read of such instances. I do not think that strawberries would produce that effect. I should not be afraid to allow them to be extensively eaten; but as this practice of giving opium is very common in England, and if given here would lead to frequent fatal cases, I would decidedly place it under the restrictions you mention in this Bill, as the administration of it and its preparations is not necessary; and I think, from its being considered necessary for curing certain diseases by non-medical persons, that is an additional reason why I would restrict it.

471. Your experience here has been very extensive, and if the evils which you have pointed out as arising from the administration of opium and its preparations were so great, of course you will have known several instances of fatal effects arising from the administration of laudanum, given *bonâ fide* as medicine by non-professional men?—I have not known a single instance of it here.

472. Then you would not believe that it is frequent here?—I would not. I know nothing of its frequency. As far as my experience has gone, I have not heard of it.

473. *By the Chairman.*—Do you think that laudanum or Dalby's Carminative are given at present by nurses as sedatives?—I do not know the practice in this country; for while I was at the gold fields, there were plenty of medical men, and they were in all cases called in where children were ill. My experience in Melbourne has been principally confined to immigrants; but as they get their medicine and their doctor for nothing, they all send for him.

474. *By Mr. Fawcner.*—Would you in all cases prevent a mother from giving those mixtures?—Certainly.

475. And you would call in a doctor for every case of illness?—Certainly not. There are other remedies than those. We will take the most common case that can occur—say a little diarrhoea or colic. There is not one case of diarrhoea or colic that cannot be better relieved by safer medicines. A dose of castor oil or an emetic of mustard would do much; or a warm bath, or external applications; and I think there would be much fewer cases of death among children if such remedies were resorted to. If a child is ill for instance, if it cries a good deal, it cannot speak and tell what its feelings are; but it draws its knees up towards its bowels. In ninety-nine cases out of a hundred those cases would be better treated by castor oil than by any of the mixtures referred to.

476. *By the President.*—Admitting the expediency of passing these restrictions, I

should like to have your opinion as to its practicability?—I do not see the smallest difficulty about it. I think it would act as a restriction, but I do not anticipate that it would stop the practice of administering those poisons altogether. All laws will be partially evaded; but if the Legislature were inclined to pass useful restrictions, it would diminish the chance of poisoning. To make a law too restrictive is to make it inoperative, but the law under consideration would act, by showing the people the effects of such remedies.

W. McCrea, Esq.  
M.D.,  
continued,  
16th June, 1857.

477. But is not the effect of an undue restriction upon anything to drive the use of the article which you would restrain into unusual channels?—There is no doubt about that. Most people are perfectly aware of it.

478. But is not that contrary to what you stated before?—I do not consider this would be an undue restriction.

479. I asked you the effect of an undue restriction?—The effect of undue restrictions is what you have stated.

480. And you would have no fear that laudanum would be used clandestinely in consequence of placing restrictions upon chemists and druggists who are the proper vendors of it?—I do not think it would. I think, if you were to place restrictions upon the sale of laudanum, it would diminish the use of it. I do not think it would prevent people obtaining it for improper purposes; but it is advisable to place such a restriction upon the sale of opium as would tend to diminish the chances of poisoning in this particular way. I would place a sharp restriction upon the sale of opium and its preparations; because, with the best intentions, they are so liable to do harm. Where, then, any small dose of opium is liable to cause death, I do think it is our duty to try to stop the probability of anything of that kind taking place.

481. Would you separate, in druggists' shops, poisons from other medicines?—I would.

482. Would you have a poison shelf?—I would. I would have a shelf where dangerous preparations were kept separate from others.

483. *By the President.*—What medicines would you put in that category?—It is very easy for a druggist to divide those sorts of things.

484. Would you put Dover's Powder in it?—I would put in it all those that are forbidden by the Act. I would put digitalis, morphia, prussic acid, arsenic, strychnine, and all preparations of opium; I would put them all in.

485. *By the Chairman.*—Would you put those medicines mentioned in this list—*[presenting a list]*?—I would put the greater number of them.

486. *By the President.*—What would be the effect of a person going into a druggist's shop for medicine, if he saw the druggist go to the poison shelf—would he not feel much alarmed?—He would not go to that poison shelf, excepting with a medical prescription.

487. With a medical prescription?—He would not be alarmed about that. It is well known to the public that medical men do frequently prescribe the most dangerous preparations. Their knowledge prevents them prescribing them in dangerous doses. No one would think a child was going to be poisoned because a druggist went to the poison shelf for making up a medical prescription.

488. But do not you think it necessary to put a veil over these things?—Certainly not; let there be no mistake—no mystery. I do not deceive any body myself. If I were a druggist, I would not try to deceive a person by pretending to put something else in when poison was ordered.

489. You are aware it is often practised?—I really am not. It may be. I am not aware of it.

490. Has it not occurred that some patients would not take what has been prescribed, unless it is concealed?—I have never deceived a person myself. I am aware that some persons have an objection to certain remedies, and I have given them something else. I think no upright medical man ought to deceive any one.

491. *By the Chairman.*—What do you think of the fourth clause—do you think a person who purchases arsenic, or strychnine, or other ardent poisons, should be compelled to act up to its provisions; do you agree to them?—Oh yes.

492. And the fifth clause—it is copied from an English bill; there can be no objection to its provisions?—None whatever.

493. The sixth clause—there can be no objection to that; it requires that arsenic shall be mixed with a little coloring?—I see no objection.

494. The seventh clause—you have no objection to the penalty?—I think those offences ought to be under a penalty; I do not know about the amount.

495. About the eighth clause?—Of course.

496. The ninth clause is a debatable point. There is a law that, any person administering laudanum, with the intent to commit a crime, is guilty of felony. Would you punish a person administering those drugs under this clause, or for an attempt to commit a felony?—I would not permit a person to get away without the penalty, even a mother.

497. *By Mr. Faulkner.*—Would not medical men be punished under this Bill for administering chloroform?—Certainly not. Supposing an operation is required to be performed; if you administer chloroform during that operation, although there is a chance of a person losing his life, should a medical man be punished for so doing? But a non-medical person has not the skill to discriminate, and might administer that which might prove fatal.

498. *By the President.*—Then you would not allow one man to set another's leg without his being a surgeon?—Of course I would.

499. *By the Chairman.*—Do you think a man ought to be fined or imprisoned for setting a broken leg improperly?—Unquestionably.

500. *By Mr. Henty.*—A case might arise where a medical man could not be present—an accident might occur in the bush?—If you will allow me, I will put an individual case.

W. McCrea, Esq.,  
M. D.,  
continued,  
16th June, 1857.

Suppose that one of your shepherds broke his leg in the bush, and nobody was near him but another shepherd; suppose he bound it up as well as he could, and then did his best, so that he might have the help of a medical man as soon as he could. I would not punish that man in any way, though he might do injury by his unskilfulness; but if any person, not a medical man, took another under his charge, and set his leg, and did not take the means to obtain the help of a medical man as soon as possible, I would punish him.

501. *By the Chairman.*—Do you think that laudanum ought to be permitted to be kept in a brothel?—Of course not.

502. Do you agree with the eleventh clause?—I do. It is principally with the object of preventing the death of children that restrictions should be imposed; for in factories and other places where people cannot attend to their own children, there is a very great amount of mortality caused by giving them narcotic medicines, even with good intent. I believe it is not done generally in this country, but a circumstance has come to my knowledge that shows that it may take place here. We had an old servant who married and whose husband died. She is earning her bread by sewing, and she has a child. She stated, a short time ago, that the child is such a hinderance to her, that she would have to put it out to nurse, in order to attend to her sewing. Now, if a number of people did so, exactly the same results would obtain here as in Manchester and the manufacturing towns; there will be nurses solely devoted to that occupation, and they will give narcotic medicines, as in those places.

503. *By the Chairman.*—I must go back to one clause relative to administering of chloroform and other stupifying drugs. We have it in evidence that hoccussing is practised here extensively, and one witness says by "oil of tobacco." Do you believe that people are hoccussed here with that or with chloroform, or with laudanum, or other things?—I had a number of inquests in Castlemaine on persons that were supposed to have been hoccussed in this kind of way. My own belief is, that they, without exception, had had too much drink. There were a great many grog tents when I was up at the diggings, and the number of medicines I had at that time was very small, and it was difficult to get a supply from Melbourne; I therefore begged the police, when they found medicines in those grog shops, to bring them to me, but there never was a single instance of any being brought. I must say, in every case of reported hoccussing that I have inquired into, it seemed to me that the results would have just come as well from drink.

504. Do you believe that oil of tobacco is extracted from an old pipe for such purposes; do you believe in the old pipe affair?—I never heard anything of it till the present moment. I have a large number of prisoners under my charge, and I never heard anything of it.

505. In reference to poisons, do you think they ought to be separated in shops, auctioneers' places, and other wholesale establishments?—I think so; they ought to be properly kept in packages, and distinctly marked. You will understand, I should like to state that the number of medicines that I would prohibit the sale of would be small. I believe at the present moment, what poisons are used are poisons of a certain description—oxalic acid, arsenic, corrosive sublimate; and, as far as regards narcotic poisons, preparations of opium, prussic acid, chloroform, and strychnine; these are all I would restrict.

506. Do you think there would be any harm in extending the schedule of those restricted?—I do.

507. What objections have you to extending the schedule?—For this reason, I think the principal harm results from the use of those things named. I think you ought to confine your legislation to those substances which cause the evils.

508. *By Mr. Fawkner.*—Have you known any persons poisoning themselves purposely?—There was a case in which a woman took poison who was brought under my charge. She was lunatic. I do not, however, exactly remember any other case.

509. Is it common to buy poisons to poison themselves?—Oh, no.

510. *By the President.*—With regard to the administration of those medicines, not for suicidal purposes, but for remedial, would you not say that for any one death that happened from that cause, there would be at least ten by the excessive or inordinate use of spirits—through drunkenness and its consequences?—From the habitual use of spirits, there are. In the whole course of my life there has been only one instance come under my observation of death from an over dose of spirits. I have had a considerable number of men under my care, but I have only known one case of death arising from a large dose of spirits.

511. I am not speaking of delirium tremens or accident?—Accidents resulting from people getting drunk are very common.

512. I will put the question again—with regard to the administration of those medicines, not for suicidal purposes, but for remedial, would you not say that for any one death that happened from that cause there would be at least ten by the excessive or inordinate use of spirits—from drunkenness or its consequences?—More than that. Because people are in the habit of getting drunk and incautiously exposing themselves. That is one reason why I would restrict the sale of narcotics and poisons. To prevent people who are in the habit of getting drunk having access to them, lest an accident should occur.

513. You have stated that the deaths from drinking spirits are more than ten to one, as compared with those who die from the administration of those medicines. Would not the same arguments apply for the prohibition of the sale of spirits as apply to the sale of poisons?—No.

514. Why?—Because spirits, unless habitually used to excess, are not poisons. They are used by the vast majority of people, and cause no poisoning at all. I think the use of spirits, relatively with the use of poisons, comparatively safe.

515. Did you say there are ten to one?—Undoubtedly; but if poisons were in general use, the same as spirits, there would be a greater proportion of deaths from them.

*The witness withdrew.*

James McCrea, Esq., M.D., called and examined.

516. *By the Chairman.*—What is your profession?—I am a surgeon and physician.

517. Have you had many years' practice in this Colony?—Yes.

518. Have you been practising on the gold fields?—Yes.

519. Have you been practising in Melbourne?—Yes.

520. Have you considered the subject of this Bill?—I have.

521. I suppose, with regard to the first clause, you see no objection to its being adopted?—  
I think not.

522. Do you think that poisons should be kept in separate places from other medicines?—  
Yes, I certainly think so.

523. I think you prepared a schedule of such poisons as you would have restricted?—  
I did. I consider such restrictions necessary for the safety of the public.—[*The witness handed  
in the schedule.—Vide Appendix C.*]

524. *By Mr. Henty.*—Should they be kept in different kinds of bottles from other  
things?—Yes; there should be a distinction.

525. *By the Chairman.*—And kept on a separate shelf?—Yes; which need not be known  
publicly as the poison shelf.

526. Do you think that laudanum ought to be kept exposed in a private house?—  
Certainly not; neither laudanum nor any other dangerous drug.

527. *By Mr. Henty.*—You would have it excluded from the family medicine chest?—  
Of course I could have no objection to its being locked up in a family chest.

528. *By the Chairman.*—Do you keep laudanum exposed in your own surgery—I  
suppose your servants cannot get it?—No, certainly not.

529. As to the second clause—would you restrict druggists from selling opium,  
laudanum, chloroform, or any other narcotic drug?—Yes; I think there are some narcotics  
which should not be sold by druggists, except under prescription. There are some that require  
more skill and experience on the part of a medical man in the use of them than any other sort  
of medicine, and they should be placed beyond the reach of the unskilled public.

530. I asked you to schedule them?—All these—[*handing a list*]—are particularly  
dangerous to young children. I have put into this list solution of black drop—I know this to  
be very largely used here, and I am prepared to speak about the results.

531. You think they ought not to be sold indiscriminately?—I think not; I think  
certain of them should only be sold upon prescription, and the rest with very great care and  
discrimination, with respect to the persons to whom they are sold. I should not say that any  
article here should not be sold, except upon prescription; but the purchaser should be known to  
the vendor, or should take some person with him who is.—[*The witness handed in the schedule.—  
Vide Appendix D.*]

532. Relative to the third clause?—I think it is a very proper precaution to take, to  
make all vendors register their sales of poisons.

533. Do you think there ought to be a penalty attached to breaches of the provisions of  
this Bill?—There should be.

534. Do you agree with the fourth clause?—Unquestionably. I believe that, at the  
present time, although not obliged to do so, all respectable druggists, with whom I am  
acquainted, do schedule and register the virulent poisons they may be asked for; but I am also  
aware of a case, which was brought painfully under my attention, of poisoning with strychnine,  
in which we found it impossible to trace the poison in the register of any druggist.

535. With regard to the fifth clause—do you think the witness should be known to the  
vendors?—I have already said so.

536. As to the sixth clause, relative to the coloring?—I have objections to that; for I  
think, as a matter of detail, that less coloring matter would be quite sufficient.

537. You have no objection to the seventh clause attaching a penalty?—Of course, I  
have no objection to that.

538. The eighth clause—that poison should not be colored when required by a medical  
man?—I do not think, as a matter of detail, it would make much difference—I do not think it  
would very much diminish the effect. It is a precaution. I do not see any objection.

539. As to the ninth clause—it is to prevent the administration of laudanum or any  
stupifying drug to any girl above two and under fourteen years of age. Do you agree with that  
clause—do you think a person doing so otherwise than as the Bill provides should be punished?—  
I think, if the quantity attempted to be given was such as clearly to induce insensibility, it is a  
very proper clause. The only thing I would require would be a proof of the quantity—that such  
quantity was attempted to be given as to produce that effect.

540. Do you think a person who is not the natural protector of the child should be  
allowed to administer it?—None should be allowed to give it, unless as prescribed by the clause.

541. Do you think, with regard to the tenth clause, narcotic drugs should be kept or  
administered in a brothel without the presence of a medical man?—I am not prepared to say  
whether they are kept or not; I have had no experience on that head. I do not know. With  
respect to hoccussing, I have met with a few cases of hoccussing; but I think the reports have  
been magnified. I have met with a few in which I think tobacco was employed in some cases  
and opium in others, and I have known opium kept in these sly grog shops.

542. Have you known in Bendigo that opium has been found in grog shops?—Yes; I  
have had both ground opium and laudanum.

543. With regard to the eleventh clause—should nurses be allowed to give narcotics to

J. McCrea, Esq., children?—The nurse, certainly not, nor the mother neither. A mother will do it for the most part with good intention; but the fact of her feelings being concerned renders her an improper person to give it. She may give a drop too much, and that one drop would be fatal.  
M.D.,  
16th June, 1857.

544. Do you think druggists ought to be allowed to give it?—I speak from a very large experience during the last three years, during which a considerable part of my practice has been the treatment of young children; and I believe the worst cases by far that came before us during the summer, when bowel complaints are common, are those in which opiates or astringents have been given before the opium has been prescribed by a medical man. I believe a large amount of mortality among children has resulted from that cause.

545. Have you given your own child laudanum?—Never.

546. Do you give it extensively in your own practice?—I do not, and I give it with extreme caution, when it is necessary.

547. Are there not some cases where the drug may be very injurious to children?—If a child is under two years of age, I would not administer it at all. I had, last summer, over 1800 cases of infants registered—perhaps the largest number of any medical practitioner here. During the last summer, my practice was principally among infants. I have known cases which, I believe, were rendered fatal by previous treatment, not by disease. Those were cases which had been treated with opiates and astringents previously to coming under my care, and with fatal result.

548. *By Mr. Fawcner.*—You would not allow laudanum to be administered in any case, except under medical prescription?—Not to infants under two years of age.

549. With regard to adults?—It is a dangerous medicine. I really think you ought to extend the restriction to adults also, as far as opium is concerned; and why I would especially mention it is, from a firm belief in its dangerous tendency.

550. *By the Chairman.*—If you would not go so far by legislation as to compel persons not to administer or sell them, do not you think it would be desirable to restrict the sale of those things within certain limits?—Unquestionably. A restriction with respect to the amount got from any place will not prevent suicide by poisoning, as if a person were going to poison himself, he will go to several places to get sufficient.

551. In cases of children, there should be a restriction. Nurses and mothers should not be allowed to give laudanum to children?—I think not; both of them should be prevented for the reasons I gave.

552. *By the President.*—What would you do to a mother for giving laudanum to her child?—Practically speaking, it is a question that would not come before you; for, in case of any poisoning, you would hear nothing of it.

553. Do not you think the death of the child would be sufficient punishment for the mother?—I think, if you make it a subject of special legislation, there should be a punishment for infraction of the law.

*The witness withdrew.*

*Adjourned sine die.*

## APPENDIX A.

Melbourne, 27th February, 1857.

SIR, In compliance with your request, I have the honor to inform you that, from the beginning of the year 1853 to the end of the year 1856 inclusively, inquests have been held in the City on twenty-three cases of Inquests 23. poisoning *in toto*.

The poisons used being as per margin.

In thirteen of these cases the drug was procured and taken for the specific purpose.

In one case there was strong presumptive evidence of wilful intent.

The other nine cases were from inadvertence.

Of the nine cases classed under the head of inadvertence:—

In two of them, arsenic had been procured for the purpose of destroying rats, had been laid aside, and afterwards used by mistake.

In one case a poisonous liniment was given by mistake to an infant for an emetic.

In another, a solution of opium was given by mistake for medicine prescribed.

In three cases laudanum was administered incautiously to children by mothers, on one of whom a shade of suspicion rests.

One case from ardent spirits, taken by a child two and a-half years old.

One case from poisonous fish, taken by an aboriginal.

The earlier records are embodied in reports furnished to the Government at different periods prior to this date.

I have the honor to be, Sir,

Your most obedient servant,

The Honorable the Chairman of the Committee  
for regulating the sale of Poisons.

W. B. WILMOT, City Coroner.

	Cases.
From Arsenic .. ..	3
" Laudanum .. ..	10
" Strychnine .. ..	4
" Hydrocyanic acid ..	2
" Ess. oil of almonds ..	2
" Ardent spirits .. ..	1
" Poisonous fish .. ..	1
With wilful intent, 13.	
One case doubtful, 1.	
From inadvertence, 9.	

## APPENDIX B.

[As referred to in Dr. Youl's evidence.]

RETURN of all CASES of SUICIDE and ACCIDENTAL POISONINGS in the City of Melbourne, from 1st January, 1853, to 31st December, 1856.

SUICIDES.										ACCIDENTAL.		TOTAL.
Hanging.	Cutting Throat.	Gun-shot.	Stabbing.	Jumping out of Window.	Drowning.	Opium.	Strychnine.	Prussic Acid.	Arsenic.	Opium.	Arsenic.	
5	19	9	2	1	5	6	4	3	1	4	2	61

RETURN for COUNTY of BOURKE, from 1st January to 31st December, 1856.

SUICIDES.		ACCIDENTAL.	TOTAL.
Cutting Throat.	Prussic Acid.	Arsenic.	
1	1	1	3

## APPENDIX C.

## SCHEDULE OF POISONS TO BE SOLD UNDER RESTRICTION.

Arsenious Acid.  
 Liquor Arsenicalis.  
 Cantharides.  
 Corrosive Sublimate.  
 Chloroform.  
 Cherry-laurel Water.  
 Cannabis Indica.  
 Battley's Sedative Solution.  
 Black Drop.

Bitter Almonds (Oil of).  
 Morphia and its Salts.  
 Nicotiana.  
 Opium and its Preparations—(See Morphia).  
 Brucia.  
 Strychnia.  
 Prussic Acid.  
 Secale Cornutum.  
 Oxalic Acid.

## APPENDIX D.

## SCHEDULE OF POISONS WHICH IT IS DESIRABLE TO SEPARATE FROM OTHER DRUGS.

IRRITANT.  
 Acids—Acidum Arseniosum.  
       " Hydrochloricum.  
       " Nitricum.  
       " Nitromuriaticum.  
       " Sulphuricum.  
 Aqua Ammoniae Fortior.  
 Antimonii Potassio-Tartras.  
 Argenti Nitras.  
 Antimonii Sesquioxidum.  
 Bromine and Bromide of Potassium.  
 Cantharides.  
 Corrosive Sublimate.  
 Croton Oil.  
 Elaterium.  
 Euphorbium.  
 Hellebor and Veratria.  
 Iodine and the Iodides.  
 Liquor Arsenicalis.  
       " Potassæ.  
 Oxalic Acid.  
 Stuphisagria.  
 Verdigris.  
 Zinci Chloridum.

NARCOTIC.  
 Aconitum and Aconitina.  
 Atropia and Belladonna.  
 Battley's Sedative Solution.  
 Bitter Almond (Oil of).  
 Black Drop.  
 Cannabis Indica.  
 Conia and Conium.  
 Digitalis and Digitalin.  
 Hyosciamus and Hyosciamin.  
 Cherry-laurel Water.  
 Morphia and its Salts.  
 Nicotiana.  
 Opium and its preparations.

POISONS OF MIXED OR SPECIAL ACTION.  
 Brucia.  
 Chloride of Barium.  
 Chloroform.  
 Ferrocyanide of Potassium.  
 Secale Cornutum.  
 Strychnia.  
 Sulphuric Ether.



# A B I L L

## To regulate the safe keeping and sale of Arsenic and other Poisons and their administration.

**W**HEREAS the careless keeping and unrestricted sale of poisons and their administration facilitate the commission of crime Be it 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:—

Preamble.

I. Every person who shall have in his possession or charge any of the poisons enumerated in schedule A shall keep the same under lock and key in secure packages duly labelled and with the word "Poison" legibly and visibly inscribed upon the same and in a place solely dedicated to the keeping of poisons and shall destroy by burning all empty casks bags or other packages which have contained such poisons Provided that nothing in this clause shall prevent the keeping of such poisons with drugs or medicines in the same medicine chest or other place dedicated to or used for the keeping of medicines for private or family use without the necessity of separate place thereof.

How poisons may be kept.

II. Every retail dealer having any of the poisons enumerated in schedule A in his shop or other place of business shall keep the same in square bottles of a green color duly labelled with the word "Poison" in yellow letters on a white ground on each bottle such poisons to be kept apart from other drugs under lock and key.

How retail dealers shall keep poisons.

III. Every person who shall sell any of the poisons enumerated in schedule A except on the prescription of a legally qualified medical man shall duly label the same and inscribe the word "Poison" on the face of the package and shall record the particulars as set forth in schedule B attached to this Act in a book to be kept for this purpose and any person selling any of the before mentioned poisons enumerated in schedule A in quantities likely to prove dangerous to life shall satisfy himself of the respectability of the party or parties purchasing the same.

Registration of sale of poisons.

IV. No person being the keeper of a lodging house or licensed public house shall under any pretence whatever administer any of the poisons enumerated in schedule A to any person in his house except under the advice of a legally qualified medical man and any such person having

Lodging-house keepers or publicans not to administer poisons except under advice.

having any of such poisons on his premises (although the same shall be duly labelled as hereinbefore provided for) unless so authorised under advice as aforesaid shall be subject to a penalty under this Act.

Poisons not to be administered to children under five years of age except under advice.  
Penalty.

V. No person not being a parent or guardian shall administer laudanum or any other narcotic to any child under five years of age except ordered by a legally qualified medical practitioner. 5

VI. Any person guilty of a breach of this Act shall upon conviction before two justices of the peace be subject for every offence to a penalty of not more than twenty-five pounds nor less than five pounds and in default of payment be imprisoned for not more than three 10 months.

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SCHEDULE A.

Arsenic. Strychnine. Opium. Morphia. Laudanum. Dover's Powder.	Oxalic Acid. Corrosive Sublimate. Oil of Bitter Almonds. Prussic Acid. Sugar of Lead
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SCHEDULE B.

Date of Sale.	Name and Surname of Purchaser.	Purchaser's Place of Abode.	Condition or Occupation	Name and Quantity of Poison sold.		Purpose for which required.	Purchaser's Signature. If he cannot write, the Seller to put here the words "cannot write."	Witness's Signature and Place of Abode.	Seller's Signature and Residence.
Jan. 29, 1857.	John Thomas		Farmer	Arsenic	5lbs.	To steep wheat	John Thomas	Edward Jones, Grove Fern, Brighton	James Jackson, Melbourne.

1856-7.

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VICTORIA.

---

LEGISLATIVE COUNCIL.

---

STANDING ORDERS COMMITTEE.

---

THIRD PROGRESS REPORT.

---

ORDERED BY THE COUNCIL TO BE PRINTED, 22<sup>ND</sup> JULY, 1857.

---

By Authority:

JOHN FERRIS, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

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TUESDAY, 7TH JULY, 1857.

STANDING ORDERS.—The Honorable J. Hodgson, with leave of the Council, moved, without notice, That the following Message be sent to the Legislative Assembly :—

A difficulty having arisen from the absence of Joint Standing Orders, regulating the manner in which amendments, which have been proposed by the Governor, and adopted by the two Houses of Legislature, should be incorporated in the original Act, the Members of the Legislative Council invite the Members of the Legislative Assembly to appoint an early day on which the respective Committees on Standing Orders of the two Houses may confer on the subject of Joint Standing Orders; and for this purpose the Members of the Legislative Council herewith send a copy of Joint Standing Orders to which they have agreed in Committee, and to which they invite the concurrence of the other House, upon the same being approved by the Committees of Standing Orders of the two Houses.

Question—put and passed.

Ordered—That the Chairman of Committees, with another Member, be the bearers of the Message to the Legislative Assembly.

## PROGRESS REPORT.

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THE SELECT COMMITTEE of the Legislative Council, appointed to frame Standing Orders for the Council, and also empowered to confer with a Select Committee of the Legislative Assembly on the subject of Joint Standing Orders respecting both Houses of Parliament, have the honor to submit the following Report :—

Your Committee conferred with the Select Committee on Standing Orders of the Legislative Assembly on the 16th July, 1857, when it was unanimously agreed to recommend the following “Joint Standing Orders for both Houses of Parliament.”

J. F. PALMER,  
Chairman.

Legislative Council Chamber,  
16th July, 1857.

# JOINT STANDING ORDERS FOR BOTH HOUSES OF PARLIAMENT.

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## 1.

### MESSAGES.

LXXIX. [1.] All communications between the Council and Assembly shall be by Message.

LXXX. [2.] Messages from one House to the other shall be in writing, and shall be communicated by the Clerk Assistant of each House respectively, unless the House transmitting the Message shall otherwise direct.

LXXXI. [3.] Members carrying any Message from either House of the Legislature to the other shall be announced at once, unless any Member shall be addressing the House, or unless the President or Speaker, as the case may be, shall be ascertaining the sense of the House upon any question, in which case the bearer of the Message shall not be announced until the member shall have concluded his speech, or until the sense of the House shall have been declared by the President or Speaker, as the case may be; and the bearer of the Message shall be introduced by the Usher or Serjeant-at-Arms, and shall deliver the Message to the President or Speaker.

LXXXII. [4.] Messages carried by the Clerk Assistant of either House shall be delivered to the Usher or Serjeant-at-Arms, as the case may be.

LXXXIII. [5.] Bills, Votes, and Resolutions of either House of the Legislature, to which the consent of the other House shall be desired, shall be communicated to such other House by Message, and, in the first instance, without any reason being assigned for the passing such Bill, Vote, or Resolution.

LXXXIV. [6.] Bills, Votes, and Resolutions of either House of the Legislature, to which the consent of the other House shall have been desired, shall if returned from such other House be sent by Message; and, in the first instance, without any reason being assigned for passing, declining to assent to, or amending, as the case may be, such Bills, Votes, or Resolutions.

LXXXV. [7.] When either House of the Legislature shall not agree to any amendment made by the other House in any Bill, Vote, or other Resolution with which its concurrence shall have been desired, or when either House shall insist upon any amendment previously proposed by such House, and any communication shall be desired, then the communication shall be by Message, and the House transmitting such Message shall at the same time transmit written reasons for not agreeing to the amendment proposed by the other House, or for insisting upon any amendment previously proposed by the House sending such Message.

LXXXVI. [8.] The number of Members of each House appointed to serve on any Joint Committee shall be equal, and the Chairman thereof shall have a vote, but not a casting vote.

LXXXVII. [9.] At the commencement of each Session there shall be appointed by each House a Committee of five Members respectively to constitute a Joint Committee to manage the Library; another Committee of five Members of each House respectively to constitute a Joint Committee for the management of the Refreshment Rooms; another Committee of five Members of each House respectively to constitute a Joint Committee for the management and superintendence of the Parliament Buildings; and five Members shall form a quorum of each of the said Committees.

LXXXVIII. [10.] Every proposal for a Joint Committee not provided for in these Rules shall be by Message; shall state the object of such Committee, the number of Members to serve thereon, not less than ten nor more than fifteen; and the number of Members to form a quorum thereof; and the House whose concurrence shall be desired shall name the time and place of meeting.

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## 2.

### BILLS.

LXXXIX. [11.] Every Bill shall be printed fair immediately after it shall have been passed in the House in which it originated; and the Clerk of the House in which the Bill shall have passed shall certify the passing thereof on such fair print, together with the day upon which the Bill did pass.

XC. [12.] If any amendment shall be made by the House to which the Bill shall be sent, such amendment shall be written on paper and attached to the Bill, and reference shall be made to the section and line of the Bill where the words are to be inserted or omitted, as the case may be, and such amendments shall be certified by the Clerk of the House in which it shall have passed; and he shall also annex a fair print of the Bill as amended, which shall be made and annexed to the original Bill, and so on *toties quoties* as often as amendments shall be made.

XCI. [13.] When such Bill shall have passed both Houses of the Legislature, it shall be fair printed by the Government Printer, who shall furnish three fair prints thereof on vellum to the Clerk of the Parliaments.

XCII. [14.] Such three fair prints of each Bill shall be duly authenticated by the Clerk of the Parliaments.

XCIII. [15.] The three fair prints of all Bills, except the Appropriation Bill, when passed, shall be presented to the Governor for Her Majesty's assent, by the Clerk of the Parliaments.

XCIV. [16.] In case of amendments to Bills, made upon a Message from the Governor, pursuant to the XXXVI. clause of the Constitution Statute, after such Bills shall have passed the two Houses of Parliament, the Clerk of the Parliaments shall endorse the same on the original Bill and shall order three fair prints of the Bill on vellum as amended, and shall authenticate the same before they are presented for Her Majesty's assent.

XCV. [17.] When the Governor shall have assented in the name of Her Majesty to any Bill, one of the fair prints thereof, on vellum, shall be deposited by the Clerk of the Parliaments with the Registrar of the Supreme Court, another shall be delivered to the Private Secretary of His Excellency the Governor, for transmission to Her Majesty's Principal Secretary of State for the Colonies, and the third shall be retained in the record office of the Parliament Houses.

XCVI. [18.] The Title of every Bill shall succinctly set forth the general object thereof.

XCVII. [19.] Every Act of the Legislature, commencing No. 1, from the 1st January, 1857, shall be numbered in regular arithmetical series, in the order in which the same shall be assented to by the Governor.

XCVIII. [20.] In case of unavoidable absence or illness of the Clerk of the Parliaments, the duties imposed upon him by these Rules shall be performed by the Clerk Assistant of the Legislative Council.

1856-7.

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VICTORIA.

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REPORT

OF

THE SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL

APPOINTED TO PREPARE

AN ADDRESS

TO

HIS EXCELLENCY SIR HENRY BARKLY,

ON

CLASSIFICATION OF CLERKS.

---

ORDERED BY THE COUNCIL TO BE PRINTED, 22ND JULY, 1857.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.



EXTRACTED FROM THE MINUTES.

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WEDNESDAY, 29TH APRIL, 1857.

CLASSIFICATION OF CLERKS COMMITTEE.—The Honorable J. H. Patterson moved, in accordance with notice, that the Report on the Classification of Clerks, brought up on the 11th ultimo, be adopted.

Debate ensued.

Question—That the Report be adopted—put and passed.

The Honorable J. H. Patterson moved, with leave of the House, that it be referred to the Committee appointed to report upon the Classification of Clerks to prepare an Address in the terms contemplated by that Report.

Question—put and passed.

# REPORT.

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THE Select Committee of the Legislative Council, appointed to prepare an Address to His Excellency the Governor on the subject of Classification of Clerks, have the honor to report to your Honorable House that they have agreed to the following Address.

J. H. PATTERSON,  
*Chairman.*

22nd July, 1857.

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*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, Her Majesty's most dutiful and loyal Subjects, the Members of the Legislative Council of Victoria, in Parliament assembled, beg respectfully to request that Your Excellency will be pleased to disallow the present Classification of the Clerks in the Civil Service, and that, if it be thought necessary or desirable to have any Classification, such Classification to be departmental, and not a general one, and that the whole service may be thrown open to the competition of any officers, of whatever class or grade; so that merit and capacity may, in whatever station found, be eligible for promotion.

1856-7.

VICTORIA.

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REPORT

OF THE

SELECT COMMITTEE

OF THE

LEGISLATIVE COUNCIL

ON THE SUBJECT OF

PENAL ESTABLISHMENTS,

TOGETHER WITH THE

PROCEEDINGS OF COMMITTEE, MINUTES OF EVIDENCE, AND APPENDICES.

---

ORDERED BY THE COUNCIL TO BE PRINTED 30<sup>TH</sup> JULY, 1857.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

## EXTRACTED FROM THE MINUTES.

WEDNESDAY, 26TH NOVEMBER, 1856.

**PENAL ESTABLISHMENTS.**—Mr. Hood moved, pursuant to amended notice, The appointment of a Select Committee of seven members, to be chosen by ballot, to inquire into the working of the penal establishments of the Colony, with power to examine witnesses, and require the production of books and papers.

Debate ensued.

Question—put and passed.

The Council then proceeded to the ballot, and the following members being reported to have the greatest number of votes, were declared by the President to be the members of the Committee, viz.:—Messrs. Hood, Hervey, McCombie, Mitchell, Strachan, Miller, Cruikshank.

THURSDAY, 27TH NOVEMBER, 1856.

**PENAL ESTABLISHMENTS.**—Mr. Hood, with leave of the Council, moved, That the name of Mr. Thomson be substituted for that of Mr. Strachan on the Penal Establishments Committee.

Question—put and passed.

THURSDAY, 4TH DECEMBER, 1856.

**PENAL ESTABLISHMENTS.**—Mr. Hood moved, with leave of the Council, That the following eight members be added to the Select Committee on Penal Establishments, viz.:—Messrs. Clarke, Cowie, Guthridge, Keogh, Patterson, Stewart, Tierney, and Williams, and that the Committee have power to sit during the adjournment.

Question—put and passed.

TUESDAY, 16TH DECEMBER, 1856.

**PENAL ESTABLISHMENTS COMMITTEE.**—Mr. Hood moved, with leave of the Council, That the Select Committee on Penal Establishments have leave to sit during the recess, and that three form a quorum of the said Committee.

Debate ensued.

Question—put and passed.

TUESDAY, 24TH FEBRUARY, 1857.

**PENAL ESTABLISHMENTS.—RETURNS.**—The Honorable J. Hood, with leave of the Council, moved, That the following unopposed Returns be laid on the Table of the Council:—

- (1.) A Return, in precise accordance with a form to be supplied by the Penal Establishments Committee, of all articles, exclusive of articles of clothing or any articles supplied in compliance with requisitions from other departments of the Public Service, made on station at the manufacturing branch of the Penal Department, at the main depôt, Pentridge stockade, from the 1st day of July, 1855, to the 30th June, 1856.
- (2.) A Return, in precise accordance with a form to be supplied by the Penal Establishments Committee, of all prisoners discharged from the hulks or stockades by the Inspector General of the Penal Department from the 1st day of January, 1856, to the 1st day of January, 1857, with a statement of all additional punishments or sentences inflicted on them; of the periods at which they were severally entitled by law to discharge by indulgence, with good conduct, and of the authority and circumstances under which they have been longer detained; and further, for a statement whether prisoners or gangs of prisoners have been placed by the Inspector General's order or sanction in chains, without any report to Government, they not having been sentenced in chains.
- (3.) For a Return, in precise accordance with a tabular form to be supplied by the Penal Establishments Committee, of the names, numbers, and other details of information referring to prisoners in the Melbourne gaols and in the Pentridge and Collingwood stockades, on whom additional sentences have been inflicted by the Visiting Justice of these prisons, from the 1st January, 1856, to the 1st January, 1857, and the authority and circumstances under which such sentences have been imposed.

Question—put and passed.

**PENAL ESTABLISHMENTS.**—The Honorable J. Hood brought up a Progress Report from the Committee on Penal Establishments, and moved that the same be received.

Debate ensued.

Motion, by leave, withdrawn.

WEDNESDAY, 29TH JULY, 1857.

**PENAL ESTABLISHMENTS.—REPORT OF SELECT COMMITTEE.**—The Honorable J. Hood, as Chairman of the Select Committee appointed to inquire into the working of the Penal Establishments of the Colony, with power to examine witnesses, and require the production of books and papers, brought up the Report of the Committee.

Ordered—That the Report lie on the Table.

THURSDAY, 30TH JULY, 1857.

**PENAL ESTABLISHMENTS.—REPORT OF SELECT COMMITTEE.**—The Honorable J. Hood, in accordance with notice, moved, That the Report of the Select Committee on Penal Establishments, brought up by him on the 29th instant, be printed, and its consideration be made an Order of the Day for Wednesday, 5th proximo.

Question—put and passed.

# REPORT.

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THE SELECT COMMITTEE of the Honorable the Legislative Council, appointed on the 26th November last, "to inquire into the working of the Penal Establishments," having examined a number of witnesses in regard principally to the condition of the Penal Establishments of the Colony, and the system of penal discipline administered therein, have agreed to the following report :—

1. Your Committee regret that, in consequence of the unfinished state of the Parliament Houses in the first instance, and afterwards the repeated adjournments of Parliament, and the melancholy events that have taken place in connection with the Penal Department at Williamstown, it has been impracticable to bring to a close at an earlier period of the present Session the investigation with which the Committee was charged.

2. From the circumstance that evidence taken by your Committee has not been taken upon oath, and from the fact that in various important particulars it is evidently contradictory, it has been impossible for the Committee to arrive, with any degree of certainty, at the truth in reference to facts and circumstances of an important bearing on the general question submitted for its decision. At the same time, there are certain conclusions to which your Committee have been led in the course of their investigation that will serve, in some measure, to account for the past, and afford the means of guidance towards a better system for the future.

3. That the condition of the Penal Establishment is (to say the least of it) unsatisfactory.

4. This has arisen chiefly from the want of adequate accommodation for the carrying out of a proper system of penal discipline, and from the consequent impracticability of enforcing the necessary classification of criminals; but the Committee are also impressed with the opinion that the reformation of criminals, or indeed their capability of being reformed, has not been allowed to exert that practical influence upon the management of the institution which its importance demands.

5. As the bulk of the reliable evidence goes to show the utter hopelessness of accomplishing anything efficiently of a reformatory character with the present establishments, your Committee are of opinion that a properly designed building, commensurate with the wants of the department, ought to be immediately commenced, and completed as speedily as possible.

JOHN HOOD,  
Chairman.

PROCEEDINGS

## PROCEEDINGS OF THE COMMITTEE.

THURSDAY, 27<sup>TH</sup> NOVEMBER, 1856.

*Members present:—*

Mr. Hood, in the chair.

Messrs. Hervey, Mitchell, McCombie, Thomson.

Course of proceeding discussed.

Ordered—That the Chairman do apply to the Council for leave for this Committee to sit during the adjournment.

Ordered—That the Clerk of the Council be instructed to request the Hon. the Chief Secretary to take the necessary steps for procuring the attendance, from time to time, before this Committee of such prisoners of the Crown or warders as the Committee may deem it necessary to examine.

Ordered—That this Committee be adjourned to Monday next at two o'clock.

MONDAY, 1<sup>ST</sup> DECEMBER, 1856.

*Members present:—*

Mr. Hood, in the chair.

Messrs. Miller, McCombie, Thomson, Hervey.

The Sheriff attended and stated to the Committee that he had been advised by the Hon. the Attorney General, that prisoners of the Crown could not legally be brought up to the Council Chambers for examination, except under an authority of a writ of "*Habeas corpus ad testificandum*"; that any prisoners required to be examined should, if the Committee wished it, be brought to the Melbourne goal, where accommodation could be provided for their examination by the Committee.

Ordered—That the Report of the Select Committee of the Legislative Council of Victoria (Session 1852-3) on Prison Discipline, be read.

Report read accordingly.

Course of proceeding further discussed.

Ordered—That this Committee be adjourned till to-morrow at two o'clock.

TUESDAY, 2<sup>ND</sup> DECEMBER, 1856.

*Members present:—*

Mr. Hood, in the chair.

Messrs. Miller, Mitchell, Thomson.

No quorum.

FRIDAY, 5<sup>TH</sup> DECEMBER, 1856.

*Members present:—*

Mr. Hood, in the chair.

Messrs. Guthridge, Patterson, Thomson, McCombie, Clarke, Hervey, Stewart, Miller, Dr. Tierney.

John Price, Esq., Inspector General of Penal Establishments, called in and examined.

Ordered—That this Committee be adjourned till two o'clock on Monday next.

MONDAY, 8<sup>TH</sup> DECEMBER, 1856.

*Members present:—*

Mr. Hood, in the chair.

Dr. Tierney, Messrs. Patterson, Miller, Keogh, Hervey, Stewart.

Crawford Pasco, Esq., visiting justice of penal hulks, called in and examined.

Mr. Angus McPherson, superintendent of the penal hulk *President*, called in and examined.

Ordered—That this Committee be adjourned till two o'clock on Wednesday next.

WEDNESDAY, 10<sup>TH</sup> DECEMBER, 1856.

*Members present:—*

Mr. Hood, in the chair.

Dr. Tierney, Messrs. McCombie, Patterson, Hervey, Guthridge.

Ordered—That the Inspector General of Penal Establishments be requested to furnish this Committee with the following Returns, viz. :—

1. The names, with date of engagement and resignation or dismissal of any superintendent, warder, overseer, or other officer who has left the department since the present Inspector General took charge.
2. The salary of each such superintendent, warder, or overseer.
3. If dismissed, the reason.
4. The amount of pay due to each when dismissed, and how much left back, if any.
5. With respect to those who left on their own accord, their reason for resigning, if given.
6. The names of those now engaged in the whole of the department in any capacity, with the pay attached to each, together with the date of their engagement; distinguishing each hulk, prison, or stockade.
7. A copy of the proceedings, and notes of evidence taken at an investigation on the case of Thomas Bourke, held by the Inspector General, on Wednesday, 3<sup>rd</sup> day December instant, at the Collingwood Stockade.

Mr. John Duffy called in and examined.

Ordered—That the days of sitting of this Committee be every Tuesday, Wednesday, and Thursday, at one o'clock.

Ordered—That this Committee be adjourned till one o'clock to-morrow.

THURSDAY, 11<sup>TH</sup> DECEMBER, 1856.

*Members present:—*

Mr. Hood, in the chair.

Dr. Tierney, Messrs. Keogh, Thomson, Hervey, Clarke, McCombie.

The Rev. Sam Corrie called in and examined.

Ordered—That this Committee be adjourned till one o'clock on Tuesday next.

TUESDAY, 16<sup>TH</sup> DECEMBER, 1856.

*Members present:—*

Mr. Hood, in the chair.

Messrs. Hervey, Mitchell, Keogh, Thomson, Miller, Patterson, Dr. Tierney.

Rev. Sam Corrie called in and further examined.

Mr. John Berkley called in and examined.

Ordered—That this Committee be adjourned till one o'clock to-morrow.

WEDNESDAY, 17<sup>TH</sup> DECEMBER, 1856.

*Members present:—*

Mr. Hood, in the chair.

Mr. Thomson, Dr. Tierney.

Rev. W. C. Currie called in and examined.

Mr. John Berkley called in and further examined.

The attention of the Chairman having been called to the fact that the quorum of members fixed by the Council was not present, the Chairman thereupon adjourned the Committee until to-morrow at one o'clock.

THURSDAY, 18<sup>TH</sup> DECEMBER, 1856.

*Members present:—*

Mr. Hood, in the chair.

Messrs. Guthridge, McCombie, Patterson, Thomson, Dr. Tierney.

John Singleton, Esq., M.D., called in and examined.

Mr. Charles Tye called in and examined.

Ordered—That this Committee be adjourned till one o'clock to-morrow.



FRIDAY, 19<sup>TH</sup> DECEMBER, 1856.

*Members present:—*

Mr. Hood, in the chair.

Messrs. Clarke, Guthridge, Patterson, Thomson, Dr. Tierney.

The following returns, furnished by the Inspector General, were laid before the Committee.

1. A Return of the persons now employed in the Penal Establishments.
2. A copy of the proceedings and notes of evidence taken by the Inspector General of Penal Establishments, in the case of Thomas Bourke, at Collingwood stockade—  
(*Vide* Appendix L).

Geo. M. Webster, Esq., M.D., called in and examined.

William Welsh called in and examined.

Mr. John Berkley called in and further examined.

Mr. John Duffy called in and further examined.

The Clerk of the Council having reported to the Committee that Mr. Angus McPherson had made extensive and material alterations in the copy of his evidence, sent to him for revision—

Ordered—That, in accordance with the practice of the House of Commons, an instruction be given to all witnesses examined before this Committee, to whom copies of their evidence may be sent for revision, to the effect that such witnesses can only make verbal corrections in their evidence, inasmuch as corrections in substance must be effected by re-examination.

2. That the corrections made by Mr. Angus McPherson, in his replies to Questions Nos. 398, 463, 469, 470, and 483, being corrections in substance, the same cannot be allowed by the Committee; but that Mr. McPherson be informed that the Committee will be ready to re-examine him at any future sitting, should he wish to correct any errors in substance which he may have fallen into in his former examination.

Ordered—That this Committee be adjourned till one o'clock on Tuesday, 30<sup>th</sup> instant.

TUESDAY, 30<sup>TH</sup> DECEMBER, 1856.

*Members present:—*

Mr. Hood, in the chair.

Messrs. McCombie, Miller, Williams, Dr. Tierney.

Mr. W. P. Burne called in and examined.

Ordered—That this Committee be adjourned till one o'clock on the next day the Council shall meet for business.

WEDNESDAY, 31<sup>ST</sup> DECEMBER, 1856.

*Members present:—*

Mr. Hood, in the chair.

Messrs. Williams, Guthridge, Mitchell.

James Edwards called in and examined.

Committee adjourned till Thursday, 8<sup>th</sup> January, 1857, at one o'clock.

THURSDAY, 8<sup>TH</sup> JANUARY, 1857.

*Members present:—*

Mr. Hood, in the chair.

Messrs. Clarke, Guthridge, McCombie, Miller, Mitchell, Patterson, Thomson, Dr. Tierney.

The following Returns, furnished by the Inspector-General, were laid before the Committee:—

1. A Return of the Warders and Officers who have left the service, from the 22<sup>nd</sup> October, 1856, to the 5<sup>th</sup> December, 1856.—(*Vide* Appendix M.)
2. A Return of Tickets-of-leave issued to Prisoners during the years 1854–5–6, by the Inspector-General of Penal Establishments.—(*Vide* Appendix N.)
3. A Return of Deaths which have occurred on board the Penal Hulks, and at the Marine Stockade, at Williamstown, from the date of their occupation to the 31<sup>st</sup> December, 1856.—(*Vide* Appendix O.)

Mr. Angus McPherson called in and further examined.

Adjourned till one o'clock on Tuesday next.

TUESDAY, 13TH JANUARY, 1857.

*Members present :—*

Mr. Hood, in the chair.

Messrs. Clarke, Hervey, Miller, Patterson, Thomson, Dr. Tierney.

Mr. N. W. Pollard called in and examined.

Mr. R. C. F. Smith called in and examined.

Adjourned till one o'clock to-morrow.

TUESDAY, 20TH JANUARY, 1857.

*Members present :—*

Mr. Thomson, in the chair.

Messrs. Hervey, Mitchell, Patterson, Tierney.

Mr. R. C. F. Smith attended, and laid before the Committee a Paper written by him on Penal Discipline.—(*Vide* Appendix P.)

The following Return, furnished by the Inspector-General, was laid upon the Table, viz. :—

Return of Officers, Warders, &c., who have left the department since the present Inspector-General (John Price) took charge, up to the 31st December, 1856, showing the dates of their appointments, their salaries, the dates and reasons of their dismissal, discharge, or resignation; amount of pay due to each when leaving, and how much (if any) left back.

Adjourned till Thursday next, at twelve o'clock.

THURSDAY, 22ND JANUARY, 1857..

*Members present :—*

Mr. Hood, in the chair.

Messrs. Guthridge, Thomson, Clarke, McCombie, Hervey, Mitchell, Dr. Tierney.

Count John Dembinski called in and examined.

Mr. Alexander Willis called in and examined.

Mr. N. L. Kentish attended the Committee, and submitted a Paper recommending the introduction of the assignment system.

Letter from Mr. W. P. Burne, enclosing Report on Penal Discipline, as carried out in New South Wales, laid before Committee.—(*Vide* Appendix S.)

Ordered—That this Committee be adjourned till half-past one o'clock on Monday next.

MONDAY, 26TH JANUARY, 1857.

*Members present :—*

Mr. Hood, in the chair.

Mr. Patterson, Dr. Tierney.

Mr. George Wintle called in and examined.

W. McCrea, Esq., M.D., called in and examined.

The witness handed in a number of Papers relative to the case of a convict named Thompson.—(*Vide* Appendix T.)

Committee adjourned till one o'clock on Wednesday next.

WEDNESDAY, 28TH JANUARY, 1857.

*Members present :—*

The Honorable J. Hood, in the chair.

The Honorables J. H. Patterson, W. H. F. Mitchell, R. Thomson, Dr. Tierney, H. Miller.

Mr. M. H. Smith called in and examined.

Ordered—That this Committee be adjourned *sine die*.

WEDNESDAY, 3RD JUNE, 1857.

*Members present* :—

The Honorable J. Hood, in the chair.  
The Honorables Dr. Tierney, J. Cowie, N. Guthridge.

Dr. Youl called in and examined.

Moved by the Honorable Dr. Tierney, That certain documents forwarded to the Committee by Mr. Kentish be returned to that gentleman, with the thanks of the Committee.

Agreed to.

Ordered—That Mr. Schultz be thanked for his suggestions on Penal Establishments.

Adjourned till two o'clock on Thursday next, to consider a Draft Report.

THURSDAY, 4TH JUNE, 1857.

*Members present* :—

The Honorable J. Hood, in the chair.  
The Honorables J. Cowie, Dr. Tierney, N. Guthridge.

Moved—That a Sub-Committee of three be appointed to draw up a Draft Report; such Committee to consist of the Honorables J. Hood, W. H. F. Mitchell, and Dr. Tierney.—(*Hon. J. Cowie.*)

Agreed to.

Adjourned *sine die*.

TUESDAY, 14TH JULY, 1857.

*Member present* :—

The Honorable J. Hood.

No quorum.

Adjourned till ten o'clock on Wednesday, 15th instant.

WEDNESDAY, 15TH JULY, 1857.

*Members present* :—

The Honorable J. Hood, in the chair.  
The Honorables J. Cowie, N. Guthridge.

Draft Report read by the Chairman.—Ordered to be printed for use of the Committee.

Sit again on Wednesday, 22nd instant.

WEDNESDAY, 22ND JULY, 1857.

*Members present* :—

The Honorables J. Hood, N. Guthridge.

No quorum.

Adjourned till Wednesday, 29th instant.

WEDNESDAY, 29TH JULY, 1857.

*Members present* :—

The Honorable J. Hood, in the chair.

The Honorables Dr. Tierney, W. H. F. Mitchell, N. Guthridge, J. H. Patterson, R. Thomson, W. J. T. Clarke.

Amended Draft Report brought up and read by the Chairman.  
Clauses 1 and 2 read and passed.

Clause 3 read as follows :—

“3. That the condition of the Penal Establishments is (to say the least of it) unsatisfactory, and that the results arrived at are rather the increase and aggravation than the diminution of crime, and the degradation rather than the reformation of criminals, is evident and undeniable.”

Moved—That the whole of this clause be struck out after the word “unsatisfactory.”—  
(*Hon. W. H. F. Mitchell.*)

Question—put and passed.

Clauses 4 and 5 read as amended by the Hon. N. Guthridge, and passed.

Clauses 6, 7, 8, 9, 10, 11, 12, and 13 not put to Committee.

Clause 14 read as follows :—

“14. Your Committee would beg to draw attention to the evidence of Mr. George Wintle, wherein is disclosed one phase of prison discipline, the most deplorable that can well be imagined.”

Moved—That this clause be struck out.—(*Hon. W. H. F. Mitchell.*)

Question—put and passed.

Clause 15 read as follows :—

“15. The enormous expense of the hulks, as exhibited in the evidence of Mr. McPherson, and the large number of officers of all kinds, in proportion to the number of prisoners under their charge in these vessels, demonstrate at once the inefficiency of the system, and the utter worthlessness of this particular part of its general machinery.”

Moved—That this clause be struck out.—(*Hon. W. H. F. Mitchell.*)

Question—put and passed.

Clause 16 read as follows :—

“16. In properly constructed prisons on land, a proper classification of the criminals— which is quite impracticable either on the hulks or stockades—might easily be effected ; and if prisons are found in America and the West Indies sufficient not only to render a gaol or penitentiary self-supporting, but to afford a considerable surplus revenue to the state, there can be no reason why a prison conducted in the same manner here should not also pay the whole cost of its management, but be a source of revenue to the Colony.”

Moved—That this clause be struck out.—(*Hon. W. H. F. Mitchell.*)

Question—put and passed.

Clause 17 read as follows :—

“17. Your Committee would direct particular attention to the evidence of Mr. Pollard in regard to the management of prisons in America. Without being committed to the details, your Committee would only observe, that there can be no doubt that a prison established on the same principles would be equally successful in Victoria.”

Moved—That this clause be struck out.—(*Hon. W. H. F. Mitchell.*)

Question—put and passed.

Clause 18 read as follows :—

“18. Considering, however, the difficulty, if not the impracticability, of obtaining reliable evidence except on oath, your Committee would most earnestly recommend the appointment of a commission, with power to take evidence on oath, on all matters connected with the Penal Establishment, with a view to the speedy and entire abandonment of the present system of penal discipline, and the establishment of a proper system throughout the Colony.”

Moved—That this clause be struck out.—(*Hon. W. H. F. Mitchell.*)

Question—put and passed.

The Chairman instructed to report to the Council.

See Evidence—  
Qs. 2099, 2103.

See Evidence—  
Qs. 348, 355,  
1454, 1455.

# MINUTES OF EVIDENCE.

FRIDAY, 5TH DECEMBER, 1856.

MEMBERS PRESENT:—Mr. Hood, in the Chair; Mr. Guthridge, Mr. Hervey, Mr. McCombie, Mr. Miller, Mr. Patterson, Mr. Stewart, Mr. Thomson, Dr. Tierney.

John Price, Esq., Inspector General of Penal Establishments, examined.

1. *By the Chairman.*—The Committee are desirous to hear what you have to say in answer to the questions that have been forwarded to you by the Clerk of the Council?—Perhaps in the first instance I had better name the different establishments under my charge.

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2. The first question is, state generally the way in which the different Penal Establishments under your superintendence are managed; in particular, describe how prisoners under your charge have been treated and disposed of after receiving sentence, beginning at such as are sentenced to the shortest punishments, and proceeding up to the severest?—The different establishments under my charge are, Pentridge, the accommodation in which is for 450; Collingwood, in which I can accommodate 364 prisoners; the penal hulk *Success*, with accommodation for 130; the *Sacramento*, capable of containing 128; the penal hulk *President*, 80; and the *Lysander*, which is not looked upon as a penal hulk, which is capable of containing 300. When I receive notification from the gaoler in Melbourne, or when in my visits to the gaol I see that it is overcrowded, or that it is desirable to remove prisoners, I attend personally, and, together with the gaoler, select from the prisoners in the gaol prisoners to supply such vacancies as may exist in the various establishments. Long-sentence men, over ten years, unless specially recommended for another station by the gaoler, are invariably removed to the hulk *President*, as also such men as have been refractory since their punishment. Pentridge being the manufacturing department in which it is necessary that I should have tradesmen, I then ascertain what tradesmen are left; if those men are well conducted men, they are removed to Pentridge to be employed in the shops. I then select such prisoners as may be required at Collingwood, choosing from among the short-sentence men such men as have been previously convicted, as I require a few of them, both at Pentridge and Collingwood, for the purpose of being placed in positions in which it would not be desirable to place long-sentence prisoners. I then select those short-sentence men who have been originally free, not previously convicted, and they are transferred to the *Lysander*. The invalids and sick are likewise sent to the *Lysander*, as I have no hospital accommodation for them elsewhere. There may be occasionally some eight-years' men sent to the hulk *Sacramento*, in which they do not undergo so rigid a discipline as at the other hulks, they are more in association there. On arriving at the stations the prisoners are searched, and have their hair cut, and are washed and clothed, and then told off to their gangs by the superintendent. If any of those men fall out from the gangs in which they are placed, and say they are unable to perform the labor of that particular gang, they undergo an examination by the medical officer, and he declares whether they are fit for hard labor or otherwise. No prisoner after having complained that he is unwell is sent to work, except under the direction of the medical officer. The artizans are told off to the workshops, and when any vacancy occurs in a workshop, which I am unable to fill by a mechanic, I select from among the men a man to learn the trade. At the hulk *President* the men remain a fixed period, according to the *President* hulk regulations. Those men are placed in irons, and the men remain in the *President* from twelve months to three years, according to their sentences and conduct. When vacancies occur in the penal hulk *Success* I myself go round the cells of the *President* and hear what claims each prisoner has to adduce for removal, and if those are supported by the superintendent of that hulk, I submit their names to His Excellency for removal. The men then come on full rations, and commence to work. At the *President* no labor is performed by any of the prisoners, except by billeted hands in cleansing the ship; and indeed that work formerly was performed by prisoner seamen, but prisoner seamen some twelvemonths ago almost ceased to exist as a body of prisoners, and I was obliged to call upon the men themselves to cleanse their vessel. The men in the *Success* work at quarry work and learning to cut stone. When vacancies occur in the *Sacramento* I select in the same way from the prisoners at the *Success* for the hulk *Sacramento*, where they are employed in similar work; and as the men evince a desire to behave themselves and be industrious they are passed on to the *Lysander*, from whence they emanate to the stockades at Collingwood and Pentridge. With respect to the diet which is alluded to in one of the questions forwarded to me, I beg to hand in a scale of rations served out in the different Penal Establishments.—[*The witness delivered in the same—Vide Appendix A.*] At the hulk *President* all men receive the penal rations except those that are billeted. Those that are billeted receive the full rations. Those rations have undergone the review of the principal medical officer, Dr. McCrea.—“No. 3.”—“Prisoners at hard labor in gaol or on board hulks and at stockades”—men who are at hard labor get that. Incorrigibly idle prisoners get number 4 or number 5. Those rations have all been laid out by the chief medical officer. When a man is sick, or locked up for trial, he receives half ration until the medical officer has seen him. I would at the same time put in a list of the prisoners' clothing.—[*The witness delivered in the same—Vide Appendix B.*] In addition to the list of clothing put in, the prisoners are allowed to retain any plain colored flannels, or neck handkerchiefs, their own property; and

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if the medical officer deems it necessary that they should have extra flannel clothing, they are supplied with it. Men who are at work in the blacksmiths' shops are supplied with blanket clothing in addition to their other clothing. Those who work in the water are supplied with canvas clothing lined with flannel, and extra boots, so as to enable them, when they come out, to have an entire change to keep themselves dry. The inducements that are held out to prisoners for good behaviour are, with respect to those at the hulks, removal from the penal hulks, to those in which the men are in association; and with regard to those at the stockades, the indulgence of tickets-of-leave to those under sentence of hard labor on the roads, whose sentences are longer than two years; and a mitigation of one-third of their sentences to those under two years. Those prisoners who are eligible for tickets-of-leave at a fixed period can reduce that period, by good conduct, one third; so that a prisoner who has to serve six years for a ticket-of-leave becomes eligible to be discharged with that indulgence at the expiration of four years, if he conduct himself properly. I will take the instance of a prisoner who receives a five years' sentence. He is eligible for his indulgence at three years if he is well conducted; but if he is favorably reported by his superintendent, chief warden, and overseer, that man receives his ticket-of-leave in two years. I beg to hand in a table shewing the periods to be served by prisoners before obtaining tickets-of-leave. [*The witness delivered in the same—Vide Appendix C.*] When a prisoner has undergone one half of the period he has to serve for his indulgence, he is at liberty to apply for his ticket-of-leave. Those applications are invariably gone through by myself. They are sent in at the beginning of the month, and before the 10th of the month I generally receive the reply of the Governor sanctioning or approving of the indulgences.

3. *By Mr. Mc Combie.*—What is the nature of the ticket-of-leave; are the men let loose on society again?—They are; they are allowed to work for their own benefit in a particular district which they are allowed themselves to select, such district not being allowed to be selected from the gold fields or in the county of Grant or the county of Bourke.

4. How do you enforce the regulation as to district?—The day a prisoner is discharged I notify to the Chief Commissioner of Police that I have discharged into a particular district the person whose description is annexed.

5. That district being limited to a prescribed boundary?—Yes; as for example, Portland or Belfast. Very few of the ticket-of-leave men, I believe, remain in the colony. There are a great many recently taking their tickets for Wangaratta, and it is my own suspicion that the ticket-of-leave acts as a pass as far as Wangaratta, and then they have only about forty miles to go over the Sydney boundary, and they are gone and we hear nothing more of them.

6. *By the Chairman.*—Do they not remain on the Ovens gold fields?—No; I had a ticket-of-leave man returned to me the other day from Sydney.

7. Could you tell how many ticket-of-leave holders have been sent throughout the country in the last twelvemonth?—I cannot now; the Committee shall have that information to-morrow. I discharge annually free men and ticket-of-leave men about 500 from the department.

8. Can you tell what becomes of them after leaving you?—I have nothing to do with them; they fall into the hands of the police after they leave me, and I find that a great many of them are gazetted as absconders. They are lost sight of and do not make their appearance.

9. Are they obliged to report themselves?—Yes; they should report themselves.

10. Were not the ticket-of-leave men in New South Wales required to show themselves once a month in the district to which they went?—Yes; our ticket-of-leave men are required to report themselves immediately at the police office, but I very seldom hear that they have reported themselves; and not having reported themselves, they are gazetted as absconders.

11. Are instructions given, in case they do not present themselves, to have them re-arrested?—Invariably; I have some half dozen men now in the stockade who have been re-arrested out of their districts; but the greater portion leave the country, and we do not hear of them. Amongst the re-convictions there are very few of the ticket-of-leave class.

12. At what periods, and under what circumstances, are irons put on prisoners, and what are the weights of the irons?—Prisoners, when they reach the penal hulk *President*, are placed in 14lb. irons. Those irons are, I think, about 27lbs. lighter than the irons used in the working chain gang at Port Arthur. A man continues in those irons until, by his good conduct, I believe that I can safely place him in lighter ones, as anything less heavy than 14lb. irons a man can strike with the greatest facility. With regard to punishment irons, the heaviest pair there is in the department is 40lbs., and I think there is only one pair of 40lb. irons in the department, 36lb. irons are considered the heaviest class of irons that are issued, and I remember the circumstances under which the 40lbs. pair were made. It was owing to there being no lighter iron on the station when the blacksmith was working them, and I think it was two-inch iron that was used in the manufacture of the basil. The weights of the irons are 7lbs., 14lbs., 28lbs., and 36lbs. The 28lbs. and 36lbs. are both of the heavy class. The regular weight of heavy irons is 36lbs., many of the 7lb. irons do not weigh above 4½lbs. or 5lbs.

13. At what periods and under what circumstances are those irons put on?—When prisoners are drafted in to the *President* they are invariably put on. At the stockades they are not put on except under special circumstances.

14. What period must a man serve before he gets lighter irons?—It depends entirely upon the class of man; I have men that I know that I would not remove the 14lb. irons from if they were with me for six years. I have a man down at the *Sacramento* at this minute, that I should be very sorry to remove the irons from. I know a great many of these men, and I know what they have done elsewhere. I have known many of them for the last eighteen years. I have men down there whom I have known sentenced three times to be hanged, and who are, at this minute, absconders from Van Diemen's Land.

15. Are the irons put on as soon as the prisoners are removed from the dock to the gaol?—I think not, unless they are under sentence of irons. They are put on when I receive them.

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16. *By Mr. Hervey.*—Those men having been sentenced in the ordinary way, without any mention of irons in the sentence, if they had remained in the gaol, that addition to the punishment would not have been inflicted, would it?—I apprehend not.

17. The irons are used to keep the men in better custody?—Yes; and it is absolutely necessary.

18. *By the Chairman.*—Then it is the mere fact of the hulk existing that necessitates the use of irons?—Yes. If there were proper buildings the men could be restrained without irons at all; but so long as you have the hulks so long you must keep the men there in irons.

19. Are the Committee to understand that where a prisoner is sentenced, say to seven years on the roads, the first two years in irons, the prison authorities have power to keep the man the whole seven years in irons?—Those men are placed in irons irrespective of the sentence.

20. In order to their better security?—Yes.

21. Then men not sentenced at all to irons, wear irons?—Yes. In every case I receive the Governor's authority for what I do.

22. Or his sanction for it afterwards?—I have within twenty-four hours to report to the Governor and receive his authority in every case.

23. *By Mr. Hervey.*—The great fact with regard to wearing irons on board the *President* is, that men are sent there to undergo punishment in irons, which punishment, in irons, if they had remained in gaol they would not have had to undergo?—Yes.

24. With regard to prisoners on board the *President*, they being confined in the solitary way they are, and being surrounded by water, what are the facilities of escape which render the use of irons necessary?—I can adduce evidence to show that the prisoners on board the *President* concocted a scheme to seize on the doctor's boat. I had information given me that several men were going to feign to be sick and when their irons were off, they were to rush upon the sentry, and take possession of the boat. If those prisoners were not in irons, I could not keep them a week there.

25. Of course it is only when the prisoners get out upon deck that they would be dangerous?—The cell doors are very frequently open; we must open the doors at dinner time and at cleansing time for inspection and so on.

26. But only one at the time?—Yes, and then you have the men upon the deck; besides, there are two men on each deck, long-sentence men, employed as ward cleaners.

27. *By the Chairman.*—Are any of the warders, or officers, or overseers, men under sentence?—None whatever.

28. They are all free men?—Yes, all free men; I would not stop one minute if there were prisoners set over those men. It was in consequence of that suggestion from the Comptroller General that I should have prisoner officers at Norfolk Island that I refused to remain, and Norfolk Island was broken up.

29. *By Mr. Hervey.*—If those convicted are sent to gaol to undergo punishment, is it at their request that they are sent to the *President*, or is it on account of the overcrowding of the gaol?—It depends upon the length of the sentence; I have sent a short sentenced man to the hulk when very insubordinate. In one case which has been publicly mentioned, that of Michael Ryan, I transferred him to the *President*; but he was a most refractory man and an old acquaintance of mine in Norfolk Island, and not the free emigrant he is represented to have been.

30. To be transferred to the *President* was a greater punishment than that to which he was sentenced?—Yes.

31. *By Mr. Miller.*—Will you explain the case of Ryan, which was mentioned by Dr. Singleton at a recent public meeting?—He was here with me by the name of Michael Ryan. I knew him by the name of Mick Pheeney in Norfolk Island. He was a soldier, who served a sentence at one time in Woolloomooloo gaol. He went home with his regiment from New South Wales, and was transported by the *Duchess of Northumberland* for seven years for stealing, together with his wife, fifty sovereigns. He was sent to Westbury probation station in Van Diemen's Land, where his conduct was so violent against the officers and visiting justice that he was transferred from that place to Fingal, separate treatment cells; the officers there lost all control over him, and he was sent to me at Norfolk Island to complete his sentence. He was one of the most fearful ruffians I ever encountered in my life; his conduct was so violent, that I was unable to allow him to work with the rest of the men, for fear he should violently assault them; and in consequence of that he was employed in pulling cotton tree from the runs by himself; he was not allowed to work with another man; his conduct was always of the most outrageous character. I sent him up either in the *Lady Franklin* or the *Governor Phillip* to Van Diemen's Land, *via* Sydney. On board the vessel he became so violent that they would not take him to Van Diemen's Land, but landed him in Sydney.

32. *By Mr. Hervey.*—He was then free?—Yes. In Sydney he immediately received another sentence, and the Van Diemen's Land authorities were blamed by the Sydney people for having imported such a scoundrel. He came on here, and I think he has undergone three sentences in the stockades; and he has been most violent and insubordinate and insulting to his officers. Once, when I was at the Marine Stockade, when he was in solitary confinement, I walked into his cell, and I saw that his face was completely raw on both sides, and noticing that it was begrimed with black, I asked him what was the matter. He replied to me, "Blown up in a colliery, Mr. Price." I said, "Blown up in a colliery; what do you mean?" "Why," he said, "I shall work upon this when I get out." "Work upon it when you get out," I said, "what do

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you mean?" He said, "Why, it is only a bit of coal, sir." And he was grinding that into his face to give him the appearance of having been blown up in a colliery.

33. He was not insane, was he?—Not he; he was a real mad, wild Irishman. I have hardly ever seen such a man; he is one of the most violent characters you can ever meet with. I very rarely meet with such a character. I have met with one or two such in my time, but they are very scarce. After he became free he again got into the Marine Stockade, and there he completely beat the officers, and they entreated me to remove him.

34. Where is the Marine Stockade?—It was at Williamstown, but it has been closed for a considerable period. He asked me to take him to Collingwood, and promised to behave himself. He went on quietly for a short time, but his conduct was so violent and his language so blasphemous and horrible that he was recommended by the visiting justice for removal, and I told him that I should remove him to the *President*; and he asked me to do so, and I did so.

35. Who was the visiting justice at Collingwood?—Dr. Youl. Ryan was removed to the *President*, and after he had undergone some three or four months there, I removed him to the *Success*, and one day he came out when the gang was mustered and put his hand on my shoulder and asked me to remove him back again to the stockade. I told him I would do nothing of the kind, his conduct had been so bad at the stockade that I should retain him at the hulks until he was free; he had then only a few months to remain; he then threw down his tools and told me he would not do another stroke for the Government, and I might send him back to the *President*. I told him I would comply with his request, and I did it.

36. *By the Chairman.*—What was he sentenced for the last time?—I think it was for drunkenness.

37. How long was he sentenced for?—I think six months.

38. How long did he serve altogether in the stockade and hulks the last time?—I cannot say without referring to my papers.

39. The main features of Ryan's statement, viz: that he was sentenced to six months' imprisonment and kept for two years are correct?—That may be so.

40. Are the Committee to understand that if this happened with Ryan it might possibly happen to any other man who might be very noisy and boisterous from being badly used?—I never see men badly used; the prisoners see me and see the visiting justice, and they can make any complaints they like, and I will adduce evidence to show that the assertion of my refusing to hear what the prisoners say is not true, for when I get down amongst the men I can hardly get away again.

41. By whom were the punishments inflicted, in the case of Ryan, bringing up his time to two years?—By the visiting justice.

42. Is that legal?—Yes; the Act of Council makes every sentence a man receives from a visiting justice cumulative.

43. The punishment must be six months of good behaviour?—Yes.

44. Does that also apply to summary convictions before a magistrate?—Yes; all the punishments are inflicted by the visiting justice, no other man has the power of extending a prisoner's sentence one minute.

45. *By Mr. Hervey.*—That man Ryan was sentenced to six months in gaol was he not? He was sentenced to imprisonment and hard labor in the House of Correction and all our establishments are proclaimed as houses of correction, and the Governor has the power of removing those prisoners to the stockade and hulks.

46. How long has Ryan been at liberty now?—I think he has been out about four months; and during that time I have seen him in the gaol under another sentence. It was the practice before I took office for the assistant-superintendents of the hulks and stockades to inflict punishments of solitary confinement, but immediately on my taking charge of the department I stopped it—it being illegal.

47. The visiting justice now only does that?—He is the only person that can pass sentence.

48. *By Mr. Thomson.*—How often does the visiting justice visit the hulks?—He is obliged to visit them once a week.

49. He does not always do that, does he?—Yes; I think you will find that he is pretty regular.

50. It is the duty of the visiting justice to visit once a week?—Yes; he is an officer entirely independent of me, and he has instructions from the Chief Secretary's office.

51. *By Mr. Hervey.*—Had not Ryan cumulative sentences which brought up his original sentence from six months to two years' confinement in the penal establishment?—I am not certain what his extensions were, I cannot say, and I should be sorry to speak without the book, but they were all legally inflicted.

52. *By Mr. Thomson.*—The extensions were all made by sentence of a magistrate? Every one.

53. Does the visiting justice invariably write the sentence himself?—I believe he does generally, but I am not there to see, so I cannot speak positively.

54. *By the Chairman.*—Is there any possibility of your being mistaken as to the identity of Ryan?—Not the slightest; I believe if you once saw him in the street you must know him again—he is a very peculiar man.

55. *By Mr. McCombie.*—It is on old Sydney Act under which the sentence is lengthened, is it not?—No; a Colonial Act.

56. *By the Chairman.*—Are all criminals treated alike without reference to their previous habits or character. Supposing two men sentenced at the same time, one a strong man and the



other a small delicate man, would they both be set to do the same work, or have you any means at your disposal to classify the prisoners in respect to their work?—Yes; I have to a great extent, where quarrying is going on and general labor.

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57. You are aware that what would be only play to one man might be death to another? Yes; and I brought that fully under the notice of the Government, when I recommended the abolition of task work. Some men were in a position to work off their time much quicker than others who were nevertheless better conducted men, and I suggested that good conduct and willingness to do what a man might be put to should be taken into consideration.

58. Then again, with regard to solitary confinement, to some men that would only be a rest and no punishment at all, whereas to other men that is excruciating murder—does the visiting justice or medical officer ever take that into account?—The medical officer has nothing to do with solitary confinement unless he sees a man is unfit to undergo his punishment, and then he has power to remove the man immediately. The medical officer has at all times power to remove the irons.

59. *By Mr. Miller.*—Is there any corporal punishment under your rule?—No; and I am perfectly satisfied that if such a thing occurred, I should hear of it immediately.

60. If such a thing has occurred, it has been against orders?—Such a thing never has occurred.

61. What are the punishments in use in your establishments?—Solitary confinement and deprivation of rations. A lazy man is put upon the lazy ration, and if he continues to persist in his laziness he is taken before a visiting justice, and he is the only person who can pass a sentence.

62. Are there any other punishments inflicted? None, whatever.

63. Have you observed that it has been stated by the convict Melville, that there is a species of torture allowed on board the *President* hulk—that a man is suspended in such a way, for a number of hours, that he suffers a torture?—Yes, I have read that statement of Melville's.

64. Is it true?—Melville himself will not say that it has occurred since I took charge of the department, which was on the 25th of January, 1854. On the 26th of January, 1854, Melville was taken before the visiting justice for insubordination and inciting to mutiny, to which he pleaded guilty,—that offence occurred before my taking charge. He received a sentence of one month's solitary confinement, and while he was undergoing that sentence, I went into his cell and had some conversation with him, pointing out to him the excessive folly of the way in which I heard he had been conducting himself, and he promised that he would conduct himself better; and from that hour to the present I never had to speak to him and never heard him reported, and no officer ever found fault with him; and he has gone on peaceably and quietly, and not any of those punishments to which Melville alludes have taken place since my having charge of the department; they took place prior to my joining the department; I never heard of them and know nothing of them.

65. No such punishment has taken place since you joined, which was on the 25th of January, 1854?—No; I have seen Melville continually and spoken to him, and never heard the slightest complaint from him since the 25th of January, 1854. Shortly after that he asked me to be allowed books and a slate, pointing out that he did not know how to employ his mind. I spoke to the officers about the matter, and they requested me not to allow him a slate; I asked them why, and they said he would take the frame off and make a weapon of it. I went back and talked to him, and I said, "I would have some slates and try them." On the 8th of May a requisition for eighty slates was sent in to me for signature, but in consequence of what the officers had said to me about supplying these men with slates, I cut down the eighty to eight. I have the original requisition. We were supplied with eight slates merely as a trial, and finding it worked well I have supplied the men regularly with books and slates, and now they have a hundred; every man has his slate and the use of the library books. I beg to hand in a return of the number of books and slates at the various penal establishments.—[*The witness delivered in the same—Vide Appendix D.*]

66. To revert to the punishments. It has been stated that men are subjected to be put into the shower bath in a way similar to the treatment of lunatics?—There is a shower bath, and previous to my joining the department, it was used, I believe, as a punishment, but I prohibited it. Melville alludes in his defence to a soldier who was put into the shower bath, but you will hear from the officers in the regiment what description of man he was, and I will give you my version of the story. The first time I visited the *President* I heard a man making a most tremendous row there in his cell.

67. *By Mr. Hervey.*—At what date was this?—A very few days after I joined. I went into the cell and I saw this fellow stripped stark naked, and all his clothes torn up, and his cell covered with his own filth; I, nevertheless, went into the cell and spoke to the man; I got nothing but the most abusive and disgusting language from him; I went out and said to the superintendent, "Has that man been brought under the notice of the medical officer?" He said, "Yes, he has." I said, "What does he think of him?" He said, "The medical officer believes he is only feigning lunacy;" and a few days after the superintendent said, "The medical officer wished that man sent to the *Success* so as to be put into the shower bath?" and the officer said, "Can I take him to the *Success* and give him a shower bath?" I said, "No, I do not do my business that way; if the medical officer wishes me to remove that prisoner to the *Success*, he shall be removed upon warrant, but unless I get the medical officer's certificate I shall not remove him;" I said, "You will get into a hobble some of these days, and it will be said you are putting men into the shower bath as a punishment." I have kept the documents connected with that case and have them here.—[*The witness delivered in the same—Vide Appendix E.*] Upon the certificate of the medical officer that man was removed to the hulk *Success*, there to be treated by the medical

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officer. The next time I was in the Bay I saw that man, he was sane and he talked to me rationally; I saw the medical officer and he told me, "As I anticipated, that man has come round, he was only feigning insanity." I cannot say, of my own knowledge, whether the man was put in the shower bath or not, but I believe he was.

68. If he were put in the shower bath, you cannot say whether it was by the doctor's orders or not?—No, but I believe it was by the doctor's order.

69. If such a thing occurred it was the exception and not the practice?—Decidedly.

70. Is that the only case in which the shower bath has been resorted to except for cleansing purposes?—It is always used under the doctor's instructions.

71. Is it frequently resorted to by his instructions?—Not frequently. This man had been fourteen times in prison before he came to us, as I saw by his indent; he was a very violent man and was taken before the visiting justice and punished. One day I was at the hulk and I went in, as usual, to his cell, talking to him, and I noticed that he had a bad cough, and I said, "Walker, you have a bad cough." He said, "Yes, I have." I asked him "If the medical officer was treating him." He said, "Yes, and he was getting on better." A few days after that there was a complaint against Doctor Wilkins, relative to some improprieties in furnishing medicine to the free officers, and Dr. McCrea and I went down together to investigate it; after the investigation, I asked Dr. McCrea to go round and visit the prisoners in the hulks with me, and we went round, and when I came to Walker's cell, I asked him how his cough was, he said his cough was very bad still, I asked if the doctor was attending him, he said, "Yes," and, as I was going out of the cell, he said, "I have a swelling in the belly, sir." I said, "Have you spoken to the doctor about it?" "No sir," he said, "I have not." I said, "Let me look at it;" I turned round and made the man take down his trousers, and I saw that his belly was very much distended, I said, "What is the matter?" He said, "It is only the wind, it will go off." I said to Dr. McCrea "Just look at this man's belly?" He did so and said, "He is seriously ill, you must have him removed." I said, "I have no place to put a sick man in, he will be just as well treated in his cell as any where else," then I thought for a minute or two—I had no hospital belonging to the department—and I said he can be removed to the Marine Stockade, and I gave orders to that effect, and I went on shore and told Dr. Wilkins he had better go off and see him at once, and he did so. Two or three days afterwards I saw this man in the Marine Stockade suffering from dropsy, of which he eventually died; there was an inquest held on him and a *post mortem* examination made, and I ascertained that the result of the *post mortem* examination was, that there was cancer of the liver induced by habitual drunkenness. I saw Dr. Wilkins the other day and asked him if he recollected the case and he said, "Yes, and that he had a piece of the man's liver left yet."

72. Do you know whether Dr. Wilkins went on board that same night?—He left me to go on board immediately.

73. *By the Chairman.*—Melville, in his defence, stated that certain warders and others were kept back who would have given evidence favorable to him, and that he had reason to believe they were dismissed, have any warders been dismissed since the 22nd of October last?—Yes; a great number. There is an instruction, that if there is an outbreak of prisoners at night a rocket should be thrown up; and when this outbreak of Melville and his associates occurred I had a shipkeeper of the name of Berkeley, belonging to the hulk *Lysander*, a man who turned out to be more timid than I thought he was, he went down to the store room to get a rocket, although it was between four and five o'clock in the afternoon, and he actually set fire to it between decks, and when the rocket went off it fell into the oakum and set fire to the oakum, and there was a cry of "fire," and one of the warders was ordered on deck to give the alarm, the prisoners set up a most fearful yell, they were all in their cells and began pulling down the fixings, getting out, and they did remove two or three of the bars. There was a boat ordered to take off some of the females from the hulk. This warder, who had not returned to his duty, jumped into the boat and away he went from his post, and I dismissed him for it. There were two warders who left the hulk at the very time they should have been there to have rendered assistance, they jumped into the boat and away they went, and I dismissed them.

74. Are there any inducements held out to prisoners that their time of servitude will be shortened provided they can give the authorities notice of any contemplated outbreak or plan of escape?—No; I do not wish the Committee to understand, that if I gain intelligence that an outbreak is coming off, and I ascertain that it really is coming off, that is, if I see from my own observation, or the observation of the officer, that such and such a thing is done, I should not recommend the man who informed me to three or six months' remission of his time. A short time since, when some men went away from Pentridge, there was an old Van Dieman's Land constable of the name of Lewis, who had urged on several men to abscond; they did abscond, and Lewis, directly he saw the men absconding, came up to the station to give information. I ascertained from the prisoner who was shot that Lewis was the person who advised them to go, and Lewis admitted that he did so; and I recommended to the Governor to send him to the hulk *President* for the way in which he had conducted himself. There are but two or three who have received any indulgence at all for giving information; there is no necessity for it, their own evil passions and hatred of one another will induce them to come and give me notice of what is going on.

75. Do you ever receive any verbal or written communication in your department, other than through the proper channel of your immediate subordinates?—I have received one or two anonymous letters.

76. It has been stated in the newspapers that you have been in the habit of receiving letters and verbal messages from prisoners and warders about their superior officers, and about the prisoners?—It is not true. I presume the question alludes to a letter written by Mr. Carter, the

late superintendent, who was dismissed for misconduct in the Collingwood Stockade; I presume he alludes to my having sent an instruction which arose through Mr. Carter's misconduct. Some police information had been passed on through the Chief Warder and Mr. Carter to me, and that information got wind. Mr. Carter did not know how to keep his own counsel, and the information got wind; he was drinking and could not be depended upon, and I gave an instruction that I would receive police information without the intervention of the superintendent.

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77. *By Mr. Hervey.*—What is the nature of police information?—Men that have committed crimes outside; I have received information of numbers of robberies and horse-stealing of every description.

78. *By the Chairman.*—In yesterday's *Argus* a list is given of punishments inflicted on a man since being in the hulks; one is, that a man was punished for looking over his cell, what is that?—I presume it is for climbing up the cell and looking over into the next one, if the case is looked into; I can hardly suppose the magistrate would inflict a punishment upon a man for looking over his cell, it would go further than that, it would be for communicating.

79. *By Mr. Hervey.*—Is it part of the hulk regulations that no man is permitted to look through the bars of his cell?—I will not say whether it is or not; I can hardly carry the minor details of the regulations in my head. I presume it is promulgated in the regulations, because the magistrate would hardly inflict the punishment unless there was a regulation for it.

80. *By the Chairman.*—From the statistics of crime at home, it appears that one per cent of the criminals are considered irreclaimable; do you consider a larger per centage than that are irreclaimable here?—I can hardly believe that that is a fair calculation. The English incorrigibles were sent to me at Norfolk Island; and the first draft I received was sixty-four men. Immediately after that that vessel was followed by the *William Jardine*, and she had, I think, some 136.

81. This calculation alludes to the period since they have stopped transportation?—I think it must be under-estimated.

82. *By Mr. McCombie.*—You are the chief officer of the whole establishment?—Yes.

83. Do you in your punishments look to the reformation of the criminals?—I do not know what view the Committee may take of "reformation;" but if it is "reformation" from principle, I am afraid we shall never be able to attain that. I believe the utmost "reformation" we shall ever attain with the prisoner population, speaking of the old prisoner population, not of the vagrants and emigrants, who are an infinitely better class, is, that you will fix in their minds that "honesty is the best policy." I believe that is the highest principle you can bring them to.

84. Do not you think, that if the Government had carried out the recommendations of the Committee of the Legislative Council of 1852, and built larger premises, and attempted to carry out the reformatory principle, the same as in America, it might have been done to some advantage?—The system of a great many small hulks is a bad system. I have brought the whole matter under the notice of the Government; and I have suggested the propriety of a penitentiary being built—that was approved last year, and the drawings were prepared in July 1855, for that penitentiary; and we have been quarrying and cutting stone for that purpose ever since; we are erecting a hospital now in the same way. In 1854 I applied for a hospital, there being no hospital whatever, and the money was awarded. We were building workshops and warders' quarters up to the end of 1854; and when the clerk of the works was in a position to send out material for the erection of the hospital in the commencement of 1855, he was informed that the vote had lapsed and that no money was forthcoming. In 1855, as the Committee may recollect, Sir Charles Hotham stopped all public works, I applied to him for the erection of the hospital, and had two or three conversations with him, shewing him the wretched condition in which we were, that I actually had not got a place to put a dying man in. I was refused. I then went to Dr. McCrea, and asked him to back my application. I said, "Well, McCrea, if Sir Charles will not listen to me, perhaps he will attend to your suggestion; for God's sake write him a letter about it." He wrote a letter, I minuted it, and it was sent in to Sir Charles Hotham. It was still refused. The Governor said he could not do it then; and I was told to put it in the estimates for 1856. In 1856 the estimates did not pass till late in the month of March. It was then about the month of July, I think, before any material was furnished me for the erection of the hospital; but I continued cutting stone for it; and I am now putting up a building in which I shall be able to place about 100 patients; and a better hospital, I will say when it is done, I do not believe there will be in the colonies. It has been done under the sanction of the principal medical officer.

85. *By Mr. Hervey.*—Is that at Pentridge?—Yes. We are up nearly to the first floor now.

86. *By Mr. Miller.*—You are going on with the penitentiary now?—We are; and there will be ample accommodation for 1500 men there.

87. Is there a grant of money available for the work?—There is an unexpended balance with which they are now supplying me with lime, and timber, and iron; and I think there is £10,000 put on the estimates for the material for next year.

88. Is there any sum available for the present year?—Quite sufficient to find material for the time.

89. Can you tell the Committee what amount of money you will require to go on with for the year 1857?—I think that about £10,000 is put upon the estimates.

90. Will that be sufficient to keep the prisoners employed with the work they are now on? I think it will.

91. Supposing the £10,000 to be voted, what progress do you calculate you will make during 1857?—I think at the end of 1857 we shall have the cells and part of the boundary wall erected.

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92. And how long will it take you to complete the work?—I think it will take three years from the end of this year.

93. Is not that a very lamentable delay?—I do not see how it can be avoided; Captain Pasley has the whole of the plans and the report of the clerk of the works.

94. Inasmuch as the erection of this penitentiary, with the view of providing proper accommodation for the safe custody of the prisoners, was recommended as far back as 1852, and has not yet been carried out, would it not be very desirable to take the ordinary means, by free labor, for erecting a proper penitentiary; do you see any objection to that course, except that of expense? Yes. I should not be able to keep my prisoners away from the free people. I have 450 prisoners at Pentridge and I should not know where to place them.

95. Will it take three years to complete the penitentiary?—Yes.

96. *By the Chairman.*—Why do you not take the men from the hulks to complete it. I could not house them.

97. *By Mr. Miller.*—During those three years this hulk system will have to go on?—It will.

98. Can you suggest to the Committee any remedy for that?—The only remedy I can suggest is, that you should expend close upon £400,000 for the erection of a penitentiary, which if done by prison labor would cost about £30,000 to £35,000.

99. *By Mr. Hervey.*—How many men are working at it?—The mechanics' gang is from 120 to 160, including 77 stone cutters. So soon as the hospital is done, which will be very shortly, that is in four or five months, I can throw 200 more men into the hospital, and that will enable me to bring those 200 men more to work on the penitentiary.

100. *By the Chairman.*—Would it be possible to modify or do away with the present system of punishment in the hulks if you had a proper penitentiary?—Yes.

101. Do you think there would be more chance of reforming the prisoners if they were in a penitentiary?—I must say that my hopes of reforming men are gone. I started once with the expectation of reforming men and I have now many men who will not thieve again, and will not come back as criminals, but they are not morally reformed.

102. What trades have you at work at Pentridge?—I have twenty-seven tailors. The whole of the police clothing is made at Pentridge. I have a gang of thirty-two or thirty-three shoemakers, I have eleven forges at work, I have a great number of fitters, carpenters and wheelwrights, tinsmiths, plumbers, painters, turners and coopers.

103. Do you not think that employing the men in those trades tends to give them industrious habits?—When I look round and see the men, I have men who could get their pound a day if they pleased, if they were out of prison; I do not think it is from want of knowing how to labor that they have taken to thieving. I believe that in about another thirty years there will be a very different class of prisoners here to what we have at present, but the class of prisoners we have here now must be kept down by a strong hand.

104. Do you not think they could be taught habits of industry?—I think if any one visited Pentridge they would find habits of industry there inculcated. I have been a great deal amongst prisoners and I never saw men work so cheerfully as they do with me.

105. What is your opinion of the solitary system as practised in Philadelphia? I do not approve of the solitary system. I think in the penitentiaries at home they have been obliged to do away with the solitary system and place the men in association.

106. Is that the case at Pentonville?—Yes; I believe they have placed the men in association there.

107. *By Mr. Hervey.*—As the principal superintendent of Penal Establishments you would not recommend any more rapid erection of the penitentiary than you have spoken of?—I should be very glad to see the building up.

108. Would you back it by a recommendation?—I do not see how the work is to be done without mingling the free and the bond. I have now 400 prisoners on the work and if there were 400 free men amongst these prisoners how should I be able to manage them.

109. Is the hospital a part of the general plan?—Yes. The whole of it has been planned out since July, 1855.

110. And the works will be carried out according to those plans?—Yes. The cells will be the next work to be undertaken directly the hospital is up.

111. And there is no plan which you could adopt of increasing the number of laborers from the hulks or stockades?—Yes; as soon as the hospital is up I can house 200 more men. If I had the means of housing and feeding the men at Pentridge, I could take 300 men from the Collingwood stockade.

112. What would be the cost of erecting a temporary housing; would it add so materially to the whole cost of the construction as to make it undesirable, or would it be quite a reasonable rate of outlay that would accommodate those 300 men?—I would rather consult the clerk of the works on that matter.

113. You could apply that extra labor if you had it?—I could apply a great deal of the labor, but I should have to open fresh quarries, and it takes a long time to get a good face to a quarry; you cannot put in 100 men at once upon a quarry, it must be opened by degrees.

114. *By the Chairman.*—What would there be to hinder the free men from doing the building and the bondmen doing the quarrying and dressing?—I have about seventy stone-cutters at work now, and four men will lay all they do, so that you would only offer employment to a very few free laborers if that system were adopted.

115. *By Mr. Miller.*—Are the buildings and works carried on under Captain Pasley's direction?—Yes. I am consulted as to the requirements for the accommodation of the prisoners, and I consult the chief medical officer as to the ventilation and the amount of space.

116. Was there any estimate of the cost of the construction of the whole building made do you know?—There was a rough estimate of £36,000, independently of the prisoners' labor and rations.

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117. *By Mr. Thomson.*—Do the prisoners receive any religious instruction?—Yes, they have school books and slates furnished on the requisition of the religious instructor or a clergyman.

118. *By the Chairman.*—Do you not consider that the cells in the *Success* and *President* on the lower deck, are calculated to injure a man's health if he is in solitary confinement in those cells for any lengthened period?—I think not. I think you will find that the number of deaths and amount of sickness is less in my department than almost anywhere in the world. Only two men have died since I have been at Pentridge, which is close on three years. I have 450 men there; one died the day before yesterday, from dropsy, and the other from strangulated hernia, and neither of the men who died there had been at the hulks. The date of my first report of the necessity of a hospital was the 9th of March, 1854. The sanction to the expenditure for the works was given on the 30th June, 1854; and on the 21st July, 1855, His Excellency declined to sanction the expenditure, intending to consider the subject of penal buildings. On the 15th August, 1855, the letter of Dr. McCrea and my minute, soliciting authority to erect the hospital, was forwarded to His Excellency, and which was refused on the 29th of August, 1855. In January, 1855, I requested authority to use postage stamps for prisoners' letters, as I believed it would have a good effect, if any good were left in the prisoners, that they should be allowed to communicate with their friends. That was not acceded to, as the auditor reported that it could not be done. On the 16th November, 1855, I requested that some relief might be afforded to prisoners who had been discharged. I saw the necessity of it, as several men were leaving me almost destitute, and I thought they must revert to crime, and when prisoners were going away I frequently had to give them clothing myself, and money out of my own pocket.

119. *By Mr. Hervey.*—Did that application meet with no favorable reception?—It did not. All the prisoners' monies were confiscated, and I suggested that any man who was convicted and came into the hands of the Government with any sum under £5 should be allowed to retain it, and I was told that it could not be done; and the prisoners generally came to me without a shilling. I have known some which I considered very hard cases, where large sums were taken by the Government.

120. Do you know what becomes of that money?—It is paid into the general revenue.

121. *By Mr. Stewart.*—When prisoners leave you, do they leave in the prison dress?—No. I have never known a prisoner leave me, except one, in the prison dress, and I should like to mention the circumstances connected with that case. I have had men sent up to me in prison dress who had no means of obtaining any other clothing, and I have purchased it for them myself. Before I came to the department all prisoners going to the hulks had everything taken from them and destroyed or thrown overboard—everything, good clothing and all, was destroyed. Directly I found that out I stopped it. The prisoners' clothing at Pentridge was under a tent in bundles, the tent was on the ground and I daresay there was a heap of clothing five feet high, and the whole mass was saturated, and completely rotten and smoking. I then had to apply to the Government for authority for the materials to put up a building in which to place the prisoners' clothing, and now, when prisoners come, a list is taken of everything they have, and their clothing is washed and put away, so that they can have it again when they go away. There is a case which has been before the public recently of a man named Martin, who is said to have been put ashore at Williamstown and discharged in prison clothing, and who was taken to the hospital with his toes rotting off. Martin was not discharged at Williamstown. Every man is discharged at my office in Lonsdale-street, and Martin was brought to my office for discharge. Seeing the man in prison dress with B.O. on it, which is not our mark, I immediately expected that he had been sent to me with gaol clothing, the B.O. being the Board of Ordnance mark and that clothing being in use at the gaol. I said to him, "How come you in gaol clothing?" He said, "This is what I was discharged in from the gaol to the hulk *Lysander*." I said, "Where is your clothing?" He said, "It is up at the gaol." I said, "I do not believe you have any clothing. I daresay you came in covered with filth, and they supplied you with these slops at the gaol." I said to the warder, "Go up to the gaol with this man and inquire for his clothing;" and I said to Martin, "If it should turn out, as I suppose, that your clothes have been destroyed at the gaol, you come up to Pentridge and I will give you a suit." I never saw the man afterwards, and I ascertained the warder did as I directed him, went to the gaol with him, and ascertained that he had no clothing; but the man never came near me and never came to Pentridge, and I never saw anything of him, or heard anything of him, until I heard that he was picked up and taken to the hospital.

122. *By the Chairman.*—If a prisoner has a complaint to make, who is the proper officer to make it to?—He tells the superintendent that he wishes to make a complaint, and the superintendent passes it on to me; and if he does not do so, of course every time the visiting justice comes round he has full power to complain.

123. *By Mr. Hervey.*—Is it part of the visiting justice's duty to visit each cell?—Yes. There is a complaint here [*producing the Penal Hulk President Visitors' Book*] against me, "prisoner James Morgan, 145, desires to lay a charge against John Price, Esq., Inspector General of P.E., for forwarding prisoner Joseph Newman to Sydney, under the plea of his being an absconder from N.S.W., Mr. Price knowing at the same time that Newman had been guilty of rape and robbery, for which offence he had never yet been tried, but his accomplice had been executed." This man had given me the information, and I told him that the prisoner had been handed over to the police, and brought up at the City Court, and that the woman had been summoned but she would not identify him, and that the magistrates discharged him. I believed

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him to be an escaped convict from New South Wales and Van Diemen's Land; but I could not find out his right name. The prisoner Morgan had been in possession of that statement from me some days before he laid that complaint before the visiting justice. Newman had been handed over by me to the detective police; and the woman had been summoned, but she refused to recognise him and the man was discharged, and this man Morgan knew this at the time he made the complaint, for I had told him of it.

124. *By the Chairman.*—Supposing a prisoner makes a complaint to Lieutenant Pascoe, is it his duty to forward it to you or to the Government?—It is his business to investigate it, and immediately report upon it to the Government; and it is his business to enter it in the book.

125. Supposing Lieutenant Pascoe thinks there is anything in a statement made to him, what course does he adopt?—He forwards his report to the Government, and the Government send it to me. I have nothing to do with the visiting justice. He communicates with the Government. He does not communicate with me; and if the visiting justice makes a remark in the book he immediately sends a transcript of it to my office, and when there is any complaint the Chief Secretary sends it on to me for examination.

126. *By Mr. Hervey.*—Are the complaints numerous from the prisoners in the hulks?—More numerous relative to their sentences than anything else.

127. Very few with regard to ill treatment?—Very few. They complain occasionally of their rations, but recently they have complained very seldom of their rations. I had a complaint to-day of the potatoes, but I think it is almost the first complaint I have had, and it is what we have a right to expect at this season of the year. I had a great deal of trouble last year with the contractor, we had very bad rations, but this year we have had very good rations.

128. The chief complaints are with regard to the food?—Yes.

129. From your evidence it appears that a man may be sentenced without reference to irons, and that in order to carry that sentence out, the man is put in irons because he is obliged to be put into a hulk?—Yes.

130. That is no part of the original sentence?—In some cases not.

131. That is the fault of the existence of hulks?—Yes.

132. Do not these men complain of being subjected to a tyranny which their sentences do not embrace?—Yes, but they are generally men of a very refractory class.

133. Do not you think it leads to exasperation. Part of the punishment appears to be that on transference from the gaol to the hulk *President* the men are placed in irons?—I do not think it leads to exasperation, because we have a great many men who pass through this treatment without committing any offence.

134. If penitentiaries existed would these men have to go through the same amount of solitary confinement in order to carry out their sentences?—I think in many cases of men of outrageous character, those men should be kept in separate treatment, but not solitary; they should be allowed to associate three or four together in the yard, but I think they should always be kept separate.

135. The use of irons in the *President* is for the purpose of breaking the spirit of the men, that they may be tractable in all time coming?—Yes, some of the men are more like wild beasts than men, when they come to us.

136. And that does so subdue them as to make them tractable?—If you leave them to themselves quietly they come to; there is no mistake about it.

137. Have you ever tried the reverse system of putting them at once to hard labor?—When first I came I found that none but short-sentence men were kept at the stockades. I think there were none with sentences over seven years at the stockades. I took several ten-years' men to Pentridge, and I very nearly lost them and with them a good many more men; they were most outrageous and violent in their conduct, and I hardly knew how to manage them, and I know pretty well what to do with men, and I had to transfer those men to the hulks, I could not hold them.

138. Were not the buildings so temporary that they almost offered a temptation to the men to attempt to escape?—One of the buildings out of which they went was not very temporary. You have no idea of what the strength of a building must be to retain an old convict.

139. But the ship *President* would retain the men, would she not, without their being placed in irons?—Not a week.

140. *By the Chairman.*—What is the use of putting a man in irons when he is in a cell almost below water mark?—You would scarcely imagine it possible that, in the case of Melville, the day after he was confined after this last outbreak, there was a long knife found on the top of his cell. Men's lives would not be safe unless the prisoners were ironed.

141. How did that knife get there?—I cannot tell how it got there; my impression is that it was placed there by one of the men engaged in cleaning the ship, and I think it was placed there with a view of enabling Melville to kill one of the warders.

142. Of course all the men sent to the hulk from the gaol are well searched?—Yes; but those men have always got means of communicating, they know as well as possible at the present moment, what is being done out here; they know of all these meetings, and of everything that has been said just as well as you do; they know everything as fast; and I can get more news from the *President* than I can from any other establishment.

143. What is the use of putting irons on the men down in the cells?—To restrain the men from violence; they would take the officers' lives in a minute.

144. That is from the small guard there is on board?—Yes.

145. The guard is not sufficient to prevent an outbreak without the men being ironed?—They would kill the officers, some of them, if they were certain of being hanged for it. On one

occasion some of the men on the deck intended taking the doctor's boat, which I suppose is the fleetest boat in the bay. When the medical officer comes off, the superintendent generally goes down with him, and the officers go below with him, leaving merely the sentry on deck; and those men intended seizing the doctor's boat, overcoming the sentry, hoisting sail and making off. Not long ago, I received an intimation from the detective police that the prisoners meant rushing, and in going over the hulk *Sacramento* I looked round and found all the men but four were in irons. I went up to the gaol afterwards, and a prisoner I had known for many years said he wished to speak with me privately, and he said, "Mr. Price, the prisoners at the *Success* are going to make a rush of it; they are either going to make a rush of it, or kill you; they have not determined themselves which they will do." I had been changing the men's irons at the time—putting on a lighter class of irons; indeed I was putting a good many of the new men in 7lb. irons. Next time I went down to the *Success* there were about two-thirds of the gang stepped out to have their irons struck and lighter ones put on. I immediately refused, and one man began to blackguard me, and I said: "Well, I shall change your irons and give you a heavier pair." From the information I received I knew that those men meant making a push at all hazards and getting away.

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146. *By Mr. Thomson.*—Where were they working?—Down in the quarry. Until you have a sufficient penitentiary you must keep those men ironed, and keep them in a heavy class of irons; 7lb. irons are no restraint to a man.

147. But the whole proceeding is absolutely illegal?—It is not illegal. I have full authority to do it. The Governor has power to make regulations; and the Governor, with the advice of the Executive Council, did make these regulations, that the men should be in irons.

148. *By Dr. Tierney.*—Would there be no possibility of making cells at Pentridge, so as to carry on the works there with the men from the hulks?—The cells are the next work to be undertaken, and I think it is very possible we might get those cells up in less than three years.

149. And you might get the very refractory people from the *President* hulk put there?—I think those refractory criminals might be got into the cells.

The witness handed in the following papers:—

Hours of labor at the Penal Establishments, Victoria.—(Vide Appendix F.)

Description and dimensions of cells on board the Penal Hulk *President*, with plan.—(Vide Appendix G.)

Description and dimensions of certain cells on board the Penal Hulk *Sacramento*.—(Vide Appendix H.)

*The witness withdrew.*

*Adjourned to Monday next, at two o'clock.*

MONDAY, 8TH DECEMBER, 1856.

MEMBERS PRESENT:—Mr. Hood, in the Chair; Mr. Hervey, Mr. Keogh, Mr. Miller, Mr. Patterson, Mr. Stewart, Dr. Tierney.

Crawford Pasco, Esq., R.N., examined.

150. *By the Chairman.*—You are visiting justice of the penal hulks?—Yes.

151. Have you any written instructions under which you act?—Yes.

152. Have you those with you?—I have not.

153. How long have you been visiting justice?—From the first establishment of the hulks, nearly four years ago I think.

154. What course do you pursue when prisoners make complaints against warders or overseers?—Any complaint that a prisoner has to make to me I go fully into, to see whether there are any grounds for such complaint, and whenever their complaint is well grounded I forward the same to the Chief Secretary.

155. Direct?—Direct.

156. Does the Chief Secretary always answer those reports; what answer do you usually get?—Simply an acknowledgment of the letters. The only acknowledgment has generally been that they have been referred to the Inspector General and there it ends. Any consequence arising out of my reports I am always ignorant of.

157. How many officers are there in the hulk, not in number, but in grade?—Superintendent, chief warder, and assistant warder, who is a sergeant, two corporals, who are lockers, and I am not sure of the number of warders.

158. Are those always free men?—So far as I am aware; that is to say, at all events, free at the time, not men under sentence or tickets-of-leave. I have heard of there being some men who were formerly prisoners.

159. Do those men ever get promotion, or once a warder always a warder?—No: warders may rise to be superintendents of hulks.

160. Have you ever known a prisoner to be punished at any time without the intervention of the visiting justice?—I only know of one instance in which I had cause to complain, and which was admitted by the Inspector General to be a punishment. I commented upon it rather strongly, and his minute was that the punishment should not be so great in future.

161. What was the name of that prisoner?—John Thompson.

162. You complained about it?—Yes, to the Chief Secretary.

163. And the answer was, that it should not be done again?—No; I got no answer, as far as the Chief Secretary was concerned.

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164. You visit the hulks once a week?—At least; generally more frequently.
165. If a prisoner committed a fault the day after you are there, is he not punished until your next visit?—He should not be.
166. Is he not put in solitary confinement awaiting your arrival?—No; he is kept in from the works on the reduced ration awaiting trial.
167. Then he is put in a cell and ironed?—They are all ironed. His irons are not put on in consequence of his coming in for trial.
168. Has the Inspector General the power of putting men in irons?—I never have been made acquainted with the authority for it.
169. He does do it?—Yes.
170. You do not know whether he has authority for it or not?—No. I have frequently brought it under notice, but never arrived at any conclusion upon it.
171. Have you ever known the case of a man sentenced to eight years on the roads being put in irons in the hulks?—Many.
172. Is that the general rule?—Yes; I know very few prisoners that are not in irons, though but few are sentenced to irons.
173. The Committee have it in evidence that men are frequently put in irons, not on account of the crime they are then suffering for, but because they have been previously known to some of the authorities over them as doubly or trebly convicted characters, or supposed to be such; do you know that to be the case?—I cannot say. I have no idea what the irons may have been put on for.
174. What is the proper course that a prisoner ought to pursue if he has a complaint to make; to complain direct to you or to the warders?—When I visit the hulks weekly, the prisoners have the opportunity of speaking to me directly; but if anything occurs in the interim of my visits, they should, through the officers who visit them, express a wish to see me; and then it would be the duty of the superintendent to send for me.
175. Do you know how often the medical man ought to visit?—Every second day, I think; but I am not aware what his instructions are; that has been his usual practice.
176. Do you know if prisoners, warders, or overseers are ever in the habit of giving information to the Inspector General direct, and not through the proper channel?—I have understood that prisoners have done so. When I say that prisoners should let their complaints go through me, I do not say they have no right to make a complaint to the Inspector General; they are so far under him that they may have many things to communicate to him; for instance, their removal from one hulk to another, or up to Pentridge, would be in the hands of the Inspector General.
177. Are any inducements held out to prisoners to give information direct to the heads of the department of any escape concocted, or rushing?—I have known indulgences granted for such services after they were performed. I never heard of any inducement being held out to them, but I believe it is pretty generally understood among them, and they give information with that view.
178. Then a complete system of espionage is going on from one prisoner to another?—Yes, I should say there was.
179. Do you know anything of the case of Ryan, who got six months for drunkenness and beating a constable?—I do not recollect the particular prisoner.
180. Are you aware that if the magistrates sentence a man to six months' imprisonment here, under their summary jurisdiction, it is quite in the power of the authorities to keep him for six months in irons?—I do not know about the power.
181. Do you know whether they do it or not; have you ever met with such a case?—I have known magisterial sentences to be passed in the hulks, and while in the hulks the prisoners are liable to be ironed.
182. And if they rebel they are liable to other sentences cumulative upon their first sentence?—Yes.
183. What is considered to be hard labor when awarded as a punishment?—A man may be sentenced to six months' hard labor, and he is then put to such work as there may be for him on the public works of the Colony.
184. Is it understood that any man who gets six months' imprisonment is necessarily to be put to hard labor?—Yes. The magisterial sentence is generally to hard labor.
185. Have you ever remonstrated to the Government upon the treatment prisoners were receiving, either verbally or by letter?—Do you mean generally?
186. Yes, or in particular cases; you have mentioned one particular case?—Yes.
187. But generally, have you remonstrated in general terms?—Yes: in the very early establishment of the system I recollect speaking of the system being anything but reformatory.
188. Is there any examination of prisoners made when they come on board the hulks so as to classify them?—That I am not aware of. I have no right to interfere with the prisoners beyond such complaints as are brought either by them or against them, and taking cognizance also of the general order of the prisons, cleanliness, and so on, and inspection of the prisoners.
189. Do you know the case of a man McGuire, who was said to be out of his mind, who is now understood to be in the hulks?—I do not think he is in the hulks.
190. Would you furnish the committee with a copy of your reports to the Chief Secretary?—I have them here—[*producing the same*]. The first reports are copied in full; latterly, the ordinary details are as usual, and are left out; and when there are any complaints of prisoners I have given the details. I have also here a copy of the depositions taken in the case of the prisoner John Thompson—[*producing the same*].
191. *By Mr. Hervéy.*—It appears to be the practice, that, after prisoners receive sentence, the gaols are cleared by sending numbers of prisoners to the hulks?—Yes: there or elsewhere.



192. They are drafted first to the *President*, are they not?—The *President* is called the punishment hulk. The Inspector General has the disposal of the prisoners when once in his hands, and if he thinks a man is an unsafe and refractory character, he will send him at once to the *President*, although a short-sentence man, subject to Governor's approval.

193. And during the first part of his residence at the hulks he is put in irons?—That I believe is also in the hands of the Inspector General; but they are all in irons, with very few exceptions. I think, without any exception, they have all been in irons in the *Success* and the *President*.

194. Do you consider that there is any possible necessity that those men should be put in irons from any cause that you are aware of?—No.

195. You can suggest no cause why they should be put in irons?—No: particularly in the *President*, where each man is locked in a separate cell.

196. You do not think it necessary for the safety of the hulk?—No: I think when the men are in the cells they are perfectly secure. Any amount of irons or no irons at all could make no difference, and when they are let out for exercise they are put in handcuffs, in addition to the leg irons already on.

197. From your knowledge of the hulks do you consider that the prisoners could be safely guarded without the necessity of ironing them?—I cannot see the object of irons when the men are not out at work. When 200 men are on shore at work under a small guard, irons may be absolutely necessary.

198. You think the men at the *President* would be quite as safe without irons as with them?—I think so.

199. You think very little of the insecurity of the hulks as a necessity for ironing the men?—I think there is less cause probably for irons in the hulks than if the men were in a stockade.

200. From your visits to the hulks, especially the *President*, where the men are confined on an average for from two to three years, with an occasional hour's exercise only, do you ever find the effect of the ironing to be exasperating to their minds in any way?—No; I do not think I have noticed the effect of the irons to be such, insomuch as the poor wretches seem to become used to it.

201. Have there been no complaints made from the fact of their being in irons?—Yes; there have been complaints that they have been suffering in irons when they were not sentenced to it.

202. *By the Chairman.*—Has that been a frequent cause of complaint?—Yes.

203. *By Mr. Hervey.*—Have you submitted those complaints to the proper quarter?—Yes; where they have occurred they will appear in the reports which I have handed in.

204. In visiting the hulks, do you generally at each visit call at each cell?—There is a general inspection; but, sometimes, having other duties to perform, I have not all the day clear. When I have time to devote to it, I visit each cell; but I invariably go round the decks, and the prisoners know that I am there; and any prisoner can call my attention if he wishes to see me.

205. Your object is to see as to cleanliness and proper treatment, and to hear any complaints?—Yes.

206. Have the complaints been very numerous, and are they still so?—There have been many complaints.

207. And you are still liable to hear many complaints?—Yes; I must confess they have been more numerous within the last fortnight.

208. Have they been of a more substantial character?—No; I think the complaints have become more numerous now from the idea that there will be more attention paid to them.

209. Could you give the Committee any idea of the general character of the complaints that are made to you? Are they as to the warders treatment?—No: those complaints have been very seldom well grounded. On investigating them, I have found that the men were merely feeling the acuteness of discipline, and had no just cause of complaint.

210. Could you, in a general way, say what is the nature of the complaints—do they partake of one character, as to insufficiency of food, for example?—No; there is very seldom any complaint as to food. There is one complaint which is very common with them: those who are second-conviction-men are not entitled to a certain indulgence which is open to those who have been convicted for the first time—that indulgence being a remission of sentence; and some of the prisoners complain that they are worked as second or third-conviction men, having only been convicted previously under the "Vagrant Act" or for drunkenness, and not for felony.

211. Presuming the men were known to the Inspector General as being old convicts in some other Colony, would that affect their sentence?—No: that is merely marked against their original sentence as being bond.

212. The case which you have now mentioned to the committee is the only one in which you have had any serious complaint against any officer of the hulks for ill treatment?—That is the only one.

213. Have you seen no case of ill treatment where you have found it necessary to remonstrate, but not sufficient to warrant a report?—Yes, I have sometimes mentioned to the warders that I thought they were rather exacting and calculated to provoke ill conduct.

214. What relief have the prisoners for their minds during their confinement, can they read?—Yes for some time past they have had books.

215. Can they read those books on the lower deck?—Yes, occasionally; it is lighter on one side of the vessel than the other.

216. Do the prisoners have to resort to some expedients for increasing the light?—If they

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just set their tin pot over the scuttle it acts as a reflector and increases the light, but it is not absolutely necessary on the sunny side, on the shady side there is scarcely any light; that is a thing that could not be well counteracted.

217. Do you consider the ventilation good?—I have called the attention of the medical officer to it once or twice, but we have never found any ill effect from the want of ventilation.

218. Are the men generally healthy?—Yes.

219. After serving in the *President* for several years, are the men passed to the other hulks as a relaxation from solitary confinement?—That I believe depends on the Inspector General.

220. Have you known men kept in the *President* ever since you have been visiting justice?—Yes, there are some there who have been there from the beginning, with the exception of when the hulk was under repair.

221. Can you state any reason why that was necessary?—I cannot.

222. Was there anything in their conduct to lead you to think it necessary?—No. I think among the correspondence there will be found some complaints from the men for being in the *President* so long. A man who has a certain sentence, say seven years, will be due by good conduct for indulgence, say in four years; but if he goes to the *President*, so long as he is there, I am informed, he cannot apply to reduce his punishment, and the Inspector General might choose to keep him there for the whole seven years. I have been given to understand that while prisoners are in the *President* they cannot apply for their indulgence.

223. Is it the fact that some of the long-sentenced men are still on the *President* who were there when you first became visiting justice?—I think so.

224. Have they been worse conducted men than those who have been allowed to pass to labor?—I think not, I think some of the most refractory have been removed to the *Success*.

225. Why?—That I cannot say.

226. That does not come into your department at all?—Not at all.

227. So that a man who from your own knowledge was very well conducted you would have no power to recommend for relaxation by passing him to another hulk?—I am not aware that the removal from the *President* to the other hulks is in any way dependent upon their good conduct. I may recommend.

228. Nor do you know what it is dependent upon?—No.

229. There is no doubt as to the stringency of the punishment at the *President* being very different to that of any other hulk?—It is different inasmuch as it is extremely monotonous.

230. The prisoners are not allowed to labor there?—No, each man is in a separate cell and has his hour's exercise.

231. And being passed to another hulk is relaxation in the eyes both of the prisoners and of the authorities?—Yes.

232. So that there is not a doubt of the penal discipline at the *President* being greater than that at the other hulks?—She is termed "the punishment hulk" I believe officially.

233. *By Mr. Miller.*—Had you any experience in the management of convicts before you arrived here?—Never.

234. You have been in the navy?—Yes, nearly twenty-seven years.

235. How long have you been in charge of the hulks as visiting magistrate?—From their first establishment—four years.

236. What are the punishments in the navy which you have been accustomed to see inflicted?—Corporal punishment in olden times, but it is very seldom resorted to now.

237. Corporal punishment is still in use in the navy, is it not?—Yes; it has never been entirely abolished.

238. How many lashes have you seen inflicted at the time?—Four dozen is the extent.

239. Is corporal punishment allowed on board the hulks?—No.

240. What are the punishments there?—Solitary confinement is the only punishment which can be given in the *President*, with the reduction of rations, and a certain number of days in a small cell, on bread and water, and without any light.

241. Are you aware whether or not the men on board the *President* are selected for the hulks as being the worst of the bad?—I am not aware of that, but I am under that impression.

242. Do you know anything of the antecedents of those men—the prisoners generally in the hulks?—Yes; their original condition is recorded on their tickets. Many of the men in the *President* and the *Success* were originally bond.

243. Is there any register kept in the hulks showing the crimes the prisoners have committed formerly?—No; I think not.

244. And showing their propensities and characters?—I am not aware of any such record.

245. Then you can form no idea of the character of the men on board further than their conduct comes before you?—Just so. I have nothing whatever to refer to, to give me any such information.

246. Do you look on those men as capable of being reformed?—Unquestionably.

247. You think there is still a possibility of reforming them?—I think so. I can never conceive any human being out of the reach of that.

248. Generally speaking, you think that no man gets so bad as not to be capable of reformation?—I have seen evidences in those prisoners of certain feelings which would induce that hope.

249. *By the Chairman.*—Do you not consider that the present system of prison discipline is almost calculated to destroy any hope of reformation?—I have frequently stated so.

250. *By Mr. Miller.*—Are you aware that it was the practice in England to select from

the prisons there certain men as being utterly incorrigible and send them to Norfolk Island?—Yes. I have understood Norfolk Island to be the receptacle for incorrigibles.

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251. But you do not think any man incorrigible?—It may have been the opinion of those that sent them to Norfolk Island that they were incorrigible; but I would not place even them outside the line of hope of reformation.

252. Are not some of those prisoners at the hulks now men who have been sent to Norfolk Island?—Some of them are.

253. And you have found that the system pursued at present towards those men does not reform them?—They have a better means of reformation than they had formerly, because of the introduction of books into the hulk.

254. What means of moral and religious instruction is afforded to those men on board the hulks?—They have a library, which is passed round in proper turn; and they have had the visitations of a religious instructor during the last two years.

255. What religious instructors are there?—There is only one appointed one, but there are several who have visited.

256. Clergymen?—Ministers of different denominations.

257. Are they allowed access to the prisoners?—Yes.

258. Have you observed what effect the visits of those clergymen have had upon the men?—I cannot say that I have had reason to remark that those who have given most satisfaction to the instructor have been less frequently before me; nor have I, on the other hand, remarked the contrary.

259. Then, as far as you have observed, it has had no effect?—I would not say that the effect is visible.

260. Have you observed any of those men discharged from the hulks?—No; I have never seen them. They are never discharged direct from the hulks. When a man is approaching his time of discharge he is returned to Pentridge.

261. Have you had any opportunity of ascertaining whether those who have been discharged have become reformed members of society or not?—The only ones I have ever met with who have been discharged have been those who have returned immediately to the hulks.

262. Having committed fresh crimes?—Yes. Those are the only men I have met with since.

263. *By the Chairman.*—How many have there been of those who have returned again during the four or five years you have been there?—Not many. I have seen a few only.

264. *By Mr. Miller.*—Do you think men could be kept in safe custody on board the hulks without irons?—In the hulks I think they could, but not in the stockades.

265. You think on board the *President* they might be safe without irons?—I think so.

266. Are you aware whether that is an opinion entertained by men who have been accustomed to guard and keep those prisoners, warders and other men who have been in charge of convicts?—I have never heard a similar opinion expressed by those who have been accustomed to the convicts.

267. Have there been religious instructors and others visiting the hulks whose visits have been forbidden at any time?—None have come within my knowledge; that is to say, I have never been informed of it.

268. You are not aware that the visits of some of those parties have been prevented because it interfered with the discipline of the prisoners, that those parties did not confine themselves to religious instruction?—I never heard of it.

269. *By the Chairman.*—Has ever a case occurred where the superintendent of the hulk has lodged a complaint against a man, where you have dismissed the complaint as not deserving of punishment?—Yes; and many others which have been of so trifling a character, that I have expressed my regret that they should have been brought up.

270. And in the mean time those men have been under a species of punishment, illegal, as they were kept under separate diet and cells awaiting trial?—Yes.

271. Then the fact of your dismissing the case would lead to the conclusion that they had been punished unjustly?—So far it was an anticipation of conviction.

272. *By Mr. Miller.*—The punishment on board the *President* is very severe, is it not?—Yes, it is intended to be such; she is styled the "punishment hulk" for the worst characters.

273. The whole punishment of keeping those men in irons, and in confinement in cells, is probably as severe as could be possibly invented, is it not, or punishment worse than death?—I would not say it was worse than death, but it is as severe a punishment as men could well have; the immense length of sentences which many have to serve.

274. *By Mr. Patterson.*—Are the hulks moored in such a position as that they do not ship water now?—There are one or two which do, the *Success* particularly, she is the outside one.

275. What is done with the prisoners when the water comes into their berths?—There are scuttles for shutting the water out, and then the prisoners are deprived of light and air. Within the last week a man was reported for not shutting his scuttle, for allowing his cell to get wet.

276. Was it his fault?—Certainly not; I dismissed the case at all events; the scuttle was open and the sea came in.

277. In what position are the prisoners' beds—do they get wet?—If the sea comes in at night they would, the bedding is not kept in their cells during the day time, it is only given in in the evening.

278. *By the Chairman.*—Do you know if there is any regulation as to the manner in which the prisoners must fold their blankets and rugs?—Yes.

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279. Are the authorities very particular about that?—Yes.

280. Have you ever had a prisoner brought before you for folding his bed half an inch too large or half an inch too small?—Not so exact as that, but men have been brought up for wilfully, carelessly infringing the regulation.

281. Might not a warder or overseer complain of a man and shove him about and punish him because his bed was folded an inch or two too big?—It is possible; but very likely it would not come before me.

282. *By Dr. Tierney.*—Do you think the cells are sufficiently ventilated?—I think they are.

283. Do you think persons can be healthy in that confined atmosphere?—The proof is that the medical officer always has reported favorably of the general state of health of the prisoners.

284. Do the medical officers frequently visit and see after the food?—The one medical officer does.

285. *By the Chairman.*—You say some time ago the Government appointed a religious teacher?—Yes.

286. What denomination does he belong to?—The Church of England.

287. What is his mode of teaching, or lecturing, or exhorting?—By visiting the prisoners individually in the *President*, and in the *Success* there are three or four in a cell.

288. Does he take them all without exception?—All of his own denomination; those that object are not compelled to hear him.

289. He is paid by Government?—Yes.

290. Do you know whether other denominations have visited the hulks equally steadily?—Not latterly; but prior to the appointment of the religious instructor I have referred to, the Presbyterian minister visited very regularly.

291. Did he get any pay?—No, nothing, so far as I am aware.

292. The Government did not appoint the Church of England reader until there were funds to pay him. At the time Mr. Corrie was attending, this lay reader was not in attendance?—No, he was not; he did not come until he was under pay; but I am not aware by whom he was appointed.

293. *By Dr. Tierney.*—I find in the year 1853 the following entry occurs in the Visiting Justice's Minutes:—"The question is put by some prisoners, 'Why are they kept in irons,' not having been sentenced so, or that the period mentioned by the judge 'in irons'-has expired." You say, "A reply to this query is requested." There is an impression abroad that a great many of the prisoners in the *President* are illegally in irons. Do you think that any of the prisoners at the present time are illegally in irons in the *President*?—I am aware that many are in irons not upon the warrant of the judge who sentences them.

294. Then how are they legally in irons?—The question was put there three years ago, and that question I have never yet had a satisfactory answer to.

295. You say, "A reply to this query is requested." Did you ever get a reply to that question officially?—No, I did not.

296. Do you or do you not think that, at the present time, some of those men in the *President* hulk are illegally in irons?—I do unquestionably. I am not aware of any right that there is to put them in irons.

297. I see in this book, on the 8th of March, 1853, you say, "Charles Halliday desired to see a Romish priest, but I cannot recommend such indulgence without being apprehensive of evil." What apprehension of evil had you about a Romish priest more than any other person?—There had been an instance previous to this of a Romish priest being closeted with one of the prisoners. It was reported to me by the superintendent of the *President* that he had got himself enclosed in the cell unknown to the warder, and I suggested to him that any person violating the privilege of visiting the prisoners in that way should be prohibited in future.

298. Did you inquire into the fact, and satisfy yourself that what the warder told you was true?—It was not the warder, but the superintendent, who complained to me of that.

299. What is his name?—Mr. Price; not the Inspector General, but another Price.

300. What measures are taken to reform prisoners in the hulks?—The only thing that is done in the shape of education is through Mr. Maccand; there is nothing in the shape of class or school. Lately they have had slates, but there is no classing; they have abundant means now of improving themselves by education. I have known instances of men who were perfectly illiterate, who, when they came in, did not know their alphabet, but who now can read and cypher.

301. And you consider that that is the only measure that is taken to reform prisoners in the hulk *President*?—Yes.

302. Are there other measures taken in the other hulks?—No; there are only the same visitations from the same instructor; but for a long time past no Romish prisoner has been supplied. I communicated recently with Dr. Geoghagan, requesting that he would provide some one to visit those prisoners who wished to see a Romish priest.

303. What accommodation is there in the shape of a hospital in the hulks?—There is a hospital ward in the *Lysander*, with beds that would probably accommodate twenty.

304. *By Mr. Keogh.*—When the men are sick, do they complain to you of ill treatment, or do they go on with their work—how are they treated when they are sick?—They are kept in then from work until they are reported cured by the doctor.

305. But according to you, it is the greatest punishment to be kept in—does the same punishment extend to a man when he is sick as when he is well?—Of course if a man has a sprained back, or is under any illness, he cannot work. He must be in the hulk for medical treatment.

306. How is he treated there?—Medically.

307. How is he as to his cell—is he kept in his cell in the same manner as if he had been in good health?—Just the same. There is no alteration whatever in the discipline excepting that he is excused from certain points of discipline while under medical treatment.

308. Are the irons kept on him all the time he is unwell?—It is in the power of the medical officer to recommend their removal.

309. How are the prisoners generally treated in that respect?—The irons are invariably kept on, unless there is some extent of malady requiring their removal.

310. Are they kept on in the hospital ward?—There is only a hospital ward in one hulk, and there the men are not under irons. In the other hulks, if there is anything serious, the irons are removed.

311. Do the sick prisoners receive any medical comforts?—It is in the power of the medical officer to issue them.

312. *By Dr. Tierney.*—Do you know a person of the name of Willis?—Yes; he was superintendent of the *Sacramento*.

313. What was he dismissed for, or did he leave himself?—He was dismissed. I am not prepared to say what the fault was. As visiting justice, I am not aware of any fault on his part.

314. Who had the power of dismissing him?—The Inspector General, I believe, or of recommending his dismissal.

315. Without any inquiry into his conduct?—I am not aware.

316. You did not sit to inquire into his conduct?—No; and I always thought highly of him as a superintendent.

317. Have you seen his statement in the *Herald* to day, corroborating what Melville has said?—Yes.

318. Do you think there is any truth in it?—It struck me with respect to the statement of Melville, that it was an exaggerated one.

319. On the whole, do you think there is a good part of it true?—Yes; the simple fact of his being handcuffed in his cell, and so on.

320. *By the Chairman.*—Who is the paymaster of the department—how are the warders paid?—That is out of my province. I rather think the superintendents receive the pay from the Inspector General's Office. I think the head of the department draws the money and the superintendents disburse it.

321. *By Dr. Tierney.*—As you are the visiting justice, are the committee to understand that the servants of the hulks may be discharged without your being consulted, or your opinion being asked?—I have nothing whatever to do with them.

322. You do not inquire into them?—No, not into their complaints even. If they commit a breach of discipline, it is disposed of by their own department.

323. Are you ever interfered with in the execution of your duty as a visiting justice?—In hearing complaints the court is entirely my own; but in procuring redress for complaints made by prisoners, I have had much cause to complain—points on which I expected to be enlightened, I am still in the dark upon.

324. Are you restricted in your duties at all as visiting justice, by being dictated to by any one?—There is no dictation about it; it is the duty of the visiting justice to inquire into complaints made by or against prisoners, and it is the duty of the visiting justice to obtain redress for the prisoners' complaints, and the only means the visiting justice has of obtaining redress is by communicating to the head of the Government.

325. Do not you inquire into the complaints to see if they are true?—I have not the means of inquiring. I write to the Chief Secretary to say that such and such a complaint is made; it is not for me to take the Inspector General to task for anything a prisoner complains of. I communicate the complaint to the Chief Secretary, and it is then left in his hands to deal with.

326. Are you ever asked by the Chief Secretary to go and investigate a charge?—No; I think the general reply to me has been, that the complaint has been referred to the Inspector General, and that his reply is satisfactory.

327. And that is the first and last you hear about it?—Yes.

328. Then you are restricted in the discharge of your duty?—My powers are limited in that manner; it is not in the power of the visiting justice to obtain that redress which he may think necessary.

329. Have you the power of taking off or putting on irons?—I have the power of putting on irons by sentence.

330. Are any of the prisoners in irons at the present time under your sentence?—There are some, but very few.

331. Has that been for insubordination?—No, not for insubordination, but for absconding, or attempting to abscond.

332. *By Mr. Hervey.*—Have complaints reached you from the prisoners that the complaints made by them on previous occasions have not been attended to?—Yes. The complaints have been repeated again, and I have also called attention to them. That will be found in the correspondence; or sometimes the men have complained that the reply to their complaint was unsatisfactory.

333. Then that shows that some attention had been paid to them?—Yes; as for example, that their complaint had been referred to the Inspector General.

334. Do you communicate the replies to the prisoners?—Yes, the substance of them; and the reply not being satisfactory, the complaint is repeated.

335. You do not know whether they ever get a final and satisfactory reply?—No. I will give the committee an instance. In the case of a prisoner who had undergone solitary confinement

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for a considerable time, the medical officer had considered it necessary to deprive him of a certain portion of his rations, fearing that the full rations would be prejudicial to him. The prisoner complained of this, and condemned the treatment he had been subjected to, and requested that he might have other medical advice. He said, "I think the medical officer has acted unfairly with me; he has given me this not for my health's sake, but out of spite, and therefore I request I may have other medical advice," and that was denied him. It was referred, as a matter of course, from one department to another, and to the chief medical officer; and in this particular instance which I am speaking of, in the case of the man Thompson, the medical officer, instead of coming down as the prisoner had hoped for, to see whether his state of health required the reduction in his rations, referred it to the medical officer of the hulk who had submitted him to this treatment, and was satisfied with his report.

336. *By the Chairman.*—Has the case ever occurred of an absconder getting away and being subsequently re-taken for committing another crime? Supposing an absconded prisoner commits a larceny, and is taken up before the magistrates and committed, and sentenced at the Supreme Court, and is brought back to the hulks and recognised as an absconder, has he then to serve out his previous term of imprisonment as well as his subsequent sentence—has such a case ever occurred?—I have never known it. There was a case a few days ago, where a man complained to me. He had been an absconder in 1851 or 1852, when he was under sentence for three years. He absconded and was not apprehended until the expiration of the term of his sentence, and then was sentenced under an Act which was not in existence at the time of his absconding.

337. *By Dr. Tierney.*—Have you had many ticket-of-leave holders brought before your bench in your magisterial capacity?—Never any ticket-of-leave holders.

338. Have you any idea what becomes of the ticket-of-leave holders?—I have no knowledge; I presume they are required to keep themselves within a prescribed district.

339. You do not know what ultimately becomes of them?—I know of one instance of a prisoner now in the hulks who was out on a ticket-of-leave, and while out he was brought into the goal for some offence, and his ticket-of-leave was cancelled by the visiting justice.

340. Are you aware whether any notice is taken of those ticket-of-leave holders, when they are sent up the country?—I am not aware what surveillance they are under.

341. *By Mr. Keogh.*—The prisoners in the hulks, unless they can read and write, have no instruction, have they?—I could instance the case of an Irishman who could neither read nor write when he went into the hulk *President*, who can now cypher. He was instructed by a man in the next cell.

342. Are the prisoners allowed to communicate with each other?—Each prisoner is allowed to communicate with the man immediately adjoining him through the bulkhead.

343. *By the Chairman.*—Then they can communicate from one to the other right round the ship?—They do communicate in that way.

344. *By Mr. Keogh.*—There is no punishment for communicating in that way?—Not for ordinary conversation.

345. *By Mr. Hervey.*—They are not allowed to communicate across the deck?—No. The system was originally essentially a silent system, but it has been considered an indulgence to allow each man to speak to his next door neighbour.

*The witness withdrew.*

Mr. Angus McPherson called in and examined.

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346. *By the Chairman.*—You are superintendent of the hulk *President*?—Yes.

347. How long have you been there?—Since the 20th June last.

348. How many warders are there employed in that hulk?—Twelve belonging to the ship; but out of that number there are two on board the *Deborah*. We have twenty officers in all.

349. How many prisoners?—The complement is eighty; at present we have only sixty-eight.

350. What pay do the warders get?—Ten shillings a day.

351. Is there a head warder?—There are two corporals that receive sixpence a day extra; the sergeant gets 12s. a day; and, there being few men in our ship, I combine both the duties of superintendent and chief warder.

352. What grades are there in the service?—There are twelve ordinary warders at 10s. a day; two lockers or corporals at 10s. 6d. a day; one sergeant or assistant warder at 12s.; a storekeeper and clerk at £275 a year; a shipkeeper at 15s. a day; myself as superintendent and chief warder at £400 a year; and we have two boatmen—seamen who receive the same pay as the warders, 10s. a day.

353. And those men are or can be always armed?—The warders only; the shipkeeper and storekeeper and boatmen are never armed.

354. Then it takes one man to take care of every four prisoners?—Yes.

355. Is not that rather an expensive system?—Very.

356. When a prisoner misbehaves by talking loudly, or breaking any of the prison rules, what is the ordinary course pursued?—The sentry on duty, in which ever deck it may happen to be, reports the case, by putting his name in the prisoners' report book, and it is then brought before the visiting magistrate for his decision.

357. The visiting magistrate comes once a week?—Yes; or not exactly once a week, but his visits will average four times a month.

358. If a man commits an offence the day after the visiting justice has been there, is he put in irons, or is any species of punishment resorted to until the visiting magistrate comes again?—Not unless it was a case of assault; not for an ordinary offence.

359. What do you call "an ordinary offence?"—Talking loudly, or using bad language, or insolence. Mr. A. McPherson  
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360. The complaint is laid before the visiting magistrate when he comes, and he has the power of punishing the offender or dismissing the case?—Yes.

361. He sometimes dismisses the complaints, does he not?—Yes; he sometimes dismisses cases, and very often admonishes only. The conduct of a prisoner may be against the hulk regulations, and then it becomes the duty of the sentry to report him, and he has nothing further to do with it.

362. What constitutes an assault?—Striking an officer or a warder.

363. A prisoner might threaten a warder or be abusive and yet not strike him, or it might be that the prisoner was struck first. Are the prisoners so much in the power of the warders that a warder can goad a prisoner to such an extent as to make him rebel; and if so, is he then treated in the same manner as if he had had no provocation whatever?—From my own experience, I should say that the prisoners are not goaded, so far as I have seen; it may happen occasionally when an officer is not present.

364. Was there a man of the name of Michael Ryan on board the *President*?—Yes.

365. Could you give the Committee the history of that case?—I knew him at Collingwood, when I was there. He was sentenced to six months' imprisonment for drunkenness, and his punishment in all, from magisterial sentences, cumulative upon his original sentence, amounted to two years and five months. He was discharged from me at the *President*; but while he was there, he received no punishment.

366. *By Dr. Tierney.*—Was he in irons on the *President*?—All the prisoners on the *President* are in irons without any exception.

367. What was the weight of his irons?—7 lbs.

368. You knew nothing of Michael Ryan before he came to you?—I saw him at Collingwood.

369. You knew nothing of his previous history?—No more than seeing him at Collingwood.

370. Was that all within his period of two years and five months?—Yes.

371. Are you aware whether, now or since the hulks have been established, warders or officers of any grade have been convicts under sentence? Have convicts under sentence been promoted to be warders within your knowledge?—No man who has ever undergone a sentence in this colony has been made a warder; we have as overseers men who are called "old hands," but not men who have undergone a colonial sentence in this colony.

372. Do you think it would be wrong to appoint prisoners as warders?—Decidedly.

373. *By the Chairman.*—When you were at Collingwood stockade, were not the prisoners made bookkeepers there?—There was one free clerk, assisted by a prisoner. The head clerk was a free man.

374. Are you aware whether inducements are ever held out to prisoners to act as spies upon their fellows—that is, that if they can furnish the head of the department with information as to any projected escape, they will get indulgencies thereby?—There is nothing held out, but they frequently do give information.

375. Have you ever known them to give false information?—No.

376. Do you always find the information given by prisoners of attempted escapes realized?—We could not say. If the attempt actually comes off, we are certain the information is well founded; but then if the prisoners see we are more on the alert than usual, they, what they call, "drop to it;" and then we could not say whether the information was right or wrong.

377. Do not you think there is a good deal of espionage carried on?—There is a good deal; but there is no inducement held out to the prisoners to give information.

378. That is as far as you know?—Yes.

379. Have you a shower bath on board the *President*?—No.

380. There is one on board of the *Success*, is there not?—Yes.

381. Do you know whether that has been used as a punishment?—I do not; I never was two hours on board of her.

382. Was that shower bath put up in the *Success* in your time?—It was put up about three years ago, when I lay on one side of the Bay and she on the other.

383. There is a box on board of the *President*, said to be a place used as a place of punishment for certain offences—does the visiting justice ever award it as a punishment for a man to be kept in that box for a certain time?—No.

384. Have you seen it used as a place of punishment?—Yes, it has been used even in my time.

385. Under what circumstances?—If a man is refractory, he is put there by day, but he never sleeps there.

386. Then it is not true that people have been kept for five or six days in that box at a time?—Not to my knowledge.

387. Might it have happened in the *President* without your knowledge?—No, not while I belonged to her.

388. Can you order a man to go in there without the sentence of the visiting magistrate?—Yes, it has always been considered so.

389. Who orders it at the present time—yourself?—Yes; if a man was riotous and disorderly, he would be put in there.

390. *By Mr. Patterson.*—Have you ever put a prisoner in the box?—I have.

391. What time did you keep him there?—Only during the day.

392. Have you kept prisoners in the box for more than one day at the time?—Yes.

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393. What was that for?—I forget the offence.
394. What was the man's name that was in the box for more than one day?—Thompson.
395. *By Dr. Tierney.*—Is this punishment ever ordered by the visiting justice?—No.
396. It is only inflicted by yourself?—Yes. In fact, I found a man undergoing it when I took charge.
397. Does Captain Price ever order that punishment?—I have never known him do it.
398. Then you never knew anybody but yourself order that punishment?—No.
399. Was Captain Price aware that this punishment was inflicted?—He must have been aware of it.
400. Are those punishments reported to the visiting justice?—No; it is not considered an addition to his solitary. Mr. Pasco, coming round, sees the man there.
401. *By Mr. Patterson.*—Do you record in any way the punishments you inflict upon the men?—No, simply that it is so many days' solitary, and it is optional with the superintendent whether it shall be in the box, the cell opposite, or the two after cells on the lower deck.
402. *By Mr. Hervey.*—The visiting justice orders solitary confinement and you may carry it out in one of two ways, either by the box or in the cell opposite?—Yes, or the two after cells on lower deck.
403. Can you order a man into the box when he is riotous irrespective of the visiting justice?—Yes. If it was considered necessary to put a man in till the visiting justice came, I should put him in.
404. *By Mr. Patterson.*—Do you say you can put a man into the box whenever you like?—No, only while he is undergoing a magisterial sentence of solitary confinement.
405. *By Mr. Hervey.*—The power does not lie with you as the manager of the hulk to put a man into the box whenever you think it necessary?—No, I can inflict no punishment.
406. *By the Chairman.*—If solitary confinement is ordered, you may put the man into the box if he is refractory?—Yes.
407. In respect to solitary confinement, do you not find that what is mere pastime to one man may be almost death to another?—I have found a great difference in the men.
408. And one man will become a favourite with the warders for being quiet, and the other just the opposite?—Yes, in a general way, they would be noticed according to behaviour.
409. Is it not the province of the visiting justice or the medical man to discriminate between those characters and order punishment accordingly; is such a thing ever taken into consideration?—No, that is, his temper is not taken into consideration, it is simply the offence at the moment; the visiting justice is guided in his decisions by the record of character which he has placed before him at every trial. Of course the superintendent's word as to the character of the man would carry weight.
410. If you saw a man being sentenced to fourteen days' solitary confinement, and you knew from the habits, and history, and character of that man that it would do him harm, would it be within your province to say you thought three days would be enough?—No, we should never venture that far; we should simply give the man a good character or otherwise.
411. *By Mr. Hervey.*—How long have you been engaged in the hulks altogether?—I have been nearly six months at this present time, and I was eight months before.
412. Was there an interval when you were away altogether?—Yes.
413. You have been appointed now to the superintendence of one of the hulks?—Yes.
414. You were not superintendent on the previous occasion?—No; I was chief warder on board the same hulk—the *President*.
415. In what year was that?—In 1853.
416. That was when she was first commissioned?—She was commissioned late in 1852 and I joined in 1853. There had been two chief warders before I went there.
417. How many prisoners were there at that time in the *President*?—I could not say from memory, but I think there were more than eighty.
418. Was she at that time the punishment hulk?—Yes, the same as she is now.
419. Was Melville there at that time?—He was.
420. How long had he been there previously to your joining her?—Some months. I could not exactly say how long.
421. Have you read his statement as to some very severe punishments being inflicted?—Yes.
422. Is that statement true or false?—So far as my memory serves me, it is not true; but the parties who could really speak more correctly would be the persons who attended him on the lower deck.
423. Are they still in the service?—No, they are on the other side. Mr. Horne was the assistant superintendent; and during the time Melville was undergoing punishment, Mr. Stephen Price took charge as superintendent.
424. Is either of those parties in the Colony?—No.
425. Would you give the committee any statement, as near as you can, of what may be in your recollection in connection with Melville's case?—I find by an entry in one of the books, that on the 4th June, 1853, Melville formed one of ten that were at exercise on the deck. Sergeant Graham, whom he speaks of in his statement, had relieved me for a few minutes, I having some business to transact; and while Graham was in charge, it appears that he ordered Melville to close up, that is, to keep a regular distance. The prisoners, when at exercise, go round the deck and march at a regular distance. This is the statement made in the presence of Mr. Pasco, and which, at the time, I understood to be correct. When he was told to close up, he stepped out from the rank and told Graham he would be treated with more respect, that he



wished him to treat him with more respect. I was not present at the time. Mr Horne and myself immediately came forward to the prisoner's yard, where the men were at exercise, and Melville stepped out on one side, and Graham made his statement to Mr. Horne of what had occurred. Melville was on that occasion very insolent to Mr. Horne.

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426. Were you then present?—Yes.

427. It was only at the beginning of this affair that you were not present?—Yes. I was present when he spoke to Mr. Horne. Melville was very much excited and very insolent. When the prisoners went down from exercise, Mr. Horne observed to me that he thought, from Melville's excited manner, there would be something up, and he would go down and see him put up in his cell. He went down and I followed him. When Graham took the handcuffs off Melville, he sprang at him and caught him round the neck, attempting to bite his nose off. Mr. Horne immediately jumped on his back, and Graham caught him a blow under the chin with a "neddy," and they all came to the ground together, and Melville certainly got a good hiding.

428. What do you call "a good hiding"?—With a "neddy," a life preserver.

429. *By the Chairman.*—Then a good deal of passion was brought into play—they were not cool?—No, a man within an ace of having his nose bitten off, would not be very cool.

430. *By Mr. Hervey.*—There were a good many blows passed?—Yes, a good many; he got a good hiding, and then we were obliged to put him again in the handcuffs. He states that thirteen men threw themselves on him, but there could not have been that number.

431. How many might there have been?—Perhaps five; he was kicking out in all directions.

432. What sort of blows did you see struck?—With a "neddy."

433. About the body, or face?—About the body; I do not think his face was cut, the doctor saw him afterwards.

434. Did the case require medical attendance afterwards?—No; he was awarded twenty days' solitary, and that very same afternoon he was secured and put in his cell, and put on a chain which went through a ring-bolt in the side of the cell.

435. Was it then that he was subjected to the punishment he speaks of, of being hung up?—No; it could not be so, because the ring is only three feet three inches from the deck. He was secured with his hands behind him, and fastened by a chain run through the handcuffs, short up to the ring-bolt. In fastening him up the sergeant made some mistake, or else it was from some defect in the handcuffs, and Melville got the chain adrift; it was immediately reported to me, and I came down again to have him secured. I opened the door of his cell, and he stood behind the door with the chain three or four times doubled in his hand, ready to make a spring and a blow. I opened the cell myself, and he said, "If it had been Graham, sir, I would have struck him," but seeing me, he was quiet enough, and we then secured him.

436. What length of chain was it?—A piece of old topsail sheet, or something of that sort. That same night he was tried by Mr. Pasco, and then we had another tussle to secure him; in fact, we had three tussles that day. He was tried by Mr. Pasco the same afternoon, and got twenty days' solitary confinement, and then we had as much trouble again to get him secured. He was not hit on that occasion, we were obliged to turn him over on his belly to secure him, he struggled so violently, and he was making use of the most violent language, and Mr. Horne considered it necessary to put him up in that way all that night.

437. Could he lie down?—No; he could not that night. The next day he refused all attendance, and I am not certain whether he was not kept in the same way the second night; but I am certain the third day I lengthened the chain myself, so that he could lie down in his cell.

438. Were his hands behind his back all that time?—I think they were the two first nights.

439. And in the day also?—Yes; he was released occasionally during that time, but he refused all attendance; he was sulky and stubborn, and he would not have his food, although his rations were served out to him.

440. The third night his chain was lengthened?—Yes.

441. Were his hands still kept behind his back?—No; he was allowed to sit on his tub at the corner of his cell; but the medical officer could speak to that, because he had visited him.

442. Did he remain in that state for twenty days?—No; the handcuffs were removed on the 15th; this took place on the 4th. It strikes me the chain was removed from him altogether before the twenty days were up; but I am not certain about that.

443. Was he the only prisoner you ever had to treat in such a way?—The only one I ever saw so treated; that was the only time I ever saw the chain used.

444. The system on board the *President* is that every man shall be in irons?—Yes.

445. And the system is supposed to be solitary, though not silent?—The silent system was tried in the first instance, but it is not adopted now.

446. Why is ironing the prisoners necessary on board the *President*; is it a part of the sentence?—No, not always.

447. But whether it is or not, they are ironed?—Yes; every man is ironed immediately on coming on board.

448. What is the reason of that?—That is simply according to the regulation.

449. You just merely follow orders?—Yes.

450. Presuming it to be from a feeling that the prisoners would be insecure if they had not leg irons on while in their cells, do you consider that if they had not those leg irons on they would be in a state of insecurity while they were in the solitary cells?—Not at all. I consider them quite secure without irons.

451. Both day and night?—Both day and night.

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452. *By Mr. Patterson.*—Do you think the number of watchmen would require to be increased if the prisoners were not in irons?—No.
453. *By Mr. Hervey.*—You think there would be no insecurity in the *President* hulk, so far as the prisoners in the cells were concerned, if they were placed there without irons?—They would be quite safe.
454. What would you do in respect to irons when they were on deck?—That would require consideration.
455. Have the prisoners great facilities for escape when on deck?—No. They come up ten at a time, each two men being handcuffed together.
456. Would they be always sure to attempt their escape if they were allowed on deck without irons?—I think they would attempt to do so.
457. What would their endeavour result in?—Many things might happen. They would rush the boat if they saw an opportunity, because they are all long-sentence men; or if not, they are the worst characters from the other stations, so that you have the cream of the whole prison population boxed up there.
458. There would be no fear of any danger as long as the prisoners were in the cells?—No.
459. But the fear arises when they come on deck?—I do not see any great danger then.
460. Could the twenty officers and warders that you have on the hulk let those prisoners leave their cells, and come on deck ten at a time, without being ironed; would it be safe to do it?—Not under the present regulation; there might be some other measures adopted.
461. Do the prisoners ever remonstrate against being ironed, as to the illegality of it?—I never heard the prisoners question that. They have done so when a man has been kept in irons over his time.
462. What do you mean by “over his time?”—Supposing a man is sentenced to two years in irons, and he serves that time in irons; and it is then found necessary to remove him to the *President*, he then has irons put on again.
463. If the judge makes no mention of irons in his sentence, is the man put in irons?—I could not say.
464. You do not think that, for the security of the prisoners, they need wear irons at night while confined to their cells?—No.
465. And that is your opinion, as one who has had a good deal of experience?—Yes; I consider them quite secure without any irons.
466. Do you consider the irons tend to exasperate them, and make them feel the punishment more severely?—Yes; the men cannot be comfortable at night, however light the irons may be; they get accustomed to it after a time, but it is a long time first.
467. *By Dr. Tierney.* Do the prisoners remonstrate against the irons being on?—I think it is a feeling with them, that they would grumble when they were made to wear irons for more time than the time they were sentenced to irons. I could not say I ever heard a man directly remonstrate about it.
468. They have remonstrated about it, have they not?—I have heard the men speak of it, of course.
469. Are there any measures taken on board the *President* for the reformation of prisoners, or are measures taken more to punish them than to reform them?—The long-sentenced men and bad characters from the stockades are sent there, and when they come there, of course, they are obliged to comply with the regulation of the ship. So far as reformation is concerned, the religious instructor comes once a week.
470. Are there any measures taken except that to reform the prisoners?—None.
471. Then you think the hulks are more places for punishment than reformation?—Decidedly; our own hulk.
472. *By Mr. Hervey.*—You merely speak as to the *President*?—Yes.
473. *By the Chairman.*—Do you think it possible that those men could be reformed by any course of good treatment?—I do not think the old hands could be reformed; they might be so apparently, but I should doubt the reality of the reformation very much, from what I have seen; for instance, Melville himself, I think, commenced a convict career nine or ten years ago, and to give him thirty-two years more to do is quite useless, he would never serve it under any system, and then what is the use of attempting to punish him for any breach of discipline by a month's additional imprisonment, he does not care a snuff about it, because he would never serve his thirty-two years out.
474. *By Mr. Hervey.*—What is the difference between the ordinary punishment in the *President* and the solitary confinement?—When a man is on solitary rations, he only gets one pound of bread a day, and he is not allowed to speak to any of the prisoners.
475. How long does it take to put on a pair of irons to a man?—About ten minutes.
476. To put on a pair of leg irons?—Yes, they have to be rivetted.
477. Presuming that the men had to be ironed on going upon deck, could not any system be adopted of fastening the irons by means of a lock and key, the same as a hand-cuff?—That might be done, a small chain might be put through the basil and a lock fixed to it, but with the ordinary description of irons you could not do that.
478. Do not the irons sometimes cut the prisoners legs?—They chafe sometimes, if the men are not careful.
479. Do they not sometimes occasion sores?—Yes, but then it is the doctor's duty to order the removal of the irons.
480. Do you recollect any instance of a man being punished for tearing up his blanket to put on the sores when he could not get a piece of calico?—He would be punished for tearing his

blanket, as being Government property; but I do not recollect any instance of a man being punished for tearing his blanket when he could not get a piece of calico.

481. Were you on board the hulk when the present religious instructor was appointed?—No.

482. Are you aware whether he receives any pay?—I heard him say himself that he receives £200 a year.

483. How often does he visit the *President*?—Once a week.

484. Does he spend the whole day there?—He comes about ten and stops till four.

485. He is at some of the other hulks on the other days of the week, is he not?—Yes, his whole time is taken up, Sunday and all.

486. What course does he pursue when he comes on board?—He gives spiritual instruction to the Protestant prisoners, and with regard to the Catholics, he visits them if they wish it, but not as their religious instructor. He has not visited any Catholics lately.

487. Then he gives secular instruction as well as spiritual?—Yes, so far as answering any questions that may be put to him.

488. Are the prisoners glad to see him?—Some are, but I do not think the generality care much about him.

489. *By the Chairman.*—There is no compulsion of the prisoners to attend his ministrations, is there?—No, he visits them in their cells in turn, taking about six each visit.

490. Does he pray with them?—Yes, when they wish—he would pray with each man if he wished it—he goes into each cell.

491. *By Mr. Hervey.*—Have you ever heard him spoken disrespectfully of when he has been gone away?—No.

492. Are his visits paid to each Protestant?—To any man that wishes to see him.

493. Is it left to the men to choose?—Yes; if they objected, his services would not be forced on them.

494. He does not of necessity go to all?—Some do not care about him; but, in my opinion, they merely see him by way of a change.

495. *By Dr. Tierney.*—How many wish to see him generally, one half?—No; I think not so many as that.

496. On an average how many prisoners would wish to see him every day?—I could not speak to that, because I keep no account of his proceedings, but I should say, not one-half of the prisoners.

497. *By the Chairman.*—You have said that you have a library on board the *President*?—Yes.

498. Of what class of books?—We have got Dickens's Household Words, Chambers' Journal, and so on.

499. They are not all religious books?—No; they were at first, but the men got careless about them.

500. *By Mr. Keogh.*—Would there be any danger of the men breaking into each others cells if the irons were taken off during the night?—No.

501. Nor out to the sea?—No.

502. There would not be the least danger of that, would there?—No; but of course if a man had his irons off, and he had any means of escape, he would be able to swim much better.

503. If the prisoners had the means, could they not as easily get through to each other's bunks with their irons on as with them off?—Yes.

504. *By Dr. Tierney.*—Could not the men be just as safely confined in those cells at night by putting smaller irons on them than the irons that are used at present?—Yes.

505. *By Mr. Hervey.*—Would they not be quite as safe at night without irons at all?—Yes.

506. Do the prisoners seem to sleep pretty well, or are they in great misery at night with the irons?—They seem to sleep pretty well.

507. *By Dr. Tierney.*—Does Capt. Price go into each cell when he comes?—Yes; every cell is opened.

508. Does he speak to the prisoners individually?—Sometimes he does not speak to them, he merely looks at them and passes on.

509. *By the Chairman.*—Is there any point of information which the committee have omitted to ask you upon, that you think you could give the committee any information upon?—Not at this moment. With respect to Melville, I beg to read this extract from the Superintendent's Inspection Book:—"Her Majesty's Hulk *President*, 7th June, 1853. Inspected the hulk this day, arrived at 5 p.m., in consequence of a report from the superintendent in charge. Found on arrival the prisoners on the lower deck noisy, and declined to visit them on account thereof. Inquired into the circumstances connected with the riotous and violent conduct of Thomas Smith, alias Melville, and am satisfied that the measures adopted by Mr. Horne were fully called for, and carried out with judgment and firmness. The conduct of Sergeant Graham will be duly noted.—(Signed) SAMUEL BARROW, Inspector of Penal Establishments."

510. *By Mr. Hervey.*—What is the most severe punishment, apart from a man's original sentence, that you have ever seen inflicted on a man in the *President* hulk?—Only thirty days' solitary confinement.

511. And during that time the prisoner would have a berth large enough to lie down in, and a pound of bread a day?—Yes, except in cases where a prisoner has been confined in the box during the day; a prisoner can sit down in the box, but not lie down.

512. And you have never seen any other punishment?—I have seen a man get a thrashing with a "neddy."

513. Has that been when you could not master a man without striking him?—Yes, and

Mr. A. McPherson sometimes when they can be mastered. For instance, in a case of my own, where Thompson  
*continued,* assaulted the doctor; and in Melville's case, that was something similar.  
 8th December, 1856.

514. *By Dr. Tierney.*—Are there other cases of a similar kind?—It seldom or never has happened with me.

515. Does Mr. Price ever order the infliction of punishment?—No; I never knew him to do it.

*The witness withdrew.*

*Adjourned to Wednesday next, at two o'clock.*

WEDNESDAY, 10TH DECEMBER, 1856.

MEMBERS PRESENT:—Mr. Hood, in the Chair; Mr. Guthridge, Mr. Hervey, Mr. McCombie, Mr. Patterson, Dr. Tierney.

Mr. John Duffy examined.

Mr. John Duffy,  
 10th December,  
 1856.

516. *By the Chairman.*—Were you employed in the Penal Department?—Yes.

517. What as?—I was employed as a warder and an overseer.

518. At what place?—At Pentridge stockade.

519. For how long?—I was there very nearly five years.

520. When did you leave?—On the 21st of August last.

521. Were you dismissed or did you leave of your own accord?—I was dismissed.

522. For what reason?—For allowing two prisoners to run away from my gang.

523. Did you get any character when you left?—Yes.

524. Have you got it with you?—Yes—[*producing the same*].—I had nothing to do with the keeping of the prisoners. When I got another situation in the Police Department, Mr. Price would not allow me to keep it.

525. Why not?—Captain McMahon went with me from his own office to Mr. Price's office; he told me he would consider me if Mr. Price would recommend me; he had seen my character from Mr. Price.

526. What did Mr. Price say when you went to his office?—He told Captain McMahon he could not recommend me for allowing two prisoners to run away from my gang through my neglect of duty.

527. *By Mr. Hervey.*—Did you hear him say so?—Yes, I did.

528. *By the Chairman.*—Did the prisoners get away?—They did, but they have been taken since.

529. Were they taken before you left?—No.

530. Have you ever seen prisoners taken after they have run away?—Yes, I took one myself.

531. How did you take him?—I fired at one.

532. What was done to him?—He got six months' additional.

533. What was he employed at before he ran away?—In a go-cart.

534. Was the six months' additional continuing him in the same occupation, or did he get six months' solitary?—He was, in a short time, sent on board of the hulks.

535. Have you ever seen prisoners beaten?—Yes.

536. Was that a punishment adjudged by the magistrate to get a good beating?—No; I never heard any rules or regulations to that effect.

537. What were they beaten with?—With a staff, such a staff as the police carry in town.

538. They did not tie him up to a triangle and give him a good beating?—No.

539. It was merely an angry blow?—Yes.

540. Do you mean the committee to understand that a warder has it in his power to strike a prisoner if he either disobeys him or angers him in any way?—No; he has not that power.

541. It is done whether he has the power or not?—It is done.

542. *By Mr. Hervey.*—If that is ascertained, what is done to the warder?—Nothing at all, he gets praised for it from the superintendent.

543. Could you name the name of the warder and the name of the prisoner in any case where the prisoner was beaten to such an extent that he was laid up afterwards?—I can name the name of the warder; his name was Thomas Bourke.

544. What had the prisoner done whom he beat?—I believe he wanted to go to the closet.

545. And the warder did not want to let him?—The warder called him back, and he did not come back, so he went to him and struck him with the staff and the blood jumped out of his head.

546. Was any further investigation held into that case?—No, I do not think there was; I know I saw the doctor going to attend his head.

547. Was that in his cell?—No; before he went to his cell.

548. Have they got any hospital at all there?—It is not a regular hospital, it is one of the wards, a sort of boarded hut.

549. Were you ever stationed in the Chrystal Palace at Pentridge?—No; I have been there on different duties.

550. They have large wooden boxes to sleep in there?—Yes.

551. Have you ever been in any of those at night when the men have been there—why are men sent to the Chrystal Palace?—Some for disobedience of orders, and some for any sort of bad conduct.

552. Who adjudges them to that?—Mr. Price and the superintendent Duncan.
553. Can Mr. Duncan do that himself without Mr. Price's interference?—I do not know whether he can, but he does it.
554. Is he a magistrate?—No.
555. It is considered a punishment?—It is, they never can see anybody during the time they are inside the walls, and if any of the men commit themselves in any way against the will of the overseer or Mr. Price, they are handcuffed and made to sit on a stone.
556. Then while in the Chrystal Palace a further punishment is to handcuff them and make them sit on a stone?—Yes.
557. What punishment is awarded if they misbehave when sitting on that stone?—They are brought before the magistrate, and I believe some go to the hulks.
558. What is the Chrystal Palace?—It is a square piece of ground about an acre or better, fenced in with wooden slabs, and inside of that the huts are built that the men sleep in; they have four wheels under them for the purpose of shifting them from one place to another, then there is an iron bar runs right along the hut where the men tie their hammocks.
559. What are the sleeping houses made of?—Wood; the floors are strapped with hoop iron.
560. How long is it since you have been in the Chrystal Palace?—About six months.
561. *By Dr. Tierney.*—What are the length and breadth of the huts?—I believe they are about twelve feet long by ten feet wide.
562. What height are they?—About nine feet high.
563. How many were put to sleep in each of those huts of a night?—I cannot say; I never was on duty there except going in and coming out again with my own gang.
564. Have you any idea?—There might be nineteen or twenty sleep in each hut.
565. *By Mr. Hervey.*—In a place ten feet by twelve?—Yes.
566. *By the Chairman.*—Have you ever had occasion to take tobacco from men?—I have, when I was a warder.
567. How do you take the tobacco from them—if you suspect a prisoner of having tobacco, what is the first thing you do?—When I search a prisoner to see if he has tobacco about him, I open his mouth first, and then rub down his sleeve and see if he has any tucked up his sleeves, and then I rub him down his trousers to see if he has any there. I know when I was there as a warder, if I saw tobacco, and asked the men for it, they gave it to me.
568. Have you ever seen the warders or overseers take any other means to get tobacco than those you have described?—Yes; I have seen them take hold of the men by the neck and half choking them, or throttle them, and strip them naked.
569. Was that in-door or out-doors?—Out-doors.
570. Have you ever seen this done in the presence of Mr. Price or Mr. Duncan?—Yes, both at different times.
571. You have said that warders and overseers take upon themselves to strike prisoners with sticks. Would they take their fists if they had not a stick at hand—have you ever seen a prisoner struck with the fist?—I have. I have seen Mr. Price himself strike a prisoner with his fist.
572. And knock him down?—I could not say whether he knocked him down or not.
573. Do you know what it was for?—About some tobacco he had in his mouth.
574. *By Mr. McCombie.*—Is Mr. Price a violent man?—He is very violent sometimes.
575. *By the Chairman.*—Do you know a man of the name of McGuire?—Yes.
576. Were you at Pentridge when he was taken suddenly ill?—Yes, several times; he took ill more than once or twice.
577. There was one time when a constable struck him and he shrieked?—Yes.
578. Will you explain the circumstances to the committee?—I and my own gang were outside the wall working; I heard McGuire sing out murder; I came out and saw a corporal in the yard and another constable having hold of him; I came to the fence and saw them dragging this McGuire over to one of the huts, and handcuffing him, and tying his two hands up to the bar that I mentioned a bit ago as running through the hut.
579. How high off the ground was that bar?—Between six and seven feet.
580. What was done to him then?—I do not know; I left when I saw that. I saw another man handcuffed with his two hands behind his back, and fastened to a post.
581. What was his name?—I forget his name. I have seen another man carrying a stone a distance of fifty or sixty yards on his shoulder from morning to night; that was during the hours of labor; he was sentenced to that by Mr. Price.
582. *By Mr. Guthridge.*—What was the weight of the stone?—I do not know whether it was a hundred pounds or eighty pounds; it was as much as ever he could lift up on his shoulder every time he came to the place where it was.
583. *By the Chairman.*—That was considered a refinement of punishment?—Yes.
584. It is reported that the farmers round about Pentridge can get men out for a week or two to come to assist in their farming operations—have you ever known that to be the case?—No.
585. They are never allowed to work at anything but Government work?—Never; unless for the officers on the station, such as Mr. Price or Mr. Duncan, or any of the overseers or warders. They put in a requisition and then they pay so much a day for the men doing their work. I had a gang of men out for three months, at a place called Mr. Kady's Paddock, building a stone wall for him, but then they were getting wood for the Government for the labor.
586. Are warders very frequently dismissed from Pentridge?—Yes.
587. For what kind of fault?—For very little.
588. Is the fault always stated?—Yes.

Mr. John Duffy,  
continued,  
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589. Is there any other punishment but dismissal attached to any fault by a warder?—  
There is fine also.
590. Is that part of the regulations when you take office?—No.
591. It is no part of your agreement, that, if you are dismissed, you will have to forfeit your pay?—No.
592. And is it frequently the case that pay is forfeited?—Yes.
593. To what extent?—I have seen warders fined from ten to fifteen days' pay, but from five to ten is the usual time.
594. Have you any idea of the number that have been dismissed?—No; but many a hundred have been dismissed, I think, in my time. I have seen them going away three or four together in a morning.
595. *By Dr. Tierney.*—You said awhile ago that you were discharged for allowing prisoners to escape?—Yes.
596. Why did you allow them to escape, could you have prevented their escape?—I could not.
597. Were all the prisoners out with you at the time?—Yes; I had seventeen men under my charge, and there were four warders with their double barrelled pieces besides myself, to keep them from running away.
598. In your instructions, a copy of which is before the committee, you are told that, if a man escapes, you are not to go after him.—“In the event of any prisoners in future making an attempt to escape, officers in charge of gangs on the stockade are directed on no account to go in pursuit of such prisoners until they have collected their gangs.” Was not that your written instruction at the time?—Yes.
599. Was that the reason why you did not attempt to go after the men?—Yes; Mr. Currie, the Wesleyan minister, offered me his horse to go after them, and I could not, because I knew if I had broken through that regulation, I should be dismissed.
600. *By Mr. Hervey.*—You had been four years at the Pentridge stockade?—Yes, better.
601. Previously to that what was your occupation?—I was at service with Mr. Lynch, who kept the “Rising Sun.”
602. Have you been long in this Colony?—About six years.
603. Were you with Mr. Barrow while he had charge of the stockade?—Yes; it was under Mr. Barrow that I joined first.
604. Is the sytem that is now practised pretty well the same as then?—No; men used to do double the work then that they do now.
605. The prisoners?—Yes; and there was not half the punishment nor half the men running away in Mr. Barrow's time.
606. Were they engaged in the same sort of work in Mr. Barrow's time that they are now?—No; they have easier work now than they had in Mr. Barrow's time. At that time they were working entirely on the roads.
607. There were no mechanical works going on?—Very little; there were about two or three.
608. It was formerly almost all stonebreaking?—Yes.
609. And you think that was more laborious?—Yes; I am much used to laboring work myself.
610. You are not a mechanic?—No.
611. You say that there are cruelties now practised in the management of the convicts at Pentridge?—I certainly do say so in reference to the hitting them and the way they are used in taking the tobacco out of their mouths; I know there is a great deal of cruelty in that.
612. Is it done in a different way to what it was before, or in a different way to what it could be done or should be done?—I never saw it done until Mr. Price came, because before that, every prisoner was allowed a little tea and sugar and tobacco, if he could get it, though it was not furnished by the Government.
613. Mr. Barrow permitted those indulgencies which Mr. Price does not think proper?—He allows no indulgencies except to those men in his own employment.
614. But Mr. Barrow was more exacting in his labor than Mr. Price is?—Yes; he does not look at the labor at all or care about labor.
615. It is more good conduct?—Yes.
616. Is the object of your giving evidence to inform the committee with reference to the cruelty, or is it with reference to your dismissal?—No; if I had never been dismissed I would have given the same evidence as now; but still it grieved me very much when I got a situation, that Mr. Price should get me dismissed without a cause, after he had given me a four years' character.
617. Generally speaking, the prisoners are well treated at Pentridge, are they not—they having so little labor to perform?—They are not badly treated with regard to their work.
618. There is no exacting of excessive labor?—No; except in the new stockade, the Chrystal Palace, I believe Mr. Price calls it, they are more particular there about the working of the men than in the rest of the gangs.
619. That is the punishment place for men who have misbehaved in the other gangs?—Yes.
620. Are the prisoners well fed and well lodged?—They get whatever is allowed them.
621. They get all that the regulations permit?—Yes.
622. Are they generally in good health?—Generally.
623. They do not complain of excessive task work?—No.
624. And the punishments are all pretty equal. There are no solitary cells, or anything of that sort?—There are a few cells, but they are merely made with wooden slabs. There are no stone cells; but I believe they are making some now.

625. They use those cells for the refractory for temporary punishment, do they not?—Yes. Mr. John Duffy,  
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626. What you have observed in the way of striking the prisoners has merely been the infliction of punishment with a staff; and this choking and extracting tobacco out of the prisoners' mouths, that is what you particularly object to in the treatment of the prisoners?—Yes.

627. Does it very frequently happen that the prisoners are beaten with a staff?—No.

628. May it arise from the brutality of the particular overseer more than anything else?—Yes.

629. And a man knows that in striking the prisoners he is committing a breach of the regulations—it is a positive breach of the regulations, is it not, for a warder or overseer to use the staff—you would not be permitted to use the staff, would you?—No.

630. Would you be liable to be discharged for inflicting any punishment upon a prisoner?—I never saw any man discharged for it; I might be discharged if I was charged with it; but I should get more encouragement from Mr. Price for doing so than anything else, because I should be called a coward for not doing it.

631. If you had struck a prisoner, would you have been discharged?—I should not.

632. Was the beating of prisoners encouraged in the warders?—I saw him discharge one overseer for running away from a prisoner, and I never heard a warder or overseer reprimanded for striking a prisoner.

633. If an overseer were praised for it, would it not be done more frequently than it is?—I do not know.

634. Were you not positively forbidden to use a weapon of any kind to any prisoner?—Yes.

635. Is there not a general regulation that warders are not allowed to strike the prisoners?—There is no regulation to that effect.

636. Is it not an instruction?—No; we have got no regulation to that effect.

637. Is there no regulation that you are not to strike a prisoner?—No.

638. Then how do the warders and overseers know they are not to do it?—I suppose a man's own feeling would prevent him from doing so, unless he was so put upon that he could not command himself.

639. You say that a warder or overseer is liable to dismissal if he does strike a prisoner?—No I do not, unless he is brought into town and tried for it, then he might be dismissed.

640. Who would be his accuser on that occasion?—If the prisoner had any friends they might bring him up for it; Mr. Price would never bring him up for it.

641. An overseer is liable to be complained against for doing it?—Yes, if there is anybody to complain of him. Mr. Price would not. I have never seen one complained of yet.

642. But you say it is very seldom that an overseer strikes a prisoner?—I never saw an overseer strike a prisoner, but I have heard of it; I have seen a warder strike a prisoner.

643. The warders have nothing to do with the prisoners when out at work, have they?—They have nothing to do with the prisoners, only to keep them; they have nothing to do with regard to their work, only just to see that they do not run away.

644. The warders are out guarding the prisoners while they are at work?—Yes, there are so many warders to every gang during the hours of labor, and there is one overseer to every gang.

645. You say you never saw an overseer strike a prisoner?—No.

646. But you have seen a warder strike a prisoner?—Yes.

647. Was it not the duty of the overseer to inform against the warder for that?—No; the overseer would have nothing to do with the prisoners after they left his charge at night.

648. Is it at night they strike the prisoners then?—It might be in the day time. I saw one man struck on the Sunday.

649. He was not at work then?—No; he was in the yard.

650. *By the Chairman.*—How do the prisoners generally employ themselves on the Sunday?—Reading.

651. *By Mr. McCombie.*—You have stated that you have seen Mr. Price himself strike a prisoner?—Yes.

652. Under what circumstances was that?—The prisoner had some tobacco in his mouth, which he would not give up, and then Mr. Price struck him.

653. That was only on one occasion?—Only one occasion.

654. You never saw it done again?—No.

655. *By Mr. Hervey.*—Then did the prisoner give up the tobacco?—I did not see it. I do not know whether he had any or not, but he was accused of having it.

