

VICTORIA.



VOTES
AND
PROCEEDINGS
OF THE
LEGISLATIVE
COUNCIL.

SESSION

1879-80.

LIBRARY

VICTORIA.



VOTES AND PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL

DURING THE SESSION

1879-80,

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

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

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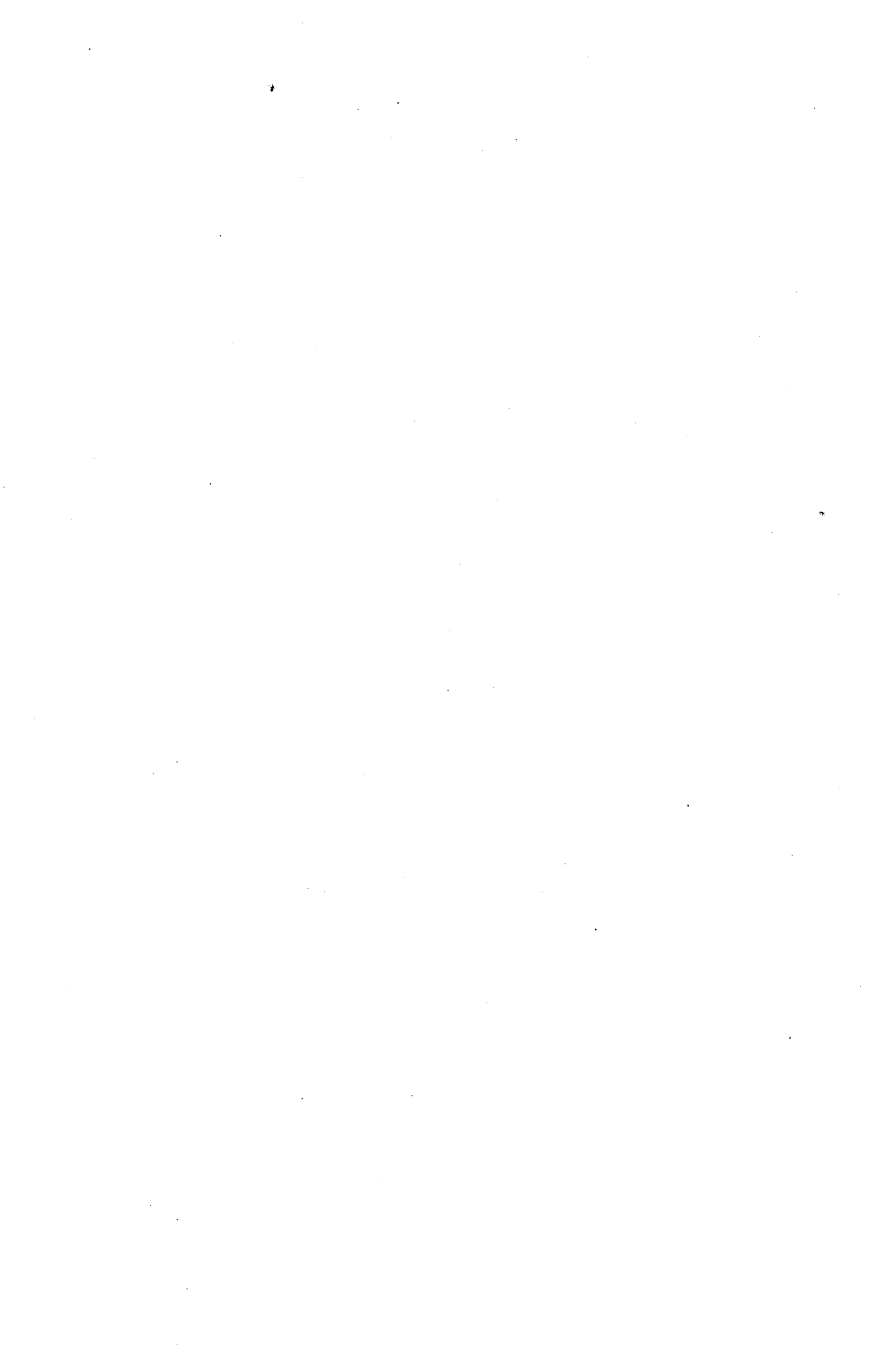
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1879.

RETURN OF MEMBERS OF THE LEGISLATIVE COUNCIL, 8TH JULY, 1879, AT THE
OPENING OF THE TWENTY-SEVENTH SESSION OF PARLIAMENT.

Names arranged in the Order of Retirement.	Elected at—		Remarks.
	Nomination.	Polling.	
CENTRAL PROVINCE:			
The Honorables—			
William Edward Hearn ... ..	... ..	27th Aug., 1878	Elected in room of the Honorable T. T. a'Beckett, retired by rota- tion.
James Graham	15th Aug., 1876.		
Theodotus John Sumner	15th Aug., 1874.		Elected in room of the Honorable G. W. Cole, deceased.
Frederick Thomas Sargood ... ..	... ..	12th May, 1874.	
James Lorimer	10th May, 1879.	... ..
SOUTH PROVINCE:			
The Honorables—			
William John Clarke	17th Aug., 1878.	... ..	Elected in room of the Honorable J. P. Bear, retired by rotation.
James Buchanan ... ..	... ..	29th Aug., 1876.	
Thomas Ferrier Hamilton	18th Aug., 1874.		
Frank Stanley Dobson	17th Aug., 1872.		
James Balfour ... ..	... ..	19th June, 1874.	
SOUTH-WESTERN PROVINCE:			
The Honorables—			
Caleb Joshua Jenner	24th Aug., 1878.	... ..	Retired by rotation and re-elected.
George Frederick Belcher ... ..	... ..	4th Sept., 1876.	
Henry Cuthbert	14th July, 1877.	... ..
James Henty	23rd Aug., 1872.		
John Cumming	24th Aug., 1870.		
WESTERN PROVINCE:			
The Honorables—			
William Ross	29th Aug., 1878.	... ..	Elected in room of the Honorable R. Simson, retired by rotation.
Sir Charles Sladen	29th Aug., 1876.		
Thomas Bromell ... ..	... ..	11th Sept., 1874.	
Niel Black	30th Aug., 1872.		
Sir Samuel Wilson ... ..	... ..	22nd June, 1875.	
NORTH-WESTERN PROVINCE:			
The Honorables—			
Francis Robertson ... ..	... ..	16th Sept., 1878	Retired by rotation and re-elected.
Alexander Fraser ... ..	... ..	16th Sept., 1876.	
Nicholas Fitzgerald	4th Sept., 1874.		
William Campbell ... ..	... ..	16th Sept., 1872.	
Sir William Henry Fancourt Mitchell	2nd Sept., 1870.		
EASTERN PROVINCE:			
The Honorables—			
William Wilson	5th Sept., 1878.	... ..	Retired by rotation and re-elected.
Robert Stirling Anderson	5th Sept., 1876.		
John Alston Wallace	4th Sept., 1874.		
Robert Dyce Reid	15th Nov., 1876.		
William Highett	2nd Sept., 1870.		

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- „ 2. Post Office and Telegraph Department Report, 1878.
- „ 3. Pilot Board.—Accounts for Year ending 31st August, 1878.
- „ 4. Telegraph Messages—Private and Press.—Order in Council (2nd July, 1879).
- „ 5. Post Office Savings Bank.—Statement of Accounts of, for Year ending 31st December, 1878.
- „ 6. Import, Export, Transshipment, and Shipping Returns, with Customs Revenue Abstract, 1878, &c.
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- „ 9. Statistical Register, Colony of Victoria, 1878.—Part I.—Blue Book.
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- „ 10. Friendly Societies.—Statistics of, for 1877.
- „ 11. Despatch from the Right Honorable the Secretary of State for the Colonies announcing the Death of Her Royal Highness the Princess Alice (16th December, 1878).
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- „ 13. Health Officer.—Report for the Year ending 31st December, 1878.
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- „ 15. Diseases and Deaths.—Return of, for Year 1878.—Chief Medical Officer.
- „ 16. Paris Universal Exhibition, 1878.—Despatch (and Enclosures) from the Right Honorable the Secretary of State for the Colonies (30th December, 1878).
- „ 17. Mines.—Report of Chief Inspector of, for 1878.
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- „ 22. Public Library, Museums, and National Gallery.—Report, of Trustees, for 1878.
- „ 23. Spring Gully, Castlemaine.—Mining Operations at.—Order in Council (4th March, 1879).
- „ 24. Polling Places in Mining Districts—Additional.—Orders in Council (21st January, 1879; 3rd February, 1879; 11th February, 1879).
- „ 25. University of Melbourne.—Report for Year ending 31st May, 1879.
- „ 26. Public Accounts.—Regulations (13th May, 1879; 24th June, 1879).
- „ 27. Neglected and Criminal Children Act 1864.—Regulations under (6th May, 1879).
- „ 28. Neglected and Criminal Children's Acts.—Regulations and Amendments of Regulations.
- 16th July. 29. Land Act 1869.—Regulations.—Order in Council 1st April, 1879).
- „ 30. Products Exported—Value of.—1871 to 1878.
- „ 31. Ditto, ditto—“specifying the Colonies or Countries to which exported.”
- 22nd July. 32. Safety Mining Cages.—Report of Board (1878–9).
- „ 33. Land Act 1869.—Report of Proceedings under—during Year ending 31st December, 1878.
- „ 34. Neglected and Criminal Children Act 1864—Regulations.—Order in Council (24th June, 1879).
- „ 35. Public Accounts.—Regulation respecting (7th July, 1879).
- „ 36. Education.—Estimate of Expenditure during Year ending 30th June, 1880, under Section 12 of Act No. 608.
- 29th July. 37. Imports consumed in Victoria—Value of—During Years 1871 to 1878 inclusive.
- „ 38. Friendly Societies.—Report of Registrar.—Year ending 31st December, 1878.
- „ 39. Neglected and Criminal Children's Amendment Act 1874.—Regulations.—Order in Council (7th July, 1879).
- „ 40. Patents Statute 1865.—Additional Rule (14th July, 1879).
- 5th Aug. 41. Parliament Buildings Committee (Joint)—Report from.
- „ 42. Railway Loan Act 1878, No. 698.—Estimate of Proposed Expenditure during Year ending 30th June, 1880.
- „ 43. Railway Loan Act 1876, No. 531—Yan Yean Water Supply.—Estimate of Proposed Expenditure during Year ending 30th June, 1880.

- 1879.
- 5th Aug. 44. Associated Banks—Correspondence respecting Overdraft, &c.—Public Account.
- ” 45. Associated Banks.—Further Correspondence.
- ” 46. Fisheries Acts—Notices under.—Gippsland Lakes (July, 1879).
- 12th Aug. 47. Licensing Act.—Return of Work done by Inspectors during Year ending 30th June, 1879.
- ” 48. Agreement of Peninsular and Oriental Steam Navigation Company to convey Mails (2nd August, 1879).
- ” 49. Railway Reserve, Sandhurst.—Revocation of permission to occupy portion of, for Mining purposes (21st July, 1879).
- 19th Aug. 50. Agreement of Peninsular and Oriental Steam Navigation Company to convey Mails (2nd August, 1879).
- ” 51. Schedule D, 18 & 19 Vict. cap. 55—Statement of Expenditure under, during Year 1878–9.
- 26th Aug. 52. Penal Establishments and Gaols.—Report of Inspector-General for Year 1878.
- ” 53. Mining Surveyors and Registrars.—Reports of, for Quarter ending 30th June, 1879.
- 2nd Sept. 54. Hospitals for Insane.—Report, of Inspector, for Year ending 31st December, 1879.
- ” 55. Land Act 1869—Licences to Cut Timber.—Order in Council (4th August, 1879).
- ” 56. Heathcote Camp Reserve—Authority to mine upon.—Order in Council (18th August, 1879).
- ” 57. Victoria Water Supply.—Statement of Application, during Year ending 30th June, 1879, of money out of Loan Acts 428 and 531.
- 9th Sept. 58. Industrial and Reformatory Schools.—Report, of Inspector, for Year 1878.
- 16th Sept. 59. Fisheries Acts 1873, 1878.—Notification with regard to prohibition of Fishing in Lakes Condah and Tyers (18th August, 1879).
- 23rd Sept. 60. Australasian Mails.—Circular Despatch from the Right Honorable the Secretary of State for the Colonies, with enclosures (17th January, 1879).
- ” 61. Land Act 1869—Regulations—Keilor Town Common.—Order in Council (12th September, 1879).
- ” 62. Melbourne International Exhibition, 1880.—Despatches from the Right Honorable the Secretary of State for the Colonies (23rd February, 1878, to 23rd June, 1879).
- 30th Sept. 63. Australian Mails *via* Southampton.—Memoranda (23rd August and 3rd September, 1879).
- ” 64. Railway Reserve, Castlemaine.—Revocation of Order permitting Mining thereon.—Order in Council (12th September, 1879).
- ” 65. Lunatic Asylums.—Return of Inspector (5th September, 1879).
- ” 66. Exhibition, Melbourne, International, 1880.—Rules and Regulations (20th May, 1879).
- 7th Oct. 67. Aborigines—Fifteenth Report of Board for Protection of (1st July, 1879).
- ” 68. Crown Lands—Report of Commission of Inquiry on Agricultural and Pastoral Occupation of (September, 1879).
- ” 69. Evidence taken before Royal Commission appointed to enquire into the progress of settlement under the Land Act 1869 (June, 1878 to January, 1879).
- ” 70. Water Supply—Railway Loan Act 1878.—Estimate of Expenditure proposed during Year ending 30th June, 1880, under Act 608, Second Schedule, item 10.
- 8th Oct. 71. Crown Lands.—Report of Commission of Inquiry on Agricultural and Pastoral Occupation of (September, 1879).
- 14th Oct. 72. Statistical Register—Victoria, 1878.—Part V.—Law, Crime, &c.
- ” 73. Phylloxera Vastatrix.—Report of Secretary for Agriculture (17th July, 1879).
- ” 74. Closed Roads.—Royal Commission, Final Report of (9th October, 1879).
- ” 75. Exhibition—Melbourne International.—First Report of Commissioners.
- ” 76. Education.—Report of Minister of Public Instruction for Year 1878–9.
- ” 77. Yan Yean Water Supply.—Cash Statement and Balance Sheet (30th June, 1879).
- 21st Oct. 78. Defences of Victoria.—Report by His Excellency Colonel Sir W. F. Drummond Jervis, R.E., K.C.M.G., & C.B. (1st March, 1879).
- ” 79. Australasian Statistics for Year 1878.—Report by Government Statist (25th September, 1879).
- ” 80. Savings Banks.—Returns for Year ending 30th June, 1879.
- 22nd Oct. 81. Melbourne International Exhibition, 1880.—Despatch from Officiating Secretary to the Government of India respecting representation of India at (5th September, 1879).
- 28th Oct. 82. Observatory.—Fourteenth Report of Board of Visitors; with Annual Report of Government Astronomer (24th July, 1879).
- ” 83. Statistical Register, Victoria, 1878.—Part VI.—Production.
- 11th Nov. 84. Aborigines.—Report and Correspondence relative to mortality amongst, at Aboriginal Stations, &c.
- ” 85. Telegraphic Private and Press Messages.—Order in Council (20th October, 1879).
- ” 86. Railway Loan Act 1876, No. 531.—Estimate of Further Expenditure proposed during Year ending 30th June, 1880, under.
- 18th Nov. 87. Statistical Register of Victoria.—Part VII.—Accumulation.
- 25th Nov. 88. Recent Promotions in the Government Printing Office.—Return to an Order of the Council of 21st October, 1879.
- 2nd Dec. 89. Land Act 1869—Regulations.—Applications for Forfeiture.—Order in Council (17th November, 1879).
- ” 90. Leases on South side of River Yarra Yarra.—Return to an Order of the Council of 27th October, 1879.
- ” 91. Mining Surveyors and Registrars.—Reports of, for Quarter ending 30th September, 1879
- 9th Dec. 92. Report of the Evidence given by Mr. P. P. Labertouche at the Bar of the House on the 2nd inst.
- 10th Dec. 93. Education Report, for Year 1878–9—Appendices to.
- ” 94. Exhibition, Melbourne International.—Despatches from the Right Honorable the Secretary of State (with enclosures), 13th April, 1879, to 5th September, 1879.

1879.
18th Dec. 95. Education Department.—Estimate of Expenditure (under section 12 of the Act No. 608) proposed to be incurred during the Year ending 30th June, 1880 (£29,759 for erection of School Buildings).
1880.
20th Jan. 96. Auriferous and Mineral Resources of the Colony—Report of Board (22nd November, 1879).
 „ 97. Friendly Societies.—Statistics of, for Year 1878.
 „ 98. Fisheries Acts (1873 and 1878)—Notification of intention to add certain Fish to Schedule 2 of the Fisheries Act (1st November, 1879).
 „ 99. Education Act.—Amended Regulations under, respecting removal of Boards of Advice (15th December, 1879).
 27th Jan. 100. Land Act 1869.—Regulations under Section 110 as to Fees payable for Surveys.—Order in Council (20th January, 1880).
 „ 101. Statistical Register, Victoria, 1878.—Part VIII.—Interchange.
 3rd Feb. 102. Gippsland Polling Place, additional.—Order in Council (20th January, 1880).
 „ 103. Statistical Register, Victoria, 1878.—Part IX.—Religious, Moral, and Intellectual Progress.
 4th Feb. 104. Transfer of Land Statute Act Assurance Fund.—Return to an Order of the Council of 25th November, 1879.
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VICTORIA.

SUMMARY OF PROCEEDINGS ON BILLS IN THE LEGISLATIVE COUNCIL DURING THE SESSION 1879-80.

No.	SHORT TITLES OF BILLS.	By whom and when initiated.	PROGRESS.																	REMARKS.		
			First Reading.	Second Reading.	Committal.	Report.	Re-committal.	Report after Re-committal.	Adoption of Report.	Third Reading.	Passing.	Sent to Legislative Assembly.	Returned from Legislative Assembly :		Amendments considered.	Re-transmitted to Legislative Assembly.	Assent.	Published as Supplement to Government Gazette.	Number of Act.			
			1879.	1879.	1879.	1879.	1879.	1879.	1879.	1879.	1879.	1879.	1879.	1879.	1879.	1879.	1879.	1879.	1879.		1879.	
1	Numbering of Certain Acts of Parliament Bill	Honorable H. Cutburt 8 July	8 July	29 July	29 July	29 July	29 July	..	..	5 August	5 August	5 August	5 August	..	18 Dec.	18 Dec.	..	20 Dec.	24 Dec.	DCXLIX.	
2	Controverted Elections (Council) Bill ..	Honorable W. E. Hearn 15 July	15 July	29 July	29 July	29 July	29 July	5 August	5 August	12 August	12 August	12 August	12 August	Not returned from Legislative Assembly.
3	Consolidated Revenue Bill	Message from Legislative Assembly .. 16 July	16 July	16 July	16 July	16 July	16 July	..	..	16 July	16 July	16 July	..	..	..	..	..	17 July	18 July	DCXXXV.	Bill by leave withdrawn, 28 October 1879.
4	Constitution Act Alteration Bill	Honorable R. D. Reid 29 July	29 July	
5	Toolamba and Tatura Railway Bill ..	Message from Legislative Assembly .. 29 July	29 July	5 August	5 August	5 August	5 August	..	..	5 August	5 August	5 August	..	..	..	..	..	18 August	22 August	DCXXXVI.	
6	Resumption of Melbourne Lands Bill ..	Message from Legislative Assembly .. 29 July	29 July	5 August	5 August	5 August	12 August	..	..	12 August	12 August	12 August	..	..	..	..	..	18 August	22 August	DCXXXVII.	
7	Towns Management, &c., Bill	Honorable W. E. Hearn 5 August	5 August	19 August	19 August	23 Sept.	30 Sept.	30 Sept.	7 Oct.	7 Oct.	7 Oct.	7 Oct.	Not returned from Legislative Assembly.
8	Supreme Court Jurisdiction and Procedure Bill	Honorable Dr. Dobson 5 August	5 August	12 August	22 Oct.	22 Oct.	28 Oct.	28 Oct.	11 Nov.	11 Nov.	11 Nov.	11 Nov.	Referred to Select Committee 12 August. Report of Select Committee brought up 21 October. Report adopted 22 October. Bill not returned from Legislative Assembly.
9	Mining on Private Property Bill	Honorable J. A. Wallace 26 August	26 August	9 Sept.	9 Sept.	9 Sept.	23 Sept.	23 Sept.	23 Sept.	23 Sept.	Not returned from Legislative Assembly.
10	Export Duty on Red Gum Further Extension Bill	Message from Legislative Assembly .. 2 Sept.	2 Sept.	9 Sept.	9 Sept.	9 Sept.	..	..	9 Sept.	9 Sept.	9 Sept.	..	..	..	..	..	..	11 Sept.	12 Sept.	DCXXXIX.	
11	National Bank of Australasia Act Amendment Bill	Message from Legislative Assembly .. 9 Sept.	9 Sept.	10 Sept.	10 Sept.	16 Sept.	..	..	16 Sept.	23 Sept.	23 Sept.	..	..	..	..	..	..	29 Sept.	3 Oct.	DCXLI.	
12	Consolidated Revenue Bill (2)	Message from Legislative Assembly .. 9 Sept.	9 Sept.	9 Sept.	9 Sept.	9 Sept.	..	..	9 Sept.	3 Sept.	9 Sept.	..	..	..	..	..	..	11 Sept.	12 Sept.	DCXXXVIII.	
13	Constitution of Council Bill	Honorable Sir C. Sladen 16 Sept.	16 Sept.	7 Oct.	7 Oct.	15 Oct.	15 Oct.	15 Oct.	22 Oct.	28 Oct.	28 Oct.	28 Oct.	Second and third reading passed by absolute majority. Bill not returned from Legislative Assembly.
14	Railway Loan Account Application Bill ..	Message from Legislative Assembly .. 16 Sept.	16 Sept.	23 Sept.	23 Sept.	23 Sept.	..	..	23 Sept.	23 Sept.	23 Sept.	..	..	..	..	..	..	29 Sept.	3 Oct.	DCXL.	
15	Dumunkle and St. Arnaud Shire Waterworks Bill	Message from Legislative Assembly .. 23 Sept.	23 Sept.	30 Sept.	30 Sept.	30 Sept.	30 Sept.	1 Oct.	1 Oct.	1 Oct.	..	11 Nov.	18 Nov.	18 Nov.	18 Nov.	..	1880.	1880.	1880.	
16	Duties of People Bill	Honorable W. E. Hearn 23 Sept.	23 Sept.	28 Oct.	28 Oct.	Discharged from Notice Paper, 3 Feb. 1880.
17	Trustees, Executors, and Agency Company (Limited) Bill	Message from Legislative Assembly .. 11 Nov.	11 Nov.	18 Nov.	18 Nov.	25 Nov.	..	..	27 Nov.	2 Dec.	2 Dec.	..	..	..	..	..	..	8 Dec.	12 Dec.	DCXLIV.	
18	Spencer and Flinders Streets Junction Railway Bill	Message from Legislative Assembly .. 11 Nov.	11 Nov.	18 Nov.	18 Nov.	18 Nov.	..	..	18 Nov.	18 Nov.	18 Nov.	..	..	..	..	..	..	19 Nov.	21 Nov.	DCXLIII.	
19	Consolidated Revenue Bill (3)	Message from Legislative Assembly .. 18 Nov.	18 Nov.	18 Nov.	18 Nov.	18 Nov.	..	..	18 Nov.	18 Nov.	18 Nov.	..	..	..	..	..	..	19 Nov.	21 Nov.	DCXLII.	
20	Stamp Duties Bill	Message from Legislative Assembly .. 27 Nov.	27 Nov.	11 Dec.	11 Dec.	11 Dec.	..	..	11 Dec.	11 Dec.	11 Dec.	..	..	..	..	..	..	17 Dec.	19 Dec.	DCXLV.	Referred to Select Committee 2 December 1879. Committee reported 10 December 1879. Read a second time under protest. Amendments recommended by Governor agreed to 16 December 1879.
21	Customs Duties Bill	Message from Legislative Assembly .. 11 Dec.	11 Dec.	1880.	1880.	1880.	..	..	1880.	1880.	1880.	..	..	..	..	..	..	17 Dec.	19 Dec.	DCXLVI.	
22	Railway Loan Application (Water Supply) Bill	Message from Legislative Assembly .. 18 Dec.	18 Dec.	1880.	1880.	1880.	..	..	20 Jan.	1880.	1880.	..	..	..	..	..	..	5 Feb.	6 Feb.	DCL.	
23	Consolidated Revenue Bill (4)	Message from Legislative Assembly .. 18 Dec.	18 Dec.	1879.	1879.	1879.	1879.	1879.	1879.	1879.	1879.	
24	Expiring Laws Continuation Bill	Message from Legislative Assembly .. 18 Dec.	18 Dec.	18 Dec.	18 Dec.	18 Dec.	..	..	18 Dec.	18 Dec.	18 Dec.	..	..	..	..	..	..	20 Dec.	24 Dec.	DCXLVII.	
25	Railway Loan Application Bill (2) ..	Message from Legislative Assembly .. 3 Feb.	3 Feb.	4 Feb.	4 Feb.	4 Feb.	..	..	4 Feb.	4 Feb.	4 Feb.	..	..	..	..	..	..	5 Feb.	6 Feb.	DCLII.	
26	Land Acts Amendment Bill	Message from Legislative Assembly .. 3 Feb.	3 Feb.	4 Feb.	4 Feb.	4 Feb.	..	..	4 Feb.	4 Feb.	4 Feb.	..	..	..	..	..	..	5 Feb.	6 Feb.	DCLIII.	
27	Appropriation Bill	Message from Legislative Assembly .. 4 Feb.	4 Feb.	4 Feb.	4 Feb.	4 Feb.	..	..	4 Feb.	4 Feb.	4 Feb.	..	..	..	..	..	..	5 Feb.	6 Feb.	DCLIV.	

RECAPITULATION.

Bills initiated during the Session	27
Passed and assented to	20
Not returned from Legislative Assembly	5
Discharged from Notice Paper	2

Minutes of the Proceedings
OF THE
LEGISLATIVE COUNCIL.

TUESDAY, 8TH JULY, 1879.

Pursuant to Proclamation the Council met.

At Two o'clock the Clerk of the Council read the Proclamation convening the Parliament :—

PROCLAMATION

By His Excellency the Most Honorable GEORGE AUGUSTUS CONSTANTINE, Marquis of Normanby, Earl of Mulgrave, Viscount Normanby, and Baron Mulgrave of Mulgrave, all in the County of York, in the Peerage of the United Kingdom ; and Baron Mulgrave of New Ross, in the County of Wexford, in the Peerage of Ireland ; a Member of Her Majesty's Most Honorable Privy Council ; Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George ; Governor and Commander-in-Chief in and over the Colony of Victoria and its Dependencies, &c., &c., &c.

WHEREAS by the Constitution Act it was amongst other things enacted that it shall be lawful for the Governor to fix such places within Victoria and, subject to the limitation therein contained, such times for holding the first and every other Session of the Council and Assembly, and to vary and alter the same respectively in such manner as he might think fit ; and also from time to time to prorogue the said Council and Assembly, and to dissolve the said Assembly, by Proclamation or otherwise, whenever he should deem it expedient : And whereas the said Council and Assembly, called "The Parliament of Victoria," stand prorogued until Tuesday the twenty-fourth day of June instant, and it is expedient further to prorogue the same and to fix the time for holding the next Session thereof : Now therefore I, the Governor of Victoria, in exercise of the power conferred by the said Act, do by this my Proclamation further prorogue the said Parliament of Victoria from Tuesday the twenty-fourth day of June instant until Tuesday the eighth day of July next ensuing ; and also I do hereby fix Tuesday the aforesaid eighth day of July as the time for the commencement and holding of the next Session of the said Council and Assembly, called the Parliament of Victoria, for the despatch of business, at Two o'clock in the afternoon, in the Parliament Houses, situate in Parliament place, Spring street, in the City of Melbourne ; and the Honorable the Members of the Legislative Council and the Members of the Legislative Assembly are hereby required to give their attendance at the said time and place accordingly.

Given under my hand and the Seal of the Colony, at Melbourne, this twentieth day of June, in the year of Our Lord One thousand eight hundred and seventy-nine, and in the forty-third year of Her Majesty's reign.

(L.S.)

NORMANBY.

By His Excellency's Command,
GRAHAM BERRY,
Chief Secretary.

GOD SAVE THE QUEEN !

APPROACH OF THE GOVERNOR.—The approach of His Excellency the Governor was announced by the Usher.

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

MR. PRESIDENT AND HONORABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL :

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY :

I have called you together for the purpose of obtaining your advice and assistance at a juncture of public affairs of serious importance to the future of this country.

The marked depression of trade which extends throughout the whole world has also been felt here, although in a less degree than elsewhere. Indications of a beneficial change are fortunately now apparent. The break up early this year of the long-continued drought, the consequent promise of a prosperous season for agriculturists and graziers, and the improved prospects of many of the mining districts, will doubtless tend to create a more confident feeling in all the great interests of the colony.

In accordance with the provisions of the Act passed last Session, I appointed a Commission to carry out the International Exhibition of 1880 ; and I am happy to inform you that, not only from the Imperial Government, but also from foreign countries, the warmest expressions of sympathy and co-operation have been received. Moved by my Advisers, I have officially communicated with His Royal Highness the Prince of Wales, in order to ascertain if he would consent to open the

Exhibition in 1880. I regret that His Royal Highness will be unable to do so ; but I have reason to believe that he will visit this colony at some time during the period for which the Exhibition will be open, unless unforeseen grave reasons of State interfere to prevent him. To further the objects of your great undertaking, Her Majesty has been graciously pleased to appoint a Commission, with the Prince of Wales as President.

The neighboring colony of New South Wales will open their Exhibition this year. I trust you will sanction the prompt measures for the representation of Victoria already taken by my Advisers.

Important Commissions, appointed by my predecessor, have been prosecuting their labors throughout the recess, and I trust shortly to receive their reports, which shall in due course be submitted to you.

A Contract for the conveyance of Mails fortnightly between Melbourne and Point de Galle in connection with the Imperial Indian service, has been entered into with the Peninsular and Oriental Company, particulars of which will be duly laid before you.

On the outbreak of the Zulu War it was in the power of my Advisers to accede promptly to a request on the part of the Imperial Government, for their consent to the transfer of the cable intended to duplicate telegraphic connection with Europe, in order to place South Africa in communication with England at the earliest possible moment.

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY :

I regret that the serious losses that various interests have sustained during the past year have affected adversely the revenue of the country, and consequently that additional taxation will be necessary. A portion of the loan which you authorized has been floated at a price which, under the then existing circumstances, constituted it a marked financial success.

The important determination you arrived at last Session of authorizing Commissioners to proceed to London, to open up personal communication with the Imperial Government on the subject of the existing defects in the Constitution Act, has been carried out. Interviews were had with the Prime Minister and the Secretary of State for the Colonies, and the result, it is hoped, will be satisfactory to you and beneficial in the future progress of necessary legislation.

The Estimates for the current financial year will be laid before you without delay ; and, while a strict economy has been observed in their preparation, adequate provision has been made for the requirements of the Public Service.

An amending Land Tax Bill will be submitted to you, the object of which will be to carry out the intention of Parliament in passing the Principal Act.

MR. PRESIDENT AND HONORABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL :

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY :

My Advisers will at the earliest possible moment again submit for your consideration a measure dealing with the paramount question of Constitutional Reform. Its object will be to secure a final adjustment of the legislative functions of both Houses of Parliament, and thus terminate the frequent recurrence of dead-locks and protracted legislative delays which in the past have proved so disastrous to the prosperity of the colony.

A Bill to amend in various important points the Electoral Act will be presented to you. One amendment proposed will be the abolition of plural voting. Provision will also be made for the subdivision of existing polling districts, so that there may be but one polling place in each district.

The existing state of the Mining Laws is generally regarded as unsatisfactory ; a Bill dealing with the subject will be submitted for your consideration.

A Bill to amend the Local Government Act and to deal with the question of the endowment of local bodies has been prepared and will be laid before you.

The Closed Roads Commission have earnestly pursued their labors during the recess, but I have not yet received their report. My Advisers will, on receipt of the views of the Commission, deal promptly with this important question.

In the opinion of my Advisers the circumstances of the colony warrant the establishment of a system of Government Life Assurances and Annuities similar to that established in England in connection with the Post Office Department. That system has been found to be productive of beneficial results, both in a social and economic point of view. It is found to be a special benefit to the working classes, who readily avail themselves of the facilities for making some provision against death or the infirmities of age when they have the security of a Government guarantee. A Bill will accordingly be laid before you giving effect to these views, and will, it is believed, prove most acceptable to a large portion of the community.

During the recess several lines of Railway have been opened ; some more are rapidly approaching completion ; and your attention will be called again this Session to the authorizing of a portion of the great national scheme that was prominently brought before you last Session.

A measure will be also submitted to you for the amendment of the law relating to Public Health, in the preparation of which advantage has been taken of all the most recent sanitary legislation in other countries.

As the present State Forests Act has not met with approval, a Forests Bill dealing with the regulation and preservation of the forests in the colony has been prepared for submission to you.

There will also be laid before you a Judicature Bill, an Amending Licensing Bill, and other measures of less moment than these, if the settlement of the question of Constitutional Reform does not absorb your attention to the exclusion of all other matters of legislation except those of the most urgent nature.

In conclusion, I trust that your labors will, under the blessing of Divine Providence, conduce to the further happiness and prosperity of the people of Victoria.

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

His Excellency the Governor left the Council Chamber.
The President took the Chair.
The President read the Prayer.

DECLARATIONS OF MEMBERS.—The Honorables the President, Sir C. Sladen, Dr. Dobson, W. Wilson, C. J. Jenner, J. Balfour, W. Campbell, J. Graham, T. F. Hamilton, F. T. Sargood, W. J. Clarke, R. D. Reid, J. Cumming, H. Cuthbert, N. Fitzgerald, A. Fraser, W. E. Hearn, W. Hightt, J. A. Wallace, F. Robertson, G. F. Belcher, W. Ross, and T. J. Sumner severally delivered to the Clerk the declaration required by the seventh clause of the Act 32 Victoria, No. 334, as hereunder set forth :—

“In compliance with the provisions of the Act 32 Victoria, No. 334, 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 Two thousand five hundred 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 Emberton, in the county or reputed county of Dalhousie, the description of which lands and tenements are as follow :—

“Four thousand seven hundred (4700) acres of the Barfold estate.

“And I further declare that such of the said lands and tenements as are situate in the municipal district of Metcalfe are rated in the rate-books of such municipal district as follows :—

“No. 103, South Riding; owner, W. H. F. Mitchell; occupier, ditto. Barfold estate in Emberton, 4700 acres. Full net annual value, £1500.

“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.”

“In compliance with the provisions of the Act 32 Victoria, No. 334, I, CHARLES SLADEN, 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 Eight hundred and sixty 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 Bambra and Whoorel, in the county or reputed county of Polwarth, the description of which lands and tenements is as follows :—

“Allotments 2, 3, 4, 5, 6, and 7, of section XV.

“Allotment 1, of section XVII.

“Allotments 29, 32, 33, 34, 35, and subdivisions A and B of allotments 45, 46, 47, 48, and 50, all of which are in the parish of Whoorel.

“And subdivisions A and B of allotments 1, 2, 3, and 4, in the parish of Bambra.

“And I further declare that the said lands and tenements are situate in the municipal district of Winchelsea, and are rated in the rate-books of such municipal district as follows :—

Bambra, 637 acres ...	...	...	£111 10 0
Whoorel, 2606 acres	...	...	749 0 0
			£860 10 0

“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.

“CHARLES SLADEN.”