656. *By Mr. McCombie.*—Did he strike him savagely?—He struck him so as to stagger him, at all events.

657. A portion of the prisoners work inside the buildings, do they not, tailoring and so on?—Yes; there are a good many tailors, and blacksmiths, and carpenters, and all sorts of trades.

658. Who looks after them—the warders?—No; there are overseers.

659. Which is the superior officer of the two, the overseer or the warder?—The overseer is during the time he has the prisoners at work.

660. What becomes of all the work that is done; does it go to the Government?—It is supposed to go to the Government.

661. You do not know whether it does or not?—I do not.

662. What sort of work is it chiefly?—There is tailoring.

663. What clothes do they make?—Warder's clothes they chiefly make.

664. Police clothes?—Yes.

665. Are they also engaged in shoemaking?—Yes; and blacksmithing.

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666. Whom do the blacksmiths work for?—They make cart-wheels for the Government, and leg irons, and they made the Government chaise-cart that is there.

667. *By Mr. Hervey.*—The difference between the old system and the present is, that formerly the prisoners were sent to one kind of labor only, breaking stones, and now they are set to all kinds of mechanical labor and breaking stones as well?—Yes.

668. And there is no more striking of the prisoners now than there ever was, it depending entirely upon the brutality of the warder?—Yes.

669. It is no part of the system to strike the prisoners or allow them to be struck?—No; they have no orders to strike and no orders not to strike.

670. And it is discountenanced, and if known the man is liable to be dismissed, is he not?—I believe it is so; but the way it is, is, one man can do as he likes and another man must do his duty to the letter. I have known an overseer there that sometimes had 150 prisoners under his charge, and he used to leave them to work or play, whilst he with two prisoners did go making ammunition, and for hours and hours those prisoners would be making ammunition, which was not their duty at all.

671. Do all the officers live within the walls of the place?—All but the overseers, and they live outside if they are married men; if they are single men, they live inside.

672. In the early part of your evidence you said that the officers were allowed prisoners to work for them. Are the officers who live outside the walls allowed to have prisoners as domestic servants?—No, not outside; the prisoners do the work on the station.

673. The reason why you did not go after the absconders who ran away from your gang was on account of the general order that you were to, first of all, collect your gang and take them into the stockade?—Yes.

674. How many men had you on duty with you that day?—Four men.

675. Did Mr. Price, in dismissing you, tell you what you should have done?—He told me that I should not have brought the men up the road I brought them up.

676. Were the men ironed when they bolted?—They were not.

677. Did they get beyond range before you could fire?—I had no gun to fire. I sung out to the warder to fire, and I sung out three times to him before he turned round; and when he did turn round the men were out of sight, they bolted into a gate.

678. Did any of the others go?—No; I always used to carry a sword stick with me, which was made a present to me by Mr. Barrow before he was drowned, and I drew it and stood in the middle of the gateway that the men had bolted through, and then I told the prisoners to close up, and the warders to close up also. I kept them there for five minutes to see if I could get assistance from the stockade; but I did not get any then, and then I marched the men into the stockade.

679. How far was this gateway from the stockade?—About 200 yards. Then I asked Mr. Duncan to let me go and get these men back; but he would not allow me.

680. How could you have got them back; you say they were out of sight long before?—I knew the run of the place so well, I could have gone across the country and got them back.

681. Had you been disobeying any order with regard to the road you brought the prisoners up?—No.

682. Was it contrary to instruction?—No.

683. *By Mr. Patterson.*—Were any of the other men with the gang discharged upon that occasion?—No, none but me.

684. *By Mr. McCombie.*—Were you the head officer?—I was the overseer. The overseer has nothing to do with regard to ordering the warders to do their duty; there is a warder on purpose to do that.

685. *By Mr. Hervey.*—The overseer only has to see about the prisoners doing their work?—Yes.

686. *By Dr. Tierney.*—Where are you at work now?—I have never done anything since I was dismissed. When I was dismissed, I put all my papers and testimonials into the Attorney General's hands, and told him the cause of my dismissal, and I wanted an investigation of my case. The Attorney General was kind enough to lay the papers before the Chief Secretary, and they stopped there ever since until about a week ago, and I never heard anything about it.

687. You asked for an enquiry?—Yes; and I never got one.

688. You left in August last?—Yes.

689. And you have never got any pay since?—No.

690. *By Mr. Hervey.*—Had Mr. Price ever complained of you before in any way?—No, never.

691. Did the dismissal take place the following morning after the escape of the prisoners? No; Mr. Price suspended me the following morning, and then I was three weeks waiting for my dismissal without pay.

692. Were the men caught in the meanwhile?—No.

*The witness withdrew.*

*Adjourned to to-morrow, at one o'clock.*



THURSDAY, 11TH DECEMBER, 1856.

MEMBERS PRESENT:—Mr. Hood, in the Chair; Mr. Clarke, Mr. Hervey, Mr. Keogh, Mr. McCombie, Mr. Thomson, Dr. Tierney.

The Rev. Sam. Corrie examined.

693. *By the Chairman.*—You have for a considerable time visited the various hulks in Hobson's Bay as chaplain?—Yes. Rev. Sam Corrie,  
11th December,  
1856.

694. How long is it since you commenced visiting?—I think more than three years, but I am not quite certain as to dates.

695. How long is it since you ceased to visit?—About two years, I think.

696. Have you visited the hulk *President*?—Yes.

697. Have you been down on the lower deck?—Yes.

698. Have you been in the cells along with the prisoners?—Yes.

699. Do you consider those cells are healthy?—No.

700. Do you think the ventilation is sufficient to sustain life?—To sustain life it may be, but I am sure it is not sufficient to promote health.

701. Did it ever strike you the place was not sufficiently clean?—It may have struck me so, but it was owing to causes there was not any control over. When the wind was blowing in a particular direction, they were obliged to shut the port hole, that occasioned a stoppage of the ventilation; and on such occasions, on going into the cells, I have been obliged to pull out my pocket handkerchief and put it to my nose.

702. Did the prisoners ever complain of this?—Yes; every day they complained of something, and of that amongst other things. I have spoken frequently to the superintendent or chief warder about the complaints made by the prisoners, and they said the prisoners were very much disposed to make complaints.

703. Did they make light of those complaints?—I dare say they did.

704. One complaint was about the bad ventilation of the lower deck; were there any others?—Yes. I have frequently had complaints about the treatment the prisoners received. The exact terms of the complaints I am not now able to state, it is so long ago; but I have a distinct impression on my mind that I never visited the hulks a day that I did not hear complaints from several prisoners about various matters—say of treatment, either as to want of clothes, or food not properly given; or harshness on the part of the officers, or something. A constant series of complaints I was obliged to hear every day.

705. *By Mr. Hervey.*—Could you form any impression as to whether those complaints were well founded?—I could scarcely form an opinion, because, upon mentioning those complaints to the officer in charge, he said something about my being "soft" and listening to the tales of those fellows; I forget the exact words now, and, believing it to be beyond my province, I made no further inquiries. I was visiting more or less regularly every week for about fifteen months.

706. *By the Chairman.*—Did the prisoners ever complain of being subjected to tyranny or cruelty?—Many a time, though I cannot tell when or by whom, except Melville.

707. Have you been actually a witness to any harsh treatment on the part of any of the officials?—I never witnessed anything beyond the ordinary routine.

708. Were you frequently locked in the cells with the prisoners?—I was frequently locked in; but sometimes, owing to the bad ventilation, they allowed the door to remain open. There was a warder, armed, always walking backwards and forwards.

709. Have you anything particular to state as to what you observed in the conduct of Melville in particular—did you ever see any evidence of harsh treatment on him—any bruises? No, I never witnessed that; but from what I observed during all the the time I was visiting there, I believe, that if Melville had been subjected to different treatment altogether, he was capable of reform. He has mentioned particular instances of harsh treatment to me, the exact words he used or the circumstances I could not repeat now; I never thought of being called upon to give evidence upon the subject. In particular instances he told me himself that it would be a charity to take him out and shoot him at the yard arm; only, he said, that they were not capable of doing so merciful an act. It was after his telling me some tale of harsh treatment that he said so.

710. Have you visited the prisons in town?—Yes.

711. Do you think that the system of penal discipline adopted here is calculated to reform the prisoners in the slightest degree?—No; I believe it is calculated to make them worse.

712. Then your firm conviction is, that a young lad convicted for the first offence would come out a worse character than he went in?—If he was a better man than I am, I believe he would come out a double distilled villain. I look upon the whole system as radically wrong.

*The witness withdrew.*

*Adjourned to Tuesday next, at one o'clock.*

TUESDAY, 16TH DECEMBER, 1856.

MEMBERS PRESENT :—Mr. Hood, in the Chair ; Mr. Hervey, Mr. Keogh, Mr. Miller, Mr. Mitchell, Mr. Patterson, Mr. Thomson, Dr. Tierney.

The Rev. Sam Corrie further examined.

Rev. Sam Corrie,  
16th December,  
1856.

713. *By Mr. Miller.*—Had you had any experience of the management of convicts before visiting the hulks?—No.

714. You stated in your previous examination that, in your opinion, had Melville been subjected to a different treatment, you thought he might have been reformed?—Yes; I think he was quite capable of it; but that is only an opinion, of course.

715. In forming that opinion, were you acquainted with his former career?—No; but when I first visited the hulks and went to Melville, he told me, with a sort of frankness peculiar to himself, that he did not care about religion at all; but that he received my visits as paying courtesy to a clergyman, and that it helped him to pass away a portion of his time. I persisted in visiting him, and gave him tracts, and, after a time, he promised me that he would conduct himself in a different manner, and that he would not resent the insults, whether real or imaginary, in the manner he had been doing. He did so, and that he became so much a different man is apparent from the fact that he was promoted to another hulk, and allowed to go on shore to work.

716. Do you believe that he altered his conduct in consequence of the tracts and other means you used?—I believe he did.

717. Did he receive any indulgence during the time you were visiting the hulks?—Yes; he considered the liberty of having books a very great indulgence. It was through my representations in a great measure that the library was procured, and this was a very great boon to Melville.

718. Did you recommend him for any indulgence in consequence of his alteration of conduct?—No; I requested, before there was any apparent change, to be allowed to bring him Bunce's Dictionary of the Aboriginal Language, and it was granted; and I got him the use of a slate sometime afterwards.

719. Was he drafted on shore during your time?—No; I had ceased to visit before that.

720. *By Mr. Patterson.*—Did not Melville make use of the expression to you, "That he would as soon commit a murder as kiss a maid?"—He did; but then the occasion on which he used the expression should be stated along with it; because, unqualifiedly, it would make him a very bad man, which, I believe, he is; and I may say of the officers in charge of such men, that the strictest surveillance is absolutely necessary on their part; for I look upon the class of men on board the hulks as the worst class of prisoners. This was after he had recounted to me an instance of some harsh treatment; and he was so irritated that he then made use of this expression, with a most emphatic gesture—lifting his hand and saying, "He would commit a murder as soon as kiss a maid."

721. *By Mr. Mitchell.*—You have said that the system adopted here is such, that if a good man went in he would come out as bad a villain as there was upon the face of the earth. Upon what facts do you form that opinion?—The men can talk to one another, and in looking at the roll of the prisoners I found that nearly half of them were "old hands," and those old hands corrupted the new ones. It seemed to be their object to make every one as bad as themselves, and to take a delight in recounting their various deeds of wickedness.

722. Then the system you would propose would be one of solitary confinement?—Yes, with such persons.

723. Are you not aware that one of the principal complaints of those men as driving them to madness is this very solitary confinement?—Yes; but I have heard them talking to each other through the cells, therefore I think it is not solitary confinement.

724. Have you not heard them state that the solitary confinement is worse than death?—Yes; but I have heard the same parties talking to each other through the cells, as I said before.

725. Then their statements are not true?—No.

726. From what you have seen in the fifteen months you have been there, what would you suggest as an improvement upon the present system?—I would do away with the hulks altogether, and have a system of classification in a proper place, such as a gaol.

727. Your remarks as to the gaols already were, that they were so bad, that a youngster sent in there would come out worse than a demon?—My remark to that effect was intended to apply rather to the hulks than the gaols. I would have a system of classification, so that the very bad could be put into solitary confinement and be kept apart from the others entirely. In the female prison I think they have only two wards, and I do not think the classification is made very accurately; I am therefore afraid the prisoners come out much worse than they were when they went in.

728. Then in your opinion a very much increased establishment would be necessary to carry out an improved system of penal discipline?—It would.

729. *By Dr. Tierney.*—What measures of a reformatory character are taken on the Hulks?—None that ever I knew of.

730. *By Mr. Mitchell.*—Are not the hulks the last place of punishment?—I believe they are.

731. *By Dr. Tierney.*—You say there are no measures taken to reform the criminals on any of the hulks?—Not that I am aware of.

732. You had access as a clergyman to all the prisoners, had you not?—Yes.

733. Did they wish for you to instruct them?—That was the general feeling—there was a general desire to see me. With some, however, it was not a desire to receive instruction in a religious point of view, but they stated candidly that it passed the time.

734. Nearly all the prisoners wished to see you?—Yes, nearly all.

735. And you went into their cells?—Yes.

736. And you then spoke to them on general subjects, or on religious subjects. If you spoke to them on religion, would they pay attention to you?—They always received me and listened to me with marked attention, and I endeavored to suit my conversation to the character of the individual I had to deal with to the best of my ability. I read the Scriptures to some of them and prayed with some of them; with others I did neither.

737. When they wished for it you did it?—Yes, whenever they permitted it.

738. Did the vast majority wish for religious instruction, or did they only wish to see you to have a bit of chat and talk with you?—I would not say the majority did wish to receive religious instruction, but a good many did.

739. Do you think a good many did?—Yes.

740. Do you think they were sincere?—I am afraid a good deal of it was hypocritical.

741. Were they allowed books of instruction, or religious books to read?—They were allowed the Bible at first; but after I had been there some time they got a library.

742. Do you think it pleased them?—Yes.

743. Is it your opinion that men in those situations ought to be supplied with books of various kinds?—I think they should. I think some measure should be adopted for regularly giving them religious instruction.

744. Would you not say other instruction also?—If it could be done, it would be a most desirable thing.

745. Do you think those persons might be reformed by giving them some occupation in the cells, such as teaching them trades—as shoemakers, tailors, and so on?—I think it would have a very beneficial effect; they are plotting mischief when they have not anything else to do.

746. Is there any clergyman paid from the public funds for attending the convicts?—I never received any money. I do not know what is done now, but I know there was a sum of £480 on the Estimates for a member of the Church of England when I was there.

747. *By the Chairman.*—Did you ever apply for payment?—I asked for it.

748. *By Dr. Tierney.*—What answer did you get?—The Colonial Secretary at that time was Mr. Foster, who said he had not any money for such a purpose, that the money had been all appropriated. I referred to this amount of £480 for the Church of England, and said it could not be claimed by them, as they did not send a man on board. His answer in substance was, that unless I signified my adhesion to that church I could not have it.

749. Did the members of every church wish to see you?—They all received me very readily, because I went to the expense of buying tracts of a nature that I thought they would read, containing accounts of shipwrecks or stories, or something of that kind; tracts not containing any peculiar dogmas of faith, but something interesting; and I brought those down to them, and all of every denomination received me most gladly and took the tracts.

750. There is an opinion that admitting clergymen to the hulks is very often a bad thing, in the way of favoring some attempt to escape. Have any of the prisoners ever wanted you to plot an escape? Did any of them ever ask you anything of the sort?—Never in the most remote degree was such a thing hinted by any prisoner on board.

751. Did the prisoners get tobacco on board?—No.

752. Did they often wish for tobacco?—Yes.

753. Do you think a small portion of tobacco might be allowed to prisoners on the hulks?—No; I think prisoners should be punished in some way or other, and I would make that part of the punishment. The hulks must not be made quite a place of ease and comfort for them.

754. Have you been to the stockades?—I visited for some of the other ministers there occasionally, and have gone through the service and come away again. I visited the female prison in town, and the subordinate male prison, for which I was paid. I had £75 a year.

755. From the Government?—Yes. That is withdrawn this year. I have no salary now.

756. *By Mr. Patterson.*—Have you had any experience of the management of penal establishments in any other country than this?—No.

757. You never attended any?—I never attended any. I used to preach on board the *Deborah* once a-week, and the seamen there of all denominations, except the Roman Catholics, asked permission to come in and hear me, and they listened to me with the most marked attention.

758. *By Mr. Thomson.*—How are the females classified in the prisons you have visited?—I think there are only two wards—the bad in the one and the not-so-very-bad in the other.

759. Are the two classes allowed all to associate, or do they sleep in the same apartment that they are always in?—I do not know how that is. I suppose the beds are laid down at night, and they sleep in the same apartment.

760. Are any steps taken to reform them?—There is a more regular visitation of ministers there than on the hulks; and I used to see them netting and exercising themselves in some useful employment.

761. Was there any educational training going on?—Not that I was aware of.

762. When you visited the prisoners, did you visit them daily?—No; once a week I held service; the prisoners were classified into Protestants and Catholics, and when I went there the Protestants were all brought in, and they always heard me with apparent delight; and I think that, particularly in the female prison, my preaching has not been altogether in vain.

Rev. Sam Corrie,  
continued,  
16th December,  
1856.

763. There is no clergyman appointed for regular ministrations morning and night?—No; it is only occasional visits they get.

764. There is nobody who conducts a service morning and evening?—No.

765. Are they allowed books?—I think they have some kind of a library.

766. Do you consider that there is a good classification of the women in the female prison, or could it be improved in any way whatever?—I think it could; I believe one prisoner contaminates another; and I believe the very bad have a peculiar delight in making the others as bad as themselves; they should therefore be kept separate.

767. What could you suggest as an improvement upon the present plan?—I would have one general gaol, into which they should all be sent, and I would have plenty of room for solitary confinement, into which I would put the very bad, and classify the others—that would be my idea; but I have never given much attention to the subject.

768. *By Mr. Mitchell.*—Have you had any experience of solitary confinement?—No.

769. Are you not aware that it has been found so dreadful a punishment in other countries that it has been obliged to be superseded by milder punishments?—I have heard so; but I think a classification such as I speak of, with the prospect of being placed in a higher and better class, would induce them to conduct themselves better. I think that for prisoners, bad as they are, we should always hold out something in prospective, that for good conduct and better behaviour they should receive promotion.

770. There are two points to consider in regard to punishments. We have to consider those who have not committed crime, and deter them by showing the consequences to others. A prison is not to be made a mere school of pleasure?—I should be very sorry to make it so.

771. *By Mr. Thomson.*—Would you recommend that a chaplain be appointed to officiate night and morning in the hulks?—As the prisoners are at present scattered over hulks and gaols all over the colony, I think it would be impracticable. I think it would be very desirable, but I think it would be impracticable. If you had one prison only, it could be carried out.

772. *By the Chairman.*—You said a short time ago that you were in the habit of purchasing tracts and taking them on board. Are the committee to understand that you purchased them at your own expense?—Yes.

773. And did the Government find the means for carrying you on board, or had you to pay boatmen's fares?—No; a boat was usually sent for me from the *Deborah*, by order of the Inspector General.

774. You never got any pay for the tracts you distributed?—I never received a shilling for my visitations on the hulks, which extended over a period of about fifteen months. I am not certain as to the exact time.

*The witness withdrew.*

Mr. John Berkley called in and examined.

Mr. J. Berkley,  
16th December,  
1856.

775. Have you held any situation in the Penal Department?—I have; three or four. I have been Acting Assistant Superintendent at Pentridge stockade. I have been corporal at the gate. I was then, at Mr. Price's own solicitation, removed to the *Lysander*.

776. What appointment did you hold in the *Lysander*?—Clerk and storekeeper, at £275 a year.

777. Have you any statement you wish to make to the committee, as to the general treatment of prisoners on board the *Lysander* or at the stockade?—I consider the classification of prisoners on board the *Lysander* very bad. I have known men and boys put in together. In one instance there were ten men and a boy, who were awaiting trial before Mr. Pasco, put into one ward; the corporal was sitting reading on the lower deck, and he heard a scuffle—he went to the ward and he found a hammock down, and, as one of the men afterwards informed the chief warder, the act of sodomy was being committed on the boy, and the corporal took the boy out of that ward and put him in another ward. I have known tobacco to be brought in with Mr. Price's own knowledge, although the men are punished for having it.

778. How do you know that it was with his knowledge?—Mr. Duffy, the overseer, brought it in.

779. *By Mr. Price's orders?*—By his connivance.

780. It has been stated that you offered your evidence at the trial of Melville, and that they did not receive it?—I did; I wrote a note to Dr. Mackay.

781. What evidence could you have given if you had been called?—I was sitting in the office on the afternoon that the rush occurred; I saw a number of men in the water, and I said, "Good God, the boat has capsized;" I then jumped up on the poop and saw the rest of the performance; I offered to swear that Melville did not commit the murder, but I would not swear who did it.

782. *By Mr. Miller.*—Where were you?—On the poop of the *Lysander*.

783. Do you refer to the occasion when Owens was murdered?—Yes.

784. *By the Chairman.*—What was the position of the *Lysander* relatively to the boats; was she nearest the boats?—No; the *Success* was nearest them; I was further off.

785. *By Mr. Miller.*—You saw the murder committed?—I did; I saw the man struck; I could not recognise Owens, but I knew it must be him because I knew he was the boatman; I saw two blows struck, and I saw the man that struck them.

786. How was Owens murdered?—With a spalling hammer. It is my duty to muster the tools on shore once a month, and I reported to Captain Blatchford that a spalling hammer was missing; it ought to have been searched for; but if so, it was not found.

787. Who committed that murder?—I cannot say.

788. Did you not come here to answer questions?—I did.  
 789. I put that question to you—who committed that murder?—I cannot say.  
 790. You have said that you saw the murder committed, and that you knew the man who struck the blow?—No; I said I knew it was Owens who was struck.  
 791. You say you are sure it was not Melville who struck the blow?—I am.  
 792. How do you know that?—I know Melville, very well, and I saw him standing up with his cap on.  
 793. Did you not know all the prisoners in the boat?—No.  
 794. Were they *Lysander* men?—No; *Success* men.  
 795. Was Melville the only man in the boat whom you knew?—At that distance he was the only man I could recognise.  
 796. What was the distance?—Three hundred or four hundred yards; but still I knew Melville, because he wore a peak cap.

*The witness withdrew.*

*Adjourned to to-morrow, at one o'clock.*

WEDNESDAY, 17TH DECEMBER, 1856.

MEMBERS PRESENT:—Mr. Hood, in the Chair; Dr. Tierney, Mr. Thomson.

The Rev. W. C. Currie examined.

797. *By the Chairman.*—Were you chaplain at Williamstown at any time?—I was the Wesleyan minister stationed at Williamstown. Rev. W. C. Currie,  
17th December,  
1856.  
 798. Were you in the habit of visiting the hulks?—Yes; I first went to Williamstown in March, 1853.  
 799. Have you been in the habit of visiting the hulk *President*?—I was on board the hulk several times.  
 800. Was any hindrance thrown in the way of your admission there, or in the way of the discharge of your duties?—When I went on board I had a letter from Mr. Price, in which a condition was inserted that I was not to interfere with the men's circumstances or condition in any way. I have not the letter with me, but it was to the effect that I was not to interfere with the men's condition or circumstances.  
 801. *By Mr. Thomson.*—Was that as regards their sentences?—I was not to have anything to do with their condition there as prisoners.  
 802. You were to confine yourself entirely to the discharge of your religious duties? Yes, and that was what I wished.  
 803. *By the Chairman.*—Was there any foul smell on the lower deck, or in the cells, from want of ventilation, or from other causes?—Yes; sometimes I could not stay in the cells when I went in, from the stench there was in them.  
 804. Have you ever been a witness to any cases of ill treatment of any of the prisoners?—No.  
 805. Have the prisoners ever complained that they have been ill treated?—Yes.  
 806. Have you seen the marks of ill treatment on them?—Yes, I saw on one man, when I visited the *President*, marks of a very severe beating.  
 807. Do you recollect the name of that man?—No.  
 808. *By Mr. Thomson.*—You saw marks upon the man; you cannot say whether they were from ill treatment, can you?—I saw marks where he had been beaten?  
 809. That is, he described himself to have been beaten. Is it not possible for a man to knock his head against a place and produce marks like those of ill treatment?—I can tell the difference between marks from a man knocking his head against a wall and from blows made by a stick or other weapon.  
 810. *By Dr. Tierney.*—Do you think the marks in the case you allude to were wounds from ill treatment?—Yes.  
 811. Do you think they could not have been inflicted by a fellow-prisoner?—No, because the men were in solitary confinement.  
 812. Did you ask the man who inflicted those wounds?—The man stated that he was beaten by a warder the night before.  
 813. They did not result from fighting amongst the prisoners?—No; the prisoners could not fight on board the *President*.  
 814. *By the Chairman.*—Will you state to the committee your opinion with respect to the present system of penal discipline adopted in this Colony?—My impression was, that the effect of the solitary confinement of the men on board the *President* was of the most prejudicial character. I am giving now my then impressions; I have nothing to do with present circumstances. I thought the circumstances and condition of the prisoners then were most prejudicial to their health. I believe that some of the men, in consequence of being kept by themselves without any books or opportunity of reading, were becoming idiotic, and others insane.  
 815. *By Dr. Tierney.*—The committee have it in evidence that the prisoners are of a healthy character generally?—I am speaking as to the effect of the system upon certain individuals, and I can fortify my opinion by the statements of the last works published at home upon the subject of punishment. There they have been obliged to take the men out of solitary confinement to prevent its having an ill effect upon them.

Rev. W. C. Currie,  
continued,  
17th December,  
1856.

816. Did the men look in good bodily health when you visited them?—Yes. I believe every attention is paid to their physical health.

817. As to their mental faculties, was there any interest taken in the reformation of the prisoners?—At that time there was nothing that I could see. The men could not read the books that were put into their cells, except at limited times. I have closed the door of one of the cells, and stood upon the prisoner's tub myself, and the only way in which I could see to read was by holding the book up to the light. There was not light enough in the cell to read easily.

818. Do you think that, even with the taste for reading you may have as a minister, if you were put in one of those cells, you could continue reading with the light there is there?—No.

819. Do you think it would injure your sight or your mental faculties from straining the eyes?—I should think it would do both.

820. *By Mr. Thomson.*—Does that apply to all the cells?—The lower cells of the *President*.

821. *By Dr. Tierney.*—Does not that want of light occur only on one side of the vessel?—It depends upon the hour of the day.

822. On the sunny side of the vessel you could see better than on the other, could you not?—Yes; but the sunny side would change with the hour of the day.

823. *By the Chairman.*—Would you continue with any observations you may have to offer to the committee?—In consequence of the difficulties I met with in giving the men religious instruction I ceased to visit the vessel. I was only allowed to see one prisoner at a time, and then I had no access to the men unless they wished to see me. I applied to Mr. Price two or three times for facilities for affording those men instruction, and his answer to me was, "I have been twenty years in the Penal Department, and I never knew a man reformed or converted, as you call it, yet. You may go and see them in their cells, but I can do nothing else for you."

824. *By Dr. Tierney.*—Was it in consequence of that remark that you ceased to visit?—It was the fact of only seeing one man at a time that induced me to give up my visiting. I never had permission to do anything more than see one man at a time. I obtained a large quantity of tracts for distribution. On taking a few on board one of the hulks, I was told that an order had been received from Mr. Price that tracts were not to be given by any person except the superintendent. I told him that I would not attend if I was to be thus interfered with, and I went no more. The men on board at the time I visited complained very much of their want of religious instruction, or visits from their ministers, especially the Roman Catholics. I went to the hulks a year afterwards, after the appointment of a religious instructor, and there was a very marked improvement in the men.

825. *By Mr. Thomson.*—About what time did your visits to the hulk occur?—I commenced visiting in March, 1853.

826. How many months did you remain visiting?—I should suppose about six months.

827. *By Dr. Tierney.*—At the time you visited were there books on board for the use of the prisoners?—Very few at first; but after the religious instructor went there, books were procured, and the improvement was very great, not only as regarded their willingness to attend on religious instruction, but the men became educated—they educated themselves. At my first visits, when the men were willing to listen to me, I have heard the warders ridicule the men and say, "There is that d—d fellow wants to see the parson," and my impression was, that it was perfectly useless for me to go there if that was the way the warders spoke of me to the prisoners.

828. Was that said in your hearing, or in such a way as that you could hear it, though it might not be said directly to you?—I heard it.

829. Could the prisoners have heard it?—I cannot answer for that.

830. Were they sufficiently near to hear an expression of that nature coming from a warder?—I should think so. We had liberty to hold service on board the *Deborah* and the *Lysander*; and service has been held on board those hulks by us, that is, by the Wesleyan body, every Sunday, weather permitting, from that time to this. The impression I wish to convey to the committee is this, that it was the want of facilities that was the cause of my visits to the *President* being stopped. It is the system and the place I complain of, not the officers.

831. Is there any service held on board the *Sacramento* at the present time?—Not Wesleyan service.

832. Is there any Christian worship of any sort conducted on board the *Sacramento*?—I am not aware.

833. Is there any Christian service held on board the *President* on Sundays?—I cannot say. I have been away from Williamstown now for nine months. I am at present at Pentridge.

834. *By the Chairman.*—Apart from the system on board the hulks being bad, do you consider that that system is carried out with humanity, and care, and attention; do you think even the execution of the present system could not be improved?—I have been several years in Sydney accustomed to visit the iron gangs, and the method adopted towards the prisoners here did not seem to me to be anything worse than usual, except on board the *President*, under Mr. Stephen Price.

835. Mr. Stephen Price has left the service now, has he not?—Yes.

836. *By Dr. Tierney.*—Do all the prisoners wish to attend service on the Sunday where you have service at the present time on the *Lysander* and *Deborah*?—The men are willing to attend, but they are not mustered for us; we have only the chance of going at such hours as are not taken up by the religious instructor. They are not mustered for us at Pentridge, but I get upwards of 200 men there.

837. *By the Chairman.*—Are they mustered for any one?—The Protestants are mustered for the Church of England clergyman, and the Catholics for the Catholic clergyman.

838. *By Dr. Tierney.*—Do you think the prisoners on board the hulks are willing to attend and receive religious instruction?—Most willing and anxious.
839. If the committee have had in evidence that men who are on the hulks could not be reformed, do you agree with that doctrine?—I do not; and I say most distinctly, if the committee wish to obtain moral or spiritual ends, they must use moral or spiritual means.
840. You had great opportunities of seeing prisoners in Sydney?—Yes.
841. Is it your opinion that it would be better to have the prisoners here working, occupied at some trade, than to have them idle, as at present they are on the *President*?—Far better.
842. Do you think the men might be taught to sew or make shoes, and would not their minds then be occupied?—Anything that calls the creative faculty into work amongst the prisoners benefits them—that is the testimony of the overseers. The men hate the hand-cart.
843. Did you ever see any continued system carried out where men are kept on hulks, or in solitary confinement, without any measures being used to reform them?—Never.
844. When men are convicted, or doubly convicted, when in Sydney, are not they all occupied in some work in chain gangs—road gangs?—Certainly.
845. Is not the being placed in the road gangs the greatest punishment in Sydney?—I believe so.
846. Have you any further observations to make to the committee?—I consider the power which Mr. Price possesses of placing men in irons most objectionable as a punishment.
847. Are you aware whether Mr. Price exercises the power of ordering men in irons?—I am.
848. Will you state to the committee under what circumstances, which you know of, men have been put in irons at the instance of Mr. Price?—Captain Pasco told me that Mr. Price ordered all the men in the ward, when Montgomery ran away, to be worked in irons for three months.
849. Without Capt. Pasco's consent?—Without his consent.
850. He was then visiting magistrate?—He was.
851. Will you continue your statement to the committee?—I think the evil of sending men away without money from the stockade is a most grievous one.
852. Have you known them to be sent away without money?—Last Thursday I met a man in Heidelberg who had come out of Collingwood that day with his ticket for Heidelberg, and he had no friends and not a shilling.
853. Had he a ticket for Heidelberg?—So he told me; for the Heidelberg district.
854. And this was no longer ago than Thursday last?—Yes.
855. Did you know this man—had you seen him before in Pentridge?—No.
856. Did you ever know any of the men to be discharged from Pentridge without clothes?—This man had the prison boots on, and another man that I took from town a few weeks ago had been trying a week to get work and could not, because he had the prison boots on. They are marked with a broad arrow.
857. And he could not get employment?—No; because of those boots.
858. What detained that man in town?—He was free; he had been all over the country; he had travelled a hundred and fifty miles, and everywhere there was the same objection to him. I think the working with the hand-cart, taking stones and things long distances, very objectionable. The strongest point, in my impression, in Melville's case is where he says he was willing to go and work at cutting stone, and they would not let him, but kept him at the hand-cart. I think, in a country where labor is so valuable, to put those men to such labor is most objectionable.
859. Have you ever looked over the visiting justice's book, the book in which the various misdemeanours and punishments are entered?—I have never seen it. The man I met at Heidelberg told me that he had been placed in solitary confinement twenty days for having tobacco, and they stopped his ticket for three months in addition. That I consider a most objectionable system. You may keep men in for all eternity by that system.
860. Do not you think that a little tobacco might have a soothing effect on some of the men; just a little occasionally?—I do not think it would be injurious to them.
861. You would not prohibit them altogether from having it?—Certainly not, as an indulgence.
862. You said a short time ago that you objected to the hand-cart; do you think that it was overloaded?—I think the sending men down through the streets of Williamstown to fetch up stone has a tendency to degrade the men, and sending them down to fetch stone from the quarry to Pentridge is work that is not beneficial either to the public or to the prisoners.
863. You think it would be better to confine them to the quarries?—No; I think they would be better making the roads through the Black Forest than dragging the carts there.
864. Would there not be a great objection to having convicts making roads?—That is matter of opinion. With regard to the present system, I would say that I think the entire dependance of the officers on Mr. Price is objectionable.
865. You think he ought not to have the power of having men dismissed on his recommendation without an inquiry?—Most decidedly not.
866. Do not you think a man ought to have an inquiry if there is any charge against him, that inquiry being held by some other party than Mr. Price himself?—I think Mr. Price ought to report to a board, if there was any charge against an officer; the superintendents of the hulks and every officer are at present in the most dependant position possible.
867. *By the Chairman.*—What is the result if a prisoner is brought up on a charge before the visiting justice and the charge is dismissed?—I do not know.

Rev. W. C. Currie,  
continued,  
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868. Do you know whether a reprimand adds to a sentence?—I do not know personally.  
869. Have you ever seen about Pentridge any instruments of torture of any kind, such as posts driven into the ground and men strapped to them?—I have never been in the Crystal Palace, and I have been in no other part of the stockade, except when I have been in to hold service.

870. Did prisoners ever complain to you that they had been put upon the spread eagle?—Not upon the spread eagle.

871. Have you heard of an instrument called a "spread eagle"?—Not by that name. I have always been attending to my spiritual duties, and I could not enter into any other matters.

872. *By Dr. Tierney.*—Do you know anything about Collingwood stockade?—No.

873. Do you know anything about the lock-ups generally throughout the Colony?—I consider the state of the lock-ups on the gold fields and at other places at the present time is disgraceful.

874. Are men guilty of felony and drunkards put in the same lock-up?—They were when I was at the gold fields.

875. Do you know anything about the lock-ups in town?—No.

876. Do you know anything about the gaol?—No; I think that the allowing the doubly-convicted men to associate with those tried here is one of the most objectionable things in the system; I think a classification of the prisoners ought at once to be made.

877. Would you advocate the system of a man who happened to get in for a lesser crime being subjected to cumulative punishments for any breach of discipline?—Certainly not.

878. You think that system is objectionable?—Yes.

879. Do you think, in punishing a man for any offence against prison discipline, the authorities should consider his original sentence?—If there were a classification, you could make laws to suit both parties; but the evil at present is, that vagrants and those convicted here for the first time and the doubly or trebly convicted felons are all put under one code. I think, also, there ought to be a separate establishment for boys.

880. Where are the boys at present?—When I was at Williamstown, there were some on board the *Deborah*, and there are some now at Pentridge.

881. What age were those boys?—From thirteen to sixteen years of age.

882. Were they allowed to mix with the other prisoners?—The greatest care was taken, but still there was no separate place for them.

883. *By the Chairman.*—Are any means of reformation resorted to by the prison authorities?—Yes; in giving them books, and teaching them to a certain extent habits of industry, I think there are.

884. Have you heard any complaints about the sleeping huts in the Pentridge stockade?—The sleeping accommodation in Pentridge is very limited, and not such as it should be. In the room in which the prisoners sleep there is only just room for the men to stand upon the floor when they go in; and I have been informed, that some of them have to get into their bunks before they can all get into the room.

885. *By Dr. Tierney.*—Are not facilities given to the prisoners for committing unnatural crimes—is there any protection against that?—I know nothing about that. I should suggest that the committee can obtain accurate information with regard to the internal arrangements from the superintendent, Mr. Duncan.

886. *By the Chairman.*—In your experience, have the men ever displayed any evidences of a disposition inducing you to think that efforts made for their reformation would be futile?—Never.

887. Have you any further observations that you wish to offer to the committee?—The Government have taken away all the salaries from the chaplancies to the gaols and penal stockades, and that was done at a time when the Government grant was raised from £36,000 to £50,000; and they stopped all the gold fields' chaplancies as well, so that whatever is now paid for the ministers is given by the different churches. The chaplain at Pentridge only gets £50 a year allowance.

888. *By Dr. Tierney.*—Are you aware that there is about one officer to the care of every four prisoners on the hulks?—I believe that is the case.

889. *By Mr. Thomson.*—Have you any further suggestions to offer for improving the system adopted on board the hulks, more particularly the *President* and *Sacramento*, with a view to reforming the prisoners, and at the same time keeping them in safe custody; or would you suggest that the hulks should be given up altogether, and some other mode of dealing with prisoners of the worst class be adopted; if so, what plan would you suggest?—I would suggest doing away with the hulks altogether. I think that prisoners who are employed under the Government ought to be paid a small sum for their labor, so that they may have something to begin upon when they get out, instead of falling back upon thieving.

890. What other mode would you propose for keeping the men in safe custody, if the hulks were done away with?—I would suggest that proper prisons should be built, and that the men should be employed in those prisons in some occupation or trade.

*The witness withdrew.*

Mr. John Berkley further examined.

Mr. John Berkley,  
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891. *By the Chairman.*—Before you were appointed storekeeper to the *Lysander* were you a warder at the Pentridge stockade?—I was a warder when I first joined.

892. What pay did you receive for being a warder?—Ten shillings a day.



893. Were you not employed very frequently during that time in doing the work of the assistant superintendent, in the office (Mr. Moyle)?—I was.

894. What was the cause of that?—In consequence of Mr. Moyle being absent, from an attack of rheumatic gout.

895. Is Mr. Moyle an infirm man?—He is.

896. Are you aware of the amount of salary paid to the assistant superintendent?—I am not. I think it is £300 a year.

897. At the time you were performing his duties, did you receive any extra pay?—None.

898. Did you perform those duties satisfactorily?—I was continued in the discharge of those duties until he returned.

899. Were you made a corporal immediately after his return?—Not immediately after.

900. Do you know whether the present assistant superintendent, Mr. Moyle, was ever employed in any way in the penal department before the appointment of Mr. Price?—No. He married Mr. Price's governess. He was a clerk in the office before.

901. Is his wife still Mr. Price's governess?—She may have the appointment, but she cannot be acting, because she is living with her husband, at St. Kilda. He has gone there for his health.

902. Is it usual for men of approved conduct in the department to be advanced to the superior posts, as vacancies occur?—On account of conduct that pleases the superiors.

903. Can you, from your own knowledge, or from what you have heard, state any case, excepting that of the present assistant superintendent, Mr. Moyle, in which a person previously unconnected with the department has been given one of the best appointments in it?—Lieutenant Payne is another instance; he was a naval officer in the *Herald*, surveying vessel. There was also Lieutenant Maxwell, a retired officer in the navy, who was appointed shipkeeper to the *Sacramento*. Those are the only instances that I recollect at the present time.

904. You have said that Mr. Moyle was very infirm?—Yes.

905. And that during his illness you performed all the work which he, if he had been present, would have performed?—No; because his books were not up.

*The witness withdrew.*

*Adjourned to to-morrow, at one o'clock.*

#### THURSDAY, 18TH DECEMBER, 1856.

MEMBERS PRESENT:—Mr. Hood, in the Chair; Mr. Guthridge, Mr. McCombie, Mr. Patterson, Mr. Thomson, Dr. Tierney.

John Singleton, Esq., M.D., examined.

906. *By the Chairman.*—Have you been in the habit of visiting the penal departments in Melbourne?—I have been visiting prisons for the last twenty-six years, and nearly six years in this country. I got permission from Mr. La Trobe, through the bishop, to visit the prisons when I came here. I visited the Melbourne gaol for nearly four years.

907. What prisons have you been in the habit of visiting at home?—Newgate, in Dublin, most constantly every Sabbath, and Harold's Cross prison, and Kilmainham gaol occasionally.

908. Your attention was principally directed to the spiritual welfare of the prisoners?—Yes; and also to secular instruction and attention to temperance matters.

909. What class of prisoners were generally confined in those prisons?—Prisoners guilty of larceny and felony.

910. Principally before trial?—No; both before and after conviction. Those in Newgate were principally before trial. When sentenced they generally went either to Kilmainham or to Richmond penitentiary. I principally visited in Newgate. I visited there for nearly twenty years.

911. Have you ever attended any investigation into the management of prisons at home?—No.

912. It has not been found necessary to hold such an investigation in Dublin?—No.

913. When you commenced to visit the prisons here, did it strike you that there was any marked difference between the treatment and management of prisoners here and at home?—Very marked; but the lengths of my visits at home were so short, that my time while there was taken up most completely with the one object I had in view, and I learned very little as to the management of prisoners at home. Here I was particularly struck with what I thought interfered with the reformatory principle being carried out. When I first commenced here I visited the gaol principally; I did not see anything very remarkable there, except the want of classification among the prisoners.

914. Having had six years' experience of the penal establishments here, does it strike you that the system pursued is calculated to reform the prisoners?—Quite the contrary; I believe it is just the means of propagating crime. My wife visited the female prison for nearly three years; and when she was unwell, or detained by other matters, I went and visited for her, and I was particularly struck by the effects produced by mixing all classes together—the young and the old, and persons in for their first offence, with those who had been trebly convicted, old females who have been prostitutes, and engaged in scenes of infamy for many years. We saw the effect likely to result from that, and Mrs. Singleton mentioned the thing to Mr. La Trobe, who met her, along with the sheriff of the gaol. She wished very much that there should be a classification, and that the female prisoners committed for the first time should be kept by themselves; and she

Mr. John Berkley,  
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John Singleton,  
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continued,  
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wished also that, even with the first commitments, there should be a separation between those who appeared penitent, and whose minds were disposed for reform, and the others. That was intended to be carried out, but it was never done. Nothing of the kind was done; matters have remained nearly the same up to the present time.

915. Did it strike you that the system was bad, or that it was badly carried out?—The system was bad and very badly carried out. When I say “badly carried out,” I speak particularly as to Pentridge. I have not so much to say as to the gaol here. I have visited Pentridge stockade for the last two years. In January, 1855, my family settled at Pentridge, and I felt then a desire to visit the stockade, and I did so. My own property is next to the stockade.

916. When you speak of the system being bad, you allude to the whole penal system of the Colony; but when you speak as to its being badly carried out, you speak more particularly as to Pentridge?—Yes.

917. Do you mean to infer that the system in other places is well carried out, or that it is not so badly carried out as at Pentridge?—That it is not so badly carried out, from the limited opportunities I had of a personal knowledge of the other places. I have been in Collingwood stockade a few times, and on board the *President* hulk; but I have visited the Pentridge stockade very regularly every Sunday for nearly two years.

918. Are you acquainted with any particular cases which would illustrate the opinions you have advanced?—There are two cases that have come before the public, which I think are very striking, and it is likely the committee would wish to have some information upon them—the cases of Michael Ryan and Thomas Bourke, at the Collingwood stockade. I would also here mention that I was precluded from visiting the Pentridge stockade on the 7th September by Mr. Price.

919. On the 7th September last?—Yes.

920. For what reason?—The correspondence has been before the Chief Secretary. I have a copy of it in my pocket. The reason assigned by Mr. Price was, that I was speaking to a Roman Catholic about carrying a message out. It was on a Sunday, after I had held two services with the prisoners, one in the upper stockade and the other in the lower, and I had held a Bible class with some of the men afterwards in the open air, for Mr. Price would not give me a room to hold it in, and I had to hold it under the sun or under the rain, as the case might be; but so anxious were the men to receive instruction, and I to give it, that we did not mind whether it was in the rain or not. In place of my going to the solitary cells on that day, as I generally did, I had to go away to meet Dr. O'Mullane in consultation at Richmond at half-past one, and in passing through the yard some men spoke to me. One had spoken to me to get him a spelling book, and another man spoke to me about speaking to his wife. He said, “Sir, will you be kind enough to call on my wife and speak to her. She is in the female penitentiary.” So I searched my pocket for my tablet and pencil; I had not them about me, and I took out this little Testament [*producing the same*], and I opened the corner of it and wrote down these words:—“Mary Boyle. F. Penitentiary. William Ducie. September 7th.” Mr. Price saw me writing it down, and came across to me. I was just asking the man, was his wife committed under the name of Boyle. I was waiting for a reply, when Mr. Price came up and said he could allow no communication with the prisoners. I said I was doing nothing wrong, but merely taking down the wife's address. He spoke to me very rudely and roughly, and I left him and walked towards the gate to get my horse. Mr. Price followed me very quickly and said, “I will not allow you to come in any more.” I said, “Very well, Mr. Price, on you rests the responsibility for time and for eternity.” He said he was prepared to bear it. The next morning I wrote Mr. Price a letter, and left it at the stockade for him. The letter was explaining what I could not explain the day before, because he would not listen to me. I stated the facts as I have now stated them, and also entered into a sort of recapitulation of my visits to the prison and the results of them. In it I referred to one conversation wherein he told me, when I first came there, that he had been twenty-seven years connected with prisons, and had never known a prisoner to be reformed. He told me that, as I had mentioned to him that I had known many to be reformed, and more than that, that many had really been converted and taken to live useful lives and die happy deaths. He told me it was merely for a purpose that they put on a profession of religion, and he did not heed it. I got an order to visit the Collingwood stockade, and another to visit the hulks, and about a year and a half ago I went on board the *President*, and on that occasion I saw Melville in the *President* hulk. I think it was in the latter end of March, 1855, I was on board the *President*. I visited most of the solitary cells—they are all solitary cells—I visited most of them below for a few moments, and spoke to each man, and also to some of those on the upper deck. Melville was on the upper deck at the time, and there he had light in his cell, which the others had not, that is, those on the under deck. I felt for them very much, when I saw men confined there for a year or two, nearly in the dark; some of them could read and some of them could not. One man, when I asked him how he managed to read, took up his tub, inverted it, stood on it and held the Bible up at arms' length to catch the rays of light coming in, and he said that was the way he could read at certain portions of the day. I spoke to Mr. Price about it I think a week or ten days afterwards, at the Pentridge stockade. I spoke to him about the miseries the men were enduring and how very severe the punishment was.

921. You alluded to the hulks?—The *President* hulk. He turned round and said, “If I had my offer, either to be hanged or to live for a year on board the *President* hulk, Dr. Singleton, I would go out to-morrow morning to be hanged.” I thought that spoke volumes as to the severity of the punishment; but he made no offer whatever to try and mitigate the severity of the punishment. I also suggested, respecting the solitary cells at Pentridge, that there might be an auger-hole made in the door of the cells to admit a little light, for the air holes of the solitary

cells at Pentridge are so constructed as to preclude the admission of a ray of light. The cells at Pentridge are not more than two feet in width.

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922. Where are they situated?—Quite in the back ground, behind the hospital, and behind the sleeping rooms in a back yard. They are made of very strong slabs of thick wood, perhaps two or three inches thick, and the air holes are placed in the side between the two cells. There are three strong boards, the centre one is solid, not perforated, but there are perforations through the sides, so that air can get in, but no light. I have sometimes asked the men if they have not wished to have a Bible, but there was no means of getting light. In one or two of the cells they could manage to see a little through a little chink there was down the side of the door, when shut, where the hinge was, and by holding a book close to that they could see a little sometimes; but the walls are so close, and they are not whitewashed, that it was very little the men inside those cells could see. I spoke to the superintendent, and asked, could it not be possible to have an auger-hole bored through the door to admit a little light. I said that it could do the prisoners no harm, and might do their minds good, but it was not granted. All Mr. Duncan said was, that there were new cells building, and they would have more light in them.

923. *By Dr. Tierney.*—Is there one prisoner only in each cell?—One prisoner in each cell; and I have seen them there for seldom less than ten days, and some fifteen, twenty, or thirty days; and the usual cause of their punishment was having tobacco.

924. *By the Chairman.*—Do you not think that it would be advisable to allow prisoners to have a small portion of tobacco, to let it be part of the ration, and the deprivation of it to be a punishment for breach of discipline?—I have often thought it would have a most salutary effect; a little encouragement would do more with that class of men than a severe punishment.

925. Are you aware whether tobacco was prohibited in Mr. Barrow's time?—I will not say positively.

926. Is it prohibited generally in gaols in the United Kingdom?—I am not positive upon that subject.

927. *By Mr. Patterson.*—You say that the system is bad at Pentridge. Are you aware of the system carried on in any other country?—I mean that it is bad at Pentridge in comparison with the gaol at Melbourne.

928. Have you had any experience of the system carried on in any other country?—I have visited prisons at home for twenty years.

929. How do you know that the woman this prisoner wanted you to go to was the man's wife?—I do not know it at all.

930. Have you any knowledge that she was not an accomplice of his in the felony for which he was sent in there?—I never knew anything about the man, or his wife, or his family, good or bad; the man's request to me was to visit his wife.

931. Did you ask him if she was his wife?—I was asking him the question, how was it her name was Boyle and his name Ducie. I said, "Was she convicted under that name," and before he could reply, Mr. Price came up. The whole thing did not occupy two minutes.

932. From your experience of prisoners, do not you think a strict line of discipline is absolutely necessary for them?—I do. I think strict discipline, properly carried out, is absolutely necessary.

933. Are you aware that Mr. Price disapproves of the system of prisoners being sent to the hulks?—I do not know whether he disapproves of it or not.

934. *By the Chairman.*—You have said that you knew something about the case of Michael Ryan?—Yes.

935. Do you know anything of his previous history before you met him in prison?—No; I never met or heard of the man before.

936. Do you know where he is to be found now?—I do not.

937. Have you any reason to suppose that he is not what he represents himself to be, namely, a free immigrant?—He never stated to me that he was a free immigrant. His own statement was, that he never committed a robbery. He was transported out here. He was in the 60th Rifles, and stationed at Corfu, and he and some other soldiers were sentenced to be transported under the Mutiny Act for some breach of discipline relative to provisions, or clothing, or something of that sort.

938. Did he ever tell you how long that was ago?—He told me the date, but I forget it now. He was sent out, I think he said in the *Duchess of Kent*, to Tasmania. He had been in the service of Mr. Price and made mats for him, and the poor man cut up some rushes and made a mat and threw it at my door, which showed he could do it. On visiting the City Court prison on 14th September last, I asked who would take the total abstinence pledge. He said he would do it, that he took the pledge once from Father Mathew, and would take it from me. He said also that he came down from the diggings some years back and had £570 with him, which he had spent in drinking in town; that he had been fined several times, and that he was brought before the mayor at last and got six months' imprisonment for drunkenness; that he was brought down to Williamstown, that there he refused to work, refused to take off his hat, was shut up on board the hulks for two years and a half, wanting eleven days, in heavy irons, and that he never saw the sun rise nor set during that time. That was what he stated to me.

939. *By Dr. Tierney.*—Do you know anything about the man's previous habits?—He was a great drunkard.

940. Do you think he was worse than a drunkard in his previous character?—He told me himself that he had been in the habit of gaming and so on, but nothing more than that; he was an exceedingly hasty man, a kind word would do anything with him, but opposition would not. I think he is an honest man.

941. Do you think he is right in his intellect?—I think he is not very strong in his

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intellect. He told me that he had been struck on the right side of his head behind the ear with a "neddy" on board ship.

942. *By Mr. McCombie.*—Do you think he has any monomania?—He is excitable and passionate, and opposition increases his excitement. He had been a terrible man for drinking, and I think at the time he was taken up he must have been laboring under the effect of it.

943. *By Dr. Tierney.*—Do you think he is partially idiotic?—I would not say that, but I think he is not quite sound in his mind.

944. Would you treat that man differently to another prisoner—do you think a man like him ought to be treated differently to others?—I think if he was treated with violence it would have a bad effect.

945. *By Mr. Patterson.*—Did you ever report to Mr. Price that you thought that man of weak intellect?—No; I had no conversation with Mr. Price upon the subject. He was in the watchhouse when I saw him.

946. *By Dr. Tierney.*—During the time that you did attend the gaols did you ever remonstrate with Mr. Price on account of any cruelty the prisoners were receiving?—Nothing, except in the case of the *President*, and I found how little I got for it; so that I did not think it would be of any use to go to him. I asked him to show some little kindness to one prisoner, the son of the Coroner of Wiltshire, a young lad who had run away from his ship and got in for horse-stealing, and that when he had served the time allotted for him to get his ticket-of-leave he would grant it to him, and he said he would see about it; but it was put off for six months longer, and the young man begged me to say nothing to Mr. Price about it again.

947. Is the medical department in an efficient state?—The hospital is very bad; it is a most unhealthy place. I dare say the men are pretty well attended to.

948. Have you heard that the medical men have been in the habit of punishing persons by some torture called the bath? I cannot say that I have heard the medical men have done it; I have heard that baths were given as punishment, but it never struck me that it was the medical men who did it.

949. It is in evidence before the committee that a case of sodomy was committed on board the hulks. Do you think from your knowledge of prisons that men have the opportunity of committing unnatural crimes in them?—I have never seen or heard of anything of the kind in the prisons here. I heard of one or two men within the last few days who have been punished by Mr. Price for it.

950. Are you not aware that in all prisons it is not an uncommon offence?—I am.

951. But you know of no case of the kind that has come within your own knowledge?—No.

952. In Mr. Price's evidence he states that the baths were always given upon the doctor's instructions on board the hulks?—I have not been on board the hulks, except occasionally visiting the *President*, and then my time was so occupied that I could not attend to those things.

953. Do you know Dr. Wilkins, at Williamstown?—I have seen him.

954. Is he a humane man?—I really do not know much about him. I saw him examined at the trial of the prisoners, and that I think is the only time I have seen him to my knowledge.

955. *By the Chairman.*—Are you aware of your own knowledge what the result to a prisoner is of getting reprimanded by a visiting justice; does it add to his sentence?—It puts back his ticket I think for six months.

956. *By Dr. Tierney.*—Do you think it is right for the visiting justice to sentence a man to punishment, and afterwards to hold an inquest on the man—do you think a visiting justice ought to be a coroner?—Decidedly not. I think solitary confinement in the dark has a prejudicial effect upon a man's health. I have been sometimes in the cells a minute or two before the men could collect their minds to speak to me. They seemed quite foolish or idiotic for a time when I went in to speak to them. They also seemed exceedingly low, and lost flesh very much; for their food was only a pound of bread a day, and water, during the time they were in that place; and they had no exercise, except to go out and walk up and down for half an hour or an hour, chained together, and this often for a period of twenty or thirty days.

957. Is there not some difference between the two yards at Pentridge?—There is the Crystal Palace—that is a place where they send men for additional punishments.

958. Have you ever seen the sleeping apartments there?—No; I have never been in the sleeping apartments.

959. Do you think it is prudent to have the prisoners drawing stones in a hand-cart?—I do not see any objection to it, if not exactly in the gaze of the public.

960. Are you aware that the prisoners complain of that?—No. I have complained that the men who are chained down to the stones in the upper stockade were not allowed to come to worship.

961. *By Mr. Patterson.*—For what is that punishment inflicted?—I do not know. For asking such a question I should be liable to expulsion.

962. You never asked Mr. Price?—No. I asked that the men might be unchained and allowed to attend the service which I held until a clergyman was appointed. I took up the two services in Pentridge stockade in January last, and held them to the 7th of September. At first there was an objection made to it, but at length the men were unchained and brought; they were not allowed to come inside, but were placed on a form outside, where I thought they could not hear what was going on. On more than one occasion I applied for permission to leave the Religious Tract Society's tracts with the men, but was always refused (in the lower yard no objection was made). I asked that the men who wished might be allowed to take their Bible with them for some hours after the services had concluded—some expressed a wish to that effect.

963. What punishments are inflicted for insubordinate conduct at home in the gaols?

—I mentioned in the outset that I was not acquainted with the internal management of the gaols at home. I am not aware what punishments are used there.

964. What punishment would you suggest for insubordinate conduct?—I think the Prussian system would soon bring the men round, if a man was put into a solitary cell and kept entirely dark and on low diet for a couple of days, not thirty, as at present.

965. Then you approve of solitary confinement?—For a short time, but not for thirty days.

966. For how many days?—Two or three days is generally found sufficient to bring a man round in Prussia.

967. Would you extend that punishment if a man would not become tractable—would you keep on the solitary confinement?—I do not feel prepared to enter upon that subject.

968. It would be very desirable if you would suggest any improvement on the present system?—I have heard the prisoners complain very much of the brutal way in which they are treated, and it seems to harden their hearts. A man has told me that he had been caught by the throat and thrown on his back and pressed until nearly suffocated, in order to prevent his swallowing tobacco which he had been suspected of having in his mouth.

969. Did you ever see any act of brutality exercised towards a prisoner?—I was not present. I have been told it by prisoners when they have come out.

970. *By the Chairman.*—Would you inform the committee what took place in the case of Bourke. You were present at the investigation?—Yes, I was.

971. Who were the magistrates?—Mr. Price held the investigation. Mr. Little accompanied me out there.

972. *By Mr. Guthridge.*—Do you know whether the evidence was taken down at the time?—Yes, it was. Mr. Price took it down very slowly.

973. Was the evidence read over afterwards?—Each person's evidence was read over, after it was taken down, separately.

974. *By Mr. Patterson.*—Can you suggest any improvement on the present system of penal discipline?—I do not feel prepared to enter upon the whole question of penal discipline. I am not prepared to recommend any system for managing the prisoners; I leave that to persons who devote their time more to it than I could. I would recommend that punishment should be carried out in a humane way, so as to reform the criminal, and not to irritate him as the present system does, which both lowers him in his own estimation and exasperates him, and makes him hate his fellow men and look for revenge when he leaves the prison.

975. How often have you visited those places of punishment?—Generally every Sunday, from two to five hours.

976. You have never been during the week?—No; I offered to Mr. Duncan to go of a week evening and teach the men to learn to read. There were some young men who were anxious to learn, but he would not or could not give me any room for it.

977. *By Mr. Guthridge.*—Is there any sort of schoolmaster or instructor in any of the establishments?—Nothing of the kind, and the men's desire to learn is very great.

978. Do not you think the appointment of a schoolmaster to each establishment would be an advantage?—The appointment of a clever schoolmaster, who could not only teach them to read and write, but give those who are more highly educated, which some of them are, additional information, would have a very good effect, and a lecture occasionally would have a very good effect. I have occasionally mentioned Nineveh or Babylon, and given it a spiritual turn.

979. Do you know of your own knowledge whether the men have any means of instruction excepting that afforded by the distribution of books?—No.

980. Is any care taken in the distribution or selection of the books, or are they chosen and given out indiscriminately without reference to the capacity or taste of the individual so supplied?—That I believe. I would just mention a fact that would throw some light upon that. About a year ago I was very anxious that the prisoners should get a good library; I had ransacked all my own books and my children's books, and lent those books to the prisoners, and the desire to read was so great that I was anxious to get the library improved. I applied to Mr. Carter, the minister at Pentridge, and he made application. Mr. Price said, if there was an application sent in for books it would be granted, so I went to two of the booksellers in town and selected books, as we had arranged, to the value of £50—schoolbooks, works on geography, arithmetic, spelling, and various other useful branches of knowledge, such as historical works, biographies, and so on, and slates. Those were all set aside by the bookseller, but although the selection was made agreeably with Mr. Price's wish, those books never were got. Some sort of a library was selected that some one else thought proper.

981. Do you know whether each man is obliged to take the book offered him, whether he has read it the previous week, or wants it, or not?—No, I do not know that.

982. *By Mr. Mc Combie.*—Have you ever yourself seen any instance of unnecessary cruelty exercised towards prisoners in the stockade?—No, unless you look upon chaining men to a stone in all weathers as unnecessary cruelty.

983. *By Mr. Patterson.*—In speaking of that, you cannot suggest any improvement—what would you do with the men who were refractory, and would not do as they were ordered?—I do not profess to be a doctor of penal discipline.

984. *By Mr. Mc Combie.*—Do you think that system unnecessarily cruel?—I think it is, especially where continued for many consecutive weeks.

985. *By the Chairman.*—Is there a hospital at Pentridge?—There is.

986. What is done with the sick?—They are put in there.

987. Are there any beds in that hospital?—There are two tiers of wooden bunks

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988. Are there any mattresses?—No; the only man that I ever saw lie on a mattress was Gisborne, who was shot through the side.

989. *By Mr. Mc Combie.*—Do not you think that a good deal of this unnecessary cruelty of system is in consequence of the want of accommodation to keep the men properly under control?—I do not think so. I think the punishments, as far as I have heard of them, are unnecessarily severe—fifteen, twenty, or thirty days in a solitary cell, with a pound of bread a day, and shut out from light, I do not think necessary for a mere breach of discipline.

990. Do you consider that, where men have forfeited their liberty to their country, solitary confinement is too great a punishment?—Not at least for a specified time, if they have light and exercise, books and instruction.

991. Do not you think the solitary system might be carried out altogether with great improvement to penal discipline?—Something of a silent system and short punishments I think would tend to improve men; but if a man gets ten or twelve years for stealing a horse he loses all hope.

992. You do not consider it hopeless to expect the reformation of even the common ordinary criminals in our gaols and hulks?—Quite the contrary. I had in my hand this morning a bundle of letters I have got from prisoners in different parts of the colonies, men who are in good circumstances and doing well, confirmatory of this.

993. What system would you suggest for bringing this reformation about?—I think in the first place giving prisoners some encouragement for good conduct, and shorter sentences if it were possible to alter the laws.

994. According to Mr. Price's evidence, very considerable reductions are made in the duration of the punishments for good conduct?—It is carried out in a very irregular manner, and very unsatisfactorily to the prisoners.

995. Could you suggest any improvements with regard to the superintendence of the magistrates?—I think there ought to be a general commission over the entire prison matters, and that men in prison situations ought to be employed subject to this commission, and dismissed subject to it, and not be left at the will of one individual.

996. Then you do not approve of the system of having one visiting magistrate?—I do not.

997. If he should combine with the superintendent, there would be no check?—No.

998. Would you suggest a paid commission?—Whatever the Government might determine in that respect.

999. It would be a very onerous duty which such a commission would have to perform. You could not expect men to devote their time to it without being paid?—I suppose not; but I think it would be highly desirable not to let too much power be vested in one individual.

1000. Then you would propose a commission of three or four individuals to take the whole system of penal business in the colony into their hands?—More than that.

1001. Five?—Perhaps so.

1002. That would, to a very great extent, do away with any risk of combination between the superintendent and the visiting justice?—I think it would be a step in the right direction.

1003. Is there any system of religious training or instruction you would propose?—In addition to ministers, &c., having access at reasonable times for holding religious services, catechetical and Bible classes, I would like to provide a well selected and extensive library, and give the men free access to that library, to employ their time in the evenings; and thus they would be kept from talking together about their old habits, and forming new plans. That, I think, would have a salutary effect. I mean a good library, not of the common reading books, but books of an intellectual and scientific class. Some of the men wish to read books on scientific subjects, and some to improve themselves upon matters of business. I suggested to Mr. Price that they should turn a large piece of ground, which he had enclosed for grazing purposes, into a horticultural garden, and teach men on the most improved principles; so that, when the men were discharged, they might take situations, and be useful members of society.

1004. And under that system you think there would be a good chance of their reformation? Yes, I think so.

1005. Could you suggest any improvement in the way now adopted of teaching manual labor; do you think that it is now upon a proper basis?—I have not been in much through the week days, but I do not think the labor is at all remunerative. I think that all the clothes and shoes, &c., connected with the convict establishment and the Government ought to be made by the prisoners, and useful trades taught them.

1006. Do not you think it is possible, by instilling industrious habits into the prisoners, to reform them?—Yes; I believe in America the prisoners are allowed to choose a trade and are perfected in it, and when they get their discharge they are able to earn a livelihood; and I believe they also get some portion of their earnings paid to them.

1007. You would propose that, where a man is committed and is sent to one of the stockades and gaols, that the first question asked should be, "Do you belong to any trade," and if he do not, he should be asked what trade he would like to learn, and that he should learn a trade and go out a more useful member of society than he came in?—Yes.

1008. And that in addition to that, a system of moral culture and religious instruction should be put in action, so that in every way the man might be reformed and made a good member of society, instead of continuing a bad one?—Yes, for society's sake as well as his own and his family's.

1009. Mr. Price has stated that he had no hope whatever of any reformation of the men?—His system I believe is adapted to preclude reformation; but I have had ample proof as to the Scriptural reformation of some of the most incorrigible and degraded men, and such is the taste of the men for reading, that I believe they would content themselves with reading and poring over

the books, if they had them, in place of concocting new crimes and villainies. In some of the prisons at home they have one man told off in each gang to read out for the day, and the others are all obliged to work silently; that is, in the trades where there is not too much noise, such as tailors or shoemakers, &c.

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1010. Do you not think it is very improper for the visiting justice to be a Government officer as well; ought not he to be independent of the Government?—I think the citizens or municipality where the prisons are situated ought to appoint their visiting justices, and I think, of the commission appointed, some ought to be appointed by the Government and some by the citizens.

1011. Does not Lieutenant Pasco hold a Government situation independent of his position as visiting justice. Is he not the stipendiary magistrate at Williamstown?—I thought all was included under one.

1012. Do not you think it improper that an executive officer of the Crown should be appointed a visiting justice?—I do.

*The witness withdrew.*

Mr. Charles Tye called in and examined.

1013. *By the Chairman.*—Were you engaged at one time in the penal department?—I have been over convicts for the last twenty years in different parts of the world.

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1014. Were you an eye witness to a prisoner who was said to be shamming insanity, and who was put through some process to test him?—Yes; his name was McGuire.

1015. Will you state to the committee what you recollect of what you actually saw in that case; were you at Pentridge when McGuire was taken suddenly ill?—I was.

1016. State what took place.—He was placed in solitary confinement; he was taken from there, and there was a handcuff placed on each hand.

1017. *By Mr. Guthridge.*—Was this before or after he took ill?—After he took ill.

1018. *By Mr. Thomson.*—Was not he examined by a medical man?—He was examined by Dr. Webster.

1019. What was the next step?—I was locker at the time when they handcuffed him down to an iron bedstead; his head was shaved; and there was a liquid, I do not know what they call it, but I believe something connected with vitriol, that was put on his head, with a feather, and all down the spine of his back, and his two cheeks, and the calves of his legs.

1020. Was that by the doctor's orders?—Yes.

1021. *By the Chairman.*—What effect had it upon him?—Only to drive the man more mad.

1022. What effect had it upon the skin?—As soon as it was put on it became a blister, and the blisters broke immediately, and the man could not lie down any where. He was lying on his belly when it was done. It was put right down the back bone.

1023. How many days was it before all was healed up?—It took nearly a fortnight, or more than that before it was properly healed up, and then it was repeated again; and in one instance, the man knowing it was going to be repeated again, after his head was shaved in the hospital, made a rush out, and attempted to strike the doctor. As soon as they let the hair grow, they repeated the same punishment.

1024. Were you given to understand by the doctor or the dispenser that this was to cure him from shamming madness?—Yes.

1025. Not that he was mad?—The doctor, I believe, understood that he was not mad. He said so. I could not say so. He had every symptom of madness about him. I considered the man insane myself.

1026. The report through the place was that it was done because he was feigning madness?—Yes.

1027. Was he in good bodily health?—No; he was very weak.

1028. What became of him afterwards?—After that I believe he was sent up to the upper stockade—the Crystal Palace.

1029. And you lost sight of him there?—Yes; after that I went to the hulks.

1030. Do you know in whose charge he was put?—I think he was in Kilmartin's charge.

1031. Have you been to the Crystal Palace?—Yes.

1032. Do you know anything about Gisborne's case, when he was shot?—No; I was not there then. The only thing I can speak of is the cruelty exercised in this department and the consequence of it, as compared with various other departments.

1033. Have you been over prisoners in Van Diemen's Land?—No, not in these colonies, but at home, and in Bermuda and in Gibraltar, and I never saw that cruelty exercised towards prisoners there that has been exercised here.

1034. Do you think the discipline in this colony is needlessly severe?—I think there is one thing might be adopted which would prevent a great deal of crime amongst the prisoners, that is to allow them tobacco—let them have so much a week for their earnings. They work hard, some of them cutting stone, and everything else. I have been over prisoners in Gosport, Portsmouth, Bermuda, and Gibraltar, and there they are allowed say three pence a week for tobacco. Give them that and they will work, and that will prevent all crime. There is one bad quality belonging to Mr. John Price, and that is, that any man who goes and gives any information about a man, whether he is guilty or not, he will immediately confine that man and keep him in the cells.

1035. The man informed against, or the man giving information?—The man giving the information.

1036. Have you read that column marked "Pentridge Stockade, No. 2," in the *Age*?—

Mr. Charles Tye, I have, and will swear to the truth of all that is detailed there. [*The same was delivered in—*  
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1037. *By Mr. Guthridge.*—Are you in the employ of the department now?—No.

1038. How long were you in the department?—Eleven months.

1039. You were not in it during the time of Mr. Barrow's superintendence?—No; I joined on July 30th, last year, and I left eleven months afterwards; I was locker there, and locker at Collingwood, and special constable on board the hulks. I have not seen Melville chained up to the bar, but I have seen another man served that way.

1040. Can you recollect his name?—No.

1041. *By Mr. Thomson.*—Were you present, and did you see all that is stated in this article which you have handed in?—The fact of the man being a servant to Mr. McPherson I know, and he was one of the most quiet and civil men in the stockade, and after he had got the order for his ticket-of-leave, when he was in the gateway, Mr. John Price came up and charged him with being a convict from Van Diemen's Land; he said, "You have been on the other side," and then he ordered me to go and put him in the cell, and the man was put in solitary confinement.

1042. *By the Chairman.*—And at the same time the Governor's warrant was in force for his liberation?—Yes.

1043. Have you ever seen prisoners stripped when they were supposed to have tobacco about them?—Yes; I have done it myself.

1044. By the orders of Mr. Price?—By the orders of the chief warden.

1045. Have you ever seen it done in Mr. Price's presence?—No.

1046. Who is the chief warden?—The chief warden at that time was Mr. McPherson; he is superintendent at present, and I have seen the chief warden run and catch hold of a man if another man said he had a bit of tobacco in his mouth. He would run and catch hold of him so that he was bound to open his mouth.

1047. *By Dr. Tierney.*—What may be called throttling a man?—Yes.

1048. Did you leave the service yourself, or were you dismissed?—I was discharged from the service, but I have got a character from Mr. Price.

1049. Were you discharged in consequence of any quarrel between you?—No; I was on shore-duty at Williamstown. We were supposed, so many of us, to go on board the different hulks to do four hours' duty, to give the other men a chance of getting a Sunday off. I went on board at eight and came ashore at twelve, and was not for duty then till next morning. I went and dressed myself and went into Williamstown, and I got rather too much to drink; and the same system Mr. Price adopts with the prisoners he adopted in this case. A warden went and gave information that I was coming home in liquor, and for that I was discharged.

1050. Was there any inquiry into the case?—No; I was brought before the superintendent. I admitted the charge of being drunk; that was sent up to Mr. Price, and he immediately sent down my discharge.

1051. *By the Chairman.*—Was there any pay due to you then?—Yes; there were twenty-two days' pay due to me, and they kept back ten days (five pounds) and discharged me.

1052. *By Dr. Tierney.*—Did you ever have any disagreement with Dr. Webster?—Never.

1053. Was it not Dr. Webster who ordered the treatment towards McGuire that you have spoken of?—Yes; he was the superior medical officer.

1054. You have no ill feeling towards Dr. Webster?—Not the slightest; he always treated me with the greatest respect.

1055. Did Dr. Webster see the effect of this lotion upon the man's skin?—Yes.

1056. Was it dressed in any way?—Yes, in a sort of way, with anything they could get hold of.

1057. Did Dr. Webster see it afterwards?—Sometimes.

1058. *By the Chairman.*—In the books of the stockade, there is an entry of a man being brought up for having goods belonging to the Crown in his possession; do you know what that means?—No, I do not.

1059. Have they water-closets at the stockade at Pentridge?—Yes.

1060. Are those water-closets provided with rags, or paper, or oakum, or anything for the use of the prisoners?—They were not when I was there.

1061. If a prisoner secreted a piece of oakum about him for that particular purpose, would he be considered as having committed a breach of discipline if he was found with it?—Yes, he would be liable for it.

1062. What would be the punishment inflicted in such a case?—He would be brought before the visiting justice, Dr. Youl, who would give such a punishment as he thought proper, from five days to a month, and it might be brought before the superintendent, and he might extend the punishment six months.

1063. Have you ever known the case of a man being brought up for having a little piece of rag, and punishment being inflicted?—I cannot recollect any individual case at present.

1064. When a prisoner is brought up for a trivial offence like that, and gets five days' solitary, do you know what effect that has upon his sentence?—If he gets convicted for anything of that kind it extends his sentence for six months longer.

1065. For a first offence?—Yes.

1066. And for a second offence?—Another six months just the same. Supposing a man brought up for the smallest offence there is, and he is committed by the visiting justice, his ticket-of-leave has to stand over six months longer; and if he is brought up for the second offence, that is six months longer.

1067. What is a reprimand?—Merely cautioning a man.



1068. Has that any effect on his sentence?—Not that I know of.

1069. It has been given in evidence that that extends the sentence six months?—I would not like to speak to that.

1070. It may be the case, but you are not aware of it?—It may be the case, but I always understood a reprimand had no effect in lengthening the sentence; but if they get only twelve hours' punishment, that has an effect upon it.

1071. *By Dr. Tierney.*—What kind of sleeping apartments have the men at the stockade? The sleeping apartments at the Pentridge stockade are very good, as far as the rooms are concerned; certainly they are buggy.

1072. As to the Crystal Palace?—That is very bad; they sleep in hammocks there.

1073. How many prisoners sleep there?—It is on wheels. I only went in once or twice when I was there, and I think there were thirty in one waggon. They sleep in hammocks there.

1074. Do you think there is any immorality in those places?—I never knew of anything of the kind.

1075. *By the Chairman.*—Have you ever seen men suffering punishment in the Crystal Palace?—Yes; I have seen them handcuffed to the wheel of the waggon.

1076. For how long?—For the whole day, I suppose. I have seen them when I have been going up with the rations.

1077. *By Dr. Tierney.*—Was there any shelter over them?—No. I belonged to the lower stockade. Supposing a prisoner is removed from the lower stockade to the upper, his rations would be drawn in the morning, and I should have to go and take them up to him.

1078. *By the Chairman.*—Is not a totally different system pursued with regard to the treatment of prisoners at Portsmouth, Gibraltar, and Bermuda, to what is adopted here?—Yes; you can do anything with a prisoner by kindness.

1079. Then the result of your experience has been, that all the prisoners you have met with are susceptible to kindness?—Yes, I could always do anything with the men by kindness, but not with harshness; and I have had some of the greatest scoundrels in existence under me in Bermuda and Gibraltar. I always treated the men kindly here and made them do their work and their duty. I always treated them civilly, and I would not be afraid to meet the whole of them in a body up at the bush at this moment.

1080. *By Mr. Thomson.*—Who has the power to administer punishment in the stockades?—The visiting justice. If a prisoner commits a crime of any kind at all, there is a book, and you are supposed to go and enter the charge in that book, and when the visiting justice comes the prisoner is brought up, and the visiting justice takes the evidence of the warder and punishes the prisoner.

1081. The visiting justice goes into the case and pronounces judgment?—Yes.

1082. None of the warders have power to inflict punishment?—No.

1083. *By the Chairman.*—You say, when a prisoner commits a crime, it is entered in a book?—Yes.

1084. Is there not a charge sheet as well?—No.

1085. Does Mr. Price ever take it upon himself, to your knowledge, after a warder or overseer has entered a charge against a prisoner, to withdraw that charge before it goes to the visiting justice?—I cannot say.

1086. Are the prisoners ever kept under restraint in any way before the visiting justice comes?—Yes. Mr. Price can order any man into solitary confinement and order irons upon him.

1087. That has been done?—Yes.

1088. Have you ever known a case where a man has been charged by a warder or overseer put in confinement by order of the Inspector General and subsequently the case dismissed?—No. I have known Mr. Price order prisoners to be put in solitary confinement for a breach of discipline, but they have always been brought before a magistrate.

1089. And always been punished?—Yes, as far as my knowledge goes. I never recollect a case of the kind you have mentioned.

1090. You have been both on board the hulks and at the stockades?—Yes.

1091. Do not you consider that the prisoners on board the *President* would be just as safe without irons there as they would be in a gaol—do you think they would jump overboard and swim ashore if they had not irons on?—I do not think they would do that; I think the irons could be dispensed with, because I do not think the men would jump overboard; they would not attempt it on board the hulks, because there are two sentries with loaded firearms.

1092. What is the object of putting the irons on?—I suppose it is for punishment.

1093. *By Mr. Thomson.*—Would not the men make a rush at the sentries if they were not ironed?—They could not do it.

1094. *By the Chairman.*—How many are out to exercise at a time?—Ten or a dozen.

1095. And they are chained two and two?—Yes.

1096. If the leg irons were off, would there be any risk of those ten men chained together, two and two, overpowering the warders?—No.

1097. What is the object of the leg irons?—Mr. Price puts them on for punishment, I suppose.

1098. Mr. Price says that it is for safe custody?—I cannot see any necessity for it. I have had men under me at Chatham and Portsmouth and Gosport, and never had leg irons on them.

1099. What were the sentences of those men?—Some were sentenced to transportation for life, some for fourteen years, and some for seven years.

1100. *By Mr. McCombie.*—They were the worst class of criminals?—Yes.

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1101. *By the Chairman.*—How long is that ago?—It was in 1831 that I was in Chatham.
1102. Then you have been managing prisoners all your life?—With an occasional interval I have.
1103. *By Dr. Tierney.*—Have you ever found it necessary to use violence towards the prisoners?—No.
1104. Have you never struck a prisoner with a neddy?—No; and for two months I never carried one with me, until Mr. Price made me do so.
1105. Have you ever seen others using a neddy?—Yes, and stopped them from doing it.
1106. Where was this?—On board the hulks.
1107. What did they use the neddy for?—It has been used many times I think without a cause; that is, if a prisoner, when he was aggravated, made use of any observation to the warder, such as “Damn you,” without expostulating with the man, the warder would out with a neddy and give him a knock.
1108. *By the Chairman.*—A neddy is a piece of whalebone loaded with lead, is it not—in fact, a life preserver?—Yes; I should not like to hit a man with it myself. In fact, I never carried one until Mr. Price ordered me to do so.
- 1109.—Did he ever order you to use it?—Yes; he said, in any case where a prisoner was obstreperous I was to use it, but I could always do my work without using it.
1110. And do you think others could also?—Yes.
1111. *By Mr. McCombie.*—Do you think it possible to reform the prisoners?—Decidedly.
1112. *By the Chairman.*—Have you ever known an instance, either at home or here, of a man who has been sentenced for such a crime as burglary, or highway robbery, or horse stealing, passing his usual time of probation, and subsequently going back into society, and becoming a useful member of society?—Yes; I have known many cases, and I could produce now two in this country that are respectable men carrying on business who were transported here.
1113. Have they served their period of penal servitude?—Yes; they are both living at Richmond.
1114. *By Mr. Thomson.*—Would your remarks apply to trebly convicted felons—the Norfolk Islanders and other very bad men?—I think there is a possibility of reforming them by kindness and giving them encouragement; but not if the prisoners are tyrannised over, as they have been. Then, when a prisoner is discharged, he is described to the detectives as such and such a character, and he is so watched about, that the man has no opportunity of reforming; it drives him into crime.
1115. *By the Chairman.*—Is it Mr. Price who fills up these descriptive sheets of the characters of the men who leave the establishment?—It is done under his orders; his clerk does it.
1116. *By Mr. McCombie.*—Do you not think there is a class so bad that there is no hope or chance of reforming them?—I do not.
1117. You think there is hope for them all?—I do, if they are treated kindly.
1118. Is there not a chance of even overdoing that—treating them kindly?—No; I do not think they would take advantage of it. You can always put a stop to that. If I have found a man going beyond the bounds of the prison regulations, I have said, “Now, if I know you to do such a thing again, I will bring you before the magistrate,” and he has known what I have meant, and I never found a repetition of the same thing afterwards. He has turned round and said, “Well, Mr. Tye, I am very sorry for it; I will not do it again.” Whereas, in other cases, the warder, instead of admonishing the man, would immediately go and place his name in the book and bring him before the magistrate, and that would cause ill feeling between the prisoner and the warder.
1119. If the prisoners are such good-hearted men as you believe, how do you account for their having committed the dreadful offences for which they have been sentenced?—I cannot account for that.
1120. Does not it appear inconsistent with their being so good-hearted and having such good feelings, that they should commit such dreadful crimes, and perhaps the day after they have come out of prison commit the same crimes again?—I cannot answer for that. I only speak of them whilst they have been under my charge.
1121. *By Dr. Tierney.*—Would the warders in charge of the prisoners at the stockades be justified in firing after a man if he ran away and attempted to escape?—That is the order—to shoot them, and take a sure and deliberate aim.
1122. Are the warders’ pieces always loaded?—Always loaded. It is more than a man dare do to allow a prisoner to escape.
1123. You are not allowed to run after a prisoner?—No, you are not allowed to leave your post. There are what are called flying sentries behind the regular sentries. If a prisoner should make his escape and should escape the fire of the first sentry, the flying sentry fires at him, and if he does not hit him, he has to follow him, but not one of the regular line of sentries. The prisoners might get up a sham rush, and if the attention of the sentries was taken off to the one man running away, the whole gang might get away.
1124. Have you any other statement which you wish to make to the committee?—No, I do not think I have anything further to add, unless the committee have any other questions to ask me.

*The witness withdrew.*

*Adjourned to to-morrow, at one o'clock.*

FRIDAY, 19TH DECEMBER, 1856.

MEMBERS PRESENT:—Mr. Hood, in the Chair; Mr. Clarke, Mr. Guthridge, Mr. Patterson, Mr. Thomson, Dr. Tierney.

George M. Webster, Esq., M.D., called in and examined.

1125. *By the Chairman.*—What appointment do you hold under the Government in this Colony?—I am staff surgeon of the second class in the army, and I am now doing the medical duty at the penal establishments and gaols in and around Melbourne.

1126. You are the medical officer in charge of the stockades at Pentridge and Collingwood, are you not?—Yes; but I have besides, the three Melbourne Gaols, and the examination of lunatics, previous to their admission into, as well as their discharge from, the Yarra Bend Asylum.

1127. What is the emolument of that office?—£300 a year.

1128. Have you at any previous time, either in this Colony or elsewhere, had the medical charge of prisoners?—Of military prisoners and convicts on board ship.

1129. Have you any duties of an onerous description to perform as staff surgeon at the present time?—I have.

1130. Do you practise in private?—No.

1131. Can you say of your own knowledge whether it is usual for the Government to give the medical charge of prisoners to army surgeons?—It is always done in Van Diemen's Land. I was asked to take this appointment shortly after I came into the country, in consequence of the Government believing that I would do the work at a cheaper rate than they would get a civilian to do it, on account of the liberal allowances I received as a military officer from the Colonial Government. The gentleman whose appointment I succeeded to had been receiving £900 a year, and they offered me £200, which I accepted; and I did the work for a year at £200 a year. I had to keep an extra horse, and, consequently, an extra servant; so that it really brought me nothing, and I asked an extra £100 a year, and I got it.

1132. *By Dr. Tierney.*—Who held the appointment before you?—Dr. James McCrea. He was called Assistant Colonial Surgeon.

1133. *By the Chairman.*—Is your office independent of any control by the Inspector General?—I never receive any instruction from him whatever; but I consider myself under his control, inasmuch as he is the head of the department in which I do duty, and therefore I would take advice or instruction from him.

1134. Not as far as your medical duties are concerned?—Not so far as my profession is concerned.

1135. Of course, as far as your treatment of the prisoners medically is concerned, you are entirely guided by your own judgment; you do not refer to Mr. Price?—I do not refer to him at all.

1136. Is there a dietary scale for the sick prisoners?—Yes.

1137. Is any obstacle thrown in the way of providing any comforts you may order for sick prisoners?—No; every facility is afforded by Mr. Price in the way of comforts; not only those which I order, and for which the Government have to pay, but any extra thing—such as milk, or eggs, or tea, or coffee, whatever I like to ask for—is furnished.

1138. Are those articles entered in a book?—My extras are entered in a book, because I am responsible for everything which is issued. I keep a list of extras issued; and every month there is a return goes into the head of the medical department, which is forwarded to the store-keeper, I believe.

1139. Do you ever find it necessary to order extra clothing or feeding for sick prisoners?—Yes; I have used my discretion in ordering an extra blanket or flannel waistcoat.

1140. Has the hospital at Pentridge ever been clear of patients?—Not that I recollect.

1141. Have the patients been suffering principally from chronic disease?—No; a great many of the cases have been fictitious and got up to escape labor or punishment; some have been from injuries produced by the prisoners themselves called "malingering." There are various means the prisoners may adopt, as by applying some irritating medium to the eyes, which would make them sore; they find out many things which will do so. It is the same in the army. There has been more acute than chronic disease, but very few serious ailments have occurred.

1142. Is there any hospital at present at Pentridge?—No, there is none; there is one in the course of erection.

1143. Is the room which is used as a hospital in the day time used as a ward at night?—It is both hospital and ward at night.

1144. Then the healthy men sleep with the sick at night?—Yes.

1145. Is not that bad?—Yes; but the whole establishment is only in embryo at present. You have got so many prisoners to accommodate, and you have got no accommodation for them until you can build it. I did report the want of a hospital to Dr. McCrea, and I believe he has done what he could; but there can be no accommodation until it is built.

1146. Do you visit the stockade once a week?—Twice a week, and also whenever I may be called.

1147. How many huts are there in the stockade?—I could not say.

1148. What is the average number of prisoners in hospital at Pentridge, where there are 450 men?—I think I have now about a dozen, and sometimes I have twenty-five or thirty in the

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hospital, but then there are a great many for whom I prescribe every day, whose complaints are trivial.

1149. Do you know the dimensions of the hut that is used now as a hospital?—I could not mention the dimensions, but I would say that I do not think there is sufficient accommodation there for the men. We calculate that every soldier ought to have 450 cubic feet of air if he is not sick; and if sick, 600, and I believe in the hospital at Pentridge the men have not 100.

1150. Are there any beds allowed in the sick wards beyond what there are in the other wards?—At Collingwood there are no beds unless they are ordered. Beds, and blankets, and rugs, and everything, are furnished if they are ordered. At Collingwood they have bedsteads; the ward there is differently constructed.

1151. Are you to be understood to say that this hospital, in which the twenty-five men are during the day, has its full complement at night?—I think they calculate that fifty sleep in it.

1152. There are more than the sick men sleep in it?—Yes. Healthy men come in at night.

1153. And there are twenty sick men there during the day?—Sometimes. At other times there may be only ten or a dozen.

1154. Have you ever met with any infectious diseases amongst the prisoners?—Never. In that event, I think a particular portion of the outer buildings should be appropriated to them. Whenever I have had any man very sick, Mr. Price has, at my request, removed him to the warder's quarters.

1155. Have you any men there now?—I have a man there now—Gisborne—who has been there for six months; and I had a man there the other day, ill of dropsy, who died after having been there a long time.

1156. During the last six months have there been no bad or contagious diseases that required the prisoners to be taken out of the hospital?—No; and in proof of that, there have been very few deaths, and none from the deficient accommodation. There has been less mortality amongst the prisoners than in any body of men I ever had to do with.

1157. Then, unless in an extreme case of illness or in case of a gunshot wound, or something which you consider dangerous to life, a sick man gets nothing but the ordinary run of a rug and blanket on a board?—No; that is from the peculiar position of the place. There is no accommodation to give to the sick.

1158. There is no other accommodation for a sick man, unless you take him out and put him in a private house?—No. But as far as I have seen, nobody has suffered materially from it. I think if it was not for the peculiar climate there is here, you could not keep so many men so close together. The peculiar rarification of the air here, I consider, is the means of keeping the men in health.

1159. Supposing you sent in a requisition for twenty-five mattresses to put those men upon, would not that be attended to?—It would; and whenever I have had a case that I thought required an indulgence of that kind, I always recommended it, and the man had it.

1160. Can you see any objection to allowing prisoners to have a mattress to lie upon; would they not do more work if they were comfortably housed and slept?—I think that where men are put in for punishment and not for comfort, and you have a system of punishment, you are bound to see it carried out, so long as you do not injure their health; and it is much greater punishment for a man to sleep upon a board than upon a mattress.

1161. Do you not think the moral degradation of imprisonment is a sufficient punishment?—That depends upon a person's idea of punishment.

1162. *By Mr. Clarke.*—In a closely confined place like the stockade at Pentridge, is not sleeping upon the boards healthier than sleeping upon mattresses?—Yes, decidedly. When a man is really sick, I think he ought to have every comfort in the world; but half of these prisoners only come into the hospital for what they call a slant, and until they decidedly show symptoms of sickness, they are much better sleeping on a board.

1163. *By the Chairman.*—Have you ever had to order mattresses except in the case of Gisborne?—Yes; I ordered bedsteads and mattresses altogether at Collingwood. The prisoners were sleeping on the floor when I took charge of that stockade. In the small hospital there is there now, they have iron bedsteads.

1164. Are not the beds so arranged that the men sleep in tiers over each other?—Yes, in these wards.

1165. Is there sufficient height between the tiers for the men to sit upright?—Yes, more than that. I think all those things might be very much improved, and still the punishments be carried on in the same way, if you had the buildings to do it in; but until increased accommodation is afforded, it is difficult to know what to do to improve the present state of matters.

1166. Then you do not think it is the cost of the additional mattress and pillows that is the cause of their not being supplied, but the incomplete state of the whole affair?—Yes, I think it is because there is no hospital and no regular accommodation; but whenever there is a real case of sickness which requires any extra comfort, in any way, either of eating, or drinking, or clothing, or anything, it was always afforded, even to going against the regulations of the establishment. The poor man who died the other day of dropsy took a fancy to smoking tobacco, and I thought it would be a kind of solace to him, and I recommended it, and he was allowed it.

1167. Do you know what amount the officers have to pay to the Government per day for employing the prisoners as servants?—No; I have never had anything to do in connection with the penal establishment except as medical officer.

1168. Are there many men in irons at Pentridge?—Yes.

1169. If a man in irons is taken ill, do you strike his irons?—That depends upon the nature of the sickness. I always strike them if I think he requires it.

1170. *By Mr. Patterson.*—Do you act as visiting justice?—No, I am not a magistrate.

1171. *By the Chairman.*—Unless you really saw it was a dangerous case, the irons would not be struck?—No; unless I thought that there was, medically, a necessity for striking them.

1172. When a man's irons were struck, might you not almost look upon his case as hopeless?—Oh, no; I should strike them for a time until he was better; for instance, if he had a sore upon his leg I should strike his irons for a time, and I suppose they would be put on again; I have not inquired into that.

1173. How long does it take to take off irons, five or ten minutes?—I have often seen them striking them, but I do not recollect the time it took; I should think a few minutes.

1174. Do you think there would be any danger in taking off the irons when men were sick and putting them on again when they were better?—Of course, any sick men would not have the irons put on again until they were returned to hard labor, and then they would be out of my hands, and I should not know whether they wore irons or not.

1175. Are the irons at Pentridge put on as a punishment, or to hinder escape?—I could not say; but I fancy it is as a means of punishment; but I never busy myself about other people's business. I look after my own, which is the medical part of the business, and I never interfere with the discipline any further than to see that it does not injure the men's health.

1176. Have you any difficulty in distinguishing between real sickness and simulated sickness?—I have had an apprenticeship of between fifteen and twenty years to that peculiar branch of the profession, and in military practice it is the same sort of practice as with convicts. In civil practice you never have people applying to you who are not sick, because they have to pay; but in military service, the men come to you to get off parade, or off going on guard, and they simulate sickness. I think as far as my term of service goes, I have as good a knowledge of that part of the profession as anybody here; because military men are particularly versed in that branch of the profession, from their greater experience in it. We are not infallible; but I think, generally speaking, I can tell when a man is simulating sickness, because I have had it to do all my medical life.

1177. Setting aside altogether professional opinions in the matter, do not you think, speaking generally, that prison rules, when made too strict, are apt to defeat the purpose in view?—I do not exactly understand the nature of the question; does it refer to the discipline within the prison?

1178. Yes?—I think if there is ever any case of cruelty or of unfair play, that that should be well looked after; but I think if you give a man a punishment, it is better to punish him well than to give him a sort of half punishment.

1179. If a man does what is wrong—commits a breach of discipline—should he not be cautioned and not punished for the first offence, and be punished for a second offence?—I think there is a great deal in that; I think that, generally, that system has been pursued, that a warning has been tried once or twice before the man has been punished. I sometimes have brought up a man before the visiting justice for scheming. I did that at first; and I found that sometimes a man was only admonished, it being his first offence.

1180. Do you think that that mild system is carried out in a measure in the present penal establishments of this country?—I think so, so far as I have had an opportunity of judging. I have always remarked that every time a prisoner has spoken to any of the people connected with the establishment, his complaint has been attended to.

1181. Is it quite common for the men to hurt their fingers, or bruise themselves in the quarries?—Yes, they often do so. I have only known of one instance where a man has been maimed by it. I had to take off his arm.

1182. Have men been brought, up to your knowledge, for having a piece of rag about them?—I am not aware.

1183. Do you see any reason why a man should not be allowed to have a piece of rag in the quarries to put round his finger?—If you have a regulation, I think you should abide by it, and if a man had what he was not allowed to have, he must be brought up for it.

1184. Is it not the case that a great many of the charges brought before the visiting justice are connected with tobacco?—I believe that is the fact.

1185. Would it not be a good arrangement to allow each man sixpennyworth of tobacco a week?—The object of not allowing it is, that it is part of the punishment.

1186. Does it help to reform them?—There are some men whom you might reform by good actions, but there are many of them that you could not do so; and if you gave a man any luxury, you would do away with the punishment you wanted to give him.

1187. Are you not aware that the prisoners in Bermuda and Portsmouth, and so on, are always allowed tobacco?—Not in prisons. I had charge of the military penitentiary at Quebec, and if one of the convicts here saw the inside of that; I am sure he would wish himself back at Pentridge.

1188. *By Mr. Patterson.*—Do you consider that the prisoners are better treated here than in America?—They are better treated here than soldiers are. When I was on board ship, the convicts had one pound of meat a day; and when soldiers go on board ship, they have only three-quarters of a pound.

1189. *By the Chairman.*—Is not the prisoners' food very good in this country?—Yes; very good.

1190. Sometime ago a man of the name of Woods met with an accident in the quarries, did he not?—Yes; that was the man whose hand I took off.

1191. What was the nature of the accident?—He bruised the bones, the carpus and meta-

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carpus, and there was quite a hardened swelling in the hand. There was no suppuration, but the hand gradually enlarged, and the hand became quite useless to him, and I took it off.

1192. Was he kept at work during the time his hand was bad, between the time the accident happened and the time at which you amputated his hand?—I do not fancy so; he could not work with that hand.

1193. Do you know of your own knowledge that he was kept breaking stones every day between the times at which you used to visit him?—I do not. It was not a painful injury, and he might have worked with his sound hand, while his maimed one was in a sling. At first I did not anticipate that it would come to a case of amputation. I suppose he was six months ill. I am not aware of what labor he had.

1194. *By Mr. Patterson.*—Did he ever complain to you that he was employed?—Not that I recollect; but he was a grumbling fellow, and it is very likely he did. He is a very sulky discontented man.

1195. *By Mr. Clarke.*—Were you in the habit of visiting him and seeing his arm?—Yes. I must see every one that is sick every time that I go there.

1196. *By the Chairman.*—Are there not frequently cases of crushed fingers and toes, and other injuries incurred in working for Government, which impede, if not absolutely incapacitate, a prisoner when restored to liberty, in the full exercise of his powers of exertion for a livelihood?—There have been cases of accident of that kind, but I think there are very few men that have been permanently injured by any accident since I was there.

1197. Are the number of accidents greater in proportion to the number of people at work, than with the free people at work in the city?—Certainly not more; I think less. I am quite astonished, considering that there are from 1100 to 1200 people to attend to, at the little attendance they require.

1198. *By Mr. Patterson.*—Could you name some number that you think have been injured?—I have got memoranda of every man that has been sick at the stockades. Any special information required I can give the committee.

1199 *By the Chairman.*—Do you remember a man of the name of Edwards, who, when he was standing under the prison gateway, dressed for discharge by ticket-of-leave, was shot through the calf of the leg by the carelessness of one of the warders, and was long detained in consequence?—Yes; it is quite true that he was brought up. When there are any prisoners going away they are brought up in the morning between the two gates at Pentridge, to stay there until the Inspector General or the superintendent is ready to send them into town to be discharged. This man was waiting in that way, and there was a warder at the gate. The breakfast bell was rung, and at that time, after the prisoners have come in, the warders who have been on duty since daylight go in for their breakfast. This warder was running down, he slipped his foot, and he fell; his piece went off, and the bullet first struck the pavement outside twice, and then went in through a three-inch wooden gate, and then through the calf of the prisoner's leg. It was a pure accident, which nobody could have foreseen.

1200. Was he treated as a prisoner after that, or as a freeman?—He was treated as a prisoner, because he had not got his discharge.

1201. He was waiting there to get his ticket-of-leave?—Yes, but he had not got it; he was not treated in the hospital; he was taken to the warders' quarters, but, nevertheless, he was treated as a prisoner; he got prison rations, but that could not be helped; there were no other means of providing him with rations. He was treated in the warders' quarters just the same as if he had been a warder; every attention was paid him; he had things sent from Mr. Price's house. It was certainly an accident.

1202. Is it the fact that Drake has lost one of his eyes?—No; he had a very sore eye, but I do not think it is lost.

1203. Do you think it is not hopelessly gone?—I think not; I think men are much more liable to have sore eyes where they sleep in crowded apartments, and it is very likely he got his sore eye from that cause.

1204. *By Mr. Patterson.*—You have said that there were some things sent from Mr. Price's house to this man, who was accidentally shot—was that on account of the Government, or was it on private account?—Private; everything that I have ever proposed or suggested to Mr. Price, in the smallest way, in moving a sick man from one stockade to another, or in the way of provisions, has always been done. I believe I may be considered a disinterested party, for I am not going to be employed any longer in the penal establishments, and therefore it can be no object for me to speak from partiality in any one's favor; nor under any circumstances would it be worth my while to do so, nor should I think of doing so.

1205. Are men ever allowed to come out when suffering from disease?—That depends upon a man's wish; many men have the means of being more comfortable outside; but, if a man wishes, he is allowed to remain. There is a man in Collingwood now who could be on ticket-of-leave, and he is suffering from caïres of the shoulder bone; and as he says, "If I go out, what am I to do? I cannot make a livelihood;" and he has been kept there for some time. His health is not good, and he is getting extra rations, and every attention.

1206. *By Mr. Clarke.*—Does he perform any duty at all, or any work?—No; he is in the hospital, and he is getting half a bottle of porter a day and other extras.

1207. *By the Chairman.*—Do you consider it within your province to recommend any indulgence to prisoners going out, such as that they should be allowed to remain where they can get medical advice—ticket-of-leave men are not allowed to remain in Geelong or Melbourne, or on the gold-fields?—If any prisoner ever asked me to do so, I would not fail to do what I could.

1208. Has the case occurred where a prisoner has asked you to get that indulgence for

him?—No, I think not; there was a man named Robinson, who was very sick, and he asked me to get him out before his time, which I did; and after getting his liberty his friends did not come forward to take him, and he was detained; and I think he wanted to choose some place where to go to, but I forgot the circumstances.

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1209. Have not you, under such circumstances, found Mr. Price very tenacious of his right not to be interfered with?—No; Mr. Price has always been anxious to explain to me why he would not do what I asked him; his knowledge of convicts I consider very superior to that of most men.

1210. *By Mr. Clarke.*—And he would satisfy you with his reason?—He would.

1211. *By the Chairman.*—Are inquests invariably held in all cases of deaths occurring in the stockades?—Yes; always, both in the gaols and stockades.

1212. Who is the coroner?—The coroner for the county—Dr. Youl.

1213. *By Dr. Tierney.*—Is he visiting justice also?—Yes.

1214. *By the Chairman.*—When the visiting justice inflicts a punishment on a prisoner, have you ever noticed whether there is any reference at all to the prisoner's capabilities to bear punishment, or does the visiting justice simply take into account the offence?—I so seldom see those things, that I cannot say. When the visiting justice comes, he goes into the office, he has the men brought up, the witnesses are placed in the witness-box, and their evidence is taken down and the case determined on. If I happen to be at the stockade I have my own duties to attend to, and I do not see what is going on unless I have a case of my own.

1215. In prescribing for prisoners, do you write the prescription?—Yes, I have entered it in the book always, except perhaps in the case of a simple dose of medicine.

1216. Have you ever had cause to complain of those prescriptions not being rightly compounded?—Not with the present dispenser. There was fault found with one or two that we had previously.

1217. You are not aware of your own knowledge that the dispenser has put up the most violent medicines without ever using a measure-glass or weights?—No. Of course, if I had thought that to be the case, I should have dismissed him; but there was no reason to suspect it from any ailment the prisoners had. If the man was unfit for his situation, he would be detected in time; there is a great surveillance over everybody in the stockades.

1218. Has there ever been a case of suicide since you have been connected with either of the stockades?—No.

1219. Are you invariably examined at the inquests held by Dr. Youl?—Always. But as I was absent from town I was not examined at the last inquest at Pentridge; I asked Dr. McCrea to go. He had seen the prisoner when he was ailing.

1220. Have any complaints been made against the dispenser?—Not against this dispenser; or if there were, they were so trivial, that they were not attended to. There was a complaint of giving some medicine wrongfully made against the dispenser who was sent away before.

1221. What do the medical comforts consist of?—Wine and porter, and sago, and arrowroot; in fact, anything I like to order. The greatest consumption is in wine, porter, arrowroot, sago, and tea and sugar, and lime juice.

1222. Have you any check whatever that, in that hospital, which is only a common ward, the patients get what you order?—I cannot have any other check than that the articles are handed to the individuals at the time by the warder; he is going about there and sees what is going on.

1223. *By Mr. Clarke.*—The men would complain if they did not get what you ordered, would they not?—Yes; but a patient who was sick might not be able to take all that was ordered, and then it might be handed to some of the others.

1224. *By the Chairman.*—What does low diet consist of?—Three ounces of arrowroot and four ounces of sugar every twenty-four hours; it makes three good bowls of arrowroot, which is a great deal more than the low diet for a soldier, which is only eight ounces of bread. If it were not for the low diet, the medical officer would not be able to do anything at all with the prisoners when they really complained, without having anything to complain of. If there were separate hospital cells, which are being built now, there would not be nearly so many sick to treat.

1225. Is it with your sanction or knowledge that prisoners in hospital at Pentridge are made to turn out; if they are able to stand, at the muster at daylight by the superintendent of all the men before going to work, without any reference to their disorders or diseases, or to the weather—winter or summer?—I am not aware of that; every one that I think is unfit to get up is desired to remain in bed, and if any man is taken ill between the times I am visiting, if he is so ill as to alarm either the dispenser or the superintendent, they send for me; but if a man comes in and seems to be rather unwell, the dispenser has the power to say he is not able to get out of bed; but those that are ordered up have to turn out to muster in the morning.

1226. Is your dispenser a qualified medical man?—No, he is not; I preferred him as a dispenser from not being a qualified medical man. I had a qualified medical man before, but I found he was always prescribing on his own responsibility, which is a very bad thing.

1227. Does not the present dispenser perform any operations?—He can bleed, but I never let him do so; he very seldom does anything of that kind.

1228. Do you visit the men who are in solitary confinement every time you go to Pentridge?—Yes, every time.

1229. If they were taken ill would you treat them in their cells, unless they were dangerously ill?—Yes; unless I thought it was detrimental to them to remain in their cells.

1230. *By Dr. Tierney.*—If it has been stated here that you ordered a blister to be put on a man from the top of his head down his back and on his hips, would that be true?—I had to

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blister a man down the spine and on the back of his legs, but in that case it had a most salutary effect, for the man was feigning madness, and he became sane.

1231. Was his back dressed?—Regularly dressed; the dispenser was ordered to attend to it every day.

1232. And he did attend to it?—He did; and it had no prejudicial effect upon the man's health.

1233. How long was the blistering continued?—I could not say; he perhaps was blistered once or twice. I did not pursue this course until I had reported that the man was sane, and it was referred to me to deal with him. I said, "The man is sane; I do not think I ought to have to punish him." They said the way usually was, that the medical man had to cure him, and then I blistered him.

1234. You admit that there are cases of men feigning insanity?—Yes; I have had three or four.

1235. You stated a short time ago that medical men, not connected with prisons or the army, had no opportunity of seeing parties who feigned sickness?—I say they have less opportunities.

1236. Are there not cases of benefit societies where persons want to get on the funds of those societies, and so feign sickness?—Certainly, there may be exceptions; but in the army and in prisons it is the regular thing to have to deal with simulated sickness.

1237. Are you not aware that in benefit societies men have been blistered for feigning madness, and by that means have had to give up feigning sickness?—That is very likely to have been the case.

1238. *By Mr. Thomson.*—Did you blister this man to cure the disease or to prevent him from shamming?—It was done with a double object; if the man had been laboring under disease of the head, it was an act of counter-irritation, and I blistered him on the back of the legs particularly, with that object.

1239. You did not order the blister to be put on the hips, did you?—On the back of the legs and on the back of the spine.

1240. And on the head?—No, not on the head; I did not order the surface of the body to be so blistered as that it would be injurious to health.

1241. *By Dr. Tierney.*—Could you suggest anything of a reformatory character in prison discipline more than there is at the present time at the stockades?—The first thing, I think, is to get proper accommodation for the prisoners.

1242. Are you an advocate for having men in irons in solitary confinement?—I think the greater benefits you could give good men the better; but with bad men you must resort to severe punishments, so long as you do not injure their health; and as far as my experience at Pentridge has gone, the nature of the punishments has not injured their health.

1243. *By Mr. Thomson.*—Is that to reform them or to keep them quiet?—To deter them from crime.

1244. *By Dr. Tierney.*—Which should you prefer, keeping the bad class of prisoners in solitary confinement in irons, or solitary confinement at work?—I think they might be better kept in employment.

1245. Do you think continual solitary confinement in irons is likely to injure a man's mind?—I think solitary confinement altogether is likely to injure the mind, and the irons would make it sooner more irksome, but still I think it is the greatest punishment you can give a man, and I think you give him more punishment by giving him nothing to do.

1246. Would you continue that solitary confinement for years?—I would not.

1247. If you keep a man in solitary confinement without giving him any occupation, is not that likely ultimately to injure his mind?—I think so.

1248. Then would not the punishment be as great or greater if you were to give the men some description of work in solitary confinement?—I think when the men have nothing to do the punishment is greater than if you gave them something to do; I think the greatest punishments are solitary confinement and the silent system. The silent system I strongly recommend.

1249. Are you in favor of cumulative sentences?—No.

1250. Supposing a man is sent in for drunkenness or some trivial offence, and sentenced to six or twelve months, would you allow that man to be kept in by cumulative sentences for breaches of discipline for perhaps ten or twenty years?—I would not. I think the great mistake here is that a man is sentenced to three years and he comes out in sixteen months on a ticket-of-leave. His three years is a mistake, for he never gets three years. I would sentence a man to a certain punishment and give him his punishment.

1251. *By Mr. Clarke.*—If the authorities were more lax in their punishment at present, do you not think it would bring about a bad state of things and lead to more punishment in the end?—Yes; and to say the least of it, the convicts now are very much more cheeky at the stations I have been at, and inclined to be more insubordinate, knowing that public sympathy is excited on their behalf. That shows how strict you require to be with those sort of people.

1252. Would insubordination increase to a very great extent, in your opinion, if the discipline were not carried out with as much severity as it is at the present time?—The principal thing is, you have a small body of men to look after a great number, and unless they were in awe of those who looked after them they would make a rush and murder the men, and it is only by strict and sharp work that you can keep those men in awe.

1253. *By the Chairman.*—That is merely your opinion, because you have never seen the lenient system tried?—I have seen what danger a man runs from being in contact with those people.



1254. *By Mr. Clarke.*—Are you of opinion that if the punishment were more lax than it is greater punishment would, in the end, result from it?—Yes; but at the same time I would recommend a classification of the prisoners, and amelioration to those good men who deserved it; you cannot, at present, have any separate sort of classification. If a man is sent in for drunkenness or vagrancy he is put alongside of a villain who has stuck somebody up. If there were a classification you might treat those short-sentenced men much differently to what you can now.

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1255. *By the Chairman.*—Has it never struck you as wrong that a man sentenced for three years for a first offence gets out in sixteen months, but if he is sentenced for two years he has to serve that time out; can there be any reason why that should be the case?—I am not aware of that regulation.

1256. *By Dr. Tierney.*—Do you not think that, although penal discipline may be very severe, the punishment may be carried out without resorting to violence towards the prisoners?—I think so; but in the position of the penal establishment at present, where they have so little means of separating the prisoners, they may be more pushed than they would be if they had other means to employ and sub-divide.

1257. Would not you say it would exasperate prisoners if they were struck with a “neddy”?—Yes; but then, if a man becomes insubordinate and shows a spirit of resistance, he is ready to be joined by two or three others. If they saw he was likely to succeed, they would rush up and help him at once; therefore the “neddy” comes in to over-awe those looking on, and although it might be used at a time when it was not required, still there are occasions when it may be required, looking at it in that way.

1258. Still, if it could be avoided, you think it a bad system?—Yes; I think the use of the “neddy” is not to be defended unless a warder was attacked by a prisoner.

1259. In that case you think the warder would be justified in using a “neddy”?—Yes; the prisoners sometimes attempt to bite the warders, and otherwise injure them.

*The witness withdrew.*

William Welsh called in and examined.

1260. *By the Chairman.*—What were your duties when you were at Pentridge?—To come in and go back with despatches. I have left there. I am now acting as warder and messenger at the office in town.

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1261. Were you a warder when you were at Pentridge?—I believe I was entered as that, either warder or trooper.

1262. Did you perform the duties of a warder?—No; of a trooper.

1263. You got the pay of a warder?—Yes.

1264. Who appointed you to that situation?—Mr. La Trobe. I was servant to Mr. La Trobe previous to his going away.

1265. Were you ever in the police in Van Diemen's Land?—No.

1266. You have been there?—Yes.

1267. Why was your uniform different from that of other warders and officers?—My uniform now is not the same as that I used to wear at Pentridge.

1268. At the time you wore uniform at Pentridge, your's was different to any body else's?—Yes.

1269. Do you know the reason why it was different?—In consequence of being rated as a trooper, I believe.

1270. Were you the only trooper?—The only trooper at Pentridge; now I wear the same uniform as the warders.

1271. When you wore that particular uniform, where was it made?—At Pentridge, by the prisoners.

1272. Did you pay for it?—No; it was allowed me by the Governor.

1273. Was it made by Mr. Price's orders?—I should say so.

1274. Were you allowed separate quarters when you were at Pentridge?—Yes.

1275. How was it you were allowed separate quarters, when none of the others had got them?—Being a married man.

1276. Were not quarters built expressly for you?—Not for me.

1277. Were you the first that occupied them?—Yes.

1278. Whom were those quarters built by?—They were removed by the prisoners from a different part of the station.

1279. *By Mr. Clarke.*—Were they wooden buildings?—No, one was a tent and the addition was a small iron house.

1280. There was no great labor in removing them?—No; I do not suppose it took more than an hour to remove the building from where it stood.

1281. *By the Chairman.*—You have been a good deal at the Pentridge stockade, have you not?—No, very little. My orders were to leave Pentridge every morning at half-past nine o'clock and get into the office by ten, and then to leave town at four, if the despatches were ready, so that I had very little to do about the stockade, except at the stable, to see the horses attended to. I had very little connection with the stockade.

1282. Were you never a warder on duty?—No; I was at Pentridge two years and seven months acting as trooper previously to being removed into town, and I never did a day's warder's duty during the time.

1283. *By Mr. Clarke.*—Do you think the prisoners are treated worse at Pentridge than in Van Diemen's Land?—Since I have been at Pentridge, to my own certain knowledge I have seen more kindness bestowed by Mr. Price than severity. I have seen him go and make gruel with

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his own hands for the men when they were sick. I say that with a clear conscience, as between God and man, I have seen more kindness than otherwise bestowed by that gentleman towards the prisoners that were taken ill. On many occasions I have seen him go to his own kitchen fire and make gruel and other nourishing things with his own hands and send to the sick prisoners. I am not frightened of Mr. Price so long as I do my duty, and if I do not do that, he will dismiss me very soon.

*The witness withdrew.*

Mr. John Berkley further examined.

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1284. *By the Chairman.*—Do you wish to make any alteration in the evidence you gave on the first occasion of your being examined before this committee?—Touching the case of Melville, I do. In answer to question 780, I said, “I wrote a note to Dr. Mackay.” I wish to say, that I did not state on paper that I would give evidence as to Melville not being the man. I gave the note to Sergeant O’Neill, of the Detectives; but whether it ever reached Dr. Mackay, I do not know.

1285. *By Dr. Tierney.*—Did you ever tell any of the authorities that you could give evidence in the case?—I never knew who they were until the day of the trial. I could not have any communication with them.

1286. *By the Chairman.*—Is there any further correction you wish to make in your former evidence?—I would add, that if it can be shown, which it has not been, that Melville changed caps with one of the other men, then my identity of him falls to the ground; as I could only, at the distance the boat was then, identify him by the cap. Therefore, what I wish to say is, that the man who had on the cap, worn by Melville when the boat passed, did not strike the blows; and unless it can be proved that Melville exchanged his cap for a round one, I maintain that he did not strike the two blows in question. With respect to the classification of prisoners, I wish to say, that the new arrivals are promiscuously sent into the lower deck, in the darkest cells. I would mention the name of a gentleman, Mr. Warren, the editor of one of the papers at the Ovens; I think he was sentenced either for libel or perjury; and that man was frequently frisked, as they call it; that is, after the prisoners have gone down to their wards at night, a lot of warders go down and strip them naked, and search their persons, and examine their ears and toes, and all their privates, to see if they have any tobacco.

1287. *By Mr. Patterson.*—Have you known prisoners secrete tobacco about their persons?—I have. Mr. Warren never had anything of the sort found, and still they persisted in putting him under this ordeal, and he complained of it.

1288. *By Dr. Tierney.*—Was this Mr. Warren stripped naked?—Frequently; and he complained of it, and asked why it was practised upon him when he never brought anything into the hulks.

1289. What was Warren put in for?—A political offence; I believe either libel or perjury.

1290. Was it libel or perjury?—I cannot recollect whether it was for libel or perjury.

1291. *By the Chairman.*—Were you acting as a warder at Pentridge at the time a rush took place there some time ago?—I was, in February; I believe I was then in the office.

1292. Was that the rush when Gisborne was shot?—It was.

1293. Was that rush known to the warders for some time before it took place—an hour or two, or a day or two?—It was known at dinner time. It was known to me previously. It was known for some days that it would come off; but the precise hour was not known; it was expected to be much larger.

1294. Was it a particular gang—were the particular names known?—Not to me.

1295. Do you know of your own knowledge whether there were any steps taken to stop that rush before it took place?—No; they said, “Let it come off.”

1296. Who said?—I think it was Sergeant Ellison told me it was to be allowed to come off.

1297. For what reason?—Because it was said it would come some day, and they might as well have it now as any other time.

1298. Were the warders served with any extra instructions on that particular day at dinner time?—In the morning the chief warder went round and examined their pieces, which he sometimes does, and told them to keep a sharp look out.

1299. In fact, were not some of the warders changed that day, and better marksmen put in their place?—There were several warders changed; for instance, I was changed. I was standing on the very point where the rush was to come off in the morning; but I was relieved at about ten o’clock.

1300. Had you one gun or two?—I had only one.

1301. Had any of the warders more than one gun on this particular day?—Yes.

1302. Have they usually more than one gun?—Never.

1303. What was the object of their having more than one gun on this particular day?—To make sure work of it.

1304. And the rush did take place?—I was sitting writing in the office, when I was ordered to go and get a rifle and take two men with me and a target, and go down beyond the Merri Creek, and conceal myself in the Merri Creek. We were to take a target by way of a blind, because we had to pass the Crystal Palace. We went and took the target and went round to the Merri Creek, and, according to orders, we hid ourselves.

1305. Was that according to orders from the Inspector General—that is, from officers over you and under him?—Yes.

1306. The rush took place and the warders did their duty?—Yes.

1307. Was there more than one man wounded?—Two were slightly wounded, and Gisborne was shot through the body.

1308. Do you know where Mr. Price was when the rush took place?—When the first shot was fired, as I have learned, but I do not speak from my own knowledge, Mr. Price was about the workshops. Mr. J. Berkley,  
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1309. Do you know that he was out at Pentridge?—Yes; I saw him almost immediately.

1310. Did he come back from town at the usual hour that day?—No.

1311. Did he come back sooner?—Yes.

1312. Did you ever hear Mr. Price say afterwards that he was aware this rush was coming off?—He is a man I had very little conversation with.

1313. It was perfectly well known for two or three days to you and to the warders that this rush was in contemplation?—It was known in the morning. When the overseers brought the information, they said the signal was when one man split his irons in the quarry; and then they got a go-cart and made up that they were going with that go-cart, and then they left it and ran away; and when I saw them they were running up the hill. When I heard the first shot fired I was lying down amongst the stones.

1314. Did you fire?—No.

1315. Were you beyond range?—No.

1316. Were you blamed for not firing?—No; I never heard anything more about it.

1317. Have you any statement to make about the case of John Martin?—His case was in the public prints—in the *Herald*—they took it up and wrote a leading article upon it.

1318. How long ago?—I think better than three months ago.

1319. What were the peculiar features of his case?—He came to us from the Melbourne gaol, in his Melbourne gaol clothes, which were very thin duck clothing, with "H.M.G." upon them and the broad arrow. Those clothes were bundled up for him. His shirt and trowsers were marked the same, and when he went away they were given to him, and he put them on, and he was found in a gas-pipe with his feet mortified. I received him on board the hulk.

1320. Did he seem to be in good health when he came on board the hulk?—No; he seemed to be quite silly and deranged.

1321. How long was he with you?—I think he was only there three months.

1322. Where was he landed?—He was discharged from the detective office. All prisoners are discharged from the detective office.

1323. Was he sent out of the detective office in Melbourne in those clothes?—He was.

1324. Did you make any representation when this man was leaving the hulk, that he was not in a fit state to leave without a medical man seeing him?—I did; to Lieutenant Payne, the inspector of hulks.

1325. What answer did he give you?—He made light of it, and said it was nonsense, and let him go.

1326. Do you know anything of the case of Thomas Callaghan, on board one of the hulks?—Yes. He was prisoner in the *Lysander* when I went down.

1327. Did you see him put in the bath for punishment?—I was called down to see the punishment one day; it was not part of my duty.

1328. Is it considered such a gay sight, that they send for the warders from the different hulks to see the men get this bath?—He was in my own ship, the *Lysander*.

1329. What was the matter with him that they put him in this bath?—He had syphilis in ano.

1330. Have you ever known a man treated for syphilis with a shower-bath before?—It was not a shower-bath, it was a plunge-bath.

1331. What did they use to wash him with; sponge, or flannel, or what?—They used flannel and sand.

1332. Did he cry out about it?—He said it was worse than death.

1333. What do they call doctoring a man?—They pushed a piece of flannel, with caustic on, up his anus.

1334. Was the medical man present there?—The prisoner hospital attendant was present.

1335. Doctor Wilkins was not there?—No.

1336. Was the man who was present a medical attendant to the prisoners, or was he a prisoner himself?—A prisoner himself.

1337. *By Dr. Tierney.*—Was it at the same time that the man had these syphilitic sores that he got the bath?—Yes. He first got the bath and then the medical treatment.

1338. Did he get this bath as a punishment, or to clean him?—It might have been done with less severity.

1339. Did they throw cold water upon him?—He was put in the bath and well washed.

1340. Might not that be done to clean him?—Yes, but it might have been done with less severity.

1341. *By Mr. Patterson.*—Do you know of your own knowledge whether he ever was complained of for being in a filthy state?—He had this filthy disease upon him, but otherwise I do not know that he was more filthy than any other man.

1342. *By Mr. Thomson.*—Was this done by order of the doctor?—I do not know. The assistant superintendent and the chief warder were both present.

1343. *By the Chairman.*—On board the *Lysander* they are nearly all working men, are they not?—Yes; there are only four solitary cells.

1344. How many men are there in the *Lysander* usually?—I have known as many as 280; the average is 250.

1345. On a wet day, or on Sunday, when they are not working, how are these 280 lodged and employed; what are they doing?—On Sunday they are allowed to come out in batches

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and wash in the morning, then they are locked up again, and those that choose to come out to church when the Wesleyan minister comes in the morning are allowed to do so; those that do not remain in their wards. In the afternoon, those that chose to come to hear the Church of England clergyman can come out between decks, and those that are Catholics remain in their cells. On a wet day or a holiday they are kept close below.

1346. Are they battened down, or the hatches closed upon them during the intervals between those services?—No; there is no occasion for that. They are all locked into their wards. There are fifteen or twenty in a ward.

1347. Are they wards with beds all round?—No; hammocks.

1348. *By Mr. Clarke.*—It would not be safe to let them all out together on deck for service, would it?—They are never let on deck during the day.

1349. It would not be safe to do so?—They might be let out in batches of twenty or thirty at a time.

1350. But not in greater numbers?—The deck would not hold them.

1351. Were you at Pentridge when Mr. Price chained a man to a stone for a good many hours for some trivial offence?—There was a man served so, but I never saw him on the stone; I was told he was put on the stone for a very trivial offence. There are men who can tell the committee more about it than I can.

1352. *By the Chairman.*—Are there waterclosets at the stockades at Pentridge for the use of the men?—There is a watercloset within the stockade; one large one right down the side of the ward, and there is a sentry stands up by it.

1353. *By Mr. Clarke.*—Is there any division in this one watercloset?—Merely poles along; it is skeleton.

1354. *By the Chairman.*—Is there any oakum or paper left in it for the use of the men, or are they allowed to have a bit of rag?—No, and if they tear their shirts they are punished for it. I have here a memorandum, which is a proof that there is a system of espionage going on in the department.

1355. What is this memorandum?—That is a notification from the sergeant of the shore-guard to the inspector of hulks, through the chief warder, to let him know at what hour precisely to a minute the chief overseer, who was then Mr. Vivian, arrived on the works. Mr. Vivian was finally dismissed, after being three times ordered to resign.

[*The witness delivered in the following document:*]

“MEMO.

“The chief overseer arrived on the works this morning at 8.15 o'clock.

“Tuesday, May 20, 1856.

(Signed) “J. CALDWELL, Sergeant.”

1356. *By Mr. Clarke.*—Are you in the employ of the penal department now?—No; I got an intimation from Mr. Price that my resignation would be accepted.

1357. And you did resign?—Yes, I resigned on the day I got the intimation; but it was not accepted for five days after.

1358. Did you get an intimation from Mr. Price to resign?—Yes, through Captain Blatchford. I got it partly from Mr. Price himself.

*The witness withdrew.*

Mr. John Duffy further examined.

*Extract from Mr. John Berkley's evidence, Nos. 777, 778, and 779 read to the witness.*

1359. *By the Chairman.*—Can you corroborate that?—Yes.

1360. How do you know it was with Mr. Price's connivance?—In this way; one of the prisoners came to me and told me there was from £50 to £60 on the station; I went to Mr. Price and told him about it. I told Mr. Price, if he would allow me I would get the money out, that was, by allowing some tobacco to go into the men, and he told me to go to work and get it out. I got about £7 of the money out and sent in some tobacco for the £7, and as I got the money I gave it to the superintendent, Mr. Duncan.

1361. *By Mr. Clarke.*—What price was charged for that tobacco—how much tobacco did you send in for the £7?—I think there was about 2½ lbs.

1362. *By Mr. Patterson.*—What do you mean by saying there was £60 or £70 there—who had the money?—The prisoners.

1363. Amongst them?—Amongst them.

1364. *By the Chairman.*—And they gave it to you on the faith that you would get tobacco?—One of the prisoners in my gang gave it to me. He put a question to me, and when he did so, I went and told Mr. Price, and Mr. Price allowed me to give them the tobacco and get the money out.

1365. *By Mr. Clarke.*—Where was this tobacco got from?—I bought it.

1366. *By Dr. Tierney.*—What was done afterwards. Were the men punished for having that tobacco?—I never heard of any being punished for it.

1367. *By Mr. Clarke.*—What became of the £7?—The superintendent got it.

1368. Did not you obtain any portion of it for spending the money to get the tobacco in?—No.

1369. Then you lost the price of the tobacco?—I got the money to pay for the tobacco from the superintendent.

1370. *By Mr. Thomson.*—What was the superintendent's name?—Duncan.

1371. *By Dr. Tierney.*—What had Mr. Price to do with Mr. Duncan?—It was done with his knowledge.

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1372. How do you know that?—I told him I gave the money to Mr. Duncan as I got it.
1373. *By Mr. Clarke.*—Do you know what became of that money?—I gave it to Mr. Duncan. I also got a gold ring from one of the prisoners.
1374. Was tobacco often got in to the prisoners by that means?—I believe it was.
1375. And did they generally pay a proportionate price, the same as they did for the 2½ lbs. from you?—I cannot say that.
1376. Did ever you know the overseers supply the prisoners with tobacco and charge exorbitant prices for it?—Never; there was one overseer charged with it.
1377. But it was not proved against him?—It was not proved against him.
1378. *By Mr. Thomson.*—Did you go to Mr. Price and tell him there was money with the prisoners at Pentridge, and that you could get it out?—Yes.
1379. And he authorised you to buy tobacco and take it into Pentridge and get the money?—No; I told him what the prisoners told me, that the money was in the yard, and that, if I got some tobacco to send in to those men that had the money, he would get all the money out. I went to Mr. Price and told him about the information I got, and he said, "Very well then, Duffy, go to work and get it out." So the night after that I sent in half a pound of tobacco and I got a five pound note; I was to send in a pound of tobacco for every pound note; that was the prisoners agreement for getting the money out.
1380. *By Mr. Clarke.*—But you got a five pound note for the first pound?—Yes.
1381. Did you send in four pounds more?—No, I sent in as little as I could.
1382. *By Mr. Patterson.*—How much did you send altogether?—I am not sure; I think two and a half pounds.
1383. And what was the amount of the money you got out?—£7.
1384. *By Dr. Tierney.*—Were not you expecting to get £50?—I was; but they began to tumble among themselves that they were not getting enough tobacco in for what they were sending out, and they stopped it.
1385. *By Mr. Patterson.*—Are not the prisoners always examined every night and morning as they come out of their cells?—Not every morning.
1386. If any money was found on the prisoners, would not it be taken from them?—Yes.
1387. Then where did they secrete this £60 or £70, how did they manage to secrete that?—I do not know.
1388. *By Mr. Thomson.*—Are they not all stripped when they are taken in first?—Yes.
1389. Still, they had this money on them?—Yes.
1390. *By the Chairman.*—Is there any other point that you wish to speak to, that you have omitted?—No, except as to the ring. Through that ring I got the information about the money.
1391. *By Dr. Tierney.*—How through the ring?—This prisoner was the cook for the prisoners on the works, and I heard him telling some of the prisoners, "That was a fine ring which was in the yard yesterday." I overheard the words, and I went to him and said, "What ring was that, Burns?" because there was an overseer that had lost a ring, and I thought it might be the same ring. He says, "It is a beautiful ring, Mr. Duffy, and it was offered yesterday for a quarter of a pound of tobacco." That night, when I came home, I went to Mr. Duncan, the superintendent, and told him about this ring, and I made the remark, "I think it is Mr. Buck's ring." "Well," he says, "Duffy, get it if you can." So the next day I gave the prisoner a quarter of a pound of tobacco for the ring, and he gave it to me. Then when I got the ring I gave it to Mr. Duncan, and through getting this ring this prisoner made the remark about the £50 being in the yard.
1392. *By Mr. Patterson.*—What did you give him for this ring?—A quarter of a pound of tobacco.
1393. What became of that ring?—I gave it to Duncan, and he showed it to Mr. Price, and Mr. Price gave it to me back again, and then I mentioned about this money in the presence of both.
1394. *By Dr. Tierney.*—Have you got any employment since you left the penal department?—No.
1395. Are you doing anything now?—No.
1396. Are you seeking employment?—I have never sought any employment since Mr. Price refused me the situation I got.
1397. Have you got property to live on?—I am living on the money I got whilst I was with Mr. Price.
1398. Why do you not look for employment?—I expect that I will get back to my own employ again.
1399. Do you come here to give evidence, or do you speak out of doors for the purpose of getting rid of Mr. Price, with the view of getting into your old situation again?—No, far from it.
1400. *By Mr. Patterson.*—Would you take office under Mr. Price again?—No, I would not.
1401. Did you never apply for it?—Never.
1402. *By Mr. Clarke.*—Then you expect Mr. Price will leave his situation?—I do not know.
1403. You say you expect to get back again to your old situation, but you would not take employment under Mr. Price, so that you must expect him to leave?—I do expect to get back if Mr. Price leaves there; but if I were in the same situation to-morrow, and I was called on to give this statement, I would say the same as I say now. Certainly Mr. Price took the loaves out of my mouth recently.

*The witness withdrew.*

*Adjourned to Tuesday the 30th instant, at one o'clock.*

TUESDAY, 30TH DECEMBER, 1856.

MEMBERS PRESENT:—Mr. Hood, in the Chair; Mr. McCombie, Mr. Miller, Dr. Tierney, Mr. Williams.

Mr. William P. Burne examined.

Mr. W. P. Burne,  
30th December,  
1856.

1404. *By the Chairman.*—You have been connected with penal establishments a good while?—I have.

1405. In various parts of the world?—In New South Wales and this Colony.

1406. Not in Van Diemen's Land?—No.

1407. How long were you connected with penal establishments in New South Wales?—In New South Wales I was nearly three years.

1408. In what capacity were you in the penal establishment in New South Wales?—Superintendent of the Hyde Park barracks.

1409. What number of prisoners were there usually there?—It was a place *in transitu*. Our numbers were very different at different times, from 250 or 300 up to 1500.

1410. Were they in separate cells?—No, in wards.

1411. Who was principal superintendent then?—The principal superintendent of convicts, Mr. Hely.

1412. Had you printed regulations for your guidance?—There were some printed regulations.

1413. Have you seen the printed regulations in force in this Colony?—I have.

1414. Were the printed regulations you had in Sydney of the same nature, or more severe, or less severe than those here?—We had it more under our own control there. As superintendent of the barracks, I had the entire control of the place; nobody interfered with me. It was a home appointment and nobody interfered with me, not even the principal superintendent of convicts.

1415. Did you usually keep the men in irons?—Never, except by order of the magistrates, who sat in the barracks.

1416. You were never out in command of road parties?—No.

1417. In the barracks you had from 250 to 1500 men, and you never used leg irons?—Excepting in particular cases.

1418. You did not use irons on them for safe keeping?—Not without the order of the magistrates in the barracks, who sat in the barracks sentencing the men to so many days in the cell with irons.

1419. That was a special punishment in a particular case?—Just so.

1420. How long is it since you left Sydney?—About three years.

1421. The transportation had been given over then?—Yes.

1422. Did you leave of your own accord?—I did. I was removed from the Hyde Park barracks and placed in the Commissariat.

1423. But when you left there you left of your own accord, and with the good opinion of your superior officers?—Yes.

1424. You gave every satisfaction?—I did; and I have testimonials in my pocket to that effect [*producing the same*].

1425. You then came to this Colony?—I did.

1426. Did you apply for a situation in the penal department here?—No, I was sent for.

1427. The situation was offered you?—The choice of two.

1428. I observe by this testimonial that, in Sydney, they have more than one visiting justice?—They have four, who sit in court three times a week, and there are generally two, and sometimes three on the bench at the same time.

1429. In this Colony they do with one visiting justice?—It appears so.

1430. Had you ever complaints in Sydney against the visiting justices for not doing their duty, or for exceeding their duty?—Never.

1431. When you were in charge of the Hyde Park barracks, if a prisoner committed a trivial fault, a first offence, what was your practice and that of the warders under you?—We had no such force as warders. I had the entire punishment of the men for any offence which arose between the days of the sittings of the magistrates. I could put them in the cells and keep them there, and then remove them, and not take them to the court at all, which I considered a sufficient punishment for a trivial offence. We had no warders. Our force consisted principally of prisoners (soldiers, for purely military offences) appointed specially by the Government, at 1s. 3d. a day, upon my recommendation.

1432. What proportion did those bear to the whole number of prisoners in charge?—I think we had not more than eight altogether. There was the boatswain, and the assistant boatswain, and the sentry, on my quarter, and I think five others.

1433. Then you had only one per cent. to guard the prisoners?—Not more sometimes; but some days we might have had 1500 prisoners, and other days not more than 1200 or less.

1434. How do you account for the fact that here they require about twenty per cent. on the prisoners to take charge of them?—I cannot account for it; it astonished me when I came down here.

1435. Did you never represent that to the head of the department?—I never had the opportunity, I represented it to my brother-in-law, who was superintendent of the hulk in which I was.

1436. Which was that?—The *Deborah*.

1437. How many men had she in her?—I think about eighty, on the average.

1438. And how many officers?—Myself, the sergeant, the corporal, and I think fifteen or sixteen warders, besides a superintendent, a shipkeeper, and storekeeper.

1439. Are you clearly of opinion that that number is quite unnecessary?—Yes; after I left the *Deborah* I was placed for three weeks on board the *President*, where the men are locked up at night, and also in the day time, excepting the ten taking exercise; notwithstanding the men were ironed, and locked up, and barred, and bolted in, so that it was physically impossible that any of them could get out, there were two warders at night on the deck and two warders below. Having two men on each deck at one time was quite absurd, they were not wanted there. The two men, one above and one below, were all that you could make useful, and even one might do the duty by common relief of two hours, the chief warder visiting every half hour as usual.

1440. You are inclined to think the code of regulations in force in Sydney, in the way in which those regulations are carried out, superior to the code in force here?—Unquestionably.

1441. Is it your opinion that the regulations in force here are capable of being carried out in a way that would be to the advantage of the prisoners and society generally?—From the experience I have had in New South Wales, I should say—Yes, if by humane and proper officers.

1442. Do you think the code of regulations as it exists here could be carried out in its integrity beneficially to the prisoners?—As a reformation for the prisoners, it would be impossible.

1443. Have you ever known convicts reformed—that is, have you ever known them become industrious and friendly, and probably pious, and as far as human foresight could judge, reformed characters?—Most unquestionably, in New South Wales. In my own service I have had men who would have done honor to free men—better men than I have had free.

1444. Of course, as superintendent of the Hyde Park barracks, you saw what crimes the men had committed. When they arrived, you were aware of their previous history?—Yes.

1445. Have you ever known cases of men who have committed heinous crimes, burglary and robbery, and such like, and who have become such men as you would trust to manage a farm or your other affairs?—I would trust them with anything. I have given a man transported for life ten pounds to go with a dray and buy things for me, and he has always brought me the change correctly, and that for years.

1446. Was that by terror of the consequences that would result if they disobeyed you, or through kindness and a wish to do well—which do you think was the guiding principle?—It was the kindness and confidence they were receiving as opposed to the terror of what would take place if they acted otherwise; the one acting on the other. One illustration probably would lead the committee to a conclusion in some way. I will not mention names. I have had prisoners remaining in barracks assigned to certain parties, and who, supposing that I had some influence in altering their assignment, have come and asked to see me, and fallen down upon their knees and begged that I would see them sent to some one else if possible, mentioning the party's name. I said I had no power whatever. They said they were quite sure the moment they went to such and such a man their fate was sealed.

1447. *By Dr. Tierney*.—That was in the old time, under the old assignment system?—Yes.

1448. *By Mr. Miller*.—Who was Governor at that time?—Sir Richard Bourke.

1449. *By Dr. Tierney*.—Men had been put on the triangle by employers at that time, had they not?—They had.

1450. *By the Chairman*.—Were they afraid the parties they were going to would use them badly?—They were afraid they should be used so badly, that they would be obliged to take to the bush to escape tyranny, and the consequences likely to result from it.

1451. Have you ever heard that the system pursued in Van Diemen's Land during the last twenty or thirty years was different in any respect to the system pursued in Sydney?—I have understood that it was much more tyrannical. I recollect at the time Lieutenant Gunn was superintendent of the barracks there, he came up to Sydney, and was very much pleased with what he saw.

1452. Have you had experience here on the hulks?—The hulks and the marine stockade.

1453. And you are clearly of opinion that the system pursued there is wrong in every respect—that it is not calculated to reform the prisoners, and is an extravagant system?—I think so.

1454. Have you ever made a calculation as to the probable cost per annum of each convict confined in the hulks?—I have made a rough calculation, by which I think some £8000 a year might be saved in the reduction of warders alone.

1455. Would you think it extravagant if it should be stated that the average cost of prisoners is £1 per day for every prisoner, taking into consideration the first cost of the hulks, and so on?—I should say that was as near the mark as possible.

1456. Do not you think the prisoners ought to be kept for five shillings per day each?—I can scarcely tell without entering into a calculation—I would not like to risk an answer off-hand.

1457. Are you aware whether the treatment of prisoners is different now to what it was a year or eighteen months ago?—At the time that I was on board the *Deborah* I heard some very curious tales, which never came under my own eye, and I never took any notice of anything but that which did come immediately under my own eye. The system here is utterly different to that at Sydney. In Sydney no officer was allowed, under any circumstances whatever, to strike a prisoner, except in self defence.

1458. Are the committee to infer from that that the officers do strike prisoners here?—It appears so, from public reports.

Mr. W. P. Burne,  
continued,  
30th December,  
1856.

1459. Have you ever seen, or had reason to believe, that any of the warders in the *Deborah*, whilst you were chief warder, "neddied" the prisoners?—Never in my presence.
1460. Did the prisoners ever complain to you of having been subjected to that treatment?—Never; I never would have allowed it for a moment.
1461. Who was superintendent of the hulk when you were chief warder?—Lieutenant Robertson.
1462. There was a letter of Lieutenant Robertson's which appeared in the papers a few days ago?—I saw there was.
1463. He seems to have seen what you did not see?—He was there before I was.
1464. *By Mr. Miller.*—Are you in the employment of the Government at this time?—No.
1465. How long have you left the Government service?—Ten months.
1466. Under what circumstances did you leave?—I left on account of writing to the sheriff in a way that he did not approve of, and he said that the whole tenor of my communication was of such purport, that he had no hesitation in dismissing me from his department.
1467. You were dismissed then?—I was, from the gaolership at Beechworth.
1468. Had you some relation on board the hulk *Deborah*?—My brother-in-law, Lieutenant Robertson, was superintendent.
1469. Is he also now in the employ of the Government?—No, I believe not.
1470. Under what circumstances did he leave?—He was dismissed the service along with myself at the same time, I being immediately reinstated in the service; private domestic misunderstandings being the cause of dismissal.
1471. You say you have had experience of convicts in New South Wales?—Yes.
1472. You have also stated that that was in the time of the late Governor Bourke?—It was.
1473. Did you not say that you were appointed from home to the situation in New South Wales?—I came out originally with letters of service to Governor Bourke from the late Lord Raglan, and he appointed me then to the Principal Superintendent of Convicts' office. Lieutenant Slade, of the 40th, was then superintendent of the Hyde Park barracks, and subsequently he was made police magistrate, and then I was promoted to superintend the Hyde Park barracks temporarily until that appointment was confirmed from home, and then I was confirmed in that appointment.
1474. What was the system in operation in New South Wales—the assignment system?—Yes.
1475. Would you advocate such a system being introduced into Victoria?—I would not.
1476. Did you not advocate that just now, as being superior to the present system of penal discipline here?—They were imperial convicts, not originally convicted in the colony.
1477. You do not advocate the assignment system?—Not here: decidedly not.
1478. What system would you propose for Victoria?—I should certainly advocate a system much milder than the present one.
1479. Have you drawn up any system in detail, that you would state to the committee, having been an officer of some experience in these matters?—Not knowing what questions might be put to me, I just made a few rough notes, that is all.
1480. Would you have any objection to prepare at your leisure a system of prison discipline, such as you would recommend for adoption here, and send it in to the committee?—None, whatever.
1481. Then you will do it perhaps?—With great pleasure. Before proceeding further, there is one thing I should state, that the present Chief Secretary, Mr. Haines, has replaced me upon the list for service in the Government, conceiving that I was worthy of it.
1482. You have been replaced upon the list for employment when a vacancy occurs?—Yes.
1483. How long were you in charge of the convicts at Hyde Park barracks?—I was in the principal superintendent of convicts' office eight or nine months, and for about two years afterwards I was in charge of the barracks.
1484. Was it in your time that the convicts were a terror to Sydney, and allowed to come out at all hours of the night?—No.
1485. When did that occur?—Some four or five years after I left, when it got into hands that, in my opinion, were very improper to hold the appointment.
1486. Were you able to manage and keep discipline with convict constables?—Entirely. Then I had the court in the barracks sitting three days a week.
1487. *By the Chairman.*—Was that an open court—was it open to the press?—If they chose to come; but I do not think they ever came.
1488. *By Mr. Miller.*—Who were the magistrates at that time?—The Collector of Internal Revenue, the Harbor Master, the Inspector General of Hospitals, and the Deputy Surveyor General.
1489. What punishments were those gentlemen in the habit of ordering?—We had a punishment then in force which you have not in this Colony—that was the lash.
1490. Corporal punishment?—Yes; and the punishment varied from twenty-five to 100 and even up to 150 lashes on very special occasions.
1491. How frequently was corporal punishment inflicted at Hyde Park barracks?—Every day.
1492. How many did you flog at a time?—Including all the police cases of Sydney and the district, there would be frequently from fifteen to twenty a day, including boys.
1493. Have you seen any men die under the lash?—No. When over fifty lashes were inflicted the Assistant Colonial Surgeon was always present with me.
1494. Then you were in the habit of administering fifty lashes without any medical attendant being present?—Yes.



1495. You also had the power of confining a man yourself, without the intervention of a magistrate?—I had.

1496. Were there any other punishments?—I am not aware of any other.

1497. Are you aware that the overseers of gangs always have triangles with them; and at the least motion of a convict even, they would have him up and flog him at their own will?—Never in my time.

1498. Have you never seen corporal punishment inflicted in the streets of Sydney, or elsewhere, where the gangs were?—No.

1499. Perhaps you never were with a gang?—I have often been through the streets of Sydney and seen them.

1500. What were the effects of the sentences of a magistrate then? Did the men sentenced by the magistrate ever find their way to Cockatoo Island?—That is a difficult question to answer. I really could not say whether such was the case or not. It was a summary conviction, and the practice of the bench was almost entirely confined to corporal punishment. There was not much extension of sentence.

1501. At that time it was all corporal punishment and assignment?—Yes; exactly so.

1502. In your experience with those 1500 men, did you ever find any refractory characters who might be known as out-and-outers?—They stopped a very little time with us; a man might be sent to Norfolk Island and become an expirée there and return to barracks.

1503. How might a man be sent to Norfolk Island?—I do not know; he would not be sent from the Hyde Park barracks to Norfolk Island.

1504. But, probably, he would commence his career of crime in Hyde Park barracks?—I do not see what chance he would have of that.

1505. Some of the worst of the men would go through your hands, would they not?—The men were brought there to be flogged, and immediately they were flogged they returned to their assignment.

1506. Supposing a man committed a crime, he would be then brought before the Supreme Court, would he not?—Yes.

1507. Which was composed of military officers, was it not?—There was a judge, but the jury was composed of seven military officers.

1508. Were there many men sent to Norfolk Island then?—A good many, I should think, in a year.

1509. Who was Commandant of Norfolk Island at that time?—I think Colonel Anderson was.

1510. Who is now in this Colony?—Yes.

1511. Do you know the nature of the discipline which was carried on at Norfolk Island?—I have heard it was very severe; but not so severe as in the hulks here.

1512. You heard it was very severe there?—Yes.

1513. Do you know what it was?—I do not.

1514. Then you cannot institute a comparison between the treatment of the worst convicts in Norfolk Island and the worst convicts we have here in the *President*?—I cannot.

1515. Are not the convicts in the *President* supposed to be the worst of any here?—They are supposed to be.

1516. Do you approve of corporal punishment?—In some cases I do; but I would not flog a man for the first time.

1517. The hardened offender who committed seventy offences—what would you do with him?—I cannot say I quite agree with corporal punishment.

1518. The committee understood you to say just now you did agree with corporal punishment?—Not for the first time, I said; and even afterwards, if it can be avoided, I think it would be much better.

1519. The committee wish to know your opinion about corporal punishment—whether you approve of it or not in the treatment of convicts?—It is very difficult to give an opinion about it. It has always gone very much against me to flog a man for the first time, for the very simple reason that I am about to state, that it marks a man indelibly; and no reform afterwards will admit of his pulling off his shirt, it shows what he has been at once. To flogging for the first time I have always had an objection; but the second or third time it becomes comparatively a matter of no consequence.

1520. You would object to flogging a man at all; but when he was once flogged, you would have no objection to flogging him again?—No.

1521. How long did you say you were on board the hulks?—I was on board the *Deborah* from the 15th of August to the 23rd of December. I was then removed for three weeks to the *President*, and from there to the Marine Stockade.

1522. Did you know during that time any of the convicts express contrition to their superior officers and promise a new course of life, and evince it by their conduct?—No.

1523. Never?—No.

1524. Do you suppose, if any convict had done so, and had made an impression on you and the other officers, that he was sincere and a reformed character, that his sentence would not gradually have been remitted, and that he would not have had an opportunity of returning to society again? I was only on the *President* for three weeks, and I could not judge.

1525. Did you happen to come in contact with a convict called "Owen Suffolk," who made a great noise in the paper some time ago?—I think I remember the name.

1526. Do you happen to know anything of the man or his history?—I do not; I remember the name but anything further, I do not recollect.

1527. Do you think the hulks are a terror to the convict population here?—I think a man goes in as a wild beast, and he comes out as such.

Mr. W. P. Burne,  
continued,  
30th December,  
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1528. Then you look upon the convicts as wild beasts?—I look upon it that a man goes in comparatively as a wild beast; he feels when he goes into the *President*, as I believe the convict Melville made the observation, as though he left hope behind him.

1529. Then it is extreme terror to the convicts?—I should think the very extremest.

1530. Then if anything would deter those men from crime, is not the punishment on board the hulk *President* sufficient to do so?—It is the extreme of punishment; but I do not think it would reform a man in the slightest degree.

1531. Is the discipline and punishment on board the hulks a terror to the criminal population here—are you aware whether it is or is not?—There can be no question that it is a terror.

1532. Is it not, in fact, a worse punishment than death?—I believe so. I think I would rather die than undergo a year of it. I think it almost impossible that anything can be worse.

1533. *By Dr. Tierney.*—When did flogging cease to be practised in Sydney?—I do not think it ceased until the assignment system ceased, and I was out of the service then. It did not cease until a long time after I was out of the service.

1534. Are you not aware that flogging was not continued in Sydney?—It was continued for some time after I left.

1535. How long ago is that?—I left in 1835, I think.

1536. Do you prefer solitary confinement to having prisoners worked in irons?—I see no good in working them in irons; it prevents a man from doing his duty, if he is inclined to do it.

1537. There was one system adopted in Sydney, that doubly-convicted felons were heavily chained and paraded through the streets of Sydney, and sent to the quarry to work there, and then were brought back to Hyde Park barracks at night?—They were not brought to Hyde Park barracks; they were taken to the gaol.

1538. Which would you prefer—that punishment or solitary confinement—which do you think would reform the prisoners most?—It is a very difficult question to answer as to which would reform them most.

1539. You said just now, that you did not like to see men working in irons. Will you tell the committee why you do not like to see a refractory man who had committed a murder working in irons, and doing something to occupy his mind, rather than see him in a solitary cell?—I would rather see him working without irons with a safe guard over him.

1540. Do you think it would be advisable in a quarry to have such a man working without being in irons?—It would depend very much upon circumstances, how the quarry was situated, and what there was to keep the man there, whether he was within a wall or only in charge of sentries, and whether those sentries were soldiers or otherwise.

1541. You stated just now that a prisoner having once received the lash, could never be reinstated in society, that he always felt degraded by it; are there not many persons now in Sydney, in respectable positions in business and social habits, who have been flogged?—Yes, many.

1542. And many men in Sydney and New South Wales, who formerly were convicts, and who have been punished very severely, but who are now in respectable positions?—There are, certainly.

1543. Do you object to prisoners being placed as guards over other prisoners?—Yes; ordinary prisoners.

1544. Do you think that a person who had committed a political offence might be placed over other prisoners?—I do not think they stand at all on the same ground as other convicts.

1545. Are there any other offences which you would place in the same class with those?—Purely military offences.

1546. Was there any classification of prisoners at Sydney?—No; but I think it highly necessary.

1547. Were not the men who committed petty larceny and felony placed in the same cells?—They were placed in a ward all together, but they were assigned away so soon, that they were not long in each other's company.

1548. You said a while ago that you did not like the assignment system, when men were assigned to particular individuals?—Yes. The assignment system for the imperial convicts, in my opinion, was the best that ever was invented; but certainly not when it so happened that the men were assigned to bad masters.

1549. When men get their tickets-of-leave, would you not think it more desirable to let the men go to a certain district rather than to have them assigned to a particular individual?—When they go with their tickets-of-leave, they go to a particular district in New South Wales.

1550. Do you not think that a better system than compelling a prisoner to go to any particular individual?—That was never done in New South Wales; they used to get their tickets-of-leave from the particular individual to whom they were assigned.

1551. Are you not aware that, latterly, in Sydney the prisoners get their tickets-of-leave to go to a particular district, and get employment in that district from any master they could?—They did in my day; but they got their ticket-of-leave from the particular master to whom they were assigned. If I had a seven year man and he served me for three years, I think then he would get his ticket-of-leave for four years for some particular district.

1552. Are you not aware that men were sent out from Hyde Park barracks with a ticket-of-leave, not assigned to any particular individual?—That was not the case in my day.

1553. Would you prefer that system to forcing a convict to go to any particular individual?—I think so. It is no indulgence to go to a particular individual.

1554. Do you think convicts might be taught some trade or occupation when in confinement?—I think, if there was a graduated scale of reward and punishment, it would be desirable.

1555. Would you recommend that the prisoners should get any gratuity for their services?—  
I would.

Mr. W. P. Burnes  
continued.  
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1556. Do you think that would be a good system?—I do; a very good one. I never found a man yet who, if he had any prospect held out to him, would not work up to it.

1557. Do you think there are occasions when a man might be allowed to have a little tobacco?—Yes; tea, sugar, and tobacco. I think, if there were different classes for the men, and they were to enter one class, and go on up through three or four classes, till they got to the full allowance of indulgence, it would be desirable.

1558. Do you think religious instruction ought to be provided for the convicts at the public expense?—I do.

1559. Had you any quarrel with Mr. Price when you left the service?—No; none.

1560. Or have you had up to the present time?—No; I was reduced under the reductions of the late Sir Charles Hotham; but I knew why I was reduced.

1561. You have said that it was in consequence of a letter you wrote to the sheriff?—No; that was afterwards, after I left the stockade. I was appointed secretary to the Customs Board of Inquiry, and after that I was appointed to the gaol at Beechworth; and I left there in consequence of the letter I wrote to the sheriff.

1562. Had Mr. Price anything to do with your dismissal from employment?—Nothing whatever.

1563. Directly or indirectly?—I will not say indirectly—Mr. Price and I did not at all agree in our system of management, and I was very glad to get out of it, quite as glad as he was to get rid of me.

1564. *By the Chairman.*—You said in answer to a question by Mr. Miller that the hulk *President* was a great terror to the convict population. Do you think it deters from crime?—It deters them while they are there.

1565. Are you not aware that it is a well ascertained fact that, since horse stealing has ceased to be punished capitally, there have been fewer horses stolen in England, not only fewer according to the population, but actually fewer out of double the number of horses and double the number of people?—I was not aware of that. It would appear to me that a man, upon going out of the *President*, would have such a deadly hatred to all his fellow men, that he would not care what he did.

1566. Did you look upon a man that had been once or twice flogged in Sydney as a very bad man—flogging was the extreme punishment, was not it?—It was the principal punishment; solitary confinement was very seldom given, except for very short periods.

1567. *By Mr. Williams.*—Have you ever known any doubly convicted felons become reformed characters or useful members of society?—I could not at this moment, from memory, name any particular cases, but I believe I may venture to say—Yes; many, very many.

1568. *By the Chairman.*—What is exactly meant by doubly convicted felons—is it those that have been sent out from England and subsequently brought up before the police magistrates?—They may be called doubly convicted, but that is not the exact meaning of the term. If a man who came out as an imperial convict got convicted before the Supreme Court for another offence, I should call him a doubly convicted man; but then, in many cases, men are driven to be doubly convicted, who, if treated well in the first instance, would never have been convicted again.

1569. *By Dr. Tierney.*—Have you not known persons sent out from England for a petty larceny to be kept in Hyde Park barracks in company with the greatest scoundrels?—Yes, but they did not remain there.

*The witness withdrew.*

*Adjourned.*

WEDNESDAY, 31ST DECEMBER, 1856.

MEMBERS PRESENT:—Mr. Hood, in the Chair; Mr. Guthridge, Mr. Mitchell, Mr. Williams.

James Edwards examined.

1570. *By the Chairman.*—Were you a prisoner of the Crown?—Yes.

1571. Are you a German?—I was born and brought up in Germany; my father was an Englishman.

James Edwards,  
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1856.

1572. What were you sent to prison for?—I was tried in Castlemaine court for an assault upon another man, and received a sentence of twelve months' imprisonment.

1573. Who gave you that sentence?—Mr. Justice Williams.

1574. Are you quite certain of the terms of the sentence?—Twelve months' imprisonment, with hard labor.

1575. Did you remain in for twelve months?—No, I got out after eight months.

1576. Were you kept at hard labor all that time?—No.

1577. Where were you?—I was the first part of my time a servant to some of the officers. I have been on board the hulks.

1578. What were you sent to the hulks for?—Because Mr. Price came into the goal and looked amongst all the men that came from Ballarat. I had been very unwell, and I looked rather bad. He said, "I have seen your face before." I said, "I do not think it." He said, "Do not you know me?" I said, "No." Mr. Wintle said, "Oh, it is no use to deny it; Mr.

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continued,  
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1866.

Price knows you." Mr. Price said, "Have you never been to Van Diemen's Land?" I said, "No." He said, "Well, I will let you smell the salt-water;" meaning, he would send me to the hulks. I have no complaint to make about myself; only what I saw there.

1579. How long have you been in the Colony?—Four years. I came from Adelaide here. I had been in Adelaide about ten months when I came here.

1580. Then you left Germany after you heard of the gold diggings?—Yes.

1581. And you went down to the hulks?—Yes.

1582. How long did you remain there—which hulk did you go into?—First, the *Sacramento*.

1583. Were you put in irons?—No, I went to the works on the point for some time.

1584. And then you were engaged as a servant—to whom?—To Mr. Smith a little time.

1585. What is he?—Superintendent on board the *Sacramento*.

1586. How long were you with him?—I could not say exactly, only a short time.

1587. You wrought out your eight months in that manner?—Yes, from one ship to another. I have been in the three hulks, the *Sacramento*, the *Success*, and the *Lysander*.

1588. They never used you badly beyond sending you to the hulks?—No, they never used me badly.

1589. Then why do you come here to give evidence?—Because I have seen others treated dreadfully who cannot speak for themselves, they have tried all they know; they did that at the time Sir Charles Hotham came on board.

1590. Have you seen any case of positive ill treatment?—Yes, I have.

1591. Can you mention to the committee the name of anybody in particular who has been ill used?—Emanuel Guardian. He cannot speak a word of English. He is a Mexican.

1592. What was he committed for?—I believe it was for an assault.

1593. Is he a very powerful man?—He is a tall man, but very thin.

1594. Why did they treat him worse than the other prisoners?—The prisoners believe him to be not quite right in his mind. All the harm I knew him to do was to knock on his door at night. He was out in the daytime at work, and at night he used to knock at the door.

1595. What did he want?—The man cannot speak English. I could not say what he wanted. It is well known that a man, if he was sensible, would not knock on the door for nothing.

1596. When the warders went down, what did they do?—They got ring-bolts in the ground, and lay the man down on his back, and fastened him down to the boards on the broad of his back with four bolts, one for each leg, and one for each arm.

1597. Was there anybody in that cell but himself?—No.

1598. Did you see this yourself?—Yes, with my own eyes, and I am willing to come forward when called upon.

1599. When they attempted to chain this man down in this way, did he not rebel?—I did not understand a word he said.

1600. Did he not strike at them?—No; but, from what I hear, I believe he is bad tempered, and very likely would do that.

1601. Was this man in irons when he was at work?—Yes, fifty-six pound irons.

1602. Are they not only forty-eight pound irons, though called fifty-six?—I have seen various men wearing two bazils, because Mr. Price said the irons were not heavy enough.

1603. Was this man in leg irons at night when chained to the floor?—Yes, he had those irons on; the irons never come off, except by special order of the inspector.

1604. Have you seen any other instances of what you consider tyranny or wanton cruelty on the part of the warders?—I have heard the chief warder beat this man at night, and I have heard the man call out. That man is now in the *President*, and you can see him, and you can be convinced by the punishment book what he has suffered since he has been there.

1605. Were you at Williamstown at the time the rush took place, when a man of the name of Flannery was shot?—I just got there when his leg was being taken off.

1606. You only knew of that by hearsay?—Yes.

1607. Do you know a man of the name of Moran?—Yes.

1608. Have you ever heard that man say that they knew how to stop rushes?—Yes.

1609. What was his manner of stopping a rush?—They would put double warders on, and supply them with bullets, and be prepared for it.

1610. Is there any other case of ill treatment that you know of?—There is a man of the name of James Cousins, who is now at liberty. This man received a sentence of two years; I cannot say what it was for; and he has done out of that 163 days solitary, in addition to the two years.

1611. Was that in the hulks?—In the *Sacramento*.

1612. How do you know that he has served those 163 days solitary?—Everyone has a board outside his cell, showing what he is there for, and the punishments are put on the board underneath that.

1613. *By Mr. Mitchell.*—Those were extensions of punishments, were they not?—Everything is an extension of sentence.

1614. For misconduct, by order of the visiting justice?—Yes; but he was eating grass like a beast of the field. He was not in his senses; he would eat grass and keep it in his bosom by handfuls.

1615. *By Mr. Williams.*—Where would he get grass on board the hulks?—He would get it when he was out at work.

1616. *By the Chairman.*—You say that his board shows his sentences?—Yes.

1617. Does the board also show what fault he had committed?—Yes.

1618. What was it for?—The ordinary charges are called misconduct. There is another case I wish to mention particularly—a man by the name of Owen Suffolk, he received a sentence of ten years in Geelong, I do not know what it was for, but through the recommendation of Judge a'Beckett, he received a mitigation of his sentence of five years. This man did not go to his proper district, or he was not in the district, or something to that effect, and the magistrates on the bench would not deal with him; they left him to Mr. Price to deal with him. He was brought there and he lay then in the *Sacramento* hulk, and Mr. Price put the other five years on, and in place of five years he has ten years. Five years were taken off by the Governor, on the recommendation of the judge, and he only did two years and then received his ticket-of-leave, and then his original five years were put on again by Mr. Price.

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1619. *By Mr. Mitchell.*—You say it was put on by Mr. Price. How do you know that?—It could not be put on otherwise.

1620. *By the Chairman.*—How do you know that that man was not brought before the judges again, and sentenced to another five years?—I am confident of it.

1621. How do you know he was not?—I have made inquiries since I have been out of the hulks, and he has not been tried. I have spoken to Dr. Singleton about it, and he remembers the case, and he said the man had not been tried.

*The witness withdrew.*

*Adjourned.*

#### THURSDAY, 8th JANUARY, 1857.

MEMBERS PRESENT.—Mr. Hood, in the chair; Mr. Clarke, Mr. Guthridge, Mr. McCombie, Mr. Miller, Mr. Mitchell, Mr. Patterson, Mr. Thomson, Dr. Tierney.

Mr. Angus McPherson again called in and further examined.

1622. *By the Chairman.*—The committee understand that you wish to make some explanations in regard to your previous evidence?—Yes.

1623. Can you refer to the questions you wish to have amended?—If my former evidence were read I could point out the alterations; there are not many of them I think.

Question 361 read.

1624. What is the amendment you wish to make in your answer to that question?—The answer says, "Yes, very often." I wish to amend that part of it by saying, "Yes; he sometimes dismisses cases, and very often admonishes only."

Questions 390 to 393 read.

1625. Have you any explanation to offer in relation to those questions and answers; do you now recollect the name of the prisoner and the offence with which he was charged?—He was a man of the name of John Thompson, No. 1943, and his offence was attempting to strike a warder while on board the *Success*. He did in the box, so far as I can see, nineteen days out of thirty. The box is 2ft. 6in. by 2ft. During the day a man in the box can sit on his night tub. The box is 6ft. 4½in. high. The man is taken down to his own cell and sleeps there at night. The solitary cell goes along the curve of the bows of the ship, measuring 5ft. 5in. I think.

1626. *By Mr. Mitchell.*—And what breadth?—I think about four feet at the widest part.

1627. By what height?—Six feet ten inches.

1628. Is the punishment in the box very much severer than in the solitary cell?—It is severer; a man cannot lie down in the box. He sits on his night tub, and stands up when he thinks proper.

Question 407 read.

1629. *By the Chairman.*—What is your amended answer to that question?—That I find a great difference in the men in that respect.

Question 408 read.

1630. Have you anything to add to that answer?—Yes. In a general way they would be noticed according to behaviour.

Question 409 read.

1631. What have you to say to that?—I wish to amend that answer by saying that I do not feel competent to answer the question.

1632. *By Mr. Mitchell.*—As feeling incapable of judging another man's motives?—Yes.

Question 435 read.

1633. *By the Chairman.*—What amendment have you to make in the answer you have given to that question?—I have said "the ring is only three feet from the deck." It should have been "three feet three inches."

Question 469 read.

1634. What is the alteration you wish to make in that answer?—I stated that the religious instructor comes "once a week." It should be "twice a week."

Question 470 read.

1635. What amendment do you desire to make as respects that answer?—Instead of saying that there are "no measures taken except that to reform the prisoners," I wish to amend that answer by saying, "Yes; they have bibles, prayer books, religious tracts, spelling books, dictionaries, slates, and arithmetics; and they are allowed to instruct each other by talking through the partitions of their cells."

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1636. I thought it had been given in evidence that talking was not allowed?—Not loud talking; they may talk to one another through the partitions of the cells, but not across the ship.

Question 483 read.

1637. What is the alteration you wish to make in your answer to that question?—I substitute "twice" for "once a week."

Question 486 read.

1638. What do you wish to add to that answer?—"If asked to do so, when they wish to see him, although he has not visited any Catholics lately." That would be my amended answer. I was in error in the answer I gave before.

1639. *By Mr. Mitchell.*—You mean, he does not go to the Catholics unless asked by them to do so?—Yes.

Question 487 read.

1640. *By the Chairman.*—What have you to say to that?—That is wrong. It should be "So far as answering any questions that may be put to him."

1641. *By Mr. Mitchell.*—Does not he give secular instruction to anybody—not to the Protestants?—No. He is simply a religious instructor; he reads and prays with the prisoners. He would read a chapter with a man, but he would not set him a task to be done by a given time.

1642. When you gave your evidence before, and stated in answer to one question, that he did all those things with the slates, and the sums and other things, and in answer to the following question, said that he gave secular instruction as well as spiritual, you had quite forgotten yourself? I had so far as that. Knowing that he went into the cells to read and pray with the prisoners, and they being allowed to have slates, I, at the moment, answered he did so. He is never interfered with in his own duties by me as the superintendent.

1643. Then, in fact, when you gave your evidence before, you were not aware of what he did?—No; not rightly.

1644. And you have since ascertained that?—Yes; I have since ascertained that to be a correct answer which I have now given.

Question 493 read.

1645. *By the Chairman.*—What do you desire to add to that answer?—It should read as amended:—"Yes, if they want to see him out of their turn."

Question 513 read.

1646. What do you want to amend in that answer?—I would add, "and sometimes when they could be mustered."

1647. Have you any other alterations you wish to make?—Those are all.

1648. You have stated, when before this committee on a recent occasion, that although a great deal of espionage is carried on in the penal department, no inducement is held out to prisoners to give information?—Yes.

1649. And also that prisoners frequently do give information?—Yes.

1650. Have you not known it to be a rule, while you were chief warden at Pentridge under Mr. Price, and generally during your experience in the penal department, that prisoners giving information to the authorities were, either at the time or at the first subsequent opportunity, rewarded for so doing, in proportion to its importance?—A man who has made himself useful to the Government has been appointed to be wardsman or anything of that sort, but nothing more; that is, to have charge of a ward where there are sixty men, to keep it clean, and so on. He is taken out of the gang. In place of being out at work, he is in the stockade at his work; but then the man must be fitted for the position in which he is placed.

1651. *By Mr. Mitchell.*—Do you not think it is necessary to hold up some sort of reward or indulgence to the men to give information of any vile practices that are going on. Do you not think there would be a good many injuries inflicted—men getting out, and murder being committed—if they were not checked by other men giving information of such things being about to take place?—That is not a question I could answer in one word without a great deal of consideration. The whole system would have to be explained to show how it was necessary.

1652. Do you not think there is more information got from the prisoners themselves than from those over them?—Certainly.

1653. If the prisoners could trust each other, and could combine, from their greater number, they would either break away from their place of confinement altogether, or it would require a much larger number of warders to keep them?—If they could trust each other, and act in concert together, you could not keep them two days.

1654. *By the Chairman.*—Have you not known a prisoner, when detected in the possession of tobacco, "square" himself. You know what that means?—I know the meaning of that word.

1655. That is, to prevent his being brought to trial before the visiting justice, by betraying a fellow prisoner's hiding place for tobacco to the Inspector General in person, or some other functionary—have you ever known an individual case of that?—I could not call a case to mind.

1656. Are such things done?—It is likely there may be.

1657. Have you ever known "rushes" and other plans got up by old hands in order to put away those thus induced to engage in them. Have you ever known a case where the getter-up of a "rush," when it was ripe for execution, gave information of it?—I do not recollect a case in point.

1658. You were, I believe, chief warden at the Pentridge stockade when an attempt at escape was made by Daniel Gisborne and others?—Yes.

1659. Do you know a prisoner, at that time at Pentridge, but now at the hulks, named Thomas H. Lewis?—I do.

1660. Was he not, or have you not heard, that he was an old "lag" from the other side?— I have heard so. Mr. A. McPherson,  
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1661. Did you not know or hear that he had given information, or that information had been given, to the Chief Superintendent and the Inspector General, of this attempted escape on the morning, or at least some time previous to its occurrence?—I did not hear that.

1662. Were there any steps taken previously, to your knowledge, that led you to suppose the Inspector General knew of it?—The Inspector General was perfectly aware that it was likely to happen. I am speaking of the man Lewis.

1663. Did you receive any orders?—I received orders from the Inspector General.

1664. Will you state to the committee what course was taken on that day, and why taken by you, as chief warden, responsible by the regulations for the safe custody of the prisoners?—On the morning of the 31st of March, 1856, I think between eight and ten in the morning, Mr. Price told me he had received information that a general rush was likely to take place, and as it was expected it would be from different points, he ordered me to have some warders thrown out under cover, to intercept or go in pursuit of the bolters, should a rush take place. Two warders were accordingly posted, one to the right and another to the left of the quarry gang on the Merri Creek, about a quarter of a mile in rear of the stockade; Sergeant Ellison, with three more, was sent round the upper stockade, to line the Merri Creek to the left; Sergeant Henniker, with one or two, was posted outside the boundary wall to the right; Sergeant McIlroy, at the upper stockade, was also in readiness with his men to act. No signs of a rush were shown until about five o'clock, when five men first walked and then ran from where the stone-cutters were at work, towards No. 7 sentry. He ordered them to stop and go back, they however continued to run, and got through an open barred gateway between him and No. 6; Nos. 7 and 6 then fired, but without effect, No. 5½ and McIlroy, one of the night guard who was posted outside with Sergeant Henniker, likewise fired. McIlroy is said to have wounded Gisborne, although I was myself inclined to think that Hart, who was on No. 5½, was the man that wounded him. Hart thought so himself. No. 7 also claims to be the man who wounded Gisborne. When Gisborne dropped, Brewer, without being wounded, did the same. Gisborne was at least a hundred yards outside the boundary wall and line of sentries, and at least 180 from where Hart and McIlroy fired. Graham and Jones continued to run, Graham gave in and was captured by McIlroy at the Merri Creek, about half a mile from the stockade. Jones was captured in the bush by Mr. Price, about four miles from the stockade.

1665. *By Mr. Clarke.*—Those men were not in irons, were they?—One was; Brewer.

1666. *By the Chairman.*—Where were you at the time this "rush" took place?—I was to the right of the office, on the hill, where I had a full view of the whole of the prisoners.

1667. Were you there in the ordinary course of your duty, or in anticipation of a "rush"?—In anticipation that something would take place.

1668. The attempted escape took place from within the stockade, I believe?—From within the boundary wall, not from within the stockade.

1669. The stockade is surrounded by a high wall through which there is access and egress by strong gates?—It is not a high wall, and it is a slip panel. The wall is from four feet to four feet and a half high.

1670. Was there a warder standing at the slip panel?—No.

1671. Why was that?—The warders were at their various posts.

1672. In fact, if a warder had been posted at that opening, the men would have what is called "dropped" to it, and not have made the attempt?—I cannot but think they would.

1673. You say the wall is not a high wall; is it not a wall that would take a man in irons some trouble to get over?—There was only one in irons.

1674. Do you think that any prisoner, however daring, would attempt to climb over that wall, in order to escape, while in irons, with the sentries on their stations?—It is impossible to say what those men would do.

1675. What is the thickness of the wall?—Two feet at least.

1676. Did not some of the men who were taken lie down and suffer themselves to be quietly taken when the shots were being fired at them—did they not lie down on the ground, and so escape the shots?—There was one. Thomas Jones got away.

1677. Did Mr. Price pursue that man?—Yes.

1678. *By Mr. Mitchell.*—If there had been a sentry at this gate, why would that have prevented the men from rushing over this 4½ feet wall?—The fact of a single sentry I do not think would; but it would have shown the men that the authorities were aware that something was likely to take place; at least, I imagine it would.

1679. What I asked was, would a sentry posted there have prevented the men rushing over the wall?—No, certainly not.

1680. *By the Chairman.*—This Thomas Jones, is he an old hand?—I do not know.

1681. He is quite a young man, is he not?—About twenty-six.

1682. I suppose all the men, except Gisborne, got two years' additional?—I think so, to the best of my knowledge.

1683. *By Mr. Mitchell.*—Do you know that the information was given by this man Lewis?—I did not receive it; Mr. Price received it; but I do not know that Lewis gave it; I don't think he did.

1684. *By the Chairman.*—Was not this man Lewis made barber immediately after that?—The next day, I think.

1685. Had he been barber before?—He was a barber by trade; but he had never acted with us as barber.

Mr. A. McPherson,  
continued,  
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1857.

1686. Is not that considered one of the best, that is the easiest, billets about the place?—It is considered a snug berth by the men.
1687. What reward did the man who shot Gisborne get?—McIlroy was promoted to be a corporal, though there were three claimants to having done so.
1688. Is it not a rule in the penal department, or at least, is it not a prevailing expectation, that warders who shoot prisoners will receive promotion, without reference, in fact, to any other claims for advancement?—It is not a rule.
1689. *By Mr. Miller.*—Is it the duty of a warder to prevent the escape of prisoners?—Yes.
1690. Is he ordered to fire at prisoners running away?—Yes.
1691. Then this man, McIlroy, simply did his duty?—Yes.
1692. *By Mr. Mitchell.*—And the man who does his duty fearlessly gets rewarded?—Yes.
1693. *By the Chairman.*—Did the other warders who brought back prisoners without shooting them get rewarded at all?—There was no other warder brought back prisoners.
1694. How many warders were there posted?—Eight.
1695. Do you mean that seven did nothing and one did all?—They were extended right round the stockade. We could not tell where it would happen.
1696. Are you not quite certain that the names of the parties about to rush were given to Mr. Price or Mr. Duncan?—I am not quite certain about that.
1697. In contemplated rushes, is it not usual to give the names of the prisoners?—I have known it done, but there is nothing certain about it even then. We could not punish a man until he actually committed himself.
1698. The Inspector General has stated in his evidence that Lewis was an old constable in Van Diemen's Land?—Yes.
1699. How did he come to be barber?—He was from the other side.
1700. It was on the other side he was an old constable?—Not with us. He was not so in the penal department to my knowledge.
1701. What made you think he was a barber by trade?—I think it is so marked in his description in the Register.
1702. Had Lewis ever before been employed in any billet since his sentence, and was he not, at the time he gave the information, working in the quarry gang?—No; I think he was employed as a washerman at the time of the rush.
1703. You had a servant once in the prison of the name of Charles Stewart?—Yes, I had.
1704. Have you ever read the statement that appeared in the daily press referring to that man?—I have.
1705. Are the allegations made in that statement substantially true?—Well, I could not answer for what took place between him and Mr. Price. I know this, that he was about to go and did go into town to receive his ticket. He was sent back again; and I left him at Pentridge when I came away.
1706. Charles Stewart left your service, when dressed in his own clothes, on the morning he was due by the Governor's warrant to go away from prison?—Yes.
1707. Do you know for what reason, or by what right, Mr. Price inflicted on him twelve months' additional sentence?—Mr. Price considered that there was something not square—that he had known him on the other side.
1708. Was not Charles Stewart, during the long period he was in your service, a quiet, steady, hard working man?—Very.
1709. Is he a man of weak or strong frame?—A weakly man; that is, to consider him to be a quarry man.
1710. Where was he sent to serve the additional twelve months?—To the upper stockade.
1711. What is called the Crystal Palace?—Yes.
1712. That is considered a place of greater punishment?—That is considered a place of greater punishment.
1713. Do you know a prisoner of the name of John Barron, at the Pentridge stockade?—I do.
1714. Do you know, or did you ever hear, why John Barron was turned out of his billet under the assistant superintendent?—Yes. He accused Mr. Moyle, the assistant superintendent, of having received some meat without having it marked against him. Mr. Duncan, the superintendent, investigated the case and found the information to be false.
1715. You made a charge against him, recorded in one of the books that are here of this kind—asking a prisoner to take a message for him outside when he went to his liberty?—Allow me to look at the book, I have no doubt it is the case.
- [The officers' report book was produced and referred to.]
1716. I will read this entry to you as it is here. 27th of March, Barron, 1527, is charged by you with asking a prisoner to take a message for him outside when he went to his liberty. The sentence is, "Thirty days' solitary confinement upon bread and water?"—Yes.
1717. *By Mr. Mitchell.*—Was Barron going to have his liberty?—No.
1718. *By the Chairman.*—Barron got thirty days' solitary confinement?—Yes.
1719. *By Mr. Mitchell.*—Such conduct being contrary to the law of the place?—Yes.
1720. *By the Chairman.*—Is it contrary to law?—It is contrary to the rule laid down.
1721. *By Mr. Mitchell.*—The prisoner perfectly understood it?—Yes.
1722. He knew he was making a breach in the regulations of the prison?—He did.
1723. *By the Chairman.*—Will you state as nearly as possible the circumstances under which you made that charge. Did you hear the nature of John Barron's conversation with the



man who informed against him to the Inspector General?—No, the information was given to Mr. Price himself.

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1724. With the man, I asked?—Yes.

1725. Barron was sentenced to thirty days' solitary confinement by Dr. Youl, in addition to a week's previous solitary confinement by the Inspector General before the investigation took place?—I could not speak to that without referring to the books at Pentridge.

1726. The books speak for themselves, do they not?—Yes.

1727. Did you give any evidence whatever, or were you required to substantiate the charge you had made?—No, I simply charged him, as chief warder, with the offence.

1728. Do you believe any prisoner goes out to his liberty without taking not only one, but a dozen messages?—Very likely.

1729. Then you think that regulation is evaded?—As far as taking verbal messages, it is impossible to carry it out.

1730. Was there any evidence taken before Dr. Youl, except the evidence of the man who charged John Barron with having asked him to take the message?—So far as I recollect, I do not think there was.

1731. *By Mr. Mitchell.*—Did the man deny the charge?—I think he did.

1732. *By the Chairman.*—Is there any record kept of the evidence?—It is all entered in the book containing the magisterial records.

1733. In what year was this?—It would be in 1856.

1734. Is this the book [*book produced*]?—It is.

1735. This is the entry—"Richard Smyth, being duly sworn, states, 'I am a prisoner of the Crown. The prisoner Barron came to me and asked me if I would (when going to my liberty) carry a message for him to the Colonial Secretary or Mr. Fawkner. The message was, that there was cross work carried on at Pentridge, that a dray had been repaired, and several horses had been shod for private parties. That there had been a quantity of bones crushed and no account taken of it.'" Was that all the evidence that was taken?—Yes.

1736. Was Richard Smyth required to bring forward the evidence of any other prisoner to substantiate that charge?—I do not think so. If there had been any other evidence, it must have been there.

1737. *By Mr. Miller.*—Richard Smyth was going out as a free man.—Yes.

1738. There could be no reward given to him for giving this information?—Not from the prison authorities.

1739. *By the Chairman.*—Had Barron and he always been friendly?—Yes, as far as I know.

1740. However, the man pleaded "Not guilty." Richard Smyth gave his evidence, and without anything further being proved the man had thirty days?—The book shows that.

1741. *By Mr. Mitchell.*—Did you ever hear any complaint on the part of Barron, that he was unjustly punished on account of Smyth's charge against him?—I do not recollect it.

1742. You have no doubt of the guilt of Barron yourself?—I think it very likely.

1743. You believe it was not a got-up case by Smyth?—I believe the man is capable of sending out such a message.

*The witness withdrew.*

*Adjourned to Tuesday next, at one o'clock.*

## TUESDAY, 13TH JANUARY, 1857.

MEMBERS PRESENT:—Mr. Hood, in the Chair; Mr. Clarke, Mr. Hervey, Dr. Tierney, Mr. Miller, Mr. Patterson, Mr. Thomson.

Mr. N. W. Pollard examined.

1744. *By Dr. Tierney.*—I believe you are a civil engineer?—I am.

1745. Have you been in connection with any of the penal establishments in England?—During the time that I was in my articles with Mr. John Penn, of Greenwich, who was the contractor for keeping in repair the machinery of Clerkenwell, I was accustomed to be sent to assist in the repairs, and looking after the organization of the mills that were then in use; but was not in any way connected with the prison authorities.

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1746. Do you know the system that is carried out there?—Yes. Nearly the whole of the prison was occupied in treadmills and nothing else, throwing away labor by working simply a fly against the wind.

1747. Then you do not admire that system?—Certainly not; it wasted the labor.

1748. Are you acquainted with any other system in England or elsewhere?—I am. In 1836 I went to the United States, and during the time I was there, at that period, I had an opportunity of seeing several of their prisons. The prison at Philadelphia is one where the silent system without labor was carried on. That was altogether the solitary system. Also, at Sing Sing and Auburn, in the state of New York, and other gaols I visited. Again, in 1851, I visited the States, and had an opportunity to judge of the gaol discipline.

1749. What other penal establishments in the United States can you speak of, besides that which you have spoken of at Philadelphia?—At Sing Sing, on the Hudson, they have labor employed with the silent system, but they were laboring all together.

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1750. Were there any other penal establishments in America at the time carried on by the separate system?—Nearly all the establishments in the United States; all of them that I have seen are conducted upon the principle of separation.

1751. Are they more on the separate system than on the silent system?—It is a silent system among the prisoners themselves. I conversed with the authorities, and learnt that the prisoners are not allowed to communicate in any shape or way during the time that they are at labor. In some of the prisons, even with the warders, they are obliged to communicate by signs with one another. Again, they are allowed to speak to the warders, but not to the other prisoners; and, as soon as they have done labor, whether it be for food or rest, they are immediately locked up separately.

1752. Will you describe to the committee any system carried on in America wherein the labor of the prisoners is made available?—At Auburn, which I consider the model prison perhaps of the world, they go exactly upon the plan that I have described, of keeping them at labor, and separating them after labor, so as not to allow of contamination among the prisoners. There that system is carried out very successfully; in fact, so much so, that in 1851, when I revisited the United States, in that prison I found that, instead of the gaol costing anything, it was giving a revenue to the State.

1753. Would you describe the system that is adopted there?—Their great advantage is, that they bring machinery to assist the labor of the convict; they eschew any idea of simple manual labor as not being remunerative enough to allow them to spare the large sum of money, which they do, to introduce a highly reformatory system.

1754. Is steam brought to bear there?—Yes.

1755. Will you describe how it is the labor is made available?—There they have a shop for making machinery, steam engines and agricultural implements; and in fact there were, I think, 600 or 700 prisoners when I went there, and they had them employed in every shape and way the machinery could be brought to bear. They were engaged in manufacturing machinery in some.

1756. Those were self-paying establishments?—Every one. Baltimore prison is a self-paying prison.

1757. Would you describe how those men were engaged—the entire control and management as regards the cells, and how they were treated?—A certain portion of work is allotted to each man—a daily portion—and that is divided into two parts. On the completion of this portion of work depends the food of the prisoner, and without they work they do not eat. If a man does his work when he goes to his cell during the hour of breakfast, his victuals are brought to him; if he has failed to perform his task, he loses them.

1758. You say that a man in America does not get his breakfast till he earns it—is that what the committee are to understand?—Exactly.

1759. And when he has earned his breakfast he gets it?—Yes, at the fixed hour; but some men during the hour do a larger amount of work than others; this shortens their incarceration.

1760. There is some little pay which the prisoners get afterwards?—Every prisoner is paid something.

1761. And after the prisoners come out of prison they receive that sum, so as to allow them to go on the world again, and to assist them in the meantime?—Yes, just so.

1762. Would you describe the cells; how they are situated; the size and breadth of them, and whether there is water in them, and how are they ventilated?—They have about 400 cubic feet of breathing room for every man. They are all separate cells; there are some few exceptions to that; the cells are eight feet by six, by a height of nine feet, ventilated from the floors and through the lower portion of the doors, with an escape for the foul air from the top; every man's bed has a box under it; he can turn water on and use it for the purpose of ablution, and the sewage is complete in each man's cell.

1763. I think I have also understood that each prisoner has a privy, so that he need not go out?—There is not the slightest occasion for that; the sewage, as I have said, is complete; there is a constant flushing going on which prevents any bad effects occurring.

1764. The fact is, a man can have a bath, if he likes?—At any time he likes. He can draw the water on if he pleases; and I may remark that, in going through the cells, I never saw vermin in them.

1765. Suppose a man gets to be a very bad man, and refractory and impudent, and will not work, he says—how is he punished then—is he lashed, or what is his punishment?—In some prisons they flog them, and in some very bad cases even at Auburn they are flogged; but I learnt from the superintendent that the discipline of food was quite sufficient to break the spirit of the most refractory.

1766. Have you known a man to cease working a day or two, and have you known that, by keeping his food away, he has been made to return the second or third day to his duty?—In assisting to carry out the same system elsewhere, I have known a man to hold out two days without food, but never anything beyond that.

1767. Then the man actually punished himself by not working?—His punishment is self-inflicted; but you cannot do without separation, because I have seen short allowance ordered elsewhere; but if you have no separation, the other prisoners will divide their food with the culprit, so it is not any punishment at all.

1768. Are there any other prisons in any other part of the world you have seen?—Yes, I have been throughout the whole of the British and Foreign West Indies, and I can speak more particularly of the prisons of Barbice, and Demarara, and Trinidad.

1769. Could you describe the model system there, that is, the system which you admire

yourself; would you describe it in any terms you please?—The one which I would take as a model is the New Prison at Trinidad.

1770. Then would you have the kindness to describe the system there?—Yes.

1771. *By Mr. Miller.*—Is that a British prison?—It is a British prison, but the reason I take that, is on account of the system which was introduced under the Government of Lord Harris. I acted as Superintendent of Public Works at the time, and my object was to make the prison labor available for the public works of the country. We had a large quantity of work to carry out and very little means to do it with, and I thought it was a pity to have such a large force doing nothing, and I requested to be allowed to bring that force to bear on the public works, and so far as the labor of those men was concerned, they were put under my department.

1772. *By Dr. Tierney.*—Is that a self-paying establishment?—The first year after we introduced it, from being a charge of over £3000 on the country, it returned a revenue of £300 clear of every expense.

1773. That was in the first year?—The very first year.

1774. Is there any corporal punishment inflicted there?—The first thing I did was to knock down the treadmill they used to have, in order to make room for separate cells there; then the same system was carried on there, but the punishment by flogging was not left in the hands of the parties in charge at all.

1775. In whose hands is it?—In those of the inspector of prisons and the magistrates. The whole of the members of council as magistrates take it in turns to visit the gaol, and together with the inspector of gaols form a board; but in case of any refractory conduct or anything of that kind, the party in charge of the gaol sends in his daily report. There is a report goes to the Governor every day, and he orders an investigation where there is anything of consequence to demand it; but where the things are trifling, simply the visiting justice of the gaol disposes of the case, but it is an open court.

1776. Would you have the kindness to read the statement which you have brought?—I have applied the reasoning of this paper, which I am about to read, to our works in Victoria.

1777. *By Mr. Miller.*—That statement is in the nature of a scheme of prison discipline for Victoria?—Yes.

*The witness delivered in the same, which is as follows:—*

The organization of our convict system stands second in importance to scarcely any question on which it is probable our Legislature will have to deliberate; and if there are subjects demanding primary attention, I know of none more difficult of satisfactory solution than this.

The treatment of criminals has given anxious thought to many men endowed with the highest mental qualifications in all parts of the world, and yet to this day, in most countries, remains an unsolved political puzzle.

I think that this failure is mainly attributable to the difficulties involved; but to this unquestionably must be added the fact that the care and discipline of the outcasts of society have always been ranked as a secondary employment for administrative talent.

No greater mistake could possibly be made than to suppose that the conditions necessary to the well working of a convict system demands but an ordinary amount of talent or skill. If it be advisable to call in the aid of high mechanical skill to set right an erratic engine composed of inanimate matter, no less necessary is it to have a master mind to deal with wrongly organized human nature; and although, if all the aim of a convict system were simply to punish and grind the offender, many thousands in any community might be found to exemplify that they themselves only differ from the criminal, in the fact that the wrongs they inflict are legalized; yet if it be conceded that the mere punishment of the convict is but a small part of criminal treatment, it will be admitted that such a class of men are quite unqualified to carry out penal discipline.

I am impressed that the design of incarceration is not simply the punishment of the offender, nor would all the end be gained if we were to add thereto incarceration of the criminal as a safeguard to society. Besides these considerations, in all well regulated systems, the reformation of the offender must be constantly and primarily kept in view, and hence the necessity to find men for this difficult service, who, while they uphold the majesty of the law, can administer that quality beyond price—mercy.

In offering these remarks to the Honorable the Legislative Council, I am not actuated by any feeling of hostility to any of the parties who now administer our penal discipline; I cannot be so, because I know nothing whatsoever of the individuals by whom it is conducted, and I certainly would not be inclined to conclude that more wrong exists in our system, or that our officers are more vicious, or less competent than the bad organization of English prisons necessarily makes them, unless something more than mere accusation appears to support the charges which have been made against them; far less am I prepared to give the least credence to what is gathered from thrice convicted and demoralized felons, on whose testimony so much stress has lately been laid; and still again, I think that the evidence of those who have been employed in our establishments, and who perhaps are discharged possibly from good cause, should be received with great caution, and only be relied on if supported at least by circumstances.

If the administration of our penal discipline be viciously conducted—if the fault lies with men and not with the system—inquiry can be made, and justice done on either side; but if the fault, as I apprehend is the case, be with the system, I care not into whose hands you place the administration, disappointment must follow; and I am impressed that any system of prison discipline that we have imported from the mother country will be just as abortive and mischievous here as it is well known to be, with scarcely a single exception, in the United Kingdom.

But if, from the necessity of our circumstances, we have brought from our homes an institution that is defective, there is no reason why we should stereotype it in this land; and it is perhaps to be considered fortunate that circumstances have arisen to draw public attention to this but generally little interesting portion of our public institutions; and the question now being ripe for discussion, I believe it to be the duty of every man in the country who has had any opportunity to give the subject any attention, or who has been in a position to throw any light on it, should come forward and “throw his mite into the treasury;” and it is with this feeling that I humbly submit the following remarks to the Honorable the Legislative Council, gathered in that country where penal treatment is better understood than in any other country in the world.

The subject is not new to me. It has, indeed, been familiar to me from my boyhood; for even when in my articles my employers were engineers to keep in order the machinery of the Clerkenwell prison, where the treadmill was so largely introduced, and where, carrying out the wasteful extravagance and waste of our English prisons, all the power created by the motion of the mill was made simply to work a fly governor against the wind, and not put to any practical use. Since that time I have visited almost every penal establishment in the West Indies, both British and foreign; and in one of these islands, where I had the

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direction of the public works, I made the prison labor largely assist in carrying out the buildings required in my department, introducing that system which is yet unequalled in the world, but which is now common in almost every prison in the United States of America; a system not only punishing the offender and protecting society by the seclusion of the criminal, but at the same time affording the convict every opportunity for reformation, besides paying the whole of the cost of criminal procedure and discipline, and yet further yielding an appreciable revenue.

The great mistake, in an economic point of view, made in all our English prisons, is putting the criminal to such work as gives but poor remuneration outside the walls of the gaol. This is ignored in America; and in the gaols of that country the labor of the convict is assisted with the best machinery; in point of fact, they give him the most artistic and highly remunerative work they can find him, thus multiplying the value of his labor as manifold as possible.

Say, for instance, that criminals in England were required to saw timber for railway works, a whip-saw would be placed in the prisoners' hands. In America, a steam saw mill would take its place; and in visiting their prisons, machinery would be found in every shape, from the mill, to saw the rough block, to sash and door-framing machinery of the most complex kind; thus multiplying the value of the labor of a convict to an enormous extent, and making it no wonder, that, notwithstanding high reformatory and philanthropic charges, these prisons are not only self-supporting, but also assist the exigencies of the State.

Now, if this be attainable in a country where labor is worth but 4s. 2d. per diem, where machinery is abundant, where those great public works, of which we stand so much in need, are scattered over the land, surely it is well worth our while to consider, whether on the score of economy alone, it would not be advisable to follow the track of this practical nation.

But it is not on the score of economy alone that artistic labor is selected for convicts in the United States; another and a higher reason causes its adoption. Simple manual labor provides no occupation for the mind, and, when the badly disposed mind has not occupation, it is certain that it will plot mischief. Working machinery meets this, as it not only demands manual labor, but equally does it employ the mind, and thus gives another opportunity to the criminal to avoid a further plunge into crime.

I know that more than one member of the present Executive are quite alive to the importance of a reformatory administration of our penal system, and I believe, if the Legislature is prepared to meet a somewhat large primary outlay, that it will find those gentlemen to whom the subject more immediately belongs quite prepared to organize a satisfactory establishment; and I am under the impression that it is the perhaps too anxious jealousy of those who hold our purse strings for economy that has mainly prevented the initiation of the improvement long before this date. Now, however, that want of prison accommodation is so manifestly urgent, it is to be hoped that no such obstructions will be continued, and that the Legislature will be prepared to vote such a sum for a very large increase of our penal establishments as will enable the Executive to adopt all those improvements in prison economy which shall be shown to be desirable.

Without proper prisons it is superlatively idle to begin to talk of a reformatory system; without what our pseudo-economists may even denunciate as waste, I defy the least approach to any effective organization; and without sufficient accommodation to completely separate the prisoners during the hours they are unemployed, it will be vain to expect any correction of the mischiefs attending the contaminating influence of vice on vice.

To continue the inhumanity now existing, and which has for some time existed on our gold fields, of huddling men into dens, that fill them with vermin, destroys their health, and leads to rendering an erratic mind lost for ever, would only be to stain ourselves with crime worse than that we profess to punish; and it will rest on one of two parties to answer for the enormity, if, during the present session, measures are not taken to abate the mischief; on the Executive, if they are not prepared to cope with the difficulty; on the Legislature, if they do not grant the funds necessary to remedy the monstrous evil.

These things call aloud for increased establishments to be commenced at once, and I urge that, in designing them, some more remunerative employment than mere manual labor shall be provided for. Employed as our convicts at present are on mere manual labor, the expense these establishments would entail might weigh against their adoption; but when the criminal is profitably employed, if by assisting him with machinery you give his labor higher development, and you gain, as I am prepared to show you might, a revenue from his labor, notwithstanding the increased cost of his incarceration, then I think it will be conceded the most legitimate way in which any gain can be expended would be to use every means in our power to reclaim these wandering sheep to the fold of society.

In America this is especially attended to, and a religious surveillance is ever kept on the criminal, and a complete moral education is within the grasp of every repentant sinner.

Nor do they stop here. The convict, who enters an American prison, and who, perhaps, committed crime in consequence of the degrading ignorance in which all his life he previously existed, during a period of each day of his incarceration, has secular education provided for him; thus again keeping his mind occupied, and allowing the contaminating influence of his fellow-prisoners to have less effect on him.

Their whole system is more a healing action on the mind than coercion of the body; and not as ours, an action on the body with the vain hope of getting at the mind. They understand that the committal of crime arises from a badly organized mind; and although they punish the body, they strike at the source of the crime, and direct their energies to it rather than to the flesh, to which it gives motion.

Thus they provide inculcations of morality through the religious adviser; they dispel ignorance through secular education; and continuing their good work, they yet again extend to every man that blessed hope which is "the anchor of the soul."

They show the criminal that, if evil deeds meet punishment, no less will amendment be rewarded, and they go a long way in making it directly to the interest of the convict himself, as well as to society, that he should sin no more.

I say they go a long way; but I propose to go even further than they do; and if proper discrimination be used in the selection of parties to carry out our penal discipline, and the indulgences I recommend in the sequel be adopted as a part of it, I am quite sure they will still further tend to the reformation of the offender.

But to continue. In America exemplary behaviour shortens the term of imprisonment, and a certain portion of the earnings of every prisoner is made available to him when again at large, so as not to lead him to commit crime through actual want.

But although all this is done towards reclaiming the prisoner, no less is his incarceration made to tell on him as a punishment. Many, perhaps most convicts, have committed crime because they are too lazy to work. American prisons are just suited to such cases, and a man who enters one must earn his bread by the sweat of his brow; without labor, good and sufficient, he does not taste his food. His food is given him for his work, and if he does not perform his task, his punishment is self-inflicted.

This discipline is incompatible with our system of congregation; for if, in our gaols, a man is put on short allowance, the other prisoners supply him, and he laughs at the attempt to coerce him; but if the food of each man were placed in his cell, and complete separation of every prisoner in a cell to himself were established, the finding of the food at meal time in the cell might very easily be made to depend on his having done the work allotted to him; thus separated, he could get no assistance from his fellow prisoners, and the convict would be compelled to labor for his existence.

Man is after all but the chief of the animals, and if the lower orders of creation can be disciplined by a course of feeding, if their very natures can be changed by an action on their appetites, surely man, aided by reason, is not in a different category. I am prepared to hear such a system denounced as torture; it is not

so; and is quite a different thing to a dietary dependent on the whim of any man: But if even it were torture, it would be self inflicted, and the criminal would have no one to blame for it but himself.

To get a breakfast in the United States prison a man must work for it, and to get a dinner he must earn it. Accustomed to this discipline within the walls of a gaol, and with the certain knowledge that without adequate labor he will not get his food, the criminal will be steady to his occupation while confined, and when without the prison, is likely to continue those habits of industry he has acquired there, as he well knows, if he does not gain his bread honestly when out of prison, he will most assuredly have to do so under less advantageous circumstances.

I have remarked before that the separation of convicts when unemployed is most necessary to proper penal discipline. This is the key to the American penal system, and with the self-inflicted penalty of short food, will be found an effective discipline, and far to surpass the treadmill, the whip, or the manacle, inasmuch as by using it in the place of the latter instruments of torture, corporeal punishment is effected without degrading the mind below the point to which it has already fallen.

The instant the prisoner has done his work, whether it be for his food or his rest, he should be taken back to his separate cell, and on no account whatever should he be allowed to come into contact with the debasing influence of those around him.

This is advantageous as a means of greater security; and it will to a considerable extent allow working the old and young offender in the same prison, and above all, it will allow those lessons which should be taught either by the clergyman or the schoolmaster to have more weight. Abstracted from the conversation and example of the hardened in crime, there will be hope for the young offenders; for, with no other occupation than would be afforded by such books and other means of improvement as ought to be provided in every gaol, the convict would be led into a different state of mind than that which led him into crime. Congregated with the mass this is hopeless, and hence the cause of that monstrous absurdity—an English prison.

Another portion of the American discipline is compulsory silence among the respective prisoners while at their work; in mentioning which, I must guard the committee from confounding the silent system once used in the United States, unaccompanied by labor, and that which is now in force with occupation for the mind. In the one case insanity has invariably followed long incarceration, while in the other there never has been an instance of loss of intellect.

Silence among the convicts is essential in any penal discipline in order that all classes of offenders may be worked in the same prison; for, unless this precaution is used, a more expensive classification must be followed out. Silence while at work again prevents any mischief being plotted; and as it has already been recommended that after work the convict both for food and rest should be immediately taken to his cell, if silence be imposed while he is laboring, there would be no fear of that contaminating influence stopping reformation, which is sure to exist where the vicious are allowed to congregate freely.

At Sing Sing and at Auburn this silence may be said to be complete, and from the time the prisoner enters the gaol until the time he leaves he is coerced in this respect, and compelled to make his communications even to the warders in signs. This however I think unnecessary, for, as the intent of enforcing this silence is to prevent contamination, I can see no objection, while enforcing silence among the prisoners themselves, they should not be permitted to make necessary communications to the prison officers orally; and of course, to derive any benefit from their religious and secular teachers, they must do so.

Another discipline exercised in the United States prisons towards felons is that, on their entry within the walls, they are for the time of their incarceration considered to be civilly dead, and are allowed no communication with their friends outside. At Auburn this is most rigidly carried out, and although I think it may advantageously be generally introduced into our penal discipline, yet I am inclined to recommend a relaxation, and that the privilege either of seeing or writing to friends should be reserved as an indulgence to those who conducted themselves with propriety.

I have insisted that the convicts should be put to some labor that would not only be self-supporting, but that also would be remunerative; in point of fact, make their labor a reproductive work. Objections have been raised both in England and in some parts of America against this; and it has been urged that we have no right to bring the labor of convicts into competition with free labor. If this were carried out, it would be impossible to demand any labor from the prisoner, and a new system of punishment would have to be devised; for put him to what occupation you may, he will interfere with some employment outside the prison walls, in countries where labor is at a discount; but, as in our case, where there is far from a glut in our labor market, where, in fact, we have a miserably sparse population, the dogma is simply absurd.

Select as an instance any employment you please, and you will find we want more of it; and if this be the case when none but the ordinary demand for labor exists, how much more patent will the argument for employing our criminals on public works become, when we are about undertaking works of such magnitude as cause us to pause until we are satisfied that we have hands enough at command. Surely, if we put our convicts to do some of this, we do not interfere with the rights of honest labor, and I certainly can see no difference in employing our criminals on the artistic works required on our railroads, or how, thus appropriated, they would interfere with the rights of honest labor, if so employed, than if they be continued interfering with the labors outside the prison, whose occupation is breaking stones. If they are to labor at all, it matters not what they do, and certainly have as much right to interfere with one description of honest labor as another.

In a country like England, filled with paupers, some consideration might be given to this cry of interference with the right of honest labor; but with us, where labor is most scarce, it would appear sinful to throw any away; and surely, even as an abstract question, the convict has as much right to labor for his bread as the man outside the gaol, and a self-supporting system of penal discipline takes care that he shall do this and no more, so far as he (the convict) is concerned. If he produces a surplus, the honest laborer, as one of the body politic, reaps his share of advantage; while on the other hand, if he produces less than is sufficient to cover the expenses of his incarceration, the honest laborer will have to contribute his quota to supply the deficiency.

So far as this particular country is concerned, I believe that, if we employ our convicts at such work as would assist in opening up a communication over the length and breadth of the land, so far from doing the honest laborer an injustice, sources of industry would be opened up to him, from which he is at present debarred from the very expense that our present means of locomotion entails; while the cost of keeping the convicts, if not put to remunerative work, would put the State in a position to borrow money to multiply those works wherein the honest laborer would meet ample employment. Say, for instance, we have 3000 convicts to maintain, and that, over and above the cost of their maintenance, £40 per head is expended on them; £120,000 per annum, the interest of £2,000,000 of money, is wasted, which £2,000,000 would not only give the honest laborer employment in constructing 100 miles of our railway lines, but, when these railway lines were completed, would at the same time multiply the sources of employment to the working man in every conceivable manner.

It will be urged, that although a self-supporting system is organized in the United States, yet, in many cases, the occupation of the convicts is made to produce such manufactures as compete with the foreign and not the home market.

This, to some extent, is fact; but, in the majority of the prisons, say for instance those worked on the model of the Baltimore penitentiary, this is not the case; but, supposing it were even universally adopted in the United States, our circumstances bear no similitude to theirs. We cannot occupy our prisoners in any manufactures that will be remunerative in a foreign market; and until we can, the comparison would be unfair.

I have the honor to recommend to the consideration of the committee the foregoing remarks, and now ask permission to submit some details on them.

It will be perceived that a complete reorganization of our present admittedly defective system must be initiated before any of the above suggestions could be inaugurated, and although new arrangements of discipline

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and construction will be needed. More than all, and as the first step to amendment, we must take care that we put the right man in the right place to carry out our penal system; for if we do not, we need expect nothing but expensive disappointments; and I am inclined to think, as the chief step in this direction, we should take care that no man who has been trained in an opposite school to the one indicated should have anything to do with our new organization. They must, from their preconceived erroneous notions of prison discipline, be totally unfit for such a position, and it certainly would be absurd to place a man who does not believe in the possibility of the reformation of the criminal in charge of any establishment where this is the chief aim.

The individuals to whom the chief controlling power of our penal establishments is confided—the immediate superintendent and even his clerical assistants, the medical officer, the clergyman, the secular instructors, the mechanical assistants, and the warders—must not have been contaminated by the charge of convicts under the present immoral, degrading, and abortive system of tyrannical coercion; they must, on the other hand, be men of judgment and decision, and yet merciful; with their energies devoted to the occupation they undertake, and not following it as a mere forlorn hope of subsistence, and they should be so sufficiently recompensed as to keep them above temptation, and to make the loss of their occupation worthy of consideration.

Next in importance to a careful selection of a staff is a proper construction of the building in which it is intended the prisoners shall be kept; nor is the consideration of the site less worthy of consideration.

To determine where we shall place our penal establishments, regard must of course be had to the nature of the employment at which we intend they shall be kept, and due weight should be allowed to the prison being easy of access in case of any emergency; and yet again the situation should be healthy, with a copious supply of that great necessary in all penal establishments—fresh water.

Regarding our great national railway works as one of the most legitimate occupations in which we can employ our convicts, and remembering what a large portion of these works require timber, I would recommend that at least a portion of our convict labor should be appropriated to this service.

The railway lines which must be constructed through this country during the next ten years will be at least 500 miles, each mile requiring for a single line alone, including the station out-turns, &c., 2000 sleepers. These sleepers will average, say from four to five cubic feet of timber, say 1,000,000 sleepers containing 4,500,000 cubic feet. An equal quantity of timber will be required for our works of construction, even supposing stone is largely employed, and the 1000 miles of fencing necessary will take at least as much as required for this. The present contract price for our sleepers is 10s. and 11s., and with the demand for timber our railways will create, there is every reason to suppose that this price would be enhanced. I will however suppose the contrary, and value them at 6s. 8d. The value of this portion of our plant would therefore be £1,125,000.

With exceedingly defective machinery, and with Negro labor under a tropical sun, eighteen years ago, at the Government saw mills at Berbice, I used to average twelve cubic feet of timber per diem of hardwood, sawn ready for constructive works, for every man I had at work, and this too despite of not being able to keep a newly emancipated people steady to their employments. With steady labor, and with the improvements since made in machinery, I have no doubt that, from the felling the tree to the production of the sawn block ready for constructive works, from fifteen to eighteen cubes could be turned out by any well organized gang; say fifteen cubes, and deduct for convict labor, five per cent. in infirmary, five per cent. under secondary punishment, and five per cent. required to do the ordinary prison work; aided by machinery, the value of the labor of each convict would be three sleepers, or other timber of similar dimensions at 6s. 8d., equal to £1 each per diem.

This employment is quite compatible with the incarceration of the criminal, for although the felling and bringing the rough block to the prison will necessitate work outside the walls of the prison, yet this is an occupation which I propose to give to prisoners whose term of incarceration would be but comparatively short, or whose incarceration would from the first have been limited; and although I would continue to treat them under probationary surveillance while so employed, I would make their durance mild in comparison to those who were confined within the walls of the felon gaol. On this class of prisoners I would impose no silence; I would give them a better quality of food, nay, even indulge them with the use of tobacco, and pay them an appreciable portion of their earnings; simply demanding their presence at their work, and during the time required for sleep, and circumscribing them within a fixed limit; in fact, they would be as it were partial holders of ticket-of-leave, the strict conditions of which, if carried out, should still further completely free them from any bondage. It is true, that they might escape, and perhaps many would, but to go where—out of the country? If so, our society would be rid of them. If evilly disposed, it would be well that he were gone; or on the contrary, we will suppose him to remain in the country, they would then be liable at any moment of recapture to be tried for escape; and I am quite satisfied that, although some would brave the danger, few who had one experience of silent separation with labor would be inclined to try a second punishment.

To the prisoners confined within the walls of the gaol, I would propose to lay aside 6d. per diem, to be paid them in three instalments when they were finally liberated. To those outside I would give 2s. 6d., and not clothe them in prison dress. To run away would entail the forfeiture of this accumulation, with the moral certainty, if the convict remained in the country, of undergoing the severe discipline.

The prisoner confined within the walls would constantly have before his eyes, in the more indulged convict, the reward that would await him in case of reformation, and thus be influenced by hope, and not, as now, through fear of secondary coercion, to amend; and the convict without the prison likewise would still be influenced by like feelings, inasmuch as satisfactory contrition would still shorten the term of his durance, and also give him the fruit of his toil earned even as a criminal.

The occupation of these outside men would be felling and delivering the timber, but of those inside working it up. The number that I would recommend to commence with as a model prison would be 200 outside and 300 inside the gaol, in all 500 men; and I value the cost of the staff to control this body as follows:—

	£	s.	d.
1 Superintendent ... ..	800	0	0
1 Assistant ... ..	400	0	0
2 Clerks ... ..	650	0	0
3 Chaplains ... ..	1500	0	0
6 Schoolmasters ... ..	1200	0	0
2 Directors of works ... ..	700	0	0
2 Clerks of works ... ..	600	0	0
2 Foremen ... ..	500	0	0
30 Warders within the gaol ... ..	6000	0	0
10 Warders without ... ..	2500	0	0
	<hr/>		
	14,850	0	0
Medical Officer ... ..	600	0	0
	<hr/>		
	£15,450	0	0

Judging from the cost of an establishment of a like kind that was built under my eye, I estimate the cost of the building necessary—for separation, well ventilated, with an unlimited quantity of water for purposes of ablution, a complete system of sewage in connection with every cell, each cell being 8 by 6 and a height of 9 feet, properly secured with means for the warder to inspect the prisoner or give him his food without entering the cell, and with all the necessary walling, work shops, infirmary, and officers' and warders' quarters—at £200 per convict; and in addition thereto I calculate the machinery, tools, and other plant at

£100, in all £300 per man, basing my calculations on the high wages we are likely to pay for our work, and not at the rates now ruling. This would make the cost both in and out the walls £150,000, and on this allowing:—

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Interest, at the rate of 5 per cent. ... ..	£7,500
Insurance, one per cent. ... ..	1,500
Wear and tear of buildings, 10 per cent. ... ..	10,000
Wear and tear of machinery, 30 per cent. ... ..	15,000
Gives ... ..	£34,000

Annual charges to borrow money to build the establishment, and to keep it in efficient working order. Contrary to the usual practice in Government undertakings, interest and working charges are here considered; in fact, I have supposed that Government was in the place of an individual who would have to charge all the items I here enumerate.

We have now to consider the maintenance and clothing necessary for the prisoners. I would divide both into probationary and felon. To feed the felon—I consider no indulgence whatsoever ought to be taken into account. In this country his meat may be considered on a liberal dietary, in such large quantities as would be wanted, with 4d. per diem; his bread, 4d.; vegetables, 2d.; tea, sugar, and other food allowed equal, say to the men on a survey staff, 4d.; and give an additional 4d. to cover contingencies, medical charges, and medical comforts; and 1s. 6d. per diem would cover the cost of his food. To those in the probationary class I would give indulgences, which 1s. extra would cover, and 2s. 6d. per diem would be chargeable on their establishment. The prison wearing apparel of the convict, allowing ample for change to encourage cleanliness, could be had for £6; while that of the probationary class may be rated at £12; this would give—

300 felons, fed @ 1s. 6d. per diem ... ..	£8,220
200 probationary convicts, fed @ 2s. 6d. ... ..	9,330
300 felons, clothed @ £6 per annum... ..	1,800
200 probationary convicts, @ £12 ... ..	2,400
	£21,750

It will be remembered that I propose paying the convicts at the rate of 6d. per diem for the felons, 2s. 6d. for the probationary class; this would give, even allowing no stoppages, and that those on works of necessity were paid even for the Sabbath, we should have—

300 employed 320 days, @ 6d. ... ..	£2,400
200 employed 320 days, @ 2s. 6d. ... ..	8,000
	£10,400

And still further again, we should have to add:—

Fuel and engine stores... ..	£10,000
Books and educational appliances ... ..	2,000
	£12,000

Making the annual cost:—

For staff ... ..	£15,450
„ buildings and machinery ... ..	34,000
„ food and clothing ... ..	21,750
„ payment for labor ... ..	10,000
„ fuel, engine stores, and educational requirements ... ..	12,000
	£93,200

Add to this, if you please:—

For military, say 80 men ... ..	10,000
The cost of catching and convictions, say £10 each per annum on an average for 500 ... ..	5,000
	£108,200

This £108,000 distributed over 500 convicts would give £216 per annum as the cost of each, and the labor of the convict, notwithstanding high reformatory discipline, increased security, and more humane treatment, would be remunerative, instead of entailing a large expenditure; for if you take 310 days for the work that would be given, and remembering that our rough sawn timber was valued at giving 6s. 8d. each sleeper, and for other work in proportion, for which we now pay 11s., and that so valued it would yield £1 per diem for every convict; if so, assisted by machinery, one account per man would stand thus:—

310 days' labor, @ £1 ... ..	£310
Charges above enumerated ... ..	216
Balance to credit of convict labor ... ..	£94

Now let us pause for a moment to examine if my estimate as to the value of the convict labor, assisted by machinery, be wrong.

1st. We know that simply for the unartistic labor of breaking stones outside the walls of a prison labor is now worth 12s. wages, with tent, wood, and water. Surely, if we could assist the man who is even breaking stones with machinery, his labor would be more than double the value, and we do not want to double the value even of this low class of labor to show that, assisted by machinery, the work of one convict might be made highly valuable.

2nd. Comparing the value of the convict labor with the instance I have taken, with a contract actually entered into by the Government, we have an average of 11s. as the worth of a railway sleeper; this we may take as a fair price, for it was the result of the most open competition, and was in every way above the least suspicion of favoritism. Now, the contractor in this instance found it to his advantage to avail himself of a locality outside of the Heads; he has to carry the principal part of his supplies to his men by ship, to bring back his finished material in a like manner, and then has to deliver at distances varying from one to twenty miles. Surely this transport alone is worthy of consideration, and if we placed our convicts along our lines in direct communication with the points where our work would extend, we must beat such an expensive way of going to work. The cost of our transport would be comparatively nil.

Again, the contractor has bound himself with the Government, as a matter of course, with a view to profit—this, at least, would have to come out of his 11s. against the 6s. 8d. which I contend the labor of our convicts could make these sleepers for and leave a profit.

I bring forward these apparently foreign circumstances to show that the amount of work I have stated as a fair day's work for the convict, assisted by perfect machinery, is not an excessive estimate.

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I have made the whole of my arguments to apply to one description of work; of course I intend to be understood only as taking it as an example; all others similarly circumstanced would bear a like interpretation. The work I have selected demands but a very limited amount of mechanical skill; others of a more artistic nature would only enhance the position I have taken, while various others even requiring less attention might with equal advantage be introduced, aided by machinery, into our prisons. Among these last may be cited the manufacture of bricks for the public service, and earthen piping for agricultural purposes, and pottery for general use.

I am not aware whether the stone abounding along our various railway lines is capable of being wrought by machinery; but, if it be, there again would be a most valuable occupation to which we might place our convicts. Under any circumstances, however, supposing all the timber be worked out as would render it unprofitable to carry even by rail, the working of stone beyond merely breaking it for the road will always be a stand-by, as occupation for the criminals; but I do not apprehend any falling off of the timber, if it be followed by trams, sawn in the gaol itself, until the establishments I have recommended have doubly and trebly paid for themselves.

I have made it a condition to our more complete success that our penal establishment should be alongside our railway lines, thus putting them within the reach of every description of material, no matter at what distance, on which their labor may be profitably employed; but as I have selected the working of timber as their most feasible occupation at the present moment, it would, of course, be necessary that the establishment should be in the neighborhood of some of those forests with which the country abounds; and, as I stated before, there should be abundance of water in the immediate neighborhood. A position answering this description might be found without much trouble or expense on the surveyed trial line between Melbourne and Ballarat; another in the country around the Yan Yean, where water power for driving machinery might also be made available, and the tramway already in existence might be made useful in bringing down the materials produced; a third place would be a position in the vicinity of Mount Eliza, and as there is no available road in that country at the present moment, a first prison work might be the connection of Melbourne and Western Port, and a subsequent extension into Gipps Land might also be held in view; and again there is the Black Forest directly on our main line of way to the northern gold fields, affording ample scope for convict labor to assist in making our railways.

To determine the exact spot would require careful examination; and I am of opinion that a moderate sum spent for the purpose would be well laid out. To three of the places mentioned easy access will soon be in existence, and by the means in contemplation the supplies required to maintain the convicts and the work done by them would be easy of delivery; while instantaneous information, by telegraphic communication along the railway wires, and the facility to bring force to bear on them, if necessary, could be carried out.

In some of these places water-power could not be had, and steam would have to take its place; but in all, fuel to work steam-power would be cheap, and a sufficient quantity of water abounds to enable machinery to be brought to bear to keep the sewage of the prison constantly flushed, and to admit of the frequent ablutions of the people, thus removing the disease and vermin at present ruling in some of our abominable pollutions called prisons.

The filthy non-attendance to sewage on our gold fields' pest-houses is most disgraceful and a libel on humanity and civilization, and in them it would be perfectly impossible to expect any man to attempt any reformation, as his self-respect and pride is completely destroyed by putting him into a place where no humane man would leave his dog.

Having made allusion to the prisons of the gold fields, I would ask permission to say a few words on the employment of the prisoners there. At the present moment I believe that those confined in the stockades there give least return of any of the convicts. I venture to state that there is not a day's work done among any ten, and the expense of guarding at their play must be considerable.

Now, there are several problems of vast importance to the welfare of this country which they might with advantage solve. The greater portion of the people confined on the gold fields are miners, and it would not be unreasonable to employ them during their incarceration in solving questions that would be of vast advantage to them when they are liberated.

I believe the greatest depth yet reached on any of the gold fields is about 260 feet, while 200 is more general on most fields. To what depth we may go and mine successfully is not yet understood, and would cost more money than can be expected from private individuals. Again, the exact position of our reefs are as yet but most imperfectly ascertained; we are, however, certain of their parallelism.

To determine both these questions might legitimately be undertaken by the convicts on a gold field, and on each a shaft of 100 fathoms might be sunk by them, and when at that depth a drive cutting every reef on the gold field might be put in, and the question of their several values would thus be fairly investigated.

On crossing a reef, if found to be auriferous to a paying extent, a reserve of 100 yards on each side of the point of intersection might be made, and a shaft sunk for its work.

To do this on a gold field, including the necessary lifting, ventilating, and pumping machinery, would require somewhere about £10,000; but I am more than sanguine that it would prove a highly reproductive work, while it is largely calculated to insure the safe custody and hard work of the convicts.

1778. *By the Chairman.*—In speaking of American prisons, you made reference to task work, and said that a certain amount of work is required of each prisoner, and that, if he did not perform it, he does not get his food.—I want to know if that task work is of so easy a character that the most delicate prisoner can do it without difficulty?—It is very generally left to the medical officer in charge. Where the men are employed in making machinery you can allot different portions of the work to them better than where a simple tale of manual labor is wanted. The men who are appointed to take charge of the prison discipline in the United States have a wish to carry it out. They are carefully selected and are qualified for the duty they have to perform.

1779. With regard to the work which those prisoners perform, is the machinery which they make such as you have mentioned thrown into the market so as to come into competition with free labor, or is it used in Government employment wholly?—In some cases it is not, in others it is; some of the States you are aware will not allow it to come into competition with free labor, in others it is allowed, and particularly in those places where labor itself is scarce and the production of those things does not interfere.

1780: Such as making machinery in the Southern States, there it would not interfere with free labor, because they do not make such things there?—Yes, in such a case as that. I do not allude particularly to that case, but it is to such reasoning as that.

1781. If the same system were introduced here, would it affect free labor and have a tendency to lower wages?—On the contrary, I think if the system were introduced here, so far from lowering the price of labor, it would increase it, if applied in the way I have suggested. Suppose we put it to carrying out railway work—that railway work will open up sources of industry, without which the laborer could never have the sources to resort to.



1782. You mentioned Trinidad, with the few inhabitants there are there. Where do the prisoners come from principally; they are not Imperial prisoners, because it is not a place of transportation from England?—They are principally Negroes.

1783. *By Mr. Thomson.*—You have spoken of the system which you consider to be the system of a model prison at Trinidad, and which you said was made self-supporting in a very short time. Will you describe the management generally?—The prisoners all take the same amount of labor as a man working in the public department would do outside; outside we paid a dollar a day per task, and the cost of keeping the prisoners inside was not above twenty cents a day; that is, the cost of keeping them, irrespective of the charges upon them. Now, when these charges were taken, it came to about eighty cents lower, and gave a net of twenty cents to our credit.

1784. *By the Chairman.*—On each man?—Yes; in fact we were large buyers to support the prisoners in the place of going retail, and therefore we generally fed them cheaper.

1785. *By Mr. Thomson.*—What were the men engaged on?—Raising stone, sawing, carpenters' work, and all sorts of framing. We had competent men as warders, and they taught the prisoners those trades which they desired.

1786. *By Dr. Tierney.*—I believe every prisoner sent in is sent out having been taught a trade; is that the case?—Every one in going into the gaol can select any trade in operation there, and many I have known go into prison who knew nothing whatever of any trade, who came out perfect adepts at one.

1787. *By Mr. Thomson.*—Were they worked on the silent system; were they kept separate, or were they associated?—During the time they were at work you are obliged to keep them together. Negroes are rather different animals to deal with to any other people in creation, and I think that to completely tie up a Negro's mouth would be impossible, but after the work was done, and during food time, they would be perfectly separate.

1788. *By the Chairman.*—How many prisoners were usually there?—About 230, when I left, was the daily average. The warders were put one to every twenty.

1789. Were those the only officers employed?—Yes, but we had a chaplain and a doctor, of course; a schoolmaster, of course. Every man was taught a trade, and a man not being able to read and write was taught to do so.

1790. Taking all together—schoolmasters, clerical assistants, warders, superintendents, and everything, what per centage would it be?—About one in every fifteen.

1791. Here I believe it is about one in every five—do you think that necessary?—Certainly not; it may be necessary. I do not know much about the discipline of the prisoners here, except on the gold fields. On the gold fields the surveillance kept up is a perfect absurdity.

1792. *By Mr. Thomson.*—The Trinidad prisoners were within walls?—Yes. One portion of the labor I omitted to mention—that prior to my taking charge of the gaol, that in relation of the quarry, where the stone was cut, the stone was carted to the gaol entailing expense, of course, to that amount. Now, I ran a fence round this quarry and used to take the prisoners to it.

1793. A wall round it?—A fence, and the parties who used to be kept working outside were those whose times were short, and who knew that, if they escaped, the consequence would be a long term of imprisonment inside. Only two cases of escape occurred in my time, that is, in eighteen months.

1794. *By Dr. Tierney.*—I believe the solitary system is given up in America, and every man is made to labor?—The silent solitary system is given up.

1795. Every man is obliged to work in America at the present time?—Yes. In Philadelphia it was found in twelve months there was scarcely any man who was subjected to the silent solitary system any length of time was a maniac.

1796. *By Mr. Miller.*—Have you inspected the prison at Pentridge?—No; I have had no opportunity of doing so.

1797. You are not aware that the system you have just now been talking of is in existence there?—I am not; I can only state from what I have heard; but, if you will permit me, I would not call the system at Pentridge separate.

1798. You do not know of your own knowledge what the system there is?—Certainly not.

1799. Have you had any experience with convicts of the worst class. I may term them, what we understand here, "The Norfolk Islanders?"—No; I have never come into contact with any Norfolk Islanders, but I believe the black population is capable of being as big scoundrels as any in creation.

1800. It is not therefore probably a question altogether of distinction of race, although you said there was some distinction of race between the black people and the white men?—Certainly, and I believe the comparison will be unfavorable to the black men.

1801. Perhaps they are not parallel cases?—I do not think they are. I do not think that their position at all would give us any reason to believe they would be ordinarily guilty of a less amount of crime than any other men.

1802. Is it not probable that the treatment that would suit a Negro would not perhaps be applicable to a white convict?—I think with regard to the treatment that would suit a Negro, that he could do with worse treatment than a white convict. I mean to say that, if a better system were applied to the Negro than to the white man, that we may take that system and apply it to the white man.

1803. Have you visited the hulks here?—No, I have never been on board the hulks.

1804. The punishments, I understand from you, that are in force in America are starvation and corporal punishment in some instances?—In some instances corporal punishment, and in some of the prisons they go to the enormity of putting a man in the position that he must either drown or work.

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1805. That is a Dutch punishment—one originating with the Dutch?—Yes, in Surinam.
1806. Are there occasionally in America complaints of harsh treatment by the authorities of the prisons?—My visits were mere visits; I was in no way connected with the gaol. I had not opportunities of seeing that. I was on a different errand altogether.
1807. You informed yourself as well as you could as you visited those different States?—Yes, I was sent on purposes of emigration.
1808. *By the Chairman.*—I wish to ask you one question with respect to Trinidad, where you state your model prison was, and where you say prisoners were kept for eighty cents, whilst other classes cost 100; will you tell me what was the greatest offence for which the prisoners were sentenced?—There were the usual offences of murder, manslaughter, burglary, and all the offences that come under the head of crime.
1809. Similar to other places?—Yes.
1810. And trial by jury?—Yes.
1811. And a British judge?—A British judge.
1812. And the same laws as our own?—Exactly the same laws as our own, I believe, since 1838.
1813. From your observation in Trinidad, among the black population, of course you observed some white prisoners?—Very few.
1814. Do you suppose that they are neither much better nor much worse than the English convicts?—Just about on a par.
1815. *By Mr. Miller.*—You had corporal punishment at Trinidad?—One instance.
1816. Did the prison regulations allow of it?—By sentence of the judge only. There was one single instance—a case of bestiality.
1817. In that case the convict was brought before the officer as you describe, I presume?—He was sentenced by the judge—that was part of the sentence in court—"To be flogged."
1818. *By Dr. Tierney.*—Would a man be flogged in the gaol at the instance of the visiting justice; would there be any corporal punishment in the gaol at the instance of the visiting justices for any breach of discipline or anything of that sort?—Certainly not; I never saw such a thing.
1819. Did you ever hear of any of the officers, or men in charge over those men, striking them or beating them in any way, or using corporal punishment?—Yes, I have heard of two or three cases of the sort, but the instant dismissal of the person who inflicted the punishment was the consequence.
1820. *By the Chairman.*—They were not rewarded for it?—Certainly not.
1821. *By Mr. Miller.*—How were the convicts guarded?—By the warders all armed.
1822. What was the rule of the prison in case of a convict escaping?—They shot at him.
1823. They shot at him?—Oh! certainly.
1824. Is it a rule usual in all prisons to fire at a convict escaping?—Certainly.
1825. Have you known in your experience any convict killed in attempting to escape?—I have known one man wounded.
1826. Was this in Trinidad?—The warder fired.
1827. And wounded the man?—The man was wounded and brought back, and he got three years' additional sentence.
1828. Without that regulation would it be possible to keep convicts?—No, not to keep them at all, in fact.
1829. *By the Chairman.*—With regard to this rush, had you any connection with the prison beyond being superintendent over the works?—No; I had the prison labor at my command.
1830. *By Mr. Miller.*—Was it in your department?—No; I had charge of the public works.
1831. Were they attached to your department?—No, they were not attached, but had the use of them for any of our public works.
1832. The same as our Commissioner of Public Works may have the gang at Williamstown to build his battery?—Yes; I could not interfere with them.
1833. *By Dr. Tierney.*—Do you think that any of those men were as bad as the worst of our convicts here?—We had plenty of trebly convicted men there.
1834. And you had them at work?—At work.
1835. *By the Chairman.*—We have it from you in evidence, and I think no body doubts it to be the fact, that it is your opinion the convicts cannot be safely guarded unless the warders had power to fire at the convicts attempting to escape, and the convicts knew that?—Yes.
1836. That was only your opinion; I now want your opinion on another subject. Supposing you were the superintendent of convicts, and knew that a certain number of men were going to endeavor to make their escape, do you think it would be your duty to place extra sentinels with extra loaded muskets to shoot at them?—Certainly.
1837. Would it be the course you would adopt to stop them?—No; I should break up their confederacy in another way—I would not encourage the crime of escaping, and then punish them for it. In fact, if I did, I should myself be a *particeps criminis*.

*The witness withdrew.*

Mr. Ronald Crawford Ferguson Smith examined.

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1838. *By Mr. Miller.*—You have had some experience in prison discipline?—I have.

1839. In what colonies?—In Van Diemen's Land and in this country.

1840. And also at Norfolk Island?—I was attached to the Van Diemen's Land department.

1841. What situations have you filled?—I was assistant superintendent and otherwise officially employed for seven or eight years in Van Diemen's Land, and I was storekeeper here a short time, and assistant superintendent in this country for nine months in the *Lysander*.

1842. Have you a knowledge of the workings of the systems that were adopted at Norfolk Island in the management of convicts?—I was not there under any previous regulation before Mr. Price's time; I am only acquainted with it from books and association with persons who have been connected with them.

1843. Can you judge of the system that was introduced there under the name of Captain Maconochie's system, from the opportunity you have had of seeing the records, and so on?—I had the books that belonged to the time.

1844. The records?—The records, and also I have seen the men.

1845. That was a very mild system?—It was one of perfect indulgence, and on the principle that men were open to the same feelings that operated on society generally.

1846. If I understand you, the convicts were to be treated as if they were men uncontaminated with crime?—That is Captain Maconochie's principle.

1847. Will you state as shortly, but as minutely, as you can what the effects of that system were upon those convicts?—They are on record officially in the report of Sir George Gipps, and the commissariat officer, and the different clergymen of the establishment. I know that Sir George Gipps made it as favorable as possible to Captain Maconochie. In fact, Captain Maconochie himself, after he got home, I believe, qualified many of his opinions.

1848. Give the committee, if you please, a statement of what you know yourself.—Have you got those records?—I have not.

1849. In the first place, were there many convicts reformed, or were there any?—No; I know all the convicts that were sent from Norfolk Island to Van Diemen's Land were the most turbulent and worst conducted men we could possibly have in the station.

1850. Were the crimes common to convicts at all removed or checked by this soothing system, as it was called, I think?—The reverse.

1851. Did the system lead to insubordination?—The offences that were in the books were more of that character; there is an absence of minor charges.

1852. Were there many executions in consequence?—From my recollection of the books, I believe that the average, taking the whole term, was at least two or three per annum.

1853. Two or three executions per annum?—Yes, I believe so, taking the whole term, from various causes; stabbing, I think, chiefly.

1854. Are you aware whether there were many or any of the convicts reformed by that system; that is, that they became reformed—good members of society?—I do not believe it, from my experience.

1855. Were they, in fact, obliged to alter the system?—They were.

1856. Who was sent to Norfolk Island to adopt the new system?—A gentleman from England; Major Childs, from the Royal Marines.

1857. Was Mr. Price there?—Not at that time.

1858. How long did Major Childs remain?—Under two years.

1859. Who succeeded him?—Mr. Price.

1860. Was that the same Mr. Price who is now in charge of the prison establishment here?—It is.

1861. Were you under him there as an officer?—I was for six years with him.

1862. Can you tell this committee as to Mr. Price's conduct there, whether he was an efficient officer, and as to his treatment of the convicts; what the opinion of the Government was as to his conduct?—My opinion of his efficiency is, that he was a strict and able officer; certainly severe both with the men and officers, as far as carrying out the principle of strict obedience to regulation is concerned; and I believe that the Van Diemen's Land Government gave him every credit for the management of the island; and when he left, every officer in the island presented him with an address expressive of their satisfaction.

1863. Do you consider his conduct to have been unnecessarily severe and tyrannical, or otherwise?—I consider that Mr. Price is a man who habitually acts from rule and not from caprice.

1864. Have you been an officer under Mr. Price in this Colony?—Yes.

1865. How long?—Fifteen months.

1866. Are you now in the Government employ?—I have not been for the last twelve months.

1867. Did you resign?—I did.

1868. Have you had an opportunity of judging of the general conduct of Mr. Price, and of the officers under him, with regard to the treatment of convicts in Victoria?—I have; I have been in every station. I resided at the Collingwood stockade for several months previously to his arrival, and I am acquainted with the officers generally, and I believe, taking the department generally, and the character of the officers, that they are superior to anything I have seen before in Van Diemen's Land, as far as their qualifications are concerned.

1869. Is the general treatment of the convicts here more severe than it was in Van Diemen's Land?—It is not more severe, because it is more in accordance with regulations.

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1870. Do you think that greater coercion is practised here than is necessary to restrain the convict population in a gold country like this?—I do not; the great difficulty is to keep the men in for one thing.

1871. Then it is peculiarly difficult to keep the men in safe custody here?—Yes; in Van Diemen's Land we could march 100 men from one end of the country to the other with an officer and a couple of constables.

1872. When a man is convicted here and sent to Pentridge stockade, if he conduct himself properly, is there any peculiar difficulty in regard to his serving out his time and returning to society?—None at all, if he is obedient to the regulations.

1873. Do you know in fact that, with regard to the great bulk of the colonial convicts—I am not speaking now of the old convicts known to be such, but of the great bulk of those men that are taken to Pentridge and kept there at work—that they serve out their time in a much shorter period than they are sentenced to?—Yes.

1874. Are you aware of that?—I am not aware that the bulk of them serve out their time in less time; but I know it is in their power to do so.

1875. In fact, are there any men and what proportion that serve out their time, shortening it by their good conduct and industry?—A portion of them do so, arrive at their freedom in less time. A man by good conduct can obtain his freedom in two-thirds of his time, if he is under three years.

1876. Have you remarked certain statements having been made in the Colony generally?—I have.

1877. Is it a fact that Mr. Price and his officers are bent upon endeavouring to entrap the convicts in every way they can, to invent punishments of an extraordinary nature and tyrannical description—as far as you have seen, are they actuated by the common motives of humanity?—I believe they are; so far as Mr. Price is concerned, I am satisfied that he never acts arbitrarily himself, nor would he suffer an officer to do so. I believe that the greatest temper and judgment are shown with reference to the treatment of prisoners, and particularly here, where there is much more difficulty to encounter and where the means of regular punishment are not at hand. We have no means of confining men and keeping them under separate treatment in solitary cells.

1878. Can you give the committee any instance of any act of tyranny committed by Mr. Price?—I have known Mr. Price for eight years, and I have known him adjudicate upon at least 3000 cases. I was clerk to the bench at Norfolk Island, and I never knew a more patient man with respect to the prisoners; for if they had anything to say, he was always ready to hear them. I have known him to refer a case from court day to court day, to bring any evidence they thought proper forward. The officers feel the effect of his discipline more than the men, in comparison with the other systems.

1879. Is Mr. Price in the habit of hearing the complaints of the convicts?—He is. He listens to any man.

1880. Does he follow this up?—He can of course exercise his own judgment.

1881. Has he dismissed any of the officers in consequence of their treatment of the convicts?—I have never heard of any instance of an officer ill using a prisoner during my connection with the department.

1882. Has Mr. Price dismissed any officer of his establishment?—He has dismissed a great number. That was the case in Norfolk Island. The fact of the matter is, that coming from the easy system to one of strict obedience, there was great ill feeling and discontent created I believe in the minds of men and officers.

1883. *By the Chairman.*—From what cause?—From the simple change from an easy system of administration to one of strict obedience. For instance, in the olden times, a superintendent could leave his station almost when he pleased. Mr. Price insists upon the officers from the biggest to the least strictly applying for leave, whoever he may be.

1884. *By Mr. Miller.*—Do you consider that this discipline has been the means of placing at present in the department an efficient body of officers?—I do, a most efficient.

1885. I think you said we have here rather a superior class of officers?—Yes.

1886. And those men are officers who have been selected by Mr. Price?—Yes. When I came to this country there were five superintendents, and of these only two retain former appointments.

1887. I want to know if, when you say that you consider that Mr. Price has been the means of getting a better class of officers, you mean for the public service?—A better class for the public service.

1888. Is Mr. Price doing his duty with regard to selecting the best men he can to carry out the system?—Most certainly.

1889. Has Mr. Price been successful in keeping in safe custody the convicts committed to his charge?—I think so.

1890. Have there been many escapes as far as you know?—Very few. One from my ship.

1891. One man escaped from you?—Four from the *Lysander*, chiefly owing to my own over confidence.

1892. For that, I presume, you were reprimanded by Mr. Price?—I expected to have got dismissed; but the fact of the matter was, being only the second in command, it was the duty of my superior officer to have seen to it as well as myself.

1893. Then did it fall upon your superior?—Yes, he was reprimanded, I believe.

1894. Are you aware that we have amongst us here some of the very worst classes of convicts?—I am.

1895. *By the Chairman.*—You believe so?—I am aware of it.

1896. How do you know it?—I know it from previous experience of the convicts in Norfolk Island and Van Diemen's Land.

1897. How do you know there are not as bad in Gibraltar or anywhere else; surely it can only be a matter of your opinion?—It is according to my experience. We had Gibraltar men in Van Diemen's Land.

1898. *By Mr. Miller.*—Is there any selection made of the worst men for the purposes of classification?—As far as the means will allow, they are classed.

1899. Where are the very worst men sent to?—The very worst are sent to the *President* hulk.

1900. Are the prisoners sent there always kept in safe custody, or have there been any escapes from there?—There have been no escapes. One man got out some time ago, but he got frightened in the water and was caught again.

1901. Then he did not escape?—No.

1902. There have been no escapes then from the *President*?—No.

1903. What would be the effect on society here if those men were to escape—you have had some experience in bushranging in Van Diemen's Land, and know the crimes in Norfolk Island, and you have seen what has been done in Victoria?—The fact would be, that there would be a great deal of murder, manslaughter, and robbery, and the expense of catching them again.

1904. And every crime that it is possible for a human being to commit?—I believe so.

1905. Is it not in your opinion of the first importance, in any system of prison discipline that we may have here, that those men should be kept in safe custody?—It is the first duty to society.

1906. The system generally, I think you say, is one of severity?—It is one of obedience.

1907. It is a severe system?—It is not so severe as the ordinary English system.

1908. You would characterize it as a system of rule and obedience?—I consider this a system of rule and obedience, and not of severity, because severity is comparative.

1909. Is this system one that would encourage the criminal population here to commit crime and subject themselves to its consequences, or is it a terror to them?—At present I consider it answers the end of penal legislation, inasmuch as it is obnoxious to criminals.

1910. That it is a terror?—It is a deterrent.

1911. Are you aware that, when men are subjected to this prison discipline here, upon their liberation they leave the Colony—speaking now of the criminal classes?—I am aware that, comparatively speaking, the present scheme has been more successful than any other, if we may judge from the smallness of the re-committals.

1912. Very few make their appearance again?—Comparatively speaking, very few.

1913. Then is the inference you draw, that they are either reformed or that they leave the Colony?—Either one or the other.

1914. You do not know of your own knowledge perhaps that they leave the Colony?—I do not know that; but I believe it to be so.

1915. Are there any suggestions that you can offer to the committee as to improving the present system of prison discipline, and if so, would you have any objection to put those suggestions in writing before the committee?—I will do so with a great deal of pleasure. I have devoted a good deal of time to reflecting upon the thing. I am not much read up in books as far as the scientific part goes, but I have had experience.

1916. And you will give the committee the benefit of your practical knowledge upon the subject?—The only recommendation that I would suggest with reference to improvements in discipline would be, the establishment of a proper penitentiary, in which the worst, the most troublesome, and the most disobedient men could be properly treated. In England, every man that has received a sentence, whether his conduct be good, bad, or indifferent, receives a certain amount of solitary separate confinement, according to the term of his sentence. That is the plan I believe adopted under Lord Grey's administration. Every man, whatever his conduct may be, goes into separate treatment. They build cells varying from an expense of £150 to £250 a man for the accommodation of those prisoners.

1917. *By the Chairman.*—Where is that?—In England; I would refer you to the speech of Lord Stanley, copied the other day by the *Argus*, 26th December, I think.

1918. *By Mr. Miller.*—There is one subject I wish to ask you upon—are there any religious instructors here for the prisoners?—Yes, there are; there are ministers of both persuasions—Catholic and Protestant, who visit the prisoners; and also respectable persons have obtained Mr. Price's permission to do so. I know three or four who used to attend regularly on board ship as missionaries.

1919. Are you aware that some of these missionaries were thought to have abused their privileges and to have interfered with the discipline?—As an officer, I always took care that it should not take place; I should have reported it immediately and have prevented the person coming again.

1920. Are you aware that they interfered in any cases with the discipline?—I am not aware of it personally.

1921. Then as far as you know, they had access to the convicts?—We did not allow any conversation. They merely held service.

1922. They were allowed to attend and hold service?—To hold service and speak to the men in a body, but not to associate with them.

1923. To preach, in fact?—Yes, and to read the Scriptures.

1924. Was that privilege allowed to all ministers of religion?—To every person who obtained an order from Mr. Price.

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1925. Then, I understand from you that ministers of religion applying to Mr. Price were allowed to visit the hulks, and hold service, and give religious instructions?—Most certainly, at proper times. No less than four missionaries visited the station I was at in my time.

*The witness withdrew.*

*Adjourned to to-morrow, at one o'clock.*

THURSDAY, 22ND JANUARY, 1857.

MEMBERS PRESENT:—Mr. Hood, in the chair; Mr. Guthridge, Mr. Thomson, Mr. Clarke, Dr. Tierney, Mr. McCombie, Mr. Hervey, Mr. Mitchell.

Count John Dembinski called in and examined.

Count  
John Dembinski,  
22nd January,  
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1926. *By the Chairman.*—You are a Prussian by birth, are you not?—No, I am from Russia; but our family has been banished and our estates confiscated. I am now a political exile.

1927. You have been a good deal in Prussia, have you not?—Yes.

1928. You are a Pole, I suppose, by birth?—Yes.

1929. Are you a son of General Dembinski, the celebrated Polish revolutionist?—Yes.

1930. Have you travelled in Prussia a good deal?—For about a year and a half, with a particular desire of acquiring some knowledge of matters which came under the consideration of the Statistical Congress in Brussels, in the year 1852.

1931. Did prison discipline or the construction of prisons come under your observation in that time?—The system of prison discipline newly introduced in the year 1842 attracted my attention.

1932. To which do you allude, the construction or management?—Both. It was a thoroughly new system of reforming prisoners, which is adopted in Prussia only for criminal offenders, not political offenders.

1933. Is imprisonment for debt any part of the law in Prussia?—It is; but of course not the same as imprisonment for criminal offences. I may say that the actual system of criminal correction is rather a personal experiment of the present King of Prussia, and has not the force of law throughout all Prussia, so that in some provinces it is not yet adopted. It is a great experiment; but it has not the force of law throughout the whole country.

1934. Is it exclusively for felons; those guilty of stealing, and burglaries, and such like?—It is for all common criminals, even for the highest offenders; the system is adopted for murder, or any crime involving the sentence of death.

1935. For fighting duels?—No, that is dealt with by a mixed commission of officers and civilians; but I believe, recently, that has been placed under the jurisdiction of the jury.

1936. The prisoners put into those prisons are not of a better class than the same class of prisoners here or in England?—Exactly the same.

1937. They are not mixed up with a large number of debtors and duellists?—No, never.

1938. Would you describe to the committee the treatment they receive and the punishment they get for certain offences, and also the kind of buildings used?—If you will allow me some latitude in my speaking, as I am not well acquainted with the English language, I shall be happy to do so. I would say that the chairman having been so kind as to tell me yesterday that I should be called before the committee to-day, I tried to get a kind of resumé in my head how to bring the matter forward. The system in itself bears as a motto that the strict line between crime and madness is extremely difficult to be defined; and that, therefore, all crime should rather be considered as an act of madness, and the man committing it as in a state of temporary insanity, or perhaps having in his organism already a state of temporary derangement. Society, therefore, should never be permitted to exercise a kind of vengeance against the criminal, but rather to act on him as a kind of lunatic, and to seek for the best means of curing his moral and mental disease. In Prussia they have followed a rule of curing which has found many adherents in a medical point of view, namely, that Nature is the greatest medical man of all ages; that the self-reaction of human nature in bodily disease may be fairly considered the best mode of curing, and that all the skill of the medical man should be directed to taking away all that could come across the self-reaction of nature. The best means of helping nature is to leave her to herself, and all the medical help be directed to put aside all that could come in the way of nature. The same system they have adopted in reference to moral diseases; and in the modified system of isolation they have adopted the idea of the self-reaction of the human mind as the best mode of curing that moral disease called crime. The system is seclusion— isolation from all converse with the world. It is the Pennsylvanian system with a modification. The utmost sentence which a man can incur for any crime—that is, the sentence which is equivalent to the sentence of death under the old system—is ten years, for any crime committed before the moment the man has been sentenced. A sentence can never accumulate over a period of ten years; and the sentence of the judge is the utmost which a man can endure—that is, ten years, or it may be six months, or five years, according to the sentence—so many years, months, or days' isolation from human converse; but the director of the prison, and his council of several sub-directors, have the power to mitigate the sentence of a prisoner according to his behaviour. The director of the prison, assisted by his council of sub-directors, may be considered on a small scale as a kind of constitutional monarch, who has the power of mitigating but not of increasing the sentence of the judge. A man brought into prison is confined in a cell, leaving him, if I am not wrong, about 7000 or 8000 cubic feet of air. The

cell is built in an oblong shape, so as to allow room for physical exercise. In that cell all means of self destruction are taken away; there is no nail nor any means by which he can kill himself by hanging, nor any corner nor sharp ledge giving him an opportunity of breaking his skull, so that self destruction is almost or quite impossible. The opening of the cell is managed so as to leave in any case very good ventilation, but at the same time allow the light to be taken away from the prisoners—that is the only increase of pain the director and his council can inflict upon a man; that is the only increase a man can get over the sentence he has once received, and that only in case his behaviour becomes very insubordinate. The man is left there quite isolated, without any occupation, without any book, and without the converse of any clerical man, for a certain time. That time may be to the very end of his sentence; he may remain all the time in that state if the director and his council think proper. Now I must come to the fact that he is deprived of any book, religious or otherwise, as well as of the assistance of any clerical man; in fact, he is left quite alone with himself—that is the most important point I believe of that system. However, the present King of Prussia is a man of very religious tendencies, and he has with reference to this new and improved system of reforming criminals, made the observation, that no religion, no books, no words, no teaching can act so well upon the mind as the self religion of a man's soul. A man's mind as well as his body requires exercise when in a state of health, or even when his strength is not altogether broken down. The mind requires exercise, and when it has no objects to divert its attention, it reverberates and reflects upon itself. Here I can speak from experience, having been for twenty-two months in perfectly solitary imprisonment in almost a dark place, eighteen or twenty feet below the surface of the ground in the fortress of Kiew, in Russia. I have experienced the fact in myself. My thoughts, however, were diverted by two very great considerations, that is, not being yet sentenced and being in incertitude how long I was to remain in that place, whether all my life or perhaps only a day or two longer; and on the other side, having committed no crimes in the eyes of society, only in the eyes of the Government; having committed no crimes that could make me ashamed in the eyes of my countrymen of Poland, nor of any free thinking and liberal men. But being deprived of any occupation and being left quite alone with myself, my thoughts acted so strongly on me, that every action of my life from my fifth year I could remember as clearly and perfectly as if it had occurred only yesterday or the day before. Many prisoners left in the Austrian or Russian prisons in quite solitary confinement have experienced the same thing—that is, the perfect memory of every action, and the perfect faculty of scrutinising every action of their life. Every other faculty of the mind being in perfect impossibility of being exercised, all the strength of the intellect is reverberated and concentrated on the memory; and as every man has in his mind and in his soul a conscience of what is wrong and what is right, remembering all that he has committed, and leaving it to his own judgment, he soon acquires a conviction that he did wrong, if he did so. It is that point which is considered as the most important in the Prussian system—that is, that the greatest reformation of a man, as well religious as philosophical, and the best book that can reform him is the self reaction of the mind on itself. That reaction is so strong, that it has been objected to as an evil of the system. It has been said that a man subjected to the self reaction of his own mind gets mad. Therefore a latitude is left with the director and his council, composed, I believe, of five or six sub-directors, to modify the sentences of the men. After a lapse of time, which seldom passes five or six months for the most inveterate criminals, a man is so broken down, that he implores, as a great favor, to have some occupation; that occupation, if given to him, is manual labor, but nothing to diverge his thoughts. In order that his thoughts may always revolve on himself, and not be diverted, he is manually occupied; but he is allowed no books, and no religious teacher is allowed to communicate with him; and I may state that that deprivation of religious treatment is a very bold experiment. After a certain lapse of time, during which the man is allowed to work in his cell; on his requesting it, he is allowed to work in a great room, in common with other criminals who have been thought also fit for that indulgence, and they are classified according to age. Throughout all the time of his sentence, however, he is kept, according to the old rules of the philosopher Buddhaghuras, whom we call Pythagoras, in strict silence. The system of isolation is then changed into a system of silence. He works in company with other criminals in a trade which he has the liberty and latitude of choosing, but he is obliged to work in perfect silence, and even during the hours of recreation (which is taken in the form of walking two by two, one behind the other) a perfect silence must be kept. In fact, each prisoner is isolated mentally from his fellow prisoners by that silence. The diet of the prisoners is adapted so as to leave them in the most perfect state of bodily health possible. A bath is allowed once a week to every prisoner, and not only allowed, but enforced, if his state of health be such that he can bear it, and the strictest order is observed as to health and cleanliness, as being particularly desirable, elevating a man in his self-esteem. Any physical ill treatment or punishment, including hard words, is completely prohibited. In fact, the only punishment a man can receive for bad conduct is to be put again in his solitary cell, and to be deprived of light in a completely dark place, without the free ventilation of his cell being in any way endangered. For each prisoner a book is kept, marking his conduct, with the good and bad points; and he is allowed to shorten his sentence by his good conduct, a certain number of points representing a certain amount of time, which is taken away from his sentence. I believe in no European continental country the system of confiscation of property is adopted, except in Austria, for political criminals, and in Russia, and there only in the western provinces—the former Polish provinces; and there it is considered as rather a vengeance over the whole family, which is considered to bear the same thoughts and ideas as its family father, and is resorted to to paralyse the political influence and power of any family, a member of which may have

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John Dembinski,  
*continued,*  
22nd January,  
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Count  
John Dembinski,  
continued,  
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been involved in some political conspiracy or revolution. But a common criminal confiscation of property, I think, does not exist in any European state, and in Prussia is, of course, completely banished. A man may be sentenced to a fine, but he is sentenced by the judge, and the confiscation of his property is never regarded as a natural consequence of his being condemned, because it involves a punishment on his children or relatives, who may be perfectly innocent of his crime. Under the Prussian system, not only the man, after coming out of prison, gets back what he had before, but, having been taught a trade, and having worked at it, he often realizes, after having been a certain number of years in prison, a considerable sum of money. Each of the prison establishments is constructed, if I am not mistaken, to contain about 3500 to 4000 criminals, and realizes, in some part, the social Utopian idea forwarded in the last fifteen or twenty years, namely, laboring in common. The raw material for the tradesmen occupied in those prisons is bought in wholesale quantities with the aid of a sum allowed by the Government as a rolling capital to the establishment. The raw material is worked up by the prisoners, and a very strict calculation is kept, so as to allow, after the expenses of the establishment are covered, a balance of so much in each trade that the men have earned for themselves; and a sum equivalent to what a man has won by his labor is thus enabled to be given to him when leaving the prison. I regret that to that important matter, the one of administration, I can bring very little light, my attention having been more occupied by the religious and physiological results attained by the system. In fact, it was beyond my power to see a proper mercantile arrangement, so as to find out how much is to be left to each man for the labor he has done in the prison; the mercantile part of the prison arrangements is completely strange to me. The fact is, that a man, if he has industriously worked, gets, after coming out of the prison, a certain amount of money, which has been proved by calculations to be equivalent to the amount which he has earned by his labor, but the real and proper management by which this sum is found out I do not know. Now I come to a very important point of the system, that is, the circumstances in which a man is placed after leaving the prison. In most cases a man leaving a prison is considered by society as branded, and is not likely to get any employment or any labor,—any employer would choose in preference a man who has not been condemned. I however can state as a fact, that several employers of labor, and manufacturers, and several land-owners in the Province of Posen, my countrymen, and relatives of mine, have stated to me, that a man coming out of such a penal establishment, if he can produce a favorable account of his behaviour in the prison, is nearly sure of employ; and I have seen, by experience, that that is the case. Each man going out of the prison receives a document, stating how long he was in the prison and his behaviour whilst there, and how many good points he has obtained, and how many bad points he has obtained, and the balance of each. The document is rather a long one, and certainly would take an hour or two for a man to read over, if he thought that the matter was worth ascertaining, to ascertain if he would find any benefit from employing the services of a man coming to him and producing such a certificate. It goes into very strict details of the conduct of the prisoner during his imprisonment, and these land owners and several owners of manufactories of fabrics have told me that, if they had the choice, they would employ the services of a man having been in such a penal establishment in preference to those of a man who was completely free and who never had been in prison; and that for not any philanthropic consideration, but from the matter of fact consideration that they believed such a man, provided with a good document, to be far less liable to fall into dishonesty again, than a man who had not been in that prison; and besides that, the men there get an aptitude for labor, and an aptitude of speaking very little and thinking the more, which the manufacturers appreciate fully to be to their advantage as employers.

1939. *By Dr. Tierney.*—The fact is, that he is a better laborer?—He is a better laborer, and the employers have been taught by experience that he is far less liable to fall again into dishonesty than perhaps a man who never had been punished. The construction of the prison is a very simple one. In its general appearance it consists of two great lines crossing each other, and forming four yards enclosed by a wall going diagonally from the ends of each of those two great lines. The prison is divided into four quite different sections and the criminals are separated according to their age. The number of warders and official persons attached to each establishment, if I recollect rightly, but I cannot state it accurately, is one director, five sub-directors, and about fifty or sixty other persons attached to the establishment. All the work of bakers and washers is done by the prisoners themselves; and, for each establishment, including from 3500 to 4000 prisoners, I think there are, besides the director and five sub-directors, about fifty or sixty men, all the baking, cooking, and washing being done by the prisoners. The State does not obtain any profit from the labor of the prisoners, because, upon getting out of prison, each prisoner gets a certain amount of money, supposed to be the equivalent of the labor which he has done. Those establishments are thought to be self-supporting. After paying the expenses of the establishment, four and a-half or five per cent. on the capital advanced by the State is set aside out of the funds derived from the labor of the prisoners; but all that exceeds that, goes to the profit of the prisoners themselves. The system may be resumed, I believe, in two principal points—first, the belief that the self-reaction of the mind is the best cure for that moral disease called crime, or the propensity to crime; and secondly, the allowing a man to be well considered after going out of prison, if his behaviour in prison has been such that he can produce afterwards a favorable document of his conduct; in which case, instead of being branded and induced again to fall into crime by that horror which every one shows to a criminal after leaving prison, and by the difficulty of getting employment, he finds himself, in fact, in quite a reverse situation. When a prisoner is admitted to work in common with other prisoners, Sundays are devoted to mental recreation, and then he is at liberty to converse with a religious man of his own creed twice in the day, and the rest of the time he is allowed to be employed



with books which are forwarded to him by the religious societies of his creed. In fact, a little library of religious books is provided in each prison at the expense of the religious societies of the different creeds, and on Sundays a prisoner is allowed to read some of those books, but only when he is working in common with other prisoners. As long as he is secluded and alone, he is secluded from any converse, as well with books as with men, and is left entirely to himself. There is an idea promoted that an objection may be raised to the system, from the fact that a prisoner is not allowed to converse with any clergyman as long as he is completely secluded. That objection, it is said in the Statutes, would be perfectly right, supposing a man had never received any religious notions whatever, which may be the case in a heathen country, but in a Christian country like Europe such a supposition cannot be admitted. Every man there is supposed, in his childhood, to have had some religious instruction; and besides that, his own conscience awakens in him and shows him what is right and what is wrong, and his memory is called back to his days of infancy and innocence, and to the religious thoughts and instructions which were inculcated in his childhood, so that, even without the help of religious aid in books or speech, his thoughts are forcibly called to his moral and religious remembrances.

1940. *By Mr. Clarke.*—Have you not seen and known evil results follow from the mind giving way under such treatment?—The council of the director and his sub-directors have latitude to deal with that. They are appointed for that purpose. It is their most important duty to watch over the state of mind of the men, and to see how far they can bear the pressure of the self-reaction of the thoughts; because, really that curative mode is so exceedingly strong, that it could break the mind and bring madness. That is the principal objection which has been raised by many philanthropists and philosophers against that system of seclusion, that a man gets mad, and it would be so with any temperament, even the most idle one, if continued for a sufficient length of time.

1941. Do not cases of madness often occur?—The director and his sub-directors are obliged to have every day a revision of the cells, and to keep a watchful eye on the state of mind of the men. Before madness or breaking down of the mind would occur, a man feels himself so pressed, that he requires, and begs for the favor of getting some distraction, which is allowed to him by the director, after consulting his council of sub-directors; and that is allowed to him in the shape of physical manual labor. Then later, when his conduct is still improving, he is admitted to work in common with other persons, and that satisfies the necessity of society enough to prevent madness.

1942. *By Mr. Mc Combie.*—Occupation cures it?—Decidedly.

1943. What species of madness generally occurs?—It is peculiar to every shape of brain and mind.

1944. Is it melancholy?—Not always; it depends upon the organization of the brain of each individual.

1945. Generally speaking, what type is it?—It has its different development, according to the organization of the men.

1946. *By Mr. Clarke.*—Are the prisoners allowed any luxuries at all in those prisons?—No, none whatever. There is great cleanliness, and a diet which is adapted to the strength of the prisoner and to his state; that is, if he is alone in the prison without physical occupation he gets a different diet to that which he gets when he is allowed to work, or when he is allowed to work in company with others, which is observed to produce a greater amount of labor. Supposing a man to work to the utmost of his strength in a cell alone, which he always does, because it is a great distraction and divergence to his thoughts, he never does so much work as when working beside another; that is a fact which has been proved.

1947. *By Mr. Mc Combie.*—Is that reform which you have mentioned generally lasting—you say that after prisoners come out of this penitentiary they are thoroughly reformed?—I cannot state that fact.

1948. So far as you know?—At the Congress, in Brussels, it was stated that there was an extremely small amount of *recidives*, but the system has only been in work a small time. The statement produced at the Congress was intended to show that, for small crimes, such as larceny, not some of the great crimes, such as murder or forgeries, to which a man comes only by degrees, but small crimes where the prisoners were occasionally young when they came into prison, they got decidedly improved. The amount of *recidives* amongst those criminals was stated at the Congress, at Brussels, in 1852, to be extremely small, which is the reverse of the old system. It has often been argued that by great rigor and by a system of repression a criminal may get so frightened that he will not endeavor again to get under the same punishment. That has been urged by many persons; but it seems that the greatest of all punishments is death, and the sentence of death and the execution of it, however performed in public, seems to be a very small means of preventing further crime by example. It was proved by documents at the Congress, at Brussels, that the *recidives* of youthful criminals was very small indeed. Allusion was also, at the same time, made to the comparatively greater number of *recidives* of youthful criminals when punished under the old system, when a man sentenced for a short time for a comparatively little offence was brought in contact with men already masters in crime, and where he thought of a more cunning and a more skilful manner of acting in future. In fact, in the old system, where a man is not secluded completely from the other criminals, instead of being ameliorated, it is out of doubt, that he almost always becomes more vitiated. The new system has been in work long enough, nearly ten years now, to prove, most decidedly, that amongst young criminals—amongst persons who have been committed for the first time and amongst persons committed for small offences—the number of *recidives* has been extremely small, which may be accounted for by the fact that, under the new system, a man does not get more

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vitiated by the contact of greater criminals than himself, because, if not actually secluded, if working with them in a common room, he is still in fact secluded from them by the system of silence which is secured through the whole time of the sentence being passed. Even in the hours of recreation, no communication whatever is allowed between the prisoners in words or signs; it is prevented as much as possible, and the slightest offence against that rule is punished by a week or a fortnight's confinement, or more, in the solitary cell, during which time the man loses all opportunity of increasing the amount of money which would be given to him on getting out of prison, and also loses the opportunity of shortening the time of his sentence by working himself out by good points, which he might merit; for when a man is in his cell he can get no good points.

1949. *By Dr. Tierney.*—I think you stated that a clergyman or some religious instructors were allowed to go to the prison twice on Sundays. Are those clergymen or religious instructors paid by the State to attend the gaol?—I cannot answer pertinently to the question, but I believe they are delegated from some of the religious societies, which provide the books for the libraries. They must bring a document from the bishop, or chief clergyman, or abbé, a letter of recommendation to the directors, and then they are allowed to communicate with the prisoners. The same men are not permanently appointed, they are only delegated; and perhaps every Sunday, or every month or so, it is another who is delegated.

1950. Are the prisoners brought up and mustered in numbers, or are the clergymen allowed to go to them individually?—In numbers, according to the creed. Only in the Catholic creed, in cases of confession. There is a separate cell for the confessions.

1951. How long may a prisoner be isolated. What is the longest time you have known?—That is thoroughly dependant upon himself. The sentence of the magistrate is, that he is to be isolated completely for such a time; that is, for all the sentence.

1952. It may be for ten years, you say?—Yes, ten years is equivalent to the sentence of death under the ancient system; that is the maximum.

1953. To what extent may that be modified?—That a man may only be a month, or perhaps three months, or perhaps six months in his cell—it is completely according to his conduct.

1954. And according to the opinion that the directors have of him?—Yes.

1955. Have the medical officers anything to do with it?—Yes, there is very strict medical surveillance about the prisons.

1956. Do the medical men attend to the mental diseases of the prisoners as well as to their bodily diseases?—None whatever.

1957. Your doctrine is, that every prisoner is laboring under a mental disease?—That is the opinion of the system. Supposing a man is brought before a magistrate for a crime on which every man accords to say that he is mad—for even persons not partaking of the ideas of that system will believe a person mad committing certain acts—then he is sent to a lunatic asylum. Those persons are not sent to the isolation system, but only such persons as, according to the general view, are considered criminals and not mad. Such persons as any magistrate would consider not mad, that system considers as in a state of insanity of mind.

1958. You stated just now that you had been a prisoner yourself—was that for a political offence?—Yes; I was in prison four times in my life.

1959. For political offences?—Twice for political offences, namely, five months in Austria and twenty-two months in Russia, in chains, and twice for duelling; but that comes in another line of punishment. The prison for duels is in a military fortress, and a man is left for the term of his sentence, supposing say eight weeks, on word of honor that he will not go out of the limits of the fortress.

1960. Is every man taught a trade whilst in prison?—Yes; and a trade occupying not his mind but his physical powers—he is taught a manual trade.

1961. Does the work in the prison interfere with the free laborer. In English prisons it is not thought desirable, inasmuch as they say that the work of convicts would interfere with free labor. Is that the case in Prussia? Have the people any objection to it?—Yes, decidedly they have objections, and it is daily objected to in the newspapers; but Prussia has a government which acts a little in the military manner, and does not inquire so much about public opinion. The answer to this is, that the population in Prussia, according to the square miles, is far less than in Belgium or in England, and much more work can be done without producing any danger to the free man.

1962. In this country, where we have a small population, the work ought not to interfere with free labor?—No, I should think it would make a very small difference.

1963. Do you think it is a good system to classify prisoners according to their age and not according to their crime. Supposing a young man going in for a small offence put in the same room with a murderer, do you consider that a good system?—He is isolated by silence; he cannot communicate with his fellow prisoners; it is as well as if he was with the oldest men.

1964. He is not allowed to hear, or know, or understand anything the other men do?—No; he cannot communicate either by words or signs.

1965. Is there any corporal punishment inflicted in those prisons?—Never.

1966. Are men ever chained?—Never.

1967. Or flogged?—Never; any punishment bearing physical pain is completely prohibited, as well as in the lunatic asylum. I think the inflicting of physical punishment is completely abolished.

1968. *By the Chairman.*—As far as you know, do you consider that, so far as the Prussian system has been carried out, it having been twelve or fourteen years in existence, it has been

successful or a failure?—In my private opinion it has been decidedly successful, and in the opinion of the Congress of Brussels it has been decidedly successful.

1969. What was the composition of that Congress of Brussels?—It was a statistical Congress, to bring about an exchange of the statistics of all the countries of the world that would unite in it.

1970. And that statistical Congress pronounced this plan which you have been describing as successful?—As producing, in matter of fact, decidedly this result, that the number of *recidives*, that is, of persons who, after having come out of prison committed another crime, was exceedingly small in comparison with any other reforming or punishing system.

1971. *By Mr. Thomson.*—How long has this system been in operation?—I think it was in 1841 or 1842 that the first establishment was put in operation.

1972. *By the Chairman.*—How long have you been here?—About eight months.

1973. Have you been much in England?—Not at all, except for a few days when coming here.

1974. Do you think the criminals in Prussia are better or worse managed than here?—I believe in Prussia the average of intelligence is less than in England, and therefore that system would not work so favorably there as in a country where the intelligence is far higher, because it is a system which works on the intelligence of the men—it acts entirely upon the principle of the self re-action of the mind. The more intellectual man would feel it most acutely, whilst the mere brute would lie down in his cell and sleep.

*The witness withdrew.*

Mr. Alexander Willis examined.

1975. *By the Chairman.*—You have been a good while in the penal department I believe?—I was for nearly two years in the penal department here.

1976. And for several years in the penal department in Van Diemen's Land?—Yes, I was twelve years there.

1977. In what capacity?—I was a clerk in the office of the Comptroller General.

1978. Dr. Hampden?—Yes.

1979. How long is it since you left the penal department in Van Diemen's Land?—I left in July, 1852.

1980. When did you leave the department in this colony?—In May, 1855.

1981. What were you in the department when you were here?—Superintendent of the *Sacramento* hulk.

1982. What is the proportion of officers of all grades to the prisoners in the *Sacramento*?—There were different numbers at different times. There were from nine to twelve warders.

1983. About twenty altogether, clerks and boatmen, were there not?—Yes.

1984. And how many men does she accommodate?—About 121 or 123.

1985. The average would be about 100, I suppose?—No, she was always full after the first few months.

1986. Were the prisoners on board the *Sacramento* kept in irons?—Yes, she was stationed at Geelong, at the request of the Geelong people, to receive the prisoners tried in that district; so that all prisoners who came in under sentence, not of irons, did not have irons put upon them.

1987. The committee are anxious to get as much information as they can upon two points. The first one will be simply one for your opinion, whether the system of prison discipline pursued here is the best. The second is a question of fact, whether the system is carried out as it ought to be, in accordance with the regulations, and in accordance with the distinct dictates of humanity and justice, not only to the prisoners, but to the officers. If you could give the committee information upon those two points, or perhaps confine yourself to the latter, because the first would be more matter of opinion, perhaps it would elicit what they want better than could be done by question and answer?—There really was no system in my time, and there were no regulations to guide any person. When I received instructions from Mr. Barrow, on joining the *Sacramento*, I was furnished with certain regulations, and told to carry them out in so far as I found them applicable. They were old regulations, originally drawn up for the *President* punishment hulk, and were not applicable at all to the other hulks.

1988. Then you were put there as master, to do as you liked?—Almost. At Geelong I had full authority to act as I pleased.

1989. Did you ever find it necessary to submit prisoners to punishment without the intervention of a visiting justice?—I did occasionally. I found it necessary sometimes to iron men, that is all.

1990. Did you ever make use of the shower-bath?—No.

1991. Did you ever see it used?—No.

1992. Was there one on board your ship?—Yes; there was.

1993. What was it there for, if it was not used?—It was placed there to be used as a punishment.

1994. *By Mr. Clarke.*—Was there much punishment in putting a man into the bath?—A person of delicate constitution might receive a shock, but not otherwise.

1995. From the great fall of water?—No; I have taken a shower-bath there myself.

1996. *By Dr. Tierney.*—Have you seen the shower-bath on the *Success*?—Yes.

1997. Is that anything like the one on the *Sacramento*?—I suppose it is the same principle, except that it is fitted up in a different place.

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1998. Is the one in the *Sacramento* more severe than the one in the *Success*?—I have never been in the *Success* one; I have the other.

1999. *By Mr. Clarke.*—The officers then go in to take baths in the same shower-bath?—Yes.

2000. *By Dr. Tierney.*—Did you not write a letter recently from Castlemaine which appeared in the newspapers?—Yes.

2001. Will you state to this committee the purport of that letter?—It was simply to corroborate Melville's statement.

2002. Then you think Melville's statement was correct?—I have not the slightest doubt portions of it were correct.

2003. Which portions?—How he was treated on board the *President*.

2004. *By Mr. Thomson.*—Were you on board the *President* at the time Melville was there?—I was on board the *President* a portion of the time Melville was there.

2005. *By Dr. Tierney.*—You stated in your letter that you read Melville's statements?—Yes.

2006. And you stated that you considered the chief parts of Melville's statement were correct?—His statement was perfectly correct; that is, if I may believe the superintendent's (Mr. Horne's) own word for it.

2007. Will you state now any part of the system which you saw yourself that you considered wrong. Was Melville ill treated to your own knowledge?—He was not ill treated that I know of from my own personal observation.

2008. Then, from what you saw yourself, was he well treated?—He was treated the same as other prisoners. He was very troublesome.

2009. Still you say his statement was correct?—I say his statement was in the main correct.

2010. *By Mr. Mitchell.*—You say his statement was correct, but you do not know it was correct, except from what you heard from Mr. Horne?—Yes.

2011. Will you state what you heard from Mr. Horne?—Mr. Horne told me that he knocked him down himself. He was in the act of making a spring at the sergeant, and Mr. Horne was standing behind and caught him by the back and pulled him down, and then the sergeant struck him with a life-preserver.

2012. You do not consider that ill treatment under such circumstances, do you, if Mr. Horne saved the sergeant's life?—Certainly not.

2013. *By Dr. Tierney.*—Is there any other portion of the system in which you do not admire the treatment the prisoners received?—I cannot say that I do, because so much was left to my own discretion that I treated prisoners in any way I pleased, so long as they were not ill treated.

2014. Used the visiting justice to go on board the hulks?—He used to visit occasionally.

2015. How often?—At Williamstown, once or twice a week.

2016. Would the prisoners not be brought before him, if they were guilty of any misconduct?—Always, unless sometimes he would not wait until they could be brought to him.

2017. Did you ever see the warders ill use any of the prisoners?—Never.

2018. Nor the superintendent? Did you ever see Mr. Price strike a prisoner?—No; I never had an opportunity.

2019. Then, the fact is, you do not complain of the system at all?—I think it might be improved, no doubt, because there are no regulations and no system at all; everything is entirely carried on by Mr. Price's order.

2020. Do you think it necessary to keep the men in irons on board the hulks by night as well as by day?—If they have irons on by day, you cannot take them off by night.

2021. Do you think it necessary to keep a man in irons at all?—As a punishment, with some men it is necessary.

2022. Do you think it necessary when not ordered by the judge?—Certainly not.

2023. Have not the warders and yourself taken baths as well as the prisoners who have been ordered baths by the medical man?—A bath was never ordered by the medical officer on board the *Sacramento* whilst I was there.

2024. Supposing a bath was ordered, would you consider it any great cruelty?—Certainly not.

2025. Are you acquainted with the stockades?—I was living at Collingwood some time.

2026. Have you ever been over the stockades?—Only the Collingwood stockade.

2027. Is the prison discipline carried out properly there, do you think?—I have no means of knowing.

2028. I thought you said you were there?—I was living there for a short time before I went to the hulk; the stockade was only half the size it is now—that was in 1852.

2029. Could you suggest any improvement on the present system?—I never thought the subject over. I have been otherwise employed, and I am not prepared to offer any suggestions upon the point. I think the present system is too costly, and there is not an absolute necessity of keeping up such an immense establishment, and that, if it were concentrated more, it would be better.

2030. *By Mr. Clarke.*—Do you think the men would be safe without being in irons?—I think so.

2031. They have attempted to escape when in irons, have they not?—Yes, they can always manage to break them.

2032. Do not you think it would be much more likely for them to attempt escapes if they were not in irons?—I think it might be so, but not much more frequently than if in irons.

2033. *By the Chairman.*—During the time you were in charge of the *Sacramento*, did you ever see an instrument called a “neddy” used?—Never used—there were plenty on board.

2034. You never saw them used?—No.

2035. Did you ever see them used in any of the other vessels?—No; not that they would not have been used if there had been occasion for it and a prisoner had been refractory.

2036. When could that occasion arise—you have always five or six warders at command, have you not?—Yes.

2037. And if a man positively refused to go into his cell, would you consider that an occasion when a neddy should be used?—No. There are not always so many warders on the spot. There is a man called a locker, who unlocks the cell sometimes in company with a sergeant, and sometimes alone, and suppose a prisoner to assault him.

2038. *By Mr. Mitchell.*—Is the neddy a species of constable’s staff?—No; it is a life preserver; it is made of whalebone, with lead at each end.

2039. *By Dr. Tierney.*—Would not a constable’s staff be as useful?—You could not conceal a great stick as well; you could carry this in your pocket.

2040. *By the Chairman.*—Could not a warder cope with a prisoner without a life preserver?—No; I have seen a prisoner take three or four men to manage him. I remember a case where I had to handcuff a man with his hands behind him all night before I could make him quiet. I was obliged to secure him hand and foot. We tried all fair means first, but he would not be quiet.

*The witness withdrew.*

*Ordered—That this Committee be adjourned to Monday next, at half-past one o’clock.*

MONDAY, 26TH JANUARY, 1857.

MEMBERS PRESENT:—Mr. Hood, in the Chair; Mr. Patterson, Dr. Tierney.

Mr. George Wintle called in and examined.

2041. *By Dr. Tierney.*—You are the governor of the gaol of Melbourne?—I am.

2042. After the prisoners are sentenced, who removes them to the hulks, or to Pentridge? After sentence, if they are sentenced to labor on the roads of the Colony, they are removed from the side where they are awaiting trial, the south side of the gaol, to the labor yard; and there they are kept at labor, such as we can get from the Corporation—stone breaking—until Mr. Price has got room in his establishments; and then he comes and picks them out. The long-heavy-sentenced men he mostly sends to the *President* or the *Success*—men charged with unnatural offences are always kept in separate confinement; and the others he takes according to any previous history he may know of them, and disposes of them in various parts of the establishment.

2043. Then the committee are to understand that it is Mr. Price makes the selection?—Yes.

2044. And sends them on board whichever hulks he likes?—Yes.

2045. Or send them to the stockades?—Or to the stockades.

2046. Does he do that in your presence?—Of me or the head turnkey, or both.

2047. Irrespective of consulting you in the matter?—I am not consulted; I only remember his having spoken to me but once—about a man named McCabe, who was tried for a murder up the country, and sentenced to fifteen years—three years in irons. He asked me if I had known the man before, and I said I had known him to be in the constabulary. He sent him to Pentridge.

2048. *By Mr. Patterson.*—Mr. Price sent him to Pentridge?—He was sent to Pentridge.

2049. *By Dr. Tierney.*—Are you aware that prisoners not sentenced to work in irons or to be in irons, by the judges of the land, are taken on board the hulks and placed in irons?—By hearsay. Those men that were committed for the murder of Owens were brought to the gaol to me with very heavy irons on them. I found, out of the nine prisoners I received, on examination after their trial, that the sentences to irons of eight of them had expired. One of the name of Fielder, who had been sentenced to fifteen years, three in irons—I found the term of his sentence had not expired, and I put light irons on him, and he is in irons now.

2050. What I asked you was, whether men who had been sentenced to work on the roads without irons had any of them been placed in the hulk *President* or on board any of the hulks in irons?—I have heard so; but I have never been on board the hulks since Mr. Price has had them. I do not send them away in irons.

2051. Men who are not sentenced to be in irons, have they been removed out of your custody on board the hulks in irons?—Yes; there was a lot of men removed from the *President* when she was leaking; I think there were forty or forty-four.

2052. *By Mr. Patterson.*—Long sentenced men—are you in the habit of putting irons on them, unless especially sentenced to irons by the judge?—No, unless specially sentenced by the judge. I might, certainly, in any extreme case. Supposing I thought that any man had shown such a disposition to get away, or to ill use my officers, then I do not think I should hesitate to put him in irons; but I have not had occasion to do so.

2053. Never?—I think not.

2054. *By Dr. Tierney.*—Do your officers use “neddies”?—No.

2055. Do you instruct or allow them to carry them about?—No.

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continued,  
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Mr. Geo. Wintle,  
26th January,  
1857.

Mr. Geo. Wintle,  
continued,  
20th January,  
1857.

2056. Not instruments loaded with lead, called "neddies"?—No, all they carry is the common constables' baton.

2057. *By the Chairman.*—You said a short time ago that Mr. Price went round. After a general gaol delivery you meant?—Yes.

2058. He goes round and musters the prisoners, I suppose?—No; they are mostly in the labor yard.

2059. Does he take the muster book?—We hold the muster book.

2060. And Mr. Price sends some of the prisoners to the hulks, some to Pentridge, and some to Collingwood?—Yes.

2061. Is that marked opposite their sentence—is there any sort of entry goes in that muster book at that time?—Yes, an entry is made in order to facilitate the preparation of the warrants for their removal.

2062. Then it is within your knowledge that men simply sentenced to so many years on the roads have been sent to the hulks?—Yes.

2063. Purely from Mr. Price's authority you have known that done?—Mr. Price picks them out for the different stations, and are forwarded on warrants of the Governor.

2064. You mentioned the case of a man named McCabe?—Yes.

2065. Why was not he sent to the hulks, do you know?—I do not know anything particular; Mr. Price thought, perhaps, he was a quiet man.

2066. McCabe's case is an exception to the general rule of sending long-sentenced men to the hulks?—To the general rule.

2067. There was an investigation took place at the gaol some time ago into a case of attempted unnatural offence, in the case of a boy, some eight or ten months ago, named Jenkins. Do you know that case?—Yes.

2068. Jenkins says he was threatened in your presence by Mr. Price, and in the presence of Dr. Youl, that if he did not give evidence to commit the man he would send him to the *President*, and that Mr. Price said, "If I was to give you a remission of your sentence, you would tell the truth." Did you hear any such observation as that?—No; Mr. Price seemed dissatisfied with the manner he gave his evidence, and some remark was made that he would send him to the *President*. He was sent to the *President*.

2069. And three or four months were then up?—There must have been some time passed.

2070. That is one case you know of, where a prisoner not sentenced to chains was put in chains?—Yes.

2071. There was an investigation some time ago at the gaol, in the case of a man who claimed money which he said was taken from him and not returned. It was the case of a man who claimed £1100, and said that only £800 had been returned to him. Could you furnish this committee with the results of that investigation, or the notes of it, if any notes were taken?—That was the case of McCoy.

2072. Are all prisoners searched in the gaol or the police office?—They are mostly searched before they come to the gaol, and always on their arrival in the gaol, and all moneys found upon them is taken possession of and entered in the gaol books. In the case of this man McCoy, on being brought to the gaol, there was found by my turnkeys a quantity of money, which was handed over to me that evening. It was reported by the head turnkey to me that the man was dissatisfied, and said that there ought to be more money by £150. They were all in £50 notes. I desired another search to be made, and then he gave up £400 or £450. He still adhered to his statement that more money had been taken away than was given up to me, and I brought it under the notice of the sheriff the following morning, and the money taken from him, which I had in my possession, was paid over to the sheriff; and an investigation took place before the sheriff and Mr. Harrison, the then visiting justice at the gaol.

2073. Did he tender proof that Rowley had taken the money?—No; nothing more than his own word.

2074. Did an investigation take place before Dr. Youl?—No, but there was a second one, after the man got his ticket.

2075. Was there any evidence taken at all?—Yes.

2076. Were there notes of that evidence taken?—Yes.

2077. What became of them?—I do not know. They were taken away by the chairman.

2078. That was a special board for that special case?—Yes; and a copy of the depositions was sent to the Chief Secretary, I should suppose.

2079. *By Dr. Tierney.*—Who was chairman?—I think Captain Mac Mahon.

2080. I believe you have Melville and some of those other prisoners in the gaol at the present time?—I have nineteen of them.

2081. Is there room to keep them without putting them on board the hulks, without putting them in irons and exasperating them?—If the prisoners were to be removed according to their sentences by Mr. Price, we might be able to keep them there; but we are forced to find room for all the prisoners convicted up the country, and to receive all sentences from magistrates. We are now full; there are two hundred prisoners in the gaol now.

2082. What I want to know is this, could not prisoners convicted of lesser crimes be removed to Pentridge and other places, and leave you those prisoners who are doubly convicted? No, I do not think an arrangement of this kind could be effected in the present state of the gaol.

2083. Have they been well behaved since they came under you?—I have had no trouble with them. I mean Melville and the other eighteen prisoners.

2084. You have had no necessity for using violence or force with Melville or any of those men?—No.

2085. How many men have you at work at stone-breaking?—Seventy-nine men.

2086. Would there be any danger in placing those men to breaking stones—Melville and those others?—I do not say there would be any danger.

2087. Would you be afraid of any bad result from it?—No; they would want to be very carefully watched; it is a very natural thing that men with thirty years over their heads should try to escape.

2088. *By the Chairman.*—Do you know a boy named Macdonald?—Yes.

2089. Do you consider him an irreclaimable character?—No; I should think a young lad like him without being steeped in crime before, if he was kept to himself, or from others, you might turn him out a good member of society.

2090. Are you in the habit of receiving prisoners from the Police Bench, under summary jurisdiction and short sentences?—Yes.

2091. Men are sentenced to three, six, nine, and twelve months, who never go before a judge and jury at all, but come up directly to you?—Yes, frequently.

2092. Are those who come to you simply on a charge of vagrancy treated the same as those sentenced for felonies by judge and jury?—As far as labor goes, if they were sentenced to labor, we could not make any difference, unless we had more room.

2093. Their hair is cut and everything the same as with other prisoners?—No, I never put the prison dress on them. I give them an odd article now and then as they require it. A man for seven or fourteen days, or even for a month, I should not cut his hair so close.

2094. We have had it in evidence from more than one witness that, to use an expressive phrase, it is all "bosh" to expect to reform prisoners; that it is hopeless to attempt it. Is that your opinion?—No.

2095. *By Dr. Tierney.*—Would you object to give us your ideas of penal discipline?—I should not object to answer any questions that may be put to me.

2096. Would you put men who had been sentenced by a judge of the land to ten years or to six years to work on the roads, in solitary confinement, and in irons?—Not unless sentenced by the judge.

2097. Do you not think putting men in irons, when they have not been sentenced to it, exasperates them?—It is annoying to them, no doubt about it.

2098. Would you put men found guilty of murder or bushranging in the same community with persons found guilty of lesser crimes, such as larceny?—I would not, if I had proper accommodation.

2099. I suppose you believe that a penitentiary is required for females?—Yes.

2100. And also a penitentiary for boys and girls?—Yes; there are twenty-six children in the female gaol now.

2101. *By Mr. Patterson.*—Of what age?—From eleven downward.

2102. *By the Chairman.*—Under eleven?—From eleven to one. I should say their mothers come in there, and sometimes they are sent by the bench. I had two boys sent down from Castlemaine.

2103. *By Mr. Patterson.*—What was their offence?—I do not suppose their offence was anything, but the magistrates do not know what to do with them. They send them into the gaol to take care of them—picked up in the streets.

2104. *By Dr. Tierney.*—Are you in favor of the solitary or silent system?—I think the solitary; I do not approve of the silent system.

2105. Do you think every man ought to be worked if sentenced by a judge?—If they are employed it keeps them out of trouble. It is a dreadful thing to have men and women unoccupied.

2106. Do you think the mind ought to be occasionally occupied, such as by reading and writing, and the consolation of a clergyman?—Yes.

2107. If we had proper prisons, do you think many of our prisoners could be reformed?—Yes; I think exposing our prisoners makes their minds very unsettled. Even working down at Williamstown and seeing the ships going backwards and forwards, and seeing people moving about, makes them dissatisfied.

2108. Do you think it is necessary if a prisoner rebel against the overseer, to crack his skull, or to use very great violence to restrain him?—A prisoner rebelling would require to be placed under proper restraint for the safety of the officers and for the preservation of the other prisoners.

2109. Suppose there were four or five men present to restrain the men from violence?—I would not approve of using violence in that case.

2110. In fact, it exasperates the prisoners?—It does not do any good either to the guard or to the prisoners.

2111. Do you think you can effect more good with the prisoners by being kind to them? A great deal may be done by kindness, but a good deal of firmness is required at the same time.

2112. *By Mr. Patterson.*—Do you think that Mr. Price, in making his selection of convicts to be sent on board the hulks, is unfair on any occasion in his decision?—I do not think he acts unfairly.

2113. Do you consider he rejects those he should take, and takes those he should not?—I should suppose he takes them according to the best of his judgment, to do the best he can for the country.

2114. *By Dr. Tierney.*—Still you are occasionally of a different opinion?—At times I might be. I do not know that I have taken particular remark.

2115. Do you approve generally of the selection he makes of those men he takes away?—

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continued,  
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Men sentenced by the magistrates under the Vagrant Act—I would not approve of those being put on board the hulks; but I cannot say whether he has taken any. I know there have been short-sentenced men sent backwards and forwards.

2116. You generally approve of the men he takes?—The long-sentenced men I do.

2117. Do you not think that the governor of the gaol, and perhaps the medical officer, or the visiting justices, might be consulted, that there might be a board formed to remove prisoners to the hulks from the gaol?—I think a board of two or three gentlemen at any time would be better, I should say in the punishing even of one man.

2118. Suppose the selection were left to yourself, would you rather have the responsibility left with yourself, or have a board who might pronounce on your decision?—A board, decidedly.

2119. *By the Chairman.*—Have you ever been on board the hulk *President*?—Yes.

2120. Do you consider that there is any necessity for keeping those even in irons, and each in a separate cell?—I should not think there was a necessity for keeping them in such heavy irons.

2121. *By Mr. Patterson.*—But you would consider it necessary that they should be kept in some irons?—I should not like to have many of them up on the deck at a time.

2122. *By the Chairman.*—With twenty warders, do you think there would be any danger of having ten at a time?—No, I think not. I was on board the *Phoenix* hulk, in New South Wales, when I arrived first in the Colony, and we used to have 200 or 275, and we had all the prisoners going to Norfolk Island; and we had a military guard consisting of twelve men over them—but all the warders we had were six.

2123. Do you think it necessary for twelve warders and eight other officials to be on board the *President* hulk, where there are only forty prisoners?—No.

2124. What proportion does it require at the gaol of turnkeys, warders, and clerical assistance of all kinds, yourself included?—I have twelve turnkeys, two head turnkeys, an overseer of labor, and there are two clerks and myself.

2125. What is the average number you have confined there?—The average number is about 200. I have had 385.

2126. *By Mr. Patterson.*—Did ever any make their escape from gaol?—Only one I think from the inside. There were others.

2127. Were they out of the gaol?—Yes.

2128. How many?—Two were out of the gaol, and one is away.

2129. The other was re-taken?—Yes. When you look at the hulks—I have good walls and the hulks have not. Then along with those men, I have the assistance of the military; the military are outside.

2130. How many military?—Six on guard.

2131. At one time?—Six guard; but there are two sentries only on out of the six.

2132. *By the Chairman.*—Do you consider that, if those two sentinels were taken away, the prisoners would any the more readily escape?—I consider my prison would be safe without them; but decidedly the name of the guard is a check.

2133. You made the remark, that the gaol had a high wall round it. Do you think a mile of water is not as good as a wall; that a vessel moored a mile away from the beach is not as good as a twenty foot wall?—Many a man will chance getting into the water if he saw an opportunity, when he would not scale a wall. If I was on board the hulks, I would try and swim ashore, if I had the chance.

*The witness withdrew.*

William McCrea, Esq., M.D., called and examined.

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M.D.,  
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2134. *By the Chairman.*—You are the Chief Medical Officer for the Colony of Victoria?—I am.

2135. Would you state to the committee the nature of the authority which you exercise over the penal department of the colony?—I have control over the medical officers in the penal department now. Last year there were two officers; now there is only one. Dr. Wilkins had charge of the hulks, and Dr. Webster, the Military Medical Officer, had charge of the stockades at Pentridge and Collingwood. That system has been altered since the 1st of January. I have charge now of the stockades at Pentridge and Collingwood, in addition to my other duties.

2136. What was the cause of Dr. Webster's removal or resignation?—It was to reduce the expenditure.

2137. You had a resident dispenser, of the name of Goy?—Yes, he has resigned.

2138. Why?—I believe, because he was dissatisfied with his situation. It is an onerous and disagreeable billet. That is what he stated to me as his reason.

2139. The committee has had it in evidence that the authorities have been in the habit of chaining men to a stone for as many as fourteen hours out of the twenty-four; in fact, from daylight to dark, for weeks together as a species of punishment. Do you know that, of your knowledge?—I never heard of it.

2140. Would you consider, as a medical man, that it would be a safe punishment to inflict. Would it not be probable to bring on disease of some kind?—It depends whether it is done out of the house or in it; in the sun or out of it. In the hot sun it would not be a very healthy thing—no question about it.

2141. *By Mr. Patterson.*—Could such a thing occur in that stockade without your knowledge?—Before the 1st of January I was not visiting the stockade; it was my officer who



was visiting them. Excepting on some extraordinary occasions, as in the case of a lunatic, or of some operation that required the assistance of another medical man, I did not visit the stockades; but if there was any complaint against the medical officer I did, on these occasions, visit them. Since the 1st of January nothing of the kind could have occurred without my knowledge.

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continued,  
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2142. *By the Chairman.*—Do you not think that kind of punishment would be apt to lead to fistula?—Certainly not; if a man had fistula, it must arise from some other cause.

2143. I believe disease of the eye is prevalent there—do you know the cause of that?—I think it is from the dust. It is occasioned by men working outside in the dust, and by the chippings of stone and those kinds of things. Diseases of the eye are more prevalent at Collingwood than in Williamstown, and I attribute it to the dust—there is an immense quantity of dust at Collingwood and Melbourne.

2144. In prescribing for that disease, or any other disease, what check have you over the medical officer in charge that your prescriptions are carried out. Heavy complaints have been frequently brought forward by discharged prisoners that they did not take the medicine, because they had not confidence in the dispenser; that he weighed or measured the drugs in the case of a prescription ordered by the medical officer?—We are obliged to trust him. We have, in the first place, a man who is a member of the Pharmaceutical Society at home, and a very good dispenser; at the same time my office is always open to any complaints that are made against the dispenser, through the visiting justice or Mr. Price; and complaints have been made by Mr. Price, and I have had occasion to take notice of them.

2145. You have no proper hospital at Pentridge?—A very good one is building on the representations which have been made by Mr. Price and myself. The present hospital accommodation is totally inadequate.

2146. Do you think, where men are really sick, and you, as the medical officer, are visiting them, having placed them on the sick list, that it would be right to take their irons off?—In some cases, but not in all. If you did, you would have every man in the place sick.

2147. Have you the means of telling whether the men are shamming?—In some cases we have; but even if a medical man discovered that a man was shamming, it would not be good policy, nor is it the practice on the part of medical men to let him know that you are aware of it. When a man comes on the sick list and complains to me, I treat him accordingly; for instance, to-day I was at Pentridge at six o'clock, and a man came and complained, as to whom I was perfectly satisfied that nothing was the matter with him. At the same time I adopted towards him such treatment (as I always do in such cases) that, if he were ill, would do him good, and if not, would be a punishment to him; but I never suppose a man to be coming to me and telling a falsehood. If I have reason to suppose a man is shamming, I examine the symptoms; and, as I have said, if he be ill, he is relieved; if he be shamming, he is punished. One of the things I look to is low diet. Most of the complaints that men bring before me are of such a nature as that low diet is the best way of treating them, and if they are really ill, it will do them good, and if not, it is a punishment.

2148. What is low diet?—Three ounces of arrowroot in a day, made into two basins; one in the morning, and one in the evening.

2149. Do you not think that it could be increased with advantage?—How do you mean? You mean in exceptional cases, of course. Excepting in a case of an operation, or anything in which it is necessary for a man to be put upon higher diet, I always put him on a low diet; but if I see a man's complaint is such that really a better diet would do him good, I put him on better diet.

2150. It is wrong to have huts twenty feet by eighteen by twenty, for sixty men?—A hundred and twenty cubic feet I consider too little; but I have seen sailors in less, who were very healthy. I have been myself in less, and very healthy. I passed nearly three years on the coast of Africa, in a sloop, in which my cabin was only six feet long, by four feet wide, and about four feet eight inches or five feet high, in some places with two beams across it, so that my head was raised so much at night that my nose was within three inches of the beam; and I was never better in my life. I have seen men in the lower deck of a ship, where the deck was not four feet high, and their hammocks stowed in fourteen inches, and yet they were healthy.

2151. Have you any check upon the medical comforts, that they are really given?—Yes; we have had complaints about that from the prisoners, who can always make complaints when I see them. The prisoners themselves would complain if there was anything wrong in that respect. The prisoners are a check upon the medical man, and it is my desire that the prisoners should be treated, not with a view to punishment, but with a view to relief; and my officers under me have acted upon that principle, and if the prisoners did not get the medical comforts they were ordered, they would complain directly.

2152. Do you recollect the case of a man at Collingwood, named Benson, who was sent to the lunatic asylum?—I cannot call it to mind.

2153. He was supposed to be shamming illness, and was treated as having been shamming, and he was punished, I believe, besides; he was then sent to the Yarra Bend, and died in about a month or six weeks?—I do not recollect the case.

2154. Dr. Youl was visiting medical man?—When I first came down to Melbourne he was visiting surgeon to the gaols and stockades.

2155. Do you know who gave him that appointment?—Mr. La Trobe; It was before I took charge of the department.

2156. Why did he give it up?—Dr. Youl gave it up on account of being appointed acting coronor when Dr. Wilmott resigned; Dr. James McCrae was appointed in his stead.

2157. *By Mr. Patterson.*—Do you know anything of prison discipline?—Something of it.

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M. D.,  
continued,  
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2158. Do you know anything of it in any other country than this?—I have seen prison discipline at home, and have had charge of convicts myself.

2159. What is your opinion in regard to the management of convicts here as compared with other countries—do you consider they are more severely treated here in their management?—I do not think so.

2160. Are they more leniently treated?—I do not think there is much difference as far as that is concerned.

2161. Do you think they are equally well treated here as compared with Great Britain?—In what respect?

2162. I mean in every respect; first, with regard to provisions?—Unquestionably.

2163. Their mode of discipline?—Yes; there is one thing in this country defective—there is not by any means sufficient accommodation; but, with regard to provisions, I think the convicts are as well treated here as anywhere.

2164. There has been a great deal said with regard to cruelty exercised at the stockade, and places which you as medical officer have charge of. Have you ever been an eye-witness to any extreme cruelty exercised on the convicts?—Never.

2165. Do you believe there ever has been?—I do not. If any cruelty involving health had taken place, I think the medical officers of my department would have represented it to me, as it would have been their duty to do. Since I have had charge of the stockades myself, there has been no cruelty of any description to lead to any injury to any man. There may be of course any amount of cruelty without my knowledge.

2166. But you do not believe it?—From the opportunities I have had of seeing it, I do not believe it has been committed; I am only speaking of course as far as my knowledge goes.

2167. You say you have never known any cruelty to be exercised. Have you ever known within your personal knowledge that Mr. Price has behaved with the greatest consideration to prisoners when they have been unwell?—Several instances I have known of. There is one man I have known who is an instance, who is at Pentridge now.

2168. Have you any idea of Mr. Price having done as has been stated, namely, cooked arrowroot and sago with his own hands?—I do not know as to his having done so with his own hands, I have known him give those things out of his own house.

2169. And he was not repaid for it?—No, he has constantly been in the habit of giving butter, milk, and fowls from his own stock.

2170. You know from your knowledge that he has been extremely kind to the convicts?—No doubt about it.

2171. And attentive, where he has thought that the convicts have been deserving of it?—Yes, no doubt of it.

2172. *By Dr. Tierney.*—There has been something on record of a man on board the hulks who was dissatisfied with Dr. Wilkins, the medical officer, and wished to have another medical man's opinion, and that you refused to see him—a man of the name of Thompson; can you explain that?—That is the name. I have the papers in my hand. It is a remarkable case, and I can explain it very shortly. A little time before this affair occurred the district surgeon sent to me to say that there were orders that the visiting justice and himself should visit the hulks once or twice a month. I sent to him, in reply to this, to call on the visiting justice and appoint a day with him, that they might visit; thinking it was simply necessary to mention a thing of that kind. He did so. The visiting justice, in return to this, made a reply that he would visit the prisons what day he liked, and it was the duty of the medical officer to attend him when he pleased, and he was not aware that the medical officer had anything to do with his department. I think that was about the substance of it. But it is all in writing in these papers. This was reported to me by the district surgeon of Williamstown. I certainly was somewhat astonished, and I communicated with the Chief Secretary, requesting that Mr. Pasco might be instructed to make an appointment with the district surgeon. That was the beginning of this affair. But the whole state of the case is fully developed in the correspondence which I now hand in.—[*Vide Appendix T.*]

2173. It has been represented to the committee that the shower-bath has been used on board the hulks as a punishment, and ordered by Dr. Wilkins?—Such a thing has not been reported to me, but my instructions to the officers are, and I have every reason to believe they are carried out, that nothing shall be given to the men as a punishment. It is distinctly and clearly understood by the officers in my department that no punishment of any description is to be ordered by them.

2174. Would you consider that the shower-bath was a very great punishment?—It would depend upon circumstances.

2175. Would one of your medical officers be justified in using the shower-bath if he thought a man was in good health and shamming lunacy?—If he thought it was such a phase of lunacy that it would do him good, he would be perfectly justified—it is a powerful remedy.

2176. If a prisoner was shamming lunacy would the medical officer be justified in applying blistering lotion to his head, and back, and legs?—If he was shamming any disease of the brain, he would be perfectly justified.

2177. Do you think, from what you know of Dr. Wilkins, that he is a humane man or otherwise?—I have not the least doubt of it. The prisoners have all ready means of complaining through Mr. Price, and he has complained several times.

2178. Do not you think that if there is any cause of complaint against your medical officers, it would be a great deal better that it should come directly to the head of your department than to Mr. Price. Would there be any objection to that?—The complaints would not come to me

in that way—the prisoners would complain to Mr. Price, “I do not think the medical officer is treating me right,” and Mr. Price would bring that complaint to me.

2179. *By the Chairman.*—Do you not think that it would be advisable, before any severe measures were applied to any party suspected of shamming, that more than one medical man should give his opinion upon the case?—I do not.

2180. Supposing the medical man were wrong, and the man was not shamming, would not it be a hard case that the man should be blistered from the crown of his head to the sole of his foot?—In the case of that kind at Pentridge stockade, Dr. Webster had my advice and my opinion that the man was shamming, and he got well soon after.

2181. He is still in custody, is he not?—I do not know what has become of him since he gave in and acknowledged that he had been shamming, but whether that is the man in question, I cannot say.

2182. *By Dr. Tierney.*—Have you anything that you wish to state to the committee?—Nothing, except that I am very anxious to see better hospital accommodation than there is at present.

2183. I believe you brought that subject under the notice of the late Governor?—It was at the suggestion of the Inspector General and myself that that hospital was commenced.

*The witness withdrew.*

*Adjourned to Wednesday next, at one o'clock.*

### WEDNESDAY, 28TH JANUARY, 1857.

MEMBERS PRESENT:—Mr. Hood, in the Chair; Mr. Miller, Mr. Mitchell, Mr. Patterson, Mr. Thomson, Dr. Tierney.

Mr. Malcolm Marcus Smith called in and examined.

2184. *By the Chairman.*—What office do you hold?—I am superintendent of the *Sacramento*. Mr. M. H. Smith,  
28th January,  
1857.

2185. How long have you held that appointment?—I got my appointment on the 7th of May last; in June last I came into the hulk.

2186. How many prisoners are there on board the hulk at the present time?—With the six sailors, 130.

2187. You are superintendent?—Yes.

2188. Have you one chief warder?—Yes.

2189. And how many ordinary warders?—Seventeen; that is, including the two boatmen.

2190. How many overseers?—Two.

2191. Are there any other officers?—A shipkeeper and a storekeeper.

2192. Any clerks?—The storekeeper is both clerk and storekeeper, and there are two lockers and a sergeant.

2193. Your salary is £400 a year?—Yes.

2194. And what is the chief warder's salary?—£300.

2195. And the lockers—how much?—Ten shillings and sixpence a day.

2196. And the ordinary warders?—The sergeant has twelve shillings a day; the shipkeeper fifteen shillings a day, and the clerk and storekeeper £275 a year; the overseer fifteen shillings a day, and the ordinary warders ten shillings.

2197. That would be twenty-six officers and warders altogether?—Yes.

2198. Do you consider the whole of that staff necessary for the safe keeping of the men?—I do not see how it could be very well cut down.

2199. Perhaps you are not aware that prisoners can be kept in the hulks at Woolwich with one fourth of that staff?—I never was at Woolwich. I joined the service in Van Diemen's Land in 1841, and I have been nearly five years here. I was one of the first that was appointed.

2200. Are the prisoners in the *Sacramento* kept separate?—No.

2201. How many are there in a cell?—Three or one.

2202. *By Mr. Mitchell.*—If the vessel were larger, so as to contain double the number of prisoners, would the same number of warders be capable of controlling the whole?—The same number of officers would, but we should require more warders.

2203. What proportion of warders?—We have a warder to every five men now; if we had double the number of men, I should require about five more warders.

2204. *By the Chairman.*—That would be a warder to every twenty men?—The actual ship's duties could be performed with the same number of warders, but we must strengthen our shore guard.

2205. What class of prisoners have you on board the *Sacramento*? Are they men who have been previously on board the *President* or *Success*?—I suppose nearly all the men that I have, with the exception of those who have come direct from the gaol, which is not a very large number, have been on the *President*, and that within the last eighteen months.

2206. Was there on board one of the hulks a sort of *émeute* a short time ago? They struck work for a day or two, did they not?—Not to my own personal knowledge; I heard so.

2207. That was not on board the *Sacramento*?—No.

2208. What vessel was it on board?—The *Success* I heard, but I cannot say whether it is true or not. I only speak from hearsay.

Mr. M. H. Smith,  
continued,  
26th January,  
1857.

2209. *By Dr. Tierney.*—Have you a bath on board the *Sacramento*?—Yes, a shower-bath.
2210. Is it a very severe one?—It is a very good shower-bath; it has never been used but once, and that was on an occasion when a man had lock-jaw, and we struck his irons, and put him in the shower-bath. That was the only time it was used.
2211. *By the Chairman.*—And that cured the lock-jaw?—The sudden shock cured it. It was used under Dr. Wilkins's orders.
2212. *By Dr. Tierney.*—Have any prisoners been punished on board the *Sacramento* by means of the shower-bath?—I never knew of one.
2213. What height is the bath?—About six feet four high, and just large enough for a man to stand in.
2214. Would you have any objection to take a bath in it yourself?—Not the slightest in the world, if I wanted one.
2215. *By the Chairman.*—When a man is put into that shower-bath, is there an unlimited supply of water?—He is never put in except by order of the doctor, and then we have nothing to do with the quantity.
2216. Who has command of the stop?—The doctor.
2217. *By Mr. Patterson.*—What is the size of the *Sacramento*?—300 tons.
2218. *By the Chairman.*—If you had not these six refractory seamen on board, would you require to have the services of two or three more men?—Yes.
2219. So that it is in reality thirty-one men to manage the 124?—The sailors have nothing to do with the management.
2220. But they are required?—They are merely required because they are safer than penal men to pull the boat.
2221. Would you make the prisoners do it if you had not them?—We should have to make the prisoners do it, although it would not be so safe. The sailors are equally with the prisoners sentenced to hard labor, but for short and in fact uncertain periods only.
2222. *By Mr. Miller.*—How long have you been a superintendent?—I joined in September, 1852, and took charge of the Richmond stockade.
2223. Then you must be one of the oldest superintendents in the department?—I am the oldest.
2224. Have you had an opportunity of seeing the treatment of prisoners in any other Colony than this?—I was appointed superintendent in Van Diemen's Land in 1841, which appointment I held for many years, until the breaking up of the system.
2225. Is the treatment of convicts here more severe than it is in Van Diemen's Land, or the reverse?—I should not say that the treatment is more severe here, further than that the orders are more strictly adhered to and carried out.
2226. Did they resort to corporal punishment in Van Diemen's Land?—They did.
2227. Is there any corporal punishment administered here?—No.
2228. Not in any case?—Not in any case.
2229. Have you had an opportunity of observing the general conduct of the present superintendent, Mr. Price?—I have.
2230. Do you consider that his conduct has been tyrannical and unnecessarily severe?—I have never seen it so in any of the establishments I have had charge of under him—decidedly not.
2231. What is the general opinion of the convicts themselves as expressed with regard to Mr. Price's conduct?—I could not arrive at that from them with propriety. I could not as an officer receive or hear such expressions of opinion.
2232. You have not been able to ascertain that?—Most decidedly not; they would not give it to me as an officer, or would it be of any proper value if they did.
2233. How would you yourself characterise Mr. Price's conduct with regard to those points as to being tyrannical and unnecessarily severe?—I should say, most decidedly, it is not the case.
2234. Then are the committee to understand that, in your opinion, the discipline adopted with regard to the convicts here is not unnecessarily severe?—It is not unnecessarily severe, and in proof of it, I would instance my own ship, where the average number of men brought before the magistrates during the last twelve months is one half per cent.
2235. The *Sacramento* is not a punishment hulk, is she?—Not the worst.
2236. Is she understood to be a punishment hulk?—It is a punishment hulk of course, but still it is a step nearer to the stockades on shore; a removal to them being regarded as an indulgence.
2237. Have the convicts under your charge an opportunity of reforming in any way if they desire it?—I believe that every means is given them. We have a religious instructor, and we have plenty of books, and plenty of slates, and clergymen can visit if they like.
2238. Is there any case in which these convicts under your charge have shown any marks of reform?—I am sorry to say, not.
2239. They have not?—No; a vast number of the men that I now have I had before in Van Diemen's Land.
2240. What is your opinion of the class of convicts in this Colony—the men in those hulks? Do you consider those men capable of reform, or do you consider them such men as are stated in England to be men that are not capable of reform?—I would not like to go so far as to say that any man is perfectly irreclaimable, but I believe their reform is very problematical.
2241. What has been your experience as to its being possible to reform those men by ordinary means?—I believe it is not.

2242. That is your opinion?—Yes.

2243. Are you aware that a similar opinion has been expressed by the late Governor, I think, of the Coldbath Fields Prison in England?—I am not aware of that. I have had the same men under a third conviction in Victoria, and I have known them to be bond in Van Diemen's Land.

2244. Then your object is to enforce the safe custody of those prisoners and their punishment?—Decidedly.

2245. That is the object of the hulks?—Most decidedly; and with the view of deterring crime.

2246. Will you tell the committee whether that object is carried out in an unnecessarily cruel manner, or not?—Most decidedly not—quite the reverse.

2247. Have there been any religious instructors allowed to visit the prisoners in the hulk under your charge, and afterwards prevented from doing so?—They have been allowed, but none ever prevented.

2248. Are you aware that, in some of the other penal establishments here, a stop has been put to the visits of religious instructors?—I cannot say that I am aware of it.

2249. You have not heard of that?—I may have heard it; but I do not know it.

2250. You do not know it from your own knowledge?—I do not.

2251. In the hulk under your charge no religious instructor who wished to see the convicts has been prevented from administering such religious instruction or consolation as he might think fit?—Never.

2252. Are the committee to understand that?—Most distinctly.

2253. I presume that no tobacco or other luxuries are allowed to be given to the prisoners in the hulk under your charge?—No, nothing but what is allowed under existing Government regulation.

2254. In all the penal establishments that you have had charge of and seen, is it not the custom invariably to debar convicts under punishment from any luxuries whatever?—Yes.

2255. Do you think it would be advisable to introduce a modification of that arrangement and give them those luxuries?—No, I do not. I have seen it tried in Van Diemen's Land under the probation system, and was productive of increased amount of punishment.

2256. And what was the result?—That we merely afforded the prisoners a means of blinding and disguising a system of traffic by allowing a small portion to be given.

2257. They would make it a pretext for introducing more?—Yes, and that too by most objectionable means.

2258. What would be subversion of discipline?—Subversion of discipline would be caused by that interference with restraint and obedience which follows the allowance of luxuries. It is the want of luxuries that makes the loss of liberty chiefly felt as an evil by our class of convicts.

2259. Are the men in your charge in irons?—I have forty at present in irons.

2260. And how many out of irons?—Eighty-four not in irons.

2261. Do you think it necessary, for the safe custody of those forty men, that they should be kept in irons?—I do; I expressed the same opinion to Mr. Stawell many years ago, when visiting the Collingwood stockades.

2262. What is the state of health of the men in the hulk under your charge?—For the last year the per centage of sick has been  $3\frac{1}{4}$ .

2263. How many deaths?—None.

2264. Then the state of health is rather beyond the average?—Yes.

2265. *By Mr. Patterson.*—You have stated that you have eighty men without irons. Had they never irons on?—They have all had irons on. I iron all the men when they come to the ship.

2266. When did you remove the irons from those eighty men?—I could not say when each man's irons were removed. They were removed whenever I had an order from the Inspector General, and in some instances I have recommended that it should be done.

2267. *By Mr. Mitchell.*—Are those irons removed upon your report?—Mr. Price knows the state of the men from our report, and his knowledge of the men.

2268. *By Mr. Miller.*—Why are the irons removed? Is it for good conduct and because you consider it safe to remove them?—For good conduct, and the prisoners having worked off some of their time, the irons may be more safely removed.

2269. *By the Chairman.*—Has Mr. Price the supreme power of dismissal of all the officers in the department?—No; Mr. Price can only dismiss up to the sergeants, he suspends from the superintendent downwards to the sergeants.

2270. Have you ever known a case in which Mr. Price, having suspended a man, dismissal did not follow?—Never.

2271. Have you ever known a case where Mr. Price has suspended a man who was afterwards dismissed, and subsequently re-instated?—I am not aware of such a case.

2272. You said, in answer to Mr. Miller, in proof of the mildness of the system, that only half per cent. of the whole have been punished?—I do not say even punished, I say only half per cent. have been taken before the magistrate.

2273. And you adduce that as a proof that the system is not severe?—Yes.

2274. Do you mean half per cent. per day?—No; half per cent. on the yearly aggregate.

2275. That is, there would be only three-quarters of a man brought before the magistrate in the year?—No; it is daily.

2276. *By Mr. Miller.*—How many men have you?—The average daily strength for the year was  $120\frac{1}{2}$ .

Mr. M. H. Smith,  
continued,  
20th January,  
1857.

2277. How many men during the year were brought before the magistrate?—I do not remember exactly; I merely remember the per centage from having made out the returns.
2278. Do you mean that there is one man in every two days?—One man on the aggregate of every 200.
2279. That is, every two days there would be one man brought up before the magistrate?—Yes.
2280. *By the Chairman.*—In your answer as to religious instruction and the means of reforming prisoners, you seem to place your whole means of reformation in books, and slates, and religious instruction. Are there any other means of reforming prisoners?—They are debarred from everything like temptation, they are kept cleanly, orderly, and obedient; the religious instructor visits them constantly, and they have lots of good books and slates.
2281. You say ordinary means would not reform these men. Do you mean by ordinary means the means you use?—I would not say they were past reformation, but I believe they are not likely to be reformed.
2282. What do you mean by ordinary means?—I do not believe any means would reform them.
2283. Then extraordinary means would not reform them?—I do not think it would.
2284. Mr. Miller put the question to you, was there any cruelty practised in the penal establishments, and your answer was, decidedly not?—To my knowledge, decidedly not.
2285. That simply means, that you never saw it?—Yes.
2286. *By Mr. Mitchell.*—Could it take place without your knowledge?—Not on board my own hulk.
2287. And in whatever establishment you have been since you arrived here you have never seen any cruelty practised towards the prisoners?—No.
2288. *By the Chairman.*—What do you consider cruelty to a prisoner?—I should call it cruelty even to carry out the regulations harshly or intemperately.
2289. Did you never see a man struck with a neddy?—Never.
2290. Have the seventeen warders on your hulk a neddy amongst them?—There are none ever used. I have seen two cases of assault in my ship, and in neither case was the prisoner struck.
2291. Then you can manage the prisoners without striking them?—Decidedly.
2292. Do not you think in some ships they cannot do that?—If a prisoner struck a man and attempted to knock him down, I think the use of a neddy justifiable.
2293. If a prisoner attempted to strike you, would you stand aside and tell two or three warders to pitch into him?—No; not unnecessarily handle him, if milder means would do.
2294. Would you consider that cruelty?—Yes, if struck without downright necessity.
2295. *By Mr. Miller.*—Supposing a warder under your command was to assault a convict and knock him down with a neddy, or beat him with a neddy, would you dismiss that man or not?—I should report him.
2296. And if he was reported, how would he be treated—would he be encouraged to do that, or would he be dismissed?—I believe he would either be fined or dismissed, but no such case has come under my notice.
2297. *By the Chairman.*—Have you anything to do with paying the warders and officers?—Yes, I pay them monthly.
2298. What do you do with the fines that are deducted?—I transmit them to the Inspector-General with a declared account made before a magistrate.
2299. Are the fines any part of the regulations?—Yes.
2300. Who drew up those regulations?—I had a hand in them myself originally.
2301. They are not under any Act of Council, are they?—They are under the Act of Council, 16 Vic., No. 32, so soon as they receive the sanction of the Executive.
2302. With regard to tobacco—how is it that the men could not trade upon their other rations as well as upon tobacco, if it were served out weekly or daily as a part of the rations?—It would afford them an opportunity of disguising any system of traffic.
2303. Why does not serving out the other rations afford an opportunity of doing the same?—The other rations they would not care so much about, and are not marketable in this way.
2304. *By Mr. Mitchell.*—Are not the other rations perishable?—They are.
2305. So that they could not hoard them up?—No. The difficulty of preventing traffic is very great, even although they are confined on board those ships, so much so that I myself have detected one of the warders supplying them with tobacco by forwarding letters to their friends. This warder supplied the prisoners with tobacco, for which he charged them £1 a pound; he would take a letter up to a place in Melbourne and get £5 and buy two pounds and half of tobacco, and bring it down to the prisoners, and pocket the rest.
2306. *By Mr. Miller.*—Have not you known of a case of a person selling tobacco at £5 5s. per pound, and getting paid through the confederates of the prisoners in Melbourne?—No.
2307. *By Dr. Tierney.*—You say there are about forty men in irons in your hulk, and about eighty-four out of irons. Can you tell me how many men were in irons three months ago on board of your vessel?—I could not from memory, because I had not the same men in.
2308. Do you think there was a greater number or a lesser number?—I should say there were more.
2309. A great deal more?—Yes.
2310. In what proportion?—About eighty I dare say.
2311. *By Mr. Mitchell.*—It varies from time to time?—Yes, as we have different drafts of men.

2312. *By Mr. Patterson.*—Has that system of putting irons on the men undergone any change since the sitting of this committee?—Not that I am aware of. Mr. Price has taken off irons as usual; sometimes he takes off more, sometimes less.

Mr. M. H. Smith,  
continued,  
28th January,  
1857.

2313. *By the Chairman.*—What was the largest number you ever knew struck off in one day?—I should be afraid to say from memory.

2314. A dozen?—I dare say we have struck off thirty or forty—fifteen, twenty, different numbers.

2315. Do the books show all those things?—Every one.

2316. *By Mr. Miller.*—Are the convicts aware of the proceedings of this committee?—They are.

2317. Do they get full information upon the point?—Yes.

2318. Has that introduced a spirit of insubordination?—It has unsettled them very much.

2319. And made them more difficult to manage?—Yes.

2320. *By Mr. Mitchell.*—Have you any means of conjecturing how they obtain their information?—These men have wives, brothers, and relations, and there are discharged prisoners. The Point is clear all night, Saturday afternoon, and all Sunday, and there are plenty of means of leaving any information there, and they plant it, and the prisoners pick it up when they go on shore to work.

*The witness withdrew.*

*Ordered—That this Committee be adjourned sine die.*

### WEDNESDAY, 3RD JUNE, 1857.

MEMBERS PRESENT:—Mr. Hood, in the chair; Mr. Cowie, Mr. Guthridge, Dr. Tierney.

Richard Youl, Esq., M.D., examined.

2321. *By the Chairman.*—You are one of the visiting justices of penal establishments in this Colony, I believe?—I am.

2322. *By Dr. Tierney.*—I believe you have, in some cases, sentenced prisoners to six months' imprisonment, in addition to their original sentences. Will you state for what offences those additions were made?—If you will tell me the instances, I will state whether those offences were for insubordination, or for fighting, or for something likely to lead to an escape of the prisoners.

2323. You never sentenced any one yourself for insubordination?—No. There were always two magistrates; and in those cases where I sat with another magistrate, I merely sat as chairman.

2324. Who are the other magistrates that usually sat?—Most frequently, Mr. Hackett.

2325. Do you think it would be advisable to have an open court for investigating such offences?—I do not think it would.

2326. Why?—I think, if there were an open court, the friends of the prisoners and persons disposed to philanthropy would always be in attendance, and they would be constantly representing the sentences passed upon the men as cruel and unjust, and keep them in a constant state of excitement.

2327. Do not you think it would be a wholesome check on magistrates if the chairman of that court were to summon the magistracy to attend on those occasions?—It is very difficult to get two magistrates to attend at all.

2328. But I am speaking of honorary magistrates—unpaid magistrates?—I do not think that you could carry out any system of penal discipline with unpaid magistrates.

2329. That is not the question. My question is, would not the public and the prisoners be better satisfied if honorary magistrates were summoned in cases requiring magisterial interference?—My impression is that once every month a bench of magistrates ought to sit, and decide on serious cases occurring in our penal establishments.

2330. What objection is there to having a court open to the press?—I see no objection to having a court open to the press at all, so long as it is confined to the press; but I see serious objections to allowing persons to go there for their own purposes.

2331. Have you known men sentenced to sit on a stone, from morning to night, as a punishment?—I have never known them sentenced to it. When men would not work, Mr. Price ordered them to sit upon a stone, but they always had two hours' exercise every day.

2332. Have you known men sentenced to be chained to the wheel of a cart, in the stockade, as a punishment?—I think I have known one man tied to the wheel of a cart.

2333. In the stockade?—Yes.

2334. Was it not a magisterial sentence?—It was not. I did not order it.

2335. Did you see the man there?—I did not.

2336. Have you ever sentenced a man to carry a stone of 50 lbs. weight, as a punishment, up and down the yard?—No, never. I have no power to do it.

2337. Have you ever known that to be done?—Never.

2338. Have you ever sentenced any prisoner for using, or having in his possession, paper or rags, for the purpose of going to the watercloset?—Never. I have sentenced a prisoner for having copies of newspapers in his possession, but not for the purpose stated. I have sentenced a man for having a copy of the report of the citizens' committee in his possession.

Richard Youl,  
Esq., M.D.,  
3rd June, 1857.

Richard Youl,  
Esq., M.D.,  
*continued,*  
3rd June, 1857.

2339. Were you ever interfered with in your duties?—Never by any one.

2340. We have it in evidence that a man was chained to a stone for twelve hours a-day, in fact, from sunrise to sunset, for I think six weeks, as a punishment—do you know if that was the case?—It never took place.

2341. Are you aware whether the regulations under which the Inspector General acts allow him to order such punishments without the intervention of a magistrate?—In the first place, I am satisfied that it never was done; and further, I know of no rule that would authorise the Inspector General to do it.

2342. *By Dr. Tierney.*—But still you know a man was chained to a wheel?—I know he was, and I reported the circumstance at once.

2343. If it were given in evidence that a man was so chained in a burning sun during an entire day, would that be true or false, do you think?—I think it would be false. I think two hours was the time, and it was in the morning.

2344. Do you approve of cumulative sentences?—Cumulative sentences passed by visiting justices scarcely ever act to prevent a man getting his freedom, excepting in cases where the sentences are very short indeed. They are mere nominal things. If I sentence a man who has got ten years to three months' hard labor, it does not interfere with his getting his freedom. The only way in which it acts is this: Supposing a man to be sentenced for ten years, after five years he would get his ticket-of-leave, but must have been six months free from offence. Thus the visiting justice must not have passed sentence upon him for six months previously.

2345. *By Mr. Hood.*—Suppose a man was sentenced for ten years, and at the end of the first year he got punished, would he be entitled to a ticket at the end of five years, the same as if he had not been punished?—Yes.

2346. If he were punished within three months of the expiration of his sentence, he would then have to wait six months longer?—Yes; the way in which I sentence men is: Supposing a man to be short-sentenced, say for fifteen months or two years, I almost invariably add to his sentence. Supposing he is sentenced for seven years, I give him solitary confinement on bread and water; and those two punishments have been found efficacious.

2347. *By Dr. Tierney.*—Supposing a man is taken up under the Vagrant Act, for drunkenness—suppose he was sentenced to twelve months' imprisonment—supposing, during that twelve months, he was guilty of any breach of discipline, would you not give that man punishment—have you not done so? Say, suppose you sentenced him to two or three months' additional imprisonment, would that be added to that man's sentence?—It would; under all short sentences it does act accumulatively.

2348. Do you think that likely to make that man a better man?—I am only speaking of discipline, not of improving his moral character.

2349. Some men may be a little obstinate—do you think it is a wholesome thing to punish such men so that their sentences may accumulate and they be kept six or twelve years?—Whenever I see a man of that character, I recommend him separate treatment. There are men of such peculiar temperament, that it is not safe to allow them to work or to employ them in any way. If I meet with such I invariably recommend that they should be put under separate treatment and kept free from excitement, and thus they are put in the best position they could possibly be.

2350. Do not you think a man might be inclined to break the discipline of a gaol or stockade. He might think he was put in there wrongfully. Do you think it wise to accumulate his punishment in such cases, and make him worse than he was before?—If a man is on the works, and if he is allowed to show doggedness and to break the rules with impunity, you destroy the discipline of the entire establishment; and, therefore, I remove such men invariably.

2351. But do not you think you ought to distinguish between a bad man and one who thinks he is sent there needlessly?—We always do. It is invariably done.

2352. Are you aware that men have been sent to gaol and imprisoned for a term, and that they have remained double the time they were originally sentenced for?—I know one instance.

2353. Only one?—Only one. He has been twenty-five years in prison. He was sentenced for drunkenness. He has been a whole life in gaols and prisons. He told me that out of twenty-three Christmas-days he had spent twenty-two in gaol. And it happens here very often, that the very worst men in this country are confined under the Vagrant Act. They are so artful, that the detectives cannot take them for crime, however well known they may be.

2354. But you are aware that very respectable men may be taken under the Vagrant Act?—None have noticed it more strongly than I have. I wrote the Colonial Secretary in consequence of several respectable men being sentenced to several days' imprisonment for being drunk, on bread and water.

2355. Have you ever known of violence being used by warders or others?—I have only known two instances.

2356. Have you ever known an instance of some of those men waiting with a pistol to shoot a man's leg?—I have never known armed men go into the stockade. I know that the prisoners cut through a little wooden place in the Crystal Palace.

2357. I allude to a particular instance?—On the occasion to which you allude, the warders were not armed with pistols. The prisoners stuck one of their own pairs of trowsers through a hole to know if anybody was there, and one warder got hold of it, and that gave the information that they were there. They wished to know who were the men who planned the rush. The warders were not armed.



2358. What is the size of the place?—They hold ten each, I believe.

2359. Are you aware there are sometimes twenty or thirty in each?—I am aware there are not.

2360. If we have it in evidence that there are?—Then it is not true. You never can put them there. They are only constructed to hold so many.

2361. Is there a sick ward at the Crystal Palace?—There is not one. If the men are ill, they are sent to the hospital below. There are two stockades—the upper and the lower. The upper is the Crystal Palace. It is a stockade surrounded with a fence, and constructed for the purpose of being moved. It was to have been a moveable prison. The buildings are carriages (just like Wombwell's Show) on wheels, which can be moved across the country. They have long bars across, and hammocks for the men to sleep upon, so that it is impossible to crowd them. That is the upper stockade. If men are taken ill there, they are put into the hospital below; and that is the only hospital. There is a ward used as a hospital.

2362. How many do you say is the most that were ever in it?—I cannot say for certain, but I think ten is the number which it holds. I am satisfied that if you go to the nearest farm or lodging-house, Pentridge is very much more favorable to health than it, bad as it is. I am quite satisfied that, taking the lodging-houses of free laborers and comparing them with Pentridge, the prisoners are infinitely better lodged than free laborers.

2363. *By Mr. Hood.*—There is one subject I should like to hear your opinion of—that is, the indulgence of tobacco to prisoners—a very large proportion of cases that come before you, as visiting justice, arises out of their having tobacco?—A great many of them.

2364. Do not you think that would be completely avoided if a small indulgence to the extent of 3d. or 6d. worth a week were allowed them?—Mr. Price very much objected to the use of tobacco. He said it would lead to trafficking. The prisoners were never satisfied with that allowed by the Government, and the fact of tobacco being allowed, led to trafficking with the warders; and when that was the case, it led to trafficking in other things. I think, if you had different prisons, you might indulge them in tobacco; but until then, it would lead to endless traffic and greater punishment.

2365. Why do not they traffic about their tea and sugar?—They have not tea and sugar. Their rations are served out to them prepared.

2366. You incidentally mentioned the Vagrant Act. You have had as much experience as any magistrate in the colony; has it worked well?—I think it has. It has been most efficacious in the colony.

2367. Is it not liable to great abuses?—It can be abused, but the benefit to this colony has been incalculable.

2368. You allude to the great rush of people which has taken place?—I think it still useful. I think it requires great alteration. I think some power of appeal, if it could be managed, should be introduced into the Vagrant Act. I know that many who have been committed were most respectable persons. In one instance, a man came out in the *Great Britain* and was taken up by a sergeant of police, who swore to his being an associate of thieves, and accordingly he was sentenced to two years under the Vagrant Act. The man had £70 in his pocket at the time he was taken. With great difficulty, and by the assistance of some fellow-passengers, he got out; but there is great difficulty in a man's obtaining his liberty, if he is once imprisoned.

2369. Then so far you think that the oath of a constable should not be acted upon rashly—there should be some opportunity of appealing?—I think so.

2370. There is one more question I should like to ask, about ordering solitary confinement. You know perfectly well that there is a great difference in the temperament of men—you yourself could not stand solitary confinement—many a phlegmatic man with dark complexion could enjoy it; do you ever take that difference into account, or merely consider the crime on awarding punishment?—I always take into account, as well as I can, the nervous peculiarities of the men. In many cases I do not punish men at all. I recommend them to the medical officer, and treat them as insane. There are several men that were the most violent, who have become the most manageable; because they know, if brought up before me, I shall say they are insane. There are men so exciteable, that punishment makes them worse, and I therefore recommend them to the medical officer, and in that way they get over it. A man had rather be punished than thought insane.

2371. *By Dr. Tierney.*—In removing prisoners to the various stockades, from one place to another, are you consulted?—No, I have nothing whatever to do with the selection of prisoners; I merely have the power to recommend. I cannot order a man to be sent from one place to another.

2372. Are you consulted when prisoners have to be removed from one stockade to another, or from the stockade to any particular hulk?—There are no regulations to the effect that I should be, but I was frequently consulted by Mr. Price on the subject.

2373. There is no regulation?—None whatever.

2374. By the regulations I find, that "The visiting justice will make such recommendations to the inspector of penal establishments for the removal of prisoners from one penal establishment to another for punishment, or for any other purpose, as may appear to him to be advisable." Do you think that would be a very wholesome thing, if carried out?—Those suggestions do not instruct me that no man should be removed without my concurrence. I have frequently recommended that prisoners should be removed.

2375. Do not you think it would be a very wholesome thing that the medical officer and visiting justices should be consulted in removing prisoners?—I do not think the medical officer should be consulted.

Richard Youl,  
Esq., M.D.,  
continued,  
3rd June, 1857.

2376. Do not you think the medical officer might know whether the men could undergo a severe or small degree of punishment?—The medical officer visits twice a week, and if he sees that a man could not support punishment, he orders him to be released.

2377. But I am speaking of the 125th rule. Can you see any harm in the medical officer also recommending, in unison with the visiting justices, the removal of the prisoners?—There can be no harm at all. The medical officer equally with myself can recommend the removal of prisoners for purposes of health. If you use the medical officer for purposes of punishment at all, his life would not be worth a week's purchase.

2378. I would use him for the opposite purposes. Do you think a man may be punished at the whim of any particular individual?—No, I do not think so.

2379. Do you think it has not been done in any of our penal establishments?—I do not think so.

2380. Suppose you were inspector general yourself, would you not think it a very grave responsibility for some small breach of discipline in the stockade to remove a man to the hulk *President*—perhaps merely for some disobedience?—I am quite positive that no man has ever been moved to any hulk for any such reason as that. Whenever he has been removed, the crowning point must have been something more than slight disobedience of orders—it has been in consequence of bad conduct for a length of time.

2381. Then, if men stated they have been removed for such, it is not true?—It is not.

2382. Then what harm could there be, before they can be so removed or punished, to consult with the visiting justice?—No harm in it.

2383. *By Mr. Hood.*—We have it in evidence that, after a general gaol delivery, the inspector general goes to the gaol, and the prisoners sentenced are brought up and ranged round. He reads the sentences and sends this man to Collingwood, another to Pentridge, and another to the hulks; do you know by what rule the inspector general acts?—Yes, all men whose sentences were long, who were convicted of highway robbery, or of murder or such offences, would be sent to the hulk *President*; all convicted for first offences were sent to the *Lysander*; all tradesmen were sent to Pentridge.

2384. Without reference to the length of their sentences?—If a man's sentence was for a certain time, he was invariably sent to the *President* or *Success*—first the *President*, then the *Success*, then the *Sacramento*, and then say to Pentridge and Collingwood.

2385. Those were rules that should have been acted upon?—Yes.

2386. We have it in evidence they were not acted upon, and so far from that, that McCabe, who was sentenced to fifteen years' transportation, was at once taken to Pentridge; and at the same sessions a man who had got twelve months' imprisonment, and had his choice to serve either at Castlemaine or Melbourne, was sent to the *President*?—I do not recollect McCabe, but the inspector general, in filling up the sentences, although a man might have only a sentence of five years in this Colony, yet, if he had been transported in Van Diemen's Land previously, or had been at Norfolk Island, he sent him for safety to the hulks.

2387. *By Dr. Tierney.*—Do you take into consideration at all that men may be reformed?—Yes.

2388. Did he send him to a particular hulk according to the period of his original sentence, and not according to his conduct under discipline for the last few months?—He could know nothing of his conduct for the last few months, except he was sentenced for ten years. In the Melbourne gaol you know very little, for most of the violent men in the hulks were perfectly well behaved in Melbourne gaol. There is no punishment in Melbourne gaol. I do not punish six men a year there.

2389. But the prison inspector, irrespective of you or the doctor, or any one, can send any man to any particular hulk, without considering what the man's conduct was?—He does consider the man's conduct in this way: Mr. Price had knowledge respecting the prisoners which no other inspector general had nor will have, for he knew the history of all the old offenders that came into Melbourne gaol from their first transportation to that time, and therefore he had a power of selection which no other man had. The gentleman just appointed will no doubt ask advice for assistance in classification.

2390. Do you think the present classification is good?—It is most defective. Mr. Price did all he could for classification. If you get a man originally transported for life from England, who has been once or twice sentenced to be hanged, and has been a long time at Norfolk Island, if he is convicted under the Vagrant Act, you are not justified in putting that man among the *Lysander* people, who are convicted of a first crime.

2391. *By Mr. Hood.*—As I understand the rules of our penal establishments, a man for a first offence gets a ticket in ten months, if he is not for three years; and if it is a second offence, he has to serve his full time. The impression on my mind is, that although he might have been perfectly well known to Mr. Price, and not only that, but though the man admits that he has been at Norfolk Island, and originally sent out as a prisoner, it counts as a first offence, if he has not been committed before in this Colony. Do not you think this wrong, to take his previous career into consideration?—It has a very deterring influence.

2392. If a man gets six months' imprisonment here as a vagrant, if he was to forget himself again and get drunk, that you count as a second conviction, though both summary convictions before magistrates?—The convictions must be for felony—second convictions for felony.

2393. Their conviction under the Vagrant Act will not count?—No.

2394. Were you one of the board that sat in the gaol in the case of a man named McCoy?—Yes.

2395. Do you know what became of the evidence of that committee?—Captain McMahon.

had the evidence at the Colonial Secretary's office. That inquiry was instituted by Mr. Price. The evidence was very contradictory; it was not taken in the gaol.

2396. I should like to ask you one question as to your opinion about Mr. McPherson's statement respecting that contemplated rush in March. I think the best way will be to read it.

Questions and answers 1658 to 1695 read.

The object of this portion of McPherson's examination was to elicit the facts connected with that rush. My conviction was, and it is confirmed by that evidence, that the inspector did not take a proper and kind course in not preventing that rush. You take a different view. The committee will be glad to hear your reasons?—I saw the inspector general, and he told me he had information that a rush was to take place. I asked him in which gang it was to take place. He said he believed it was to be a general rush, and he posted extra sentries all round where the rush took place. I went out next day and Gisborne, one of the prisoners, was shot. He sent to ask me to see him, and I went to see him. Gisborne complained that Lewis, who got up the rush, was not game enough to go through with it, but was promoted to be the barber. Mr. Price said he did not know Lewis was in it, and he ordered him immediately to be put in irons and sent to the hulks. The way in which he was made barber was this—the barber left and the superintendent asked were there any barbers in the stockade? They said Lewis was one, and he was therefore made barber on that account. He was the man who got up the rush, but he would not go through with it. With reference to putting persons on to shoot them—I have known more than one rush at Pentridge. Whenever Mr. Price heard that a rush was contemplated, he always went and told the men, "Now, I know all about it; are you inclined to drop it? If not, I shall send you to the hulks and put you in irons." I am satisfied that, had he known the men, he would have immediately had them sent off, and would never have put on sentries for the purpose of shooting them down.

2397. *By Dr. Tierney.*—You say Lewis was sent to the hulks?—Of course there was an inquiry, and he was proved to have been the man who got the whole thing up. It is frequently the case that a rush is got up for the purpose of a man giving information, and it is very difficult to ascertain whether a rush is for the purpose of serving a particular man, or for escape. I am satisfied I am giving you Mr. Price's version of it, and that it is correct. You get a great deal of information from men who do not want to be known to have given it, and you cannot go into the stockade and explain to the prisoner the reasons for doing every thing, although you may have good reasons for it.

2398. *By Mr. Guthridge.*—If I understand your evidence, you admit that there are serious objections to the present system of dealing with convicts?—I think the present system is the only one possible, so long as the present buildings are in existence. A better one can only take place when proper buildings for classification are erected.

2399. There are evils existing now?—Unquestionably.

2400. And you think the only care is, in getting proper buildings for the purpose of working and managing them?—Yes.

2401. *By Dr. Tierney.*—We have it on evidence about the Crystal Palace, a man of the name of Duffy was overseer?—A discharged overseer.

2402. He states that there were nineteen or twenty sleeping in each hut?—It is very easy to see. The buildings are so constructed, that every man has a proper amount of pure air. Come to Pentridge and examine the men; you cannot find a finer body of men. If you wanted a man for any purpose—if your life depended upon their exertions, you could not find better men, nor men in finer condition, than they are.

2403. In question 555, Duffy says, "They never can see any body during the time they are inside the walls, and if any of the men commit themselves in any way against the will of the overseer, or Mr. Price, they are handcuffed and made to sit on a stone." And when asked, "What punishment is awarded them if they misbehave when sitting on the stone," he says, in answer to question 557, "They are brought before a magistrate, and I believe some go to the hulks."—Is that evidence correct?—In the first place, it has never been considered a punishment to set a man upon a stone. The object of putting a man upon a stone was, if a man would not work, they do not allow him to remain skulking about the place, but he was put before all the men doing nothing. It was for the moral effect that it was done, but it is not considered a punishment.

2404. Have you ever seen a man throttled, or half choked, to get tobacco out of his mouth?—I have known many men taken by the neck when they have attempted to swallow anything to get it out of their mouths.

2405. It is stated, it was done in the presence of Mr. Duncan or Mr. Price?—It may have been.

Question and answer 571 read.

2406. Do you believe this evidence?—I am satisfied that Mr. Price never struck a prisoner in his life.

Question and answer 572 read.

2407. He never struck a man so as to knock him down?—If he ever struck a man, you may be satisfied he would knock him down. He was the most powerful man in the country.

Question and answer 574 read.

2408. Is it true, that Mr. Price was a violent man—if not, I think you had better correct that evidence, if you can?—I never saw Mr. Price violent with prisoners. I have known him a long time. I do not think he was a violent man at all. He was the best tempered man I ever saw. The abuse of Melville and those fellows would have driven almost any man to violence.

2409. Do you believe this about McGuire?—(Answer to question 578 read.)—I do not

Richard Youl,  
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continued,  
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know of any such circumstance having occurred. I do not believe it occurred. There is no bar through the hut.

Answer to question 581 read.

2410. Is this correct?—No, it is not correct, distinctly. A man would not do it.

Answer to question 582 read.

2411. Is that correct?—It is not correct. All that I can say is, that if you were to visit the stockades, you would find that the prisoners invariably come forward to complain to me of everything that occurs, if they think there is the slightest cause for complaint. It has only been on two occasions that men were struck under circumstances of great provocation, and for all those matters the punishments are stated; so that that could not have occurred without my knowledge. I visit regularly every week, and this complaint never came before me in any shape or form whatever; and for the same amount of evidence you have there I could produce tenfold to rebut it. You have there the statement of a man who makes a charge against me. I gave information against him. I transported him; and they had him on the Citizens' Committee. I think you ought to be very cautious in receiving such evidence.

2412. That is not before us?—It was prepared. There was a return sent for me to fill up in the handwriting of a man that I transported. It could not be for giving evidence against the penal department. There is not a word against any others than Mr. Price and myself, and not one single inquiry in the return moved for in reference to the magistrates of the hulks.

Questions and answers 630 and 631 read.

2413. I consider those very important questions. I want to ask you, were such cruelties encouraged in the overseers?—The word overseer would distinctly tell, that, except in self-defence, they were not to strike the men. If a man was struck, I reported it to the Colonial Secretary; and if the constable was considered to have exceeded his duty, he was dismissed. And as far as Pentridge and the gaols are concerned, I have never known men better cared for. The military, the 40th Regiment, are not so well fed. The prisoners are better cared for than the free laborers in this country.

2414. Then they have not complained to you of such cruelties?—Only in two instances, and I immediately reported them. My business is only to report.

2415. *By Mr. Hood.*—From the tenor of your last answer, I am led to believe that the inspector general does not dismiss warders without the case coming before the Colonial Secretary?—He recommends their dismissal.

2416. Then he does not dismiss them at pleasure?—Oh no! There is a regular record kept. If one is fined, the fines are paid once every month. The men are tried for offences before the inspector general. He records the sentences in his book. A copy is made every month by the superintendent of the particular place. It is forwarded into Melbourne, and the amount is deducted from their salaries by the accountant, and upon the declaration of Mr. Price, that amount is paid into the Treasury, to the credit of the Penal Warder Fund. This fund is placed in the hands of two trustees, Captain McMahon and myself. A portion is invested in Government debentures, and the rest as a floating fund to reward such warders as have served three years.

2417. Corruption is attributed to officers in getting work done by the prisoners?—The mode in which work is done is under a regulation. It is this—"That all persons in the penal department as officers shall be permitted to get work done at a certain price." A man requisitions for the labor of a bootmaker to make a pair of boots. This is lodged in the office; it is ordered he shall have the services of a bootmaker, and the superintendent of bootmakers reports the time of working. That time is stopped out of the month's pay. There can be no collusion. I have had things done. It is often there is no work for mechanics, and we have been obliged to send mechanics into the stone-breaking gang, because we could not get work.

2418. It is complained you pay very little?—We used to pay the value of the rations. We now pay 7s. 6d. per day. It costs as much as free labor.

2419. You have stated that nearly all that has been stated against Mr. Price and yourself could be disproved—is not that a reason why the Government should appoint a commission to complete this inquiry?—I do not place the least faith on the evidence of prisoners. In any case brought before you, for a fig of tobacco, six men would swear that a thing never took place, and six would swear that it did. In one particular instance it was a question whether a man got a black eye by falling against a side table, or that another man struck him. Six swore he got a knock by a side-table, and six that they saw the man strike him; and therefore such evidence is of no value whatever. There is one special case published in the *Age* newspaper, in which two men gave evidence of ill treatment at Pentridge and Collingwood. Now, on referring to the books, one, at the time that he said he saw this cruelty at Collingwood, was in Melbourne gaol, and the other never was at Collingwood stockade in his life; and yet they swore they saw the man treated ill.

2420. My opinion is, that you should have a commission appointed to carry out the labors of this committee, if all the evidence of the prisoners is false, so as to give an opportunity of proving it false?—I think, if the evidence you have taken here had been taken in the presence of persons capable of cross-examining the witnesses, because of being acquainted with the circumstances, it would all have been proved to have been false. The excitement caused by these inquiries is subsiding; but if it is to be kept up, I have no doubt we shall have more murders committed. When this evidence is published, it will renew the excitement. Previously to these inquiries my trials were from eight to ten a month—they rose to sixty or seventy; and now for a week I have had no case; but of 1100 men under my care I sentenced twelve a month, and from twelve it went up to sixty or seventy; and the moment this is published there

will be probably another outbreak. I have brought a return with me, if you will allow me to present it, showing the mode in which I punish the men. I look upon it that my life has been in considerable danger from the mis-statements that have gone forth. I have never inflicted a punishment that was not in strict accordance with the Act. I punish men severely and advisedly. I took charge from Capt. Harrison; twenty-four men were brought up before me the first day I was there, and all for breach of discipline. The men used to say we will take twenty-four hours, for he gave them twenty-four hours' solitary confinement on bread and water, and they did not care. I punished those severely who had been punished two or three times before. I punished them severely and punishment ceased, and from that time up to the Report of the Citizens' Committee I never punished one-sixth of the number punished by any other magistrate. I have a return of punishment inflicted by me for six months, and by Mr. Pasco for the same period. Out of 567 prisoners, which is not one-half the number under my care, 510 cases were brought up before him; out of which 62 were dismissed, 199 admonished, and the rest sentenced to various punishments.

2421. Then the whole were brought up?—Exactly. It only shows the inutility of slight punishments. On reference to my return you will see that, out of 1049 prisoners, I had 253 cases; and yet it is said I am the worst magistrate, and the most severe. I rest upon that return the propriety of my management of those convicts. I invariably reprimand a man if brought up, and in case of a second complaint, I invariably punish him. They know I will punish, and in consequence I do not punish so much as Mr. Pasco.—[*The witness handed in returns of punishments.—Vide Appendices U. and V.*]

2422. *By Dr. Tierney.*—What do you think about the American punishments—not giving them anything to eat, unless they earn it?—We have the greatest difficulty in making convicts gain their living, for all raw material is dearer here than the manufactured articles made from it. We can buy them new clothing cheaper than they can make it up.

2423. But do not you think the principle a good one—is it not advisable to have prisoners kept in employment?—Unquestionably; but there is a strong feeling against the employment of convicts here. In all city contracts you find a clause in the contract, that the contractor shall not buy stone got by convict labor. There is every opposition to it.

2424. Would it not be desirable that they should be kept at labor, in preference to putting them in solitary confinement?—I think they should be employed, if practicable; but it is impossible to do so here. We cannot get material to do it.

2425. It would be advisable?—Unquestionably. There are many points I should like to have stated in evidence, which you have not mooted at all, with reference to the management of prisoners.

2426. Have you much solitary confinement in your stockade?—We have not the means.

2427. What do you call the punishment on board the *President* hulk?—It is not solitary confinement—separate treatment, we call it. It cannot be solitary confinement, where they are allowed to talk all day long to each other. Properly, we have no solitary confinement, except in the main gaol, in Melbourne. It is worth while to go to Pentridge and look at the solitary cells. There are six log cells, built of slabs. That is the only accommodation for solitary confinement. I have written every month, and represented strongly the state of those stockades, and Mr. Price has also.

2428. Your female prisoners are in a very bad way?—The female prison is a disgrace to a civilized community. There are 130 women and thirty children. In heavy rains they sometimes cannot leave the dormitories; the whole place is under water. There can be no classification; the only classification is, that there is one violent ward.

2429. I think you stated, just now, that, under the Act, the latter part of the 14th Clause, is more severe than the former Act?—Yes, I think it is; I think it gives more power under it; I am not sure that I have more power than under the original Act.

2430. The Amended Act?—Yes, it increases somewhat the powers of the visiting justices.

2431. You condemn the Act more than the regulations?—The Act was put into my hands. They said, "Carry that out to the best of your ability," and I did so.

2432. Do not you think it ought to be amended?—I have recommended that it should be.

2433. You sentence men sometimes to severe punishment—have you every known a case of death occurring under your sentences?—Never. I have never held an inquest upon a man upon whom I have ever inflicted punishment. I should recommend Dr. Wilmot should be requested to hold such an inquest. I have only held two inquests in the stockade.

2434. Will you be kind enough to give us the sanitary state of the prisons?—They are all in a sanitary state.

2435. Is the Western Gaol?—There is no sickness; the amount of sickness is less than outside. I would observe, that I think no man, because he is a lunatic, ought to be sent to a gaol. I have reported it most strongly nearly every month for three years, and I think it a most cruel thing.

2436. Relative to our lock-ups—do not you think it advisable to separate the prisoners there, in the first instance; that there should be a separate room for persons who committed a lesser crime than for a man taken up for murder?—The men taken up for such crimes are always put into separate cells. There is a place for persons taken for drunkenness, where they are supplied with blankets. There are separate cells for females. In drunken cells they are supplied with bedding. Once or twice people have died in those lock-ups.

2437. Do you think, in the lock-ups in the country, persons should be allowed something to lie upon?—I think it would breed a great deal of vermin. We always allow them blankets.

Richard Youl,  
Esq., M.D.,  
*continued,*  
3rd June, 1857.

Richard Youl,  
Esq., M. D.,  
continued.  
3rd June, 1857.

2438. Might there not be a kind of wooden bed?—You would have them filled with bugs. It is impossible to keep them clean.