“In compliance with the provisions of the Act 32 Victoria, No. 334, I, FRANK STANLEY DOBSON, 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 land or tenements in the colony of Victoria of the capital value of Two thousand five hundred 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 Hawthorn, in the county or reputed county of Bourke, the description of which lands and tenements are as follow :—

“Houses and land in the borough of Hawthorn.

“And I further declare that such of the said lands and tenements as are situate in the municipal district of Hawthorn are rated in the rate-books of such municipal district as follows :—

No. on the Rate.	Name of person rated.	Occupation.	Name of Owner.	Situation of Property.	Electoral District and Division.	Net annual value.	Rate at 1s. in the £.
						£ s. d.	£ s. d.
75	Kennear, Robert Hill	Squatter ...	Dobson, Frank Stanley	House, Yarra street	Boroondara, Hawthorn	130 0 0	6 10 0
75	Dobson, Frank Stanley	Barrister-at-law	Dobson, Frank Stanley	Land, Yarra street...	Ditto ...	12 0 0	0 12 0
1158	Craig, William John	Gentleman	Dobson, Frank Stanley	House, Church street	Ditto ...	120 0 0	6 0 0

“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.

“F. STANLEY DOBSON.”

“In compliance with the provisions of the Act 32 Victoria, No. 334, I, WILLIAM WILSON, 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 freehold value of Three 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 Prahran, in the county or reputed county of Bourke, the description of which lands and tenements are as follows:—

“Dwelling place known as Dalquhurn, on the Dandenong road, E. St. Kilda, with frontage to Westbury street and Canterbury street.

“And I further declare that such of the said lands and tenements as are situate in the municipal district of St. Kilda are rated in the rate-books of such municipal district as follows:—

“At Four hundred and twelve pounds per annum.

“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 WILSON.”

“In compliance with the provisions of the Act 32 Victoria, No. 334, I, CALEB JOSHUA JENNER, 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 Four thousand six hundred 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 North Melbourne and Paywit, in the counties or reputed counties of Bourke and Grant, the description of which lands and tenements are as follow:—

“No. 1. Shop and two houses, at the corner of King and Rosslyn streets, being Crown allotment 11, section 49, North Melbourne, county of Bourke.

“No. 2. Two houses, Little Collins street, being Crown allotment 11, section 16A, town of Melbourne, parish of North Melbourne, county of Bourke.

“No. 3. House, King street, being Crown allotments 19 and 20, section 2, township of Queenscliff, parish of Paywit, county of Grant.

“And I further declare that such of the said lands and tenements as are situate in the municipal districts of North Melbourne and Queenscliff are rated in the rate-books of such municipal districts as follows:—

“No. 1. Rated in the rate-book of the city of Melbourne at One hundred and twenty-four pounds per annum.

“No. 2. Rated in the rate-book of the city of Melbourne at One hundred and fifty pounds per annum.

“No. 3. Rated in the rate-book of the borough of Queenscliff at Sixty pounds per annum.

“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.

“C. J. JENNER.”

“In compliance with the provisions of the Act 32 Victoria, No. 334, I, JAMES BALFOUR, 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 Two hundred and fifty 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 Moorabbin, in the county or reputed county of Bourke, the description of which lands and tenements are as follow:—

“All that piece of land situated at the corner of South road and New street, containing five acres and a half or thereabouts, being part of Crown portion One, parish of Moorabbin, county of Bourke, with the buildings erected thereon.

“And I further declare that such of the said lands and tenements as are situate in the municipal district of Moorabbin are rated in the rate-books of such municipal district as follows:—

“Sixteen rooms and five acres of land, South road, annual value Two hundred and sixty pounds. Electoral division—Brighton West.

“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.

“JAMES BALFOUR.”

“In compliance with the provisions of the Act 32 Victoria, No. 334, I, WILLIAM CAMPBELL, 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 Two hundred and fifty 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 situated in the parish of Carlsruhe and the city of Melbourne, in the counties or reputed counties of Dalhousie and Bourke, the description of which lands and tenements are as follow:—

“1. Six hundred and thirty acres (more or less) parish of Carlsruhe.

“2. Allotment of land and building in King street, in the city of Melbourne.

“And I further declare that such of the said lands and tenements as are situate in the municipal districts of Kyneton and Melbourne are rated in the rate-books of such municipal districts as follows:—

1. Freehold—Lots 17, 18, part of 19, and 20A, parish of Carlsruhe; net annual valuation	} In excess of £250 a year.
2. Freehold, King street, Melbourne	

“ 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. CAMPBELL.”

“ In compliance with the provisions of the Act 32, Victoria, No. 334, I, JAMES GRAHAM, 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 Two thousand five hundred 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 Melbourne, in the county or reputed county of Bourke, the description of which lands and tenements are as follow :—

“ Allotments Nos. 11, 12, and portion of No. 10, block No. 11, situate in Bourke, Russell, and Little Collins streets, in the city of Melbourne, with the several buildings erected thereon.

“ And I further declare that such of the said lands and tenements as are situate in the municipal district of Melbourne are rated in the rate-books of such municipal district as follows :—

Nos. on the Rate Roll.	}	At over Two hundred and fifty pounds sterling per annum.
115 to 125		
885 to 893		
1100 to 1103		
1108 and 1109		

“ 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.

“ JAMES GRAHAM.”

“ In compliance with the provisions of the Act 32 Victoria, No. 334, I, THOMAS FERRIER HAMILTON, 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 Three 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 Gisborne, in the county or reputed county of Bourke, the description of which lands and tenements are as follow :—

“ Section 32, Gisborne, and allotment 29, section 35, same parish ; total, seven hundred and forty-nine acres.

“ And I further declare that such of the said lands and tenements as are situate in the municipal district of Gisborne Shire are rated in the rate-books of such municipal district as follows :—

No. on Roll.	Owner.	Net Annual Rental Value.	Electoral Division.
449 525	... ... } T. F. Hamilton ...	£165 135 — £300	... ... } Division— South Province.

“ 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.

“ THOMAS F. HAMILTON.”

“ In compliance with the provisions of the Act 32 Victoria, No. 334, I, FREDERICK THOMAS SARGOOD, 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 Two thousand five hundred 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 Prahran, in the county or reputed county of Bourke, the description of which lands and tenements are as follow :—

“ Forty-five acres of land and dwelling-house in East St. Kilda, known as Rippon Lea.

“ And I further declare that such of the said lands and tenements as are situate in the municipal district of Caulfield are rated in the rate-books of such municipal district as follows :— At £605 (Six hundred and five pounds) per annum.

“ 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.

“ F. T. SARGOOD.”

“ In compliance with the provisions of the Act 32 Victoria, No. 334, I, WILLIAM JOHN 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 net annual value of Nine hundred and eight 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 shire of Merriang and the parishes of Kalkallo, Mickleham, and Merriang, in the county or reputed county of Bourke, the description of which lands and tenements is as follows :—

“ Three thousand eight hundred and ninety-three acres of land, shire of Merriang, parishes of Kalkallo, Mickleham, and Merriang.

“And I further declare that such of the said lands and tenements as are situate in the municipal district of Merriang are rated in the rate-books of such municipal district as follows :—

Name of Municipal District.	Owner.	No. on Rate Book.	Situation and Description of Rated Property.	Full net Annual Value.
Shire of Merriang, Donnybrook Riding	William John Clarke	102	Parishes of Kalkalla, Mickleham, and Merriang, 3893 acres	£908

“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. J. CLARKE.”

“In compliance with the provisions of the Act 32 Victoria, No. 334, I, ROBERT DYCE REID, 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 Seven 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 Prahran, in the county or reputed county of Bourke, the description of which lands and tenements are as follow :—

“Part of Crown Portion 149A.

“Part of Crown Portion 52.

“And I further declare that such of the said lands and tenements as are situate in the municipal districts of Prahran and St. Kilda are rated in the rate-books of such municipal districts as follows :—

Name of Municipal District.	No. on Rate Book.	Situation and Description of Rated Property.	Full Nett Annual Value.
1. Town of Prahran ...	3723	Orrong road, eight acres and one-third	£ 200
2. Borough of St. Kilda	739	Brick house, &c., Westbury street, North Ward, St. Kilda N Electoral Division	180
		Total	£380

“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.

“R. D. REID.”

“In compliance with the provisions of the Act 32 Victoria, No. 334, I, JOHN CUMMING, 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 capital value of Fifty 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 Terrinallum, Jellalabad, and Kornong, in the county or reputed county of Hampden, the description of which lands and tenements are as follow :—

“Twenty-three thousand one hundred and seventy-seven acres of land, known as part of the Terinallum estate.

“And I further declare that such of the said lands and tenements as are situate in the municipal district of Mortlake, are rated in the rate-books of such municipal district as follows :—
Owner, John Cumming, 23,177 acres of land in the parishes of Terinallum, Jellalabad, and Kornong ; annual value, £3139.

“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.

“JOHN CUMMING.”

“In compliance with the provisions of the Act 32 Victoria, No. 334, I, HENRY CUTHBERT, do declare and testify that I am duly seised at law 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 parishes of Cardigan, Burrumbeet, and Ballarat, in the counties of Grenville and Ripon, the description of which lands and tenements are as follow :—

“Allotment 6 of section 11, Cardigan, county of Grenville.

“Allotment 2 of section 14, parish of Cardigan, county of Grenville.

“Part of allotment 4 of section 9, city of Ballarat, county of Grenville.

“Allotment 53 A, parish of Burrumbeet, county of Ripon.

“Allotment 29 of section C, parish of Burrumbeet, county of Ripon.

“Allotment 74, parish of Ballarat, county of Ripon.

“And I further declare that such of the said lands and tenements as are situate in the municipal districts of Ballarat and Shire of Ballarat are rated in the rate-books of such municipal district [or districts respectively] as follows :—At over Two hundred and fifty pounds.

“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.

“HENRY CUTHBERT.”

"In compliance with the provisions of the Act 32 Victoria, No. 334, I, NICHOLAS FITZGERALD, 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 Two hundred and fifty 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 Castlemaine, in the county or reputed county of Talbot, the description of which lands and tenements are as follow:—

"Malt-houses, mill, brewery, and dwelling-house.

"And I further declare that such of the said lands and tenements as are situate in the municipal district of Castlemaine are rated in the rate-books of such municipal district as follows:—

"No. 912, sec. B 8 ...	...	...	...	...	£100
„ 1497, sec. D 2, on 62/64, 5 and 6 ...	...	...	...	...	400
„ 2039, sec. C, on 1 and 2...	...	...	...	...	50
„ 913, sec. B 8...	...	...	...	...	50
					£600

"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.

"N. FITZGERALD."

"In compliance with the provisions of the Act 32 Victoria, No. 334, I, ALEXANDER FRASER, 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 Two thousand five hundred 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 Prahran, in the county or reputed county of Bourke, the description of which lands and tenements are as follow:—

"No. 1. Part allotment 139A, parish of Prahran, county of Bourke, having a frontage to Alma street of 100 feet by a depth of 300 feet to Chapel street, with dwelling-house and other buildings erected thereon.

"No. 2. Part allotment 139A, parish of Prahran, county of Bourke, having a frontage of 275 feet to Chapel street, with improvements.

"And I further declare that such of the said lands and tenements as are situate in the municipal district of St. Kilda are rated in the rate-books of such municipal district as follows:—

"No. 1. Rated in rate-book No. 984, north ward of the borough of St. Kilda, at Two hundred and forty pounds per annum.

"No. 2. Rated in rate-book No. 985, north ward of the borough of St. Kilda, at Fifty pounds per annum.

"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.

"ALEX. FRASER."

"In compliance with the provisions of the Act 32 Victoria, No. 334, I, WILLIAM EDWARD HEARN, 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 capital value of Two thousand five hundred 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 Jika, Kangerong, Wannacue, and Fingal, in the counties or reputed counties of Bourke and Mornington, the description of which lands and tenements are as follow:—

"One house in the University of Melbourne.

"House and 1107 acres of land in the County of Mornington.

"And I further declare that such of the said lands and tenements as are situate in the municipal districts of Flinders and Kangerong are rated in the rate-books of such municipal districts as follows:—

No. on Rate Book.	Name of Person Rated.	Name of Owner of Rateable Property.	Riding of Shire.	Description and Situations of Rateable Property.	Net Annual Value.
70 ...	W. E. Hearn ...	W. E. Hearn ...	West ...	595 acres, Wannacue ...	£80
71 ...	" ...	" ...	" ...	444 acres, Fingal ...	£40
80 ...	" ...	" ...	Centre ...	68 acres and buildings, Dromana ...	£150

"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. E. HEARN."

"In compliance with the provisions of the Act 32 Victoria, No. 334, I, WILLIAM HIGGETT, 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 capital value of Two thousand five hundred 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 Jika Jika and town of Richmond, in the county or reputed county of Bourke, the description of which lands and tenements are as follow:—

"Part of Crown portion number thirty-seven, town of Richmond, containing nine acres or thereabouts.

“And I further declare that such of the said lands and tenements as are situate in the municipal district of the town of Richmond are rated in the rate-books of such municipal district as follow :—

Number on Roll.	Owner.	Net Annual Value.	Electoral Division.					
1 2	William Highett ...	<table style="border: none;"> <tr> <td style="text-align: right;">£500 0 0</td> <td rowspan="2" style="font-size: 2em; vertical-align: middle;">}</td> </tr> <tr> <td style="text-align: right;">140 0 0</td> </tr> <tr> <td colspan="2" style="border-top: 1px solid black; text-align: right;">£640 0 0</td> </tr> </table>	£500 0 0	}	140 0 0	£640 0 0		Central Province.
£500 0 0	}							
140 0 0								
£640 0 0								

“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.”

“In compliance with the provisions of the Act 32 Victoria, No. 334, I, JOHN ALSTON WALLACE, do declare and testify that I am duly seized 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 capital value of over Two thousand five hundred 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 Wooragee, in the county or reputed county of Bogong; in the parish of Bright, in the county or reputed county of Delatite; in the parishes of Nepean, in the county or reputed county of Mornington; and in the parish of South Melbourne, in the county or reputed county of Bourke, the description of which lands and tenements are as follow :—

Name of Person rated.	Occupation.	Name of Owner.	Situation of Property.	Description.	No. in Rate Book of Municipal District.	Municipal District.	Electoral District and Division.
No. 1. John A. Wallace	Mine and land owner	John A. Wallace	Wooragee ..	Allotment 1, section A; allotment 2, section A; allotment 3, section C; allotment 4, section C; allotment 8, section C; comprising over 666 acres	2479	United shire of Beechworth	Ovens, Beechworth.
No. 2. Miss Maher ..	Hotelkeeper	John A. Wallace	Beach street, Sandridge	Part of Crown allotment 6, section 1, on which is erected the Bay View Hotel	41	Borough of Sandridge	Sandridge (Sandridge).
No. 3. John A. Wallace	Mine and land owner	John A. Wallace	Pioneer, near Bright	Allotment No. 7, section G, with residence thereon	847	Shire of Bright	Ovens, Bright.
No. 4. John A. Wallace	Mine and land owner	John A. Wallace	Near Rye ..	Allotments 4, 6, 7, 8, 13, and 14, comprising over 162 acres	121	Shire of Flinders and Kangerong	Mornington, Kangerong (Tootgarook)

“And I further declare that such of the said lands and tenements as are situate in the municipal districts of Beechworth, Sandridge, Bright and Flinders, and Kangerong, are rated in the rate-books of such municipal districts as follows:—No. 1, rated at £90 per annum; No. 2, rated at £160 per annum; No. 3, rated at £44 per annum; No. 4, rated at £30 per annum.

“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.

“JOHN A. WALLACE.”

“In compliance with the provisions of the Act 32 Victoria, No. 334, I, FRANCIS ROBERTSON, do declare and testify that I am duly seized 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 an annual value of Two hundred and fifty 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 Newham, Edgecomb, and Doutta Galla, in the counties or reputed counties of Bourke and Dalhousie, the description of which lands and tenements are as follow :—

“Eight allotments in the parish of Newham, two allotments in the parish of Edgecomb, and one allotment in the parish of Doutta Galla.

“And I further declare that such of the said lands and tenements as are situate in the municipal district of the shire of Newham, the shire of Kyneton, and the borough of Essendon and Flemington are rated in the rate-books of such municipal districts as follows :—

Surname of Person in full.	Christian Name of Person in full.	Trade or Occupation.	Description of Property in respect of which Vote is claimed.	Whether Claimant claims as Owner or Occupier.	Value as stated in Claim.	Electoral District in which Property is situated.	Division of Electoral District in which Property is situated.
Birkin ...	Alfred	Gentleman	Farm in Newham, West riding	Occupier	£ s. 129 10	West Bourke ...	Lancefield.
Birkin ...	Alfred	Gentleman	Farm in Newham ...	Occupier	69 10	Dalhousie ...	Langley.
Strawhorn	John ...	Farmer ...	House and land, Edgecomb, secs. 13, 14	Occupier	107 0	Dalhousie ...	Campaspe.
Robertson	Francis	Gentleman	House, land, and garden, Buckley st. west	Owner...	100 0	West Bourke ...	Essendon.
Blundell	Eliza ...	Farmer ...	House and land, Mount Alexander road	Occupier	54 0	West Bourke ...	Essendon.

“ 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.

“ FRANCIS ROBERTSON.”

“ In compliance with the provisions of the Act 32 Victoria, No. 334, I, GEORGE FREDERICK BELCHER, 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 Seven hundred 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 North Geelong, in the county or reputed county of Grant, the description of which lands and tenements are as follow :—

“ Part of allotment 18 of block 35, town of North Geelong, with the shops and buildings thereon erected.

“ And I further declare that such of the said lands and tenements as are situate in the municipal district of North Geelong are rated in the rate-books of such municipal district as follows :—Villamanta ward, Town of North Geelong. Burgess Roll.—Number on Roll, twenty (20). Name, George Frederick Belcher. Nature of property rated, freehold. Street, lane, or place in ward, Moorabool and Ryrie streets. Residence, Victoria parade. Occupation, financial broker. Amount of rating, £826. Initial letters of the electoral division, NGD.

“ 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.

“ G. F. BELCHER.”

“ In compliance with the provisions of the Act 32 Victoria, No. 334, I, WILLIAM ROSS, 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 Two thousand five hundred 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 Yelimba, Pom Pom, and Purdeet, in the counties of Villiers and Heytesbury, the description of which lands and tenements are as follow :—

“ The Gums Estate.

“ And I further declare that such of the said lands and tenements as are situate in the municipal district of the shire of Mount Rouse, are rated in the rate-books of such municipal district as follows :—

“ 5614 acres, The Gums Estate—Chatsworth Riding.

“ 5326 acres, The Gums Estate—Penshurst Riding.

“ Net annual value, £1052 and £998 ; total, £2050.

“ Rate at 12d. in the £, £52 12s. and £49 18s. ; total, £102 10s.

“ 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.

“ WM. ROSS.”

“ In compliance with the provisions of the Act 32 Victoria, No. 334, I, THEODOTUS JOHN SUMNER, 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 Two thousand five hundred 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 Brunswick, in the county or reputed county of Bourke, the description of which lands and tenements are as follow :—

“ Building land, Sydney road.

“ Building land, Miller street.

“ Brick house, King street.

“ Brick hall, stabling, &c., Glenlyon street.

“ And I further declare that such of the said lands and tenements as are situate in the municipal district of Brunswick are rated in the rate-books of such municipal district as follows :—

No. on the Rate.						£
40	...	Building land, Sydney road	...	...	...	8
897	...	Building land, Miller street	...	...	...	9
995	...	Brick house, King street	...	...	...	60
1063	...	Brick hall, &c., Glenlyon street	...	...	...	450

“ 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.

“ THEO. JNO. SUMNER.”

COMMISSION.

COMMISSION TO SWEAR IN NEW MEMBERS.—The President announced that, in virtue of the Commission hereunder set forth, he would be prepared to swear in any new Members who might be introduced.

By His Excellency the Most Honorable GEORGE AUGUSTUS CONSTANTINE, Marquis of Normanby, Earl of Mulgrave, Viscount Normanby, and Baron Mulgrave of Mulgrave, all in the County of York, in the Peerage of the United Kingdom ; and Baron Mulgrave of New Ross, in the county of Wexford, in the Peerage of Ireland ; a Member of Her Majesty's Most Honorable Privy Council ; Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George ; Governor and Commander-in-Chief in and over the Colony of Victoria and its Dependencies, &c., &c., &c.

To the Honorable Sir WILLIAM HENRY FANCOUR MITCHELL, Knight, President of the Legislative Council of the Colony of Victoria.

GREETING :

WHEREAS, by the Bill contained in the Schedule to a Statute passed in the Session of the Imperial Parliament holden in the eighteenth and nineteenth years of Her Majesty's 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 authorized by the Governor in that behalf, the oath in the said Bill mentioned: NOW THEREFORE I the Governor aforesaid do by these presents command and authorize you from time to time, in the Parliament House, in the City of Melbourne, to administer the said oath to such Members of the said Legislative Council as have not already taken and subscribed the same.

Given under my hand and the Seal of the Colony at Melbourne, in the said Colony, this seventh day of July in the year of our Lord One thousand eight hundred and seventy-nine, and in the forty-third year of Her Majesty's reign.

(L.S.)

NORMANBY.

By His Excellency's Command,

GRAHAM BERRY.

Entered on Record by me, in the Register of Patents, Book 20, page 190, this seventh day of July One thousand eight hundred and seventy-nine.
W. H. ODGERS.

WRIT, RETURN OF, CENTRAL PROVINCE.—The President announced to the Council that the Writ issued by him for the election of a Member to serve for the Central Province in room of the Honorable G. W. Cole, deceased, had been returned to him, and that the Returning Officer had certified that "James Lorimer was duly elected in pursuance of" the Writ.

SWEARING IN OF NEW MEMBER.—The Honorable James Lorimer being introduced, took and subscribed the oath required by the thirty-second clause of the Constitution Act, and delivered to the clerk the declaration required by the seventh clause of the Act 32 Victoria, No. 334, as hereunder set forth :—

"In compliance with the provisions of the Act 32 Victoria, No. 334, I, JAMES LORIMER, 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 Two thousand five hundred 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 Prahran, in the county or reputed county of Bourke, the description of which lands and tenements are as follow :—

"House and grounds known as Belcroft, situate in Albany road, Toorak.

"And I further declare that the said lands and tenements as are situate in the municipal district of Malvern, and are rated in the rate-books of such municipal district as follows :—

Rate Book.	Owner and Occupier.	Net Annual Rated Value.	Electoral Province.
No. 321 	James Lorimer ...	£450 	South Province.

"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.

"JAMES LORIMER."

NUMBERING OF CERTAIN ACTS OF PARLIAMENT.—The Honorable H. Cuthbert, with leave of the Council, moved, without notice, That leave be given to introduce a Bill to provide for the alteration of the numbering on the fair prints on vellum of certain Acts of Parliament.

Question—put and passed.

Bill brought in, and, on the motion of the Honorable H. Cuthbert, read a first time, ordered to be printed, and the second reading made an Order of the Day for Tuesday the 15th instant.

SPEECH OF HIS EXCELLENCY THE GOVERNOR.—The President reported the Speech of His Excellency the Governor.

The Honorable W. Wilson moved, That a Select Committee be appointed to prepare an Address in reply to the Speech of His Excellency the Governor.

Question—put and passed.

The Honorable W. Wilson moved, That such Committee consist of the Honorables Sir C. Sladen, F. T. Sargood, J. Cumming, A. Fraser, W. J. Clarke, J. A. Wallace, R. D. Reid, and the Mover.

Question—put and passed.

The Select Committee retired to prepare the Address.

The Honorable W. Wilson brought up the Address prepared by the Committee, and moved, That the same be read.

The Address was read at the Table by the Clerk as follows :—

To His Excellency the Most Honorable GEORGE AUGUSTUS CONSTANTINE MARQUIS OF NORMANBY, EARL OF MULGRAVE, VISCOUNT NORMANBY, and BARON MULGRAVE, of Mulgrave, all in the County of York, in the Peerage of the United Kingdom ; and BARON MULGRAVE, of New Ross, in the County of Wexford, in the Peerage of Ireland ; a Member of Her Majesty's Most Honorable Privy Council ; Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George ; Governor and Commander-in-Chief in and over the Colony of Victoria and its Dependencies, &c., &c., &c.

MAY IT PLEASE YOUR EXCELLENCY :

We, Her Most Gracious Majesty's most dutiful and loyal subjects, the members of the Legislative Council of Victoria, in Parliament assembled, beg leave to approach Your Excellency with renewed expressions of our loyalty and attachment to Her Majesty's Throne and Person.

We thank Your Excellency for having called Parliament together for the purpose of obtaining advice and assistance at a juncture of public affairs of serious importance to the future of this country. We express our regret that the marked depression of trade which extends throughout the whole world has also been felt here very severely. We thank Your Excellency for informing us that indications of a beneficial change are now apparent.

We thank Your Excellency for informing us that in accordance with the provisions of the Act passed last Session, Your Excellency appointed a Commission to carry out the International Exhibition of 1880 ; and we thank Your Excellency for informing us that, not only from the Imperial Government, but also from foreign countries, the warmest expressions of sympathy and co-operation have been received. We thank Your Excellency for informing us that, moved by Your Excellency's Advisers, you have officially communicated with His Royal Highness the Prince of Wales, in order to ascertain if he would consent to open the Exhibition in 1880. We concur with Your Excellency in regretting that His Royal Highness will be unable to do so ; but we are pleased to learn from Your Excellency that you have reason to believe that His Royal Highness will visit this colony at some time during the period for which the Exhibition will be open, unless unforeseen grave reasons of State interfere to prevent him. We thank Your Excellency for informing us that Her Majesty has been graciously pleased to appoint a Commission, with the Prince of Wales as President, to further the objects of the Exhibition.

We thank Your Excellency for informing us that the neighboring colony of New South Wales will open their Exhibition this year, and assure Your Excellency that we shall be happy to assist in any measures your Advisers may take for the representation of Victoria thereat.

We thank Your Excellency for informing us that important Commissions, appointed by Your Excellency's predecessor, have been prosecuting their labors throughout the recess, and that Your Excellency trusts shortly to receive their reports, which will in due course be submitted to us.

We thank Your Excellency for informing us that a Contract for the conveyance of Mails fortnightly between Melbourne and Point de Galle in connection with the Imperial Indian Service, has been entered into with the Peninsular and Oriental Company, the particulars of which will be duly laid before us.

We thank Your Excellency for informing us that on the outbreak of the Zulu War it was in the power of Your Excellency's Advisers to accede promptly to a request on the part of the Imperial Government, for their consent to the transfer of the cable intended to duplicate telegraphic connection with Europe, and we are gratified to learn that they seized the opportunity of facilitating telegraphic communication between South Africa and England at the earliest possible moment.

We thank Your Excellency for informing us that Your Advisers will, without delay, submit for the consideration of Parliament, a measure dealing with the question of Constitutional Reform ; and that its object will be to secure a final adjustment of the legislative functions of both Houses of Parliament, and thus terminate the frequent occurrence of dead-locks and protracted legislative delays which in the past have proved so disastrous to the prosperity of the colony.

We thank Your Excellency for informing us that a Bill to amend in various important points the Electoral Act will be presented to Parliament. Its provisions will have our most serious consideration.

We concur with Your Excellency in the opinion expressed that the existing state of Mining Laws is generally regarded as unsatisfactory ; and thank Your Excellency for informing us that a Bill dealing with the subject will be submitted for the consideration of Parliament.

We thank Your Excellency for informing us that a Bill to amend the Local Government Act and to deal with the question of the endowment of local bodies has been prepared and will be laid before Parliament.

We thank Your Excellency for informing us that the Closed Roads Commission have earnestly pursued their labors during the recess.

We thank Your Excellency for informing us that in the opinion of Your Excellency's Advisers the circumstances of the colony warrant the establishment of a system of Government Life Assurances and Annuities similar to that established in England in connection with the Post Office Department. Any Bill for giving effect to that opinion will receive our best attention and consideration.

We thank Your Excellency for informing us that during the recess several lines of railway have been opened, and that others are rapidly approaching completion.

We thank Your Excellency for informing us that a measure will be submitted to Parliament for the amendment of the law relating to Public Health, and that in the preparation of it advantage has been taken of all the most recent sanitary legislation in other countries.

We thank Your Excellency for informing us that a Bill dealing with the regulation and preservation of the forests in the colony has been prepared for submission to Parliament.

We thank Your Excellency for informing us that, if time permit, there will also be laid before Parliament a Judicature Bill, an Amending Licensing Bill, and other measures.

In conclusion, we express our trust that our labors will, under the blessing of Divine Providence, conduce to the happiness and prosperity of the people of Victoria.

The Honorable W. Wilson moved, That the Address be now adopted.

Question—put and passed.

The Honorable W. Wilson moved, That the Address be presented to His Excellency the Governor by the President and such Members as may desire to accompany him.

Debate ensued.

Question—put and passed.

DAYS OF BUSINESS.—The Honorable H. Cuthbert, with leave of the Council, moved, without notice, That Tuesday, Wednesday, and Thursday in each week be the days on which the Council shall meet for the despatch of business during the present session ; and that half-past Four o'clock be the time of meeting on each day ; and that on Wednesday in each week the transaction of Government business shall take precedence of all other business.

Question—put and passed.

STANDING ORDERS COMMITTEE.—The Honorable H. Cuthbert, with leave of the Council, moved, without notice, That the Honorables the President, C. J. Jenner, Sir C. Sladen, Dr. Dobson, W. E. Hearn, R. S. Anderson, and the Mover, be appointed a Select Committee on the Standing Orders of the House.

Question—put and passed.

PRINTING COMMITTEE.—The Honorable H. Cuthbert, with leave of the Council, moved, without notice, That the Honorables J. Balfour, J. Cumming, W. Highett, T. Bromell, and W. Wilson, be appointed a Printing Committee, and that papers presented to the House be referred to the said Committee for report.

Question—put and passed.

LIBRARY COMMITTEE (JOINT).—The Honorable H. Cuthbert, with leave of the Council, moved, without notice, That the Honorables The President, F. T. Sargood, Dr. Dobson, F. Robertson, and J. Graham be Members of the Joint Committee of both Houses to manage the Library.

Question—put and passed.

PARLIAMENT BUILDINGS COMMITTEE (JOINT).—The Honorable H. Cuthbert, with leave of the Council, moved, without notice, That the Honorables The President, Sir C. Sladen, J. Lorimer, A. Fraser, and J. Balfour, be Members of the Joint Committee of both Houses to manage and superintend the Parliament Buildings.

Question—put and passed.

REFRESHMENT ROOMS COMMITTEE (JOINT).—The Honorable H. Cuthbert, with leave of the Council, moved, without notice, That the Honorables T. F. Hamilton, G. F. Belcher, W. J. Clarke, J. Buchanan, and R. D. Reid, be Members of the Joint Committee of both Houses to manage the Refreshment Rooms.

Question—put and passed.

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

1. Fisheries Act—Notices under—
Close season for English Trout.
Definition of mouth of Yarra.
Prohibition of use of nets in lakes Burrumbeet, Learmonth, and Connewarra.
2. Post Office and Telegraph Department Report, 1878.
3. Pilot Board.—Accounts for year ending 31st August, 1878.
4. Telegraph Messages—Private and Press.—Order in Council (2nd July, 1879).
5. Post Office Savings Bank—Statement of Accounts of—for year ending 31st December, 1878.
6. Import, Export, Transhipment, and Shipping Returns, with Customs Revenue Abstract 1878, &c.

Ordered severally to lie on the Table.

CHAIRMAN OF COMMITTEES.—The Honorable H. Cuthbert, with leave of the Council, moved, without notice, That the Honorable C. J. Jenner be Chairman of Committees.

Question—put and passed.

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

Question—put and passed.

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

NOTICES OF MOTION AND ORDER OF THE DAY.

TUESDAY, 15TH JULY, 1879.

NOTICES OF MOTION :—

1. The Hon. DR. HEARN : To move for leave to introduce a Bill to amend the Law relating to Controverted Elections to the Legislative Council.

2. The Hon. F. T. SARGOOD : To move for the following Returns :—

(1.) A Return for the Quarters ending 31st March, 1877, 1878, and 1879 in the form, and giving the following particulars :—

Name of Department.	Name of Officers.	Total amount of Salaries paid for the Quarters ending 31st March, 1877, 1878, 1879, out of—									Totals of A, B, C.			
		A. Votes for Salaries and Wages.			B. Votes for Contingencies.			C. Loans.			1877.	1878.	1879.	
		1877.	1878.	1879.	1877.	1878.	1879.	1877.	1878.	1879.				

(2.) A Return in the form and giving the particulars following of the expenditure for the several works and purposes mentioned for the period from 1st June, 1877, to 30th June, 1879 :—

	Total amounts expended out of—		
	Votes for Salaries and Wages.	Votes for Contingencies.	Loans.
Alteration to the <i>S.S. Nelson</i>
Works at the Railway Dock, West Melbourne
Works at the Spencer street Railway Station
Total cost of Oakleigh Line
Total cost of assessing and collecting Land Tax including all charges relating to the appeals

3. The Hon. R. D. REID : To move for leave to introduce a Bill to amend the Constitution Act, and to reduce the qualification of Electors for the Legislative Council.

ORDER OF THE DAY :—

1. NUMBERING OF CERTAIN ACTS OF PARLIAMENT BILL.—To be read a second time.

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

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TUESDAY, 15TH JULY, 1879.

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

DECLARATION OF MEMBER.—The Honorable R. S. Anderson delivered to the Clerk the declaration required by the seventh clause of the Act 32 Victoria, No. 334, as hereunder set forth :—

“ In compliance with the provisions of the Act 32 Victoria, No. 334, I, ROBERT STIRLING ANDERSON, 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 over Two hundred and fifty 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 Boroondara, South Melbourne, and Holden, in the county or reputed county of Bourke, and in the parish of Nepean, the description of which lands and tenements are as follow :—

Name of Person rated.	Occupation.	Name of Owner.	Situation of Property.	Description.	Electoral District and Division.
No. 1. R. S. Anderson	Solicitor ...	Robert S. Anderson	Cotham road, Kew	Part of portion 81, parish of Boroondara, consisting of over 13 acres, with 2 residences thereon	South Bourke, Boroondara A.
No. 2. Mrs. Kerr ...	Boarding-house keeper	Robert S. Anderson	Cecil street, Emerald Hill	Allotment 18, section 2, South Melbourne, with a residence thereon	Emerald Hill.
No. 3. Mr. John Eadie	Vigner on ...	Robert S. Anderson	Sunbury ...	Portions 1, 2, and 3, parish of Holden, with vineyard and wine cellar thereon	West Bourke, the Gap.
No. 4. R. S. Anderson	Solicitor ...	Robert S. Anderson	Sorrento ...	Allotments 80A and B, 96B, and part of portions 94 and 96, with a residence on part of portion 96, parish of Nepean	Mornington, Sorrento.

“ And I further declare that such of the said lands and tenements as are situate in the municipal districts of Kew, Emerald Hill, Bulla, and Flinders, and Kangerong, are rated in the rate-books of such municipal districts as follows :—No. 1, rated at £295 per annum ; No. 2, rated at £73 per annum ; No. 3, rated at £100 per annum ; No. 4, rated at £70 per annum.

“ 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.

“ ROBERT S. ANDERSON.”

ELECTIONS AND QUALIFICATIONS COMMITTEE.—In pursuance of “ *The Electoral Act 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 1856, I do hereby appoint—

The Honorable Robert Stirling Anderson,
The Honorable George Frederick Belcher,
The Honorable Henry Cuthbert,
The Honorable William Edward Hearn,
The Honorable William Highett,
The Honorable Frederick Thomas Sargood, and
The Honorable Sir Charles Sladen,

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

Given under my hand this fifteenth day of July, 1879.