2439. Might there not be a board or bench?—Like a seat—that might be done.

2440. We have it in evidence, that you have refused prisoners' evidence of any complaints they have to rebut?—I always object to prisoners' evidence, for you can get it either for or against; for invariably six come to swear one way and six another, and I feel always inclined to punish them all. I never refused evidence to rebut any charge against them. I have never refused to take any evidence, but have always written it down in the record; and I am the only magistrate that ever kept a record. In that record, the sentences and evidence are written down.

*The witness withdrew.*

*Adjourned sine die.*

## APPENDIX A.

### PENAL ESTABLISHMENTS.—DIETARY SCALE.

MELBOURNE, GEELONG, WILLIAMSTOWN, PORTLAND, BELFAST.

No. 1.

*Prisoners confined in gaol:—*

Wheaten bread, 12 ozs.  
Maize meal, 12 ozs.  
Fresh beef, 4 ozs.  
Vegetables, 8 ozs.  
Salt,  $\frac{1}{2}$  oz.  
Soap,  $\frac{1}{4}$  oz.

No. 2.

*To prisoners in separate confinement on board penal hulks:—*

Wheaten bread, 16 ozs.  
Meat (fresh), 8 ozs.  
Vegetables, 8 ozs.  
Maize meal, 8 ozs.  
Sugar, 1 oz.  
Soap,  $\frac{1}{4}$  oz.  
Salt,  $\frac{1}{4}$  oz.

No. 3.

*To prisoners at hard labor in gaol or on board hulks, and at stockades:—*

Wheaten bread, 16 ozs.  
Meat (fresh), 16 ozs.  
Vegetables, 16 ozs.  
Maize meal, 8 ozs.  
Sugar, 1 oz.  
Salt,  $\frac{1}{4}$  oz.  
Soap,  $\frac{1}{2}$  oz.

No. 4.

*For incorrigibly idle prisoners:—*

Wheaten bread, 8 ozs.  
Maize meal, 8 ozs.  
Potatoes, 8 ozs.  
Salt,  $\frac{1}{4}$  oz.  
Sugar, 1 oz.  
Soap,  $\frac{1}{2}$  oz.

No. 5.

Wheaten bread, 12 ozs.  
Maize meal, 8 ozs.  
Potatoes, 12 ozs.  
Salt,  $\frac{1}{4}$  oz.  
Sugar, 1 oz.  
Soap,  $\frac{1}{2}$  oz.

No. 6.

*Children of female prisoners confined in gaol:—*

Wheaten bread, 8 ozs.  
Beef (fresh), 4 ozs.  
Milk, 1 pint.  
Soap,  $\frac{1}{4}$  oz.

No. 7.

*Persons confined in lock-up or watchhouses:—*

Wheaten bread, 24 ozs.

Prisoners, when sick, receive one-half the ordinary No. 3 or 4 ration, unless otherwise ordered by medical officer.

*In solitary confinement the ration is:—*

16 ozs. bread.  
 $\frac{1}{2}$  oz. soap.

## APPENDIX B.

### PRISONERS' CLOTHING.

*In summer:—*

1 straw hat  
1 duck frock  
2 pairs duck trowsers.

*In winter:—*

1 cloth jacket  
1 pair cloth trowsers,  
1 cloth cap.

*During the year:—*

2 or 3 shirts, when required  
2 pairs of boots or shoes  
Braces or belts, when necessary.

### BEDDING.

2 blankets  
1 woollen rug.

*At hulks in winter:—*

1 additional blanket.

APPENDIX C.

SCALE OF PERIODS TO BE SERVED BY PRISONERS FOR TICKETS-OF-LEAVE.

Term of Sentence.	Number of Years to serve for the indulgence of Ticket-of-Leave.	Remarks.
Not exceeding 3 years	2 years	Prisoners are permitted to submit applications for indulgence in the annexed form when they have completed one-half of these periods, and are allowed by good conduct to reduce the term specified by one-third.
" 5 "	3 "	
" 7 "	4 "	
" 8 "	6 "	
" 10 "	7½ "	
" 12 "	9 "	
" 15 "	12 "	

[No. 11 P.

Application of No.  
for

OFFENCE.	SENTENCE.	DATE OF CONVICTION.
Previous History.		
Offences and Sentences since Conviction.		
Gaol Report of Conduct.		
Reports of Conduct at prior Stations.		
Overseer's Report.		
Chief Warder's Report.		
Superintendent's Report.		
Inspector General's Remarks.		



## APPENDIX D.

5th December, 1856.

RETURN, showing the Number of Books, Library and School, also the Number of Slates at the various Penal Establishments.

NAME OF PLACE OR HULK.	SCHOOL BOOKS.	LIBRARY BOOKS.	SLATES.
Main Dépôt ... ..	78	513	50
Collingwood ... ..	24	70	50
<i>Lysander</i> ... ..	50	162	27
<i>Success</i> ... ..	175	183	76
<i>President</i> ... ..	73	137	100
<i>Sacramento</i> ... ..	98	117	63
Total number in use ... ..	498	1182	366

JOHN SMITH, Storekeeper P.E.

The Inspector General, Penal Establishments.

## APPENDIX E.

(1.)

Penal Hulk *President*, 24th February, 1854.

SIR,  
According to your instructions, I have the honor to forward you herewith a certificate from the Medical Officer, relative to the prisoner named in the margin, as also a minute made by the Visiting Justice about the same man.

I have, &amp;c.,

The Inspector General,  
Penal Department.

(Signed)

STEPHEN PRICE, Superintendent.

(2.)

22nd February, 1854.

I have this day examined Bernard Walker, prisoner on board the hulk *President*, and consider him to be perfectly sane in mind, from his general appearance and the questions I put to him during his confinement. He has given a great deal of trouble since he has been on board, and has been punished on several occasions for bad behaviour. He now represents himself to be of unsound mind, and wishes his removal to the Pentridge Stockade. I would suggest his removal to the hulk *Success*, where I think his feigned insanity would very soon be removed.

(Signed)

JOHN WILKINS, Assistant Colonial Surgeon, &amp;c.

(3.)

Copy of a Minute made by the Visiting Justice on board the penal hulk *President*, 17th February, 1854.

Bernard Walker, charged with having wantonly destroyed his clothing and utensils, and other outrageous conduct, sentenced to thirty days' solitary; but, as he is guilty of committing the most filthy acts in his cell, I would recommend his removal to another hulk, where he may have the benefit of the bath to keep him cleansed.

(Signed)

C. PASCO, V.J.

(4.)

24th February, 1854.

Transmitted for the information of the Inspector of Hulks. The prisoner will be removed as early as the necessary authority can be procured.

(Signed)

JOHN PRICE, Inspector General P.E.

The Inspector of Hulks.

(To be returned.)

APPENDIX E *continued.*

(5.)

Transmitted for the Superintendent's information.

27th February, 1854.

(Signed) F. S. HORNE.

(6.)

SIR,

Hulk *Success*, 18th December, 1854.Bernard Walker,  
1086.

I have the honor to inform you, the prisoner named in the margin was transferred to the Marine Stockade for medical treatment, according to your instructions.

Also, to bring your attention to the fact, that the proper authority for the transfer (the Governor's warrant) is to be sent, which I have the honor to remind you of.

The Inspector General,  
&c., &c.

(Signed)

I have, &c.,  
C. B. PAYNE, Superintendent.

(7.)

SIR,

Marine Stockade, Williamstown, 1st February, 1855.

Bernard Walker.

I have the honor to inform you that the prisoner named in the margin expired this evening at nine o'clock.

I herewith forward a letter to the Coroner requesting his attendance, and requisitions for a coffin.

The Inspector General,  
Penal Establishments.

(Signed)

I have, &c.,  
WM. ABBOTT, Superintendent.

(8.)

2nd February, 1855.

The Superintendent should have sent to the Coroner direct long before this hour, 10½ a.m., as it is very probable that he may now be absent.

The Superintendent,  
Marine Stockade.

(Signed)

JOHN PRICE, Inspector General P.E.

(9.)

3rd February, 1855.

An electric telegraphic message was forwarded to the Coroner at nine o'clock the same morning. The coroner attended this day. An inquest was held; verdict, "Death by natural causes," and the body will be buried this evening.

The Inspector General,  
Penal Establishments.

(Signed)

WM. ABBOTT, Superintendent.

## APPENDIX F.

## HOURS OF LABOR AT THE PENAL ESTABLISHMENTS, VICTORIA.

MONTHS.	STOCKADES.		HULKS.		REMARKS.
	Proceed to Labor.	Leave off.	Proceed to Labor.	Leave off.	
November, December, January, and February	A.M. 5.45	P.M. 6.0	A.M. 5.45	P.M. 5.30	} To breakfast before proceeding to labor, and the hours from 12 to 1 to be allowed for dinner.
March and October ... ..	6.15	5.30	6.15	5.0	
April and September ... ..	6.30	5.30	6.30	5.0	
May and August ... ..	7.30	4.45	7.30	4.15	
June and July ... ..	7.45	4.30	7.45	4.0	

*Alteration allowed at Pentridge and Collingwood Stockades.*

In the months of November, December, January, and February, from 5 a.m. to 6 p.m., allowing from 8 to 8½ for breakfast and from 1 to 2 p.m. for dinner.

## APPENDIX G.

DESCRIPTION and DIMENSIONS of CELLS on board the Penal Hulk *President*, 4th December, 1856.

### LOWER DECK.

No. of Cell.	LENGTH.		WIDTH.	HEIGHT.	REMARKS.
	Deck.	Ceiling.			
	ft. ins.	ft. ins.	ft. ins.	ft. ins.	
1	5 2	7 0	4 0	8 4	The whole of the cells on the lower deck are ventilated to seaward by scuttles of an average of six by six inches, and the reverse way inboard by two apertures over the cell doors, and about half the width of the cells. The lower aperture is six inches deep, and the upper ten and a half; both are secured by round iron bars. The scuttles are seven feet nine inches from the deck inboard, and about three feet above water line outboard.
2	5 2	7 1	4 2	8 4	
3	6 0	7 2	4 0	8 4	
4	6 2	7 2	4 1	8 4	
5	6 6	7 4	4 4	8 4	
6	6 9	7 3	4 4	8 4	
7	7 0	7 5	4 0	8 4	
8	7 2	7 6	3 10	8 4	
9	7 6	7 6	4 1	8 4	
10	7 6	7 6	4 4	8 4	
11	7 6	7 10	4 5	8 4	
12	7 6	7 6	4 4	8 4	
13	7 6	7 10	3 10	8 4	
14	7 8	7 6	3 10	8 4	
15	7 8	8 0	4 1	8 4	
16	7 8	7 6	4 3	8 4	
17	7 8	8 0	3 10	8 4	
18	7 7	7 6	4 2	8 4	
19	7 8	7 11	4 6	8 4	
20	7 6	7 6	4 6	8 4	
21	7 6	7 11	4 0	8 4	
22	7 5	7 6	3 8	8 4	
23	7 6	8 0	4 9	8 4	
24	7 2	7 7	4 4	8 4	
25	7 6	7 8	4 3	8 4	
26	7 0	7 6	4 4	8 4	
27	7 6	7 7	4 0	8 4	
28	7 0	7 6	4 6	8 4	
29	7 6	7 5	4 6	8 4	
30	6 10	7 5	4 4	8 4	
31	6 6	7 3	4 0	8 4	
32	6 6	7 4	4 0	8 4	
33	6 2	7 2	4 2	8 4	
34	6 3	7 2	4 5	8 4	
35	5 8	7 0	4 2	8 4	
36	5 6	7 0	4 2	8 4	
37	5 0	7 0	4 1	8 4	
38	5 0	7 0	4 4	8 4	
39	5 8	7 0	4 8	8 6	
40	5 6	7 0	4 6	8 6	

Width after part of deck of these two cells two feet one inch; and the ringbolts fastened to ship's side are three feet three inches from the deck. They are used as solitary cells when required.

### MAIN DECK.

No. of Cell.	LENGTH.		WIDTH.	HEIGHT.	REMARKS.
	Deck.	Ceiling.			
	ft. ins.	ft. ins.	ft. ins.	ft. ins.	
Box	2 6	2 6	2 2	6 6	The box is ventilated by a pipe two and a-half inches in diameter, passing through the ship's side. The solitary cell is ventilated in the same way.
Solitary Cell	{ 5 6	{ 6 6	4 2½	6 10	
Water Closet	{ 3 1	{ 4 11	4 1	7 1	
Ditto	6 9	7 4	4 1	7 3	
41	6 9	7 4	4 1	7 4	
42	7 6	7 3	4 1	7 4	
43	7 3	7 9	4 4	7 4	
44	7 3	7 5	3 9	7 4	
45	7 5	7 6	3 7	7 5	
46	6 6	7 7	4 6	7 4	
47	7 6	7 6	4 4	7 5	
48	7 6	7 7	4 1	7 4	
49	7 6	7 6	4 0	7 5	
50	7 8	7 7	3 8	7 4	
51	7 6	7 7	4 0	7 5	
52	7 8	7 8	4 1	7 4	
	7 6	7 8	4 0	7 5	

APPENDIX G.—MAIN DECK *continued.*

No. of Cell.	LENGTH.		WIDTH.	HEIGHT.	REMARKS.
	Deck.	Ceiling.			
	ft. ins.	ft. ins.	ft. ins.	ft. ins.	
53	7 9	7 9	4 1	7 4	
54	7 7	7 7	4 4	7 4	
55	7 9	7 8	4 5	7 4	
56	7 7	7 8	4 0	7 5	
57	7 9	7 10	4 1	7 4	
58	7 7	7 5	3 10	7 4	
59	7 9	7 9	4 0	7 4	
60	7 9	7 7	4 1	7 4	
61	7 9	7 8	4 1	7 4	
62	7 7	7 8	4 0	7 4	
63	7 9	7 5	3 9	7 4	
64	7 9	7 6	4 1	7 5	
65	7 9	7 11	4 0	7 4	
66	7 9	7 6	4 1	7 4	
68	7 6	7 5	4 5	7 4	
69	7 9	7 9	4 5	7 4	
70	7 5	7 5	3 11	7 4	
71	7 8	7 8	3 9	7 4	
72	7 3	7 4	4 2	7 4	
73	7 7	7 6	4 5	7 4	
74	7 3	7 3	3 9	7 5	
75	7 6	7 6	3 9	7 4	
76	7 5	7 3	4 1	7 5	
77	7 5	7 6	4 4	7 4	
78	7 3	7 3	4 4	7 5	
79	7 3	7 4	3 4	7 5	
80	7 1	7 1	4 1	7 4	
81	7 0	7 3	4 2	7 5	
82	7 0	7 0	5 4	7 3	
83	7 0	7 2	5 2	7 5	

The cells on main deck are ventilated to seaward by scuttles, the same as lower deck, and inboard by an aperture over the cell doors about half the width of the cell and six inches deep. The scuttles are four feet eleven inches from the deck.

A. McPHERSON, Superintendent.

## APPENDIX H.

DESCRIPTION AND DIMENSIONS OF CERTAIN CELLS ON BOARD H. M. PENAL HULK  
"SACRAMENTO."*Size of two large cells, upper deck.*

No. 9.

Length of floor, 6 ft. 11 in.  
Length, 7 ft. 5 in.—3 ft. from floor.  
Width, 6 ft. 5 in.  
Height, 6 ft. 8 in.

No. 24.

Length of floor, 6 ft. 9 in.  
Length, 7 ft. 7 in.—3 ft. from floor.  
Width, 6 ft. 2 in.  
Height, 6 ft. 8 in.

*Size of two large cells, lower deck.*

No. 1.

Length of floor, 6 ft.  
Length, 8 ft. 3 in.—3 ft. from floor.  
Width, 6 ft. 2 in.  
Height, 7 ft. 3 in.

No. 28.

Length of floor, 6 ft. 5 in.  
Length, 8 ft. 6 in.—3 ft. from floor.  
Width, 6 ft. 3 in.  
Height, 7 ft. 3 in.

Four men have occasionally had to sleep in these cells.

*Size of common cell in upper deck.*

Length of floor, 5 ft. 11 in.  
Length, 6 ft. 3 in.—3 feet from floor.  
Width, 6 ft. 3 in.  
Height, 6 ft. 8 in.

*Size of common cell in lower deck.*

Length of floor, 5 ft. 11 in.  
Length, 7 ft.—3 ft. from floor  
Width, 6 ft. 8 in.  
Height, 7 ft. 3 in.

There are never more than three men placed in these common cells.

*Size of single cell in upper deck.*

Length of floor, 6 ft.  
Length, 6 ft. 4 in.—3 ft. from floor.  
Width, 4 ft. 7 in.  
Height, 6 ft. 8 in.

*Size of single cell, lower deck.*

Length of floor, 6 ft. 2 in.  
Length, 8 ft. 1 in.—3 ft. from floor.  
Width, 3 ft. 1 in.  
Height, 7 ft. 3 in.

*Size of solitary cells.*

Length of floor, 4 ft.  
Length, 6 ft. 9 in.—3 ft. from floor.  
Width, 2 ft.  
Height, 7 ft. 3 in.

M. H. SMITH.

## APPENDIX I.

(Extracted from the AGE of 18th December, 1856.)

## PENTRIDGE STOCKADE.

## No. II.

## CASE OF CHARLES STEWART.

I do not think there ever was (and assuredly there was not at the time) a quieter or more hard working man in the Pentridge stockade than Charles Stewart. He was a first-timer, *i.e.*, he had never been in prison before; his sentence was for three years—that is, he was entitled to discharge on ticket-of-leave at the expiration of sixteen months. He was a servant of the late chief warder at the main dépôt, Mr. Macpherson, and master and man were well suited to each other. I willingly take an opportunity of testifying to the untiring zeal and humane disposition displayed by Mr. Macpherson, now superintendent of the hulk *President*, in the exercise of his office; and I am sure I but express the universal opinion of the prisoners he has so long guarded, when I say that the whole penal department does not contain a more active and trustworthy officer.

Charles Stewart had never got into any trouble, unless, indeed, I may except a little affair involving a miserable crust of toast, rejected at the chief warder's breakfast table, which he was charged with giving to (or rather being an accessory to its abstraction by) a wretched fellow-prisoner who had chanced to come, on some duty or other, to Mr. Macpherson's quarters. This, in the estimation of the superintendent—a little man, moral and very fat—was a high crime and misdemeanor, and he was adjudged to have his indulgence suspended for fourteen days; that is, to serve for fourteen days hard labor in addition to the sixteen months required by the regulations. This sentence, being forwarded to the Inspector General's office in town, was duly approved and signed "John Price." It was returned to Pentridge, and there duly recorded in the prison register as "Misconduct."

All things, however, have an end, as we humbly hope Mr. John Price may find to his cost. The usual application of a prisoner for the indulgence of ticket-of-leave was sent in on behalf of Charles Stewart; it was recommended in the customary form to Government by the Inspector General; it was approved by the Governor, whose warrant came out, through the Inspector General, to the superintendent of the stockade for the discharge of Charles Stewart to ticket-of-leave at the expiration of sixteen months and fourteen days from the date of his conviction.

The long-looked-for day came at last. Charles Stewart had cast off his prison garments, as he trusted finally, and dressed in his own clothes, stood at the prison gateway to go away. But the fates were adverse.

I have described the system of "dogs." Amongst these was a little yelping cur, an old lag from Van Diemen's Land, named Powell, still at Pentridge, where may he long remain. This little beast was pleased to report secretly, that Stewart had been on "the other side." He did not allege that he had been a prisoner there, that he was a bolter, that he had ever done anything wrong there, or that he went there by any other name, or, in short, anything, but that he had seen him there. It was very odd that Powell, who had been at the Pentridge stockade during the whole time of Stewart's confinement (and a great deal longer to boot) should only have discovered this fact at the moment of Stewart's proposed departure; and, besides, what earthly business was it of Mr. Price's, of Powell's, or any other man's, if Stewart had been at any former time in Van Diemen's Land, unless it was asserted, which it was not, that he had been a prisoner of the Crown?

Amongst Mr. Price's numerous pleasant little devices, is a favorite one for impressing on the prisoners a belief on his omniscience. Obtaining information through his "dogs," he pretends to have discovered it by means only of his own surprising astuteness. Now, the hour at which the prisoners for discharge usually quit Pentridge is one at which John wanders, like Satan, to and fro the stockade, in his shirt collar, his glass stuck in his eye, and his hands in the pockets of his shooting-coat, seeking whom he can pick a quarrel with. On the morning in question his mood was not propitious, as indeed, it very seldom is, unless he has got a good batch of fresh prisoners, or has been solaced in some similarly satisfactory way.

He came across Charles Stewart, and taxed him of his own knowledge, with having been in Van Diemen's Land; not, be it still specially remembered, with having been a prisoner there at any time, or a suspicious character, but with having been there. First, Mr. Price said, he remembered to have seen him at a shop; next it was at an hotel; then he was sure he had seen him somewhere, but could not recollect where, and finally he conjured Stewart to make a clean breast of it, and to tell him all about it.

Charles Stewart, who from the outset denied the allegation, steadily persisted in declaring most solemnly that it was not true. He asked Mr. Price a question, rather awkward to be answered by any man with a less elastic conscience, how he was so confident of this matter all at once? He told him, very truly, that he had had the most ample means of ascertaining his history during the preceding sixteen months, and could have done so before he recommended his discharge to Government. He said, that if Mr. Price detained him for the purpose of inquiry, he would willingly do his whole sentence of three years if detected in any false statement. Mr. Price continued to bluster and bully in a way which no one but a prisoner who has seen it can imagine. Finding this course of no avail, he next attempted cajolery, and promised Stewart, if he would admit having been in Van Diemen's Land (still no mention whatever of his having been a prisoner, or of his being suspected of doing anything wrong there), that he should go. The poor man said—these were his own words—"Mr. Price, I will do anything to get away from this place. If it will give you any pleasure to hear me say I have been in Van Diemen's Land, I will say so, if you will let me go; but, indeed, sir, I have never in my life been there.

The Inspector General grew tired and violent. In a twinkling, off went Charles Stewart's free clothes, and on again went the badged and tattered rags. Away went, under the remorseless hands of the stockade barber, the hair, to its very roots, which prisoners on the roll for discharge are allowed to grow for two months before they go. For days and days that man was in a solitary cell, on half prison rations. The visiting justice never saw, heard of, or interfered with him. And how did he emerge? In handcuffs! to be taken to the upper stockade, at Pentridge, which is distinct from the main stockade, and under the control of an old convict, now Mr. Price's crack overseer, named Kilmartin, where the very hardest labor in the penal department, which cruelty and experience can devise, is inflicted on the prisoners. For twelve long months, over and above his sixteen months and fourteen days, did Charles Stewart, a man of the feeblest frame, toil and suffer. It was but the other day he was let go (having served nearly twenty-nine months) to finish the remainder of his sentence on a ticket-of-leave, when the law has declared that prisoners of three years' sentence who shall have served in the stockade sixteen months, and with a ticket-of-leave for eight months (in all twenty-four months), shall be discharged to freedom. And for what has Charles Stewart suffered all this? For telling the truth alone, and for daring to abide by and maintain it!

Why, too, did Mr. Price keep him so long as twelve months? I verily believe he did not at first mean to do so. In a moment of ungovernable passion, which he so often displays, brooking no obstacles, and believing himself wholly irresponsible, as, indeed, the Government have suffered him so long to be, where a prisoner is concerned. Mr. Price would not be contradicted, and did a most wicked and illegal act. He

injured Charles Stewart most deeply and undeservedly, and there are but few of us who do not know the rapid transition of the mind from injury to hate. The public are not so silly as to think that Mr. Price ever attempted or expected to make good his assertion by inquiry or proofs. He never moved a step further in the matter, except to punish and tyrannise over his unfortunate victim. And when Charles Stewart at last appeared once more for his discharge, after the ordeal he had undergone, did Mr. Price ever recur to the former story? Could he say to the prisoner, "Aha! my boy, I found you out; I was right, you see, notwithstanding your asseverations! I hope this will teach you to tell me the truth next time." Not so; not a word, not a syllable, either from the oppressor or oppressed: the one ashamed to speak, the other so grateful to God that his hours of suffering were past.

Charles Stewart is at this moment in the district allotted to him. He is very easily to be summoned, though still within the clutches of the penal establishment. I have not laid much stress on the slight little fact of the Governor's warrant for his release being overridden and kicked aside, without any report being made to any person, or any reference whatever to any new facts or disclosures, justifying the detention, being written in any of the books at Pentridge. This, however odd and irregular it might seem, is a proceeding quite in order, and supported by numerous precedents, in the penal system now prevailing. I shall come to this by-and-by. It is usual, though by no means an invariable custom, when prisoners are sent up from the main to the upper stockade at Pentridge, to assign on the muster roll some reason for the change, which is regarded, as it is designed, as a severe punishment. Charles Stewart's offence, as it is still to be seen on the muster roll in the superintendent's office, is "Prevarication!!!"

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## APPENDIX K.

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### NOMINAL RETURN OF THE STAFF OF OFFICERS AND WARDERS SERVING IN THE PENAL DEPARTMENT ON THE 15TH OF DECEMBER, 1856.

[Not printed.]

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## APPENDIX L.

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[Copy.]

### MINUTES OF EVIDENCE TAKEN BY THE INSPECTOR GENERAL OF PENAL ESTABLISHMENTS, IN THE CASE OF THOMAS BOURKE, AT THE COLLINGWOOD STOCKADE.

The statement of THOMAS BOURKE saith:—

I am a prisoner of the Crown, under a sentence of six years' hard labor. I have recently received some blows on the head from Mr. Turnham. It occurred in this way:—I went to Dr. Webster, the medical officer who comes here, complaining of a swelling in the testicles. He treated me for my ailment, giving me a suspension bandage; this was about three weeks ago. In about three days after this I saw Dr. Webster again. He examined me; he examined my privates; he would do nothing for me; but said that I was an able strong man, and that I should go to the quarry. I went. I then complained to the overseer; the overseer put me to light work. The overseer spoke to Mr. Payne, who put me on the stone heaps to light work. I was on the stone heap about two days and a half, when I saw the doctor again, having been desired by Mr. Payne to see the doctor every time he came. The doctor examined me again; feeling my arm, he said I was a strong stout man, and that I could do my work. I told him that I did not complain about my arm, it was my back. He said, I could eat my rations. I said, yes, and a bit more; but my back was very bad and also my testicles. Dr. Webster then said, if I came again, he would put me in the cell, and take me before Dr. Youl. I then told Mr. Turnham to put me in a cell at once, that I was not able to work. Mr. Turnham then said, "Be off," and Mr. Payne told Mr. Turnham to put me in the cell. When I was under the verandah, Mr. Turnham then took the constable's staff and wallopped me on the head. I told him that I would go quietly, but he took the staff and wallopped me on the head. When the constables were putting the handcuffs on me, the "special" came and hit me in the eye with the key, and cut me on the hand with the staff. I gave no provocation, only as I am now standing here. I have not been a doctor's man. I assaulted no one. When Mr. Turnham told me to go to the cell, I did not turn round to him and threaten to strike. I did not see the superintendent push me. I went quietly to the cell when told. Dr. Webster was there, but I did not see him, as I was covered with blood. I did not go into No. 3 ward and refuse to come out. I did not struggle with the constable and try to throw him or bite him. I did not call the doctor "a bloody old rascal." I was not in a passion. Billy Green, Con. Crawley, and O'Connor were there. Dr. Webster came to the cell and ordered my head to be dressed. I did not tell the doctor that "I had often had worse than that." After I was beaten, King, the barber, came and took me away from the constable. I was not thrown on the ground, but beaten on the legs. I was handcuffed till nine o'clock at night, when Mr. Turnham came and took the handcuffs off. I cannot account in any way for Mr. Turnham's conduct.

Taken and signed before me this 3rd day of  
December, 1856. Read to Thomas Bourke.  
(Signed) JOHN PRICE.

his  
THOMAS + BOURKE  
mark.

## JAMES O'CONNOR states :—

I was in hospital on the day when Bourke was struck by the chief warder. I saw the special, Moran, taking Bourke round the body to take him to the cells, the chief warder was walking behind him; Bourke turned round and said "Don't strike me." I saw no one strike him at that time. Bourke caught hold of the constable, and the verandah post with one arm, holding the post with one arm and the constable with the other; the chief warder then came up, took the baton and struck Bourke on the head; he struck Bourke several blows. Mr. Payne then came up and told him to "give it to him." Mr. Turnham struck him several blows, and he bled from the face and head. Mr. Turnham walked round him, trying to hit Bourke in the face with the baton. I sung out "murder" and "mercy," when the patients told me not to sing out too loud, or that they would all be put in the cells. King, the barber, then came and took Bourke from the post, and he ran into the centre of the yard. Bourke made no blows at any one, only resisted going to the cells. I am certain Mr. Payne said give it to him. I do not think that Mr. Payne was there a minute. Bourke and the constable were still fast at the post. I did not see more men than King come to assist. After Bourke got away, he said, "You are treating me cowardly." I have seen men several times go to the cells with the chief warder; they are not struck; they have gone quietly. I cannot account for what took place.

This man is now  
undergoing a  
sentence for  
perjury. J. P.

(Signed) JAMES O'CONNOR.

## The statement of WILLIAM GREEN saith :—

I was present when a disturbance took place between the chief warder and Bourke on the 19th of the last month. I was standing for medical inspection next to Bourke. When the doctor came to Bourke, he asked what was the matter with him, when he replied that he had a pain in his testicles. The chief warder said, the last time the doctor was here he had complained of his back. The doctor felt his arm, and Bourke said he was not bad there, but in his testicles. The doctor looked in his mouth, and said, he was not bad there. Bourke replied, no thank God, he could eat plenty if he could get it. The doctor then said, if he came any more, he would take him before the visiting justice. Bourke then said, if he would not give him something, he would complain to the magistrate. The chief constable then told the man to go away, or he would lock him up. I was then out of their view about half a minute, when I saw a constable holding Bourke by the arm, and Mr. Turnham striking him with a baton. I walked away and saw nothing more. The constable had hold of Bourke; Bourke did not make use of any bad language to the doctor; I should have heard it, if he had done so. Mr. Payne was out of my sight, but I saw him push no one whilst in view. I asked Bourke, when he came out of the cells, if he had struck the chief constable. He said "No," but that four of them had struck him; that he wanted to hear no more about it.

(Signed) WILLIAM GREEN.

Taken this third day of December, 1856.

(Signed) JOHN PRICE, J.P.

The statement of THOMAS WILLIAMS, *alias* CORNELIUS CRAWLEY, saith :—

I was not present when any disturbance took place in the yard. I did not see Bourke struck by any one. If Bourke has said that I was present, it is not correct.

(Signed) THOMAS WILLIAMS.

Taken before me this third day of December, 1856.

(Signed) JOHN PRICE.

## EDWARD PLUNKETT states :—

I am a prisoner. I remember a disturbance taking place between Bourke and Mr. Turnham. The doctor, Dr. Webster, was present, and had the same opportunity of seeing what I saw as myself. I saw the chief warder pushing Bourke from the outer yard, under the verandah. I saw Bourke put up his hands and say "Don't strike me." Mr. Turnham had nothing in his hand at that time. Mr. Turnham called one of the warders; got a baton and struck Bourke; he struck him two or three times. Crawley and I are together in the gang; we belong to the same gang; we fell in together. I did not see Mr. Payne strike Bourke. When Mr. Turnham struck Bourke, Bourke had hold of no one. I saw no struggle with them. I saw the warder outside the small yard. I am positive I did not see Mr. Payne catch hold of Bourke, and run him into the verandah.

his

EDWARD X PLUNKETT.  
mark.

## GEORGE DUNMORE LANG saith :—

I am a prisoner employed as a writer. I remember the disturbance that took place between Mr. Turnham and Bourke. The first thing I saw was a scuffle under the verandah. Bourke had hold of the sentry round the waste. The constable threw him on the ground. Bourke had his arm round the post. Bourke was struggling to get away. Bourke at that time was receiving blows from Mr. Turnham, I do not know what for. Three prisoners came to hold Bourke, who held him, and he broke away, and was told to go to the cell. Two of the prisoners had hold of him. He went into the cell and was told to come out to have handcuffs put on. He came out; he was handcuffed, and the special warder struck him over the mouth. I saw Bourke talking, but what he said I do not know. It was a staff Mr. Turnham was using. I did not hear Bourke told to let go by Mr. Turnham. I heard Bourke swearing after he got away. I had the door shut. I should not say the struggle lasted five minutes. At one time Bourke had one arm round the warder and another round the post. He seemed to be a stronger man than the constable. During this time Mr. Turnham was striking Bourke. I did not see all that took place. I do not remember Mr. Turnham having hold of Bourke, but I remember seeing Mr. Turnham's knuckle being bound up, which I heard was caused by Mr. Turnham striking his own hand whilst holding Bourke. I heard Bourke say he would not allow any man to lay a hand on him. I know I have always seen the men go quietly to the cells.

(Signed)

GEORGE. D. LANG.

## The statement of GEORGE LOCKETT saith :—

I am a surgeon and a prisoner here. I came here at the end of October, and have been hospital attendant ever since. On the morning that Bourke got his head cut, I was standing at the hospital door. On hearing a scuffle I turned round and saw Bourke strike at the chief warder. The warder ran up to the chief warder's assistance. Bourke took hold of the warder round the waist, and had it not been for the post, of which the warder caught hold, he must have gone down, from the force used by Bourke. The chief warder then struck Bourke three or four times on the lower part of the body, and also on the arms and hands. Bourke then seemed to use more force, and the chief warder hit him on the head. Bourke still tried to throw the constable down backwards, and Mr. Turnham called me to assist. I went over and took Bourke round the waist, I released him from the warders and laid him on the ground; he got up and walked backwards, and said "I'll knock the first bloody man's head off who comes near me." King, the barber, then went to him, and he followed King to the cell. He was very much excited. I had a great deal of difficulty in taking Bourke from the warder. King did not interfere with me. King could not have been there assisting without my noticing him. I do not know where King was. I laid Bourke on the ground. I saw Sutton there, but cannot say if he assisted me. I have seen men taken to the cells; I never before saw violence used to them. The men generally go quietly. I was assisting the chief warder before King came up. I dressed his wounds, two scalp wounds, one on his eye. Bourke was struggling with the constable for full five minutes and more. I am a surgeon, and from the strength I saw Bourke display in struggling with the constable, I should consider him fit for quarry work. Had it not been for the post, the warder must have gone down. I saw Bourke go into the cell. I think he went quietly. I did not see any one strike him in his cell. I did not hear him threaten any one. I did not take particular notice of him. I saw him handcuffed. He might have used threats without my noticing him.

(Signed)

J. G. W. LOCKETT.

## JOSEPH SUTTON states:—

I am a prisoner, and cook at the station. The cook house is at the corner of the verandah opposite the hospital. I remember, about a fortnight ago, seeing Mr. Turnham following Bourke to the cell, as I suppose. He told him to go before him. He turned round twice facing the chief warder. Mr. Turnham put out his hand to push him on, when Bourke turned round and made a blow at Mr. Turnham, saying, he would allow no bloody man to push him. The warder came up with his staff. Directly the warder came up, Bourke caught hold of the warder and tried to bring him to the ground. The warder caught hold of the post, and Bourke struggled with him for some minutes. Bourke kept his mouth close to the warder's shoulder, and I thought intended biting him. Mr. Turnham tried to loosen his hands, and struck him with the staff first on his hands. Mr. Turnham struck Bourke on his head, when Bourke rose his hand to him. One warder only was present at this time. It took three of us to take him off the warder—myself, King, and Lockett. Bourke jumped into the yard, and said, he would knock any bloody man's head off who came near him. I think Lockett got hold of Bourke's hands; I pulled him by the legs; King had hold of him, but where I cannot say. I never before saw any one going in a disorderly manner to the cells. Bourke was threatening and calling names as he went along.

(Signed)

JOSEPH SUTTON.

## Statement of JOHN KING saith.—

I remember the day Bourke was taken to the cells. On that day I heard a noise at the end of the verandah. I turned round to see what it was, and I heard the chief warder tell Bourke to go on, saying, "Go on," for Bourke was very stubborn and would not go on. He turned round and put his fist in the chief warder's face after he got a little way under the verandah, but did not strike him. The constable ran up when he saw Bourke hold his fist in the chief warder's face. He raised his staff. Bourke ran at him and seized him by the breast, and tried to throw him down, trying to throw him. The chief warder caught hold of the staff. Bourke would have thrown the warder down, but he caught hold of the verandah post. Bourke kept dragging at the warder with all his strength. After he had driven the warder some times round the post, the chief warder struck Bourke on the side or hip to make him let go. The warder still kept going round the post from the effects of Bourke's heaving at him, Mr. Turnham still striking him, and telling him to let go. Mr. Turnham called out for assistance. I came up with Sutton and Lockett. I unclasped his hands from the constable. The chief warder told him to go to the cells, and seeing him turn round again and thinking that there would be more of it, I told him to come with me, and I put him in the cell myself. When he was put in the cell he was kicked by no one. The special struck him with the key. He was cursing and swearing, and saying what he would do if he had the constables in the cell with him. He was excited, cursing and swearing all the way as he went. He swears very little. He has been on the station some time with me. He said that he would show them what he could do, that he was not as some of them, a coward. If Mr. Payne had sung out "Give it to him," I should have heard it; certainly he did not say so. Mr. Payne did not touch Bourke, that I saw.

(Signed)

JOHN KING.

## Statement of WILLIAM TAYLOR saith:—

I did not see any disturbance between Mr. Turnham and Bourke. I was with the doctor when Bourke told the doctor he had pains in his back. The doctor examined him, and said he could see nothing the matter with him, and that, if he came again, he should take him before the visiting justice. Bourke replied, he could take him before the visiting justice if he liked, or he would go to the cells. The superintendent told him he should go to the cells. I saw Mr. Turnham call the constable. When the constable came up Bourke turned round, and he appeared to me to be resisting going to the cells. He held up his hands before his head. No one was striking him or attempting to strike him. They were only showing him because he would not go to the cells. I saw no more, as I had to walk down the yard. Bourke did not appear to be out of temper.

(Signed)

WILLIAM TAYLOR.



MR. JOSEPH TURNHAM states:—

I am chief warder. On the 19th of last month the prisoner Bourke attended the medical officer; the medical officer told him that he was strong and able-bodied, and must do the work he was ordered, that he made a practice of coming every time he came, and that, if he came any more, he should take him before the visiting justice. Bourke said he would see the visiting justice, and he could put him in a cell. I said to Bourke, "Go away, don't be foolish." Mr. Payne said, "Put him in a cell." I said, "Go on Bourke, go to the cell," putting my hands on his shoulders and gave him a gentle push. He turned round, both his fists clenched, and I thought he was going to strike me. I think I struck him with my fist. I stepped back; Mr. Payne came between us and pushed him before me on to the verandah; he went into No. 3 ward—not No. 5, as stated. I ordered him to come out; he would not. I several times told him to come out. He was standing against the bunks in a fighting position, telling me to keep off. I pulled him out; a scuffle then ensued between warder Moran and the prisoner; he caught hold of Moran round the waist and struggled to bend him back. Previous to this I had taken the staff from Moran's hand; I threatened him that, if he did not let the warder go, I should strike him. I struck him on the hip, I think once on the hands, then took him by the collar, using every exertion to separate them. I struck him on the head, thinking that would compel him to leave go. He became so desperately violent, that I thought he would break the man's back as he was bending. I became completely exhausted in trying to separate them and called for assistance; the three prisoners, King, Sutton, and Lockett, came and took the man off the warder; he was then put in the cell. He rushed out into the yard before going to the cell, and made use of very violent language. The sergeant and special then came down, and I heard Bourke call some one "a bloody wild Irishman." He rushed with his hands cuffed, holding them up at the warders. O'Donnell then shoved the keys in his face. Dr. Webster then came round to him.

(Signed) JOSEPH TURNHAM,  
Chief Warder.

—————  
LIEUTENANT PAYNE states:—

I am superintendent of this station. I remember the occurrence now under investigation. It was about last Thursday week, the sick were ranked up, Bourke was amongst them; the doctor saw him, as he complained of a pain in his testicles. The doctor remarked that he did not think that there was anything the matter with him, that he was a strong man and that he could do his work. It is on the doctor's order, the men are sent to work, light or otherwise. Dr. Webster told Bourke that if he came again before him on such frivolous complaints, he should have him brought before the visiting justice, and placed in a cell. Bourke, on this, turned round to him and said, "Oh, you can bring me before the visiting justice and place me in a cell." It was said in a tone and manner different to that in which he usually addressed the doctor. I considered his manner insolent. I immediately said "Well then, you shall be placed in a cell." Mr. Turnham then went and caught him by the shoulders to push him on to the cell; he was mumbling. Bourke stepped back, closed his fists, and stood as I considered in a threatening attitude, his fists were closed down in front. I then stepped before the chief warder, caught him by the frock and walked him to the verandah. I should say he was out of sight of Plunkett, he was in sight of Green and O'Connor. Mr. Turnham came past me, and pushed him along the verandah, as he had turned round and was "squaring" up to me. I then said, "Put him in the cells," and went to where Dr. Webster was; I came back in about half a minute and saw Bourke struggling with warder Moran. I came up to him and said, "Let go." He had Moran round the waist. I turned round to the chief warder and said, "Make him let go." The gangs had fallen in, and I sent the gangs to labor. I saw, before I left, the chief warder use the constable's staff over the man's body. When I went to him no one had struck him. I can swear no blow was struck till Bourke was on the verandah. I thought Bourke was going to strike Mr. Turnham.

(Signed) CHARLES B. PAYNE.

—————  
PATRICK MORAN states:—

I am a warder. I have been in the force two years and upwards. I remember the occurrence now under investigation. I was on duty in the yard and heard Dr. Webster speaking in a loud tone to Bourke. I went down towards where he was; I heard Dr. Webster tell Bourke to go away, and that he would bring him before the magistrate. I did not hear the exact words. He did not go, and the chief warder told him to go, which he did not do. The chief warder gave him a couple of pushes and told him to go along; he turned round twice, when Mr. Payne shoved him on. He then got into No. 5 ward in the inner yard; he stood inside the door in a fighting attitude, sparring like. I was special in the yard, and I told him that, if he struck any one, I should strike him. He then came out of the ward and caught hold of me without any force; I then pushed him and he fell; how it was done I cannot say. The chief warder at this time had taken the staff out of my hand; Bourke got up and took a very firm hold of me round my waist. The chief warder told him to let me go; he struck him with the staff and told him to let me go; we struggled for near ten minutes, I cannot exactly state the time. We both had hold; Bourke was trying to throw me down. I thought Bourke stronger than myself, and caught hold of a verandah post, going round and round the post, but could not get free from him. The chief warder told him to let go, or he would strike him. He would not let go, and the chief warder struck him. When the chief warder could not get him away, he called some prisoners to assist; they came and took him away; I could not say how many came. I could not tell what Bourke's object was in taking such a grasp of me; my arm was black and my side sore from the struggling. Bourke did not strike me. Bourke was bleeding profusely. I did not hear Bourke make use of bad language.

(Signed) PATRICK MORAN.

—————  
The statement of G. W. WEBSTER, ESQUIRE, saith:—

I am surgeon on the staff and attend the penal establishments. I know a man named Bourke in the Collingwood stockade; he has lately been applying for medical relief, though not on the list of sick; he complained of pain in the back and testicles. He had no swelling; I thought he had nothing the matter with him; I examined him particularly. I may have given him a bandage. I saw him on several occasions complaining of the same thing, which I deemed frivolous. I considered him fit for hard work, and warned him against repeating his application. I told him that if he came again, I should take him before the visiting justice. He answered in a disrespectful manner, but the words used I do not remember. He was ordered away by the chief warder, and as

he did not go, he was ordered to a cell, and he and the chief warden went together. I think the chief warden either took him by the collar or touched him on the shoulder and told him to walk on. I shortly after heard a scuffle behind me as if a man were resisting; that lasted a few minutes, or I cannot say exactly how long. After I had finished my duty, I went towards the hospital and then saw Bourke being taken to a cell. I am not certain of this, however. I examined Bourke's head about ten minutes after he left the yard; he had a cut on the head, a scalp wound, and some slight bruises about the face and eye. I asked him to let me look at his head. Bourke said, "Oh, that is nothing, I have often had worse than that before." He was excited.

(Signed)

G. W. WEBSTER, M.D.

A true copy.—JOSEPH STONE, Clerk.  
JOHN PRICE, Inspector General, P. E.

## APPENDIX M.

## PENAL DEPARTMENT.

LIST of OFFICERS and WARDERS who have left the Service, from the 22nd October, 1856, to 5th December, 1856:—

Establishment.	Office.	Name.	How removed.	Cause of Removal.
Hulk <i>Lysander</i> ...	Chief Warden	J. L. Ranking ...	} Resigned.	} Called upon to resign, having proved their inefficiency on the hulk taking fire on the 22nd October, 1856.
" ...	{ Clerk and Storekeeper }	J. Berkely ...		
Inspector General's Office ...	Clerk ...	H. T. Squire ...	} Discharged.	Ill-health.
Hulk <i>Success</i> ...	{ Clerk and Storekeeper }	J. Wrangle... ...		Inability to perform duties.
" ...	Warder ...	W. Callard... ...		None given.
Pentridge ...	Do. ...	J. Daniel ...		Going to the diggings.
" ...	Do. ...	P. Shehan ...		None stated.
" ...	Do. ...	C. Fraser ...		None stated.
Hulk <i>Lysander</i> ...	Do. ...	W. Murray... ...		To go to Sydney.
" ...	Do. ...	W. Griffiths ...		To go to the diggings.
Collingwood... ...	Do. ...	W. Pavay ...		To join his family.
" ...	Do. ...	B. Watson ...		Private affairs.
" ...	Do. ...	P. Dunscombe ...		Private affairs.
" ...	Do. ...	P. McKenzie ...		{ Frivolous charge against superior officer.
" ...	Do. ...	R. Lechmere ...		Neglect of duty.
Pentridge ...	Do. ...	J. Donnelly ...		Previous discharge from police.
Hulk <i>Sacramento</i> ...	Do. ...	A. Moran ...	Asleep on post.	
" ...	Do. ...	W. Byrne ...	Overstaying leave.	
" ...	Do. ...	J. McClusky ...	Asleep on post.	
Hulk <i>Lysander</i> ...	Do. ...	P. Moran ...	Refusing duty.	
" ...	Do. ...	D. Donoran ...	Asleep on post.	
Hulk <i>President</i> ...	Do. ...	M. O'Driscoll ...	Asleep on post.	
Hulk <i>Success</i> ...	Do. ...	J. Doyle ...	Asleep on post.	
Pentridge ...	Do. ...	J. Rodgers ...	Drunkenness.	
" ...	Do. ...	E. Waters ...	Overstaying leave.	
Collingwood... ...	Do. ...	Samuel Clarke ...	Insubordinate conduct.	
Hulk <i>Lysander</i> ...	Do. ...	J. McGarr Anderson ...	Absent without leave.	
" ...	Do. ...	J. Dean ...	} Neglect of duty in quitting their posts on the occasion of the hulk taking fire.	
" ...	Do. ...	T. Hind ...		

JOHN PRICE,  
Inspector General, Penal Establishments.

**APPENDIX N.**  
**PENAL DEPARTMENT.**

RETURN of TICKETS-OF-LEAVE issued to Prisoners during the Years 1854, 5, and 6, by the Inspector General of Penal Establishments.

YEAR.	DISTRICTS.																				Total No. of tickets issued.	No. who have reported themselves to the police.		No. of ticket-of-leave holders returned to Penal Establishment for breaches of the regulations.	No. of ticket-of-leave holders who have received or applied for free certificates.	No. of ticket-of-leave holders free by lapse of time.									
	Alborton.	Brighton.	Benalla.	Bourke.	Bacchus Marsh.	Belfast.	Chepstowe.	Colac.	Gisborne.	Glendalg.	Grant.	Horsham.	Hamilton.	Hexham.	Heidelberg.	Kilmore.	Kyneton.	Melbourne.	Maiden's Point.	Portland.		Seymour.	Sale.				Swan Hill.	The Leigh.	Warrnambool.	Western Port.	Wangaratta.	Wimmera.	Discharged with ticket-of-leave, but handed over to the police as absconders from other colonies.	On arrival at their respective districts.	Subsequently reported themselves to the Police Benches.
1854...	...	2	1	2	1	...	...	...	...	1	3	1	...	...	1	24	1	...	1	8	...	...	1	...	...	1	...	1	...	49	1	3	11	1	28
1855...	2	...	2	...	1	...	2	2	...	...	...	4	1	...	8	24	21	...	...	26	...	...	1	2	2	...	4	2	108	11	12	2	2	8	
1856...	5	5	1	...	4	9	...	...	2	...	...	3	...	1	26	19	24	1*	1	20	3	1	2	15	...	...	29	...	179	54	14	8	12	4	
<b>TOTALS</b>	<b>7</b>	<b>7</b>	<b>4</b>	<b>2</b>	<b>6</b>	<b>9</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>8</b>	<b>1</b>	<b>1</b>	<b>35</b>	<b>67</b>	<b>46</b>	<b>1*</b>	<b>2</b>	<b>54</b>	<b>3</b>	<b>1</b>	<b>4</b>	<b>17</b>	<b>2</b>	<b>1</b>	<b>33</b>	<b>3</b>	<b>396</b>	<b>66</b>	<b>29</b>	<b>21</b>	<b>15</b>	<b>40</b>	

\* This man was permitted temporarily to reside with a relative in Melbourne, in consequence of being unable from the state of his health to proceed to the interior.

JOHN PRICE,  
Inspector General of Penal Establishments.

## APPENDIX O.

### PENAL DEPARTMENT.

RETURN of DEATHS which have occurred on board the Penal Hulks and at the Marine Stockade at Williamstown from the date of their occupation to the 31st December, 1856.

No.	Regd. No.	Name.	Offence.	Sentence.	Date of Conviction.	Date of Death.	Verdict of Jury.	Name of Person in immediate attendance on each prisoner at time of death.	Remarks.
<b>PENAL PRISONERS.—</b>									
<i>Marine Stockade.—</i>									
1	650	Johnson, William ...	Keeping a disorderly house	12 months	22nd Mar. 1853	14th Jan., 1854	... ..	359 Anthony Riley, prisoner at <i>Lysander</i>	No inquest. Body interred by direction of the coroner, upon the certificate of assistant colonial surgeon.
2	1253	Wallgate, William ...	Larceny ...	9 months	12th Nov. 1853	12th April, 1854	... ..	Not known ... ..	} Inquiry held by the police magistrate. Testimony of assistant colonial surgeon taken. Cause of death—dysentery.
3	1061	Collingwood, John ...	Drunkenness	3 months	12th June, 1854	11th July, 1854	Died from old age and decay of nature, accelerated by intemperance	Not known ... ..	
4	1086	Walker, Bernard ...	Desertion ...	14 commuted to 10 years	5th Feb., 1853	1st Jan., 1855	Death from natural causes ...	2791 W. McLoughlin, prisoner at <i>Lysander</i> .	
<i>Hulk Success.—</i>									
5	702	Cox, Charles ...	Horsestealing	7 years rds.	27th April, 1853	16th July, 1843	Died from natural causes ...	Mr. Gardener, chief warder.	
6	148	Gough, Alexander ...	Robbery ...	10 years rds.	16th Feb., 1853	8th Aug., 1854	Died from natural causes ...	Mr. Hyland, chief warder.	
7	822	Sullivan, Patrick ...	Stealing from the person	10 years rds.	13th July, 1852	18th Sept., 1855	Died from suffocation caused by rupture of a blood vessel	Mr. Gardener, chief warder.	
8	1486	Stephens, William ...	Robbery ...	12 years rds.	10th April, 1854	22nd Oct., 1856	... ..	... ..	Drowned at rush of prisoners; the body not recovered.
<i>Hulk Lysander.—</i>									
9	2321	Francis, Thomas ...	Vagrancy ...	3 months	12th April, 1855	16th July, 1855	Died from natural causes ...	1726 H. Williams, prisoner.	
10	2442	Kennedy, Charles ...	Larceny ...	6 months	14th May, 1855	14th Nov., 1855	Died from fever ... ..	Ditto.	
11	2610	Moody, George ...	Larceny ...	7 months	4th Sept., 1855	14th Nov., 1855	Died from stricture, producing rupture of bladder	Ditto.	
12	438	Williams, John ...	Horsestealing	6 years rds.	19th Nov., 1852	30th Mar., 1856	Died from natural causes ...	Mr. Maxwell, asst. superindt.	
13	374	Read, John ...	Horsestealing	7 years rds.	17th Sept., 1852	5th April, 1856	Died from acute inflammation of the liver	Ditto.	
14	2569	Miller, Thomas ...	Vagrancy ...	12 months	17th Sept., 1855	12th April, 1856	Died from diseased liver ...	Ditto.	
15	2798	Mooney, Thomas ...	Larceny ...	3 years rds.	24th Feb., 1855	17th June, 1856	Death arose from consumption	Ditto.	
<b>REFRACTORY SEAMAN.—</b>									
16	2861	Saradin, (a Malay) ...	Refusing work	14 days h. l.	15th Sept., 1856	5th Oct., 1856	Died from dysentery ... ..	Mr. Maxwell, asst. superindt.	
17	2959	Turner, John ...	Desertion ...	4 weeks h. l.	13th Oct., 1856	22nd Oct., 1856	Willful murder against Melville and others.		
<i>Hulk Deborah.—</i>									
18	751	Seode, Hussan ...	Refusing duty	4 weeks h. l.	11th Oct., 1853	17th Oct., 1853	Died from acute bronchitis ...	Not known.	
19	752	Sobbias ...	Refusing duty	4 weeks h. l.	11th Oct., 1853	26th Oct., 1853	Died from natural causes ...	Not known.	
20	701	Mastid, Joseph ...	Refusing duty	12 weeks h. l.	19th Sept., 1853	3rd Dec., 1853	... ..	Not known ... ..	Inquiry before Capt. Carr. Report as follows:—"Died from natural causes."
21	1435	McDonald, John ...	Desertion ...	10 days h. l.	11th Mar., 1854	17th Mar., 1854	Died from natural causes ...	Not known.	
22	1292	Khan, Kalla ...	Refusing duty	2 months h. l.	6th Feb., 1854	24th Mar., 1854	Died from natural causes ...	Not known.	
23	1929	Huta, James ...	Refusing duty	12 weeks h. l.	7th Oct., 1854	17th Nov., 1854	Died from natural causes ...	Not known.	
24	2114	Jones, John Hy ...	Refusing duty	12 weeks h. l.	28th Nov., 1854	3rd Dec., 1854	Died from inflammation of the lungs	Not known.	

## APPENDIX P.

## PAPER ON PRISON DISCIPLINE BY R. C. F. SMITH.

SIR,

Williamstown, Dover-place, 19th January, 1857.

In accordance with the desire of your Honorable Committee, I most respectfully submit the following observations on the subject of penal discipline:—

I have had considerable official opportunity of becoming acquainted with the working of every penal system that has been in colonial operation during the last twenty years, and have thus observed—

- 1st. The original assignment system of Tasmania.
- 2ndly. The probation system which followed.
- 3rdly. The effects of Captain Maconochie's system of marks and indulgence, and the immediate contrast subsequently afforded by the enforcement of strict discipline at Norfolk Island.
- 4thly. The penal system of Victoria.

I have devoted much attention to noting the different effects and merits of these various plans of treating criminals, but shall confine my present remarks to such points as I believe to be most pertinent to present circumstances. I may, however, first of all state that my experience has resulted in convictions wholly opposed to that popular disposition to undervalue the good effects of strict discipline as a reformatory agent, and to that mistaken philanthropy which would exalt the efficacy of refined appeals to moral influences as a means of controlling and reforming that very class of society whose whole lives have been spent in opposing much stronger restraints.

1st. and 2nd. The British Government abandoned the old assignment system of Van Diemen's Land chiefly from a persuasion of its failing to act as a deterrent to the commission of crime in the United Kingdom. The probation system next produced would not, I believe, have conserved the moral interests of the mother country any better than the preceding system; but its very unfavorable colonial operation produced that intense political opposition to the continuance of transportation in any form, which ended in the acquiescence of the Imperial Government in the Colonial demands. To the increase at first, and the reduction at last, of the Tasmanian penal establishments may be traced the growth of our criminal population in Victoria. In the earlier period of Van Diemen's Land being thronged with probation convicts, numbers of absentees made their way to Victoria, simply because the other Colony was too full for them; but afterwards the attraction of the gold fields immensely increased the stock of runaways, to say nothing of the wholesale-made probation emancipists who flocked over in droves. With reference to the additions which we have received, and may still receive, owing to the winding up of Imperial interests in Tasmania, I shall reserve occasion for mention in another place.

3rd. On the subject of Captain Maconochie's system and its failure at Norfolk Island, I am willing to enter more largely, because no philanthropic scheme has been produced more elaborately, or could be tried more fairly, and because it may be said to fully embody all the contradictory conceptions and benevolent extravagances of the present times on the question of the aims and means of penal legislation. The character and fate of such a system may, therefore, be usefully remembered as an example of how much easier it is to propound fine theories than to produce profitable realities.

Captain Maconochie had the prosecution of his scheme completely in his own hands, with every advantage of time, and place, and prisoners, because convicts were furnished straight from England for his experiment, besides having older hands also to work upon. It cannot be said that he labored under any disadvantage, that his views were misunderstood, or that they were not properly carried out.

His system was one of indulgence, or the application of what he terms "moral influences," in opposition to the ordinary modes of physical coercion. His plan of punishment and reward by marks, which had a certain pecuniary value in the way of purchasing luxuries, proved unequal to secure good conduct in either way; and the failure would have simply made the scheme ridiculous, but for the fearful condition of depravity and disorder which was the cause of such laxity, and occasioned the recal of Captain Maconochie at the end of a four years' trial and the abolition of his system. The accumulated difficulties of his mistake were left to his successor to contend with, who came directed to introduce the ordinary probation system; but Major Childs soon proved unequal to the task of reducing to order the pupils of Captain Maconochie's philanthropic school, and a series of outbreaks taking place, winding up with the murder of the chief constable and several police. The Tasmanian Government dismissed Major Childs, and Mr. Price (now Inspector General, Victoria) was selected to undertake the command at this season of great emergency. Volunteers were called for among the officers of the penal department, and the service was publicly regarded as a desperate business. And thus ended in much evil the reign of indulgence. Captain Maconochie's plans of doing good were as unsubstantial as a child's card house, which falls down so soon as touched. The harm his plans did remained to be cured.

By dint of great severity, in a few months Mr. Price brought his command into a submissive state, and henceforward the turbulence, robbery, stabbing, murders, and other crimes, common under the previously tender administration, became, comparatively speaking, almost unknown under the régime of strict discipline. For one murder, and one capital execution, which appeared to mark this latter reign, twenty or more capital punishments belonged to the former period; and I can state, from my knowledge of the public Island records, which were in my custody, that the same diminished result existed in every respect, except in the registration of cases of mere ordinary disobedience, or breach of regulation, trifles not recognised by philanthropy, but especially numerous under any system of real control. And this tendency of indulgent treatment to be distinguished by great crimes, and of strict discipline for the multiplied exhibition of smaller ones, is the lesson to be gained, by comparison of the different condition of affairs which prevailed under these opposite systems at Norfolk Island; a difference requiring insisting upon, not from any want of knowledge of the public failure of the philanthropic experiment, but from a less popular patronage of the successful results of ensuing practical discipline. But experience will not fail to draw the inevitable conclusion, that indulgence is wholly fatal to that humane regard for the well-being and reformation of the convict which it erroneously proposes to consult.

4thly. I have now to speak of that part of my experience which relates to the working of our present penal system in this country. I formerly resided for some months at a station of which my brother was the superintendent, under Mr. Barrow, and I have since held office for about fifteen months, more latterly as assistant superintendent in the *Lysander* hulk. I have been in the habit of visiting most other stations, and am tolerably well acquainted with the character of many subordinate officers, and the general result of my knowledge of the working of the department produces the conviction that its administration possesses the rare colonial merit of that substantial consistency between regulation and practice, on which the true efficacy of any system really depends, and that, as a means to an end, it shows a favorable result in the small number of re-committals that appear—not ten per cent. of the number of prisoners who have been discharged.

The present code of regulations was carefully compiled under the auspices of Mr. La Trobe, and may emphatically be termed a probation system of anything but too severe a character. Embracing all recognised aims in protecting society, by rendering adequate punishment for the discouragement of crime, it yet leaves open every possible avenue by which we can instill hope and promote reformation; so much so, that each

convict may be said to hold in his own power, as he is disposed to be obedient or the reverse, his future prospects for worse or for better. All the appliances, which we can understand by the term moral means, are fully permitted in the cultivation of religious impressions at suitable times, and the liberal use of schools, books, and Bibles.

Our present system also secures, by uniformity of labor and discipline, that regular effect contemplated by legal or judicial sentence. This regularity of consequences is interfered with whenever the partial principle of taskwork has been adopted, as I know that to be a system essentially unfair in its operation.

The perfection of English prison accommodation, obtained at the enormous cost of from fifteen thousand to twenty-five thousand pounds for every hundred convicts, enables the application of a severe course of punishment, by separate treatment and solitary confinement, which is felt more than seen. In this country the absence of proper buildings renders control more difficult, and punishment more obvious, but far less severe than it is in England; our extensive use of chains being more a measure of safe keeping than of any real punishment.

We have also, I without hesitation assert, at the same time to contend with the worst class of criminals in the world, as can be plainly demonstrated by calling to mind the fact that the best or reclaimable portion of the one hundred thousand convicts imported into the adjacent colony had been lost sight of before the cessation of transportation, and are not now generally distinguishable from the mass of colonial population here or elsewhere; but the few thousand who remained under Tasmanian penal treatment during the last seven years have been the residuum or dregs of the entire existent criminal importations of the past twenty years. Numbers of this sample Dr. Hampton has let loose upon Tasmanian society, convicts of the stamp of "Rocky" Whelan and McManus, who were hanged after committing several murders, &c. Many of such men have come already, and more will hereafter find their way over to Victoria, and the body of criminals now described will be found filling the penal establishments of every colony, but particularly Victoria, being the richest one, unless the efficiency of her penal arrangements induces them to prefer other countries possessing more mild institutions. Three-fourths of our prison population are old convicts, and a vigorous system of coercion is not more required to keep them *in* than it is to keep them *out* of our penal establishments.

The only thing which I can suggest in the way of improving the regulations or condition of this department is, that every old convict re-convicted in this colony should undergo a term of separate treatment and solitary confinement on the English plan, and be also placed in chains for half his sentence, and that a stone penitentiary be built as soon as possible, adapted to the English plan of treatment, and capable of retaining five hundred of the worst characters. The remainder or better portion might then be more safely distributed in the present manner, wherever the most prolonged public work could be found for them. It has occurred to me that moveable iron stockades might be constructed and used with advantage, particularly if convicts were to be employed on the roads and railroads. The hulks have always been a mere necessity.

Having thus stated my views, to the best of my ability, as to the general efficiency and good tendency of our penal institutions, I must now add my humble testimony to the prevailing good conduct and character of the officials. No cases of such cruelty and wanton ill usage, as have recently been publicly charged to their account, have ever come under my knowledge. I do not suppose the most determined benevolence will venture to suggest the practice of the officials allowing themselves patiently to be "beaten by thieves;" and the incredible action of convict spite and violence, often from no more exciting cause than the official discharge of duty in the ordinary way, must be seen to be understood.

The officers of the penal department perform twice the amount of duty measured by time and intensity, or by time alone, to that of any other branch of the civil service; to say nothing of that rigid attention to duty and propriety of personal conduct, *alone* essential to his particular department of the public service, which Mr. Price so fully insists upon, and which has rendered him unpopular with many of his officers at Norfolk Island, and some in this country.

Of Mr. Price himself I can honestly state my belief, that no public officer has ever exceeded his untiring devotion to the public service, and to the calls of an enlightened humanity in the patient and impartial treatment of criminals. I feel fully assured, from the experience of a great many years' close observation, that the proceedings of Mr. Price are regulated uniformly by a conscientious regard for the interests of society, and the ultimate good of the unhappy subjects of penal treatment who come under his control.

I have the honor to be,

Sir,

Your obedient humble servant,

RONALD C. F. SMITH.

To the Honorable the Chairman  
of the Committee of the Legislative Council  
on Penal Establishments.

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## APPENDIX Q.

RETURN of OFFICERS, WARDERS, &c., who have left the Department since the present Inspector General (John Price) took charge up to the 31st December, 1856; showing the dates of their appointment, their salaries, the dates and reasons of their dismissal, discharge, or resignation, amount of pay due to each when leaving, and how much (if any) left back.

(Not printed.)

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## APPENDIX R.

PAPER BY MR. KENTISH, RECOMMENDING THE INTRODUCTION OF THE ASSIGNMENT SYSTEM.

(Not printed.)

APPENDIX S.

SIR,

Williamstown, 19th January, 1857.

In conformity with the request of your Honorable Committee, I have the honor to forward a report on penal discipline, as carried out in New South Wales, conjointly with a few suggestions based upon my experience of convict management there and in this Colony.

I have the honor to be, Sir,

Your most obedient servant,

The Honorable the Chairman of the  
Legislative Council Committee on Penal Establishment,  
&c., &c., &c.

WILLIAM PITT BURNE.

To the Honorable the Chairman of the Legislative Council Committee on Penal Establishments, &c., &c., &c.

SIR,

Williamstown, 14th January, 1857.

The public mind having been at length aroused to the conviction that the treatment of the convict population of this Colony has hitherto been one of brutality, costliness, and inhumanity, combined with the most gross and palpable injustice, it becomes the province of persons experienced in the management of the prisoner to offer the results of their experience in aid of the great object of penal reform.

Unsurpassed as is the present system of brutality and outrage in the annals of convict management, it is truly lamentable to perceive that even the slightest prospect of amelioration of such barbarity, miscalled "penal discipline," is viewed with disapprobation, and perhaps with dismay, by those functionaries and their familiars who desecrate, in their hapless victims, the sacred attribute of manhood, by their habitually debasing treatment. It would go far to prove the immense amount of prejudice that has yet to be disposed of before the desired solution of the problem of persuasion over coercion shall have thoroughly established itself.

In conformity with the request of your Honorable Committee, I venture to place on record a synopsis of the views which I have ever entertained with regard to the management of the convict, based upon an extensive and successful experience, as superintendent of an establishment *in transitu*, by far the largest and most varied in the whole range of the transport colonies.

In it were usually confined men of every age, under sentence for every species of crime, from the youth of fifteen years, convicted as a London pickpocket, to the hardened doubly and trebly convicted felon and Norfolk Island expiree, or the murderer whose life had been saved by some technicality of law or defect in the necessary evidence to convict, and who had again become eligible for assignment to private service. Such men I have had in my service, such men I have intrusted with property of value, and from such men have I experienced the utmost amount of faithfulness and good conduct; and it is notorious, that at this moment very many of these persons are a living contradiction to the assertion of the "impossibility of criminal reform."


To Lieutenant General Sir Richard Bourke, one of the most enlightened governors that ever graced the vice-regal throne, whose name stood pre-eminent, not only as a soldier and a statesman, but whose memory is associated with the declaration that justice was due to the criminal as well as to the free—belongs the honor of greatly amending and improving the laws relating to the convict population of New South Wales; and amongst the many wise and necessary enactments was one in particular, "That no officer having charge of or control over convicts should, under a penalty of immediate dismissal, strike a prisoner; and, also, that no master of assigned servants should, under penalty of the immediate withdrawal of the whole of them, commit such infraction of the penal regulations.

"There are the courts of justice," said Sir Richard Bourke, "it is for them to deal with offences; to them let the prisoners be consigned; it is not for you to infringe the laws by taking them into your own hands."

For the Sydney district there was the convict court of Hyde Park barracks sitting three times a week—Monday, Wednesday, and Saturday; composed of four unpaid justices—the Inspector General of Hospitals, the Collector of Internal Revenue, the Deputy Surveyor General, the Chief Harbor Master—officers entirely irrespective of the convict department; and in no case do I remember the principal superintendent of convicts (an officer analogous to our inspector general of penal establishments) sitting in jurisdiction over a prisoner, or in any way whatever interfering with the magisterial duties of the court. In this court, then, the prisoner had a fair and impartial hearing, and every sentence becoming accumulative was awarded with the utmost care and circumspection.

The cells consisted of twelve in number, built of solid stone, in a way that rendered escape next to impossible, and of which I, the superintendent, kept the keys, and in which any prisoner convicted of a barrack offence was confined on bread and water for periods varying from twenty-four hours to fourteen days.

For more serious offences, except in cases where the prisoner had been originally transported for life, and in which case the accumulative sentence could only be made so by bearing upon the period in which his good conduct would have obtained for him a ticket-of-leave, and by never less than two, and usually by three magistrates, sentences varying from three months to two, three, and five years in an iron gang were awarded; but in passing sentences of the extreme length, great care was exercised in the infliction of them, and great attention paid to the prisoners' former career and general character in the colony.

I now turn to a different species of punishment—the lash—punishment by which was inflicted by a scourger properly trained, on a mattress placed upon a triangle, and marked  about the ordinary height of a man's shoulder, for two hours every morning, in order that, by practice, no unfair striking might injure the recipient of it.

The cat was formed of nine tails, the cord sent from England of a regulated size, and which was the usual punishment for offences of a cast deserving more than the ordinary term of solitary confinement, and less than that of sentence to the iron gang, beginning with twelve months.

The usual offences for which the lash was inflicted were as follows:—

No. 1.

Under the inspection of Superintendent	}	Insolence to an officer, gross breach of barrack regulations, and a variety of smaller offences, for which accumulative sentences were considered inappropriate (previous character always taken into consideration by court) ... ..	Lashes.
			25

No. 2.

Under the inspection of Superintendent.	}	Absconding first time, in addition to serving time absent. Sentence inflicted by two magistrates. A variety of offences, not altogether describable, but more heinous than those of No. 1 ... ..	Sentence
			50

Under inspection of Superintendent, accompanied by Colonial Assistant Surgeon, who, if necessary, ordered cessation.	} All offences to which the lash was adjudged over 50 and up to 150, the	maximum	...	...	...	...	...	...	...	75 to 150

Although I am of opinion that the lash, to some men, is a very efficacious punishment, the more especially the first time it is administered, let it not be forgotten that it causes an indelible mark; a mark that no after reformation can obliterate. I, therefore, am entirely averse to an appeal to that species of punishment in the case of individuals of whom a reasonable hope of reclamation may be indulged.

It must be borne in mind that these prisoners were, for the most part, imperial convicts, removed altogether from the scenes of their former exploits, placed in a new country, and having every opportunity, by good conduct, under the system of private assignment, of improving their condition in life; and in very many instances had become free, either by servitude, or by conditional or by absolute pardon, and having commenced a new era in their lives, had settled down into the position of highly creditable and respectable members of society, and their families, many of whom are members of the learned professions, members of Council, and otherwise holding the most respectable positions, are another contradiction to the "impossibility of criminal reform;" but such a state of things never could, by any possibility, have been the result of such a reckless and inconsistent system as that now in force in this Colony.

It would be well, in the conclusion of the details usually adopted in New South Wales, merely to state that, to keep together in good order, and in a strict state of discipline, a number of men varying from 350 to 1550, it was only necessary to employ the following strength in the establishment of Hyde Park barracks:—

- 1 Superintendent—free.
- 1 Overseer—free.
- 3 and 4 paid convict clerks.
- 8 Convict soldiers, at 1s. 3d. per diem. These men were usually employed when opportunity offered, but ordinary convicts of good character were frequently recommended, and I found them excellent constables.

In addition to the above, the necessary staff of cooks, wardsmen, &c., was employed, from which posts well conducted prisoners obtained their tickets-of-leave, latterly granted only for the country; no tickets-of-leave being, except under very special circumstances, granted for any of the towns of the Colony of New South Wales.

The peculiar excellence of the system adopted in New South Wales lay in the simple fact, that the convict had constantly in view "that honesty was the best policy," that the road to his future success in life was plain and straightforward, whilst that upon which he would have travelled as a thief and a vagabond was but rugged and uneven, profitless and tedious, and inevitably leading to ultimate destruction. Those who, not wanting opportunity, took the good road, reaped the reward of their sense and judgment; those who took the bad one, had, unfortunately, to bear the brunt of their election.

Alas, how destructive then is the road they travel here; without hope, without pity, without even the shadow of a chance of reformation!

Let us hope, then, that the day has dawned which will lead to far different results, and that a graduated scale of reward and punishment will have the very best effect upon the mind of the prisoner of this Colony.

I now propose to offer to your Honorable Committee a few suggestions, which in the present state of the Penal Department of this Colony, and in the hope that they may eventually have some share in the contemplated reforms, I trust will not be considered out of place.

In the first place, as a preliminary step, and one of vast importance, is the absolute necessity, by some judicious measure, of allaying the present feverish anxiety of the convicts, both in Hobson's Bay and at the depôts at Pentridge and elsewhere. The late disclosures, and their convictions that the public are greatly interested in their favor, having in a great degree operated upon them in a spirit of incipient revolt.

With the utmost respect then, I would first suggest that some individual in whom the Government can repose confidence, and in whose name a prestige exists in the minds of the prisoners, be empowered to visit the respective hulks and stockades, to muster the prisoners, and distinctly give them to understand that any breach of the existing laws will be visited with condign punishment; that alterations are about to be made in the penal laws that will give to every well conducted prisoner the benefit of reaping the advantage of his good conduct; but that much will depend upon their own good sense as to the amount of benefits that may be conferred upon them.

This suggestion, I am prepared to believe, will meet with opposition, but knowing the mind of the convict as well as I do, I know that the very confidence placed in them will be religiously replied to by their good conduct, and that they will await patiently the deliberations of the Parliament.

This having been done, the next step may be effected with equal ease, that of reducing the present expensive strength of the penal establishments (at any time and under any circumstances most needless and unnecessary, investing the prisoner with a false idea of his own strength and importance) to very nearly one-half—on board the hulks, to begin with; the land force of warders to remain as they are, until the prisoners are allotted to their respective classes, and the reward rations to be allowed, and be placed upon a regulated scale.

On board the hulks, the guard may be safely placed upon the following footing:—

- 1 superintendent, having the command of the warders; no chief warder required.
- 1 clerk and storekeeper
- 1 sergeant, doing the ordinary duty of chief warder
- 1 corporal
- 8 ordinary warders.

To complete the ordinary day and night guards, where the prisoners are for the most part in heavy irons—barred, bolted, and strongly padlocked into their cells; I would ask, in the name of common sense, what more can be required, than the following watch kept by day and by night:—

#### DAY DUTY

From 6 a.m. till 10 a.m.—	1 on deck, 1 on lower deck, armed	... 2
10 a.m. " 2 p.m.—	1 " " "	... 2
2 p.m. " 6 p.m.—	1 " " "	... 2
		— 6 warders.

#### NIGHT DUTY.

From 6 p.m. till 10 p.m.—	1 on deck, 1 on lower deck, armed	... 2
10 p.m. " 2 a.m.—	1 " " "	... 2
2 a.m. " 6 a.m.—	1 " " "	... 2



When warders are required for the accompanying guard-boat in landing prisoners, the guard might be formed by four shore warders, to be placed between the prison boats and the hulk from which they proceed.

Thus it will be seen, that six warders do the ordinary duty, day and night; you have then two to spare for relief in sickness or absence; and, in addition, a sergeant, doing chief warder's duty, and corporal, setting the relief guard, to look after the arms, &c., &c. And I am of decided opinion, that when a proper classification shall take place, when the alteration in diet and reward for good conduct shall be established, and the prisoners placed on a different footing, that another reduction to one warder, where there are now, or will be by my proposal, two employed, may be very safely made.

It is to be hoped that circumstances will very speedily admit of the total dismemberment of the hulks, and that, in imitation of the gaol at Sydney, a wall, I think from sixteen to eighteen feet high, to enclose a necessary reformatory or penitentiary, will be quickly raised by convict labor; in which strong wooden huts, to hold twenty-five men each, will be erected temporarily, during the building of such permanent accommodation as may be considered necessary.

I would with the greatest deference submit for the consideration of your Honorable Committee, that the most eligible site for the erection of a principal depôt or penitentiary would be on the southern point of Williamstown, beyond the lighthouse; a position which, from the coolness and salubrity of the sea air, the drainage of the sea, the central situation as a landing-place for prisoners sent down from the seaboard parts of the Colony, together (when the Murray, Mount Alexander, and Melbourne railway is finished) with the branch trains to the various western gold fields would, in my humble opinion, be the most advantageous to the Colony.

In this, or in any similar building, that would appear to your Honorable Committee to be more eligible in its position, the grand penal reformatory should be established; in which all prisoners, male and female, should be arranged in a state of classification, according to their ages, the nature of their crimes, the length of their respective sentences; in a word, all the remedial and corrective intentions of the law should be there fully carried out. For the young and ignorant, an educational and labor branch, combined. For the older and more hardened prisoners, a labor branch, combined with educational—but perhaps in a minor degree as to education—would be advisable; but having in constant view the great incentive to labor—reward, to the well conducted, present as well as future.

I should especially recommend for the consideration of your Honorable Committee, classes No. 1, 2, 3, 4, both of reward and punishment—prisoners deserving of reward to be moved gradually forward; those deserving of the reverse to be moved gradually backward, and to recover their lost ground when their characters shall deserve it. That a colonial indent be kept against the name of each prisoner, by which will be shown at a glance the general character of the prisoner. Human nature even in the free is not infallible, therefore let every man or woman prisoner have as much benefit from their general character as wisdom, prudence, and mercy will admit of; and it is to be hoped for the future that your Honorable Committee will set your faces entirely against such a vast injustice as the centralization in one man of the power of almost unlimited imprisonment, or the reverse. Strict, unswerving, and impartial justice to the prisoner, combined with a proper degree of mercy, will do more towards his reformation than all the punishment that could be inflicted upon him.

The permanent establishment of a fund for the assistance of prisoners at the expiration of their sentences should, I respectfully submit, be a leading point in the deliberations of your Honorable Committee, whether as a part deducted from the wages of their labor, or by whatever means it may be established, it will be for you to consider; but allow me with all deference to ask the questions:—Where is the master who will receive into his service a man fresh from the contaminating influences of a prison? Where the mistress who will take a servant from the like source?—without character, without even the means of obtaining honestly a morsel of bread. Theft or starvation, the only alternative. Few there will be likely long to hesitate upon which road they will enter, unless some means are adopted by which a prisoner may have sufficient to enable him to exist until he may be able to procure his bread in an honest and reputable manner.

It would appear to me that a certificate, signed by the head of the establishment, by two of the visiting justices and the clergyman who have been daily in communication with the prisoner, would have great weight in the deserving man's favor, whilst the knowledge that such a certificate would be withheld from him at such time as he might become free by servitude, would operate as an incentive to good conduct.

Whatever may be the result of the deliberations of your Honorable Committee, and that great good will result to the hapless victims, bad though they be, no doubt can for a moment be entertained, and I have no hesitation in declaring it to be a principle based upon many years' experience of the convict both publicly and privately, that moral influence exercised over the convict by a system of mildness, aided by firmness and discretion, and carrying with it that respect, of which a convict never loses sight, towards those who treat them with kindness and forbearance, will very soon convince the sceptical that violence and brutality are not the means by which the bad will be made good.

But in order to carry out to a happy result such improvements upon the present foul and iniquitous system of prison discipline, the selection of officers calculated to inspire the convict with every feeling of respect and gratitude will become an object of paramount importance.

In conclusion, I would submit that, until the hulks be abolished altogether, the four vessels might be conveniently made to represent the four classes into which I propose that the male prisoners should be arranged; in each of which hulks, in addition to the proper and necessary religious observances, useful secular instruction, conducted in a moral and kindly spirit by the most suitable person available daily, in support of the ministrations on the sabbath of the regularly appointed chaplain.

To carry out this subject in all its details would be to extend to a volume this report, for the length of which I already have to claim your indulgence, in the hope that my sentiments may not be wholly without effect in the good cause you have in hand.

I have the honor to be, Sir,  
Your most obedient servant,  
WILLIAM PITT BURNF

## APPENDIX T.

(1.)

MINUTE OF THE VISITING JUSTICE, WILLIAMSTOWN, ON THE CASE OF THOMPSON.

Hulk President, 7th February, 1856, noon.

Prisoner John Thompson (No. 1525) complains of the reduced ration ordered him by the medical officer during the interval of his being out of solitary. The length of confinement to which the prisoner has been subjected has so reduced his person that, although the penal ration may be prejudicial to him while under medical treatment for any disease, it is worthy consideration whether or not some nourishing food should be substituted for that withheld.

12th February, noon.

Prisoner John Thompson (No. 1525) complains that, on reporting himself to the medical officer this morning as cured of the complaint for which he has been treated, the medical officer ordered him "half ration." The prisoner having undergone considerable punishment in solitary confinement on bread and water, and the present being an interval of a month allowed in order that he should be recruited prior to completing his sentence, the object of such arrangement is frustrated if the prisoner is deprived of proper nourishment.

(Signed) H. W. BLACKFORD,  
Superintendent.

(2.)

COPY OF A LETTER FROM THE DISTRICT SURGEON, WILLIAMSTOWN, EXPLAINING  
THE CASE OF THOMPSON.

Received March 13 | 56.  
No. 20 | 3 | 56.

[Copy.]

SIR,

Williamstown, 10th March, 1856.

I have the honor to acknowledge the receipt of a memorandum from you, requesting me to furnish a report relative to the minutes of the visiting justice made on board the hulk *President* on the 7th and 12th ult., and likewise an entry of the same nature made on the hulk *Success* on the 25th of the same month, two days after the complainant Thompson had been put on his full ration.

In reply, I have to state that this practice, viz., withdrawing a portion of the ordinary ration until such time as the stomach could tolerate the full quantity allowed, has been pursued with great success almost during the whole time the hulks have been established; or at least, as soon as I discovered the great disadvantage which accrued to the party by giving the full scale of diet at once to those who had undergone a long sentence on bread and water. Such treatment I can unequivocally state, from a long experience connected with the penal establishments in this district, has enabled me to ward off many serious cases of dysentery which would otherwise have occurred; and in the case of Thompson, who is the subject of the present inquiry, this mode of treatment has been particularly called into requisition; as in no instance I think has any one of the convicts suffered so much solitary confinement on bread and water as has the prisoner Thompson since his location in the hulk *President*. However, in this instance, I on one occasion tried the full ration after a lapse of his month's solitary, which acted most prejudicially, and the dysenteric disease that ensued proved highly dangerous, and was only with the greatest care and difficulty conquered. The prisoner in question is also a difficult one to treat in many instances, as his own statement can never be relied on, being one of the vilest characters, if not the vilest, among the category, and who has often stated that he has been seriously ill when in good health, and *vice versa*, he has likewise refused his rations for several days; attempting at the same time to beguile me into the act of ordering him something from the list of medical comforts, which I have studiously avoided, knowing the character I had to deal with; he has nevertheless always had as much as could be possibly given him with impunity, commencing with soup, hominy, bread, &c. Afterwards, in a few days, a portion of meat was allowed, and an extra quantity of soup to compensate him for the loss of the potatoes, &c. After this course has been followed a few days, the whole ration is then given, provided the patient is able to bear it; but in such cases I always use my own discretion, and invariably prescribe the quantity that is commensurate with the health of the party then brought under my notice. With regard to the nourishing food, which should, according to the visiting justice, be administered in lieu of that withheld, viz., wine, sago, and such indulgencies, I beg to state that the prisoners' rations are well adapted for such cases, without the more expensive articles mentioned above, as nothing could be more suitable to the stomach after a very low diet, than the soup, meal, &c.; and if such indulgencies recommended by Mr. Pasco were practised on board, the solitary cells would never be empty. Such management of the solitary would, I consider, be highly salutary to the prisoners, and has after a long trial been found most beneficial.

I have, &amp;c.,

The Chief Medical Officer,  
Melbourne.

(Signed)

JOHN WILKINS,  
District Surgeon.

(3.)

COPY OF A LETTER FROM THE INSPECTOR GENERAL OF PENAL ESTABLISHMENTS  
FORWARDING MINUTES OF THE VISITING JUSTICE, WILLIAMSTOWN, ON THE CASE  
OF THOMPSON.

Received 17 | 4 | 56.  
D. 1868. | 56 | 280.

[Copy.]

Penal Department, Inspector General's Office,  
Melbourne, 16th April, 1856.

SIR,

I do myself the honor to forward for your information copy of a minute made by the visiting justice of the hulk *Success*, in his diary on the 9th instant, relative to prisoner John Thompson (with reference to whom a prior memorandum of Mr. Pasco was forwarded to you on the 4th ultimo), my remarks thereon, and a further minute of Mr. Pasco's of the 15th instant, relative thereto.

I have, &amp;c.,

The Chief Medical Officer.

(Signed)

JOHN PRICE,  
Inspector General Penal Establishments.

*Extract from the Diary of the Visiting Justice.*

9 April, 2 p.m.

Cleared the charge sheet.

Prisoner John Thompson complains that, on coming out of solitary confinement, the medical officer ordered the prisoner's rations to be reduced without the prisoner complaining to the medical officer of his health. Whether such a course was necessary or not I am not competent to judge, but consider that the question might be put to a medical board whether the prisoner's health demanded that particular treatment.

(Signed)

C. P.

*Minute of the Inspector General thereon.*

10th April, 1856.

The visiting justice and the prisoner may be acquainted that, when this man before complained of his treatment, the matter was inquired into by the chief medical officer, and it appeared that it was necessary for the preservation of the prisoner's health that, on coming out of solitary confinement, he should not at once be placed on a full ration.

(Signed)

JOHN PRICE.

*Extract from Visiting Justice's Diary.*

15th April, noon.

The minute of the Inspector General, in reply to my minute of the 9th instant, relative to prisoner John Thompson's complaint, is not satisfactory, inasmuch as the chief medical officer has not visited the man, but gives his opinion from an *ex parte* statement.

(Signed)

C. P.

(4.)

COPY OF LETTER TO THE CHIEF SECRETARY, REQUESTING HIM TO TAKE SOME MEANS OF STOPPING THE REFLECTIONS OF THE VISITING JUSTICE ON THIS DEPARTMENT.

No. 56 | 191.

[COPY.]

Chief Medical Officer's Office,

17th April, 1856.

SIR,

I regret that I am again obliged to complain of the visiting justice of Williamstown.

On the 4th ultimo a copy of a minute of the visiting justice, regarding a complaint of a prisoner named Thompson, was forwarded to me by the Inspector General of Penal Establishments. I called on the district surgeon to explain and report upon the matter, which he accordingly did, his report completely satisfying me that he had acted judiciously.

I have this day received, from the Inspector General of Penal Establishments, a minute of the visiting justice relative to the same prisoner, accompanied by a minute of the Inspector General and an additional minute of the visiting justice.

With reference to the latter minute, the correspondence will show that I paid due attention to the complaint of the prisoner and the first minute of the visiting justice, and that I did not give my opinion from an *ex parte* statement.

These reflections of the visiting justice on my department are not calculated to promote the good of the public service, and are so unjust, that I am reluctantly compelled to complain of them and to request that you will be pleased to adopt whatever measures you may deem requisite to stop them.

I have, &amp;c.,

(Signed) W. McCREA.

The Honorable the Chief Secretary,  
&c., &c., &c.

(5.)

COPY OF A LETTER FROM THE CHIEF SECRETARY, ENCLOSING A COPY OF A LETTER TO THE VISITING JUSTICE, WILLIAMSTOWN, ON THE CASE OF THOMPSON.

GB. | 2042.

[COPY.]

Chief Secretary's Office,

Melbourne, 31st December, 1856.

SIR,

In answer to the request made in your letter of yesterday's date, I do myself the honor to enclose a copy of the letter addressed to the visiting justice, Williamstown, by me, relative to his report on the medical treatment of a prisoner—John Thompson.

I have, &amp;c.,

(Signed) J. MOORE.

The Chief Medical Officer, Melbourne.

[Enclosure in No. 5.]

GB. | 56 | 731.

[COPY.]

Chief Secretary's Office,

Melbourne, 14th May, 1856.

SIR,

Referring to the correspondence which has taken place on the subject of the medical treatment of the prisoner John Thompson, and which has been brought under the consideration of the Chief Secretary, I am desired by Mr. Haines to express his opinion that, although it is clearly your duty, as visiting justice, to attend to all complaints made to you by prisoners, yet, that in the present case it is apparent that you have travelled beyond the line of your duty in condemning the medical treatment to which the prisoner was subjected. The reasons assigned by the medical officer for the regulation of the prisoner's diet appear quite sufficient, and Mr. Haines regrets to find that your comments upon them display more of personal feeling towards the officer in question than of common sense.

It appears plainly to Mr. Haines that it is unnecessary for the chief medical officer to visit the hulks merely to decide upon a principle being carried out in a particular case, which experience has shown ought to be general in its application.

In conclusion, Mr. Haines desires me to say, that he regrets to observe that the spirit shown by you on this occasion is calculated materially to interfere with the impartial discharge of your duty, and that, if not abated, it will clearly be his duty to recommend that you be relieved from your post.

I have, &amp;c.,

(Signed) J. MOORE.

The Visiting Justice, Williamstown.

### APPENDIX U.

RETURN of PRISONERS and PUNISHMENTS at the Pentridge and Collingwood Stockades and the Melbourne Gaols during the Six Months ending 30th September, 1856, by Richard Youl, Esq., Visiting Justice, Melbourne.

Names of Stockades and Gaols.	Average Number of Prisoners.	Number of Cases brought before the Visiting Justice.	HOW DISPOSED OF.										REMARKS.
			Dismissed.	Admonished.	PUNISHMENTS AWARDED.								
					SOLITARY CONFINEMENT.				HARD LABOR.		HARD LABOR IN CHAINS.		
					Under 5 Days.	5 Days and under 10.	10 Days and under 20.	20 Days and upwards.	Under 3 Months.	3 Months and upwards.	Under 3 Months.	3 Months and upwards.	
Pentridge and Collingwood ...	739	242	10	95	3	7	31	36	23	NIL.	16	21	
Central Gaol ... ..	170	5	1	1	...	...	...	2	1				
Female Gaol ... ..	80	5	...	...	...	...	2	2	1				
Eastern Hill Gaol ... ..	60	1	...	...	...	1							
Totals ... ..	1049	253	11	96	3	8	33	40	25	NIL.	16	21	

### APPENDIX V.

RETURN of PRISONERS and PUNISHMENTS at Penal Hulks, Hobson's Bay, during the Six Months ending 30th September, 1856, by Crawford A. D. Pasco, Esq., Visiting Justice, Williamstown.

Average Number of Prisoners.	Number of Cases brought before the Visiting Justice.	HOW DISPOSED OF.										REMARKS.
		Dismissed.	Admonished.	PUNISHMENTS AWARDED.								
				SOLITARY CONFINEMENT.				HARD LABOR.		HARD LABOR IN CHAINS.		
				Under 5 Days.	5 Days and under 10.	10 Days and under 20.	20 Days and upwards.	Under 3 Months.	3 Months and upwards.	Under 3 Months.	3 Months and upwards.	
567	580	62	199	150	87	28	9	37	3	1	4	

1856-7.

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VICTORIA.

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LEGISLATIVE COUNCIL.

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STANDING ORDERS COMMITTEE.

---

FOURTH PROGRESS REPORT.

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ORDERED BY THE COUNCIL TO BE PRINTED, 30<sup>TH</sup> JULY, 1857.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

## FOURTH PROGRESS REPORT.

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THE SELECT COMMITTEE on Standing Orders have the honor to submit this their Fourth Progress Report comprising a series of Standing Orders for the conduct of Private Bills.

In reference to Estate Bills, which are usually initiated in the House of Lords, and by them referred for the opinion of the Judges, your Committee have to observe that they have been unable to frame any satisfactory orders on this subject.

They recommend that an Address should be presented to His Excellency the Governor, praying that in any Act which may hereafter be introduced into the Legislature for the appointment of an additional Judge of the Supreme Court, provision may be made to authorize the Legislative Council to submit any Petition for an Estate Bill, or any legal difficulty which may arise thereupon, for his opinion, in conformity with the practice of the Mother Country ; and, at the same time, they desire to express their strong opinion of the necessity of appointing Standing Counsel to the President of the Council.

J. F. PALMER,  
Chairman.

STANDING

## STANDING ORDERS ON PRIVATE BILLS.

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XCIX. [1.] That until Special Standing Orders for the initiation of private Bills shall have been adopted, this Council will not enter on the consideration of any private Bill which has not first been considered by the Legislative Assembly, and referred by that body for the concurrence of this Council.

C. [2.] That every private Bill sent up from the Legislative Assembly, if accompanied by a printed copy of the report and proceedings of the Select Committee of that House to which it shall have been referred, shall be dealt with in the same manner as a public Bill, and shall not be referred to a Select Committee of this Council, unless the same shall be opposed, and then only by motion on notice to be made before the second reading.

CI. [3.] That every Select Committee on private Bills shall consist of five members, to be chosen by ballot, who shall choose their own Chairman, and of whom three shall form a quorum.

CII. [4.] That every one of such Committee of five do attend the proceedings of the Committee during the whole continuance thereof.

CIII. [5.] That members be exempted from serving on the Committee on any private Bill where they shall have any interest.

CIV. [6.] That members be excused from serving for any special reason, to be approved of in each case by the House.

CV. [7.] That if any member of such Committee is prevented from continuing his attendance, the Committee shall adjourn, and report the cause of such member absenting himself to the House, if then sitting, or at its next meeting, and shall not resume its sittings without leave of the House.

CVI. [8.] That each member of a Select Committee on a private Bill, before he shall be entitled to attend and vote thereon, shall sign a declaration that he has no personal interest in the Bill, and that he will never vote on any question which may arise in the Committee without having duly heard and attended to the evidence relating thereto.

CVII. [9.] That three clear days' notice be given of the meeting of such Committee.

CVIII. [10.] That such Committee shall meet on each consecutive sitting day from eleven to three o'clock.

CIX. [11.] That upon petition, praying to be heard on the merits against any Bill, leave be given to the Select Committee to hear the petitioners in person, by counsel or agents, and to receive such evidence as may be tendered, and the promoter shall be similarly entitled to reply thereto, if he shall think proper, and to adduce rebutting evidence, provided always that such petition be presented to the House before the third day on which the House shall sit after the day such Bill has been brought by message from the Legislative Assembly; provided also that it set forth specifically the objections of the petitioners to the said Bill, and be otherwise in strict conformity with the rules of the House.

CX. [12.] That the Chairman of every Select Committee shall make a report to the House on each several Bill referred for their consideration, and shall annex thereunto the minutes of the Committee.

CXI. [13.] That no private Bill which has been referred to a Select Committee shall be read a second time sooner than the sixth sitting day after the report from the Select Committee shall have been brought up.

CXII. [14.] That before any Private Bill be read a first time in this Council, a sum of twenty pounds shall be paid into the hands of the Colonial Treasurer, for the public uses of the Colony, to meet the expenses of such Bill; and a certificate of that sum having been paid, to be filed with the Clerk, shall be produced by the member having charge of the Bill. And the promoter of the Bill shall also furnish at his own cost fifty fair printed copies of the same, and the same number of copies of any amended Bill, for the use of members, three clear days before the same shall be considered.

CXIII. [15.] That no private Bill shall pass through more than one stage on one and the same day.

CXIV. [16.] That every private Bill which shall have passed the two Houses of Legislature shall be presented to the Governor for the Royal Assent, and be numbered and published as a public Bill, and the expenses attending such publication shall be ascertained by the Clerk of the Parliaments, and be paid by the promoters of the Bill into the public Treasury, for the public uses of the Colony, before such Bill be presented for the Royal Assent.

CXV. [17.] That every promoter of a Private Bill shall, at least ten days before the same is set down for the second reading, furnish to the Clerk of the Parliaments attested copies of all plans,



sections, books of reference, estimates, and subscription contracts, or declarations in lieu of subscription contracts, laid before the Legislative Assembly, in pursuance of the Standing Orders of that House, and the Clerk of the Parliaments shall give a receipt for the same, in which the several documents shall be distinctly specified, which receipt the Member having charge of the Bill shall produce to the House before the Bill is set down for the second reading.

CXVI. [18.] That every Parliamentary agent and solicitor be considered personally responsible to the Council and to the President for any wilful violation of the rules, orders, and practice of Parliament; and for any such violation, or for any other wilful misconduct in prosecuting any proceeding before Parliament, shall be liable to an absolute or temporary prohibition to practice as a Parliamentary agent before this House at the pleasure of the President; provided that, upon the application of such agent, the President shall state in writing the grounds of such prohibition.

CXVII. [19.] That before the prayer of any Petition to be heard on the merits against any Private Bill be granted, the Petitioner shall deposit with the President a sum of fifty pounds, to be disposed of according to the decision of the Committee as hereinafter provided.

CXVIII. [20.] That it shall be competent for the Committee to order the return of the said deposit or of any part thereof to the Petitioner, or to order that the same be paid into the Treasury for the public uses of the Colony, or to direct that it be paid over to the promoters of the Bill, provided that the opposition should, in the judgment of the Committee, appear to have been frivolous.

1856-7.

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VICTORIA.

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REPORT

FROM THE

SELECT COMMITTEE

OF THE

LEGISLATIVE COUNCIL

ON THE SUBJECT OF

CONVEYANCING.

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ORDERED BY THE COUNCIL TO BE PRINTED 22ND SEPTEMBER, 1857.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

## EXTRACTED FROM THE MINUTES.

THURSDAY, 6TH AUGUST, 1857.

CONVEYANCING.—The Honorable T. McCombie, in accordance with notice, moved, That a Select Committee of five members of this House be appointed by ballot to inquire into the system of Conveyancing now in general use in this Colony, and in what manner it may be rendered less expensive and more correct and that such Committee have power to take evidence.

Debate ensued.

Question—put.

Council divided.

Contents, 9.  
The Hon. T. H. Power  
Dr. Tierney  
W. J. T. Clarke  
J. Cowie  
J. Hood  
B. Williams  
W. Roope  
T. McCombie  
J. H. Patterson (*Teller*).

Not Contents, 9.  
The Hon. C. Vaughan  
J. Hodgson  
J. B. Bennett  
H. Miller  
W. H. F. Mitchell  
N. Guthridge  
Dr. Hope  
W. Highett  
J. F. Strachan (*Teller*).

The President gave his voice with the Contents, stating that he did so in order that the subject might be further considered.

The question was therefore passed.

The Council then proceeded to the ballot, and the following members being reported by the Clerk to have the greatest number of votes, were declared by the President to be the members of the Committee, viz.:  
—The Honorables T. McCombie, Dr. Tierney, W. J. T. Clarke, D. Kennedy, B. Williams.

TUESDAY, 22ND SEPTEMBER, 1857.

CONVEYANCING.—REPORT OF SELECT COMMITTEE.—The Honorable T. McCombie brought up a Report from the Select Committee appointed on the 6th ultimo “to inquire into the systems of Conveyancing now in general use in this Colony, and in what manner it may be rendered less expensive and more correct,” and moved that it be received, printed, and taken into consideration on Tuesday, 29th instant.

Question—put and passed.

# REPORT.

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THE Committee appointed to inquire into and report upon the system of Conveyancing now in general use in this Colony, and in what manner it may be rendered less expensive and more correct, have the honor to report :—

1. Your Committee have examined witnesses whose character and experience entitle their evidence to consideration, and there appears no real impediment in the way of a thorough reform in the present system of conveyancing, which they are convinced would be a general benefit. It is, your Committee are aware, still contended by a few interested persons that the public derive advantage from the present cumbrous, expensive, and, upon the whole, incorrect system of transferring land, and that any interference with it would lead to disastrous results. They are, however, fully satisfied that the present technical and vexatious system has no advantage over that they have the honor to propose. It appears that the embarrassing forms under which the transfer of property has been hitherto enveloped have been continued in use long after the higher intellects in the profession of the law have become satisfied of their inutility. The Committee refer with pleasure to the evidence of His Honor Mr. Justice Barry, which they deem highly important and conclusive as to the practicability of simplifying the transfer of land.

2. In this Colony, where the original titles to land are—with the exceptions of those for public purposes, with which your Committee have not interfered—grants in fee simple to individuals, there cannot exist any serious entanglement of titles. The evidence of Mr. Tarleton, the American Consul at Melbourne, will convince your Honorable House that property may be conveyed correctly, and at a nominal cost, Victoria being as favorably situated as the new States of America in simplicity of original title.

3. Your Committee are convinced that a simple and efficient mode may be introduced of transferring land at a very trifling expense. In this conviction they are strengthened by the valuable evidence of Mr. T. B. Payne, an experienced conveyancer, as well as by the testimony of the other witnesses. In order, however, to introduce the proposed simple plan of transfer, various important reforms in the Registration Department will be proper.

4. It may be necessary, perhaps, to state, that your Committee find, from the evidence which has been adduced, that the present Registration Office is most defective, and quite inadequate to the requirements of this rapidly advancing Colony. The arrangements in the office are not merely insufficient and incomplete, but the whole of the records of the Colony are at the present time in a building so inadequate for their reception and so insecure, as to awaken just alarm in the Committee for their safety.

5. Your Committee had the names of numerous other persons who were anxious to give evidence; but, in consequence of their anxiety to report with as little delay as possible, they did not proceed further with their examination; nor does it appear necessary, as further evidence would merely corroborate what has already been adduced by Messrs. Walker, Mackenzie, &c.

6. To introduce a simple method of transferring real property, your Committee consider that it will be necessary to have a new Registration Act, and to introduce a totally new

system of registration. The Colony ought to be divided into districts, and a set of registration books opened for each county and large city. Registration should be made legal notice, and the Registration Office compelled to furnish the full chain of title; and attested copies and abstracts of title and covenants for production of deeds done away with. Great reforms have recently been effected in the transfer of land in Ireland, which the Committee have deemed well worthy of their consideration; and they find that, by the Irish Registration Act, the registry is notice, and there can be no objection to the same system being adopted in this Colony.

7. Property may be transferred by simple endorsement on the back of the Crown grant, to be registered in full. Where the parcel of land for which the grant was issued has been divided into different portions, your Committee can see no objection to the holder of the grant surrendering that document to the Registration Office, and in lieu thereof receiving grants for all the subdivisions.

8. Your Committee are further of opinion that it will be absolutely necessary to introduce some machinery by aid of which titles which have already become complicated may be cleared from technical objections and rendered marketable. There appear several ways of accomplishing this—such as a Commissioner to examine and investigate titles; the surrender of the titles to the Crown and the issue of new grants; or a Judge of the Supreme Court to investigate. Your Committee, however, think that a commission to examine titles is, upon the whole, the most likely to give satisfaction; and, in this opinion, your Committee are to a certain extent borne out by the evidence of Mr. Justice Barry. It appears moreover necessary that an appeal from such Commissioner should be given to the Supreme Court, which your Committee recommend.

9. The Committee find, from good authority, that the section in the Irish Encumbered Estates Act which makes the investigation and confirmation of titles as a preliminary to all sales and transfers has had the very best effect, and, in the words of a high authority, “rendered the completion of contracts immediate and certain, and established the free and prompt interchange of money and property. Whatever defects, in other respects, may pervade that Act, or however severe may have been its application upon individuals in the early stage of its working, yet that Act, by throwing off the ponderous legal fetters and freeing the land, may be said to have laid the foundation for the regeneration and the future material prosperity of that interesting and valuable portion of Her Majesty’s dominions.” Your Committee have it in evidence that a Court of this kind was in existence at one period in New South Wales, and consider it would be most advantageous here. It would only be required for a limited period, as so soon as it had effected the object contemplated it would be no longer necessary.

10. In conclusion, your Committee recapitulate the suggestions they have made for rendering “the system of conveyancing less expensive and more correct.” First, a new system of registration; Second, the simplification of the conveyance, in the way pointed out in Clause 7 of this Report; Third, the appointment of a Commission to rectify such titles as have already become bad or doubtful.

THOMAS McCOMBIE,  
Chairman.

## MINUTES OF PROCEEDINGS.

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TUESDAY, 11<sup>TH</sup> AUGUST, 1857.

*Members present:—*

The Honorable T. McCombie, in the chair.  
The Honorables B. Williams, D. Kennedy, W. J. T. Clarke.

Alex. Walker, Esq., merchant, called in and examined.

Witness handed in a model form deed of conveyance suggested by a certain Land Society, also certain model forms of conveyance drawn up by himself—B 1, B 2, B 3, B 4, B 5, B 6, B 7, and B 8.—(*Vide Appendix.*)

Ordered—That T. B. Payne, Esq., be summoned to appear before the Committee to-morrow.  
Committee adjourned till twelve o'clock to-morrow.

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WEDNESDAY, 12<sup>TH</sup> AUGUST, 1857.

*Members present:—*

The Honorable T. McCombie, in the chair.  
The Honorables B. Williams, Dr. Tierney, D. Kennedy, W. J. T. Clarke.

T. B. Payne, Esq., solicitor, called in and examined.

Mr. Geo. Mowling, boot and shoemaker, called in and examined.

Ordered—That the following witnesses be summoned for Tuesday next:—John McKenzie, Esq., Queen-street; J. Bateman, Esq., Port Phillip Club Hotel; Mr. John Flemming, publican, Brighton; and for Wednesday next, J. D. Pinnock, Esq., Emigration Agent.

Committee adjourned till one o'clock on Tuesday next.

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TUESDAY, 18<sup>TH</sup> AUGUST, 1857.

*Members present:—*

The Honorable T. McCombie, in the chair.  
The Honorables D. Kennedy, Dr. Tierney.

The following witnesses called in and examined:—Mr. S. Gordon, Parliamentary Agent; J. Mackenzie, Esq., Land Agent.

Ordered—That His Honor Mr. Justice Barry be requested to attend.

Ordered—That the following witnesses be summoned for the next meeting:—J. D. Pinnock, Esq., Emigration Agent; J. M. Tarleton, Esq., American Consul.

Committee adjourned till half-past twelve to-morrow.

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WEDNESDAY, 19<sup>TH</sup> AUGUST, 1857.

*Members present:—*

The Honorable T. McCombie, in the chair.  
The Honorables D. Kennedy, Dr. Tierney, B. Williams.

J. M. Tarleton, Esq., called in and examined.

J. D. Pinnock, Esq., called in and examined.

Ordered—That His Honor Mr. Justice Barry be summoned to attend on Tuesday next.

Committee adjourned until Tuesday next, at half-past twelve.

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TUESDAY, 25<sup>TH</sup> AUGUST, 1857.

*Members present:—*

The Honorable T. McCombie, in the chair.  
The Honorables Dr. Tierney, W. J. T. Clarke.

Letter from Mr. Gordon handed in and read by the Clerk.

Draft Report brought up and read by the Chairman.

Mr. John Flemming called in and examined.

Ordered—That J. Skinner, Esq., barrister-at-law, be summoned for Wednesday next, at half-past one o'clock.

Ordered—That His Honor Mr. Justice Barry be summoned for Wednesday next, at half-past one o'clock.

WEDNESDAY, 26<sup>TH</sup> AUGUST, 1857.

*Members present:—*

The Honorable T. McCombie, in the chair.  
The Honorables B. Williams, D. Kennedy, Dr. Tierney.

His Honor Mr. Justice Barry called in and examined.  
Witness handed in a certain Form of Grant.—(*Vide* Appendix F.)  
Witness handed in a Form of Mortgage.—(*Vide* Appendix G.)  
Witness withdrew.

The Chairman read Draft Report.  
Committee adjourned till twelve o'clock on Tuesday.

TUESDAY, 1<sup>ST</sup> SEPTEMBER, 1857.

*No members present.*

TUESDAY, 8<sup>TH</sup> SEPTEMBER, 1857.

*Members present:—*

The Honorables Dr. Tierney, D. Kennedy, B. Williams.

Resolved—That the Honorable D. Kennedy take the Chair.—(*Hon. Dr. Tierney.*)

A letter from T. B. Payne, Esq., handed in and read.

Resolved—That the Clerk of the Council inform Mr. Payne that the Committee cannot allow such extensive alterations in the substance of his evidence, that Mr. Payne will be permitted to correct his evidence personally, and the Committee will be happy to examine him again on Thursday next at half past one o'clock.

Committee adjourned till Thursday next, at half past one o'clock.

THURSDAY, 10<sup>TH</sup> SEPTEMBER, 1857.

*Members present:—*

The Honorable T. McCombie, in the chair.  
The Honorables W. J. T. Clarke, Dr. Tierney, D. Kennedy.

T. B. Payne, Esq., called in and further examined.

Draft Report brought up by the Chairman and re-considered.

Clauses 1, 2, 3, 4, 5, 6, and 7, read and passed.

Clause 8 read—Proposed that the following words, viz. :—"There appear several ways of accomplishing this—such as a commissioner to examine and investigate titles; the surrender of the titles to the Crown and the issue of new grants; or a Judge of the Supreme Court to investigate. Your Committee, however, think that a commission to examine titles is, upon the whole, the most likely to give satisfaction, and in this opinion your Committee are to a certain extent borne out by the evidence of Mr. Justice Barry. It appears, moreover, necessary that an appeal from such commissioner should be given to the Supreme Court," which your Committee recommend be inserted after the word "marketable."—(*Hon. Dr. Tierney.*)

Question—put and passed.

Clauses 9 and 10 put and passed.

Report adopted and Chairman requested to report to the House.

# MINUTES OF EVIDENCE.

TUESDAY, 11TH AUGUST, 1857.

MEMBERS PRESENT :—The Honorable T. McCombie, in the chair ; the Honorables Dr. Tierney, W. J. T. Clarke, D. Kennedy, B. Williams.

Alexander Walker, Esq., called in and examined.

1. *By the Chairman.*—You are a merchant of the firm of Alexander Walker and Company?—I am. A. Walker, Esq.,  
11th Aug., 1857.

2. You have had considerable experience in the present system of conveyancing in this country?—I have had several properties pass through my hands.

3. What is your opinion of the present system of conveyancing, in the first place, say, of its correctness?—I think the present system is insecure in a great measure, and that it is likewise too expensive.

4. More expensive in fact than is necessary?—Yes.

5. Have you had any personal experience of the incorrectness of it?—I have. In one instance I had a deed of property made out to me, and after a lapse of some years I found that two or three of the most important lines in the deed, relating to the description of the boundaries of the property, were left out. In that case the deed was signed by six trustees, and I had the trouble of hunting them all up to get a re-conveyance in fact executed to me. In another instance I found that a deed which was forming a most important link was missing. It had never been taken up by the solicitor, and has not been found to this day. In another case I found lately, that is, within the last fourteen days, that, in a conveyance executed to me about four years ago, a whole allotment which I never bought was conveyed to me through the carelessness of the attorney who drew the deed.

6. In all cases those deeds have been drawn by attorneys?—In all cases drawn by attorneys and by what are called respectable attorneys.

7. Therefore you speak from experience?—I speak from experience in those three instances.

8. What is your opinion of the expense of conveyancing?—I think that it might be done for at least one-tenth part of the present expense ; the usual charges, as far as I can see, are from eight guineas to fourteen guineas and up to twenty-five pounds for a conveyance.

9. Have you ever heard of more than that being charged?—I have heard, but so casually, that I would not wish to state it.

10. You have no experience upon that point?—No, I have not.

11. How do you think conveyancing might be rectified, in the first place as to the expense, and in the next place as to the correctness?—Before going into that, I would wish to state in a general way that the present system of conveyancing is insecure to the parties who are interested in it. Since this committee got leave to sit, a case came before my notice in the Supreme Court, where a party had trespassed upon another's ground. The aggrieved party had to bring an action of ejectment, and in order to gain his action in ejectment he was put upon the proof of his title. He was obliged to go back to deeds eleven years of age, made in Sydney, and he was obliged to produce witnesses to give evidence as to the correctness of the signatures to those deeds made in Sydney eleven years ago and upwards. Twenty deeds were exhibited, and I and fourteen other witnesses were in attendance four days, to enable the man to prove the land he had bought was his own. This was a case that might happen to any one ; I mean the case of a party encroaching upon another man's property, and in order to oust him from that encroachment you are obliged to fall back and prove your title as perfect ; and in the event of failing in a single link of your title, you have no power to oust the intruder. There is only one more case I wish to mention. I put it upon the supposition that a party purchases a piece of ground, for which he pays £1 per foot for thirty feet of land ; and supposing he finds it necessary, before he erects his building, to mortgage it for a certain sum, his law expenses would amount to £28 7s. In the first place, the solicitor's charges for his conveyance would be ten guineas ; there would be the charge that the solicitor would make for perusal to the other party, the three guineas ; the charge for the mortgage deed, eight guineas ; and the charge for release when he has paid the mortgage, about six guineas ; making in all the lawyer's charge of £28 7s., or within one-thirteenth of the original amount of the allotment of land. I may state that my attention has been directed a great deal to the system of conveyancing at various times ; and about two years ago this was put into my hands by a gentleman who told me that it was adopted by a land society, and I believe that that land society gave great offence to the profession by having it printed, and thereby doing away with the charges that this deed would have cost if it had been engrossed.—[*The witness delivered in the same.*—*Vide Appendix A.*] I have taken the trouble of counting up the words, which I think amount to somewhere about 1000, besides the others that would be added to it in case of its being performed.



A. Walker, Esq.,  
continued,  
11th Aug., 1857.

12. Do you recollect any other instances that have come within your own personal knowledge of incorrectness in conveyancing?—No, I do not wish to speak upon hearsay. I would merely draw the attention of the committee to the fact of the large number of titles in the colony that are bad. They may be good for holding, but they are not perfect titles; and I believe, by a Bill which was before the House, an attempt was made to allow those titles, such of them as were desired to be made perfect; but in the event of that being done, after all, within twenty years, we may be in the same position; and as the number of transfers of land will increase as the Colony increases, it becomes a very serious matter to the public to have a better system originated. Then I would likewise call attention to the large space of time that elapses generally where parties, after even paying for their land to the Government, do not get their deeds. In my own case, I have applied nine months after paying my money, and have not been able to get my deeds till three or four months afterwards.

13. That would be twelve months after the money was paid?—Yes.

14. *By Dr. Tierney.*—Is that lately?—No, I speak of within two or three years ago; but I am afraid they are not quite quick enough yet.

15. *By the Chairman.*—How do you propose to simplify conveyancing, so as to make it at once cheap and correct?—By appointing an officer of the Government, who may have sufficient deputies under him, whom I would style the Registrar of Lands. In the event of a party purchasing land from the Government, and paying the amount into the Treasury, I propose a simple form of this sort should be given to him.—[*The witness produced a printed form.*—*Vide Appendix B 1.*]

16. Do you propose No. 1 to be the Crown grant issuing out of the Registrar of Lands' Office?—Yes.

17. No. 2 you propose to be a mortgage?—No. 2 I propose to put the supposititious case that a party requires mortgage.—[*Vide Appendix B 2.*] During the time that the mortgage is running I would consider that deed No. 1 to be impounded by the Registrar of Lands; and when A. B. had paid off his mortgage, he would get another form, which I have marked No. 3.—[*Vide Appendix B 3.*]—that would stand in lieu of the original deed No. 1. I now suppose, by the next form, No. 4, that A. B., the proprietor of a piece of ground, sells a portion of it to E. F., and I propose that they should both present themselves at the Registrar of Lands office, where the money is to be paid over in presence of the Registrar of Lands, and that this form should be given to E. F.—[*Vide Appendix B 4.*] A. B. has sold a portion of his original grant, and I therefore consider that his original grant No. 1, or No. 3, as it would be in this series, should be impounded, and that he should get a grant for the portion of the land that belonged to him.

18. That is the residuary portion?—Yes. By the present mode of conveyance, the expense and trouble of getting a conveyance is thrown upon the purchaser; in my plan it would be thrown upon the vendor.—[*Vide Appendix B. 5.*] No. 6 is put in as a form by which trustees or executors of wills, or any other parties with similar rights, should come in as proprietors.—[*Vide Appendix B. 6.*] That would do away with great expense. In the present system of conveyance, where executors, or trustees, or assignees upon a sequestration, or parties acting as they do convey, attested copies of probate of wills and deeds and so forth must be given over to make the title perfect, and this generally at an expense of £5 or £6, if they are anywise long, or have any large quantity of matter in them. Hitherto, I have only pursued, as it were, from the Crown grant; but with regard to those parties who have purchased under the present system, and whose deeds are of an age that it requires a number of deeds to perfect the title, I propose they should come in before the registrar and prove their title, and get a similar title equal to a Crown grant. No. 7 provides for that.—[*Vide Appendix B. 7.*] In the schedule attached to No. 7 I have given an epitome of the number of deeds which are similar to what I should have to produce if an encroachment were made upon my land. I should have to go into the Supreme Court and prove attested copies of them to prove my title. No. 8 I propose as a form of lease, and the schedule is the schedule that would be attached to the lease.—[*Vide Appendix B. 8.*] I must state, in giving in these returns, that I wish it to be expressly understood I have merely got them printed for the sake of showing the system that might be adopted. In them are errors. I do not wish to bind myself to the particular phraseology; for instance, in No. 7, I have said "Abstract of Crown grant," that ought to be "Attested copy of Crown grant," and there may be others of a similar character.

19. Then you think that by the owners of property holding titles at present coming in before the registrar and proving their title, the whole of the conveyancing might be brought within one general system?—I do.

20. And it could be so brought into it by a proper officer and assistants being appointed, and that it would thereby become simple, correct, and cheap?—I think so.

21. *By Dr. Tierney.*—Would you think it necessary in those instances to apply to an attorney or solicitor; would those be so simple, that any ordinary individual might get it done at the registry office for himself?—Yes. At the same time, there are parties, through ignorance of business matters or deficiency of education, who might find it necessary to take either an attorney or some other person as a business man to see them through the forms.

22. Suppose your ideas were carried out and these forms adopted, could you then transact your own business without the intervention of an attorney?—I think so.

23. *By the Chairman.*—Had you not cause of action against an attorney once in a case similar to one you have mentioned?—Yes; but in the meantime you may have sold your property for the sake of receiving the money, and you may be kept out of the money for twelve months or two years.

24. And the lawyer, having law cheap, could defeat you for a while at the hands of justice?—Yes.

25. Besides which, at the end of the six or ten years afterwards, when the error was discovered, the attorney might not be in business?—Yes. In my case, if I could not have found those six men, I could not have perfected that title.

26. Supposing one of those six men had been dead, you would have lost your property?—I am not quite certain upon the point, but I rather think I would not have been able to perfect that title.

27. Then, it must be evident, so much having come within your own personal observation, that a great deal of incorrectness exists in conveyancing?—I draw that conclusion.

28. *By Dr. Tierney.*—Irrespective of the conveyancing, is the registry office here for the registration of the deeds and other documents perfect?—I have never transacted any business in the registry office.

29. *By the Chairman.*—Do you not think the registrar, or the Government in fact, might be made responsible for any error arising from carelessness in that office.—If your system were adopted, do you think the Government, or the officer administering that department of the Government, would be responsible to the public for such errors arising?—I cannot see any reason under my system for any error arising.

30. You do not think it possible that any error should arise?—Not with reasonable care. In the case of error, it must arise from gross carelessness, and the party committing it would be very properly discharged. I would state, with regard to my plans, that the original deeds should always lie in the registry office, and copies of them merely should be given to the possessors of the property. It does not add to the security of a man's title, his having the deeds in his pocket, and I would do away with the chance of losing them.

31. *By Mr. Clarke.*—In the case of a mortgage, would not they be required?—No. If you refer to No. 2, you will find that the registrar would hold the mortgage. Then I propose that the sum of money should be paid over in the presence of the registrar, and the registrar to take re-payment and interest thereon the day on which the mortgage falls due, and failing therein by the party who borrows the money, the registrar should sell the land by auction; and in the event of the sum lent and the interest not being realized, then the party who lent the money (C. D.) should at once take possession of the property.

32. Do you not think that deeds are very often exceedingly useful for people to deposit as a collateral security when they do not actually want to mortgage?—It is a very insecure way of doing business. I am aware that it is very customary to do so; but, in the event of your merely taking a letter of deposit, you are in this position, that, if the party does not fulfil the contract, he may likewise refuse to sign the mortgage; and your only course then is, to go into a court of equity and get a decree, compelling him to do so. Or, in the event of a party merely leaving a letter of deposit and never coming back, or leaving the country, I do not see how the party holding the letter of deposit can get possession of the property.

33. *By the Chairman.*—You think that the cheapening of the expense of mortgage would do away with the necessity of a letter of deposit?—A letter of deposit has got into custom just now. It would not be wanted, if my plan were adopted. The party wishing to borrow the money would say "I have No. 1 grant," and the lender would then pay over the money to him before the registrar. I do not think that any trustee under a will or trustee of public property would be justified in lending money upon a letter of deposit.

34. *By Dr. Tierney.*—I believe holding the original grant, at the present time, is no security?—A man cannot mortgage, or sell, or dispose of it; but in the event of his leaving the country, or saying he will not sign the mortgage, you are put to a great deal of trouble and expense. By going into court and getting a judgment you could sell by the sheriff; and you are then in a better position, for the sheriff to sell, with your title, than any other creditor; but still it is a very clumsy way.

35. *By the Chairman.*—And if the man leaves the country, or hides himself in the diggings, you cannot give him legal notice?—No.

36. *By Dr. Tierney.*—Would you extend your registration to the interior?—I think it would be necessary to do so.

37. Through the entire of the country, if there were deputy registrars, so as to give facility to the registration?—I have thought of that; and with regard to town lands, such as Melbourne, Geelong, Sandhurst, or the principal townships, I should say that they were entitled to have deputy registrars.

38. And many other places where there are large towns and districts?—With regard to country lands, it might be better to have them in one or two places.

39. Take the district of Portland; do you not think you might have a deputy registrar there?—Yes, I think so.

40. That would give great facility and save a great deal of expense?—No doubt of it.

41. And it would also be useful as to the registration of leases, which I believe is necessary?—Yes.

42. It is necessary for the tenant to do that?—Yes.

43. Are you aware that, under the present law, unless you register your lease, it is not binding in certain cases?—As far as I understand it, a tenant having taken a lease from a landlord, and that landlord dying, the heir-at-law might not accept that man as a tenant for the remainder of the lease, unless the lease were registered.

44. *By Mr. Clarke.*—As executor, the heir would be bound to carry it out; but, in the event of his becoming insolvent, then he would not have a remedy?—Take this example. Sup-

A. Walker, Esq., pose a landlord lets to two persons, the party who registered the lease would be held to be the leaseholder.

45. The first who registered would be the one?—Yes.

46. *By Dr. Tierney.*—Therefore, would not it facilitate those matters if you had deputy registrars in the country?—There is no doubt about it.

47. *By the Chairman.*—Are you aware whether there is any similar system in practice in any other country, such as America?—I am not aware of it; but, I may state that, in conversation with an American gentleman, he mentioned that five dollars in America was a usual charge for a conveyance; but that, in extreme cases, it might be ten dollars, which would be equal to £2; so that their forms must be much more simple than ours.

48. Is there anything else that suggests itself to you to state to the committee?—No.

*The witness withdrew.*

WEDNESDAY, 12TH AUGUST, 1857.

MEMBERS PRESENT:—The Honorable T. McCombie, in the chair; the Honorables W. J. T. Clarke, D. Kennedy, Dr. Tierney, B. Williams.

Thomas Budds Payne, Esq., called in and examined.

F. B. Payne, Esq.,  
12th Aug., 1857.

49. *By the Chairman.*—Will you be good enough to inform the committee of your opinion with respect to the expense and system of conveyancing now in force in the Colony?—I am of opinion that the expense of conveyancing could be lessened very much. But, for the present system, I do not think it is too expensive. A respectable practitioner is not compensated more than he ought to be under the present system. In the first place, I consider the registration is very defective indeed; there should be a new Registry Act. At the present time the registry is not admitted at all as any evidence of title. If a man loses his deeds and the memorial is produced, it is not admitted even as secondary evidence in court. One of the principal reasons of conveyancing being so expensive at present, is the immense labor entailed in the searches. If you want to ascertain if a piece of land is clear, you have no less than seventy-seven books to go through at the registry, which could be obviated, if the registry, instead of being for the whole Colony, and contained in one set of books, was a registry for each county; then you would have only to search in the particular county in which the property was situated. It would be more simple, less expensive, and more expeditious.

50. Then, would you propose a general registration office?—I would have a general registration office for the whole Colony, but the books should be kept for every county.

51. But you would throw the responsibility upon the registrar?—I was going to suggest that, if any one wanted to ascertain whether a property was clear, he should give in the particulars in writing, and the registrar should furnish him with a certificate, on payment of a fee adequate to support the office. I would have the registrar responsible and security for the due performance of his duties.

52. Then in regard to deeds of conveyance?—In regard to deeds of conveyance, I consider there could be equally as good a deed put on a piece of parchment the size of half a sheet of letter paper. But that of course would not include the parcels; those could be attached by a schedule. There is an Act called Lord Campbell's at home for simplifying the transfer of property, and it would not take up a piece of parchment larger than I have described.

53. Are you aware of the plan in operation in America in conveyancing?—Not exactly. I propose that those very short deeds should be executed in duplicate, and that one of them should be deposited at the registry office; and I would abolish attested copies and abstracts of title and covenants for production of deeds, and would let the registry office furnish the whole chain of title. The deeds deposited should be bound up in books, as the present memorials are, and then there would be no occasion for attested copies, abstracts, and covenants for deeds, which make up costs. In case the owner lose his deeds, I would also have this deed, which would be registered, admitted as *primâ facie* evidence in any action brought in the Supreme Court. It is decided in this colony that the registration is not to be considered as notice. The Irish Registration Act is considered express notice, and I would have this registry express notice of all incumbrances.

54. Legal notice?—Legal notice, and let the registry furnish the full chain of title. I have known £100 paid for a set of attested copies. I heard a solicitor say this last week he was asked £75 for an abstract of title to one acre of land. He also made the remark, that it was full time something was done to obviate such enormous expenses. That would simplify the expense very much; because, if the registrar furnishes a certificate of search, and if the register is to be taken as evidence of title, then there is nothing beyond the simple preparation of a very short deed in duplicate; the owner of the property to hold one, and the other to be filed in court; and I think the solicitors will have equally as much to do, because I think property will change hands much oftener than now. Many poor men are deterred now. Some of the principal defects in title here occurred in the early days of the Colony. The Crown grants had then to be issued in Sydney, and there was a great deal of delay. Many people used to convey property before the Crown grant issued, and then they only had an equitable title. Now

that defect would be cured by an Act of Council in all the estates that have not been got in. If an Act of Parliament passed, vesting the fee in any one having the equitable title, that would do away with the long deeds of confirmation which are required at the present time; because an Act of Council can vest the fee as fully in the party.

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continued,  
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55. That could rectify the defect?—Yes. The boundaries of land have become a very fertile subject of litigation. I think it is the duty of the Government in all municipal townships to put some boundary mark which people may ascertain the boundaries of their land from. I was a witness in an action of ejectment last week in the Supreme Court; it was merely to recover ten inches of ground, and I think the plaintiff must have been at the expense of £100, from the number of witnesses and documents. It is now a very expensive process and gives a great deal of trouble. We have now, in country lands, only the marked trees to go by, and if those marked trees got cut down, it would cause great difficulty. There should be some special point to measure from—what should be called the Government point, in all municipal townships and parishes—that would do away with a great deal of litigation.

56. *By Dr. Tierney.*—If I buy land from a private individual, is he not obliged to give me possession of the boundaries?—He ought to do so; but how are you to be satisfied. If you get half-a-dozen surveyors, they will all probably differ in their measurements.

57. I want to ask you this: If a private individual of whom I bought was obliged to give me possession of the land and the boundaries of it, would not the Government be obliged doubly more to do so?—I think the Government ought to have the boundaries well defined.

58. Are you aware that the Government do not now give it you?—They have marked trees for country land.

59. *By the Chairman.*—Corner pins?—Yes; they are usually so described.

60. *By Dr. Tierney.*—Would not it be a very good thing if the Government were to decide those cases?—I think they ought to have such marks and boundaries laid down as would give parties no trouble in ascertaining their correct boundaries. In the city of Sydney there is a point, and there should be here; otherwise, that difficulty will increase more and more every year here, from the number of sales going on. I think a great many of the profession are very anxious for the change, from conversations I have had with them.

61. Solicitors?—Yes; and that the responsibility at the present time is so great, that they are not well paid. At the same time, I think there are others too well paid—men who have nothing to lose, and who are altogether too well paid.

62. Have you known many mistakes occur through solicitors?—Yes; the solicitors are very much in the hands of their clerks; who, if they do not perform their duties correctly, or are inattentive, as I have known to be the case, involve their employers. A registrar being appointed, who would be responsible, and who would give a certificate, would remove some part of the responsibility, so far as searching for incumbrances.

63. At the present time, are there not many persons suffering from irregularity in the conveyancing of property?—I should think there must be, from the amount of litigation going on.

64. Are there many conveyancers in Melbourne?—I am not acquainted with any. I was the first that was enrolled here, but I have given up practice the last five years.

65. Is there much difficulty in getting to be a conveyancer?—I found no difficulty. I was examined by Mr. Henry Moore and Mr. Duerdin. The examination was strict, but not so strict as I had anticipated.

66. Are the examiners particular at the present time?—I believe they are very exact in their examination.

67. Do you not think we could have district registrars in the various districts and counties?—For the registering of deeds?

68. Yes. For instance, going into the interior, going up to Bendigo, or going down to Portland, and Belfast, and Warrnambool, and such places; could we not have district registrars there?—I think there is no doubt you could, but it would be more convenient for the public at large to have the registry in Melbourne.

69. But still, could you not have district registrars?—I propose a registry for each county; the registry office for the whole to be at Melbourne.

70. With reference to mortgages, do you not think it would give greater facility, and also for the sale of property, to have local registrars instead of having to send to Melbourne—would not it be more convenient to have a district registry?—It might be more convenient for the people in the country, but the greater part of that business is done in Melbourne. The registry office for all Ireland is in Dublin.

71. *By the Chairman.*—The country solicitors generally have their agents in Melbourne?—Yes, and I think the public at large will derive more benefit from the registry at Melbourne.

72. If you were living in the country yourself, would not it be a very great convenience to get your deed registered there, rather than be obliged to send down to Melbourne?—If a party in the country wants to borrow money and he comes to Melbourne, that would entail upon the solicitor in Melbourne the searches which it would be necessary to make in the interior, and which then could not be done on the spot.

73. *By Dr. Tierney.*—It has been given in evidence, in regard to the original grant, that it would be better that the original grant should be deposited in the registry office, and that the owner of the property should keep a copy of it; what do you think of that?—There is no occasion for that; because, at the present time, if the original grant was lost, you have an Act of Council authorising the registrar to furnish an office copy, to be taken in evidence the same as the grant itself; so that, if it was lost, it would not be of the slightest consequence.

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74. *By the Chairman.*—Would there not be some difficulty in proving the loss?—You could take it without reference to the loss, and when you come to the Supreme Court you would have to prove it to be lost. In this action I was subpoenaed on, one of the deeds was lost, and they only had to bring forward sufficient evidence to satisfy the Chief Justice that due diligence had been used and that all search had been made for the recovery of the deed, and that it could not be found, and then the attested copy was admitted as evidence of the original deed.

75. *By Dr. Tierney.*—Would you have any difficulty in conveying a piece of land, supposing the deed was lost, by getting a duplicate?—No, I consider not; if the Crown grant was gone they could get an office copy, and that would be equally as good. That was the purpose for which the Act of Council was passed.

76. There is a great deal of expense in mortgaging property now, and the process is very complicated, is not it?—In searches and attested copies and abstracts of title. It is not the mere preparation of the mortgage, that is merely the mechanical part of business; it is the investigation of the title.

77. Then could you not effect a mortgage in as simple a way as a conveyance of land?—A short form could be prepared.

78. *By the Chairman.*—A mortgage is in fact a conveyance with a power to redeem?—Yes. Settlements are not things that can be made so short; they can be very much reduced from what they are at present; and then the parties who make settlements generally are parties who can afford to pay for them.

79. *By Dr. Tierney.*—Have you met with any cases of non-registration of leases where there was any litigation?—Under the Registration Act you are not bound to register any lease under three years.

80. Any lease over three years?—Ought to be registered; otherwise, you depend upon the honor of your landlord, if you do not.

81. Have you seen any instances of parties suffering from that non-registration?—I cannot say that I have, for this reason, that if I give a lease of a property to a man, and he is in possession of that property, and I afterwards give a lease to another man, I do not see what good the other lease is. The man being in possession ought to be sufficient notice to the party taking the second lease, and he would be bound in equity if he had notice.

82. *By Mr. Clarke.*—In the case of your being insolvent, how would it be with your creditors, having that lease and not registered?—If there is any beneficial interest in it, the assignee will take it; he has the option to take the lease.

83. And consequently the tenant would not be turned out, after making considerable improvements?—No; the lease is perfectly as good unregistered as registered, so far as the validity of the deed goes. The registering does not make it more effectual, it only insures priority.

84. *By the Chairman.*—That is only in case of selling or leasing the property again?—Yes.

85. *By Dr. Tierney.*—Supposing a man originally to be a very rich man, and he leases a piece of land, and ultimately becomes unfortunate and loses his property, and that lease appears not to be registered, and he issues another lease to another individual, and that other individual gets that lease registered, is not his title better than the original man's?—If you can saddle him in the slightest degree with notice of the former lease, he cannot succeed. If he takes a valid lease, and has no notice of the lease originally granted, he can recover in ejectment.

86. Would not it be as well to give facility to the registration of those leases?—I think so; it will guard against litigation. What I suggest does not alter the law at all; it is only cutting it down, and lessening the expense.

87. In involved titles, it would be possible to bring it to a stop, and either issue a certificate or a re-grant from the Crown, to come under the same arrangement as new grants from the Crown?—To do that, you must have a competent party to investigate the titles.

88. Do you know anything of the Encumbered Estates Act in Ireland, and whether it works well?—Yes. It has been considered to have been most beneficial to the country, I believe.

89. A portion of the functions of that court is to investigate titles?—Yes; the commissioners have to inquire into the title.

90. Do you think an officer of the Crown, or the judges of the Supreme Court, would be competent parties to inquire into those old and involved titles and to give certificates?—You would require a first rate real property lawyer, with a power of appeal to the judges.

91. If made under the nominal approval of the judges or the law officers of the Crown?—A judge in equity. I think the passing of an Act of Council to remedy that defect in the issuing of the Crown grants which occurred in the earlier days of the Colony would remedy the defects in the great majority of titles here.

92. In the cases of parties who had made conveyances and left the Colony, mistakes have arisen. How might that be rectified?—You have got an Act of Council to rectify that. If a party is absent from the Colony, there is a Trustee Act.

93. Supposing he had left the Colony altogether, or had gone to the diggings and could not be found?—The Trustee Act is applicable to this case also.

94. *By Dr. Tierney.*—Was not Baron Richards chairman of the Encumbered Estates Court?—I do not know; I believe Mr. Martley is at present.

95. He is a very eminent man?—Mr. Martley is. In introducing this Act, you will have to repeal the present Registration Act; and in that Act you may introduce a clause relating to

the dower of married women, dispensing with the necessity of making married women parties to those deeds at all, by abolishing the right of dower altogether, unless that right is conferred by the husband by will or deed; it merely cuts down the expense.

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96. *By Mr. Clarke.*—Do you think it would be right to debar those women of that dower. Suppose the husband and wife do not agree very well?—That is another matter altogether.

97. Do you not think it would be a hard case to abolish the right of married women previous to 1837?—In a few years it will be abolished by flux of time.

98. *By Dr. Tierney.*—In the various registry offices, do you not think you ought to get every information from the Government?—I think the Government ought to have the fullest registry. The registry office at the present time is the most miserable affair, the books are getting quite destroyed; and if a fire broke out, the whole records of property in the Colony would be destroyed in a few minutes.

99. I go further than that, and I want to know whether an ordinary individual could not get sufficient information there, without going to either a conveyancer or a solicitor?—By the plan I propose, any man of ordinary intelligence can get his own deed and register it; or, if he wants to make a search, he has nothing to do but to go to the officer of the court and hand him a paper describing the property, and ask for a certificate of the incumbrances. Any man could do that.

100. *By the Chairman.*—Of course, those records ought to be kept on a safer system than the present?—They are in a very unsafe state at present.

101. *By Dr. Tierney.*—And there are the ravages committed by the rats, too?—Yes; I do not speak from personal knowledge, but I have heard so. I consider a good registry here would afford a full chain of evidence of all the titles in the Colony, and do away with an immensity of litigation and expense. That is the principal thing wanted.

102. Do you not think now is the time to do it, before we go further?—Yes; I have just shown how the books have accumulated, and the information you get from them is scarcely worth having; you have to go through so many books. At the present time you can register anything. If I convey a piece of land to you, you need not sign the deed; I can sign it, and go and register it. At the present time it is the most vague thing imaginable.

103. *By Mr. Williams.*—A purchaser can go and lodge a certificate and register the land. I can go and purchase land without your signature?—Without my signing the deed, there is nothing at all to show. The Act provides that any parties to the deed can register it, whether grantor or grantee, or any of the parties. It can be done, but it would be a fraud.

104. *By the Chairman.*—It ought to be by the grantor?—By the grantor. The form of conveyance I suggest would not be half so large as the present memorial, unless there were a great many parcels, and they would be scheduled; the whole chain of the title would be in the register.

*The witness withdrew.*

Mr. George Mowling called in and examined.

105. *By the Chairman.*—What is your occupation?—I am a boot and shoemaker.

106. *By Mr. Williams.*—Have you purchased any land lately?—I have.

107. Was it by auction?—By auction.

108. What were the terms of the sale?—The terms were, that the purchaser was to pay all expenses, abstracts and all.

109. *By Mr. Kennedy.*—Was it a Government sale?—No, by power of trust.

110. *By Mr. Williams.*—What were the terms of the sale?—The terms were, cash within fourteen days—half cash at the fall of the hammer, and the balance within fourteen days.

111. On perfecting the title?—Yes.

112. Did you pay half cash at the fall of the hammer?—I did.

113. What was the amount of the purchase money?—There were two lots; both lots came to £124 10s.

114. What were the expenses which you paid for the conveyance of this land to you?—The bills I had sent in were to the amount of £101 16s. 2d., but I got them taxed.

115. What were they taxed to?—£81 14s. 8d.

116. Did you pay that?—I did.

117. Were there any tenements on the land?—On one.

118. *By the Chairman.*—I suppose, if you had known that the conveyance would have been anything like that, you would not have bought it?—Decidedly not, and I should never buy again under the same conditions.

119. *By Mr. Clarke.*—Did you get possession of the title?—I got a title; but what the lawyers call after all a blistered title.

120. But you got possession?—I got possession of one lot; the other I have not been near.

121. *By the Chairman.*—Where is the land situated?—One lot at Brunswick, and the other beyond Keilor somewhere.

122. It is a doubtful title?—What they call a blistered title; what is called a holding title.

123. Have you had any more conveyances drawn out?—Yes, I have had one or two since.

124. You never paid so much?—Not so much.

125. Have you ever paid what you considered exorbitantly before?—Not before this. have bought other land which has cost me about £16.

Mr. G. Mowling,  
12th Aug., 1857.

Mr. G. Mowling,  
continued.  
12th Aug., 1857.

126. And you consider that a low sum?—I consider that so, considering the work that was done.

127. And considering what you paid on this occasion?—Of course.

128. *By Mr. Clarke.*—What may you have paid for the land that you paid £16 for the conveyance of?—It was a piece of land out at St. Kiida, and the amount of the money was £275; but I bought that privately, and where the title was guaranteed.

129. *By Mr. Kennedy.*—Had the title become involved through the carelessness of the solicitor, or of the parties who had owned the property from time to time in the case you have referred to?—The lawyer stated that it was through looking back through the register and also being what they termed a blistered title—a power-of-attorney and one thing and another. In my opinion, the lawyer ran me into unnecessary expense; but of course, after it was done, I could do nothing else than get it taxed. In this case, a lawyer held the deeds, and he would not let my lawyer see the deeds, unless he had an abstract of them, which abstract he sent in a bill for for £9 5s. 10d.

130. *By the Chairman.*—For those abstracts?—Yes.

131. *By Mr. Williams.*—Just for your lawyer to look into?—Yes.

*The witness withdrew.*

TUESDAY, 18TH AUGUST, 1857.

MEMBERS PRESENT :—The Honorable T. McCombie, in the chair; the Honorables D. Kennedy and Dr. Tierney.

Samuel Gordon, Esq., called in and examined.

S. Gordon, Esq.,  
18th Aug., 1857.

132. *By the Chairman.*—Of what profession are you?—I am a land and parliamentary agent.

133. Are you aware of any particular facts, exemplifying the imperfections of the present system of conveyancing in this colony?—I have known instances; in fact, parties have come to me, in order to sell real property, or raise money on it; and, on looking over the documents and making searches, I have found that the powers under which the derivative interests were created, or which sprung out of marriage settlements, or wills, have been exceeded to such an extent that the derivative title was perfectly valueless; and in those cases I have advised the parties to keep their titles as secret as possible. That I attribute, not merely to a laxity in the practice of conveyancing, but to something worse. However, instances have occurred, also, with which I am acquainted, where parties have desired money to be lent on real property in this country, and, as a matter of course, expected that proper searches would be made, to see that there were no prior incumbrances to sweep away the value of their interests; notwithstanding those directions, and those natural expectations, the money has been advanced by the professional parties employed for them, and their securities have been subsequently found to be utterly valueless. A case of that kind occurred near Ballaarat, about a year ago. I was very much surprised at it; but I do not like to individualise.

134. *By Mr. Kennedy.*—Had that arisen from the system of conveyancing, or from the carelessness of the party who did not make the necessary searches?—I should say it arose from the carelessness of the parties, if not something worse.

135. *By the Chairman.*—In fact, from the corruption of the attorney?—I should attribute it more to that.

136. Are you aware of the expense of conveyancing?—It is very heavy.

137. Can you give the committee any special instances of that?—I have known parties to deposit their title deeds, with a view of selling their property, or raising money on it; and I have known those title deeds to be kept until as much as £500 was demanded, and £300, and £200.

138. *By Mr. Kennedy.*—For the expenses?—Bills of costs, as they call them.

139. *By the Chairman.*—I suppose, in such cases as those, they have said that they had a lien upon them, and kept the title deeds until they got paid?—Yes, as much money as they could squeeze out of the parties.

140. That is a common way here, is not it, that the attorneys will take anything they can get hold of, as a lien.—Is that a usual occurrence here?—Very general. I should remark, that you have causes which, to a great extent, create expense; for instance, you have a register of deeds, which is accumulating in its bulk so much, that it is shooting very much a-head of the requirements of business. I would remark, in reference to the reform of the law of real property, that simple and set forms, so far as practicable, of conveyancing and leasing, should be enacted and placed in a schedule to the Act, because the present system is verbose, and not easily understood by persons not acquainted with transactions in real property.

141. Have you reason to believe that the present system is not only exceedingly expensive but very incorrect?—Very incorrect; and there is very little security, as I think, afforded to the purchaser of property, to the lenders of money on property, and persons who take derivative interests under settlements and wills.

142. Can you give the committee any special instances of mistakes having occurred, with the exception of the one at Ballaarat?—Very near Melbourne a marriage settlement was shown

to me, about a year ago, under which a vast deal of property had been leased for building and some of it sold for building purposes; and upon looking into the marriage settlement, I found that the power of leasing had been exceeded and the power of sale had been altogether assumed, and that property was supposed to be worth in value, by building on it, about £70,000.

S. Gordon, Esq.,  
continued,  
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143. *By Dr. Tierney.*—Was that property leased and sold at the instance or under the sanction of an attorney?—Yes, it was through the intervention of an attorney.

144. *By the Chairman.*—Do you think that that was through corrupt motives, or from ignorance of his profession;—I am very much afraid that there was corruption in it.

145. That came to be simply what is called a holding title, not a legal title at all?—No; a party can be ejected by an ejectment on the title.

146. Has he no remedy?—None, except against the attorney, who mismanaged the business, and against the party who got his money; but in that case the parties who had received the money were away in the mother-country, and no one knew where they were.

147. *By Dr. Tierney.*—And the party who purchased laid out a great deal of money in building?—Yes.

148. Which is *bonâ fide*, though not legally, their own?—Yes. It comes within my own knowledge, that attorneys are actually endeavouring to raise actions in regard to that very property, in order to make costs out of the ejectments on the title.

149. *By the Chairman.*—Have you any knowledge of what the cost of a conveyance is here, generally speaking?—Certain persons up the country, and persons who deal in land, give them generally for from £10 to £5; never under £5.

150. That is for an ordinary conveyance?—Such as twenty perches; or that parties buy land, and then cut it up into allotments, and issue prospectuses offering those allotments, which they cut the larger pieces into for cottages and gardens, for sale. A number of those allotments are offered for nothing; but when the party goes to conclude the bargain, he is told he has to pay for the conveyance, and it is from £10 to £5; and in that way he pays more than the value of the allotment in the shape of a fee for the conveyance.

151. What is the highest rate for the conveyance of property in towns?—Near Melbourne?

152. *By Dr. Tierney.*—Where it was a complicated title?—I have known it to come to near £2000.

153. A title for a piece of land?—Yes, with buildings on it.

154. *By the Chairman.*—A conveyance in fact of real property?—Under the present law of real property, you are bound to look to the register of deeds, and also through the register of wills, and also to search for judgments in the Supreme Court. Now, parties whose names may appear in the wills affecting this property, and in marriage settlements, and in judgments, may be supposed to be in existence; and you are bound to raise up what they call representatives or trustees, and in this way to create fictitious parties.

155. *By Mr. Kennedy.*—Do you think the charges are extortionate under the present system?—Yes; and there is vexatious and cruel delay.

156. You said the registration of deeds was becoming so cumbrous, that it would soon become overwhelming?—Yes.

157. Is there any method by which you propose to remedy this evil?—A good system of alphabet will go a good way in facilitating searches; but it will all come to this in the end, that, as at home, we shall be obliged to get an Act of Parliament to sweep away all these searches.

158. *By the Chairman.*—Do you not think that, by making registration in the books for the different counties, it could be so much simplified as to make the search better, so as to make one book for East Bourke, one for South Bourke, one for West Bourke, one for East Melbourne, one for South Melbourne, and one for Melbourne proper?—That is the proper mode of conducting the registry of deeds; so that, when you want a parish or town, you can put your hand upon it.

159. Do you consider the attorneys generally to be against any reform?—Decidedly.

160. Why?—Because a reform in conveyancing will reduce their profits exceedingly; and I might say, that will curtail their tricks.

161. Then you think anything they may put forth of their being favorable to it is simply a blind?—For the purpose of deception, and nothing more. I speak from experience; because, having been an agent at home to some very extensive landed estates, under the control of the Court of Chancery, the questions of law were so exceedingly numerous, arising out of the management of those estates.

162. Your reply has reference to the colonial lawyers?—Yes.

163. Is there any other observation with reference to Colonial conveyancing that suggests itself to you, confining yourself to Victorian conveyancing?—You will ultimately have to look forward, in fact, to an Encumbered Estates Court, in order to give titles; a court that will give such titles as they can give.

164. You mean in fact commissioners?—Exactly.

165. *By Dr. Tierney.*—Do you know of much property at the present time with respect to which people cannot get a proper title?—There are many instances where they cannot get a title, and I have noticed there has been great laxity of care of title deeds in this country; that is, that they are not forthcoming, and the way in which they have been accounted for has been, that they have been lost. In many cases I have been told that they have been destroyed by rats; in other cases, they have been taken out of boxes and trunks in the houses in which they have been deposited.

166. *By Mr. Kennedy.*—Do you know anything about the Registry Office here in Melbourne?—I have gone down occasionally.



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continued,  
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167. Is it a safe keeping place for deeds?—It is very decidedly not.
168. *By the Chairman.*—Is it very insecure?—I believe so.
169. *By Dr. Tierney.*—Is that a wooden building?—I believe it is plastered.
170. *By Mr. Kennedy.*—Is it fire proof?—No; and there is not convenience there.
171. *By Dr. Tierney.*—Have you gone there to examine?—I have, five or six times.
172. Is there facility enough given at the office?—Such accommodation as they have they afford you, but it is very defective.
173. Have you much difficulty in acquiring the information you seek when you go there?—You have to make the searches yourself, which are not made up ready to your hand, as they are at home in the registry.
174. Not by the clerks?—The clerks are there, but you incur great expense.
175. Do the clerks charge you?—Yes.
176. Then if you make those searches yourself?—You save a great deal.
177. Do you not think it would be better to pay those clerks a sufficient salary?—It would be decidedly better.
178. And compel them to make searches without any gratuity or fee?—You would have to put a small stamp duty on the searches, otherwise people might come from fishing motives to look after titles and put the clerks to great trouble, and impose upon you the necessity of having a very large staff of clerks to gratify their improper desire of gaining information.
179. Could there not be some mode taken to obviate that, such as an affidavit made, that whoever wished to make a search should go before a magistrate and make affidavit that he wanted to ascertain certain titles?—That would to a great extent leave open the object of the transaction which the person making the search was about to effect, and that object might be conveyed through the city or country to parties who ought not to know it. A small stamp duty on the searches might restrict that improper desire of gaining information as to titles.
180. Then you seem to say, that the information you now seek at the registry office might be conveyed through the City of Melbourne?—Yes; and be sought for with a view of fishing out for parties who would be induced to commence litigation.
181. Do you know any instances where clerks have betrayed the confidence of their employers?—Decidedly; and I know a great deal of the public departments of this city, and there is more jockeying in them than I have ever observed in the departments at home; more falsehood, more deceit, and in fact, a desire to subvert the orders of the superiors for improper purposes. Decidedly the secrets connected with property in Melbourne could not be safely entrusted to clerks now. I think the system at present is very lax in reference to the abstracts lodged in the registry of deeds; it conceals some of the objects of the deed of which it purports to be an abstract, and the registrar ought to be bound to examine a deed particularly before he receives the memorial.
182. Though I do not admit that the clerks should divulge the secrets of the office, as you say they have done and do still, I cannot conceive why property that is conveyed, when a transfer of property takes place, should be kept secret from the public?—It is not intended to be a secret, quite the reverse; and any party having a *bonâ fide* transaction in regard to it is entitled to the fullest information; but, on the other hand, in reference to a general searching of the register of deeds, there are a great many parties who will go and make those searches or seek to have them made for no immediate practical purpose.
183. *By Mr. Kennedy.*—From curiosity?—And to find out the state of the titles of property belonging to certain parties, and such parties to my own knowledge do go about and endeavor to induce parties to commence litigation. That is all I mean; and the registry being open, you cannot restrict them, except by placing a small stamp duty on the searches. You may increase the expenses of the office to a very great extent for the idle purpose of parties coming to it.
184. Then it is the actual solicitors who procure this private information for the purpose of seeking out a wrong title?—It is, indeed.
185. I suppose you are very positive on this matter, as it is rather a serious charge?—I have been spoken to about it myself by parties interested.
186. *By the Chairman.*—Then you speak from actual personal experience?—Yes.
187. *By Dr. Tierney.*—Then you think it a good plan that the registrar or deputy registrar should not afford any information relative to the land unless the parties were *bonâ fide* purchasing?—They cannot know that.
188. Still, there might be some means to show they were *bonâ fide*?—I doubt that; because, if a man comes to me and says, “I want to sell you such and such a piece of land,” before I may be disposed to enter into any treaty with him for it, I might be anxious to know if he were telling me the truth. I have known a hundred instances in which men will say, “This land is only slightly encumbered;” and, on referring to the registry, I have found that it has been encumbered beyond its value. But the answer I gave in reference to an improper making of searches applied to the expense which would be incurred in keeping up a perfect register; and I suggested that, as the keeping of a perfect register would be so very expensive, some slight charge in the nature of a stamp duty might help to pay the expense of the department.
189. Then the fees at the present time you think to be excessive?—I think so.
190. *By Mr. Kennedy.*—How do you think that that delay that you speak of might be remedied?—Pass an Act giving certain forms of conveyances and leases, and have your register properly kept, and have a good taxing master, who should be instructed to tax the costs of all conveyancers, upon the application of the parties who are getting the conveyance done by him; and give him the power of issuing peremptorily a summons to the conveyancer or solicitor, who shall have the deed or deeds in his possession, to bring them before him, and make him account

for the delay that has taken place. At present, you have hardly anything but an action at law against the attorney, or a criminal prosecution at the police office, or application to the judge to remove him from the roll for misconduct, which are tedious, and expensive, and very irksome. The taxing officer of the Supreme Court should have full power to issue a peremptory summons to the person having the custody of the title deeds, to attend before him, and account for the delay that has taken place.

191. Would the adoption of this simple form diminish the registration very much?—Yes.

192. But this would require to be registered?—You only register the memorial. A deed of conveyance is sometimes exceedingly long, and may involve twenty sheets of parchment, but the memorial can be done on a very small piece of parchment—that memorial is the abstract.

193. Would not those simple forms you speak of require to be registered also?—No; I would not register them; I would not place an exact copy of the deed in the register.

*The witness withdrew.*

John Mackenzie, Esq., called in and examined.

194. *By the Chairman.*—What are you by profession?—A land agent.

195. Will you give the committee your opinion of the correctness of the present system of conveyancing?—I will speak from my knowledge in dealing in land. I find every day that difficulties arise in almost every title; and I might say, the solicitors here can put any party to considerable expense, even where the title is good. And there is a mystery about conveyancing in this Colony at present; for instance, I sell to a person property worth £5000 or £6000; a solicitor will very often make his costs according to the magnitude of the transaction. He can make costs of perhaps £80 or £90 out of it, even where a simple conveyance would answer the purpose. I have known parties who were desirous of mutually settling the thing at as little expense as possible—"Here are my deeds, make a conveyance to this party," they will say; and the solicitor will answer—"I must have an abstract," which will, perhaps, cost £20 if it is a long title; and when an abstract is demanded, it is not that the solicitor will make it himself, but that the opposite solicitor may make it; and between them put the parties to as much expense as they can. When Judge Barry was Solicitor General in the old Council, he brought in a Bill for a very simple form of conveyance, and the bill went through the second reading, but was burked before it got through the third by the profession. It was very simple, that I think it was founded on Lord Campbell's Bill. Judge Barry did not like to run counter to the profession at the time, and between them they smothered it. That form is so simple, that it would serve as a model form; I dare say there are plenty of them to be had. It would be very good if adopted. Each conveyance, at the present time and under the present system, will cost £2 8s. 6d. for the mere clerical work, parchment, and registration fees; that is the actual clerical cost of a conveyance, were the folios to run about twenty-six or thirty. A great object now, and what would be a great boon to the colonists generally, is to give them a simple form and a cheap one; and if Lord Campbell, a man of his standing, chose to adopt it in the old country, I think it is still more adapted to the new; and if the profession were not against it here, you would have had it years ago; but they are quite opposed to it, though the whole Colony would be in favor of it. In fact, the colonists, at the time this bill passed the second reading in the old Council, and was stopped, were sadly disappointed.

John Mackenzie,  
Esq.,  
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196. *By Dr. Tierney.*—Could you furnish the committee with that form?—I will undertake to get one of those forms which Mr. Barry introduced. Mr. Barry's form gave the parties' names, the consideration, and the description of the land, and cut out all the covenants, which brought it to about the size of one page of foolscap.

197. *By the Chairman.*—You say a conveyance now, of an extensive property, comes to about £80?—Not in all cases; but frequently costs will amount that sum.

198. You have known instances where it has been more?—I have known £150 and £200 paid for the perusal of the deeds of an extensive estate here.

199. What might the conveyance of that have come to in the end?—The conveyances were then to each party separately, making other costs again; and they would be, I think, £12 to £15 each, amounting to £200 or £300 more.

200. *By Mr. Kennedy.*—Were those titles very much mystified, or encumbered in any way, to make them cost so much?—No; it was a very simple matter; perhaps not three removes from the Crown.

201. *By the Chairman.*—Do you consider the present system correct or incorrect?—I consider that it is correct, but it is unnecessarily cumbersome and expensive.

202. Have you not known mistakes made even under the present system by attorneys?—Considerable mistakes are made through carelessness.

203. And wrong lands conveyed?—Yes; and their clients have of course to make it good at their own cost.

204. There is no such thing as making an attorney answerable for those mistakes?—I should say he is not liable.

205. At least, it is not attempted?—It is customary to take waivers from parties.

206. *By Dr. Tierney.*—Have you known instances where parties have taken proceedings against attorneys for mistakes that have been made?—Only in the case of common law, for negligence.

207. *By the Chairman.*—That was at common law?—Yes.

208. They are in the habit of taking waivers, if the title is at all doubtful?—They take waivers, if the title is at all doubtful, to relieve themselves from responsibility.

209. Is it not a very usual thing for them to impound deeds or documents after running

John Mackenzie, Esq., continued, 18th Aug., 1857. the parties to great expense, saying they have a lien upon them, and refusing to give them up unless they have exorbitant charges paid to them?—Yes, they have a right to that.

210. And what redress has the party?—Only to apply to the court.

211. Are there no means of taxing a bill for conveyancing?—Yes, you can get it taxed; but it is not usual to tax it.

212. It could only be taxed by an Equity officer?—By the prothonotary it could be taxed. The great expense of conveyancing is the investigation of the title under the present system.

213. *By Dr. Tierney.*—Is there any way of simplifying that?—Yes; Mr. Barry's bill was entirely to do away with that. Instead of having to investigate a dozen or twenty conveyances prior to the present vendor's, you would have to take that person's last title and make a conveyance from it.

214. *By the Chairman.*—There are some estates in this country where the titles are much involved, where perhaps thirty or forty of those mistakes have occurred, and are almost unsaleable; would it not be possible, where those titles are good in equity, to legalise them, to have an inquest held upon them, and, if found to be good, to legalise them?—That is for retrospective acts. I think it would be very useful and satisfactory.

215. And quite practicable?—Quite practicable.

216. There is, for instance, land which has been sold previous to the issue of the grant from the Crown that is unmarketable?—Yes, and there are many other things that are objectionable; and after all, the objections amount to nothing. Many bargains are thrown off on quibbles, and still the present state of conveyancing will allow the objecting party to get out of it.

217. In fact, in regard to old titles in the town, a clever conveyancer or attorney would pick a hole in almost any one of them?—Yes; I go further, and say, even when the title is good, great expense will be attending a transfer. After the title passes through many hands, a clever professional man may raise an objection that may be fatal for the vendor afterwards. The Act that is wanted now is one to sweep away all those cumbersome and expensive proceedings, when a simple form, like Lord Campbell's, would suit this country.

218. *By Dr. Tierney.*—And the same expense applies to mortgages?—Yes.

219. If a man wanted to raise money, there would be the same difficulty and the same expense?—Just the same; even more particular still as to the goodness of the title in lending money, and consequently the expense would be quite as much.

220. *By the Chairman.*—In a case where a person gives his deeds to an attorney to get a mortgage drawn, has he to pay the expenses, if the title does not please?—He has, and the solicitor can hold the deeds until paid by some party, but the borrower will agree to pay costs of investigation if the title be not approved of by the lender's solicitor; and in the case of a sale and purchase, the costs of investigation of title depend on the contract. If an open one, they are paid by the vendor, and the solicitor has a lien on the deeds until paid.

221. If you sell property, as if with a good title, and it is found to be bad, who pays the expenses?—If sold as good, and found bad, an action for damages against the vendor will lie as well as costs of perusal.

222. *By Dr. Tierney.*—Do you think it would be advisable to have a registry for each county?—Decidedly; for every county there should be a register alphabetically arranged. There is not a house or garden in all Scotland that you cannot go, in five minutes, and put your finger upon any incumbrance there may be upon it. It is not so in England; there are only two counties there that have got a registry; the one is in Middlesex and the other in Yorkshire. This colony particularly requires a registry, from the constant changing of properties.

223. There would be no great difficulty in having in each county a deputy registrar?—None; but the principal registration office would be in Melbourne, though there would be separate registrars for each county, and an alphabet for each county; that would be quite enough in the present advanced state of the colony.

224. I want to know whether it would not facilitate the person wanting to effect, say a mortgage, in any county, take Portland, or Belfast, or Warrnambool, if there were a deputy registrar in those districts?—It would, by keeping a duplicate of all memorials.

225. And then, of course, he would send down a copy to Melbourne?—Yes; but you must have the head office in Melbourne for all records; you may have the registration taken before a person at Warrnambool, but sent forward to the registry office here to be bound up in the county it belongs to.

226. At the present time, for marriages and christenings, there are deputy registrars, and they send down to the head office the particulars of those?—Yes, that is the system.

227. Could not the same thing be done relative to the transfer of property?—Yes; and though you could effect your registration in a distant county, you must make your searches under that system, at the head office; you could not have searches anywhere else but in the one office.

228. *By the Chairman.*—Because, in fact, this is the money market of the colony, and mortgages and everything of that kind go on here?—Yes; it would not do to have the registration office at Brighton, for instance, for the county of Bourke.

229. *By Dr. Tierney.*—Still, do you not think that, where the property is, it would be advisable to have it registered, though it might be also registered here in Melbourne?—Yes, I do, for local information.

230. Is not there a copy of it?—In Ireland they must send up and make their searches to the capital. It would not do to have a registry office built in each county; but simply to

have a deputy-registrar in each place to receive the registration and forward it to the registrar John Mackenzie, Esq.,  
general. continued,  
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231. Is the registry office at present in a good state?—It has worked well, the registry office here.

232. Is it in a safe condition?—It is very unsafe for records of that kind, but the registration system has worked very well here indeed; but it is very much open to fraud, although it has worked well.

233. Do you think persons go there unnecessarily to inquire into titles?—I think curiosity leads a good many to see what person's property may be incumbered.

234. *By the Chairman.*—That would simply refer to neighbors, and so on?—Only idle curiosity, or where there may be some little personal feeling existing.

235. Do you think there is any objection to it?—No; it is a public office. But when I say the present system is open to fraud, an incumbrance might be shown upon almost any man's property in the Colony; I must commit a fraud to do it.

236. That is because any party to a deed may register?—Yes, and other means are open.

237. And you think the memorial ought to bear the signature of the party whose property is incumbered?—I do not devise the means of remedying it; but I say a fraud could be committed by any person accustomed to the mode of registration.

238. Then the system does require to be corrected and improved at the present time?—I say, though it has worked well so far, it is open to many objections.

239. Do you think the registration could be so managed, that any ordinary individual, without the intervention of an attorney, could do it?—Yes, very easily.

240. Would that be desirable?—That was the intention of Mr. Barry's Bill—to simplify all the operations, each party might be able to draw his own deed.

241. Do you think that would be desirable?—Very desirable; but the registrar should be the person to investigate transactions, and that investigation would be just as simple as the present means of registration.

242. Allowing the registrar a fee?—Yes, or salary per annum.

243. Do you think the Registrar General should be a barrister?—No;—it is not at all necessary.

244. It is merely mechanical?—That is the reason why there should be no mystery about it. All the conveyancing required to suit this Colony is merely mechanical.

245. And the sooner a radical change takes place the better, otherwise the evils will be irremediable in a few years?—There are other considerations in respect of trust estates, where the form that Mr. Barry introduced would not suit; and that might have been one reason for the profession getting rid of it; but still that can be provided for in a very simple form as well. Trust deeds cannot be carried out under this form of Mr. Barry's, or of Lord Campbell's. There must be something more than that simple form for the carrying out of trusts; take for instance, the case of a marriage settlement.

246. That would not interfere with this simplification of the system?—By no means.

247. Would that be a cumbrous form?—I do not offer an opinion of what would remedy that; but a simple form for seven-eighths of all the business of the Colony would suit, and be very desirable.

248. *By Mr. Kennedy.*—Do you think the present mode of registration will continue to work as well as it has hitherto done, or will it become involved in a few years?—It is open to frauds being committed; there have been one or two instances of it, and it might lead to more.

249. *By Dr. Tierney.*—Is land often sold by auction with an imperfect title?—Yes, with an imperfect title; and that is why auction is very often adopted. It is a sort of cover to the title. The conditions protect the vendor. The purchaser must take the title according to the conditions; and it acts as a cover where the public do not understand what is read to them.

250. Do you think land ought to be allowed to be sold in that way by auction, where there is a bad title; does not it lead to fraud?—A man is expected to judge for himself.

251. Does not it lead to fraud?—No; because the conditions, we will say, are honestly set out; but they are all for the protection of the vendor, and the purchaser will not often know he has got a bad title until after he has purchased.

252. *By the Chairman.*—So that, when they have paid the deposit under those conditions, they are fixed?—Yes.

253. *By Dr. Tierney.*—And then they have to pay a very large sum?—They might take the property and then find they have an unmarketable title.

254. *By the Chairman.*—That is what they call a holding title?—It may be a holding title; but it is unmarketable.

*The witness withdrew.*

WEDNESDAY, 19TH AUGUST, 1857.

MEMBERS PRESENT:—The Honorable T. McCombie, in the chair; the Honorables D. Kennedy, W. J. T. Clarke, Dr. Tierney, B. Williams.

J. M. Tarleton, Esq., Consul for the United States of America, examined.

J. M. Tarleton,  
Esq.,  
19th Aug., 1857.

255. *By the Chairman.*—The information the committee are anxious to obtain from you is, as to the state of conveyancing in America. First, how it is done; secondly, the expense; and in the next place, the efficiency of it?—With regard to the conveyances, they are pretty much the same in all the States; though each State has its own laws, the general principles are very much the same in all the States. We have two kinds of deeds, the quit-claim deed and the warranty deed. With regard to the quit-claim deed, a person buying property would take some little pains to investigate the title.

256. Is that a doubtful title—a blistered title, as it is called here—a holding title?—No; a man says, “I do not know what the title may be hereafter; all I want is, to be right as far as I am concerned, and I give you a quit-claim deed; beyond that, I give you a warranty deed.” As a general thing, with a quit-claim even, I should say at the very outside, the whole expense would not be more than fifteen dollars—about £3, or a little over £3 at the very extreme.

257. And that would be an exceptional case, a very complicated title?—In a quit-claim deed, sometimes a man would consider the title perfectly good, and some people have a prejudice against giving a warranty deed.

258. What would be the expense of a warranty deed?—If I am going to buy a piece of property of you in the States, and I know you to be a responsible man, I do not care a straw about looking whether the title is good, bad, or indifferent; you give me a warranty deed, and you hold me harmless against everything; and the whole expense of that is (because almost every man makes his own deed) recording that deed and the wife’s dower. In some of the States she has to be examined separately, to say it is a voluntary act of hers, and in other States she has to sign jointly with the husband. The expense of the deed usually, I think, is about three or four dollars, and then there is the appearing before the justice of the peace, or the notary, or duly authorized person, to go and get the wife’s dower set right. In most of the States that is done separately. But if a man dies, I do not care how much he owes, if he has ever so much estate, the wife has a third interest in that estate while she lives, unless she has relinquished her dowry.

259. *By Dr. Tierney.*—What would that kind of deed cost?—Just what I said, going to the justice of the peace, or the notary, or the judge, or anybody else to examine her.

260. *By the Chairman.*—Have you found that system to act efficiently?—Yes. I have bought and sold a good deal of property, and never had a lawyer to make a deed for me. I have brought a book with me here that will give a great deal of explanation upon the matter; it is called the “Law Cabinet.” That—[pointing to it]—is the warranty deed and that the quit-claim deed.—[The witness delivered in the same.—Vide Appendix C. and D.]

261. *By Dr. Tierney.*—Then you do not require the intervention of an attorney in a conveyance of land?—Not a bit of it. Anybody can make out a deed, and all you have to do is to have it recorded within a certain time at the registry of deeds. In some of the States it requires only one witness to a deed, in some two. In some States if there are ten persons conveying a deed, it requires the seal of every one; occasionally one will answer for the whole. The average cost of transferring property is the same for all properties; it is as much to transfer a piece of property worth 100 dollars as 100,000.

262. You go and register it yourself?—You go and deposit it and have it recorded; that is the purchaser’s business.

263. *By the Chairman.*—Are the registration offices very efficient?—We have a regular registry of deeds in every county.

264. Where do the books lie?—In the county records.

265. In one county?—Yes.

266. All in one record office?—Yes; for instance, some States have got ninety counties.

267. Take the State of New York. Do all the deeds of the different counties in the State of New York lie in the registration office of New York?—The records are there, and it is endorsed on the registration of the deeds “Recorded in book” so and so.

268. You get back the deed?—Yes.

269. Do they all lie in the chief record office for that State, or are they distributed in the different counties?—In each county. There are ninety odd registers of deeds, and ninety odd fire-proof buildings.

270. Is a copy of it sent to the chief record office, in New York?—No.

271. In buying property, you just go to the county record office?—You must record it in the county where the property is.

272. In a new State, which is not thoroughly settled, I suppose one record office would be all that would be required?—The moment a State is admitted into union as a State, the same principles prevail. They are all laid off in counties. If it is a territory, it is under the general Government; and then there is what is called the general land office, where all those things have to be recorded.

273. Whilst it is a State, it has its own State Government?—Separate and distinct.

274. *By Dr. Tierney.*—Do you think that system of county records answers?—Perfectly.

275. Is there much litigation relative to the titles of land in America?—Very little indeed. In Louisiana and Mobile, in regard to some of the old Spanish titles, there may be; but it is not common in the country. I could make out my deed in ten minutes, have two men to witness it, and then sign it. J. M. Tarleton,  
Esq.,  
continued,  
19th Aug., 1857.

276. *By the Chairman.*—The quit-claim deed you would be more careful with regard to?—I should investigate the titles a little more.

277. And then you go to the record office?—You go and ask the registrar, and he turns the book over until you are satisfied.

278. *By Dr. Tierney.*—Does he give you the information, or do you find it out for yourself?—You may go yourself, or send an attorney. He will give you all the books, and he will tell you.

279. Suppose you were not educated sufficiently, is it his duty to furnish you with the information?—Yes; but at the same time, a man in that position would get a lawyer, because it would not cost him over five dollars. A great many lawyers with us will work a whole day for five dollars; not our best lawyers, of course; but you will get a lawyer to investigate your title for that.

280. *By the Chairman.*—Is it a usual thing to mortgage property in America?—Yes; and that has to be recorded too, just the same as the other deeds, in this very office; so that you can ascertain if there is any lien upon the property.

281. *By Dr. Tierney.*—Would you show the committee any copy of a mortgage deed you may have?—There are a number of different kinds of mortgages here—[*pointing to the "Law Cabinet"*]. This is the first, a mortgage of personal property.—[*The witness delivered in the same.*—*Vide Appendix E.*]

282. And have you as little trouble with those mortgages as you have with the other deeds?—Not a particle more. You have to go through the same process exactly, because you may not be satisfied but that the property may be mortgaged before, and you go to the register of deeds and see. If I sell you a piece of property to day, and you fail to have it recorded in proper time, and I sell it again, the man to whom I sell it the second time will hold the property. You commence upon me, and if I am good for anything, well and good; if not, you lose your property. In some States you may have to record it in a month; in some States in six months may do; but you must have the deeds recorded.

283. *By the Chairman.*—You say there is very little litigation?—Very little indeed.

284. I suppose the greater proportion of the titles in the new States are direct from the Government?—All the original titles come from the Government who issued patents. When you squat on the land with a pre-emptive right to 160 acres, you can get the patent signed by the President of the United States; that you do not record at all.

285. That is recorded before you get it?—In the land office. Then if you transfer, you have to go according to the State laws, and there is very little discrepancy in the States. The only thing is, some States require the wife to join the husband in signing the deed; most of the states require her to be examined separately.

286. There must be some very complicated titles in the United States—is there any court or Board of Inquiry you can go before, to have the title rectified?—If there is any doubt, you have to go through process of law; then if you come to that, the expense is very much more.

287. But that is very rare?—Very rare. In some of the old States there has been a good deal of it.

288. I suppose the old Dutch settlers held from the old Government?—I suppose they did.

289. A good many of those were grants from the British Crown?—Yes. The cost of litigation of course varies very much. You may have to pay one lawyer a smaller amount, and another lawyer a larger amount; but in regard to the transfer of property, there is very little difference. Scarcely one even in fifty employs a lawyer to draw a deed.

290. *By Mr. Williams.*—Is there a taxing officer there appointed to tax bills of costs?—No.

291. *By the Chairman.*—But the court allows certain charges?—Court charges, but no lawyers' fees. There are court fees, sheriff's, summonses, and jurors, and so on.

292. Did you ever know a litigation about a title in the States?—Yes; quite a number in Mobile—some old Spanish claims. I hardly ever knew one of those old claims sustained.

293. Did you ever know one in the new States?—No. If you are in possession of property twenty years, that is sufficient; no litigation can get hold of you then.

294. *By Dr. Tierney.*—Is there any leasing there?—Not from the Government; the Government reserves certain districts where there is land with live oak on it for building vessels of war, or something of that sort.