W. H. F. MITCHELL,
President of the Legislative Council.

(2.) A Return in the form, and giving the particulars, following, of the expenditure for the several works and purposes mentioned for the period from 1st June, 1877, to 30th June, 1879 :—

	Total amounts expended out of—		
	Votes for Salaries and Wages.	Votes for Contingencies.	Loans.
Alteration to the <i>S.S. Nelson</i>			
Works at the Railway Dock or side-cutting pit, for the purpose of getting spoil for the embankment at the station, West Melbourne			
Works at the Spencer street Railway Station			
Total cost of Oakleigh Line			
Total cost of assessing and collecting Land Tax including all charges relating to the appeals			

Debate ensued.

The Honorable J. Balfour moved, That the debate be adjourned until to-morrow.

Question—put and passed.

POSTPONEMENT.—The following Order of the Day was postponed until Tuesday, the 22nd instant :—
“Numbering of Certain Acts of Parliament Bill”—to be read a second time.

The Council adjourned at five minutes past five o'clock until half-past four o'clock on Wednesday the 16th instant.

NOTICE OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 16TH JULY, 1879.

General Business.

NOTICE OF MOTION :—

1. The Hon. Sir C. SLADEN : To move, That an Address be presented to His Excellency the Governor, praying that he will be so good as to present to this House a copy of Sir M. H. Beach's Despatch of April last, together with the documents therein referred to.

Contingent upon the passing of the above—

That a Committee be appointed to prepare such Address.

That the following be the Members of such Committee :—The Hon. H. Cuthbert, W. Wilson, J. Balfour, R. S. Anderson, and the Mover.

ORDER OF THE DAY :—

1. CERTAIN DEPARTMENTAL EXPENDITURE, RETURNS OF.—Adjourned debate on motion of Hon. F. T. Sargood.

TUESDAY, 22ND JULY.

ORDER OF THE DAY :—

1. NUMBERING OF CERTAIN ACTS OF PARLIAMENT BILL.—To be read a second time.

TUESDAY, 29TH JULY.

NOTICE OF MOTION :—

1. The Hon. R. D. REID : To move for leave to introduce a Bill to amend the Constitution Act, and to reduce the Qualification of Electors for the Legislative Council.

ORDER OF THE DAY :—

1. CONTROVERTED ELECTIONS (COUNCIL) BILL.—To be read a second time.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

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WEDNESDAY, 16TH JULY, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

REPLY OF THE GOVERNOR TO ADDRESS.—The President announced to the Council that the Address of the Council to His Excellency the Governor, adopted on the 8th instant, had been presented in accordance with the resolution of the House, and that His Excellency had been pleased to make thereto the following reply :—

MR. PRESIDENT AND HONORABLE GENTLEMEN :

I thank you for the Address, and the assurance you give me that the various important measures to be brought under your notice will receive your serious and careful consideration.

NORMANBY.

Government House,
Melbourne, 14th July, 1879.

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

PAPERS.—The Honorable W. Wilson, in the absence of, and on behalf of, the Honorable H. Cuthbert, by command of His Excellency the Governor, presented to the Council the following Papers :—

1. Land Act 1869.—Regulations.—Order in Council (1st April, 1879).
2. Products Exported—Value of—1871 to 1878.
3. Ditto, ditto—"specifying the colonies or countries to which exported."

Ordered severally to lie on the Table.

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 apply out of the Consolidated Revenue the sum of Eight hundred thousand pounds to the service of the year One thousand eight hundred and seventy-nine and eighty,*" with which they desire the concurrence of the Legislative Council.

C. GAVAN DUFFY,
Speaker.

Legislative Assembly Chamber,
Melbourne, 15th July, 1879.

CONSOLIDATED REVENUE BILL.—The Honorable W. Wilson moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time.

The Honorable W. Wilson, with leave of the Council, moved, without notice, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable W. Wilson moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 without amendment.

“(2.) A Return in the form, and giving the particulars, following, of the expenditure for the several works and purposes mentioned for the period from 1st June, 1877, to 30th June, 1879 :—

	Total amounts expended out of—		
	Votes for Salaries and Wages.	Votes for Contingencies.	Loans.
Alteration to the <i>S.S. Nelson</i>			
Works at the Railway Dock or side-cutting pit, for the purpose of getting spoil for the embankment at the station, West Melbourne			
Works at the Spencer street Railway Station			
Total cost of Oakleigh Line			
Total cost of assessing and collecting Land Tax including all charges relating to the appeals			

”—being read, the debate was resumed.

Question—put and passed.

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

Question—put and passed.

The Council adjourned at half-past five o'clock until half-past four o'clock on Tuesday, the 22nd instant.

NOTICE OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 22ND JULY, 1879.

ORDER OF THE DAY :—

1. NUMBERING OF CERTAIN ACTS OF PARLIAMENT BILL.—To be read a second time.

TUESDAY, 29TH JULY.

NOTICE OF MOTION :—

1. The Hon. R. D. REID : To move for leave to introduce a Bill to amend the Constitution Act, and to reduce the Qualification of Electors for the Legislative Council.

ORDER OF THE DAY :—

1. CONTROVERTED ELECTIONS (COUNCIL) BILL.—To be read a second time.

MEETING OF SELECT COMMITTEE.

Tuesday, 22nd July.

PARLIAMENT BUILDINGS—at three o'clock.

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

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LEGISLATIVE COUNCIL.

TUESDAY, 22ND JULY, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

DECLARATIONS OF MEMBERS.—The Honorables J. Buchanan and T. Bromell delivered to the Clerk the declarations required by the seventh clause of the Act 32 Victoria, No. 334, as hereunder set forth:—

“In compliance with the provisions of the Act 32 Victoria, No. 334, I, JAMES BUCHANAN, 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 Two hundred and fifty 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 Berwick, in the county or reputed county of Mornington, the description of which lands and tenements are as follow:—

“Part of sections 7, 16, 19, in the parish of Berwick. Total, seven hundred and twenty-eight acres.

“And I further declare that such of the said lands and tenements as are situate in the municipal district of Berwick Shire are rated in the rate-books of such municipal district as follows:—

No. on Roll.	Owner.	Net Annual Rental Value.	Electoral Division.
39 and 40 ...	James Buchanan ...	£215 ...	Division—South Province.
136 ...	James Buchanan ...	94 ...	
		£309	

“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.

“JAMES BUCHANAN.”

“In compliance with the provisions of the Act 32 Victoria, No. 334, I, THOMAS BROMELL, 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 Two thousand five hundred 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 Kanawalla, Cavendish, Karabcal, and Mockanger, in the county or reputed county of Dundas, the description of which lands and tenements are as follow:—

“Hensley Park, freehold estate.

“And I further declare that such of the said lands and tenements as are situate in the municipal district of the Shire of Dundas are rated in the rate-books of such municipal district as follows:—One thousand six hundred and ninety pounds net annual value.

“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.

“THOMAS BROMELL.”

ELECTIONS AND QUALIFICATIONS COMMITTEE.—The President laid on the Table for the third time the Warrant appointing the Committee of Elections and Qualifications.

MESSAGES FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable W. Wilson, in the absence of, and on behalf of, the Honorable H. Cuthbert, presented to the Council the following Messages from His Excellency the Governor:—

NORMANBY,
Governor.

The Governor informs the Legislative Council that he has, on this day, at the Government Offices, given the Royal Assent to the undermentioned Act of the present Session, presented to him by the Clerk of the Parliaments, viz., "*An Act to apply out of the Consolidated Revenue the sum of Eight hundred thousand pounds to the service of the year One thousand eight hundred and seventy-nine and eighty.*"

Government Offices,
Melbourne, 17th July, 1879.

NORMANBY,
Governor.

In reply to the Address from the Legislative Council, asking that the Governor will be pleased to present to that House "Copies of all Despatches that have passed between the Right Honorable the Secretary of State for the Colonies and the Governor of Victoria on the question of Constitutional Reform since the commencement of 1878, and all memoranda and documents in relation thereto, or such of the Despatches and other documents as Your Excellency may feel justified in making public, and particularly that Your Excellency will be pleased to present to this Council copies of the Despatch of Sir M. Hicks Beach of 3rd May last, and of the documents therein referred to,"—the Governor informs the Legislative Council that the Despatches and other documents referred to are being printed, and will be presented to both Houses of Parliament at an early date.

Government Offices,
Melbourne, 21st July, 1879.

Ordered severally to lie on the Table.

PAPERS.—The Honorable W. Wilson, in the absence of, and on behalf of, the Honorable H. Cuthbert, by command of His Excellency the Governor, presented to the Council the following Papers:—

1. Safety Mining Cages.—Report of Board.—1878–9.
2. Land Act 1869—Report of Proceedings under, during year ending 31st December, 1878.

Ordered severally to lie on the Table.

PAPERS.—The Honorable W. Wilson, in the absence of, and on behalf of, the Honorable H. Cuthbert, laid on the Table the following Papers:—

1. Neglected and Criminal Children Act 1864.—Regulations.—Order in Council (24th June 1879).
2. Public Accounts.—Regulation respecting (7th July 1879).
3. Education.—Estimate of Expenditure during year ending 30th June 1880, under section 12 of Act No. 608.

Ordered severally to lie on the Table.

PETITION.—The Honorable W. J. Clarke presented a Petition, signed by W. Ellingworth, on the subject of reform of the Legislative Council.

Petition received.

The Petition was read at the Table by the Clerk.

POSTPONEMENT.—The following Order of the Day was postponed until Tuesday, the 29th instant:—

"*Numbering of certain Acts of Parliament Bill*"—to be read a second time.

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

Question—put and passed.

The Council adjourned at a quarter to five o'clock until half-past four o'clock on Tuesday, the 29th instant.

NOTICE OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 29TH JULY, 1879.

NOTICE OF MOTION:—

1. The Hon. R. D. REID: To move for leave to introduce a Bill to amend the Constitution Act, and to reduce the Qualification of Electors for the Legislative Council.

ORDERS OF THE DAY:—

1. CONTROVERTED ELECTIONS (COUNCIL) BILL.—To be read a second time.
 2. NUMBERING OF CERTAIN ACTS OF PARLIAMENT BILL.—To be read a second time.
-

MEETING OF SELECT COMMITTEE.

Tuesday, 29th July.

PARLIAMENT BUILDINGS—at three o'clock.

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

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

TUESDAY, 29TH JULY, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

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

1. Differences between the two Houses of the Legislature of Victoria.—Further Correspondence.
2. Imports consumed in Victoria—Value of.—During years 1871 to 1878 inclusive.

Ordered severally to lie on the Table.

PAPERS.—The Honorable H. Cuthbert laid on the Table the following Papers:—

1. Friendly Societies.—Report of Registrar.—Year ending 31st December, 1878.
2. Neglected and Criminal Children's Amendment Act 1874.—Regulations.—Order in Council, (7th July, 1879).
3. Patents Statute 1865.—Additional Rule (14th July 1879).

Ordered severally to lie on the Table.

DIFFERENCES BETWEEN HOUSES OF LEGISLATURE, VICTORIA.—CORRESPONDENCE.—The Honorable H. Cuthbert, with leave of the Council, moved, without notice, That the Further Correspondence respecting the late differences between the two Houses of the Legislature of Victoria, laid on the Table this day, be printed.

Question—put and passed.

CONSTITUTION ACT ALTERATION BILL.—The Honorable R. D. Reid, in accordance with notice, moved, That leave be given to introduce a Bill to amend the Constitution Act, and to reduce the Qualification of Electors for the Legislative Council.

Question—put and passed.

Bill brought in, and, on the motion of the Honorable R. D. Reid, ordered to be printed, and the second reading made an Order of the Day for Tuesday, the 12th proximo.

CONTROVERTED ELECTIONS (COUNCIL) BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable W. E. Hearn moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable W. E. Hearn moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 W. E. Hearn moved, That the adoption of the Report of the Committee be made an Order of the Day for Tuesday next.

Question—put and passed.

NUMBERING OF CERTAIN ACTS OF PARLIAMENT BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Cuthbert moved, That this Bill be now read a second time.

Question—put and passed.

Bill read a second time.

The Honorable H. Cuthbert moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 amended title.

The Honorable H. Cuthbert moved, That the adoption of the Report be made an Order of the Day for the next day of meeting of the Council.

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 transmit to the Legislative Council a Bill intituled “*An Act to authorize the Construction by the State of a Line of Railway from Toolamba to Tatura;*”

Also a Bill intituled “*An Act to resume and apply to Railway purposes certain Lands in the City of Melbourne;*” with which they desire the concurrence of the Legislative Council.

C. GAVAN DUFFY,
Speaker.

Legislative Assembly Chamber,
Melbourne, 29th July, 1879.

TOOLAMBA AND TATURA RAILWAY BILL.—The Honorable H. Cuthbert moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time; and, on the motion of the Honorable H. Cuthbert, ordered to be printed, and the second reading made an Order of the Day for Tuesday, the 5th proximo.

RESUMPTION OF MELBOURNE LANDS BILL.—The Honorable H. Cuthbert moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time, and, on the motion of the Honorable H. Cuthbert, ordered to be printed, and the second reading made an Order of the Day for Tuesday, the 5th proximo.

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

Question—put and passed.

The Council adjourned at a quarter past six o'clock until half-past four o'clock on Tuesday, the 5th proximo.

NOTICE OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 5TH AUGUST, 1879.

NOTICE OF MOTION:—

1. The Hon. W. E. HEARN: To move for leave to bring in a Bill to consolidate and amend the Law relating to the Management of Towns and other populous places, and for the suppression of various offences.

ORDERS OF THE DAY:—

1. CONTROVERTED ELECTIONS (COUNCIL) BILL.—Adoption of Report.
2. NUMBERING OF CERTAIN ACTS OF PARLIAMENT BILL.—Adoption of Report.
3. TOOLAMBA AND TATURA RAILWAY BILL.—To be read a second time.
4. RESUMPTION OF MELBOURNE LANDS BILL.—To be read a second time.

TUESDAY, 12TH AUGUST.

ORDER OF THE DAY:—

1. CONSTITUTION ACT ALTERATION BILL.—To be read a second time.

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

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OF THE

LEGISLATIVE COUNCIL.

TUESDAY, 5TH AUGUST, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

PETITION.—The Honorable W. E. Hearn presented a Petition from the Mayor, Aldermen, Councillors, and Citizens of the City of Melbourne, and under the Corporate Seal thereof, praying that no part of Flinders Park may be devoted under the Resumption of Melbourne Lands Bill to other than Railway purposes.

Petition received.

The Petition was read at the Table by the Clerk.

PETITION.—The Honorable J. Lorimer presented a similar Petition signed by James Duerdin, and others, styling themselves citizens of Melbourne.

Petition received.

The Petition was read at the Table by the Clerk.

PARLIAMENT BUILDINGS COMMITTEE (JOINT).—The Honorable A. Fraser brought up a Report from the Joint Committee of both Houses of Parliament appointed for the management and superintendence of the Parliament Buildings.

The Report was read at the Table by the Clerk.

The Honorable A. Fraser moved, That the Report be now adopted.

Question—put and passed.

TOWNS MANAGEMENT, ETC., BILL.—The Honorable W. E. Hearn, in accordance with notice, moved for leave to bring in a Bill to consolidate and amend the Law relating to the Management of Towns and other populous places, and for the suppression of various offences.

Question—put and passed.

Bill brought in, and, on the motion of the Honorable W. E. Hearn, read a first time, ordered to be printed, and the second reading made an Order of the Day for the next day of meeting of the Council.

CONTROVERTED ELECTIONS (COUNCIL) BILL.—The Order of the Day for the adoption of the Report of the Committee of the whole Council on this Bill being called on, the Honorable W. E. Hearn moved, That the Order of the Day be discharged, with a view to the re-committal of the Bill.

Question—put and passed.

Question—That the Bill be now re-committed—put and passed.

Question—That the President do now leave the Chair—put and passed.

The President left the Chair.

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

The Honorable W. E. Hearn moved, That the adoption of the Report be made an Order of the Day for the next day of meeting of the Council.

Question—put and passed.

NUMBERING OF CERTAIN ACTS OF PARLIAMENT 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. Cuthbert moved, That the Report be now adopted.

Question—put and passed.

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

The Honorable H. Cuthbert moved, That the title of the Bill be "*An Act to provide for the alteration of the numbering of certain Acts of Parliament.*"

Question—put and passed.

Ordered—That the Bill be sent to the Legislative Assembly with a Message desiring their concurrence therewith.

TOOLAMBA AND TATURA RAILWAY BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Cuthbert moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable H. Cuthbert moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 without amendment.

The Honorable H. Cuthbert moved, That the Report be now adopted.

Question—put and passed.

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

The Honorable H. Cuthbert moved, That the title of the Bill be "*An Act to authorize the Construction by the State of a line of Railway from Toolamba to Tatura.*"

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 amendment.

RESUMPTION OF MELBOURNE LANDS BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Cuthbert moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable H. Cuthbert moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—put and passed.

The President left the Chair.

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

Ordered.

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

Question—put and passed.

SUPREME COURT JURISDICTION AND PROCEDURE BILL.—The Honorable Dr. Dobson, with leave of the Council, moved, without notice, That leave be given to introduce a Bill to improve the Jurisdiction and Procedure of the Supreme Court, and for other purposes connected therewith.

Question—put and passed.

Bill brought in, and, on the motion of the Honorable Dr. Dobson, read a first time, ordered to be printed, and the second reading made an Order of the Day for Tuesday, the 12th instant.

PAPERS.—The Honorable H. Cuthbert laid on the Table the following Papers:—

1. Railway Loan Act, 1878, No. 608.—Estimate of proposed expenditure during year ending 30th June, 1880.
2. Railway Loan Act, 1876, No. 531.—Yan Yean Water Supply.—Estimate of proposed expenditure during year ending 30th June, 1880.

Ordered severally to lie on the Table.

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

1. Associated Banks.—Correspondence respecting Overdraft, &c.—Public Account.
2. Associated Banks.—Further correspondence.
3. Fisheries Acts—Notices under.—Gippsland Lakes (July, 1879).

Ordered severally to lie on the Table.

The Council adjourned at five minutes to six o'clock until half-past four o'clock on Tuesday, the 12th instant.

ORDERS OF THE DAY.

TUESDAY, 12TH AUGUST, 1879.

ORDERS OF THE DAY:—

1. CONSTITUTION ACT ALTERATION BILL.—To be read a second time.
2. TOWNS MANAGEMENT, ETC., BILL.—To be read a second time.
3. CONTROVERTED ELECTIONS (COUNCIL) BILL.—Adoption of Report.
4. RESUMPTION OF MELBOURNE LANDS BILL.—To be further considered in Committee.
5. SUPREME COURT JURISDICTION AND PROCEDURE BILL.—To be read a second time.

MEETING OF SELECT COMMITTEE.

Tuesday, 12th August.

PRINTING—at four o'clock.

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

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OF THE

LEGISLATIVE COUNCIL.

TUESDAY, 12TH AUGUST, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

DECLARATION OF MEMBER.—The Honorable Niel Black delivered to the Clerk the declaration required by the seventh clause of the Act 32 Victoria No. 334, as hereunder set forth :—

“In compliance with the provisions of the Act 32 Victoria, No. 334, I, NIEL BLACK, 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 over Two thousand five hundred 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 Glenormiston, Terang, and Marida Yallock, in the counties or reputed counties of Ripon and Hampden, the description of which lands and tenements are as follow :—

“Freehold known as Noorat.

“And I further declare that such of the said lands and tenements as are situate in the municipal district of the shire of Hampden are rated in the rate-books of such municipal district as follows :—No. 697, Niel Black, 13,434 acres freehold, Glenormiston, Terang, and Marida Yallock ; net annual value, £4583 10s. ; rate, £235 1s. 6d. ; electoral districts, Ripon and Hampden, Villiers and Heytesbury ; divisions of districts, Camperdown and Terang.

“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.

“NIEL BLACK.”

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

1. Licensing Act.—Return of work done by inspectors during year ending 30th June, 1879.
2. Agreement of Peninsular and Oriental Steam Navigation Company to convey Mails (2nd August, 1879).

Ordered severally to lie on the Table.

PAPER.—The Honorable H. Cuthbert laid on the Table the following Paper :—

Railway Reserve, Sandhurst—Revocation of permission to occupy portion of, for Mining purposes (21st July, 1879).

Ordered to lie on the Table.

PRINTING COMMITTEE REPORT.—The Honorable J. Cumming brought up a Report from the Printing Committee, and moved, That the Report be adopted and printed.

Question—put and passed.

POSTPONEMENTS.—The following Orders of the Day were severally postponed as hereunder set forth :—

Constitution Act Alteration Bill—to be read a second time, 26th instant ;

Towns Management, &c., Bill—to be read a second time, 19th instant.

CONTROVERTED ELECTIONS (COUNCIL) 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. E. Hearn 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. E. Hearn, was read a third time and *passed*.

The Honorable W. E. Hearn moved, That the title of the Bill be “*An Act to amend the Law relating to Controverted Elections to the Legislative Council.*”

Question—put and passed.

Ordered—That the Bill be sent to the Legislative Assembly with a Message desiring their concurrence therewith.

- RESUMPTION OF MELBOURNE LANDS 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 amendment.
The Honorable H. Cuthbert moved, That the Report be now adopted.
Question—put and passed.
The President having reported that the Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as reported, the Bill, on the motion of the Honorable H. Cuthbert, was read a third time and *passed*.
The Honorable H. Cuthbert moved, That the title of the Bill be “*An Act to resume and apply to Railway purposes certain lands in the City of Melbourne.*”
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 amendment.
- PAPER.**—The Honorable H. Cuthbert presented to the Council the following Paper :—
Railway Loan Acts, Nos. 531 and 608.—Estimate of proposed expenditure during year ending 30th June, 1880.
The Honorable H. Cuthbert, with leave of the Council, moved, without notice, That the paper be printed.
Question—put and passed.
- SUPREME COURT JURISDICTION AND PROCEDURE BILL.**—The Order of the Day for the second reading of this Bill being read, the Honorable Dr. Dobson moved, That the Bill be now read a second time.
Debate ensued.
Question—put and passed.
Bill read a second time.
The Honorable Dr. Dobson moved, That the Bill be referred to a Select Committee consisting of seven Members.
Question—put and passed.
The Honorable Dr. Dobson moved, That the following be the Members of the Committee, viz., the Honorables W. E. Hearn, R. S. Anderson, Sir C. Sladen, H. Cuthbert, J. Lorimer, J. Balfour, and the Mover.
Question—put and passed.
- ADJOURNMENT.**—The Honorable H. Cuthbert, with leave of the Council, moved, without notice, That the House, at its rising this day, adjourn until Tuesday next.
Question—put and passed.
The Council adjourned at ten minutes past five o'clock until half-past four o'clock on Tuesday, the 19th instant.

ORDERS OF THE DAY.

TUESDAY, 19TH AUGUST, 1879.

ORDER OF THE DAY :—

1. TOWNS MANAGEMENT, ETC., BILL.—To be read a second time.

TUESDAY, 26TH AUGUST.

ORDER OF THE DAY :—

1. CONSTITUTION ACT ALTERATION BILL.—To be read a second time.

MEETING OF SELECT COMMITTEE.

Tuesday, 19th August.

PARLIAMENT BUILDINGS (JOINT) COMMITTEE—at half-past three o'clock.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

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LEGISLATIVE COUNCIL.

TUESDAY, 19TH AUGUST, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

DECLARATION OF MEMBER.—The Honorable J. Henty delivered to the Clerk the declaration required by the seventh clause of the Act 32 Victoria No. 334, as hereunder set forth :—

“ In compliance with the provisions of the Act 32 Victoria, No. 334, I, JAMES HENTY, do declare and testify that I am duly seized 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 Six hundred 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 Pakenham and Nar-nar-Goon, in the county or reputed county of Mornington, the description of which lands and tenements are as follow :—

“ Freehold land, known as Pakenham Park, Pakenham.

“ And I further declare that such of the said lands and tenements as are situate in the municipal district of Berwick are rated in the rate-books of such municipal district as follows :—

“ Pakenham Park, 4000 acres, parishes of Pakenham and Nar-nar-Goon ; net annual value, Six hundred pounds ; No. rate-book, 366.

“ 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.

“ JAS. HENTY.”

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable H. Cuthbert presented to the Council the following Message from His Excellency the Governor :—

NORMANBY,

Governor.

The Governor informs the Legislative Council that he has, on this day, at the Government Offices, given the Royal Assent to the undermentioned Acts of the present Session, presented to him by the Clerk of the Parliaments, viz. :—

“ *An Act to authorize the construction by the State of a Line of Railway from Toolamba to “ Tatura” ;*

“ *An Act to resume and apply to Railway purposes certain lands in the City of Melbourne.”*

Government Offices,

Melbourne, 18th August, 1879.

Ordered to lie on the Table.

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

1. Agreement of Peninsular and Oriental Steam Navigation Company to convey Mails (2nd August, 1879).

2. Schedule D, 18 & 19 Vict., cap. 55—Statement of Expenditure under, during year 1878-9.

Ordered severally to lie on the Table.

TOWNS MANAGEMENT, ETC., BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable W. E. Hearn moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable W. E. Hearn moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—put and passed.

The President left the Chair.

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

Ordered.

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

Question—put and passed.

The Council adjourned at five o'clock until half past four o'clock on Tuesday, the 26th instant.

NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 26TH AUGUST, 1879.

NOTICES OF MOTION :—

1. The Hon. A. FRASER : To move, That there be laid before this House a Return showing the respective names, occupations, and salaries of all persons discharged from employment in the several Government departments between the 1st July, 1877 and the 1st July, 1879 ; and the name, occupation, and salary of every person appointed or re-appointed during the same period to any situation in the Government service, whether permanent or temporary, and whether paid by salaries voted on Estimates, or out of monies appropriated for particular works.
2. The Hon. J. A. WALLACE : To move for leave to introduce a Bill to provide for mining for gold and silver on private property.

ORDERS OF THE DAY :—

1. CONSTITUTION ACT ALTERATION BILL.—To be read a second time.
2. TOWNS MANAGEMENT, ETC., BILL.—To be further considered in Committee.

MEETING OF SELECT COMMITTEE.

Tuesday, 2nd September.

SUPREME COURT JURISDICTION AND PROCEDURE BILL—at half-past three o'clock.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

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LEGISLATIVE COUNCIL.

TUESDAY, 26TH AUGUST, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

PETITION.—The Honorable W. Ross presented a Petition from J. G. Clapham and others, styling themselves members of the Casterton, Sandford, and Merino Railway League, and praying that a line of railway may be made from Branxholme to Casterton.

Petition received.

DECLARATION OF MEMBER.—The Honorable Sir S. Wilson delivered to the Clerk the declaration required by the seventh clause of the Act 32 Victoria No. 334, as hereunder set forth :—

“In compliance with the provisions of the Act 32 Victoria, No. 334, I, SIR SAMUEL WILSON, 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 net annual value of Seven hundred and nine pounds ten shillings 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 Ercildoun and Burrumbeet, in the counties or reputed counties of Ripon and Talbot, the description of which lands and tenements are as follow :—

“Two thousand three hundred and sixty-six acres, being portion of Ercildoun estate.

“And I further declare that such of the said lands and tenements as are situate in the municipal district of the shire of Ballarat are rated in the rate-books of such municipal district as follows :—

SOUTH RIDING.

No. on rate—198.

Surname—Wilson.

Christian name—Samuel.

Occupation—Sheep-farmer.

Name of owner—Sir Samuel Wilson.

Description—Land, 2366 acres.

Electoral district—Ripon and Hampden.

Division of electoral district—Burrumbeet.

Net annual value—£709 10s.

Rate at 1s. in the £—£35 9s. 6d.

Date of payment—

Amount—£35 9s. 6d.

“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.

“SAM^L. WILSON.”

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

1. Penal Establishments and Gaols—Report of Inspector-General for year 1878.

2. Mining Surveyors and Registrars—Reports of, for Quarter ending 30th June, 1879.

Ordered severally to lie on the Table.

DISCHARGED AND APPOINTED OFFICIALS.—The Honorable A. Fraser, in accordance with notice, moved, That there be laid before this House a Return showing the respective names, occupations, and salaries of all persons discharged from employment in the several Government departments between the 1st July, 1877, and the 1st July, 1879; and the name, occupation, and salary of every person appointed or re-appointed during the same period to any situation in the Government service, whether permanent or temporary, and whether paid by salaries voted on Estimates, or out of monies appropriated for particular works.

Question—put and passed.

MINING ON PROPERTY BILL.—The Honorable J. A. Wallace, in accordance with notice, moved for leave to introduce a Bill to provide for mining for Gold and Silver on Private Property.

Question—put and passed.

Bill brought in, and, on the motion of the Honorable J. A. Wallace, read a first time, ordered to be printed, and the second reading made an Order of the Day for Tuesday, the 2nd proximo.

POSTPONEMENT.—The following Order of the Day was postponed until Tuesday, the 9th proximo :—
“ Constitution Act Alteration Bill ”—to be read a second time.

TOWNS MANAGEMENT, ETC., 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.

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

Question—put and passed.

The Council adjourned at five o'clock until half-past four o'clock on Tuesday, the 2nd proximo.

NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 2ND SEPTEMBER, 1879.

1. The Hon. J. A. WALLACE : To call attention to the fact, that the charges made by the Railway Department for the carriage of copper ore is at the rate of 1½d. per ton per mile, while the charge made for the carriage of copper smelted in Victoria is 5d. per ton per mile ; and to ask the Honorable Mr. Cuthbert to have the matter brought under the notice of the Honorable the Commissioner of Railways as tending to reduce employment in Victoria.

NOTICES OF MOTION :—

1. The Hon. W. CAMPBELL : To move, That there be laid on the Table of the House a Return giving the following particulars relating to each Royal Commission or Board of Enquiry appointed since 1st July, 1877 :—
 - (1.) The date of its appointment.
 - (2.) The object for which it was appointed.
 - (3.) The total cost connected with it, including the following particulars :—
 - a. Amount paid or due for transit expenses.
 - b. Amount paid or due for reporting and printing, including proportion of salaries.
 - c. Amount paid or due for hotel or refreshment expenses.
 - d. Amount paid or due to witnesses.
 - e. Amount paid or due for incidental and all other expenses.
 - (4.) The same information respecting Select Committees of the Legislative Assembly, appointed during the present Parliament, which have obtained leave to move from place to place, and to sit on days on which the House does not sit.
2. The Hon. T. F. HAMILTON : To move, That there be laid on the Table of this House a Return of the number of applications for the transfer of leases under the 20th section of the Land Act 1869, refused by the Minister of Lands, and the reasons for such refusal.

ORDERS OF THE DAY :—

1. MINING ON PRIVATE PROPERTY BILL.—To be read a second time.
2. TOWNS MANAGEMENT, ETC., BILL.—To be further considered in Committee.

TUESDAY, 9TH SEPTEMBER.

ORDER OF THE DAY :—

1. CONSTITUTION ACT ALTERATION BILL.—To be read a second time.

MEETING OF SELECT COMMITTEE.

Tuesday, 2nd September.

SUPREME COURT JURISDICTION AND PROCEDURE BILL—at half-past three o'clock.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

TUESDAY, 2ND SEPTEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

PAPERS.—The Honorable C. J. Jenner, in the absence of, and on behalf of, the Honorable H. Cuthbert, by command of His Excellency the Governor, presented to the Council the following Papers :—

1. Hospitals for Insane.—Report of Inspector for year ending 31st December, 1878.
2. Land Act 1869—Licenses to cut Timber.—Order in Council (4th August, 1879).

Ordered severally to lie on the Table.

PAPERS.—The Honorable C. J. Jenner, in the absence of, and on behalf of, the Honorable H. Cuthbert, laid on the Table the following Papers :—

1. Heathcote Camp Reserve—Authority to mine upon.—Order in Council (18th August, 1879).
2. Victorian Water Supply.—Statement of application, during year ending 30th June, 1879, of money out of Loan Acts 428 and 531.

Ordered severally to lie on the Table.

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 further suspension of the Export Duty on Redgum Timber,*" with which they desire the concurrence of the Legislative Council.

C. GAVAN DUFFY,

Speaker.

Legislative Assembly Chamber,
Melbourne, 2nd September, 1879.

EXPORT DUTY ON REDGUM FURTHER SUSPENSION BILL.—The Honorable C. J. Jenner, in the absence of, and on behalf of, the Honorable H. Cuthbert, moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time, and, on the motion of the Honorable C. J. Jenner, ordered to be printed, and the second reading made an Order of the Day for Tuesday, the 9th instant.

COMMISSIONS AND BOARDS OF ENQUIRY.—The Honorable W. Campbell, in accordance with *amended* notice, moved, That there be laid on the Table of the House a Return giving the following particulars relating to each Royal Commission or Board of Enquiry appointed since 1st July, 1877 :—

- (1.) The date of its appointment.
- (2.) The object for which it was appointed.
- (3.) The total cost connected with it, including the following particulars :—
 - a. Amount paid or due for transit expenses.
 - b. Amount paid or due for reporting and printing, including proportion of salaries.
 - c. Amount paid or due for hotel or refreshment expenses.
 - d. Amount paid or due to witnesses.
 - e. Amount paid or due for incidental and all other expenses.
- (4.) The same information respecting Select Committees of either House, appointed during the present Parliament, which have obtained leave to move from place to place, and to sit on days on which the House does not sit.
- (5.) The names of the members of each Commission or Board.
- (6.) The names of members or officers who certified to the correctness of the accounts to the Treasury.

Question—put and passed.

LEASE TRANSFERS—LAND ACT 1869.—The Honorable T. F. Hamilton, in accordance with notice, moved, That there be laid on the Table of this House a Return of the number of applications for the transfer of leases under the 20th section of the Land Act 1869, refused by the Minister of Lands, and the reasons for such refusal.

Question—put and passed.

PETITION.—The Honorable W. Wilson presented a Petition from J. D. Webster, praying for enquiry into certain circumstances through which he lost the savings of nearly forty years by selection of land at the Wanregarwan station.

Petition received.

POSTPONEMENT.—The following Order of the Day was postponed until Tuesday, the 9th instant :—
 “ *Mining on Private Property Bill* ”—to be read a second time.

TOWNS MANAGEMENT, ETC., 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.

ADJOURNMENT.—The Honorable C. J. Jenner, with leave of the Council, moved, without notice, That the House, at its rising this day, adjourn until Tuesday, the 9th instant.

Question—put and passed.

The Council adjourned at half-past six o'clock until half-past four o'clock on Tuesday, the 9th instant.

ORDERS OF THE DAY.

TUESDAY, 9TH SEPTEMBER, 1879.

ORDERS OF THE DAY :—

1. CONSTITUTION ACT ALTERATION BILL.—To be read a second time.
2. EXPORT DUTY ON REDGUM FURTHER SUSPENSION BILL.—To be read a second time.
3. MINING ON PRIVATE PROPERTY BILL.—To be read a second time.
4. TOWNS MANAGEMENT, ETC., BILL.—To be further considered in Committee.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

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LEGISLATIVE COUNCIL.

TUESDAY, 9TH SEPTEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

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 amend an Act intituled ‘ An Act to incorporate the Shareholders of the National Bank of ‘ Australasia’ and for other purposes ;*” with which they desire the concurrence of the Legislative Council.

Legislative Assembly Chamber,
Melbourne, 9th September, 1879.

C. GAVAN DUFFY,
Speaker.

NATIONAL BANK OF AUSTRALASIA ACT AMENDMENT BILL.—The Honorable J. Balfour, 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 this Council copies of the Report and Proceedings, with the Evidence taken before any Committee of the Assembly to which the Bill may have been referred during the present Session of Parliament.

Question—put and passed.

PAPER.—The Honorable H. Cuthbert laid on the Table the following Paper :—

Industrial and Reformatory Schools.—Report of Inspector, for year 1878.

Ordered to lie on the Table.

POSTPONEMENT.—The following Order of the Day was postponed until Tuesday, the 23rd instant :—

“ *Constitution Act Alteration Bill* ”—to be read a second time.

EXPORT DUTY ON REDGUM FURTHER SUSPENSION BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Cuthbert moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable H. Cuthbert moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 without amendment.

The Honorable H. Cuthbert moved, That the Report be now adopted.

Question—put and passed.

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

The Honorable H. Cuthbert moved, That the title of the Bill be “ *An Act to provide for the further suspension of the Export Duty on Redgum Timber.*”

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 amendment.

MINING ON PRIVATE PROPERTY BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable J. A. Wallace moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable J. A. Wallace moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 without amendment.

The Honorable J. A. Wallace moved, That the adoption of the Report be made an Order of the Day for this day fortnight.

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 transmit to the Legislative Council copies of the Reports and Proceedings from the Select Committee appointed on the Bill intituled “*An Act to amend an Act intituled ‘An Act to incorporate the Shareholders of the National Bank of Australasia and for ‘other purposes,’*” in accordance with the request of the Legislative Council.

C. GAVAN DUFFY,
Speaker.

Legislative Assembly Chamber,
Melbourne, 9th September, 1879.

NATIONAL BANK OF AUSTRALASIA ACT AMENDMENT BILL.—The Honorable J. Balfour produced a certificate, showing that the sum of Twenty pounds had been paid into the hands of 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.

The Honorable J. Balfour moved, That the second reading of the Bill be made an Order of the Day for the next day of meeting of the Council.

Question—put and passed.

TOWNS MANAGEMENT, ETC., 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 the next day of meeting of the Council.

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 apply out of the Consolidated Revenue the sum of Six hundred and twenty-two thousand pounds to the service of the year One thousand eight hundred and seventy-nine and eighty,*” with which they desire the concurrence of the Legislative Council.

C. GAVAN DUFFY,
Speaker.

Legislative Assembly Chamber,
Melbourne, 9th September, 1879.

CONSOLIDATED REVENUE BILL (2).—The Honorable H. Cuthbert moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time.

The Honorable H. Cuthbert moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable H. Cuthbert moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 without amendment.

The Honorable H. Cuthbert moved, That the Report be now adopted.

Question—put and passed.

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

The Honorable H. Cuthbert moved, That the title of the Bill be “*An Act to apply out of the Consolidated Revenue the sum of Six hundred and twenty-two thousand pounds to the service of the year One thousand eight hundred and seventy-nine and eighty.*”

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 amendment.

The Council adjourned at a quarter to seven o'clock until half-past four o'clock on Wednesday, the 10th instant.

NOTICES OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 10TH SEPTEMBER, 1879.

General Business.

NOTICES OF MOTION :—

1. The Hon. A. FRASER : To move for a Return showing the amount paid to each newspaper in the colony from 1st July, 1878 to 30th June, 1879 inclusive, for Government advertisements received either through the Government Printer or direct from the several departments.
2. The Hon. F. T. SARGOOD : To move, That a Return be laid upon the Table of this House, giving a list of all the Bills drafted, or in the process of drafting during the last eighteen months, by persons other than officers of the Law Department, giving the name of the draftsman in each case, and the amount paid to each.

ORDERS OF THE DAY :—

1. NATIONAL BANK OF AUSTRALASIA ACT AMENDMENT BILL.—To be read a second time.
 2. TOWNS MANAGEMENT, ETC., BILL.—To be further considered in Committee.
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TUESDAY, 23RD SEPTEMBER.

ORDERS OF THE DAY :—

1. CONSTITUTION ACT ALTERATION BILL.—To be read a second time.
2. MINING ON PRIVATE PROPERTY BILL.—Adoption of Report.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

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OF THE

LEGISLATIVE COUNCIL.

WEDNESDAY, 10TH SEPTEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

SYDNEY EXHIBITION.—The President read an official telegram from Sydney, announcing that a letter had been sent by post offering to the President and Members of the Council complimentary tickets during the Exhibition in Sydney, and that commissioned officers of the Council have been included in the invitation.

LEASE TRANSFERS—LAND ACT 1869.—The Honorable H. Cuthbert laid on the Table a Return to the Order of the Council made on the 2nd instant.

NEWSPAPERS—GOVERNMENT ADVERTISING IN.—The Honorable A. Fraser, in accordance with notice, moved for a Return showing the amount paid to each newspaper in the Colony from 1st July, 1878, to 30th June, 1879, inclusive, for Government advertisements received either through the Government Printer or direct from the several departments.

Question—put and passed.

BILLS DRAFTED.—The Honorable F. T. Sargood, in accordance with notice, moved, That a Return be laid upon the Table of this House, giving a list of all the Bills drafted, or in the process of drafting, during the last eighteen months by persons other than officers of the Law Department, giving the name of the draftsman in each case, and the amount paid to each.

Debate ensued.

Question—put and passed.

NATIONAL BANK OF AUSTRALASIA ACT AMENDMENT BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable J. Balfour moved, That the Bill be now read a second time.

Question—put and passed.

Bill read a second time.

The Honorable J. Balfour moved, That the Bill be now committed *pro formâ*.

Question—put and passed.

Question—That the President do now leave the Chair—put and passed.

The President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again on the next day of meeting of the Council.

Ordered.

TOWNS MANAGEMENT, ETC., 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 the next day of meeting of the Council.

Ordered.

LEASE TRANSFERS—LAND ACT 1869.—The Honorable W. Ross, with leave of the Council, moved, without notice, That the Return laid on the Table of the House this day be printed.

Question—put and passed.

ADJOURNMENT.—The Honorable Sir C. Sladen, with leave of the Council, moved, without notice, That the House, at its rising this day, adjourn until Tuesday next.

Question—put and passed.

The Council adjourned at a quarter past six o'clock until half-past four o'clock on Tuesday, the 16th instant.

NOTICE OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 16TH SEPTEMBER, 1879.

NOTICE OF MOTION :—

1. The Hon. Sir C. SLADEN: To move for leave to introduce a Bill for altering the Constitution of the Legislative Council.

ORDERS OF THE DAY :—

1. NATIONAL BANK OF AUSTRALASIA ACT AMENDMENT BILL.—To be further considered in Committee.
 2. TOWNS MANAGEMENT, ETC., BILL.—To be further considered in Committee.
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TUESDAY, 23RD SEPTEMBER.

ORDERS OF THE DAY :—

1. CONSTITUTION ACT ALTERATION BILL.—To be read a second time.
2. MINING ON PRIVATE PROPERTY BILL.—Adoption of Report.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

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LEGISLATIVE COUNCIL.

TUESDAY, 16TH SEPTEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

CERTAIN DEPARTMENTAL EXPENDITURE, RETURNS OF.—The Honorable H. Cuthbert laid on the Table a Return to the Order of the Council, made on the 16th July, 1879.

The Honorable F. T. Sargood, with leave of the Council, moved, without notice, That the Return be printed.

Question—put and passed.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable H. Cuthbert presented to the Council the following Message from His Excellency the Governor :—

NORMANBY,
Governor.

The Governor informs the Legislative Council that he has, on this day, at the Government House, given the Royal Assent to the undermentioned Acts of the present Session, presented to him by the Clerk of the Parliaments, viz. :—

“ An Act to provide for the further Suspension of the Export Duty on Redgum Timber.”

“ An Act to apply out of the Consolidated Revenue the sum of Six hundred and twenty-two thousand pounds to the service of the year One thousand eight hundred and seventy-nine and eighty.”

Government House,
Melbourne, 11th September, 1879.

Ordered to lie on the Table.

PAPER.—The Honorable H. Cuthbert laid on the Table the following Paper :—

Fisheries Acts 1873, 1878—Notification with regard to prohibition of fishing in Lakes Condah and Tyers (18th August, 1879).

Ordered to lie on the Table.

CONSTITUTION OF COUNCIL BILL.—The Honorable Sir C. Sladen, in accordance with notice, moved, That leave be given to introduce a Bill for altering the Constitution of the Legislative Council.

Question—put and passed.

Bill brought in, and, on the motion of the Honorable Sir C. Sladen, read a first time, ordered to be printed, and the second reading made an Order of the Day for Tuesday, the 30th 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 sanction the issue and application of a certain sum of money under ‘ The Railway Loan Act ‘ 1878’ for the service of the year ending the thirtieth day of June One thousand eight hundred and eighty,*” with which they desire the concurrence of the Legislative Council.

C. GAVAN DUFFY,
Speaker.

Legislative Assembly Chamber,
Melbourne, 16th September, 1879.

RAILWAY LOAN ACCOUNT APPLICATION BILL.—The Honorable H. Cuthbert moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time, and, on the motion of the Honorable H. Cuthbert, ordered to be printed, and the second reading made an Order of the Day for Tuesday, the 23rd instant.

NATIONAL BANK OF AUSTRALASIA 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 amendment.

The Honorable J. Balfour moved, That the Report be now adopted.

Question—put and passed.

The Honorable J. Balfour moved, That the third reading of the Bill be made an Order of the Day for the next day of meeting of the Council.

Question—put and passed.

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

Question—put and passed.

POSTPONEMENT.—The following Order of the Day was postponed until Tuesday, the 23rd instant:—

“*Towns Management, etc., Bill*”—to be further considered in Committee.

The Council adjourned at twenty minutes to seven o'clock until half-past four o'clock on Tuesday, the 23rd instant.

NOTICE OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 23RD SEPTEMBER, 1879.

NOTICE OF MOTION :—

1. The Hon. W. E. HEARN: To move for leave to bring in a Bill to declare, consolidate, and amend certain portions of the Law concerning the duties of the people.

ORDERS OF THE DAY :—

1. CONSTITUTION ACT ALTERATION BILL.—To be read a second time.
2. MINING ON PRIVATE PROPERTY BILL.—Adoption of Report.
3. RAILWAY LOAN ACCOUNT APPLICATION BILL.—To be read a second time.
4. NATIONAL BANK OF AUSTRALASIA ACT AMENDMENT BILL.—To be read a third time.
5. TOWNS MANAGEMENT, ETC., BILL.—To be further considered in Committee.

TUESDAY, 30TH SEPTEMBER.

ORDER OF THE DAY :—

1. CONSTITUTION OF COUNCIL BILL.—To be read a second time.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

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LEGISLATIVE COUNCIL.

TUESDAY, 23RD SEPTEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

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 compulsory taking of land for the Dunmunkle and St. Arnaud Shires Water-works,*" with which they desire the concurrence of the Legislative Council.

C. GAVAN DUFFY,
Speaker.

Legislative Assembly Chamber,
Melbourne, 23rd September, 1879.

DUNMUNKLE AND ST. ARNAUD SHIRES WATERWORKS BILL.—The Honorable H. Cuthbert moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time ; and, on the motion of the Honorable H. Cuthbert, ordered to be printed, and the second reading made an Order of the Day for the next day of meeting of the Council.

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

1. Australasian Mails.—Circular Despatch from the Right Honorable the Secretary of State for the Colonies, with enclosures (17th January, 1879).
2. Land Act 1869—Regulations—Keilor Town Common.—Order in Council (12th September, 1879).
3. Melbourne International Exhibition 1880.—Despatches from the Right Honorable the Secretary of State for the Colonies (23rd February, 1878, to 23rd June, 1879).

Ordered severally to lie on the Table.

DUTIES OF PEOPLE BILL.—The Honorable W. E. Hearn, in accordance with notice, moved for leave to bring in a Bill to declare, consolidate, and amend certain portions of the Law concerning the Duties of the People.

Question—put and passed.

Bill brought in, and, on the motion of the Honorable W. E. Hearn, read a first time, ordered to be printed, and the second reading made an Order of the Day for Tuesday, the 7th proximo.

CONSTITUTION ACT ALTERATION BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable R. D. Reid moved, That the Bill be now read a second time.

Debate ensued.

The Honorable J. Balfour moved, That the debate be adjourned.

Question—put and passed.

The Honorable J. Balfour moved, That the debate be adjourned until this day fortnight.

Debate ensued.

Question—put and passed.

MINING ON PRIVATE PROPERTY 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. A. Wallace moved, That the Report be now adopted.

Question—put and passed.

The Honorable J. A. Wallace moved, That the Bill be now read a third time.

Debate ensued.

Question—put and passed.

Bill read a third time, and, on the motion of the Honorable J. A. Wallace—*passed.*

The Honorable J. A. Wallace moved, That the title of the Bill be "*An Act to provide for Mining for Gold and Silver on Private Property.*"

Question—put and passed.

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

RAILWAY LOAN ACCOUNT APPLICATION BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Cuthbert moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable H. Cuthbert moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 without amendment.

The Honorable H. Cuthbert moved, That the Report be now adopted.

Question—put and passed.

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

The Honorable H. Cuthbert moved, That the title of the Bill be “*An Act to sanction the issue and application of a certain Sum of Money under ‘The Railway Loan Act 1878’ for the service of the year ending the Thirtieth day of June, One thousand eight hundred and eighty.*”

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 amendment.

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

The Honorable J. Balfour moved, That the title of the Bill be “*An Act to amend an Act intituled ‘An Act to incorporate the Shareholders of the National Bank of Australasia, 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 amendment.

TOWNS MANAGEMENT, ETC., 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 W. E. Hearn moved, That the adoption of the Report be made an Order of the Day for Tuesday next.

Question—put and passed.

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

Question—put and passed.

The Council adjourned at a quarter past ten o'clock until half-past four o'clock on Tuesday, the 30th instant.

ORDERS OF THE DAY.

TUESDAY, 30TH SEPTEMBER, 1879.

1. The Hon. G. F. BELCHER: To ask the Honorable Member representing the Government as to land brought under the operation of the Transfer of Land Statute since the Act came into force (1st June, 1866),
 - (1). Amount of contribution to Assurance Fund under section 30 of the Act; the amount of Indemnity under sections 31 and 32.
 - (2). Amount of contributions to the Assurance Fund of a half-penny in the pound sterling upon all lands sold at auction or otherwise alienated in fee-simple by the Crown.
 - (3). What claims have been made on the Assurance and Indemnity Funds.
 - (4). Whether the Assurance and Indemnity fees are paid into the Consolidated Revenue or kept in a separate account.

ORDERS OF THE DAY :—

1. CONSTITUTION OF COUNCIL BILL.—To be read a second time.
2. DUNMUNKLE AND ST. ARNAUD SHIRES WATERWORKS BILL.—To be read a second time.
3. TOWNS MANAGEMENT, ETC., BILL.—Adoption of Report.

TUESDAY, 7TH OCTOBER.

ORDERS OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be read a second time.
2. CONSTITUTION ACT ALTERATION BILL.—Adjourned debate on second reading.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

Minutes of the Proceedings
OF THE
LEGISLATIVE COUNCIL.

TUESDAY, 30TH SEPTEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable H. Cuthbert presented to the Council the following Message from His Excellency the Governor :—

NORMANBY,
Governor.

The Governor informs the Legislative Council that he has, on this day, at the Government Offices, given the Royal Assent to the undermentioned Acts of the present Session, presented to him by the Clerk of the Parliaments, viz. :—

*“An Act to sanction the Issue and Application of a certain Sum of Money under ‘The
“ ‘Railway Loan Act 1878,’ for the service of the year ending the thirtieth day of June.
“ One thousand eight hundred and eighty.”*

*“An Act to amend an Act intituled ‘An Act to incorporate the Shareholders of the National
“ ‘Bank of Australasia, and for other purposes.’”*

Government House,
Melbourne, 29th September, 1879.

Ordered to lie on the Table.

PAPER.—The Honorable H. Cuthbert, by command of His Excellency the Governor, presented to the Council the following Paper :—

Australian Mails *via* Southampton.—Memoranda (28th August and 3rd September 1879).

Ordered to lie on the Table.

PAPER.—The Honorable H. Cuthbert laid on the Table the following Paper :—

Railway Reserve, Castlemaine—Revocation of Order permitting Mining thereon.—Order in Council (12th September, 1879).

Ordered to lie on the Table.

POSTPONEMENT.—The following Order of the Day was postponed until Tuesday, the 7th proximo :—

“ Constitution of Council Bill ”—to be read a second time.

DUNMUNKLE AND ST. ARNAUD SHIRES WATERWORKS BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Cuthbert moved, That the Bill be now read a second time. Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable H. Cuthbert moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 H. Cuthbert moved, That the Report be now adopted.

Question—put and passed.

The Honorable H. Cuthbert moved, That the third reading of the Bill be made an Order of the Day for the next day of meeting of the Council.

Question—put and passed.

TOWNS MANAGEMENT, ETC., BILL.—The Order of the Day for the adoption of the Report of the Committee of the whole Council on this Bill being called on, the Honorable W. E. Hearn moved, That the Order of the Day be discharged, with a view to the re-committal of the Bill.
 Question—That the Order of the Day be discharged—put and passed.
 Question—That the Bill be now re-committed—put and passed.
 Question—That the President do now leave the Chair—put and passed.
 The President left the Chair.
 The Chairman of Committees reported that the Committee had gone through the Bill and had agreed to the same with further amendments.
 The Honorable W. E. Hearn moved, That the adoption of the Report of the Committee be made an Order of the Day for Tuesday next.
 Question—put and passed.

PAPERS.—The Honorable H. Cuthbert laid upon the Table the following Papers :—

1. Lunatic Asylums.—Return of Inspector (5th September, 1879).
2. Exhibition, Melbourne International, 1880.—Rules and Regulations (20th May, 1879).

Ordered severally to lie on the Table.

The Council adjourned at a quarter to seven o'clock until half-past four o'clock on Wednesday, the 1st proximo.

ORDERS OF THE DAY.

WEDNESDAY, 1ST OCTOBER, 1879.

Government Business.

ORDER OF THE DAY :—

1. DUNMUNKLE AND ST. ARNAUD SHIRES WATERWORKS BILL.—To be read a third time.
-

TUESDAY, 7TH OCTOBER.

1. The Hon. G. F. BELCHER : To ask the Honorable Member representing the Government as to land brought under the operation of the Transfer of Land Statute since the Act came into force (1st June, 1866),
 - (1). Amount of contribution to Assurance Fund under section 30 of the Act ; the amount of Indemnity under sections 31 and 32.
 - (2). Amount of contributions to the Assurance Fund of a half-penny in the pound sterling upon all lands sold at auction or otherwise alienated in fee-simple by the Crown.
 - (3). What claims have been made on the Assurance and Indemnity Funds.
 - (4). Whether the Assurance and Indemnity fees are paid into the Consolidated Revenue or kept in a separate account.

ORDERS OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be read a second time.
2. CONSTITUTION ACT ALTERATION BILL.—Adjourned debate on second reading.
3. CONSTITUTION OF COUNCIL BILL.—To be read a second time.
4. TOWNS MANAGEMENT, ETC., BILL.—Adoption of Report.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

WEDNESDAY, 1ST OCTOBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

NEWSPAPERS—GOVERNMENT ADVERTISING IN.—The Honorable H. Cuthbert laid on the Table a Return to the Order of the Council made on the 10th ultimo.

The Honorable A. Fraser moved, That the Return be printed.

Question—put and passed.

DUNMUNKLE AND ST. ARNAUD SHIRES WATERWORKS 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 Bill, on the motion of the Honorable H. Cuthbert, was read a third time and *passed*.

The Honorable H. Cuthbert moved, That the title of the Bill be "*An Act to provide for the compulsory taking of Land for the Dunmunkle and St. Arnaud Shires Waterworks.*"

Question—put and passed.

Ordered—That the Bill be returned to the Legislative Assembly, with a Message acquainting them that the Council have agreed to the Bill with an amendment, and desiring their concurrence therewith.

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

Question—put and passed.

The Council adjourned at five o'clock until half-past four o'clock on Tuesday, the 7th instant.

ORDERS OF THE DAY.

TUESDAY, 7TH OCTOBER, 1879.

1. The Hon. G. F. BELCHER: To ask the Honorable Member representing the Government as to land brought under the operation of the Transfer of Land Statute since the Act came into force (1st June, 1866),
 - (1). Amount of contribution to Assurance Fund under section 30 of the Act; the amount of Indemnity under sections 31 and 32.
 - (2). Amount of contributions to the Assurance Fund of a half-penny in the pound sterling upon all lands sold at auction or otherwise alienated in fee-simple by the Crown.
 - (3). What claims have been made on the Assurance and Indemnity Funds.
 - (4). Whether the Assurance and Indemnity fees are paid into the Consolidated Revenue or kept in a separate account.

ORDERS OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be read a second time.
2. CONSTITUTION ACT ALTERATION BILL.—Adjourned debate on second reading.
3. CONSTITUTION OF COUNCIL BILL.—To be read a second time.
4. TOWNS MANAGEMENT, ETC., BILL.—Adoption of Report.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

TUESDAY, 7TH OCTOBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

DISCHARGED AND APPOINTED OFFICIALS.—The Honorable H. Cuthbert laid on the Table a Return to the Order of the Council made on the 26th August, 1879.

The Honorable A. Fraser moved, That the Return be printed.

Question—put and passed.

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

1. Aborigines—Fifteenth Report of Board for Protection of (1st July, 1879).
2. Crown Lands—Report of Commission of Inquiry on Agricultural and Pastoral occupation of (September, 1879).
3. Evidence taken before Royal Commission appointed to enquire into the progress of settlement under the Land Act 1869 (June, 1878, to January, 1879).

Ordered severally to lie on the Table.

POSTPONEMENTS.—The following Orders of the Day were severally postponed as hereunder set forth :—

“*Duties of People Bill*”—To be read a second time, Tuesday, 14th instant ;

“*Constitution Act Alteration Bill*”—Adjourned debate on second reading, Tuesday, 21st instant.

CONSTITUTION OF COUNCIL BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable Sir C. Sladen moved, That the Bill be now read a second time.

Debate ensued.

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

The President pointed out to the Council that, as the Bill came under the provisions of Clause LX of the Constitution Act, it would be requisite that the number of Members voting for the Bill should be recorded, and therefore he required the Members voting for the second reading of the Bill to go to the right of the Chair.

It appeared that there were eighteen Members voting for the Bill, and none against it.

The question was therefore passed.

Bill read a second time.

The Honorable Sir C. Sladen moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—put and passed.

The President left the Chair.

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

Ordered.

PAPER.—The Honorable H. Cuthbert laid on the Table the following Paper :—

Water Supply—Railway Loan Act 1878.—Estimate of Expenditure proposed during year ending 30th June, 1880, under Act 608, Second Schedule, item 10.

Ordered to lie on the Table.

TOWNS MANAGEMENT, ETC., BILL.—The Order of the Day for the adoption of the Report of the Committee of the whole Council on this Bill being called on, the Honorable W. E. Hearn moved, That the Order of the Day be discharged with a view to the re-committal of the Bill.

Question—That the Order of the Day be discharged—put and passed.

Question—That the Bill be now re-committed—put and passed.

Question—That the President do now leave the Chair—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 a further amendment.

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. E. Hearn, was read a third time and *passed*.

The Honorable W. E. Hearn moved, That the title of the Bill be "*An Act to consolidate and amend the law relating to the management of Towns and other populous places and for the suppression of various Offences.*"

Question—put and passed.

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

The Council adjourned at twenty minutes to eleven o'clock until half-past four o'clock on Wednesday, the 8th instant.

ORDERS OF THE DAY.

WEDNESDAY, 8TH OCTOBER, 1879.

General Business.

ORDER OF THE DAY :—

1. CONSTITUTION OF COUNCIL BILL.—To be further considered in Committee.
-

TUESDAY, 14TH OCTOBER.

ORDER OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be read a second time.
-

TUESDAY, 21ST OCTOBER.

ORDER OF THE DAY :—

1. CONSTITUTION ACT ALTERATION BILL.—Adjourned debate on second reading.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

WEDNESDAY, 8TH OCTOBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

PAPER.—The Honorable H. Cuthbert, by command of His Excellency the Governor, presented to the Council the following Paper :—
Crown Lands—Report of Commission of Inquiry on Agricultural and Pastoral occupation of
(September, 1879).

Ordered to lie on the Table.

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

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

Ordered.

The Council adjourned at eleven o'clock until half-past four o'clock on Thursday, the 9th instant.

ORDERS OF THE DAY.

THURSDAY, 9TH OCTOBER, 1879.

ORDER OF THE DAY :—

1. CONSTITUTION OF COUNCIL BILL.—To be further considered in Committee.
-

TUESDAY, 14TH OCTOBER.

ORDER OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be read a second time.
-

TUESDAY, 21ST OCTOBER.

ORDER OF THE DAY :—

1. CONSTITUTION ACT ALTERATION BILL.—Adjourned debate on second reading.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

VICTORIA.

No. 19.

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

THURSDAY, 9TH OCTOBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

CONSTITUTION OF COUNCIL 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.

The Council adjourned at half-past six o'clock until half-past four o'clock on Tuesday, the 14th instant.

ORDERS OF THE DAY.

TUESDAY, 14TH OCTOBER, 1879.

ORDERS OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be read a second time.
 2. CONSTITUTION OF COUNCIL BILL.—To be further considered in Committee.
-

TUESDAY, 21ST OCTOBER.

ORDER OF THE DAY :—

1. CONSTITUTION ACT ALTERATION BILL.—Adjourned debate on second reading.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

TUESDAY, 14TH OCTOBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

SUPREME COURT JURISDICTION AND PROCEDURE BILL—SELECT COMMITTEE.—The Honorable Dr. Dobson, with leave of the Council, moved, without notice, That a Message be sent to the Legislative Assembly to request that they will give leave to the Honorable Robert Ramsay to attend and give evidence, if he think fit, before a Select Committee of the Legislative Council upon the Supreme Court Jurisdiction and Procedure Bill.

Question—put and passed.

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

1. Statistical Register—Victoria, 1878.—Part V.—Law, Crime, &c.
2. Phylloxera Vastatrix.—Report of Secretary for Agriculture (17th July, 1879).
3. Closed Roads—Royal Commission, Final Report of (9th October, 1879).

Ordered severally to lie on the Table.

PAPERS.—The Honorable H. Cuthbert laid on the Table the following Papers :—

1. Exhibition—Melbourne International.—First Report of Commissioners.
2. Education.—Report of Minister of Public Instruction for year 1878-9.
3. Yan Yean Water Supply.—Cash Statement and Balance Sheet (30th June, 1879).

Ordered severally to lie on the Table.

POSTPONEMENT.—The following Order of the Day was postponed until Tuesday, the 28th instant :—
“*Duties of People Bill*”—To be read a second time.

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

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

Ordered.

The Council adjourned at a quarter to ten o'clock until half-past four o'clock on Wednesday, the 15th instant.

ORDERS OF THE DAY.

WEDNESDAY, 15TH OCTOBER, 1879.

1. The Hon. W. Ross: To ask whether the system is still in force of granting free passes to men to go up country in search of employment.

General Business.

ORDER OF THE DAY :—

1. CONSTITUTION OF COUNCIL BILL.—To be further considered in Committee.

TUESDAY, 21ST OCTOBER.

ORDER OF THE DAY :—

1. CONSTITUTION ACT ALTERATION BILL.—Adjourned debate on second reading.

TUESDAY, 28TH OCTOBER.

ORDER OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be read a second time.

MEETING OF SELECT COMMITTEE.

Wednesday, 15th October.

SUPREME COURT JURISDICTION AND PROCEDURE BILL—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.

WEDNESDAY, 15TH OCTOBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

CONSTITUTION OF COUNCIL 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 H. Cuthbert moved, That the Bill be now re-committed.

Question—put and passed.

Question—That the President do now leave the Chair—put and passed.

The President left the Chair.

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

The Honorable H. Cuthbert moved, That the adoption of the Report be made an Order of the Day for Tuesday next.

Question—put and passed.

SUPREME COURT JUDICATURE AND PROCEDURE BILL—SELECT COMMITTEE.—The Honorable J. Lorimer, with leave of the Council, moved, without notice, That the Select Committee appointed on the Supreme Court Judicature and Procedure Bill have power to call for persons and papers, and to sit on days on which this House does not sit.

Question—put and passed.

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

Question—put and passed.

The Council adjourned at five minutes to ten o'clock until half-past four o'clock on Tuesday, the 21st instant.

NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 21ST OCTOBER.

NOTICES OF MOTION :—

1. The Hon. J. LORIMER: To move, That there be laid before this House a return showing the names of all supernumeraries employed in the printing branch of the Government Printing Office, since May, 1877, with the number of years and months actually employed.
 - (2.) The names, length of actual service, and grounds of appointment of those placed on the 3rd Schedule since May, 1877.
 - (3.) On whose recommendation the various appointments and promotions were made since May, 1877.
 - (4.) The nature and amount of work performed by each of such *employés*, with the number of hours occupied in such work during the month of January, 1878.
2. The Hon. J. LORIMER: To move that there be laid before this House copies of all correspondence and minutes thereon relating to the recent promotion of William Gane, an *employé* in the Government Printing Office.

ORDERS OF THE DAY :—

1. CONSTITUTION ACT ALTERATION BILL.—Adjourned debate on second reading.
2. CONSTITUTION OF COUNCIL BILL.—Adoption of Report.

TUESDAY, 28TH OCTOBER.

ORDER OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be read a second time.

MEETING OF SELECT COMMITTEE.

Thursday, 16th October.

SUPREME COURT JURISDICTION AND PROCEDURE BILL—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.

TUESDAY, 21ST OCTOBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

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

1. Defences of Victoria.—Report by His Excellency Colonel Sir W. F. Drummond Jervois, R.E., K.C.M.G., & C.B. (1st March, 1879.)
2. Australasian Statistics for year 1878.—Report by Government Statist (25th September, 1879).

Ordered severally to lie on the Table.

PAPER.—The Honorable H. Cuthbert laid on the Table the following Paper :—

Savings Banks.—Returns for year ending 30th June, 1879.

Ordered to lie on the Table.

SUPREME COURT JURISDICTION AND PROCEDURE BILL.—REPORT OF SELECT COMMITTEE.—The Honorable Dr. Dobson brought up the Report of the Select Committee to which the Supreme Court Jurisdiction and Procedure Bill was referred on the 12th August, and moved, That the same be printed.

Question—put and passed.

The Honorable Dr. Dobson moved, That the adoption of the Report be made an Order of the Day for to-morrow.

Question—put and passed.

GOVERNMENT PRINTING OFFICE.—The Honorable J. Lorimer, in accordance with notice, moved, That there be laid before this House a return showing the names of all supernumeraries employed in the printing branch of the Government Printing Office, since May, 1877, with the number of years and months actually employed.

- (2.) The names, length of actual service, and grounds of appointment of those placed on the 3rd Schedule since May, 1877.
- (3.) On whose recommendation the various appointments and promotions were made since May, 1877.
- (4.) The nature and amount of work performed by each of such *employés*, with the number of hours occupied in such work during the month of January, 1878.

Question—put and passed.

RECENT PROMOTION IN GOVERNMENT PRINTING OFFICE.—The Honorable J. Lorimer, in accordance with notice, moved, That there be laid before this House copies of all correspondence and minutes thereon relating to the recent promotion of William Gane, an *employé* in the Government Printing Office.

Question—put and passed.

POSTPONEMENT.—The following Order of the Day was postponed until Tuesday, the 28th instant :—

“ *Constitution Act Alteration Bill* ”—Adjourned debate on second reading.

CONSTITUTION OF COUNCIL BILL.—The Order of the Day for the adoption of the Report of the whole Council on this Bill being read, the Honorable H. Cuthbert moved, That the Order of the Day be discharged, with a view to the re-committal of the Bill.

Question—put and passed.

Question—That the Bill be now re-committed—put and passed.

Question—That the President do now leave the Chair—put and passed.

The President left the Chair.

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

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

Ordered.

The Council adjourned at half-past five o'clock until half-past four o'clock on Wednesday, the 22nd instant.

ORDERS OF THE DAY.

WEDNESDAY, 22ND OCTOBER, 1879.

General Business.

ORDERS OF THE DAY :—

1. SUPREME COURT JURISDICTION AND PROCEDURE BILL.—Adoption of Report of Select Committee.
2. CONSTITUTION OF COUNCIL BILL.—Adoption of Report.

TUESDAY, 28TH OCTOBER.

ORDERS OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be read a second time.
2. CONSTITUTION ACT ALTERATION BILL.—Adjourned debate on second reading.

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

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

WEDNESDAY, 22ND OCTOBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

PAPER.—The Honorable H. Cuthbert, by command of His Excellency the Governor, presented to the Council the following Paper:—

Melbourne International Exhibition 1880.—Despatch from Officiating Secretary to the Government of India respecting representation of India at (5th September, 1879).

Ordered to lie on the Table.

SUPREME COURT JURISDICTION AND PROCEDURE BILL—REPORT OF SELECT COMMITTEE.—The Order of the Day for the consideration of the Report of the Select Committee to which the Supreme Court Jurisdiction and Procedure Bill was referred being read, the Honorable Dr. Dobson moved, That the Report be now adopted.

Question—put and passed.

The Honorable Dr. Dobson moved, That the Report, with the proposed amended Bill, be now considered in Committee of the whole Council with the original Bill.

Question—put and passed.

Question—That the President do now leave the Chair—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. Dobson moved, That the Report be now adopted.

Question—put and passed.

The Honorable Dr. Dobson moved, That the third reading of the Bill be made an Order of the Day for Tuesday next.

Question—put and passed.

CONSTITUTION OF COUNCIL 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. Cuthbert moved, That the Report be now adopted.

Question—put and passed.

The Honorable H. Cuthbert moved, That the third reading of the Bill be made an Order of the Day for Tuesday next.

Question—put and passed.

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

Question—put and passed.

The Council adjourned at a quarter past five o'clock until half-past four o'clock on Tuesday, the 28th instant.

NOTICES OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 28TH OCTOBER, 1879.

NOTICES OF MOTION :—

1. The Hon. W. CAMPBELL : To move, That a copy of any correspondence that has taken place between this Government and the South Australian Government relating to railway connection be laid on the Table of this House.
2. The Hon. Sir C. SLADEN : To move, on the third reading of the Bill to alter the Constitution of the Legislative Council, That the two clauses of that Bill (as originally introduced) numbered 39 and 40, relating to the mode of voting at elections where more than two vacant seats are to be filled, be reinserted.

ORDERS OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be read a second time.
2. CONSTITUTION ACT ALTERATION BILL.—Adjourned debate on second reading.
3. SUPREME COURT JURISDICTION AND PROCEDURE BILL.—To be read a third time.
4. CONSTITUTION OF COUNCIL 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.

TUESDAY, 28TH OCTOBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

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

1. Observatory.—Fourteenth Report of Board of Visitors; with Annual Report of Government Astronomer (24th July, 1879).
2. Statistical Register, Victoria, 1878.—Part VI.—Production.

Ordered severally to lie on the Table.

RAILWAY CONNECTION WITH SOUTH AUSTRALIA.—The Honorable W. Campbell, in accordance with *amended* notice, moved, That a copy of any correspondence that has taken place since 27th July, 1878, between this Government and the South Australian Government, relating to railway connection, be laid on the Table of this House.

Question—put and passed.

DUTIES OF PEOPLE BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable W. E. Hearn moved, That the Bill be now read a second time.

Question—put and passed.

The Honorable W. E. Hearn moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—put and passed.

The President left the Chair.

The Chairman of Committees reported progress, and asked leave to sit again on Tuesday, the 11th proximo.

Ordered.

CONSTITUTION ACT ALTERATION BILL.—The Order of the Day for the resumption of the adjourned debate on the second reading of this Bill being read, the debate was resumed.

Bill, by leave, withdrawn.

SUPREME COURT JURISDICTION AND PROCEDURE BILL.—The Order of the Day for the third reading of this Bill being called on, the Honorable W. E. Hearn moved, That the Order of the Day be discharged with a view to the re-committal of the Bill.

Question—That the Order of the Day be discharged—put and passed.

Question—That the Bill be now re-committed—put and passed.

Question—That the President do now leave the Chair—put and passed.

The President left the Chair.

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

The Honorable W. E. Hearn moved, That the adoption of the Report be made an Order of the Day for the next day of meeting of the Council.

Question—put and passed.

CONSTITUTION OF COUNCIL BILL.—The Order of the Day for the third reading of this Bill being read, the Honorable H. Cuthbert moved, That the Bill be now read a third time.