295. Are there leases given by private individuals?—Frequently; we call it renting land.

296. Is there any difficulty in regard to that?—Not the slightest.

297. Can you fill up your own lease?—Certainly.

298. You have not to go to a lawyer to get a lease of land?—No.

299. Do you record that in the register?—No. A lease is considered a sort of private contract. Nothing is recorded but deeds and mortgages.

300. And the parties themselves fill up their own leases?—They can do it, and they generally do. There is very little leasing of land. It is hardly worth while leasing, when a man can go and get any quantity of land for a dollar and a quarter an acre.

301. *By Mr. Clarke.*—Do they not limit you as to quantity?—They will not give you a pre-emption on any more than 160 acres; but you may go and enter as much land as you please. You have to go to the land office. There is the registrar and the commissioner. There are five or six land offices in every State. You go to the registrar and say, "I want to look at the map

J. M. Tarleton, Esq., continued, 19th Aug., 1857. and see if such a section or part of section in such a township, such a range is vacant." He says, "Yes; there is no one in it, no pre-emption." You say, "I want to enter it;" and if on one has a pre-emption on it, you may enter a whole State—you may enter until you are tired of entering.

302. *By Dr. Tierney.*—Is this land you speak of, as being so easily entered, fit for agricultural purposes?—O yes.

*The witness withdrew.*

J. D. Pinnock, Esq., examined.

J. D. Pinnock, Esq., 19th Aug., 1857. 303. *By the Chairman.*—You have been registrar of the Supreme Court of this Colony?—I have.

304. What the committee are anxious to hear from you is, in reference to the system of registration of deeds now in force in the Colony—whether you consider it efficient; and if not how it could be improved?—I think it a very inefficient system of registration by memorials, because the properties are not properly described in many instances; and when done by incompetent persons there have been fearful mistakes and litigation. I would suggest that all deeds should be registered at full length, as they are in Sydney; a sworn copy of the deed being placed on the file, instead of a simple memorial; and that would be the secondary evidence when the deed was lost.

305. Do you think it right that any party to a deed should be able to register it—the seller or the buyer, or any party to the deed—or do you think it ought to be the seller?—The buyer always registers. If a man sells a piece of land, his interest then ceases in that land. It is the interest of the purchaser to register it.

306. Does not it allow facility for parties going and registering properties which they have not really purchased?—I do not see how they can do that; they have no conveyance with them; they could not do it without the whole deed was a forged one.

307. Not a forged deed, but a forged memorial?—No.

308. They do not show the deed?—Yes, they do; and take a receipt on the back of the original instrument.

309. Where is the registration office at present, in Melbourne?—No. 28, William-street.

310. Is there sufficient accommodation there?—No; nothing like it.

311. Are the memorials in a safe place?—No; they are in a hired house, which is falling to pieces.

312. *By Mr. Clarke.*—Is there no fire-proof safe?—No fire-proof safe will hold them. We want large rooms for searching, which should be fire-proof, and increased as the colony increases. You want fire-proof rooms, the same as in Edinburgh, which is one of the finest record offices in the world.

313. Then, at present, they are in a very insecure place?—Yes, they are, decidedly; accident may happen of any kind.

314. *By Mr. Williams.*—In the event of a fire breaking out, would they be destroyed?—There would be no possibility of saving them.

315. *By Dr. Tierney.*—Even the rats are injuring the deeds?—Yes; we rectified that, by lining the book cases with tin, as well as we could; but the house is a most dilapidated place, not fit for the records of the colony; and in that house, we have not only the records of deeds, but of all the Acts of Council, and all grants from the Crown are enrolled in that office before they are issued; so that, in the event of an original grant being lost, the secondary evidence is in that department.

316. *By Mr. Williams.*—In the event of a fire breaking out, what redress would the public have, supposing the loss of an original deed?—That I cannot tell you, I am sure.

317. *By the Chairman.*—That would be a most serious calamity?—A fearful calamity.

318. *By Dr. Tierney.*—Have you a night watch there?—A housekeeper, and a man living on the spot.

319. In case of a sudden fire, is there any provision for extinguishing it?—There are no fires after a certain hour; after the gentlemen leave the office at four o'clock, the fires are put out.

320. Should a fire take place, is there water sufficiently near?—Nothing that would save an old building like that. There is one suggestion I have mentioned many times.—If grants from the Crown could be signed by the Governor, however long after that time, but bearing date on the day on which the last portion of the purchase money is paid; that would prevent expense and uncertainty. If a law passed to do that, it would be a good thing. Now, a man gets his deposit for the balance and sells that, and it gets through two or three hands; and there is a deed of confirmation, and there are a hundred things; the titles are all mixed up in confusion.

321. *By the Chairman.*—That would not bear a retrospective effect?—No; all you can do now, is as to the future. The conveyancing is increasing wonderfully here.

322. Have you any idea of the expense of conveyancing?—It is just as the American Consul says; it varies according to the lawyers; some will do it cheap and others charge a great deal more.

323. But there is no necessity for such enormous charges?—All simple conveyances can be put on an equal footing; but where the title is intricate, and a clerk is engaged several days in searching and examining, the expense must be more than where it is only one or two removes from the Crown, and where there are no collateral issues.

324. *By Dr. Tierney.*—If there were county registers and deputy registers, how would

that be?—I do not think that would answer here. It was mooted many years ago, and referred to me by Mr. La Trobe. The principal registry here is in Melbourne; and another inconvenience is that, on mortgaging a large portion of land to raise a large sum, your properties may be situate in different counties; how could you pay the expense of a separate deed in each. A central registry I conceive to be the very best; it is better managed and with much more effect than district registers could be.

325. Could there not be district registers, so that a party might get his deed registered; and a deputy registrar who should take measures to get that deed registered without the necessity of the party's going to an attorney?—Any man could do that.

326. But he would have to come down to Melbourne?—A friend could do it. Any man could come to the office and make oath—any person who has got the common sense to extract the parcels.

327. In the conveyance of land, could not the registry office be so arranged, that any party might go in and make searches, so as to convey land without the present expensive machinery?—Any man can go and make his own search, if he chooses, without a lawyer.

328. He may not know the way to do it?—There is an alphabetical index kept, and the party has nothing to do but run down the letters A, B, and C, until he comes to the name of the party and refer to the number of the memorial, and see if that is the portion of land that he requires information about.

329. If I understand rightly, to actually convey land properly, you would have to make seventy searches?—In many instances.

330. Through seventy-seven books?—Yes; we have an enormous number of books. It depends how late the land has been granted.

331. How would you simplify that, so that an ordinary individual could go and look after his title?—I am sure I could not say how it would be simplified.

332. *By the Chairman.*—Could you not make a book for each county?—No; it is impossible.

333. Why?—Lands of many counties may be contained in one instrument.

334. Henceforth?—By altering the present Registration Act, and devising a new system altogether. That would be a different thing.

335. It would be an advantage to have the registration divided into the different counties, East Bourke, West Bourke, South Bourke, Melbourne, St. Kilda, and so on; having a book for each?—You must have a local office the same.

336. Yes?—By doing that you upset the general registration and have a local registration.

337. No; you could have it all in the central registry, only to have it in separate books?—Then again you ought never to have the land of one county mixed up with land of another county in one instrument.

338. There is no necessity for it, is there?—If a man mortgages his land in different counties, he may do it in one instrument upon a mortgage; and that is a most important thing to look to in buying property.

339. *By Mr. Clarke.*—Will you be so good as to explain why there is such a detention before the grant is issued often times; is it for the want of more clerks to carry it out?—We have kept them a very short time comparatively speaking; but for that enormous office there are not half clerks enough to carry on with. The grants come down to us from the Surveyor General's office to be enrolled. We enrol them, and endorse on them "Enrolled," and return them to the Surveyor General's office, with the copy of the endorsement, into their office. They issue them.

340. Could you have got through a larger number of them, if they had come to you?—No; we have neither accommodation nor staff sufficient.

341. Who is the proper party to go to to get a grant forwarded?—The Colonial Secretary, in the first instance, it used to be; now it is the Commissioner of Lands.

342. *By the Chairman.*—The two registries are amalgamated?—They are to be amalgamated; and they are in fact, but not in law. The chief clerk is the acting registrar of the Supreme Court to carry on the duty until the Act is passed. It requires great care in indexing the memorials; and the last few months we have been averaging forty to sixty, and sometimes one hundred a day; and no clerk could index them.

343. *By Mr. Clarke.*—Who has charge of those books, when searches are being made by the lawyers?—The books are round the wall; there is a long table at which the lawyers' clerks are searching, and the clerk sits at the head of the table, and the books are about him.

344. It is his duty to see that nothing is done wrong with the books?—Yes, of course it is; but there ought to be more rooms, and two or three clerks attending to that department.

345. *By the Chairman.*—Still, under the present system even, no one could abstract a memorial without being observed?—I would not answer for that; you know "Where there is a will there is a way" for anything, and a man cannot have eyes upon every one in the room.

346. *By Dr. Tierney.*—Would not it be better to have clerks in the office to be accountable, instead of the lawyers' clerks, and to charge a certain sum?—A fee to the Government? Then they must be paid a salary accordingly.

347. Could not that be done?—The only thing is this, and it is a very serious thing, you would make the head of the department, by the acts of his clerks, individually responsible for any mistakes they made. That would be a fearful responsibility.

348. But if you had the register divided into counties and the system more perfect, then could not it be done under a new system altogether?—It could be done certainly; but then, in doing so, you swell the present amount of responsibility; and it must be considered, if you alter the present system, you must, in addition to the county registers, have transcripts of all that are

J. D. Pinnoek,  
Esq.,  
*continued.*  
19th Aug., 1857.



J. D. Pinnock,  
Esq.,  
continued,  
19th Aug., 1857.

filed sent up to Melbourne and enrolled in the general register. All the monetary operations are carried on in Melbourne.

349. Should not a poor man who wants to transfer or get a mortgage on his land in the interior be able to go to the deputy registrar and do that himself, without going to an attorney?—He could do so if there were registration in the country.

350. Supposing a poor man wanted to borrow £100 on a piece of land, what would it cost him at the present time?—If it was an equitable mortgage, it is a mere trifle.

351. *By the Chairman.*—What good is that if a man does not pay it?—He sues upon the promissory note and gets judgment.

352. It is only this security, that no one else can sell before him?—You must take legal proceedings.

353. *By Dr. Tierney.*—That is not the usual way of effecting a mortgage?—No; but by a regular deed.

354. Could not that be done in a more simple form?—I do not know how it could myself. I am at a loss in the matter. I should be very sorry to lend money on or buy a property, unless it went through the ordinary channels and had all the particulars set out.

355. *By Mr. Clarke.*—In the grant, everything is set forth that is necessary?—Yes, in the first instance; but suppose it is only a portion of that property, you want all the title deeds from the very first deed down to the time of your holding it.

356. Do you not think it would be a greater safety to the public, if the Government were to make those searches instead of the solicitors' clerks going and doing it?—I do not think it would be any additional security or safety to the public.

357. *By Dr. Tierney.*—Have you not heard of attorneys' clerks being sent to your office and going to play billiards instead?—No; I am not likely to hear of that; but if any person came to the office and misbehaved himself, he would soon be removed.

358. If there were a number of clerks in your office and those were paid a gratuity by any one wanting to register a deed, or going for searches, could not it be done as well as by the attorneys' clerks?—It could be done as well, but the principle would not be as good. It would be a bad principle, the Government paying the clerks and a fee being paid to do a thing of that kind. It would not be right for the clerks in the office to register a deed.

359. I am only speaking of searches?—Yes, that may be done. It is a very common thing for parties to go to a stationer's and purchase a form, and make their own deeds, fill in the parcels, and so on, where it is a plain case.

360. Who ought to know more about making the searches especially, than the parties in your office?—There is only one clerk devoted to that duty of indexing the memorials.

361. If he had other clerks under him?—There is no doubt such a system could be done with a proper staff, and then you would charge the fees to the Government according to the time occupied, or upon any other principle set down, which would go to the Government, and the clerks would be paid in proportion to the responsibility thrown upon them.

362. *By the Chairman.*—That would prevent the danger of such a thing as a memorial being extracted?—It might; but I have never known such a thing to happen but once.

363. Was that connected with an important property?—No; it was not a very important property. I think a system of county registries and duplicates being sent to the central office would be a very valuable thing, as the country increases in population.

364. Do you think it would be practicable to divide the registry into each county in the registry office?—Yes, that would simplify the matter very much. The central registry would be the depôt for the whole of the statistics of the colony, and a man could put his hand upon anything he wanted in a few minutes.

*The witness withdrew.*

TUESDAY, 25TH AUGUST, 1857.

MEMBERS PRESENT.—The Honorable T. McCombie, in the chair; the Honorables W. J. T. Clarke, Dr. Tierney.

Mr. John Flemming called in and examined.

Mr. J. Flemming,  
25th Aug., 1857.

365. *By the Chairman.*—What are you by profession?—I am living private.

366. Where?—At Brighton.

367. The committee understand that you can give them some evidence in reference to mistakes that have arisen in the conveyance of land at Brighton. Had you any land there that was wrongly conveyed?—Yes, I had some wrongly conveyed there.

368. Perhaps you will explain to the committee the circumstances under which the mistake arose?—The circumstances were these.—The paddock was a square paddock, containing thirteen acres of land, and at the bottom part of the paddock I sold an acre of land to a schoolmaster. I gave the proper instructions to the solicitor to have it properly conveyed; and, instead of conveying it properly, he conveyed an acre in the centre of the paddock.

369. I suppose you cannot account for that in any other way than as being a case of negligence?—In no other way. It was proved to be a case of negligence.

370. It put you, no doubt, to a great deal of trouble to have that rectified?—It put me

almost to an action at law. When I sold the remainder of the paddock, the attorney of the purchaser of the remainder found out the error, and said the title was not good; and when I went to the attorney who made out those deeds, he made out another deed, and wanted me to sign for both, and I could not see that I was justified in signing for the whole without he would give me a letter of indemnification, which he refused to give, and on those grounds I refused to sign; and then he held a lot of deeds and documents of mine in his possession, which I had to take law proceedings to recover. He was then obliged to give them up to me, and come to the terms I required.

Mr. J. Flemming,  
*continued,*  
25th Aug., 1857.

371. Do you recollect how much he charged for conveying that acre of land?—He charged the parties who purchased five guineas.

372. Have you had any more mistakes made in conveying land to yourself personally?—No, I have had no more mistakes that I am aware of, with the exception of one case in which I had some land conveyed to me, and for which I was charged £14 13s. 10d.

373. For a simple conveyance?—Yes, he made the charge by items. I did not make any agreement for the amount, but I considered it too much.

374. *By Mr. Clarke.*—With regard to this acre of land that was wrongly conveyed, did you get it altered and placed in its proper position; what was the result of it?—I think it is not settled yet.

375. Have you sold the remaining portion of the paddock?—Yes.

376. And have you conveyed the remaining portion?—Yes; the attorney indemnified me, and I signed for the acre of land.

377. For the second or for the first acre of land, do you mean?—The first acre was at the corner, and then the second acre I had signed for; and he wanted me to sign again for this acre where the man had his house built on, and I would not do it, except the attorney would indemnify me. I did not know the position I was in; but I said, if he would indemnify me, I would sign for the other.

378. In fact, the acre of land was not in the middle of the paddock, but on the road side at the corner?—The acre of land sold was the acre of land where the man built his house; but the acre of land conveyed to him was in the centre of the paddock.

379. Where there was no road?—It was not the land sold—there must have been a mistake in the starting point.

380. *By the Chairman.*—The solicitor had correct instructions from you?—He got correct instructions from me.

381. I suppose it gave you a great deal of annoyance, trouble, and delay?—It caused me a great deal of expense, and annoyance, and delay.

*The witness withdrew.*

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WEDNESDAY, 26<sup>TH</sup> AUGUST, 1857.

MEMBERS PRESENT:—The Honorable T. McCombie, in the chair; the Honorables D. Kennedy, Dr. Tierney, B. Williams.

His Honor Mr. Justice Barry examined.

382. *By the Chairman.*—The committee understand that, when you were Solicitor General of the Colony, you took a great deal of interest in the conveyance and transfer of real property?—I did and still do.

His Honor  
Mr. Justice Barry,  
26th Aug., 1857.

383. You introduced a Bill on the subject?—I did; it was the adoption of the Bill which was known in England as Lord Campbell's Bill. It lapsed principally as the House did not feel at the time disposed to consider the subject, in what appeared to me to be the spirit which it deserved.

384. Do you think there would be any difficulty in applying that Bill to this colony?—I do, because it was left to the voluntary adoption of the profession and the public; and, in my opinion, a measure of the kind should be compulsory.

385. The original fundamental titles of this colony, I believe, are all simple grants from the Crown?—Yes; there are two descriptions of title, one to private individuals, and the other to the corporate bodies.

386. The latter—grants to corporate bodies—would seldom or never require to be transferred; they are chiefly for public purposes, are they not?—Precisely.

387. Grants to private parties are all of a simple character?—They ought to be.

388. The original titles are all uniform?—They have been simplified very considerably of late years, inasmuch as arbitration clauses, reservations, and provisoes, which exist in the old grants in New South Wales, have been excluded from those issued in Victoria.

389. Therefore, if a simple system of transfer had been adopted originally, previous to any of those titles being complicated, there would have been no difficulty in arranging a simple system of transfer, such as is adopted in America, or such as Lord Campbell contemplated?—That is to say, if the original system had been perpetuated, the original simplicity would have been preserved. If the committee will permit me, I will show what appears to me to be a simple form, and I will explain, in common language, what difficulties may be overcome by this arrangement.—*[His Honor delivered in the same.—Vide Appendix F.]* That is all in my opinion necessary. I will now explain to the committee what is implied by that, and what is implied is at present

His Honor  
Mr. Justice Barry,  
continued,  
26th Aug., 1857.

expressly introduced into deeds. In this form implies the recital of contract for sale generally introduced, in as verbose words as the conveyancers usually employ—"Whereas the said A. B. contracted with the said C. D. to sell so many acres of land," and so on, making it as long as possible. In consequence of that recital, it is necessary to have "This indenture witnesseth." That is abolished. In consequence of the multiplicity of the modes of conveying property used at different times, several descriptions of operative words have become incorporated in modern deeds. Those are "appointment," "bargain and sale," "release," "grant," "assign," "transfer," "set over," "confirm," and so on. "Appointment" was one description of conveyance now indispensably necessary in some cases, where provision is made by will, settlement, &c. There are other descriptions of conveyance which I need hardly explain. One is "bargain and sale," the principle of which I should like to see applied to modern grants, as I will presently show. "Lease and release" is another description of conveyance; the "lease" is abolished, the "release" remains. The latter is the usual mode of conveying property now. The word "grant" is used in the form I submit, and I propose to substitute that for all the other modes of conveying property, and omit, consequently, "bargain" "sell," "release," "assign," "transfer," "set over," and "confirm;" a deed of confirmation being a deed of another description, which might still be necessary in certain cases. All these descriptions of conveyance are included in the word "grant," which is the largest conveying word we have, and as the major includes the minor, I see no occasion to mention the minor premises. Other words are omitted, commonly called the "general words." When an acre of land is conveyed, one would naturally suppose that everything that was upon it ought to go with the grant. The usual covenants may be omitted. First, that the appointment is subsisting; next, that the vendor has power to appoint; third, the vendor's right to convey; fourth, for quiet enjoyment by the purchaser; fifth, free from incumbrances; sixth, for further assurance by the vendor; and, finally, the receipt which is endorsed upon the deed, and which is not under seal, and may be safely dispensed with. That would reduce the deed to the dimensions of half a sheet of note paper. In order to make that effectual, there should be an enactment by which implied covenants, and all contained by implication in an ordinary deed should be expressly omitted from the conveyance, and that the purchaser should be enabled to insist at law and in equity upon all the rights and remedies which he now enjoys under the present form of deed. I will now give the committee another form of what is, generally speaking, a very long and expensive deed—a mortgage.—[*His Honor delivered in the same.—Vide Appendix G.*] In that is implied a proviso for redemption, which is included in the word "lent;" for with a loan exists the right to redeem. It is so in equity, where there is no expression of the intention to redeem. Equity will enforce the right after almost any lapse of time under certain circumstances. These covenants are implied,—first, that the mortgagor will pay principal and interest; second, that he is seised in fee; third, that he has power to grant; fourth, free from incumbrances; fifth, for further assurance; sixth, that he will assure and keep insured buildings, if buildings exist on the land; a proviso for quiet enjoyment by the mortgagor until default, is also implied by the nature of the loan, and there is no occasion to express any of the foregoing particulars. An enactment, making similar provisions to those already detailed, would provide for a case of a mortgage; and a general enactment for the indemnity of trustees, or those who act impliedly as trustees (as mortgagees selling on default of payment are) should provide for their indemnity and the indemnity of the purchasers from them.

390. Is your Honor aware of an Act having been passed lately, for the benefit of Ireland, called the "Encumbered Estates Act?"—Yes.

391. Are you aware of a clause in that Act which gives a power previous to sale to have titles examined and rectified?—Yes.

392. Do you think that such an enactment could be carried into operation here, in order to bring back the titles which have got into an involved state to their original pure state, by appointing commissioners, or a judge, to examine those titles, and to admit the Supreme Court, or the Executive Council containing the two officers of the Crown, to superintend the commissioners' or the judge's decisions?—I have not sufficiently considered the subject.

393. It would be a great benefit, having obtained a simpler form of conveyance, as regards all titles that are now incorrect?—I have not sufficiently considered the subject. The expenses of such a commission may be considerable; and I feel assured that the present judicial bench could not undertake any portion of such labor.

394. Would it not be possible to compel suitors before such commissioners to bear the expense of having their titles investigated?—Certainly.

395. Therefore it would, in fact, be no expense to the country to have such a commission appointed?—I repeat, that the judges of the Supreme Court could not afford time.

396. The committee think that, having arrived at a simpler system of conveying property, which would prevent future errors from arising, it is very desirable that wherever errors have already arisen, they should be rectified, if possible; so that all the titles in the colony should be made correct, and be fundamentally as simple as they are in the new States of America, where, the committee have evidence, very few errors occur. The committee are anxious to have your Honor's opinion whether you think there is any mode by which so very desirable an object could be accomplished?—The defects in titles here are various; one frequently mentioned, by way of illustration, appears to me to be very easily remedied, by a simple declaration that the deeds executed before the issue of the grant should have operation to pass the fee simple, notwithstanding the fact of the grant having issued subsequently. Other defects, arising from a careless description of the parcels, and from the absence from the country of heirs-at-law, trustees, or other persons, on whom the estates have descended, or to whom they have come, are by no means so easily rectified. They can hardly be reached by

legislative enactment. There are modes of preventing such inconvenience occurring in future. First, by an improved system of registry; second, by insisting that all persons who leave this country shall leave sufficient power-of-attorney to be registered, delegating to some person or persons power to convey, which shall be irrevocable.

His Honor  
Mr. Justice Barry,  
*continued,*  
26th Aug., 1857.

397. There is a great deal which bears very hardly particularly upon the poorer classes of people here, and the committee have it in evidence that any man purchasing a piece of land to the value of £100 has to pay actually as much for the conveyance as the land has cost. The committee have had evidence given of a person who purchased land worth £100, for the conveying of which the attorney charged him £100. These charges appear to be made up of what is called the abstracts of titles and searches. I would wish to ask of your Honor if you do not think it is desirable that such a court as I have suggested, a commissioner or judge should be appointed specially for the purpose, under the surveillance of the Executive Council or the judges of the Supreme Court, and that he should give a fixed title up to a certain date, the same as has been given in the "Encumbered Estates Act;" that is, if a title is very involved, where each individual purchaser would require to give so much money to a professional gentleman for searches and abstracts of title, those titles should be examined and brought down as perfect to a particular date, by which means that great expense would be obviated?—I think, as I understand the case, that the expense might be lessened by the establishment of such a court; still searches must be made in either case; and, as the offices are at present arranged, searches are extravagantly expensive from necessity. I will give an instance. A man who buys one acre of land must be as particular in ascertaining that the title is correct as the purchaser of 10,000 acres. The title, particularly if the land originally granted may have been subdivided and have passed through many hands, must be more or less complicated. The searches at present are in the registry office of the Supreme Court—to see that all the deeds have been properly attested and executed, and receipts for money given, and that the parcels are correctly described, the parties correctly named, the dower of married women barred, and that trustees have executed their trusts correctly, that the proper formalities have been complied with. Should the question of heirship arise, it is necessary to examine next the registrar general's office, and pursue inquiries as to relationship, absent persons, &c. It is necessary to search the sheriff's office for writs affecting the property, the office of the Supreme Court for judgments, the office of the clerk of the Crown for Crown deeds and recognizances, and it may be further necessary to search the Supreme Court and Courts of Quarter Session for recognizances and other liabilities which may possibly affect the person and the estate of the vendor. The offices are at present scattered in different parts of the town, and, until they can be brought together in one building, the expense of making the necessary searches cannot be diminished.

398. Do not you think that a system of registration might be adopted which would throw the whole of these upon that one office?—No; but all the offices might be assembled in one building, which would reduce the expense of attendances very considerably.

399. Supposing the title to be correct now, and supposing it to be illegal to take any mortgage upon it without having the deed properly registered (supposing a short deed, such as your Honor has proposed, and the law compelled the registration of the whole deed), and provided further that the register books were divided into districts, and so simplified that any property in the colony could be shown at once in those register books, would it not be possible then to throw the whole of this search upon one office, that being the registration office?—The registration of the deed, as is proposed, would only insure information respecting the deed itself; the other information must be sought in other offices.

400. If the property be unincumbered and a purchaser wishes to buy that property, the personal matters affecting the vendor could not affect the property?—Certainly, that might be.

401. If I found a certain property in the registration office was unincumbered in the name of a third party, A. B., would it not be safe for me to purchase it, if it were the law that every transfer and every mortgage should be registered; that is, supposing I go to the registry office and find that the property stands there unincumbered, and that the party of whom I desired to purchase has the deed—say a grant from the Crown endorsed by a short deed to that third party—would it not be safe for me to purchase that property if it stood unincumbered in the registry office, the law compelling the registration of alienations or mortgages?—There may be instances in which other liabilities to the Crown, which would not be revealed in that office, would bind the land.

402. Those would be convictions for felony?—No; persons entering into recognizances for the due performance of the duties of an office by another person.

403. If a man were released by legislative enactment from that, then it might be possible to carry that system into execution?—Yes, but before the security given to the Crown is to be diminished the subject should be well considered.

404. The question would be, whether the advantage to the public of having a safe and cheap system of registration would not counterbalance the diminishing of the security to the Crown. I suppose it is only in exceptional cases that the Crown would feel interested in the question. There are no large classes of persons of whom the Crown could take such securities, if I know the Colony rightly?—In dealing with the subject of real estate, every possible contingency must be provided for.

405. *By Mr. Williams.*—Which would involve the necessity of all the searches you have spoken of?—Yes; and this brings me back to my former remark, that the establishment of such a court as is alluded to would still render searches necessary.

406. *By the Chairman.*—It would render searches necessary in that court?—So that the expense of searching would still continue.

His Honor  
Mr. Justice Barry,  
continued,  
29th Aug., 1857.

407. But if the registration court were simplified and put upon a different footing, and the Colony were mapped out into districts and books opened for every county in shape of a county registration, and the registration were so simplified, that no amount of time would be occupied generally speaking in searching in the case of a transfer or a mortgage, how would that do?—It all depends upon the number of persons through whose hands the property has passed. For instance, if an estate has been sold ten times, there are ten deeds, and perhaps many more, containing the names of twenty, at least, and perhaps more, persons, respecting each of whom inquiries are to be made—ten vendors and ten purchasers.

408. Would there be any danger to the public in allowing property to be transferred by endorsement on the grant from the Crown, that endorsement to be registered?—In the simple case of an unmarried man conveying to an unmarried man, I see none; but when it is necessary to introduce a trustee, or to convey for any special purpose upon trust, it seems not practicable. I presented a Bill, which has since been passed into a law, for the assignment of choses in action, commercial securities. It struck me then, and I still remain of the same opinion, that that Act might be very considerably extended, and that, in such and similar cases, as I first put, the principle might be applied to the transfer of real estate.

409. There does not appear at first sight, to be any reason why land should not be transferred the same as other property, by simple bargain and sale. I do not know whether your Honor is aware of the American system of conveyancing. It appears in America that there is no difficulty in transferring property, and we have had it in evidence from experienced Americans, that in the new States such a thing as a dispute about a title is rare, whilst the expense of conveying property is not above five dollars?—There is no more expense in conveying property worth £100 than property worth £100,000, where it is a simple transfer.

410. We have it in evidence from experienced land agents and other gentleman that, if you purchase a large property to-day, the attorney will charge £200 or £300 for conveying it; and if another party purchase it to-morrow they will insist upon going through all the same exact form in both cases?—If different professional men are employed, that may be necessary for their protection.

411. Will you state your opinion as to the usefulness of such a court as has been suggested?—I have no doubt that such a court would be useful as regards objections to present existing titles; but, in my opinion, when those doubts are cleared up, there would be no occasion for the continuation of the court, if a proper system of conveyancing were now instituted; that it is, just to revert to the original simplicity when you have provided all the necessary proceedings for the transfer of property.

412. And when those titles are all brought back to their original simplicity, there would be no occasion for the existence of such a court?—No; the title to land ought to be as simple as the title to bank stock, and the mode of transfer as easy.

413. *By Dr. Tierney.*—You stated just now, in conversation, that there was a similar court in Sydney?—The Court of Claims.

414. Is that of a similar nature?—Not precisely. The Court of Claims in New South Wales sat to investigate (if I am right in my recollection, but the matter can be ascertained by reference to the Act of Council) and to determine the rights of persons to grants of land who have been promised grants by the Governor, or who had occupied Crown lands under the idea that they were to have possession in fee simple.

415. *By the Chairman.*—That is exactly the constitution of the court in Van Diemen's Land, called the Caveat Court?—Yes.

416. *By Dr. Tierney.*—Which would be preferable, that there should be such a court as the chairman describes, or that there should be an additional judge to inquire into titles, to be supervised by the Supreme Court?—It appears to me that, before long, there must be an additional judge for other purposes, as the extended circuits and the increase of business give so much employment to the judges.

417. Then, which would you recommend, if it were necessary to have an inquiry into the titles, so as to give those who have a bad title a good one?—A separate court.

418. *By the Chairman.*—Does your Honor think it would be better to give the Executive Council or Supreme Court of the Colony the power to confirm the decision of such commissioner or judge, or should the commissioner have the power *per se* on his own responsibility to issue a certificate, or whatever document should be thought necessary to carry out the *modus operandi* of the Court of Claims?—It strikes me, it would be better to give an appeal to a court of law than to the Executive Council, composed chiefly of laymen.

419. I make use of those words Executive Council, because the appeal was to the Executive Council in Van Diemen's Land; not to the judges, if I recollect rightly. Then, does your Honor think that such an appeal should be given from the lower to the higher court, or that there should be final jurisdiction in the court below?—I cannot decidedly say, but I believe that the public would be perhaps better satisfied if a power of appeal existed, although it might be rarely exercised.

420. *By Dr. Tierney.*—Would not that lead to a great deal of litigation, and also to a great deal of expense, and be a hardship on the poor man, who perhaps might not have sufficient money to carry it further?—I believe so; and I have already stated that I do not think the expense would be much diminished in the first instance by the establishment of such a court. I fear it would be rather increased.

421. Still, I thought your Honor said just now, that you would prefer to have it a separate court, than to have it confined to one of the judges or to have an extra judge appointed for the purpose?—I certainly do.

422. *By the Chairman.*—There is no way at present by which the holder of a bad title

to land can get that title rectified in the way proposed to be adopted by you?—No, except by legislative enactments.

His Honor  
Mr. Justice Barry,  
continued,  
20th Aug., 1857.

423. Are there not many cases that can scarcely be reached by legislative enactment?—I cannot say but I do not know how they can be reached by the court proposed, as the means are not yet suggested to me.

424. There are many cases where errors have been committed in the conveyance of land, where the parties have left the colony or have died, and therefore cannot be now reached, and in which great suffering has ensued to the holders of the land when the discovery has been made six or eight years afterwards, those errors having been made through the carelessness of the attorney?—I have not heard how it is proposed to rectify that.

425. By giving to the commissioner power to correct mere technical errors—those errors which can be remedied in cases where the title to the land held is morally unexceptionable, and thereby making it a marketable title, and where doing so could affect the interest of no one beyond the holder of the land himself?—That defect can be remedied now in a court of equity.

426. Then there is a remedy in the court of equity?—Yes, to reform mistakes in deeds.

427. Is not that a very expensive and cumbrous method?—More expensive than it ought to be, in my opinion; but that may be remedied too.

428. Then, if I understand your Honor, a person who holds lands in reference to which such mistakes have occurred can apply to a court of equity to rectify them?—Yes.

429. Would it not be safe to give such a commissioner the power to act finally without making any more litigation about it in such cases as I have alluded to?—I think every new jurisdiction proceeding in a mode different from the common law should be under supervision.

430. Is your Honor aware whether, in regard to incumbered estates in Ireland, there is an appeal to the supreme court in that country?—Not exactly to what may be considered the supreme court.

431. Have suitors in Ireland the same right to appeal to Chancery to have the titles of their estates made correct?—There is an appeal to the Judicial Committee of the Privy Council.

432. That is a matter which the committee are very anxious about, namely, the getting old titles rectified, concurrently with diminishing the expense of conveyancing and simplifying the form, as your Honor having suggested, with regard to future transfers. The idea of the committee is that, with respect to old and involved titles, it would be desirable to have them set right; and that, for the future, there should be uniformity of system. Is your Honor of opinion that the committee are correct in holding that idea?—I think much might be done by judicious legislation.

433. Perhaps your Honor might make some other suggestions to the committee on the subject?—The improved registry, and making registration imperative, within a given time.

434. That is prospective?—Yes; otherwise the deed to be inoperative, as in the instance of bargain and sale enrolled in Chancery, which I have already mentioned.

435. In reference to those old titles, many of which are involved and most extravagantly expensive to the public, could you suggest anything to the committee?—There is a plan, which would require to be judiciously matured, the surrendering of the estates to the Crown, and the having new grants issued; care being taken that all outstanding titles were introduced, and providing that they should be effectually barred.

436. That would not materially differ from the commissioner of the Crown, or the commissioner of the court examining titles under the same *modus operandi*, and granting a certificate?—You would save all the expense.

437. Then would the party holding the land be charged with the expense attending the investigation of his title?—Yes.

438. Would you propose the commissioner who should investigate those titles to be paid out of the public revenue, or by the party making the surrender?—No; by the party making the surrender.

439. That would amount to the same thing as having a commissioner appointed to investigate the claims and to give a certificate. In the one case it would be by the Crown, and in another case it would be a certificate signed by a commissioner of the Crown?—I am not aware of the nature of the certificate to which allusion is made.

440. Simply a certificate to the effect that such and such an investigation having taken place, it was certified that the title was in the same position as the original grant from the Crown?—That is no more than any private conveyancer would give.

441. A legislative enactment would give it efficacy, if issued by a Government commissioner?—If the title is good, it is good without that.

442. But it is proposed that this certificate should be signed by the Governor?—If the title is good, the certificate is not necessary; if it is bad, I do not see how a certificate would cure the defect.

443. It is in reference to titles which have been rendered unmarketable by reason of some flaws, which at the same time are morally perfect. A good many titles go here by the name of holding titles, which are not marketable, though perfectly good in themselves. It would be to render those titles marketable by certifying that they were good?—I consider a vast injustice may be done by that.

444. In what respect?—It is presumed that the holding title, as it is termed, is one by which some person, either legally or equitably entitled, is kept out of possession, and he ought not to be precluded by that certificate.

445. It would be the commissioner's place to see that no injustice was done. Does not your Honor suppose that the plan which is found to work well at home would be likely to do so here?—I have no doubt that the machinery of the Encumbered Estates Court might be well applied here.

His Honor  
Mr. Justice Barry,  
continued,  
26th Aug., 1857.

446. There being a great many properties, from technical objections, now shut out from the market entirely?—But those all suppose the case of voluntary purchasers. I am not aware that it has yet been applied to cure a defective title, where no conveyance is contemplated. I do not say that it may not be capable of application. A principle that is sound in one instance may be sound in the other.

447. Your Honor rightly remarked, that a conveyance of one acre might cost as much as the conveyance of 10,000 acres; but in many large properties there may be perhaps 10,000 parties interested in a particularly involved title. Would it not confer a very great benefit if, by clearing up and confirming that particular title, the whole of the 10,000 titles were confirmed in one?—Very good. It might be very desirable.

448. *By Dr. Tierney.*—Relative to the conveyance of property, could there not be some improvement on the registration of deeds?—Undoubtedly.

449. At the present time I believe the attorney's clerk has to go to the registration office to make those searches, and he goes into the office, the clerks there remaining in the room—could not there be additional hands employed in the registration office, so that the clerks who are in the employ of the public could make those searches, without the intervention of an attorney?—I do not know that it would save much expense to substitute public officers for private practitioners.

450. I understand, at the present time, and we have it in evidence from conveyancers, that if you want to purchase a piece of land, you have to make seventy searches?—I believe that is so.

451. Could not that be done by parties in the office?—The persons employed in the office may be very good clerks, but they may not understand conveyancing, or the importance of the omission of one word in a deed.

452. I am alluding to the searches?—Yes. But on the occasions of searches, the operative part of the deed is all examined.

453. Then you think that you never can have deeds so simple, but that you must always go to an attorney?—There are the forms I have suggested.

454. You must have searches?—You must have searches. For instance, it would be necessary to identify the parcels; in fact, searches could not be dispensed with.

455. *By the Chairman.*—Under such a short system of conveyance as you propose, there is nothing to prevent persons of ordinary intelligence making the searches for themselves?—A professional man of any class charges for each operation he has to perform. If an attorney peruses seventy deeds, he is paid for perusing seventy deeds.

456. *By Dr. Tierney.*—But it appears at the present time that, if you are purchasing or selling any piece of land, it is necessary to make seventy searches. We have that in evidence?—It may be indispensably necessary. I have known £300 paid in searches, and necessarily so, or otherwise the title would not have been safe.

457. *By the Chairman.*—In this Colony?—In this Colony.

458. *By Dr. Tierney.*—Still, do you think that such a state of things as that should exist?—I consider it extremely objectionable.

459. Then, could you point out how that might be remedied. Suppose a poor man wants to convey a certain portion of land which he gets £100 for, and wants to transfer?—The only way is by simplifying the mode of conveyance, and seeing that greater care is paid to the mode of conveying property, which will be increased as the forms of deeds become more simple or secure.

*His Honor withdrew.*

THURSDAY, 10TH SEPTEMBER, 1857.

MEMBERS PRESENT:—The Honorable T. McCombie, in the chair; the Honorables Dr. Tierney, W. J. T. Clarke, D. Kennedy.

Thomas Budds Payne, Esq., further examined.

T.B. Payne, Esq.,  
10th Sep., 1857.

460. *By the Chairman.*—Have you anything you wish to add to your evidence?—With respect to question 54, I had proposed to strike out that answer, considering that it was a repetition of something I had said before; but if the committee wish it to stand, I have no objection to its doing so, with that remark. Then with regard to question 74, I find, on reference to the Act of Council, I was not quite correct in the statement I made. I now find that the copy furnished by the registrar is taken as evidence in Court, the same as the Crown grant itself.

*The witness withdrew.*

# APPENDICES.

## APPENDIX A.

This Indenture made the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and fifty- \_\_\_\_\_ between \_\_\_\_\_ of \_\_\_\_\_ in the colony of Victoria \_\_\_\_\_ of the one part and \_\_\_\_\_ of the other part Whereas

And whereas the said \_\_\_\_\_ hath contracted and agreed with the said \_\_\_\_\_ for the absolute purchase of the piece or parcel of land hereditaments and premises hereinafter described with the appurtenances at or for the price or sum of \_\_\_\_\_ Now this Indenture witnesseth that in pursuance of such contract and agreement and in consideration of the sum of \_\_\_\_\_ of lawful British money in hand well and truly paid by the said \_\_\_\_\_ to the said \_\_\_\_\_ at or immediately before the sealing and delivery of these presents the receipt whereof is hereby acknowledged and hereon endorsed He the said \_\_\_\_\_ doth grant bargain sell release and confirm unto the said \_\_\_\_\_ and his heirs (the release hereby made taking effect without a previous lease for a year by virtue of the provisions of an Act of the Governor and Legislative Council of New South Wales in such case made and provided) all that piece or parcel of land situate

together with all buildings ways waters water-courses fences easements privileges profits rights members and appurtenances whatsoever to the said hereditaments hereby released belonging or in anywise appertaining And all reversions remainders rents and profits of and in the same And all the estate right title interest use trust claim and demand whatsoever of him the said \_\_\_\_\_ of and in the said hereditaments with the appurtenances To have and to hold the said hereditaments hereby released with the appurtenances unto and to the use of the said \_\_\_\_\_ his heirs and assigns for ever And the said \_\_\_\_\_ doth hereby declare that his widow (if any) shall not be dowable or entitled to dower out of the said hereditaments and premises hereby released or any part thereof And the said \_\_\_\_\_ doth hereby for himself his heirs executors and administrators covenant promise and agree to and with the said \_\_\_\_\_ his heirs and assigns That notwithstanding any act deed matter or thing by him the said \_\_\_\_\_ made done or permitted to the contrary he the said \_\_\_\_\_ now hath in himself good right and lawful and absolute authority to grant release and convey the said hereditaments hereby released with the appurtenances unto the said \_\_\_\_\_ his heirs and assigns in manner aforesaid according to the true intent and meaning of these presents And that the said land hereditaments and premises shall and may from henceforth be peaceably and quietly had held occupied possessed and enjoyed and the rents and profits thereof be had received and taken by the said \_\_\_\_\_ his heirs and assigns without any let suit trouble denial interruption claim or demand whatsoever of from or by the said \_\_\_\_\_ his heirs or assigns or any person or persons claiming or to claim through under or in trust for him or them And that free and absolutely exonerated or otherwise by him the said \_\_\_\_\_ his heirs executors and administrators sufficiently protected and indemnified from and against all estates rights titles interests trusts liens charges and incumbrances whatsoever committed executed occasioned or suffered by him the said \_\_\_\_\_ or any other person or persons claiming or to claim through under or in trust from him And further that the said \_\_\_\_\_ and all persons having or claiming or who shall have or claim any estate right trust charge or interest in to out of or upon the said land hereditaments and premises intended to be hereby released or any part hereof through under or trust for him \_\_\_\_\_ shall and will at all times hereafter upon the request and at the expense of the said \_\_\_\_\_ his heirs and assigns make do and execute or cause to be made done and executed all such acts deeds conveyances and assurances in the law whatsoever for the better and more satisfactorily granting releasing and conveying or otherwise assuring the said land hereditaments and premises hereinbefore described and every of them to the uses and for the intents and purposes expressed and declared of and concerning the same or otherwise as the said \_\_\_\_\_ his heirs or assigns or his or their counsel in the law shall advise devise or require And that he the said \_\_\_\_\_ his heirs and assigns will (unless prevented by some inevitable accident) at all times hereafter upon every reasonable request and at the expense of the said \_\_\_\_\_ his heirs or assigns or any person lawfully or equitably claiming through him or them any estate or interest in the premises produce and show forth or cause to be produced and shown forth to him and them and to such person or persons and at such place or places within the Colony of Victoria aforesaid as occasion shall require \_\_\_\_\_ uncanceled and undefaced for the manifestation and support of the title to the said land hereditaments and premises And (unless prevented as aforesaid) at the like request and expense make and deliver true attested copies thereof. In witness whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written.

## APPENDIX B 1.

### CROWN GRANT OF LAND.

No. 1.

IN THE COLONY OF }  
VICTORIA. }

In virtue of powers conferred on me by Act of Victoria,  
I do hereby declare that A. B. has this day exhibited before me the Colonial Treasurer's receipt for the sum of \_\_\_\_\_ being the amount of purchase money of \_\_\_\_\_

And I do hereby declare the said A. B. the proprietor of the said portion of land, subject to the conditions declared at time of sale.

Registrar of Lands.



## APPENDIX B 2.

No. 2. WHEN A. B. BORROWS MONEY ON MORTGAGE.

Registrar of Lands' Office.

MORTGAGE.

IN THE COLONY OF }  
VICTORIA. }

I do hereby declare that A. B. has this day been paid over in my presence the sum of \_\_\_\_\_ by C. D., which sum he promises to repay into this office, together with ten per cent. interest thereon, upon the day of \_\_\_\_\_ 18\_\_ on failing therein I shall expose the same to public auction within 60 days; and in the event of above sum not being realized, I shall decree possession to C. D. of

being grant No. 1.

Melbourne, 18

Registrar of Lands.

## APPENDIX B 3.

No. 3. WHEN A. B. PAYS OFF MORTGAGE.

Registrar of Lands' Office.

IN THE COLONY OF }  
VICTORIA. }

In virtue of powers conferred on me by Act of Victoria,

I do hereby declare that A. B. has this day exhibited before me C. D.'s receipt and release on portion

And I do hereby declare the said A. B. the proprietor of the said portion of land.

Melbourne, 18

Registrar of Lands.

## APPENDIX B 4.

No. 4. WHEN A. B. SELLS PORTION OF LAND TO E. F.

Registrar of Lands' Office.

IN THE COLONY OF }  
VICTORIA. }

In virtue of powers conferred on me by Act of Victoria,

I do hereby declare that E. F. has this day paid over in my presence to A. B. the sum of \_\_\_\_\_ pounds sterling, and I do hereby declare the said E. F. to be the proprietor of

Melbourne, 18

Registrar of Lands.

## APPENDIX B 5.

No. 5. WHEN A. B. SELLS A PORTION, HIS ORIGINAL GRANT IS IMPOUNDED, AND NEW GRANT ISSUED TO HIM.

Registrar of Lands' Office.

IN THE COLONY OF }  
VICTORIA. }

In virtue of powers conferred on me by Act of Victoria,

I do hereby declare that I have this day impounded deed in favor of A. B. No. 1, and in lieu thereof do hereby declare that the said A. B. is proprietor of

Melbourne, 18

Registrar of Lands.

## APPENDIX B 6.

No. 6.

Registrar of Lands' Office.

IN THE COLONY OF }  
VICTORIA. }

In virtue of powers conferred on me by Act of Victoria,

I do hereby declare that (K. L.) (M. N.) and (O. P.) have this day exhibited to me Probate of Will of A. B. under seal of Supreme Court, and I have this day impounded grant of land (No. 5), and do hereby declare that (K. L.) (M. N.) and (O. P.) are proprietors of said portion

Melbourne, 18

Registrar of Lands.

## APPENDIX B 7.

No. 7.

WHEN P. Q. GIVES UP HIS OLD DEEDS.

Registrar of Lands' Office.

IN THE COLONY OF }  
VICTORIA. }

In virtue of powers conferred on me by Act of Victoria,

I do hereby declare that P. Q. has this day exhibited before me the various deeds noted in schedule attached, which I have duly impounded; and I do hereby declare the said P. Q. to be proprietor of

Melbourne

18

Registrar of Lands.

## SCHEDULE ATTACHED TO No. 7.

Abstract of Crown Grant to John Thomas Smith, dated 12th August, 1841.  
 Conveyance of John Thomas Smith to Peter Davis, dated 15th April, 1842.  
 Conveyance of Peter Davis to Robert Bowden, dated 16th June, 1843.  
 Copy of deed from Amelia Bowden, releasing dower, dated 24th August, 1843.  
 Conveyance of Robert Bowden and Amelia his wife, to Thomas Fulton, dated 10th January, 1844.  
 Assignment of Thomas Fulton to trustees of his wife, dated 14th July, 1844.  
 Conveyance of the trustees of Thomas Fulton's wife to James Jones, dated 28th June, 1845.  
 Abstract of decree of Insolvency of James Jones, dated 15th March, 1846.  
 Conveyance (under insolvency,) from R. E. Jacomb, Official Assignee, to Wilson Gray, dated 10th April, 1847.  
 Mortgage to and release from Charles Don to Wilson Gray, dated 10th November, 1848, and 20th July, 1849.  
 Conveyance of Wilson Gray to P. Q., dated 10th June, 1857.

## APPENDIX B 8.

No. 8.

Registrar of Lands' Office.

IN THE COLONY OF }  
VICTORIA. }

In virtue of powers conferred on me by Act of Victoria,

I do hereby declare that P. Q. has this day leased to R. S. portion of land exhibited in deed No. 7, for three years from this date, subject to conditions in schedule hereunto attached.

Melbourne

18

Registrar of Lands.

## SCHEDULE ATTACHED TO No. 8.

P. Q. to receive rental at the rate of £500 per annum, payable on 1st January and 1st July respectively.  
 R. S. to keep the premises in thorough repair.

## APPENDIX C.

## QUIT CLAIM DEED.

Know all men by these presents, that I, A. B., of \_\_\_\_\_, in the county of \_\_\_\_\_ and State of \_\_\_\_\_, merchant, in consideration of \_\_\_\_\_ dollars, to me paid by C. D., of \_\_\_\_\_, in the county of \_\_\_\_\_, and State of \_\_\_\_\_, farmer (the receipt whereof is hereby acknowledged), do hereby convey, remise, release, and for ever quit claim unto the said C. D., his heirs and assigns, a certain farm and tract of land situate in \_\_\_\_\_, aforesaid, consisting of about \_\_\_\_\_ acres, with all the buildings thereon standing, bounded and described as follows, viz. :—[here insert description and boundaries] with all the privileges and appurtenances thereto belonging,

To have and to hold the above released premises to the said C. D., his heirs and assigns, to his and their use and behoof for ever.

And I, the said A. B., for myself and my heirs, executors, and administrators, do covenant with the said C. D., his heirs and assigns, that the premises are free from all incumbrances made or suffered by me; and that I will, and my heirs, executors, and administrators, shall warrant and defend the same to the said C. D., his heirs and assigns, for ever against the lawful claims and demands of all persons claiming by, through, or under me, but against none other.

In witness whereof I, the said A. B.—[being unmarried\*]—have hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord eighteen hundred and fifty-

(L.S.)

A. B.

Signed, sealed, and delivered in presence of

\* If the grantor be married, there should be a release of dower.—[See last paragraph of No. 3.]

## APPENDIX D.

## WARRANTY DEED.

Know all men by these presents, that I, R. B., of \_\_\_\_\_, in the county of \_\_\_\_\_ and State of \_\_\_\_\_, merchant, in consideration of \_\_\_\_\_ dollars to me paid by T. A., of \_\_\_\_\_, in the county of \_\_\_\_\_, and State of \_\_\_\_\_, farmer (the receipt whereof is hereby acknowledged), do hereby give, grant, bargain, sell, and convey unto the said T. A., his heirs and assigns, a certain parcel of land situate in \_\_\_\_\_, in said county, and bounded and described as follows:—[*here insert description and boundaries\**] with all the privileges and appurtenances thereto belonging,

To have and to hold the aforegranted premises to the said T. A., his heirs and assigns, to his and their use and behoof for ever.

And I, the said R. B., for myself and my heirs, executors, and administrators, do covenant with the said T. A., his heirs and assigns, that I am lawfully seized in fee-simple of the aforegranted premises; that they are free from all incumbrances, that I have good right to sell and convey the same to the said T. A., as aforesaid, and that I will, and my heirs, executors, and administrators shall, warrant and defend the same to the said T. A., his heirs and assigns for ever against the lawful claims and demands of all persons.

In witness whereof I, the said R. B. and Mary, my wife, in token of her release of all right of dower in the granted premises, have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, in the year of Our Lord, one thousand eight hundred and fifty-

(L.S.)

R. B.

(L.S.)

M. B.

Signed, sealed, and delivered in presence of \_\_\_\_\_

## APPENDIX E.

## MORTGAGE OF PERSONAL PROPERTY.†

Know all men by these presents, that I, A. B., of \_\_\_\_\_, gentleman, in consideration of the sum of \_\_\_\_\_ dollars, to me paid by C. D., of \_\_\_\_\_, Esquire, (the receipt whereof is hereby acknowledged) do by these presents grant, bargain, sell, and convey unto the said C. D. the following articles of personal property to wit: [*or, if the goods be too numerous to be recited, say all and singular the goods and chattels, wares, and merchandise mentioned and contained in the schedule hereunto annexed*] to have and to hold the property above granted to the said C. D., his executors, administrators, and assigns for ever.

And I, the said A. B., for myself, my executors, and administrators, do covenant to and with the said C. D., his executors, administrators, and assigns, that I have good right to sell and convey the said property to the said C. D.; that the same is free from all incumbrances, and that I will, and my executors and administrators shall, warrant and defend the same to the said C. D., his executors, administrators, and assigns for ever against the lawful claims and demands of all persons.

Provided, nevertheless, that if the said A. B., his executors or administrators, pay to the said C. D., his executors, administrators, or assigns, the sum of \_\_\_\_\_ dollars in \_\_\_\_\_ from date, with interest semi-annually, then this deed, as also a certain note bearing even date with these presents given by the said A. B. to the said C. D. to pay the same sum and interest, and at the times aforesaid, shall both be void; otherwise, shall remain in full force and virtue.

And it is agreed that the mortgagor, his executors, administrators, and assigns shall remain in possession of said property till condition broken.

In witness whereof, I, the said A. B., have hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ in the year of Our Lord eighteen hundred and \_\_\_\_\_

(L.S.)

A. B.

Signed, sealed, and delivered in presence of \_\_\_\_\_

[Must be recorded.]

\* [Being a certain piece designated as lot \_\_\_\_\_ on a plan of land formerly belonging to T. and S., which plan was made by J. L., dated November \_\_\_\_\_, 18\_\_\_\_, and recorded with the \_\_\_\_\_ deeds, and to which plan reference is here made for a further description of the location and boundaries of said lot. Said lot \_\_\_\_\_ bounded and measuring according to said plan as follows:—]

† In MASSACHUSETTS, in all mortgages of personal property, if the mortgagor retains possession of the articles mortgaged, the mortgage must be recorded by the clerk of the town where the mortgagor resides, and also by the clerk of the town where he principally transacts his business or follows his trade or calling. The right of the mortgagor or his assigns to the property shall not be forfeited until sixty days after the mortgagor or his assigns shall have given written notice to the mortgagor or the person in possession of said property, claiming the same, of his or their intention to foreclose said mortgage for a breach of the conditions thereof, and caused a copy of the same notice to be recorded in the clerk's offices where the mortgages are recorded.

Mortgages of personal property are discharged in like manner as real estate.—(See page 59).

If the mortgagor sell the property, or part thereof, without the written consent of the mortgagee, he shall be held guilty of a misdemeanor and punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding one year.—*Law of Mass.*, 1850.

In the State of NEW YORK, a mortgage of personal property must be filed and registered. If in the city of New York, in the office of the registrar; if in any other city or county town, in the clerk's office therein; if in any other town, in the town clerk's office. It becomes void if not renewed before the expiration of the year.

In the State of MAINE, if the debt secured exceeds thirty dollars, possession of the property must be given to the mortgagee, or the mortgage must be recorded in the town where the mortgagor resides.

In RHODE ISLAND, possession of the mortgaged property should be delivered to and retained by the mortgagee, and the mortgage recorded by the clerk of the town where the mortgagor resides.

In NEW HAMPSHIRE, mortgages of real estate must be recorded in the office of register of deeds. Mortgages of personal property must be recorded in the office of the town clerk where the mortgagor resides, and the mortgagor and mortgagee must swear that the mortgage is made for securing the debt specified in the condition thereof, and for no other purpose, and that it is a just debt honestly due from the mortgagor to the mortgagee. A second mortgage cannot be executed on the same property without setting forth in the subsequent mortgage the existence of the previous one.

In VERMONT, mortgages of machinery used in factory, shop, or mill, are not valid unless possession be delivered to and retained by the mortgagee.

In CONNECTICUT, machinery used in a manufacturing or mechanical establishment, household furniture, and hay may be mortgaged and the mortgagor retain possession. The mortgage must be executed and recorded in all respects as mortgages of land.

In MARYLAND, mortgages of personal property, where mortgagor remains in possession, must be recorded in the county where mortgagor resides. Mortgages or bills of sale are not valid, except against the mortgagor or grantor, unless there be endorsed thereon the affidavit of the mortgagor or grantor, duly acknowledged at the time, setting forth that the consideration is true and *bona fide*.

In KENTUCKY, mortgages must be lodged with the clerk for record before they have any operation as respects creditors.

In OHIO, mortgages of personal property or chattels must be deposited with the clerk of the township where the mortgagor resides. If not a resident, then with the clerk of the township where the property shall be at the time of the execution of the mortgage. In all townships in which the office of the recorder of the county is kept, such mortgage shall be deposited with him. Every mortgage so filed will be void as against creditors or subsequent purchasers, unless within thirty days next preceding the expiration of the term of one year a true copy shall be again filed with the clerk or recorder.

In INDIANA, mortgages must be acknowledged and recorded within ten days from date in the recorder's office.

In ILLINOIS, mortgages must be recorded in the recorder's office within six months.

In WISCONSIN, mortgage void unless recorded.

In LOUISIANA, all mortgages must be recorded with the register of mortgages within six days (when executed in New Orleans) from the date, and a day more for every two leagues from the place of execution as to mortgages executed in other parishes.

In MICHIGAN, mortgage must be filed in the office of the clerk of the township where the mortgagor resides.

In GEORGIA, mortgage must be recorded within three months by the clerk of the superior court in the town where the mortgagor resided at the time of execution.

## APPENDIX F.

I, A. B., of \_\_\_\_\_ in consideration of the sum of £10,000 to me by C. D., of \_\_\_\_\_ paid, the receipt whereof I hereby acknowledge, do hereby grant unto the said C. D. all those pieces of land containing 10,000 acres of land, situate [*describe the parcels*] to hold the same unto him the said C. D., his heirs and assigns for ever.

And I, C. D., hereby declare that no wife of mine who may survive me shall be entitled to dower out of any part of the said lands.

Witness our hands and seals this 1st day of July, 1857.

A. B.  
C. D.

Signed, sealed, and delivered the day and year above written by A. B. and C. D., in the presence of E. F.

## APPENDIX G.

This indenture made \_\_\_\_\_ between A. B. of \_\_\_\_\_ and C. D. of \_\_\_\_\_ witnesseth that, in consideration of the sum of £1000 by the said C. D. to the said A. B. lent for three years at ten per cent. interest, payable half-yearly in the meantime on the 1st day of January and the 1st day of June, the receipt whereof is hereby acknowledged, he, the said A. B., doth hereby grant unto the said C. D. all that piece of land [*describe parcels*] to hold the same unto him, the said C. D., his heirs and assigns for ever. And if default be made in payment of the said principal sum or interest, the said C. D. may, on giving three months' notice in writing to the said A. B., or his agent, sell the whole or any part of the premises by auction or private contract, and convey them when sold to the purchasers.

A. B.  
C. D.

Signed, sealed, and delivered on the 1st day of January, 1857, by A. B. and C. D., in the presence of E. F.

1856-7.

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VICTORIA.

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**REPORT**

FROM THE

**SELECT JOINT COMMITTEE**

OF THE

LEGISLATIVE COUNCIL AND LEGISLATIVE ASSEMBLY

ON THE

**REFRESHMENT ROOMS,**

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE.

---

ORDERED BY THE COUNCIL TO BE PRINTED 8TH OCTOBER, 1857.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

TUESDAY, 18TH AUGUST, 1857.

JOINT REFRESHMENT ROOMS COMMITTEE.—MESSAGE FROM LEGISLATIVE ASSEMBLY.—The Honorable J. Hodgson moved, That the Message from the Legislative Assembly, requesting the concurrence of the Council in the appointment of a Joint Refreshment Rooms Committee, be now considered.

Question—put and passed.

The Honorable S. G. Henty moved, That a Select Committee of three Members of this Council be appointed to co-operate with three Members of the Legislative Assembly on a Joint Committee to manage the Refreshment Rooms of the Houses; such Committee to consist of the following Members—the Honorables W. Highett, J. Stewart, and the Mover.

Question—put and passed.

WEDNESDAY, 2ND SEPTEMBER, 1857.

REFRESHMENT ROOMS COMMITTEE.—The Honorable W. Highett, with leave of the Council, moved without notice, That, so far as the authority of this House extends, leave be given to the Joint Committee of the two Houses of Parliament, appointed to manage the Refreshment Rooms of the Houses, to manage and control the Stables.

Question—put and passed.

Ordered—That a Message be carried to the Legislative Assembly, desiring their concurrence in extending the powers of the Committee.

FRIDAY, 2ND OCTOBER, 1857.

JOINT REFRESHMENT ROOMS COMMITTEE.—The Honorable W. Highett brought up a Report from the Joint Refreshment Rooms Committee, and moved that the same be now adopted.

Question—That the Report be now adopted—put.

Council divided.

Contents, 12.

The Hon. W. H. F. Mitchell  
J. F. Strachan  
C. Vaughan  
J. Hodgson  
W. Highett  
S. G. Henty  
J. Stewart  
R. Thomson  
J. Henty  
N. Guthridge  
W. Roope  
J. H. Patterson (*Teller*).

Not Contents, 5.

The Hon. J. Allan  
Dr. Tierney  
T. H. Power  
J. Hood  
J. B. Bennett (*Teller*).

The question was therefore passed.

The Honorable W. Highett moved, That a Copy of the Report be carried to the Legislative Assembly with a Message desiring their concurrence therein.

Question—put and passed.

THURSDAY, 8TH OCTOBER, 1857.

JOINT REFRESHMENT ROOMS COMMITTEE—REPORT OF.—The Honorable W. Highett, in accordance with notice, moved, That the Report of the Joint Refreshment Rooms Committee, presented to the House on the 2nd instant, be printed.

Debate ensued.

Question—put and passed.

# REPORT.

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THE SELECT JOINT COMMITTEE, appointed on the 18th August, 1857, by both Houses of Parliament, to manage the Refreshment Rooms, make the following Report :—

1. That Colonel Farquharson be appointed to the charge of the domestic arrangements of the Parliament Houses and Stables, and that he be allowed, in consideration thereof, a salary of £100 per annum and suitably furnished apartments.

2. That Mr. Gregory be allowed £25 a month (payable monthly) towards defraying the expense of servants, from the date of his resigning the former contract; and that he be allowed to continue the contract, on probation, until the end of the present Session on the basis of the tariff already agreed on.

3. And that some person be appointed to take charge of the stables at a salary of £50 per annum, with free quarters and the use of the stables. A tariff for keeping of the horses and attendance to be supplied to regulate the charges of the stablekeeper.

4. And that notice be given to Mr. Thomas to quit the stables within one month.

S. G. HENTY,  
Chairman.

Committee-room,  
2nd October, 1857.

## PROCEEDINGS OF COMMITTEE.

FRIDAY, 21<sup>ST</sup> AUGUST, 1857.

*Members present:—*

The Honorable S. G. Henty, in the chair.

The Honorable J. Stewart, W. Rutledge, Esq., Dr. Findlay, J. H. Brooke, Esq.  
The Committee deliberated.

Resolved—That this Committee deem it expedient that some responsible officer be appointed to have supervision over the domestic arrangements of both Houses, and recommend that such officer be provided with suitable apartments in the Parliament Houses.—(*Mr. Rutledge.*)

Resolved—That a contract be accepted for the supply of refreshments to Members of both Houses till the end of the present session.—(*Dr. Findlay.*)

Resolved—That a Tariff be submitted to the Committee and advertisements be inserted in the public papers for a person willing to supply upon the terms proposed.—(*Dr. Findlay.*)

Letters from the following persons were handed in and read by the Clerk of the Legislative Assembly:—

1. From Mr. Gregory, proposing to undertake the contract on payment of £500 per annum for servants.
2. From Mr. William Tuck.
3. From Mr. Gregory.
4. From Mr. Tuck, with testimonials.
5. From Mr. Thomas, stablekeeper.

The Committee declined to interfere in the matters referred to in the last letter.

Adjourned till Tuesday next, at two o'clock.

TUESDAY, 25<sup>TH</sup> AUGUST, 1857.

*Members present:—*

W. Rutledge, Esq., the Honorable W. Highett.

No quorum.

Adjourned till two o'clock on Wednesday next.

WEDNESDAY, 26<sup>TH</sup> AUGUST, 1857.

*Members present:—*

The Honorable S. G. Henty, the Honorable W. Highett, W. Rutledge, Esq., Dr. Findlay.

Resolved—That the Honorable S. G. Henty be elected permanent chairman of this Committee.—(*Mr. Rutledge.*)

Committee deliberated.

Resolved—That, referring to the first resolution arrived at yesterday, viz., the expediency of appointing some responsible officer to have supervision over the domestic arrangements of both Houses, the Committee do recommend the appointment of Lieut. Col. Farquharson, and that a salary of £100 per annum be given to this officer for such additional duties.—(*Chairman.*)

The Committee being informed that this officer can be supplied with suitable apartments in the Legislative Council, recommend that the same shall be furnished for his occupation.—(*Mr. Rutledge.*)

Dr. Findlay having submitted for the consideration of the Committee the tariff of the Melbourne Club.

Resolved—That the same be adopted.

Col. Farquharson called in, when the Committee explained the nature of the duties it was desirable he should undertake.

Adjourned till two o'clock to-morrow.

THURSDAY, 27<sup>TH</sup> AUGUST, 1857.

*Members present:—*

The Honorable S. G. Henty, in the chair.

The Honorable J. Stewart, the Honorable W. Highett, W. Rutledge, Esq., Dr. Findlay.

The tariff re-considered and adopted, as amended by Mr. Rutledge.

The Government Short Hand Writer called in and examined as to the amount of office accommodation he would require for himself and staff.



Resolved—That the Committee recommend that the attic rooms at the south side of the building be handed over for the official use of the Government Short Hand Writer and his staff.—(*Mr. Rutledge.*)

Col. Farquharson called and informed by the Committee that the room at present used as the Members' smoking room should be arranged for his accommodation.

Adjourned till two o'clock to-morrow.

FRIDAY, 28TH AUGUST, 1857.

*Members present:—*

The Honorable S. G. Henty, in the chair.

The Honorable W. Highett, W. Rutledge, Esq., J. H. Brooke, Esq., Dr. Findlay.

The Committee having deliberated upon certain resolutions arrived at yesterday, having reference to the distribution of apartments,

Resolved—That, difficulties having since arisen in carrying out those resolutions, the Committee do confine their present labors to improving the management of the Refreshment Department and providing suitable accommodation for Col. Farquharson within the building.—(*Dr. Findlay.*)

Resolved—That the room now used as the Members' smoking room be divided into two separate apartments for the use of Col. Farquharson.—(*Mr. Rutledge.*)

Ayes, 3.  
The Hon. W. Highett  
Dr. Findlay  
W. Rutledge, Esq.

Noes, 2.  
The Hon. S. G. Henty  
J. H. Brooke, Esq.

Ordered—That Mr. Knight be summoned to attend this Committee on Tuesday next.  
Adjourned till two o'clock, on Tuesday next.

TUESDAY, 1ST SEPTEMBER, 1857.

*Members present:—*

The Honorable J. Stewart, W. Rutledge, Esq., Dr. Findlay, the Honorable S. G. Henty.  
Adjourned till eleven o'clock to-morrow.

WEDNESDAY, 2ND SEPTEMBER, 1857.

*Members present:—*

The Honorable S. G. Henty, in the chair.

The Honorable W. Highett, the Honorable J. Stewart, W. Rutledge, Esq., Dr. Findlay,  
J. H. Brooke, Esq.

The Committee deliberated.

Resolved—That the resolution carried at the last meeting, to the effect—"That the room now used as the Members' smoking room be divided into two separate apartments for the use of Col. Farquharson," be rescinded.—(*The Hon. W. Highett.*)

Ayes, 5.  
The Hon. S. G. Henty  
" W. Highett  
" J. Stewart  
Dr. Findlay  
J. H. Brooke, Esq.

Noes, 1.  
W. Rutledge, Esq.

Resolved—That the Committee recommend that a sum of £300 per annum be allowed to the contractor towards defraying the expense of servants.—(*The Hon. S. G. Henty.*)  
Mr. Knight called in and examined.

Resolved—That Mr. Gregory be allowed a sum, at the rate authorized by the above resolution, viz., £300 per annum, in monthly payments, such allowance to date from the time of his resignation; and that he be permitted to carry on the present contract on probation till the end of the present Session, on the basis recommended by this Committee.—(*Mr. Brooke.*)

Resolved—That this Committee move the Houses for leave to manage and control the stables.—(*Dr. Findlay.*)

Adjourned till two o'clock on Friday next.

FRIDAY, 4TH SEPTEMBER, 1857.

*Members present:—*

The Honorable W. Highett, the Honorable S. G. Henty.

No quorum.

Adjourned till Tuesday next at two o'clock.

TUESDAY, 8TH SEPTEMBER, 1857.

*Members present:—*

The Honorable S. G. Henty, in the chair.

The Honorable W. Highett, Dr. Findlay.

The Committee deliberated.

Resolved—That the Committee defer dealing with the subject of the stables until they have made a personal inspection of those buildings.

Adjourned till this day week at two o'clock.

TUESDAY, 15TH SEPTEMBER, 1857.

*Members present:—*

The Honorable S. G. Henty, in the chair.

The Honorable W. Highett, Dr. Findlay, the Honorable J. Stewart.

The tariff, as adopted by the Committee, submitted by Dr. Findlay to Mr. Gregory, who accepted of the terms proposed therein.

Resolved—That it is expedient some competent person be appointed to take charge of the stables, at a salary of fifty (£50) pounds per annum, with free quarters and the use of the stables; and that a tariff for the keep and attendance of members' horses be supplied to this Committee, to enable them to regulate the charges of the stablekeeper.—(*The Chairman.*)

Resolved—That notice be given to the present stablekeeper to quit the stables at one month from this date.

Adjourned *sine die*.

1856-7.

VICTORIA.

---

R E P O R T

FROM THE

SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL

ON

RAILWAYS;

TOGETHER WITH

THE PROCEEDINGS OF THE COMMITTEE AND MINUTES  
OF EVIDENCE.

---

ORDERED BY THE COUNCIL TO BE PRINTED 27<sup>TH</sup> OCTOBER, 1857.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

THURSDAY, 8TH OCTOBER, 1857.

**RAILWAYS LOAN 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.

Amendment moved by the Honorable H. Miller, That all the words after the word "be" be omitted, with a view to add the words "referred to a Select Committee, to consist of ten Members, to be chosen by ballot, the Committee to have power to take evidence, to examine witnesses, and to report to the House at as early a period as possible."

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

Question—That the Bill be referred to a Select Committee, to consist of ten Members, to be chosen by ballot, the Committee to have power to take evidence, to examine witnesses, and to report to the House at as early a period as possible—put and passed.

The Honorable H. Miller moved, That the Standing Orders Nos. XLII. and XLV. be suspended, and that the present ballot be taken, subject to the following conditions, viz. : That no Member shall insert in the list given in by him more than two members of any one province, and should any such list include more than two members from any one province, it shall be rejected altogether.

Question—put and passed.

The Honorable H. Miller moved, That two additional members be added to the Committee.

Question—put and passed.

The Council then proceeded to the ballot, and the following members being reported by the Clerk to have the greatest number of votes, two ballot papers having been rejected in consequence of containing more than two members for one province, were declared by the President to be the members of the Committee, viz. :—The Honorables W. H. F. Mitchell, W. Highett, T. McCombie, H. Miller, J. Stewart, J. F. Strachan, J. P. Fawkner, T. H. Power, Dr. Hope, J. H. Patterson, S. G. Henty, J. F. Palmer.

The Honorable H. Miller moved, That the Select Committee have power to sit during the adjournment of the House.

Question—put and past.

**MAIN TRUNK RAILWAY 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 referred to the Select Committee on Railways.

Question—put and passed.

**RAILWAY CONSTRUCTION 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 referred to the Select Committee on Railways.

Question—put and passed.

TUESDAY, 13TH OCTOBER, 1857.

**PETITION FROM J. E. CROOK AND OTHERS, BACCHUS MARSH.**—The Honorable Dr. Hope, on behalf of the Honorable J. F. Strachan, in accordance with *amended* notice, moved, That the Petition presented by the Honorable J. P. Fawkner on the 8th instant be printed, and referred to the Select Committee on Railways.

Question—put and passed.

TUESDAY, 20TH OCTOBER, 1857.

The Honorable J. Hood presented to the Council a Petition from John McCausland and others, praying that the Council will take into consideration the propriety of forming one main trunk line of railway from Melbourne to Ballarat, *via* Ballan, intersected at the latter township by a line from Geelong to Castlemaine and Sandhurst.

Petition received.

The Honorable J. Hood, with leave of the Council, moved, without notice, That the Petition be referred to the Committee sitting on the subject of Railways.

Question—put and passed.

# R E P O R T .

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THE Select Committee of the Legislative Council on Railways, having had under consideration the Bills referred to them, entitled, "*A Bill for the construction of Railways,*" "*A Bill for raising Moneys for the construction of certain Railways,*" and "*A Bill for the construction of Main Trunk Lines of Railway,*" also, certain petitions on the subject of the projected Victorian railways, beg leave to report to your Honorable Council that, on reading the Report of the old Legislative Council, made in May, 1855, and the subsequent Reports in March, 1856, and also knowing the present demand that exists for improved means of communication between the sea ports and the established gold fields in the interior, your Committee arrived at the unanimous opinion that main trunk lines of railway should be constructed as soon as possible, and that the circumstances of this Colony demand that these great works should be undertaken by the Government—a precedent for which your Committee find in the case of the Government of Belgium, who were successful in constructing 353 miles of railway in the comparatively short time of four years, and at a cost of about £18,016 per mile, including the works and rolling stock.

In next proceeding to entertain the question which has given rise to much controversy, namely, as to the best route to be selected from the four lines that have been surveyed and pronounced to be practicable, your Committee, although they had the report of Captain Clarke, made in November, 1856, and the very recent report of the Committee of the Assembly to guide them, yet deemed it advisable before coming to a decision on a question of so much doubt and difficulty, involving great vested interests, to take further evidence on the subject, and accordingly proceeded to summon and examine certain witnesses on this and other important points affecting the general question; and the appendix to this report will be found to contain the evidence given before your Committee by Mr. Darbyshire, Captain Clarke, the Honorable The Treasurer, and other witnesses.

Having thus obtained information from every available source, your Committee found themselves in a position to decide on the merits of the question, and on the motion of the Honorable Mr. Strachan, after considerable discussion, it was carried on division, by a majority of seven votes to three, that "It is the opinion of this Committee that the two lines of railway proposed by the Government, and assented to by the Legislative Assembly, are those best calculated to open up the country for permanent settlement, while they secure the most direct and easy communication from the seaboard to the principal gold fields of the Colony," thus arriving at a conclusion similar to the Committee of the Legislative Assembly. In doing so, however, your Committee have to inform your Honorable House that it was on the express understanding that a portion of one line only should be proceeded with at present, namely, the line from Melbourne and Williamstown to Gisborne *via* Sunbury, which your Committee have in evidence may be completed in little more than twelve months from the time of commencement, and at a cost, in addition to the material already provided, of not more than £400,000, which sum the Treasurer assures your Committee could be now

raised by the sale of debentures within this Colony ; and while this work is in progress, time will be given to ascertain how far labor and funds can be advantageously procured for the completion of the lines ; the Committee wishing it to be borne in mind that the roads now in existence, formed by means of large annual appropriations from the revenue, afford certain access to the principal gold fields during all seasons, and that, from this circumstance, the Government are placed in a position to refuse any offer for an unfavorable loan or any extravagant tender.

Your Committee cannot entertain the proposal to construct a portion of the proposed railway with a single track of rails. They think that the requirements of the Colony demand that the railway works should be made in the most substantial manner, equal in all respects to the best lines in England ; and, to prevent accidents and facilitate traffic, that a double track of rails should be laid down, and the whole finished in such a manner as to sustain carriages of heavy construction travelling at the average English speed of thirty-two miles an hour in motion, or twenty-four and a-half miles an hour, including stoppages ; and your Committee deem this provision of so much importance, as to recommend that a special clause should be introduced in the Railway Construction Bill, enacting that all trunk lines of railway to be made in Victoria should be laid with double tracks of rails.

Your Committee see no objection to the proposed issue of debentures as a financial scheme, except that they think it would facilitate their sale if the principal and interest, both of the seven millions to be offered at home, and the one million in the Colony, were made payable as hitherto, at the option of the holder, either in London or Melbourne.

Much, too, will depend as to whether these debentures will sell to advantage or not, on the security that is provided for their payment ; and although your Committee are not prepared to dispute the sufficiency of the general revenue to meet all debts and demands, they think that the debentures should be further secured upon the railway itself, also the plant and rolling stock ; more particularly as this Government has exacted a similar security as against their guarantee of interest on the Geelong line. And if this recommendation be adopted, it will be necessary to set out the exact quantity of the land reserved for the railways. With this additional security, and taking into account the very large and increasing revenues of the Colony arising from the sale of lands at a reserved minimum price of one pound per acre, also the revenues from the gold fields and other sources, your Committee anticipate that the railway debentures may be sold at a premium ; but, at all events, provision should be made that no sale takes place under par. The necessity for such provision will appear, when it is recollected that a considerable discount was improperly submitted to on the occasion of the sale of six per cent. debentures on negotiating what is commonly known as the Gabrielli Loan.

No doubt, if contractors will tender at a reasonable rate, and take debentures at par in payment, the financial question would be relieved from much difficulty ; but your Committee are inclined to believe that this arrangement could be carried out by the large English contractors only ; and as the Committee believe that Colonial contractors would perform the work as well, if let in sections and paid for in cash, and at a cost some fifteen per cent. cheaper, your Committee adopt the opinion of the Honorable The Treasurer, that it will be found most advantageous to raise the loan from some of the large monetary houses in England, employing Colonial contractors to perform the work ; it being of course a condition that tenders are in all cases advertised for, and the lowest eligible tender accepted.

Before your Committee could bring themselves to sanction the incurring of so large a debt as eight millions of pounds sterling, they deemed it necessary to see that the principal and interest of the debentures would be liquidated without pressing too heavily on the general revenue,

and they were happy to find, from all the witnesses who gave testimony on this point, that the returns from the passenger and goods traffic was estimated as sufficient not only to pay for working expenses and repairs, but also to leave a clear annual profit on the outlay of not less than £10 per centum; and your Committee recommend that, whatever the clear profit may be, that amount should be appropriated as a sinking fund, and to prevent any misapplication of such fund, that the sum standing at the credit of the account should be applied at the end of each year in the re-purchase of railway debentures, as provided in clause XI. of the Loan Act, or failing this, in the purchase of other debentures of this Government.

It has not escaped the notice of your Committee that the proposed tariff on which the calculation of a profitable return is partly based, namely, one shilling per ton per mile for goods, and eightpence per mile for each passenger, are much higher charges than are made in other countries, and yet the public here are compelled to pay a higher rate at present, while the railway will afford a great saving of time, with protection from plunder on the road; and, as the debt is reduced by the operation of the proposed sinking fund, the Government will have the power to make a proportionate reduction in the tariff of charges, your Committee think that the usual clauses should be introduced in the Bill, giving the Governor in Council power to proclaim a tariff of tolls, and the same to vary, alter, and repeal.

The Act for the construction of railways provides that, in cases of disputed compensation for the value of lands taken by the Board, such dispute may be referred to arbitration, but does not set out how the arbitrators are to be appointed. Your Committee think that this clause should be amended by enacting that the owner of the land should name an arbitrator, the Board another, and these two to appoint an umpire.

Your Committee agree with the provisions in the twenty-second clause, that the enhanced value of the lands by reason of the railway passing through should always be taken into consideration in settling the amount to be awarded, whether the award be made by arbitration or by the verdict of a jury.

Before closing their report, your Committee deem it to be their duty to refer to the great expense of the railway staff, amounting to £50,000 per annum, in the hope that at no distant period this charge may be reduced in amount; and that, so long as the present number of surveyors are retained, surveys may be made to the westward of Ballarat, in order that the best line for a trunk railway may be ascertained to the ports of Warrnambool, Belfast, and Portland. The expense of the survey may be more than covered by the enhanced price at which agricultural and township lands will sell, when known to be on the line of a proposed railway.

Your Committee have now to report in favor of the Bills referred to them, and advise their adoption by your Honorable Council, so soon as these Bills have been amended by the introduction of clauses carrying out the recommendations of your Committee.

HENRY MILLER,  
Chairman.

Committee Room,  
27th October, 1857.

# PROCEEDINGS OF THE COMMITTEE.

## RAILWAYS.—SELECT COMMITTEE.

MONDAY, 12TH OCTOBER, 1857.

*Members present:—*

The Honorables The President, S. G. Henty, J. H. Patterson, H. Miller, J. P. Fawcner, Dr. Hope, W. Highett, W. H. F. Mitchell, J. Stewart.

Resolved—That the Honorable H. Miller be Chairman of this Committee.—(*Dr. Hope.*)  
Resolution from the Proceedings of the Council, having reference to this Committee, read by the Chairman.

A Bill 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,*" considered by the Committee.

Ordered—That Captain Clarke and Mr. Darbyshire be summoned to give evidence before this Committee at twelve o'clock to-morrow.

Ordered—That this Committee do adjourn till twelve o'clock to-morrow.

TUESDAY, 13TH OCTOBER, 1857.

*Members present:—*

The Honorable H. Miller, in the chair.

The Honorables The President, S. G. Henty, J. Stewart, J. H. Patterson, Dr. Hope, T. McCombie, W. H. F. Mitchell, T. H. Power, W. Highett, J. P. Fawcner.

G. C. Darbyshire, Esq., called in and examined.

Ordered—That the Committee do adjourn till a quarter past ten o'clock to-morrow.

WEDNESDAY, 14TH OCTOBER, 1857.

*Members present:—*

The Honorable H. Miller, in the chair.

The Honorables J. F. Strachan, W. H. F. Mitchell, T. H. Power, The President, Dr. Hope, T. McCombie.

G. C. Darbyshire, Esq., called in and further examined.

E. W. Bagshawe, Esq., Civil Engineer, called in and examined.

Mr. Thomas Norton called in and examined.

Ordered—That Mr. Pollard be summoned to attend before this Committee at eleven o'clock to-morrow.

Ordered—That the Honorable the Treasurer be summoned to attend before this Committee at two o'clock to-morrow.

Ordered—That this Committee do adjourn till ten o'clock to-morrow.

THURSDAY, 15TH OCTOBER, 1857.

*Members present:—*

The Honorable H. Miller, in the chair.

The Honorables J. F. Strachan, J. Stewart, Dr. Hope, W. Highett, J. P. Fawcner, The President, W. H. F. Mitchell, S. G. Henty, T. McCombie.

N. W. Pollard, Esq., Civil Engineer, called in and examined.

A note handed in from Mr. Bagshawe, and read by the Chairman.

A letter handed in by The Honorable T. McCombie from Mr. V. Richmond. Read by the Clerk.

Captain Clarke called in and examined.

E. W. Bagshawe, Esq., further examined.

Ordered—That the attendance of The Honorable the Treasurer be postponed till two o'clock to-morrow.

Ordered—That this Committee do adjourn till two o'clock to-morrow.



FRIDAY, 16TH OCTOBER, 1857.

*Members present:—*

The Honorable H. Miller, in the chair.

The Honorables S. G. Henty, W. H. F. Mitchell, Dr. Hope, J. H. Patterson, J. P. Fawcner, W. Highett, J. F. Strachan, T. H. Power.

The Honorable the Treasurer called in and examined.

E. Khull, Esq., broker, called in and examined.

Mr. Charles E. Saint called in and examined.

Mr. Andrews called in and examined.

Letter from Mr. James Watt, Bacchus Marsh, handed in and read by chairman.

James Sullivan, Esq., Chairman of the Municipal Council of Sandhurst, called in and examined.

Mr. Andrews further examined.

Ordered—That this Committee do adjourn till Thursday next, 22nd instant, to consider the evidence.

THURSDAY, 22ND OCTOBER, 1857.

*Members present:—*

The Honorable H. Miller, in the chair.

The Honorables J. F. Strachan, W. H. F. Mitchell, J. P. Fawcner, T. McCombie, T. H. Power, J. H. Patterson, Dr. Hope, S. G. Henty, W. Highett.

A letter from Captain Clarke to the Shorthand Writer, submitting certain alterations and additions in his evidence, laid before the Committee, and read by the Chairman.

Proposed—That these alterations and additions be allowed.—(*Chairman.*)

Question—put and passed.

Petition from the Inhabitants of Bacchus Marsh, ordered by the Council to be printed 13th October, 1857, laid before the Committee and read by the Clerk.

Resolution proposed—It is the opinion of this Committee that the two lines of railways proposed by the Government, and assented to by the Legislative Assembly, are those best calculated to open up the country for permanent settlement, while they secure the most direct and easy communication from the sea-board to the principal gold fields of the Colony.—(*Hon. J. F. Strachan.*)Amendment proposed—That it is not prudent that more than one railway be undertaken in this colony at the present period.—(*Hon. J. P. Fawcner.*)

Amendment—put and negatived.

Contents, 3.

The Hon. T. McCombie  
T. H. Power  
J. P. Fawcner.

Not Contents, 5.

The Hon. J. H. Patterson  
W. H. F. Mitchell  
J. F. Strachan  
W. Highett  
S. G. Henty.

Resolution—put and passed.

Contents, 5.

The Hon. J. H. Patterson  
W. H. F. Mitchell  
J. F. Strachan  
W. Highett  
S. G. Henty.

Not Contents, 3.

The Hon. T. McCombie  
T. H. Power  
J. P. Fawcner.A Bill intituled "*An Act to authorise the raising of Moneys for the Construction of certain Railways*" considered by the Committee.A Bill intituled "*An Act for the Construction of Railways*" considered by the Committee.

Ordered—That this Committee do now adjourn till Tuesday next, at two o'clock, to consider a Draft Report.

TUESDAY, 27TH OCTOBER, 1857.

*Members present:—*

The Honorable H. Miller, in the chair.

The Honorables T. H. Power, W. H. F. Mitchell, S. G. Henty, Sir J. F. Palmer, J. H. Patterson, W. Highett, Dr. Hope, J. P. Fawcner, J. F. Strachan.

Draft Report brought up by the Chairman and read.

The Committee deliberated.

Resolution proposed—That the Report as read be adopted.—(*Chairman.*)Amendment proposed—That the Draft Report now under consideration be printed and circulated to the members of this Committee, and that the Committee meet again on Thursday next, for the reconsideration of the Report.—(*Hon. J. P. Fawcner.*)

Amendment—put and negatived.

Resolution—put and passed.

The Report was therefore adopted, and the Chairman ordered to report to the House.

# MINUTES OF EVIDENCE.

TUESDAY, 13TH OCTOBER, 1857.

MEMBERS PRESENT:—The Honorable H. Miller in the chair; the Honorables The President, W. H. F. Mitchell, T. McCombie, J. Stewart, T. H. Power, Dr. Hope, J. H. Patterson, S. G. Henty, W. Highett, J. P. Fawkner.

G. C. Darbyshire, Esq., called in and examined.

1. *By the President.*—In Captain Clarke's Report on Railways, page 24, the two last paragraphs are these, "Taking advantage of the line already in course of construction from Geelong to Melbourne, the line I have just described, and that proceeding from Wyndham *viâ* Bacchus Marsh and Ballan to Warrenheip, from whence diverged the two lines, one to Ballaarat and the west, the other through the Loddon gold fields, Castlemaine, Sandhurst, to the Murray, affords a group of railway communication, which, presenting on the whole the best comparative engineering facilities, with the greatest economy of expenditure, united the ports of Geelong and Melbourne with the principal sites of population in the interior. The construction of this group I believe to be the most advisable for the State to undertake first. It offered all the advantages to the general population which any of the other groups afforded, besides traversing the most fertile and productive districts of the country, a large area of which was still unalienated; and, as a single work, was more likely to be carried out unchecked by a possible failure of labor or means, than when these were divided between two separate lines." That was Captain Clarke's opinion. In the report of the committee of the Legislative Assembly, page 6, in the third paragraph of that page, the committee make the following observations:—"Your committee were in the first instance favorable to confining the line to a single track, with provision that the width of the excavations and embankments, bridges, viaducts, and tunnels should be such as to allow a double track being laid down; but further consideration induced them to advise the two tracks being laid down simultaneously, as the diminution of expense was not deemed an equivalent for the serious inconvenience, delay, and danger arising from the use of a single line alone." I would now refer to your own evidence upon the same subject, at question 1648 to 1658. "What is the best centre so as to be of the most general advantage to the whole community?—I should say a line going to the westward and then from Ballaarat or somewhere in the neighborhood to Castlemaine, Sandhurst, and the Murray; that would be a very profitable line, and would pay better than any other projected line, and better than any line in the world. I have no doubt about it; any line would pay; but that line would take all the traffic of the country." "*By Mr. Griffith.*—Would you go as far as the Warrenheip junction?—Yes." "How many miles would that make the line to Castlemaine?—Ninety-three and a half miles. By taking the line from Wyndham to Ballaarat, and so on to Castlemaine and Sandhurst, you would accommodate all the gold fields of the country." "*By Mr. McCulloch.*—What is the distance from Melbourne to Castlemaine?—Eighty-two miles; that is, not exactly direct, but from Harcourt. Direct, it would be rather less than that. It would be about seventy-six miles instead of eighty-two?" "*By Mr. Brooke.*—The line which you have now suggested was submitted to the Legislative Council in 1855, was it not?—Yes, and it was decided against." "And you carried out your surveys agreeably to the suggestion of the committee?—Yes." "The line now proposed by you would not serve Geelong at all, would it?—It would serve Geelong just as much as Melbourne." "Would the point of junction be midway between the two towns?—Yes, at Wyndham." "So that practically the distance between Ballaarat and Geelong, and Ballaarat and Melbourne would be the same?—Yes, within three miles. If you want to have my opinion upon the point, I should say a line from Geelong to Ballaarat and Ballaarat to Castlemaine, would pay better than any other; always provided you buy the Geelong and Melbourne railway." Has anything occurred to make you alter the opinions expressed in that report?—Nothing whatever.

2. Did you conduct the survey, or was it under your immediate superintendence that the survey was conducted from Wyndham to Ballaarat?—Yes.

3. That was the survey made when the first survey was made from Geelong to Ballaarat?—Yes, in 1855.

4. The survey from Geelong to Ballaarat afterwards was re-made with another line, so that the expense was diminished by more than £1,000,000?—No.

5. The expense by the first survey from Geelong to Ballaarat was about £3,000,000, was it not?—There were a great many lines surveyed between Geelong and Ballaarat. The most costly of them was £3,166,000 for a double line, and the least costly was £2,499,000.

6. I have a paper in my hand which was laid upon the table of this committee, showing that the present estimate from Geelong to Ballaarat was £1,580,000?—Yes, but one is for a single line and the other for a double line.

7. That is the reason there is the difference?—That is not exactly the whole reason, the line travels a different country; but there is that difference.

G. C. Darbyshire,  
Esq.,  
continued,  
13th Oct., 1857.

8. Were they both surveyed at the same time?—No; one twelve months after the other, and through a different country altogether.
9. Was the principal reason of the diminution of the expense the alteration of the line, or the converting it from a double to a single line?—The estimate of the line recommended in 1856 was £2,128,327 for a single line; and the estimate for the line as permanently set out was £1,580,325.
10. The same line?—Not the same line, but a line between the same points.
11. Did the difference in estimate arise from the difference of line taken?—Yes; from the difference of line taken.
12. That is a difference of £500,000?—In round numbers, £500,000.
13. There was no second survey made of the line from Wyndham to Ballaarat, was there?—No; not at that time.
14. Do you think it possible that a better survey in the same manner could be made from Wyndham to Ballaarat?—By introducing a slightly steeper gradient in ascending from Bacchus Marsh on to the table land, and altering the course of the line in some places between Bacchus Marsh and Ballaarat, you might save, I dare say, half a million. The principal saving would be by introducing a steeper gradient.
15. Is the estimate from Wyndham to Ballaarat for a single line?—There is an estimate for a single line and a double line, both.
16. What is the single line?—Wyndham to Ballaarat, single line £2,455,390; but it might be done, I dare say, for £2,000,000 in round numbers.
17. I think you stated in your evidence before the committee in the Assembly that, taking the line to Sandhurst from Melbourne, it could not be accomplished altogether within less than four years; that you could take it to Gisborne the first year, but it would take four years to complete it?—Yes.
18. And taking it from Geelong to Ballaarat, the first seven or eight miles to the Moorabool, and the two last miles into Ballaarat, would take from three to four years?—I dare say it would take four years.
19. So that neither of those two direct lines would be accomplished much under four years?—No.
20. Taking the central line from Wyndham, I think you stated also that you could accomplish as far as eight miles this side of Ballan within the first year, and the whole in three years?—I think from Ballaarat to this side Ballan could be done in two years, the works are comparatively light; but there is a heavy piece of work between Bacchus Marsh and the neighborhood of Ballan that would take a long time to do.
21. How long?—I dare say three years.
22. Could the line between this and Castlemaine *viâ* Ballaarat be accomplished in a shorter period than the other two direct lines from Geelong to Ballaarat, and Melbourne to Castlemaine?—No; it would take equally as long.
23. What are the grounds upon which you think the central line would be so much more beneficial as a paying speculation?—In the first place, it does not cost very much more; and in the second place, it must take all the traffic from the gold fields down to the coast.
24. *By Mr. Mitchell.*—It would compel the traffic over that line?—I do not know that it would exactly compel it.
25. It would be a choice between a railway and the road?—Yes.
26. Then it would compel the traffic, and that is the way it would pay?—Yes, that is the line a private company would choose in preference to any other.
27. Not as a matter of public convenience, but as a matter of profit?—Yes.
28. *By the President.*—As a mere speculation, it would be the most paying line?—Yes.
29. Then as a mode of developing the resources of the country, and making the land more valuable for sale, so as to repay the cost of construction, do you not consider that the central line would be of greater value in that respect?—Decidedly.
30. So that, on grounds of public advantage, quite irrespective of the commercial view of the question, you think the central line would be more calculated to develop the resources of the country?—I think there can be no question about that, because you have already opened a line of communication between Melbourne and Castlemaine, and between Geelong and Ballaarat—you have constructed two macadamized roads, and the country is pretty well opened up, at a cost of £1,500,000, I dare say.
31. *By Dr. Hope.*—Referring to your answer to question No. 1648, you say: "I should say a line going to the westward, and then from Ballaarat, or somewhere in the neighborhood, to Castlemaine, Sandhurst, and the Murray; that would be a very profitable line, and would pay better than any other projected line, and better than any line in the world." Do you mean to say that the line from Melbourne to Ballaarat direct would be better accomplished *viâ* Ballan than *viâ* Geelong?—No, I do not.
32. You distinctly state that you could get better from Melbourne to Ballaarat *viâ* Geelong than in the other way?—I say so afterwards, I think.
33. And that is your present opinion?—Yes; always provided that you own the Geelong and Melbourne railway.
34. It would be cheaper to go from Melbourne to Ballaarat *viâ* Geelong than by Ballan?—Yes, if you had possession of the Geelong and Melbourne railway.
35. But even without that, suppose you were to construct a new line; would the expenditure upon a new line from this to Geelong and then to Ballaarat be as great as upon a line direct from this to Ballaarat?—I do not think it would; I think that it would be cheaper

in the first instance. My opinion is that, if you had to purchase the Geelong line at the price authorised by the Act, it would be cheaper to commence and lay down a new line entirely; and that, if you had to purchase at that price and then go from Geelong to Ballaarat, you had better make the line direct from Melbourne.

G. C. Darbyshire,  
Esq.,  
continued,  
13th Oct., 1857.

36. Then, in the event of your constructing a new line altogether from Melbourne to Ballaarat, you could do it cheaper by going *viâ* Geelong, even supposing you had to construct a new line from here to Geelong, than by going *viâ* Ballan?—Yes.

37. *By the President.*—How much would that be out of the way?—If the route was taken from Melbourne to Geelong, and through to Castlemaine and Sandhurst, the cost would be £6,180,000, and the distance from Melbourne to Sandhurst would be 165 miles.

38. *By Mr. Mitchell.*—That is, assuming you purchase the Geelong line?—Yes.

39. *By the Chairman.*—What do you allow for the purchase of the Geelong line?—£1,250,000, for purchase and repairs.

40. *By Mr. Power.*—Is that included in the £6,000,000?—Yes.

41. *By the President.*—What will the distance be from Melbourne to Castlemaine *viâ* Geelong?—143 miles.

42. And the direct distance?—Seventy-six miles.

43. Consequently the road would be taken sixty-seven miles out of the way?—Yes.

44. Do you not consider that a serious objection to going by Geelong, independently of any other circumstance?—Probably, as Geelong does not contain all the population of the country, it is rather an objection; but I am putting that forward now as the line which would be most profitable, because it would embrace all the traffic of the country. There is no doubt about it.

45. Would not the same object be embraced by the route from Wyndham?—Decidedly.

46. *By Dr. Hope.*—Will you state the distance from Melbourne to Ballaarat, and through Ballaarat to Castlemaine, *viâ* Wyndham?—122 miles.

47. *By Mr. Mitchell.*—By that line the Castlemaine goods would have to go forty-six miles round?—Yes.

48. What difference would that make in their carriage; how much per ton per mile do you reckon?—There is no rate fixed; but I believe in the Bill proposed to be brought in it was fixed at 1s. 6d. per ton per mile.

49. That is, £3 9s. per ton upon every ton of goods?—Yes.

50. *By the President.*—There is another answer which I wish to reconcile. You say this in answer to question 420: the question is, "Is it not an established fact that more is to be gained commercially, and in every other point of view, by making the line from Melbourne to Gisborne, than any other line suggested or surveyed?" and your answer is, "I think there can be no dispute upon that at all?"—That is to say, you could easier bring it into operation. You could construct that portion of the line and bring it into operation at once.

51. Then it would only be, commercially speaking, for the first year or so?—Yes.

52. Not permanently?—No. There is a very small portion of any of the lines that you could bring into operation in a year; that is the only portion of the line from Melbourne to Castlemaine that could be brought into operation within a year.

53. You think it would be commercially a greater advantage to make a line of thirty-five miles to Gisborne, than a line of thirty-six miles during the same period of time to Bacchus Marsh?—The line to Bacchus Marsh was never referred to directly in that examination at all. It was more in comparison with the line from Geelong to Ballaarat. The first seven miles of the latter line will take very nearly as long to make as the whole length of the line.

54. *By Dr. Hope.*—Would the same facilities be afforded in constructing the line from seven miles from Geelong to within two miles of Ballaarat, as there would be between Melbourne and Gisborne—that is to say, you could construct nearly forty miles of the Geelong and Ballaarat line within twelve months?—About thirty-eight miles, if you concentrated all the labor of the country upon it, or the larger portion of the labor; but the reason why that would not be so profitable would be, that you would have to tranship the traffic at each end.

55. *By Mr. Mitchell.*—If the line were to be made at once, directly from Melbourne to Gisborne, it could be completed in twelve months, could it not?—I am not prepared to say exactly.

56. We will assume that it would; then, if that could be completed in twelve months, the cost of transit upon all the goods would be relieved at once by the sum of 1s. 6d. per ton upon that thirty-five miles. If you have a railway from Melbourne to Gisborne, you have reduced it by that distance; and at the estimated rate of 1s. 6d., you would get that saving, assuming that the present rate is double what the railway would charge; that would be a relief to people living at Castlemaine and Sandhurst of £2 12s. upon every ton of goods that went up?—Yes.

57. Supposing the line were to be made to Wyndham, and that were to come into operation in a year, and supposing the line made direct to Ballaarat by Wyndham, would there be any relief afforded to the market?—You could make the line to Bacchus Marsh from Wyndham in twelve months.

58. *By the President.*—What distance is that?—About eighteen miles and a half from Wyndham.

59. From Melbourne?—Thirty-eight.

60. *By Mr. Mitchell.*—Then there is the question, whether that would be any relief or not; because there is no road from Maddingley to Ballaarat?—No.

61. But there is from Gisborne to Castlemaine?—Yes.

62. Then the one would be an immediate benefit, and the other would not?—Yes.

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63. *By the Chairman.*—You have stated that there are two macadamized roads in existence at present, one from Melbourne to Sandhurst, and the other from Geelong to Ballarat; the greater portion of those roads being macadamized, what advantage do you conceive is to be derived from railways over macadamized roads?—That is not a question which admits of much argument at the present time; but viewing it as a work undertaken by the public, those two districts have already had expended upon them £1,500,000, in round numbers; I daresay that amount of money has been expended, and the country has been opened up, and those people have been given all the advantage of that expenditure, and no sooner has that been done, than you lay down close alongside them a railway.

64. Will you have the kindness to state what are the advantages of railways over macadamized roads: are they cheaper?—The transit over them, when completed, is very much cheaper than over a macadamized road.

65. What is the charge now per ton per mile for the transit of goods from Melbourne to Castlemaine?—I dare say about 3s.; I am not acquainted with the exact price paid.

66. What do you estimate you would be able to carry goods per ton for by the railway?—One shilling and sixpence would be a very good price.

67. From Melbourne to Castlemaine?—Anywhere where there is a railway.

68. One shilling and sixpence a mile?—Yes.

69. You are of opinion that the present charge is 3s.?—I think about 3s. per mile between Melbourne and Castlemaine.

70. Then the first advantage is, that goods will be conveyed at one-half the cost?—Yes; and with very much more certainty.

71. Then as to the difference in time. What time does it take by the road; how many miles a day can a team travel?—I dare say it takes four days.

72. To Castlemaine?—To Castlemaine.

73. At what rate do you suppose your goods train would be able to carry goods?—I should think we should get up in six hours.

74. At what rate per mile?—About fifteen miles per hour, on the average, with a heavy goods train.

75. Have you taken an account of the traffic upon that road?—The traffic was taken for one week in the month of February of the present year, and it was considered by some commercial gentlemen who were on the committee of the Legislative Assembly that that offered a fair criterion of what the average traffic would be.

76. Have you any account of that traffic by you?—It was published in the appendix to the report of the committee of the Legislative Assembly, page 21.

77. Is it upon those tables that you formed your calculation as to whether the line would be remunerative or not?—Yes.

78. Then you have made an estimate of the returns?—I have made an estimate of the probable returns on each line, but merely based upon that—that is, upon the two lines, not upon the central line.

79. I am confining myself to the line from Melbourne to Castlemaine. Have you formed any estimate of the returns upon that line?—Yes, taking that as the datum upon which to make a calculation.

80. I believe it is usual at home, in projecting a railway, always to take returns of the traffic, to know whether the line will be remunerative or not?—It is; but here in this country I do not think the present traffic is any very great guide as to what the traffic would be when the line was opened.

81. Taking the present traffic, will you favor the committee with the calculation you have arrived at as to whether the line would pay?—Taking the traffic as shown in those tables, the passengers would amount to something like 285,324 in the twelve months.

82. *By Mr. Mitchell.*—Is that both ways, up and down?—Yes, over the line; and I have calculated them at 50s. each. That is rather more than what is now being paid, but is less than what was being paid when this estimate was being made; but I have not calculated upon any very great reduction, because I think the certainty with which passengers would travel is more than equivalent to the extra price, and that amounts to £713,310.

83. You calculate each passenger at 50s.?—Yes.

84. *By Mr. Stewart.*—And right through to Castlemaine?—Right through to Sandhurst. I have calculated goods at 105,456 tons, at 75s. a ton, for, in round numbers, 100 miles, and small parcels £15,600; the total of that amounts to £1,124,370.

85. *By the Chairman.*—You have in your Appendix sheep and cattle; you do not take them into account?—No, because I think it would be rather difficult to drive wild cattle into a railway truck; I daresay we shall be able to do so by and by, when they get kept in smaller enclosures.

86. *By the President.*—That is £1,124,370 as the return from Melbourne to Sandhurst?—Yes; that is, taking the traffic between the termini as passing over seventy-five miles upon an average.

87. What proportion of that traffic do you suppose would go over the line to Gisborne during the next two or three years?—That it would be difficult to say; it would depend upon the facilities you gave the drays for getting on and off the line. If there was any very great loss of time in unloading and loading, they would prefer to go direct.

88. *By Mr. Mitchell.*—Taking a day and a half, as they do now, to go to Gisborne?—Yes, unless you could have trucks to put their drays on bodily, as they used to do with the coaches in England.

89. *By the Chairman.*—You have stated the return that you estimate as being G. C. Darbyshire, Esq., continued, 13th Oct., 1857.  
£1,124,370?—Yes.

90. What is the estimated cost of that line as shown in your estimates?—Those estimates are either for a single or a double line from end to end. They afford a mode of comparing one line with another. According to the recommendation of the committee, the line was to be double throughout; afterwards, the House negatived that and proposed that a certain portion of the line should be double and another portion single.

91. I understand, in the paper I hold in my hand, you have given in your estimated amount for lines to be constructed as proposed by the House of Assembly, a portion of the lines being double and a portion single?—No, that estimate shows the routes adopted by the House of Assembly, but not a certain portion double and a certain portion single.

92. What is the estimated cost of constructing a single line from Melbourne to Sandhurst, according to the scheme proposed in the bills now before the House?—£4,134,621.

93. What additional cost would the construction of a portion of the line with double rails involve?—About £157,000. If you would allow me, I would give the figures exactly. From Melbourne to Castlemaine and Sandhurst, with seventy-six miles of single line and twenty-four miles of double line, the cost of construction would be £4,291,161, and the rolling stock and stations to make that available for traffic would be £294,000; the total cost would be £4,585,161.

94. Then what would the cost be of purchasing the land, as shown in your railway map before the committee?—That will be found in page 38 of the evidence, at question 876. It does not refer exactly to that length, but to the whole line to Echuca.

95. That is £44,900?—Yes, that is through to the Murray; but there is not much sold land beyond Sandhurst.

96. Do you still adhere to that estimate?—Yes, it is only an approximate estimate; about £40,000 the land would come to, to Sandhurst.

97. *By Mr. Mitchell.*—Is that included in the sum you have already given?—Yes.

98. *By the Chairman.*—How do you anticipate the valuation will be made in coming to that conclusion?—I made the valuation myself, and took it at what I considered the land was worth to purchase, for farming purposes, for instance; but if the compensation is to be given in the manner it has been done on the Geelong and Melbourne line, and the Williamstown line, it will amount to very much more than that. The land near town I take at a certain price per acre, and in the country at another price; but none less than £10, and some as high as £100.

99. Supposing the valuation were made as has been the custom hitherto in the Colony, what additional amount do you suppose that would add to the cost?—It would be £500,000 in round numbers.

100. Therefore it would be very desirable that the valuation should be conducted upon the principle of taking into account the value conferred upon the adjoining land by the railway passing through any property?—Most decidedly.

101. And the difference in the way of conducting the valuation would make, as you say in your opinion, a difference of £500,000?—I have taken that at the price which they have awarded on the Melbourne and Williamstown railway. For land which the Government have sold in 1854 at £22 and £23 an acre, they have awarded £500 an acre, with no improvements upon the land whatever.

102. *By the President.*—There are stated to be 155,000 acres within three miles of the road, and how much of that would be taken for the actual line of the road?—About 1200 acres.

103. And that would be valued according to that system of valuation at £500,000?—Yes, but I think it is a very fallacious system of valuation.

104. *By the Chairman.*—What would be the working expenses of the line between this and Sandhurst?—I have taken the working expenses at 50 per cent. upon the gross receipts.

105. The gross receipts you say are how much?—£1,124,370, and the working expenses £562,185, leaving a balance of £562,185; that would be equal to a dividend of £10 11s. 8d. per cent. upon the gross sum expended; that is, taking the actual traffic passing over the road at that time, and the traffic was principally up and none down. That is a dividend not only upon the actual outlay, but upon the interest of the money while being expended in constructing the line.

106. In your opinion, the line would not only pay its own expenses, but also leave a profit of from ten to eleven per cent.?—Yes.

107. *By Mr. Mitchell.*—You have said that you made your calculation at the rate of 1s. 6d. per mile; but if you take it at £3 15s. for seventy-five miles, you only take it at 1s. a mile?—I stated that, in the Act that was before the Council, it was set down at 1s. 6d. per mile, but I have not adopted that in this calculation; I have taken it at 1s. a mile.

108. *By the Chairman.*—You take the rate on goods at 1s. a mile?—Yes.

109. And how much for passengers?—It would be 8d.

110. Eightpence a mile for passengers?—Yes, taking it on an average; and that is not an unreasonable rate, when you compare the difference of the value of money in England and Victoria. The rates in England vary from 1d. to 3d. and 3½d.

111. How would you feel yourself justified in charging 8d.?—I calculate that money here is only worth one-fourth what it is in England; at all events, you pay four times as much for labor here as in England.

112. That is the basis of your calculation—goods 1s. a mile and passengers 8d.?—Yes, taking them all round, first and second class.

113. Would you give the committee similar information with regard to the line from Geelong to Ballarat?—The cost of the line, a portion being double and a portion single, with rolling stock and stations, is £1,828,279.

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114. That includes the purchase of land?—Yes, the passengers on that line would amount to 135,148, at 36s., £243,266; and goods 60,320 tons at 14s.

115. Was any traffic taken upon that line?—Yes, at the same time as the other; and, to continue, small parcels £7,800; the gross proceeds would be £413,930, taking fifty per cent. for working expenses; that would leave a balance of £206,965, which would afford a dividend of nearly ten per cent.

116. Then it would not pay so well upon that line?—Scarcely so well.

117. Nearly as well; the other you say would pay from ten to eleven per cent.?—Yes, and this is about ten per cent.

118. *By Mr. Mitchell.*—In taking the traffic, was anything taken into consideration as to the traffic between Melbourne and Ballaarat?—We took all the traffic passing through Ballan between Ballan and Ballaarat. There is no question that, if the railway went that way, it would take the traffic from Melbourne to Ballaarat, and it would do away with any direct traffic there may be now.

119. *By Dr. Hope.*—In taking the traffic, according to this first table here, at Flemington, is there not a great deal of traffic going through Flemington that would go equally to Mount Alexander and Ballaarat?—The one I have taken does not embrace the whole of that, but merely what goes through Gisborne.

120. Then this estimate you have now given the committee refers to the traffic return at Gisborne, and not to the one at Flemington?—Yes.

121. *By the President.*—Could you compare the traffic and returns on the central road?—I have not got out the traffic upon that road.

122. *By the Chairman.*—Do you still adhere to your original opinion as to the desirableness of the line by Geelong, or Wyndham, to Ballaarat, over the two lines proposed by the Bill before the committee?—Yes; I think that a central line, embracing the principal gold fields, would be more beneficial than the two lines.

123. *By Mr. Mitchell.*—And looking at the question of expense only, the most beneficial would be the line from Geelong to Ballaarat?—That depends entirely upon the price you would have to give for the Melbourne and Geelong line.

124. *By the Chairman.*—I understand that you adhere to your opinions as expressed before the committee of the House of Assembly?—Yes.

125. *By the President.*—Quite independently of the accommodation to the present population, would not the central line, by Wyndham and Ballan to Sandhurst, open up a large amount of country, the sale of which would contribute to pay off the cost of construction; that is, would not that line open up a much larger amount of country than the other two lines would?—I think there is no doubt about that; the land on the Melbourne to Castlemaine line is principally sold, and on the line from Melbourne to Ballaarat, and Ballaarat to Castlemaine, there is a large portion that is not sold, but which is still in the hands of the Crown.

126. *By Mr. Power.*—Is that a good description of agricultural land?—Very rich land, a large portion of it.

127. *By the President.*—Does it not open up besides a tract of auriferous country from Ballaarat to Castlemaine?—The greatest portion of that distance on both sides of the line is auriferous.

128. And of course the line would render the whole of that country accessible, which by the two single lines would not be the case?—Yes.

129. *By Dr. Hope.*—I see the first question asked in the Assembly is respecting what should determine the adoption of the system of construction of railways in the country, whether they should be light and inexpensive or heavier and more permanent. I should like to put a question to you respecting what should determine the adoption of a system of railways with regard to the route—do traffic and population lead to the adoption of a system of railways?—Decidedly; population and traffic must be the great element in determining upon any system of railways.

130. *By Mr. Power.*—Do not you think the traffic through the central line would continue the same, or nearly so, as through both the lines that are now proposed?—The largest proportion of the traffic between Melbourne and Castlemaine is not for the localities through which it passes, but for Castlemaine, or Bendigo, or Maryborough. The population on the road is not very large.

131. *By Mr. Patterson.*—Not on the Castlemaine road?—No.

132. Is it not so large as the Ballan road?—Yes, larger than by Ballan; that is to say, if you take the line from Melbourne to Ballaarat, it is larger; but the adjoining districts on the line from Ballaarat to Castlemaine are much more populous than on any portion of the line from Melbourne to Castlemaine.

133. *By the President.*—So that, on the principle of accommodating the existing population, there ought to be a line from Ballaarat to Castlemaine?—That was the view which the committee took in 1856, because they recommended that a line from Melbourne to Ballaarat should be constructed, and also a line from Ballaarat to Castlemaine, to complete the system of railways.

134. *By Mr. Mitchell.*—Supposing you make the line to Sandhurst by Wyndham, that is 165 miles; and by the other route you reduce the distance by forty-six miles. Supposing the Government went that route by Wyndham, would it not pay a private company to make the other line?—Decidedly.

135. *By the Chairman.*—Supposing that we adopt the Wyndham line, are you of opinion that the whole traffic of the colony could be carried upon that one line?—Not the

whole traffic of the colony; but the traffic from Melbourne to Ballaarat and the traffic from Geelong to Ballaarat would be carried on that line.

136. You think that would be sufficient for the purposes of supplying Ballaarat and the surrounding country, and Castlemaine and Sandhurst and the surrounding country. Are you of opinion that one line would be sufficient to take up all the goods and passengers?—Most decidedly.

137. Have you had any experience in the working of railways at home?—Yes, considerable experience.

138. Are you at all acquainted with the Manchester lines?—Not particularly. I have been over the Manchester lines, and I lived in Manchester some time. I know the locality.

139. Is it not necessary to have goods trains and passenger trains distinct from each other?—Yes.

140. And can you work upon one line beyond a certain amount of trains?—No, there is a limit to the number of trains you can work upon one line.

141. Have you considered that matter; whether, if there was one central line, you could work upon that line the enormous traffic that you have estimated as going up to these gold fields, and between Melbourne and Geelong?—Yes; I think there would be no difficulty in working it.

142. Have you gone into the minutæ of it, and made time tables of it?—No, I have not gone quite so far as that.

143. Do not you think it would be very desirable to do so?—I think that it would be quite unnecessary to do so, to be aware that the line would be quite sufficient to carry the traffic.

144. You are quite clear in that opinion?—Yes; but I daresay when the line became insufficient to carry the traffic, then speculators would come forward to make the direct line from Melbourne to Castlemaine, to relieve the central line of the traffic.

145. From your experience of railways, what effect do you suppose the construction of the central line would have upon the towns of Gisborne, Woodend, Kyneton, Tarradale, and other towns between this and Castlemaine?—I have not the least doubt it would affect them injuriously for a time; there can be no question about it.

146. Do you think that the macadamised roads would still continue to be used?—Only for local traffic, not for through traffic.

147. And are you of opinion that the tolls upon those macadamised roads would be sufficient to keep them in repair?—I should say not; they are not sufficient at the present time to keep them in repair.

148. *By Mr. Mitchell.*—Is not that an account of the extraordinary wear and tear upon them?—I think they ought to keep pace with each other.

149. *By the President.*—Supposing the central line to be constructed, and afterwards direct lines were constructed from Ballaarat to Melbourne, and from Sandhurst to Melbourne, is it not very probable that every one going to the two capitals would take the direct line, and that the Government line would be thrown *hors de combat*, so to speak?—I think very likely.

150. Then, in fact, all that expenditure would be completely wasted?—In the mean time, I should say a large population would have grown up along the existing line, that would more than counterbalance any loss from the diversion of traffic between the termini.

151. *By Dr. Hope.*—This line to Sandhurst is commenced with the view of carrying it on to the Murray, is it not?—Yes.

152. Is the line from Geelong to Ballaarat constructed with any view to an extension of the line westward?—The line from Geelong to Ballaarat can be extended to the Murray, and also to Mount Ararat and Raglan; and from Wyndham or from Melbourne it would go just the same way.

153. Suppose that it should be considered necessary to give Belfast, Warrnambool, Portland, or any of those places the benefit of railway communication, where would the proposed line go?—I have a report, but I have not it with me, from the engineer who laid out the Geelong and Ballaarat railway, in which he states that, for the purposes of carrying the line from Geelong or from Melbourne to the westward, it would be very much better to go to Ballaarat before proceeding westward, than to go immediately from Geelong; that it would be cheaper.

*The witness withdrew.*

WEDNESDAY, 14TH OCTOBER, 1857.

MEMBERS PRESENT :—The Honorable H. Miller, in the chair; the Honorables The President, T. H. Power, W. H. F. Mitchell, J. F. Strachan, Dr. Hope, T. McCombie.

G. C. Darbyshire, Esq., again called in and further examined.

154. *By the Chairman.*—Supposing the adoption of the lines named in the Bills; how do you propose to carry the works out—do you propose to invite tenders?—If we are to carry them out in accordance with the recommendations of the Select Committee of the Assembly, we must invite tenders for the whole line and for portions of the line.

155. Do you consider that the most advantageous way of proceeding?—In some respects it is, in others it is rather inconvenient. For instance, if the Government desire to

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G. O. Darbyshire, proceed with the small portion of the line, from Melbourne to Sunbury, and which portion they could bring into useful operation at once, the restrictions laid down by the committee would prevent it in a great measure.

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156. In your opinion, what would be the most advantageous way of inviting tenders for performing those works?—A great deal depends upon the amount of money that is forthcoming. If there was no lack of means, I should say you might invite tenders for the whole line; but then it is a question that requires consideration, whether there is that ample supply of money that would justify your going into the whole of the line at once.

157. You have read the evidence given by the railway agents or contractors, Mr. Rose and Colonel Thompson?—Yes.

158. Which do you consider the most advantageous—to invite the tenders from English contractors or to employ colonial contractors?—I do not think that it would be advantageous to invite tenders alone from either English contractors or colonial contractors; but one thing must be evident—if you invite tenders from English contractors, they will employ colonial contractors, and they will sink from contractors to sub-contractors.

159. You think they would employ the contractors here, and the labor here?—Yes.

160. Looking at the way in which the railways in the colony have been constructed, what is your opinion as to the most likely way of getting the best work. Do you consider that if it was let to English contractors they would have the means of forming the railroads quicker and with much better work than if you employed colonial contractors alone?—I do not consider that a question of the quality of the work is affected by whether you employ English contractors or colonial contractors, so far as that is concerned; but it may be taken as pretty certain that the large English contractors will have more capital to commence with than the small colonial contractors; no doubt about that. At the same time, I question much whether there is any English contractor who would be inclined to lay out £200,000 or £300,000 to commence upon eighty or one hundred miles of railway, unless he saw his way very clearly to a very great profit. They themselves are a long distance from the scene of operation.

161. Did you read the evidence given by Dr. Thomson before the Committee of the Assembly?—Yes.

162. You observe that he there states that the English contractors look for a profit of forty per cent.?—I do not know whether Dr. Thomson's information may be correct or not.

163. From your experience, are you in a position to say whether that is correct or not? I think not. The English contractors in England generally consider that they are entitled to between fifteen and twenty per cent.

164. Where is that to contract?—In England.

165. Would they not look for a much larger profit coming to Australia?—Yes, forty per cent. is a very great profit. I think it is quite possible that they would anticipate receiving thirty per cent.

166. From your experience, what do you consider the colonial contractors would be satisfied with?—I should say they would be very well satisfied with fifteen to twenty per cent., and if you let the work to a large English house, I dare say the colonial contractors would receive from them that amount of per centage, and the balance would go into the hands of the English contractors.

167. If that be correct, employing English contractors would entail the additional expense of fifteen per cent.?—I dare say it would.

168. And the work I think you say would be as well done by the colonial contractors, if not so quickly?—I do not know that there would be any difference in that. In the first place, you would have as it were to organise a set of contractors; there are many here, men of experience and ability, but they have not capital to begin with, and they want material and plant; but in the course of a little time, especially with the use of the material belonging to the Government, they could carry on satisfactorily.

169. The Government have got some plant?—The rails and the sleepers belonging to the Government would come in very readily, for instance, in making the line across the plains from here to Gisborne or Sunbury, all the plant we have might be made available by the contractors.

170. Taking everything into account, what would your recommendation be, whether to frame your tenders so as to encourage the English contractors or to employ colonial contractors direct?—I should recommend you to call for tenders in such a way as to allow of either coming in.

171. In the recommendation of the committee of the Assembly, is it not made a condition that there should be a cash deposit as a security?—Yes, an available security to a small amount; not actually cash, but something equivalent to cash.

172. Do you not consider that that would shut the colonial contractors out of the market?—I think not; I think there are many colonial contractors who would be prepared to deposit valuable securities. The intention was, I believe, that if a contractor laid down £20,000 or £30,000's worth of plant upon a contract, that should be taken as a valuable security.

173. Then, supposing this line as adopted, and that the Act passes, how do you propose to carry out the work?—By inviting tenders in the first instance, and that for the whole line, and portions of the line, because I would wish to explain that there is no great length of any main lines that can be completed under four years. Whether you commence them now or four years after this time, it will require four years to finish them, and it will be necessary to commence certain portions of the work at once, any works that require time; for instance, in passing the coast range, there is work there that you cannot push; and again if we go into

Castlemaine, the tunnel will require a certain portion of time—that is a work you cannot push; G. C. Darbyshire, Esq.,  
and at Bendigo there is another tunnel requiring time, and they ought to be let at once. *continued,*  
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174. What time would it take to complete the line from Melbourne across the swamp to the Saltwater River, to build a bridge across that river, and to join the line coming from Williamstown?—I anticipate that work will be all finished by the middle of next year.

175. And how long would it probably take from Williamstown to Sunbury?—That would be completed within twelve months from the date of its commencement:

176. So that the line might be opened and completed between Melbourne and Sunbury, and Williamstown and Sunbury within twelve months from its commencement?—Within twelve months from the date of the work being let.

177. You say that it would take four years to complete the line from Melbourne to Sandhurst?—Yes, quite four years.

178. How much money would it take to pay for the work yearly?—About £1,100,000.

179. How many men do you estimate would be employed upon the work?—About some 4000 men, I dare say, of all classes.

180. How many of those men would be unskilled laborers?—Seventy-five per cent., I dare say.

181. Then how soon would you propose to open the railroad for traffic, and what portions of it would be available from Melbourne to Castlemaine?—The only portion that would be available would be from Melbourne to Gisborne.

182. That would be available within what time?—Within two years.

183. It would take two years?—I dare say it would; there is some rather easy work, but there are considerable difficulties in getting work done as quickly here as you would like to do.

184. I am to understand that it will take two years to open the line to Gisborne; would it be opened at an earlier period to Sunbury?—Within twelve months.

185. Would the railroad be available as soon as it was completed?—Decidedly.

186. Where would the next point be that would be opened; what would be the next station?—Any point beyond that would require four years. There are a few miles here and there; for instance, between Woodend and Kyneton, where you might open a small portion of the line.

187. And the rest of the line would not be open for regular traffic under four years from its commencement?—No.

188. Is it proposed in your department to construct any portion of the line from Geelong to Ballarat, if that is approved of, simultaneously with the line we have been talking of?—It was intended to go on simultaneously with both lines.

189. How soon do you propose to commence the Ballarat line?—We are prepared, so far as our department is concerned, to commence at once; that is, to invite tenders at once.

190. But, in point of fact, can you say when it is likely you would commence that line?—The option does not rest with us; when we get instructions from the Government, we are prepared to advertise the contract at once.

191. There is no understanding upon the point?—Not that I am aware of.

192. To go back to this line; in crossing the swamp at Flemington, do you not anticipate considerable engineering difficulties in constructing the line over the swamp?—I do not think there are any difficulties but such as we can get over; but I should like to explain that the line across the swamp was not laid out by the Government; it was commenced and carried on for two years before the Government got possession of the line at all. No part of the line from Melbourne to Williamstown was laid out by the Government, nor is the Government responsible for any part of it.

193. Have you any doubt that you would be able to construct a good railway over that swamp?—Not the slightest doubt, and at comparatively a small additional outlay.

194. Would it be worth while to alter the line to a better line?—Decidedly not.

195. It would not be advisable?—No.

196. What time do you consider it would take to make the line from Geelong to Ballarat?—Between three and four years.

197. From the time of the commencement?—Yes, whenever that may be.

198. Supposing we were to adopt the Wyndham line, how long would that take in constructing from Wyndham to Ballarat, turning off at the junction at Warrenheip, and from there to Castlemaine?—In the same period, four years.

199. Then, in point of time, there would be nothing gained or lost?—There would be nothing gained on either road.

200. What time would it take to construct a line from Melbourne to reach Ballarat by the way of Wyndham?—It would make no difference in time.

201. It would also take four years?—Between three and four years.

202. What portions of those lines, if any, would be reproductive during that period; am I to understand you that you could only answer for its being reproductive from Melbourne to Sunbury?—From Melbourne to Sunbury, and from Melbourne to Maddingley. Whether you went by Wyndham or direct, you might make that reproductive in the course of between one and two years. From Wyndham to Maddingley you might make it reproductive in twelve months. In regard to the Geelong and Ballarat line, some thirty-eight miles, you might bring that into work very quickly.

203. *By Dr. Hope.*—The whole distance from Geelong to Ballarat, less twelve miles, would be made within one year?—Yes, but that is not twelve miles at one end.

204. Two miles at one end and ten at the other?—Yes.

G. C. Darbyshire,  
Esq.,  
consultant,  
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205. *By the Chairman.*—How far have the surveys of these railways extended—are there any surveys beyond what we see on this map?—No more. The surveys made are shown upon that map.

206. Have you no surveys to the north and west of Ballaarat?—I have a section taken over a line from Ballaarat to Raglan, over that line of road with a view of ascertaining whether it would be a very expensive route to carry the railway.

207. To go beyond those lines, is there provided for in any way a further survey of the country for the purpose of constructing lines, say to the westward to Warrnambool, or Portland, or Belfast?—I have received no instructions with reference to any surveys beyond Ballaarat, except with regard to taking a section over the ordinary road from Ballaarat to Raglan.

208. Do you consider it desirable that any cheap system of railroad or tramroad should be introduced in order to furnish facilities to those out diggings?—I have gone into the estimates of various descriptions of roads, and I do not see that there is very much advantage to be gained, if any. The ordinary macadamised road costs some £6,000 or £7,000. I believe our road which we are proposing to lay down similar to the Williamstown line will cost between Melbourne and Sunbury £14,934 per mile, and from Footscray to Gisborne, which is thirty-eight miles, the average cost is £21,406, and the average between the Eureka and Burnt Bridge over the Geelong line is £14,500. From Sandhurst to the Echuca is £14,400.

209. What inference do you draw from that?—That, in an ordinary country, where there are not great difficulties of earthwork to contend with, it is cheaper in the end to lay down a substantial railway than the ordinary road.

210. Would you construct a temporary or a permanent railway?—It is better to make a permanent railway. I do not know any portions of this country where it would be economical to lay down a cheap railway. In approaching to any of the gold fields you would have great difficulties to contend with, steep ascents and descents which you cannot get over easily. Supposing you take the line from Melbourne to Ballaarat, and you desire to approach the gold fields at Blackwood, you could not get there with a railway of any description; you might get within two miles of it, but not nearer than that; and even to get there you would have very great difficulties to encounter, and the same, although not in probably so great a degree, with regard to the Mount Egerton gold field.

211. Do you conceive then the country to the westward connecting those parts I have named with Ballaarat is of such a character as to enable you to lay down a railway at something approximating to the cost you have named?—Between Ballaarat and Raglan, and as far as Mount Ararat, you may lay down a good substantial railway for £15,000 a mile; and if you could do that, it would be more economical than to lay out £6,000 or £7,000 on a macadamised road.

212. From Ararat to Warrnambool, or Portland, or Belfast?—I have not made any survey of that country, and I am not prepared with any estimate of the cost.

213. Would not it be very desirable to ascertain that?—I think it would.

214. What would the cost be of a survey?—It would depend a great deal upon the number of lines which were taken.

215. Sufficient to enable you to state what you have now stated with regard to the line between Ballaarat and Raglan?—About £50 a mile would complete a preliminary survey of it.

216. *By Dr. Hope.*—Is it proved that a westerly line will ever be serviceable to Warrnambool and Belfast as a great line for people coming from the westward to Melbourne; would they go to Mount Ararat, and so along the line to Melbourne?—They would come by way of Raglan.

217. The distance must be very circuitous?—Yes, unless people have an ardent desire to go to Geelong.

218. To go up there to come to Melbourne would be very circuitous?—I think it makes very little difference when a man is in a regular train.

219. *By the Chairman.*—Have you any doubt of the benefit that would be conferred upon those ports if a railroad connected the western districts with them?—I have no doubt of it; but I am not personally acquainted with the ports; I do not know how far they are suitable for the reception of shipping.

220. *By Dr. Hope.*—But they are ports?—Yes, for such vessels as can get there.

221. *By the Chairman.*—What does your staff at present consist of?—There are thirteen surveyors at present.

222. Are they for the railways alone?—For the railways alone; they are now, or will be at the end of this week, employed on the line between Castlemaine and Sandhurst.

223. Upon what work?—Setting out the line permanently.

224. Then the railway has not been set out permanently yet?—Not between Castlemaine and Sandhurst; between Melbourne and Castlemaine it is.

225. What is the total expense of your department in salaries and contingencies?—The total estimated expense for 1853 will be about £50,000.

226. Including all?—Including everything.

227. Is it possible to reduce that amount?—When the surveys in hand are completed, we should reduce it by some £20,000.

228. How soon is that likely to occur?—It will be necessary to complete the surveys permanently, and prepare the contracts to the Murray, and that will take the greater part of next year; it may possibly be completed within nine months, but in preparing the estimate for the year we include the whole period.

229. *By the President.*—I want to know what you consider the average value of the lands lying adjacent, first, to the line from Melbourne to Sandhurst, and then from Geelong to Ballaarat, for a distance of three miles on either side; could you at all approximate to the value?—On the Melbourne and Sandhurst railway there are 172,368 acres unsold within three miles of the line. G. C. Darbyshire,  
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230. And what would be the probable value?—At £5 per acre, the unsold lands would be £861,840. I do not say that that is exactly the value, but that is the probable price they would fetch in the market after the railway was completed.

231. What is the probable value of the sold lands?—It is difficult to set a value upon them. I dare say they would be worth £10 an acre; that would be £553,890.

232. To what amount would a railway running through that district increase the value of the unsold lands, three miles on either side, on an average?—400 or 500 per cent; I have no doubt of it.

233. The first value you consider to be £5?—That is what we would sell the land at.

234. But what would it be now?—Not more than 25s. to 30s.

235. Then you think it would be increased from 30s. to £5?—Yes.

236. What would that amount be altogether of the unsold lands?—£861,840.

237. That would be the increase upon the 30s.?—That would be the value of it altogether. Taking the value of it now at 30s., it would increase the value of the unsold land from £500,000 to £600,000.

238. Supposing it is increased by the railroad to £5, what would that be?—£861,840.

239. In the same manner from Geelong to Ballaarat, what is the amount of unsold lands, the probable value of them, and the probable increased value that would be added to them?—There are 141,452 acres; the present value is £212,178, and the prospective value is £707,260; that is, at £5 an acre.

240. Do you happen to have (for it does not appear upon these returns) what is the number of acres of unsold land on the central line by Ballan from Melbourne to Sandhurst?—From Melbourne to Sandhurst there are 296,310 acres at £5 per acre, it would be £1,381,550; at 30s. per acre, it is £444,465; leaving an increase in the value of £937,085.

241. Do you consider that the land on the central line altogether is worth 30s. an acre, where there is no road; and the other only worth 30s. As I understand you, on the Geelong and Ballaarat line, a road has been made; and on the Melbourne and Castlemaine line a road has been made, and yet you have estimated the value of the unsold lands on those lines to be the same as the unsold lands in the central district, where there is no road at all?—The land in the central district is, a great portion of it for a great length of the country through which the line goes, of very superior quality.

242. Then would not it be increased more than £5?—I do not know that it would, probably it might; but I do not think it would be fair to make any difference.

243. Then, in fact, from the result of those figures, it appears that the aggregate increased value given to the unsold lands on the line of the two roads is greater than it is upon the central line?—It appears so.

244. You say that the line from this to Sunbury could be completed and opened and made re-productive within the year; and the line from this to Maddingley could be completed in the same period of time; which of those lines do you think would be most re-productive?—That by Sunbury, decidedly.

245. *By Mr. Mitchell.*—The other would not be re-productive at all, would it?—Yes.

246. How?—Going to Ballaarat and Blackwood.

247. They could not go, there is no road?—Where?

248. From Maddingley to Ballaarat?—There is the existing road between Melbourne and Ballaarat; whatever road there is now there would be then.

249. *By the President.*—Could you at all approximate an opinion of what per centage those two lines would return, if they were opened before the completion of the whole lines?—I have not made any calculation.

250. Do you think it is worth any consideration at all?—Of course they would pay; I have no doubt of that.

251. They would pay the interest of the money they would cost in their construction?—Yes.

252. The expense of the lines in the colony arises, it would appear, from the very heavy gradients, requiring very heavy metal and so forth?—Generally so.

253. In favorable districts, with lines to communicate laterally from each side where the country is favorable, it might be practicable to use a much lighter description of railroad, taking the country generally so far as you know of it?—There is very little of this country in which you could use a light rail.

254. From the River Leigh to the Hopkins there is an extent of country for 100 miles almost of flat?—It depends upon whether you are going north or west.

255. Westward?—Westward you could go along well; but going north, that level country would be rising.

256. *By Mr. McCombie.*—I did not exactly understand your evidence about Colonial contracts being cheaper than English—How would the Colonial contractors be situated in reference to plant; would they not have to pay a much larger sum in getting the plant out than the English contractors would?—I do not know that they would.

257. How are the Colonial contractors situated with reference to capital; can they go into the English market and buy plant at the same rate as the English contractors would?—

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I apprehend any Colonial contractor would be in a position to send to the English market, if he took a large contract here, the same as the English contractor would.

258. Then you think the colonial contractors have sufficient funds?—I am led to believe there are many contractors who would be in a position to expend £150,000 to £200,000.

259. And they could enter the English market on the same terms as the English contractors?—If they had the money.

260. The question is, whether they have the money?—I do not suppose any contractor has anything like that money himself. But if he can see his way clearly and can show to others that he has a good contract, he can raise money.

261. Would not he have to pay a large sum as interest or bonus?—He will have to pay a large sum for interest, no doubt about that; but there is no contractor in England possesses a million or ten millions of money. Any man may come and say, "I will take a contract of ten millions;" but perhaps £100,000 may be as much as he has got to work with; his assets may be locked up in things not handy to be made available.

262. Is not an English contractor with £100,000 capital and good credit in a far better condition to make railways, as far as plant is concerned, than the Colonial contractor who is unknown in England; can the Colonial contractor enter the English market on as favorable terms as the English contractor?—He can, if he has the money.

263. But you say the Colonial contractors have not the money, and must raise the money?—Just so.

264. *By the Chairman.*—You say the contractors would have to raise the money in either case?—Yes.

265. *By Mr. McCombie.*—Could the English contractor go into the market on better terms than the Colonial contractor here, who has not a knowledge of the English market or the funds to go with?—Of course, if the Colonial contractor has not got funds, he will be at a disadvantage; but if he has funds he would be in as good a position. No English contractor of himself is prepared to come out and undertake a work costing ten millions. He must seek assistance of persons in England. It would become a company of contractors, and they would have to raise money in the same manner as the contractors in this Colony.

266. Then, in short, you consider the Colonial contractor can, in reference to plant, go into the market on as good terms as the English contractor?—Exactly.

267. As to the labor employed on these railways, how would the labor market be affected by two lines of railway going on simultaneously; the one to Sandhurst, and the other to Ballaarat—is there sufficient labor in the Colony to carry on those two lines?—I consider so.

268. Sufficient skilled labor?—Yes.

269. Do you not consider that, if those railways were undertaken by English contractors, there would be an advantage to the Colony in the English contractors sending out their own laborers?—I apprehend the English contractors would be unable to do it. I do not see how they could do it.

270. It would not pay them to do it?—Decidedly. Suppose, for a moment, an English contractor sent out laborers at £16 or £18 per head, he would expect to be re-imbursed for that outlay. You must pay it directly or indirectly.

271. Would not it be cheaper to send out the skilled laborers even at £16 per head, than pay so dear as he would have to pay here?—And suppose them landed at Melbourne wharf, or Geelong jetty, how long would they remain with him.

272. Supposing that the engagement was legalized in England?—Not only legalized in England, but in Victoria.

273. The engagement in England should be legalized here?—I do not think you would find that they would remain at a less rate of wages than the ordinary and current rate.

274. You think in fact, English contractors would not send out laborers?—I think not.

275. You consider it would not injure our labor market to have the two lines going on simultaneously?—I think not, considering the very great influx of labor there has been going on.

276. In reference to time, could our local contractors finish the railway in as short a time as the English contractors?—If you appoint the proper men, and they have the necessary funds.

277. And do you think we have the proper men in the colony, and men who have the funds?—There are as good men here as contractors as anywhere.

278. And they have the necessary funds?—Many of them have not the necessary funds; but if the Government or the Railway Company, as the case may be, are prepared to go on with 100 miles of railway, individuals seeing the probability of a profit would join in with them.

279. Taking all the circumstances of the case into account, do you consider our local contractors could finish the railway in the same time as the English contractors?—I have not the slightest doubt of it. The English contractors would carry that work on by the local contractors. The principal thing would depend upon the ease with which money can be procured—that is the main point.

280. Supposing those two lines proposed by the Government go on simultaneously, what amount of constant labor do you think would be necessary to carry them out?—6000 or 7000 men.

281. How many of them would require to be experienced navvies—skilled laborers?—75 per cent. of skilled laborers of that class.

282. And you think we have got that amount of labor, with the proportion of skilled labor, in the colony?—Yes, I dare say we have, or we would have before the completion of the

lines; because the very fact of its being known in England that a great length of railway work was being proceeded with would be an inducement to them to come on them; and I may say, from what I have seen during the last twelve months of the hundreds of men who have come from England, I am sure of it. It is astonishing to find the number of men connected with all classes of railway work who have come here lately.

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283. Is there a doubt of whether we should have it now, if we commenced at once, or six months hence?—I think we should be quite justified in undertaking those two lines with the number of laborers in the colony.

284. I think you stated that there would be very little difference in the time the lines could be finished—the main trunk line and the two lines?—Very little.

285. *By Mr. Power.*—I understood you to state that you thought the returns from the line to Sunbury when the line was completed to there, would be about similar to those that may arise from the line to Maddingley?—I stated that the traffic upon the line from Melbourne to Sunbury would be sufficient to pay the interest upon the outlay in constructing it, and the expense of working it, of course.

286. Would it be so from Maddingley to Melbourne?—I dare say not.

287. What return would there be from the sale of land on that line?—There is very little land there from Melbourne to Maddingley direct, but there is a great deal of unsold land, and some very valuable, on the other line. If it should go from Wyndham to Maddingley the land is worth very little.

288. Would not it come within the three miles on each side of the line?—The greater portion of it is sold.

289. *By Mr. Strachan.*—You are in favor of the centre line in preference to the two lines?—Yes.

290. What peculiar advantages has the central line over the two lines?—It has this advantage—it affords access from both Geelong and Melbourne to the principal gold fields of the country, and connects them all together.

291. Does the opening up of this line open up the country where there is a larger amount of population than the two lines?—It opens up a country upon which, I believe, there is a larger amount of population, though that population is not settled; that is, they are principally a digging population. There is a larger amount of population say within 10 miles of each side of the line between Ballaarat and Castlemaine.

292. I am speaking of the line from Wyndham to Ballaarat?—I understood you to allude to the central trunk line—that is, the line centrally from Melbourne to the Murray or to Sandhurst, and not to Ballaarat alone.

293. I mean this—[*pointing to the map*]?—Yes, that.

294. Does this line open up a greater amount of population on each side of it than this line and this line—[*pointing to the lines as severally delineated on the map*]?—Yes.

295. Have you any idea of what proportion of population would be taken in in this line and in the two lines?—I cannot give you the proportion, but I think it must be pretty evident that the line which passes within a few miles—speaking now of the digging population alone—of Blackwood, Steiglitz and Mount Egerton, Creswick, Hepburn, and Mount Franklyn, and of Maryborough, Campbell's Creek, and so into Castlemaine, must of necessity accommodate a larger population than the other. There is very little local population between Geelong and Ballaarat and between Melbourne and Castlemaine. The local population situated on that line is not great, nor within seven or eight miles on each side of it, until you get close into the gold fields.

296. Then the population you would refer to is principally the digging population?—Principally the digging population.

297. Does it open up a larger extent of available country within three miles?—I scarcely apprehend the question.

298. Does it open up a larger area of available country for sale within three miles of the line?—For sale; no, rather less than the other two.

299. *By Mr. Power.*—A richer and better country?—Decidedly a richer country.

300. *By Mr. Strachan.*—Can you inform the committee of the cheapest mode of reaching the gold fields irrespective of distance—how could you reach the gold fields at the cheapest rate irrespective of distance?—Does your question relate to approaching the gold fields from Melbourne or Geelong; that makes all the difference?

301. I take it from Melbourne, the cheapest way of approaching the gold fields from Melbourne, to take in the whole of the gold fields?—The cheapest way of reaching the gold fields would be to go from Melbourne direct.

302. Would you have the same engineering difficulties going in the way you speak of, direct from Melbourne, that you would have taking the line by way of the south of Station Peak and leaving Geelong seven miles to the left?—You would have less engineering difficulties going that way.

303. And consequently it would be cheaper?—Perhaps I have not understood the question—I say you would have less engineering difficulties in going direct from Melbourne to Ballaarat than in going round by the south of Station Peak. Perhaps it is unnecessary for me to point out that crossing the Moorabool in any part is very expensive, and you avoid that altogether in going from Melbourne direct.

304. Have you surveyed the Ballan line?—Yes.

305. Yourself?—I have been over all the lines.

306. There are no great engineering difficulties there, on the Steiglitz Ranges?—You do not approach the Steiglitz Ranges by that route at all.

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307. What time would it take to complete the two miles on the Geelong and Ballarat line next to Ballarat?—I am not prepared to say exactly two miles; there is some short distance there that would take three or four years, I daresay—some very heavy work; long cuttings, that take time.

308. What length of road would it be that would take three years to do?—There are two miles of very heavy cutting there—[pointing to the map]; that is a long cutting.

309. Of how many miles?—Two miles.

310. Would it take three years to cut that?—That and some others.

311. *By Mr. Mitchell.*—You can only put on a certain number of men?—Just so.

312. You cannot push that work?—No. If you could throw it all on one side you could get rid of it much quicker; but if you have to bring it out at the end, you cannot do it sooner.

313. *By Dr. Hope.*—That part of the line is on the central and the Geelong line?—Yes.

314. It is a common line?—Yes.

315. *By Mr. Strachan.*—Were there no financial difficulties in carrying out the two lines—would you still advocate the central line?—Merely as a commercial speculation, without reference to any other point, I should say it would be the most profitable. It is the line that a private company would take up sooner than any other.

316. *By Mr. Power.*—And it affords larger accommodation to a larger population?—To a larger population.

317. *By Mr. Mitchell.*—That is, as regards the profits from the railway?—Yes, merely as to that; any other object I had nothing else to do with.

318. *By Mr. Strachan.*—According to this statement, I think the double lines from Geelong to Ballarat and from Melbourne to Castlemaine would be cheaper lines than the central line?—Yes, that would be so, if the object was merely to connect Geelong with Ballarat, and Melbourne with Castlemaine.

319. Would not those two lines serve a larger population as a whole than the central line?—No, they would not afford the same accommodation to a larger population. There is, as I have already said, very little local population between Melbourne and Castlemaine.

320. *By Dr. Hope.*—You think the population between Ballarat and Castlemaine is greater than the amount of population on those two main lines between Melbourne and Castlemaine and between Geelong and Ballarat?—Yes. When I say, on the lines, I do not say just close on the track; I mean within eight or ten miles.

321. *By Mr. Mitchell.*—If I understand you rightly, if you make the line from Melbourne to Castlemaine, by Wyndham, as one main line, you will compel the whole of the people to travel on that one line?—Yes, all parties coming from Castlemaine to Melbourne.

322. Therefore, any company having that line would make their profit out of the extra expense that the Castlemaine and other people would be put to?—Yes, it affects the Castlemaine people so far as that.

323. *By Mr. Power.*—But it affords accommodation to a larger population?—It affords a large accommodation to a larger population; it would affect the undertaking as a profitable speculation.

324. *By Dr. Hope.*—It is a fleeting population, and not so permanent a population as that on the other two lines?—It is fleeting; that is to say, that one man leaves to-day and another man comes to-morrow.

325. They might be all away to Beechworth, or some other place, to-morrow?—They might, but their places would be supplied.

326. *By Mr. Power.*—This is all a gold country on that line?—Speaking broadly, it is.

327. *By Mr. McCombie.*—And a better agricultural country?—There is as good agricultural land there as any in Victoria.

328. The Pentland Hills?—Yes, and it is a very rich agricultural country, all north of the ranges between Ballarat and Castlemaine—there is no better country in Victoria.

329. Do I rightly understand your answer to be, that the two lines could be carried on simultaneously without materially affecting the labor market or the operations of labor, agricultural and other?—Yes.

330. *By Mr. Power.*—Would you recommend the same amount of labor to carry on this central line that you would on the other two lines?—Yes; you would require the same amount of money, which represents labor.

331. *By Mr. McCombie.*—Would you require the same amount of labor to be set on at once for the central line as for the two lines?—As I explained before, any of those lines require a certain time to complete them, and it does not matter whether you commence them this year or next; it will require four years to complete them.

332. *By Dr. Hope.*—In the event of the line between Geelong and Ballarat being approved, would you think it advisable to let that portion between the Echuca and Warrenheip to be constructed within one year, the same as the portion between Melbourne and Sunbury?—I think there would be no harm in doing so; it would not incur great outlay, and it might be turned to profitable account.

333. In fact, the advantages to the public would be greater in having that portion of the line constructed—that portion of the Geelong and Ballarat line; it would be greater to them than that small portion to Sunbury?—No; I have already stated there would be a difficulty of having two transshipments of goods.

334. *By the Chairman.*—What is the distance from Sandhurst to the Murray?—Fifty-seven miles.

335. And what is the estimated cost?—Taking it in the same proportion as the other lines that are part single and part double, the cost would be £1,083,325.

336. Adverting to that point of the proposed making of the line in parts single and parts double, might I ask if that was adopted at your suggestion?—No, not exactly at my suggestion.

337. In your opinion, what would be the most desirable plan to adopt?—For the more economical working of the line it would be better to have a double line throughout.

338. What would be the extra cost?—About £1,000,000 on the whole line from Melbourne to the Murray.

339. Would you divide that; for instance, the line from Melbourne to Sandhurst, I think I am right in saying, is £4,585,161; what would be the extra cost on that line from Melbourne to Castlemaine of making the line double throughout?—It would be about £624,000 additional in round numbers from Melbourne to Sandhurst.

340. Making £5,209,161?—Yes.

341. Would you wish to state to the committee any matter that has not been touched upon; does it strike you that there are any such?—I am not aware of anything at present. With regard to my recommendation of the double line in preference to the single line, I may add that I think it would save a very large expenditure in the working of the line, if that were double; because, for instance, on the Geelong line, if any accident occurs on any occasion, the train is detained at one end until the train arrives from the other end; that occasions loss of time at least.

342. And does not it also add very much to the safety of the line, having the line double?—Decidedly; one of the most fearful accidents that ever occurred in England was on a single line.

343. *By Mr. Power.*—Would a double line on this central line be as costly as on the other two lines?—It would be in the same proportion. This is a section of the line from Ballarat to Fiery Creek—[*handing in the same*], and you will see it is quite an unbroken surface all the way.

344. You stated that the cost of that would be about £15,000 a mile?—Yes; but I have not gone into the estimate.

345. *By the Chairman.*—Is that for a single track?—Yes.

346. And what would it be for a double track?—£20,000.

*The witness withdrew.*

Mr. Edward William Bagshawe called in and examined.

347. *By the Chairman.*—Do you wish to state anything to the committee with reference to Castlemaine?—The only thing I should like to state on a main point is, that I think you may be laboring under some misunderstanding with regard to gaining a greater amount of fixed population by this route, passing from Ballarat to Castlemaine. I think that there is a more fixed and certain population between Melbourne and Castlemaine than there is the other way, and there is more of the land alienated, and also more money expended on that line, from Melbourne to Castlemaine, than there is on the other, or than there is likely to be for some years. The Kyneton district has been settled for the last seven and a half years.

348. Do you consider, in a word, that it would injure Castlemaine exceedingly, if the central line as shown upon the plan were to be adopted?—Most decidedly. I do not know exactly how much longer it will be by this line into Castlemaine.

349. Forty-six miles?—We should have the burden of that traffic to pay, which would be a most decided tax, and a most ruinous tax. Mr. Prendergast will be able to furnish the statistics of the amount of tonnage passing annually through Castlemaine, and that will show at once what amount of carriage there would be to go those forty-six miles further round.

350. Reckoning it at its lowest rate by that central line from Ballarat to Castlemaine, can you state what quantity of goods would be sent annually?—From Ballarat to Castlemaine?

351. Can you state what amount of goods is supplied to those various diggings there?—There is no actual traffic between Ballarat and Castlemaine.

352. If there be a larger population, as stated by Mr. Darbyshire, in that direction, must not the amount of storage be larger?—The population, with the exception of Creswick, nearly all consists of Italians and foreigners, and they are not certainly, as I consider, a large population by any means—not nearly so large as some of the surrounding districts. Tarrengower and that neighborhood contains a far larger population than Jim Crow and all its neighborhood.

353. Are you aware as to what is the general feeling of the people in Castlemaine—do you know what route they ask for as being most advantageous to them?—It is their unanimous feeling, and also of Sandhurst too, according to a meeting there was held last evening at eight o'clock. They telegraphed down from Castlemaine, and said they had had a public meeting, and they concurred with us, and would join in with us to support the main line direct.

354. As shown in red?—As shown by the red line.

355. Would they think of having railway communication with Ballarat?—I do not think that that line would be at all used. I cannot see what actual use there can be in it, for there is very little communication as you may say from one gold field to another; for instance, from Sandhurst to the Ovens there is no actual communication, except by diggers who are travelling from the one place to the other; there is no actual traffic. The main thing that we want to look at is, a certain steady traffic; we do not want a rush from Castlemaine to Dunolly, and so on.

356. Do you think it is probable that, if the line were taken in the centre, the people at



Mr. Bagshawe,  
continued,  
14th Oct., 1857.

Castlemaine would prefer the macadamised road for communicating with Melbourne?—That would partly depend upon the time that the goods would take and also the rate of carriage, whether it would be cheaper to go by rail or cheaper to take the goods by horse teams.

357. Can you inform the committee what is just now the rate of carriage per ton from Melbourne to Castlemaine?—To the best of my knowledge, it is £8 per ton.

358. How long does a team take?—It just depends whether they are horse or bullock teams.

359. Take the quickest—the horse team?—The American waggons take on an average from three to five days, according to the state of the roads, but five days at the outside.

360. The average would be four days?—You might draw an average of four days.

361. What would the charge be for passengers?—For night passengers it is £3 10s. per head, and for day passengers it is £2 10s. for the six o'clock coach, and the same for the nine o'clock coach.

362. Is there anything else you wish to add?—I am confident that that which I have spoken of is the right line to be made to Castlemaine, and also that, if that other line were made, there would be no traffic on that line from Castlemaine to Ballaarat. It would not pay its expenses. Supposing the two lines were made, it would not pay the salaries for maintaining it.

363. Is there anything else you wish to say?—No; that is the point we wish to enforce. I might also add, that a few days ago there was a large quantity of land by Captain Hepburn's station sold at very high rates. I mention that to show that land is of high value in that neighborhood; some of it was sold as high as £8 an acre.

364. Whereabouts is that?—That would be close upon Creswick. There were about 6000 acres of it sold the other day.

365. At what rate?—At an average of £2 10s., and some fetched £8. The 6000 acres averaged £2 10s. per acre.

*The witness withdrew.*

Mr. Thomas Norton called in and examined.

Mr. T. Norton,  
14th Oct., 1857.

366. *By the Chairman.*—Do you wish to state anything to the committee with regard to this railroad?—I merely wish to state something with regard to the effect the deviation of the line from Castlemaine would have upon property there, if the line proposed should deviate from Castlemaine. I know persons who have purchased property there at a very exorbitant rate within the last six months, who are only waiting in case the line diverges from Castlemaine to offer to sell it again at a sacrifice.

367. *By Dr. Hope.*—Do you mean the line diverging from Castlemaine?—I mean the line not passing through Castlemaine.

368. *By Mr. Mitchell.*—But that line from Ballaarat will pass through Castlemaine?—I consider the line passing from Ballaarat to Castlemaine would be diverging, and would be of very little importance to Castlemaine.

369. *By the Chairman.*—I understand you to be of opinion that, if the line were diverged from the present route, as shown by the red line, it would injure the trade of Castlemaine, Maldon, Carisbrook, and Maryborough?—Yes; it is the opinion of the Carisbrook people, and the chairman of the municipality has expressed that opinion, that the line not passing through Castlemaine would do them a larger amount of injury than it would even do to Castlemaine, because the traffic from Castlemaine is direct from Tarrengower, Dunolly, and all that district.

370. There business, I presume, is performed by merchants in Castlemaine?—In a great measure; and particularly Tarrengower and that district.

371. Is there anything else you wish to add?—Nothing else.

*The witness withdrew.*

THURSDAY, 15TH OCTOBER, 1857.

MEMBERS PRESENT:—The Honorable H. Miller, in the chair; the Honorables The President, T. H. Power, W. H. F. Mitchell, W. Highett, J. P. Fawcner, J. F. Strachan, Dr. Hope, S. G. Henty.

Mr. N. W. Pollard called in and examined.

Mr. N. W. Pollard,  
15th Oct., 1857.

372. *By the Chairman.*—Are you in the employment of the Government?—I am.

373. In what capacity?—As one of the engineers on Mr. Darbyshire's staff.

374. Has your attention been directed to the estimates of the cost of these proposed railways?—It has.

375. Can you state to the committee whether those estimates are correct, or whether you consider that the works could be done for a less amount?—At the time those estimates were made the quantities were taken altogether from the preliminary surveys; since that time permanent surveys have been made, which would cause a very great reduction in the earth works, first of all as to quantity, besides which, they would cost less than is estimated. A difference between the preliminary survey and the permanent survey would naturally occur under any circumstances in any line surveyed for parliamentary notice; but still I do not see

it altered in the report before the committee; it still remains the same number of yards of earth work as it was originally.

Mr. N. W. Pollard,  
continued,  
15th Oct., 1857.

376. You consider that there ought to be a reduction in the number of yards?—Certainly; I have worked out the quantities for thirty-four miles of line, and in that portion there decidedly is so.

377. In working out the quantities, what reduction have you made?—I believe it would amount to something like fifteen per cent. on that item alone. There certainly is a reduction of from ten to fifteen per cent. on the quantity.

378. And in your opinion, should there be a further reduction upon the cost?—Yes; in getting these quantities in a preliminary way, we always use the earthwork tables by Mr. Bidder, and comparing them with the quantities as we subsequently take them out by cross sections, there is always a reduction.

379. Of how much?—They vary according to the nature of the ground. On the Mount Alexander line I should say it would be equal to from seven and a half to ten per cent.

380. Then are you to be understood to say that there ought to be a reduction of twenty-five per cent. or thereabouts?—First of all, a reduction of fifteen per cent. between the preliminary and the other survey, and then on that reduced quantity a further reduction, comparing the quantities taken from the tables with those got from the cross sections.

381. How much would the original estimates be reduced altogether?—Twenty per cent. in quantity. Then, there is another item where the quantity is excessive. All the earth works are taken out. Supposing the line to be thirty-three feet wide, whereas, in rock cutting it is only thirty feet, and the slopes are taken at one to one; whereas, where we go through rock, it is only a quarter to one.

382. *By Mr. Fawcner.*—Then, there has been increased care in the later works, to ascertain a closer approximation to what will be the cost, than on the first occasion?—Precisely; and there always is so on any railway.

383. Has there been any alteration made in the lines in any part between here and Castlemaine?—Yes, there has been a deviation taken into consideration since then.

384. In 1852 I was told there was a way close under the mountain, and I know the greater part of the carts followed under that line, as being the best line for carts; are you and Mr. Darbyshire acquainted with that line to test it, to see whether that would be better or not—close under the mountain, leaving the Black Forest to the west?—I know it well; and you pass Woodend about two miles to the right. The line, as far as that goes, would be very good; but, in carrying out the line, you have to consider the connection of the ground going before and after, and that might not work in so well. I was not on the survey, and cannot of my own knowledge state this to be the case.

385. *By the Chairman.*—In judging of the reasonableness or otherwise of tenders that might be sent in, it would be proper then to consider, that these estimates might be reduced by twenty per cent.?—More than that, when we take into consideration the rock work.

386. How much more?—I cannot exactly tell; for as far as we have carried the line, I have worked out the quantities, and the rock work is a very small proportion; but, as we get into the forest, it will be heavier.

387. Do you consider that those estimates may be reduced by more than twenty per cent., or do you consider that a proper reduction?—There is this item to be added to that, but as to the extent to which that will tell upon the estimate I cannot say; for, as far as I have gone, the rock bears a very small proportion; but, I believe, as you get into the forest, it will bear a larger proportion.

388. Then the quantity of rock work must also be taken into consideration?—Yes.

389. Have any contracts been taken by the Government at present, that you are aware of?—Not on that line.

390. On any line?—Yes, on the Williamstown line.

391. How have the earth works turned out there; have you been able to make the reduction you now talk of?—That has not fallen to my office; I have been confined altogether to the Mount Alexander line.

392. Are you aware of the rate at which the contractors have taken the works at present?—Generally I am, but not specifically; I think 4s. 6d. through places where rock was abundant.

393. What was that estimated at?—Six shillings.

394. What are the wages now paid under the contracts?—For 9s. to 10s. a day you can get abundance of labor.

395. What was the estimate of wages?—18s. for laborers, 28s. for carpenters, and 30s. for masons.

396. So far as your experience teaches us up to this time, these estimates are in excess of what the works will probably be performed for?—Certainly, in the way I have described; reducing the quantity, and then again reducing the price on these reduced quantities as regards the earthworks; and again materially reducing the price calculated for works of construction.

397. Have you any information as regards the traffic upon any portion of these lines?—During the course of last year, or at the close of the year previously, I was one of fifteen appointed as a committee to take into consideration whether it was desirable to establish a municipality at Sandhurst; and in doing that, we had to see what money we should have to use to improve the town, and among the rest of the things, what revenue would depend upon our tolls. After carefully going over it with the present chairman of the municipality and the previous one, we considered from a very hurried but a somewhat reliable source that two tons upward traffic per soul was the consumption upon that gold field; and that, taking into consideration the horsefeed, machinery, and all other freight that would come into the gold fields, about two

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tons per soul found its way there. Subsequently to that, on coming to town, I competed for a prize for an essay that the Chamber of Commerce offered a premium for, and I went more closely into this calculation as a check upon my previous data, found that from other sources that data was pretty nearly correct. I took Mr. Westgarth's statistics from March, 1855, to March, 1856, and I think he gives 549,000 tons as the tonnage entering our ports. I also took the Registrar General's return of the agricultural productions of the country, and allowing the usual weight for those productions, they gave 183,000 tons' weight of agricultural productions of that year; that divided among the population, which I then took at 326,000 souls, gave me a trifle over two tons per soul as the average quantity throughout the country; the tonnage entering included all tonnage.

398. Can you come to what would be the probable tonnage upon this line of railway?—The consumption of goods taken upwards will be in ratio to the population—the traffic on the whole line will be in ratio to the population—and I then took an estimate which was rather carefully checked with regard to the population then on Bendigo, and I reduced my quantity to a ton and a half to carry out the reasoning I followed up then. I found that the tonnage for the Murray was 12,000 tons; Bendigo, 60,000 tons; Maryborough, 13,500 tons; Castlemaine, 45,000 tons; Tarradale, 4500 tons; Kyneton, 3000 tons; Gisborne, 1500 tons; which I rated, in forming the calculation as to the cost of traffic for the line, at 6d. per ton per mile.

399. Could you state to the committee what number of tons you estimate would go on this line?—That is the quantity of upward traffic which I have given, exclusive of the downward traffic, saving in police escort and mail service. This, of course, would also have to be credited, and would even now be very heavy; but, when railway rates were established, the downward traffic would increase enormously, and I believe more than in proportion to the upward traffic.

400. Making a total of how many tons of goods?—In round numbers, 140,000 tons.

401. In that year?—Yes.

402. Have you turned your attention to the probable number of passengers that would travel on the same road?—That was a very difficult thing to get at. I took the number of passengers then travelling by Cobb's coaches; the rates of freight being then for Cobb's coaches £6.

403. The committee want to know the number of passengers that you estimate would go?—I think that the population of the gold fields, when they have easy traffic, would take a trip one way for each soul per annum, excluding what would go up to them altogether; and that would give Gisborne 1000, Kyneton 2000, Tarradale 3000, Castlemaine 30,000, Bendigo 40,000, the Murray 9000.

404. That is 85,000 passengers?—Yes.

405. *By Mr. Fawcner.*—Was this at the time the high prices ruled?—Yes; but I calculate railway rates and facilities would add immensely to that number.

406. *By the Chairman.*—You estimate there will be 85,000 passengers a year?—Out of the then existing population, which is now largely increased.

407. What do you estimate that now at?—I count that each person on the gold fields will create the moving of a person of a distance one way per annum.

408. How much increase upon that 85,000 do you think we might now take?—I think the proportion of people on the gold fields and in the towns will be almost as the arrivals. I mean the relative quantities; but there is another item that has been lost sight of in making our traffic returns, namely, the natural increase of our population.

409. There were 85,000 at that time; when was that?—In July, 1856.

410. At this time in October, 1857, what would you add to that 85,000?—Fully twenty per cent., and I have every reason to think it will increase at that rate for some time to come.

411. Making 102,000?—Yes.

412. *By Mr. Power.*—Would you make any reduction for the persons that have left those places?—No; because my estimates have reference to the supply of the whole of the gold fields with railway communication; and if they went from one gold field to another, we should have the traffic either way.

413. *By the Chairman.*—Are you prepared to state what are the present charges for goods and passengers?—Yes; passengers are £3 10s. to Bendigo, and goods £10 a ton, and to the intervening places in about the same rates.

414. What would that give per mile?—That gives about 2s. a mile for goods.

415. And how much for passengers?—About 9d.

416. Has your attention been directed to any cheap system of railways that might be introduced into the colony?—I have travelled from one end of the United States to the other, and seen the lines there. They are nearly all alike.

417. What description of railroads did you find there?—They are very rough; indeed, I never met with a place where the line has been roughly laid in that way where they have not had to take it up again very shortly, and lay a fresh one.

418. Then, you would be in favor of making permanent lines at once?—Decidedly. The cost in wear and tear of rolling stock, and the extra cost of repairs, would a great deal more than pay the difference of the cost of the line in a very short time.

419. Then how is it that the Americans, who are considered a very intelligent people, adopt these cheap lines; is it from necessity, because they have not got the funds to construct better lines?—In some cases it is so; but I conceive that the reason they do it is, that their timber is so much cheaper than ours, and the timber there can be put into works of construction that none of ours could be used for. We have no timber fit for works of construction,

except perhaps ironbark. The Americans have their timber at hand on the spot, and if the railway goes it can be renewed and replaced at very small cost; and hence the reason that lines with them cost so little. We might make a line with the same sort of material, but we should pay a considerably enhanced price to what they are doing. It is not fair at all to put us in competition with the Americans in that respect.

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continued,  
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420. Then your opinion is, that railways of a permanent construction are best suited for this colony?—For all trunk lines, certainly. There are cases where I think a tramway—not a cheap railway, but a tramway—might be effective. For instance, to the Ovens; we cannot afford to make a railway there, but it would be highly judicious to run a tramway there.

421. From Sandhurst?—I would continue the line from the end of the present tram to Yan Yean. It is a very easy line on as far as the Goulburn. There is only one place where there is any difficulty at all, and that would bring a very large tract of country into play; and if the Goulburn were opened, so that traffic could come up it, it would open up an immense country, and lead us on to the Ovens very quickly.

422. You are aware that it has been a debated question whether we should have a single or a double track upon these lines of railway?—Yes.

423. Taking into account the traffic there would be on these lines, and the safety of the passengers, and the speed at which it is desirable to travel, are you in favor of a single or a double track?—A double track; for I have before my eyes such a very short line as the Hobson's Bay line, where they have found it necessary to put down a double line.

424. Is it not the case, that one chief cause of the frightful accidents that occur on railways arises from the using of a single line alone?—That has been the case in America in very many instances. There are some places where the cuttings are very very heavy, or where they are through rock; where, in order to let us get the traffic up the country, we might run a single line in the meantime.

425. *By Mr. Strachan.*—You have stated that the timber of this country is not at all suited for railway purposes, with the exception of ironbark?—Yes.

426. Have you had any experience of the use of blue gum?—Yes; I tried eighteen different sorts of timber when I was resident engineer on the Melbourne and Hobson's Bay line at Sandridge.

427. How did you test it?—Simply by making a joint with a dove-tail saw, and leaving it to see the contracting power of the timber. You could not trust it a week after.

428. I am alluding to sleepers?—I would use it for sleepers decidedly—for sleepers and piles, the timber of this country is admirably adapted, but for works of construction it is perfectly useless, and the New Zealand pine worse than all; it snaps like a carrot—you cannot trust it at all.

429. *By Mr. Fawcner.*—Could not the accidents upon a single line of railway be reduced to the minimum by having an electric telegraph at each station to give notice when the train passes from station to station?—Yes, at a very small expense.

430. Could the men necessary to manage the stations also manage the telegraph?—I think so, because the signals would be so few and very simple; the station-master would be a person quite competent to undertake the task.

431. *By the Chairman.*—What is your opinion as to the adoption of the lines that are under consideration as to which would be the most advantageous to the public. Do you think we ought to adopt what is called the Wyndham line, that is, the central trunk line, or the two lines from Melbourne to Castlemaine and from Geelong to Ballaarat?—I am decidedly opposed to the Geelong and Ballaarat line. I think the Wyndham and Ballaarat line would be good as a single line; but I think it would be unjust to the whole of the northern districts to compel all their traffic to go round to the westward, at a very large tonnage for goods, and very heavy rates for passengers, entailing a very large expense upon them, and I think that the traffic is quite sufficient for both lines.

432. Will you state your opinion in such a way, as that the committee can understand what it is you mean. In the first place, are you in favor of a line from Melbourne to Sandhurst direct?—I am.

433. As shown on the plan before the committee?—Yes.

434. Are you also in favor of the line from Geelong to Ballaarat direct?—No.

435. Why?—Because I think a great portion of the trade will ultimately have to go from Melbourne to Ballaarat, and it would be a very large tax upon the Melbourne people to take their traffic all the way round to Geelong to get to Ballaarat.

436. How would you propose to rectify that?—The Wyndham line is, I think, the best line you can reach Ballaarat by, and would compromise the distance between the two places.

437. Are you aware what the opinion of the people of Ballaarat themselves is respecting that?—I think it would be very difficult to ascertain the opinion of the people of Ballaarat, because there are two sets of people at Ballaarat—the diggers and the merchants. Now, the merchants' interest and the diggers' interest with regard to these lines may be diametrically opposed; I do not think the digger would go to Geelong, either for pleasure or business, if he could come to Melbourne. The merchant owning property in Ballaarat and being connected with Geelong may have a very great interest in it, and I believe a very large majority of them are so connected; but I should not take their views as an expression of the opinion of the people of Ballaarat. Then it is not only the people of Ballaarat that have to be considered, but all the districts to the westward.

438. Supposing the Ballaarat people did wish to go to Geelong for their supplies, would not it be a very great round to make them come by Wyndham?—It would be a round.

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continued,  
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439. How many miles?—I cannot exactly say, but I should think somewhere about twenty-five miles.
440. Would not that very much enhance the charge to the merchants of Ballaarat who went to Geelong for their stores?—It would, of course, exactly in that corresponding ratio.
441. Are you not aware that at present Ballaarat and the surrounding diggings are supplied from Geelong?—I am; and I can very readily account for it, because there is no means of communication by which they can get direct to Melbourne; if there were, I think it would not be the case.
442. You think it better to make them come to Melbourne, and deprive Geelong of her present trade?—So far as the people of Geelong are concerned, it might not be; but I look to the people of Melbourne as well as the people of Geelong.
443. *By Mr. Strachan.*—What do you suppose is the object of opening up railway communication; is it not to open up the country?—That is one object, but there are other objects.
444. What would be the result, if you were to have all the railways starting from Melbourne alone—would that have a tendency to open up the western country?—Certainly it would, because you would continue on from Ballaarat to Fiery Creek, and down to the westward.
445. How much country would you leave out by having one trunk line?—You must leave out some country by any line. If you take the Geelong line, you must leave out the intervening country, which is very rich.
446. Then you would ignore the whole of the other ports of the colony, and simply confine your operations to one?—No, I should connect all the other ports with that.
447. Not by that scheme?—Yes, you would, and an easier line you could not wish to have than the line from Ballaarat to Fiery Creek.
448. I am speaking of the ports?—You mean to make Port Fairy and Portland ports of entry.
449. They are ports of entry now?—Yes; but I doubt whether vessels would go into them.
450. Would it not be desirable to have the whole of the sea board communicating with the interior by a railway, instead of having one single port?—Perhaps so; and you would in the way I propose; for instance, Portland would have a line to Fiery Creek, and fresh lines would run both to Belfast and Warrnambool.
451. Would not the two lines of railway be more beneficial in opening up the country than the single line?—I decidedly think so.
452. Why?—Because, by carrying it along in this way, we are more likely to get on to more gold fields than by carrying it the other way.
453. If you were to adopt the central line from Wyndham, do you think it just to the people of Castlemaine and Bendigo to compel them to come down to Ballaarat in order to come to Melbourne?—Certainly not. I say, carry out the one, but do not neglect the other.
454. You would make both lines start from Melbourne?—No; I would take the Ballaarat line from Wyndham, which is about midway between Geelong and Melbourne.
455. *By Dr. Hope.*—Do you know at all what would be the respective profits of the two lines now proposed?—I do not know with regard to them; but I can tell the committee as regards railways running in a similar direction upon the basis I gave just now.
456. Have you got the number of passengers and the tonnage from Melbourne to Mount Alexander, and have you come to any conclusion with respect to the dividend that might be expected from that line?—When calculating it last year, taking it at 6d. per ton per mile for goods, and 6d. per mile for passengers, I made it give something like ten per cent., based on the then existing population.
457. Have you calculated, in a similar way, for the Geelong and Ballaarat line?—No; when I was making those estimates, I ignored it.
458. Are you aware that the returns have been calculated in a similar way, and that the return is very nearly approaching to the one between Melbourne and Mount Alexander?—I believe, per soul, it will be; but then I do not see why the Wyndham line should not go on. I think that they would be both paying lines.
459. *By Mr. Highett.*—What per centage on the gross receipts do you calculate for management; taking your gross receipts at £2,100,000 per annum, what per centage of that would be required for managing the line?—Fifty per cent., I think. At first it would be a little over that.
460. That would leave a net profit of £1,050,000?—Say a million.
461. *By Mr. Fawkner.*—Have you considered whether there are sufficient means in the way of money and contractors to carry on two lines at once, to do it effectively?—Certainly, as far as contracting power.
462. And men to work on the lines?—Yes, quite enough, without any extraneous aid. We have it within ourselves, both the contracting power and the men to do it.
463. *By Dr. Hope.*—Without interfering with the present interests of the country?—Without interfering materially with either the agricultural or mineral interests.
464. *By Mr. Henty.*—What number of men would it take to carry on the two lines?—About six thousand.
465. *By Mr. Power.*—Have you made a second survey of the Wyndham line for the purpose of making a reduction in the expense?—I have not; and I think we have but the preliminary section in the office. I forgot to mention one reason for not going from Geelong to Ballaarat. I think the necessities of the country for railway communication are so great, that the quickest route should be one of our aims, and the works on the Moorabool River alone would come to an enormous sum of money, and take a very long time to carry out.

466. *By Dr. Hope.*—What will be the time expended upon the construction of any of the lines?—I see nothing to prevent the Sandhurst line being carried out in three years from its commencement, provided the viaduct, which we have to put over the Back Creek, and the tunnelling through the Big Hill be commenced simultaneously with the other works in town. For the first thirty-four miles of that line the quantities are all out, and the whole of the works of construction arranged for, and ready to go to contract the moment we get authority, and that distance could be done in eighteen months.