The President reported that the Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as reported.

Debate ensued.

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

The President pointed out to the Council that, as the Bill came under the provisions of Clause LX of the Constitution Act, it would be requisite that the number of Members voting for the Bill should be recorded, and therefore he required the Members voting for the third reading of the Bill to go to the right of the Chair.

It appeared that there were nineteen Members voting for the Bill and none against it.

The question was therefore passed.

Bill read a third time.

The Honorable H. Cuthbert moved, That the Bill do now pass.

The Honorable Sir C. Sladen moved, That Clause 39, as originally introduced, relating to the mode of voting at elections where more than two vacant seats are to be filled, be re-inserted.

Question—put.

Council divided.

Contents, 8.

The Hon. Sir C. Sladen
W. J. Clarke
N. Black
J. Cumming
W. Highett
W. E. Hearn
N. Fitzgerald
W. Campbell (*Teller*).

Not Contents, 13.

The Hon. T. Bromell
H. Cuthbert
J. Balfour
F. T. Sargood
R. D. Reid
J. Lorimer
T. F. Hamilton
J. A. Wallace
J. Buchanan
A. Fraser
F. Robertson
G. F. Belcher
W. Wilson (*Teller*).

The question was therefore negatived.

Question—That the Bill do now pass—put and passed.

The Honorable H. Cuthbert moved, That the title of the Bill be “*An Act to alter the Constitution of the Legislative Council.*”

Question—put and passed.

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

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

Question—put and passed.

The Council adjourned at half-past seven o'clock until half-past four o'clock on Wednesday, the 5th proximo.

ORDERS OF THE DAY.

WEDNESDAY, 5TH NOVEMBER, 1879.

General Business.

1. The Hon. C. J. JENNER: To ask the Honorable H. Cuthbert when tenders will be called for the Railway Station, Queenscliff.;

ORDER OF THE DAY:—

1. SUPREME COURT JURISDICTION AND PROCEDURE BILL.—Adoption of Report.
-

TUESDAY, 11TH NOVEMBER.

ORDER OF THE DAY:—

1. DUTIES OF PEOPLE BILL.—To be further considered in Committee.

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

VICTORIA.

No. 25.

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

WEDNESDAY, 5TH NOVEMBER, 1879.

There being no quorum of Members present at the expiration of half an hour after the time appointed for the meeting of the Council, the President took the Chair, and without question put, adjourned the Council to the next sitting day.

ORDERS OF THE DAY.

THURSDAY, 6TH NOVEMBER, 1879.

1. The Hon. C. J. JENNER: To ask the Honorable H. Cuthbert when tenders will be called for the Railway Station, Queenscliff.

ORDER OF THE DAY:—

1. SUPREME COURT JURISDICTION AND PROCEDURE BILL.—Adoption of Report.
-

TUESDAY, 11TH NOVEMBER.

ORDER OF THE DAY:—

1. DUTIES OF PEOPLE BILL.—To be further considered in Committee.

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

VICTORIA.

No. 26.

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

THURSDAY, 6TH NOVEMBER, 1879.

There being no quorum of Members present at the expiration of half an hour after the time appointed for the meeting of the Council, the President took the Chair, and, without question put, adjourned the Council to the next sitting day.

ORDERS OF THE DAY.

TUESDAY, 11TH NOVEMBER, 1879.

1. The Hon. C. J. JENNER : To ask the Honorable H. Cuthbert when tenders will be called for the Railway Station, Queenscliff.

ORDERS OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be further considered in Committee.
2. SUPREME COURT JURISDICTION AND PROCEDURE BILL.—Adoption of Report.

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

Minutes of the Proceedings
OF THE
LEGISLATIVE COUNCIL.

TUESDAY, 11TH NOVEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

PAPERS.—The Honorable C. J. Jenner, in the absence of, and on behalf of, the Honorable H. Cuthbert, by command of His Excellency the Governor, presented to the Council the following Papers:—

1. Aborigines.—Report and Correspondence relative to mortality amongst, at Aboriginal Stations, &c.

2. Telegraphic Private and Press Messages.—Order in Council (20th October, 1879).

Ordered severally to lie on the Table.

PAPER.—The Honorable C. J. Jenner, in the absence of, and on behalf of, the Honorable H. Cuthbert, laid on the Table the following Paper:—

Railway Loan Act 1876, No. 531—Estimate of Further Expenditure proposed during year ending 30th June, 1880, under.

Ordered to lie on the Table.

RAILWAY CONNECTION WITH SOUTH AUSTRALIA.—The Honorable C. J. Jenner, in the absence of, and on behalf of, the Honorable H. Cuthbert, laid on the Table a Return to the Order of the Council, made on the 28th ultimo.

The Honorable W. Campbell, with leave of the Council, moved, without notice, That the Return be printed.

Question—put and passed.

BILLS DRAFTED.—The Honorable C. J. Jenner, in the absence of, and on behalf of, the Honorable H. Cuthbert, laid on the Table a Return to the Order of the Council, made on the 10th September.

The Honorable F. Robertson, with leave of the Council, moved, without notice, That the Return be printed.

Question—put and passed.

DISCHARGED AND APPOINTED OFFICIALS.—The Honorable C. J. Jenner, in the absence of, and on behalf of, the Honorable H. Cuthbert, laid on the Table a memorandum respecting an error of inadvertence in the Return laid on the Table and ordered to be printed on the 7th October, and moved, That the memorandum be printed to accompany the Return.

Question—put and passed.

POSTPONEMENT.—The following Order of the Day was postponed until after the disposal of the succeeding Order of the Day:—

“*Duties of People Bill*”—to be further considered in Committee.

SUPREME COURT JURISDICTION AND PROCEDURE 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. Dobson moved, That the Report be now adopted.

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, on the motion of the Honorable Dr. Dobson, was read a third time and *passed*.

The Honorable Dr. Dobson moved, That the title of the Bill be “*An Act to improve the Jurisdiction and Procedure of the Supreme Court, and for other purposes connected therewith.*”

Question—put and passed.

Ordered—That the Bill be sent to the Legislative Assembly with a Message desiring their concurrence therewith.

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 confer powers upon the Trustees, Executors, and Agency Company (Limited)*," with which they desire the concurrence of the Legislative Council.

Legislative Assembly Chamber,
Melbourne, 5th November, 1879.

C. GAVAN DUFFY,
Speaker.

MR. PRESIDENT—

The Legislative Assembly return to the Legislative Council the Bill intituled "*An Act to provide for the compulsory taking of land for the Dunmunkle and St. Arnaud Shires Water-works*," and acquaint the Legislative Council that the Legislative Assembly have disagreed to the amendment made in such Bill by the Legislative Council.

Legislative Assembly Chamber,
Melbourne, 11th November, 1879.

C. GAVAN DUFFY,
Speaker.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled "*An Act to authorize the Construction by the State of a Junction Line of Railway in Melbourne from Spencer-street Railway Station to West Flinders-street Railway Station, and to amend the South Yarra and Oakleigh Railway Construction Act 1878*," with which they desire the concurrence of the Legislative Council.

Legislative Assembly Chamber,
Melbourne, 11th November, 1879.

C. GAVAN DUFFY,
Speaker.

TRUSTEES, EXECUTORS, AND AGENCY COMPANY (LIMITED) BILL.—The Honorable W. E. Hearn moved, That a Message be sent to the Legislative Assembly to request that they will be pleased to communicate to the Council copies of the Report and Evidence taken before the Select Committee appointed during the present session of Parliament on this Bill.

Question—put and passed.

DUNMUNKLE AND ST. ARNAUD SHIRES WATERWORKS BILL.—The Honorable C. J. Jenner moved, That the consideration of the Message from the Legislative Assembly with this Bill be made an Order of the Day for the next day of meeting of the Council.

Question—put and passed.

SPENCER AND FLINDERS STREETS JUNCTION RAILWAY BILL.—The Honorable C. J. Jenner moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time, and, on the motion of the Honorable C. J. Jenner, ordered to be printed, and the second reading made an Order of the Day for the next day of meeting of the Council.

DUTIES OF PEOPLE 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.

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 Copies of the Report and Proceedings from the Select Committee appointed on the Bill intituled "*An Act to confer powers upon the Trustees, Executors, and Agency Company (Limited)*," in accordance with the request of the Legislative Council.

Legislative Assembly Chamber,
Melbourne, 11th November, 1879.

C. GAVAN DUFFY,
Speaker.

TRUSTEES, EXECUTORS, AND AGENCY COMPANY (LIMITED) BILL.—The Honorable W. E. Hearn produced a certificate showing that a sum of Twenty pounds had been paid to the Colonial Treasurer for the public uses of the colony to meet the expenses of this Bill, and moved, That the Bill be now read a first time.

Question—put and passed.

Bill read a first time.

The Honorable W. E. Hearn moved, That the second reading of the Bill be made an Order of the Day for Tuesday next.

Question—put and passed.

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

Question—put and passed.

The Council adjourned at a quarter-past six o'clock until half-past four o'clock on Tuesday, the 18th instant.

NOTICE OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 18TH NOVEMBER, 1879.

NOTICE OF MOTION :—

1. The Hon. A. FRASER : To move, That P. P. Labertouche, Esq., the Secretary for Railways, be summoned to the Bar of this Honorable House on Tuesday next to answer such questions as may be asked him in reference to the Return to the Order of this House of the 26th day of August last.

ORDERS OF THE DAY :—

1. DUNMUNKLE AND ST. ARNAUD SHIRES WATERWORKS BILL.—Consideration of Message from Legislative Assembly.
2. SPENCER AND FLINDERS STREETS JUNCTION RAILWAY BILL.—To be read a second time.
3. DUTIES OF PEOPLE BILL.—To be further considered in Committee.
4. TRUSTEES, EXECUTORS, AND AGENCY COMPANY (LIMITED) BILL.—To be read a second time.

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

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

TUESDAY, 18TH NOVEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

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 apply out of the Consolidated Revenue the sum of Three hundred thousand pounds to the service of the year One thousand eight hundred and seventy-nine and eighty,*" with which they desire the concurrence of the Legislative Council.

Legislative Assembly Chamber,
Melbourne, 18th November, 1879.

C. GAVAN DUFFY,
Speaker.

CONSOLIDATED REVENUE BILL (3).—The Honorable H. Cuthbert moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time.

PAPER.—The Honorable H. Cuthbert, by Command of His Excellency the Governor, laid on the Table the following Paper :—

Statistical Register of Victoria.—Part VII.—Accumulation.

Ordered to lie on the Table.

CONSOLIDATED REVENUE BILL (3).—The Honorable H. Cuthbert, with leave of the Council, moved, without notice, That this Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable H. Cuthbert moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 without amendment.

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. Cuthbert, was read a third time and *passed*.

The Honorable H. Cuthbert moved, That the title of the Bill be "*An Act to apply out of the Consolidated Revenue the sum of Three hundred thousand pounds to the service of the year One thousand eight hundred and seventy-nine and eighty.*"

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 amendment.

DUNMUNKLE AND ST. ARNAUD SHIRES WATERWORKS BILL.—The Order of the Day for the consideration of the Message from the Legislative Assembly with this Bill being read, the Honorable H. Cuthbert moved, That the Council do not insist on their amendment to insert a new clause in the Bill.

The Honorable Sir C. Sladen moved, That the word "not" be omitted from the question.

Debate ensued.

Question—That the word "not," proposed to be omitted, stand part of the question—put and negatived.

Question—That the Council do insist on their amendment to insert a new clause in the Bill—put and passed.

Ordered—That the Bill be returned to the Legislative Assembly with a Message acquainting them that the Council insist on their amendment in the Bill.

SPENCER AND FLINDERS STREETS JUNCTION RAILWAY BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Cuthbert moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable H. Cuthbert moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 without amendment.

The Honorable H. Cuthbert moved, That the Report be now adopted.

Question—put and passed.

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

The Honorable H. Cuthbert moved, That the title of the Bill be "*An Act to authorize the Construction by the State of a Junction Line of Railway in Melbourne from Spencer Street Railway Station to West Flinders Street Railway Station, and to amend the South Yarra and Oakleigh Railway Construction Act 1878.*"

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 amendment.

POSTPONEMENT.—The following Order of the Day was postponed until the next day of meeting of the Council :—

"*Duties of People Bill*"—to be further considered in Committee.

TRUSTEES, EXECUTORS, AND AGENCY COMPANY (LIMITED) BILL.—The Order of the day for the second reading of this Bill being read, the Honorable W. E. Hearn moved, That the Bill be now read a second time.

Question—put and passed.

The Honorable W. E. Hearn moved, That the Bill be now considered *pro formâ* in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—put and passed.

The President left the Chair.

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

Ordered.

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

Question—put and passed.

The Council adjourned at five minutes to seven o'clock until half-past four o'clock on Tuesday, the 25th instant.

ORDERS OF THE DAY.

TUESDAY, 25TH NOVEMBER, 1879.

1. The Hon. W. WILSON: To ask the Honorable Member representing the Government, if the Government have any objection to lay on the Table of the House the following Returns:—
 - (1.) Annual Report of Stock Department for the last three years.
 - (2.) How many cases of Pleuro-pneumonia and other diseases have been reported during that period.
 - (3.) How many prosecutions have been made at the instance of the Department.
 - (4.) What steps were taken in cases of reported disease in detail.

ORDERS OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be further considered in Committee.
2. TRUSTEES, EXECUTORS, AND AGENCY COMPANY (LIMITED) BILL.—To be further considered in Committee.

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

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

TUESDAY, 25TH NOVEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

GOVERNMENT PRINTING OFFICE.—The Honorable H. Cuthbert laid on the Table a Return to the Order of the Council made on the 21st ultimo.

The Honorable J. Lorimer moved, That the Return be printed.

Question—put and passed.

RECENT PROMOTION IN GOVERNMENT PRINTING OFFICE.—The Honorable H. Cuthbert laid on the Table a Return to the Order of the Council made on the 21st ultimo.

TRANSFER OF LAND STATUTE ASSURANCE FUND.—The Honorable W. Wilson, with leave of the Council, moved, without notice, That a Return be laid on the Table of this House, showing—

1. Amount of contribution to Assurance Fund under section 30 of "*The Transfer of Land Statute;*" the amount of indemnity under sections 31 and 32.
2. Amount of contributions to the Assurance Fund of a half-penny in the pound sterling upon all lands sold at auction or otherwise alienated in fee simple by the Crown.
3. What claims have been made on the Assurance and Indemnity Funds.
4. Whether the Assurance and Indemnity fees are paid into the Consolidated Revenue or kept in a separate account.

Question—put and passed.

DUTIES OF PEOPLE 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 the next day of meeting of the Council.

Ordered.

TRUSTEES, EXECUTORS, AND AGENCY COMPANY (LIMITED) 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 amendment.

The Honorable F. T. Sargood moved, That the adoption of the Report of the Committee be made an Order of the Day for the next day of meeting of the Council.

Question—put and passed.

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

Question—put and passed.

The Council adjourned at a quarter-past five o'clock until half-past four o'clock on Thursday, the 27th instant.

NOTICES OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 27TH NOVEMBER, 1879.

NOTICES OF MOTION :—

1. The Hon. F. T. SARGOOD: To move, That the following documents be laid upon the Table of the House :—The leases, or counterparts thereof, or licences issued or granted to John Ruglan, James Patterson, — Finlay, Martin Peterson, — Gibson, Robert Kennedy, and — Grainger, of land on the south side of the river Yarra Yarra, as colored red on the plan furnished, together with all letters and documents relating to the same.
2. The Hon. F. T. SARGOOD: To move, That P. P. Labertouche, Esq., the Secretary for Railways, be summoned to the Bar of this Honorable House on Tuesday next, to answer such questions as may be asked him in reference to the Return to the Order of this House of the 26th day of August last.

ORDERS OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be further considered in Committee.
2. TRUSTEES, EXECUTORS, AND AGENCY COMPANY (LIMITED) BILL.—Adoption of Report.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

THURSDAY, 27TH NOVEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

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 granting certain Stamp Duties, and to provide for the management and collection thereof,*" with which they desire the concurrence of the Legislative Council.

Legislative Assembly Chamber,
Melbourne, 27th November, 1879.

C. GAVAN DUFFY,
Speaker.

STAMP DUTIES BILL.—The Honorable H. Cuthbert moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time, and, on the motion of the Honorable H. Cuthbert, ordered to be printed, and the second reading made an Order of the Day for Tuesday, the 2nd proximo.

COMMISSIONS AND BOARDS OF ENQUIRY.—The Honorable H. Cuthbert laid on the Table a Return to the Order of the Council made on the 2nd September last.

The Honorable W. Campbell, with leave of the Council, moved, without notice, That the Return be printed.

Question—put and passed.

LEASES ON SOUTH SIDE OF RIVER YARRA YARRA.—The Honorable F. T. Sargood, in accordance with notice, moved, That the following documents be laid upon the Table of the House :—The leases, or counterparts thereof, or licences issued or granted to John Ruglan, James Patterson, — Finlay, Martin Peterson, — Gibson, Robert Kennedy, and — Grainger, of land on the south side of the river Yarra Yarra, as colored red on the plan furnished, together with all letters and documents relating to the same.

Question—put and passed.

P. P. LABERTOUCHE, ESQ., SUMMONED.—The Honorable F. T. Sargood, in accordance with notice, moved, That P. P. Labertouche, Esq., the Secretary for Railways, be summoned to the Bar of this Honorable House on Tuesday next, to answer such questions as may be asked him in reference to the Return to the Order of this House of the 26th day of August last.

Debate ensued.

Question—put and passed.

DUTIES OF PEOPLE 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.

TRUSTEES, EXECUTORS, AND AGENCY COMPANY (LIMITED) 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 F. T. Sargood moved, That the Report be now adopted.

Question—put and passed.

The Honorable F. T. Sargood moved, That the third reading of the Bill be made an Order of the Day for the next day of meeting of the Council.

Question—put and passed.

The Council adjourned at five o'clock until half-past four o'clock on Tuesday, the 2nd proximo.

ORDERS OF THE DAY.

TUESDAY, 2ND DECEMBER, 1879.

ORDERS OF THE DAY :—

1. STAMP DUTIES BILL.—To be read a second time.
2. DUTIES OF PEOPLE BILL.—To be further considered in Committee.
3. TRUSTEES, EXECUTORS, AND AGENCY COMPANY (LIMITED) 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.

TUESDAY, 2ND DECEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

MR. P. P. LABERTOUCHE EXAMINED.—Mr. P. P. Labertouche, being in attendance, was examined at the Bar of the House with reference to the Return to the Order of the House of the 26th day of August last as regarded the Victorian Railways Department.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable H. Cuthbert presented to the Council the following Message from His Excellency the Governor :—

NORMANBY,

Governor.

The Governor informs the Legislative Council that he has, on this day, at the Government House, given the Royal Assent to the undermentioned Acts of the present Session, presented to him by the Clerk of the Parliaments, viz. :—

“ An Act to apply out of the Consolidated Revenue the sum of Three hundred thousand pounds to the service of the year One thousand eight hundred and seventy-nine and “ eighty.”

“ An Act to authorize the construction by the State of a Junction Line of Railway in “ Melbourne from Spencer-street Railway Station to West Flinders-street Railway “ Station, and to amend ‘ The South Yarra and Oakleigh Railway Construction “ ‘ Act 1878.’ ”

Government House,
Melbourne, 19th November, 1879.

PAPER.—The Honorable H. Cuthbert, by command of His Excellency the Governor, presented to the Council the following Paper :—

Land Act 1869—Regulations.—Applications for forfeiture.—Order in Council (17th November, 1879).

Ordered to lie on the Table.

STAMP DUTIES BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Cuthbert moved, That this Bill be now read a second time.

Debate ensued.

Amendment moved by the Honorable Sir C. Sladen, That all the words after the word “be” be omitted, with a view to insert instead thereof the words “referred to a Select Committee, and that such Committee be instructed to investigate the practice of the Imperial Parliament with reference to Bills imposing Stamp or other Duties, and to report to the Council—

“ (1.) Whether it is in conformity with that practice to include in the Bill imposing Duties the machinery for the management and collection thereof ;

“ (2.) Whether this Bill, providing, as it does, for the granting of Stamp Duties, and also for the management and collection thereof, is a Bill under the 56th section of the Constitution Act, which the Council is restricted from altering.

“ (3.) That such Committee consist of seven Members, and be chosen by ballot.”

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 this Bill be referred to a Select Committee, and that such Committee be instructed to investigate the practice of the Imperial Parliament with reference to Bills imposing Stamp or other Duties, and to report to the Council,—

(1.) Whether it is in conformity with that practice to include in the Bill imposing Duties the machinery for the management and collection thereof ;

(2.) Whether this Bill, providing, as it does, for the granting of Stamp Duties, and also for the management and collection thereof, is a Bill under the 56th section of the Constitution Act, which the Council is restricted from altering.

(3.) That such Committee consist of seven Members, and be chosen by ballot.

—put and passed.

The Council proceeded to 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 Sir C. Sladen, W. E. Hearn, H. Cuthbert, The President, R. S. Anderson, F. T. Sargood, and Dr. Dobson.

The Honorable Sir C. Sladen moved, That the Committee have power to sit on days on which the House does not sit, and to call for persons and papers.

Question—put and passed.

POSTPONEMENT.—The following Order of the Day was postponed until Tuesday, the 9th instant :—

“*Duties of People Bill*”—to be further considered in Committee.

TRUSTEES, EXECUTORS, AND AGENCY COMPANY (LIMITED) 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. E. Hearn, was read a third time and passed.

The Honorable W. E. Hearn moved, That the title of the Bill be “*An Act to confer powers upon the Trustees, Executors, and Agency Company (Limited).*”

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 amendment.

LEASES ON SOUTH SIDE OF RIVER YARRA YARRA.—The Honorable H. Cuthbert laid on the Table a Return to the Order of the Council made on the 27th ultimo.

PAPER.—The Honorable H. Cuthbert laid on the Table the following Paper :—

Mining Surveyors' and Registrars' Reports—Quarter ending 30th September, 1879.

Ordered to lie on the Table.

The Council adjourned at ten minutes to seven o'clock until half-past four o'clock on Wednesday, the 3rd instant.

NOTICE OF MOTION AND ORDER OF THE DAY.

WEDNESDAY, 3RD DECEMBER, 1879.

General Business.

1. The Hon. F. T. SARGOOD : To ask the Honorable Member representing the Government to furnish the House with the reasons of the Government for exempting, under Schedule 2 of The Stamp Duties Act, all money paid into Building Societies ; while in the case of Banks money paid on “fixed deposit” is not exempted ; and whether the Government consider this equitable legislation, seeing that the Building Societies receive large amounts on “fixed deposit.”
2. The Hon. F. T. SARGOOD : To ask the Honorable Member representing the Government whether by the use of the word “Firm” in clause 72 of The Stamp Duties Act, and in the 2nd Schedule thereto, it is intended that every “Firm” underwriting its own customers' goods shall pay a licence of £50 ; and further, whether by the use of the word “person” in the said clause and schedule it is intended that, while an Insurance Company of say fifty shareholders will pay an annual licence of £50, an association of fifty underwriters would have each to pay £50, or £2500 in all ; and, if it is so intended, whether the Government can name any other Stamp Act now in force which contains any similar provision.
3. The Hon. W. WILSON : To ask the Honorable Member representing the Government, if the Government have any objection to lay on the Table of the House the following Returns :—
 - (1.) Annual Report of Stock Department for the last three years.
 - (2.) How many cases of Pleuro-pneumonia and other diseases have been reported during that period.
 - (3.) How many prosecutions have been made at the instance of the Department.
 - (4.) What steps were taken in cases of reported disease in detail.

NOTICE OF MOTION :—

1. The Hon. R. S. ANDERSON : To move for a Return showing the respective names, occupations, and salaries of all persons discharged from employment in the Railway Department between the 1st July, 1877, and the 1st July, 1879 ; and the name, occupation, and salary of every person appointed or re-appointed during the same period to any situation in the Government service in the Railway Department, whether permanent or temporary, and whether paid by salaries voted on Estimates, or out of monies appropriated for particular works, and not receiving pay at a rate below 7s. per diem.

TUESDAY, 9TH DECEMBER.

ORDER OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be further considered in Committee.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

VICTORIA.

No. 32.

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

WEDNESDAY, 3RD DECEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

ADJOURNMENT OF HOUSE.—The Honorable W. Wilson moved, That the House do now adjourn.
Motion, by leave, withdrawn.

STOCK DEPARTMENT—RETURNS.—The Honorable W. Wilson, with leave of the Council, moved, without notice, That the following Returns be laid upon the Table of the House :—

1. Annual Report of Stock Department for the last three years.
2. How many cases of Pleuro-pneumonia and other diseases have been reported during that period.
3. How many prosecutions have been made at the instance of the Department.
4. What steps were taken in cases of reported disease in detail.

Question—put and passed.

STOCK DEPARTMENT—RETURNS.—The Honorable H. Cuthbert laid on the Table certain Returns to the above Order of the House.

The Honorable W. Wilson moved, That the Returns be printed.

Question—put and passed.

RAILWAY DEPARTMENT—DISCHARGED AND APPOINTED OFFICIALS.—The Honorable R. S. Anderson, in accordance with notice, moved, That there be laid on the Table of this House a Return, showing the respective names, occupations, and salaries of all persons discharged from employment in the Railway Department between the 1st July, 1877, and the 1st July, 1879; and the name, occupation, and salary of every person appointed or re-appointed during the same period to any situation in the Government service in the Railway Department, whether permanent or temporary, and whether paid by salaries voted on Estimates, or out of monies appropriated for particular works, and not receiving pay at a rate below 7s. per diem.

Debate ensued.

Question—put and passed.

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

Question—put and passed.

The Council adjourned at twenty minutes past five o'clock until half-past four o'clock on Tuesday, the 9th instant.

ORDER OF THE DAY.

TUESDAY, 9TH DECEMBER, 1879.

ORDER OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be further considered in Committee.

MEETING OF SELECT COMMITTEE.

Thursday, 4th December.

STAMP DUTIES BILL—at two o'clock.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

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LEGISLATIVE COUNCIL.

TUESDAY, 9TH DECEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

MR. P. P. LABERTOUCHE—EVIDENCE OF.—The President laid on the Table a Report of the Evidence in full given by Mr. P. P. Labertouche at the Bar of the House on the 2nd instant.
Ordered—That the Report lie on the Table.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable H. Cuthbert presented to the Council the following Message from His Excellency the Governor :—

NORMANBY,
Governor.

The Governor informs the Legislative Council that he has, on this day, at the Government Offices, given the Royal Assent to the undermentioned Act of the present Session, presented to him by the Clerk of the Parliaments, viz. :—

“An Act to confer powers upon the Trustees, Executors, and Agency Company Limited.”

Government Offices,
Melbourne, 8th December, 1879.

PETITION.—The Honorable G. F. Belcher presented a Petition, signed by W. M. Acheson and others, styling themselves inhabitants of the city and town of Ballarat, and praying that the Council will set aside the Stamp Duties Bill.

Petition received.

The Petition was read at the Table by the Clerk.

PETITION.—The Honorable J. Graham presented a Petition, signed by A. Currie and others, styling themselves an association under the designation of the Australian Lloyd's for the purpose of underwriting marine risks, and praying the Council to take into consideration the grievously unequal incidence of the proposed Stamp Tax, and to deal with it as their wisdom may determine.

Petition received.

The Petition was read at the Table by the Clerk.

POSTPONEMENT.—The following Order of the Day was postponed until Tuesday, the 16th instant :—

“Duties of People Bill”—To be further considered in Committee.

The Council adjourned at ten minutes past five o'clock until half-past four o'clock on Wednesday, the 10th instant.

ORDER OF THE DAY.

WEDNESDAY, 10TH DECEMBER, 1879.

1. The Hon. G. F. BELCHER: To ask the Honorable Gentleman representing the Government, in the event of the Stamp Duties Act passing this House, what provision the Government intends to make to provide for retrospective legislation, more especially with reference to Bills of Exchange, etc., dated on and after the Act coming into force.
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TUESDAY, 16TH DECEMBER.

ORDER OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be further considered in Committee.

MEETINGS OF SELECT COMMITTEES.

Wednesday, 10th December.

STAMP DUTIES BILL—at half-past two o'clock.

Thursday, 11th December.

PARLIAMENT BUILDINGS (JOINT)—at half-past one o'clock.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

Minutes of the Proceedings
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LEGISLATIVE COUNCIL.

WEDNESDAY, 10TH DECEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

PAPER.—The Honorable H. Cuthbert laid on the Table the following Paper :—

Education Report, for year 1878-1879—Appendices to.
Ordered to lie on the Table.

STAMP DUTIES BILL—REPORT OF SELECT COMMITTEE.—The Honorable Sir C. Sladen brought up the Report of the Select Committee to which the Stamp Duties Bill was referred on the 2nd instant.

The Report was read at the Table by the Clerk.

The Honorable Sir C. Sladen moved, That the consideration of the Report be made an Order of the Day for to-morrow.

Question—put and passed.

The Honorable H. Cuthbert moved, That the Report be printed.

Question—put and passed.

PAPER.—The Honorable H. Cuthbert, by command of His Excellency the Governor, presented to the Council the following Paper :—

Exhibition, Melbourne International.—Despatches from the Right Honorable the Secretary of State (with enclosures), 13th April, 1879, to 5th September, 1879.

Ordered to lie on the Table.

The Council adjourned at a quarter past five o'clock until half-past four o'clock on Thursday, the 11th instant.

NOTICE OF MOTION AND ORDERS OF THE DAY.

THURSDAY, 11TH DECEMBER, 1879.

NOTICE OF MOTION :—

1. The Hon. H. CUTHBERT : To move, That the Stamp Duties Bill be now read a second time.

ORDER OF THE DAY :—

1. STAMP DUTIES BILL—Consideration of Report of Select Committee.

TUESDAY, 16TH DECEMBER.

ORDER OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be further considered in Committee.

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

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LEGISLATIVE COUNCIL.

THURSDAY, 11TH DECEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

LEASES ON SOUTH SIDE OF RIVER YARRA.—The Honorable H. Cuthbert produced certain original documents, in return to the Order of the Council made on the 27th ultimo, and moved, That they be laid on the Table for one week, with a view to their being afterwards returned to the Crown Lands Department.

Question—put and passed.

STAMP DUTIES BILL.—CONSIDERATION OF REPORT OF SELECT COMMITTEE.—The Order of the Day for the consideration of the Report of the Select Committee to which the Stamp Duties Bill was referred, being read, the Honorable Sir C. Sladen moved, That the Report be now adopted.

Debate ensued.

Question—put and passed.

STAMP DUTIES BILL.—The Honorable H. Cuthbert, in accordance with notice, moved, That the Stamp Duties Bill be now read a second time.

Debate ensued.

Amendment moved by the Honorable Sir C. Sladen, That all the words after the word "That" be omitted, for the purpose of inserting the following :—"this Bill entitled '*An Act for granting certain Stamp Duties and to provide for the management and collection thereof*,' be now read a second time, but under Protest,

"Because this Bill contains, in addition to the clauses imposing duties, clauses relating to the management and collection thereof.

"And because, without admitting that in any circumstances clauses for these separate purposes can be contained in a Bill 'for imposing any duty rate tax rent return or impost,' or, if so contained, are without distinction protected by the 56th section of the Constitution Act, this House is of opinion that the clauses for management and collection in the present Bill, not being confined to the duties granted in the Bill, but relating to all Stamp Duties from time to time chargeable by law, are not such as this House is by the 56th section of the Constitution Act prevented from altering, and, therefore, ought not to have been included in the Bill."

Debate ensued.

Original motion, by leave, withdrawn.

Question—That this Bill entitled "*An Act for granting certain Stamp Duties and to provide for the management and collection thereof*," be now read a second time, but under Protest,

Because this Bill contains, in addition to the clauses imposing duties, clauses relating to the management and collection thereof.

And because, without admitting that in any circumstances clauses for these separate purposes can be contained in a Bill "for imposing any duty rate tax rent return or impost," or, if so contained, are without distinction protected by the 56th section of the Constitution Act, this House is of opinion that the clauses for management and collection in the present Bill, not being confined to the duties granted in the Bill, but relating to all Stamp Duties from time to time chargeable by law, are not such as this House is by the 56th section of the Constitution Act prevented from altering, and, therefore, ought not to have been included in the Bill—put and passed.

Bill read a second time.

The Honorable H. Cuthbert moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 without amendment.

The Honorable H. Cuthbert moved, That the Report be now adopted.

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, on the motion of the Honorable H. Cuthbert, was read a third time and *passed*.

The Honorable H. Cuthbert moved, That the title of the Bill be “*An Act for granting certain Stamp Duties, and to provide for the management and collection thereof.*”

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 amendment.

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 granting to Her Majesty certain Duties of Customs, for repealing and altering certain other duties, and for other purposes,*” with which they desire the concurrence of the Legislative Council.

C. GAVAN DUFFY,
Speaker.

Legislative Assembly Chamber,
Melbourne, 11th December, 1879.

CUSTOMS DUTIES BILL.—The Honorable H. Cuthbert moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time, and, on the motion of the Honorable H. Cuthbert, ordered to be printed, and the second reading made an Order of the Day for Tuesday, the 16th instant.

The Council adjourned at ten minutes to seven o'clock until half-past four o'clock on Tuesday, the 16th instant.

ORDERS OF THE DAY.

TUESDAY, 16TH DECEMBER, 1879.

ORDERS OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be further considered in Committee.
2. CUSTOMS DUTIES BILL.—To be read a second time.

MEETING OF SELECT COMMITTEE.

Tuesday, 16th December.

PRINTING—at a quarter past four o'clock.

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

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TUESDAY, 16TH DECEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

POSTPONEMENT.—The following Order of the Day was postponed until Tuesday, the 23rd instant :—
“*Duties of People Bill*”—to be further considered in Committee.

CUSTOMS DUTIES BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Cuthbert moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable H. Cuthbert moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 without amendment.

The Honorable H. Cuthbert moved, That the Report be now adopted.

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, on the motion of the Honorable H. Cuthbert, was read a third time and *passed*.

The Honorable H. Cuthbert moved, That the title of the Bill be “*An Act for granting to Her Majesty certain Duties of Customs, for repealing and altering certain other duties, 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 amendment.

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 Message from His Excellency the Governor, recommending amendments in the Bill intituled “*An Act for granting certain Stamp Duties, and to provide for the management and collection thereof,*” and acquaint the Legislative Council that the Legislative Assembly have agreed to the several amendments recommended by His Excellency the Governor in this Bill, with which they desire the concurrence of the Legislative Council.

Legislative Assembly Chamber,
Melbourne, 16th December, 1879.

C. GAVAN DUFFY,
Speaker.

NORMANBY,
Governor.

Pursuant to the provisions of section 36 of the Constitution Act, the Governor transmits to the Legislative Assembly the following amendments, which he recommends to be made in the Bill intituled “*An Act for granting certain Stamp Duties, and to provide for the management and collection thereof.*”

Amendments.

Clause 1. Last line but one, for “*eighth*” substitute “*eighteenth.*”

Clause 2 (interpretation clause). After the last line add the following interpretation :—
“(17.) ‘*Firm of persons*’ includes any association of underwriters carrying on marine assurance or insurance business through a managing underwriter solely.”

Clause 74. Line 1 of clause, omit the words "first paid or"; lines 1 and 2, omit the words "beyond the limits of Victoria to or"; lines 3 and 4, omit the words "and afterwards properly credited in Victoria by any principal or agent of such company person or firm." First Schedule. In heading of schedule, substitute "eighteenth" for "eighth."
In III. (B) substitute "eighteenth" for "eighth" in four places.

STAMP DUTIES BILL.—MESSAGE FROM LEGISLATIVE ASSEMBLY, WITH AMENDMENTS RECOMMENDED BY GOVERNOR.—The Honorable H. Cuthbert, moved, That the Council do concur with the Legislative Assembly in making the amendments recommended by His Excellency the Governor in this Bill.