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continued,  
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467. How long would it take to construct the line from Geelong to Ballarat?—Four years.

468. Are you aware whether thirty-eight miles of that line can be constructed in the course of twelve months?—Yes; but that will not take you over the Moorabool any sooner.

469. Then there is a greater proportion of that line capable of being constructed within twelve months than on the Sandhurst line?—I do not think the same proportion.

470. The distance between Geelong and Ballarat is fifty-three miles?—Fifty-two and some chains.

471. The distance between Melbourne and Mount Alexander is seventy-three miles?—Yes.

472. There are thirty-eight miles of the Geelong line can be constructed in twelve months; whereas, there are only thirty miles of the Mount Alexander line; that is, thirty-eight out of fifty-three on the one line, and in the other instance only thirty miles out of seventy-three, that can be constructed in one year?—I am quite aware of that; but supposing you construct the whole thirty-eight miles that you speak of, you must cross the Moorabool River, and if you construct the line without effecting that crossing, it will be a dead letter.

473. Then, with respect to the relative cheapness of the two lines, are you aware of the expense of the Geelong and Ballarat line?—The expense has been worked out; but from the data before the committee you cannot get at the relative cost, because the Geelong and Ballarat line has been subjected to all the improvements which permanent work always gives; whereas, I believe the other line has not been touched for that purpose; and I believe there are very large improvements which may be effected in that line. That is the impression of one surveyor who carried out a portion of that line.

474. Do you think the line between Geelong and Ballarat could be constructed in any sort of way cheaper than by the proposed route?—I am not aware.

475. *By Mr. Strachan.*—You have spoken of the engineering difficulties at the Moorabool?—Yes.

476. Do you speak practically of that, from your own knowledge?—I speak from the section before me, and the borings which have been taken together with that section.

477. What is the estimate for crossing the Moorabool?—Three hundred and ten thousand pounds, I think, for the viaduct.

478. Are you aware of any previous calculations having been made as to the cost of that viaduct?—No.

479. Are you aware that the first estimate was £90,000?—After seeing the section, I should say the man who made it £90,000 was a very long way out.

480. Have you seen the ground?—No, only the section, which would be quite sufficient for any engineer to make his calculation from.

481. At what rate of pay, and upon what data did you go, as to labor?—I took ten shillings for laborers, fourteen shillings for carpenters, and sixteen shillings for masons, which were current wages at that time.

482. You did not take the rates that are put down in Captain Clarke's report?—No; I stated that when those rates were sent in they were sent in with the impression, that the works being thrown into the market would very much enhance the price of labor.

483. Have you gone into the financial point, as to the lines?—I have.

484. Are you aware that the two lines could be constructed at less cost than the central line?—I believe they will, and I am in favor of two lines.

485. Are you aware that the line from Melbourne to Castlemaine and the line from Geelong to Ballarat will be cheaper than the line from Melbourne to Castlemaine, *viâ* Wyndham?—I dare say it may, because there is some very difficult country to get through beyond Ballarat.

486. Then how is it that you state that those two lines from Melbourne to Castlemaine and Melbourne to Ballarat will be cheaper than the other two?—There would be a greater cost, I have no doubt, because there is a little difference in mileage, and it would entail the necessity of buying the Geelong and Melbourne line, and spending a great deal of money to put this cheap railway in order.

487. *By the President.*—Are you aware that taking the two lines from Geelong to Ballarat, and Melbourne to Sandhurst, and comparing them with the central line from Wyndham to Ballarat and Sandhurst, the quantity of unsold land upon the two lines is greater by 20,000 acres than the unsold land by the central line?—That is the reason why I think it judicious to carry them out.

488. I am not speaking of the two lines suggested by you, but of the two lines from Geelong to Ballarat and Melbourne to Sandhurst. Are you aware that the quantity of unsold land is greater upon those two lines by 20,000 acres than upon the central line?—I am not aware of it; but it is not only to the sale of land I am looking in carrying out railways, but to serve the population that is there already.

489. You would, at all events, admit that it is a very forcible reason why a certain line should be chosen, that it opens up a larger quantity of land, and enhances the value of a larger quantity of unsold land?—That would be a reason.

Mr. N. W. Pollard,  
continued,  
15th Oct., 1857.

490. Is not that a strong reason why you should prefer one line to another?—It would have weight, certainly; but I do not think it would have weight against the population.

491. Would not two lines, in fact, accommodate the population better than the central line, other things being equal?—I think so.

492. Then there are two reasons why you should prefer the double line; first, that it opens up a larger quantity of land; and secondly, that it accommodates the population better?—Yes; but in conceding that, I do not see that the question is affected with regard to which two lines to take, whether the Wyndham line or the Geelong and Ballaarat line.

493. Then, with regard to the accommodation of the population—that being the prime element in the choice of two lines—would not the two lines that you advocate, from Melbourne to Ballaarat, and Melbourne to Castlemaine, throw out of accommodation the whole of the Geelong population?—It would, partially.

494. Then that is rather contrary to your principle, is it not?—It would throw the Geelong people out certainly.

495. Geelong has 30,000 inhabitants, has it not?—About 26,000; but then the line from Geelong to Ballaarat would inconvenience the 80,000 that are in Melbourne.

496. You would prefer accommodating the people of Ballaarat to the people of Geelong?—No, I prefer accommodating the gross population between Melbourne and Ballaarat to the gross population between Melbourne and Geelong.

497. *By Dr. Hope.*—Do you impugn the accuracy of the estimates of the different lines laid before the committee?—As now laid before the committee, they are incorrect, for the reasons I have given; and I think there is another one which I omitted to direct attention to, and that is, that they are all taken out, supposing that the earthworks are to be balanced by the cuttings to be made.

498. You say that a test has been applied to one that has not been applied to the other?—Yes, the permanent survey has gone from Geelong to Ballaarat, but not from Wyndham to Ballaarat.

499. *By Mr. Mitchell.*—In the paper before the committee there is an estimate for the line from Wyndham to Ballaarat of £2,455,000; but then there is in another column a reduction to £2,000,000; so that in that case that reduction has been made, and it takes off half a million?—I was not aware of that, because my work in the office is completely kept to the Mount Alexander line, and that might be done without my knowing it.

500. *By Dr. Hope.*—Then there are things connected with these estimates which you do not know yourself?—Yes, and which it would be a matter of perfect impossibility for me to know.

501. *By Mr. Power.*—If we were to confine ourselves to one line, which would you recommend, the line to Castlemaine direct or the one by Wyndham?—It would be a case of half a loaf being better than no bread in that case, but it would be a sorry meal. It would be a very hard case to make the Bendigo people pay tonnage on their goods and passengers for all this distance round.

502. *By Mr. Mitchell.*—The difference in distance is forty-six miles, is it not?—Yes.

503. Considering that there is a good metal road from Sandhurst to Melbourne, would it not be cheaper to send goods by that road rather than to send round by such a circuitous line?—I think not.

504. *By Mr. Power.*—What time would the Mount Alexander line take to complete?—Under three years—it could be done more quickly than the other could be.

*The witness withdrew.*

Captain Andrew Clarke, R.E., M.L.A., examined.

Capt. A. Clarke,  
R.E., M.L.A.,  
16th Oct., 1857.

505. *By the President.*—With regard to the relative advisability of constructing a central line by way of Wyndham, or two lines, one from Melbourne to Sandhurst and Castlemaine and the other from Geelong to Ballaarat, in your report to the Acting Governor, the following passage occurs:—"Taking advantage of the line already in course of construction from Geelong to Melbourne, the line I have just described, and that proceeding from Wyndham *via* Bacchus Marsh and Ballan to Warrenheip, from whence diverged the two lines, one to Ballaarat and the west, the other through the Loddon gold fields, Castlemaine, Sandhurst, to the Murray, affords a group of railway communication, which, presenting on the whole the best comparative engineering facilities with the greatest economy of expenditure, united the ports of Geelong and Melbourne with the principal sites of population in the interior. The construction of this group I believed to be the most advisable for the State to undertake first. It offered all the advantages to the general population which any of the other groups afforded, besides traversing the most fertile and productive districts of the country, a large area of which was still unalienated, and, as a single work, was more likely to be carried out unchecked by a possible failure of labor or means, than when these were divided between two separate lines." Do you still adhere to that opinion?—That opinion was expressed by me as a member of the old Council in 1854, both in my place in the House and to the Select Committee, and I adhere to it. I still think that the opinion I formed was a correct one, and had my plan been undertaken at the time would have met the then existing requirements of the country.

506. Do you think now that that would be the most eligible course to pursue?—If the present condition and state of the country were perfectly identical with the state of the country at that time, I think it would; but that is not so, and I think the altered circumstances of the country may now justify another course being adopted.

507. What circumstances specially do you allude to?—The question was decided almost

unanimously by the Council in favour of the two lines, my proposal being unsupported if not actually scouted by the press and the public. By thus pledging the country to two lines, vested interests have arisen, and permanent settlements have taken place on the proposed lines. I think the prosperous condition of this country will justify not only the undertaking of the two lines adopted, but will fully justify the construction soon of a third line; and my firm conviction is, that those three lines will be in full operation within six or eight years, viz.:—A line from Melbourne *via* Woodend, Elphinstone, and Castlemaine, to the Murray; a line from Melbourne by Bacchus Marsh, not from Wyndham, but by Melton, taking advantage of eleven miles of the Mount Alexander line, to Ballaarat; and the Geelong and Ballaarat line.

Capt. A. Clarke,  
R.E., M.L.A.,  
*continued,*  
15th Oct., 1867.

508. The principal circumstances that you have mentioned, as having led you to modify your first opinion, are, that the press and Legislature of the country are adverse to the central line, that a certain pledge has been given to the public that there shall be a double line, and that there has been a certain settlement of the population along their course?—Yes, and also, I think, constantly keeping the question open would throw back railway enterprise very much, if there was an alteration in what has been already determined upon in the country generally.

509. Would not the adoption of two lines, in preference to a central line, have this additional advantage, that it would open up for sale a wider extent of country contiguous to the two lines, and also a further extent which may be made accessible by tributary railroads—is not that a consideration which ought to enter into the question?—I think that would be a consideration certainly; but when you get ten miles from a railway the advantages are very much decreased, unless you afford collateral facilities. I should never advocate here the system of opening up land for the mere purpose of settlement; we have found settlement has already taken place, and it is but right to those who have been the pioneers and have settled the country, that they should be the first persons benefitted by railway communication.

510. Where a debt is incurred, and a burthen thrown upon posterity?—Yes, because the enhanced value of the country, as a whole, compensates for that; and there is another fact, that where the country is settled we at once see a clear way to the traffic upon that line being remunerative; and on these two lines there are sufficient collateral advantages, arising from there being waste lands of the Crown in their neighborhood to counterbalance the advantages in the way of Crown lands that would be opened up by the central line. When you go from the two lines to the right and left you will find that there is sufficient land on the roads still to carry out that principle of making the waste lands pay for the construction of the line—a principle which, nevertheless, I think it unwise solely to attend to.

511. I think a return in one of these reports shows that there are within three miles of the line from Melbourne to Castlemaine 155,389 acres of sold land; and Mr. Darbyshire yesterday mentioned the quantity of sold and unsold land lying three miles on either side of the two lines of railroad from Geelong to Ballaarat, and from Sandhurst to Melbourne—can you say whether the amount of sold land lying from three to six miles on either side of those lines is more or less than that lying within three miles?—It is a curious fact, that the lines affording the greatest facilities for construction lying in those two directions run through sold lands to a very great extent, and as you increase your distance from the lines, you find that you get more into Crown lands.

512. What do you consider a fair average value of the sold and unsold lands, within a distance of six miles of these lines?—You can only judge from what land has sold for on those lines. At the recent sales of land at Gisborne and Lancefield, and other places on that line, since the railway question has been under consideration, the price of the land has very much increased; for instance, at Gisborne land has been sold for £8 or £9 an acre, which certainly would not have fetched more than 25s. a year or two ago.

513. Should I over-estimate the present value of sold lands within six miles of these lines at £5 an acre?—I think within six miles of either of the two lines (except, perhaps, some portion of the pastoral lands between Geelong and Ballaarat), that would be a low average. Any decent agricultural land from the Murray to Melbourne, which is already sold, I think you would hardly get for £5, even including the sold lands in the northern district; and if you come to the townships, that would be far too low.

514. You are of opinion, then, that my estimate of the value of the land, taken as a whole, is not excessive?—I am.

515. Should I over-estimate the enhanced value of those lands, when the lines are fully open, at £12 an acre?—Your average is low.

516. And with regard to the unsold land along these lines, are they worth 30s. an acre?—Railways already have had an effect upon prices.

517. Would that have been a fair value some little time back?—That would be a high average.

518. Including the townships?—No; it would be low, taking in the whole.

519. Should I over-estimate the enhanced value at £6?—Certainly not, taking in the townships; there are some townships where you get several thousand pounds per acre for land.

520. In the Bill from the Assembly, which has been referred to this committee, the principle is adopted that, in estimating the damage to lands by dissevering them, or in giving compensation for lands taken for the railway, the increased value conferred by a railroad on any other property of the same owner along the line is taken into consideration?—Yes, that is no new principle. It is a principle that has been already recognised by legislation.

521. You think the principle a just one?—I do.

522. Do you not think there would be considerable difficulty in carrying out this principle?—No.

523. One person having only the land through which the line passed, or little more, would



Capt. A. Clarke, receive no corresponding advantage to a person having 100 or 1000 acres adjacent to the line?—  
 R.E., M.L.A., Yes, I think that is quite correct; but I do not see the object you desire to attain by putting the  
 continued, question.  
 15th Oct., 1857.

524. The Bill to which I have referred does not, as it appears to me, carry out the principle, so that persons having property along the line should be affected in some definite proportion to the extent of their interests?—No, nor can you do so. The object of the principle inserted in the Bill is simply to prevent the public expenditure of the whole community being taken advantage of by individuals.

525. Do you consider there would be any impropriety in extending the principle affirmed in the Bill, so that a person benefitting by the transit of a railroad through his property should be made to contribute proportionally as the benefit is great or little—would not this, in fact, be an extension of the same principle as that a man who receives a benefit by the line passing through his property should have that benefit taken into consideration in valuing the property taken for the line?—If you apply that principle to a railway, you must apply it to the shopkeeper in Collins-street.

526. Does not the shopkeeper pay increased rent and increased rates in consequence of the improvement from which he derives benefit.—This principle being recognised by the Assembly in the question of compensation for land taken for the line, where it can only imperfectly apply, why should not the same principle be extended?—There is a very easy solution of the question by putting a tax upon the land itself, not only for railways, but for the general purposes of the State—taxing land in proportion to its value.

527. If water is brought to your door, you are made to pay for it as for any one's special benefit, and very properly so?—A railroad constructed at enormous public cost is a special benefit to the lands adjacent; and take it in this way: A man within a mile of a station, with a decent road to the station, has his property enhanced in value; but a man living three or four miles from a station, with a bad road or intervening river, to the station, may get no appreciable advantage from the line.

528. Then he would not have to pay for it. Admitting the principle that there is a benefit which shades off to nothing, still that may be assessed?—I do not think it is the same principle, because he pays for it by using the railroad and putting his produce upon it.

529. Take the case of A and B. A uses the road, but has no property along it; he pays for the transit of his goods, and for this payment he receives his full equivalent benefit. B also uses the same road and pays for the transit of his goods, for which payment he gets his full equivalent benefit; but over and above that, he also gets the increased value to his property?—But then the produce going from that property goes upon the line and bears its share of the burden.

530. A uses the line of railway, and pays so much per ton for the transit of his goods, and the payment is considered a fair equivalent for the advantage he gets; B also pays the same, and gets the same equivalent; but B has land adjacent to the line, and his land is increased in value it may be from £500 to £5000; that surely is a special advantage over A, is it not?—It is an advantage, but not over A.

531. Does A get a corresponding benefit?—Fully; both ask to have a certain thing done for them, and they both pay equally alike. I do not see how we can deal with the other advantages that may arise from the circumstances in which B may be placed over A.

532. Taking the quantity of sold land within six miles of the two lines from Melbourne to Sandhurst, and Geelong to Ballarat, at 472,460 acres, and of unsold land at 769,092 acres, the present value of the sold land, at £5 an acre, would be £2,362,300, and the enhanced value, at £12 per acre, would be £5,669,520, making a difference of £7 per acre, which on the whole would be £3,307,220. The present value of the unsold land, taken at 30s. an acre, would be £1,153,638, and the enhanced value, at £6 per acre, would be £4,614,552, making a difference of £3,460,914. Putting a rate of 4 per cent. upon the difference between the original and the enhanced value of the sold lands would give an annual revenue of £138,436, which, at 7 per cent. compound interest for ten years, would give £1,658,016, which, added to the enhanced value of the unsold Crown lands, would yield an amount of £6,272,568 towards indemnifying the cost of construction. Do you think that computation is a correct one?—If that calculation is a correct one, it enhances the value of our securities when we are going into the market for our money.

533. Looking at the present aspect of the world in relation to the British public, and the war with India more particularly, and also that we are mainly dependent for capital as well as labor on the mother country, do you consider it would be prudent for this country to enter on the construction of two lines of railways at once, thereby necessitating the expenditure of eight millions of money?—The answer to that question applies as much to the two lines as to the one.

534. But would not the simultaneous construction of both lines be very inexpedient?—No; I think the man who lends his money will be much more likely to look at the character of the undertaking; and the two lines give a prospect of an immediate return. The other line gives a fair prospect of return, but I think would not strike the lender so forcibly.

535. Do you think it probable, in the present aspect of affairs, that we shall get either the money or the labor requisite for their construction?—I have no doubt about it whatever. The American States command money in the London market.

536. *By the Chairman.*—Are the committee to understand that you are now in favor of the lines as recommended by the Assembly?—I am in favor certainly of no change being made in the recommendations of the Assembly.

537. Then you are now in favor of those two lines?—I am in favor of the decision that has already been arrived at, after three years' consideration, not now being altered. I want the

work to go on, because I feel, if there is any stoppage now, the work is likely to be hung up for a year or more.

Capt. A. Clarke,  
R. E., M. L. A.,  
continued,  
15th Oct., 1887.

538. How long have you been in charge of the survey department and the sale of lands in the Colony?—From the 1st of July, 1853, to the 3rd of March, 1857.

539. I believe you have used every means to get the best price you could for the public lands when exposed for sale?—Yes, I think so.

540. You have used all the means that you considered legitimate?—Yes.

541. Have there been any lands purchased upon those lines, or near them?—Yes.

542. You have mentioned the price of some land sold at Gisborne?—Yes.

543. Were the purchasers aware that there was a line of railroad laid out there?—I fancy that they had a very good idea that there was likely to be a line there.

544. I think you have said that on account of that the land fetched a higher price than it otherwise would have done?—That is the only way I can account for it.

545. Has there been any land sold on the line from Geelong to Ballaarat?—Comparatively little. During the time the lines have been under consideration no large amount of land has been brought forward, except the land actually known to be required for legitimate settlement.

546. Has the laying out of those lines, and the understanding that they were adopted by the Assembly and would be carried out, actually induced parties to pay more for the land than they otherwise would have done?—I can only account for the land fetching the high price it did in those localities from the probability of the railway going in those directions; of course, there has been no pledge on the part of the Government.

547. But, nevertheless, parties may have been induced, by seeing the surveys, to imagine that the lines would go there, and may have given a higher price for the land in consequence?—Certainly.

548. And those parties would be very much disappointed if you took the lines away from the places which they were led to believe they would go through?—Yes, I think so. I think, in all probability, disastrous consequences in various instances would arise from alterations in those lines.

549. Is it in contemplation to extend railways beyond the lines that are now surveyed to the westward at all?—I should say, certainly.

550. Do you think it desirable that those railroads should go to the various ports of Warrnambool, Belfast, and Portland?—Certainly. I always had it in contemplation that the first lines should be from Melbourne to the Murray, and from Melbourne and Geelong to Ballaarat, and down to Fiery Creek; and from thence to Warrnambool, Belfast, and Portland, passing through the Grange country, and also from Melbourne to the Goulburn, and thence to the Ovens Mining District; the first or last communicating with the line from Sydney.

551. Is there much land sold to the westward?—Near the sea coast, and at the Grange.

552. Along the line which those railroads would pass?—Not very much.

553. Do you consider it desirable that the survey of those lines should be undertaken without delay?—Certainly.

554. Are you of opinion that it would be right to reserve the land from sale until those surveys have taken place?—Yes; the lands ought not to be sold to any great extent until the surveys have taken place; but after the surveys have taken place, and the lines have been determined upon, though not in actual construction, I should not put a bar to the land being sold, because I would sooner have settlement in the first instance than the chance of increased price for the land afterwards.

555. Are you of opinion that the lines having been surveyed and laid out would increase the price of the land?—No doubt of it, clearly so; and you would at once create an amount of industry and application of capital on the land itself.

556. Within how many miles of the line of projected railroad do you think that influence would extend?—To the westward, where the natural character of the ground is such as to render the traffic easy, compared with the traffic on our great thoroughfares, I consider that influence would extend to eight or nine miles, or to such a distance as that a farmer could get to the station, and be back again home the same day, with his team. I think the value of all land within that distance would be very much influenced.

557. And the expense of the survey would be far more than compensated for by the increased value of the land?—Yes, the heavy cost of survey is now over; the other lines will go through easy country, and the determination of those lines would be far less costly than the determining those crossing the Dividing Range, the survey of which has been very costly.

558. Is the surveying staff now well organized and in good working order?—Yes; fully ready to undertake the work at once; at least, it was so when I left the department, and I believe it is the same now.

559. Have you turned your attention to the financial part of the scheme as well as the engineering?—To a certain extent; I do not profess to be a financier, but it has been my duty to think over it.

560. In your report to the late Acting Governor, you touch upon the finances as well as the other parts of the question?—Yes.

561. Are you aware whether it is certain that the Australian securities for railway purposes will sell in the London market at present?—I am thoroughly convinced that, if the Victorian railway debentures were placed in the hands of a large house like Rothschild's or Baring's, there would be no difficulty in obtaining the money.

562. Are you prepared to say that you will warrant that these Australian securities will sell; have you anything more than your opinion to go upon?—No.

Capt. A. Clarke,  
R.E., M.L.A.,  
continued,  
19th Oct., 1897.

563. You would not undertake to say that, if the Government here were to send home this railway loan of £6,000,000, any house at home would take it; you are not in a position to say that?—Certainly not.

564. Are you aware that the advices which have been received to-day are to the effect that the Australian securities will not sell in the London market?—I am not aware of that, but I have just heard the contrary.

565. From what source?—They are quoted in the *Times* at 108.

566. Are you aware that parties who have debentures on sale have received information to-day that they are not saleable?—No.

567. You think it is very desirable that these railroads should be immediately commenced?—Yes; certainly.

568. I presume you have noticed in the evidence taken by the Assembly that both the English contractors and the colonial contractors have agreed to take payment of their contracts in the securities of this Government, bearing 6 per cent. interest at par?—The English contractors, and some of the colonial contractors.

569. Do you consider it desirable to pay contractors in debentures?—No; I think it very undesirable.

570. Do you consider that it would enhance the cost to the country by paying in debentures instead of in cash?—Ultimately it would.

571. How much do you suppose—what per centage do you think a contractor would put on in his tender, if it was understood that he was to be paid in debentures for twenty-five years at 6 per cent.?—That is a question I could not answer. It is the difficulties that would arise afterwards from having an agent both as a money contractor and your works contractor which would render it unadvisable. In the tenders, in the first instance, the tender for cash payment might be as high as the tender for payment in debentures, but the difficulty would arise afterwards. In the event of some little pressure upon the money market, the contractor, from having to sell his debentures at a loss, might be so cramped for payment for his men and material, that the probability would be that the contract would fall through, unless perhaps it were some English house that could stand it. Even with an English house, having a better paying contract, say in the Brazils, at the time, there might be an inducement to make use of our debentures in order to carry on such contract; thus, in the end, the value of the debentures would be seriously depreciated, the resources of the contractor crippled, and our works stopped.

572. You are of opinion that we ought to send our debentures through some respectable house to the London market and sell them there, in order to raise funds to pay the contractors in cash?—Certainly.

573. How would you then proceed—would you send your debentures home and raise the money, and then take your contracts; or would you take your contracts at once upon the risk of selling your debentures?—I think that there is sufficient money in the country at present to justify the undertaking, say of thirty-four miles of line on one line, and one or two heavy works which will require time to construct, involving the country perhaps in contracts to the amount of £500,000 or £800,000 during the next twelve months. We should then be in a position to ascertain how we could best manage in the mother country for the completion of the lines. I should be very sorry to see the country tied down at present for the completion of the whole to any one contractor. There is sufficient plant in the country, and there are thirty-five miles of line between Melbourne and Gisborne, which could be done with anything like energy on the part of the department, in from fifteen to twenty months; and the returns from that would leave a large balance over working expenses, even at very reduced rates of traffic. I question whether it would be advisable to open up at once any portion of the Geelong and Ballarat line, but the crossing of the Moorabool ought to be undertaken at once upon that line. Some heavy work in the Black Forest and at the Big Hill at Bendigo, ought to be undertaken at once, which requires not so much immediate outlay of money as long continued labor. If these works were undertaken, quite sufficient would be absorbed from the labor market of this country to place it in a more healthy position than hitherto; and neither do I think that the finances of the country would be injured by a moderate amount of work being undertaken in that way, nor would the country be led into a very extensive contract which there would be a difficulty in getting rid of, if circumstances should arise, preventing our going on.

574. You purpose in the first instance to undertake one work only; that is, the thirty-five miles of railway from Melbourne towards Castlemaine?—I am not in favor of the two lines being let as a whole to any one single contractor. My opinion is, that they should be let in sections; but I would allow English contractors to come in that way, if they chose. We might call for tenders for the whole line to ascertain what we could be likely to undertake those works for, provided we could in justice to the contractors say, "We do not accept your tenders, until we know whether we can get our funds from the mother country;" but I would not exclude myself by that from commencing the sections to which I have alluded.

575. You would propose at once to undertake the work from Melbourne to Gisborne?—Immediately.

576. What would the cost of that thirty-five miles be?—It would require, in addition to what we have got now, about £500,000; we have the rails, chairs, timber, and sleepers already contracted for.

577. How do you purpose to pay that £500,000?—There is always a balance of from £500,000 to £600,000 available.

578. From the revenues of the colony?—Yes.

579. Independently of the revenues of the colony, how would you pay that money?—

You would have to borrow at the present moment, say that £250,000, to repay what has been already spent.

Capt. A. Clarke,  
R. E., M. L. A.,  
continued,  
15th Oct., 1857.

580. How do you propose to pay that—you object to paying it in debentures?—To the contractor, certainly I do.

581. Then where would you get it from?—I think we could get it in this country, by debentures being sold here; but not supposing there are £600,000 put into the market besides.

582. Supposing the debentures did not sell?—I cannot admit such a supposition.

583. How was it then that, when the Treasurer put £33,000' worth of debentures into the market the other day, he only sold £1,200' worth?—I do not know what the circumstances were.

584. You are not aware that the money market is much tighter now than it was at that time?—I am not. The same thing was asserted some short time ago with regard to the tightness of the money market, and the revenue received for land that month was the largest.

585. Then the fact is, that you would base the construction of that work upon whether the debentures sold here or not?—Yes, with the full confidence that I could easily raise the necessary means during the next twelve months.

586. Then you would take the contract on the chance of selling the debentures?—Certainly.

587. In what position would you place the Colony, supposing you could not sell them?—I believe the revenues of the country alone would meet that contingency.

588. Then your plan is to draw upon the revenues of the country to make that portion of the road, failing the sale of the debentures?—If such a contingency as that occurred, I believe that the revenues of the Colony would fully meet it.

589. Supposing you were to meet with a contractor who would take the debentures and give security, do you think that it would be desirable, sooner than allow the work to be stopped, to pay him in debentures?—No, I would sooner see the work stopped altogether than place the country in the hands of any one single contractor. I think the experience of other countries shows that such a position as that is most undesirable.

590. Then supposing that difficulty got over, you would wait to see whether this loan could be raised in the home market or not?—I should not like to see the country pledged to extensive contracts, until we were in a position to ascertain how far we could depend upon the mother country for money. I think the country could undertake a certain liability, but beyond that I think we ought not to go. I think the country could at once undertake a liability spread over the next twelve to eighteen months of from £500,000 to £800,000.

591. Then your experience in these matters of what has occurred elsewhere induces you not to place perfect confidence in the offers of certain agents of railway contractors at home to undertake the construction of these railways and take debentures in payment?—I should not advise that being done.

592. Then there are other works you named that you would commence immediately—what are they—one is the bridge over the Moorabool?—The crossing of the Moorabool is an important work. I hardly think the immediate construction of the easy portion of the Geelong and Ballarat line would be desirable. If we could go from Ballarat to Meredith, and complete that, I would advise the same thing being done as between Melbourne and Gisborne; but the heavy portion of the work is between Ballarat and Burnt Bridge, where the communication could not be kept up, and at the other end the heavy portion of the work is from the Eureka into Geelong. The easy part of the work is between Eureka and Burnt Bridge, and to make that available you would require two shifts, first to take your passengers and goods out to the other side of the Moorabool, and then to get out from Burnt Bridge to Ballarat. I think a system of that kind would be attended with a great deal of expense and inconvenience, and not very much facilitate the ultimate opening of the line; and therefore I propose to commence the Moorabool work immediately, in order to connect that part of the line with the seaboard, so that the transit of material might go over that line into the interior.

593. What will be the probable cost of that work—£100,000?—It will cost more than that; but it is a work that will be spread over three years, or more than that.

594. How much would it cost in all?—As far as my recollection serves me, the amended estimate is £250,000.

595. How would you provide funds to pay for that work?—That work will be spread over three years. I have said that, including the line to Gisborne, works in the Black Forest and the Big Hill, the crossing of the Moorabool, a certain portion of the line near Ballarat, a certain portion of the line at Buninyong, I think this country could undertake liabilities amounting at the least at once to the extent of from half to three-quarters of a million, spread over the next eighteen months.

596. Then you would pay for those immediate works by debentures sold in the colony?—Yes.

597. At what rate—what is the lowest rate you would be prepared to recommend the sale of debentures at—would you go below par?—I do not think I should hesitate to advise some portion of those debentures being taken at 98 or 97.

598. Sooner than stop the works, you would recommend the sale of the debentures at less than par—say at 98 or 97?—Yes, more especially for the line to Gisborne.

599. And failing the sale of debentures at that, you would then fall back upon the revenue?—Yes. I think the impetus that will be given to everything in the country by the undertaking of these works will be such that the revenues of every character will be very much affected—the population will be very much increased, and with that, and the spread of industry

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in the country, all interests will be very much improved. The civil establishments in this country will require little increase for a much greater population than at present, and works of another character are decreasing.

600. If we are to fall back upon the revenues of the colony for the construction of railways, would it not be more desirable than ever that a strict economy should be introduced into the Government expenditure?—Some sacrifices may have to be made in order to carry them out.

601. Are you able to say whether, in most of the Government departments, it would be very possible to reduce the expenditure?—I am not prepared to say that. I think there may be reductions in numbers in some of the departments.

602. In the scheme as proposed by the Assembly, a portion of this line is to be laid with a single track, and a portion with a double track of rails. Alluding particularly to that part of your report where you refer to the accidents of such a frightful character which occur upon certain ill-constructed railways, would you be in favor of a single line of rails, or a double line of rails?—A double line; but those accidents to which I refer in my report are not due to there being a single line of rails.

603. Is not that one of the chief causes of collisions and delays, and so on?—I am not aware that any allusions I have made have been to the circumstance of there being only a single track of line, but to a single track perhaps improperly constructed; with the electric telegraph, strict observance of time, and proper signals, I think there would be no danger in a single track.

604. Are you not aware that most of the late accidents in England have arisen from the existence of single lines, and the trains having run into each other?—Not from the fact of its being a single line, but from the defects of construction.

605. Is not a railway with a double line of rails safer than a single line?—Certainly; but I do not think the comparative safety is sufficient to justify at present the extra cost.

606. *By Mr. Fawkner.*—Would a double line prevent all accidents?—No, certainly not.

607. *By Mr. Strachan.*—Can you form any idea of the saving there would be in the expense of roads and bridges, were those lines in operation?—There would be a great saving. The cost of maintenance of an ordinary road is here twice that of a railway. The two principal roads in this country cost £1,000 a mile for maintenance; and on a railway properly constructed the maintenance ought not to exceed £500 a mile.

608. Supposing that the present expenditure on roads and bridges amounts to half a million, how much would be saved from that source, supposing these lines established?—If that half million were spent on the three great lines of traffic, you could pretty nearly dispense with it altogether, or reduce it to one-fifth; because, only a certain amount of maintenance would be necessary for those lines, and the repair and construction of a small number of bridges.

609. Then, from the money required for the main roads of traffic alone, a quarter of a million might be saved?—Eventually, certainly much more than that, and also a larger amount would be given to assist local district road boards in the agricultural districts, which must be kept up to feed the railways.

610. *By Mr. Fawkner.*—We had a heavy strike when the Houses of Parliament were being built, to the very serious injury of the contractors; would it not therefore be prudent for the Government to make provision that, if the men struck at any future time, the contractors should have an opportunity of sending home for fresh workmen, rather than that the laborers should unlimitedly fix their own terms, to the prejudice of the Colony at large?—I should be very sorry to advise a system of that kind. My own idea is in favor of the introduction here of Courts of Reconciliation, or courts similar to those which have been adopted in France and other parts of Europe, with success, and which have been recommended by Lord Brougham, where masters and men can arrange these matters satisfactorily without going to a strike.

611. Suppose the men said, "We will not work unless we have thirty shillings a day;" would it not be desirable for the Government to give increased time to meet that contingency?—The fault has arisen from tying the contractors to time. The truth of the matter is, that there has been hardly sufficient consideration in letting these works, arising from circumstances over which the department might not have control. The amount of work contracted for in a certain time has been greater than the country could do in that time, and the remedy for that would be to give ample time for the completion of the works; so that the contractor could deal with that difficulty if it should arise. It would be folly for a combination to take place between the contractors and the Government.

612. Supposing the laborers chose to say that they would only work four hours a day?—I think those things would very soon balance themselves; but I think it would be very desirable that some tribunal such as I have suggested should be established.

613. If time were given to the contractors to send home, would not that be one means of obviating any difficulty of that sort?—The men who came out would be able to dictate to the contractor in the same way.

614. *By Mr. Power.*—Why have you changed your opinion with reference to this central line?—I have not changed my opinion, but I want the works to go on, and I feel that the altered circumstances of the country justify the two lines going on.

615. Why did you prefer the central line at first—what were the peculiar advantages it had over the others?—I have stated the advantages in my report, and which have just been quoted by the President.

616. You got into a very rich country then by that line?—Yes, it is good agricultural country. At that time, three years ago, Castlemaine and Sandhurst had not been so firmly and thoroughly established as now. They have now become sites of settled population; and from

the settled character of all that portion of the country, my own idea is, that the two lines now proposed will not be sufficient for the traffic of the country, and that we shall hardly have had those two lines commenced before we have the central line undertaken.

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617. By the country or by private enterprise?—By the country itself. In the States of America, and like any particular State—as an example, say Wisconsin—you will find that, compared with their area, population, and revenue, they have undertaken railways to a much greater extent than that now proposed, and they were not in any thing like the condition we are in now; and the cost of construction in this country is in comparison less than it is of decently well constructed lines in America.

618. *By the Chairman.*—In trying to effect this railway loan I think the Assembly recommend that the repayment of the loan and the interest should be secured upon the revenue?—Yes.

619. Do you or do you not think it would be an additional security, if we also offered a security upon the land itself, upon the portions of the land through which the railway went, and the lands on each side of it?—It then becomes a question, if you want to sell the land subject to that lien, can the English debenture-holder come in and say, “No, you shall not sell that land.”

620. It would have the effect of locking up that land, you think?—Yes.

621. And therefore you think it impracticable. The revenues of this colony are already pledged for a debt, are they not?—Yes.

622. And may be pledged to any extent the colony can gain credit. Can you therefore suggest any way in which we could give what may be termed a tangible security to the capitalist at home, so that you might give him something that was not contingent for its security upon the non-imprudence of this or a future Government?—I think our security must be much better than the security upon which an ordinary railway company raises its money in the mother country.

623. Can you suggest to the committee any way in which a direct security could be given?—There is the railway itself.

624. And the lands?—Not the lands, except the land upon which the railway is constructed.

625. And how much upon each side?—Not an acre.

626. Is it proposed by the Bill to give the security upon the railway—is it not proposed to give the security upon the revenue only?—Upon the revenue only.

627. Then why not give the railway itself?—I have no objection to the railway itself being given as a collateral security; none whatever.

628. The railway and plant?—The railway and plant.

629. If you were to confine the security to the revenue alone, the lender would have no remedy against the railway more than against any other asset of the Government?—No.

630. Do not you think it would be very desirable to offer the railway and a portion of the land as a collateral security; do not you think it would be an inducement to parties to grant the loan?—I should give the railway, certainly; but the land being given I should certainly oppose.

631. When you say the railway, you mean the railway and the land upon which the line is situated?—Yes. The effect of the system in America of giving land over to railway companies is now working great evils.

632. What are they?—Jobbery, collusion, and monopoly.

633. Did not you state just now that you thought your debentures would sell because the American debentures sold?—The land is given to the companies in America.

634. You observe, then, that they give security on the land?—They do.

635. So that, in point of fact, it is a loan, not upon the speculation of the railway, but upon the land itself?—I question whether the debenture-holder has the smallest hold upon the land. I am not aware of the fact; on the contrary, I think he has not, because the private companies immediately sell the land to their own shareholders in large quantities. The English debenture-holder has, as far as I know, no lien whatever upon the land.

636. You are not aware as to how the debenture or the loan is connected with the land?—From my knowledge, from what I have read and heard upon the subject, I know the debenture-holder has no lien upon the land. The shareholders in the company have, but the debenture-holders in England have nothing to do with it.

637. You are not aware that, in fact, the lands are pledged for those debts?—I should say certainly they are not; unless as the property of the company.

638. All that you would be prepared to concede at present is, that the security upon the revenue should be supplemented by a security upon the railway itself; you see no objection to that?—No. I am confident the lines will pay, and I think that that is a collateral security, which it might be advisable to give.

639. *By Mr. McCombie.*—You have stated in your evidence that you would propose to call for tenders first for the whole line and then for sections. In what time do you propose to call for those tenders; do you propose to throw them open to British contractors, or simply to contractors in the Colony?—Giving merely a personal view of the matter, if you could execute those portions of the line which I have mentioned and which ought at once to be undertaken, I should have no objection whatever to the remaining portions of the lines being left open for five or six months from this time, or longer, so as to give the English capitalists time to come in; but I should be very sorry to see the whole works hung up, waiting to allow the English contractors to tender for them. If you would execute those portions of the line which I have mentioned, I think a delay in the other might be advisable.

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640. If I understand you rightly, you would call for tenders for the whole line in the first place?—Simultaneously.

641. Would not the English tenderers be most likely to tender for the whole line, and therefore would it not be injudicious to shut them out from the first tender?—I think, from what I hear, that there is a sufficient number of English agents in this country to give sufficient competition to it. Captain Moorsom, too, who has just reported to the Government of Ceylon on a proposed line from Colombo to Kandy, states with regard to contracts that “he does not approve of ‘large English capitalists’ or a ‘first rate English contractor’ undertaking this railway, as it would put £150,000 at least into the pockets of some person who would appear to deserve that bonus, because he would give timid shareholders and ignorant directors the assurance or guarantee that a fixed amount of expenditure would not be exceeded; but that guarantee would include at the least that amount of bonus, and the company and the Ceylon Government are alike interested in saving this by organizing a judicious system of moderately sized contracts suited to the means of those who are ready both in Ceylon and India, as well as in Great Britain, to give in tenders for the execution of portions of the works.” Similar opinions I have long since expressed as applicable to this country.

642. Do you think the colonial contractors are able to grapple with so large a contract as the whole line?—There is no doubt there will be some difficulties to contend with in the matter; but I think, considering everything, we ought not to shrink from giving them an opportunity of competing.

643. If the colonial contractors could not compete for the whole line, it would fall into the hands of two or three firms that happen to be represented in the colony?—It would, if the Government were not able to judge, from the tenders they received, whether the tenders were desirable ones or not.

644. Do you think we have got sufficient labor in the colony generally for these contracts, without infringing upon other interests materially, such as the agricultural and pastoral interests?—I think, judiciously spread over three or four years, it will be found that the demand itself will be adequately met by the supply which will result from it. I am well aware that, in the latter end of last year, when railways were thought of as being nearer undertaken than even at the present moment, we had a very large influx of railway labor from the other colonies. If we undertake railways here, we shall command the whole railway labor of New South Wales, New Zealand, and South Australia. I think the effect of railways being undertaken in this colony will not be in any way to interfere with agricultural labor; but, on the contrary, the agriculturists will be able to command a greater number of persons to save their crops than they do at the present time, if the analogy of the English railway laborer in the mother country has anything to do with it. Even already, the farmers in the neighborhood of the Geelong and Williamstown line are able to obtain, at very low wages, for two or three weeks, men to save their crops—the men like to take a turn at it, as lighter work, so that I think they would rather assist than injure the agricultural interest; and I think a great number of men will be drawn from the diggings to the railways.

645. Would it not be injudicious for the Government to commence two lines at once; would it not be better to carry this line on to Castlemaine, and finish that part first?—I am strongly of opinion that, at any hazard, the line between this and Gisborne ought to be undertaken at once.

646. Previously to any other?—That is the first thing; and then, I think the next question of consideration is, the undertaking those works that require an enormous amount of time, in which the expenditure is spread over a long time; for instance, in facing into a tunnel, you can only put on a certain number of men; and I would mention that these isolated works would not interfere with the contract, because you could make it a condition of the contract that the contractor should relieve you of those sub-contracts.

647. In reply to a question of the President's, in reference to railways enhancing the value of land, I understood you to say that communication ought not to precede civilisation; that the Government ought not to lay down railways for the sake of selling the land, but for populations already existing?—I think if you had lands without population in a new country like the Western States, and such a system of railways, it might be adopted; but you ought not, in order to do that, to abandon the interest of those who have already established themselves in the country. I would prefer assisting the men who had actually settled the country.

648. You mean, that the Government ought to look to existing interests, rather than open up the country where the land is not sold?—I think that they will both be done simultaneously.

649. In the meantime, you think, as a general principle, that the Government is bound to look to existing interests and take the line through the present centres of civilisation, rather than to open up new country?—Certainly. The condition of this country, in comparison to that of Canada or the United States, is totally different. The analogy of opening up new country in America does not hold good here.

650. *By Mr. Highett.*—Your object is to open up that portion of the country where the returns would be reproductive?—To supply those parts of the country which are settled at present.

651. *By Mr. McCombie.*—Could you give any idea as to whether the two lines proposed by the Government, or the line you formerly favored, would be the most remunerative?—If you force traffic by taking one line in that particular direction, you will find that one line will perhaps pay more than the two, as one undertaking; but you must remember this, that if the Government undertake the Ballarat and Melbourne line, the Geelong and Ballarat line

will be undertaken at once by private enterprise, and the Legislature would have no right to withhold their sanction to that line. There is no doubt the money could be raised for that line better than for any other, perhaps as easy as the Government could raise it.

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652. *By Mr. Power.*—What is the objection to give it to a private company then?—The Government proposed to make it, and the Bill of the private company was refused on that ground:

653. *By Dr. Hope.*—A Bill was applied for by the Geelong people, to allow them to construct a line from Geelong to Ballaarat, was it not?—Yes, and refused on the plea that the State would undertake it.

654. *By Mr. Power.*—That the Government would themselves do that line?—No; it was refused upon the ground that the State was going to undertake the great main trunk lines of the country.

655. *By Mr. Mitchell.*—And those main lines being understood to be one from Geelong to Ballaarat, and one from Melbourne to Castlemaine?—Yes.

656. *By Mr. Power.*—Were those two lines decided upon at the time?—In May, 1855, the committee of the old Legislative Council reported as follows:—"Your committee finally have come to the conclusion that the most desirable lines of railway to be surveyed at present, and plans and sections of which should be taken, are—1st. A direct line from Melbourne to Castlemaine, with a view to its further extension to the Murray. 2nd. A direct line from Geelong to Ballaarat, with a view to its further extension to the westward;" and on the 13th of March, 1856, the same lines were recommended; and afterwards, on the 19th of March, 1856, the committee reported—"Your committee, therefore, are of opinion, after full consideration of all the interests concerned, that it is advisable that the lines, the construction of which should be at present undertaken by the Government, should be the line from Melbourne to Mount Alexander direct, and thence to the Murray, and that from Geelong to Ballaarat; and that these lines should be carried on simultaneously:" and it was in 1855 that the Geelong and Ballaarat Bill was thrown out.

657. *By Dr. Hope.*—So that, in fact, if the faith of the Government has been pledged to any line at all, it has been probably more pledged to the Geelong and Ballaarat line than to any other?—I think that would be a very fair inference for the promoters of that undertaking to adopt.

658. *By Mr. McCombie.*—Are you aware that the agents of some of the English contractors, when they gave their evidence before the committee of the Legislative Assembly, of which you were chairman, expressed their willingness to take debentures to any amount in payment at par?—Yes.

659. So that the inference would be, that there would be no difficulty in selling our debentures at home?—It must be recollected that it is all very well to express an opinion about taking debentures at par, and it might be true that certain works were paid for in debentures at par; but you would find that there was fifteen or twenty per cent. added on in another shape, which you did not see.

660. *By Dr. Hope.*—Then you ought to contrast the tenders of those persons who expressed themselves willing to take debentures with the other tenders you received?—Yes.

661. *By Mr. McCombie.*—But that offer to take debentures bears out your opinion that there would be no difficulty in selling our debentures in the English market?—I think there would not be the slightest difficulty. I merely express that opinion, from the confidence I have in the country itself.

662. *By Mr. Henty.*—Do not you think there would be a large sale for them here?—Yes, I think there would be a much larger sale for them than the bankers generally think there would be.

663. *By Mr. Highett.*—Do not you think that, very possibly, the banks would be compelled to take them, or else allow the merchants to take all their exchange business out of their hands?—I think it is very likely.

*The witness withdrew.*

Mr. E. W. Bagshawe again called in and further examined.

664. *By the Chairman.*—Will you state shortly what you wish to add to the evidence already given by you?—There was one thing I omitted yesterday, which was the amount of money invested, both in land and buildings, within the municipality of Castlemaine. That was computed by two parties to amount to £400,000, or within £100 or £200 of that amount. All that property, if the line as proposed by the Government was altered, would be depreciated at least from fifty to seventy-five per cent. Because, when the Harcourt route was first suggested, the value of land in Castlemaine came down twenty-five per cent.; directly it was decided that the line should not go from Melbourne to Bendigo *viâ* Harcourt, and the word "Castlemaine" was substituted, there was an immediate demand for land, and it rose twenty-five per cent. Good agricultural land in the neighborhood of Castlemaine is realising £25 to £30 per acre, which would be reduced to from £5 to £10 per acre in case the line of the railway was altered; and the reason why so much money has been invested in the township of Castlemaine and its neighborhood has been, that the people there placed implicit faith in the Government completing the line; so much so, that many parties having applied for certain lots on the Forest Creek road to be put up for sale, have had those lots withdrawn in consequence of the projected railway, and there has been a great quantity of land now to the west of Castlemaine surveyed very recently, but which has also been withdrawn from sale in consequence of this

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railway; so that the people will have been deceived to a considerable extent, should the central line of railway be adopted.

665. Is that all that you wish to state in addition to your former evidence?—There is one other remark which I would make, which is, that there are about 30,000 acres of sold land not shown as sold upon the plan before the committee, but which has been sold very recently, on the eastern side of Mount Alexander.

*The witness withdrew.*

FRIDAY, 16TH OCTOBER, 1857.

MEMBERS PRESENT:—The Honorable H. Miller, in the chair; the Honorables S. G. Henty, Dr. Hope, J. H. Patterson, W. H. F. Mitchell, W. Highett, T. H. Power, J. P. Fawcner, and J. F. Strachan.

The Honorable Charles Hotson Ebdon, a Member of the Legislative Assembly, examined.

The Honorable  
C. H. Ebdon,  
M.L.A.,  
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666. *By the Chairman.*—You are the Treasurer?—I am.

667. You observe it is proposed to raise a loan for the purpose of constructing railways amounting to £8,000,000?—Of which it is intended to raise £7,000,000 in England and £1,000,000 in the Colony; and it is estimated that the £8,000,000 will carry out the two lines, from Geelong to Ballarat, and from Melbourne to Eucha, *via* Castlemaine and Sandhurst.

668. How is it proposed to raise that loan—in the first place, to raise the loan in the Colony?—With reference to raising the loan in the Colony, it is intended to sell it through the ordinary channel through a broker; and, certainly, it has not been intended to sell below par; for every sale of debentures that has been made since I have been treasurer has been above that rate, that is, at a premium; but it is expected that there will be no difficulty in raising that sum, or such portion of it as will be immediately required, at least at par. And I may mention, for the information of the committee, a matter which has probably not escaped their attention, that when I made the statement on taking the office of treasurer—the first financial statement made by the present Government—I found it necessary to point out that a debt would exist at the end of the year, which would have to be repaid out of the consolidated revenue, out of the first sale of debentures from the first loan authorised by the Legislature, an amount equal to some £700,000. Supposing that that sum, or a sum, I will say, of about half a million were raised, there would be still every facility afforded by the consolidated revenue to carry on works to the extent of £400,000 or £500,000, because the consolidated revenue could always afford to be considerably in advance for such purposes.

669. To that amount?—To that amount, under ordinary circumstances.

670. *By Mr. Fawcner.*—Have you ever thought of the matter of consulting with the banks, for them to send home to their branches or head offices in London to cause those debentures to be discounted, in preference to sending home an agent—Has that ever crossed your mind?—I have had repeated conversations with several bankers, and as far as I have been enabled to gather their views, I think it is their opinion that it would be much better that they should have nothing whatever to do with it, and that the loan should be raised perfectly irrespective of any of the interests of the banks. In fact, my own opinion is, not against using in England such influence as the banks might bring to bear to the fullest extent, but decidedly against any of the banks having anything whatever to do with the loan. I will state at once, very decidedly to this committee what my own convictions are, be they right or wrong, namely, that it would be one of the most suicidal acts this colony could commit, were it to rely upon the funds being raised in the colony for these purposes. When I say “suicidal,” I look upon it that it would cause a monetary crisis; because the resources of the colony (I would rather say the capital of the country) is, in my opinion, not large enough to admit of so great an amount being abstracted for any one purpose; and it will be clear to the committee that, if we were to raise a loan in this country from the resources of the country, and from the capital of the country, there would be so much money taken from the ordinary investments, and consequently other things would be stagnant, and we should necessarily have a crisis.

671. Not that the banks should raise it here, but negotiate through the banks in Britain?—I think it would be the object of the Government to use all the influence they could bring to bear in favor of the credit of the Colony to get the loan upon the best terms, and I myself am of opinion that there would be little difficulty in the matter. Supposing an ordinary state of the money market at home—I will not say at this moment, England having been called upon for a very large amount, in consequence of the war in India, and of the extra expenses in China, and the expenses which have been incurred in Persia; but, under ordinary circumstances, I feel persuaded, from the growing importance of this Colony, and from its acknowledged importance at home, there would be no difficulty whatever, under good management, and nothing occurring to injure the credit of the colony, in raising £7,000,000, or a million to a million and a half a year in the London market in six per cent. debentures at par.

672. *By the Chairman.*—That is your opinion?—That is my opinion.

673. Supposing the contingencies you have contemplated to arise, and that the loan could not be obtained upon reasonable terms, what then would be the result?—There are two

or three courses open to the Government, and the intention of the Assembly was, clearly, to give the Government the power of calling for tenders. If our contractors were to offer to take up the works, and to accept the debentures at par, or upon terms that they might name, such terms being deemed reasonable by the Government, the difficulty would at once be overcome; but supposing that not to be the case, an effort would then be of course made in the London market, through the mediation of one or two of the largest houses, viz:—Rothschilds, Barings, Glynn, or other houses that are known to be always ready to aid and assist in such loans. Probably the Government would have less difficulty in getting an undertaking from them, that they would take the loan up, supplying such a sum of money during the next four or five years as might be required, they remitting the amounts and requiring certain notices of the times to be given them. No doubt that could always be done. But failing in that, I am not prepared to say that, as a member of the Government myself, I should advise the works to be proceeded with at any cost whatsoever, because I am of opinion that nothing can justify incurring any extraordinary liability without being first fully prepared for it. Again, I only look upon this expenditure as desirable, if it can be done well and economically; but if it is only to be done at an extravagant rate, either by the contracts being taken at a high rate, or by our debentures being sold at a low rate, or by a combination of both, making it additionally extravagant, I, as a member of the Government, should be one of the last to deem such a measure to be either a prudent one or one that I could advise. At the same time, as I before said, I look upon these works to be of great importance to the Colony, if they can be carried out efficiently and economically; but I do add these two conditions: first, that it is contingent upon the money being raised, at all events at par; and secondly, upon the contracts being taken up at reasonable rates.

674. *By Mr. Henty.*—Have you any idea of the value of these debentures in England now?—The 6 per cents., I think, are worth 106 to 108; Sydney 5 per cents, are worth 98.

675. *By the Chairman.*—Can you name to the committee any sales to any amount that have taken place at those rates, or do you take your information from the reports?—No; I take my information from bankers' letters, and also from information that I have myself received; but I at once say that I am aware, as a matter of fact, that those debentures have not yet so established themselves in the London market as at the present moment to be sought after in any large quantities or numbers. The state of the money market in England has been quite enough to account for that; and when I further mention to the committee that in London you may receive as much as 6 per cent. for any money you deposit at call, when the rate of discount at the Bank of England is 7 per cent. (that is to say, you can obtain within one per cent. of the Bank of England rate of discount), it must be evident that, as the rate of discount has ruled high for some time past, there can be no desire to invest in 5 per cent. or 6 per cent. debentures.

676. Do you see your way to find funds for the commencement of these works and for their progress to a certain extent?—At this moment, without that Loan Bill being passed, I do not.

677. In the event of this Loan Bill being passed, do you see your way to the furnishing of funds to commence these works and to make progress with them?—I do.

678. You are aware it has been mooted to proceed with thirty-five miles, do you see your way to that?—To Gisbourne?

679. To Gisborne?—I do.

680. Without inconveniencing the other branches of the public service or producing that monetary crisis you seem to apprehend?—Certainly.

681. *By Mr. Henty.*—Without looking to the result of the sales of debentures at home?—Looking to the sales of debentures here.

682. *By the Chairman.*—Then it would not be necessary to wait for the result of the application at home before you commenced these works?—I think not. I may state that there is no occasion for mystery in this matter. If the Loan Bill were passed, I should immediately act upon it. If it had been passed to-day, I should then have had a plate struck off, and should have made my arrangements for the sale of certain debentures, and have endeavoured between this and the end of the year to have raised £300,000 or £400,000, and by getting that, I should have been enabled to have advised the Government to have entered into contracts for the railway as far as Gisborne.

683. Have you observed that, in the evidence taken before the committee of the Assembly, both the English contractors and some of the Colonial contractors have offered to tender for these works and take payments in debentures at par?—I have seen something of the kind.

684. That is in the evidence?—Yes.

685. From your experience of these matters, have you confidence that, if you did pay in debentures, those parties could carry on the works; would not the carrying on of those works depend in a great measure upon the same conditions you now name with regard to the sale of the Government debentures; that is, the possibility of their turning those debentures into cash either in this market or at home?—I look upon it that of course it would be open to the same contingency; but I also consider that the large contractors, men like Peto or Jackson, or any large contractors, who are well known, have probably equal facilities in raising money; and, from their intercourse with the moneyed houses to which I have already alluded, they would probably be in as good a position in that respect as the Government; and from this circumstance, that when those large houses put before the country a loan in the kind of debenture that I have described, and pointed out how the money is to be expended; and when people know that those

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are not debentures put forward with any absurd view, but to carry out some important work in the country, which is to add to the greatness of the country, they look at the security, and being satisfied with that, they look upon it as a good investment, because they know the work is required. Therefore those large contractors, under the circumstances stated, go with great advantages before the public; consequently, I do not anticipate in such a case greater difficulty than might be apprehended in the case of the Government managing the sale of the debentures themselves; because those contractors would resort to exactly the same means as the Government would, in the first instance making their arrangements with insurance and other companies which are obliged to have their money out at interest; and thus they would get from those companies the money they would require. Thus the debentures would not, I think, be sold rashly, but only be thrown into the market as money was wanted; whether by the Government or by the contractors.

686. *By Mr. Fawkner.*—We should have the benefit of their responsibility in assisting to sell the debentures?—Yes.

687. *By the Chairman.*—Have you the same confidence in the Colonial contractors contracting to perform these works, and taking payment in debentures?—I have not. And to pay for small contracts in debentures would be a measure that I never myself would consent to.

688. Then I presume, if the English contractors were to tender at a reasonable rate, agreeing to take those debentures in payment, you would see no objection to accepting their contracts and employing them to perform the work?—None.

689. You stated just now that parties at home who advanced those moneys would look a great deal to the security that was offered?—Yes.

690. You observe that the debentures are made, by the 5th clause of this Railway Loan Act, a primary charge upon all the revenues of this Colony?—Yes.

691. What do you understand by that—is there not an existing debt of one and a half millions?—There is, but it excepts that.

692. Supposing that a Government hereafter were to contract further loans, what special security would those debenture-holders have?—They would have no special security; they have the security of the country, and they are secured of course by being secured upon the consolidated revenue. They have a claim upon the land fund; but the reason why I do not think it advisable to give them a special mortgage on the works is, because I look forward when this railway is done to be enabled to sell it, and then we should have an available fund to complete all the railways in the country which we should have to make; and I look upon it, therefore, that this loan would be sufficient. There would be a difficulty in the sale, if you mortgaged the works specially, and I consider the mortgage unnecessary, as the security of the consolidated revenue is sufficient; and the very fact of the railway going through the country gives an increased value to the remaining lands that are unsold; and, though it may be said that we are selling perhaps a million acres, or whatever it may be, per year, still the increased value given to the remainder would leave probably the same amount of capital for the country at any given point of time for some years to come.

693. Then, you do not think it would add to the security, and probably facilitate the completion of the loan, if you were to make a reserve of the railway and plant and rolling stock; if you were to give a special security upon that?—I do not think it desirable. I think it might be, if found necessary, resorted to; but I do not deem it necessary in the first instance thus to clog the Bill, because I conceive that the large security offered is sufficient for every purpose. But it is possible, and the circumstance has struck me, that special security might be asked for; and if so, that is a question that might be entertained hereafter.

694. Then your main reason for objecting to it is, that you think it possible you might sell the railway?—Yes.

695. And apply the proceeds to what?—Probably to the extension of railways.

696. Would not it be a much better plan to pay off this incumbrance, and give fresh securities upon a fresh claim?—Clearly, if it is desirable; but there is no reason why you should clog yourself with that obligation; you may leave it optional. You will observe here is a power given in this very clause, that “The Governor in Council may from time to time authorize the Treasurer to re-purchase the said debentures to the amount of such moneys as the Legislature may by any Act hereafter to be passed appropriate for that purpose and all debentures so re-purchased shall be forthwith cancelled and shall not be re-sold under any pretence or circumstances whatever.” That contemplates the power in the Government to do it, if they should see fit.

697. That is, to re-purchase the debentures?—Yes; but it might be preferable to allow the loan to stand, and to invest the money in something else, as I say, in the extension of railways, or other great works. I may mention, that I think it should be the duty of a Government to devote itself in one spirit to the due expenditure of the funds of the country. The general revenue, or what we have been in the habit of calling such, should meet the departmental expenditure, and the ordinary wants of the country, as also the interest on all loans made, and also the provision already made for the repayment of those loans incurred; and I think the land fund (though forming a portion of the consolidated revenue, still such portion of the consolidated revenue as shall have been given by this land fund) should be applied especially to public works of a permanent character, such as roads, bridges, &c., and probably some amount of it towards railway purposes.

698. Have you turned your attention to the subject of whether these railroads would be reproductive or not?—I have not applied myself to that portion of the question so fully as perhaps I might have done, because I have scarcely thought that the time had arrived for that.

What the traffic will be four years hence it is difficult to say ; but if it increases within the next four years in the same ratio as it has increased during the last four, then doubtless the return from those lines will be very great indeed. The traffic on the line from Sandhurst of course will be very large ; and, again, the line to Ballaarat, looking to the continuance of the Ararat gold field, would be immense ; so also, I think with regard to the traffic upon the Mount Alexander line to Sandhurst, which is estimated at about 100,000 tons.

699. *By Mr. Mitchell.*—One hundred and fifty thousand tons, is it not?—I take a moderate view ; and taking it at £5 per ton, which is a moderate rate of carriage, that would be half a million of money.

700. *By the Chairman.*—Then you have no doubt, I presume, in your own mind, that these railways will be reproductive?—I have no doubt of it.

701. That is, that they would pay the working expenses?—They would pay the working expenses.

702. And a sum sufficient to keep them in repair?—Yes.

703. And furnish also, at least, the interest of the money employed in their construction?—Yes.

704. Is it in contemplation to form a sinking fund in any way to pay off this debt at the end of the twenty-five years?—That subject has not escaped my attention ; but I have been averse to proposing it for one or two reasons. First, there are no funds in which the money can be invested in this country satisfactorily ; and, secondly, looking at the result of past experience, I hold it would not be wise to have a sinking fund ; because, if the country were at any moment in want of money, the first thing that would be seized upon would be the sinking-fund, as was done in England ; where, if the sinking fund had been allowed to accumulate up to the present time, it might have paid off the national debt. Still, when the Government wanted the money, they seized upon it, and properly too, perhaps, under the circumstances. Though I do not approve of such misappropriations, the war existed, and at the moment perhaps they wanted the money very much, and they took it, and probably we may attribute to that circumstance the gaining of the battle of Waterloo. Without it we could never have carried on the war, and with regard to the Crimea, we could not have carried on the war there but for the gold from this Colony. I was in England at the time, and it was perfectly apparent that it was the gold from this Colony which enabled the Government to carry on that war. There was as much anxiety felt when vessels from this country were overdue, from the want of this gold, as there ever has been in regard to any one circumstance I know of.

705. If a provision were made for a sinking fund, and an enactment passed that the sums appropriated annually should be invested in the purchasing and cancelling of the Government debentures, then that fund would not be liable to the misappropriation you have named?—But there are certain objections to such a course. Though I should always look to keeping up the price of the debentures to a fair rate, I still do not think that the Government should be compelled to go and buy every year a certain amount, because that might give an undue value to those debentures and compel the Government to buy perhaps at a high rate. Therefore, it is possible that whilst the debentures were selling at par, the Government might be called upon to buy at six or eight per cent. premium. That I conceive might be the consequence of a compulsory measure of the kind. In fact, I look upon it that it would be competent to the Legislature twenty years hence to deal with that. The amount is by no means large for this Colony. I may state that the Government have turned their attention to other sources. In fact, I believe at one time they were in correspondence with Baring Brothers, who offered upon certain terms to transact any business for them.

706. By "terms" I presume you mean a commission?—Yes.

707. What was the commission they offered?—One per cent.

708. It is in evidence, I think, that the Geelong Railway Company paid a commission to a certain party at home?—With due regard to the Geelong railway, I should conceive that a loan emanating under this Bill, would stand in a very different position. This would be a railway loan for the great trunk lines of the Colony of Victoria, formed and carried out by the Government of the Colony, and under a special Act of the Legislature ; whereas, the Geelong loan was one merely undertaken by a private company, getting the aid and assistance of the Government to give a certain guarantee for the per centage at the rate of five per cent. upon it ; but already they are calling out, inasmuch as they find out that this company must give a mortgage to the Colony for the repayment of the interest.

709. A mortgage upon what?—Upon their railway—upon the whole of the permanent way.

710. And stock?—Yes, they have to give that to the Government for this interest, which is guaranteed.

711. In fact, the interest there is a first charge upon the railway?—A first charge upon the railway.

712. Then what per centage would you think sufficient to induce one of those first class houses to undertake the procuring of this loan in the London market—one per cent?—I think that the first question would be whether they might not wish to take it up without any per centage ; and, then, whether you might not afterwards consent to give them a per centage for merely doing the business of the agent—of paying the loan—making them agents for the payment of the loan. I think it is possible they might say, "Very well, we will undertake to give you during the next four or five years £7,000,000 ; you will let us know from time to time when you want the money, and we shall be prepared to sell. We are prepared to supply the

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funds at par, and we will do the business for the Colony in the payment of the interest on those debentures, and charge half per cent."

713. But in no case do you anticipate a higher commission than one per cent. would be asked?—I do not.

*The witness withdrew.*

Edward Khull, Esq., called in and examined.

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714. *By the Chairman.*—You are a broker here?—I am.

715. And you gave evidence with regard to the possibility of raising a loan for railway purposes in the Colony before the committee of the Legislative Assembly?—I did.

716. Have you seen any reason to alter your opinion since you gave that evidence, upon any point?—None whatever.

717. I think you were then of opinion that you could sell six per cent. debentures to the extent of £1,000,000 per annum?—Payable either here or at home.

718. Do you think that that is a necessary condition in the debenture, to ensure its sale here?—Not to the whole extent; not to the extent of the million, but to a very large extent; I would say three-fourths of it.

719. Then what extent of debentures do you think you could sell, as is stated here in the Bill, the interest being made payable in Melbourne only?—I could scarcely answer that question distinctly; I could give an idea.

720. Do you think they would be saleable at all to any extent?—At what price?

721. At par or upwards?—I think there would be a very great inducement to invest at par.

722. But still you could not answer for their being sold readily?—No; they fluctuate a great deal; it depends upon the money market.

723. What is the state of the money market just now. Is there a great abundance of money, or how?—Money is dear at present. There are large sums offering for investment, but the smaller sums are kept locked up in the banks.

724. And what are the prospects of the market, do you conceive?—Within the last two or three days it is rather easier again.

725. I mean the general prospects with regard to this loan; do you anticipate in regard to that there will be a great abundance of money in a short time, or do you think the tightness will continue?—I think the tightness will be got over very speedily, and that investments in debentures, and stocks, and shares, will be much the same as it was two months ago.

726. *By Mr. Highett.*—Are you aware what the six per cent. debentures are selling for now in England; have you had any advices by the last vessel?—We are rather at a loss to ascertain the price, on account of the years not being given. The present £800,000 loan spreads over seventeen years, and in giving the quotations in the London papers they do not give the years; therefore we cannot tell what premium those debentures are really fetching, whether it be for a short period or a long period.

727. Do you consider the long dated debentures or the short ones the highest premium?—The long dated ones always get the higher price.

728. *By Mr. Strachan.*—How do you account for the tightness of the money market at present; can you account for it in any way?—I cannot answer that question.

729. Do you not think it arises from speculations in shares and in mercantile produce?—There has been a great deal of speculation in shares, and the shares have been run up to a very unusual and rather an unpaying rate, and the bills are coming round to be paid, and the stocks are being forced into the market; and the result is, that they are going down as fast if not faster than they rose.

730. Are you aware that there is any want of money for fair and legitimate transactions in this market?—I am not aware of that. I have large sums of money myself for legitimate investment just now.

731. And your answer as to the tightness of the money market must be chiefly confined to speculations in shares?—I cannot speak as to mercantile speculations; but as to stocks and shares I am aware such is the fact.

732. Did you, in your former evidence, say that half a million might be sold in this market?—I think I stated in my evidence that a million could be raised here and at home.

733. *By Mr. Patterson.*—Within one year?—Yes, within one year.

734. *By the Chairman.*—Have you many debentures for sale just now?—Yes, I have.

735. Of this Government and the Governments of South Australia and of New South Wales?—Of South Australian I had £100,000 worth last week, but they were withdrawn.

736. Are they saleable in the market at present?—No, the only debenture that is really asked after is the Victoria Government 6 per cent. I could sell any amount of them, provided they were made payable either here or in London.

*The witness withdrew.*

Mr. Charles Saint called in and examined.

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737. *By the Chairman.*—Have you some information from Castlemaine with regard to this question?—It has reference to the general question of the route. I observe that no witness has touched upon the importance of the line following a water system in the colony. And I

think it will be seen, on reference to the map, that, of the sixteen towns directly interested in the formation of the route direct from Melbourne to Castlemaine, short of Sandhurst, they are all situated upon a good water supply. I will mention them. The first is Keilor, on the Deep Creek, constant supply of water; Sunbury, on the Deep Creek; Gisborne, Deep Creek; Woodend, Five Mile Creek, a good supply from springs; Karlsruhe and Kyneton, on the Campaspe, both constant supplies; Malmesbury, on the Coliban, constant supply; Taradale, on the Back Creek, constant supply from springs; Elphinstone has a deficient supply of water; and Castlemaine is supplied by three creeks from springs—constant supply; Fryer's Town, constant supply from its own creek; Guildford and Newstead, constant supply from the Loddon; Maldon has a supply from springs, but not a good supply; Muckleford is well supplied. Those are sixteen towns situated immediately upon the road from Melbourne to Castlemaine, and connected one with another, the majority of them having an union of interest—I would speak especially of Castlemaine and Kyneton—it is very desirable that an easy and direct communication should be made with them. The supply of vegetables and hay, and especially corn, to Castlemaine, is very deficient, and the price is consequently high. Kyneton, an eminent agricultural district, supplies all those agricultural commodities which we require; and were there railway communication established, we should afford the Kyneton agriculturalists a ready market for their goods. There would be a large amount of goods and passenger traffic between us, and I believe that part of the route would be an extremely profitable one to the State. Castlemaine is also the head quarters of a very extensive district which lies especially to the south and south-east. We have a vast number of amusements there, and auctions, and general business; and I have frequently heard it mentioned, as a matter of complaint, by people at Kyneton, and Taradale, and Elphinstone, that the expense of coming to Castlemaine is so great, they are unable to come there; but that if a railway were established they would come; and I believe a very large amount of traffic would be obtained from Castlemaine. With respect to the traffic upon the road from Melbourne to Castlemaine and Sandhurst, I believe the amount stated just now was correctly stated by Mr. Ebden at 100,000 tons per annum. From a return taken at Gisborne, in February last, it was ascertained that there were 1,767 tons per week of up loading, and 261 tons down; and there is not the slightest doubt in my mind that, if the means of communication between the district were made easier, that amount of traffic would be indefinitely increased. People would be encouraged to settle along the road; the present unsold land would command a much better price, and the whole district would be eminently flourishing, from Sandhurst and Castlemaine down to Melbourne. I would especially direct the attention of the committee to the fact that the whole of that district is particularly well watered, and in a country like Victoria that is a condition that ought not to be lost sight of in forming railways, particularly when that water itself permeates and intersects the interior settlements of the district.

738. Have you anything else you wish to add?—I do not know that I have anything to answer more, particularly.

739. *By Mr. Patterson.*—Might I ask you if you have any idea of the passenger traffic by the coaches at present?—Yes; I believe the passenger traffic by Cobb's line at present proves an average of about 500 per week.

740. Five hundred up and down?—Up and down from Sandhurst and Castlemaine. The average rate, I believe, is about £3 10s. per head. It is, I believe, ascertained in the old countries that wherever railways have been established, one effect of their introduction has been materially to lessen the expense and encourage travelling; and I have not the slightest doubt, knowing the migratory habits of people in the interior, that were the cost of travelling reduced between the seats of population and the metropolis, the travelling would be indefinitely increased—quadrupled in a short time.

741. *By the Chairman.*—It may, perhaps, be almost unnecessary to ask you; but is it correct or not, that the whole of the people of Castlemaine and Sandhurst, and the towns between Melbourne and Sandhurst, are in favor of the route that is proposed in the Bill that passed the Assembly?—I believe there is not a single exception.

742. Have you ever heard it held by any parties that it would be desirable to allow Castlemaine to have a mode of reaching Ballaarat by forming the lines set out here instead of forming this line—(*pointing to the map*)—that it would be more advantageous for Castlemaine to compel the people to go round by Ballaarat?—I have always heard the contrary; and this has been the reason: we fully approved of the line from Geelong to Ballaarat for nearly the same reason as we approve of our own, because it intersects the well watered settled districts; and we look forward to the time when the line will be carried to the west, to Carisbrook, and Maryborough, and then join the line at Ballaarat, and so connect by the easiest and cheapest mode all the rich district of the interior, which we think the main line through Ballan will not do so efficaciously.

*The witness withdrew.*

Mr. Richard Andrews called and examined.

743. *By the Chairman.*—You have heard the evidence given by the last witness?—*I* have. Mr. R. Andrews,  
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744. As to the wish of the people of Sandhurst, that the line mentioned in the Bill should be adopted. Are you aware whether that is the case or not; that is, whether the people of Sandhurst universally desire the line to run in that direction?—Without exception.

745. Do you consider that the traffic upon that line would be remunerative?—I consider

Mr. R. Andrews, it would be very remunerative. I have made some calculations upon the subject, which I will give to the committee.

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746. State them, if you please?—We have come to the conclusion in the first place, from taking the opinions of the merchants of Sandhurst, who are the parties best qualified to know what quantity of goods at present come up weekly to Sandhurst, and have ascertained from them that at least there are one thousand tons per week to Sandhurst alone; that is their opinion, and I think I can state some facts in confirmation of that opinion. The first witness alluded to the traffic table which was presented to the Committee on Railways in the House of Assembly; that gave the traffic taken in the first week of February of this year, that was taken at Gisborne, and the number of vehicles which passed during that week, a week of seven days, was 1279 upwards towards Castlemaine and Sandhurst. It was estimated that those drays carried 1767 tons of goods. I believe that that amount was very much underrated; for as we came from Sandhurst yesterday, in the first place, as to the number of vehicles, I noted down the traffic at various parts of the line, and in three separate spaces of twenty minutes each, I counted the following number of loaded drays. In the first twenty minutes, I counted fifty-six drays pass; in the second there were fifty; and in the third, there were forty-three; making one hundred and forty-nine drays in the space of one hour, dividing the twenty minutes.

747. Where was this at?—Below Kyneton.

748. On this side of Kyneton?—Between Kyneton and Keilor Plains.

749. *By Mr. Mitchell.*—Those were not twenty minutes consecutively?—No, not consecutively, but at different times. I wish to observe that at least two-thirds of the vehicles that passed us laden were American waggons, carrying at least from two to three tons.

750. *By Dr. Hope.*—You were riding, not standing still?—No, we were riding. I will mention why I allude to this is, that I see, according to this traffic table taken at the end of February, the largest number of drays passing any one day was 232. I would therefore say that these 1767 tons, which, according to this traffic table, was conveyed up in one week, must be considerably underrated; taking it even upon the calculation of the same number of vehicles here given, it would be something like 2500 tons at the very least; at all events, I am justified in saying it is 2000 tons; and taking it at that much, it will go far to establish the fact that there are 1000 tons for Sandhurst going up that line every week. There is another point which is rather a matter of calculation: I have been endeavoring to consider what is the absolute consumption by our population of the absolute necessaries of life. It appears to me that the conclusion could be drawn very fairly from what a population like ours must absolutely consume of articles that must be imported. We take our population to be 35,000; that is, for the district of Sandhurst; that is, not including the electoral district of the Loddon, because the districts do not correspond; but taking the district of Sandhurst at 35,000, there are of that number 14,520 in the municipality alone.

751. *By the Chairman.*—What is the result of your calculation?—I calculated that, for the consumption of that population in those necessary articles of tea and sugar, tobacco, flour; winter vegetables—such as potatoes, of which we want large quantities; and sundry articles of luxury—such as pickles, candles, and so forth, including wines, spirits, and imported beer; 426 tons of those articles are imported into that district a week, for the consumption of the population; and I could prove that, by giving every detail of it, if the committee wish it.

752. That is quite sufficient. Now let me ask you if you are aware of the price charged for the carriage of a ton of goods from Melbourne to Sandhurst?—I am; but first, allow me to state one other fact. In addition to these 426 tons, we have to import the necessaries of life for our horses, of which we have an enormous number in the district. I have made a calculation of the quantity of oats imported into Sandhurst; and speaking of that one branch of what we import, we import no less than 160 tons of oats every week into Sandhurst.

753. *By Mr. Mitchell.*—How many horses do you calculate?—8000 horses. We have 6000 horses in the puddling mills. I ought to add to that, I have not included hay there, and we import very large quantities of hay from Kyneton; and in this calculation I have made of the traffic taken at Gisborne I do not at all include traffic which comes into Sandhurst from McIvor, from which place we import very large quantities, especially of fodder; and building materials we are constantly wanting very large quantities of. The population is becoming more settled in Sandhurst every day, and we are continually rebuilding.

754. *By the Chairman.*—I will now repeat the question as to the charge for the carriage of a ton of goods from Melbourne to Sandhurst at the present time; what is the average charge throughout the year?—At the present time the charge for the conveyance of goods to Sandhurst, by horse teams, is £8 10s. a ton; it is rather on the rise just now. The bullock teams are at the present moment very little lower. The highest rates we paid last winter in Sandhurst was £14 per ton; the average of that would be £11 5s.

755. *By Mr. Fawkner.*—Is £8 10s. your summer price?—That is the price now; you may sometimes see advertisements lower, but you cannot get goods conveyed at less than that in any quantity; no quantity could be sent up at a lower rate than that; it is a low rate. The rates are now on the rise.

756. *By the Chairman.*—Is there anything else you wish to state to the committee?—In the next place, with regard to the calculation as to passengers, I can give you some facts upon that matter. I have got a return of the number of passengers brought to Sandhurst, and taken from Sandhurst, only it does not include passengers on the road. For the five months of May to September, both inclusive, 2,313 passengers were brought from Melbourne, and 2,070 passengers were taken to Melbourne; making, by Cobb, a total of 4,383 passengers in those five months, or per day an average of 35. For two months or more of that time there was an

opposition coach running, which affected the traffic in two ways; first of all, it took a certain number of passengers away from the line, and of course it interfered with the traffic by Cobb's conveyances. It ran twice a week for rather more than two months, and was then taken off. I have put down as a very moderate estimate, that five passengers per day were taken by that conveyance. I cannot get at any precise information, but that will make forty passengers per day by the two conveyances. I have put down for passengers who go by waggons, of which we have a regular conveyance, very comfortable, expeditious, and very cheap—those American waggons going down empty. I have put down very much under the mark, that those waggons bring up or take down daily, thirty passengers. I have been most desirous to keep these figures low.

Mr. R. Andrews,  
continued,  
16th Oct., 1857.

757. *By Mr. Strachan.*—With regard to those forty passengers per day by those two coaches; were there two up and two down?—That coach went twice a week. I estimate that in the week there were thirty passengers carried; that is the way it makes five per day.

758. *By the Chairman.*—Forty passengers per day, then?—Yes.

759. And thirty by American waggons; making seventy?—Yes, making seventy; and then on horse back, or in their own conveyances twenty, which is also a very moderate number. Many people go down in charge of cattle and sheep, who, if the cattle and sheep went by railway, would go by railway also. The committee will observe that these figures make ninety passengers per day of present traffic; and it is a well established fact that the establishment of railways at once causes a very enormous increase in the number of passengers. It is, I know myself, for all purposes of calculation in Europe, considered that the number of passengers is quadrupled.

760. But be so good as confine yourself to the number of passengers at present?—There are ninety per day; but at the present moment the largest classes of our population do not travel at all.

761. Why?—It is not the question of expense that deters them, it is the time; and with regard to that large population, probably the committee are acquainted with the puddling interest—those men cannot possibly be away from their business; and, if they want to come to Melbourne, it takes them a week.

762. That makes some 32,800 a year, does not it?—Yes.

763. *By Mr. Patterson.*—Have you made any calculation of the number of people who walk up the road?—That is a matter scarcely to be calculated; but their numbers are legion, I was going to say.

764. *By the Chairman.*—What is the average cost by Cobb's coaches?—The price may be taken on the average, when there is no opposition on that line, at £4 all the year round.

765. *By Mr. Patterson.*—Do you know what the parliamentary charge is at home by the trains?—A penny; but they do not travel continuously; they go into sidings and so on. Having made the calculation, which I consider a very moderate one, I consider the goods traffic will give a revenue of £221,260 at 1s. per ton per mile, and that the passengers will give a revenue of £211,275; and I think no one who is acquainted with the working of railways and the railway system in England will consider that the calculation is anything but a very moderate one indeed. With regard to the Murray trade, I want to make this statement—that, by the connection of that great navigable river, the Murray, with the seaboard, by the shortest possible line, a great new trade will be opened, which will go far to be reproductive, not only upon its own portion, but upon the whole of the line between Melbourne and the Murray. I would mention this, that the whole of the district to the northward of the Murray up and down for almost any conceivable distance will be connected with Melbourne, if that railway is made, and by far the greater portion of stock consumed in the Colony comes down within fifty miles of the Echuca; and I would give these figures to show what that trade is. I am now speaking of the cattle trade down. From January 1st to September 9th, of this present year, the number of cattle which crossed at Echuca and Maiden's Punt was 53,991. There were in the same period 195,141 sheep; and there were of horses 2,238; and calculating what would be the amount of that traffic for the whole year, it would be 71,988 head of cattle, 260,191 sheep, and 3,084 horses. I would beg leave to mention this fact to the committee, that if that railway were established, we should not only be able to bring the cattle down direct to Melbourne by an expeditious and cheap comparatively to the present costly mode of travelling by driving those cattle down; but those cattle would arrive in Melbourne in very superior condition to what they do at present; and the price of butcher's meat in Melbourne would be very materially reduced by being so brought down. I have heard in Sandhurst that the price of butcher's meat has been considered lately. I have only further to add that, if the line of railway takes an indirect course to Sandhurst, it will very materially affect the quantity of goods to be conveyed by that line. Goods of a coarse quality and of comparatively little value, such as timber and iron, and so forth, will not possibly afford to pay the additional expense of £2 6s. per ton for going out of their way, the forty-six miles which will be involved.

766. That is, by compelling them to go by Ballarat?—Yes.

*The witness withdrew.*

Mr. James Forest Sullivan called in and examined.

767. *By the Chairman.*—You are chairman of the municipality of Sandhurst?—I am.

Mr. J. F. Sullivan,  
16th Oct., 1857.

768. The committee will be happy to hear anything you have to say upon the subject of the proposed railway?—In regard to the evidence which Mr. Andrews has just given, I am



Mr. J. F. Sullivan,  
continued,  
16th Oct., 1857.

prepared to state that he has underrated in almost every instance; in fact, his excessive modesty has scarcely done justice to the district; and in estimating the traffic likely to accrue from the establishment of railways, one very important point was lost sight of, namely, the enormous amount of machinery that would be brought up there for quartz crushing, a business which I may say is merely in its infancy; and one thing, which at the present time deters many persons from investing in quartz crushing, is the enormous cost of bringing up the machinery and heavy materials, such as basins, and those heavy iron balls which they use, and other matters; the cost of carriage is really astonishing, and at the present time it checks the business of the place very materially. I am quite satisfied myself, that quartz mining in Sandhurst is merely in its commencement, and that if there were facilities of railroads, it would be increased tenfold, and I am quite speaking within bounds; and any one who has had experience of Sandhurst will understand the inexhaustible nature of the quartz reefs in that vicinity; you can scarcely place any limit upon it. In regard to the wealth of the town of Sandhurst, I may state that the rent roll at the present time is £118,000 per annum, and that is taking it on the estimate of sixty per cent. of the actual paying rents. The actual rental of the place I may say is probably forty per cent. more than is set down in the assessment. The committee will be well aware of the fine country lying to the north of Sandhurst yet unexplored, and to the northward and westward, and therefore they will see the necessity of opening up as speedy a communication with that part of the country as possible.

769. Have you any doubt that the railroad would pay its own expenses?—I have had considerable experience of railways in America, having travelled on a great portion of the railways, and I find that invariably a railway creates traffic; that even on the Hudson, that fine navigable river for 150 miles from New York to Albany, there are as fine steamers as any in the world navigated, and yet that the railway along side that river has been a very good paying speculation; therefore, it must be obvious to every one, that if a railway alongside a good navigable river will pay, it must pay much better in a country like this, where it has no navigable rivers to compete with. A few years ago a railway was started at Chicago, on Lake Michigan, to a place called Cairo, a distance of over 300 miles, and the railway passed through a great portion of a totally uninhabited country when it was made, and the vast extent of land between the State of Illinois and the Lake was almost unsettled; and the consequence of the establishment of that railway has been the enormous traffic which has sprung up, and the rise of Chicago within the last ten years has been marvellous. Some twenty years ago I was there, and then it was a mere village, and now there is a population of 120,000 inhabitants purely depending upon an agricultural country; that is in consequence of the establishment of railways, and I have been given to understand by late accounts that the railway is paying very well, at least it is adding to the wealth of the States. Although it may not have paid the shareholders a heavy dividend, it has materially increased the wealth of the States, that almost every one, whether a shareholder or not, has participated in the benefits of it; and I will venture to offer an observation on this point, that no Government dealing with the railway legislation of the country should confine itself to the mere profits, but look to the general benefits resulting to the States and to how far the Government of the country may be indirectly benefitted by the increased consumption; and I would make one more remark in regard to the Government of the country undertaking public works in connection with America, and that is, in regard to the canal between Albany and Buffalo, though much opposed at the time the Government undertook the work. That canal was made at the expense of the State some ten years ago; the debt of the canal was paid off, and by the profits of the canal it has been widened to double the width, and the depth of the canal has been very considerably increased by the profits accruing from it to the State, and at the present time it affords a very fine source of revenue to the State; at the same time the tolls are reduced to the very minimum price at which goods can be taken, thus affording great facilities to the common wealth as well as revenue to the State. I have not the slightest doubt that the great northern railway will be highly remunerative, even as a speculation.

770. That is, you mean the line from Sandhurst to the Murray?—From Melbourne to Sandhurst, the general line.

*The witness withdrew.*

1856-7.

VICTORIA.

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# R E P O R T

OF THE

SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL

ON THE SUBJECT OF

# GRANTS TO THE CORPORATION OF MELBOURNE,

TOGETHER WITH

THE PROCEEDINGS OF COMMITTEE, MINUTES OF EVIDENCE,  
AND APPENDICES.

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ORDERED BY THE COUNCIL TO BE PRINTED 4TH NOVEMBER, 1857.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

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THURSDAY, 8TH JANUARY, 1857.

**PUBLIC MARKET.**—Mr. Fawkner, in accordance with notice, moved, That a Select Committee of seven Members of this House be appointed to enquire into and report whether the policy of the Government in granting lands, and also in guaranteeing a large loan of money to the Corporation of Melbourne, has been properly carried out by the erection of buildings in no manner serving the purposes of a public market, but more particularly used as a means of augmenting the Corporation revenues, to the great injury of the agriculturist, the market gardener, and other producers, as well as the owners of land and house property in the neighborhood, and that Messrs. Hood, Kaye, Hodgson, Guthridge, Stewart, Power, and the Mover, be the Committee.

Debate ensued.

Amendment moved—That all the words after the word “the” in the second line, down to the word “neighborhood” in the seventh line, be omitted, with the view to insert the words “purposes for which the Government has granted land and guaranteed interest on a large loan to the Corporation of Melbourne has been and is being now carried out.”

Debate ensued.

Mr. Fawkner having adopted the amendment,

Question—That a Select Committee of seven Members of this House be appointed to enquire into and report whether the purposes for which the Government has granted land and guaranteed interest on a large loan to the Corporation of Melbourne has been and is being now carried out, and that Messrs. Hood, Kaye, Hodgson, Guthridge, Stewart, Power, and the Mover, be the Committee—put and passed.

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WEDNESDAY, 4TH NOVEMBER, 1857.

**GRANTS TO CORPORATION.—REPORT OF SELECT COMMITTEE.**—The Honorable J. P. Fawkner brought up a Report from the Select Committee appointed to inquire into and report whether the purpose for which the Government has granted land and guaranteed interest on a large loan to the Corporation of Melbourne has been and is now being carried out, and moved that the same be received and printed.

Question—put and passed.

The Honorable J. P. Fawkner, with leave of the Council, moved, without notice, That the consideration of the Report be made an Order of the Day for Tuesday next.

Ordered.

## REPORT.

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YOUR Committee, as directed, have examined many witnesses, and amongst them some of the corporate officials, and have arrived at the following conclusions:—

1. That the City Council of Melbourne, in dealing with the Eastern Market, have not kept in view the purpose for which the land was granted, and have sadly injured the market gardeners and consumers, and consequently the public as a body. It appears that, on the 12th November, 1855, an appropriation was made by the City Council of £15,000 for building in the Eastern Market reserve, but no part of that sum has been so expended, and faith has not been kept with the public in this matter.

2. The returns furnished to your Committee by the City Treasurer show that the Corporation received for the use of the market lands, from 1st September, 1847, to 28th February, 1857, the sum of £25,396 odd, yet they have not afforded the least covered accommodation for either hay or garden produce; the producers and dealers in garden produce allowing themselves to be virtually shut out of the market reserve, taken up chiefly by dealers in general merchandize.

3. The Corporation of Melbourne did expend some moneys on the sheep and cattle market; but for the last three years they have neglected their duty, and have suffered the accommodations that were made to become so very dilapidated, that the cattle dealers have been compelled to purchase land outside the city boundaries, and are about to lay out many thousands pounds in establishing a proper market. The cattle market, by the returns, has yielded, from the 1st of December, 1842, up to the 28th February, 1857, £19,657. The last two years and a half of this period the sum of £8,750 was collected; while it appears by the returns that the whole amount expended on the cattle market from its establishment to the present time is only £3,335 5s. 8d., although a resolution was arrived at by the City Council some three years ago, that all moneys accruing from the markets were to be expended solely for market purposes; which, after a few months, was allowed to fall into disuse. It is in evidence that, from the disgraceful state of the cattle yards, single beasts were calculated to lose 20lbs. of meat per night for want of proper yards, thus tending grievously to deteriorate the quality of the meat, and at the same time to reduce the quantity available for consumers.

4. The Western Market your Committee wish more especially to draw your attention to. A site for this market was selected and handed over to the Market Commissioners in 1841. They had no funds in hand, but at their own risk fenced the land in, and in 1842 delivered their trust up to the Corporation of Melbourne. From 2nd December, 1842, to 1st September, 1851, the fees paid in for the use of stand room, &c., in this market was about £2,665. Up to this time, and partly in 1852, standing room (but no shelter, or even marked stands for each cart) was accorded; but we find that in 1851-2 the market yielded £417 6s. 2d.; and beginning with 1st September, 1852, down to 1st September, 1855, a period of three years, the general or Western Market was virtually shut up to the market gardeners and to their sale of fruits and vegetables; and the Corporation of Melbourne, in direct violation of the tenure on which they held this land, let it on building lots, and in the three years, as per returns furnished by the Town Clerk, they realised the sum of £21,112 19s. 3d., since which time the gardeners have occupied part of their proper market ground; yet some months since the Corporation drove out of the market the whole of the producers and consumers, and, doubly guilty in this matter, forced the producers to pay for stands on the open streets, taking up the footway with the produce they had to display for sale, contrary to the law which forbids persons exposing their goods for sale on the footways of the town; and in defiance of the annexed clause in the deed of grant of the Western or General Market have built a vast mass of stone over the greater part of this market, which of itself, if the whole had been kept open, was scarcely large enough. They have completely ruined this market place, and inflicted vast injury upon producers and consumers. We are therefore of opinion that the Executive should take the necessary steps to resume this land, which, through misconduct of the Corporation of Melbourne, cannot now answer the purpose it was granted for; and that, in order to carry out the intention originally formed of affording market room, the Government should grant in the most central place (say rear of the gaol) a sufficient space for the growing wants of this large city.

5. The clause in the grant of the market referred to above is hereto annexed, and appears to your Committee to be conclusive.

6. With regard to the other business referred to your Committee, viz., the expenditure of the Gabrielli loan, from the returns furnished by the City Treasurer, and his letter, dated 26th June, 1857, marked B 1 in Appendix, your Committee are forced to the conclusion, that a large amount of recklessness and want of judgment characterized the conduct of the City Council in that matter.

7. On a review of the whole question, your Committee are unanimously of opinion that the present constitution of the Council of the City of Melbourne is ill adapted to the satisfactory performance of corporate functions in the following particulars:—1st. The Council is numerically too large for an administrative body. 2nd. The partition of the city into wards, each returning its own representatives, creates local interests and improper jealousies, which operate detrimentally to the general welfare of the city. 3rd. The election, within the Council, of aldermen for the several wards induces a large amount of petty intrigue unworthy of a body charged with such important public functions. 4th. The duration of the term of office of councillors is so short as to interfere with the independent action of members. Their having so soon to come before their constituents for re-election is calculated to foster a servile anxiety to conciliate the citizens of their respective wards at the expense of the public weal.

8. Your Committee would therefore recommend that a Bill be laid before Parliament, abolishing the present Corporation of the City of Mel-

bourne, doing away with ward divisions, and providing for the substitution of a Council, or Court of Aldermen, consisting of say twelve (12) members, to be elected by the entire body of citizens by ballot (for which the Electoral Rolls might be used, and so save a large expenditure in collecting and printing Citizens' Lists), the term of whose office to be six (6) years, two members retiring annually by rotation ; which Council, or Court, should elect from among themselves a Mayor or Chairman from year to year, who would still retain the office of Chief Magistrate of the city. The Council, or Court, should also have the power and be required to elect annually three of their number, one of whom should be the Mayor, to act as an Executive Committee, with such salaries or allowances as the Council might deem meet.

JOHN P. FAWKNER,  
Chairman.

## PROCEEDINGS OF THE COMMITTEE.

THURSDAY, 29<sup>TH</sup> JANUARY, 1857.

*Members present :—*

The Honorable J. P. Fawkner, in the chair.

The Honorables J. Hodgson, T. H. Power.

The Committee entered into a preliminary discussion and adjourned *sine die*.

THURSDAY, 26<sup>TH</sup> MARCH, 1857.

*Members present :—*

The Honorables J. P. Fawkner, J. Stewart.

No Quorum.

Committee adjourned till Wednesday, 15th April.

WEDNESDAY, 15<sup>TH</sup> APRIL 1857.

*Members present :—*

The Honorable J. P. Fawkner, in the chair.

The Honorables J. Stewart, J. Hodgson.

The Honorable J. P. Fawkner laid before the Committee a letter from the Surveyor-General, and copy of grants to the Mayor and Corporation.

Committee adjourned till Friday, 17th instant.

FRIDAY, 17<sup>TH</sup> APRIL, 1857.

*Members present :—*

The Honorable J. P. Fawkner, in the chair.

The Honorables T. H. Power, N. Guthridge, J. Stewart, J. Hodgson.

The following witnesses examined :—The Town Clerk; the City Surveyor; Mr. W. Law, seedsman.

Committee adjourned till Monday, 20th instant.

MONDAY, 20<sup>TH</sup> APRIL, 1857

*Members present :—*

The Honorable J. P. Fawkner, in the chair.

The Honorables J. Hodgson, T. H. Power.

The following witnesses examined :—Mr. Law, seedsman; Mr. Thos. Johnson, market gardener; Mr. James Scott, nurseryman; Mr. Thos. Lansley, market gardener.

Ordered—That Mr. Robinson, market gardener; Mr. Chas. Farewell, City Treasurer; be summoned to attend the committee.

Committee adjourned till Wednesday, 22nd instant.

WEDNESDAY, 22<sup>ND</sup> APRIL, 1857.

*Members present :—*

The Honorable J. P. Fawkner, in the chair.

The Honorables N. Guthridge, J. Hodgson, J. Stewart.

Mr. R. Robinson and Mr. Chas. Farewell called in and examined.

Ordered—That Mr. O'Neil, Mr. L. Wadson, Mr. Marks, and Mr. Smith be summoned.

Committee adjourned till Tuesday, 28th instant.

TUESDAY, 28<sup>TH</sup> APRIL, 1857.

*No Members present.*

WEDNESDAY, 29<sup>TH</sup> APRIL, 1857.

*Members present :—*

The Honorable J. P. Fawkner, in the chair.

The Honorables J. Hodgson, N. Guthridge, J. Stewart.

The following witnesses called in and examined :—Mr. Chas. Smith, fruiterer; Mr. L. Wadson, market gardener; Mr. S. Marks, fruiterer; Mr. Geo. Cole, market gardener; Mr. W. Jennings, market gardener; Mr. H. O'Neil, nursery gardener; Mr. J. West, market gardener.

Committee adjourned *sine die*.

TUESDAY, 2ND JUNE, 1857.

*Members present :—*

The Honorable J. P. Fawkner, in the chair.  
 The Honorable J. Hodgson, J. Hood, N. Guthridge.  
 The City Treasurer called in and examined.  
 Ordered—That the City Surveyor and Mr. Alderman Clowes be summoned, and that the Honorable C. Vaughan be requested to attend.  
 Petition from W. Law and others handed in and read by the Chairman.  
 Committee adjourned till Thursday, 11th instant.

THURSDAY, 11TH JUNE, 1857.

*Members present :—*

The Honorable J. P. Fawkner, in the chair.  
 The Honorables N. Guthridge, J. Hodgson.  
 Mr. Alderman Clowes called in and examined.  
 A Return respecting the Gabrielli loan handed in by the Chairman.  
 Committee adjourned *sine die*.

WEDNESDAY, 15TH JULY, 1857.

*Members present :—*

The Honorable J. P. Fawkner, in the chair.  
 The Honorables J. Hood, T. H. Power, N. Guthridge.  
 Mr. Chave called in and examined.  
 Committee adjourned till Wednesday, 22nd instant.

WEDNESDAY, 22ND JULY, 1857.

*Members present :—*

The Honorable J. P. Fawkner, in the chair.  
 The Honorables N. Guthridge T. H. Power, J. Hodgson.  
 Messrs. Gordon and Butchart called in and examined.  
 Committee adjourned till Wednesday, 29th instant.

WEDNESDAY, 29TH JULY, 1857.

*Members present :—*

The Honorables J. P. Fawkner, N. Guthridge.  
 No quorum.  
 Committee adjourned till Wednesday, 5th August.

WEDNESDAY, 5TH AUGUST, 1857.

*Members present :—*

The Honorable J. P. Fawkner, in the chair.  
 The Honorables T. H. Power, J. Hodgson.  
 Ordered—That the Chairman do prepare a draft report.  
 Ordered—That the copy of the deed of grant to the Corporation of Melbourne for site of Western Market, as furnished to the Committee by the Honorable the Commissioner of Public Works, be printed as an appendix to the report.  
 Ordered—That a letter from the City Treasurer to Alderman Clowes, in reference to a certain return laid before the Committee, showing the gross receipts and expenditure of the City Council of Melbourne from 1st September, 1853, to 1st May, 1854, be printed as an appendix to the report.  
 Committee adjourned *sine die*.

TUESDAY, 13TH OCTOBER, 1857.

*Members present :—*

The Honorable J. P. Fawkner, in the chair.  
 The Honorables J. Hodgson, J. Hood, T. H. Power.  
 Chairman read Draft Report.  
 Ordered—That the Draft Report be printed and distributed among members of the Committee.  
 Committee adjourned till this day week.



TUESDAY, 20TH OCTOBER, 1857.

*Members present:—*

The Honorable J. P. Fawkner, in the chair.

The Honorables J. Hodgson, T. H. Power, N. Guthridge.

Printed Draft Report brought up by Chairman and considered.

Ordered—That this Committee adjourn till Thursday next to further consider Draft Report.

THURSDAY, 22ND OCTOBER, 1857.

*Members present:—*

The Honorable J. P. Fawkner, in the chair.

The Honorables J. Hood, T. H. Power, N. Guthridge.

Draft Report further considered.

Clause 1 read as follows:—"1. That the Corporation of Melbourne, in dealing with the Eastern Market, have seldom had in view the purpose for which the land was granted, and have sadly injured the market gardeners and consumers, and consequently the public as a body; and it has been stated that the Corporation of Melbourne, or some of their body, pledged themselves to expend a few of the thousands they levied from the market grounds for the erection of suitable buildings, and have failed to keep their pledge."

Proposed—That the words "Corporation of Melbourne," in the first line, be struck out, and the words "City Council" substituted.—(*Hon. J. Hood.*)

Question—put and passed.

Proposed—That the words "seldom had," in the second line, be struck out, and the words "not kept" be substituted.—(*Hon. N. Guthridge.*)

Question—put and passed.

Proposed—That all the words after the word "body," in the fourth line, be struck out, and the following words substituted:—"It appears that on the 12th November, 1855, an appropriation was made by the City Council of £15,000 for buildings in the Eastern Market reserve, but no part of that sum has been so expended, and faith has not been kept with the public in this matter.—(*Hon. N. Guthridge.*)

Question—put and passed.

Clause adopted as amended.

Clause 2 read as follows:—"2. The returns furnished to your Committee by the City Treasurer show that the Corporation received for the use of the market lands, from 1st September, 1847, to 28th February, 1857, the sum of £25,396 odd, and have not afforded the least covered accommodation for either hay or garden produce, to the injury of the public generally and to the almost ruin of the producers."

Proposed—That the word "and," in the third line, be struck out, and the words "yet they" be substituted.—(*Hon. N. Guthridge.*)

Question—put and passed.

Proposed—That all the words after the word "produce," in the fourth line, be struck out, and the following words substituted, "the producers and dealers in garden produce allowing themselves to be virtually shut out of the market reserve, taken up chiefly by dealers in general merchandize."—(*Hon. N. Guthridge.*)

Question—put and passed.

Clause adopted as amended.

Clause 3 read as follows:—"3. The Corporation of Melbourne did expend some moneys on the sheep and cattle market, otherwise they could not levy any toll; but for the last three years they have most shamefully neglected their duty, and have suffered the accommodations that were made to become so very ruinous, that, as your Committee were informed, the cattle dealers have been compelled to purchase land beyond the township, and are about to lay out many thousands of pounds in establishing a proper market. This market, by the returns, has yielded, from the 1st of December, 1842, up to the 28th February, 1857, £19,657, and from the 1st of September, 1854, to 28th February, 1857, being for two years and a half, the sum of £8,750; whilst, for the same period, the Corporation have not expended £50, but have totally neglected their duty, to the ruin of the market, the injury of the producer and consumer; for it is in evidence that, from the disgraceful state of the cattle yards, single beasts were calculated to lose 20lbs. of meat per night for want of proper yards, thus tending grievously to deteriorate the meat consumed, and at the same time to reduce the quantity available for consumers; and this money raised on this highly important market was taken and expended, perhaps, on those memorable ruins at Market, Collins, and William Streets."

Proposed—That the words in the second line, "otherwise they could not levy any toll," be struck out.—(*Hon. J. Hood.*)

Question—put and passed.

Proposed—That the words "most shamefully," in the third line, be struck out.—(*Hon. J. Hood.*)

Question—put and passed.

Proposed—That the words "ruinous," in the fourth line, be struck out, and the word "dilapidated" substituted.—(*Hon. T. H. Power.*)

Question—put and passed.

Proposed—That the words “as your Committee were informed,” in the fourth line, be struck out.—(*Hon. N. Guthridge.*)

Question—put and passed.

Proposed—That the word “This,” in the sixth line, be struck out, and the words “The cattle” substituted.—(*Hon. N. Guthridge.*)

Question—put and passed.

Proposed—That all the words after the figures “£19,657,” in the seventh line, to the word “for,” in the eleventh line, be struck out, with the view of substituting the following words:—“The last two and a half years of this period the sum of £8,750 was collected, while it appears by the returns that the whole amount expended on the cattle market from its establishment to the present time is only £3,335 5s. 8d.”—(*Hon. J. Hood.*)

Question—put and passed.

Proposed—That the words “quality of the” be added after the words “deteriorate the” in the thirteenth line.—(*Hon. J. Hood.*)

Question—put and passed.

Proposed—That the word “consumed,” in the thirteenth line, be struck out.—(*Hon. J. Hood.*)

Question—put and passed.

Proposed—That all the words after the word “consumers,” in the fourteenth line, be struck out.—(*Hon. N. Guthridge.*)

Question—put and passed.

Clause adopted as amended.

Clause 4 read as follows:—“4. The Western Market your Committee wish more especially to draw your attention to. A site for this market was selected and handed over to the Market Commissioners in 1841. They had no funds in hand, but at their own risk fenced the land in, and in 1842 delivered their trust up to the Corporation of Melbourne. From 2nd September, 1842, to 1st September, 1851, the fees paid in for the use of stand room, &c., in this market was about £2,665. Up to this time, and partly in 1852, standing room (but no shelter or even marked stands for each cart) was accorded; but we find that in 1851–2 the market yielded £417 6s. 2d.; and beginning with 1st September, 1852, down to 1st September, 1855, a space of three years, the general or Western Market was virtually shut up to the market gardeners and to their sale of fruits and vegetables; and the Corporation of Melbourne, in direct dereliction of the tenure on which they held this land, let it on building lots, and in three years, as per returns furnished by the Town Clerk, they realised the sum of £21,112 19s. 3d., since which time the gardeners have occupied part of their proper market ground; yet some months since the Corporation drove out of the market the whole of the producers and consumers, and, doubly guilty in this matter, forced the producers to pay for stands on the open streets, taking up the footways with the produce they had to display for sale, contrary to the law, which forbids persons exposing their goods for sale on the footways of the town; and in defiance of the annexed clause in the deed of grant of the Western or General Market have built a vast mass of stone over the greater part of this market, which of itself, if the whole had been kept open, was scarcely large enough. They have completely ruined this market place, and inflicted vast injury upon producers and consumers. We are therefore of opinion that the Executive should take the necessary steps to resume this land, which, through misconduct of the Corporation of Melbourne, cannot now answer the purpose it was granted for; and that, in order to carry out the intention originally formed of affording market room, the Government should grant in the most central place (say rear of the gaol) a sufficient space for the growing wants of this large city, soon to be the metropolis of Australasia.”

Proposed—That the word “space,” in the ninth line, be struck out, and the word “period” substituted.—(*Hon. J. Hood.*)

Question—put and passed.

Proposed—That the word “dereliction,” in the eleventh line, be struck out, and the word “violation” substituted.—(*Hon. J. Hood.*)

Question—put and passed.

Proposed—That all the words after the word “city,” in the last line, be struck out.—(*Hon. N. Guthridge.*)

Question—put and passed.

Clause adopted as amended.

Ordered—That this Committee do adjourn till a quarter to three o'clock on Tuesday next, to further consider Draft Report.

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TUESDAY, 27<sup>TH</sup> OCTOBER, 1857.

*No members present.*

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WEDNESDAY, 28<sup>TH</sup> OCTOBER, 1857.

*Members present:—*

The Honorable J. P. Fawkner, in the chair.

The Honorables J. Hood, N. Guthridge, J. Hodgson.

Draft Report further considered.

Clause 5 read as follows :—"5. The clause in the grant of the market referred to above is hereto annexed, and appears to your Committee to be conclusive."

Adopted without amendment.

Ordered—That this Committee adjourn till one o'clock on Friday next, to consider clause 6 of Draft Report.

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FRIDAY, 30TH OCTOBER, 1857.

*Members present :—*

The Honorable J. Hodgson, in the chair.

The Honorables N. Guthridge, T. H. Power, J. Hood.

A letter from the Honorable J. P. Fawkner, excusing his absence from illness, handed in and read.

Draft Report further considered.

Resolution proposed—That certain amendments to clause 6, submitted to the Committee by the Honorable N. Guthridge, be printed and distributed to the members of the Committee, and that this Committee meet again on Tuesday for their consideration.—(*Chairman.*)

Question—put and passed.

Ordered—That a certain return respecting the Gabrielli Loan, together with a return showing the gross receipts and expenditure of the City Council, from 1st September, 1853, to 30th April, 1854, be printed as an appendix to the Report.

Adjourned till two o'clock on Tuesday, 3rd proximo.

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TUESDAY, 3RD NOVEMBER, 1857.

*Members present :—*

The Honorables J. Hodgson, J. Hood, T. H. Power.

Committee adjourned till eleven o'clock on Wednesday, the 4th instant.

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WEDNESDAY, 4TH NOVEMBER, 1857.

*Members present :—*

The Honorable J. P. Fawkner, in the chair.

The Honorables J. Hood, J. Hodgson, N. Guthridge.

Clause 6 of Draft Report read as follows :—"6. Your Committee are of opinion that the Corporation, or City Council, have totally failed in their duty to the public as conservators of markets, and that the public have lost all faith in them as supervisors of markets and market produce, and recommend that the markets of Melbourne be for the future placed under the due control of three or five Commissioners of Markets, under such regulations as may render these places what they were intended to be—conducive to the health, wealth, and comfort of producers and consumers."

Proposed—That this clause be struck out.—(*Hon. N. Guthridge.*)

Question—put and passed.

Draft clauses amending Draft Report considered.

Clause 6 read as follows ;—"6. With regard to the other business referred to your Committee, viz., the expenditure of the Gabrielli loan, from the returns furnished by the City Treasurer, and his letter accompanying the same, in which he states his inability to render very correct information, in consequence of the greater part of the public works having been performed by day labor, and other causes, your Committee are forced to the conclusion, that a large amount of recklessness and want of judgment characterized the conduct of the City Council in that matter."—(*Hon. N. Guthridge.*)

Proposed—That all the words after the word "letter," in the third line, to the word "causes," in the fifth line, be struck out, and the following words substituted, "dated 26th June, 1857, marked B 1 in Appendix."—(*Hon. N. Guthridge.*)

Question—put and passed.

Proposed—That the word "recklessness," in the sixth line, be struck out, and the word "improvidence" substituted.—(*Hon. J. Hodgson.*)

Question—put and negatived.

Clause adopted as amended.

Clause 7 read as follows :—"7. On a review of the whole question, your Committee are unanimously of opinion that the present constitution of the Council of the City of Melbourne is but ill adapted to the satisfactory performance of corporate functions in the following particulars :—1st. The Council is numerically too large for an administrative body. 2nd. The partition of the City into wards, each returning its own representatives, creates local interests and improper jealousies, which operate detrimentally to the general welfare of the City. 3rd. The election, within the Council, of aldermen for the several wards induces a large amount of petty intrigue unworthy of a body charged with such important public functions. 4th. The

duration of the term of office of councillors is so short as to interfere with the independent action of members. Their having so soon to come before their constituents for re-election is calculated to foster a servile anxiety to conciliate the citizens of their respective wards at the expense of the public weal."—(*Hon. N. Guthridge.*)

Proposed—That the word "but," in the third line, be struck out.—(*Hon. N. Guthridge.*)

Question—put and passed.

Clause adopted as amended.

Clause 8 read as follows:—"8. Your Committee would therefore recommend that a Bill be laid before Parliament, abolishing the present Corporation of the City of Melbourne, doing away with ward divisions, and providing for the substitution of a Council, or Court of Aldermen, consisting of say twelve members, to be elected by the entire body of citizens by ballot (for which the Electoral Rolls might be used, and so save a large expenditure in collecting and printing Citizens' Lists), the term of whose office to be six years, two members retiring annually by rotation; which Council, or Court, should elect from among themselves a Mayor or Chairman from year to year, who would still retain the office of Chief Magistrate of the City. The Council, or Court, should also have the power, and be required to elect annually, three of their number, one of whom should be the Mayor, to act as an Executive Committee, with such salaries or allowances as the Council might deem meet."—(*Hon. N. Guthridge.*)

Proposed—That this Clause be adopted.—(*Chairman.*)

Question—put and passed.

Clause adopted without amendment.

Report adopted as amended, and the Chairman ordered to report to the House.

# MINUTES OF EVIDENCE.

FRIDAY, 17TH APRIL, 1857.

MEMBERS PRESENT:—The Honorable J. P. Fawcner, in the chair; the Honorables N. Guthridge, J. Hodgson, T. H. Power, James Stewart.

The Chairman laid upon the table copies of the various grants of land for market purposes in the City of Melbourne.—(*Vide Appendix A.*)

Edmund Gerald Fitz Gibbon, Esq., Town Clerk of Melbourne, examined.

1. *By the Chairman.*—Do you know how many markets there are in the City of Melbourne?—I do.

2. Will you state, if you can, the order in which they were granted?—The market lands which are held by the corporation are the western market, the eastern market, and the cattle market (the old cattle markets having been surrendered to the Government, and a fresh grant taken in lieu of them); the hay, horse, and general market, which is also a new grant, at the junction of the Mount Alexander and Sydney Roads; an allotment of land in East Melbourne, adjoining the portion on which the Sewerage and Water Commissioners' tank stands; a further market in Fitz Roy ward, which has been purchased under the Fitz Roy Ward Improvement Act; and two grants of land at Sandridge, which have been recently made for markets there.

E. G. Fitz Gibbon,  
Esq.,  
17th April, 1857.

3. Do you know how long the western market has been held?—The western market was originally held by the market commissioners, who transferred their trust to the corporation.

4. At what time was that market transferred to the City Council?—It was transferred from the commissioners to the council at the termination of the year 1842. The deed of grant from the Crown to the corporation bears date 4th November, 1846.

5. Has there ever been any market-house erected in that western market, or any accommodation for the market gardeners?—There was a market-house with shops, a sort of arcade, and there were at one time stalls erected upon it in various parts.

6. How many?—There were eighty-four allotments let as sites for stalls.

7. Do you know the size of the ground?—One acre two roods twenty-six poles.

8. Were you in the employ of the Town Council at the time the land was let for persons to build tents on it in 1853 and 1854?—I was, during a portion of that time.

9. Can you tell the committee how many places were let; the area of each, and the length of time that the market was so occupied; and also what accommodation was given to the market-gardeners, whether fenced in and covered, or in what the accommodation consisted, and the period during which it was the practice to let those places in that way?—The number of allotments was eighty-four; those fronting Collins-street were 20 feet by 20 each, those on the other frontages were smaller. The letting commenced in February, 1853, and ceased in August, 1855. The centre area of the market remained open for the market-gardeners, and was amply sufficient for the number then attending the market. The space was at that time enclosed by the surrounding tents, but it was not covered over.

10. *By Mr. Guthridge.*—Did I rightly understand you to say that you were in the employment of the corporation when this western market was let in the way you have spoken of?—The practice of letting in that way was pursued sometime after I entered into the service of the corporation.

11. You were not there when that system of letting was first pursued?—No.

12. *By the Chairman.*—Are the reasons within your knowledge why the market was let in the way just spoken of for persons to put tents on it?—One of the reasons which I understood to have induced the corporation to allow the erection of temporary stalls was inadequacy of funds for the erection of appropriate market buildings.

13. *By Mr. Power.*—At that time were the market people, the traders in the market, inconvenienced by those tents, that is, from the ground being occupied for tent purposes?—No; the whole of the ground that was occupied by tents and buildings was taken from the market area; of course the market gardeners could not take their vegetables and drays on to the part of the ground that was so occupied, but there still remained ample space for the gardeners then attending the market.

14. Those tents were an obstruction to the free ingress and egress of the drays and carts?—Most clearly; where the ground was occupied by them they obstructed free access to the market, but they left an open area in the centre, with roadways for ingress and egress.

15. *By Mr. Stewart.*—Can you say whether or not any of those stalls in that market were let for private stores?—Yes, for all descriptions of business; some of them came to be used even as lodging-houses.

16. The stalls, I mean, in the brick building?—In the brick building—the market-house—the stalls were let to poulterers and market gardeners, or for the sale of garden produce.

17. Were none of those stalls let as private stores?—Not that I recollect.

E. G. FitzGibbon,  
Esq.,  
continued,  
17th April, 1857.

18. *By Mr. Power.*—What buildings were let as lodging-houses?—The allotments of land were let to persons who took them, and upon those allotments erected temporary structures of wood and canvas, which soon became a nuisance. They were occupied by shoe-vendors and general dealers, and one or two lodging and eating-house keepers, who provided accommodation for the poorer classes.

19. None of the present buildings, I presume, are devoted to that purpose?—No. The buildings erected up to the present moment are all occupied by wholesale vendors of fruit and potatoes.

20. *By Mr. Hodgson.*—What was the object of the tents being placed in the market square originally and persons being allowed to occupy the places?—Towards the beginning of 1853, a number of the newly arrived immigrants established a sort of bazaar on the wharf, and there sold such superfluous goods and articles of apparel as they possessed. This "rag fair," as it was called, became a nuisance and was suppressed, but as it would have been a hardship and probable cause of distress to prevent those persons from disposing of their goods, they were finally allowed to occupy the frontages to the two general markets, and for that purpose the ground was plotted off into allotments and let. The difficulty of obtaining accommodation in Melbourne for any business was so great at that time, that there was scarcely a portion of vacant ground within the city over which the corporation could be supposed to have control that was not applied for by some person desirous to rent it.

21. *By the Chairman.*—Are you aware at what time the Town Council commenced the erection of the buildings now going on in the market?—The contract for the excavation was accepted on the 14th August, 1855.

22. Can you tell what accommodation there was at that time in the market for the market gardeners?—Only that which I have already mentioned, the open space in the centre was accessible to them.

23. Can you state during the time the excavation was going on what accommodation the market gardeners received there?—None on the ground, because the first thing to be done was to excavate it.

24. Do you know how long the excavation and the building together were going on?—From August, 1855, to February last, when the market was ready for occupation.

25. Is there now any covered-in accommodation of any sort for the market gardeners to bring their carts to market?—No, but I may say, in reference to that, that I recollect a great many markets, and I do not remember one in which there is covered accommodation for carts. It is however intended that the centre area should be covered in.

26. *By Mr. Power.*—Is it the practice at home to have the markets covered in?—Not where carts stand.

27. Would not the climate make a difference here?—The climate is, in my opinion, worse there than here.

28. *By the Chairman.*—What rent is received for the market?—There are twelve shops paying an average rent of £2 5s. per week.

29. What purpose are they used for?—As wholesale fruit stalls.

30. Do you know of your own knowledge that they are used as such?—I know of my own knowledge that they are used as such, and for no other purpose whatever.

31. Are there any regulations under which the remainder of the buildings, when completed, are to be let, which you are at liberty to tell the committee—are they reserved for market produce?—The market is a general market, and I anticipate that, if fishmongers, butchers, or vendors of produce of other descriptions were to offer, they would be received. It is not a market for vegetables alone, nor for the exclusive use of market-gardeners, but a general market. In illustration of this, I would point out that clause 7 of the original market regulations, framed by a sub-committee of the commissioners, of which the honorable the chairman of this committee was a member, provided that "the north-east portion of the market is appointed for the sale of apparel, hardware, crockery, groceries, and all other articles which may be lawfully exposed to sale of a similar description, excepting such as are hereinafter specified." I beg to hand in a copy of these regulations *in extenso*.—(Vide Appendix B.)

32. Are there any rules laid down by the City Council by which they are to be let?—No, I am not aware of any at the present time restricting the letting.

33. Who has the letting of them?—They are let by auction under the direction of the City Council.

34. Who is the authority in the City Council who orders them—the town clerk?—The town clerk instructs the city auctioneer to put the leases up to auction.

35. Is there any set time for them, in the beginning of the month, or the middle of the month, or, in fact, any set time for letting them in the month?—The shops when finished have been let from the period of their completion to the close of the year.

36. Is there any set time in each month in which they are let, or are they let immediately on being finished?—They were let immediately on being finished.

37. What knowledge has the public as to their letting?—Public advertisements in the newspapers.

38. For how long?—About a fortnight previously. In fact, as respects the stalls recently let, a much longer period, for they were first advertised, and then it was not thought expedient to let them until further accommodation was given, namely, until the area of the market was pitched with stone. Therefore they were twice advertised, and consequently the public had full notice previous to the letting.

39. You are speaking of what have been let; I am speaking of what are to be let. What

will be the rule in regard to them, will they be advertised at any particular time, and for any time, or has there been any rule laid down by the City Council for the letting of them?—That will be doubtless in the discretion of the market committee of the City Council.

E. G. FitzGibbon,  
Esq.,  
continued,  
17th April, 1857.

40. Are the committee to understand that there is no fixed time?—The market committee will fix the time during which notice will be given of the letting.

41. *By Mr. Guthridge.*—How many gardeners' carts, or ordinary market carts, will the area reserved for the market accommodate?—The centre area will accommodate sixty with ease, or even a larger number.

42. Allowing sufficient room to deliver their goods and move about?—Yes; a larger number could be pressed in, but giving accommodation of the kind you speak of, sixty.

43. *By Mr. Power.*—How many carts are excluded from the want of accommodation?—The whole number of carts attending the market in the height of season ranges from 200 to 240.

44. *By Mr. Hodgson.*—At the present time?—The number in the market last Saturday morning was 208; but I must point out that the centre area is only a portion of the space which, upon completion of the market, will be available for carts; for in laying out the buildings now in progress in Flinders-lane, between William-street and Market-street, arrangements have been made for allowing a space to remain clear of buildings and open, and sufficient to have the effect of doubling the width of the lane between those streets. The portion of the market thus reserved from being built on will, when kerbed and pitched, accommodate almost as many carts as the centre area; and upon the outer shops, and the kerbing, channelling, and flagging of the footways around the market being completed, greater convenience can be afforded to the market gardeners, simply by the erection of a continuous awning, extending over the footway around the market, they can be completely sheltered from the weather, and provided with better accommodation than is afforded in many of the markets at home.

45. *By Mr. Guthridge.*—Where do you propose to put the awning?—Along the shop-fronts on the outer frontages of the market, and extending over the pavement, till parallel with the kerb line.

46. On the footway?—Yes.

47. *By Mr. Power.*—There is, then, accommodation for sixty carts, and there is the exclusion of 240; so that the market accommodation amounts to one-fifth?—The maximum number which I have mentioned is 240; but there is further accommodation for them along the whole length of Flinders-lane, between William-street and Market-street, where the width of the lane has been doubled, by the reservation of a space not to be occupied by buildings.

48. That is not the market?—It is a portion of the market reserve, and has been left open to the street for the better accommodation of the carts.

49. *By Mr. Guthridge.*—Do you think that the whole of those carts would continue to frequent that market if accommodation were made for them in the eastern market—would that draw away any of the carts that occasionally resort there?—I think not; because I look upon the western market as a wholesale market, the greater portion of the business transacted in it is of a wholesale description. The gardeners attending there dispose of their produce by nine or ten o'clock in the morning, and leave the market for the day.

50. *By Mr. Hodgson.*—If another arrangement was made, could not a greater amount of accommodation be made in the western market for those numerous carts?—Not in the inner area; but a greater amount of accommodation can be given in the manner I have before described; and also, if needed, by converting the whole of the space unbuilt upon between Flinders-lane and the present buildings into an area for carts. This space might also be covered in.

51. *By the Chairman.*—How much of that land was taken from the market by consent of the Town Council to make Flinders-lane?—There is no portion taken from the market. The City Council has extended the open street space there, with the direct intention of giving greater accommodation to the carts that come to the market.

52. How much have they given—do you know?—My impression was, that they had added a space of thirty-three feet broad, but upon recollection, the Government reserved one half of the space, viz., sixteen and a half feet on the southern side of the lane, and the corporation left open a similar strip on the northern side. I wish to impress upon the committee, that the accommodation for carts will not be confined to that given within the area of the market. The accommodation also extends along Flinders-lane, upon the land that is included within the market grant, and which may be made to accommodate nearly as many carts as the centre area, and can be covered over if necessary. Before I leave the subject of the western market, and in reply to the complaint, that during the time the buildings were in progress, the market gardeners were debarred of access to the market land, I wish to call attention to the twenty-third section of the Act 3, Victoria No. 19, for the establishment of markets, which gives power to the corporation to erect on the market lands such buildings as in their judgment they may think necessary; and I submit, that the exercise of this power necessitated the occupation of the land during the erection of those buildings—that it would be impossible to erect them without occupying the ground.

53. They might use part of it for the erection of those buildings and still keep part of it open?—Such was done in fact, part of it was allowed to be used, and as an instance I can mention one of the persons who occupied one of the brick shops in the old market, and who erected a wooden shop still on the market reserve, and carried on business as a vendor of vegetable produce during the period of the market being erected; and the same privilege would have been extended as far as possible to any number of others, if they had been desirous of it.

E. G. FitzGibbon,  
Esq.,  
continued,  
17th April, 1857.

54. Do you know anything of the eastern market?—Yes.
55. How long have you known it?—Since I entered into the service of the corporation at the commencement of the year 1854, and for some time previously.
56. Do you know what was done in the eastern market?—It was dealt with very much the same as the western market; a row of shops was erected in 1847 in rear of the female gaol, on the Stephen-street side, and let to market gardeners.
57. What was on the Bourke-street side?—The Bourke-street side was portioned into allotments in the same way as the western market, and let to persons who carried on business of various descriptions.
58. Shoe shops and all other shops?—Shoe shops and vendors of general produce and merchandise.
59. Do you call shoes and clothes general produce?—I say, amongst them there were vendors of general produce, as well as of clothes, shoes, books, and other merchandise.
60. Were they really vendors of general produce, or were they shops for the disposal of all kinds of goods?—The majority no doubt were for the disposal of all kinds of goods.
61. Can you inform the committee how long this market was so used, or part of it—at what time it was begun?—Yes.
62. Will you give the committee the dates when they commenced, the length of time until they were finally closed, and the area that each occupied on the average, and the sum of money for each year in the aggregate?—If you refer to the more recent letting in 1853, the date of commencement was on the 2nd of February of that year, and the letting finally closed on the 26th December, 1855. The average area of each allotment was 30 feet by 30, and the aggregate revenue in each year was, in 1853, £2,686 5s. 4d.; 1854, £3,067 10s. 11d.; 1855, £5,505 5s. 6d.
63. *By Mr. Power.*—At that time do you think this land was required for the legitimate purpose of selling vegetables and fruits?—There has always been a large area in the eastern market which would have been perfectly available if the parties had chosen to use it, and which, during the period of the building of the western market, would have been equally available if the market-gardeners had desired to occupy it.
64. Do you suppose that the dealers in vegetables and other produce would have applied to occupy and make use of this market if it were not pre-occupied by those buildings and traders?—I think not, and I give my reason why. It has been a long time out of the occupation of those persons and has been lying altogether unoccupied, and not a single application has been made by the market-gardeners even for the use of the principal frontage along Bourke-street.
65. *By the Chairman.*—What accommodation has been afforded to the market-gardeners and the vendors of fruit there, do you know?—There are the stalls which I have already mentioned.
66. How many, and what is the amount they pay per annum?—Eight—producing an aggregate rental of £71 10s.
67. Has there been any covered-in accommodation for the hay carts and for the fruit and vegetable carts in that market?—No.
68. *By Mr. Stewart.*—You say there has been no application for the ground facing Bourke-street. If there was an application, would the corporation let it to those parties?—I have no doubt they would not let it for the erection of tents such as stood upon it before, but I have a very different opinion as to the result of an application to sell market produce there.
69. I see on Saturday nights there are stalls there; do they pay anything?—No. The propriety of erecting more permanent market buildings has been under consideration for some time. Those parties have taken possession on sufferance, and it being considered that it was only for a very temporary period, they have not been interfered with.
70. *By Mr. Power.*—Who are those persons—are they persons connected with the other markets and paying a rent?—No.
71. *By Mr. Stewart.*—Do they pay a tax for selling there?—No; except in the shape of licence for hawking garden produce.
72. Fruit and vegetables?—Yes. I am not aware whether any of them are persons who pay market dues in the other market, but I anticipate not.
73. *By the Chairman.*—Will you give the committee information upon that point, whether they do pay or not?—They do not pay anything for the privilege of selling in the market place. They have been only not interfered with, because it could not be told how soon it was intended to commence erecting the eastern market buildings, and it was not thought worth while to interfere with them, as the privilege they had usurped was likely to be of such short duration.
74. Do you know what buildings the corporation have there besides those stalls you have spoken of?—They have a corn market.
75. Is that covered in?—It is a wooden erection covered in.
76. And the gentlemen who sell corn are accommodated with shelter from the weather?—Yes, when they choose to avail themselves of it.
77. Is there any others?—There is a weigh-bridge, and a couple of boxes used as offices by hay salesmen.
78. Is there any covering over that weigh-bridge?—Yes.
79. Can you state why that is covered?—Doubtless to preserve the machinery.
80. Not to shelter the hay from being wetted?—The benefit that would accrue to the hay for the short period it would be under the cover of that shed would be very trivial.
81. *By Mr. Power.*—Is there ample accommodation for the present requirements of the



vendors of corn?—Yes; they have had one or two shows there. They also held markets there for some time. They formed themselves into an association, and placed themselves in communication with the corporation, and received every accommodation that could be given them. I may state that the market gardeners have never taken any such step, nor have they ever signified any desire to have any such building allotted to or prepared for them.

E. G. FitzGibbon,  
Esq.,  
continued,  
17th April, 1887.

82. *By the Chairman.*—You say they have never done so?—Within my knowledge, certainly never during my connection with the corporation.

83. *By Mr. Power.*—Do the market gardeners pay a fee on bringing their produce to market?—They do.

84. Do you demand that fee when they dispose of their produce in the streets?—Yes; or if they hawk it through the streets, a fee is demanded of them for the right of hawking.

85. *By the Chairman.*—The third market—the cattle market—in what state is that market; is it given up?—The grant of it is surrendered, and a grant of another portion of land has been received in return by the corporation, with the permission of the Government to occupy the old market until the corporation shall obtain the necessary legislative power to establish the market on the new ground.

86. *By Mr. Power.*—Is it the intention of the corporation to remove the horse market from the city?—Yes; they have a grant of land at the junction of the Mount Alexander and the Sydney roads for the purpose of a horse market.

87. *By the Chairman.*—Have you known that market for some time?—Yes.

88. How has it been occupied; has it always been occupied for the purposes of cattle and sheep?—Yes; so long as I have known it. The increase of population rendered the site inconvenient as a cattle market. The corporation therefore (after a long negotiation) exchanged the grant for two portions of land on the Saltwater River as sites for abattoirs and cattle yards, and two at the junction of the Mount Alexander and Sydney roads as sites for a hay and horse market and a general market. To enable the corporation to benefit by the grants, however, it will be necessary to obtain a legislative enactment transferring to the new markets the powers given by the Act 11 Victoria, No. 17, in reference to the present yards for the sale of cattle and horses. A Bill has been drafted for the purpose of transferring those powers, and it will, I trust, shortly be submitted to Parliament. As to the practice which is carried on in Bourke-street of turning the open street into a sale yard, I have instructed the police to adopt stringent measures to prevent it.

89. *By Mr. Hodgson.*—Have any definite arrangements been made with reference to the eastern markets, the Fitz Roy and other markets?—Plans were prepared of the Fitz Roy ward market, but all action in reference to them was stayed by the agitation for separating the ward from the city. Plans have also been prepared of the buildings in the eastern markets and the corporation intended to proceed with their erection, but have been prevented by want of funds. The eastern market, I may remark, stands in a different position from the western, which is more especially a wholesale market. The eastern market, from its more central position as to population, will require buildings of a much lighter description and occupying much less space.

90. What accommodation is it proposed to allow in the centre of the eastern market, if any buildings are erected?—There will be a large area left in the centre.

91. *By Mr. Guthridge.*—Nothing has been done with the reserve on the eastern hill beyond taking possession of it to hold it for future use?—It has been constituted a market and will doubtless in time become more used than it has been hitherto, but the number of persons frequenting it up to the present time has been very small.

92. *By Mr. Power.*—It is more of a retail market than a wholesale market?—So far as my judgment goes, the great retail market of the city will be the eastern market. The crowded thoroughfare of Bourke-street on Saturday night, or indeed on any night, demonstrate this. On the other hand, the western market and its vicinity is deserted at the period when persons go abroad in the evening.

93. *By the Chairman.*—How many of those places are there reserved for markets besides the eastern and western and cattle markets—are there any others, so far as you know?—The new grants are none of them entered upon at present. There is, on the City Council notice paper for the next meeting, a motion for erecting a weighbridge for the accommodation of the hay waggons on the reserve, at the angle of the Sydney-road. That will be the commencement of occupancy.

94. Then, if I understand you rightly, there are only three in actual use—the eastern, the western, and the cattle markets?—The eastern hill market has been used but by very few people.

95. Then there are four?—Yes.

96. *By Mr. Power.*—What did the corporation pay for the private property taken in the case of Fitz Roy ward?—Various sums. I cannot tell without turning to the schedules of the expenditure. Some of the money has been paid to parties who have proved their title to the land. With regard to other portions of it, where the parties are not forthcoming, or where there is no possibility of proving a title, the money has been paid into the city fund and is represented by debentures lodged in the Bank of Victoria, ready for payment as soon as the owners shall present themselves.

97. Have you taken possession of that property without title?—The title received is a title by special Act of Council. There is an Act for the improvements in Fitz Roy ward which prescribes the course that shall be adopted in case of deficient title.

98. If the western market were not all built upon, do you think it would be necessary to purchase this land to make another market—do you not think, if the western market were

E. G. FitzGibbon, Esq.,  
continued,  
17th April, 1857.

occupied solely for its legitimate uses, there would be no necessity for it?—I do not admit that the western market is not used for its legitimate purposes; but whether or not, the purchase of the market land in Fitz Roy ward had nothing whatever to do with the western market, it was purchased with other property for the purpose of improving the sanitary condition of the neighbourhood. That part of Collingwood or Fitz Roy ward was sold originally in suburban blocks, which were cut up and resold according to the caprice of their owners, and thus the locality became covered with a net-work of narrow and unhealthy streets and lanes. It was found necessary to clear the ground by running broad streets and leaving open spaces, and it was considered desirable to constitute one of these spaces a market for the convenience of the locality, irrespective of any accommodation at the west of the town.

*The witness withdrew.*

Mungo Park Smith, Esq., City Surveyor, examined.

M. P. Smith, Esq.,  
17th April, 1857.

99. *By the Chairman.*—Have you plans of the markets?—I have.

100. Have you a plan of the western market?—I have.—[*The witness produced the same and explained it to the Committee.*]

101. Will you state to the committee what is the extreme length from north to south of the land that you have for the market?—The extreme length from north to south is 296 feet 9 inches.

102. What is the extreme width?—The extreme width is 232 feet 6 inches.

103. What are the widths of the two entrances on the southern side?—On the southern side the two entrances are 15 feet 7 inches in the clear, although the general width is 20 feet.

104. What is the length of those entrances—that is, of the two lanes as you may call them?—They are about 69 feet long.

105. What is the extreme length of the area to which those are passages?—161 feet 7 inches, and the extreme width 93 feet 4 inches.

106. How much is proposed to be taken off for the passage of carts and for foot passengers from this area. How much for foot passengers first?—Seven feet 6 inches on the eastern and western sides, 10 feet at the northern extremity, and about 27 feet at the north-eastern and north-western corners.

107. There has been no fixed distance reserved for the footpaths through the passages?—Generally 7 feet 6 inches on the one side, and 2 feet 6 inches on the other side of each passage.

108. Then how much in this area do you intend to reserve, or have you reserved, for carts to pass round the middle area there, from the passage round the whole distance to going out again; what reserve for the carts do you make?—There is no reserve made merely for the passage of carts round, so far as the plan is concerned, because the whole has to be paved with nine inch pitchers.

109. Do you intend to make any?—Not so far as the plan is concerned.

110. Do you intend to reserve any place for carts to pass in and out?—You would require to leave at all events eight or ten feet for the carts coming round there and passing round to get out at the other side, even supposing you occupied the centre space with carts, or in any other way.

111. Have you any plan by which the centre is to be filled up?—No, there is no plan.

112. You have heard the former witness say that there is an arrangement made for sixty carts; will they be allowed to place themselves in any way they please, or is there any plan by which they will be arranged?—They will be arranged according to the market-keeper's judgment.

113. *By Mr. Power.*—What space do you calculate a cart will take up?—We require, say six feet in width in the clear.

114. *By the Chairman.*—Can you place them so close together as six feet?—I mean the wheels to go together and the horses to be taken out, and the carts put as close as possible.

115. Then where are the horses to be put?—I do not know, unless they are taken to some stable, in which case a great deal more accommodation might be given.

116. Do you consider that anything less than 20 feet would be sufficient for carts to pass each other in going the round of that area?—The instructions so far as I have heard mooted, are, that the carts are to come in at one entrance and go out at the other, in which case they would not require to pass each other.

117. If half-a-dozen want to stop in, and the others want to go out, and if they were behind, how would they get out?—They would require 18 or 20 feet for the purpose of passing each other.

118. What ought they to have to enable them to turn safely for that purpose?—I should say 18 or 20 feet ought to be left to enable them to turn or pass each other.

119. What would that leave for the centre area?—If you leave the 18 feet passage clear and a footway all round, it leaves 42 feet 4 inches.

120. What will it take off the length also?—Twenty-eight feet, leaving 133 feet 7 inches.

121. *By Mr. Stuart.*—That will be 133 feet by 42 feet 4 inches?—Yes.

122. *By the Chairman.*—Do you know whether it is the intention of the Town Council to cover this area for the carts?—Such I have heard them speaking about.

123. You have not seen any estimate for it?—No; there has been no estimate made. There was a sketch prepared for one meeting of Council, but nothing was done.

124. Have you any opinion of your own whether it should be so or not?—I think it should be covered in.

125. Have you any plan of the eastern market?—I have; this is the plan of the foundation.—[*The witness produced the same and explained it to the Committee.*]

126. This is nearly a square?—This is about 140 feet by 120 feet. There is a little difference between this plan and that of the western market, inasmuch as a space of 10 or 12 feet in breadth is contemplated to be roofed in as a footpath. M. P. Smith, Esq.,  
continued,  
17th April, 1857.

127. There is nothing done of that at present?—Not at present.

128. Can you state what accommodation there is in the hay market for the hay carts in the eastern market—is there any accommodation—that is, are there any buildings of any sort?—Not for the hay market. The only building that I see they have anything to do with is the weighbridge. There is a wooden building upon the site of the eastern market for the accommodation of the farmers in disposing of their grain.

129. You have a building there for the accommodation of the farmers?—Yes, a wooden building.

130. Have you any accommodation for the carts with fruit or vegetables, do you know?—There is no accommodation that I am aware of for the carts, except the mere standing ground.

131. Nothing to cover them in?—No, nothing to cover them in.

132. Have you any opinion whether there should be such a covering or not?—I think it is very desirable that the vegetable and fruit carts should be covered in in this colony. There must be a difference in the disposal of fruits and vegetables in this colony from what there is at home, inasmuch as the carts come in at home and dispose of it at once to such parties as either have shops themselves or purchase to go away and sell it. They have their separate set days when they come in. I think the market gardeners ken who live at a distance from Melbourne—generally a few miles—come in with carts and stand with them, and therefore they would require accommodation. They should be made as comfortable as possible. The producer does not go away till he has disposed of his vegetables or his fruit, nor does he dispose of them to the wholesale dealer, but to the public generally, as the carts now round about the western market do.

133. Do you know of other markets that have been required in addition to the eastern market?—Yes; at the top of Victoria street, near to the water tank, I am aware of a market-place being set aside. It is merely post and chain fenced in the meantime.

134. Is there sufficient room there for the purposes of a market in your opinion?—The space fenced is 495 feet by 330 feet, or three acres three roods, and which in my opinion is amply sufficient to accommodate upwards of 650 carts and horses.

135. Do you know anything of Fitzroy-square market?—I have seen the plans, but they were not prepared by me.

136. What is your opinion of it—is it sufficient for the size of the ground about that may be built upon?—I am afraid the interior area will not permit of a very great number of carts being accommodated at any one particular time.

137. Is there any vacant ground there that the Government have that can be obtained for that purpose?—I think not.

138. Do you know of any other, or if you do not, will you look through your town plan to see if there is any more ground belonging to the Government that may be reserved for a market, in case this is not sufficient?—The only ground I am aware of being left unsold is to the west of Nicholson-street, and to the north of Reilly-street.

139. Can you suggest anything that can be done in regard to any of the markets wherein the council can assist the corporation?—Nothing, I think. If it is decided that it is desirable, and I dare say the great majority will consider it desirable, that roofed-in accommodation should be given to the market gardeners, it can be done, but of course larger spaces of ground must be given up for that purpose.

140. Have you any knowledge of what quantity of ground a cart requires taking the general area—how many carts could get in and out comfortably?—The area required for a cart and horse is about ninety square feet.

141. *By Mr. Guthridge.*—Do you think that buildings like those now planned will better subserve the interests of the town and country than covering those spaces with open sheds of a less pretending character, such as can be used by the growers and small dealers?—The only thing I have ever had in view, in regard to the preparation of those plans, has been to make a paying market-place for the corporation, and give what accommodation was possible to be given to the market gardeners who come in with their horses and carts. It has often been mentioned, the peculiar way of doing business by the market gardeners. It has been said that in the course of a few years arrangements will be made—of that of course I know nothing—for a number to join and take the stalls, and bring in their vegetables and fruits, and dispose of them, and then turn their horses' heads towards home again.

142. *By the Chairman.*—If I understand you rightly, you have been guided more by the view of raising revenue than the mere fact of extending accommodation?—Yes; but I should say, at the same time, affording, as far as I could, accommodation.

143. You have been guided by the principle of raising a revenue by permanent buildings?—For the retailers of vegetables and fruit. I have not had brought under my notice, in the preparation of those plans, what I should call, strictly speaking, accommodation for carts and horses—that is, covered-in accommodation for carts and horses.

144. Do not you think that, by occupying the space that might be left for those carts, you are forcing those people to take those buildings, and in some measure compelling them to take them?—I think there may be a compulsion in the matter, because if they are coming in in that way, and suffering a loss of fifty per cent. on their vegetables and fruits, by disposing of them as they do now, they will dispose of them to the occupants of the shops.

145. Did you receive any instructions in drawing those plans from the market committee, or from the Town Council?—I had many meetings with them on the matter. Those are not

M. P. Smith, Esq., the original sketches; of course the plans have been amended by the market committee, and I think by individual members of the council.

146. Then they are not your plans?—No; I certainly laid the foundation of the western market, but there is scarcely any gentleman who can strictly claim to be the architect for either market, for the plans have been so cut up, they are really a combination of suggestions from all quarters.

147. You cannot say that it is Mr. Mungo Park Smith's plan, Mr. Town Clerk's plan, Mr. Bowden's plan, or any person's plan in particular?—No; it is the plan sanctioned and agreed upon by the City Council of Melbourne.

148. Do you know what it will cost?—For the whole erection the estimate is about £40,000, not including the roofing in of the centre area.

149. Is any sum intended to be expended on that centre I see there?—Nothing further than paving it.

150. What may that amount to, roughly?—A contract has been taken for £619 9s.

151. Do you know what is the amount of the total expenditure that is intended to be made on the western market for similar kinds of buildings?—The expenditure to be yet made is about £40,000.

152. Do you know how much has been expended?—Yes. I have a statement here of the various items, including the expenditure in excavating the ground, and it is £17,151 15s. 10d.

153. The remaining cost will be £40,000 more?—It will require nearly £40,000 to finish the original design.

154. Will you inform the committee what the cost is that is contemplated to be laid out in the area that is reserved for the carts in the western market, giving the items separately?—To roof in the whole area would cost £1200. The kerbing and paving, which is now finished, has cost as stated £619 9s.

155. *By Mr. Power.*—What income is there at the present arising from the western market?—The total revenue is about £2,000 just now. Upwards of £700 arises from market dues and £1,400 from the stalls.

*The witness withdrew.*

Mr. William Law called in and examined.

Mr. Wm. Law,  
17th April, 1857.

156. *By the Chairman.*—What are you?—I am a seedsman.

157. Where do you reside?—82, Swanston-street, Melbourne.

158. Can you give the committee any information as to the wants, wishes, and requirements of the market gardeners?—I can.

159. How long have you been in the Colony?—About four or five years—nearly five years.

160. Do you know anything of the eastern and western markets?—I do.

161. Are you in connection with the gardeners?—Every week, indeed continually.

162. Have they had any meeting, or have they been associated in any way lately?—There is an association in course of formation for the purpose of protecting themselves against the oppression which the corporation has been exercising upon them with regard to the market operations. In the first place, there is no market convenience afforded them whatever, they are built out of the reserve formerly granted to them by Government for market purposes; it is now occupied by erections which, in no sense, are adapted to the purpose of a market.

163. Are you speaking of the western market?—I am speaking of the western market. Before the present buildings were erected the gardeners could use it for market purposes without any inconvenience, there being then simply the natural ground, but without any facilities provided by the corporation for market purposes.

164. You say that they could do very well then?—They used it as far as they were able, but a considerable portion of it was occupied by shops which were not selling anything that I consider marketable produce. If I understand a market rightly, it is a place affording accommodation and facilities for the producer to sell to the consumer, and at the present time the square which is in that place, and which it has been stated will hold sixty carts, I maintain will hold nothing like that number now. I do not think sixty carts have ever been there at one time, and the shops already built and occupied prevent it being a market; it is simply a lot of shops the same as we see all through Melbourne in the streets. It is occupied for the wholesale fruit trade, but I do not think the retailer or consumer goes there. The hawkers are chiefly supplied by those dealers. They appear to me to be all shops suited for any trade. Hay, fruit, and potatoes are sold wholesale, not vegetables; and the gardeners will not use that square because buyers will not go in. I have never seen householders buying there; they will not go there at the present time. Again, the carts have stood at one period since the erections have commenced in Collins-street and William-street, extending from the corner of William and Collins-streets, up Queen-street, round the corner into Bourke-street, and, I think, that in some instances the carts, side by side there, would occupy three sides of that block, pretty nearly, and then they have stood on the other side in Collins-street, and the opposite side of Collins-street from Queen-street up to the market, and a considerable number along by the side of the present structure. At the present time they have been lately removed by the corporation, and if I understand rightly, the corporation have endeavored to force the 200 carts into that square, but was found rather an awkward affair, there being building materials and rubbish on one side, and the carts were compelled to stand and are compelled to stand where buyers cannot get at them; and in consequence of this state of things, while one gardener is getting one price

for his things another is obtaining another; and the prices vary something like fifty per cent. I know from my own observation, because I have collected tables for the last four or five years showing the prices of general produce, and I am obliged to attend the market for the purpose of collecting that information. At the present time the street is the place where this kind of exchange is taking place. There is no market convenience whatever, and the present structure, it is considered, will never answer the purpose of a market. What we want in Melbourne is a place where the producer can be brought into contact with the consumer, so that he may sell for himself to the householder, and by that means obtain the best price for his produce, but the idea of competition at the present time is absurd, in consequence of the interference of the market inspector, compelling the carts to be put in places where customers cannot get at them, and does not afford fair play for the producers. I know personally that gardeners have been forced by the inspector from one place to another, and then he has threatened to take the man into custody for being there. The corporation in fact have been obstructives to this kind of commerce, and that can be proved by the discontent throughout the whole body, which is universal.

Mr. Wm. Law,  
continued,  
17th April, 1857.

165. Is it your opinion that the gardeners and producers are better united in one place, and have a better opportunity of selling by being united in a place like a market, rather than being dispersed about the streets?—I think the producers should have some central place where they can meet their customers. They ought to have some place decidedly set apart for them with proper facilities.

166. Would not that be an inducement for the purchasers to come if the producers, the sellers, were congregated together in a place set apart for them and proper accommodation given to them?—Unquestionably.

167. Do the gardeners wish it to be so?—They do. They wish the arrangements to be such that there would be proper inducements for householders to come and buy of them, instead of being left at the mercy of the hawkers.

168. *By Mr. Power.*—It would be to the advantage of the consumer and the producer, you think?—Of both.

169. *By Mr. Hodgson.*—Have the gardeners generally remonstrated by petition with the corporation, or otherwise in regard to the present accommodation?—I do not know whether they have remonstrated, but the corporation are perfectly aware of their discontent by the letters on the subject in the papers, because they have been replied to by the members of the corporation, showing that they are not ignorant of the state of things. A petition is now in course of preparation.

170. *By the Chairman.*—Have you seen the plan?—I am not sure whether this is the one I saw before the market commenced. I saw a plan before the market commenced, and there I showed it would not answer the purpose.

171. In regard to that plan, you saw or heard the figures given?—I did.

172. Reducing it to 37 by 100 and some odd?—Yes.

173. Is that anything like sufficient room for the market gardeners who are likely to come to that market?—It is very little. It is perfectly inadequate.

174. Do you think the market gardeners would occupy the whole of that square, if it were reserved for them?—I do not think it is large enough.

175. You think there would be inconvenience, then?—It is not large enough.

176. *By Mr. Power.*—When those other markets are formed and in operation, do not you think the greater amount of pressure will be removed from the western market and be divided more over the city?—As far as the market gardeners are concerned, it is their wish that they should be all together. I look upon the others as retail markets. I think they should be the same kind of markets as those in Liverpool—St. John's and St. James's. I look upon those as the best models for public markets. But we complain of the want of a gardeners' market.

177. You would confine this western market to that use?—It is so small, it would not answer the purpose.

178. *By Mr. Guthridge.*—You think it would be too small even if it were not occupied by buildings?—I look upon the area as too small.

179. *By the Chairman.*—And any encroachment upon it is an injury to the market gardeners?—Yes. I do not think the situation is the best.

180. Have you formed any opinion as to whether carts should have accommodation by being covered in?—Most decidedly they should.

181. Will it be of any service to them to be covered in?—It would unquestionably, for the produce sustains much injury from the dust and scorching winds and sun which depreciate the fruit and vegetables. I have seen them withered up in a very short period in our summer weather, and it is our desire to have fruits and vegetables protected. There are some mornings, when in consequence of the state of the weather, buyers will not come out to be exposed. If we had a covered market, the public would be protected and the consumer benefitted.

182. *By Mr. Guthridge.*—You have said that the market is spoiled for answering its intended purpose?—Yes.

183. And you have said that the situation is not the best?—Yes.

184. Do you think that reserve on the eastern hill, adjacent to the tank, if properly prepared, would answer the purpose?—As far as space is concerned; but at the same time it is not the best situation. The more central it is, the better as regards both the householder and the market gardener.

185. Can you point out any property that the corporation has the control over that would be better?—The best piece of land I have seen in Melbourne is opposite Bignall's hotel, commencing at the county court.

Mr. Wm. Law,  
continued,  
17th April, 1857.

186. The corporation has not that?—I do not know whose property that is. If it cannot be had, the eastern market is the best site.

187. You said just now that would be a retail market?—If the western market were used for the wholesale, then the eastern market would be for the retail. I look upon it that one wholesale market is sufficient for Melbourne—one gardeners' market.

188. *By the Chairman.*—Do the market gardeners wish to have shops to keep, or do they prefer to come and sell their goods and return home again?—Just that.

189. *By Mr. Hodgson.*—From the carts?—From their carts, and return home.

190. *By the Chairman.*—Will it conduce to their interests to take a shop?—No.

191. Have you formed any opinion with regard to those shops—whether the corporation have made that accommodation in order to force the gardeners to take their shops?—There has been an attempt to force them, and one thing proves the purpose—the exemption from market dues by those who take those shops. We cannot do that. Market gardeners attend only on Saturday and Wednesday mornings as a rule.

192. Those are the two chief days, I presume?—Yes, those two days a week.

193. There are others who come ordinarily on other days?—Yes.

194. Do you know positively from the market gardeners, or from your knowledge whether they wish to have shops—any number of them?—They do not wish it.

195. You know that positively?—Yes, if there is any one, he is an exception.

196. But as a body, they do not wish to have shops?—They do not, and they could do nothing with them.

197. They would be compelled to keep somebody in them?—Yes. It would not answer their purpose at all. There is not a gardener in the colony who could keep a shop going. There have been, I think, three instances since I have been in this country where market gardeners have attempted to keep a shop in connexion with their grounds, but in every instance it has proved a failure. It has been found that the grounds would not keep a shop going.

198. *By Mr. Hodgson.*—They must have a better assortment?—Yes.

199. *By Mr. Guthridge.*—Would you state it as your opinion to this committee that the space of ground behind the county court is best situated for a market gardener's market, and that in your opinion this committee ought to recommend that the site be obtained if possible for the purpose?—I am of opinion that that is the best ground, and the site best adapted to the purpose. It is quite as central as the eastern or western markets. It serves North Melbourne and the ground over towards the Benevolent Asylum, and also Collingwood. If you make it on the Eastern-hill, it is not so central for those places.

200. Do you not think, looking at the way that Melbourne is progressing, that this on the Eastern-hill would be about the central part of Melbourne by and by?—It may be so; but for some time to come it would not be so convenient for Melbourne. It is too far from Melbourne proper.

201. *By Mr. Power.*—Do you condemn the western market as being totally inadequate for the use of the market gardeners as now arranged?—As it is now arranged, completely so.

202. *By the Chairman.*—It ceases to be available as a market for the purpose for which it was originally designed from its being so built upon?—It is now rendered unfit for it altogether. The gardeners have requested to be allowed to be in the streets rather than be forced to attend there.

203. Is that because they have been driven out of the market, and because they have not accommodation?—Yes, they have no accommodation. I may state, for instance, the gardeners have been forced down into that square, and they have declared to me they have lost from one to two pounds each time. They have been forced down there, hence the loss from the difference in the prices between the open street and the square.

204. *By Mr. Guthridge.*—If there were no carts in the streets, there would not be that difference?—No, but you cannot get them all there.

*The witness withdrew.*

*Adjourned to Monday next, at ten o'clock.*

MONDAY, 20TH APRIL, 1857.

MEMBERS PRESENT:—The Honorable J. P. Fawcner, in the chair; the Honorables John Hodgson, T. H. Power.

Mr. William Law further examined.

Mr. Wm. Law,  
20th April, 1857.

205. *By the Chairman.*—Have you anything you wish to add to your evidence?—As far as the markets are concerned, I do not think there is anything, but I think the laws should come next under consideration. We have now in Melbourne a bye law, No. 25, which is a kind of tariff imposing a toll upon different kinds of produce. For instance, we have vegetables subject to one tax, fruit subject to another tax, geese and turkeys to another, ducks and fowls to another, the same with pigs for roasting, and butter, and so on, all of which are subject to separate and distinct charges. We have here vegetables charged one shilling, fruit two shillings upon each dray or cart; upon a wheelbarrow it is sixpence. It is very grievous in some instances, because sometimes the whole of the produce upon a cart altogether sold frequently does not

realise two shillings; but whether there be sixpence or whether there be six pounds' worth upon a dray of fruit, the toll must be paid; and I have known instances where the fruit has only realised sixpence, and yet the party has been obliged to pay the full toll.

Mr. Wm. Law.  
continued.  
20th April, 1857.

206. *By Mr. Hodgson.*—Do not the parties know before they put that small quantity on the cart or barrow that they will have to pay the toll?—Yes; when they have once learned it, then they will not fall into the same error again, but many new beginners fall into this error, and that shows the absurdity of a law which prevents people disposing of the whole of their produce. It absolutely does so.

207. *By the Chairman.*—May not it happen that they can only sell the sixpence worth or one shilling worth, and that they are obliged to take the remainder back?—It may happen, and frequently does occur, that a gardener has been unable to sell anything, but still they must pay the toll.

208. What accommodation do they get for that toll?—None but what the streets afford.

209. Have you received any accommodation in either market yet—is it afforded to the fruit grower?—No; neither accommodation nor always proper police protection, because the carts are very often plundered.

210. They have no shelter over them?—None; there is no facility whatever afforded, nor is there any accommodation to assist them. If a cart stands upon the channel abutting upon the causeway in wet weather the water runs down the channel, and the market people have had to wade through the stream and mud to reach the drays. And on the other hand again, where the shops are, if we put our vegetables upon the causeway, the shopkeepers, as soon as they begin business, can order them to be taken away; for the shopkeeper, if he places goods upon the same causeway for sale, is brought before the mayor and fined; yet the market gardeners occupy that very place as a market which the shopkeepers are not allowed to use, though they pay rent and taxes.

211. *By Mr. Power.*—That is before the daily hour of business?—The market is not over till ten or eleven o'clock. I saw last Saturday morning waggons till nearly eleven o'clock in the market; a woman was permitted to have goods there, but that is an exception; no one is allowed to occupy the causeway so long. It is optional with those who own the property opposite them. Again, it is no unfrequent thing for a shopkeeper to purchase his vegetables, and the market gardener may purchase a few fruits from another dray and place them in the cart where he has purchased vegetables, and these fruits become subject to a second charge, which is frequently paid. I have seen, where a housekeeper has bought a few vegetables for his own use, and having purchased a water melon, has asked that it might be left with the vegetables, and in that case the gardener has had to pay a toll for it as fruit.

212. *By Mr. Hodgson.*—Is not that capable of explanation, that cannot be legitimate?—I have spoken to the market keeper about it.

213. Who is the market keeper?—Mr. Robinson. I do not think any blame can be attached to the market keeper upon the subject. Vegetables, according to the law as put in force, cannot be sold in Melbourne to any shopkeeper until they have first taken out a licence. If I told a market gardener to bring me a dozen of cabbage on any particular morning, before he can deliver me my cabbage he must go and get his ticket. At the same time, I should say that vegetables are delivered every day, but it is only done by evading the laws. I know one gardener who never takes out any ticket.

214. Have you anything further which you wish to add to your evidence?—The market square, formerly used as the western market, is now no longer capable of answering the purpose for which it was designed. It is neither to the interest of the city nor the gardeners that proper convenience for this branch of trade should be wanting. The ground at the eastern end of Bourke-street is not large enough for such a market as we want; the only place suited for such a purpose is situated at the eastern junction of Swanston and Victoria-streets. It is the conviction of the gardeners—and I may state that I believe the majority of the citizens are of opinion—that the markets would be better managed by some board, other than the corporation, where the horticultural interest could be properly represented.

*The witness withdrew.*

Mr. Thomas Johnson examined.

215. *By the Chairman.*—You are a market gardener?—Yes.

216. How long have you known the market?—I have attended the market during the last five years.

217. Which market do you attend?—The western market.

218. Was there sufficient accommodation in that market when you first attended it?—It was then large enough.

219. Was there any accommodation in it for the gardeners?—Nothing, only the open square.

220. There was no accommodation further than the carts standing on the soil?—No.

221. There was no covering?—No; not for the gardeners nor the carts.

222. Nothing has been done in that way since you have been acquainted with the market?—There has not.

223. Do you recollect how long it is since the accommodation was stopped up for building purposes?—I think it will be now between four and five years since they first occupied a portion of the western market with those eating houses and little paltry shops.

224. Did that injure the market gardeners?—It did.

Mr. T. Johnson.  
20th April, 1857.

Mr. T. Johnson,  
continued,  
20th April, 1857.

225. Seriously or triflingly?—A great deal, for the following reasons—they not only occupied a portion of the ground which the market gardeners required for accommodation, but the filth and slops that were thrown out during the night into the market were most disgraceful, and quite unfitted it for any respectable person to go any where near to purchase vegetables, or for the gardeners to lay them down.

226. Their doing so prevented your customers coming to your carts?—No doubt of it; I have had as many as eight or nine different sorts of vegetables on the dray at one time, and the place where I have been compelled to stand has been in such a disgraceful state that I could not lay down a single thing.

227. Has this continued for any time?—It continued for nearly two years, and I made frequent complaints about it when I have been ordered to go and stand up near these eating houses. The place was not fit for any market gardener to stand and lay out his produce, nor was it fit for the customer to come and purchase it; and when I have said anything, the answer I have generally received has been, "You go and stand there, or otherwise I will give you in charge."

228. *By Mr. Power.*—Who was the market keeper then?—Mr. Robinson, and a gentleman who attends the eastern market came down to regulate the thing at one time, and made it a great deal worse than it was before.

229. *By the Chairman.*—Did any change for the better or the worse take place after those tents and things were destroyed?—The change was for the worse still, because we got less accommodation than before. They turned us out and occupied the market so that we could not get in.

230. Did they still exact the market dues?—They did.

231. Although they gave you no accommodation in the market?—No accommodation in the market; we were compelled to stand in the public streets.

232. Still they exacted the same dues?—The same dues.

233. How long did they keep you out of the market, can you tell?—They have kept us out of the market till within the last month.

234. For how long do you recollect?—I should think for full twelve months.

235. Can the market gardeners generally get the necessary accommodation now in the western market?—There is no room for more than one-fourth in the market.

236. Are you able to say what room there is for carts to stand in the interior of the market?—I should think there would be room for about forty or fifty drays to stand; however, sixty would be the outside.

237. You are speaking of the present area?—Of the present square at the bottom.

238. Have you any idea how many carts would come to that market in case it was an open market?—I have enquired very frequently of the toll-collector how many carts he has had in a morning. Sometimes it has been 160, and sometimes it has exceeded 200. I have seen the carts standing and I have made it a matter of curiosity to go round and see how far the carts have extended, and I have seen them both sides from Flinders-street up Market-street as far as Collins-street, down on one side of Collins-street to Queen-street, and from Queen-street to Flinders-street to within about ten yards again, and as many as forty or fifty drays standing on the opposite side in Collins-street.

239. And how many at that time were accommodated in the market, or were there any so accommodated, do you know?—I am speaking now of last Saturday. I did not go down into the square to see whether there were any there, and therefore I do not know how many there were in the square.

240. Are the buildings in the western market-place in your opinion conducive to the accommodation of the growers of produce?—Decidedly not.

241. *By Mr. Power.*—Does the establishment of those shops and buildings for the growers assist them in getting higher prices?—The contrary, I should think.

242. *By the Chairman.*—Can the growers afford to have one or more of those shops for the sale of their produce?—Not at the rent they are charged for now.

243. Do you think that the growers ought to come in every day to sell their produce, or only on certain days of the week?—I believe there are some who would prefer coming in three times a-week; I do not think that it would be convenient for the generality of the market gardeners to come in every day. I think a market three times a-week would be enough. There are some very probably who would like to come in every day.

244. But you believe that the generality of the gardeners would prefer coming twice or three times a week?—Three times a week, I believe they would.

245. Then the shops on the days they were not in would be an incumbrance to them, instead of a benefit, if they were compelled to hire those shops?—It would be so. They are really of no use to the gardeners at all.

246. You say you have been here some five years?—Yes.

247. From whom do you get the best prices generally, when you sell to the public or when you are compelled to sell to one of those shopkeepers?—From the public generally.

248. Is there much difference between the prices so obtained?—There is a great difference, in consequence of the market being in such a muddling way as it is now; there is great inconvenience to the market gardeners, in consequence of their being driven from one street to the other. A customer very frequently purchases goods on the Wednesday, and orders a considerable quantity for Saturday, and it is the case sometimes, when perhaps there have been on the Saturday more vegetables than they expected, that the buyer would suit himself at a cheaper rate, and his excuse is, that he fully expected we were not in the market, in consequence of not being at our old stand, when it was impossible to get there.



249. Then want of a fixed stand is injurious to the market gardener?—A fixed stand, where they could be known and where they could be found, would be of advantage.

250. Do the market gardeners require anything in the shape of covering?—They do.

251. Is that the opinion generally amongst them, or is it only your own individual opinion? I believe it is the opinion of all. On Saturday morning, for instance, there was a heavy dew, and the frequent traffic of horses and bullocks going forward in the streets kicked up such a dust that such things as lettuces and bouquets, and grapes and other things, received serious injury by the dust alighting upon them. In fact, I had some very fine lettuces in on Saturday, and I could not exhibit them or sell them on that account. I sold them for 2s. a dozen, whereas, if they had been placed in a market, where I could have got proper accommodation, no doubt they would have realised 3s. a dozen; and I took in one dozen of bouquets, and four out of the dozen were completely spoiled.

252. And I presume the sun as well as the dust would injure things of that sort?—Yes.

253. And a covering would protect you?—It would protect us.

254. Do not you conceive yourselves entitled, from the taxes you pay, to have a cover?—I think we ought to have a cover, especially in a climate of this kind. I have stood for four hours in that market when it has teemed with rain from six or seven o'clock in the morning, and not a soul has come to ask the prices of vegetables, in consequence of their not wishing to be exposed to the weather.

255. Would it not be better both for the market gardeners and for the consumers to have a cover?—Yes, so that we might not be exposed to the sun and wind and rain.

256. You think vegetables would be better for the use of the consumer as well as bringing a better price to the producer?—Decidedly.

257. Are the gardeners satisfied with having the western market built upon, or would they rather have it an open market for the carts to stand in, so that each man might have his own stand?—You cannot use the western market now. It is impossible. It cannot contain one-third of the carts.

258. Would you rather have it as it is, or as an open market. Would it benefit both the consumer and the gardener to have it an open market?—We would prefer to have it an open market rather than to be compelled to stand as we are now. Now there is no chance to get to your stand for two days together, unless you come in overnight or very early in the morning, by twelve or one o'clock. There is another very great disadvantage—at the present place where the carts stand, there are so many of those uprights at the different shops and places which they have to support a covering in front. They stand too close together for a cart to get in, and not only do we run the risk of breaking those uprights when we back the carts in, but very frequently we cannot get the carts in at all, and by that means an open space is left for men to come into who have barrows or baskets. They come and place themselves between two carts with their barrow or basket, and only pay 2d. fee on them, and frequently two or three of those men get together and begin kicking up a disturbance and get a lot of customers round them, and then they begin shouting out the prices of the things, and thus they get an advantage over the market gardener that way. There is no doubt about it that they spoil trade in that way. The gardeners objected at one time to retail things in the market, and proposed to serve green grocers only, and so save the necessity of the market gardener retailing his produce as well as selling it by wholesale.

259. Am I right to infer from that, that you think those men should have a place to themselves in a separate end, for instance?—We have no objection if they were charged the same as ourselves. I mean by that, there is very frequently, as I said, a little space left which makes room for a barrow or a basket. Notwithstanding that the gardener is exposed all night away from his home in order to secure his stand, and by those spaces being left, and those men with a barrow or a basket being able to get in, they contrive to occupy some of the best places in the market.

260. Have you anything further to add respecting the western market?—There was one occasion on which I took about two pounds of strawberries into the market.

261. With vegetables?—With vegetables; and in consequence of the want of accommodation I disposed of them as well as I could, and sold them for 3s.; and in my presence, the party I sold them to was asked by a gentleman, who came to the market, the price of strawberries, and he charged him 10s. Such things as those are for the want of accommodation.

262. Have you had any experience of the markets at home?—Not in the general line at home.

263. Have you any opinion as to what benefit it would be to the market gardeners if they had sufficient market accommodation, so that each could take his stand regularly?—It would be a very great advantage in every respect.

264. Would the consumer stand a chance of getting better supplied?—It would be as much to the benefit of the consumer as the producer.

265. You are of opinion that wherever there is accommodation, it should be covered in?—I am; I am perfectly satisfied there is as good quality of vegetables carried into that western market, twice a week, as has ever been carried into any market in the world. I have attended markets in various places, and never saw a better sample of vegetables or fruits brought into a market than are brought into our own, if we only had accommodation to show them.

266. Do you think there is any other more central place required for a market, or would you prefer still going to the western market if you had accommodation there?—As I before said, it is impossible to use the western market with those buildings as they stand now. I do not think, if the buildings had not been put on that western market, it could have contained all the carts now.

Mr. T. Johnson,  
continued,  
20th April, 1857.

267. Then, if the whole of the market had been reserved, it would not have been sufficient then, and much less so now?—Just so.

268. *By Mr. Power.*—You condemn it altogether as a market as unsuitable?—Decidedly; it is quite unsuitable for a market.

269. *By the Chairman.*—Do you know any other place in the town where, as this is now destroyed, a central market could be established?—I think, at least, we should have from three to four acres for a market, and I am not aware whether the Government has a piece of land for that purpose. It would require at least that, because there is, even now, the extension of cultivation. I believe it is an injury to the corporation, in consequence of there not being a proper market, as I know there are many men come to that market who never pay a farthing, though they stand in the street along with others. I have seen them frequently, when the toll collector has come round, go off twenty or thirty yards from the cart.

270. *By Mr. Power.*—What is the extent of Covent Garden market in London, do you know?—I never passed through it but once.

271. Do you know Spitalfields market?—I am sure I cannot say. Mr. Jennings will give the committee more particulars of that.

272. *By the Chairman.*—Then you are of opinion that the market, if still retained whole, has not sufficient accommodation?—A great number could not get in.

273. Wherever the accommodation is made, you require it to be covered in?—Most decidedly.

274. Both for the benefit of the grower and the consumer?—Yes, of the grower and the consumer. The consumer, I believe, would derive equal benefit with the grower. He would get his vegetables and fruit in better condition, and the producer would stand dry and be able to make the best of his vegetables, and the consumer would reap his advantage in getting them in better condition. He could go round and purchase wherever he pleased. I see the necessity of each market gardener having a stand. There is a great variety of vegetables brought into the market, and some are of a very indifferent character. There are individuals who come to that market who do not come perhaps above once a month or two months, and when they bring their produce to market they do not know anything about market prices and they get what they can, and very frequently they go away before the toll collector comes round to ask them for their money.

275. They bring in rough vegetables and sell them for whatever they will bring?—Yes, and then the greengrocer comes and says "I have bought so and so at such and such a price, why do you ask more than other men?" And further, in consequence of these bad vegetables coming into the market, the public get them and condemn the agriculturists of Victoria—though I am sensible that as good vegetables and fruit are grown in Victoria as in any part of the world; and if the grower could have a stand so that he could go to his stand each market day, I am sure his customer who purchased the vegetables and fruit of him once would purchase of him again.

276. *By Mr. Power.*—Do not you think an increase of population must occasion the necessity of a middleman between the grower and consumer. Such, for instance, as you have in London, where there are greengrocers' shops and so on to a large extent?—No doubt greengrocers' shops would be necessary; but if the corporation would do something of this kind, I think it would be of advantage that they should allow the wholesale market, in the summer time, to be from four to six o'clock, so as to allow the wholesale dealers to go and purchase and take what they pleased out of the market, and then let the retailer come in; and so in winter, from six o'clock to eight o'clock, the first two hours being wholesale. But it is not for me to suggest to the corporation. It would be fair and just to the greengrocer that he should have an opportunity of purchasing what he wanted in the first part of the morning. The general feeling of the market gardener is, he wishes to receive fair remuneration. I do not think he wishes to extort from the greengrocer. I have no such desire myself; I should prefer bringing my produce to market and putting it down and getting a fair wholesale price for it and then going and leaving the market. I see the necessity of having a market three times a-week, in consequence of the weather, and especially in summer time, and the greengrocer purchasing exactly what he wants. Now, if he purchased on Saturday to last till Wednesday, before he is sold out, all his things get spoilt. I think the market should be held on Tuesdays, Thursdays, and Saturdays, which would be a good thing. It ought to be at least three days a-week.

277. Do you enter into the market at the north or the south?—The carts can only go in one way, that is at the south, and they can only come out the same way. The market is quite unfit for the purpose.

278. Have you anything further you wish to add to your evidence?—No.

*The witness withdrew.*

Mr. James Scott examined.

Mr. James Scott,  
20th April, 1857.

279. *By the Chairman.*—What are you?—A nursery man and gardener.

280. Do you know the Melbourne western market?—Yes.

281. How long have you known it?—Nearly three years.

282. Have you ever supplied it with anything?—Yes, I have supplied it generally for the last three years.

283. Have you attended it yourself?—I have generally attended it myself.

284. What accommodation was there three years ago?—Three years ago there was sufficient room when I first attended in the market inside of those booths that were round about it.

285. When did there cease to be sufficient room, do you recollect?—About two years ago the carts became so numerous; besides, they put so many booths in the market, that they force the carts into the streets. Mr. James Scott,  
continued,  
20th April, 1857.

286. Was that an injury to the grower?—Yes, a great injury to the growers; they could not get into the market where their customers expected to come to purchase. They were obliged to go into the streets.

287. *By Mr. Power.*—Was that also injurious to the customer as well as the producer?—It was injurious to the customer as well.

288. *By the Chairman.*—Have you ever found any covered accommodation for the growers in the western market?—Not any covered accommodation.

289. Do you think you should have covered accommodation?—I think so.

290. Would it be an accommodation to you only, or would it be an accommodation to the consumer as well?—It would be a great accommodation to the consumer. He would get his vegetables in better condition and cheaper. We could then sell to the consumer instead of being forced, at considerably reduced prices, to sell to those hawkers who have us quite in their own hands at present.

291. You are compelled to sell to them to get away from the inconvenience?—Yes.

292. *By Mr. Power.*—Would it be better for the grower if the system that prevails at home prevailed here?—Decidedly.

293. That is, to have the greengrocer purchase from you, and for him to retail to the consumer?—The market I attended at home was never opened in the summer time until six o'clock. The carts were in before six o'clock, and then at six o'clock the bell rung and all covers were taken off the carts, and everything was exposed for sale. Here carts come in over night, and some at two o'clock, and they are selling at all times at no regular prices. Now at home the gardeners knew exactly in the morning what stuff was in the market and how to regulate the prices, and the price was uniform throughout.

294. The prices could be regulated according to the supply of the day?—Yes, according to the supply of the day, but here the gardener has no chance of ascertaining what amount of produce is in the market, so that he takes just what any one offers him.