Question—put and passed.

Ordered—That a Message be sent to the Legislative Assembly to acquaint them that the Council have concurred with the Legislative Assembly in making the amendments recommended by the Governor.

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

Question—put and passed.

The Council adjourned at twenty-five minutes past five o'clock until half-past four o'clock on Thursday, the 18th instant.

ORDER OF THE DAY.

TUESDAY, 23RD DECEMBER, 1879.

ORDER OF THE DAY :—

1. DUTIES OF PEOPLE BILL.—To be further considered in Committee.

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

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LEGISLATIVE COUNCIL.

THURSDAY, 18TH DECEMBER, 1879.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

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 granting of certain Loans for Water Supply in the country districts for the service of the Year ending the thirtieth day of June One thousand eight hundred and eighty,*" with which they desire the concurrence of the Legislative Council.

C. GAVAN DUFFY,
Speaker.

Legislative Assembly Chamber,
Melbourne, 18th December, 1879.

RAILWAY LOAN APPLICATION (WATER SUPPLY) BILL.—The Honorable W. Wilson moved, That this Bill be now read a first time.

Question—put and passed.

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

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled "*An Act to apply out of the Consolidated Revenue the sum of Two hundred and fifty thousand pounds to the service of the year One thousand eight hundred and seventy-nine and eighty,*" with which they desire the concurrence of the Legislative Council.

C. GAVAN DUFFY,
Speaker.

Legislative Assembly Chamber,
Melbourne, 18th December, 1879.

CONSOLIDATED REVENUE BILL (4).—The Honorable W. Wilson moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time.

The Honorable W. Wilson, with leave of the Council, moved, without notice, That the Bill be now read a second time.

Question—put and passed.

Bill read a second time.

The Honorable W. Wilson moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 without amendment.

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. Wilson, was read a third time and *passed*.

The Honorable W. Wilson moved, That the title of the Bill be "*An Act to apply out of the Consolidated Revenue the sum of Two hundred and fifty thousand pounds to the service of the year One thousand eight hundred and seventy-nine and eighty.*"

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 amendment.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable W. Wilson presented to the Council the following Message from His Excellency the Governor :—

NORMANBY,

Governor.

The Governor informs the Legislative Council that he has, on this day, at the Government House, given the Royal Assent to the undermentioned Acts of the present Session, presented to him by the Clerk of the Parliaments, viz. :—

“*An Act for granting certain Stamp Duties, and to provide for the management and collection thereof.*”

“*An Act for granting to Her Majesty certain Duties of Customs, for repealing and altering certain other Duties, and for other purposes.*”

Government House,
Melbourne, 17th December, 1879.

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 continue various Expiring Laws,*” with which they desire the concurrence of the Legislative Council.

Legislative Assembly Chamber,
Melbourne, 18th December, 1879.

C. GAVAN DUFFY,
Speaker.

EXPIRING LAWS CONTINUATION BILL.—The Honorable W. Wilson moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time.

The Honorable W. Wilson, with leave of the Council, moved, without notice, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable W. Wilson, moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 without amendment.

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. Wilson, was read a third time and *passed*.

The Honorable W. Wilson moved, That the title of the Bill be “*An Act to continue various Expiring Laws.*”

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 amendment.

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 to provide for the alteration of the numbering of certain Acts of Parliament,*” and acquaint the Legislative Council that the Legislative Assembly have agreed to the Bill with an amendment, with which they desire the concurrence of the Legislative Council.

Legislative Assembly Chamber,
Melbourne, 18th December, 1879.

C. GAVAN DUFFY,
Speaker.

NUMBERING OF CERTAIN ACTS OF PARLIAMENT BILL—CONSIDERATION OF MESSAGE FROM LEGISLATIVE ASSEMBLY.—The Honorable W. Wilson moved, That the Council do agree to the amendment made by the Legislative Assembly in this Bill, viz. :—

In the Schedule omit “*amend*” and insert “*annul*” in the title of the third Act quoted in the Schedule.

Question—That the Council do agree to the amendment—put and passed.

Ordered—That a Message be sent to the Legislative Assembly to acquaint them that the Council have agreed to the amendment.

PAPER.—The Honorable W. Wilson laid on the Table the following Paper :—

Education Department.—Estimate of Expenditure (under section 12 of Act No. 608) proposed to be incurred during the Year ending 30th June, 1880 (£29,759 for erection of School Buildings).

Ordered to lie on the Table.

RAILWAY LOAN APPLICATION (WATER SUPPLY) BILL.—The Honorable W. Wilson moved, That the second reading of the Bill be made an Order of the Day for the next day of meeting of the Council.

Question—put and passed.

ADJOURNMENT.—The Honorable W. Wilson, with leave of the Council, moved, without notice, That the House, at its rising this day, adjourn until Tuesday, the 20th January.

Question—put and passed.

The Council adjourned at five o'clock until half-past four o'clock on Tuesday, the 20th proximo.

ORDERS OF THE DAY.

TUESDAY, 20TH JANUARY, 1880.

ORDERS OF THE DAY :—

1. RAILWAY LOAN APPLICATION (WATER SUPPLY) BILL.—To be read a second time.
 2. DUTIES OF PEOPLE BILL.—To be further considered in Committee.
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MEETING OF SELECT COMMITTEE.

Tuesday, 20th January.

PRINTING—at a quarter past four o'clock.

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

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TUESDAY, 20TH JANUARY, 1880.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR.—The Honorable H. Cuthbert presented to the Council the following Message from His Excellency the Governor :—

NORMANBY,
Governor.

The Governor informs the Legislative Council that he has, on this day, at the Government House, given the Royal Assent to the undermentioned Acts of the present Session, presented to him by the Clerk of the Parliaments, viz. :—

“ *An Act to apply out of the Consolidated Revenue the sum of Two hundred and fifty thousand pounds to the service of the year One thousand eight hundred and seventy-nine and eighty.*”

“ *An Act to Continue various Expiring Laws.*”

“ *An Act to provide for the Alteration of the Numbering of certain Acts of Parliament.*”

Government House,
Melbourne, 20th December, 1879.

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

1. Auriferous and Mineral Resources of the Colony—Report of Board (22nd November 1879).
2. Friendly Societies—Statistics of, for year 1878.

Ordered severally to lie on the Table.

PAPERS.—The Honorable H. Cuthbert laid on the Table the following Papers :—

1. Fisheries Acts (1873 and 1878)—Notification of intention to add certain fish to Schedule 2 of *The Fisheries Act* (1st November 1879).
2. Education Act—Amended Regulation under, respecting removal of Boards of Advice (15th December, 1879).

Ordered severally to lie on the Table.

RAILWAY DEPARTMENT—DISCHARGED AND APPOINTED OFFICIALS.—The Honorable H. Cuthbert laid on the Table a Return to the Order of the Council made on the 3rd December, 1879.

Ordered to lie on the Table.

RAILWAY LOAN APPLICATION (WATER SUPPLY) BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Cuthbert moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable H. Cuthbert moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 without amendment.

The Honorable H. Cuthbert moved, That the Report be now adopted.

Question—put and passed.

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

The Honorable H. Cuthbert moved, That the title of the Bill be “ *An Act to provide for the granting of certain Loans for Water Supply in the country districts for the service of the Year ending the thirtieth day of June, One thousand eight hundred and eighty.*”

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 amendment.

DUTIES OF PEOPLE 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.

ADJOURNMENT.—The Honorable H. Cuthbert, with leave of the Council, moved, without notice, That the House, at its rising this day, adjourn until Tuesday next.
Question—put and passed.

The Council adjourned at ten minutes to six o'clock until half-past four o'clock on Tuesday, the 27th instant.

NOTICES OF MOTION AND ORDER OF THE DAY.

TUESDAY, 27TH JANUARY, 1880.

NOTICES OF MOTION :—

1. The Hon. J. LORIMER: To move, That Mr. John Ferres, Government Printer, be summoned to the Bar of this Honorable House on next day of meeting, to answer such questions as may be asked him in reference to the Return to an Order of this House of the 21st October, 1879, relating to Government Printing Office *employés*.
2. The Hon. J. BALFOUR: To move, That there be laid on the Table copies of the alterations or omissions made by authority of the Education Department in Nelson's Series of Royal Readers, and which altered reading books are now used in the State Schools.

ORDER OF THE DAY :—

1. **DUTIES OF PEOPLE BILL.**—To be further considered in Committee.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

Minutes of the Proceedings
OF THE
LEGISLATIVE COUNCIL.

TUESDAY, 27TH JANUARY, 1880.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

PAPERS.—The Honorable W. Wilson, in the absence, and on behalf, of the Honorable H. Cuthbert, by command of His Excellency the Governor, presented to the Council the following Papers:—

1. Land Act 1869.—Regulations under Section 110, as to Fees payable for Surveys.—Order in Council (20th January, 1880).

2. Statistical Register, Victoria, 1878.—Part VIII.—Interchange.

Ordered severally to lie on the Table.

ALTERATIONS AND OMISSIONS IN BOOKS USED IN STATE SCHOOLS.—The Honorable J. Balfour, in accordance with notice, moved, That there be laid on the Table copies of the alterations or omissions made by authority of the Education Department in Nelson's Series of Royal Readers, and which altered reading books are now used in the State Schools.

Debate ensued.

Question—put and passed.

ALTERATIONS AND OMISSIONS IN BOOKS USED IN STATE SCHOOLS.—The Honorable W. Wilson laid on the Table the Return moved for as above set forth.

The Honorable J. Balfour, with leave of the Council, moved, without notice, That the Return be printed.

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 to provide for the compulsory taking of land for the Dunmunkle and St. Arnaud Shires Water-works,*" and acquaint them that the Legislative Assembly do not insist in disagreeing with the amendment made in such Bill by the Legislative Council, and that they have agreed to such amendment, with an amendment, with which they desire the concurrence of the Legislative Council.

C. GAVAN DUFFY,

Speaker.

Legislative Assembly Chamber,
Melbourne, 23rd January, 1880.

DUNMUNKLE AND ST. ARNAUD SHIRES WATERWORKS BILL.—CONSIDERATION OF MESSAGE FROM LEGISLATIVE ASSEMBLY.—The Honorable W. Wilson moved, That the Message be taken into consideration on Tuesday next.

Question—put and passed.

PETITION FROM CRESWICK DISTRICT IN NORTH-WESTERN PROVINCE IN 1872.—The Honorable F. Robertson, with leave of the Council, moved, without notice, That the Petition presented to this House in 1872, from certain electors in the Creswick district of the North-Western Province, against the Mining on Private Property Bill, and praying this House to reject such Bill, be laid upon the Table.

Question—put and passed.

POSTPONEMENT.—The following Order of the Day was postponed until Tuesday, the 3rd proximo.

"*Duties of People Bill*"—To be further considered in Committee.

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

Question—put and passed.

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

NOTICE OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 3RD FEBRUARY, 1880.

NOTICE OF MOTION :—

1. The Hon. J. LORIMER : To move, That Mr. John Ferres, Government Printer, be summoned to the Bar of this Honorable House on next day of meeting, to answer such questions as may be asked him in reference to the Return to an Order of this House of the 21st October, 1879, relating to Government Printing Office *employés*.

ORDERS OF THE DAY :—

1. DUNMUNKLE AND ST. ARNAUD SHIRES WATERWORKS BILL.—Consideration of Message from Legislative Assembly.
2. DUTIES OF PEOPLE BILL.—To be further considered in Committee.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

VICTORIA.

No. 40.

Minutes of the Proceedings

OF THE

LEGISLATIVE COUNCIL.

THURSDAY, 29TH JANUARY, 1880.

There being no quorum of Members present at the expiration of half an hour after the time appointed for the meeting of the Council, the President took the Chair, and, without question put, adjourned the Council to the next sitting day.

NOTICE OF MOTION AND ORDERS OF THE DAY.

TUESDAY, 3RD FEBRUARY, 1880.

NOTICE OF MOTION :—

1. The Hon. J. LORIMER : To move, That Mr. John Ferres, Government Printer, be summoned to the Bar of this Honorable House on next day of meeting, to answer such questions as may be asked him in reference to the Return to an Order of this House of the 21st October, 1879, relating to Government Printing Office *employés*.

ORDERS OF THE DAY :—

1. DUNMUNKLE AND ST. ARNAUD SHIRES WATERWORKS BILL.—Consideration of Message from Legislative Assembly.
2. DUTIES OF PEOPLE BILL.—To be further considered in Committee.

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

Minutes of the Proceedings
OF THE
LEGISLATIVE COUNCIL.

TUESDAY, 3RD FEBRUARY, 1880.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

PETITIONS PRESENTED IN 1872—MOTION OF HON. F. ROBERTSON.—The President laid on the Table two Petitions presented in 1872 on the subject of a Mining on Private Property Bill, together with the following memorandum :—

“In 1872 there was no Petition purporting to come from ‘electors in the Creswick district of the North-Western Province,’ which were the words used in the motion of the Honorable Mr. Robertson on the 27th ultimo.

“1. The Honorable Mr. Robertson presented a Petition from residents in the North-Western District.

“It is appended—marked (1.)

“2. The Honorable Mr. Campbell presented a Petition from electors in the North-Western Province which contains a number of names of persons who stated that they resided at Creswick.

“It is marked (2.)”

PAPER.—The Honorable H. Cutlbert laid on the Table the following Paper :—

Gippsland Polling Place, additional.—Order in Council (20th January, 1880).

Ordered to lie on the Table.

GOVERNMENT PRINTER SUMMONED.—The Honorable J. Lorimer, in accordance with *amended* notice, moved, That Mr. John Ferres, Government Printer, be summoned to the bar of this Honorable House, to answer such questions as may be asked him in reference to the return to an order of this House of the 21st October, 1879, relating to Government Printing Office *employés*.

Question—put and passed.

PETITION PRESENTED BY HON. W. CAMPBELL IN 1872—MINING ON PRIVATE PROPERTY BILL.—The Honorable W. Campbell, with leave of the Council, moved, without notice, That the Petition presented by him in 1872, from electors in the North-Western Province, and laid on the Table of the House this day, be printed, together with the signatures thereto.

Question—put and passed.

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

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled “*An Act to sanction the issue and application of certain sums of money from ‘The Railway Loan Account ‘1878’ for the Survey of State Railways, and the Purchase of Permanent-way Materials and ‘Manufacture of Points and Crossings,’*” with which they desire the concurrence of the Legislative Council.

Legislative Assembly Chamber,
Melbourne, 3rd February, 1880.

C. GAVAN DUFFY,
Speaker.

MR. PRESIDENT—

The Legislative Assembly transmit to the Legislative Council a Bill intituled “*An Act to amend the Land Acts 1869 and 1878,*” with which they desire the concurrence of the Legislative Council.

Legislative Assembly Chamber,
Melbourne, 29th January, 1880.

C. GAVAN DUFFY,
Speaker.

RAILWAY LOAN APPLICATION BILL (2).—The Honorable H. Cuthbert moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time, and, on the motion of the Honorable H. Cuthbert, ordered to be printed, and the second reading made an Order of the Day for Wednesday, the 4th instant.

LAND ACTS AMENDMENT BILL.—The Honorable H. Cuthbert moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time, and, on the motion of the Honorable H. Cuthbert, ordered to be printed, and the second reading made an Order of the Day for Wednesday, the 4th instant.

DUNMUNKLE AND ST. ARNAUD SHIRES WATERWORKS BILL.—The Order of the Day for the consideration of the Message from the Legislative Assembly with this Bill being read, the Honorable H. Cuthbert moved, That the Council do agree with the following amendment made by the Legislative Assembly in the new clause A inserted by the Council in the Bill, viz.:—

“Omit all words after the first word ‘The’ and insert ‘council of the shire of Dunmunkle shall be liable to pay and may pay out of the municipal fund of such shire the full amount of the compensation determined to be payable to any person or persons for land taken under this Act, and such compensation shall be recoverable by such person or persons from such council out of such fund.’”

Debate ensued.

Question—put and passed.

Ordered—That a Message be sent to the Legislative Assembly to acquaint them that the Council have agreed to the amendment made by the Legislative Assembly on the amendment made by the Council in the Bill.

PAPER.—The Honorable H. Cuthbert, by command of His Excellency the Governor, presented to the Council the following Paper:—

Statistical Register, Victoria, 1878.—Part IX.—Religious, Moral, and Intellectual Progress.

Ordered to lie on the Table.

DUTIES OF PEOPLE BILL.—The Honorable Sir C. Sladen moved, That the Order of the Day for the further consideration of this Bill in Committee of the whole Council be discharged from the Notice Paper.

Question—put and passed.

The Council adjourned at a quarter past six o'clock until half-past four o'clock on Wednesday, the 4th instant.

NOTICE OF MOTION AND ORDERS OF THE DAY.

WEDNESDAY, 4TH FEBRUARY, 1880.

NOTICE OF MOTION:—

1. Hon. R. S. ANDERSON: To move, in Committee of the whole Council on the Land Acts Amendment Bill, the following amendment:—

Any person holding a lease for a term of seven years of an allotment of land under Part II of “*The Land Act 1869*” and being in arrear in payment of his rent under the said lease on the thirty-first day of December One thousand eight hundred and seventy-nine shall be entitled to have an extension of the term of the said lease beyond the said term of seven years for a further period equal to each and every half-year the said person shall have been in arrear as aforesaid, and the said rent in arrear shall become due and payable by half-yearly payments during such further period as such lease shall be extended for: And the non-payment of rent as aforesaid shall not work a breach of any covenant of the said lease nor entitle the Board to re-enter for the non-payment of rent due on or before the said thirty-first day of December One thousand eight hundred and seventy-nine.

Government Business.

ORDERS OF THE DAY:—

1. RAILWAY LOAN APPLICATION BILL (2).—To be read a second time.
2. LAND ACTS AMENDMENT 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, 4TH FEBRUARY, 1880.

The Council met in accordance with adjournment.

The President took the Chair.

The President read the Prayer.

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 apply a Sum out of the Consolidated Revenue to the service of the year ending on the last day of June One thousand eight hundred and eighty and to appropriate the Supplies granted in this Session of Parliament,*" with which they desire the concurrence of the Legislative Council.

C. GAVAN DUFFY,
Speaker.

Legislative Assembly Chamber,
Melbourne, 4th February, 1880.

APPROPRIATION BILL.—The Honorable W. Wilson moved, That this Bill be now read a first time.

Question—put and passed.

Bill read a first time.

RAILWAY DEPARTMENT—DISCHARGED AND APPOINTED OFFICIALS.—The Honorable A. Fraser, with leave of the Council, moved, without notice, That the Return laid on the Table of the House on the 20th ultimo, be printed.

Question—put and passed.

TRANSFER OF LAND STATUTE ASSURANCE FUND.—The Honorable W. Wilson, on behalf, and in the absence of, the Honorable H. Cuthbert, laid on the Table a Return to the Order of the Council, made on the 25th November, 1879.

Ordered to lie on the Table.

GOVERNMENT PRINTER EXAMINED.—The Government Printer, being in attendance, was examined at the Bar of the House with reference to the Return to the Order of the House of the 21st October, 1879, relating to Government Printing Office *employés*.

RAILWAY LOAN ACCOUNT APPLICATION BILL (2).—The Order of the Day for the second reading of this Bill being read, the Honorable W. Wilson moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable W. Wilson moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 without amendment.

The Honorable W. Wilson 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. Wilson was read a third time and *passed*.

The Honorable W. Wilson moved, That the title of the Bill be "*An Act to sanction the issue and application of certain sums of money from 'The Railway Loan Account 1878,' for the Survey of State Railways, and the purchase of Permanent-way Materials and manufacture of Points and Crossings.*"

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 amendment.

LAND ACTS AMENDMENT BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable W. Wilson moved, That the Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable W. Wilson moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 without amendment.

The Honorable W. Wilson 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.

Wilson, was read a third time and *passed*.

The Honorable W. Wilson moved, That the title of the Bill be "*An Act to Amend the Land Acts 1869 and 1878.*"

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 amendment.

APPROPRIATION BILL.—The Honorable W. Wilson moved, That this Bill be now read a second time.

Debate ensued.

Question—put and passed.

Bill read a second time.

The Honorable W. Wilson moved, That the Bill be now considered in Committee of the whole Council.

Question—put and passed.

Question—That the President do now leave the Chair—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 without amendment.

The Honorable W. Wilson 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.

Wilson, was read a third time and *passed*.

The Honorable W. Wilson moved, That the title of the Bill be "*An Act to apply a Sum out of the Consolidated Revenue to the Service of the Year ending on the last day of June One thousand eight hundred and eighty, and to appropriate the Supplies granted in this Session of Parliament.*"

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 amendment.

ADJOURNMENT.—The Honorable W. Wilson, with leave of the Council, moved, without notice, That the House, at its rising this day, adjourn until two o'clock to-morrow.

Question—put and passed.

The Council adjourned at twenty-five minutes to eight o'clock until two o'clock on Thursday, the 5th instant.

G. W. RUSDEN,

Clerk of the Council and Clerk of the Parliaments.

Minutes of the Proceedings
OF THE
LEGISLATIVE COUNCIL.

THURSDAY, 5TH FEBRUARY, 1880.

APPROACH OF HIS EXCELLENCY THE GOVERNOR.—The Approach of His Excellency the Governor was announced by the Usher.

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 delivered the Appropriation Bill to the Clerk of the Parliaments, who brought it to the Table.

His Excellency was pleased to assent, in Her Majesty's name, to the following Bills :—

“ An Act to provide for the granting of certain Loans for Water Supply in the country districts for the service of the year ending the thirtieth day of June One thousand eight hundred and eighty.”

“ An Act to provide for the Compulsory taking of land for the Dunmunkle and St. Arnaud Shires Waterworks.”

“ An Act to Sanction the Issue and Application of certain sums of money from ‘ The Railway Loan Account 1878 ’ for the Survey of State Railways, and the Purchase of Permanent-way Materials and Manufacture of Points and Crossings.”

“ An Act to amend the Land Acts 1869 and 1878.”

“ An Act to apply a Sum out of the Consolidated Revenue to the Service of the Year ending on the last day of June One thousand eight hundred and eighty, and to appropriate the Supplies granted in this Session of Parliament.”

The Royal Assent being severally 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.

“ NORMANBY,
“ 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 :—

MR. PRESIDENT AND HONORABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL :

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY :

It is with pleasure that I release you from the duties of a Session, which, protracted beyond the ordinary period of parliamentary work, has still failed to settle the pressing question of Constitutional reform.

Notwithstanding, however, this fact, there is reason to suppose that so great an advance has been made that, at the approaching general election, the country will be enabled to give a definite and, I trust, a decisive verdict on a question of such momentous importance to the peace, progress, and prosperity of the country.

I am rejoiced to say that there are at last unmistakeable signs that the almost universal depression in trade and business, which has necessarily greatly affected the Australian Colonies for so long a period, is now passing away, and that this country, in consequence of a very bountiful harvest, is in a fair way of returning to its normal state of prosperity. There are not wanting also most hopeful signs at Ballarat, Sandhurst, and other places of increased yields of gold, resulting from renewed exertions in developing the local gold mines. The success of this industry always most favorably affects the prosperity of the whole country.

I am happy to announce that the Eastern Telegraph Company has successfully carried out its contract for the duplication of the cable, and thus a further security is provided against our being deprived of continuous telegraphic communication with other parts of the world—a provision that may in time of war be of the greatest possible importance to Australian interests.

The conditions of the Fortnightly Mail Contract now being carried out are such as to secure to this portion of the world facilities of correspondence largely in advance of previous experience.

The invitation to all nations to friendly competition in Melbourne this year has been liberally responded to, and there is now every prospect of an International Exhibition which will fully justify the comparatively large outlay, and prove of vast importance to the industrial interests of the country. My advisers have considered it expedient, on the pressure of the English Commission, to authorize the Victorian Commission to increase largely the available space, which is eagerly sought after by the various Commissions established in all the great countries of the world.

During the Session Final Reports have been by my direction presented to Parliament from the Royal Commissions on Closed Roads and on the Occupation of Public Lands. The Commissioners in each case have, at a great sacrifice of time and trouble, collected a valuable amount of information in all parts of the country. No doubt can exist but that the mass of facts so obtained will tend to elucidate the proper treatment of each of these important questions in the ensuing Parliament, and act as a guidance in the formation of new laws relating to each subject.

Nearly all the extensions of the Railways hitherto authorized by Parliament having been completed during the last Session, my Advisers have obtained power to survey permanently a number of Lines with a view of being ready to start with the necessary works as soon as the ensuing Parliament may sanction them. Railway Lines have been selected with a view to meet the pressing wants of the selectors for transit facilities to carry to the seaboard their produce, and are laid out so to serve the great wheat-producing districts of the colony as to afford them facilities at not more than twenty miles from settlement in any such districts.

The question of Water Supply has also received your attention, and further loans have been sanctioned, not only to boroughs but to shires. The Lands Department also with your approval, has been making practical experiments to obtain an underground supply of fresh water in settled districts.

I trust that the extension of the liberal provisions of the Land Act of 1878 in respect of licensees desirous of prolonging their term to both lessees and licensees during the present year will enable the struggling members of those classes to tide over the effects of the bad harvests of preceding years and to start anew with fair prospects of carrying out their permanent settlement on the lands they have selected.

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY :

I thank you, on behalf of Her Majesty, for your liberality in voting the Supplies for the current financial year.

Though you have been compelled by circumstances to impose new taxation, few persons will, it is hoped, be found to object to the mode of raising new revenue by the imposition of Stamp Duties. I am informed that these duties have been brought into operation at a minimum of expense, without the creation of any new department, and with little of the disturbance of trade that was apprehended.

In increasing many of the Import Duties for the same object care was taken to select those items for increase which sooner or later would operate as a protective duty in favor of Victorian manufactures.

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

I now release you from your duty in Parliament. Steps have already been taken with a view to prepare for a dissolution of the Assembly, which will take place immediately, as the necessary arrangements are already completed. It is the wish of my Advisers that the new Parliament should be summoned to address itself to the business of the country as early as practicable, so that the final settlement of the all-important question of Reform of the Constitution left over from this Parliament may be no longer delayed to the detriment of the interests of all classes of the community.

I now, in Her Majesty's name, declare this Parliament to be prorogued to Tuesday the tenth day of February instant, and it is prorogued accordingly.

5 February 1880.

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

SELECT COMMITTEES,

APPOINTED DURING THE SESSION OF 1879-80.

No. 1.—SPEECH OF HIS EXCELLENCY THE GOVERNOR.—TO PREPARE AN ADDRESS IN REPLY.

Appointed 8th July, 1879.

The Hon. Sir C. Sladen
F. T. Sargood
J. Cumming
A. Fraser

The Hon. W. J. Clarke
J. A. Wallace
R. D. Reid
W. Wilson (*Mover*).

No. 2.—STANDING ORDERS.

Appointed 8th July, 1879.

The Hon. The President
C. J. Jenner
Sir C. Sladen
Dr. Dobson

The Hon. W. E. Hearn
R. S. Anderson
H. Cuthbert (*Mover*).

No. 3.—PRINTING.

Appointed 8th July, 1879.

The Hon. J. Balfour
J. Cumming
W. Highett

The Hon. T. Bromell
W. Wilson.

No. 4.—LIBRARY (JOINT).

Appointed 8th July, 1879.

The Hon. The President
F. T. Sargood
Dr. Dobson

The Hon. F. Robertson
J. Graham.

No. 5.—PARLIAMENT BUILDINGS (JOINT).

Appointed 8th July, 1879.

The Hon. The President
Sir C. Sladen
J. Lorimer

The Hon. A. Fraser
J. Balfour.

No. 6.—REFRESHMENT ROOMS (JOINT).

Appointed 8th July, 1879.

The Hon. T. F. Hamilton
G. F. Belcher
W. J. Clarke

The Hon. J. Buchanan
R. D. Reid.

No. 7.—ELECTIONS AND QUALIFICATIONS.

Appointed (by President's Warrant) 15th July, 1879.

The Hon. Robert Stirling Anderson
George Frederick Belcher
Henry Cuthbert
William Edward Hearn

The Hon. William Highett
Frederick Thomas Sargood
Sir Charles Sladen.

No. 8.—DESPATCHES FROM COLONIAL OFFICE.—ADDRESS TO THE
GOVERNOR—COMMITTEE TO PREPARE.

Appointed 16th July, 1879.

The Hon. W. J. Clarke
N. Fitzgerald
F. T. Sargood

The Hon. W. Wilson
Sir C. Sladen (*Mover*).

No. 9.—SUPREME COURT JURISDICTION AND PROCEDURE BILL.

Appointed 12th August, 1879.

The Hon. W. E. Hearn
R. S. Anderson
Sir C. Sladen
H. Cuthbert

The Hon. J. Lorimer
J. Balfour
Dr. Dobson (*Mover*).

No. 10.—STAMP DUTIES BILL.

Appointed (by ballot) 2nd December, 1879.

The Hon. Sir C. Sladen
W. E. Hearn
H. Cuthbert
The President

The Hon. R. S. Anderson
F. T. Sargood
Dr. Dobson.

VICTORIA.

LEGISLATIVE COUNCIL.

SESSION 1879.

WEEKLY REPORT OF DIVISIONS

IN

COMMITTEE OF THE WHOLE COUNCIL.

No. 1.

Extracted from the Minutes.

WEDNESDAY, 8TH OCTOBER, 1879.

No. 1.—CONSTITUTION OF COUNCIL BILL.—Clause 20.—Any of the persons hereunder in this section mentioned shall be capable of being elected a member and of sitting and voting in the Council although he be not possessed of the property qualification hereinbefore mentioned, if he be a natural born subject of the Queen :

- A. Any person who has been a Responsible Minister in any Government in Victoria for the period of three years either continuously in one Ministry or Government or on different occasions.
- B. Any person who having been a Judge of the Supreme Court or of one of the County Courts or the Chief Commissioner of the Insolvent Court of Victoria, or having been Master-in-Equity or a Commissioner of Audit for ten years has retired either with a pension or superannuation allowance.
- C. Any person who has been President of the Legislative Council or Speaker of the Legislative Assembly for three years.
- D. Any person who has been Chairman of Committees either of the Council or of the Assembly for two Parliaments.
- E. Any person who has been a member of either the Council or the Assembly in three several Parliaments.
- F. Any person who having filled one of the offices of the Civil Service of Victoria hereunder specified for not less than ten years has retired from the service with a pension or superannuation allowance, viz. :—

Under Secretary,	Deputy Postmaster-General,
Under Treasurer,	Registrar-General,
Clerk of Executive Council,	Secretary for Mining Department,
Clerk of Legislative Council and Parliament,	Secretary for Railways,
Clerk of Legislative Assembly,	Inspector-General of Public Works,
Librarian,	Engineer-in-Chief of Railways,
Secretary for Customs,	Chief Medical Officer,
Surveyor-General,	Crown Solicitor,
Government Astronomer,	Inspector-General of Penal Establishments.
- G. Any person who has during a period of twenty years been practising in Victoria as a barrister-at-law, solicitor, or medical practitioner.
- H. Any person who has during a period of twenty years been a Professor of the University of Melbourne, and any person who has during the same period been a Graduate of any University in Her Majesty's dominions and resident in Victoria during that period.

Motion made—That this clause be struck out.—(*Hon. H. Cuthbert.*)

Question—That the clause proposed to be struck out be so struck out—put.

Committee divided.

Contents, 12.
 The Hon. N. Black
 J. Graham
 Sir S. Wilson
 J. Lorimer
 G. F. Belcher
 T. F. Hamilton
 J. Buchanan
 R. D. Reid
 J. W. Wallace
 H. Cuthbert
 A. Fraser
 W. Campbell (*Teller*).

Not-Contents, 9.
 The Hon. Sir C. Sladen
 J. Balfour
 W. Ross
 J. Cumming
 W. E. Hearn
 W. Highett
 N. Fitzgerald
 Dr. Dobson
 R. S. Anderson (*Teller*).

THURSDAY, 9TH OCTOBER 1879.

No. 2.—CONSTITUTION OF COUNCIL BILL.—Clause 25.—Every such male person as aforesaid, if he be entitled as lessee or assignee for the unexpired residue of any term originally created for a period of not less than five years to any lands or tenements in any one and the same Province and be rated to some municipal district or in the aggregate to some municipal districts upon a yearly value of not less than "*Forty*" pounds shall subject to the provisions of this Act and of the Electoral Act 1865 be qualified to vote in the election of a member or members for the province in which such lands or tenements are situated.

Motion made—That the word "*Forty*" occurring in the fifth line of the above clause be struck out, with the view of inserting the word "*Twenty*".—(*Hon. R. D. Reid.*)

Question—That the word proposed to be omitted be so omitted—put.

Committee divided.

Contents, 3.
 The Hon. J. A. Wallace
 R. D. Reid
 W. Wilson (*Teller*).

Not-Contents, 15.
 The Hon. Sir C. Sladen
 W. Campbell
 N. Black
 J. Graham
 W. E. Hearn
 J. Lorimer
 W. Highett
 J. Balfour
 F. Robertson
 W. J. Clarke
 A. Fraser
 J. Buchanan
 Sir S. Wilson
 N. Fitzgerald
 R. S. Anderson (*Teller*).

VICTORIA.

LEGISLATIVE COUNCIL.

SESSION 1879.

WEEKLY REPORT OF DIVISIONS IN COMMITTEE OF THE WHOLE COUNCIL.

No. 2.

Extracted from the Minutes.

TUESDAY, 14TH OCTOBER, 1879.

No. 1.—CONSTITUTION OF COUNCIL BILL.—Proposed New Clause A.—This Part shall apply only to elections at which more than one vacancy is to be filled.

Motion made—That the clause stand part of the Bill.—(*Hon. W. E. Hearn.*)

Question—That the clause stand part of the Bill—put.

Committee divided.

Contents, 10.

The Hon. W. Campbell
N. Black
Sir C. Sladen
J. Cumming
W. Ross
W. Highett
J. Buchanan
N. Fitzgerald
W. E. Hearn
R. S. Anderson (*Teller*).

Not Contents, 14.

The Hon. T. Bromell
W. J. Clarke
J. Balfour
Sir S. Wilson
J. A. Wallace
J. Lorimer
H. Cuthbert
T. F. Hamilton
F. T. Sargood
A. Fraser
R. D. Reid
G. F. Belcher
Dr. Dobson
W. Wilson (*Teller*).

No. 2.—CONSTITUTION OF COUNCIL BILL.—Clause 39.—At every contested election for a Province at which more members than two are to be elected every voter shall be entitled to a number of votes equal to the number of members to be elected at such election and may give all such votes to one candidate or may distribute them among the candidates as he thinks fit: Provided that at every election at which not more than two members are to be elected every voter shall be entitled to only one vote.

Motion made—That this clause stand part of the Bill.—(*Hon. Sir C. Sladen.*)

Question—That this clause stand part of the Bill.—put.

Committee divided.

Contents, 11.

The Hon. W. J. Clarke
W. Campbell
W. E. Hearn
N. Black
J. Cumming
W. Highett
W. Ross
Sir C. Sladen
Dr. Dobson
N. Fitzgerald
R. S. Anderson (*Teller*).

Not Contents, 13.

The Hon. T. Bromell
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J. A. Wallace
A. Fraser
F. T. Sargood
G. F. Belcher
J. Buchanan
W. Wilson (*Teller*).



1879.
—
VICTORIA.

FURTHER CORRESPONDENCE

RESPECTING THE LATE

DIFFERENCES BETWEEN THE TWO HOUSES
OF THE LEGISLATURE OF VICTORIA.

(In continuation of Paper No. 27, Session 1878.)

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY HIS EXCELLENCY'S COMMAND.
(29TH JULY, 1879.)

ORDERED BY THE LEGISLATIVE COUNCIL TO BE PRINTED 29TH JULY, 1879.