295. *By the Chairman.*—Do I rightly understand you to say that at home you only supplied the greengrocers, or that you retailed to the public at large?—We both wholesaled and retailed.

296. By that you mean that the practice at home was to sell wholesale and retail?—Yes.

297. *By Mr. Power.*—Do you approach to that here?—It is much the same here wholesale and retail. At home, I speak now of Newcastle market where I attended, we were allowed to stand from six till twelve, and after twelve the retailers and hawkers had the right to take our places or stand before us, and the people purchased of them.

298. *By the Chairman.*—If I understand you rightly, you approve of a certain time during which you should be allowed to sell, and that after that the retailers should be allowed to take charge of the market?—Yes; I should like to see that system adopted here. It is a good system and worked well at home.

299. Do you complain of want of accommodation at any time in the western market whilst those buildings were going on?—We have had no accommodation at all.

300. None whatever?—None whatever.

301. Is there sufficient accommodation now?—There is very little accommodation indeed. Suppose you get into the market first, you must remain inside and wait until all the other parties come out, else you cannot get out.

302. *By Mr. Power.*—You are blocked in?—Yes, blocked in.

303. *By the Chairman.*—Do you think, with regard to this market, that, if it were reduced to its primitive size by the removal of those buildings, it would not be sufficient for the accommodation of market gardeners?—No, it would not. In building this market, I do not think that they have considered the interests of the gardeners at all.

304. Do you know any site where there is Government land that could be made available?—I have looked upon a site up near the gaol, which it seems to me would be very suitable, as the town is increasing so much; I think a large market built there would be of great service to the town, and would be very central for Collingwood and for all parts of Melbourne.

305. Are the buildings which are on the western market, such buildings as they are, for the benefit of the market gardener or the consumer?—I do not think they are for the benefit of either.

306. You are a grower—would you wish to hire one of them; could you keep one of those shops supplied?—No.

307. Would it suit you to have one?—No; I would not have anything to do with it.

308. Would it suit the market gardeners generally to have those shops?—They do not want shops, they want to come and sell to the wholesale customer.

309. You are of opinion that those shops are not required by the market gardeners?—They are not.

310. So that, if a new market is established, those shops would not be required?—Not at all.

311. Would you have the market roofed in?—I should like to see it covered and sheltered from the weather, from the wind, and rain, and sun.

312. *By Mr. Power.*—Do you think it is absolutely necessary?—It is absolutely necessary.

313. *By the Chairman.*—Have you any further evidence to give?—No; I have no further evidence to give.

*The witness withdrew*

## Mr. Thomas Lansley examined.

Mr. T. Lansley,  
20th April, 1857.

314. What are you?—A market gardener.
315. Do you know the western market?—Perfectly well.
316. How long have you known it?—For four years and upwards I have attended the market regularly twice a week.
317. Had you any accommodation four years ago, and if so, what?—We had accommodation, but it was very bad. In wet weather generally we were half-way up our legs in mud and water.
318. But at that time you could get into the market on any side?—We could get in then at any side.
319. Can you now get in on any side?—No; only on one side, and that is a very bad approach. If a person had a bad horse, and it was bad weather, it would be impossible for him to get in then.
320. Do you find any difficulty in getting out after you have got in?—Yes; after you have forced your way in you must stay in until the others choose to let you out.
321. *By Mr. Power.* All your time is lost until the last cart has unloaded?—It is; we are obliged to stay there.
322. *By the Chairman.*—You say you have been there upwards of four years?—Yes.
323. At what time did there cease to be accommodation in the western market, do you recollect?—It is from eighteen months to two years since.
324. How long is it since the present opening has been made in the western market—has there not been a place opened in the centre?—I think that it is about three weeks or a month last Saturday we were first started into the market.
325. Do you know what accommodation there is for carts in the market now?—I do not exactly know. I should think it would not hold more than from sixty to seventy, and then they must be well packed.
326. *By Mr. Power.*—Have you ever counted them?—I never did count them in the present western market.
327. *By the Chairman.*—If a road is reserved all round, say an eight foot pathway and a twenty foot cart road, going completely round, so as to give another egress, would not that take away more than half of the accommodation?—The market would not take more than half the carts that come to market now.
328. Would that be sufficient accommodation for the market-gardeners?—Most certainly not.
329. Have you any idea, or have you any knowledge, how many carts would come there if there was accommodation?—There are now sometimes upwards of 200 carts, often 150 or 170, and generally speaking, on the Saturday morning, there are upwards of 200 carts.
330. And if you had sufficient accommodation, what is your opinion as to the attendance at the market of yourself and others—would you or would you not attend?—Most certainly we should attend regularly.
331. Would not that be an accommodation, both to yourselves and the consumers if you attended regularly?—It would be a great accommodation to the consumers as well as the producers.
332. Would it not be a stimulus to the grower to grow more and better things, if he found a regular market?—It would.
333. What is your opinion as to whether the carts should have a covering?—I should think most certainly a covering is desirable, because I have often had myself my produce spoiled in the case of a hot wind in the morning. I have had it spoiled, and then I have been obliged to sell it at a reduced price.
334. Has it been so spoiled as that you have been glad to get any price you could for it?—Yes, I have given it away almost.
335. *By Mr. Power.*—What quantity of land would be necessary to give ample space?—I think not less than three acres, to give us plenty of room, providing we had covering.
336. *By the Chairman.*—Are you of opinion that, if plenty of room was given and covering, the increased rates that would be received from the market gardeners would tend to defray the extra cost and to pay the interest of the money expended?—A great many more would come to the market, if they had room.
337. And you think that would be sufficient to pay the interest on the extra outlay of capital?—Yes.
338. *By Mr. Power.*—If you expect that you would have an increased number of carts, would you require further accommodation than the three acres?—I should think that three acres would be enough. It would make a very good market, and I should suggest that the market should be opened and closed at regular hours, say from five o'clock in the summer time, and to close again at nine; and seven o'clock in the winter would be quite early enough, or say six o'clock in the winter. I do not like myself getting up five or six hours before there is any necessity. I am obliged to get up at twelve o'clock or one o'clock to get any stand at all. I leave home almost regularly at one o'clock in the morning.
- 339.—The first arrival gets the best choice of place?—Yes. I was told last Saturday morning, that there were carts there as early as nine o'clock on the Friday evening in order to secure a good stand.
340. *By the Chairman.*—Would the market gardeners wish to secure each a stand to themselves if there was a covered-in place?—Yes.
341. And would they be willing to pay for it, whether they came or not?—I should be most happy to pay for it, and I believe it is the general feeling of all the market gardeners. I

should be happy to pay so much a quarter in advance, just as the corporation thought proper, or so much a year, for I am a regular attendant at the market twice a week. And there is another thing I should like to suggest, that is, as to the exacting of the toll. I am perfectly willing to pay the toll for fruit and vegetables; but on one occasion I sold my load to come to Collingwood; the person who bought my load had only some vegetables, he bought some melons, and said "Have you any objection to take these melons up to my place?" I said "No, put them upon the cart." He did so. The market-keeper came round and, seeing those melons on the cart, said, "You have fruit, you must pay for it." I said, "They are not mine, they are put into my cart by the person who has purchased the load." He said, "No matter, pay me a shilling;" and yet those melons had been paid for once before by the party who brought them in.

Mr. T. Lansley,  
continued,  
20th April, 1857.

342. If a new market should be established, where some people have spoken of it, at the back of the gaol, do you think that that would assist the market gardeners?—I do. I do not see a better site anywhere in the city. It is the most central part.

343. And you for one would have no objection to go there?—Most certainly not. Now the western market has got down among the warehouses.

344. Would it suit you, or the market gardeners generally, to hire those shops in the western market?—I am sure it would not.

345. They do not require such places?—They do not.

346. Then it is your opinion they are quite uncalled for as for the use of the market gardeners in general?—They are quite uncalled for, they are no use whatever to the market gardeners.

*The witness withdrew.*

*Adjourned to Wednesday next, at ten o'clock.*

### WEDNESDAY, 22ND APRIL, 1857.

**MEMBERS PRESENT:**—The Honorable J. P. Fawkner, in the chair; the Honorables R. Guthridge, John Hodgson, James Stewart.

Mr. Robert Robinson called in and examined.

347. *By Mr. Hodgson.*—What are you?—A market keeper.

348. What are your duties?—To receive the dues from the market gardeners that come in, and to issue licences to any hawkers that go about.

Mr. R. Robinson,  
22nd April, 1857.

349. Are there persons appointed to see that all the market gardeners do take out licences?—Not market gardeners; they are obliged to take out tickets. It is those who hawk about the thoroughfares, through the streets, they take out licences. The city inspector is bound to see that they have their licences.

350. What are the usual number of licences issued?—Very few, perhaps five or six in a week to those hawkers. It is the market gardeners who are the principal number; I had 204 on Saturday last.

351. The whole of those 204 had come in with produce?—They had.

352. Where are those carts stationed generally?—Out in Market-street some, and some in Collins-street, and in the Market-square.

353. How many in the Market-square?—From sixty to eighty.

354. Can it accommodate that number without difficulty?—It can.

355. Is there any complaint made by persons who are obliged to stand in the streets, that they cannot get into the market?—Their complaint is, that while stopping in Collins-street they found that far more convenient, and that they sold better. They were removed out of Collins-street down to Market-street, and into the market; that is the principal annoyance.

356. The principal annoyance is in consequence of their being removed from Collins-street to the neighbourhood of the market?—It is.

357. Are none allowed to be in Collins-street?—There are some few that I allowed myself; they said they had lost by it. Some of them did go into Collins-street after this, and I did not put them out of it. That has been so for the last few market days on one side of Collins-street.

358. Then you think that those persons who are allowed to be in Collins-street have a decided advantage over all the rest?—They think so, but I do not.

359. What the committee would be glad to be informed of is, whether there is any wish on the part of the market gardeners generally to get within the enclosure, namely, where the sixty carts are?—There is no wish of the sort. I do not think there is any. I think their wish is to be allowed to remain in Collins-street.

360. If there was greater accommodation in that area, say for 100 or 150 carts, would they congregate in that space?—I do not think they would like to go in at all.

361. *By Mr. Stewart.*—At the present moment, the persons who own those carts and have to go into the market square, do they grumble at the others being in Collins-street?—Those who go into the market-square are the potato carts, and it would not affect them, because the people should go into the market for the potatoes. I put all the potato carts into the market, and allow the vegetable carts, if they prefer it, to be outside.

362. You say, they would all prefer being in Collins-street, so that, if they all prefer

Mr. R. Robinson,  
continued,  
22nd April, 1857.

being in Collins-street, those persons who go into the market do not get the same advantage as those who sell in Collins-street?—This morning there were two or three potato carts standing in Collins-street, I said “You cannot stand here, you must go into the market.” One said “I have a pair of restive bullocks and cannot get them in.” I said, “If you have, I will not trouble you.” He said, “I would rather go, if it were not for those two steers.”

363. Are there any carts go into the market to sell only vegetables?—None.

364. How many potato carts are there?—Thirty, or forty, or fifty, or sixty, or seventy, or eighty.

365. And all those carts go into the square?—Yes.

366. And it will hold seventy or eighty, will it?—It will.

367. *By Mr. Guthridge.*—Who buys the produce chiefly from those market gardeners—who are their customers?—Those people who keep stores and who retail vegetables in shops.

368. Do private families go or send there?—Sometimes. They used to come very much in the summer time, ladies used to come then; though they have not latterly come so much since the winter has commenced.

369. *By Mr. Hodgson.*—Are they willing to sell any of their produce to private individuals?—They are.

370. *By Mr. Stewart.*—Can you mention the reason why those vegetable carts prefer Collins-street to the market-square?—The people who purchase would rather go along Collins-street than be removed down into market-square or go down into the market.

371. If there are so many carts, there would not be room for them?—No.

372. If there were room, you would not allow them to stand in Collins-street, I presume?—No.

373. Then it is because there is want of room in the market that you allow them to stand in Collins-street?—For the whole of them.

374. It is for want of sufficient room in the market you give them that privilege of selling in Collins-street?—Yes.

375. If there was sufficient room there, you would make all the carts go there?—Yes.

376. The produce which would be subject to go to the market, the owners of it prefer to sell in Collins-street?—They prefer Collins-street.

377. Those that go down to the market feel aggrieved at those who are allowed to be in Collins-street?—No, not the potato people, because people go to the market to buy them.

378. Are there not two or three loads of vegetables that go down to the market?—Sometimes.

379. Do they go of their own free will?—Yes, but they do not stop for a considerable time. They go and stop an hour or half an hour, and cannot sell, and then come back again.

380. If there were only twenty carts of potatoes in the market, and you saw seventy standing in Collins-street, when there was room for thirty in the market, should you order thirty of those carts in Collins-street to go down to the market?—I would allow them to stand in Collins-street. I should be unwilling to interfere with them.

381. *By Mr. Hodgson.*—What are your instructions from the Corporation?—As many as the market will hold, to put them in, and let the others stand in Collins-street, and Market-street, and Flinders-lane.

382. *By Mr. Stewart.*—But if twenty carts of potatoes were in there—that is, if there were only twenty carts in there, and you saw thirty or forty carts standing outside, would you put them into the market?—I would not.

383. *By Mr. Power.*—Then you do not confine yourself to the orders you receive. You are ordered to fill the market, and you would take upon yourself, you say, to override those orders?—No; I beg your pardon, I cannot take upon myself to override them. The fact is, that they would not go down into it for me.

384. *By Mr. Guthridge.*—Suppose there was another market—say the eastern market, in some other part of the town—would they go willingly there?—I believe they would stay where they are, the greater number of them, for many of them told me that they did not want to change.

385. *By Mr. Stewart.*—You collect money from the hawkers.—Yes.

386. Can you state the number of persons who sell in the eastern market—that is, small stall-holders and hawkers?—Only two boys of the name of Holland.

387. I speak of Saturday night?—I do not know anything about the eastern market. I would add, that out of I think 20½ market gardeners, 190 would say I am a man who does my duty quietly and to their satisfaction; I have had some difficulty with two or three with regard to my dues sometimes, but nothing more.

388. *By the Chairman.*—There has been a charge made against you, but I do not wish you to commit yourself—you need not answer the question without you like. Are you instructed to compel the market gardeners to go into the western market when the market has sufficient room for them on the market days?—It was so, but I reported the circumstance that I could not get them in, for they had such an objection, that it was an injury to them, that they were unable to sell, and after that I was not ordered to tell them to go into it.

389. At one time you were ordered to do so, and in consequence of your orders, you did do so?—I never went contrary to my orders.

390. Did you ever order any persons into the market against their will?—I did at first going off.

391. You did that, because your orders were to do so?—Yes.

392. But at present you do not compel people to go into the market?—I saw for two or

three market days the men could not sell in the market, and they were complaining to me, and I thought it a great hardship, and I went to the town hall and reported the circumstance there, that they could not sell; that it would be much better to let them stand in the streets and not deprive them of the market, for it would be a great loss to them.

393. *By Mr. Stewart.*—What is the reason they cannot sell their produce in the market?—The buyers do not go into it; at least they say so. In fact, they complain of it. Even the last three weeks, I see that many of them did not even sell in the streets—that they leave the market with their goods altogether unsold.

394. If all the carts were down in the market, do you think buyers there would go down to buy?—Of course they would.

395. Those persons who go into the market with their carts, do they pay the same dues that those persons do who stand in Collins-street with their carts?—The very same.

396. *By the Chairman.*—Do you collect the dues?—Yes.

397. Can you tell us what you collect per week from the carts?—Last week I collected £22 14s. 6d., I think.

398. Does it average that—is it more or less generally?—It used to be more, but the fruit season is now gone by, and it will be getting every week less, until the fruit comes round again.

399. Can you tell the committee what was about the average during the fruit season for the western market?—I should think about £25 or £26 per week; I mean for the fruit season.

400. Can you tell the committee how many carts were employed at that time bringing in fruit and vegetables to the market?—I should say there were upwards of 300 bringing fruit and vegetables altogether.

*The witness withdrew.*

Charles Farewell, Esq., City Treasurer, examined.

401. *By the Chairman.*—Can you inform this committee the amount that has been received from the western market, and from what date?—I can only give the western market by itself from the 1st September, 1846. From the 1st September, 1846, to the 28th February, 1857, I have it at £24,134 16s. 1d.

C. Farewell, Esq.,  
22nd April, 1857.

402. Will you prepare for the committee a statement showing the particulars of the revenue as far back as you have them of the western market, and the eastern market, and the cattle market?—I will.—[*The witness subsequently forwarded the statement—Vide Appendix C.*]

403. Will you at the same time furnish to the committee the amount of what has been expended upon each of those markets, and the accommodation to the producers; whether the cattle market, or the eastern market, or the western market, distinguishing each and what the sums were laid out for, and state what the buildings were?—I will.—[*The witness subsequently forwarded the statement—Vide Appendix D 1, 2, 3.*]

404. *By Mr. Guthridge.*—Is it your opinion that, in providing markets for the city, the producer of vegetables and fruit should alone be studied, that a market should be so contrived as to suit them alone?—I can only give my private opinion, and state that my idea is, that markets are for the accommodation of the citizens generally, and that the interests of the grower ought to be consulted also.

405. Is it then your opinion, that the interests of the citizens would be consulted by providing a market solely for the convenience of the producer, that is, a market where the producer and consumer should alone meet, the producer going into the market twice a week—would that be sufficient to meet the wants of the citizens without any other accommodation?—I think the custom of hawking about the town is a great convenience to the citizens generally. It prevents the kind of monopoly there would be, if all sales could only be effected at the market.

406. You do not think that would meet the wants of the citizens, merely meeting the producer twice a week?—I think not.

407. *By the Chairman.*—Do you know the custom of the mother country as to markets? I do not.

408. Can you form an opinion as to this, that if there was a market where both the producer and the purchaser could go and meet one another, the one wanting to sell and the other wanting to buy, that the one who wanted to buy should be able to see what the other had to sell?—That is the natural object of a market.

409. It requires that there should be accommodation to the consumer as well as to the seller, and that being so, there must be room for the man who goes to buy to see what there is in the market; therefore, if the market is for any purpose at all, it must be for the consumer as well as for the grower?—I am not aware of the customs in the mother country, but I have been a great deal in India, which is a great market country, and it is not customary there for the producer to appear in the market at all. The bazaar keepers are simply shop holders who obtain their goods themselves from the producers. There is no convenience of that kind at all for the producers. The markets in India are only for the convenience of the consumers.

410. Supposing you wanted to purchase cabbages, for instance, would you not like to see what you bought?—I understand that, in the purchase of cabbages, the purchaser buys from the stall holder, not from the market gardener.

411. Then you do not seem to know the custom of the country?—I do not, as the custom. I know, as one of the customs, that carts stand in the market place and the producers sell from them directly to the consumers.

*The witness withdrew.*

*Adjourned to Wednesday next, at ten o'clock.*

WEDNESDAY, 29TH APRIL, 1857.

MEMBERS PRESENT:—The Honorable J. P. Fawkner, in the chair; The Honorables N. Guthridge John Hodgson, James Stuart.

Mr. Charles Smith called in and examined.

Mr. C. Smith,  
29th April, 1857.

412. *By the Chairman.*—What are you?—A fruiterer.
413. Where do you live?—At Smith street, Collingwood.
414. How do you obtain your goods, do you go to market and buy them, or do the producers bring them to you?—We get them both ways, by going to market, and by buying them of people who hawk them about.
415. Are you well supplied with fruit?—No, we have a deal of running about for fruit.
416. Are you well supplied with vegetables?—No.
417. Are the committee to understand that you could sell more, if you could purchase more?—I could.
418. A great deal, or a very little?—Sometimes a great deal more; sometimes I trust to the market to get certain things, and when I go there, they are not there, and they might have been at my house when I have gone back. It is very uncertain to get fruits and vegetables too.
419. Where is your supply of vegetables principally grown, in this Colony or others?—In this Colony, principally at Heidelberg.
420. Where do you get your fruit from?—From different places, from Brighton and other places, but mostly from the Plenty.
421. Does any come by water, over-sea, to you?—A great deal of soft fruit. Apples are coming in now from there.
422. From Van Diemen's Land?—Yes.
423. Do you get much fruit from Sydney?—Yes, a good bit.
424. What sort?—At the commencement of the season we get apples from there first, and then we get grapes from there first, and peaches.
425. Anything in the orange or lemon way?—Oranges we get at the latter end of the season. We get all our oranges from Sydney.
426. Is the market any accommodation to you as a shopkeeper?—No, it is not. It is a nuisance. This year I bought sixty dozen of peaches at the market at a certain rate, and when they came to me they were all wet through; still I had to take them.
427. You cannot depend upon the market for a supply?—No.
428. Do you not think it would be possible, if you attended the market early in the morning each day, you might get a supply?—It is so difficult to buy in the market here, sometimes it is up, and at home I can buy things a deal cheaper.
429. You can buy things at home a deal cheaper than in the market?—A deal cheaper.
430. When you speak of the market, do you mean one or more markets?—I mean the western market.
431. Is there a market you can call the western market?—There is a place they call a western market.
432. Do the people bring their vegetables and fruit into the market or into the street?—They stand in the street with their backs to the paths; and if you cannot take a great quantity, they have not the convenience of taking them home. You cannot buy in the western market, for they will not bring them up to you; it will not pay them.
433. Then the committee are to understand from you, that if you buy in the western market, you must take the things home yourself?—Yes; or else buy a load, and very often you have to buy a great deal more than you want. For instance, I could not get water melons without going to the market, and I had to buy 300 before I could get them taken home, and about half that number I had to throw away.
434. Then if the committee understand you rightly, you prefer the carts bringing the things round for you to buy them, to having to go to market for them?—I would sooner do that than have the present market.
435. Were you not a producer at one time yourself?—I was.
436. How did you dispose of your produce at that time?—I used to hawk it.
437. You did not sell it in the market?—I never would go into the market. I never went into the market with a load yet.
438. Did you ever pay any dues?—I did, sometimes.
439. You paid the market dues, but did not take advantage of standing in the market?—Never—I never stood in the market.
440. *By Mr. Guthridge.*—Sometimes, you say you paid the dues?—Sometimes I did and sometimes not; and it is often done, that they never get them. If there was a proper and good market, it would I think be a benefit to the colony.
441. *By the Chairman.*—If there had been a market covered in, would it have been any inducement to you to have attended when you were a producer?—It would.
442. *By Mr. Guthridge.*—Because of being covered in?—Sheltered.
443. Are the streets sheltered where you sell your vegetables then?—I only have vegetables, I am alluding to fruit. If you have a great lot of peaches and grapes, you cannot put them down on a dusty day to expose them for sale.
444. You said you did not go into the markets because they were not covered. Were the streets covered that you did go to?—No; I used to get a better price by hawking, because I retailed them.



445. I apprehend the covering of the market would not keep you there, if you got a better price by hawking still?—No, it would not.

446. Supposing you were still a producer, you would not go under the covered market for the sake of the covering, if you could get a better price by hawking?—No, I would not.

447. As far as I understand you, you think the markets are of no use at all, that the city would be better without them, the producers being allowed to carry their things about the streets?—With fruit from the grower. I have known Mr. Cole have grapes in his cart, and dare not unload them and dare not show them; and because he could not show them, could not sell them; and he has brought grapes back to me at a time when the market price was eightpence or ninepence, at fivepence.

448. *By the Chairman.*—Do the dust and sun injure fruits and vegetables?—They do.

449. And is that to a serious extent—does it take away the price from the grower?—It does; I would sooner have rain upon them than I would have dust. If you get dust on them, you can scarcely get it off again. If you have a quick sale, rain does not do much harm.

450. *By Mr. Guthridge.*—Would a simply covered market prevent the dust from coming upon those goods?—I should say it would a great deal better, if it was all covered in.

451. If it was a house it might; but we are talking of a covered market, merely roofed, without any sides to it?—No, that would keep it from the rain, but it would not keep it from the dust. I think there ought to be a wall round, as well as a roof above.

452. There ought to be a house, in fact?—I should propose stalls all round.

453. If the stalls were open, would not the wind blow in, and bring in the dust?—I say there should be a wall all round, and inside the walls the stalls.

454. And roofed as well?—Roofed as well.

455. Then it would be a house?—It would be a large house.

456. A large house is a house as well as a small one?—Yes.

457. Then if walls were built and a roof were put on, it would be a house?—Yes.

458. You do not think the mere covering of a roof without walls would be of any advantage?—No; it would shelter the things from the rain, but not from the dust.

459. And you said just now that the dust is more injurious than the rain?—It is so.

460. *By the Chairman.*—Does the sun have any effect upon fruit or vegetables?—It makes them a deal worse, but the dust is the principal thing, it spoils so much fruit.

461. You have been living in Melbourne some time?—Thirteen years.

462. Does not the dust get into people's houses?—Yes, it does.

463. The dust is not to be stopped even out of your own house?—It is not to be stopped, but it does not fly so much as in the street.

464. Though the things suffered from the dust in the case supposed, they would not suffer so much as if they were more exposed?—No, they would not.

465. *By Mr. Guthridge.*—If the whole of the western market had been covered in with walls and a roof, would it have provided the producers with a proper place for the disposal of their wares?—I think there would be room for about one-eighth of the carts that go in.

466. In point of fact, we should require eight markets as large as the western market?—I cannot say the space inside.

467. I am speaking of the whole area—do you know the whole area?—Yes; I have been here when there was nothing but sheds, and I think the whole of the western market, if it was laid open, would not be half big enough, because the carts are still increasing; and there are now sometimes between 200 and 300 carts in, not taking into consideration the carts that are hawking about.

468. Then it would not have been large enough, you think?—No.

469. With regard to the site, would it have been in the right position, if it had been large enough?—No.

470. Where would you think the right position to be, as you contemplate so large a market?—The principal place for the market would be some such place as where the Royal or Tattersals is—central.

471. But that cannot be got, you know?—There is a spot by the water tank, on the top of the Eastern-hill, that would be a very good place.

472. Do you think that would serve the purposes of the growers?—It is central for the principal growers that come in from the Plenty and Heidelberg, and it would be central for the buyers of Richmond and Collingwood. It is a great way for us to go right down to the western market.

473. And a greater way for people from Richmond to go to the western market?—It is. I think that would be an excellent place for it myself.

474. *By the Chairman.*—Have you ever noticed the place at the back of the gaol—would that be more central?—No; it might be as well where it is, I think.

475. Then, if I understand you rightly, the western market, if it had been kept free, might have been sufficient for half the carts at the present time; but that the present reserve in the centre is not greater than is sufficient for one-eighth, you think?—Yes; exactly so.

476. Therefore they have reduced it from one-half to one-eighth?—Yes.

477. *By Mr. Guthridge.*—If a market were provided for the accommodation of the growers' carts, sufficient for the requirements you have stated, do you think that that would be sufficient for the city—that no other market would be required for the city than that?—I think there would not. I think that if the other market was used as being for the wholesale, such as is being used now, that would do very well.

478. Do you not think that a market for retail purposes would be wanted in some part of

Mr. C. Smith, the city?—I think myself, at the same time that you are having this market, that this would be a retail market as well as for the accommodation of the carts.

*continued,*  
29th April, 1857.

479. I do not understand you—could you make it a retail market and also a market for the producers, because they only come twice a week?—They would come into this market, I suppose, covered over with iron and glass, and round the walls inside there should be stalls, and the walls carried up, and say there was any little tasty thing like fountains in it, it would be a resort for people to go to of an evening. Now, the present market is just like a dungeon, nobody would go there of a night.

480. I want your opinion as a practical man. Does it appear to you that you could mix up what you describe as a growers' market with an ordinary retail market?—Yes. Have you ever seen Covent Garden Market?

481. Yes.—Did you ever see any retailing there?

482. Yes.—I should suppose it to be similar to that.

483. There are other finer markets than Covent Garden Market, as far as retailing is concerned; for instance, St. John's Market, Liverpool, and Birmingham Market?—Yes.

484. Those are more like what may be called retail markets than Covent Garden Market?—Yes.

485. *By the Chairman.*—Do you know them?—No; I know Covent Garden Market very well; I have often taken many a load there.

*The witness withdrew.*

Mr. Lawrence Wadeson examined.

Mr. L. Wadeson,  
29th April, 1857.

486. *By the Chairman.*—You reside at Heidelberg?—I do.

487. Do you keep a garden there?—Yes, I do.

488. Do you supply the fruits from your garden to the city yourself?—Yes.

489. Have you any stall in the market?—No.

490. Do you know the western market?—Yes, I know it; but I have not been in the market myself frequently—I send; but I know the market very well.

491. How do you sell—do you sell in the market, or do you go about and supply customers?—Generally in the market, except it is any one thing ordered.

492. That is at the western market?—Yes.

493. What accommodation do you find at the western market—do you find sufficient accommodation for yourself there?—There is no accommodation to call accommodation. The first time my man went to that place, the little square that is open, he started very early, and the market-keeper compelled him to go inside; he had generally stood in Queen-street before. It was a very wet morning, and he happened to be nearly the first, and when he had got in and sold his articles he could not get out gain until ten o'clock; it was so crowded with carts, that he was unable to get out, even when he had sold all his things, and he found it a very great disadvantage.

494. Even after he had sold?—He had sold all his goods to people in town, not at the stalls in the market; and one person was too late, and he was obliged to hawk it, for the man told him he thought he was not coming.

495. He had lost his market?—He had lost his market through going inside; so after that, when he told me the state of things, I told him he had better wait a little until the market was filled by other people, so that he could not get in.

496. Do you know the size of it?—I do not know the proper size of it.

497. Do you and the other growers wish to have any further accommodation—do you wish the market to be roofed in, for instance?—Of course, anything that could be done for the general good I should be very glad to be in favor of, whatever it might be. I think it is probable that there might be things done a great deal better than they are. If there was a sort of market made up that was covered in, we may say still, it would take a very large space of ground to cover all the carts that attend the market.

498. Do you know how many carts there are?—I have heard between 200 and 300. I never counted them, though I have been there occasionally.

499. Would you prefer, instead of a place for the carts to be covered in, a stall to which you could transfer your goods from the cart?—If possible I would, but it is rather a curious thing of that sort here, to get what we could wish.

500. The committee wish to know what the gardeners themselves desire and what they require?—I have been speaking to a few, and I think they all agree with me in this, that if there was a place covered in slightly for carts; if it was possible to have that, it would be very good; but to rent a stall would not be altogether agreeable, because there are people in town who would still keep fruit shops and different things. I should be there myself, and can talk to others just to sell to any one who comes to the market to buy, and to deliver it to their shops in town. It would be very good of course to have a place where I could stand under cover, particularly from rain, both for man and beast. I had a horse caught a dreadful cold, standing so long in the wet, the cart starting so early and waiting till day light.

501. You are of opinion that it would be better to supply the shops and the other people who retail those things, and come in yourself only once or twice a week?—Just so.

502. Which would you prefer—that all the carts should be compelled to go to market, or that they might sell without going to market by hawking about the streets?—I should prefer that they should all go to market, and that there should be no hawking, except they could not sell at the market.

503. You think that by all going to the market, it would be better for the consumers as

well as the growers?—Yes, I think so; and there is a better chance for every one to see what there is, and get the market price, and to hear from one another what is going on. Then there would be no saying, "I have bought" this and that and the other, and so beating the price down.

Mr. L. Wadson,  
continued,  
29th April, 1857.

504. Do you pay any market dues?—Yes; two shillings for fruit, and one shilling for vegetables only.

505. Do you get any return from the corporation for those two shillings or one shilling?—No.

506. Only permission to stand in the street?—Yes, permission to stand in the street. It is better in the street at present; one-tenth part are not able to get into the market.

507. *By Mr. Hodgson.*—In the event of its being possible, would it be desirable to have a large space of ground that should be covered over, where all the carts could congregate together?—Yes.

508. And to relieve the streets altogether from being blocked up by them?—Yes, I think it would be a good thing.

509. *By Mr. Guthridge.*—When you say you got nothing in return from the corporation, is not permission to stand in the streets an equivalent for the two shillings?—Yes. I have been paying for the last fifteen or sixteen years, and have had very little accommodation indeed, any further than being in the streets.

510. You have heard what the last witness has said as to the ground by the water tank—do you think that that would be a proper place for a market such as you have described?—So little as I know about the town. I have been round it occasionally, and it does appear to me to be a central sort of place; but there might be other parts in the town that might be as favorable, and other places I do not know—at present I would call it a central place.

511. *By the Chairman.*—Have you ever examined the place at the back of the gaol?—I do not know that I have particularly.

512. At the back of the county court, to the west of the gaol?—I have been there, but I never took notice as regards the market.

513. *By Mr. Guthridge.*—Do you know the country round about Melbourne?—Yes.

514. As regards the district in which the largest quantity of produce is grown?—Yes.

515. Where are the principal places from which the market is supplied with vegetables and fruit?—Brighton is a great place, and all the Merri Creek; Moonee Ponds and at Heidelberg there is a great deal, and down by Richmond.

516. Then, with the exception of the Moonee Ponds, for all the other places this would be the most convenient for the growers—this place by the water tank would be as convenient as any place?—Yes.

*The witness withdrew.*

Mr. S. Marks called in and examined.

517. *By the Chairman.*—You are a shopkeeper?—Yes.

518. Where?—At 13, Collins-street west.

519. How long have you been engaged in business in Melbourne?—In the fruit trade, for two years.

520. Where do you purchase your fruit?—A great deal of it in the market.

521. I suppose you import some from other places?—An immense quantity.

522. Do you import the greater or the lesser part?—The greater part, on account of the bad accommodation.

523. Do you know anything of the markets, and can you suggest to the committee any improvements that may be made in them?—Yes, I think so; I go to the market twice a week. We have to get up at three o'clock in the morning; and growers, if they live five miles from Melbourne, have to get away at eleven o'clock at night to get a stand, and be in by twelve or one, and the men lie in their carts, and if it is bad whether their stuff is all spoiled; and many of the market gardeners will not bring it in, and therefore there is a great deal of waste of fruit on that account. That is why I say I have to buy a great deal elsewhere.

524. Would that suggest to you any reason why the market should be covered?—Yes, it ought to be covered, each man paying so much, something like a shilling; if he has fruit, two shillings. He ought to pay something like they do in Covent Garden, a pound or two pounds a year; and if he is not there by a certain time, people would know he was not coming. Say, I order a man to be in the market on Wednesday to bring me some grapes. He will say, "I cannot bring the grapes to you; if I have got them, you shall have them." Well, I cannot find the man again, he is poked I do not know where. If he had a place with his name fixed on, I should know where to look for him, and he might pay so much a year besides the market dues; then I, as a shopkeeper, would know that if he was not there in his place I could buy of anybody else. We often buy things and afterwards find the man we have ordered those same things of, but could not find him at first. You want accommodation for the public as well as the shopkeepers.

525. *By Mr. Guthridge.*—Is it the practice in Covent Garden to let standings for carts to certain growers, and if they are not there, that nobody else can go into them?—Nobody else can go into them. Where the market is now would suit me better, but for the accommodation of the public the eastern market is best, and there would be plenty of room if the gaol was down.

526. *By the Chairman.*—Do you know the place that has been mentioned by the water tank?—Yes; that is very well for Collingwood, but you would have the public, in such places as Bourke-street, Collins-street, and Lonsdale-street, and Swanston-street, complaining.

527. Do you know the place near the gaol and the county court house?—Yes.

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528. Some people think that would be the most central—would it be the most central, do you think?—Not more than this.
529. *By Mr. Guthridge.*—Do you think it would be a better place than that by the water tank?—No; I think by the water tank would be better.
530. *By the Chairman.*—Are you of opinion that all the carts with fruits and vegetables should come to a market or not?—They should come to a market, of course.
531. Why do you say so—for whom would it be better?—For every one; it would cause a great monopoly amongst the shopkeepers if there was no market.
532. May I infer, from what you say, that you would recommend that all parties should go to the market?—Yes.
533. That there should be covered places for the growers, and that they should pay a sum yearly, besides the market dues for their standing?—Yes.
534. *By Mr. Guthridge.*—Do you think that a mere covering—a roof—would be sufficient for the purpose?—Yes.
535. Without walls?—Oh yes.
536. Have you seen the Smithfield market, in England, near Copenhagen Fields?—Yes.
537. That is partly covered over?—That is all. The market gardeners would not like to remove it out of their carts.
538. You think a mere roofing over, like Smithfield market, would be the very thing for them?—Yes.
539. *By the Chairman.*—Would you let them stand there with their cart, only taking the horse out?—They would not like that, I think.
540. Do you think it would be for the benefit of the customers that they should go in among the carts without being in danger of being kicked by the horses—would it not be better to have the carts drawn up in rows and the horses taken out?—It would be better for the customers.
541. *By Mr. Guthridge.*—Do they not take the horses out in Covent Garden market for instance?—Sometimes; there are certain hours for the wholesale, and after that for the retail, market.
542. *By the Chairman.*—You would recommend that here, that there should be a certain time for wholesale and a certain time for retail?—Yes. If a market gardener brings in his goods and cannot sell wholesale without a great reduction in price, he has a right to stay till he can, and then there ought to be a time for the market to open. It is ridiculous to try and sell stuff at two or three o'clock in the morning.
543. Should there be any fixed time, do you think, at which the market should be opened and shut?—Five o'clock in the morning in summer to open.
544. For wholesale?—Yes, for wholesale.
545. Would you close the wholesale market at any time?—No; you cannot do that, it would be too much of a monopoly.
546. What time would you fix for the retail?—I think it ought to be opened for the public from five to nine, wholesale or retail.
547. *By Mr. Guthridge.*—Do you not think that sunrise all the year round would be the proper time to open the market?—That would be too early. I think five o'clock would be quite early enough.
548. *By the Chairman.*—Would you shut the market at any time at night, or what time would you recommend it to be shut?—From five o'clock in the morning till nine o'clock in the morning. It would not be an evening trade at all, unless you wished it for the hawkers, to do away with the hawkers in the streets; then it would be open for any one. It would be much better in that way, that instead of hawking in the streets, they should be allowed, by paying their market dues, to keep the market open for any one at any time to sell.
549. *By Mr. Guthridge.*—Do you think another separate market, fitted up for retailers with stalls, would be an advantage, instead of mixing up wholesale and retail?—None whatever; it would do the growers a great injury and do the public a great injury; they would go to the growers and buy the stuff.
550. *By the Chairman.*—They would forestall them, in fact?—Yes; you would have no benefit, in fact.
551. *By Mr. Guthridge.*—What are the people to do all the rest of the week, if the growers come in only twice a week?—Let them come in three times a week.
552. It appears they can scarcely produce enough to come in twice a week with?—I believe quite differently. If the accommodation was good, you would find, instead of 200 carts, 300 or 400.
553. Is this speaking of the supply for the rest of the week?—If there were more carts they must all bring some supply.
554. If I happen to have a cabbage for dinner on Wednesday, I do not want to have to buy it on Saturday morning?—There is no doubt, if the market was three times a week, you would have a good supply.
555. *By the Chairman.*—You think increased accommodation would cause an increased supply of fruits and vegetables?—No doubt; the accommodation now is fearful. That market will hold not above twenty carts; then what is the use of it. It is not of any use for the wholesaler or the grower—only potato carts will go into it.

*The witness withdrew.*

Mr. George Cole called in and examined.

556. *By the Chairman.*—Where do you live?—On Gardiner's Creek—the Toorak road.

557. What are you?—A market gardener.

558. How long have you been a market gardener?—Since the year 1843, going on for fourteen years.

559. Do you supply fruit or vegetables to market?—Both.

560. And have done regularly for some years?—I have done so regularly.

561. What market do you attend?—The market at the far end of Collins-street—the western market.

562. Do you pay anything there?—One shilling for a cart load of vegetables, and two shillings if there is any fruit upon it.

563. Do you come in more than once a week?—Twice a week.

564. And some weeks you pay four shillings a week?—If I bring two loads of fruit, or only a small quantity of fruit upon my vegetables twice a week, I pay four shillings.

565. What accommodation do you get for it?—No further accommodation than standing in the open streets. The accommodation we had before was on a piece of ground; there was no covering over our head. We had to exhibit our goods the best way we could; and it was very inconvenient having a mixed load, with perhaps onions at the bottom, and potatoes, or cabbage, or turnips, or cauliflowers on the top. You could not expose those goods on the bottom of the dray, and you cannot turn them out for the mud; therefore, you must sell the top load first, which is often a great injury to you; because, as you cannot get to the bottom of your load to expose those things, you are very often obliged to take a lower price than you would in an ordinary way.

566. You are in favor of having a covering to the market?—A covering over the head and a dry place to put the goods upon.

567. Would it not be better for the customer who comes to look at the goods, as well as for you who come to sell them?—It would be much better, on a wet day particularly—we should be glad to sell as quickly as possible, in order to get away.

568. Would the fruit and vegetables be better from being covered over?—Yes, because now, in bringing turnips and carrots and those things, which we bring washed to market, when you lay them down in the mud on the pavement, they are spoiled.

569. Do not the dust and dirt deteriorate the fruit and vegetables?—Both; when I have got a load of fruit I generally keep a tarpaulin over it, and keep it tied down to keep the dust off.

570. Would you like to have a market covered in and have a stall for yourself, and to pay a certain sum for it for the year or the half year?—I should like to have it covered in.

571. Would you pay for a piece of ground by the year?—I would pay.

572. *By Mr. Guthridge.*—What area would you think sufficient for each cart to stand in?—Eight to nine feet in width and the length of the cart and horse. We feel it in the morning, coming in early, when the roads are bad; a horse coming in hot and wet, and standing so long, will take cold. If we could get a shed to cover the horse's head, so as to shoot the water off the horse's head, we should not require anything more.

573. Would it be any benefit to the consumer and to you as the producer, if you had a stand for the cart, and the horse taken out, and a stall for each of your horses in a yard?—Yes.

574. Instead of keeping the horse in the cart liable to injure persons going about, it would be a benefit to you to have your horse taken out and put in a stable?—Yes, the horse would be benefitted by it. I do not say we should sell our produce better. It is the way I have been accustomed to in the markets at home. I paid 6d. to the ostler, who gave my horse hay and water. The horse has stood in the stable perhaps for two or three hours. I should like to pay so much per quarter for a piece of ground for a stand, provided it were kept for me till, say eight o'clock in the winter and six o'clock in the summer, so that I need not rise to get to market before that time. I have been this summer in the market, or in Collins-street, when the clock has struck two, and started from home at twelve. Although I have been working as a gardener the day before, I have been there at two o'clock, and sat on that pavement till five before I sold an article. You could not sell before daylight.

575. What is the object in coming so early?—Not the object of selling, but to get the place where I was the week before, because my customers come and look in a certain place for me; and if I am not there they say, "Cole is not in," and they go further round the market. I may be an hour late, and if so, I get put down nearly into Flinders-lane, whereas, I have been accustomed to stand in Collins-street. I generally try to get between two certain lamp posts or within a few yards of the spot near the same building, and my customers, not finding me there, have purchased of others, though I have had things for them which they have ordered me to bring; and I have had to sell those things, some of them at 2d. and others at 4d. a pound, because I have been thrown out of the market. It has come perhaps ten o'clock, and I have been obliged to take what I could get.

576. *By Mr. Hodgson.*—What would you say would be the proper hour for opening the market in summer and what in winter?—Six in summer and eight in winter.

577. Would five o'clock in summer be too early?—It would be rather early, though I would approve of five o'clock. The only reason for making it six o'clock in the summer is, that many have so far to come, they must then rise at two o'clock in the morning to get there. I should have no objection to five o'clock, supposing we had one stand preserved for us till we came, or to a certain hour; and then, if we did not come by that hour, it might be filled up—that was the regulation we had in the market I used to attend at home. I paid regularly, and my stand was kept for me till a certain hour, and my customers came; and if I was not there, they would

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say, "It is not his hour yet;" but after that hour they would say, "He is not coming, his stall is filled up."

578. *By the Chairman.*—Other sites have been suggested to the committee—do you know anything of the place by the tank on the Eastern-hill?—I have seen a piece of ground that was a vegetable market.

579. Would that be more central, according to your estimation, than the present western market, particularly in the way that that is built upon?—It would be more central than the western market; but I think the hay-market would be the best market we could have—what is called the eastern market, provided it was large enough, and I suppose it would be if that women's gaol was taken down and other things removed.

580. Would you recommend that it should be completely covered over?—There is no necessity for its being completely covered over. If we had a platform a certain width, and that were covered over with a flying roof, so that the eaves fell over our horses' heads and the platform, and if we had a bit of ground to expose our goods on that platform, with a space between, so that you could drive away when you had done your business, without being compelled to wait after you had sold your goods, with a roof over our heads to keep us dry, we want nothing more.

581. You would have several passages for the carts to go in?—Yes.

582. Which should stand back in those passages, so that persons in the two carts could back them towards each other, with the platform between, to go up and down?—Yes, with room for the horses to turn and get away. Where we feel it in market gardening is, we cannot get rid of a sufficient quantity of vegetables; it would pay a man to grow them at a shilling or eighteen pence a dozen, if he could sell them. You cannot get rid of them. You may have an acre of turnips and only be able to sell a few, and you must leave the others at home to spoil. We want to sell to the wholesale customers and supply them; and then, after that, we want to have some chance of selling to the people who choose to come and pay us a little more than we are paid by the wholesale customer, but not the price they would be charged in a shop. It is for the want of selling the gardener is so crushed. If you grow a great quantity of cabbages, the market is glutted directly, and you get nothing. A shopkeeper will take ten or twelve dozen of stuff and pay two shillings a dozen, and then perhaps you have got twenty or thirty dozen left, but they will not take that at sixpence a dozen; they have not room for it and do not want it. We want an opportunity of getting rid of it even at wholesale price.

583. Then the present gardeners could supply a good deal more produce to the present market than they do, if there was encouragement?—Yes.

584. They could bring in a great deal more?—I am sure I should. I brought in lettuces last year, and dug in thousands, because I could not get rid of them. I perhaps sold a lot at eightpence a dozen to my customers, and the others I could not get rid of at sixpence a dozen.

585. *By Mr. Guthridge.*—You know the area of the hay market?—Yes.

586. Do you think, taking the plan you have suggested, that, if the whole of that space was disposed of in the way you have proposed, there would be sufficient accommodation for all the growers?—I hardly think so. I think, if that market was built upon, it would make more room if there was a continuation, and the market was taken round; by that means you would have an open square in the middle for the carts to draw out and turn round; that would be a good plan.

587. *By the Chairman.*—You could grow produce enough for the consumption of the town, if you could sell it?—Yes.

588. *By Mr. Guthridge.*—The market gardeners as a body, you think, would much prefer going to a market, if provided in some such way as you have suggested, to the present way of selling?—Yes, it is very awkward. In Collins-street, last Saturday, we were almost to our ankles in yellow mud. One man broke his shaft, and on Wednesday morning another did the same. If you are not very careful, it will swag the load down and break the shaft; and if you break those window blinds, you will be made liable for them. The opposite side of Collins-street is preferable, inasmuch as we can put our goods down; it is cleaner and drier. It was utterly impossible on Saturday morning to put your things down, you must keep them on the cart.

589. You do not think that the western market, as it is now, can be made to answer the purpose of the producers of vegetables?—I do not see any plan by which it can be made to hold one-third of them.

590. *By the Chairman.*—Would it suit the grower to take those buildings they have put up there?—No, what should we do with them, they would not pay us. And there is another thing in this market that I have been subjected to this summer—when I have come in of a morning I have found on the pavement perhaps an empty box, and a man has come and said "That is my site," when I have been going to back in. I have gone away and about seven or eight o'clock that man has brought Van Diemen's Land stuff. Those men do not care to sell till eight or nine o'clock, till the growers are gone away, many of them; and they will sell there till twelve o'clock—selling Van Diemen's Land produce, and we must go elsewhere. Go as early as you will you will find several cases there—even at two o'clock in the morning.

591. When you take your things from your carts now, you place your produce on the foot pavement?—On the pavement; we have nowhere else to place it; we back in to the kerb, and place it on the pavement.

592. *By Mr. Guthridge.*—How do you think those stages you speak of ought to be?—I think the platform could not be much less than 20 feet, receiving goods on each side, leaving a passage up the centre for the purchasers to come.

593. *By the Chairman.*—How much room do you usually occupy on the pavement now, in the width of the pavement towards the houses?—From six to eight feet sometimes; it depends a

great deal upon the loading. If it is all cabbage, or nearly so, you occupy more; a few cabbages occupy a large heap; lighter things, such as onions and so on, do not occupy more than five or six feet.

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594. Have you ever suffered much loss by the exposure of your vegetables from the want of covering?—Yes, I have suffered loss, in my fruit particularly, and I have suffered loss in my vegetables, by not being able to expose the whole lot for sale as soon as I have been in there; because one of my customers will come and ask me what I have got underneath, and I tell him. He says directly, "Let me see it;" and I say, "I can't till I have sold off the top;" and then he goes and buys of some one else, and he comes back an hour later, and perhaps offers me a lower price; whereas, if I could have exposed the things for sale in the first place in the morning, I could have got a better price.

595. *By Mr. Guthridge.*—Do you know the market called Portland market?—I attended it some time.

596. Is that constructed something like what you propose?—No, there are large shops round that for the shopkeepers to supply to people at any time.

597. Are there not arrangements something like what you spoke of inside?—Arrangements like it; a flying roof on iron pillars, and the hay market in Portland market is partly divided. On the one side there is the hay drawn in, and on the other side fruit and vegetables; and on another side poultry and other things, I think butcher's meat, and all under cover; and those are just stone blocks and iron posts up, and you draw in between the two. It is a very comfortable market, Portland market; I attended it some years. Paddington market, Mr. Shaw's market, is all covered in.

598. *By the Chairman.*—Then there are two covered-in markets?—Mr. Shaw's was all covered in, and a long avenue down the middle. I invariably take cold—it takes me two or three days to get over it—when I get that drenched, and most market gardeners lose the Sunday by it.

599. You are agreeable to the stand being kept open for a certain time for you—say, if the market is open at four, that it shall be kept for you till six; and that, if you are not there then, you shall have no choice of it that day?—Yes.

600. Do you know others who have that same opinion?—Yes, I have spoken to several of my neighbours, and they are of the same opinion.

601. Would you have the market oftener than twice a week?—I think twice a week is often enough—there is one day getting, and one day selling; that is four days a week.

602. *By Mr. Guthridge.*—You think at present, that what is called the hay market would be better?—Yes, if large enough.

603. *By the Chairman.*—Which would you prefer, if that is not large enough—the site behind the gaol, or that by the tank?—I should prefer near the gaol next to the eastern market; opposite Bignall's Hotel I should prefer next to the eastern market.

*The witness withdrew.*

Mr. William Jennings called in and examined.

604. *By the Chairman.*—What are you?—A gardener.

605. Where?—At Hawthorn.

606. Do you supply any produce to the town?—I generally market most of my produce; sometimes I sell it privately to the shops.

607. You grow for the use of the town?—Yes, for the use of the town.

608. Do you ever attend any of the markets here?—Regularly the western market.

609. How long have you been in the habit of doing so?—Upwards of two years—nearly upon three years.

610. Do you think it would be any accommodation to the growers generally to have the market covered in?—Decidedly so. It is a great injury, especially to myself. Mine is principally fruit—it frequently comes in wet, and that alone does not do your fruit any injury, perhaps, but it keeps the buyers out of the market, and by not being able to expose your fruit you suffer. Perhaps you have a better quality of fruit than the generality of the stock in the market, but the public cannot see your goods. Another great inconvenience from the market not being covered in is, that your horses may have brought in a heavy load, and from some distance, and they are exposed to the pelting rain when heated. I nearly lost one this season from it, and several gardeners have done so. It is not only the convenience or what you may gain from the market being covered over, but I think, as a question of health to yourself, it is a great desideratum.

611. *By Mr. Guthridge.*—What space do you think would be required for cart standing? I have scarcely calculated that; my idea would be to have a panelled platform covered over with a glass and iron roof sufficiently to protect the horse and cart.

612. And the customer?—Yes; by having a platform in the centre and the carts to back on each side of that platform, the buyers would pass down the middle, and consequently one part of the market would be as good as another.

613. *By the Chairman.*—Would you object to pay for a regular stall in the market where you could always be found on market days?—Decidedly not; I think it would be a great advantage to producers and customers. For instance, perhaps some slight accident may occur—you cannot be in the market so early as usual. I have been in the market as early as one o'clock in the morning to secure a stand. It has come on raining, and you have been exposed to it for three or four, or perhaps, five hours, before you could sell your goods. Once I had to go home without being able to sell at all. There are many parties in that market before twelve o'clock at night to secure a stand.

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614. You would be willing to pay for a stand, provided it was kept for you a certain time?—Yes.

615. It has been urged here that that stand should be kept only a certain time, and if you did not come in, then it should be open to others, you having the use of it the next time you come?—Yes, I would not allow the stand to remain vacant, because if half a dozen stands had nobody in them, it would be a poor market.

616. *By Mr. Guthridge.*—Supposing it were reserved for an hour after the opening of the market, would that be sufficient?—Say seven o'clock in the winter, or six o'clock in the summer.

617. Suppose a certain time were fixed, say five o'clock for opening in the summer, and that those stalls should be retained for an hour or a couple of hours, would that be sufficient?—That would be a great improvement.

618. Or if the market were not open till six, that the stall should be reserved till seven?—Yes; and I think the market opening at one certain time would be more beneficial to the shopkeepers and to ourselves.

619. *By the Chairman.*—You are in favor of the market opening at one set hour?—Yes.

620. And of one hour being reserved for the persons paying for those stalls, no one paying without he liked?—Yes.

621. And they are to pay for them half-yearly or quarterly?—That could be settled by the managing committee who managed the market.

622. Do you think there is room enough in the western market for the carts?—There is no room at all there now.

623. Do you think the eastern market, or as some people call it, the hay market, joined with what there is in the western market would be sufficient, if covered in?—It would be of no use to attempt two markets; we ought to have sufficient space in one, the growers would go to one market.

624. Do you know the hay market?—Yes.

625. *By Mr. Guthridge.*—Do you think there would be sufficient space there, if it were covered in?—Yes, now, but not in a year or two; because we may expect an increase rather than a decrease.

626. Do you know the reserve by the water tank?—Yes.

627. Would that position be so good?—Not so good as the eastern market.

628. *By the Chairman.*—If the eastern market is not big enough, which would be the best of those two—that by the water tank or that by the gaol?—That in Swanston-street, at the back of the County Court, by the gaol, would be the more central, although the other would be more for my convenience.

629. *By Mr. Guthridge.*—You would like to go where you are nearest to the customers? That is immaterial, because we might not sell to the same man twice. If I have a good stand in the market, I do not care about the customers.

630. You would like to be in the thickest part of the population?—Yes; the more central the spot the better. As regards the situation, I should say the eastern market is the most central spot, but there is not room enough there.

*The witness withdrew.*

Mr. Henry O'Neil called in and examined.

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631. *By the Chairman.*—You reside at Brighton?—I do.

632. You supply fruit and vegetables to the market at Melbourne?—Yes.

633. And have done so for some years?—Yes.

634. For how long?—For some eight or nine years.

635. Would it be any accommodation to you and others supplying the market to have it covered in?—Of the greatest accommodation.

636. Would you wish to have it done so?—Undoubtedly. We have wished it for years; not only to keep the articles dry, but to prevent the sun and dust from injuring them. They are not so fit for people to consume or use when they are withered in the sun for hours.

637. Have you suffered any loss during those eight years?—I never calculated my losses; gain is all I look to.

638. But have you suffered any loss?—No doubt of it in the world. I have witnessed the vegetables and fruit going in fresh and beautiful and quite attractive, and when they have stood an hour or two in the sun, you would not like to look at them.

639. Would you have any objection, or would it suit you, to pay for a stall to be reserved for you in the market, with a place for your horse and cart to stand?—That is my idea.

640. Would you wish to have it, and pay so much for the half year?—Quarterly.

641. And to have it reserved for you in the market for an hour, say from five to six o'clock, in the summer, and seven or eight in the winter; and if you did not come at that time, that it should not be your's that market-day, but should be your's the next market-day?—If I pay for it quarterly, I should consider it would be mine, whether I occupied it or not.

642. Would you consent to pay for it, and have it reserved for you for one hour beyond the time of the opening of the market, or would you insist upon having it kept idle if you did not choose to come?—If I pay a yearly rent for it to the corporation, I consider it mine as long as I am a tenant.

643. *By Mr. Guthridge.*—Do you think it would be worth while paying anything for this stall to have it reserved for you one hour after the market's opening—do you think that



accommodation would be worth anything to you during the year?—Anything that is not fixed is not valuable. I should say, put a rent upon it and let it be the man's who pays the rent. For instance, if, instead of sending in every market day, I chose to send in every day fresh and fresh, I should consider it mine when I paid for it, and that no other person should occupy it until I resigned it.

Mr. H. O'Neil,  
continued,  
20th April, 1857.

644. *By the Chairman.*—Which would pay you the best, to come in at any hour of the night and pick up a stall anywhere you could, or to have a stall reserved for you till a set hour?—That way of coming in any hour of the night is very disorderly and very irregular, and then you cannot get a place to stand.

645. Would you prefer, instead of coming in at those unseemly hours, to pay so much for having such a place kept open for an hour?—Certainly I would; but I say, if I pay a fixed rent, quarterly or yearly, it is mine if I want to send in any time during the week.

646. *By Mr. Guthridge.*—What rent would you think right and fair—what would you be willing to pay for that entire sole right?—It is premature to judge that; we could not well decide upon the rent—whatever the corporation would think it to be worth. The producer would be well content to pay, say £2 a year.

647. Independently of the market dues?—I would prefer paying a greater amount yearly, and paying nothing when we come in.

648. *By the Chairman.*—Do you know anything of the eastern market?—Yes.

649. You know the western market is too small?—We are completely built out.

650. What do you think of the eastern market, if it were completely covered in?—It is too small, and now it is almost wholly occupied as a hay market; and why should we interfere with the hay growers.

651. *By Mr. Guthridge.*—You were asked if it were large enough, would it be suitable?—The site is the best I could select, but the space is not by any means sufficient.

652. *By the Chairman.*—Do you know of any other space that is available. Do you know the place at the back of the gaol, or the place at the water-tank?—We must look to posterity; and there will be a greater number of producers every year, and therefore I think at the back of the gaol would be the most desirable—no doubt it would be the most central. I do not know whether it would be well to concentrate the market wholly in one position. There may be a necessity for another in Collingwood—the town is going that way. I think less than five acres would be of no use, and anywhere would be better than where it now is.

*The witness withdrew.*

Mr. Joseph West called in and examined.

653. *By the Chairman.*—Where do you reside?—At Brighton.

654. Are you a market gardener?—Yes.

655. How long have you been so?—About eight years.

656. You supply the markets here?—Yes.

657. Where to?—Into Collins-street now.

658. What is called the western market?—Yes, what is called the western market.

659. There is no accommodation there?—No.

660. Would you wish to have accommodation, and do you wish to have that accommodation in the nature of a covered market?—Yes, it would be much to our advantage.

661. Would you be willing to pay anything for a regular stall in the place, covered in, so much the half year or so much the quarter of a year?—Yes.

662. Would you be willing to pay that conditionally, that it was kept for you one hour after the market was opened?—Yes.

663. And that if you failed to come within that hour, some one else should have it?—Yes. I have to rise about eleven o'clock, and I generally go to bed about nine in summer time and am up by four o'clock in the morning working hard all day to get my load; and then I have, as I said, not getting to bed before nine o'clock, to get up by eleven and start between eleven and twelve, or else I should not get into the market. I have been so situated sometimes, that I have scarcely sold an article, and if I have had my things ordered, my customers sometimes do not know where to find me. I have regular customers. Perhaps one day I have been in Queen-street, and perhaps another time I have been ordered up into William-street, and my customers have come and looked round for me and have not found me, and consequently they have not known whether I was in or not, although those things which I have brought in for them I have kept back, and then, when they have found me, they have said, "We thought you were not in, where have you been to?" "Oh, I have been up there." "Well, I have bought my things," and then perhaps those things which I have kept for them I have been obliged to sell at a reduced price.

664. The committee are to understand you distinctly to say, that you consider it is requisite that you should have more accommodation, and that you should have a covered market?—Yes.

665. And you are willing to pay for keeping a stand open for you one hour after the market is opened?—Yes.

666. Then the next question is, where would you prefer having the market; is there sufficient room in what is called the hay market—the eastern market—or do you prefer any other place in the city as more central?—I think the hay market, at the present time, would hold the carts, but I think not as their number increases. I think the place at the back of the gaol and Swanston-street would be better for us.

*The witness withdrew.*

*Adjourned.*

Mr. J. West,  
20th April, 1857.

TUESDAY, 2ND JUNE, 1857.

MEMBERS PRESENT:—The Honorable J. P. Fawcner, in the chair; the Honorables N. Guthridge, J. Hodgson, J. Hood.

Charles Farewell, Esq., City Treasurer, again called in and further examined.

C. Farewell, Esq.,  
2nd June, 1857.

667. *By Mr. Guthridge.*—What was the amount of money authorised to be borrowed under the Gabrielli Loan, and what was the amount actually realized upon that transaction?—I am not prepared to answer *vivâ voce*, but I will have such a return prepared and will forward it as speedily as possible.

668. Will you explain to the Committee in detail how that money has been expended?—I will do so, in as detailed a form as possible, in the return.—[*Vide Appendix E.*]

669. Is the whole of the Gabrielli Loan expended?—It is, or very nearly so.

*The witness withdrew.*

*Ordered—That this Committee be adjourned sine die.*

THURSDAY, 11TH JUNE, 1857.

MEMBERS PRESENT:—The Honorable J. P. Fawcner, in the chair; the Honorables N. Guthridge, J. Hodgson.

Mr. Alderman Clowes called in and examined.

Mr. Alderman  
Clowes,  
11th June, 1857.

670. *By the Chairman.*—The City Treasurer, in reply to a question put to him at the last sitting of the committee, has handed in a return purporting to be a "Return respecting the Gabrielli Loan," and in a letter which has accompanied that return he says—"I have never received any instructions from the City Council relative to the charging the market expenditure as against the Gabrielli Loan, but, on the contrary, I have been directed to open an account as between the market revenues and the expenditure on the erection of permanent market buildings. The balance of the loan shown as not yet expended is represented by a portion of the revenues expended on the formation of private streets, courts, &c., but which are not yet recovered in accordance with the provisions of the Act." In that return there is an item, "amount previously expended on public works, £74,858 14s. 8d."—[*Vide Appendix E.*]—What the committee now require is a return showing the whole expenditure of the Town Council from the time they began to draw from the Union Bank that sum of £74,858 14s. 8d.; the amount of expenditure in the gross, the sources from which the amount so expended was derived, and the works upon which that amount was expended. Will you be so good as to furnish the committee with that return?—I will.—[*Vide Appendix F.*]

*The witness withdrew.*

*Ordered—That this Committee be adjourned sine die.*

WEDNESDAY, 15TH JULY, 1857.

MEMBERS PRESENT:—The Honorable J. P. Fawcner, in the chair; the Honorables N. Guthridge, John Hood, T. H. Power.

Mr. Thomas Anstey Chave called in and examined.

Mr. T. A. Chave,  
15th July, 1857.

671. *By the Chairman.*—What are you?—I am the lessee of the cattle market.

672. Can you inform the committee in what condition the cattle yards are at present?—At present they are in a very dilapidated state, through the portion that was removed from Victoria-street. Where it is now put on, the adjoining part, there is no metal bottom; consequently, that part of it has not been able to be used the last month, that portion of the pens.

673. Have you sufficient room in the yards for all the cattle that come in?—No. There is room, provided the market was held every day; but from the cattle not coming in regularly, at times there are more cattle come in on one day than are wanted in a week, and sometimes there are not sufficient. When people bring cattle down from the country they cannot keep them, and the cattle deteriorate in value; they fret very much.

674. Will you state what quantity of room you have got, whether you have sufficient or not; and if you have not enough, what further quantity you think would be required?—There are thirty-six pens in all, which are not sufficient. From eighty to one hundred pens are required. The original bottom of the original pens is breaking up very much indeed. At the present time the Corporation has let the contract for metalling those pens; that is just now commenced to be metalled.

675. *By Mr. Power.*—Do you not propose removing the yards very soon?—I believe the Corporation does.

676. What then is the object of making those improvements?—They are so much wanted in the meantime. There are but thirty-six pens, I think, in the whole. Mr. T. A. Chave,  
continued,  
15th July, 1857.

677. *By the Chairman.*—How many will the thirty-six pens hold?—Ten to twelve in a pen. I think there should be at least eighty pens. Owners of cattle object putting more than eight to ten in a pen.

678. *By Mr. Hood.*—For cattle?—For cattle.

679. *By Mr. Power.*—Do you think, if you increase the accommodation, you will bring an over supply of stock into the market?—I do.

680. *By Mr. Hood.*—What do you consider to be the objects the Corporation had in view in building these cattle yards—was it for the keeping of stock or for the sale of stock?—For the sale of stock.

681. Then, cattle are not kept there over-night, are they?—Yes, frequently.

682. How long?—I have known cattle kept there two or three nights.

683. *By Mr. Power.*—Three and four?—I have not known four.

684. *By Mr. Hood.*—Do you consider it any part of the duty of the Corporation to provide accommodation for the keeping of fat cattle when they are brought down?—Certainly not. It is entirely to the owners. The market is intended entirely for the sale of stock, not for their accommodation.

685. Is it not large enough for the sale of all the cattle required in this place, supposing that it was not to be used for storing and keeping them?—The present accommodation is not sufficient.

686. Even for the sale of them?—The butchers cannot well attend every day in the week.

687. There are too few butchers then?—No, there are quite enough; but they want to make the market into two or three days, instead of coming there four or five days a week. The owners of the cattle, the squatters, cattle dealers, and farmers bring them in at the commencement of the week, if possible. They fancy that is the best market; and I think, if the accommodation was sufficient, that they would by and by bring the market to two days a week.

688. *By Mr. Power.*—That would answer better?—Better.

689. *By Mr. Hood.*—Answer whom?—The butchers.

690. Would it answer the public better?—Decidedly.

691. How so?—The butchers would be at home to attend to their business; while now, four or five days a week they are off to the market. They do not want to be there so often, but they are obliged to be there every day to watch the market.

692. To watch for bargains, in fact?—Yes, frequently they are watching for bargains; but I think, if the accommodation was sufficient to make the market two days a week, it would be better for all parties concerned.

693. *By Mr. Power.*—There is considerable difficulty in getting them into the market; you have to drive them a mile or two through the town?—Yes.

694. *By Mr. Guthridge.*—How long is it since this alteration was made in the markets?—I think about four months.

695. Can you state to the committee the circumstances under which this portion of the market was removed?—It stood in Victoria-street, the portion that was removed; consequently, to carry out that street, and to make it, they were obliged to remove it.

696. Are you aware that the ground to which this portion was removed the Corporation had no control over?—They have the control of it; it is in the market reserve. It was removed on a portion of the market reserve.

697. *By Mr. Power.*—It is contemplated to remove this market to the Saltwater River, I presume?—Yes.

698. When is it proposed to do so?—I think in the coming summer, before another winter comes on. It will take a considerable time to do it, from the immense quantity of timber that will be required.

699. *By the Chairman.*—During the time you have been in those yards, have any cattle suffered from the bad state of the yards—from the depth of mud and filth?—More or less.

700. I do not mean to say, have they died; but, in your judgment, do they suffer injury from it?—I believe they do suffer injury.

701. Can they lie down?—Not at all in the winter season, except they lie down in the wet.

702. Except they lie down in the mud and dirt?—Yes.

703. There is no stone to lie upon?—It is a metal bottom, the principal part of it; but now it is breaking up. The metal, by the treading and scraping of the cattle, is rendered very loose and it is getting thin.

704. *By Mr. Hood.*—Whose duty is it to keep the yard clean?—Mine; and it is kept as clean as it is possible to keep it. It is as clear as water where the holes are broken up now.

705. *By Mr. Power.*—Would you suggest any improved bottoming, instead of the metalling there at present?—Pitching, by all means. Nothing at the bottom but pitching will do. I would recommend roofing, covering the pens, and draughting leads, which would be quite dry and comfortable.

706. *By the Chairman.*—How long have you been there?—Between three and four years. Three years the 1st May last.

707. Can you tell the committee whether any money has been expended on the yard in those three years?—Only what I have expended; except the Corporation put a portion of the fences in repair when I first took it. At the commencement of my lease the Corporation expended about £650 in paving the sheep yards and cleaning the cattle yards.

Mr. T. A. Chave,  
continued,  
13th July, 1857.

708. What rent do you pay?—£3,500 a year for the market dues of the city of Melbourne—not for the cattle yards alone.

709. *By Mr. Hood.*—What does that include?—Dues on all the live stock publicly exposed for sale within the city boundaries—horses, cattle, sheep, and swine.

710. *By Mr. Power.*—What do you calculate would be the expense of erecting a yard affording ample accommodation?—I must first of all say, that if the yards are roofed they would not require pitching. First of all, there should then be a good sand rubble bottom; but, of course, made a sound bottom; by then being roofed it would stand, and the cattle would be always comfortable. But, if it is not roofed, it would require pitching. The cattle are very wild, and would be always falling and injuring themselves, and the beef would be very much injured in consequence.

711. *By the Chairman.*—Have you any idea what it would cost to make a yard sufficiently large, and to roof in such parts as would require to be roofed?—I should say that £10,000 would be rather under the mark.

712. *By Mr. Power.*—Have you any idea what the present yards cost?—Not at all; but I have some idea of the cost of new yards. I have made inquiries as to the timber; the posts are eleven to twelve feet in length, and they average in diameter—some thirteen to fourteen inches, and some sixteen to seventeen inches, the present posts; and I think the market should be erected in an equally substantial manner as the present one.

713. *By the Chairman.*—How do you pay your rent?—I pay in advance.

714. *By Mr. Power.*—Do you rent by tender?—It was put up to auction.

715. From year to year?—Since my first year the Corporation offered it me at the same rent for the time that it was held then as a market. The supposition was that it would not last above twelve months, or a year and a half.

716. And now it has continued three years?—It is two years since that. Three years I have held it altogether.

*The witness withdrew.*

*Ordered—That this Committee be adjourned to Wednesday next, at eleven o'clock.*

### WEDNESDAY, 22ND JULY, 1857.

MEMBERS PRESENT:—The Honorable J. P. Fawcner, in the chair; the Honorables N. Guthridge, T. H. Power, J. Hodgson.

Samuel Gordon, Esq., called in and examined.

717. *By the Chairman.*—What are you?—A land and parliamentary agent.

718. How long have you been in the Colony?—Between three and four years.

719. Which market are you best acquainted with?—What is called the eastern market. In October, 1855, steps were taken to get the eastern market established.

720. What do you complain of?—I complain that, in spite of the remonstrances of the citizens, especially of the eastern end of it, the corporation have entirely neglected the eastern market; they have, at the same time, incurred a profuse and useless expense on the western market.

721. How did you find the eastern market when you arrived?—Covered with shanties—wooden erections—selling brogues and tinwares, and also occupied with coffee shops, and I was told, by other less laudable occupations; but I could not discover that it was occupied and used as a market.

722. Have you noticed any change in the market since?—Some time after October the place took fire, and a number of the wooden shanties were consumed.

723. Can you state what took place after that—were they re-built, or what?—The shanties were not re-built, but the same complaint that was made in October, 1855, is made now by the inhabitants of this part of the city, that the necessaries of life are so dear in consequence of the want of a market, the humbler classes complain of extreme difficulty in supporting their families.

724. And you lay it to the want of a market?—Yes.

725. Not to the high price of labor?—No. I know that farmers, if they have potatoes and corn growing, if they have not a ready mode of disposing of them, will, in some cases, let the potatoes rot. Now they have not a ready mode of disposing of those articles at present for the want of a market, because they have to run the risk of sending their servants in with their carts, and telling them to go to this store and to the other store, and see if they can sell them; and it very frequently happens that those servants may peculate, or may get drunk, or may let their horses and carts stray away. And in the articles of fish and vegetables, unless there is an immediate sale for them at a market, persons who take the fish, or rear vegetables or fruit, will hardly send them in on the chance of getting purchasers for them.

726. Has that been remedied since; is there any accommodation made for the growers of vegetables or the sellers of fish, in the eastern market?—None.

727. Can you speak of the western market?—I can, but only from report. I may add, that the petition which was presented to the City Council against the erection of the western market on the profuse scale on which it has been done, and not at all unless the eastern market

S. Gordon, Esq.,  
22nd July, 1857.

was commenced simultaneously, was signed by between 3000 and 4000 inhabitants, and it was referred to the market committee of the Municipal Council.

728. Have you any knowledge of what was done in consequence?—I know the western market was proceeded with almost immediately afterwards, and the eastern market was neglected.

729. Has that been neglected up to the present time, do you know?—To a great extent. I think there is a wooden erection put on it since for corn samples. I should add, that I was informed by a member of the corporation at the time the wooden shanties were on it, that the corporation received about £7000 a year from those shanties; and he added, that that was one reason why they either would not or could not make the market there; because, by doing so, they deprived themselves of that revenue. So that while the shanties existed on it, it was an excuse for not converting it to the purposes of a citizens' market; and when the shanties were removed, that, I suppose, was made an excuse that they had not funds.

730. Have you any objection to give the name of that member of the corporation who gave you that information?—As well as I recollect it was Alderman Hayward. It was one of the corporation that mentioned it.

731. You have seen the eastern market?—Yes.

732. And been over it?—Yes.

733. Would that site be sufficient for that part of the city for a market, if made into a proper market?—Judging from the practice in the cities and large towns at home, I should think it would not be adequate, but it would be sufficient to a great extent. At home the practice is, or was, with the old corporations, however much they were complained of, to have separate markets for each kind of produce.

734. How would you do with this—would you cover the market in, or would you make market stalls; or how would you arrange to make it a market suitable for fish, vegetables, and fruit?—I have consulted builders, and their view is, I think, a correct one, that a corn exchange should be one part of the site, and that the rest of the space should be appropriated to general produce, to such an extent as it will accommodate sellers and buyers, and that there should be a colonnade in the front of the street out as far as the kerb stone, and that it should be covered in with some material that will not attract the heat; for it is a very general and erroneous practice in this country to use iron roofing for buildings, the consequence of which is, that the goods under it are injured.

735. Can you tell the committee what would be a better roofing than iron?—I think that wood has been found in this country the best sort of roofing for resisting the heat. Slates attract the heat too, to a great extent, but I would take slates in preference as a security from fire; but the market would require to be lighted from above.

736. *By Mr. Power.*—You stated that some of those shanties were burnt down in 1855?—Yes.

737. What was done with those that remained?—I think they were removed by the corporation.

738. Was not that an improvement?—They have never since erected on it.

739. Have you had any practical experience in building, so that you could form an opinion of what the £7000 would do in the shape of making that a market with adequate accommodation?—It would not be sufficient; I spoke of the £7000 as the yearly revenue which a member of the corporation stated they received from those shanties.

740. What amount would it take to make it a suitable market?—A builder has told me about £25,000 would even enable an ornamental façade or front to be put to it; but I would make this remark with permission, that in reference to contracts by the corporation, the citizens have an extreme distrust of anything they do; that it is now understood that members of the corporation themselves are in reality the contractors. It is believed, and I have reason to think, that we shall obtain a commission of inquiry issued by the Governor, which, with the aid of the evidence this committee is taking, will enable us to get at certain facts with regard to the dealings of the corporation, which will justify us in requiring a very stringent enactment to prevent members of the corporation having any private dealings in reference to contracts.

741. *By the Chairman.*—You talk very strongly upon this subject. Do you know any cases of corruption that you would be justified in stating to the committee?—The cases of corruption have been charged generally. For instance, there have been defalcations by the officers of the corporation charged against them. It is no secret that one of the collectors was dismissed, and it is no secret that the late Town Clerk was implicated.

*The witness withdrew.*

Mr. James Butchart called in and examined.

742. *By the Chairman.*—You are a member of the firm of Kaye and Butchart, cattle salesmen?—Yes, and we are engaged in a great many transactions in sales of cattle and sheep.

743. You are well acquainted with the cattle and sheep yards?—Yes, most intimately.

744. How long have you been so?—The last four years.

745. Do you find sufficient accommodation there?—Not at all.

746. Do you want more room, or in what does the want of accommodation consist, of which you complain?—We have not sufficient accommodation; the yards are in a most disgraceful state, unfit for either man or beast to go into.

747. Is the extent of ground sufficient, if it was properly arranged, do you think?—I believe it would be, but I am not quite certain as to the amount of ground they have a grant of. What has been pointed out to me would be quite sufficient, I believe.

Mr. J. Butchart,  
continued,  
22nd July, 1857.

748. Would you suggest any alteration in the arrangements?—I would just mention what we have done ourselves. A committee has been formed by us to take and erect a private market or yards by a private company; we are so thoroughly disgusted by the corporation management of the yards. The corporation is now receiving £3500 a year from those yards, and yet we have no accommodation. I have cattle to-day to sell that came on Saturday, in order to occupy the yards. I may mention this, as showing our feelings upon the subject. We have called a public meeting in our office on Saturday, and are making arrangements to erect cattle yards of our own, and independent of the corporation altogether, after making every representation we possibly could to the corporation.

749. For how long a time?—That has been going on at least three years. I believe there is a committee sitting in our office now to take preliminary steps to purchase the ground and erect the cattle yards. We (Kaye and Butchart) have gone so far as to erect private yards on the other side of the river on our own account, because we could not get accommodation, and I sold cattle there yesterday.

750. Have you any suggestions to offer to the committee for the improvement of the cattle yards, supposing the corporation to go on with them?—The yards must be flagged or laid with wood.

751. Should they be covered in?—They should be covered in; that would be a great improvement.

752. Should they be of any specific size?—We require yards to pen up 1200 head of cattle.

753. And would that last for any length of time?—1200 would not be sufficient for ten or twelve years in all human probability. That would do us just now.

754. And would you have the yards of any specific size; would you have a large yard or a number of small yards?—We would be most willing to give plans to the committee. I did offer to give to the corporation the best plans, and got them made out on purpose, and I have them now. Every one of us would be most willing to give the corporation all the assistance in our power. My own opinion is, that wood and covering would be the best.

755. *By Mr. Hodgson.*—Your observations apply principally to the old market?—Yes, to the old market.

756. You are aware, I presume, that the corporation are negotiating, and are about to remove this market altogether, to abolish it and go to another site?—Yes.

757. Is that a suitable site?—Yes, it could be made a suitable site, but not under the corporation management. We are now in treaty for twenty acres of ground to erect yards of our own, because it is useless to let the corporation have the management of it.

758. *By Mr. Power.*—When did you supply those plans to the corporation?—I did not supply them, I only offered them to the chairman of the market committee.

759. How long since?—Eighteen months or two years ago.

760. And they have taken no notice of it?—They have not taken the slightest notice of it. I may mention an instance. Eight or ten pens, I am not sure of the exact number, were removed to make way for a street, and put up at the other side of the yard, and are at the present moment (22nd July) unfit for use, although they have been up for weeks.

761. How far is the meat injured in quality, do you think, in reduction of weight, or anything of that kind, by the bad state of those yards?—I think it is very much injured, but I could not say to what extent in quality. It must be materially injured—every bullock loses 20 lbs. by being in the yard a single night; that is, not in a single night, but when they are let out, they are utterly ruined for travelling after a single night in those yards.

762. Then there is a loss of price too?—Yes, so much so, that I believe the settlers will make all the difference in one year by our new yard, as much as we would expend for erecting the yard if we carry it out, which we should not have done if we had got a good cattle yard from the corporation. We would much rather not lay out £20,000 ourselves. I may say, I have not gone behind the corporation and not let them know, because I have told the chairman of the market committee we were about to take action in the matter ourselves before we did anything with it.

*The witness withdrew.*

# APPENDICES.

## APPENDIX A.

### SITE OF WESTERN MARKET.

(COPY OF DEED OF GRANT.)

VICTORIA, *by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth:*

To all to whom these presents shall come,

GREETING—

Know ye, that in order to promote the public convenience of our loyal subjects the inhabitants of the town of Melbourne, in our colony of New South Wales, and their successors, inhabitants of the said town, and in order to provide a general market in the said town for the use of our said subjects; inhabitants as aforesaid, and in consideration of the quit rent hereinafter reserved, We, of our special grace, have granted, and for us, our heirs and successors, do hereby grant unto the Mayor, Aldermen, and Councillors of the town of Melbourne and their successors for ever, for the purpose and subject to the conditions, reservations, and provisos hereinafter mentioned, All that piece or parcel of land containing by admeasurement one acre, two roods, and twenty-six perches, be the same more or less, situated in the town of Melbourne, parish of North Melbourne, and county of Bourke, part of section Number Three—bounded on the north by Collins-street, being a line bearing north sixty-two degrees east, three hundred and fifty links; on the east by Market-street, bearing south twenty-eight degrees east, four hundred and seventy-five links; on the south by Little Flinders-street, being a line bearing south sixty-two degrees west, three hundred and fifty links; and on the west by William-street, being a line bearing north twenty-eight degrees west, four hundred and seventy-five links; being the land advertised as No. 25 in the Government notice dated 1st August, 1846, together with all the rights, members, privileges, and appurtenances whatsoever to the same belonging or in anywise appertaining, which said piece or parcel of land is intended for and is hereby by us granted as a site or place for a general market for the use and convenience of the inhabitants of the said town; to have and to hold the same and every part thereof unto and to the use of the said Mayor, Aldermen, Councillors of the said town, and their successors, for the purposes and in manner aforesaid; yielding and paying therefor yearly unto us, our heirs and successors, the quit rent or sum of one farthing for ever, if demanded. Reserving and excepting nevertheless unto us, our heirs, and successors all mines of gold, of silver, and of coal: Provided nevertheless and we do hereby expressly declare that this our Royal Grant is and shall be subject to the conditions hereinafter mentioned; that is to say, that the said piece or parcel of land hereby granted and every part thereof shall be at all times hereafter set apart, maintained, and used by the said Mayor, Aldermen, and Councillors, and their successors, as and for a general market for the inhabitants of the said town for the time being and for no other purpose whatsoever. Provided also, and we do hereby further declare, that if the corporation of the said town of Melbourne shall be dissolved or by any means become extinct and be no longer existant, or if the said piece or parcel of land hereby granted or any part or parts thereof shall at any time hereafter have ceased by the space of three years to be maintained or used as or for such general market as aforesaid or in connection therewith or have been for and during such space used or applied to any other purpose whatsoever than as or for a general market as aforesaid, or shall be alienated or attempted to be alienated in fee simple or for any less estate or interest to any person or persons whatsoever, by the said Mayor, Aldermen, and Councillors (save and except in pursuance of the powers and authorities now vested or hereafter to be vested in the said Mayor, Aldermen, and Councillors, under and by virtue or in pursuance of any Act or Acts of the Governor and Legislative Council of the said colony of New South Wales now in force or hereafter to be in force within the said colony), it shall be lawful for us, our heirs and successors, by any person or persons duly authorised in that behalf by our Governor for the time being of our said colony, to re-enter upon the said land, or such part or parts thereof as shall so as aforesaid have ceased to be maintained or used as and for in connection with such general market as aforesaid, or shall have been so as aforesaid used and applied to other purposes, or shall have been so alienated or attempted to be alienated by the said Mayor, Aldermen, and Councillors as aforesaid, and to hold, possess, and enjoy the same as fully and effectually to all intents and purposes as if this grant had not been made. In testimony whereof we have caused this our grant to be sealed with the seal of our said territory.

Witness our trusty and well-beloved Sir Charles Augustus Fitz Roy, Knight Companion of the Royal Hanoverian Guelphic Order, our Captain General and Governor-in-Chief of our said territory and its dependencies, at Government House, Sydney, in New South Wales aforesaid, this fourth day of November, in the tenth year of our reign, and in the year of Our Lord One thousand eight hundred and forty-six.

(L.S.)

CHARLES A. FITZ ROY.

## APPENDIX B 1.

Town Hall, Melbourne, 26th June. 1857.

SIR,

I have the honor to transmit herewith a statement of the gross receipts, and of the expenditure for general purposes and for public works, by the City Council of Melbourne, from 1st September, 1853, to 1st May, 1854, showing the Dr. balance at the latter date. Nearly all public works seem to have been carried on in this interval by day labor, and I am not able to distinguish exactly as to the precise localities on which the large amounts for quarry purposes, metal, and labor for repairs of streets, were expended. From this cause also I have had considerable difficulty in preparing the return, the city surveyor of the period being now deceased, and I myself not having then held office.

I have the honor to be, Sir,

Your most obedient servant,

CHARLES FAREWELL.

City Treasurer.

Alderman Clowes.

CORPORATIONS.—*l.*





## APPENDIX B 3.

## RETURN RESPECTING GABRIELLI LOAN.

1854. 1st May	To amount of debenture loan.. .. .	£ s. d. 525,000 0 0	£ s. d.	1854. 1st May	By discount at 5 per cent. .. .. .	£ s. d. 26,250 0 0	£ s. d.
			£525,000 0 0		Repayment of loan from Savings' Bank, Melbourne .. .. .	20,000 0 0	
					Repayment of loan from Savings' Bank, Sydney .. .. .	6,000 0 0	
					Amount previously expended on public works .. .. .	74,858 14 8	
					Balance net .. .. .	127,108 14 8	
						397,891 5 4	£525,000 0 0
	To balance of loan after paying existing liabilities at date .. .. .	397,891 5 4			a'Beckett-street.. .. .	1,122 11 0	
					Argyle-street .. .. .	270 9 4	
					Bourke-street .. .. .	3,400 0 0	
					Bourke-street (Little) .. .. .	2,116 13 4	
					Brunswick-street .. .. .	1,628 16 8	
					Cardigan and Bouverie-streets .. .. .	2,034 13 0	
					Church-street .. .. .	700 0 0	
					Condell-street .. .. .	857 5 6	
					Collins-street .. .. .	6,019 0 0	
					Collins-street (Little) .. .. .	912 16 7	
					Curzon and Queensberry-streets .. .. .	1,162 2 0	
					Domain-road .. .. .	2,143 0 0	
					Drummond-street .. .. .	2,227 2 0	
					Elizabeth-street .. .. .	11,288 14 0	
					Emerald-hill culvert .. .. .	350 0 0	
					Evelyn-street .. .. .	400 0 0	
					FitzRoy-street, St. Kilda .. .. .	10,610 0 0	
					Flinders-street .. .. .	9,863 0 2	
					Flinders-street (Little) .. .. .	2,403 3 10	
					Franklyn-street.. .. .	1,417 16 6	
					George-street .. .. .	2,155 4 0	
					Gertrude-street .. .. .	83 9 0	
					Gisborne-street .. .. .	7,767 0 0	
					Gore-street .. .. .	500 0 0	
					Hanover-street .. .. .	709 11 0	
					Hoddle-street .. .. .	880 0 0	
					Hotham Ward .. .. .	3,282 16 9	
					Howard-street .. .. .	750 0 0	
					Jeffcott-street .. .. .	385 0 0	
					Johnson-street .. .. .	1,962 0 0	
					Kerr-street .. .. .	549 4 0	
					King-street { King-street proper .. £5,407 10s } { King and adjacent .. £12,900 0s. } streets .. .. .	18,307 10 0	
					LaTrobe-street .. .. .	10,151 18 4	
					LaTrobe-street (Little) .. .. .	500 0 0	
					Leicester-street .. .. .	697 10 0	
					Lonsdale-street .. .. .	9,108 0 0	
					Lonsdale-street (Little) .. .. .	971 14 0	
					Lygon-street .. .. .	2,639 9 0	
					Mackenzie-street .. .. .	573 14 0	
					Madeline-street .. .. .	5,626 11 3	
					Market-street .. .. .	2,883 1 0	
					Moor-street .. .. .	2,569 14 6	
					Napier-street .. .. .	6,283 2 0	
					Nicholson-street .. .. .	1,065 15 0	
					Palmer-street .. .. .	280 0 0	
					Princes Bridge .. .. .	200 0 0	
					Queen-street .. .. .	1,962 17 9	
					Rathdown-street .. .. .	408 16 0	
					Regent-street .. .. .	197 0 0	
					Rose and Argyle-streets .. .. .	322 10 0	
					Russell-street .. .. .	5,898 10 6	
					St. Kilda .. .. .	2,979 1 0	
					Sandridge .. .. .	7,696 5 1	
					Smith-street .. .. .	2,000 0 0	
					Spencer-street .. .. .	5,485 0 0	
					Spring-street .. .. .	8,831 17 0	
					Stephen-street .. .. .	6,713 10 6	
					Swanston-street .. .. .	6,234 1 11	
					Victoria-parade .. .. .	4,112 3 9	
					Victoria-street .. .. .	5,830 14 2	
					Webb-street .. .. .	1,006 2 0	
					Wellington-parade .. .. .	3,274 1 8	
					William-street .. .. .	9,351 8 0	
					Young-street .. .. .	2,100 0 0	
					Flagging for footpaths .. .. .	34,113 5 11	
					Rubble and cartage .. .. .	19,158 5 0	
					Metal .. .. .	85,658 10 1	
					Materials at quarry (kerbs, pitchers, cubes, &c.), day labor and cartage .. .. .	12,285 18 11	
					Labor and cartage to unformed streets .. .. .	22,308 0 2	
					Pitching round fire-plugs .. .. .	113 15 0	
					Drains, Hotham Ward .. .. .	174 16 0	
					Crossing, Collins-street .. .. .	139 7 6	
					Extra cutting, La Trobe-street .. .. .	112 10 0	
					Land in Lonsdale-street, required for drainage Kerbing, channelling, and flagging round St. James' Cathedral .. .. .	190 0 0	
					Manure Depot .. .. .	346 5 2	
					Park Lanes .. .. .	596 16 0	
					Clearing trees, stumps, &c., South Melbourne St. Kilda .. .. .	1,611 0 0	
					" " .. .. .	180 0 0	
					Bridge, Curzon-street .. .. .	110 0 0	
					Fencing, Victoria-parade .. .. .	100 0 0	
					" Wellington-parade .. .. .	360 0 0	
					Making a drain in Block 19 .. .. .	156 16 8	
					Balance .. .. .	51 9 10	
						393,980 3 4	
						3911 2 0	
			£397,891 5 4				£397,891 5 4

## APPENDIX C.

## EXTRACT FROM COPY OF DEED OF GRANT.

## SITE OF WESTERN MARKET.

"And we do hereby expressly declare that this our Royal Grant is and shall be subject to the conditions hereinafter mentioned; that is to say, that the said piece or parcel of land hereby granted and every part thereof shall be at all times hereafter set apart, maintained, and used by the said Mayor, Aldermen, and Councillors, and their successors, as and for a general market for the inhabitants of the said town for the time being and for no other purpose whatsoever."

## APPENDIX D.

## MARKET RECEIPTS.

Date.	Cattle Market.	General Market.	Eastern Market.	East Melbourne Market.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1st Dec., 1842, to 31st Aug., 1843 ...	193 10 0	312 12 9	—	—
1st Sep., 1843, " 1844 ...	309 15 1	296 13 9	—	—
" 1844, " 1845 ...	411 2 9	337 11 3	—	—
" 1845, " 1846 ...	664 11 6	247 15 0	—	—
" 1846, " 1847 ...	919 12 7	375 1 7	10 4 1	—
" 1847, " 1848 ...	770 1 4	213 5 9	245 10 1	—
" 1848, " 1849 ...	937 13 1	273 9 1	370 12 8	—
" 1849, " 1850 ...	957 7 1	322 11 1	468 13 6	—
" 1850, " 1851 ...	1596 13 4	286 0 0	415 6 8	—
" 1851, " 1852 ...	326 13 4	417 6 2	667 15 10	—
" 1852, " 1853 ...	1320 0 0	4746 15 3	3565 16 0	—
" 1853, " 1854 ...	2500 0 0	9509 9 3	7193 10 4	—
" 1854, " 1855 ...	3500 0 0	7185 14 9	7593 19 9	—
" 1855, " 1856 ...	3500 0 0	792 10 1	3438 16 1	73 12 4
" 1856, to 28th Feb., 1857 ...	1750 0 0	387 14 8	1436 16 10	33 8 4
	£19657 0 1	£25704 10 5	£25407 1 10	£107 0 8

## APPENDIX E1.

## EXPENDITURE.—CATTLE MARKET.

Date.	Salaries.	Improvements, Repairs, and Incidental Expenses.
	£ s. d.	£ s. d.
1st December, 1842, to 31st August, 1843 ...	76 2 2	37 10 0
31st August, 1843, " 1844 ...	126 13 4	6 1 4
" 1844, " 1845 ...	121 0 11	1 10 0
" 1845, " 1846 ...	134 3 4	125 0 0
" 1846, " 1847 ...	138 0 0	562 10 0
" 1847, " 1848 ...	163 0 0	9 7 0
Metal, and rings for posts	...	208 5 0
" 1848, " 1849 ...	168 0 0	242 17 10
" 1849, " 1850 ...	111 10 0	116 12 11
" 1850, " 1851 ...	...	0 9 0
" 1851, " 1852 ...	...	0 18 0
" 1852, " 1853 ...	...	63 4 0
" 1853, " 1854 ...	...	1672 12 5
" 1854, " 1855 ...	...	288 8 2
	£1038 9 9	£3335 5 8

**APPENDIX E2.**  
**EXPENDITURE.—WESTERN MARKET.**

Date.		Salaries.	Improvements, Repairs, and Incidental Expenses.
		£ s. d.	£ s. d.
1st December, 1842, to 31st August, 1843	...	170 4 2	
1st September, 1843,	1844	209 5 8	16 2 10
" 1844,	1845	178 5 4	1 5 0
	Weighbridge and House		
" 1845,	1846	...	130 0 0
" 1846,	1847	160 16 8	3 8 6
" 1847,	1848	119 10 9	2 0 0
	Weighbridge	77 0 0	2 19 0
" 1848,	1849	...	101 8 2
	Buildings	78 0 0	27 7 1
" 1849,	1850	...	781 10 0
" 1850,	1851	53 14 2	40 10 10
" 1851,	1852	...	23 5 9
	Weighbridge	37 5 8	21 10 6
" 1852,	1853	...	100 0 0
	Rebuilding	240 0 0	58 1 8
" 1853,	1854	...	903 8 9
	Premium on Plans	343 15 0	72 16 7
	Cleansing	...	250 0 0
	Commission on Sale of Buildings...	...	93 6 8
	Painting	...	64 14 4
	Repairs	...	44 9 8
" 1854,	1855	...	345 3 1
	Constables	350 0 0	128 1 0
	Kerbing round Weighbridge	...	36 13 4
" 1855,	1856	...	103 8 3
	Buildings, Plans, &c....	200 0 0	39 0 0
" 1856, to 28th February, 1857	...	...	8733 8 7
	Buildings, Plans, &c....	100 0 0	22 0 0
		...	10321 15 10
		£2317 17 5	£22,467 15 5

**APPENDIX E3.**  
**EXPENDITURE.—EASTERN MARKET.**

Date.		Salaries.	Improvements, Repairs, and Incidental Expenses.
		£ s. d.	£ s. d.
24th July, 1847, to 31st August, 1847	...	6 0 0	
	Removing House and Weighbridge	...	39 10 0
	Stalls	...	100 0 0
1st September, 1847,	1848	77 0 0	10 17 3
" 1848,	1849	...	210 0 0
" 1849,	1850	78 0 0	16 2 7
" 1850,	1851	53 14 2	67 16 2
" 1851,	1852	...	12 5 4
	Weighbridge	56 13 4	32 5 0
" 1852,	1853	...	100 0 0
" 1853,	1854	261 7 11	431 14 7
	Paving	345 0 0	2098 19 3
	Weighbridge	...	439 0 0
" 1854,	1855	...	39 14 0
	Constables	350 0 0	446 4 10
" 1855,	1856	...	220 0 0
	Weighbridge	422 19 4	489 9 8
" 1856, to 28th February, 1857	...	...	15 6 8
		188 10 10	134 5 6
		£1839 5 7	£4903 10 10

By Authority: JOHN FERRES, Government Printer, Melbourne.

1856-7.

VICTORIA.

---

R E P O R T

OF THE

SELECT COMMITTEE

OF THE

LEGISLATIVE COUNCIL

ON THE SUBJECT OF

CHINESE IMMIGRATION,

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE

AND

MINUTES OF EVIDENCE.

---

ORDERED BY THE LEGISLATIVE COUNCIL TO BE PRINTED, 17TH NOVEMBER, 1857.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

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THURSDAY, 4TH JUNE, 1857.

CHINESE IMMIGRATION.—The Honorable J. P. Fawcner moved, in accordance with notice, That a Select Committee of seven members be appointed to frame a Bill to control the flood of Chinese immigration setting in to this Colony, and effectually prevent the Gold Fields of Australia Felix from becoming the property of the Emperor of China and of the Mongolian and Tartar hordes of Asia.

Question—put and passed.

The Honorable J. P. Fawcner moved, That the Honorable J. Henty, the Honorable J. Stewart, the Honorable T. McCombie, the Honorable J. F. Strachan, the Honorable N. Guthridge, the Honorable G. Urquhart, and the Mover, be members of the Committee.

Question—put and passed.

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WEDNESDAY, 4TH NOVEMBER, 1857.

The Honorable W. H. F. Mitchell moved, That the Chinese Residents Bill be read a first time, printed, and referred to the Select Committee sitting on Chinese Immigration.

Question—put and passed.

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TUESDAY, 17TH NOVEMBER, 1857.

CHINESE IMMIGRATION—REPORT OF SELECT COMMITTEE ON.—The Honorable J. P. Fawcner, as Chairman of the Select Committee “appointed to frame a Bill to control the flood of Chinese Immigration setting in to this Colony, and effectually prevent the Gold Fields of Australia Felix from becoming the property of the Emperor of China and of the Mongolian and Tartar hordes of Asia,” to which Committee was referred, on the 4th instant, a Bill intituled “*An Act to regulate the residence of the Chinese Population in Victoria,*” brought up the Report of the Committee, and moved that the same be received, printed, and taken into consideration to-morrow.

Question—put and passed.

## REPORT.

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YOUR Committee having obtained evidence upon the question of Chinese Immigration, and their residence in this Province, from every available source, have arrived at the opinion that it possesses features having no parallel in any part of the British dominions.

2. Your Committee are of opinion that the Chinese migrate to this country exclusively to mine for gold and to trade among themselves; that their numbers exceed forty thousand (40,000), of which there are not more than four or five females, and those are of an inferior class. From the evidence adduced it appears that when the Chinese are located in other countries in large numbers they for the most part have the opportunity of intermarrying with native Asiatics—a practice which is largely followed. In this country there is no Asiatic or other race with whom it is desirable they should intermarry, and thus large masses of men congregate together on the various gold fields, producing, as a necessary consequence, great social evils, immorality and crime, and bringing about results highly detrimental to the habits of the rising generation.

3. Your Committee have ascertained that the immigrant Chinese are composed principally, if not exclusively, of natives of Quang Tung, or that part of China of which Canton is the capital, with which the British nation is at present in open hostility. These immigrants are not of that class commonly known as coolies, but comprise men from the country districts as well as from towns, cultivators, traders, and mechanics. Their passage to this country is paid in part by themselves and partly by advances from the native bankers, or head men of their village, their relations and friends becoming security for the repayment of same.

4. As far as your Committee have been able to ascertain, they find that the Chinese hitherto have in no one instance applied themselves to the cultivation of the land, nor indeed to any of the industrial pursuits of the Colony, save that of digging for gold; their object being to acquire a sufficiency of means wherewith to return to their own country.

5. The advantages derived from the trade which the presence of such a vast population necessarily brings with it, your Committee feels assured affords no adequate compensation to the country for the large and increasing quantity of gold, amounting within one year to about 120,000 ounces, valued at half a million sterling, which they are annually abstracting from the natural wealth and resources of the country.

6. Your Committee have ascertained that the majority of the Chinese are amenable to the laws of the country; and, under a proper system of registration and management, through the agency of headmen of their own race, selected by themselves, order to some extent may be kept amongst them.

7. The fiscal regulations for the collection of rates or taxes imposed by the Government, provided they are clearly and distinctly defined and enforced with justice and firmness, your Committee see no difficulty in carrying out.

8. That crimes of great magnitude have been committed by these people is evidenced in the records of the Supreme Court. Serious collisions between them and the European population are becoming more frequent and dangerous. The Committee, nevertheless, think that those collisions may be lessened in some degree by a well-defined and more stringent exercise of authority on the part of the Executive Government.

9. Your Committee are not insensible to the importance of the efforts which are being made by some members of this community to impart the advantages of Christian instruction to many of the Chinese race now located in the Colony, and they wish to express their sense of the high value they entertain of such efforts; nevertheless, they cannot ignore the fact that ninety-nine-hundredths of their race are pagans, and addicted to vices of a greatly immoral character. They feel bound to state that the presence of such a large number of their class in the midst of our great centres of population must necessarily have a most pernicious effect upon that portion of the rising generation with which they most frequently come in contact.

10. Your Committee having given great attention to the important questions referred to them by the House, after careful deliberation, are unanimously of opinion that it is absolutely necessary to place some restrictions upon the influx of Chinese into this country, without which, there is every probability of their coming in such vast numbers as to be wholly beyond the control of the Government, prejudicially affecting the welfare and future destinies of this community in an alarming and dangerous degree.

11. The Bill on this subject which has been brought up from the Assembly and referred to us, has been carefully examined in all its clauses, and your Committee are of opinion that it is adapted, with the alterations and additions suggested below, to meet the objects intended to be effected by it, and is in accordance with the spirit of the recommendations embodied in this Report.

JOHN P. FAWKNER,  
Chairman.

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(1.) That any Chinaman found on the Gold Fields or elsewhere in the Colony, without a license or receipt, be subject to a penal servitude on the public works of the Colony for a period not exceeding three (3) months.

(2.) That any person arrested under this Act as a reputed Chinaman, it shall be sufficient for the accuser to prove that the accused is reputed or is considered by the accuser to be a Chinaman. His oath, or the oath of one witness, shall be sufficient proof, unless the contrary be shown, to make such person amenable to the provisions of this Act.

## PROCEEDINGS OF THE COMMITTEE.

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TUESDAY, 9TH JUNE, 1857.

*Members present :—*

The Honorable J. P. Fawcner, in the chair.

The Honorables J. Hodgson, N. Guthridge, J. Henty, G. Urquhart.

The Committee deliberated.

Ordered—That the following witnesses be summoned to attend at eleven o'clock on Tuesday, 16th instant :—J. J. Marshall, Esq., Mr. Inspector Nicholson, and the Inspector of Lodging-houses.

Adjourned till eleven o'clock on Tuesday, 16th instant.

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TUESDAY, 16TH JUNE, 1857.

*Members present :—*

The Honorable J. P. Fawcner, in the chair.

The Honorables J. Henty, N. Guthridge, G. Urquhart.

J. J. Marshall, Esq., called in and examined as to the manners and customs of the Chinese.

Mr. Inspector Nicholson, called in and examined.

The Town Inspector of Lodging-houses called in and examined.

Ordered—That F. Standish, Esq., Chinese Protector, be summoned to give evidence before this Committee on Tuesday, 23rd instant.

Adjourned till Tuesday, 23rd instant, at eleven o'clock.

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TUESDAY, 23RD JUNE, 1857.

*Members present :—*

The Honorable J. P. Fawcner, in the chair.

The Honorables G. Urquhart, J. Henty, N. Guthridge.

F. Standish, Esq., Chinese Protector, called in and examined.

Kong Meng, a Chinaman, called in and examined.

Mr. Robert McMicking called in and examined.

Mr. Randall, Detective Officer, called in and examined.

Mr. Irwin, newspaper proprietor, called in and examined.

Adjourned till Tuesday next at eleven o'clock.

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TUESDAY, 30TH JUNE, 1857.

*Members present :—*

The Honorable J. Henty, in the chair.

The Honorables N. Guthridge, G. Urquhart.

The Rev. W. Young called in and examined.

Ordered—That Mr. Josephs and Mr. McMicking be summoned to give evidence before this Committee on Tuesday, the 7th July proximo, at eleven o'clock.

Adjourned till Tuesday, 7th proximo, at eleven o'clock.

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TUESDAY, 7TH JULY, 1857.

*Members present :—*

The Honorable N. Guthridge, in the chair.

The Honorables J. Henty, J. Stewart, G. Urquhart.

Mr. Josephs called in and examined.

Adjourned till Tuesday, 14th instant, at eleven o'clock.



TUESDAY, 14TH JULY, 1857.

*Members present:—*

The Honorables J. P. Fawkner, G. Urquhart.

No quorum.

Adjourned till Tuesday, 21st instant, at eleven o'clock.

TUESDAY, 21ST JULY, 1857.

*Members present:—*

The Honorable J. P. Fawkner.

No quorum.

Adjourned till eleven o'clock on Tuesday, 28th instant.

TUESDAY, 28TH JULY, 1857.

*Members present:—*

The Honorable J. P. Fawkner, in the chair.

The Honorables N. Guthridge, T. H. Power, G. Urquhart.

The Committee deliberated.

Ordered—That the Supplementary Evidence of Messrs. Irwin and McMicking, now laid before this Committee, be received and printed as an Appendix to the Report.—(*Vide Appendix.*)

Adjourned *sine die*.

TUESDAY, 20TH OCTOBER, 1857.

*Members present:—*

The Honorables J. P. Fawkner, N. Guthridge.

No quorum.

Adjourned till half-past eleven o'clock on Thursday next.

THURSDAY, 22ND OCTOBER, 1857.

*Members present:—*

The Honorable J. P. Fawkner, in the chair.

The Honorables J. Henty, N. Guthridge.

Draft Report further considered.

Proposed—That the further consideration of the Draft Report be deferred until the Bill now before the Assembly be brought up to the Council.—(*Hon. J. Henty.*)

Question—put and passed.

Ordered—That the Evidence and amended Draft Report be sent to each member of this Committee.

Ordered—That this Committee do now adjourn *sine die*.

TUESDAY, 10TH NOVEMBER, 1857.

*Members present:—*

The Honorables N. Guthridge, J. P. Fawkner.

No quorum.

Adjourned till eleven o'clock to-morrow.

WEDNESDAY, 11TH NOVEMBER, 1857.

*Members present:—*

The Honorable J. P. Fawkner, in the chair;

The Honorables J. Henty, G. Urquhart, N. Guthridge, J. Stewart.

A Bill intituled "*An Act to regulate the residence of the Chinese Population in Victoria*" considered by the Committee.

Proposed—It is proper to insert a penal clause upon Chinamen being found on the gold fields without a license.—(*Chairman.*)

Question—put and passed unanimously.

Proposed—That when any Chinaman neglects or refuses to pay his fine, he be put to task work, at paid rates, until the fine and expenses are fully paid.—(*Hon. G. Urquhart.*)

Question—put and negatived.

Proposed—That any person arrested under this Act as a reputed Chinaman, it shall be sufficient for the accuser to prove that the accused is reputed or is considered by him to be a Chinaman. His oath or the oath of one witness shall be sufficient proof, unless the contrary be shown, to make such person amenable to the provisions of this Act.—(*Chairman*).

Question—put and passed unanimously.

Proposed—That from and after the 31st day of December, 1858, no one of the Mongolian breed or family should be allowed to dig for gold or reside upon any gold field in Australia Felix.—(*Chairman*).

Question—put and negatived.

Draft suggestions, brought up by the Honorable J. Henty, considered.

Ordered—That the clerk divide these suggestions into proper clauses, and that they be further considered to-morrow.

Adjourned till eleven o'clock to-morrow.

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THURSDAY, 12TH NOVEMBER, 1857.

*Members present:—*

The Honorables J. P. Fawkner, J. Henty.

No quorum.

Adjourned till eleven o'clock on Monday next.

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MONDAY, 16TH NOVEMBER, 1857.

*Members present:—*

The Honorables J. P. Fawkner, N. Guthridge.

No quorum.

Adjourned till two o'clock to-morrow.

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TUESDAY, 17TH NOVEMBER, 1857.

*Members present:—*

The Honorable J. P. Fawkner, in the chair.

The Honorables N. Guthridge, J. Henty, G. Urquhart.

Draft Report brought up by Chairman and read.

The several clauses put by Chairman and adopted unanimously.

The Report was therefore adopted and the Chairman ordered to report to the House.

EVIDENCE.

# MINUTES OF EVIDENCE.

TUESDAY, 16TH JUNE, 1857.

MEMBERS PRESENT:—The Honorable J. P. Fawcner, in the chair; the Honorables N. Guthridge, J. Henty, G. Urquhart.

J. J. Marshall, Esq., called in and examined.

1. *By the Chairman.*—You have been for some time in China?—Yes, for several years.
2. Have you formed any opinion as to the number of Chinese likely to arrive here in the course of the year?—Yes.
3. Please state that opinion?—I think that (supposing the poll tax off) about 15,000 would land; but, owing to the disturbed state of the country at present, for two or three years there might be 20,000.
4. How do you account for this small number, a much larger number having arrived from the month of January to May last?—The reason is, that the only months the Chinese emigrate to Australia are from November to March, or April at the latest; partly on account of the monsoon, and partly from their being at other times more engaged in getting in their harvests, &c. There is also another reason why so many fewer would come than people here imagine. It is generally supposed that these Chinese are from a population of 350,000,000. This is not the case; the only Chinese that emigrate to any of the gold fields are from Quang-tung, a population of 18,000,000. I am not of opinion that the success of the Chinese at the gold fields will tempt their countrymen from other parts of the empire.
5. *By Mr. Guthridge.*—How comes it that the emigration has set in from this particular province and not from any other part?—That is easy of explanation—Quang-tung is the province of which Canton is the capital. The Cantonese have been trading with Englishmen for the last century and a half. The consequence is, that they know of other parts of the world, which the men from the other provinces, who have had very little to do with Englishmen until the last few years, never heard anything about.
6. Do you think that the other parts of the empire hear of these things?—They hear of them, but they do not see people come home with money, and do not believe in it.
7. How do they hear of it, if there is no newspaper or means of communication of that sort?—Of course the Chinese merchants correspond with each other in the different parts of the empire, and so on; but then the common people do not see any palpable evidences of it, and do not give heed to it. There are not 500 men from all the other seventeen provinces of China on the diggings. Indeed, Fokien is the only other province from which they emigrate at all, and thence they go chiefly to Siam and the Eastern Archipelago; none to the diggings.
8. *By Mr. Urquhart.*—They do not travel throughout their own country?—A few of the very highest classes do; but the middle and lower classes never think of such a thing.
9. You do not think it likely that, for a series of years, the information which would induce the people from the other provinces to migrate to this country will have any influence over the Chinese?—It will not for a very great many years. Indeed, there is one other reason I might state, for giving that number of 15,000 or 20,000. To California, where for some years the poll-tax was only £1 per head, I know they never emigrated beyond the rate of 10,000 per annum. The Legislature there, as you are aware, put a tax of £10 on, and treated the Chinese very ill; and the consequence was, that a great many of them left, and very few Chinese went there for two or three years; and now the people who made the outcry against them in California raised another outcry that the Legislature was ruining the country by driving the Chinese out, and the Legislature have repealed that law and taken the head money off.
10. *By the Chairman.*—And they are going again?—Yes. They have had double the number of Chinese there that ever we have had. They have had a ten years' experience of them, and they now want them back.
11. Have you any knowledge of what description of men they are that come in now—have you a general knowledge of the migration that has taken place from China here?—Yes, I have a general knowledge.
12. First of all, will you state whether there is any difference between those who came originally and the class who now come?—Yes, there is.
13. Will you state what that difference consists in?—Originally, there were more artizans and fewer agricultural men or farmers than there are now.
14. *By Mr. Henty.*—Were they not of the description commonly called coolies?—There were never many of what are commonly called coolies; because such have not £8 or £10 to spare to pay their passages out, or very few at least.
15. *By the Chairman.*—Do those men come upon their own funds, or do you know whether they are sent by persons contracting to receive money from them when they have raised enough after their arrival here?—I should say of the class who come now, about one-third are

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artizans, and shopkeepers, and merchants, and so on. There are no statistics to prove it; but I know that is about it. Those men generally pay their own passages; the one-third that I speak of.

16. And the two-thirds that are left?—The other two-thirds are farmers or agriculturists of some sort.

17. And do they pay their own passage?—No; most of them borrow the money and leave their land as security. In China land is just divided as in France. If a man has fifty sons, the land is divided amongst them; and they leave their share of the land with the family, or some one else, as security for the passage money when they go back.

18. *By Mr. Henty.*—Is the money advanced by the native bankers?—By any rich man in the village who happens to have money to lend; sometimes it is done by the bankers, and sometimes, indeed more often, by the elders of the village, as they are called.

19. *By the Chairman.*—Do you know whether those farmers devote themselves to the purposes of farming in this colony?—Very few; for this reason, that they have never been sure, from year to year, what sort of laws would be passed against them; besides, the gold fields pay them pretty well now. But I have not the slightest doubt that a good many of those people here would rather farm. It is more congenial to their habits of life; and if there were a great many here, and they found the gold fields did not pay very well indeed, a great many would turn to farming; and they would grow cotton, and by and by, perhaps, tea and sugar, and a great many things we should never grow without them; and that would increase the value of land in the colony amazingly.

20. Do you know that any of them have engaged in farming here, by taking land themselves or being hired out?—I have been told, by several respectable Chinese here, that some of the Chinese have bought land here for the purpose of farming, but very few.

21. Have you known of any of them hiring themselves out as farmers or gardeners in this colony?—I do not know of any such instances. They will not do it, because they do not know, from year to year, what laws are going to be passed against them, and therefore they do not like to settle down to any occupation of that sort. I think they would be more likely to club together and farm themselves, than hire themselves out—that is to say, they would rent farms.

22. Are you of opinion that, if they permanently settled in the colony, they would club together in anything they might undertake—are they not in the habit, in all countries where they go, of settling and establishing themselves by themselves in their own quarter?—That is not exactly the case. In all the islands of the Eastern Archipelago there are great numbers of them. In the Philippines, where I resided for some years, there are 50,000 Chinese, and there they are dispersed through many of the provinces and inter-marry with the natives. The half-bred and Indian girls are very glad to get a Chinaman for a husband; they are a thrifty and industrious people and make money always.

23. What is your opinion, if they are allowed to settle here—will they establish their own merchants and traders and form a community of themselves, or will they circulate among the community, and become an integral part of the colony?—I am quite sure that the white population will never mix with them; and besides, they have a tendency to keep themselves apart. As I have said, they inter-marry in those other countries with the natives, but the white men and women will not mix with them.

24. *By Mr. Urquhart.*—Should you consider them of an inferior race?—I should say they are superior to all other Asiatics.

25. In Singapore and other places do they amalgamate with the inhabitants?—Yes, with the native women—they marry the native women, but they do not mix with the men, because they consider themselves better than the men.

26. *By Mr. Henty.*—Better than the Asiatics?—Better than the Asiatics; of course, I do not mean better than white men.

27. *By the Chairman.*—Will they, when established, import their own goods and supply themselves from their own merchants?—Certainly not to any great extent. In China—in Hong Kong for instance, there is a population of some 40,000 Chinese, and you would suppose they would import their own goods from the other parts of the empire, and so on; but it is generally done by Englishmen, because, in the first place, we have better ships—their's are old crazy junks and can only go with a fair wind—and the English can do it cheaper. Then the soul of foreign trade is confidence, and the Chinamen are such a set a cheats and rascals, many of them, of course not all, that they are afraid to trust their own countrymen. There are some who are respectable; but as a general rule, as a body, they would rather trust Englishmen.

28. In case this falling out turns to be a war, what will be the effect upon them?—They do not care a pin about it. They look upon their rulers as a foreign race, just as the Saxons did the Normans, and as long as they are well off here themselves, they may fight away in China—they do not care one straw about it.

29. *By Mr. Henty.*—You mean the Chinese here?—Yes.

30. *By the Chairman.*—You are not of opinion they will re-enact the Hong Kong poisonings here?—I am of opinion, certainly, that they will not.

31. *By Mr. Henty.*—Can you explain the cause of these poisonings?—The report was, that some of the mandarins had told the Chinese in Hong Kong that they would catch hold of them and cut their heads off if they did not do something to annoy the barbarians. It is said they had also promised this baker who poisoned the people to make him a mandarin if he would do so. They caught the man, but on the trial, which was by an English judge and jury, there was not sufficient proof against him. He said it was an accident; whether it was or not, I cannot say.

32. *By the Chairman.*—Then the next question arises—There could be no accident in regard to the murders on board the steam-vessels they took?—No, of course not. That was done by emissaries of the mandarins; part of the troops, probably, disguised as passengers and so on. J. J. Marshall,  
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33. You are of opinion that that would have no influence here?—I am decidedly of opinion it would have no influence here. I have had conversations with many of the respectable Chinese here on the subject, and I just gathered from them the same conclusion that I had formed before, that they do not care a pin about it, so long as they are well off themselves. They will not kick up any row here, because it is against their own interest, and that is what the Chinamen look to first; they do that more than we do, even.

34. *By Mr. Henty.*—Have they a strong national feeling?—Decidedly not.

35. *By the Chairman.*—Can you tell the committee what number of Chinese there are in the colony?—I should say 35,000.

36. The census says upwards of 40,000?—I would not be sure. The only thing is, that before I left China I had a list made out of those that had left China and people coming, and kept an eye upon those who have been coming here latterly and those going away, and I fancied there would be about 35,000.

37. *By Mr. Urquhart.*—How long is it since you left China?—I left China eighteen months ago.

38. *By Mr. Henty.*—Can you state what number have gone back to China from this colony?—I should say there are about 2,000 a year go back.

39. *By the Chairman.*—Do any of the Chinese transmit gold through you, or have you any knowledge of what quantity of gold they transmit?—I see that by every ship that goes to Hong Kong. In the newspapers it is generally stated what quantity is shipped by the Chinese, or very commonly it is; but I have never taken the trouble to make up any calculation as to the amount. They never transmit any through me. I see they do send large amounts.

40. *By Mr. Urquhart.*—What induces you to think that the Chinese, if they had land, would settle here as farmers and agriculturists?—Merely this, that they have done so in all the islands of the Eastern Archipelago, Java, the Philippines, Singapore, and so on. They are the most skilful and the most persevering agriculturists in the world.

41. Would you say the most skilful?—They raise three crops a year. Our winnowing machine is simply a copy of their's, and their ingenious systems and machines for irrigation are unrivalled.

42. How far inland do they go in Java?—In Java I understand they are all over the island.

43. You have been in Java?—Yes; but only a short time myself. I speak of them there more by report.

44. I found in Java that they were confined to the sea-board, and did not go into the villages?—I have only been in Java a very short time, and as I have said, speak only from report; but I know there are many rich Chinese planters there, and I understand that they are all over, or in a great many parts of the island.

45. You are aware the whole of Java is under the Dutch Government, and that they are altogether farmers under the Dutch Government?—I know it, and I know they discourage and oppress the Chinese a great deal. I heard a short time ago of the Governor of Java calling a Chinaman, who had a sort of palace near him, and saying "Here, Qui-ho, is a regiment of soldiers just landed, there is no where to put them, and you must take them into your house." He had to do so. The Dutch oppress them very much, no doubt about it.

46. *By the Chairman.*—There are very rich men amongst them?—Yes.

47. And they are men who will get rich?—Yes.

48. And they keep sober?—Yes, they do. Sir John Davis, who is a standard authority upon the Chinese, mentions what capital colonists they are from their intelligence, sobriety, and industry. They all get a sort of education; the commonest coolies in China can read.

49. *By Mr. Urquhart.*—And they assist each other in migrating to foreign countries, in the hope of enriching themselves and their families at home?—Yes, just so; but in Singapore and the other islands of the Archipelago they settle. In Singapore there are many Chinamen who have settled, and have children and grandchildren born and settled there.

50. *By Mr. Guthridge.*—Suppose that they were allowed to come in here without let or hinderance, do you think it would be necessary to provide any special laws for their control, or would the English laws that we have for our own use be sufficient?—I think it would be advisable to have some special regulations for their control.

51. And you think they also require to be looked after?—They do not understand the language and law of England; and they fancy, when a thing they do not understand is applied to them, that they are being oppressed; and it would be requisite to appoint parties as protectors of the Chinese, or advocates, or something or another of that kind, to explain all these things to them. In China the code of penal laws is printed in a very cheap form and simple language for distribution among the people. I think the same thing should be done here—in Chinese of course.

52. *By Mr. Henty.*—Chinese wardens?—Yes. The people who remain in the towns, and the farmers and merchants, I think, ought to be registered.

53. Those who live in the towns, or the whole of them?—The whole of them ought to be registered and some small yearly poll-tax put upon them, so as to keep them under surveillance. This system is adopted in the Philippines and answers well.

54. *By the Chairman.*—It is reported that they are great gamblers, and we have had some instances of that. What is your opinion upon that point?—It is quite true; like all Asiatics, they are great gamblers.

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55. Could you suggest any method by which that might be repressed?—Only by the police keeping a sharp look-out, and holding the owner of the house in which any gambling was going on responsible. The Chinese rather like being in custody, and being well fed and doing nothing; therefore, if they are imprisoned, as a punishment, it should be with really hard work.

56. *By Mr. Guthridge.*—Do you know whether those who remain in town follow any pursuit besides that of buying and selling—any handicrafts?—Nearly all those in town follow no other pursuit but that of buying and selling, and being servants to those who do.

57. None follow handicrafts or pursuits of that sort?—I have not heard of one.

58. *By Mr. Urquhart.*—What influence do you anticipate they will have upon the population hereafter, if they amalgamate with the females. It has been reported, I believe, that a number of them have got married on the gold fields?—Eight, I have heard. I think they would have a bad influence if they amalgamated with the females; but, I think, the contempt and antipathy felt by the white race, especially by the lower classes of white women or men for any colored race, would prevent their doing so to any extent.

59. What are their associated habits in their own country as to marriage, and as to their habits generally?—They are very sober, very industrious, and very persevering and intelligent; and, on the other hand, their vices are specious, insincerity, falsehood, and deceit; and they generally marry as soon as they can afford it, because they look to have posterity to sacrifice at their tombs, which is one great object of the Chinese. The established religion of China is the Confucian. The purity and wisdom of its maxims are well known. Luxury and the spirit of trading have much corrupted the population of the sea-port towns. But Sir J. Davis remarks, and I quite agree with him, "That the rural population are a much more moral people than we give them credit for." "That many of the missionaries (to enhance the apparent value of their services) have falsely painted the Chinese character in the blackest colors." "That we foolishly judge of them from our long experience of Canton, where their contempt for foreigners and the vices of a large sea-port show us only the worst part of their character." This is, as if Asiatic traders were to visit Portsmouth, and, from the society with which they would be likely to come in contact there, judge of the whole British people.

60. *By the Chairman.*—They generally marry young?—As soon as they have any means at all.

61. *By Mr. Guthridge.*—Is polygamy practised or allowed among them?—The first woman a man marries is his wife. There is a sort of legal concubinage allowed. They are allowed to have "helps," as you may say; but the first wife is the real wife.

62. *By Mr. Henty.*—Are you aware whether any female emigration has taken place to California?—Some female emigration has taken place to California, but not to any very large extent.

63. *By Mr. Guthridge.*—Is there any law similar to our law of primogeniture existing in China?—Supposing a Chinaman to hold land, it is nominally left to the eldest son, as a sort of trustee for his own share and the shares of the other sons; but still, all the family are maintained out of it, so that practically it is divided among them.

64. *By Mr. Henty.*—Is it a charge upon the property?—Yes.

65. *By Mr. Guthridge.*—I want to get at the state of the children of those concubines. Are they equal heirs with the children of the married wife?—No; the children of the married wife are considered first.

66. And the others are left to shift?—There is some small allowance left to them, but not so great as to those of the first wife.

67. Their rights are subordinate to those of the children by the first wife?—Yes; their rights are subordinate to those of the children of the number one wife, as they call her.

68. *By Mr. Henty.*—In the event of any portion of the Chinese settling down upon the lands in Australia, do you think that female emigration from China would follow?—I think so, certainly.

69. Of what class?—Just of the class that those men have their wives from in China.

70. *By Mr. Urquhart.*—Do those married men who are here generally look to return?—Yes; they have never made up their minds to settle here, because they know not from year to year what law would be passed.

71. *By Mr. Guthridge.*—Do you know about the proportion of the married men who have come here—how many have left wives behind them?—I cannot say that I do.

72. Do you presume there is any considerable number of those married men here?—Yes.

73. *By Mr. Urquhart.*—You do not look forward to the Chinamen who are working at present upon the gold fields remaining permanently here—they all intend to return to China?—Every one of them.

74. And do you suppose that, if any encouragement were given to them to settle as farmers here, they would do so?—Yes, certainly.

75. And bring their wives with them?—They would not do that at first; but when they came to see that they could settle down as farmers, they would. Of course, when a man settles down to grow any particular article, sugar or whatever it may be, he expects to remain for several years at all events. A great number of them would do it; and as they cannot get any other wives or women here, the only way they can do it is, to import wives from China. In Singapore and the other islands in the Archipelago they have plenty of native women, but here they can have none.

76. In Singapore I observed very few Chinese women?—Because they have plenty of Malay women; but here there is no population of that sort.

77. I think the numbers you said who would emigrate here would be about 15,000 per

annum?—In ordinary years; but the country is in such a disturbed state, and so many are thrown out of employment by it, I should not wonder if it reached 20,000 for a year or two.

78. And you calculate again that 2,000 return annually?—About that.

79. So that the increase would be about 18,000 per year?—From 13,000 to 18,000.

80. *By Mr. Guthridge.*—Do you think that, if this country were left open to them, any of the superior classes would come here—the mandarins?—No, certainly not. No Chinaman will leave China if he can possibly help it; he thinks China the finest country in the world.

81. *By Mr. Henty.*—Is the use of opium general among the Chinese?—I have made several calculations about it, to ascertain the quantity of opium likely to be used here. I should say that opium smoking among the Chinese is nearly as common as tobacco smoking among ourselves.

82. *By Mr. Urquhart.*—How is it that they do not cultivate opium in China, where labor is so very cheap?—They do to a certain extent, but it is not allowed to be cultivated by law.

83. Would they cultivate opium here, if they were allowed?—If they were allowed, I have no doubt they would.

*The witness withdrew.*

Mr. Charles Hope Nicholson called in and examined.

84. *By the Chairman.*—What are you?—Inspector of detective police.

85. Do you constantly meet with the Chinese in the town?—I see them daily.

86. What are their habits so far as you have observed them?—They are very sober, steady, and peaceable. Gambling and opium smoking; I think, are their most prevalent vices.

87. Do you know anything of their gambling?—Yes; they are great gamblers.

88. How do you know that?—I have seen them frequently upon the gold fields, and also in town.

89. Were you present at any of the gambling in town lately?—Yes.

90. Were you present at a recent seizure?—Yes; I saw, in one of the principal Chinese stores in Little Bourke-street, in a large room up stairs, a number of men, I should say about fifty to seventy, or more perhaps, standing round a long table; in fact, there were so many present, that they had two large tables adjoining one another. The arrangements were very complete. At one end was the president.

91. *By Mr. Henty.*—The banker?—The banker; and then at one side was a desk, with a clerk noting down and making calculations apparently, with a drawer in which there was money in this desk. In front of the banker there was a large quantity of those small Chinese coins with a hole in the centre.

92. *By the Chairman.*—Chinese coins?—Chinese coins; and about half way down the table was a round plate, upon which they made their bets.

93. Were many of them betting; could you tell?—I could hardly tell; there were so many on this occasion, that they had another table adjoining to this, and another plate, and another clerk, all betting upon the game made by the president.

94. *By Mr. Henty.*—Did they use dice?—No; they use dice occasionally. I have seen dice amongst them.

95. *By Mr. Guthridge.*—How is this game carried on?—The banker has this large quantity of coin in front of him, and he takes a portion up in his hand, and puts it before him, and covers it with a dish or cover of any sort; the plate is generally divided into four quarters, 1, 2, 3, 4. Then those round the table bet upon the numbers; one bets upon 1, another upon 2, another upon 3, another upon 4. The banker, when he sees all the money is staked, and everything right, lifts the cover off, and commences counting the coins 1, 2, 3, 4, until the coins are exhausted. If they are exhausted at 3, of course those who bet upon 3 win, and those who have bet upon 1, 2, and 4 lose.

96. *By Mr. Henty.*—Is it a game of chance to the player and a certain gain to the banker?—Quite so. The bankers make a great deal by it, I am told.

97. *By Mr. Urquhart.*—Are they in the habit every evening of having meetings of this kind, or only occasionally?—It has been reported to me every evening.

98. Have you seen any spirit drinking or opium smoking among them?—Not spirit drinking; but I very seldom go into their houses without seeing them smoking opium.

99. *By the Chairman.*—Have you heard of more houses where gambling is carried on than that one?—There are about twenty-five lodging-houses in town, and I believe they gamble in them all.

100. And are they all under supervision, the same as all other lodging houses?—I believe under the inspector of lodging houses.

101. Have you seen anything else in the course of your exertions among them that would call your attention to them as being injurious to society, besides their gambling?—I cannot say I have.

102. Do they ramble much about the streets at night?—They are very much given to going with the lowest class of women about town.

103. What I mean is, do they ramble the streets much, so that you might suspect them of being guilty of robbery?—Not at all.

104. *By Mr. Urquhart.*—I suppose they frequent those low houses of prostitutes?—Yes.

105. In any great numbers?—Generally a good many. Nearly all of them, I believe, who can afford it.



106. *By the Chairman.*—Could you give the committee any information, or suggest any measure as to the best way of putting down those gambling houses. You heard the last witness's evidence upon that point?—I did.

107. As to making the owner of the house responsible in a great measure?—Yes.

108. Could you suggest any way of putting them down?—The occupier of the house rather.

109. The owner for the time being?—Yes.

110. *By Mr. Henty.*—Is the banker generally the responsible tenant of the house?—I could hardly say. On the occasion I have already alluded to the banker was not.

111. *By the Chairman.*—Would it be good policy to make the banker and clerk, and all who take part in the gambling responsible—that is, the person occupying the house, the banker at the table, and the clerk, and all in the house, as well as those engaged in the gambling, liable to the penalty; and to oblige the magistrate to inflict the heaviest penalty upon them all?—All found in the gambling room.

112. There is a law for the infliction of the heaviest penalty upon those engaged in it now?—Yes.

113. *By Mr. Urquhart.*—Would you recommend the same system as is carried on in Prussia and the continent; that is, that gambling houses should be licensed by the Government, and the owners be responsible for all that is done in them?—That would appear as if publicly sanctioning vice, but the owners would be very glad to pay.

114. If the tax was made so high, that they could not possibly pay?—I think there would be much difficulty in reaching them. They would evade the laws as they do now.

115. *By the Chairman.*—Can you suggest any way of getting at them when they become responsible; for in Great Britain there is a great difficulty in getting into the houses. Can you suggest any alteration in the law to facilitate getting at the guilty parties?—Nothing better than making the owners of the houses liable for the penalty of gambling.

116. I refer to those houses where gambling is known to be carried on. You are perfectly satisfied what the inmates are at, but you cannot get in—cannot you suggest any way to get at them, knowing the character of the house?—Nothing, except what the law already provides for. There might be a law that a house occupied by a Chinaman might be as accessible, at least, as a public house.

117. Have you anything further to suggest upon any point that you have not been asked upon?—I have seen the Chinese on the gold fields, and also in town; and I have always observed that they were a remarkably quiet people. With the exception of their peculiarities, such as gambling and opium smoking, they are a very inoffensive people. Cases of conspiracy have come under my notice—cases where they have prosecuted each other—but they give less trouble to the police in the Colony than any other portion of the population. They generally live well and comfortably. If a settled line of policy towards them were adopted by the Government, and if the present uncertainty as to their prospects was exchanged for a distinct understanding as to the position they will be allowed to occupy and the privileges they are to enjoy, I am confident they would become more settled and perhaps more useful in the colony. I believe that a much larger revenue might be collected from them than there is at present raised in the form of "head money," "protection tickets," "mining and storekeeping licenses," and they could be kept in under better control, if some plan such as the following were adopted, viz.:—Let them be called upon to elect a certain number of representatives from amongst their number, who will not only be answerable to the authorities for good order and obedience to all laws and regulations respecting them, but also for the payment into the public treasury of a certain revenue in proportion to their numbers; and let these representatives have a certain per centage upon the amount collected as remuneration for their trouble.

118. *By Mr. Urquhart.*—You find just the same habits amongst them on the gold fields as you find in Melbourne?—Yes. The Chinese in Melbourne are storekeepers, cooks, &c., and miners about to return home to their native country. At present, most of the Chinese come into the Colony by Guichen Bay, and go to the gold fields. A few come direct to Melbourne and are of a more respectable class, and able to pay head-money. The Melbourne portion are generally of a more intelligent character than those resident upon the gold-fields.

119. *By Mr. Henty.*—The class here are generally more flush of money?—Yes.

120. Have you any means of knowing the number of Chinese residing in Melbourne?—From 200 to 300, I should say, that is all. It varies very much. Last week there were 350; I do not believe there are above 200 just now. It varies just as the vessels sail for China. There are very few here. They have a small settlement at Emerald Hill, connected with the Joss-house, that is used by Chinamen as a sort of boarding-house; there are not many there.

121. *By Mr. Fawcner.*—Have they any receiving house in town for distressed countrymen?—I do not know of any.

122. *By Mr. Urquhart.*—Do they abandon them when sick?—I have seen them do so on the gold fields. There is great difficulty in getting them to approach a sick person. I remember on one occasion we found a Chinaman dying, and we took the head man of the village, and threatened that he should be severely punished if he did not find attendants.

123. Do you think they associate in bands on the gold fields for protection, and so on?—They do not protect each other much. They associate in the way of working and marching together; but as far as any attack made by surrounding diggers is concerned, I never saw them join together.

124. *By Mr. Henty.*—They do not combine?—Never. I believe there is a great difference in dialect among them. A Hong Kong man and a Canton man, although both can understand each other's writing, cannot understand each other's speech; they do not combine at all.

125. *By the Chairman.*—Do you think that any law will be required to enforce their supporting the sick and poor?—I think it would be a very good provision, if such were the case.

Mr. Charles Hope  
Nicholson,  
continued.  
16th June, 1857.

126. Suppose there are 500 together, would you make each pay something towards supporting the sick and burying the dead?—Yes.

*The witness withdrew.*

Mr. Robert Bowie, jun., called and examined.

127. *By Mr. Henty.*—You are inspector of lodging houses, I believe?—I am.

128. How many Chinese lodging houses are there in Melbourne?—I think about fifteen altogether.

Mr. R. Bowie,  
jun.,  
16th June, 1857.

129. Are they used exclusively by Chinese?—Yes.

130. *By Mr. Guthridge.*—Are they registered in the same manner as others?—The same as common lodging houses.

131. *By Mr. Urquhart.*—What number do you suppose are in each of them?—I suppose about ten on the average.

132. Do you find the houses clean?—Very clean indeed.

133. *By Mr. Henty.*—Orderly and well conducted?—Very well indeed.

134. *By Mr. Guthridge.*—Have you ever known a case where those houses were excessively crowded?—When they first came, but not since the regulation has been passed, that each person should have so much space. Each person is allowed 500 or 400 cubic feet, according to the construction of the rooms.

135. *By Mr. Urquhart.*—How many do you find occupying one room?—Generally about two, and in some rooms there is only one.

136. *By Mr. Guthridge.*—Have you found any difficulty in carrying out the regulations?—Not the least, except through not being able to speak the language.

137. You found no opposition?—Not the least—not so much as among our own people.

138. *By Mr. Henty.*—Are they all males?—All males. At two houses the proprietors are married, one to an Englishwoman, the other to an Irishwoman.

139. *By Mr. Guthridge.*—You do not know of any Chinese women in the Colony?—There was one, but I have not seen her for twelve months.

140. *By Mr. Urquhart.*—Where the men are married, do you find their's are orderly houses?—Very much so indeed; there are a great number of English servants, family servants, and they seem very well conducted.

141. *By Mr. Henty.*—Are these houses exclusively inhabited by Chinese?—Exclusively.

142. They have English servants?—Yes.

143. *By Mr. Urquhart.*—Can the owners speak English?—About seven speak very well, and they will interpret for others.

144. Are you aware whether any of those parties have private residences?—One has a private residence called Celestial Villa; he is married.

145. How many do you think are married?—I do not know of more than those three.

146. Have they any family?—Yes, two. One is expected to be confined shortly, I believe.

147. You have not seen in any of your travels amongst those houses anything incorrect—any impropriety whatever?—I saw gambling on two or three occasions, but on a very small scale. It was chess they were playing. I have seen a good deal of opium smoking.

148. *By Mr. Henty.*—Do they not all smoke opium?—Almost all.

149. *By Mr. Guthridge.*—Have you seen that sort of gambling that Mr. Nicholson spoke of?—Only once. There happened to be a party together on a Sunday evening. It was a birthday, and they commenced gambling.

150. Do they make any difference on a Sunday?—They dress much better, and wander about much less on Sunday. I never saw any drinking in their houses, and always meet with the greatest civility from them.

151. Have you seen any indecency of any description?—Not the slightest. I accompanied Dr. Eades and a sergeant of police on an unexpected visit to these houses, and we found everything in very good order.

152. *By Mr. Henty.*—How often do you visit these houses?—Every day. The doors are mostly open, and I can just walk in at any time.

153. Are they confined exclusively to Bourke street?—Mostly to Little Bourke street. They are extending up to this end of the street pretty fast, taking the houses as they fall vacant.

154. *By Mr. Urquhart.*—They seem to be very social amongst themselves?—Very much so.

155. *By Mr. Henty.*—Are these lodging houses trading establishments?—That is where Mr. Nicholson made a slight mistake. There are about twelve trading places, all having a sign. He thought they were all lodging-houses.

156. *By Mr. Urquhart.*—Then those thirteen are not lodging-houses?—Thirteen are, but twelve are not.

157. Are they exclusive dealers?—I see them dealing there and in different shops in Swanston-street and Elizabeth-street. They buy where they can get their goods cheapest.

158. *By Mr. Henty.*—Are the lodging-houses on the increase?—No; they are only pushing up the hill.

159. The existing thirteen have been established some time?—For two years, I should think.

160. *By the Chairman.*—That is an important fact. If there have been thirteen such houses, they do not increase?—The number of Chinese is decreasing very much; I think the

Mr. R. Bowie,  
Jun.  
continued,  
10th June, 1857.

houses here are not full. They will hold 130 to 150; and if you went, you would not find above eighty.

161. *By Mr. Urquhart.*—Do you believe that the Chinamen do not like this place?—They go away fast. The sort we have here are the wealthier and better sort, on their way home.

162. Do they generally dress in European style on their return from the diggings?—Yes; or if not, in the best quality of cloth, in their own style.

163. *By the Chairman.*—Can you form an opinion as to what number go away?—I have not found that out; but I can get it from the merchants.

164. Do you ever find them quarrelling?—Never.

165. *By Mr. Henty.*—They do not use knives for aggression upon each other?—No. I thought they might from what I heard at first, but I never saw it. I visit them at all hours. Sometimes I see them at twelve o'clock, sometimes at eleven, sometimes at six or seven at night.

166. So that, if it were a common practice, you would be sure to see it?—I should be sure to see it.

167. *By Mr. Urquhart.*—Have you any power to order those establishments to be cleaned— one witness says he found the houses clean, but that the yards were dirty?—Yes; but as far as the yards themselves go, they are clean, but they are very small.

168. *By Mr. Henty.*—Upon the whole, you consider them cleanly in their habits?—Very much so, as far as their own premises go. You asked whether any were tradesmen or not. There is one a hairdresser, in Little Bourke-street, and another a shoemaker—a Chinese shoemaker. They make English shoes very neat and good.

169. *By the Chairman.*—Are those shoes made for general sale, or for their own countrymen?—I have seen a good many of our people buy them; they prefer them. The Chinese wear mostly those shoes when they are dressed.

*The witness withdrew.*

*Ordered—That this Committee be adjourned to Tuesday next, at eleven o'clock.*

## TUESDAY, 23RD JUNE, 1857.

MEMBERS PRESENT:—The Honorable J. P. Fawcner, in the chair; the Honorables N. Guthridge, J. Henty, G. Urquhart.

Frederick Standish, Esq., called in and examined.

F. Standish, Esq.,  
23rd June, 1857.

170. *By the Chairman.*—What office do you hold?—That of Chinese Protector at Sandhurst.

171. How long have you been so employed?—Exactly two years.

172. Were there many Chinese there when you first took that charge?—From the time I first went there up to the present time they have been averaging about 5000 to 6000.

173. Then the committee may understand that they have not increased?—On Sandhurst they have not.

174. What is your duty with regard to them?—To collect the revenue under the Chinese Emigration Act; to see that they reside in encampments; to see that those encampments are kept clean and orderly; and to act as a kind of referee for the Chinese whenever they have to make complaints; to be the medium through which those complaints are made.

175. *By Mr. Henty.*—Between themselves?—And between the Europeans and themselves, and to settle all mining disputes between the Chinese and between the Europeans and Chinese.

176. *By the Chairman.*—Do you readily collect the revenue from them, or is it troublesome?—It is rather troublesome, and I have very small means at my disposal, consisting only of three policemen.

177. Then the committee are to understand that they do not come to pay it?—I have to enforce the penal clause of the Act very often.

178. *By Mr. Urquhart.*—What is the amount of fees you demand from them?—£1 a year for the protection ticket.

179. *By the Chairman.*—Then, do they also pay what is called the miner's right?—They have the miner's right in addition, but with the collection of that I have nothing to do.

180. They pay that miner's right, £1. and they pay the protection fee, £1?—Yes.

181. Are they compelled to take out a miner's right, or is it optional?—It is optional, as with all miners.

182. *By Mr. Urquhart.*—Do they generally take out the miner's right?—They do generally.

183. And you find it difficult to get even the twenty shillings?—I am obliged to have the three policemen at my disposal out every day asking for protection tickets, on the same system as the old license hunting.

184. *By the Chairman.*—Could you inform the committee of any way in which that could be superseded?—I cannot.

185. *By Mr. Henty.*—Is the fee evaded, do you think?—I may state that, averaging the population at about 6000 since I have been there, I have collected rather better than £5000 a year; so that perhaps about five-sixths of them pay it.

186. Do you find three policemen sufficient to enforce order amongst 6000 Chinese?— I have done so hitherto. The Chinese population have been exceedingly orderly. F. Standish, Esq.,  
continued,  
23rd June, 1857.
187. *By Mr. Urquhart.*—Do you find any difference as to their being quarrelsome in large bodies, where the Europeans are in small numbers?—It has struck me that, where they are in large numbers, they assume a spirit of independence that they generally did not show in the earlier days.
188. When they are in large bodies, do you find any disposition in them to become troublesome to their neighbours, more so than when they are in small bodies?—I think so, decidedly.
189. *By Mr. Henty.*—Are they at all aggressive?—I think not.
190. They act on the defensive?—On the defensive; they are so often subjected to petty annoyances from the foolish and the unthinking.
191. *By the Chairman.*—If you arrest any of them for any offence, have you any magistrate close at hand to bring them before?—They appear before the stipendiary magistrate, or before the chairman of the municipal court.
192. However distant it may be?—Yes, however distant it may be; but the greater part of the Chinese population, in the Sandhurst district, are located in camps within two or three miles of the town of Sandhurst.
193. Have you had occasion to bring many of them before the police or stipendiary magistrate; and, if so, how many a year?—I was looking over the list of cases (I send in my report fortnightly) and I think on the average about seven or eight a week; but I may state that the majority of those are for not paying the protection ticket.
194. Not for crime; but simply for eluding the payment of the protection ticket?—Occasionally, there are cases of larceny; perhaps as many as one a week on an average.
195. Between themselves, or between Chinese and Europeans?—Between Chinese and Europeans; shoplifting is their favorite offence.
196. Have you had many cases of larceny between themselves?—I can only remember one since I was there.
197. *By Mr. Urquhart.*—They are more disposed to pick up from Europeans than from one another?—They pilfer from the shops in the town; trifling articles, such as boots and those kinds of things.
198. *By the Chairman.*—Do they aim at dressing as they do in their own country, or do they conform to the European dress?—The Chinese come in the garb of their own country generally, and when they have made a little money they assume the European garb. The Chinese well-to-do generally dress like ourselves.
199. Do you find many of them trying to learn the English language?—Very few indeed.
200. Are you able to form an opinion as to whether they intend to remain in the country or return home?—I believe not one in a thousand intends to be a colonist, from what I have gathered from conversation with the most intelligent who do speak English.
201. Do you know of any of the Chinese being employed in any way except on the gold fields?—I do not.
202. Have you ever known any to leave the gold fields to go into employment as farmers, or graziers, or artizans, away from the gold fields?—I have not; and at one time I made inquiries about that, and I am told that they are exceedingly disinclined to take to any pursuit but mining or storekeeping.
203. *By Mr. Urquhart.*—Do you believe, from your own experience, that they would ultimately, or any portion of them, settle down upon any portion of the colony, and become cultivators of the soil?—I do not think so.
204. *By Mr. Guthridge.*—Are you able to communicate with them in their own language?—I am not.
205. *By the Chairman.*—Who is your interpreter?—A Chinaman named O. Chong, who was educated in the missionary college of Hong Kong at an early age, and who speaks and writes English.
206. You have no European interpreter?—No European interpreter.
207. *By Mr. Urquhart.*—What are their earnings per day, or what do those Chinamen make per week—have you any idea?—It is impossible for me to answer that question.
208. *By Mr. Henty.*—Is the Chinese interpreter able to speak the language of all the Chinese at Sandhurst?—No. He is a Canton man, and only speaks the language of the Canton district.
209. From what other district do the great bulk of them come?—Nine-tenths or ten-elevenths of them are from the Canton district. There are a few from Shanghai.
210. *By the Chairman.*—How do you do for an interpreter for those?—I had one case in the police court in which I remember the interpreter could not interpret, and we had a Shanghai man who spoke a little English; but it was no use at all.
211. Do you know what quantity of gold they remit or carry back with them to China; have you any knowledge of that?—Not the least.
212. *By Mr. Urquhart.*—Have you any idea of what they call a fortune or independency in their own country?—This of course is from hearsay; but I am told a Chinaman going home with £200, can live as a gentleman for the remainder of his life.
213. *By Mr. Guthridge.*—Is not the written language of all the districts of China the same?—I believe it is.
214. Would not it be possible to carry on the examination in writing?—It might be possible if all the Chinese read and wrote.

F. Standish, Esq.,  
continued,  
23rd June, 1857.

215. And they do not?—The great bulk I think do. A far larger proportion than among the Europeans can read and write.
216. Are there any Chinese women at all in the district?—There were two about two years ago, and I know one, and I think both are gone. One of them went back to China, and the other I have not seen for upwards of eighteen months.
217. *By Mr. Urquhart.*—Are there many of the Chinese married in your district?—I should say, at the outside, eight or nine.
218. *By the Chairman.*—Married since they came here?—Married here.
219. Do you know what country girls they are married to—English, Irish, Scotch, or Welsh?—Generally Irish. All those I have seen are Irish.
220. *By Mr. Guthridge.*—Have you ever had any conversation with those women who have been so married?—I have.
221. Do you know what their feelings are as to their comfort and position?—I believe the women who marry the Chinese are of the very lowest class.
222. Scarcely able to form an opinion of their social position?—No.
223. *By the Chairman.*—Do you know anything of the other gold-fields, so as to be able to say whether the Chinese are increasing in the Colony?—They have increased in the Colony. When I first took charge of the Sandhurst district, there were no Chinese at the Ovens, and the Chinese population at the Ovens has been supplied from Bendigo and Castlemaine, and the new arrivals have supplied the deficiency—they are constantly changing.
224. *By Mr. Henty.*—They are migratory?—Yes.
225. Are you aware whether any married Chinese return to China—those who have married in the Colony?—I do not know of any myself; but, from what I understand from the most intelligent Chinese, with whom I have had conversation, I do not believe those women could go back to China.
226. *By Mr. Urquhart.*—Do they generally live very well?—As soon as they can afford it, they live very well indeed.
227. *By the Chairman.*—Is there anything further you would like to add to your evidence?—No.

*The witness withdrew.*

Kong Meng called in and examined.

Kong Meng,  
23rd June, 1857.

228. *By Mr. Henty.*—What are you?—I am a Chinese merchant.
229. Were you ever in China?—Yes.
230. In what part?—Canton.
231. How long since?—About twelve years; but I have been there since several times.
232. Where have you lived since?—I went to the Mauritius, and Calcutta, and Singapore.
233. You frequently see your countrymen—Chinese—here?—Yes.
234. You trade with them a good deal?—Yes.
235. From what part of China do the Chinese now in the Colony chiefly come?—All from Canton; they are all Canton people.
236. None from Amoy?—None from Amoy since these diggings commenced. There were about 300 or 400 Amoy people a long time ago employed at the sheep stations, some part at Sydney.
237. Are the people now here from the country districts of Canton, or from the towns?—Some from country and some from town.
238. Do they pay their own passage money?—Yes; but not always. Money is advanced in China, which they have to repay.
239. Are they traders, or of what class?—There are a great many here who were farmers in China; about two-thirds farmers and one-third traders.
240. Do they all speak the same language?—Yes, the one dialect.
241. The Amoy men?—No, they cannot speak the same dialect as the Cantonese.
242. *By Mr. Guthridge.*—Is not it the same when it is written?—Yes, they could know in writing.
243. Then if one was to write what he wanted to say, the other could understand it?—They could understand it in writing.
244. Can most of those people write?—I think a good many could write.
245. *By Mr. Urquhart.*—Have they generally families in China, those that come down?—Yes.
246. They generally leave their wives and children behind them?—Behind them.
247. How are their wives and children provided for in their absence?—A good many leave their wives in China; some in one or two years go back again.
248. Do they remit at any time money to their wives and children in China?—Yes.
249. *By Mr. Henty.*—Are you aware what amount they remit to China?—I cannot tell you; some might be £8 or £10 per year, some £20 or £30 per year, and some nothing, if they could make no money.
250. *By Mr. Urquhart.*—What will it take to support a wife and family in China, of the class that come here?—Not very much.
251. How much?—They live very cheaply in China.
252. Give the committee some idea, if you please?—I daresay about £10 a year.
253. *By Mr. Henty.*—Do you know of your own knowledge of any one of the Chinese

remitting sums of money for the maintenance of his wife and family?—Yes, some of them remit about £10 or £20 a year.

Kong Meng,  
continued,  
23rd June, 1857.

254. You know that?—Some £5 or £6; a good many of them remit very little, a few pounds.

255. Do you know how many of your countrymen have gone back from the Colony during the last twelve months—have you any means of knowing?—I could make it out. I think not quite 3000 a year, but most of them come back again who leave this Colony.

256. *By Mr. Guthridge.*—Are they likely to bring their families with them if they come back again?—If they could settle here they might do, but they do not know yet.

257. And you think, if there were no restrictions to their settling here, they would be inclined to settle?—If they could settle here, they would be sure to bring their families here. If they settled here for eight, or ten, or twelve, or fifteen years, then they must bring their families here. I do not think they would bring their families to settle here under any circumstances now.

258. You do not know what amount of gold they have taken back with them?—I cannot say.

259. How long do they generally stop here—do they stay until they get gold?—Some of them stay until they get gold, and some of them, when they find it difficult to do anything, go back. A good many go back like that, having no money.

260. How do they get back, if they have no money; how do they pay their passage?—From their friends here; they get about £8 or £10 to pay their passage back.

261. *By Mr. Urquhart.*—Which of the Eastern Islands have you met your countrymen settled in?—A great many at Singapore, a good many at Penang, and others.

262. They are not farming there?—Oh yes.

263. Very few, I believe?—A good many things are cultivated by the Chinese at Singapore and those other islands; all those sugars and spices, the Chinese cultivate them.

264. Do you think they would stop and cultivate here, if there were any inducement held out to them?—A good many say this is a very nice place and nice ground. A good many are afraid to stay here just now; they do not know what will be the law next year. A good many say, if they settle here this year a tax may be put on them next year, £50 each every year. They are frightened. They do not know the law. At Singapore they do know the law, and at Penang.

265. They do not know the law of Java, do they?—I do not know; the law is the same as the Singapore. That is a Dutch settlement, you know.

266. You have heard some of them say they would settle here, if they were certain as to the laws being established regarding them?—Yes. I saw a good many Chinese fishermen, about two hundred of them since last summer, go through nearly to the Heads for fish.

267. *By the Chairman.*—Do they actually fish, or do they merely buy the fish and prepare them for use?—They buy the fish, and some few fish themselves.

268. They chiefly buy and dry, and prepare the fish for sale?—Yes.

269. *By Mr. Henty.*—For the diggings' market?—Yes.

270. Where?—At Schnapper Point and Mount Eliza, and other places.

271. *By Mr. Urquhart.*—What amount of tax could the Chinese population in this country pay?—I do not know.

272. *By Mr. Henty.*—The majority consume opium?—Yes.

273. *By the Chairman.*—Are you of opinion that, if the tax were reduced to £5 per head, and they were allowed to land in Melbourne, they would be able and willing to pay it. It is now £10?—I cannot tell you that.

274. What is your opinion?—In my opinion, £5 is a very heavy tax for them to pay.

275. But if it were lowered from £10 to £5, would they be able and willing to pay it?—There might be some of them able to pay it.

276. *By Mr. Henty.*—Are you aware what it costs them to travel from Guichen Bay to the diggings?—About £4 each, I think; some of them as little as about £3 10s.; a good many go for £5.

277. With or without provisions?—With provisions.

278. *By the Chairman.*—Then they would save that journey overland by the payment of the £5. If that was the law, would that be sufficient inducement for them to come direct instead of travelling in the bush, do you think?—Oh, yes.

279. I think you said you were a merchant?—Yes.

280. Do you know any other countrymen of your own here that are merchants?—Yes.

281. How many do you know?—About thirty or forty of them—a good many.

282. Do you import direct the goods you require as a merchant?—Some; not all.

283. From whence do you import goods—you yourself, for yourself?—From China, and some from Calcutta.

284. Anywhere else?—Singapore.

285. I think you mentioned the Isle of France and Penang—do you import anything from those places?—No.

286. Do the other Chinese merchants import in something of a similar way?—They also import from China.

287. *By Mr. Guthridge.*—What are the principal goods you import from China?—All for the use of the Chinese—provisions.

288. What is that—rice, tea, or what?—Tea, rice, sugar, and all sorts of provisions.

289. *By the Chairman.*—Do you import tea or other articles to sell to Europeans here?—No.

Kong Mong,  
continued,  
23rd June, 1857.

290. Only to your own people?—Yes; we only import very few—not largely enough to sell to Europeans.
291. *By Mr. Urquhart.*—How many of your countrymen have married in this Colony?—I cannot tell you.
292. Have none of those who have married in this Colony returned to their own country?—None; I have never seen it.
293. I think you said you had no means to ascertain what amount of gold goes back annually to China?—No.
294. *By the Chairman.*—As a merchant, do you know of many ships coming with your own countrymen from China just now?—There might be one or two on the way, that is all for these five or six months, I think.
295. *By Mr. Henty.*—Is the season nearly over?—It is over now. There are only one or two coming.
296. *By Mr. Guthridge.*—Why do they only leave at one particular time of the year?—At that time we could get many passengers in China, at the end of the year, and there is a fair wind coming down.
297. *By Mr. Henty.*—The monsoon?—Yes.
298. *By Mr. Urquhart.*—How many Chinese do you suppose there are in this country? I think about 40,000.
299. *By the Chairman.*—Have you any idea what number of Chinese there are at Singapore and the other islands?—In Singapore I think about 150,000. You see Chinese through all the islands.
300. It has been stated that there are at least 2,000,000 spread about in Singapore, Penang, and the Isle of France?—Not many in the Isle of France.
301. There are some at Java?—At Java and a great many at Borneo and Sumatra.
302. Do you think that it is likely that there are that number—two millions—spread about there?—Yes.
303. *By Mr. Henty.*—Nearly a million in Java?—Nearly a million in Java.
304. *By the Chairman.*—Do those people return home or settle there?—A good many settle there.
305. *By Mr. Guthridge.*—Do any of the superior classes, the mandarins and so forth, leave home and go to those islands at all?—Yes.
306. If there were no restrictions in this country, do you think any of those mandarins would come down here to settle?—Yes, if this law treated them well, like Singapore, that they could come as they liked and do anything they liked. Few, but not many.
307. *By the Chairman.*—You do anything you like, do you not; no one restricts you here, and says you shall not buy and sell; is not that so?—I had it very bad at the diggings.
308. Do not the Chinese quarrel sometimes and use one another ill, in Canton and other places?—In China, not here. I never saw the Chinese quarrel here.
309. *By Mr. Urquhart.*—Are there not very stringent laws against the Chinese in Java, where there is so large a number?—About 100 years ago the Chinese were there.
310. They are still restricted?—Yes.
311. You never were in Java?—No.
312. Have you been to Singapore?—Yes.
313. There is very little cultivation going on at Singapore?—Very large for spice and pepper.
314. Only within three or four miles of the town. There is very little else going on at Penang; it is a very small place?—The Island of Penang; but the province of Wellesley, just opposite Penang, on the main land, there are about 100,000 of the Chinese there. Penang is only a small island.
315. *By the Chairman.*—You spoke of being ill used at the diggings. Did you ever find any person interfere with you at Melbourne?—No.
316. Are you less free here than any other person belonging to the colony; are you prevented from doing anything you like in trade or business, or in rising in the morning and going out when you like?—No.
317. Are you taxed in any way more than another?—No.
318. Then you have not much reason to grumble at Melbourne; the law does not restrict you in Melbourne from doing what you like, does it?—No.
319. *By Mr. Urquhart.*—Do you find yourself as free here as you have done in any other country you have been in?—The same as any other country.
320. I think you say there was some difference between the Chinese diggers and the European diggers; what is the difference you found on the diggings?—I heard a good many say, when they sunk a good hole they drove the Chinese away, and took possession of it, and would not let them dig that place; and there was, last week, at Mount Ararat, they burnt all the tents. There were four stores there. I had three or four hundreds of pounds there, and I had some interest in it.
321. It does happen sometimes in China that they rob one another?—This is not robbery.
322. *By Mr. Henty.*—What then?—They burnt all the tents to try and keep away the Chinese from that place.
323. *By Mr. Urquhart.*—That, I presume, must have arisen from some quarrel between the Chinese diggers and the European diggers?—No, they had no quarrel.

*The witness withdrew*

Robert McMicking, Esq., called in and examined.

324. *By Mr. Henty.*—You are a merchant?—I am.

325. You have resided in China and in the East?—I have resided in China and in the Indian Archipelago, the Philippines, and Java, and Singapore.

R. McMicking,  
Esq.,  
23rd June, 1857.

326. *By the Chairman.*—For how long?—About four years between the different places.

327. *By Mr. Henty.*—Are you acquainted with the Chinese population at Singapore?—Slightly; not so well as I am at Manilla.

328. Can you form any idea of the number of Chinese at Manilla?—I should think probably about three-quarters of a million through the Philippines. The number in the town of Manilla amounts to about 30,000 souls; but it is an extremely difficult thing to ascertain, owing to the way in which the census is taken. The Government tax the people by a house-tax, and make the petty magistrate over them responsible for the tribute, so that it is the object of those people to return the census as small as possible.

329. What is their occupation chiefly?—In the town of Manilla they are mostly engaged in sugar drying, and in keeping shops through the town. They have taken the place of the native population there, owing to their superior acuteness.

330. Are there any employed in the country in cultivation?—A good many; but I think in Java and in Singapore they are engaged in agricultural pursuits, more so than in the Philippines. The reason of that is, that the Spaniards are very jealous of allowing any foreigners to acquire land, to do which they must become naturalized. An Englishman cannot own any property there without becoming a Roman Catholic, and going through several things that he would not like to do. In Java some Chinese are large and very skilful farmers.

331. Are the Chinese taxed in Manilla?—Yes.

332. In what form and to what extent?—A Chinaman on coming to Manilla is enrolled in a book kept by a Chinese magistrate, whom he votes for himself, and who is called Captain of Chinamen; and after electing him, the resident Chinese there elect a lieutenant of police for themselves, quite distinct from the other population.

333. *By Mr. Guthridge.*—From among the Chinese?—All Chinese.

334. Those officers are all Chinese?—All Chinese. They only understand how to manage their own people. Our people cannot manage the Chinese; they are not acquainted with their customs. Their lieutenant chooses his own men from Chinamen as policemen.

335. *By Mr. Henty.*—In regard to the taxing of the Chinese, can you give the committee any further information?—In the Philippines, about five years ago, they passed a law reducing the rate of taxation very much for the class of agriculturists, exempting the agricultural laborers from taxation. All others are taxed according to their different occupations; for instance, a shopkeeper will pay a higher tax than a man who works in drying sugar, and the man who wears stockings pays something for the privilege, more than a man who goes barefoot.

336. A sort of tariff exists?—Yes. In Java they tax their tails. It is supposed that the man who can afford to dress himself well and wear stockings is better off than the man who goes about barefoot, and can afford to pay a higher tax.

337. Are you aware of the amount per head levied in Manilla?—I think a common coolie pays about three or four dollars per year, although I cannot be certain.

338. That is the lowest scale, I suppose?—I think so, for men not agricultural laborers.

339. Can you give the committee any information as to the outbreak at Singapore?—I have heard that it was owing to the inquisitorial police law. There is no legislature there to canvass their acts as there is here, and they pass sometimes rather stringent laws, and this gives the police there, who are rather a bad set (composed of runaway seamen from all nations, mostly Asiatics) power to enter into a Chinaman's house at any time and see what he is doing. For instance, the Chinaman is not allowed to smoke opium in his own house at Singapore, but must smoke it in the licensed shop. Another thing is, the Chinese are very fond of eating pork, and they have got a pork farm, and sell the privilege of killings pigs; and they are only allowed to buy those things from certain men, exactly as we sell grog here. These are farmed out, and the whole revenue is raised at Singapore from these farms; say opium, pork, beche de mer, &c.; all things considered luxuries by Chinamen. I suppose it was hunting up some fiscal evasions or other, or that the police took it upon themselves to go into people's houses and make themselves exceedingly disagreeable; and the Chinese, as they have done in Java, resisted. They stand a great deal of that kind of thing before they resist. They had a regiment of soldiers from Bengal or Madras there; but Government did not call them out. It was not serious enough to call them out. I suppose the merchants there would not like to shoot their customers.

340. *By Mr. Guthridge.*—There are a great many Chinese employed, I presume, by the traders and merchants about the city: what becomes of them?—A merchant has, perhaps, in a mercantile establishment in Singapore, half a dozen coolies, and, perhaps, as many servants in his house. That is the extent of most of those Chinamen employed by Europeans there.

341. Did they become involved in consequence of this outbreak?—I should think not. The police would not dare to enter a European's house, and so they did not feel the effect of it.

342. *By Mr. Urquhart.*—I presume that effect would not reach the European merchants. They are not in the habit of smoking opium?—No; nor of eating pork in the tropics.

*The witness withdrew.*



Mr. Walter Randall called in and examined.

Mr. W. Randall,  
23rd June, 1857.

343. *By the Chairman.*—What are you?—I am a detective officer for the City of Melbourne, and have been so engaged the last four years now.

344. Do you know anything of the Chinese in this Colony?—Yes.

345. Have you had occasion to see much of the Chinese during those four years and a half?—I have on the diggings.

346. Where?—At Castlemaine and different diggings, as well as Melbourne and South Australia.

347. Can you tell the committee whether the Chinese have increased in numbers much in your time?—They have very much indeed.

348. Have you ever found them troublesome to you in your duty?—No, quite the reverse, considering the great population in the country. I think I have never known twenty Chinamen convicted of felony since I have been here.

349. Have you had occasion to visit them at any time?—Yes, I have.

350. On any occasion of gambling?—Frequently, more particularly on the diggings.

351. Did you at any time seize any of them for gambling, or seize any property belonging to them?—When I was in charge of the Castlemaine district, I only had one policeman with me, and we found it very difficult. They jump through the canvas like harlequins; and if you get one, you find it very difficult to hold him, they are very strong; they butt with their heads, and rush through the canvas.

352. They do not resist?—No, they only try to escape, leaving money and everything behind them.

353. Have you ever captured any money from them?—I have, in Melbourne.

354. Only in Melbourne?—Only in Melbourne. I have seen money taken away from them at the diggings.

355. Was it much in amount you captured from them?—£13 odd in money.

356. How many were there congregated when you found the £13 odd in money?—About 100. It was about two months ago.

357. In Melbourne?—Yes.

358. In Little Bourke street?—In Little Bourke street. At the place of a man known by the name of Minett, a friend of the witness examined here this morning, a Chinaman.

359. How did you get into the house; peaceably, or by any *ruse de guerre*?—The door was opened; it was on a Sunday night, and in an up-stairs room.

360. You had information, I presume?—We had, and we provided ourselves with a warrant; and with the inspector of detective police, Mr. Nicholson, and six others, we went there and ran up-stairs; there was a man at the bottom of the stairs gave some signal in their own language that we were coming, or had some suspicion who we were. They must have known, because, just as we came to the door, they rushed us head first. We could not keep them in, though we tried all we could. After a very severe fight we arrested seventeen of them. I believe they would come against fixed bayonets with their heads. I believe some of the detectives were assaulted whilst trying to hold them.

361. They did not attempt to fight, or shoot, or stab you, or knock you down?—No; only by endeavouring to make their escape. On that occasion they broke a pane of glass and threw a £5 note out of the window; they broke everything in the room, tables, chairs, bedsteads, and everything.

362. They themselves broke them?—They and the detectives together.

363. From your experience in the colony, can you say that they are much given to gambling?—Very much so.

364. Do you know whether any evil effects arise from that, among themselves?—Yes, one occasion I know; that man who was hung in the city—that arose through gambling. He stabbed another man at Castlemaine, and was hung for it. I have known them to gamble the rings off their fingers.

365. *By Mr. Guthridge.*—Have you seen them at their games?—I have, and know their games.

366. What is the character of the games?—What is called Chinese hazard. A small tin plate with 1, 2, 3, 4 marked on it in their own figures, and then they have a small cup, and they get some Chinese coins and put them down and shake them—they are not visible—and then they count out like they do at a hazard table, what they call the groom porter in England; and it must come 1, 2, 3 or 4 at the latter end. They put then money on a figure—say 4, and if it comes 4, number 4 takes the whole pool, and the other three lose; and there is a main of 5. It is a mere game of chance. All the money is placed on the table before the coins are told out.

367. *By Mr. Henty.*—Is there a banker?—Yes.

368. Is there any advantage derived to the banker?—Yes. This Minett was the banker. He gave cheques. They are a very shrewd race of people—they have an iron chest down below; and for fear the police might come on those occasions, they give cheques. If a man should win more than the money they have in the bank—a small sort of cashbox—the proprietor goes down and brings up money on the production of those cheques.

369. *By Mr. Guthridge.*—Is that the only description of game you have seen them play at?—I have seen them at other games. They take a lot of coppers, and cover them over and shake them up, and lift it off and let them settle, the same as people playing pyramids; and they are so very skilful, they will tell within a few how many there are.

370. *By Mr. Henty.*—Does the banker derive any particular advantage from his position as banker?—He has eighteen per cent. in his favor, at least. On the English system it is so, and the way they play it, it is more so. Mr. W. Randall,  
continued,  
23rd June, 1857.

371. *By the Chairman.*—Your opinion is, that this gambling is a very serious evil to the Chinese themselves?—It is. Some of those Chinese make a wait on those men when they come out with money and induce them to play, and perhaps they are more skilful.

372. *By Mr. Henty.*—The banker has a direct advantage?—Yes; they would not play it if they had not. It is not any interest for them to play it otherwise. Fifty men might be round this table; and perhaps there would be twenty men who will put on number four and you might not see above two or three men put half-a-crown on number one, and if the banker wins he sweeps it all away.

373. *By Mr. Urquhart.*—You think that there are a number of the Chinese who induce the Chinese diggers, when they come into town, to visit those gambling houses and fleece them?—I am certain of that, and I know they take them to brothels as well.

374. Just way-lay them?—Yes.

375. And they get fleeced there also?—It is not to get them fleeced; but they take them to brothels and get so much per head for taking them; a sort of doing the thing on commission.

376. *By the Chairman.*—Are they given to night walking much?—Very little; they sleep a great deal.

377. You do not often arrest them at night for being about the town without knowing what they are about?—No. You may see them go into a brothel, and they are very particular who sees them. They will walk three or four times past before they will go in; and if you go into the brothel and see them, it is three to one if they do not take their hats and go out.

378. You never fall across them in a state of intoxication?—On one or two occasions I have done so, but very rarely.

379. The chief thing you have observed amiss in them is, that they are given to gambling; or have you observed anything else you could state to the committee?—I have seen a great many shut up for not paying their license on the diggings, three or four, or five or six together; but the money is immediately paid, generally by their friends.

380. They do not go to gaol for it?—No, the money is generally paid by their friends.

381. Do you know anything about their leaving the Colony—do many of them leave the Colony?—I have seen them walking the streets with new articles of clothing and new gold boxes under their arms; and shortly before the departure of the ships for China you will see them hanging about the streets.

382. Your observation is, that they do occasionally return back to their own country?—Yes. Some of those men we arrested for gambling were about to sail next day; some had £90 or £100 in sovereigns.

383. *By Mr. Urquhart.*—Have you seen any of them excited by smoking opium?—No; I have not. I have seen them sleep a great deal.

384. But not excited?—No.

385. *By Mr. Henty.*—Have you any idea of the number usually resident in Melbourne?—I should think there are about twenty to twenty-five Chinese lodging-houses in Melbourne, but they come and go out so often; you cannot take upon yourself to say. Their identity is very hard; they are not like any other race of men.

*The witness withdrew.*

Mr. Samuel Irwin called in and examined.

386. *By the Chairman.*—You reside at Ballaarat?—Yes.

387. What is your occupation?—I am a newspaper proprietor.

388. You have resided at Ballaarat from nearly the commencement of the diggings?—Yes.

389. Do you recollect how long it is since the first Chinese came to the diggings at all there?—We always had some, even from the very first rush for gold at Forest Creek. Some Chinese had been brought out for some of the western stations.

390. As shepherds?—Yes. I remember seeing them in the first rush up to Forest Creek.

391. Have they increased much in number since?—Very much. There are about 10,000 in Ballaarat and the district about there. I forget when they began to get so numerous; I think about two years, but that is easily ascertained.

392. How are they employed at Ballaarat; are they farmers or what?—Nearly all mining. There are some few working in gold among themselves as jewellers—a good many. Some have restaurants, and Chinese restaurants are rather celebrated.

393. Are those restaurants for the general population or only for the Chinese?—For the general population. In fact, they are generally in a superior style; their cooking is very good.

394. What proportion would you say out of the 10,000 are employed otherwise than in searching for gold; that is to say, what proportion of the 10,000 would be employed in restaurants and as little shopkeepers?—I do not suppose it would be over 150 or 200.

395. In the 10,000?—Yes.

396. *By Mr. Guthridge.*—Do they ever engage themselves with Europeans as hired servants or laborers?—I have known some so engaged, but very few.

397. *By the Chairman.*—That is the exception?—Yes; mining is the main object.

398. *By Mr. Guthridge.*—Do they generally work independently, or is there a head man; or do they work in company, by joint stock, or how?—Large numbers of them are under head men, and work for them as servants; but a good many are independent.

Mr. S. Irwin,  
23rd June, 1857

Mr. S. Irwin,  
continued,  
23rd June, 1857.

399. *By Mr. Henty.*—A good many?—Yes; many form companies for deep sinking. I have even known some mining companies or parties where many were actual working shareholders, the same as the other miners.

400. *By Mr. Guthridge.*—On shares?—On shares, and very good workmen.

401. *By Mr. Urquhart.*—They do not cultivate any farms about Ballaarat?—They cannot get them. At a late sale at Creswick, about eighteen months since, some Chinamen went there to buy land, at Spring Hill, near Spring Creek; but they found it would cost too much; it went to such a price that they shook their heads in dismay.

402. *By Mr. Henty.*—Do you think there is any disposition on the part of the Chinese to hold land?—It is their wish to cultivate if they could; but they do not like giving £6 or £7 an acre; they say it is too dear. I believe a very great proportion of them would commence farming, if they could get the land at a reasonable price.

403. *By the Chairman.*—Do you know whether any of them go home; and, if they do, what proportion to those who remain?—I could not say. I know a number of them do go home. What proportion I could not say.

404. *By Mr. Urquhart.*—Are there any of them married on Ballaarat?—Yes. I was census enumerator for North Grant, and I think there are perhaps some dozen or eighteen married in that district.

405. *By Mr. Guthridge.*—Married to European women?—Yes. There are two China women, I believe, with them.