By Authority:
JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

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14	Ditto	April 30, 1878	In reply to Despatch of the 11th February, on the subject of the memorandum by Mr. Berry on the crisis, and on the subject of the transmission of telegraphic messages through the Governor, and stating with respect to the latter question Sir M. E. Hicks Beach is of opinion that in the case of emergency the Council would be justified in asking the Governor to communicate by telegram with Her Majesty's Government, but the Governor should use his discretion both as to the matter to be communicated and the form in which it should be sent in the event of his thinking it right to become the medium of a telegraphic communication.	28
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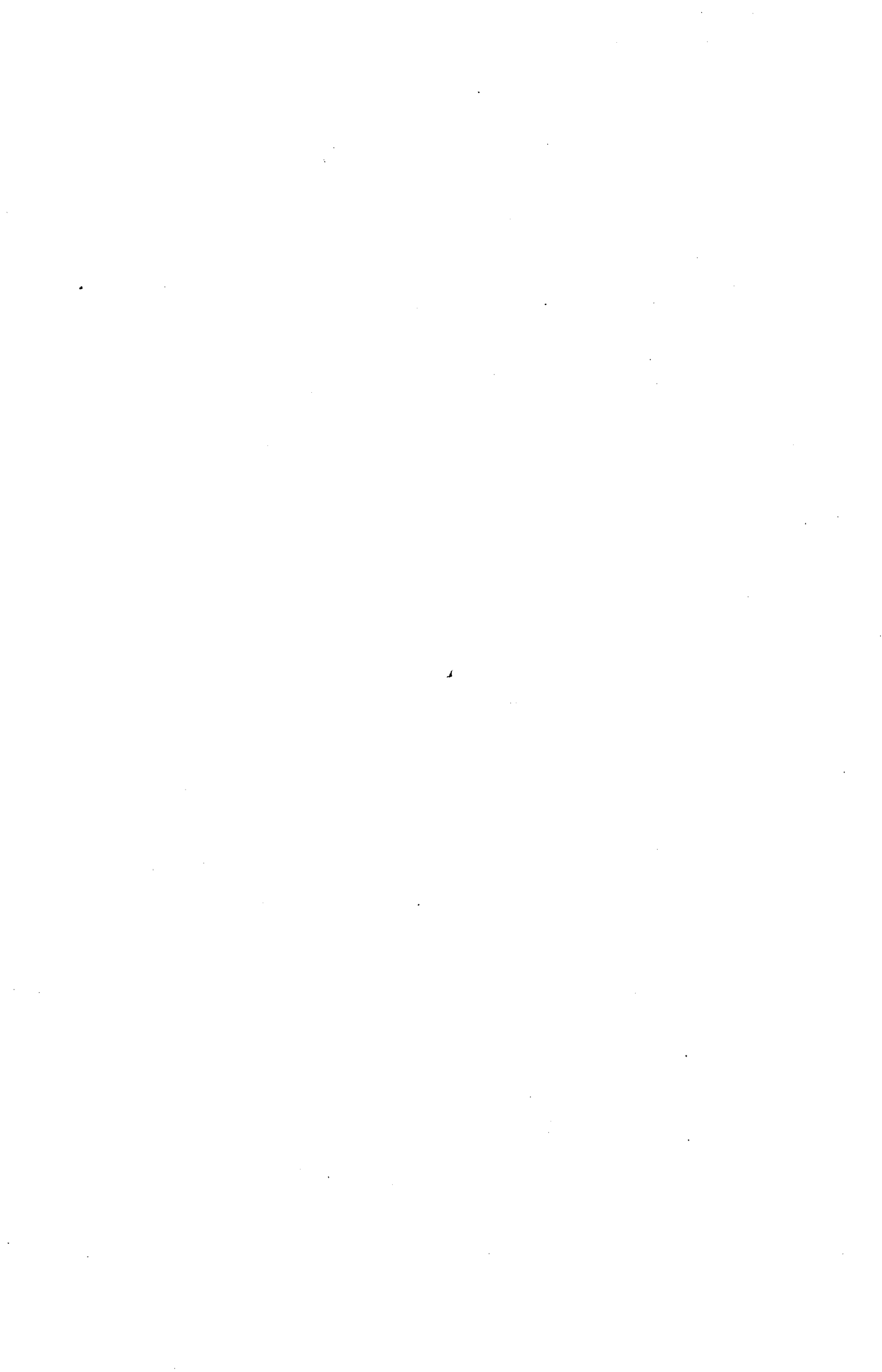
APPENDIX I.

1	Gov. the Hon. Sir J. H. T. Manners Sutton.	July 26, 1867 (Rec. Sep. 14).	Explaining in detail the facts in the case of the proposed grant of £20,000 to Lady Darling, and the real character of the position which he occupies in connexion therewith, because he entertains a very strong opinion that that grant is liable to very grave objections on grounds of general policy.	165
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3	Gov. the Hon. Sir J. H. T. Manners Sutton.	Sep. 28, 1867 (Rec. Nov. 16).	Explaining the motives by which during the crisis he and the two contending parties have been actuated, and submitting his anticipations with respect to the future.	168
4	Gov. the Hon. Sir J. H. T. Manners Sutton.	Oct. 28, 1867 (Rec. Dec. 14).	Submitting his anticipations with respect to the future.	169
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4	To Earl of Belmore	June 16, 1869	Sanctioning in this instance Governor's procedure with regard to payments in anticipation, but deprecating such a course in future, except in cases of absolute and immediate necessity.	182

Serial No.	From or to whom.	Date.	Subject.	Page.
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CORRESPONDENCE.

No. 1.

MESSRS. DALGETY, DU CROZ, & CO. to the COLONIAL OFFICE.

SIR, 52, Lombard Street, London, April 5, 1878.

WE have to thank you for your courteous reply on 12th February* to our communication of 7th idem, and beg leave to request that you will name a day to receive a number of gentlemen having interests in Victoria and the adjacent Colonies, who desire to present a written statement on the legal and political aspects of the late crisis in Victoria, and to express briefly their opinions.

We are, &c.

(Signed) DALGETY, DU CROZ, & CO.

Right Hon. Sir Michael Hicks Beach, Bart.,
&c. &c. &c.

No. 2.

COLONIAL OFFICE to MESSRS. DALGETY, DU CROZ, & CO.

GENTLEMEN, Downing Street, April 6, 1878.

IN reply to your letter of the 5th inst.† I am directed by the Secretary of State for the Colonies to inform you that he will be happy to receive the proposed deputation of gentlemen having interests in Victoria and the adjacent Colonies at this office on Tuesday next, at 3 p.m.

I have, &c.

Messrs. Dalgety, Du Croz, & Co. (Signed) ROBERT G. W. HERBERT.

No. 3.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the EARL OF CARNARVON.

(Received April 8, 1878.)

MY LORD, Government House, Melbourne, February 4, 1878.

IN the Despatches noted at the foot‡ I have commented upon the reductions made in the civil service of this Colony by my responsible advisers in consequence of the rejection by the Legislative Council of the Appropriation Bill for the year.

2. During the previous parliamentary deadlock of 1867–8, my predecessor, Lord Canterbury, wrote as follows:—"It is clearly the duty of a constitutional Government "to look to parliamentary supplies, whether annual or fixed, and to parliamentary "supplies alone, for meeting the liabilities of the Government ; and it would be difficult "to prove by abstract reasoning that the legitimate consequence, in a constitutional "point of view, of the refusal of parliamentary supplies is not the discontinuance of "every service to the maintenance of which those supplies would, if available by the "Government, have been applied. Such a conclusion would, under existing circum- "stances, involve the disbandment of the police, the cessation of discipline and inspection "in the prisons and lunatic asylums, the discontinuance of the postal and railway "services, and the complete disorganisation of every branch of the public service, "excepting those for which provision is made by special Appropriation Acts."

It will be seen from my previous Despatches and Minutes that, while fully admitting the necessity of great retrenchments in the public expenditure in consequence

* Paper 27 of 1878, No. 22.

† No. 1.

‡ Paper 27 of 1878, Nos. 11, 33, 35, & 36.

of the rejection of the Appropriation Bill, I had grave misgivings as to the legality and equity of some of the steps taken by the ministry towards effecting that retrenchment, and that in particular they cancelled, at my instance, the notifications issued respecting certain inferior courts of law.

4. I am assured by the law officers of the Crown that full provision has been made for the administration of justice in all these minor tribunals. The most important of these courts are those of the county court judges, who hold office "during pleasure," and whose salaries, being provided for on the annual estimates, have ceased with the "stoppage of supplies." It has been arranged, however, that three out of the six judges shall continue to be employed, and shall hold sessions as usual in Melbourne and on circuit. It seems to be generally agreed that there is not work enough to occupy six of these judges, now that almost every village in this Colony with above 2,000 inhabitants is connected with the capital by railway, and that all the assize towns have become easily accessible in the course of a few hours. Any of the officers of the judicial department or of the general civil service, who may cease to be permanently employed, are entitled by law to retiring pensions and other compensation allowance, which (as I have explained elsewhere) are provided by Acts of Parliament, and can therefore be paid forthwith, even though there should be no money legally available to pay the monthly salaries. Moreover, any person who may feel himself aggrieved by any action of the Government can seek redress under the "Crown Remedies and Liabilities Statute 1865" (28 Vict. No. 241), from the Supreme Court, the decisions of which tribunal would, of course, be carried out by the Executive authorities.

5. There can be no doubt that the civil service of Victoria has grown to extravagant proportions. During many years past each successive ministry has added to it a number of the personal or political friends of its members. It will be seen from many of my Despatches how earnestly and repeatedly I have recommended reform on the English model, and the substitution of competitive examinations for ministerial patronage.

6. The subjoined statement, based on official statistics, has recently been published here, and shows the great comparative cost of the judicial establishments in Victoria:—

ENGLAND.			
	£	s.	d.
Chancery, Queen's Bench, &c. -	147,900	0	0
Probate and Admiralty, &c. -	13,300	0	0
Bankruptcy -	14,300	0	0
County Courts -	94,300	0	0
Police magistrates -	35,500	0	0
	<u>£305,300</u>	<u>0</u>	<u>0</u>
DOMINION OF CANADA.			
	£	s.	d.
Supreme Court -	9,120	0	0
Province of Ontario -	40,320	0	0
Province of Quebec -	30,900	0	0
Other provinces -	45,454	0	0
	<u>£115,894</u>	<u>0</u>	<u>0</u>
VICTORIA.			
	£	s.	d.
Supreme Court -	15,500	0	0
Master in Equity -	1,500	0	0
Insolvency judge -	1,500	0	0
County Court judges -	12,000	0	0
Police magistrates -	18,850	0	0
Commissioner of Titles -	1,800	0	0
Registrar and Prothonotary -	3,866	13	4
	<u>55,016</u>	<u>13</u>	<u>4</u>

In other words, it is proved that Victoria, though having only one twenty-fifth of the population of England, spends more than one-sixth of what England spends on courts of justice ; and, having a fifth of the population of Canada, spends half as much on her judicature. Nor does this statement represent the full facts of the case. In England appeals from all the British dominions are heard, and in Canada the Supreme Court is an additional expense, entailed by the federation of the provinces. Moreover, it appears that the incidental expenses of the Victorian law courts are also largely in excess of the English and Canadian rates.

7. Mr. Herman Merivale* has written as follows respecting the peculiarly embarrassing and isolated position, in times of popular excitement, of the representative of the Queen in a colony possessing parliamentary government :—

“The functions of a colonial governor under responsible government are occasionally arduous and difficult in the extreme. Even in the domestic politics of the Colony his influence as a mediator between extreme parties, and controller of extreme resolutions, as an independent and dispassionate adviser, is far from inconsiderable, however cautiously it may be exercised. But the really onerous part of his duty consists in watching that portion of Colonial politics which touches on the connexion with the mother country. Here he has to reconcile, as well as he can, his double function as governor responsible to the Crown, and as a constitutional head of an executive controlled by his advisers. He has to watch and control, as best he may, those attempted infringements of the recognised principles of the connexion which carelessness or ignorance, or deliberate intention, or mere love of popularity may from time to time originate. And this duty of peculiar nicety he must perform alone. He can have no assistance. His responsible ministers may (and probably will) entertain views quite different from his own, and the temptation to surround himself with a camarilla of special advisers distinct from these ministers is one which a governor must carefully resist.”

8. My long experience of eighteen years in the government of colonies possessing parliamentary institutions has given me a great advantage in dealing with all ordinary questions of administration, even when involving Imperial interests ; but any man in my present position must be sensible of his embarrassing isolation with regard to legal questions. In some quarters the governor, though a layman, has been held (as I submit very unreasonably) to be bound to reject the opinion of the responsible law officers of the Crown, even on intricate questions of law, if there should be any ground to suppose that their opinion is erroneous. And yet the governor can constitutionally take no other professional advice than that of these responsible law officers. It will be remembered, moreover, that, as I have remarked above, it is always open to any person who feels aggrieved by any action of the Government, to bring a test action before the judges of the Supreme Court, who are wholly independent of the executive authorities ; and from the decision of the Supreme Court there lies an appeal to the Privy Council in England.

9. In conclusion, I would adopt the language, as equally applicable to my own case, of my predecessor, Lord Canterbury. During the former parliamentary deadlock of 1867–8 he wrote as follows :—

“In almost every instance in which I have been called upon to exercise my own judgment in connexion with the political contest now in progress here, the choice presented to me has been not only of difficulties, but of positive evils ; and my vindication therefore must rest not on the abstract merits of the course adopted by me, but on the preponderance of the evils attendant on any other course.”

I have, &c.

To the Right Hon. the Earl of Carnarvon,
&c. &c. &c.

(Signed) G. F. BOWEN.

P.S.—18th February. Since the above Despatch was written a motion has been brought before the Supreme Court to test the legality of the recent action of the ministry respecting the county court judges. It will be seen that the Supreme Court sees no reason to interfere. Annexed is a report of the judgment delivered in this case on the 16th instant by Sir Redmond Barry.

G. F. B.

* “Colonization and Colonies,” page 666.

Enclosure in No. 3.

Extract from "Argus" of February 18, 1878.

Mr. Justice Barry said :—An application was made in Chambers on Saturday the 9th of February, for a writ of Habeas corpus to bring up the bodies of Andrew Armstrong and Elizabeth Stella Stewart, convicted at a court of general sessions held at Melbourne, before Thomas Spencer Cope, Esquire, sitting as chairman thereof, on the 7th day of February instant, on the charge of forgery and uttering, and sentenced to two years' imprisonment each, on the grounds—

1. That the said Thomas Spencer Cope, Esquire, had no legal right or power to sit as such chairman of general sessions or to try or sentence the said prisoners, he having been legally removed from such office on the 8th of February instant, and never re-appointed to that office, as provided by the Judicature Act.

2. On the grounds set forth in the affidavit of Michael Kidston, which is as follows :—“ Andrew Armstrong and Elizabeth Stella Stewart were, on the 7th day of February inst., tried before Thomas Spencer Cope, Esq., he purporting to sit and act as chairman of the Court of General Sessions of the Peace of central bailiwick of the Colony of Victoria, there being no justices of the peace sitting with him, and were convicted of the crime of forging and uttering. T. S. Cope, Esq., was at the time of the passing of the Act of Parliament of Victoria, No. 592, commonly called the Judicature Act, a chairman of a Court of General Sessions of the Peace within the meaning of section 14 of the said Act. His Excellency the Governor, with the advice of the Executive Council, removed from his office of chairman of the said Court of General Sessions the said T. S. Cope, Esq., of which a notification in the words and figures following appeared in the Victorian 'Government Gazette,' of the 8th of January 1878 :—“ Judges of Courts, &c.—The Governor, with the advice of the Executive Council, has removed from their respective offices each and all of the persons now holding the offices of judges of County Courts, Courts of Mines, and of the Courts of Insolvency, also chairmen of Courts of General Sessions of the Peace.—J. M. GRANT, Minister of Justice. Crown Law Offices, Melbourne, 8th January 1878.' Afterwards, on the 25th day of the said month of January, there appeared in the said Victorian 'Government Gazette,' notification in the words and figures following :—“ The Governor, with the advice of the Executive Council, has ordered that the order in Council dated the 8th instant, removing from office the persons holding the offices of Judges of County Courts, Courts of Mines, and of the Courts of Insolvency, also chairmen of General Sessions, be cancelled.—ROBERT LE POER TRENCH, for the Minister of Justice. Crown Law Offices, Melbourne, 24th January 1878.' On the presentment of Her Majesty's Attorney-General for the said Colony of Victoria at the said Court of General Sessions of the Peace, before the said T. S. Cope, Esq., purporting to sit and act as aforesaid, the said Andrew Armstrong and Eliz. Stella Stewart, being called upon to plead thereto, they severally pleaded not guilty, whereupon it was contended by counsel on behalf of the said prisoners, that as the fact was, the said T. S. Cope, Esq., had no jurisdiction to try the said prisoners, inasmuch as the said T. S. Cope, Esq., had been removed from his said office of chairman of General Sessions on the 8th day of January aforesaid, and had not been since appointed by the Governor in Council to the said office, nor had since taken or made before the Supreme Courts the oaths or affirmations required by the said Act No. 532. Counsel for the prisoners then put in evidence the said 'Government Gazette' of the 8th day of January last, and stated that he had proposed to give evidence that the said T. S. Cope, Esq., had not since that date been appointed by the Governor in Council in the way described by and pursuant to the 14th section of the said Judicature Act; whereupon the said T. S. Cope, Esq., stated that it was unnecessary to give any such evidence, as it was perfectly true that he had not received a fresh commission since his removal as notified in the 'Government Gazette' of the said 8th day of January aforesaid, nor had he taken or made before the Supreme Court the oaths or affirmations prescribed by the said 14th section of the said Act No. 502. The said T. S. Cope, Esq., then stated that he considered that he had jurisdiction to try the said case, and refused the application of the prisoners' counsel then made to reserve for the consideration and determination of their Honours the judges of the Supreme Court the question of law raised by him as aforesaid. Notwithstanding the said objections of the prisoners' counsel, the said T. S. Cope, Esq., proceeded with the trial as if he had jurisdiction. The jury returned a verdict that both prisoners were guilty of forging and uttering, whereupon counsel for the prisoners requested the said T. S. Cope, Esq., to postpone passing sentence on the prisoners for a few days until they had an opportunity of obtaining the opinion of the Supreme Court, or a judge thereof, on the question of law raised on their behalf as aforesaid. That the said T. S. Cope, Esq., on the 8th day of February aforesaid, sentenced the said prisoners respectively to two years' imprisonment with hard labour. The said prisoners are now in the custody of the keeper of Her Majesty's gaol at Melbourne, in execution of the said sentence.”

The learned Judge being of opinion that the questions raised involved matter of difficulty worthy of consideration, granted a summons calling on the Attorney-General to show cause why the writ should not issue. The summons was made returnable on Wednesday the 13th, and came before me. Impressed with the novelty and importance of the subject, I invited the Chief Justice and Mr. Justice Fellows to favour me with their assistance. Complying with my request, the case was heard before them, sitting with me in Chambers. Grateful for the aid afforded to me by them, I have considered the case, the arguments, and the facts, and proceed to state the grounds of my decision. At the outset it must be understood that it is not my purpose to express any opinion upon the questions—laboured with so much assiduity and the exhibition of so much research—as to the right to dismiss the chairman of general sessions, as to whether proper steps were taken to remove him from office, as to the effect of the Order in Council of January 24, 1878, reversing that of January 8, 1878, or upon several others incidental to them. All important as these are to the persons concerned, they do not regularly arise here. It is not within my province—it is not my duty—to enter on them now. They relate to proceedings—be they regular or irregular—which have been followed by a conviction in a court which avowedly embraces within its jurisdiction offences of the nature for which the prisoners have been tried, and my opinion is, that on an application for a writ of Habeas corpus, it is not competent for a judge or for the court to reverse a record of the Court of General Sessions. The common law doctrine laid down by my Lord Coke, 1 Inst., 260—“ And the rolles being the records or memorials of the judges of the courts of record, import in them such incontrollable credit

“and veritic, as they admit no averment, plea, or prooffe to the contrarie”—meets the applicants at the threshold, and restrains me absolutely from investigating in this form of inquiry any averment as to what occurred before that conviction. The undisputed authority of the numerous cases cited on certiorari—*Regina v. Bolton*, 1 Q.B., 66, and others of that class—and in error have no application here. In the former the orders or convictions of inferior courts or other bodies are brought up to the superior courts to be reviewed for want of jurisdiction, error, or mistake, and are amended and sent back, or quashed, or dealt with otherwise. In the other the proceedings are expanded; and on the fiat of the Attorney-General being obtained—which may be granted or withheld at his discretion—a discretion subject only to legislative interference—and being brought thus manifestly before the Court can be treated according to well defined rules. But in this latter instance there is an obvious distinction between error in law and error in fact, as appears by reference to *Reg. v. Carlile*, 2 B. & Ad., 362; *Leverson v. The Queen*, L.R., 6 Q.B., 394. In these facts, somewhat resembling those before me now, and involving similar principles appeared, but it was held that none of the grounds were tenable. If, when all the particulars complained of as irregular, illegal, or void, are set out at large on the record, a prisoner be not allowed to assign as an error in fact that the number of judges necessary to constitute the Court by which he was tried and committed were not present—a multo fortiori—these prisoners cannot be allowed to contest such a question on affidavits—in *re Charles Smith*, 3 H. & N., 227, in a collateral proceeding, such as a return to a writ of Habeas corpus, when the record can not be brought before me, when the process to be issued would only bring up the writ by which they are detained, when whatever order might be made the conviction would be left as it is now of record in the court unimpaired and indelible—*Rex v. Carlile*, 4 C. & P., 422; *Brenan v. Callen*, 10 Q.B., 492; *Ex parte Newton*, 24 L.J.C.P., 148, N.S., 1855; *Cobbet v. Field*, Q.B., Jan. 11, 1877. Moreover, although there be no conviction before me, it is proposed to impeach the first proceedings. Were my decision to be that they were illegal, irregular, or void, the conviction would still remain unimpeached; and if the commitment thereupon be regular, and it has not been challenged by anticipation, the writ of Habeas corpus would issue in vain, and a remand would be inevitable. Abundant authority exists to establish the doctrine that, although it be usually supposed that the writ goes *ex debito iudicii*, and, of course, neither a judge nor the Court ought to grant an order where prisoners are in execution on a criminal charge after judgment, on an indictment presented in a court of competent jurisdiction, where the exercise of the power would lead to a result futile (perhaps vexatious) and inoperative—*Ex parte Lees*, Ell. Bl. & Ell., 828. Finally, the question has been already decided on more than one occasion in this Court. In *re Miller*, 3 W., W., & A'B., 43, the language of the Chief Justice, in which the other judges concurred, is this:—“The Court reserved its judgment, and subsequently expressed its opinion that the return was sufficient, and that the amendment (required), even if made, would not enable the Court to go into matters which were cognisable only by a writ of error; and that inconvenience would arise from such a course, inasmuch as a judge in chambers might, on a return to a writ of Habeas corpus, review a decision of the full Court.” This is conclusive. The writ must be refused and the summons dismissed.

No. 4.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the EARL OF CARNARVON.

(Received April 8, 1878.)

MY LORD,

Government House, Melbourne, February 5, 1878.

It will be seen from my Despatch of the 26th January* ultimo that the Legislative Council considers that because a majority of that body has thought fit to reject the annual Appropriation Bill, the Governor is therefore called upon to dismiss the ministry enjoying the confidence of two-thirds of the Legislative Assembly or Commons of Victoria, and to dissolve the latter Chamber, though it was elected only eight months ago for three years, and although there is no reason to suppose that the opinion of the constituencies has materially altered during that period.

2. These claims of the Council are so inconsistent with the well-known practice of parliamentary government, both in England and in the Colonies, that they only require to be stated to be regarded as inadmissible.

3. It will be remembered that my predecessor, Lord Canterbury, had to consider the same question during the former parliamentary deadlock of 1867–8, and that he fully discussed it, especially in the despatches noted in the margin.† He wrote:—
 “I might have rejected the advice of those who held the position of my responsible advisers, and have called their opponents to the Council Board. But it was my imperative duty to consider, before I took any such step, deliberately and impartially, not only the probable, but also the possible consequences of such a step. For in taking that step I should have exercised, and for the first time during this crisis, in favour of one the contending parties (namely, that installed by me in office) the prerogative intrusted to my keeping as the representative of the Crown
 “I had then to consider, firstly, whether a change of government would afford any prospect of restoring harmony between the Legislative Council and the existing Legislative Assembly. This question had been already anxiously and deliberately

* Paper 27 of 1878, No. 35.

† Lord Canterbury to Secretary of State of 26th October 1867 (page 20 of B1 of session 1868), and of 27th November 1877 (page 26 of same paper).

“ considered by me and I had formed the opinion (and acted upon it) that no such prospect would be afforded by a change of Government. “ Indeed I then arrived at the conclusion that the first and immediate result of such a “ step would be the refusal of supplies by the Legislative Assembly. Nothing which “ has occurred since has altered that opinion ; on the contrary, it has been confirmed “ by the course of events and by the expressed opinions of the majority of the Lower “ House since it was first formed If I had been of opinion that the “ opponents (of the present ministry) would, if placed in power, have commanded a “ majority in the Legislative Assembly on the question in dispute between the two “ Houses, I might have taken a different course. But, it is unnecessary to discuss “ that contingency, for I have been unable to arrive at the belief that it was in any “ degree probable And in the absence of instructions from the Secretary “ of State, and when the question at issue is one on which neither the law nor the “ Royal instructions render it necessary for the representative of the Crown to take a “ decided stand, it is, I conceive, my first duty to abstain from taking any step which “ would identify me with either or any of the contending political parties in the “ Colony.”

4. Again, on another occasion, Lord Canterbury wrote as follows :—“ The “ displacement of Ministers, supported continuously by a majority of the Lower “ House, is a step which could not properly be taken by the Governor without a fair “ prospect, at least, of that success by which alone, as is admitted by all constitutional “ authorities, such an exceptional exercise of the prerogative can be justified. “ It has, therefore, been the duty of the Governor, throughout the parliamentary “ contests which have for some months impeded and have now stopped financial “ legislation, to confine his endeavours to restore united action in the Legislature “ within the limits prescribed by neutrality on the points at issue between the two “ Houses, and by the constitutional right of an existing Government to the fair “ support of the Governor.”

5. It will be seen that these remarks of Lord Canterbury concerning the former crisis are equally applicable to the crisis now existing in Victoria.

6. It will be recollected, moreover, that I am treating the present ministers, Mr. Berry and his colleagues, in exactly the same manner in which I treated their political opponents, the late ministry, Sir James McCulloch and his colleagues.

7. When I returned from my leave of absence in England in January 1876 I found Sir James McCulloch in office and Mr. Berry in opposition, and a violent popular agitation against the former. Mr. Berry and his friends had then brought about a parliamentary “ deadlock ” by obstructing the progress of business in the Assembly, with the view of forcing a dissolution. During the continuance of the “ Stonewall ” obstruction (as it was called) a number of public meetings were held throughout the colony, from which petitions were addressed to the Governor, praying me to dismiss Sir James McCulloch and his colleagues, and to dissolve Parliament. To these petitions I replied to the effect that, “ according to the well-known principles “ of the Constitution, a Governor is bound, as a general rule, to support the ministers “ for the time being, with whatever political party they may be connected, so long as “ they act in conformity with the law, and possess the confidence of the majority of “ the representatives of the people in Parliament.” The case is now exactly reversed. Mr. Berry and the so-called “ Liberal ” party are in power, and Sir James McCulloch and the so-called “ Conservative ” party are in opposition. A great number of large and enthusiastic public meetings have been held throughout the Colony in support of Mr. Berry and the Government, and only a very few and thinly attended meetings in support of the Opposition. But some of the journals hostile to the present Ministry have now adopted the tactics which they repudiated two years ago, and have urged the Governor to dismiss Mr. Berry and dissolve Parliament. Of course it is my clear duty to give Mr. Berry exactly the same fair play and just support as I gave to his opponent, Sir James McCulloch, and under exactly similar conditions, that is “ so long “ as he acts in conformity with the law and possesses the confidence of the majority of “ the representatives of the people.”

8. Mr. Berry retains the confidence of about two-thirds of the existing Legislative Assembly, or nearly 60 votes in a House of 86 members. There is every reason to believe that he also retains an equal majority in the constituencies. Indeed a very strong argument in favour of this belief is the result of the recent election in West Melbourne, which is considered to be the stronghold of the party opposed to the

present Ministry. Sir Charles MacMahon, the late Speaker of the Assembly, resigned his seat for that electorate, avowedly to make room for Mr. Francis, formerly First Minister, and a gentleman generally respected and popular in this Colony. It was arranged that Mr. Francis should re-enter Parliament as leader of the Opposition, and his friends believed that his return was certain. But he was defeated, after a severe contest, by a gentleman new to public life, Sir Bryan O'Loughlen, who stood as a supporter of Mr. Berry.

9. I regret to say that in some of the enthusiastic "mass meetings" recently held in support of the Colonial Government language of a rather exciting character has been used, though only by a few persons, respecting the obstruction to public business and general suffering caused owing to the rejection of the Appropriation Bill by the Legislative Council. But it is simply justice to add that full expression has always been given to the most devoted loyalty to the Queen and to the Imperial connection, and to the most perfect confidence in the Imperial authorities. On the other hand, the "Argus," and a few other journals inspired by it, have filled their columns almost daily with invectives of the most inflammatory character against the popular cause and popular leaders. This violence has greatly impaired the influence of the party which these journals profess to represent, and is severely condemned by moderate men of all sides. Indeed it is now often remarked by persons experienced in election contests and periods of political disturbance at home, that the fact that public order has been maintained here throughout the present crisis is a strong proof of the law-abiding character of the people of Victoria; for similar appeals to popular passion would have led to dangerous riots and bloodshed in many parts of England and Ireland and of the continent of Europe.

10. In conclusion, it will be seen that, with regard to the question of a dissolution of Parliament under existing circumstances, I am pursuing exactly the same neutral and impartial course with my predecessor, Lord Canterbury. His conduct was fully approved by the Imperial Government, and I am confident that by adhering inflexibly to the same policy I shall be equally fortunate.

I have, &c.

(Signed) G. F. BOWEN.

The Right Honourable the Earl of Carnarvon,
&c. &c. &c.

No. 5.

GOVERNOR SIR G. F. BOWEN, G.C.M.G. to the EARL OF CARNARVON.

(Received April 8, 1878.)

MY LORD, Government House, Melbourne, February 11, 1878.

I HAVE the honour to report that a short time since one of the members of the Legislative Council asked the member representing the Government in that Chamber to lay on the table the Ministerial Memorandum by Mr. Berry, transmitted to your Lordship with my Despatch of the 31st December ultimo.*

2. The ministers declined to comply with this request on several grounds, and especially because it is a general rule of the public service that documents forwarded to the Imperial Government should not be published in the Colony until they shall have been received and acknowledged by the Secretary of State.

3. On receiving this answer, it was moved and carried that the subjoined address should be presented to me, viz. :—

"To His Excellency SIR GEORGE FERGUSON BOWEN, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief in and over the Colony of Victoria and its Dependencies, and Vice-Admiral of the same, &c.

"MAY IT PLEASE YOUR EXCELLENCY:

"WE, Her most Gracious Majesty's most dutiful and loyal subjects, the Members of the Legislative Council of Victoria, in Parliament assembled, beg leave to approach your Excellency with renewed expressions of our loyalty to Her Majesty's throne and person, and of respect to your Excellency as Her Majesty's representative.

“ We desire to ask your Excellency to be pleased to present to the Legislative Council a copy of the Memorandum, prepared by the Honourable the Chief Secretary upon the present position of political affairs resulting from the absence of the annual Appropriation Act, which we are informed was transmitted by your Excellency by the last Californian mail to the Right Honourable the Secretary of State for the Colonies.

“ (Signed) W. H. F. MITCHELL,
President.”

4. I replied in the following terms :—

“ MR. PRESIDENT AND GENTLEMEN :—

“ I THANK YOU for your renewed expressions of loyalty to Her Majesty's throne and person, and of respect for myself as Her Majesty's representative.

“ With regard to the Chief Secretary's Memorandum to which you refer, I assure you that it will always afford me pleasure to carry out the wishes of either House of the Victorian Parliament, so far as my duty may permit.

“ But it is a general and reasonable rule of the public service that documents forwarded to the Imperial Government should not be published until they shall have been received and acknowledged by the Secretary of State.

“ I would observe, however, that the Imperial authorities will be in full possession of the views entertained by your Honourable House upon the present position of political affairs in Victoria, from the addresses, with the presentation of which I was favoured on the 13th November ultimo and on the 19th instant. Copies of these addresses have been forwarded to the Secretary of State for the Colonies, in pursuance of what I understand to be your desire.

“ Government Offices,

G. F. BOWEN.

“ Melbourne, January 24, 1878.”

5. The Council next sent a further address as follows :—

“ To His Excellency Sir GEORGE FERGUSON BOWEN, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief in and over the Colony of Victoria and its Dependencies, and Vice-Admiral of the same, &c.

“ MAY IT PLEASE YOUR EXCELLENCY :

“ WE, Her most Gracious Majesty's most dutiful and loyal subjects, the Members of the Legislative Council of Victoria, in Parliament assembled, desire to approach your Excellency with the assurance of our continued loyalty and devotion to Her most Gracious Majesty, and of respect to your Excellency as Her Majesty's representative. We pray that your Excellency will be pleased to forward to the Right Honourable the Secretary of State for the Colonies, by cable, the following telegram :

‘ Legislative Council prays nothing be done with the Memorandum from Chief Secretary to His Excellency the Governor on subject of legal payments, forwarded in December *via* California, until opportunity of comment afforded them. Copies asked for by Council, but refused by Governor.—W. H. F. MITCHELL, President of the Legislative Council.’

“ We desire to inform your Excellency that a duplicate of the above telegram will be forwarded to the Secretary of State by the President of the Council.

“ (Signed) W. H. F. MITCHELL,
“ President.”

6. I replied as follows :—

“ MR. PRESIDENT AND GENTLEMEN :

“ I receive with much satisfaction this assurance of your continued loyalty to the Queen and of your respect for myself as Her Majesty's representative.

“ You are already aware that it will always afford me pleasure to carry out, so far as my duty may permit, the wishes of either House of the Victorian Parliament.

“ In the present case, however, seeing that your Honourable House has directed your President to forward your telegram himself, my responsible ministers advise that it is unnecessary to repeat it.

“ Government Offices,

“ Melbourne, February 9, 1878.

(Signed) G. F. BOWEN.”

7. I also sent to your Lordship, by the advice of my ministers, the following telegram.

“February 6th. Legislative Council asked for copy of Ministerial Memorandum of December 31, forwarded with my Despatch by Californian mail. Ministers advised me to decline on general rule that despatches should not be published before they are received and acknowledged. Ministers hope for speedy decision by telegraph on this Memorandum, so as to arrest public danger and suffering here, arising from stoppage of supplies by Legislative Council.”

8. It will be seen that in my reply of the 24th ultimo to the address of the Legislative Council, I said: “I would observe that the Imperial authorities will be in full possession of the views entertained by your Honourable House upon the present position of political affairs in Victoria from the addresses, with the presentation of which I was favoured on the 13th November ultimo and on the 19th instant. Copies of these addresses have been forwarded to the Secretary of State for the Colonies, in pursuance of what I understood to be your desire.” I have since forwarded with my despatch of January 26* the further address of the Council to the Queen.

9. In addition to the fact that the members of the Legislative Council have already had full opportunities of laying their views before the Imperial Government, my responsible advisers have raised a question about the proposed transmission of telegraphic messages through the Governor, which seems to deserve consideration. They point out that this is altogether a novel proposal, and that if the Governor is to be required to transmit by telegraph all messages that may be placed in his hands with that object, in the first place, the expense to the Public Treasury will become very burdensome; and may possibly be disallowed by the Colonial Parliament; and, in the second place, the Governor will be prevented from forwarding at the same time the report required from him by the Colonial Regulations (chapter VII., section 6).