406. *By the Chairman.*—Are those Chinamen married to English, Irish, Scotch, or Welsh women?—I believe the majority of them are married to Scotch women; at least, they put down "Church of Scotland." There were some from Van Diemen's Land—two sisters, I know, are natives of Van Diemen's Land. I believe these two sisters were bought for £500. However, the sisters say the Chinese make very good husbands; and, in fact, taking the average of European husbands, quieter and better than they would get in their own rank.

407. What is their character for sobriety in your neighbourhood?—They are very sober.

408. Are their numbers on the gold field considered to interfere with the European population?—A great many say they do interfere, but a large portion of them confine their operations to old ground formerly worked.

409. That would not interfere with the Europeans much?—They say it does, though so soon as the Chinese find out, which they have done repeatedly, some ground not one-third worked, then the Europeans having seen this, say they will go there; but they forget that the Chinese act as pioneers.

410. *By Mr. Henty.*—You do not consider the complaints to be just?—I believe that most of the disadvantages are counterbalanced by the advantages. They follow up behind the other miners, and when they do discover anything, the Europeans come generally in for a share of it.

411. *By Mr. Guthridge.*—They work deep sinkings sometimes?—They are working on some of the deepest leads there.

412. *By Mr. Urquhart.*—Do you find, when there is a number of them together, that they take a more independent position than otherwise, when there are only two or three of them, and that they are prepared in consequence to defend their rights?—Yes; but the fact is, they are so much annoyed and irritated, especially by boys pelting them with stones, you cannot wonder at it that they defend themselves. I have myself repeatedly got into rows for making them leave off pelting the Chinamen.

413. Are there no persons to protect the Chinese?—Yes, some policemen; but the villages are so scattered, they cannot be always there, and the other police care little about them; in fact, they look upon the Chinese as not belonging to their department.

414. *By the Chairman.*—Could you give the committee any information as to anything like the average produce of gold by the Chinese; have you sufficient data on which to speak of that?—I have not, but I believe the average produce to the Chinese is just as much as to the others; they are so steady, that they always make it pay better.

415. Do you know of any of them being chargeable as paupers, either on our people or on their own people?—I really have not known of a case of that kind.

416. I do not refer to sickness, but to men in good health. Have you heard of others being obliged to support a man in good health who could not find employment?—I have not—none such ever came under my own knowledge.

417. *By Mr. Urquhart.*—Do they protect their own sick, or have they got any association to afford them any assistance in the event of sickness overtaking any of them?—I am not aware that they have any; I do not think that they have, so far as I am acquainted.

418. *By Mr. Guthridge.*—It has been stated, that they leave their sick to languish and die—do you know of any cases of that kind?—No, not further than this—there was one case during the time of that report of the leprosy existing; and the camp surgeon, Dr. Allison, attended to it so soon as it was discovered.

419. *By Mr. Urquhart.*—There are about eighteen married Chinese in the neighbourhood of Ballaarat?—Yes; about that number, I know.

420. Have they any place of worship in the neighbourhood of Ballaarat?—They have what is called a place of worship; but, from what I understand, it is not so much a place of worship as a Chinese exchange. So it is reported.

421. *By Mr. Henty.*—A club?—Half club and half exchange.

422. *By Mr. Urquhart.*—Do they attend there on Sunday?—Yes, they attend there when they are not working. It appears to be a kind of house of call or exchange—half of a restaurant character.

423. Do they work on Sunday?—Not more than other miners, when compelled by necessity; baling out water, or other necessary work.

424. *By the Chairman.*—Are the Chinese a source of annoyance to the European population on the gold-fields; are they so considered, or is that outcry only partial?—I believe the majority of the miners consider them in the way.

Mr. S. Irwin,  
continued.  
23rd June, 1857.

425. Could you point out to this committee any way in which that could be obviated?—The opinion of the majority of the people, I fear, is against them; and they would wish they were lessened in number, either by their total exclusion in future, or else draining those that are now on the gold-fields to some other means of employment; but I should say, at the same time, that this majority is scarcely the thinking majority. My own opinion about the matter is, that a reduction of the tax imposed upon them for coming in here would be advisable, and that you should only let in a very small number in future.

426. What would you reduce the tax to?—I think about £5 would be fair.

427. How many would you permit to come in per annum?—I think, if we could find out, as of course we could from the Immigration Returns, the number of Europeans, and the proportion of Chinese that come to the other population; then allow a per centage, perhaps a half, or perhaps one-fourth, as might be determined on, of a Chinese immigration to come in; there should be an agent in China who would only clear out so many, and let it be distinctly known that only those would be allowed to come in, and the proportion of those who came in one year to be the proportion as against the Europeans of former years. In that way you could always keep them in check.

428. *By Mr. Urquhart.*—Would any benefit arise to the Europeans by a check being kept upon the Chinese, if a poll tax were put on?—I think so. It would be very difficult to collect the tax.

429. If there were a poll tax put on, you think there would be some difficulty in collecting it?—Yes.

430. It would not require any greatly additional expense to the expenses already incurred in collecting the protection tax, would it?—No, it would not involve much greater expense.

431. *By the Chairman.*—Have you any thing you wish to add to your evidence?—No.

*The witness withdrew.*

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TUESDAY, 30TH JUNE, 1857.

MEMBERS PRESENT:—The Honorable James Henty, in the chair; the Honorables N. Guthridge, G. Urquhart.

The Rev. William Young called in and examined.

432. *By the Chairman.*—You have been a Chinese missionary?—Yes.

433. Attached to the London Missionary Society?—Yes.

Rev. W. Young,  
30th June, 1857.

434. In China?—In Java, where the London Missionary Society had a missionary station for sixteen years, and I have been at Singapore for one year, and seven years in China itself.

435. At what port or place in China did you reside?—In Amoy.

436. Do you speak the language?—Yes, the Amoy dialect of the Chinese language.

437. *By Mr. Guthridge.*—Do you understand the written language?—Yes.

438. *By the Chairman.*—Do you understand the Canton dialect?—A little.

439. Can you make yourself understood by the Cantonese?—Tolerably well.

440. You are acquainted with the habits of the Chinese at Amoy?—Yes, pretty well.

441. Had you any knowledge of the Chinese emigrants to Australia during your residence in China?—Yes, I knew a good many of those who left for Sydney as shepherds, from Amoy.

442. Of what class were they?—They were generally of the laboring classes.

443. Were there many of those called coolies?—Yes, you may call them coolies; but they may have been agriculturists, or masons, or some of them carpenters, and some of them just simply carriers of burthens, or porters, as you may call them.

444. That class are called coolies, I suppose?—There is a large class called coolies, but those sometimes consist of men who are occupied in rope making, or sometimes they are comprised of boatmen; in fact, a number of the laboring classes, when they find they cannot make any money by their different occupations, turn to carrying burthens.

445. Are they chiefly married men who emigrate to Australia?—I believe that a good number of them are married, but I should think the majority were single men.

446. How are the wives and families of the married men maintained during their absence?—By the earnings of the emigrants, which are constantly remitted from this country to their homes.

447. *By Mr. Guthridge.*—Have you been amongst the Chinese in this colony?—Yes, I have been acting as superintendent of the Chinese mission both at Castlemaine and Ballarat, and I have been amongst them a great deal in Bourke street.

Rev. W. Young,  
continued,  
30th June, 1857.

448. What progress have you made in Christianising them, which, I suppose, is your object?—The native agents and myself have disseminated Scriptural knowledge very widely among them. We have been always well received, or, I may say, almost always; on very few occasions have we been opposed, and there are some at present who are seriously making inquiries after the truth.

449. Have you baptised any?—Not in Victoria, but I have baptised one in Sydney.

450. Have you the New Testament in the Chinese language?—Yes, we have the whole Bible now.

451. Do the Chinese evince a disposition to accept and read the Scriptures?—They are always disposed to receive books, but I regret to say that the proportion of readers is very small.

452. *By the Chairman.*—Does that arise from their inability to read?—It arises from their inability to read. They have not been in a position to enjoy the advantages of education when young; being chiefly of the laboring classes, their time has been occupied in assisting in domestic matters.

453. *By Mr. Guthridge.*—Have they any sort of religious observances of their own amongst them in this country?—Yes, they have the same as in China, but of course they do not make as much parade here as they do in China; but they have their temples, and they burn incense and light candles, and offer sacrifices, just as they do in their own country.

454. *By the Chairman.*—Are they universally idolators?—I believe they are; though some profess themselves to be Confucionists, and look with contempt upon idolatry, yet many of them are just worshippers of idols as the Buddhists universally are.

455. Do you think the visits of the missionary are acceptable to many of them in this colony?—I have been received on every occasion with cordiality and respect.

456. Have you any English speaking Chinese at the gold fields of Bendigo and Ballaarat?—The English speaking Chinese are few in number—of those who have acquired a smattering of the language—I suppose there might be some twenty or thirty; but those who have acquired a grammatical knowledge of the language are very few indeed. These may be just such as have been studying in the seminaries under the missionaries at Hong Kong.

457. How is that class employed on the gold fields?—There are two now, I think, employed as interpreters, one at Bendigo and one at the Ovens, and we have two connected with our mission.

458. Have you meetings of Chinese for Christian worship?—Every Sabbath Day,

459. How many attend?—The number ranges from twenty to 150.

460. Do they meet more than once on the Sabbath Day?—We have, at present, three services on Sabbath Days; and two on week day evenings; that is, at Castlemaine.

461. And what is the average attendance?—The attendance has ranged during the past year from 20 to 150.

462. Is it your impression that the body of them intend to return to China?—My impression has always been, that a large body of them will remain fixed in this Colony.

463. Do you think there is any disposition in them to settle on the land as cultivators?—There is a disposition in some of them, I know, to settle; for I have questioned several of them as to whether they intended to return to their own country, and they said they were very comfortable here, and they saw no reason why they should return.

464. As far as your observation goes, are they all employed as miners?—No; there are a great many shopkeepers among them, and those do not dig at all.

465. Are they, as a class, sober, industrious, orderly, and frugal?—Very much so.

466. Have you any idea of the number now in the Colony?—I have no idea just now, on account of there having been several new arrivals by Guichen Bay; but I have thought that the Chinese population now must be fully 40,000; there may be more.

467. *By Mr. Urquhart.*—What was your idea of the number before the arrival of those who have come by Guichen Bay?—Then I thought you had between 30,000 and 35,000.

468. There have been upwards of 10,000 arrive by Guichen Bay?—Indeed.

469. To what class does the term "coolie" apply?—As I said before, it does not apply to any particular class, as distinct from other classes, because a coolie is simply a man who carries a burthen.

470. Then it has merely a general application to a laboring man?—In fact it is a foreign word; it is not a Chinese word. It is an Indian word, I suppose introduced into China by Europeans who have been in India.

471. How many agents have you to assist you in disseminating Christian knowledge among the Chinese in this country?—Three; two at Castlemaine, and one at Ballaarat.

472. Did you find the Chinese in Java good colonists?—I should think the Dutch could not get on in Java without the Chinese. They are the best agriculturists they have in the country; and among them are workmen of all descriptions—housebuilders, carriage makers, and blacksmiths, and shoemakers—those are all trades just filled up by the Chinese.

473. Does the Java Government make any distinction between the Javanese and the Chinese population there?—Distinction in what respect?

474. In respect to their government, taxation, and so on?—None that I know of. I do not think there is a capitation tax there; there might have been such a tax at one time, but I cannot remember its existence whilst I was there. They do not, however, allow any large immigration into the colony now.

475. They do not?—No; they have restricted their immigration.

476. How many of those who are believers in Christianity do you think return to China from this colony, or do you know of any?—I do not know of any. There are so few who have

as yet believed; only one has made a public profession of Christianity. That was in Sydney, where I baptised him.

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continued,  
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477. What influence do you suppose that a number of those men who got initiated into Christianity, and believed in it, would have on their return to China among their fellow-countrymen?—I believe, if they were sincerely converted characters, they would make a very good impression indeed.

478. Do you suppose they would return?—I have no doubt that many of them would return; they have their families at home, and that would be a great inducement.

479. You said that you believed a number of them would settle here; from what causes have you arrived at that conclusion: is it that they have a strong disposition still to settle here as agriculturists?—I have no idea of what they will turn their attention to afterwards; but I believe, in process of time, you will have a large body of them turning their attention to agriculture, judging by what I have seen of them elsewhere.

480. Would they bring their families under such circumstances?—It would be hard to say. It would require some Chinese of great moral courage to break the ice. It has been contrary to their usages from time immemorial to transport their families from their own country to a foreign climate. It would require some one just to break the ice and lead the way in this matter.

481. What effect would a large number bringing their families have upon the Europeans under such circumstances, and what as regards that part of the Chinese population not married?—The Chinese keep themselves so much to themselves, that I do not think any great evil is to be apprehended to the Europeans from that circumstance.

482. Did you ever know them to associate and form themselves into societies in any of the eastern islands you have visited?—Yes; they have formed secret societies in Singapore. I do not know whether they have formed such societies in Java; but if they have, they cannot carry out their objects, on account of the great vigilance of the police there. But at Singapore I know they have secret societies, and there are some very dangerous organizations. The Chinese connected with these societies come out at night and commit robberies in the town and then decamp to the jungles; but those in the towns are peaceable and well disposed people.

483. *By the Chairman.*—Are there any Chinese women at Singapore and Java?—No, there are none; but they intermarry with the Malays, and the offspring from such marriages you can scarcely tell from Chinese; only the women do not bandage the female children, as is almost universally the case in China.

484. You spoke just now of the Chinese being cultivators in Java—do they cultivate land on their own account?—Yes.

485. What is the nature of their holding?—I cannot say.

486. You do not know whether they pay a rent or have any interest in the soil?—I think they are the proprietors of the soil; many of them have large sugar estates.

487. *By Mr. Guthridge.*—Can you form any estimate of the number of Chinese in Java?—I once obtained statistics for a gentleman in China, who asked me to get them for him, and I think there were then 35,000 Chinese in the town and the environs.

488. What is about the European population?—I am not prepared to say; but it is very small in comparison with the Chinese.

489. And at Singapore?—At Singapore it is even smaller; they have a large proportion of Chinese at Singapore.

490. A large proportion of Chinese and a smaller proportion of Europeans?—Yes.

491. Could you form any estimate of the relative numbers at Singapore?—No; I am not prepared to say anything upon that subject.

492. In both of those places they are obliged to have police to look after them and keep close watch upon them?—Not particularly to look after the Chinese, but the police the Dutch have are much more effective than the police in Singapore. The Chinese in Java were remarkably quiet. I never saw a people more inoffensive and peaceful than they appeared to be.

493. Are they allowed at either of those places to have magistrates or head men of their own?—Yes; in Java I know they have.

494. Do you think that is a good arrangement?—Yes; I believe it is a good arrangement.

495. Have you formed any opinion as to what the result would be of removing all restrictions upon their coming into this Colony as to the number that would come?—You would certainly have a very great influx of them; especially in these times, when China itself is convulsed, and there are hundreds and thousands, I may say, who are thrown out of employment and do not know how they are to obtain their subsistence. The collision with Great Britain has thrown thousands of the people of Canton out of employment; many of them, in fact, are dying of sheer starvation, according to the accounts I have heard.

496. Then do you apprehend any evils, either moral, social, or political, would arise from removing all restrictions to their coming in—that is, would arise to us as an European population?—It may be necessary to restrict their immigration (at present at least) in consequence of their coming so constantly into collision with the diggers. It is not they who are the aggressors, generally speaking, but the European miners.

497. What sort of restrictions would you think most likely to effect the object of restricting them?—It would be difficult to say just now.

498. Do you think the present mode of imposing a poll-tax is a good one?—That would be difficult to say. They have evaded it by going to Guichen Bay, and I understand that, if they are prevented from landing there, they will go over to the Sydney side.

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499. *By Mr. Urquhart.*—Do you think, if the Chinese on those gold fields were put under head men, who should be held, to a certain degree, responsible for the taxation, whatever it might be, that was put on them, that that tax would be better and more easily collected?—I believe that it might be. They are responsible to head men in their own country.

500. Do you suppose that, if we went back to the old Saxon law, or perhaps more properly speaking, to the existing law in China, by which they would be in tens, and twenties, and fifties, and hundreds, they could be better managed, and that there could be better surveillance over them than at present, as they are scattered abroad without any such surveillance?—I myself have not been aware of their acting in any insubordinate manner, from my experience of the gold fields.

501. There is a certain protection tax put upon them, and it is found that they do not pay it regularly, that there is some difficulty in getting it from them, and that they do, to a great degree, evade it by every means they can. I wish to know your opinion whether it could be got by the system I have mentioned?—They might evade even the vigilance of their head men in that respect. The best way is to have their names registered when they come to any particular gold fields.

502. There is still another difficulty, is there not, that there is such a resemblance among them; that, to a certain extent, Europeans find it very difficult to distinguish between them?—I think the head men ought to have their names registered in a book, and that they should be entered in the Chinese characters, the sounds of them being written in European characters on the opposite side to the native names.

503. Your impression is, that it would be an improvement to have those Chinese put under head men of their own?—Yes.

504. There are respectable men among them?—Yes; and trustworthy men.

505. They should be head men of their own appointment?—Yes; and those head men must be under some Europeans.

506. And you think, then, that the protection-tax could be more easily collected?—Yes, if their names were all registered; because, then you would know who had paid and who had not paid.

507. You think they would go to Sydney, if they were prevented landing on the shores of South Australia?—So one of their number told me.

508. Could you gather from the party who mentioned that circumstance to you what tax they would pay before they would travel so many miles to the gold fields?—That, if the tax were reduced to £4 or £3, they would pay it.

509. Do they contribute anything towards the support of yourself or your assistants?—They have not contributed anything towards it; but they have contributed towards erecting a small place of Christian worship, and I am intending to build a new chapel for them of a substantial character; subscriptions have been solicited from amongst them, and they have already paid £33 towards the object, and have promised £26 more.

510. Have you known them to be any way generous or grateful for anything done for them?—I think it is very characteristic of them to show gratitude. I have, myself, met with acts of generosity from the Chinese. On one occasion, a Chinese fellow traveller paid for my breakfast at one of the hotels, as I was travelling from Ballarat to Castlemaine. He insisted that I should allow him to do so, when I offered to pay; and I have at different times met with a great deal of hospitality amongst them.

511. When any charitable object was presented to them, did you ever find them coming forward willingly to support it; for instance, in case of any of themselves or any Europeans being sick?—I believe they have been seldom applied to; but if the nature of the object for which any pecuniary assistance is solicited is explained to them, I believe they would be ready to come forward to assist as far as they can.

512. *By Mr. Guthridge.*—What object had this Chinese gentleman in paying for your breakfast: do you think it was because of your position as a religious teacher, or would he have done it to any fellow traveller he had fallen across?—It was simply from his being acquainted with me; I believe that was the sole motive of his paying. I do not think he would have done so for any other person whom he did not know. It would be exceedingly desirable, I think, to induce those who stay here to bring their families to this country.

513. *By Mr. Urquhart.*—If there was any encouragement held out to them, do you suppose they would do so?—It is hard to say, because they generally allege that it is contrary to the usages of their country to do so. And really I have not seen, although they have colonized Java for so many years, and Singapore as well, any Chinese women brought to those colonies; but the reason may be, that it arises from their being able to intermarry with the natives.

514. *By the Chairman.*—You think, then, the absence of those natives in Australia would be an obstacle to their permanent settlement here?—There are some who have married white women here, and those, of course, will remain.

515. How many?—I cannot say how many; but I saw at least four on Ballarat, and there were two in Castlemaine, and, I believe there are some here in Melbourne, in Bourke street.

516. You think that those who have married will remain, do you?—I think that the greater part of them will remain; some may take their wives to China, but I think that would be found to be a very rare thing.

517. Could they introduce those white women into China?—At Hong Kong, or Macao, which belongs to the Portuguese, they could do so.

518. Is there any law by which female emigration from China is prohibited?—I believe

a law exists, preventing emigration both of males and females; but the law is only just so much waste paper. It cannot be enforced, on account of the superabundance of the population. The Chinese mandarins could not keep them in their own country, there is such a redundancy of population, and the people must obtain the means of subsistence, which they cannot do but by going abroad; and I believe that, if a few only set the example, the women would come abroad as freely as the men, even were there any law enacted in China against female emigration.

519. *By Mr. Urquhart.*—How long is it since you came to the colony?—I arrived in Sydney in September, 1854.

520. How long are you in Victoria?—I will be on the third of next month two years.

521. During your sojourn among the Chinese here, I suppose you have met with nothing but kindness and attention among them?—Nothing but that. I have never been injured by any one individual.

522. And I suppose you do not anticipate, from the numbers that we have at present, that there is any fear of any disadvantageous or dangerous collision taking place between them and the European diggers?—I can scarcely say that there would be no collision; because, if the diggers without any reason attack them, they may be induced to retaliate; but I believe they will not be the aggressors.

523. In the event of any attack being made upon them, do you think that they would associate and form themselves into a body sufficiently strong to defend themselves?—They might do that; but, as a general thing, I believe they are too cowardly to fight with Europeans; they would rather retreat and submit to plunder and losses than turn round and face Europeans.

524. *By the Chairman.*—Do you think they are induced to leave China on account of the difficulty that exists in obtaining subsistence?—It is principally on that account. A Chinese well off in his own country does not think of emigrating to a foreign land. He must be in reduced circumstances, or his family must be so, to induce him to come abroad.

525. Are you aware how they get the means of paying their passage?—I have not been able to ascertain that. I think sometimes the money is advanced them by some wealthy Chinese, who is afterwards refunded by their earnings here. I lately got this pamphlet—[*producing one*]—from Mr. Spiers, an American missionary, who is acting in the same capacity at California that I am here, and you will perceive that a great many of the objections started by the Americans against the Chinese there are almost exactly the same as those advanced here by the Europeans. These are the remarks made by the Chinese on Governor Bigler's message, I think, and the answers the Chinese give in the pamphlet are very much like what they give here.

526. *By Mr. Urquhart.*—I understand they migrate from east to west and north to south within the Chinese empire itself?—They have no objection to moving backwards and forwards in their own country, and they will even go from the main land to the islands that are subject to the jurisdiction of China, as for instance to Formosa and to other islands; but then the voyage is so short, that in a couple of days, or three days, they could get from the main land to Formosa.

527. *By the Chairman.*—Does it come within your knowledge, whether any of the Chinese now in Australia have been engaged with the rebel party in China?—I have never been able to find out that there is any connection between these Chinese and the insurgents in China. I have no doubt that many of them have left their country in consequence of being connected in some way or other with the insurgents, and they have been afraid, if they remained at Canton, they might, at some time or other, be given up to the authorities, and then there would be nothing for them but decapitation; but there is no correspondence carried on between the Chinese here and the insurgents in China. There seems to be no sympathy with them at all. They would of course like to see the Tartar dynasty overthrown and the Chinese dynasty again established.

528. That feeling is strong and general?—Strong throughout all the colonies with Chinese out of China.

529. Have you anything to state generally bearing upon the subject of this inquiry, that has not been embraced in the questions put to you?—I thought that, if it were possible to do it, to have the names of all the Chinese on their arrival in Victoria registered—it would be a good thing—and also their occupations in China ascertained, and their ages, and whether they were married or not; because, if they marry with white women here, sometimes you may have individuals marrying that have already wives in China.

530. *By Mr. Urquhart.*—What safeguard would you suggest for their being truthful in their statements?—I think that, if on their landing they were questioned, they would generally state the truth in regard to that matter.

531. *By the Chairman.*—You think that a plan of that kind would give the Government here more hold upon them?—Yes; you would know the number of Chinese you had then, and you would know also what class of people you had who came here. Some may be shoemakers, others carpenters, others blacksmiths, others bricklayers, and some few may belong to the literary class; so that at one glance you may see what class of people you get from China, and also from what province they come. It would be useful to adopt the plan. I know, in Java, the Dutch do that even in regard to Europeans. Every European on landing has to give his name and his profession. Could it not be arranged to get all those facts from the Chinese and have them entered.

532. You think, if a record were kept of any man on his arrival, it would be desirable?—



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I think it would be. In some parts of California the Chinese are hired by the miners to work for them, and they prefer getting steady wages in that way to the uncertain find of gold. There is a great difference between their situation in California and Victoria. I have understood that the Victoria gold fields have become much more popular than those in California, and very likely the preference arises from the difference of treatment they meet with here from what they meet with in California. I have another pamphlet which I can show to the committee, from which it will appear that they are taxed very heavily in California. The miners have to pay six dollars a month for the miner's right, and the effect of that is beginning to be felt very injuriously.

533. *By Mr. Urquhart.*—How is that tax collected?—It is collected by the tax collectors, as they are called, who are Americans; sometimes, in the getting of this tax, they have gone to horrible extremes, even shooting the Chinese and stabbing them.

534. *By the Chairman.*—Is there any capitation tax as well?—Yes, as high as fifty dollars.

535. That is removed now, is it not?—I do not know; but I think there was a petition sent in with that view. However, I shall let the committee see the other pamphlet—[*handing the same to the Chairman*—]—by which they will perceive that a great deal in California with respect to the Chinese is exactly the same as it is here.

536. *By Mr. Urquhart.*—Are the committee to understand that there was a capitation tax of fifty dollars from the Chinese annually in California, or only on their landing?—On landing. A great many of them get very little here, and could not stand such a tax; it would be ruination to them.

*The witness withdrew.*

TUESDAY, 7TH JULY, 1857.

MEMBERS PRESENT:—The Honorable N. Guthridge, in the chair; the Honorables J. Henty, J. Stewart, G. Urquhart.

Levin Josephs, Esq., called in and examined.

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537. *By Mr. Henty.*—You are a merchant in Melbourne?—I am.

538. Have you resided in China?—I have; for nearly seven years.

539. In what part?—Principally in Canton. Canton was my place of business.

540. Are you acquainted with the class of Chinese who come to this country?—I am generally acquainted with them. I know the class of people who come.

541. *By the Chairman.*—How are those people employed in their own country?—I should say a great many of them are operatives; but the class principally who come here are engaged in agriculture, working on small parcels of land.

542. How do they hold their land—is it in fee, or are they tenants?—They are generally the owners. There is generally an equal distribution between the children in very small parcels. There being no law of primogeniture in China the land is equally divided between the male children.

543. What are the characters and conduct of this class in China—are they generally peaceable?—They are very peaceful indeed. In the immediate neighbourhood of Canton, where I have seen masses of them collected in thousands upon any festive or social occasion, I have noticed that their good humour is remarkable; it is distinctive; it stands out in contradistinction to what you see in other parts of the world.

544. Have you had much intercourse with them here?—Very little; nothing that I could find any particular observation upon.

545. Doubtless you have an opinion as regards the policy of admitting those people into this country without restriction; if so, will you state what it is?—I have; my opinion may sound excessively strong, but it is that they should be admitted unrestrictedly.

546. Then you do not fear that any evils of a social or political nature will arise from it?—None; from my intercourse with the Chinese, and I have seen them out of their own country, in Singapore and Batavia, and I have found, with the exception of Singapore and Batavia, that they do not colonize anywhere else, and their missions and objects are particularly peaceable. From the little observation I have had of the people here, I am led to the conclusion of their peacefulness and utter harmlessness.

547. Do you not consider them an inferior class to Europeans?—Yes; I do.

548. Do you think there would be no evil arising from allowing this country to be peopled by an inferior class?—In all probability the result would be some improvement to themselves. It is, perhaps, difficult to define their inferiority.

549. Do you imagine that there would come to be any admixture of the races if they were allowed to settle here?—I doubt it very much.

550. Then how could the race be much improved?—I thought you meant admixture by marriage.

551. So I did?—They would be improved by social identification and similarity of pursuits, and from their impressibility in intercourse with us, and from having shaken off their old notions and habits by estrangement from their own country. Generally speaking, I do not

believe that the Chinese people will colonise to any extent here, I do not think that is their object. There will be an increase, but not an increase that should justify, in my opinion, the alarm that has been felt by some parties.

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continued,  
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552. Then you think the object of most of them is to return?—The object of most of them is to return.

553. *By Mr. Urquhart.*—Can you point out what benefit this country would derive from the number of Chinese colonists now in this country?—Do you ask me as a merchant.

554. Yes; I ask you as a merchant?—I can answer then. They bring labor, and they consume our imports and increase our production.

555. To what extent do they increase our production?—I am not provided with figures; but they labor, and there is a certain amount of additional labor brought here by them, which must tend to produce an increase of the resources of the country; therefore, commercially speaking, I think, so far, they are good to the country.

556. Do you think, commercially speaking, that colonists are a benefit to the Colony, and do good to those who are really anxious to have the Colony settled, or to those who are to succeed them in after years, when they come not permanently to settle in the country, but stimulated only to extract as much gold as they can, by the consideration of pounds, shillings, and pence—the question is, what benefit are we to derive, and what benefit is a future generation to derive from that?—I would not select the Chinese as a race; but it becomes a question whether the resources of this country are not to, and I believe they must, receive a great deal of assistance and benefit from the introduction even of a people like the Chinese.

557. *By Mr. Stewart.*—Do you think the Chinese people ever settle down to agriculture here?—Very little.

558. You are of opinion that they have just come to get as much gold as they can and take it away?—Yes, and take it away. I should suppose the statistical returns, if they can be given separately, of the emigration and immigration of the Chinese, would justify I think to a great extent my remark, that the increase cannot be so great as is supposed of the Chinese; it is a floating population.

559. Do you know anything at all in regard to their habits of cleanliness?—I am afraid I can speak more to their habits of uncleanness than of cleanliness; there is room for improvement there. At home they are a very dirty people.

560. If 30,000 or 40,000 per year were coming in here, would they not, through their habits of uncleanness, help to lower some of our colonists here?—I do not know which you mean, moral uncleanness or physical uncleanness. I was referring to their physical uncleanness.

561. You are aware that several of them are married here?—I believe there are some, but I suppose not to any great extent.

562. Do you know how they treat their wives in China. Do they keep them almost as slaves?—I believe not; but they look upon them as of an inferior order of creation. We have so little opportunity of knowing what they do with their wives, except from the general report and the records of population, that it is difficult to say. But I must confess to you I have a very strong prejudice against the Chinese, and it is almost unavoidable for any one living in China to have otherwise. They take your pay and wages as a favor; and I do not think any one who has lived in China for the number of years that I have, or even for a less period, can leave China without a decided prejudice against them. But with all that prejudice, I look at the question on a broader basis, as affecting the question of their existence here.

563. *By Mr. Urquhart.*—What do you consider to be the benefit, and the returns annually, per head as a mercantile community, to this country from the Chinese people, as regards consumption, clothing, and food?—I am afraid I cannot answer that question now; I could on a future occasion give those particulars. My knowledge of the Chinese people here has been very limited, merely the general aspect of the people. I have had no commercial or social transactions with them to found any opinion upon.

564. Are you favorable to any tax being put upon them, such as a poll tax, not only upon their arrival, but upon the privilege of their being allowed to dig gold and take it out of the country?—I am not.

565. And you think that the benefit which accrues to the mercantile community of the colony is so great from the consumption of those Chinese, as to justify the country in allowing them to take the gold out of the earth without any such imposition or restriction?—I think the benefit amply compensates any disadvantage that exists here in a moral point of view.

566. Have you been on the gold fields?—I have not; I have never seen those people except here in town.

567. What has led you to the conclusion that they would not settle here, when they have settled in Java and Singapore?—Because they have advantages held out to them in Java which at present have not been offered to them here, and because Java is so near their home, within three, or four, or five days.

568. Do you know of any of the advantages held out to them in Java?—I believe they are allowed to hold lands there, and there is a system of subsidiary self-government, if I may use the term, under the protection of the general Government. They are more identified as a class there, but I am not prepared perhaps to answer the question completely.

569. In Java they are under the immediate control of their own elected headman, as it is termed?—Yes, they are. I would bring to your notice in the settlement of Singapore, where I have been some half dozen times, three-fifths at least of the population are Chinese. I know that the whole prosperity, the trade, the well-being of Singapore, owe their existence to

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the Chinese, to their industrious habits and their enterprise. There may have been occasionally a little outbreak; but we have seen that all over the world. They aim at no political power, but are content to go on with their peaceful occupations.

570. They are allowed a great many privileges at Singapore, which they are not in possession of at Java?—I do not think they are treated as citizens, certainly.

571. I have understood so?—I am not quite sure of that. I am not prepared to question that statement.

572. *By the Chairman.*—Suppose they were allowed free ingress to this country, do you think it would be wise to allow them to have such subsidiary government as you describe as existing in Java?—I think it would be a most wholesome regulation.

573. Do you think that they would have more confidence in adjudication by one of their own elected headmen?—Yes, acting under the orders and supervision of the general Government.

574. Then if such a system were introduced, do you think that this headman ought to be held responsible for the conduct of those under him?—Precisely.

575. Do you think they would be competent to make them comprehend that position?—Yes; and I think a very great deal of the present fault found with the existence of the people here arises from their not being understood, or being capable of making themselves understood.

576. *By Mr. Urquhart.*—Are you aware that in Java all the Chinese production must be handed over to the Government at a certain price?—I believe so.

577. And that they are merely sub-farmers under the Government?—I believe it is so. I do not hold Java up as a model for British government and regulation; I only instance Java as a country in which the Chinese exist to a very great extent.

578. And you are aware that they cannot sell a basket without the express permission almost of the Government, and cannot hold lands?—While I notice their existence, I do not admire the restrictions put upon them by that Government.

579. *By Mr. Stewart.*—You say you would not agree to any poll-tax being put upon them?—No.

580. But that you would allow them to come in thousands and twenties of thousands?—Yes, in thousands and twenties of thousands.

581. Have you any idea how many would come in the next two years?—It is not unlikely that you would have 10,000 or 15,000 in the next two years.

582. If they were allowed to come in without any restriction?—Yes; allow them to come without any restriction, and I think you would find, as soon as many had made what they consider enough—and they are not a very anxious people about wealth—they would go away as they do now.

583. Do you think those people would come back again, or settle in their own land?—Settle in their own land, and perhaps their uncles and cousins, and other relatives, might come and take the place of those who go away.

584. *By the Chairman.*—Then, if I understand your statement, it is, that the only advantage this Colony would derive from their unrestricted ingress would be that arising from the consumption of manufactures or other produce, and not by their improving the country?—My support is derived solely from the mercantile view I take of it.

585. If I understand you rightly, you do not think they are going permanently to improve the country?—No, not in quantities—certainly not.

586. *By Mr. Urquhart.*—Are you aware, or have you heard, that in California they form themselves into companies—are any such companies formed in Melbourne, do you know?—I am not aware of that. I know very little of their habits here. The opinion I have formed about the people comes from a very capital source, an uninterrupted intercourse, commercial and social, with them in China.

587. *By Mr. Stewart.*—They are very fond of gambling in China, are they not?—Yes, and so they are in Paris and in London.

588. *By Mr. Urquhart.* Their social and moral habits you do not admire?—They are so entirely a different race from our own, it is no question with me. They have their own codes of morality.

589. *By the Chairman.*—I presume them to be of the lowest class?—No, they are not.

590. What you would call the middle class?—They are above the lowest class.

591. Coolies?—The lowest class are worse than coolies, mere vagabonds about the streets.

592. Do you think, if all restrictions were removed, any of the higher class would come to this country?—I doubt it much. It is an exceptional case.

593. It is not in accordance with the genius of the Chinese people?—No, they have too great a stake at home; the men who come here are adventurers who come to make as much as they possibly can.

*The witness withdrew.*

# APPENDICES.

## APPENDIX A.

[The Chairman requested witness, if he had anything further to add, to send it in writing.]

(MEMORANDUM.)

The system of governing Chinamen here ought as much as possible to be based upon their own model, and adapted to their customs, which may be done with every regard to good order among them.

They ought every year to elect a head man from among themselves, in each district where they number over one hundred souls, and this head man ought to be invested with the power of settling petty disputes among Chinamen in his own locality. He ought to be obliged to keep a book of all in his locality, and enrol their names, occupations, and characters therein. When a Chinaman from his district shifts his quarters, he ought to get a passport from his head man, and if the character of the applicant is bad, the head man should communicate the same to the chief of the district he intends migrating to. Their head men should be allowed to collect small fees for these services, to compensate them for their trouble.

Government ought to procure a European interpreter from Hong Kong, whose duties ought to be a general supervision over all the Chinese here, and to whom their head men should send periodical reports; and who should interpret in courts of justice when Chinese are concerned.

Great care and caution should be exercised in receiving evidence from Chinese in law courts, as they are not acquainted with the nature of an oath in the same way that Europeans are.

To estimate the value of their evidence requires great acquaintance with them, especially when against Europeans. They are not ashamed of perjury, even when found out.

R. McMICKING.

## APPEDINX B.

### FURTHER ANSWERS TO VARIOUS QUESTIONS.

To question 392.—I may say, in addition to the occupations above named, other than mining, in which the Chinese are engaged, are butchering, carpentering, and the medical profession. There are on Ballaarat about half a dozen Chinese doctors. Several Chinese storekeepers are reputed to be worth from £2000 to £6000.

To question 396.—Those who have been or are engaged as servants with Europeans have almost invariably been similarly engaged in this or the sister Colonies before the discovery of gold.

To question 398.—So far as the composition of mining parties or companies is concerned, the Chinese miners act similarly to their fellow miners; except that they have objections generally to become shareholders in a claim with Europeans, partly from a desire to work in their own style, and partly to avoid the ill treatment which they receive from some of their European partners.

To question 402.—After further and more special inquiries, I find that there is less disposition to become farmers among the Chinese than I had imagined. With rare exceptions, the Chinese come to this Colony for the sole purpose of mining, or related occupations, making as much money as they can, and returning to their own country.

To question 413.—That the present system of compelling the Chinese to congregate in camps apart from the other population, save in exceptional cases, and by the authority of the Chinese protector, is, in my opinion, not less opposed to the feelings of that people than injurious to their health and comfort, and decidedly objectionable in every way, unless as facilitating the collection of the special tax imposed on them.

To question 414.—That the Chinese, as a body, do not work so vigorously as the other miners but they make up in the long run for this deficiency by assiduity; and though the earnings of the Chinese individually may be less, in fact are less, than those of Europeans, still, with their fixed notions of home and Chinese value of money, I believe that their earnings are, comparatively to them, greater than to the Europeans.

To question 415.—That unfortunate miners, those in ill health, or recent arrivals, are always assisted by their "cousins" (relatives), or failing the presence of relatives, by the body of Chinese generally. The Chinese have not only aided their own sick without other aid on Ballaarat, but have occasionally raised collections for our hospital, in which institution, though intimately acquainted with its management, I am not aware of their ever having sought assistance or relief.

To questions 417 and 420.—That all matters connected with the Chinese as a body are arranged fortnightly (their Sundays falling, as they say, on the 1st and 15th of each month) at their chapel. Thus, the sick are mentioned, and provided for by collections, the latest news from China made known, and the latest mining intelligence divulged. On Ballaarat there are three such chapels, or newsrooms. There is, I understand, but one priest here. His duties, or their religious services generally, are unknown to me.

I may add, generally, that the recent legislation of the sister colony of South Australia has been duly reported to China; and that, though thousands were expected before that, there will be but few arrivals when the news reaches; as of the multitudes who might have come, or are anxious to do so, but few are prepared to make the outlay, even without a £10 landing-tax. With a £10 landing-tax, it requires a sum almost beyond the means of the majority to reach our shores.

The cost of travelling from Guichen Bay to Ballaarat does not, I am informed, exceed £2 per head on the average.

The Chinese as a body, informed by the more educated of their countrymen of the greater quality which they would possess in Britain, are not satisfied at being taxed to a greater extent than their fellow miners of other countries.

S. IRWIN.

# A B I L L

INTITULED

## An Act to regulate the residence of the Chinese Population in Victoria.

(Brought from the Legislative Assembly, 4th November, 1857.)

**W**HEREAS it is expedient to regulate and control the residence of the Chinese Population in this country 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)—

I. Within fourteen days after the passing of this Act the officers nominated and appointed to carry out the provisions of an Act of the Governor and Legislative Council of this Colony passed in the eighteenth year of the reign of Her present Majesty intituled "*An Act to make provision for certain Immigrants*" shall publish a notice in the Chinese language requiring every male native of China or its dependencies or of any islands in the Chinese seas not being a natural born or naturalized subject of the Queen and every male person above the age of twelve years born of Chinese parents who respectively may reside in this Colony to obtain from such officer a license under this Act.

Notice to Chinese to obtain licenses or leave the country.

II. On the arrival in any port of Victoria of any ship having any immigrants within the meaning of the said Act on board thereof the collector or other proper officer of customs shall deliver to every such immigrant for or on account of whom the rate of ten pounds imposed by the said Act shall be paid a receipt in writing under his hand for the said rate in such form as the Governor in Council shall approve.

Chinese on landing to obtain receipt for head money.

III. On or before the first day of the second month next after the passing of this Act every such male as aforesaid shall obtain from one of the officers nominated and appointed as aforesaid who are hereby required to grant to every such male applying for the same upon payment of the sum of one pound a license under his hand in the form contained in the schedule to this Act and every such license shall be dated on the first day of the month and at the place of the issuing thereof and shall continue in force for two months from such date.

Chinese to obtain licenses to reside.

IV. After

*Chinese Regulation Act.*

And to renew them  
bi-monthly.

IV. After the expiration of the second month next after the passing of this Act every such male as aforesaid shall on or before the first day of the third and every alternate month afterwards obtain from one of the officers nominated and appointed as aforesaid who is hereby required to grant to every such male applying for the same upon payment of the sum of one pound a license in the form aforesaid.

Mode of renewing  
licenses.

V. After the expiration of the second month next after the passing of this Act no such license as aforesaid shall be granted to any such male as aforesaid except in exchange either for the receipt hereinbefore directed to be delivered or for the license issued under this Act to such male as aforesaid for the preceding two months unless such male at the time of applying for the same shall pay to one of the officers nominated and appointed as aforesaid a fee of ten pounds in addition to the said sum of one pound and a receipt for such sum signed by the officer receiving the same shall be endorsed upon the said license.

Chinese residing with-  
out a license unable  
to sue.

VI. No such male person as aforesaid shall be entitled to institute proceedings in any court of mines or in any other court or before any of Her Majesty's wardens of the gold fields to recover possession of any land occupied by virtue of any miner's right or business license or of any share in such land or to recover any damages for the occupation of or encroachment upon such land or any part thereof or to obtain any relief as tenant in common joint tenant co-partner or co-adventurer in any such land against his tenant in common joint tenant co-partner or co-adventurer unless such person shall have been licensed according to this Act at the time when his alleged title to recover such possession or damages or to obtain such relief first arose or accrued.

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THE SCHEDULE.

This is to certify that \_\_\_\_\_ has paid to me for the use of Her Majesty the sum of one pound and that by virtue of such payment he is authorized to reside in Victoria during this present and the next following month.

Given under my hand at \_\_\_\_\_ the first day of \_\_\_\_\_ One thousand eight hundred and \_\_\_\_\_

1856-7.

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VICTORIA.

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PROGRESS REPORT

OF THE

SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL

ON THE SUBJECT OF

RIGHTS OF MARRIED WOMEN

AND

LAW OF DIVORCE,

TOGETHER WITH THE

PROCEEDINGS OF COMMITTEE AND MINUTES OF EVIDENCE.

---

ORDERED BY THE COUNCIL TO BE PRINTED 19<sup>TH</sup> NOVEMBER, 1857.

---

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

THURSDAY, 28TH MAY, 1857.

RIGHTS OF MARRIED WOMEN AND LAW OF DIVORCE.—The Honorable J. P. Fawkner moved, in accordance with *amended* notice, That a Committee of five Members be appointed to examine the present laws relating to the rights of married women to possess property, and also to inherit in all cases property in part of that possessed by their deceased husbands, and to provide for cases of continued absence, of malicious desertion, of conviction of felony, or of open adultery of husbands or wives. To examine into the present Laws of Divorce, and to frame a Bill or Bills defining the rights of married persons, and these to include a simple Law of Divorce suitable to the requirements of the marriage state in this Colony.

Debate ensued.

Question—put.

Council divided.

Contents, 14.

The Hon. W. H. F. Mitchell

J. Hodgson

G. Urquhart

S. G. Henty

J. P. Fawkner

D. Kennedy

D. P. Keogh

J. Stewart

Dr. Hope

W. Highett

B. Williams

J. Cowie

W. Roope

J. E. Strachan (*Teller*).

Not Contents, 8.

The Hon. T. McCombie

J. Hood

C. Vaughan

Dr. Tierney

H. Miller

J. B. Bennett

T. H. Power

W. J. T. Clarke (*Teller*).

The question was therefore passed.

THURSDAY, 19TH NOVEMBER, 1857.

RIGHTS OF MARRIED WOMEN AND LAW OF DIVORCE.—The Honorable J. P. Fawkner, as Chairman of the Select Committee “appointed to examine the present laws relating to the rights of married women to “possess property, and also to inherit in all cases property in part of that possessed by their deceased “husbands, and to provide for cases of continued absence, of malicious desertion, of conviction of “felony, or of open adultery of husbands or wives; to examine into the present Laws of Divorce, and “to frame a Bill or Bills defining the rights of married persons, and these to include a simple Law “of Divorce suitable to the requirements of the marriage state in this Colony,” brought up a Progress Report, with Evidence taken, and moved, with leave of the Council, without notice, That the Report and Evidence be received and printed.

Question—put and passed.



# PROGRESS REPORT.

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THE SELECT COMMITTEE of the Legislative Council “appointed to examine the present laws relating to the rights of Married Women to possess property, and also to inherit in all cases property in part of that possessed by their deceased husbands, and to provide for cases of continued absence, of malicious desertion, of conviction of felony, or of open adultery of husbands or wives; to examine into the present Laws of Divorce, and to frame a Bill or Bills defining the rights of married persons, and these to include a simple Law of Divorce suitable to the requirements of the marriage state in this Colony,” have the honor to bring up the following Progress Report:—

Your Committee are only enabled to bring up a Progress Report. Firstly, from the severe and long illness of the Chairman, they have not been able to attend and receive the evidence that was offered to them; consequently only one witness has been examined. Your Committee were also given to understand that a new Divorce Law was under consideration of the British Parliament, and they were anxious to obtain a copy of the said Law.

The Chairman took steps to obtain a copy of the new Law, intituled “*An Act to amend the Law relating to Divorce and Matrimonial Causes in England,*” of date 28th August, 1857.

And your Committee find it too late in this session to again enter on this inquiry, but trust that a Committee upon this subject may be appointed early in the next session, and that the evidence heretofore taken may be referred to such Committee, to enable them to consolidate all the information obtainable on this important question.

JOHN P. FAWKNER,  
Chairman.

PROCEEDINGS OF COMMITTEE.

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THURSDAY, 4TH JUNE, 1857.

*Members present :—*

The Honorable J. P. Fawcner, in the chair.

The Honorables S. G. Henty, J. Hodgson, D. Kennedy.

Mrs. A—— called in and examined.

Committee adjourned *sine die*.

# MINUTES OF EVIDENCE.

THURSDAY, 4TH JUNE, 1857.

MEMBERS PRESENT :—The Honorable J. P. Fawkner, in the chair ; the Honorables S. G. Henty, J. Hodgson, D. Kennedy.

Mrs. A.— called in and examined.

1. *By the Chairman.*—Will you state the circumstances under which you were married?—In the first place, my husband led my father to believe that his income was £400 per annum.
2. When was this?—Seventeen years ago.
3. Where was this?—In Scotland.
4. What occurred then?—My husband deceived my father as to his money, and in two years he became bankrupt, entirely through his dissipated habits. That made no change in him. His friends re-established him in business. Through his own misconduct he again was thrown out of business and became a bankrupt.
5. How long after?—About one year after the re-establishment of the business his property was burnt down. There were many disagreeables connected with it, even if he had been a sober and respectable man.
6. *By Mr. Kennedy.*—What business did he follow?—That of a coachbuilder.
7. *By the Chairman.*—After his second failure, how did you go on then?—My friends advanced money for us to come out here. I came out against their will, but he promised he would never use me ill. They were afraid that he would do so when he was away from their influence.
8. *By Mr. Kennedy.*—Was that fourteen years ago?—No, five years. He failed about fifteen years ago, and was re-established in business the year after.
9. *By the Chairman.*—And you remained for some time after?—For two years lived in my father's house after the property was burnt down.
10. During which time you were maintained by your father?—Yes and all that time my husband was doing nothing, and would do nothing.
11. *By Mr. Henty.*—Was he there too?—Sometimes he was ; but, when he got tipsy my father got angry, and he left.
12. *By the Chairman.*—And your father was compelled to prevent him coming to the house?—He never told him not to come to the house, but he told him he would not put up with his drunken habits; he never had had it in his family before, and would not put up with it from him.
13. Will you connect the time, so as to make up the number of years you remained in Scotland?—After that they re-established him in business again for the second time.
14. You remained in Scotland some years before you came out here?—I was in Scotland twelve years after I was married till I came out here.
15. And during the whole of that time was his conduct bad?—From the time we were married he became intemperate, and I was made a witness of acts disgraceful in manhood. He told me himself of his infidelity when he was drunk one night, and I had sufficient medical proof of it.
16. At what time did you arrive here?—In August, 1852.
17. *By Mr. Kennedy.*—Have you a family?—I have three children alive, and one is dead since I came here.
18. *By the Chairman.*—What are their ages?—The oldest is nearly fifteen, and the youngest alive is seven.
19. Since yourself and your husband arrived here, what has been his conduct?—Very bad. The second night after our arrival here he got tipsy, and locked me out of the house a fortnight after my child was born. I had a friend's house opened to me and I was obliged to go to it up to my knees nearly in mud. He was always ready enough to promise amendment, but he never kept his promises.
20. Did he enter into any business here to support you and your family?—He went to the diggings for three months and came back £4 poorer than he went away.
21. Who supported the family during his absence ; did he leave you any support?—I had money given me by my friends before I left Scotland, and with that and keeping boarders I supported my family. I may add, that he spent all the money that he had during the voyage in gambling and drinking.
22. Did he get into any business here?—I had a letter to Mr. Westgarth, who knew my family at home, and I told him my position. I certainly did not expose my husband's habits.
23. He did not get into business then?—Yes, as a wholesale wine and spirit merchant and grocer.

24. Has he been enabled through that business or through any other to support you and your family?—I have supported them myself; he never would look after business. I principally managed the business. He got connected with another party and pretended to be looking after his business, and left the whole of this to me.

25. Was he in the habit of leaving you by yourself?—No, he was always willing enough to remain with me, because he knew I could provide for myself and provide for him too.

26. Then your's is not a case of desertion, but a case of refusing or neglecting to provide for you, and of confirmed drunkenness?—He is a confirmed drunkard. I have not the shadow of a doubt of his having committed the offence specified in the second article, stated as a reason for divorce. He has offered my servants £50 and £100, and they have said they could not live in the house for him. I myself am a witness to his infidelity, but still I could not prove it.

27. You have been here five years you say?—Yes.

28. And during that time, will you state what provision he has made towards supporting himself and you and the family; what moneys or means of support has he given to you and the family?—This business as a wholesale spirit merchant and grocer was in his name, though I had the principal care of it. He then went up the country to an hotel, which Mr. D. S. Campbell advanced money for, through his letter of introduction to Mr. Westgarth.

29. And you carried that on for how long?—For two years; but Mr. Campbell heard of his habits, and he told me it was entirely on my account he advanced the money, and he should depend upon me to see that he was no loser by it. I saw there was no chance of doing any good with it. My husband would come into town for a fortnight together and spend money immensely, and I told Mr. Campbell I could not be responsible, and Mr. Campbell sold the business to another party, with the understanding that it was to be a home for my husband, but that that party was not to injure himself, and I was to have the keeping of the female part of it, and after everything was clear, I was to have half the profits.

30. Your husband was to have it as a home, but to have no control over the business?—No control over the business.

31. Has that been broken up?—Yes.

32. Why?—He would not keep himself sober, and the person who bought the business would not allow him to be there. He left the place, and, as a revenge on me, he tried to blast my character, and said I was conducting myself improperly, although of course no one who knew me believed it.

33. Were you compelled to leave him?—He raised one cause of disturbance, and then another, and Mr. Campbell said it was better to sell off that place, and he would put me into another. However he has not kept his word; he made the excuse that he could not afford it.

34. How long ago was this?—It is two years passed in June since he left the house.

35. How have you been supported since—by your own endeavors, or those of your husband?—From the time I left the hotel I might have been starving, but for friends in the Colony who advanced me money, till I could hear from my relatives at home. My son was twelve months in Mr. a'Beckett's office, and is now in the bank, and his little salary has assisted me. Now I am keeping boarders in another name; for if my husband knew I was doing so in my own name, he would take all from me, and I can give proof of that; because, after I left the hotel, these parties were owing me £41 in cash, and I had three young horses, worth in all upwards of £100, the value of which was owing me. I could not sue in my own name, and therefore I did in my husband's, and got a verdict in the County Court, and was sure of the money. I paid £20 for law expenses, and advanced it for him. He was up the country, and he came down and took £30, and did me out of all of it, and then all I had in the world was 1s. 2d., and he knew that.

36. He took the whole of the money?—He took the whole of the money and gave them a discharge in full. Before that, I had lent a lady with whom my daughter was boarder, £34. He interfered in the same way, and instead of recovering it, in consequence of his interference, the expenses were so much that I only recovered £4 10s.; so that in every way it is possible for a man to injure a woman, he has injured me. Some friends of his own asked him what was to become of his family, and he gave an oath and said he did not care what became of either them or me. While we were in that house up the country, I was frequently obliged to call other people in to protect me. The cook once got his thumb nearly cut off from a knife which my husband had taken up to injure me with; so that I am neither safe personally nor in any other respect. He has injured my character all he can with people who do not know me; but people who do know me will not believe anything he can say against me. Since my father's death, when he saw my money was not settled on myself, he has showed what he was a great deal more. My step-mother is alive, and until her death, that money cannot be got, and by the present law he can take all that would be mine.

37. *By Mr. Kennedy.*—Does he live with you now?—No, I would not live with him. He is willing, but I would not live with him on any account.

38. *By the Chairman.*—The Committee are to understand that you are compelled to support the three children and yourself by your own exertions, and by assistance of your relatives and friends?—Yes.

39. And such has been the case for a number of years?—I may say almost since I was married, he has never supported me. When I left home he owed my relatives, in really borrowed money, nearly £900; and since I came out here I have seen my interest in my father's estate advertised for sale.

40. Do you know where your husband is now?—I only heard yesterday.

41. Has he troubled you latterly?—No, not lately; from fear that he would be put in gaol. I was advised, when I heard he had taken this money, to take some steps. I was desperate

and did not know what to do. I went to the police office to see if I could get a warrant, and the magistrates told him, if he interfered with me in any way, they would put him in gaol, and let him lie there. They did send him to gaol, and the parties who advanced this money liberated him; and since then he has been afraid to annoy me, from fear he would be sent to gaol again. Before he left town, he came to a friend of mine and threatened him with proceedings, because he would not tell him where my residence was, that he might come and annoy me.

42. And you feared that, if he knew where you were, he would annoy you?—There is no doubt that if he thought he could do me any injury, or take anything away, he would. He came to where my little girl boarded, very drunk, and the teacher asked me if it was with my knowledge or sanction that he should go there. I said, certainly not; and she said it was such a disgrace to the poor child, that if he came there again she would have him turned out.

43. *By Mr. Hodgson.*—Does he follow any occupation now?—No; he is with some town's people of mine up at the diggings, and they cannot get rid of him; he is utterly lost to anything that is good.

44. *By the Chairman.*—You have been married seventeen years?—Seventeen years the 16th of this month.

45. And would you, in pursuance of your case, wish for a separation from your husband; or do you think your case merits divorce?—Certainly divorce; he has been guilty of everything that makes the Marriage Law void both in the sight of God and man. During my married life he has been three times diseased; and, of course, no man could be that if he had been a pure man.

*The witness withdrew.*

1856-7.

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VICTORIA.

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PROGRESS REPORT

OF THE

SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL

ON THE SUBJECT OF

TRANSFER OF LAND,

TOGETHER WITH THE

PROCEEDINGS OF COMMITTEE AND MINUTES OF EVIDENCE.

---

ORDERED BY THE COUNCIL TO BE PRINTED 20<sup>TH</sup> NOVEMBER, 1857.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

## EXTRACTED FROM THE MINUTES.

THURSDAY, 17TH SEPTEMBER, 1857.

TRANSFER OF LAND 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.

Amendment moved by the Honorable T. McCombie, That all the words after the word "be" be omitted, with the view to insert the following words, "referred to the Conveyancing Committee now sitting, for their report thereupon."

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.

Council divided.

### Contents, 7.

The Hon. W. J. T. Clarke  
T. McCombie  
B. Williams  
J. Stewart  
D. Kennedy  
Dr. Tierney  
J. H. Patterson (*Teller*).

### Not Contents, 9.

The Hon. J. Allan  
Dr. Hope  
H. Miller  
J. B. Bennett  
G. Urquhart  
J. P. Fawkner  
T. H. Power  
W. Highett  
J. Hodgson (*Teller*).

The question was therefore negatived.

Amendment moved by the Honorable H. Miller, That the following words be added after the word "be," "referred to a Select Committee, 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."

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

Question—That the Bill be referred to a Select Committee, 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—put and passed.

FRIDAY, 20TH NOVEMBER, 1857.

TRANSFER OF LAND BILL—REPORT OF SELECT COMMITTEE ON.—The Honorable J. B. Bennett, as Chairman of the Select Committee to which was referred the Bill to facilitate the Transfer of Lands in Victoria, brought up the Report of the Committee, with evidence, and moved, with leave of the Council, without notice, That the same be received and printed.

Question—put and passed.

# PROGRESS REPORT.

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THE SELECT COMMITTEE of the Legislative Council appointed to consider "the Bill to facilitate the Transfer of Land in Victoria" have the honor to bring up the follow Progress Report:—

Your Committee have proceeded to take evidence on the subject of the Bill committed to their care, but, from the approaching Prorogation of Parliament, will be unable to complete their labors during the present Session, and trust that, at the commencement of the ensuing Session, a Bill may be introduced and a committee constituted for a similar purpose as the present.

J. B. BENNETT,  
Chairman.



## PROCEEDINGS OF THE COMMITTEE.

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WEDNESDAY, 23<sup>RD</sup> SEPTEMBER, 1857.

No members present.

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THURSDAY, 24<sup>TH</sup> SEPTEMBER, 1857.

*Members present* :—

The Honorables J. B. Bennett, T. H. Power.

No quorum.

Adjourned till half-past ten o'clock to-morrow.

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FRIDAY, 25<sup>TH</sup> SEPTEMBER, 1857.

*Members present* :—

The Honorable J. B. Bennett, in the chair.

The Honorables T. H. Power, J. Hood.

Charles Bruce Skinner, Esq., barrister-at-law, called in and examined.

Adjourned till half-past ten o'clock to-morrow.

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SATURDAY, 26<sup>TH</sup> SEPTEMBER, 1857.

*Members present* :—

The Honorables J. B. Bennett, J. Hood.

No quorum.

Adjourned till Tuesday next at half-past ten o'clock.

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TUESDAY, 29<sup>TH</sup> SEPTEMBER, 1857.

*Members present* :—

The Honorable J. B. Bennett, in the chair.

The Honorables J. Hood, W. Highett, T. H. Power.

Charles Bruce Skinner, Esq., barrister-at-law, called in and further examined.

Adjourned *sine die*.

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THURSDAY, 22<sup>ND</sup> OCTOBER, 1857.

*Members present* :—

The Honorable T. H. Power, in the chair.

The Honorables W. H. F. Mitchell, H. Miller, T. McCombie.

Ordered—That the alterations made by Mr. Skinner in the evidence herein (29th September) be not allowed to be made now, but that the Committee adjourn till the return of the Chairman of the Committee.

Adjourned *sine die*.

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WEDNESDAY, 18<sup>TH</sup> NOVEMBER, 1857.

*Members present* :—

The Honorable J. B. Bennett, in the chair.

The Honorables J. Henty, H. Miller.

Proposed—That Mr. Skinner's alterations in his evidence be allowed.—(*Hon. J. Henty*.)

Question—put and passed.

Adjourned *sine die*.

# MINUTES OF EVIDENCE.

FRIDAY, 25TH SEPTEMBER, 1857.

MEMBERS PRESENT :—The Honorable J. B. Bennett, in the chair ; the Honorables J. Hood, T. H. Power.

Charles Bruce Skinner, Esq., called in and examined.

1. *By the Chairman.*—What is your profession?—I am a practising barrister of the Supreme Court : called in 1841.

2. You have had placed in your hands a Bill intituled, “An Act for the Transfer of Land?”—I have.

3. Have you got it with you now?—I have.

4. Do you know the contents or purport of that Bill?—Yes. It was prepared by me.

5. What are the objects of the Bill?—To clear and simplify titles to estates, and render them easy of transfer.

6. By what means is the facility of transfer to be effected by this Bill?—Partly by a short and simple form of conveyance ; but more particularly by simplifying the title.

7. Is that form contained in the Bill?—Yes, in the 17th Section.

8. I remark that that is a mere transfer from hand to hand. Is there any provision in the Bill to meet the old system of covenants for title in the present conveyances?—There is.

9. Will you state it to the committee?—The 28th Section says, “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 ;” but I would observe that that covenant would only be necessary as to the title existing prior to the first certificate under this Bill ; because, from and after that time, under the provisions of this Bill, covenants for title would be unnecessary.

10. Why unnecessary?—Because there would be no prior title existing to render it necessary. The title would clear itself on every transfer.

11. Still, there must be the title that the man has the right to convey?—The 23rd Section provides for that. The registered owner would stand in the same position as the holder of stock. The purchaser would not have to see to the state of the title ; that would be protected by caveat.

12. Still the purchaser might desire to have a covenant from the vendor?—Practically speaking, the covenant for title would be unnecessary where the transfer was made under this Bill. You do not covenant for title to stock.

13. Is there any other provision in reference to the transfer of property from hand to hand contained in this Bill?—That is the only form of grant under the Bill.

14. Are there any other provisions in reference to a simple grant of fee simple in the Bill?—The grant is to be in duplicate, with a plan of the land in the margin and a description of the parcels at the foot, and each is to be signed by the grantor and grantee, each signature being attested by two witnesses. Sealing will not be necessary, except in the case of a corporation, nor delivery, indenting, or any other formality, nor will it be necessary to indorse any acknowledgment of the receipt of consideration money.

15. It is proposed to have that deed in duplicate?—Yes.

16. For what purpose?—That one part may be lodged in the registry office, and that the other may be held by the owner of the land as a muniment of title. It is also a check against fraud.

17. Is there any other provision contained in this Bill as regards the pure transfer of fee simple from one hand to another?—There is nothing more, except the 27th and 28th clauses, which show the effect of such a grant.

18. What is intended to be the effect under this Bill of such a conveyance as you have given the form of in the Bill when duly registered?—It is to take effect without livery of seizing or any other formality, and is to 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 power of execution or solemnity.” That is requisite and necessary, as there is only one form of grant.

19. I am now addressing myself strictly to an unencumbered title, simply to a fee simple, assuming that a conveyance is required to be effected of the entire of the land from the vendor to the purchaser ; will you mention to the committee how it is to be done?—The parties prepare the transfers in duplicate, take them to the registrar, who at once signs and seals one part, and returns it to the grantee, and files the other in the office, and the registrar then makes the proper entries in the page appropriated to that purpose, which will be found in the schedule at page 7 of the Bill.

TRANSFER OF LAND.—a.

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20. What becomes of the prior title deed upon the transfer being completed?—The parties take the prior deed, together with the duplicate, to the registrar at the same time.

21. Then the registrar retains the prior title deed when he issues the new one?—Yes; so that the title starts afresh at every transfer.

22. That is on the supposition that the whole of the land in the title deed has been conveyed to the purchaser?—Yes, if it is a conveyance only of part of the land; the 20th section provides that the registrar may either return the prior grant to the former owner with a memorandum endorsed thereon, showing the portion alienated; or he may retain it and issue a fresh grant of the part unsold to the grantor.

23. I think in this Bill it is not made optional with the vendor, which of these plans he will adopt?—It is not.

24. Would it be advisable to allow the vendor himself to make that choice, whether he would have the old deed with the endorsement on it, or a new deed altogether?—It is immaterial. The purchaser would always have a new deed.

25. You see no reason for the vendor making his choice?—No. I think it would be advisable, in the case of a subdivision of land, if there were a provision that the grantor should take his plan of subdivision to the registrar. That has been suggested to me, and I think it a good suggestion.

26. What plan of subdivision—you have not spoken of any plan of subdivision yet?—Where a man sells a portion of his land, it is usually upon some plan of subdivision. It is suggested that he should take that plan of subdivision to the registrar, and that the alienation should be made with reference thereto.

27. Would not it be better to make it in reference to the original deed on the margin of which the plan is?—It would be so.

28. It would avoid the multiplicity of plans, would not it?—It would. I would always have the reference made to the marginal plan; but I mean that the marginal plan itself might be marked in allotments, in accordance with the plan of subdivision.

29. That is the whole machinery of a simple transfer of a piece of land from one party to another, assuming that there are no incumbrances upon it?—Yes.

30. According to your opinion in this Bill, do you believe that to be an expensive or an inexpensive mode of transferring?—It would cost nothing; the parties prepare the document themselves and hand it over to the registrar.

31. But if a party chose to prepare his own conveyance at the present moment, it would cost nothing?—Just so. It is not the mere conveyance that is expensive at present, but the investigation of title.

32. But assuming he chose to employ a professional man to do it, do you consider the professional expenses of the transfer of a piece of land like that would be heavy?—They would be very small indeed.

33. You would have to take into consideration the filling up of the form?—The form would be printed.

34. And you have to take into consideration the drawing of the parcels, the seeing the execution, the taking it up to the registrar, and getting it registered. Under ordinary circumstances what might it be done for—what might be taken as the legitimate average, assuming no obstacles in the way. Do you think a couple of guineas would pay for it?—I think so, amply.

35. In reference to the machinery, do you consider that a simple or an intricate mode of effecting transfers of lands?—The form would be printed, and the description of the parcels would be given by the parties themselves, and copied at the foot, so that the expense appears to me to be very small indeed.

36. But, in reference to the machinery, do you consider that to be a simple or an intricate mode of effecting a transfer of land?—I cannot imagine a more simple mode.

37. Are you aware of any property in the United Kingdom, of considerable value and importance, which is dealt with in a similar mode?—The government securities, commonly known as Bank Stock. The object of this bill is to apply the practice on the transfer of stock to land, as closely as possible.

38. We have now taken a simple conveyance from hand to hand. Before the form of conveyance mentioned in this Bill is available, is it not necessary that the vendor should procure himself to be registered as the owner of the land, in the new registry?—Yes; as *primâ facie* legal owner.

39. How do you propose to do that?—I propose he should show to the registrar a *primâ facie* title to be registered as owner.

40. Would you kindly name the clauses to the committee?—The twelfth to the sixteenth inclusive.

41. With these clauses in your hands will you explain how you propose to enable the owner of land to get himself upon the registry for the purpose of rendering this Act available?—I propose that he should produce to the registrar the instrument under which he claims title, and a sworn copy of it; the copy being left for enrolment.

42. His conveyance, in fact, or his grant from the Crown, or whatever it be?—Yes. The execution and attestation thereof being verified on oath, and a sworn six years' abstract of the title. And I would also add—it is not now in the Bill, but I think it might be very properly added to it—that he should also make a declaration of trusts affecting the land.

43. Would not that be a declaration that there are no trusts except what are declared in the abstract?—Exactly, it would be so.

44. Anything else?—That is all.

45. He submits his title deed and the abstract for six years, and a declaration that there are no trusts incumbering the property, except those which are disclosed?—Yes.

46. When that is done, what is the next step?—The registrar returns him the instrument with a memorandum endorsed, referring to the certificate which he issues thereon, and he gives the owner the short form of certificate set out in the 15th section.

47. What does this certificate propose to do?—Merely to place him on the register as *primâ facie* owner of the land; it is a certificate that he has been registered as owner.

48. What is the effect of that certificate?—It has no effect whatever. It merely enables him to be registered as *primâ facie* owner.

49. Has not it the effect of enabling him to transfer to anybody else, by the short form of conveyance in the Bill?—Yes; as being registered, he can transfer in that short form; but I mean to say, it is no evidence of title in him up to that date.

50. You mean, it does not make a bad title good?—No; any party purchasing from him would still have to ascertain his title up to that date.

51. We will come to that in a moment. Supposing that he gets himself registered on the 1st of January, 1858, and that he remains as registered owner for twenty years; would not that make his title complete?—It would, unless there was a claim of some person under disability accruing before the certificate. You have to investigate the title for forty years under the present system. The effect of this Bill would be to clear the title every year.

52. Every year he appears upon that register would shorten the time you would have to go back?—Yes. The lapse of time would clear the title instead of adding incumbrances, as it does under the present registry system. The effect of the Bill would be, to wipe off all incumbrances by lapse of time.

53. Or rather, it prevents the accumulation of them?—Under the present system, they would be added; because, during that twenty years there would be other matters appearing upon the register; here they would be wiped off.

54. Now, with respect to the abstract, of course there is no doubt of the necessity of producing the abstract, which is a certain amount of expense; do you think that it would be judicious to avoid that expense by not delivering any abstract?—I think it might be done away with. I would observe upon that, that in drawing this Bill, I have been guided very much by the evidence of a great number of eminent lawyers, taken before the Commission of 1850, the Commissioners being Lord Langdale, Master of the Rolls, Lord Beaumont, Mr. Kerr, Mr. Coulson, Mr. Freer, Mr. Brodrib, Mr. Rolfe, and Mr. Sanders; and also upon the evidence taken before the Select Committee of the House of Commons of 1853. There seems to be a difference of opinion upon the subject there, for some of the witnesses seemed to think that any person should be allowed to place himself upon the register as *primâ facie* owner, as it gives in fact no title, because he would place himself there at his own peril; but I think that there should be some slight investigation of *primâ facie* ownership in order that the registry might not be encumbered with a number of false claims, which, though inoperative and useless, might still be placed there, and might in some cases work an injury to the public; because, to an ignorant person not knowing the provisions of this Bill, the holder of a certificate might appear to be the owner, and he might either lend or advance money in ignorance, that in fact it conferred no title whatsoever.

55. You think therefore, as a matter of protection, that that abstract would be very useful?—I think so, and I think, in nine cases out of ten, in fact almost invariably wherever there are titles, there are abstracts of title now in existence. I do not think an abstract would have to be prepared for the purpose of this Bill; in fact, practically, the effect would be this, that no person would apply to have himself placed as owner on the register until he came to sell. The purchaser usually asks for an abstract of title, and it is that abstract of title which would be given upon a sale, and would be given to the registrar, so that it would not be any expense whatever practically.

56. Are you aware that, to the present day, for several years, an immense amount of property has changed hands with the distinct provision in the conditions of sale, that no abstract of title should be demanded; or that, if demanded, the purchaser must get it himself, at his own expense?—I am aware of that.

57. How would you meet that point in reference to this Bill?—It could not happen, that no abstract of title should be demanded, but that the abstract should be at the purchaser's expense.

58. The deeds will lie in my office, and you may come and examine them, but I will give you no abstract; if you want the abstract, you must pay for it. How would you work that in land sold under such conditions?—In such cases the purchaser would have to pay for the abstract furnished to the registrar.

59. But the vendor has to produce it to get himself registered, according to this Bill?—He would have to prepare it; but the purchaser would have to pay the expense.

60. Would you make a purchaser pay for the abstract?—Not unless he had expressly agreed so to do.

61. Then how would you work it?—The purchaser would require the abstract to be prepared by the vendor.

62. Then you would make the vendor produce the abstract?—Yes.

63. And by that means do away with that condition, which has hitherto been in existence, which makes the purchaser pay for the abstract if he wants one?—That would be a mere matter of agreement between the parties; instead of being provided that the purchaser

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should take abstracts of title at his own expense, the conditions of sale would be, that he should pay for the abstract of title left at the registrar's office; that would come to the same thing. I say that might be so, but you must remember that that would only apply where the whole land was sold between the parties. On the other hand, if a man was cutting up his land into allotments, which is the case mostly here, his abstract of title once lodged would go to the whole estate—there would be only one abstract delivered, and if the land were cut up into thousands of allotments, there would be no further necessity for abstracts after that. The conditions would be that the purchaser should see the certified abstract in the registrar's office.

64. Then you would give a purchaser access to the abstracts in the registrar's office?—Certainly, if the vendor allows it.

65. Then, do you consider that, in that case, the six years' abstract would be sufficient?—It would not be sufficient as to the purchaser, if the title extended beyond that; but a six years' abstract I think would be sufficient to satisfy the registrar; in fact you will observe I put the word "six" in italics—it may be three years. My reason for inserting that word "six" was, that I thought it would just go back beyond the time of the commencement of the gold fields here. But the time of the abstract is a mere matter of detail for your consideration: it is not a necessary part of the Bill at all. Mr. Sitwell, M.L.A., is of opinion that the abstract should be in full from the commencement of the title, and that this verified abstract remaining with the title would save much expense in future dealings with the estate.

66. I want you to address yourself to this state of facts.—A person has got a small property; he has taken his conveyance from his vendor with a covenant to produce, and taken no abstract, but attested copies. You are aware that is very often the case in small properties; the party has held the land perhaps six or seven years; he wants to sell, and to do that, to get himself enrolled upon the register, and the obtaining of an abstract might be a matter of very great difficulty and expense, which neither vendor nor purchaser would think it worth while to incur; that is of course one of the evils of the section. Do you think that that would be avoided in any shape or form; or if not, do you think it is a necessary evil for a greater good?—I have already stated that it is not a necessary part of the Bill. If I saw any evils in the way I would strike it out.

67. That is the evil I mention. A man may have a property worth £150 say; he may have bought the land for £50, and built a house worth £100 upon it, making it worth £150. He wants to sell it to some one, but he must get registered as registered owner; to do that he must produce his six years' title; that may entail considerable expense, perhaps £30 to £40, which would make a serious impediment in such a transaction. Do you think there is any way of getting over that; and if not, do you think it is a necessary evil in the Bill for the protection of other properties, where it would be of importance?—I do not think it is necessary, but I think the good would preponderate over the evil.

68. Then you think it might be struck out altogether—that six years' abstract?—Yes; I have given the reasons why I thought it would be useful. I think, in the cases you speak of, of small properties, that difficulty might exist, but more in theory than in practice; because the small properties you speak of would be subdivisions of large properties, and there would be almost invariably an abstract of title lodged by the larger owner which would enure to all.

69. Assuming there were twenty evolutions in that estate in the six years?—I think the abstract of title could be got hold of; there would be sure to be some abstracts existing in some parties' hands; or some of the parties purchasing those allotments would be registered, or all the parties might join together and so divide the expense.

70. Do you think, by combination, a single abstract might be got for a dozen purchasers?—No doubt; but at the same time, if it were thought to lead to any expense, I would strike it out.

71. Would you strike it out, even though the striking it out might lead to the amount of fraud which was just now suggested to the committee?—No; I have already stated that I would rather have it remain, both for that reason and because it would save expense in future dealings with the estate.

72. It is a question of expense on the one side and protection on the other?—Yes.

73. As against fraud?—Yes, protection against fraud, and a saving of future expense.

74. *By Mr. Hood.*—What would the remedy be, supposing the owner or reputed owner of the land gave a wrong description and misled the registrar, or is that possible?—It would have no effect.

75. Supposing a party held the title deeds of some land and had borrowed money on them (I could put a particular case if I chose, where the deeds are in the possession of the parties borrowing the money through a combination of circumstances), what is there to hinder the parties then from suppressing some of the deeds and showing a clear title to the registrar, though it is not a clear title?—You will find under the third clause of Section 23, that the purchaser takes, subject to the state of the title, prior to the certificate of ownership under the Act. The parties would be guilty of perjury under the 75th Section for very little purpose.

76. Suppose I did not want to sell at all, but had some title deeds, and I thought the title rather doubtful, I might go and make it appear to the deputy registrar or the registrar as good, and he might put it on as good, and supposing there were no caveats lodged for six years, am I to understand that that is an indefeasible title against all the world?—No, certainly not.

77. *By the Chairman.*—Assuming that a person produces the abstract, and retains his name upon the registry as the registered owner, and that five years afterwards he comes to sell, what precaution would the purchaser require to take?—Will you give me some data.

78. Supposing that on the 1st of January, 1858, he obtains a certificate of legal ownership, and on the 1st of January, 1868, that is, ten years afterwards, he effects a sale; what precaution would the purchaser require to take before accepting a conveyance?—He would have to look to the state of the title up to the 1st of January, 1858. C. B. Skinner, Esq., continued, 25th Sept., 1857.

79. He would have to examine the title up to the 1st of January, 1858?—Yes, up to that date it would be the same as under the present Registration Acts.

80. As I understand you, it is this, that up to the 1st of January, 1858, this title would remain in its present state?—Precisely so; that being the date of the certificate under the 15th section.

81. After the 1st of January, 1858, the registrar would have to search the new registry before allowing the transfer?—After that date the state of the title would appear in the caveat book.

82. After that date, I understand you, the registrar would search his registry books, and if he found no caveat he would transfer the land?—Yes.

83. It would be the registrar's duty to protect the purchaser before he allowed a fresh conveyance?—Yes.

84. But previous to 1858 the purchaser would have to protect himself by examining the prior title?—Yes.

85. So that, up to the date of becoming registered owner the purchaser requires to examine the title, but not afterwards?—Precisely so.

86. And that is the mode in which the title would be simplified and rendered less expensive?—Yes.

87. *By Mr. Hood.*—You have started with the data of a man registering his title on the 1st of January, 1858, and it not being incumbent upon a purchaser at a subsequent date to examine the title further down than that date; he is only to see, if I understand you rightly, or the registrar is only to see for him, that no caveat has been lodged since 1858; but is not it within the bounds of probability that a party might have a claim upon the land and not know that it was registered and not lodge any caveat—could that arise?—No. Those interests, such as you speak of, would have arisen before the 1st of January, 1858, and would appear upon the title. The interests which would exist since 1858 would appear by caveat.

88. Then it would not do away with the necessity of examining the title from the grant from the Crown up to the date of the new registry?—That would be a subject for a separate enactment for warranty of title. Under the Irish Encumbered Estates Act, the title may again become clouded in a few years, and then you would have the same process to go over again. But under this Bill, if a warranted or Parliamentary title were obtained, the title would stand clear for ever, and would be reduced to one deed, that is, the last registered grant.

89. *By the Chairman.*—When once an owner of land gets his name upon the register, assuming a number of conveyances of land to take place, how many deeds will be multiplied afterwards, I am now speaking of the main trunk of the fee?—There never would be more than one deed.

90. Inasmuch as when the vendor sells the whole of his land he surrenders his deed, and a fresh grant comes out to the new man?—Yes.

91. And so on *ad infinitum*?—Yes.

92. Is not that one means of simplifying the title from the commencement of the registry?—Yes; in process of time, that is, at the end of the period given by the Statute of Limitations, the title would stand clear of itself, and be reduced to one deed.

93. *By Mr. Hood.*—What becomes of the old deed?—It is given up to the registrar, cancelled and filed.

94. *By the Chairman.*—That is assuming the whole land is sold?—Yes. It no longer remains there as affecting the title, but it may be useful. The *cestui que* trust may bring an action against the vendor for improperly selling his land, under the 35th section, and then the document may be required.

95. It will by no means interfere with the title?—No, it is a closed book to the purchaser.

96. You have hitherto spoken of lands without any incumbrances on them. How do you propose to deal with lands that are encumbered, in which there exists a fee simple, and several trusts engrafted upon it?—That will be dealt with under the 38th section.

97. By that clause you propose protecting interests arising out of land by means of caveats?—Yes, by caveat, being analogous to the *distringas* on bank stock.

98. Those caveats, as I understand, are to be lodged by or on behalf of the person claiming an interest?—Yes.

99. Does the Bill give a form for the caveat?—It does in the schedule, at page 21.

100. Is it intended that those caveats should form a separate registry, distinct from the legal ownership which we have spoken of in the first part of your examination?—Yes.

101. Then, as I understand you, in regard to properties, the subjects of these equitable interests, there will be two distinct classes of registry—the registry of legal ownership and the registry by means of caveats of collateral interests?—Yes. The legal title alone is registered, as proposed by the commissioners in their report. The caveats do not appear on the registry, being entered in a separate book.

102. Will you explain to the committee the mode of procuring the caveat to be entered in the register?—The party lodges the caveat in the form in the schedule, and there is a note at the foot of it, requiring the person lodging the caveat to see that the entries are properly made in the office. On any caveat being entered with respect to any particular estate, the

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registrar opens a page in the form given in page 20 of the bill, and enters the reference thereto in the sixth column of the land book, as at page 17 of the bill.

103. That reference refers to the caveat book?—Yes, to the page of the caveat book at which all caveats will be found; because, when other caveats come in, they will be all entered in the same page, and the caveats as they come in will be filed.

104. Is it the intention of the Act that any person who pleases may lodge a caveat?—Any person interested in the land under a written instrument.

105. How are you to know that?—If he is not interested he will enter it at his own cost and peril.

106. Who is to be the judge of that?—Any person may register his claim now; instead of the present memorial, there will be lodged a caveat.

107. There is no restriction any more than there is now?—No.

108. How does the caveator proceed?—As he does now; that is to say, he produces the instrument and the registrar endorses on the back of it the same as now.

109. *By Mr. Hood.*—He must produce some written proof in connection with that property?—Yes; and that endorsement is made on the back, in order that he may not afterwards come up and produce some other instrument and say his caveat was lodged under that; and, as I have before observed, he lodges it at his own risk. This Bill gives a check which does not exist under the present system; under the 47th section, if he lodges a false caveat he is visited with costs, for the registrar at once gives notice to the owner of the land that a caveat has been lodged.

110. Supposing that I was on the point of selling a property, and some friend or some enemy found it out, is it not in the power of that party without any written instrument to lodge a caveat and say I shall not sell, and so to put me to expense and annoyance?—No.

111. *By the Chairman.*—Is there no provision in this Bill for any one lodging a caveat without the possession of a deed?—He must lodge it under a written instrument as now; this Bill does not alter the law in that respect.

112. Suppose he has not got it in his possession, suppose it is in the possession of another party entitled to keep it?—That is provided for afterwards by the 55th section—"That 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."

113. I repeat my question.—Is there any provision in the Bill for a person lodging a caveat who has not got possession of the instrument?—No, he must have a written instrument to lodge a caveat under; no person can register now without having a written instrument.

114. Are there not many interests in existence, the owners of which interests do not possess the deeds under which those interests exist?—I am not aware of any. If not in their actual possession, they can compel the production.

115. Cannot you imagine the case of an estate granted to trustees for the use of me during my life, for the use of yourself during your life after the expiration of my life, and for the use of a third person (Mr. Power) after the death of both of us, or Mr. Power's heir after the death of both of us; cannot you imagine Mr. Power's heir wishing to have a caveat lodged during the life of yourself and myself, and cannot you imagine the deed in possession of the first tenant for life.—Is not that a case in which Mr. Power's heir would be entitled to lodge a caveat and yet not have the deed in his possession?—Yes; but it would be in his control.

116. Then there is contemplated by this Bill the case of a person wishing to lodge a caveat, without having the deed in his possession?—There is the 55th section.

117. Is there any means by which that person can have that caveat lodged, until he compel production of the original, assuming the original deed to be in existence?—No.

118. Do you not think it would be useful if there was such a clause inserted?—No; you will observe that by that section any one person may lodge a caveat on behalf of himself, or any other person claiming under the same instrument. So that, in case of trust deeds, I presume the practice would invariably be, as a matter of course, to lodge the caveat on behalf of all the *cestui que* trusts under that instrument. Then, as to the other cases, I think practically you will find the instrument would be in the possession of some person interested in lodging the caveat.

119. *By Mr. Power.*—But if that person were out of the colony, and a person held an interest in the property, could he without the instrument go and lodge a caveat?—No; not under this Bill, nor could he now.

120. *By the Chairman.*—Then, would not it be advantageous if a clause were put in to enable a person, on satisfactory proof that the deed could not be produced, the party being out of the colony, to lodge a caveat?—It might be so; that might be added to the 56th section.

121. The caveator having lodged his caveat, what happens—what is the next thing to be done?—The registrar enters the caveat, and gives notice to the legal owner of the land that a caveat has been lodged against his dealing with that land; that person may, under the 42nd section, proceed in a summary way to have it removed, if he thinks that it is wrongfully lodged against his property. I would observe, upon that section, that a person can do so at present; he can remove the registry of any instrument affecting his title, but he is put to the expense of an equity suit. This 42nd section gives a summary remedy to reduce the expense.

122. That completes the lodging of the caveat, so far as that step is concerned. You have spoken of notice, that the registrar is to give notice to the legal owner?—Yes.

123. How is he to know where to find the legal owner?—The Bill provides that he shall leave a proper place of address with the registrar at the time of getting himself registered as legal owner.

124. Then I understand you propose by this Bill to compel persons applying to the registrar either for the registration as legal owner, or for the lodgment of caveats, to leave certain address?—Yes.

125. I understand by this Bill that all notices thus served at those addresses are to be considered notices to the parties?—Yes. I propose those notices should be served in duplicate, one by a messenger, and the other through the post office; but that would be provided for by the rules.

126. What is your opinion as to the effect of that notice being sufficient; do you consider that notice sufficient?—I think it is from the evidence that has been given by so many able men at home upon the working of the present bank stock system, where precisely the same practice is carried out, and more especially by the evidence given before the committee of 1853, that I have already spoken of. I should like particularly to refer to Mr. Field's evidence. Mr. Field says, "I think that the return which is before the committee, and which was made on the motion of the Solicitor General, showing the quantity of stock which is now held in more than one name, and which therefore is undoubtedly in trust, the per centage of distringases which are put upon that stock, the per centage of caveats or warnings off which follow upon those distringases, and the per centage of injunctions upon those caveats, will show that practically there is no risk whatever that injustice would follow from the scheme which Mr. Cookson has pointed out. The only true basis of all legislation is, I conceive, experience. You have no right to say, 'I can see that under such and such a given plan fraud might easily arise,' and then to conclude that therefore it would arise were the scheme enacted. If the per centage of fraud is only one in a thousand in the case of stock,"—you will observe this is taken from actual experience—"you have a right to infer that it would not be more than one in ten thousand in the case of land. I believe so for two reasons; first, that the land is patent, and everybody is looking at it in connection with what you are doing. Nobody knows what the trustees are doing with the stock, therefore it is much easier for them to cheat with stock. That is one reason why I conceive there will be very much less fraud in the case of land than stock; and in the second place, it is very much more difficult to sell land without its being specially and publicly advertised and known; therefore I think the per centage of what one may call frauds, and improper distringases, and wrongful acts that would arise under the system pointed out, in case it was applied to land, may be very safely taken from the return that is before the committee showing the distringases, &c., upon stock. My particular experience is not so great in the actual transfer of land as that of Mr. Cookson and Mr. Williams, but my whole legal life has been spent among matters arising out of improper dealings with stock, those being things which get into the courts; and I have had a great deal of experience in distringas matters and dealings with stock. Dealings with stock, which lead to distringases, are exactly that class of transactions which, of all transactions in the world, are most open to fraud and litigation. Almost all the distringases which are on the stock are not distringases put on by a tenant for life to protect himself against his trustees, because a tenant for life would contrive to get his trustee changed if he thinks there is much wrong, or he would have the money put into the Court of Chancery; but they are on purchases or dealings with reversionary interests, and it is peculiarly that class of cases which our courts have perpetually to deal with, as being improvident bargains with reversioners. I throw that out to show that litigation and the number of distringases and suits arising out of them will be much greater with regard to stock than would arise from land."

127. That goes to the length of fraudulent transactions by trustees, I think?—Yes.

128. That is not my question—my question has reference simply to the notices?—This is in answer to that question, because notice would be given under this Bill in the same manner as at the Bank of England with regard to stock.

129. I am speaking simply as to whether you consider notices delivered at the address which has been given to the registrar to be sufficient for the protection of the beneficiaries?—I do; and I say I do so, because it has been found so with respect to stock.

130. I am not addressing myself to the sale of property held by trustees for children or other parties, I am only speaking of the service of the notice?—I think it would be quite sufficient in fact; further, I think it would be in most cases giving a protection which they have not now.

131. In what respect?—For example, in the case of a mortgage—in the present day a mortgage deed invariably contains a power to the mortgagee to sell, and provides that the purchaser shall not be bound to inquire whether proper notice has been given to the mortgagor, or whether there be any irregularities in the sale; so that, in reality, under the present system the mortgagee might sell without any notice whatever, and the purchaser would take a perfect title; whereas, under this Bill the mortgagor would be certain to get the notice from the registrar.

132. The simple question is not about giving a notice, but giving the notice to an address, instead of giving it personally?—I think personal notice would be impracticable in most cases in this colony.

133. Do you conceive that it is the duty of persons who wish for the protection of this Bill to make proper provisions for the delivery of their own notices to them?—Certainly, I do.

134. You conceive it to be more equitable that they should be compelled to protect their own interests and see their own addresses are correct, than that a scheme intended for the public benefit should fall through in consequence?—I do; I think it is more equitable that the



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person should protect himself, than that the purchaser should be bound to go back through forty years' title to try and find out whether there are any incumbrances upon it, and be, as is often the case, put to the heavy expense of a negative search for no purpose. The evidence shows that, in a few years hence, if the present registration system were to continue, the expense of searches would in many cases exceed the value of the fee simple of the land.

135. Are there any means under this Bill, or in any other way, for a person from time to time to give notice of the alteration of his address to the registrar?—That will be provided for by the rules; and, in fact, I would observe that the mode of service of notices generally would be carefully provided for by the rules, which are under the 71st section to be submitted for the approval of the judges of the Supreme Court.

136. A caveat is lodged; the registrar gives notice to the person against whom the caveat is lodged; what is the next step to be taken by the person against whom the caveat is lodged?—I before observed that it may, if it is wrongfully lodged, be removed at once; the presumption is that, if the legal owner allows it to remain, it is rightly lodged, and in that case it will remain there until he attempts to sell or otherwise deal with the legal estate.

137. *By Mr. Hood.*—What would happen, suppose it is wrongfully lodged, and the party does not get notice and takes no steps to remove it, when he tries to sell some three years afterwards or whenever it happens?—It would have no effect if wrongfully lodged.

138. Suppose the party who lodged the caveat at the time the owner tries to sell is not to be found, what would be the effect then?—If it were a bad caveat it would not prevent the sale.

139. *By the Chairman.*—Why would not it prevent the sale?—Because no caveat can prevent the sale, unless the party can get a restraining order upon it.

140. *By Mr. Hood.*—The caveat is only the first step?—Only a notice of an incumbrance. I might be allowed to observe that the caveat given by this Bill differs from the *distringas* on stock in this respect—that under the Stock Acts, a party requiring to obtain a caveat against dealing with stock, is obliged to obtain a *distringas* from the Court of Chancery in the first instance, which is obtained as a matter of course upon the affidavit of the attorney that he has a certain right or interest. I look upon that as a needless expense, being only formal and needless with respect to land. It is necessary in the case of stock; because, unless a *distringas* is obtained, the Bank of England would not be bound to recognise the trust. I use the word caveat instead of *distringas*, because the caveat is the act of the party; a *distringas* is an order of court.

141. *By the Chairman.*—Assuming that the caveat is correct, when it is the object of all parties concerned to sell the land, is it possible to do so by arrangement with the persons who lodged the caveat?—Yes.

142. And carry on the caveat again against other properties?—It may stand over against a fresh grant, by arrangement between the parties. The 45th section provides for that.

143. Or against other properties that are bought by the proceeds of that land?—Of course, that can always be done by the consent of the owner of the land.

144. There is no difficulty in arranging matters between the proprietor and the legal owner in the event of a sale?—None; I think that it would take the same position with respect to land that it would as to stock. As to which I will read an extract from Mr. Cookson's evidence, in answer to the question—"Then the practical effect of your plan would be this—that the vendor of the property in the first instance would obtain the consent of all the persons who may have entered caveats upon the register, so as to make a clear title to the purchaser without any difficulty arising to the purchaser?" he says, "I think it would very often occur, as it does now with respect to stock. Cases have frequently occurred where there have been several caveats upon stock, and the parties are unwilling to withdraw their caveats, until they get their money; but we find no difficulty practically; either by meeting together, and, *uno flatu*, the thing is done, or a power-of-attorney is given to some broker."

145. Supposing a caveat lodged and the owner wants to sell, what is the next step to be taken under the Bill?—Upon a party applying for a transfer, the registrar would give notice to all the caveators in the form given at page 22 of the Bill, and this notice calls upon them to have the caveat substantiated within a given time. If the parties do not obtain a restraining order within the time named in the notice, the registrar would allow the transfer. Now, with respect to the time, I have left it blank here, because I propose to give the registrar some discretion as to the time to be named in the caveat. I will now read an extract from Mr. Cookson's evidence, as this Bill follows the same system as laid down with respect to stock, excepting that I consider the affidavit and *distringas* an unnecessary expense, and would make no change in the present practice in that respect; that is to say, any person may lodge a caveat as he may now register his claim:—"Would adhere as closely as possible to the system adopted by the Bank of England with respect to stock; would put no restriction upon the person who should be allowed to enter caveats, but the question will be, whether that person is interested in the property. Every person lodging a *distringas* at the Bank of England must make an affidavit that he is interested in the property; would require the same from persons lodging caveats; would require the registrar to give notice to the person who has entered the caveat that the person who has the legal fee in him proposes to sell it. When you receive a notice from the Bank of England that a party requires to transfer stock, then, unless you obtain an injunction within an appointed day, he will be allowed to transfer; if the transfer is objected to, the usual course is to explain to the solicitor of the bank that the transfer cannot be allowed and that you are taking the necessary steps to obtain an injunction to prevent the transfer; and then further time is given

if the solicitor is satisfied that the caveat is *bonâ fide* and intended to be followed up. In the case of trustees, nearly every settlement contains a power of sale or exchange. The power of sale is to be exercised during the life of the tenant for life usually without his consent; would protect the parties beneficially interested, by enabling the tenant for life to enter a caveat against the transfer or sale by the trustees without notice to him. And when property is conveyed to trustees, there should be at the same time a caveat entered which should notice the settlement, and for what purpose the transfer is made; a caveat which should protect the parties interested in that settlement. A person having a beneficial interest neglecting to enter a caveat would be concluded as against a *bonâ fide* purchaser. The transaction would take place in this way. The purchaser is ready to pay his money when he can take his conveyance; but whilst caveats exist, (no matter what those rights or interests are which are protected by the caveats), the transfer cannot be made, and the purchaser cannot get his conveyance. But then it is not for him to investigate the title to those caveats, it is for the vendor to do that; and when the vendor has once done that, the caveats once gone are gone for ever. We know practically that a very large proportion of the expenses of the investigation of titles arises from our having to investigate transactions connected with equitable interests which have taken place many years before. Mr. Williams also says in his evidence, that "The registrar should be invested with some discretion as to the time and circumstances under which a caveat could be removed; and there should be careful and well considered measures to secure notice to those beneficially interested." Now, with respect to the Bank of England, the course there is, I believe, that eight days should be given. I agree with Mr. Williams that some latitude should be given to the registrar; with respect to land, for instance, the parties may be absent from the colony, and may have left their caveat with an agent; and, therefore, I put here "unless you show before me sufficient cause for enlarging the time."

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146. That is in the notice?—Yes; if the agent comes to the registrar and says, my principal is absent from the colony, but you will see that mine is a good caveat, and shows to the registrar the instrument upon which the caveat had been entered. The registrar upon seeing that to be a good caveat, might, under certain circumstances, give further time; I think that that delay might be allowed, because in the present day a month is usually given for the inspection of abstracts of title, and if there are any trusts, or absent parties, there is a certain delay. Mr. Bullar's suggestion is, that the entry of a caveat should be a mere private entry for the registrar's guidance in the performance of his duties.

147. The proprietor having received notice from the registrar to come in and substantiate his caveat within a given time, assuming that he does not do so within the given time, what happens?—The transfer is allowed.

148. The caveat is treated as a nullity and the transfer is allowed?—Exactly.

149. Do you think that that is conducive to the public benefit?—I do, certainly. It has been found to work well with bank stock.

150. Will you explain your views on that subject to the committee. I am speaking now as to protection given to persons who may have lodged caveats and have left the colony?—I think they ought to protect their own interests by leaving proper agents here.

151. In the event of those agents not doing their duty to their principals, what then?—Then let them be responsible to their principals.

152. *By Mr. Hood.*—You would not make the land responsible?—Certainly not. It is that, and the necessity for investigation of title consequent upon that, which causes all the present expense and uncertainty of title.

153. Even though the caveat was good?—Certainly not. This is so concisely stated here by one of the witnesses, that I should like to read it to the committee. Mr. Field says—"That it is a national object to require that all the land of this country shall be so placed as that the trustees or party in whose name, as regards the public, it is vested and registered, should have power to sell to a purchaser, unless restrained by those who have a right to restrain him. Just as I conceive it is also a national object that the owners of stock upon the stock books should have the same power, and I will say why. If you were to require the purchasers of stock to investigate the equitable titles which exist underneath and through the registered owners of stock, you would bring down the price of the funds at least to thirty or forty per cent. There is no question about that. It is the facility of transfer and the certainty which the purchaser deals under, when he goes to the registered owner of stock, which is the true source of its value being what it is as compared with the value of land." I may remark upon this, that when you come practically to consider the question, you will find that persons having beneficial interests in land under settlements or wills would be more protected under this Bill than they are now; because, at the present moment, under every well drawn settlement and will, the trustees invariably have an absolute power of sale and disposition of the estate.

154. Without any reference to the beneficiaries?—Usually with the concurrence of the tenant for life; but otherwise, without any reference to the persons beneficially interested at all; whereas, under this Bill the person lodging caveats would get notice from the registrar that the estate was about to be sold, so that they might see to the application of the purchase money. They could not stop the sale, because most probably the will or settlement itself would contain a power to the trustees to sell absolutely, but they could see to the application of the purchase money.

155. It would prevent a surreptitious sale of a trust estate?—Yes. There is never, or very rarely, any danger in the sale of the estate alone. The danger is in the misapplication of the trust funds after sale.

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156. And the notice necessary by this Bill would keep the persons beneficially interested advised of the sale?—Yes, and would give them a benefit they have not now.

157. It would keep them advised of the sale?—Yes, exactly. Though they would not be entitled to obtain a restraining order from the court.

158. *By Mr. Hood.*—In the event of a man lending money upon property free and unencumbered—under this registry, and going home to England, is there no means of protecting that man's interest, in case his agent should turn out a rogue. He would lodge a caveat of course?—No; if he were legal mortgagee, he would take the absolute ownership.

159. *By the Chairman.*—The last step we had come to is this, that now the caveators have had notice to come in and defend their caveats, how do they proceed?—By obtaining a restraining order of the Supreme Court under Section 46, which I would remark is a precise copy of 5 Victoria, chapter 5, section 4, as to bank stock.

160. And this is exactly the way it is done in England with reference to bank stock?—Yes, it is taken from that section in the Bank Stock Act.

161. Then, as I understand this Bill, it would come to this—A caveat is lodged, if it is satisfied the caveator does not come forward and restrain the sale; but, if it is not satisfied—if the caveat is still in existence—the caveator applies for an injunction, and the court grant that *ex parte*?—A restraining order.

162. And that prevents the sale?—Yes; a restraining order is a much less expensive process than an injunction.

163. Having obtained the restraining order, the sale is stopped?—Yes.

164. And it then falls back upon the vendor to purge the land of that caveat before he can complete the sale?—Precisely.

165. And then I understand the process would be taken up in ordinary course, and if there was a dispute as to the caveat, it would be settled by the Supreme Court?—Yes; and I would observe that, from the evidence taken before the committee of the House of Commons in 1853, it appears that practically, in effect, it has been found at home that these restraining orders are very rarely resorted to. The very fact of a man knowing that these caveats are lodged against his dealing improperly with an estate would prevent him from attempting to do it. Upon this point I would use Mr. Cookson's words, which are as follow:—"The necessity of applying for an injunction appears alarming, but practically as to stock we find no difficulty. The case does not occur. Trustees do not attempt to sell unless they have a right."

166. Assuming the caveat to be properly lodged and the trustees anxious to sell with the consent of the caveator, as would be the case under a settlement of the present day, in many instances is it possible under this Bill for all parties to meet together and arrange the thing?—Certainly; and you will find that that is in effect exactly what does occur with respect to stock. In Mr. Cookson's evidence, page 9, in answer to question 107 he says, "We find no difficulty practically; either by meeting together and *uno flatu* the thing is done, or a power-of-attorney is given to some broker.

167. Will you explain to the committee how a person possessed of land in fee simple would effect a mortgage under this Bill?—There are two classes of mortgages, one legal and one equitable.

168. I am speaking of the fee simple?—It depends upon whether it is to be a legal or an equitable mortgage; in the case of a legal mortgage he would do as now, he would give the grant in fee simple to the mortgagee. The mortgagee would be the legal owner. The legal mortgage would be registered as an absolute transfer.

169. He would first fill up the form of transfer?—Yes.

170. And there would be nothing said about the equity of redemption?—No; there would be a separate instrument as to that; and the mortgagor would lodge his caveat to prevent the mortgagee from dealing improperly with the estate.

171. *By Mr. Hood.*—Would not the mortgagor, when he lodged his caveat, require to have the mortgagee a party to that caveat?—He might; and that would almost invariably be done.

172. *By the Chairman.*—Is there an absolute necessity for it?—No. He might lodge his caveat without the concurrence of the mortgagee.

173. Then I understand it to be something in this way: his proviso of redemption would be by a separate deed, upon which a caveat would be registered. The borrower would execute a short conveyance in the form given in the Bill to the mortgagee; by that the mortgagee would appear to be the absolute owner of the property?—Yes.

174. At the same time he would execute that the mortgagee would sign a declaration, declaring that he only held the property as security for the payment of a sum of money, with interest in the mean time, payable half yearly?—Yes.

175. That declaration would contain the ordinary clauses, usually contained in a mortgage deed?—A proviso for redemption.

176. That would be signed by the mortgagee, and would be the protection which the borrower would have against the mortgagee?—Yes.

177. The mortgagor would go to the registrar with that deed, and would claim on the strength of that deed, to lodge a caveat against the mortgagee selling the land of which he appeared on the register to be the absolute owner?—Exactly so.

178. Under those circumstances is there any necessity for the mortgagee attending or taking any step in reference to that caveat?—No; not at all. You will find the form entered in the schedule of the caveat book at page 20 of the Bill, and the first example given under the heading of "Ground of caveat," is the case of a mortgagor "That John Brown is only mortgagor for £500."

179. Will you now explain to the committee how you propose realising upon that property in the event of the money not being paid?—He could sell absolutely as absolute owner, but if he attempted to sell wrongfully, that is to say, before the time when he was entitled to sell under his declaration, the mortgagor would obtain a restraining order to stop him, instead of being put to the expense of an equity suit for an injunction, as now.

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180. How would the mortgagee realise in default of payment?—He would sell the land in the usual way. The 23rd section gives him full power of sale.

181. No, there is a caveat lodged; how is he to get rid of that caveat?—If he was selling properly, the caveat could not stop him; the court would not grant a stop order.

182. Assuming the money to be due one week—after the money was due, how is the mortgagee to give a conveyance; what is the step to be taken?—He would make a common transfer to the grantee.

183. What protection is there against the mortgagee selling, although he may have received the money from the mortgagor?—The mortgagor could stop him by a restraining order.

184. Is there nothing on the face of the registry to protect the mortgagor without the necessity of going to the court to protect him?—No, nothing, no more than in the case of stock. The Bill in this follows precisely the stock system.

185. Then, immediately after the money falls due, as shown by the caveat, the mortgagee has the power of sale?—No doubt.

186. And unless the caveator steps in and prevents him, he will sell?—Exactly so.

187. And under this Bill the purchaser is justified in taking his conveyance from the mortgagee?—He is, unless the mortgagor can stop him by a restraining order.

188. I am taking for granted that the caveat is not carried out; in that case would it be necessary for the registrar to give the caveator notice?—Certainly.

189. Although the time for payment of the money had manifestly expired upon the face of the deed?—Certainly; I would in all cases give notice.

190. Then, that would delay the mortgagee for one month, assuming that the registrar gave a month to get a restraining order?—It would. I can make no difference between cases. I cannot make the registrar the judge of whether the money has been paid or not.

191. Are you aware whether at the present time it is customary to have in all properly drawn mortgage deeds a covenant that there shall be one or two months' notice before the sale?—Usually, three months I think.

192. That is the case in England, but it is usually one or two months here; at all events the same delay would exist under the present state of things as would exist under the new registry?—Exactly so. In fact, I think the new system would be more speedy; because you will remember that, under the present system, in addition to that month's notice, you have to satisfy the purchaser as to the goodness of your title; that would very often take a fortnight or a month.

193. So you would in the other way too?—No; the month would be all that was required.

194. Then there would be no greater delay in the sale by a mortgage under this Bill than there is at the present moment?—No greater; rather less.

195. And there would be quite as much if not more facility for sale than under the present system?—Certainly.

196. And would there be as much protection to the borrower against an improper sale by the mortgagee?—Greater protection, because he would have a certainty of notice from the registrar; whereas, under all deeds drawn at the present day the property might be sold without any notice at all.

197. It is not a condition precedent, but a mere covenant?—It is a mere personal covenant, followed by a proviso, that the purchaser shall not be bound to see that notice has been given; and I would observe that, under the proposed new system, persons would be much more willing to mortgage their estates, because the mortgage would never appear on the title when once wiped off. In the present day a man does not like to give a legal mortgage of his land. Persons constantly wish for an equitable mortgage; they do not like the mortgage to appear upon the title. Any other person coming in and buying would see that they had been dealing with their estate; whereas, under the contemplated system, all that would be a sealed book to the purchaser; he would only go back to the last grant.

198. Would you mention what you propose as an equitable mortgage?—Then of course the estate would remain in the name of the mortgagor, and the equitable mortgagee would lodge a caveat somewhat in the form given in the 20th page of the Bill.

199. *By Mr. Hood.*—Would a judgment of the Supreme Court against a party be a sufficient document to warrant your lodging a caveat against a man selling his land?—The writ of execution would.

200. Or an over-due acceptance?—Not without a judgment being obtained upon it.

201. Suppose I had a judgment against a man for £1000 in the Supreme Court, and I knew that he had property that was free and unincumbered, if I lodged a caveat against that, should I get paid in full, if he became insolvent the next day, to the prejudice of everybody else?—It would not alter the present state of things in that respect in the slightest degree; the Bill makes no difference in that.

202. It puts the judgment creditor in no better position than the ordinary creditor, supposing the man to become insolvent?—No, certainly not; it would make no alteration in the present law in that respect.

203. *By the Chairman.*—Will you explain to the committee how you would work a

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second mortgage upon the legal estate?—I will answer that question in Mr. Cookson's words again, "A second mortgagee would lodge a caveat, and would as now give the first mortgagee personal notice of his charge, so as to protect his right to the residue after the first mortgagee is paid off."

204. Then there would be no difficulty in effecting a second mortgage under this Bill?—No; and the 65th section protects a second mortgagee, by doing away with tacking.

205. Have you ever heard these words before; have you ever heard of a person having a first estate of freehold of inheritance in land?—Certainly, there may be more than one estate of freehold of inheritance of land.

206. And if there are several, there must be a first?—Yes.

*The witness withdrew.*

TUESDAY, 29TH SEPTEMBER, 1857.

MEMBERS PRESENT :—The Honorable J. B. Bennett, in the chair; the Honorables W. Highett, J. Hood, T. H. Power.

Charles Bruce Skinner, Esq., again called in and further examined.

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207. *By the Chairman.*—Will you be good enough to explain to the committee what the first estate of freehold of inheritance means?—This provides that where there are no trustees and the fee simple is parcelled out into several estates, the person having the first freehold of inheritance should register. In settlements the fee simple is usually vested in trustees, to preserve contingent remainders, with full power to the trustees, with the concurrence of the tenant for life, to deal with and dispose of the estate for all purposes. In that case the trustees would be the registered legal owners, and the tenant for life would lodge a caveat to prevent the estate from being dealt with without his concurrence; and he would also be registered as tenant under the 30th section. But it is necessary to provide for cases (as under a will) where there have been no trustees appointed, and the fee simple may be parcelled out into several freeholds of inheritance. In case of a devise to A for life, then to B in tail male or tail general, then a like estate to the other members of the family in succession, concluding with a limitation to the right heir of the devisor, A would register as tenant for life under section 30, and B, having the first freehold of inheritance, would register as legal owner under the 12th section.

208. On such a principle as you have now explained, would there be any difficulty in meeting the various exigencies arising from the necessary provisions for families?—I do not see any.

209. Would those provisions for wives and children, which I have just mentioned, appear incorporated upon the main trunk of the title on the register?—No; the legal ownership alone would be registered. My object has been to apply the stock system as much as possible to land. You will find Mr. Field says at page 26, section 273, "to all the stock which stands in the names of the two persons or more, and to a great deal which stands in the name of one person, there exists just as much as there does to the land, a collateral set of deeds defining the equitable rights in that stock." I propose to apply the same principle to land as now exists in regard to stock.

210. Having now ascertained the manner in which you would deal with trusts, how do you propose to protect the persons interested in these trusts from having the estate sold away from them?—By caveat; in the same manner as persons beneficially interested in stock are now protected.

211. I am assuming that the deceased owner, or the original owner, appear in their mere naked capacity on the register of the deeds?—Yes.

212. Then those persons for whom the trustees hold would have their interests protected by a set of registrations of caveats?—Yes; or rather entry of caveats. The legal estate only is registered. The caveats are entered in a separate book.

213. Would those caveats then go fully into the trusts of the deeds?—Yes.

214. And afford as much protection to the persons interested as the present deed of settlement under the present registration system?—More so; because, as I before observed, in settlements the trustees have usually an absolute power of dealing with the estate; and in almost every mortgage the mortgagee has an absolute power of sale, the covenant as to notice being merely personal.

215. Assuming the trustee or original owner to negotiate a bill of sale of the property, how do you propose that the caveators shall obtain their protection?—In the instance which I have given, that is, in the usual case of a settlement where the trustees have an absolute power of sale with the concurrence of the tenant for life, then the tenant for life would lodge a caveat to prevent the trustees dealing with the estate without his concurrence. I have already observed, that the same principle would apply throughout where the consent of other parties was required, and they would be entitled to come and lodge caveats; and I think, in fact, practically it would work thus—that at the time when the settlement was made, the settlor would take care that the caveats were lodged on the part of those persons in whom he wished to have any power of interference, though I think it would rarely happen; because, when you appoint a trustee you assume him to be a person of good credit, and trustees would not like to accept trusts where there was any doubt thrown upon their integrity.

216. There is more than one description of caveat, if I am not mistaken?—There may

be a caveat to prevent absolutely dealing with the estate, or a partial caveat to secure to the caveator the payment of a certain sum of money. For instance, a judgment creditor may lodge a caveat to prevent the sale until his money is deposited with the registrar; or an equitable mortgagee may lodge a caveat to prevent the sale until his mortgage money and interest are deposited; then there would be no delay under the Bill, because, on that money being paid to the registrar to the credit of the caveator, the transfer would be allowed at once without any notice.

217. I am addressing myself more particularly to the caveat of those persons beneficially interested under a settlement, who in the present state of affairs would not receive any notice beyond what they might get from the honesty of the trustees—are those persons by the intended measure in a better, or a worse, or in the same position?—They are in a better position, because the beneficiaries, though they could not stop the sale, would have notice of the sale, so that they might see to the proper application of the purchase money.

218. Is that the case under the present state of affairs?—No; they have no protection whatever.

219. Then you would not hamper the sale of the legal estate more than at the present time; but you would give a protection to the beneficiaries, as I understand you, by letting them know when the property was sold, so that they might look after their own interests?—Exactly so.

220. Which is not the case at present?—Precisely so.

221. Am I correct in saying that that particular description of caveat is provided for in the schedule?—Yes, at page 20 you will find the schedule G H, “to be served with notice in case of sale.”

222. Assuming that the trustee, as is sometimes the case now, can only sell with the consent of the beneficiaries, in that case it would be necessary that all parties should join in the deed under the present state of affairs?—It would.

223. Will the present measure enable the same to be got at without the cumbersome necessity of a deed to which all must be parties by means of a transposition of caveats?—Yes.

224. Would you explain that to the committee?—Under the 45th section:—“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.”

225. *By Mr. Hood.*—Could any parties be prejudiced under your proposed Bill—is it proposed to give power to one party to bind another against his will in any way?—No, certainly not; it does not alter the rights of parties in any manner. You will observe that, under the 38th section, the caveat may be lodged by the claimant either on his own behalf or on behalf of himself or any other persons claiming under the same instrument.

226. *By the Chairman.*—Then, as I understand the working of the Bill, it is this: The trustee will enter into arrangement for the sale of the land; notice will be given to the caveators; they will all attend at the office by themselves or their attorneys, and give their consent to the sale?—Precisely so. Mr. Cookson tells you (in his evidence cited before) that that is how it works as to stock.

227. What are you to do with the purchase-money then—how are they to protect themselves after they have given their consent to the sale?—That will be by arrangement between the beneficiaries and the trustees. It will be precisely the same as it is now done with regard to stock.

228. Assuming that the trustee and all the beneficiaries arrive together at the registrar's office, and that they say—we consent to the caveats being removed—the registrar will remove the caveats—will you explain to the committee how the caveators will protect themselves after they have removed their caveats, so as to enable them to transfer them on to some other properties?—They will do exactly as they do now. Most probably the money would be lodged in the bank until the fresh property, be it land or stock, was purchased, and their caveats would be lodged against that fresh property.

229. Then would not it be possible to have the whole arrangement for the fresh property or the fresh stock so far ready as that it might be all done at one moment in the registrar's office?—Certainly it might.

230. Then in that respect there is no danger or difficulty more than at present exists?—There would be no alteration whatever; it would be done as it is now.

231. Is there any other matter suggests itself to your mind purely in reference to conveyances and settlements?—There is an omission in the simple form of conveyance. At the end after the description of the land, at page 4 of the Bill, line 8, I would add the words “and also the following easements,” that any rights of way, &c. might be set out there.

232. Does anything else suggest itself to you purely in reference to the conveyancing of land?—It would also be convenient to add after the easement a short declaration in bar of dower, in case the grantee wished to bar dower under the Act.

233. Let me direct your attention to the 23rd clause of the Bill. When once a person possessed of the fee simple obtains himself to be the registered owner on the registry for the first time, to what extent does that affect the previous title?—I have already experienced that—it does not affect the state of the title previous to the certificate.

234. Then under the 23rd clause the original title has to be subject to tenures registered under this Act, and to leases not exceeding three years in possession?—Yes; and to the state of the title prior to the date of the certificate.

235. To what tenures would the legal owner be subject?—First, to leases under three years in possession, because they need not be in writing under the statute of frauds. Secondly, to leases above three years, registered under the 30th section of the Act, and estates for life or

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lives under a settlement or will and tenancy by courtesy. There is some diversity of opinion on the evidence on this point, and I wish to mention it here. The question is as to what interests the legal ownership should remain subject to. Mr. Buller in his scheme sections 22 to 36, sets out a variety of other interests, which he divides into absolute and qualified interests. But on his examination, page 74, section 823, he admits there is no reason why the owner of a qualified interest should be put on the register any more than the owner of a beneficial interest of similar duration, and that those interests only which are legal estates in possession need be on the register. Mr. Cookson, at page 23, section 24, would confine it to leases only. Mr. Williams, page 31, section 338, would add "rent charges;" and at page 33, section 361, Mr. Williams says that no interest should be capable of registration, except an estate in fee, a lease, or a rent charge; and that the protection of all other interests would devolve on the registrar. As to rent charges, it appears to me that the opinion of Mr. Williams on this point was guided by the state of circumstances existing in many parts of England, and especially in Lancashire, where the dealings with rent charges had become nearly as intricate as with the title to the land itself; but that state of circumstances happily does not exist in this colony, and would, it appears to me, interfere materially with the working of the scheme; for as Mr. Williams most truly observes in his evidence, page 28, the object of this scheme is to preserve the distinction between land as an article of sale and as a subject of beneficial ownership; and page 32, section 356, if persons wish to create modifications of ownership of land differing from the registered ownership, they must do so only by way of equity, in the same way as they do so now, if they wish to create equities in stock or railway shares. Mr. Buller also provides for the distinction between estates in *esse* and *posse*; but as to such estates prior to the certificate, they would fall under section 23, clause 3, and as to those subsequent, they are modifications of title to be treated as mere equities, as above observed. You will observe that I fixed three years as being the same time as the statute of frauds. Now, Mr. Cookson proposes that occupation leases not exceeding twenty-one years should be excepted from the registry and protected by possession. Now, I think this too long a time and dangerous to a purchaser. Under the present law, notice to a purchaser of possession by a tenant is notice of his interest (*Hiern v. Mill*, 13 Vesey, 120; and *Taylor v. Hibbert*, 3 Atkyns, 294). Lord Rosslyn observes, that it has been determined that a purchaser being told particular parts of the estate were in the possession of a tenant without any information as to his interest, and taking it for granted it was only from year to year, was bound by the lease that tenant had, and that this was rightly determined. The inconvenience of this is obvious, for a purchaser might, in many cases, be unable to ascertain the precise interests of the tenant, and so find portions of the estate tied up for twenty-one years. I therefore propose to limit the notice given by mere occupation to three years, using the words of the statute of frauds. I am aware that it is not so at home, as leases at rack rent, or not exceeding twenty-one years, where the occupation and possession go along with a lease, are not within the Registry Acts of Middlesex, Yorkshire, or Kingston-on-Hull. The New Zealand Registration Ordinance of 1841, section 6, provides that no lease, or agreement for a lease, for any time not exceeding seven years from the date shall be registered. I think three years will be sufficient, and that registration ought to be compulsory in all cases where a witness is necessary.

236. Let me direct your attention to the 28th clause, and more particularly to the question in reference to the covenants. You say that the deed shall not require any formality, and "the following covenants for title shall be implied, 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?"—Yes.

237. Is it not necessary that you should have "for quiet enjoyment and for further assurance," in order to satisfy the present chain of covenants?—Those covenants would be useful to protect the purchaser as to the state of the title prior to the date of the certificate; but the wording of the 53rd section prevents the necessity of any such covenants after that date.

238. I am now about to address myself to leases over three years, which you propose to register under this Bill—would you tell the committee first why you propose to register any leases at all?—Because a lease is a separate legal estate in itself not affected by a sale, and which may be dealt with by itself.

239. From its length and value, may it be a subject of transfer as much as the land itself?—Yes, it may; but I have never heard of a long lease here. I believe even twenty-one years to be very rare.

240. Then you propose to register those leases by a separate registration from the main trunk of the title?—Yes.

241. You have not put in this Bill a form of a lease?—No.

242. Will you explain the reason?—Because it would be impossible to give one form of lease which would apply to all cases; there are various kinds of leases and various kinds of covenants in leases which the parties provide for themselves.

243. Then you do not think that a short form similar to that applicable to the mere transfer of a piece of land could be rendered available for the more complicated nature of the arrangements under leasehold property?—No; there has been an English statute passed, I think by Lord Brougham several years ago, giving a form of lease, and implying a number of different kinds of covenants, and it has been found to be impracticable and useless.

244. Are you aware that that Act is in existence in this Colony and has been found impracticable?—I see that it has been extended here by the Act, 11 Vict. No. 20, passed in 1847, but I never saw that form in use here.

245. Then, as you do not propose a form of lease in yours, in what way do you propose to get the contents of the lease upon the register?—I propose it to be registered by memorial, as now.

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246. Have you given the form of that memorial in the schedule to the Bill?—Yes, at page 19, "Memorial of Tenure."

247. What process do you propose to set on motion in reference to this lease by memorial analagous to the registration of the fee simple?—The same process; but I do not give it the same force as is given to a grant of the fee simple under section 23; I think it unnecessary, as we have no long-leases for ninety-nine years here, and the title to leases would not become so complicated.

248. Does this Bill provide for caveats in reference to leasehold properties identical with freehold?—It does precisely the same.

249. In reference to several caveats lodged against the same property, whether freehold or leasehold, in what manner do you intend they shall take effect—I am now speaking of the thirty-third clause?—They shall take priority according to the priority of caveat lodged thereon. Allow me to observe that the words used in the three first lines of the thirty-third section of the Bill are the same as those used in our present Registration Act, 5 Vict. No. 21, sec. 11, with the exception of the words in brackets [where the equities are equal] which are used by Mr. Buller in his scheme, and that the remaining words of that section were used by me with the view of excluding the doctrine of notice, either actual or constructive. The wording of the Irish Act, VI. Anne c. 2 s. 4, is as follows: "That every deed and conveyance shall be taken as good and effectual both in law and equity according to the priority of time for registering" &c. I find that Mr. Bell, Queen's Counsel, advises the adoption of the words of the Irish Act with the following addition, "Provided nevertheless that nothing herein contained shall prevent a Court of Equity giving such relief to any party as he may be entitled to in cases of actual fraud." And he observes that this would enable judges to deal with particular cases without letting in the doctrine of constructive notice.—(See 1st Report 1850, second part, page 5.)

250. You have not followed his advice?—I only came across it twice. I drew that section.

251. Which would you recommend?—I think that, if it is intended to let in the doctrine of notice at all, the section should stand in the words suggested by Mr. Bell.

252. Will not the subject of those caveats be saleable in many instances?—Certainly.

253. Would you give the committee an instance of it?—The equity of redemption represented by a caveat or any beneficial interest would be saleable.

254. Then do you consider it would be advisable to allow any fraud as between the parties to interfere with the protection of the third person purchasing that caveat?—No; I do not. I think it would be very dangerous to let in any doctrine of notice, either natural or constructive.

255. Do you think that Mr. Bell's suggestion would go the length of your view, if it allowed equity to deal as in cases of fraud?—I think it might be dubious.

256. On the whole, which would you prefer as a matter of opinion—the way you have drawn it, or Mr. Bell's view?—I would leave it as in the bill, striking out the words in brackets [or where the equities are equal].

257. Then you would throw upon every person the onus of protecting himself by the immediate registration of his interest?—Precisely so.

258. And would punish delay by the risk?—I would make the registration compulsory.

259. Are you aware in your profession, as a matter of practice, whether much difficulty arises at present in this colony between conflicting interests in reference to the priority of registrations—do you know of many instances yourself?—No.

260. Do you agree with me in thinking that they are very rare indeed on which such questions arise?—I think they are likely to arise—the question has never been settled, but it arose in the case of Walker v. Mahoney, the other day.

261. But do you agree with me in saying the cases are rare?—They have been rare as yet.

262. Do you agree with me in saying the cases are rare in which they will arise?—I think they are very likely to arise.

263. But are they likely to arise frequently?—I think not frequently; but that may arise as the colonial law differs from that at home in this point, and does not appear to me to afford the same protection. Governor Macquarie's proclamation of January, 1817, provided that unregistered instruments should be fraudulent and void against a subsequent purchaser for a valuable consideration getting his deed registered first. The English registry Acts, and the Registration of Assurance Bill, section 31, are the same, omitting the word "fraudulent." But the New South Wales Acts, 6 Geo. 4, 22, 5 Victoria 21, and 7 Victoria 16, made a material alteration in merely providing that registered instruments made *bonâ fide*, shall have and take priority according to priority of registration. You will observe that this is not so strong as the wording of the English Acts; and even the security given to purchasers by the English registry Acts has been very much shaken by the doctrine laid down in *Blaides v. Blaides*, and *Sheldon v. Cox*, 2 Eden, 224, in which it was held that a registered deed, with notice of an unregistered deed, should not prevail against it. From the observations of Lord Eldon, in *Wyatt v. Barwell*, 19 Vesey, it is clear that he considered the doctrine of equitable notice to be against the policy of the registry Acts, and he held that the doctrine of constructive notice would not apply, and that to affect a registered deed by notice of a prior unregistered deed, actual notice must be clearly proved amounting to a fraud. And he goes on to observe that, even under this limitation, the security derived from the register is considerably lessened,



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as no one can with certainty tell what circumstances may truly or falsely be given in evidence, or what judgment a court will form as to the effect of the evidence in any particular case. The New Zealand registration ordinance, of 41 section, No. 21. further provides that priority given to a purchaser for a valuable consideration shall not be taken away either by law or in equity, in consequence of such person having been affected with notice either actual or constructive. I agree with the last. I am of opinion that no notice either actual or constructive should affect a registered deed; and I observe that Mr. Cookson (see page 6, s. 56) is of the same opinion.

264. We have hitherto spoken of transfers of property, freehold or leasehold, by the acts of the parties themselves, I wish now to bring you to the point of the transfer of property by devolution of law, as it is called. For instance, upon the death of a person, is it intended by this measure to give the registrar power, on the death of any person, of transferring the property standing in the name of the ancestor into the name of the heir or executor alone by himself?—No.

265. By what authority does this measure propose to authorise such transfer?—A vesting order from the Supreme Court in reference to realty, in the nature of a probate as to personalty.

266. Personalty, I suppose, would be transferred upon the production of the probate?—Yes.

267. Do you conceive that much expense would be incurred in obtaining a vesting order for realty?—No, I think that any expense would be overbalanced by the manifest inconvenience now experienced by not having a vesting order on death. I would observe on this point that at home it is the opinion of the most eminent lawyers that there should be a probate of realty as well as personalty, as being for many purposes absolutely necessary. Mr. Cookson, at page 17, says that "In case of death there should be registration of the death by the heir, or of the will, and some evidence of the claimants title." Mr. Williams, at page 32, section 357, says, "He would compel the deviser to appoint trustees to hold the legal ownership, and all other estates would be mere equities;" he would not otherwise allow entry in any form on the registry. Mr. Field, at page 22, section 235, says that he would make the executor or administrator the real representative, and he observes very forcibly, "If a term for a thousand years vests in him now, why should not the fee?"—that there is great inconvenience, as all land is now made liable for payment of all debts. You are obliged now to go to the Court of Chancery to get a trustee appointed, because, by the new laws, you have created trusts in land, and have not guarded against the duty being thrown on an infant, or else to get it vested under the Trustee Act, in the executor or some one else, to enable him to do that which the law requires him to do—namely, to pay debts. At clause 246, he says an infant cannot have probate in any case, whether the estate be indebted or not; land has its duties as well as its personalty. There are generally legatees, annuitants, or mortgagees to pay. To discharge these you cannot wait *durante minoritate*. At section 249, he says in ninety-nine cases out of one hundred, the realty and personalty are devised to the same trustees. At clause 242, he says "No mischief has occurred as to stock;" why as to land, which is more patent. At clause 249, he says this would not prevent the testator appointing an executor and a separate trustee, if he chose; but at the same time there is no question, from the late reports of the Wills Commissioners, that ere long there would be one probate for real and personal representation. At clause 248 he says a beneficial interest would descend to the heir, as now. At page 236 he says "he would do as with stock. The probate is taken to the Bank of England, the Bank keep it a day or two in their Will Office, they then enter the different stocks which belonged (according to their books) to the testator into the name of the executor." At 237 he observes "if it had passed through five persons without transfers, you take a certificate of burial of the first four to the Bank, with the probate of the will of the last." At 238, that "he would allow the legal representative of the last trustee to go and register as the owner, as a matter of course, the same as the executor of the executor of personalty, and would extend it to the administrator of an executor; the law being inconvenient as to that." Mr. Williams, at page 49, clause 565, observes that "proof of heirship might be made before the registrar, but whether he should be constituted a judge, or whether it should be decided by the proposed Court of Probate, is a mere matter of detail; and that he would make the decision judicial, so that a subsequent purchaser might not have to go into evidences of heirship as now; and clause 575 that the period should be limited within which the production of the will to the registrar would defeat the heir's title, otherwise the heir might register; and clause 583, that the registrar of wills of land might decide upon the validity of those wills until a Court of Probate was established. Now I fully agree with those gentlemen, that where a grantor dies intestate, there must be some one appointed to deal with the estate as respects creditors or mortgagees; and more particularly as you may replace stock, but you cannot replace land; and in case of a will, Mr. Field's arguments show that it might be advisable to grant probate both of the realty and personalty to the executor (unless separate trustees are appointed for the realty). But in case of intestacy, there appears to me this difficulty—To whom is the court to grant an administration—to the next of kin or the heir? Administration of personalty is granted to the next of kin, as the person most interested therein; but the heir would be equally entitled as to the realty, and if the heir be under age, the next of kin would be the last person to whom administration of realty should be granted, as his interests in most cases would be conflicting. I would therefore leave it to the Supreme Court to judge who was the person best entitled to the vesting order. I also think that it would be unadvisable to give the registrar judicial authority to grant probates of lands, as the very publicity of an application to the

Supreme Court is a great check upon fraud. I also hope that the 22nd section as to a revocable grant by way of will would be found useful. You will observe that, as to the legal ownership of land, the first line of the 52nd section requires a vesting order only on the death of a sole or last surviving owner; as, if the land is vested in trustees, there would be a conveyance by the surviving trustee to the new trustees; or if he refused, it could be compelled under the Trustee Act. The second line refers to tenures of a freehold nature only, as a vesting order would not be required as to leases and terms of a chattel quality which would pass probate or administration. As to tenures then, a vesting order would be required only, in a lease for life or lives, and in estates for life under a will only, as on a settlement there would always be trustees.

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268. Then you would propose, in case of intestacy, that before the heir could sell the property, he must get his name enrolled upon the register as the owner?—Yes.

269. To do so, he must prove his heirship before the court?—Yes.

270. And obtain what you would call a vested order?—Yes.

271. This proposition, if I understand rightly, will save the necessity in after years of proving the heirship?—It would, and thereby give much greater security of title.

272. Would it, in your opinion, be a convenience?—Certainly; and it would be necessary for the protection of the registrar, and also of the rights of the parties.

273. Having once satisfied the court as to his heirship, would you make that vesting order a protection to the purchaser taking from him as heir?—I would.

274. And by that means settle that question?—I would. You will find the rule at page 22, having reference to the 52nd clause, that is to guard against cases of a vesting order having been improperly obtained, or a will coming in after the heir at law had got a vesting order, supposing that there was no will. The commissioners' report of 1850, page 29, recommends two years' time to be given for bringing in a will.

275. Assuming that the owner of freehold property devises it by his will, would you require a vesting order for the trustees, or would you allow them to come with their document and satisfy the registrar, and have their names put on at once by virtue of that?—I would require them to come in and obtain a vesting order, unless a will had been made in the manner mentioned in the 22nd clause.

276. But under the present system of drawing wills, you would require them to obtain a vesting order?—Yes, under the present form of wills.

277. You would not allow the registrar to sit in judgment upon a bill?—Certainly not. He is merely a ministerial officer, not a judge, and must be protected where the grant is not made in the ordinary way, in like manner as the Bank of England is protected in the case of stock. The 22nd clause, therefore, enables any person to take his revocable grant by way of will to the registrar during his lifetime, and in that case I would require no vesting order; but in case of his death without doing that, if he chose to make a will in the usual manner, I would require a vesting order.

278. Why?—Because it would be excessively dangerous not to have it, for I would not make the registrar the judge of whether the man was dead, and who was his heir or devisee. It has been truly observed by the commissioners, in their report of 1850, page 28, that a testator should be compelled to provide for the custody of his will, in like manner as he is now bound to execute it properly. So by this Bill, if he choose to execute his will in a particular way, under the twenty-second clause, there would be no expense of probate.

279. Then you consider it more judicious that the court should be the interpreter of these wills?—Yes. You must remember that the grant under this Act is indefeasibly an absolute estate.

280. You do not think it judicious to give the registrar discretion in reference to this matter?—I think not.

281. What would you do in the case of insolvency?—In case of insolvency, the official assignee would produce to the registrar the vesting order which he has under the present Insolvent Act.

282. And on the production of that vesting order, what would be done?—The registrar would grant a certificate of legal ownership, mentioned in the twenty-first clause.

283. What do you propose to do with a caveat when its object has been effected?—If it is such a caveat as would prevent dealing with the property, it remains there, and prevents any transfer until it is satisfied. But if it is a bad caveat, and the transfer is allowed, the registrar shuts his book, and these caveats no longer appear on the title.

284. Supposing that the caveat is lodged against a property in fee simple, for instance, under a will for the payment of a certain sum of money when the object for which that caveat is lodged is effected; or, in other words, when the money is paid, the caveat is satisfied?—Yes.

285. What is to be done then with the caveat?—It may be withdrawn and cancelled; or, if it remains, it does no injury, because no action can be taken upon it.

286. And it does not appear again upon the title?—No; it is wiped out.

287. As I understand the working of this bill, it is intended that the caveator shall receive notice of an intended sale, and that he shall have a given time to come in and prevent the sale?—Yes; as with bank stock.

288. And that, unless he comes in within that given time, he is considered to have abandoned his caveat?—Precisely.

289. Assuming that he does come in to prevent the sale, how is he to effect that?—He would proceed under the 46th clause, and obtain a restraining order. That clause is taken from the Bank Stock Act, 5 Vic. 5., sec. 4.

290. In your opinion, will that be an expensive process, or a long one?—On the contrary;

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at present he would be put to the expense of a Bill in Equity to obtain an injunction. This clause gives him a speedy and inexpensive mode of remedy by a motion in a summary way. That clause is to save expense, not to create it. I would also observe that the following sections, 47 to 50, are inserted with a like view to save expense and cause uniformity of practice. They are the same as sections 38 to 50 of the Trustee Act, which has given much satisfaction.

291. According to the 68th section of this Bill, you propose to obtain a certificate from time to time from the registrar of the state of the title. Do you conceive that there would be any difficulty in altering the Bill so as to enable persons who wish the register to be searched, that their own solicitors should search, instead of always relying upon the certificate of the registrar?—That clause is taken from the 62nd section of the Registration of Assurance Bill. I would strike it out from the 44th line of section 68 down to the end of section 69. If the registry books were remodelled, and the former titles brought up, on the map system (as I originally proposed), the registrar would have had the whole title in the same page; but in the present confused state of the registry, the registrar could not furnish these certificates. That should therefore be struck out.

292. Will you explain shortly to the committee the new mode by which you propose in this Bill to enable a man to make his will under the 22nd section—is this the method you intend, that, instead of a devise in a will with all the circumstances attached to it, as in the present case, a person may convey land to trustees, and absolutely lodge it in the registry, with instructions that it is not to take effect until his death?—Yes.

293. And at the same time lodge a declaration of the trusts upon which the devisees are to hold the property?—Yes.

294. But you do not propose interfering with the present method of making wills for those who please to make them as at present?—No, I do not interfere with them.

295. I see, by the 70th section, you propose to enable persons to lodge their wills at the transfer office by way of security?—Yes.

296. Is that clause absolutely necessary for carrying out this measure, or is it merely an additional convenience?—It is merely an additional convenience—it has nothing to do with the Bill. It is the same as the present Register Act (6 Geo. IV., cap. 22, sec. 7.) The Commissioners of 1850, consisting of Lords Longdale, Beaumont, and others recommend in their report (page 28) that every testator should be compelled to provide for the custody of his will.

297. By the 61st clause you provide that persons may lodge their deeds in the land transfer office, and avoid the liability of their covenant to produce?—Yes; that will be a great convenience, especially where the land is subdivided.

298. In the 62nd clause you have given power for the deposit of powers of attorney?—Yes.

299. Have you seen the new Bill at present before the Legislative Assembly, introduced by Mr. Grant for the same purpose?—Yes, I have.

300. Does it provide for the same thing as this?—This clause provides for the same thing in a shorter compass, with the addition, that it requires an order in the case of absentees.

301. Will you explain to the committee why you make an order of the Supreme Court necessary for the attorney to lodge the power of his principal?—Because I think the registrar would not be sufficiently protected otherwise. The Bill requires every person to lodge his power of attorney personally; but if he be in England or in a foreign country and sends his power of attorney out here, how are the registrars to know that that is a good power of attorney.

302. How does he know it is not a forgery, in fact?—Just so. I think it would be impossible for the registrar to act upon any power of attorney without the order of the Supreme Court, because, how is he protected in case of forgery, if there be a false transfer. You must remember again the danger for false transfer, as the land cannot be replaced.

303. You think, for the protection of the principals, it ought to be so?—Yes, and that is taken from the Sydney Act, 7 Victoria, No. 16, section 12, which contains similar powers, and the 63rd and 64th clauses are taken from the New Zealand Registration Ordinance, sections 22 and 23.

304. Will you also explain the meaning of those clauses?—The 63rd explains itself. The 64th does away with the anomaly now existing under the Statute of Elizabeth.

305. What is that anomaly?—That Statute was intended only to protect purchasers; but it has had the effect of enabling a lender to do away with his own former conveyance. That often gives rise to suits—thus, a person who has made a voluntary postnuptial conveyance to his wife before contracting debts, afterwards becomes insolvent and his creditors cannot touch the estate, but yet he may sell it.

306. It enures for his benefit, though his creditors cannot touch it?—Yes; in fact a Statute which was founded for the benefit of purchasers only has been twisted for the benefit of other persons.

307. Will you shortly explain the 65th clause?—Tacking is this—that a third mortgagee, without notice of a second mortgage, at the time when he takes his security, may afterwards tack by buying in the first mortgage, though at the time of purchasing the first mortgage he had notice of the second mortgage. That is the law as it as present stands. Now Judge Stoney, in his Equity Jurisprudence, section 114, observes, “That there is great hardship in this rule, as the second and third mortgages have equal equities, and that the proper rule is *qui prior est in tempore, melior est in jure*. Chief Justice Kent concurs with him. The civil law repudiates the doctrine of tacking.

308. And you propose to do the same in this Bill?—Yes.

309. Is there anything further you wish to add to your evidence?—I am of opinion that a central registry would be better than district registries; firstly, because I think it would be a great expense to the country to have several registration offices, and I should prefer that the registrar here should have assistant registrars, who should be solicitors or conveyancers of experience, with whom he might advise in matters of importance, and who might succeed him in his office of registrar. I think the registrar and assistant registrars being together would assist one another and would conduct the business much better, and the practice would be more uniform. That the inconvenience as to persons residing in the country would be entirely obviated by the appointment of an assistant registrar in any district, under the 6th section; that he might receive and transmit instruments to the registrar, and do any acts that may be required to be done at the time. Upon any sub-division of lands, he would mark off the sub-division upon the original grant, and return it to the grantor. That the most sales are effected by, and the greatest amount of money lent upon mortgage, is lent by persons residing in Melbourne; and it would be equally inconvenient for them to have to send up to register their deeds in the districts; and that in the Irish Registration Bill the registry office is made central. A good deal of evidence has been taken upon the point, and the opinion of those best acquainted with the subject seems to be that the registry should be central; and moreover, that the registry office ought to be a large and extensive building, with proper vaults and safes, for the safety of the deeds; and it would be very expensive to have them scattered over the country.

310. Have you anything to add with reference to the mode of registration?—I have adopted the map or numerical system by this Bill, as it appears to be very simple and efficacious. There has been a great deal of evidence taken upon that point before the commission of 1850. They recommend an index of estates identified and referred to by numbers marked on a map or public survey, and they recommend that each district shall have a land index formed with reference to a map like the tithe office books. The report of 1850 has been very carefully drawn up, and it contains the reports of the commissioners sent into the different countries of Europe for the purpose of investigating the different systems of registration, with the maps, plans, and tables attached, and it appears from that that the Belgian system is the best; it has been in use for many years and appears to have given great satisfaction. Mr. Sanders observes that the errors are very rare, and there have been only two during the thirty years that M. Petre has been at the head of the office. The New Zealand system of the present day closely resembles the Belgian system. Under the Belgian system there is a head office for each province, each province being divided into communes. Each commune has a separate map. First, there is a small map of the whole commune on a scale of 1 to 10,000 divided into sections, depending upon the features of the country, as a road, a river, or a brook. Secondly, there is a separate map of each section on a larger scale, namely, 1 to 2500. In towns the map is larger still, as in Brussels, where it is 1 to 500, and other towns 1 to 1000; and in these cases the first map is on a larger scale, as in Brussels, 1 to 5000. On the second map are shown the parcels into which the ground is divided, marked 1, 2, 3, 4. Thus, section 1 No. 1, No. 1 A. on subdivision. Mr. Sanders also remarks that the maps are of great public utility for assessments, &c., and that the expense of the establishment does not exceed five per cent. on the fees received by Government in respect thereof. In Belgium the instrument takes effect in law from the date of registration only. The system could be very easily introduced into this Colony, as we have the Government sections and numbers to start from.

311. As I understand the object of this Bill, it is to provide for avoiding expense in relation to the examination of prior titles?—Yes.

312. But it also provides for the simplifying and shortening of the actual conveyance from hand to hand?—Yes.

313. Which of those two do you consider the most important?—The simplification of titles. There is no advantage whatsoever in a short form of conveyance without simplifying the title itself. The expense is not in the actual conveyance, but in the title. Any man may copy a form of conveyance, but the purpose for which he goes to his solicitor is to investigate the title.

314. In fact, to guard against the transactions of prior owners?—Yes. Any person trusting entirely to the integrity or wealth of the person from whom he purchases may get his conveyance made at a very small expense, or may prepare it himself; and I wish to observe further, that speaking of the expense of conveyance and the charges made by solicitors, it is to be remembered that the charge is not made so much for the conveyance, as for investigating the title. A merchant upon a sale of goods makes a charge first for commission, and secondly for the guarantee, and the guarantee is the heaviest part of his charge. So it must be remembered that a solicitor, on investigating title, has to be paid not only for his time and expense, but in fact he warrants the title. He stands in the position of an insurer; for an action may be brought against him for any negligence, for anything he may have passed over. I look upon the short form of conveyance in fact in this Bill as being a matter of small account; the great point is, firstly, to reduce the expense of investigating title, and secondly to give greater security of title. It is shown, by the evidence before the committee, that in Ireland and other places, where they have registers, the expense of investigating the title often exceeds the value of the fee-simple itself. We have here to guard against the future. Titles in this Colony will become very complicated a few years hence.

315. Of course, the short conveyance is a benefit to the poor man?—Yes; but it is of no use to him if he has to employ a solicitor to investigate the title.

316. I see in the 16th clause you have used the words "warranted title"?—Yes.

C. B. Skinner,  
Esq.,  
continued,  
29th Sept., 1857.

317. Will you explain that to the committee?—Because I think there should be an Act passed to confer warranted or parliamentary title in case of a *bond fide* sale.

318. That would be the subject of a separate Act from the present?—Yes; I have used the words "warranted title," because I think that the Government ought to proceed upon the principles of an insurance office at home; that is to say, that they ought to receive a premium for warranting the title, and that ought to form a fund for compensation where any person has by mistake been omitted. This would also be a source of revenue to the Government. I would also observe that I would add another penal clause to the end of this Bill, making fraudulent dealings by trustees a criminal offence. I understand that a Bill to that effect has been lately brought in at home. There are some errata in the Bill also which should be corrected; the word "certificate" should be inserted instead of "grant," at page 3, lines 34 and 48, and instead of the word "transfer," at page 6, line 1.

*The witness withdrew.*

## PETITION.

JOHN DUNMORE LANG, D.D.

LAI'D UPON THE COUNCIL TABLE BY MR. McCOMBIE, AND ORDERED BY THE COUNCIL  
TO BE PRINTED, 16TH DECEMBER, 1856.

TO THE HONORABLE THE LEGISLATIVE COUNCIL OF VICTORIA.

The Petition of JOHN DUNMORE LANG, Doctor of Divinity,

HUMBLY SHEWETH—

1. That, in the year 1854, George Dunmore Lang, Australian born, and the only surviving son of your petitioner, being then a young man of twenty-one years of age, who had shortly before finished his education in Europe, at the University of Edinburgh and Glasgow, and had risen rapidly, by his own merit, in the Colonial institution into which he had been admitted shortly after his return to the Colony in the year 1850, was manager of the branch bank of New South Wales at Ballaarat, and Frederick Lee Drake, a young man of highly respectable parentage in the City of Bristol, was accountant.

2. That these young men, conceiving they could materially better their fortune by commencing business as gold brokers on their own account at Ballaarat, where they had formed an extensive business acquaintance, and had gained the confidence and esteem of the public, resigned their situations in the bank with that view, on the thirtieth of September, 1854; but that, on examining the books and accounts of the bank, which had fallen into arrear from the pressure of business, and the insufficient accommodation which the establishment afforded at the time, with a view to their transference to their successors, it was unexpectedly found that there was a serious deficiency in the funds of the bank.

3. That the young men were quite unable to account for this deficiency, and did not feel warranted to charge any person whatever with having either robbed the bank or stolen the money; but that their suspicions alighted, from the first, on a person named Burtchell, from the south or west of Ireland, who had been employed for some time previous as gold buyer for the bank, and also as a supernumerary clerk on the establishment, and who had thus had abundant opportunities of abstracting the money; as the bank premises, during the whole period the young men were in charge, were of the most inferior description, and as the work of the establishment was greatly beyond their ability to overtake.

4. That these suspicions were first awakened by reports that were brought to the young men from various quarters, after they had themselves been arrested on the charge of embezzling the bank's funds, that Burtchell had been transmitting money to Melbourne from Ballaarat to a much greater amount than it was supposed he could have honestly come by.

5. That in consequence of these suspicions a warrant was issued for the apprehension of Burtchell, who had in the mean time suddenly taken his departure from Ballaarat; and that, having been accordingly apprehended in Melbourne, after he had been for several days both there and in Geelong, and conveyed to Ballaarat, he was subjected to an examination at the Police Office of that locality; but that, having no larger amount of money on his person at the time of his arrest than he was able to account for, the charge against him was at once dismissed, and he again left Ballaarat for Melbourne immediately thereafter.

6. That so strongly persuaded were the young men and their friends at Ballaarat that Burtchell had stolen the missing money, that, after his discharge at the Police Office in that locality, Mr. Marshall, a respectable householder of Ballaarat, actually rode to Melbourne, at their instance, with all possible expedition, to have Burtchell apprehended a second time; but that, on his arrival in this city, Mr. Marshall found that Burtchell had just left the Colony by the steamship *Great Britain*, by which he had previously taken his passage, and which sailed for England on the twenty-ninth of October, 1854.

7. That Mr. Alexander Stuart, the inspector of the bank, having arrived at Ballaarat for the first time in the afternoon of the nineteenth of October, 1854, and made a cursory examination of the bank books, in the course of the evening, gave out that the deficiency amounted to £24,000 and upwards, and caused the two young men, George Dunmore Lang and Frederick Lee Drake, to be arrested accordingly in the morning of the twentieth, on the charge of having embezzled the funds of the bank to that amount; but that, on a further examination of the books, the deficiency was found not to exceed £10,000, or thereby.

8. That, on being bound over at the Police Court of Ballaarat to stand their trial for the alleged embezzlement of the bank's funds, bail for the two young men was tendered to the extent of £5000 by five of the first inhabitants of the place, but that this bail was refused at the instance of the said Alexander Stuart, and the young men were consequently confined in the lock-up of the place along with the vilest felons.

9. That, while the negotiation was in progress with regard to the bail, the two young men were informed by the solicitor for the prosecution, at the instance of the said Alexander Stuart, that their bail would be received, provided they made over to the bank two gold-buying offices which they had established respectively at Avoca and Creswick's Creek, thereby authorising the grave suspicion that it was not the ends of justice which were sought for on account of the bank, but the ruin of a rival establishment which the two young men were expected at the time to form with the fairest prospects of success; but, as these offices belonged to private individuals, who were trading on their own account, and had repaid to the bank the sums which it had temporarily advanced for their establishment, they were in no way under the control of the two young men, and the bail which was tendered for them was consequently refused.

10. That, in order to justify this procedure in the eyes of the public, and to induce the belief that the young men were really guilty of embezzling the bank's funds to an enormous amount, they were advertised in the public journals of the Colony by the said Alexander Stuart, as having been dismissed from the bank in consequence of a serious defalcation in the funds under their charge on the twentieth of October aforesaid, although they had voluntarily resigned their situations, and had ceased to receive salary

from the bank from and after the thirtieth of September ; and they were charged, moreover, by the said Stuart, both here and in New South Wales, with having purchased Crown lands on their own account, at the Government sales of the period, to a large extent, and with having expended the funds of the bank in extravagant and riotous living—all of which charges were found to be false and unfounded, and were subsequently and successively abandoned.

11. That, although there were regular assizes held periodically at Ballaarat, the two young men, who had thus been virtually deprived of all means of establishing their innocence, were suddenly, and in direct violation of one of the first principles of the laws of England, dragged to Melbourne, as your petitioner verily believes, at the instance of the bank, which despaired of obtaining a conviction in Ballaarat, and were tried here, at the Supreme Court, on the eighteenth December, 1854.

12. That although there was not even the shadow of evidence to prove that either of the young men had appropriated and converted to their own purposes a single farthing of the bank's funds, yet, as it appeared that certain deposits, for which they had given receipts to the respective depositors, and of which, as they allege, and as your petitioner firmly believes, the butts or blocks were in every instance in the possession of the bank, were not entered in the regular bank books, the presiding judge, Sir William a'Beckett, virtually directed the jury to find them guilty on what His Honor was pleased to call *the constructive evidence* which was thus afforded of *their denial* of having received the money, a principle which your petitioner humbly submits is contrary to all law and justice, and they were convicted accordingly and sentenced, the one to five and the other to four years' imprisonment and hard labor, two of which are now nearly expired.

13. That, in consequence of the imperfect constitution of the judicial system of this Colony, no appeal can lie from the sentence or decision of any one judge to the full court in criminal cases, and that a writ of error cannot be sued out here as in England ; and your petitioner is informed, moreover, and verily believes that in such cases there is no appeal allowable from a Colonial court to Her Majesty in Council.

14. That, in such circumstances, and taking it for granted, as your petitioner firmly believes to be the fact, that an enormous wrong has been committed upon these young men under the desecrated forms of law and justice, there is no possible remedy for such wrong, contrary to another of the fundamental principles of English law and of eternal justice, unless your Honorable House, as the grand assize of the country, and the only remaining hope of the wronged and oppressed, is pleased to interpose on their behalf.

15. That there is the more urgent necessity for such interposition on the part of your Honorable House, from the fact that a whole series of facts and circumstances—demonstrating, in the estimation of a large portion of this community, the entire innocence of the two young men, and the guilt of the aforesaid Burtchell—has unexpectedly come to light since the trial and conviction of Lang and Drake ; but although these facts and circumstances have been duly submitted to the Executive in various forms, and by different and disinterested parties, no notice has hitherto been taken of them, in any way, and no reply has been sent to any of the parties who have submitted them.

16. That although your petitioner, in approaching your Honorable House, would humbly desire to rest exclusively on the merits of the case he has detailed, yet, as it was customary for an ancient Roman, when pleading his cause in any way before the Assembly of the people, to show the wounds he had received in the wars of his country and to recount the services he had rendered to the State, he would beg to remind your Honorable House that he has a strong personal claim upon the people of this Colony, which at least entitled him to anticipate a very different treatment for the case of his son from the studied neglect which it has hitherto experienced from the Local Executive. In the year 1843, when this noble province was a mere district of New South Wales, your petitioner was elected one of the six representatives of Port Phillip in the Legislative Council of that Colony, and continued to represent this district till he left the Colony for England on the first of July, 1846. In the session of 1844, your petitioner, conceiving that Port Phillip was justly entitled to be erected into a distinct Colony, moved, "That a humble Address be presented by the Legislative Council to Her Majesty the Queen, praying that Her Majesty would be graciously pleased to take the requisite steps for separating Port Phillip from New South Wales, and for erecting it into a distinct Colony ;" but although the six Port Phillip members were all strongly in favor of the measure, the only support it obtained from the thirty other members, who represented New South Wales proper, was the solitary vote of the Right Honorable Robert Lowe, Vice-President of the Board of Trade and a member of the Imperial Parliament, who was then merely a nominee member of the Legislative Council of New South Wales. As there was therefore no hope for the measure through this channel, your petitioner suggested and strongly recommended that the six Port Phillip members should petition Her Majesty on their own behalf and on that of their constituents, and this suggestion and recommendation having been accordingly adopted, your petitioner was deputed to draw up the Petition to the Queen, which was duly signed by the six members, and transmitted to Her Majesty by the late Sir George Gipps, then Governor of New South Wales, and within nine months thereafter, or, in the month of October, 1845, the great boon of separation was granted to Port Phillip in answer to that petition, although, from the delays of office and other causes, which it is unnecessary to enumerate, it was not consummated till nearly six years thereafter, or on the first of July, 1851.

17. That although your petitioner is naturally and intensely desirous that his son should be forthwith relieved of the foul stigma which has thus been so long, and as he conceives undeservedly, fixed upon his previously unblemished character, he begs to assure your Honorable House, on the word of an honest man as well as of a minister of religion, who has a reputation to sustain in the world, that, if he really believed his son guilty of the crime laid to his charge, he would assuredly leave him, however sorrowfully, to the utmost awards of the law, and would make no personal exertion on his behalf, as having on such a supposition utterly and irretrievably disgraced not only himself, but all the family to which he belonged ; but that, under the circumstances he has detailed, it is morally impossible for your petitioner to entertain such a belief for one moment.

Your petitioner therefore humbly prays that your Honorable House will be pleased to take the premises into consideration, and to institute a searching inquiry into the matters above detailed, and especially into the important facts and circumstances bearing upon the case that have come to light since the trial and conviction of Lang and Drake in the month of December, 1854.

And your petitioner, as in duty bound, will ever pray, &c., &c., &c.

JOHN DUNMORE LANG, D.D.,  
Of Sydney, New South Wales.

Melbourne, 9th December, 1856.

VICTORIA.

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MAYOR, ALDERMEN AND COUNCILLORS  
OF THE CITY OF MELBOURNE.

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P E T I T I O N .

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ORDERED BY THE COUNCIL TO BE PRINTED, JANUARY 12<sup>TH</sup> 1857.

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TO THE HONORABLE THE LEGISLATIVE COUNCIL OF VICTORIA.

The Petition of the MAYOR, ALDERMEN and COUNCILLORS of the City of Melbourne,

SH EW E T H—

That your petitioners, in discharging the duties devolving upon the Council of the City of Melbourne, devote gratuitously a large amount of time and attention to the service of the public.

That your petitioners employ and pay from the public funds a number of officers and servants, for the purpose of carrying on the general business of the Corporation.

That in consideration of the public services rendered by the City Council its members have been for some time hitherto exempted from service on juries, a privilege which has been tacitly extended to the several officers and servants of the Corporation.

That your petitioners consider this immunity from service on juries to be, so far as respects themselves, a most valuable privilege; and as regards their officers and servants, a wise economy of public time and money.

Your petitioners therefore pray that, in any enactment for the regulation of juries which may pass your honorable house, the privilege of exemption from service on juries may be extended to them and to the several officers and servants of the Corporation.

And your petitioners will ever pray,

Signed by order and on behalf of the Council of the City of Melbourne,

P. DAVIS,

Mayor.

E. G. FITZGIBBON,

Town Clerk.



1856-7.

VICTORIA.

PETITION.

INHABITANTS OF CRESWICK.

ORDERED BY THE COUNCIL TO BE PRINTED 14TH JANUARY, 1857.

To THE HONORABLE THE LEGISLATIVE COUNCIL.

The humble Petition of the undersigned MERCHANTS, STOREKEEPERS, and OTHERS residing in the District of Creswick,

SHEWETH :

1. That the County Court in which debts incurred in the district may be recovered is held at Castlemaine, a distance of forty miles from Creswick, and is, practically, unattainable by your petitioners.

2. That many of your petitioners are compelled to relinquish all claims to outstanding debts, by reason of the expense and delay which would be incurred, should they seek the aid of the said County Court in enforcing payment.

3. That, by reason of the inconvenience and expense attending such process, great inducements are held out to dishonest traders in contracting obligations which they have no ultimate means of discharging.

4. That, in cases where the magnitude of interests compel attendance on the County Court, the expenses of travelling and sustenance are considerably above the scale allowed to the suitors in the event of success ; and, in the case of failure, often amounts to more than double the sum sought to be recovered.

5. That the establishment of Local Debts Courts in the several districts of the Colony would, your petitioners are confident, give relief and satisfaction to all classes, and materially further the development of trading on the various gold-fields.

6. That your petitioners would also beg to call the attention of your Honorable House to the unsatisfactory state of the law as applied to charges on property situate on Government land ; as, in the event of judgment being obtained in the County Court, and such estate being taken in execution, a fictitious or antedated sale may be set up in favor of a third party ; and, in the absence of an official registry of the same, the judgment creditor is totally unable to ascertain the *bonâ fide* nature of the transfer, or the contrary.

Your petitioners would respectfully bring under the notice of your Honorable House the peculiar hardship under which the township of Creswick and surrounding district is placed by its distance from Castlemaine in cases of recovery of debts, and would ask your earliest consideration of the prayer of their petition.

Your petitioners, therefore, humbly pray your Honorable House to take the premises into your consideration to pass into law such a measure for establishing courts for recovery of debts by a Justice or Justices of the Peace and Assessors, in such districts and at such times as shall be deemed expedient ; and also to provide for a system of registration of all claims made in respect of property situate on the public lands ; or to make such other enactments for the said several purposes as shall be consistent with the advancement of justice and the public welfare, as your Honorable House shall determine.

And your petitioners will ever pray.

[Here follow seventy-eight signatures.]

By Authority : JOHN FERRES, Government Printer, Melbourne.

## VICTORIA.

## PETITION.

MAYOR, ALDERMEN, COUNCILLORS, AND CITIZENS  
OF THE CITY OF MELBOURNE.

LAI'D UPON THE COUNCIL TABLE BY THE HONORABLE N. GUTHRIDGE, AND ORDERED  
BY THE COUNCIL TO BE PRINTED, 9TH JUNE, 1857.

TO THE HONORABLE THE LEGISLATIVE COUNCIL OF VICTORIA, ETC., ETC., ETC.

The Petition of the MAYOR, ALDERMEN, COUNCILLORS, and CITIZENS of the City of Melbourne,  
SHEWETH—

That, on the 16th July, 1856, His Excellency Major-General Macarthur, the Senior Military and Officer then administering the Government of Victoria, acting in accordance with the provisions of the Act 8 Victoria, No. 12, did, by Proclamation, constitute the portion of the City of Melbourne called Sandridge a separate and additional Ward of the said City, under the name and style of Macarthur Ward.

That, prior to such Proclamation being issued, the proposed boundaries of the said Ward were described in a communication, forwarded by direction of your Petitioners, to the Honorable the Surveyor General for the time being, and that the same were adopted without objection, and were duly set forth in the Proclamation aforesaid.

That some five months afterwards, to wit, in or about the month of December last, a Petition, purporting to be in accordance with the provisions of the Act 18 Victoria, No. 15, intituled "*An Act for the establishment of Municipal Institutions in Victoria*," from forty-seven persons, alleging themselves to be householders resident in a portion of Macarthur Ward, and praying the separation of that portion from the said Ward and City, and that it should be annexed to the Municipality of Emerald Hill, was published in the *Government Gazette*.

That the said forty-seven persons were not *bonâ fide* householders, as alleged in their said Petition, nor were they possessed of any vested interest in the locality, being merely occupants by licence from the Commissioner of Crown Lands.

That thereupon the *bonâ fide* householders and residents in Macarthur Ward, to the number of 200, petitioned His Excellency the Governor not to accede to the said prayer.

That your Petitioners did also, in writing and by a deputation of the Right Worshipful the Mayor and the Members of the City Council, pray His Excellency the Governor not to accede to the said prayer.

That further, of the forty-seven persons who prayed such separation from the City, thirty-two, or more than two-thirds, subsequently signed a Petition averring that they had been deceived as to the purport of the said Petition for separation by the parties who had brought the same to them for signature, and that they did not desire such separation, and prayed his Excellency the Governor not to grant the same.

That, notwithstanding the several petitions and remonstrances to the contrary, the prayer of the said Petition was complied with, by Proclamation, bearing date 12th February, 1857.

That the effect of the said Proclamation is to confer direct benefits upon the municipal district of Emerald Hill at the expense of the City of Melbourne, and in utter disregard to the interests of the said City. First, by taking from the City a portion of the rates from which the interest upon the Gabrielli Loan has to be met by your Petitioners, and conferring the same upon the said Municipality, which has assumed no liability for that loan. Second, by thrusting the boundaries of the said Municipality between the Ward and City, so as to utterly sever them, and thereby empower the said Municipality to tax the traffic between the City and its Port. Third, by giving the said Municipality control over a large portion of the river bank, and power thereby to affect any future arrangement for the improvement of the river; and, although possessed of no commercial importance, to exercise a material influence over the commercial interests of the chief City of the Colony.

Your petitioners beg to submit to your Honorable House that the power thus exercised in the partition of the City of Melbourne is injurious not alone to the City, but to the Colony at large, shaking the faith of persons at a distance in the stability or permanency of our local institutions, and damaging the credit of the country with capitalists and others in England and elsewhere.

Your Petitioners, therefore, pray your Honorable House will be pleased to take the premises into consideration; and whereas, through a false and simulated Petition, wrong and injustice has been done to the City of Melbourne, that your Honorable House will be pleased to afford relief from the same by sanctioning any enactment which may be submitted to your Honorable House for restoring the original limits of Macarthur Ward, and repealing the clauses of the Acts 18 Victoria, No. 15, and 18 Victoria, No. 32, which empowers His Excellency the Governor, with the advice of the Executive Council, to alter the limits of existing municipalities, or in such other manner as to your Honorable House may seem meet.

And your Petitioners will ever pray, &c.

P. DAVIS,  
Mayor.  
E. G. FITZGIBBON,  
Town Clerk.

1856-7.

VICTORIA.

PETITION.

# ARREST OF CHINESE IMMIGRATION.

LAI'D UPON THE COUNCIL TABLE BY THE HONORABLE W. H. F. MITCHELL, AND  
ORDERED BY THE COUNCIL TO BE PRINTED, 15<sup>TH</sup> JULY, 1857.

TO THE HONORABLE THE LEGISLATIVE COUNCIL OF THE COLONY OF VICTORIA.

The Memorial of the Members of the Local Court of Castlemaine,

HUMBLY SHEWETH—

That your Memorialists, viewing with alarm the extensive inundation of Chinese into this Colony, venture to memorialise your Honorable House on the evil effects likely to result from the great influx of that class of people, and for the following reasons:—

*First.*—That your Memorialists look upon it most seriously as it affects the moral standard of society in the Colony of Victoria, and in connection with this view of the subject, would beg to call the attention of every Member of your Honorable House to the fact, that all these large bodies of Chinese continually arriving are unaccompanied by females; such a state of things being calculated to engender a most pernicious effect in relation to the standard of morality in this Colony, and that in a most infamous and disgusting form, namely, juvenile prostitution, too frequent evidence of which has been afforded by the public journals of the day, thereby increasing an evil which your Memorialists regret to say exists to too great an extent.

*Secondly.*—Your Memorialists do not consider that, although these people arrive in such numbers, they tend in any way to the permanent establishment of this Colony, inasmuch as all else beside the simple seeking for gold is entirely disregarded, while agricultural pursuits or occupation of land forms no part of their intention; their object appearing simply to be to drain the resources of this Colony, and expend the same in their own country.

*Thirdly.*—Your Memorialists deem that the great excess of the Chinese has a most lamentable effect on the prospects of those who emigrate hither from the mother country, finding, on their arrival here, that instead of Victoria being a dependency of Great Britain, it has virtually become a Chinese Colony, and through a mistaken liberality, the rich ore extracted here is conveyed to China to become by indirect ways the means of establishing a resource to oppose effectual barriers to the progress of civilization and enlightenment; whilst the anomaly exists of our affording support and countenance to individuals of a nation exercising unheard of barbarities on our fellow-countrymen; in addition to this, causing, by their numbers and mode of working in this Colony, the greatest obstructions where any prospect exists of success in obtaining even a livelihood for the European.

*Fourthly.*—That a due regard to the sacredness of their word is not exercised, and the various modes adopted for the taking of oaths has no more binding effect on their conscience than if the same puerile ceremony had been enacted by Europeans; and your Memorialists deem that, until some more efficient way is sought out and brought to bear upon this subject, neither life, property, nor character is safe.

*Fifthly.*—The serious risks that the whole community run where these people are located from the indiscriminate huddling together of their tents, so extremely small in size that their very construction prevents a free circulation of air, which is strongly impregnated all around with the effluvia arising from the various refuse scattered about, added to personal uncleanness, which, should an epidemic attack the spot they have settled down upon, it is fearful to contemplate the result to the surrounding district.

On these grounds, therefore, your Memorialists would respectfully urge upon your Honorable House to adopt such stringent measures or remedies for the foregoing evils as your Honorable House may deem fit; as those enacted up to the present period having proved, in the humble opinion of your Memorialists, entirely inefficient, the facility of the evasion of the same having been so clearly demonstrated; while they would respectfully observe that the inducement for parties to emigrate from the mother country is nothing but a delusion, as long as the admission of the Chinese is allowed to continue.

Your Memorialists would also urge upon your Honorable House the urgent necessity that exists for some legislation of a more cogent nature in regard to the Chinese already in Victoria, suggesting that a concentration of the same in some especial portion of this Colony might educe some little good in developing its resources; but that it is the honest conviction of your Memorialists that any further immigration of the said people should be entirely stopped, deeming such to be prejudicial to the best interests of your Memorialists' adopted country, and an occasion of much wrong to the individual miner.

And your Memorialists, as in duty bound, will ever pray, &c.

J. M. BULL,  
Chairman of the Local Court of Castlemaine for and  
on behalf of the Members of the said Court.

By Authority: JOHN FERRES, Government Printer, Melbourne.

1856-7.

VICTORIA.

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PETITION.

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INFLUX OF CHINESE.

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ORDERED BY THE COUNCIL TO BE PRINTED 12TH AUGUST, 1857.

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TO THE HONORABLE THE PRESIDENT AND MEMBERS OF THE LEGISLATIVE COUNCIL OF VICTORIA IN  
PARLIAMENT ASSEMBLED.

The humble petition of the Inhabitants of Geelong in public meeting assembled,

SHOWETH—

That, at a Public Meeting, held at the Mechanics' Institute, Ryrie-street, Geelong, on the 28th day of July last, and presided over by his Worship the Mayor of Geelong, the following resolutions were unanimously adopted by those present, numbering not less than one thousand persons :—

1st. That this meeting regards the influx of so many Chinese as fraught with the greatest danger to the social, moral, and political prospects of this Colony, and is of opinion that the Legislature should immediately introduce the most vigorous measures to check any further increase of the Chinese race in Victoria.

2nd. That this meeting is of opinion that the number of Chinamen at present located in the Colony is dangerous to the peace and good government of the country, and believe it necessary to effect the reduction of their numbers, by enforcing such a poll-tax on all who may come hither, as will induce them to prefer returning to their own country.

3rd. That in the opinion of this meeting the Chinese passenger trade to this Colony should be declared contraband; and, after due notice, all vessels found engaged in the traffic shall be confiscated, and their owners or captains fined and imprisoned.

4th. That a committee of the following gentlemen—His Worship the Mayor, Messrs. J. G. Carr, G. Wright, J. M. Main, and Charles Nantes, be appointed to prepare two petitions, one to the Upper and one to the Lower Houses of Parliament, embodying the substance of the previous resolutions, and that the Committee arrange for the presentation and support of the same without delay.

Your petitioners therefore humbly pray that your Honorable House will be pleased to adopt such measures as will, in your opinion, most effectually carry out the spirit of the above resolutions.

And your petitioners, as in duty bound, will ever pray.

On behalf of the Meeting,

A. THOMSON,  
Mayor.

1856-7.

VICTORIA.

PETITION.

THE INHABITANTS OF BACCHUS MARSH.

ORDERED BY THE COUNCIL TO BE PRINTED, 13TH OCTOBER, 1857.

TO THE HONORABLE THE LEGISLATIVE COUNCIL OF THE COLONY OF VICTORIA IN PARLIAMENT ASSEMBLED.

The humble Petition of the Inhabitants of Bacchus Marsh  
RESPECTFULLY SHEWETH TO YOUR HONORABLE HOUSE—

That your Petitioners have learned with surprise and regret that the Bill has passed the Legislative Assembly, whereby the line of Railway between Melbourne and Ballarat is destined to be by way of Geelong, and that such Bill is now before your Honorable House.

Your Petitioners, believing that it is the opinion of the highest engineering talent in the Colony that the route recommended is not so advantageous, in many respects, as a direct line would prove, and that the evidence taken before the Committee of the Legislative Assembly was not of that detailed and full character as was required, humbly solicit your Honorable House to interpose and prevent this Bill from becoming law.

Your Petitioners would humbly submit, for the consideration of your Honorable House, the following reasons for concluding that the direct line of Railway from Melbourne to Ballarat, by way of Bacchus Marsh and Ballan, is preferable to the other surveyed line.

Your Petitioners, considering that the main object to be attained in selecting the route to be adopted is to take the shortest possible line, would bring under the notice of your Honorable House the fact, that the direct line from Melbourne to Ballarat would be shorter by thirty-eight miles than that by way of Geelong; so that by adopting the latter line, your Honorable House would virtually be imposing a perpetual tax on both passenger and merchandise traffic of no inconsiderable amount.

Your Petitioners would also draw the attention of your Honorable House to the fact, that the direct line through Bacchus Marsh and Ballan would pass in close proximity to the most important mining districts in the country, viz., it would run within fourteen miles of Mount Blackwood, five miles of Goodman's Creek, two miles of Mount Egerton, and ten miles of Jim Crow, so as to render their connexion by branch lines easy of accomplishment; thus affording facility for forwarding the produce of the richest gold bearing quartz fields of the Australian Colonies direct to the port of Melbourne.

Your Petitioners would also remind your Honorable House, that the direct line would pass through the finest agricultural district in the Colony; as a proof of which your Petitioners would mention, that in the neighborhood of Bacchus Marsh alone 300,000 bushels of grain were grown during the last year, and nearly 2,000 tons of hay; so that, in this respect, the direct route would present a most marked contrast to the other proposed line.

Your Petitioners also consider that your Honorable House should not lose sight of the fact, that the increased revenue derivable from the enhanced value of the unsold land adjoining the line, consequent upon the construction of the Railway, will prove more than sufficient to defray the expense of constructing the entire line; as it appears, from the remarks of the Surveyor General, that there are 300,000 acres of land, of better than the average quality, within three miles of the proposed direct line by way of Bacchus Marsh and Ballan.

Your Petitioners, therefore, humbly submit to your Honorable House that, in every point of view, the direct line possesses decided advantages over the route recommended by way of Geelong; and, consequently, pray that your Honorable House will prevent the Bill now before you from becoming the law of the land.

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

*[Here follow Two hundred and ninety-nine Signatures.]*

By Authority: JOHN FERRES, Government Printer, Melbourne.

1856-7.

VICTORIA.

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RAILWAYS.

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PETITION.

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ORDERED BY THE COUNCIL TO BE PRINTED, 3RD NOVEMBER, 1857.

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THE HONORABLE THE LEGISLATIVE COUNCIL OF VICTORIA IN PARLIAMENT ASSEMBLED.

The humble Petition of the Mayor, Aldermen, and Councillors of the Town of Geelong

MOST RESPECTFULLY SHEWETH—

That your Petitioners have watched with intense interest the favorable progress of the Railway Bills through the Legislative Assembly, by whom they have been passed, and submitted to your Honorable House for consideration.

That your Petitioners, in common with the inhabitants of the Colony generally, are strongly impressed with the great importance of and the immense advantages that will arise to the community at large by the immediate construction of Railways in Victoria according to the scheme proposed and passed by the Legislative Assembly, and now under the consideration of your Honorable Council, viz., a line between Melbourne and Castlemaine and between Geelong and Ballarat, it having been clearly proved by the evidence given before the Railway Committee of the Lower House that these routes will be the most economical, both in money and time, and will give the advantages of railway traffic to the greatest number.

That your Petitioners respectfully desire to refer particularly to the line of Railway between Geelong and Ballarat, as passed by the Legislative Assembly, a measure to which your Petitioners most respectfully state the Government are pledged, to the Town of Geelong and the Western District generally, to carry out. Were it otherwise, private enterprise would now be engaged in the performance of the work; the private Bill for this purpose having been withdrawn at the instance of the Government, on the understanding that a general measure for the construction of Railways in Victoria would be introduced into the Legislature by the Government, embracing this particular line.

Under these circumstances, your Petitioners humbly pray that your Honorable Council will favorably consider the Railway Bills now before you for the construction of Railways in Victoria, so that they may become the law of the land in their entirety, and thus realize the long deferred hopes and expectations of the people of Geelong and the whole of the Western District.

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

(L.S.)

A. THOMSON,  
Mayor.

WM. WEIRE,  
Town Clerk.

VICTORIA.



VOTES  
AND  
PROCEEDINGS  
OF THE  
LEGISLATIVE  
COUNCIL.

SESSION

1856-7.