10. I feel, of course, that no practice should be adopted which could be fairly represented as impeding or delaying the undoubted right of all British subjects to petition the Crown. Still, looking to the practical difficulties surrounding the question, your Lordship will, perhaps, take into consideration the view submitted by the Victorian ministers, and decide how far Colonial Governors will be justified (except in extreme cases) in transmitting telegrams at the public expense contrary to or without the advice of those ministers.

I have &c.

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

(Signed) G. F. BOWEN.

P.S.—February 20. Since the above Despatch was written I have received the subjoined address from the Legislative Council.

“To His Excellency Sir GEORGE FERGUSON BOWEN, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief in and over the Colony of Victoria and its Dependencies, and Vice-Admiral of the same, &c.

“MAY IT PLEASE YOUR EXCELLENCY:

“WE, Her most Gracious Majesty’s most dutiful and loyal subjects, the Members of the Legislative Council of Victoria, in Parliament assembled, desire to approach your Excellency with the assurance of our continued loyalty and devotion to Her most Gracious Majesty, and of respect to your Excellency as Her Majesty’s representative.

“We desire to ask your Excellency that, if there be any despatches or instructions of any kind in your Excellency’s possession having reference to the present political state of the Colony, or which have been communicated to your Excellency in anticipation of such a state, your Excellency will be pleased to present copies of them to the Legislative Council, if that can be done consistently with your Excellency’s duty to Her Majesty the Queen.

“And we also pray that your Excellency will, under similar conditions, be pleased to present to the Council copies of any despatches from your Excellency to Her Majesty’s Secretary of State for the Colonies, which may have led in any way to the receipt by your Excellency of such instructions or despatches.

“(Signed) W. H. F. MITCHELL,
“President.”

To which I replied in the following terms :—

“ MR. PRESIDENT AND GENTLEMEN :

“ I THANK YOU for this assurance of your continued loyalty to the Queen and respect for myself as Her Majesty's representative.

“ I have already, in anticipation of your request, presented to Parliament, among other important official communications, the following Despatches from Her Majesty's Secretary of State for the Colonies having reference to the present political affairs of this Colony, viz. :—

“ (1.) 3rd October 1877 :—

“ Respecting the reports of Sir William Jervois and other officers on the defences of Victoria, and stating that the Colonial minister ‘ Awaits ‘ with interest the receipt of information as to the action which will be ‘ taken upon them by the Government and Parliament of Victoria.’

“ (2.) 20th December 1877 :

“ Approving the ‘ attitude of strict impartiality ’ which I have maintained hitherto, and which your Honorable House may rest assured that I shall continue to maintain.

“ (3.) 20th December 1877 :

“ Stating that ‘ the payment of the members of the Victorian Parliament is ‘ a matter with which the Parliament and Government of Victoria ‘ alone have to deal, and which involves no question calling for the ‘ intervention of the Imperial Government ;’ that ‘ the signature of ‘ the Governor of a Colony which has representative institutions to the ‘ message recommending the money votes is a formal act, and the ‘ responsibility in the case rests not with the Governor, but with the ‘ ministers who advise him ;’ and that ‘ it will be your duty not to ‘ refuse to follow the advice of your ministers should the estimates for ‘ the service of the coming year contain an item to provide for the ‘ payment of the expenses of Members of the Legislature.’

“ The substance of this last Despatch had reached me by telegraph in last October. I am desirous to comply with your wishes, Mr. President and Gentlemen, as far as my duty may permit. I shall accordingly present to Parliament from time to time, as they arrive, any further public despatches of general interest, and particularly any despatches referring to the subsequent addresses with which I have been favoured by your Honourable House, and to the addresses to Her Majesty the Queen forwarded by both Houses of Parliament.

“ My duty will not permit me to engage to go further in this direction at present. But it will be a source of great satisfaction to me if I should hereafter be authorised to publish my entire correspondence with the Imperial Government during my administration of the Government of Victoria, for such publication would remove many misconceptions and furnish much information of public interest.

“ Government Offices,

“ Melbourne, February 19, 1878.

(Signed) G. F. BOWEN.”

No. 6.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the EARL OF CARNARVON.

(Received April 8, 1878.)

MY LORD,

Government House, Melbourne, February 18, 1878.

1. WITH my despatch of the 26th January* ultimo, I transmitted an address to the Queen from the Legislative Council of Victoria respecting the present state of political affairs in this Colony.

2. I have now the honour to transmit an address to Her Majesty on the same subject from the Legislative Assembly of Victoria.

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

I have, &c.
(Signed) G. F. BOWEN.

Enclosure 1. in No. 6.

TO THE QUEEN'S MOST EXCELLENT MAJESTY:

MOST GRACIOUS SOVEREIGN:

WE, your Majesty's dutiful and loyal subjects, the Legislative Assembly of Victoria, in Parliament assembled, approach your Majesty with the expression of our continued loyalty and attachment to your Majesty's throne and person.

Serious differences have occurred with the Legislative Council which are fraught with inconvenience and danger to the inhabitants of this portion of your Majesty's dominions; and as systematic efforts are being made in influential quarters to misrepresent the policy and actions which we have sanctioned by unprecedentedly large majorities, we respectfully desire to lay before your Majesty a brief statement of the circumstances which have given rise to the serious complications and difficulties by which your Majesty's Government in this portion of your Majesty's dominions is at the present moment confronted.

This Colony, on which your Majesty was pleased as a testimony of your royal favour to confer your Majesty's own name, is subject to a system of Government framed as closely as circumstances permitted on the Government of your Majesty's United Kingdom. The framers of the constitution stated in express terms their intention of creating a Legislature in which one Chamber should possess "the legislative functions of the House of Lords," and the other Chamber "all the rights and powers of the House of Commons." To the constitution framed in pursuance of this design your Majesty, with the consent of the Lords and Commons, gave your assent, and it has been in operation for more than twenty years.

But from the beginning its harmonious working has been constantly disturbed by the claims of the Legislative Council to exercise a control over the public expenditure which has not been possessed or claimed by the House of Lords within the memory of living man. In violation of all constitutional usage the Legislative Council did, on 8th November 1877—before any step had been taken with regard to payment of Members—vote an address to his Excellency the Governor, the object of which was to induce his Excellency to refuse the anticipated advice of his responsible ministers by declining to forward at their request the formal message to enable us to consider the question.

The recent general election took place by effluxion of time on the 11th of May last, when Sir James McCulloch was Chief Secretary, the result being so overwhelmingly adverse to his policy that the Government resigned without meeting Parliament, and Mr. Berry was sent for. The ministry then formed has ever since enjoyed our uninterrupted confidence, and that in a larger measure than any previous administration ever received from Parliament.

During the present session of Parliament this House cheerfully granted to your Majesty all the supplies necessary for the efficient conduct of the public service of the Colony; but when the Appropriation Bill in which they were contained reached the Legislative Council, that Chamber ventured on a measure which the House of Lords in the most stormy contests with the House of Commons in past generations never were tempted to employ; they laid aside the Appropriation Bill, and left the entire public service, the local force for the defence of the country, the police for the protection of public order, the judiciary, and the officers of the public departments without salaries; and the contractors, to whom your Majesty was indebted for the performance of necessary public services, without funds for the payment of their claims.

At the same time a Bill to provide forts and armaments in pursuance of the recommendation of Sir William Jervois, the officer appointed by your Majesty's Imperial Government to advise the Colony in this respect, was adopted in this House, and sent to the Legislative Council for their concurrence. It was a measure of pressing and paramount urgency, as it was doubtful at that moment if your Majesty might not find it necessary to take part in the war then waged in Europe. This measure also the Legislative Council laid aside, and the hands of your Majesty's Colonial Government, in providing for the public defence of the Colony against foreign aggression in an alarming emergency, have been consequently paralysed.

Other measures of supreme importance shared the same fate, and a session which should have been fruitful in legislative results has been rendered comparatively barren by obstruction from a Chamber whose ready co-operation and assistance the country had a right to expect after the decisive verdict at the ballot-box on the 11th of May last.

The pretence upon which the Appropriation Bill was laid aside is that it contained an item of expenditure which ought to have been provided for by a separate Bill. The constitution of this Colony confers on the Legislative Assembly the exclusive right to initiate taxation and appropriation, and in express terms withholds from the Legislative Council the power to alter, in the slightest particular, Bills of either class. An Act of the Parliament of Victoria, assented to by the Legislative Council on two successive occasions, appropriates a portion of the public revenue to reimburse members of both Chambers their expenses in relation to their attendance in Parliament to the extent of 300*l.* per annum. This Act, unless renewed, expires with the present session. A vote for 18,000*l.* was accordingly included in the annual estimates of expenditure, to continue this system to the end of the current financial year. Subsequently it was suggested in the Assembly that it would be more satisfactory to the Legislative Council to have the provision again made in a separate Bill, and such a Bill, continuing the system till the end of the present Parliament (which will expire by effluxion of time in May 1880), was sent to the Council. They had twice before passed Bills of a similar character; but this Bill they negatived the second reading of; and immediately afterwards the Appropriation Bill, containing not the same proposal, but a sum providing for the same service for a period of six months, was also laid aside to assert their unfounded claim of prohibiting a particular item of expenditure authorised by the Legislative Assembly.

We respectfully submit to your Majesty that the rejection of the Appropriation Bill, a measure the Legislative Council has no power to amend or alter because one item among many hundreds was objected to, is a clear attempt to obtain indirectly and regardless of consequences a privilege which the Constitution Statute has in express terms withheld from that Chamber.

The ground upon which the Forts and Armaments Bill was laid aside is that it contained the preliminary paragraph known in Acts of Parliament granting aid to the Crown as "the free gift preamble," implying a free gift made to the Crown by that House on which the constitution confers the power of the purse. It will be enough to assure your Majesty that the form of the Bill was expressly copied from Acts passed by the Imperial Parliament during the reign of your Majesty to provide for the defence of the United Kingdom.

We humbly submit to your Majesty's gracious consideration, therefore, that the question at issue is a very simple and intelligible one. It is, whether a Chamber elected by a small section of the people, in which sixteen persons constitute an absolute majority—a Chamber whose members are certainly not distinguished by any historic or eminent personal claims on the consideration of the community—shall be permitted to assert a control over the public expenditure which the peers of England have long relinquished.

In the face of this reckless and unconstitutional action, by which the supplies granted by us to your Majesty were arrested *in transitu*, your Majesty's Colonial Government, who possess the full confidence of this House, had to consider what measures would most conduce to save at the same time the credit and character of the Colony and the just and necessary authority of Parliament. The refusal of an Appropriation Bill amounted in effect to the discharge of every officer in the public service, and to the closing of all public establishments supported by the State, which in this country include railways, telegraphs, public libraries, and lunatic asylums, as well as schools, post-offices, and prisons. Under these circumstances the choice for your Majesty's Victorian Government lay between anarchy, the sure forerunner of revolution, or a recurrence to the practice which obtained previous to the year 1862, of paying the public creditor on our votes in Committee of Supply reported to and adopted by the House. Loyalty, no less than sound policy, decided for the latter course, and we, the Legislative Assembly, have by a majority of 52 to 23 adopted the following resolution :—

“That all votes or grants passed in Committee of Supply become legally available for expenditure immediately such resolutions are agreed to by the Legislative Assembly; and that henceforth, in view of the serious public inconvenience caused by repeated rejections of the Annual Appropriation Bill by the Legislative Council, this House resolves to revert to the practice which prevailed prior to 1862.”

In the meantime economy and retrenchment in the public service have been adopted by your Majesty's Colonial Government with our full concurrence, and although personal inconvenience and loss are inseparable from a state of affairs such as now prevails in Victoria, we are happy to assure your Majesty that inconvenience and loss have been reduced to a minimum, and that up to the present time due provision has been made for the preservation of law and order, the administration of justice, and the efficient carrying on of your Majesty's Government.

The Legislative Council, in a recent address to your Majesty, have suggested that your Majesty's Colonial Government, instead of proceeding to economise the public funds at their disposal by reducing expenditure wherever it was practicable, might have preserved the action of responsible government either by resigning their functions or by recommending a dissolution of Parliament.

We humbly submit to your Majesty's consideration that, had they resigned their offices while they possessed the undiminished confidence of this House, they would not have preserved, but have sacrificed and betrayed, the principle of responsible government, which recognises such confidence as one of its cardinal conditions. And though a dissolution of this House (the only Chamber liable to dissolution) while fresh from its constituents would be a harsh and unreasonable measure, they were restrained from having recourse to it still more powerfully by the consideration that, on a former occasion, when a minister, supported by a large majority in this House, dissolved the Assembly in a contest with the Council, he had afterwards to report to your Majesty's representative that the Council refused to be bound by the result of the appeal.

If a dissolution of this House would settle once for all the principles upon which the finances of this country shall be regulated for the future, we would welcome such an appeal, however costly or inconvenient to ourselves. But this is the fourth occasion on which the Legislative Council have thrown the affairs of the Colony into confusion by rejecting an Appropriation Bill, and the time has arrived when, instead of a temporary expedient to settle a temporary controversy, some effectual barrier must be established against the recurrence of so grave a public calamity. Nor was their attempt to exercise an unwarranted control over the public expenditure the sole or even the greatest offence of the Council against the public interests of this Colony. In that Chamber the owners of great estates, and the tenants of great territories leased from the Crown, have always predominated, and whenever a Government was in office that did not subserve their class interests they have expressed their displeasure by throwing out, sometimes without debate or explanation, public measures carefully matured in this House, and greatly desired by the people. Many times it has happened that nearly all the important Bills of a session were thus sacrificed; and this practice has more or less prevailed during the entire period of their existence. No community could have borne such a calamity with more temper and patience than your Majesty's subjects in this Colony, but the present aggression has brought forbearance to an end.

It is our confident belief that it is the gracious desire of your Majesty that your Majesty's subjects in this Colony should enjoy to the same extent with your Majesty's subjects in the United Kingdom the privileges of constitutional and parliamentary government on the English model, and that is our sole aim and desire.

More than ten years ago, in one of the many controversies which the claims of the Council have provoked, an agreement was at length, as it seemed, arrived at to the effect that the practice of the Lords and Commons respectively should be observed by the two Chambers in this Colony as to all subjects of aid and supply. To give effect to this agreement a joint Standing Order of the two Houses was suggested, and the Council have recently pleaded as their justification for not having carried out the agreement that it was not found practicable to frame a Standing Order having the requisite authority. During the present session this House have assured the Council that they were ready to concur in an Act of Parliament on the subject, whose authority could not be doubted. To this proposal the Council have made no reply; and they still persist in claiming and attempting to exercise a power in financial questions far beyond that exercised by the House of Lords.

We have performed a public duty in making your Majesty acquainted with the actual condition of this portion of your Majesty's dominions. It would not be decorous to trouble your Majesty with any forecast of the measures which we consider necessary to restore public tranquillity and prosperity, now so seriously disturbed. These measures will reach your Majesty in the ordinary process of parliamentary procedure through your Majesty's representative. But we trust your Majesty will confidently believe that loyalty to your throne and person, and attachment to the Empire, will unite in whatever we undertake with a desire for that wise and broad-based liberty, which it will be the chief glory of your Majesty's reign to have established throughout your dominions.

We cannot conclude without alluding to a paragraph in the address of the Legislative Council to your Majesty reflecting upon some of the public measures of your Majesty's Colonial Government as if they were personal acts of his Excellency the Governor. We need scarcely assure your Majesty that your Majesty's representative in this Colony has strictly followed the example of his Sovereign in performing no public act except with the advice of sworn councillors, upon whom alone the responsibility of such acts devolves. It is only by ignoring fundamental maxims of the British constitution that any personal or individual responsibility can be placed on the Crown or its representative for such proceedings.

It is suggested that whatever may be considered as open to party objection in the recent measures of your Majesty's Colonial Government might have been avoided if the Governor had only refused to give them his assent. But it will be well known to your Majesty that if the advice of ministers possessing an immense majority in the popular branch of the Legislature were refused by the Crown, and recourse had to advisers representing a minority, the result would not be peace, but more perplexing and disastrous trouble.

We trust the impartiality and neutrality of the Crown, which endears it to the people, will never be relinquished in any part of your Majesty's dominions; and we do not hesitate to say that if any representative of your Majesty were so unwise as to employ the influence and authority of the Crown to help a minority in impeding the wishes of the great body of the people, the certain result would be to diminish the just authority of his office and the legitimate influence of the Crown.

To His Excellency Sir GEORGE FERGUSON BOWEN, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief in and over the Colony of Victoria and its Dependencies, and Vice-Admiral of the same, &c., &c., &c.

MAY IT PLEASE YOUR EXCELLENCY,

We, Her Majesty's dutiful and loyal subjects, the Members of the Legislative Assembly of Victoria in Parliament assembled, beg respectfully to forward to your Excellency an address to Her most Gracious Majesty the Queen, agreed to by us on the 13th instant, and request your Excellency may be pleased to transmit the same to the Right Honorable the Secretary of State for the Colonies for presentation to Her Majesty.

Legislative Assembly Chamber,
Melbourne, 14th February 1878.

C. GAVAN DUFFY,
Speaker.

No. 7.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the EARL OF CARNARVON.

(Received April 8, 1878.)

MY LORD, Government House, Melbourne, February 21, 1878.

WITH reference to my Despatch of the 26th January ultimo* I have now the honour, at the request of the Legislative Council of Victoria, to transmit herewith a second address to Her Majesty the Queen, which was voted by that House on the 19th instant.

I have, &c.

The Right Hon. the Earl of Carnarvon, (Signed) G. F. BOWEN.
&c. &c. &c.

Enclosure in No. 7.

TO THE QUEEN'S MOST EXCELLENT MAJESTY :

MOST GRACIOUS SOVEREIGN :

WE, your Majesty's most dutiful and loyal subjects, the Legislative Council of Victoria, in Parliament assembled, beg to approach your Majesty with expressions of our loyalty and attachment to your Majesty's throne and person.

We regret being compelled to supplement our address to your Majesty of the 23rd January last, and again to approach the throne and to beseech your Majesty to allow us to be heard in correction of statements contained in an address to your most Gracious Majesty as adopted by the Legislative Assembly of this Colony on the 13th of this month.

One of the charges against the Council in that address is, that they have claimed to exercise a control over the public expenditure "which has not been possessed or claimed by the House of Lords "within the memory of living man."

If it be meant that in throwing out the annual Appropriation Bill on four several occasions, the Council have claimed "to exercise a control over the public expenditure," the statement unqualified and unexplained has just enough truth in it for its support: But we desire most respectfully to assure your Majesty that on each of those occasions the necessity of rejecting the Appropriation Bill was imposed upon the Council as the only means in our power of asserting and maintaining our independence as one of the branches of the Legislature against the attempts made to coerce us to pass measures under cover of that Bill, which we conceived ought to have been placed before us in such a manner as to allow of our giving effect to our deliberate judgment concerning them.

The occasions alluded to were—

- (i.) When a Bill for imposing Duties of Customs was tacked to the annual Appropriation Bill in 1865.
- (ii.) When a grant to Lady Darling of £20,000 was tacked to the annual Appropriation Bill in the first session of 1867.
- (iii.) When a grant to Lady Darling of £20,000 was tacked to the annual Appropriation Bill in the second session of 1867.
- (iv.) When an item for payment of members was tacked to the annual Appropriation Bill for 1877-8.

There have been nineteen administrations in this Colony since the introduction of responsible government, and only under one of these, until the present period, has the "harmonious working" of the constitution been materially disturbed. In each instance the disturbance was owing to an attempt by the Government of the day to deprive us, as we thought, of our constitutional rights.

We assure your Majesty that we have never attempted to exercise control over the public expenditure as is charged against us, and we challenge proof of the charge; but we have considered it our duty to uphold our right to a voice in all matters of public policy.

Whether the Council, under the Victorian Constitution (which, we conceive, embodies the conditions of the political existence of Victoria as a self-governing colony), have the same or more or less power than the House of Lords, we contend that we have always acted within the limits of the constitution, and we trust we shall ever be loyal to it.

The circumstances surrounding the laying aside of the Appropriation Bill were fully set forth in one of the appendices to the address which was adopted by the Council, on the 23rd of January last, for presentation to your Majesty.

The advisers of your Majesty's representative were well aware that we had given a reluctant assent to the Act for Payment of Members of Parliament now in operation, but limited in its duration to this session, as an experiment and not as an Act of settled policy. They were further informed of our claim to have the same opportunity as theretofore of exercising our unfettered judgment with regard to the propriety of continuing that Act, when a question was asked of the minister conducting the Government business in the Council, in his place in the Council, of the intention of the Government in relation to it; and again when an address on the same subject was presented by us to his Excellency the Governor in November last; and we are justified in saying that they would not be able to deny that the vote of £18,025 taken in the Committee of Supply, amongst the votes for the services of the year, was intended to deprive us of our legitimate right to have a voice in determining the policy involved in it.

We desire to assure your Majesty, that "the rejection of the Appropriation Bill," was not "because one item among many hundreds was objected to," but because we were denied the opportunity of giving expression to our opinion upon the wisdom of the policy involved in that item as we claim we ought to have had, and as we had always previously had in relation to the same question. Besides we have always considered the practice of the Imperial Parliament, which we are accused of disregarding, opposed to the insertion in the annual Appropriation Bill of any matter which it was known the Lords had reasonable grounds for wishing to consider in a separate Bill.

The Forts and Armaments Bill was not laid aside because it had a free-gift preamble, but principally because of the extraordinary nature of the preamble (unprecedented in this Colony), whereby the Assembly asserted for itself the sole right of determining the necessity and sufficiency of the means existing for the defence of Victoria, and because the report of Sir William Jervois embodied in that Bill had not been submitted to the Council for their concurrence and approval, as they contend it should have been, and had not been laid on the Council table. The preamble, it is stated, was copied from an Imperial statute on the kindred subject of national defences; but whether or not a free-gift preamble should in any case under the Victorian Constitution have a place in Bills dealing with the consolidated revenue, there is certainly no justification for taking as a precedent a preamble which was introduced for the first time by the House of Commons in 1860, whereas, under the Victorian Constitution, "the rules, forms, and usages of the Imperial Parliament," as they existed previously to and in the year 1855, are alone to be followed where applicable. We regretted exceedingly that we felt compelled to throw out that Bill, as we have always been, and still are, most anxious to concur in the expenditure therein proposed; but this Bill was submitted in such a form as rendered it impossible for us to assent to it without at the same time establishing a precedent by which the Assembly would in future insist that we had waived our right to be consulted on the necessity for the expenditure of the revenue for such purposes.

We maintain that we are not amenable to the charges made by the Assembly that "the session which should have been fruitful in legislative results has been rendered comparatively barren by obstruction from a Chamber whose ready co-operation and assistance the country had a right to expect."

Of the principal measures submitted this session, the most important, such as the Land Tax Act, Customs Duties Act, Mining Statute Amendment Act, Drainage of Mines Act, a Railway Construction Act, and several others, have had the concurrence of the Council and been passed. Two Bills for constructing two lines of railway are now the subject of a conference between the two Houses. The Supreme Court Judicature Bill, a very important measure of reform, was originated and passed by the Council, but has received no attention in the Assembly. The Mining on Private Property Bill, after a sifting inquiry before a Select Committee of the Council, was returned to the Assembly with amendments, but these amendments have not even been considered by the Assembly.

The Tolls Bill has been passed by the Council with slight amendments, and yet the Assembly have declined to proceed with it.

Other important Bills of the session, such as the Forts and Armaments Bill, the Payment of Members Bill, and the Annual Appropriation Bill, were disposed of in the manner before mentioned, it having been impossible for us to consider them upon their merits in consequence of the form in which they were submitted.

Out of 56 Bills initiated in the Assembly only three in addition to those above specially alluded to were rejected by us, viz. :—

1. The Exhibition Bill for authorising the expenditure of 100,000*l.* in the erection of a permanent exhibition building in one of the public gardens of the city of Melbourne.

2. A Bill to enable the Government to borrow a sum of money from the Railway Loan Construction Fund for other purposes than those set forth in the Loan Act.
3. A Bill for the Abolition of Dower, introduced by a private member of the Assembly.

It is not against the Council, therefore, that the charge can truthfully be made that the session is barren of results; nay, more, we confidently assure your Majesty that we have endeavoured throughout the session to give our ready co-operation and assistance to all the business that was brought before us, in a disinterested manner, and with a just sense of its importance, having the one desire only to protect and support the permanent interests and welfare of the country; and we respectfully submit that the action of the Council therefore, during the present session, is not amenable to the charge of "obstructiveness" which has been so persistently urged against us on other occasions, and with no more foundation than in the present instance.

It is evident from portions of the address of the Assembly to your Majesty that, underlying all their arguments in favour of constitutional action, there lurks the desire to ignore or to get rid of the second Chamber, and that there exists the impatient feeling that the Constitution Act must be altered where it does not countenance the unlimited control by the Assembly of every measure of public policy by which the expenditure of the consolidated revenue is in any way affected.

The expression by the Assembly of their intention, "in view of the serious public inconvenience caused by repeated rejections of the annual Appropriation Bill by the Legislative Council," to consider "all votes or grants passed in Committee of Supply as legally available for expenditure immediately such resolutions are agreed to by the Legislative Assembly," is in open defiance of both the Constitution Act and the Audit Act.

This determination is arrived at in apparent forgetfulness that loyalty to your Majesty's throne and person should combine with it loyalty to the Victorian Constitution as conferred upon this portion of your Majesty's dominions by the Imperial Parliament with your Majesty's sanction, and in apparent forgetfulness that the rejection of the Appropriation Bill in this session, and of similar Bills on three previous occasions, has been due to that Bill having been used contrary to the Constitution Act as well as to the usage and practice of the Imperial Parliament, as a lever to force the Council to give their sanction to a question of policy, whether we approved of it or not.

Whatever view the Council may hold with regard to the merits of the all-absorbing question of the day—payment of members—we desire to represent to your Majesty that during this Session we have not had the opportunity afforded us of considering that question on its merits, and of expressing our deliberate judgment upon it.

On former occasions, when we have concurred in passing Bills making a special appropriation for payment of members, we have treated them as experimental legislation. We laid aside the Appropriation Bill because our independence as a branch of the Legislature was threatened by the coercive measures resorted to by the advisers of your Majesty's representative when they advised his Excellency to transmit two separate messages to the Assembly, each recommending an appropriation out of the consolidated revenue "for reimbursing members their expenses in relation to their attendance in Parliament"; and because these two messages were made use of in the Assembly at the same time, the one to pass a vote in the Committee of Supply for payment of members, for the remainder of the financial year after the end of the session, amongst votes for the ordinary services of the year; the other for making a special appropriation for such reimbursement during the remainder of the present Parliament; and it should be remembered that this second appropriation for the same object was initiated irrespectively of and after the first-named vote had been taken in the Committee of Supply, and reported to the Assembly for insertion with the other votes, in the annual Appropriation Bill.

We desire to inform your Majesty that in October 1865, we invited the Assembly to concur with us in an address to your Majesty, praying that your Majesty would graciously allow the differences then existing between the two Houses relating to the interpretation of the Constitution Act to be referred to the Judicial Committee of the Privy Council, but the Assembly considered such reference inexpedient.

We further inform your Majesty that during the present session we have again intimated in one of our messages to the Assembly our willingness to submit our differences as to the construction of the Constitution Act to the judgment of the Judicial Committee, but without receiving any response. We believe that we have never exercised or claimed any power, rights, or privileges which have not been conferred upon us by that statute, and as the Assembly have not thought it expedient to adopt the course proposed by us, it is fair to conclude that they are persuaded that the construction contended for by us would be supported by the highest Court of Appeal available to us in your Majesty's dominions, and that they, therefore, prefer to go behind the Constitution Act, and to rely upon what they state were the intentions of the originators of it, although the only safe and certain way of ascertaining what those intentions were is the result of their deliberations as embodied in the Act passed by them; and more particularly so in the present instance as the Bill for a new constitution sent home by the original Legislative Council of this Colony for the sanction of your Majesty and the Imperial Parliament was materially altered by the Imperial Parliament before it was adopted as a schedule to an Act of that Parliament.

Besides the unfounded charge made against the Council of exercising an unwarrantable control over the public expenditure, a still more serious charge, and with no more truth to support it, is laid against the Council, when it is stated that the owners of great estates and the tenants of great territories leased from the Crown, who have always predominated in the Council Chamber, have thrown out measures sometimes without debate or explanation, because those measures did not subserve their class interests. We indignantly deny the aspersion cast upon us, and we deliberately declare that if class interests have been specially cultivated in the Victorian Parliament the Council is not amenable to that charge, as the legislation on the statute book will clearly demonstrate.

In reply to the allegation in the address of the Assembly to your Majesty that an agreement was arrived at more than ten years ago, "to the effect that the practice of the Lords and Commons respectively should be observed by the two Chambers in this Colony as to all subjects of aid and supply," we beg to inform your Majesty that the proposed agreement was never perfected by either branch of the Legislature, and would not in the slightest degree have obviated the existing differences if it had been.

We confidently assert that we have always acted in obedience to the 34th section of the Constitution Act, which makes the practice of the Imperial Parliament, "so far as the same may be applicable," binding

upon both the Council and the Assembly. And we believe also that we have carried out the spirit of the alleged inchoate agreement, so far as it is consistent with that Act. And we feel bound to add that if the Assembly also had been as careful to observe that agreement, the disturbing element which has led to the rejection of the Appropriation Bill would not have been obtruded by that Chamber.

We conceive it to be an act of duty we owe to your Majesty, to the Constitution, and to the Colony, to protest, as we do hereby most respectfully protest, against the mode by which the Assembly propose to expend revenue upon their own votes and resolutions only, without the sanction of the Council. And we most humbly beseech your Majesty to regard with your Majesty's royal favour the protest we hereby record against any violation of the statute law of the Colony, which requires that before any expenditure of revenue can be lawfully made there must be the authority of an Act of the Legislature of Victoria to warrant it.

We therefore humbly and earnestly pray that your Majesty will take the circumstances into your Majesty's serious consideration, and will give such instructions concerning them as your Majesty shall think fit.

(Signed) W. H. MITCHELL,
President of the Council.

No. 8.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the EARL OF CARNARVON.

(Received April 8, 1878.)

MY LORD, Government House, Melbourne, February 21, 1878.

WITH reference to my Despatch of even date herewith,* transmitting a second address from the Legislative Council to Her Majesty the Queen, I am requested by my responsible advisers to forward at the same time the enclosed Ministerial Memorandum respecting that address.

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

I have, &c.
(Signed) G. F. BOWEN.

Enclosure in No. 8.

MINISTERIAL MEMORANDUM.

MINISTERS do not feel it necessary to make any lengthened remarks on the address to the Queen voted by the Legislative Council on the 19th instant. They are, however, reluctantly constrained to point out that the inaccuracy of statement and inference in that document will be seen from the eleventh (11th) paragraph, to the effect that the report of Sir William Jervois embodied in the Forts and Armaments Bill (rejected by the Council) had not been presented to the Council. It will be seen from the annexed copy of that report that it was, like all other State papers of the kind, ordered to be "presented to both Houses of Parliament by his Excellency's command." A copy of it was furnished to each member of the Legislative Council before the Forts and Armaments Bill was by them discussed and "laid aside." Thus the Council was in full possession of the report before they came to their decision. Moreover, their objection to the passing of the measure was confined solely to the nature of the preamble.

The address to Her Majesty from the Legislative Assembly gives a correct account of the present position of political affairs in this Colony, and shows that the Assembly, as representing the Commons of Victoria, simply claims, according to the terms and spirit of the Constitution Act, to hold a position, especially in financial matters, analogous to that held by the House of Commons in England.

Government Offices, Melbourne,
February 20, 1878.

(Signed) ROBERT LE POER TRENCH,
Attorney-General,
For the Chief Secretary.

Sub-enclosure in No. 8.

DEFENCES.—Preliminary Report by his Excellency Colonel Sir W. Drummond Jervois,
R.E., K.C.M.G., C.B.

Presented to both Houses of Parliament by his Excellency's command.

No. 9.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the EARL OF CARNARVON.

(Received April 8, 1878.)

MY LORD, Government House, Melbourne, February 21, 1878.

1. I HAVE the honour to forward herewith a petition to Her Majesty the Queen from certain residents in Melbourne respecting the present condition of political affairs in this Colony.

2. I am requested by my responsible advisers to transmit at the same time the enclosed Ministerial Memorandum signed by the Attorney-General (the Hon. Robert Le Poer Trench) on behalf of the ministry.

I have, &c.

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

(Signed) G. F. BOWEN.

Enclosure 1. in No. 9.

TO HER MOST GRACIOUS MAJESTY THE QUEEN.

MAY IT PLEASE YOUR MAJESTY,—

WE, your Majesty's most dutiful and loyal subjects, being members of the Executive Council, members of Parliament, magistrates, members of the learned professions, merchants, manufacturers, and other inhabitants of the Colony of Victoria, resident in and around Melbourne, beg to approach your Majesty with the assurance of our devoted attachment to your Majesty's throne and person.

We regret that it should be necessary to bring under your Majesty's notice the recent proceedings of the Government of Victoria.

On the 21st November 1877 a message was transmitted by his Excellency the Governor to the Legislative Assembly recommending, amongst other sums, an appropriation from the consolidated revenue of a sum of 18,025*l.* for paying members of Parliament from the close of the then current session to the end of the financial year. On the 29th of the same month this amount was voted by the Assembly. On the 4th of the following month (December), and before the vote just referred to was further dealt with, another message was sent to the Legislative Assembly by his Excellency the Governor recommending an appropriation of a sum for the purposes of a Bill with a similar object to the vote previously passed by the Assembly. On the same day the last-mentioned message was considered, resolutions in accordance with it were passed through committee, and, the standing orders having been suspended, were agreed to by the Assembly. A Bill was at once brought in to give effect to these resolutions, was passed, and sent to the Legislative Council.

The Legislative Council have, by the Constitution Act, the power to reject all Bills which may be presented to them, and to alter all but money Bills; and are entitled to deal as they think fit with all measures of public policy. Payment of members has always been admitted to be a question of public policy, has been dealt with on two former occasions as such, and when the question was recently before the Legislative Assembly the Speaker decided that although members might be said to have a pecuniary interest in it, it was one of public policy, and every member was at liberty to vote. When, therefore, the Bill for payment of members came before the Legislative Council, that body regarded the mode of its presentation as involving a threat, inasmuch as it was apparent that if they withheld their sanction from the Bill the vote of 18,025*l.*, which still remained on the estimates, would be included in the Appropriation Bill, in which case they would be reduced to the alternative of either considering a measure under duress or rejecting the Bill containing the supplies for the year. Under these circumstances the Legislative Council declined to consider the Bill for payment of members. The Appropriation Bill, with the vote for payment of members included in it, was then passed by the Assembly and sent to the Council, and was by the latter body and for the reasons already stated, laid aside.

In 1874, when the Act for payment of members, which expires with the present session, was passed, there was anything but unanimity in either House on the subject. In the Assembly the second reading was carried by (including pairs) 41 to 31; while in the Council it only passed by a majority of one—12 to 11, and only then by the accidental absence of some opposed to the measure; in fact, there was a clear majority of the Legislative Council against it. Since then the question has not been submitted to the country. The Council, therefore, had ample justification for insisting that a measure upon which the public appeared to be far from unanimous ought not to have been presented to them in a way which would interfere with their free deliberation, nor withdrawn from their consideration by the tacking it to the annual Appropriation Bill.

Having failed to obtain the usual supplies, the ministry could, without violating the law or hindering the ordinary functions of government, have taken any one of three courses: they could have withdrawn the item for payment of members from the Appropriation Bill, and waited until the question could be brought forward again; they could have resigned; or they could have advised the Governor to dissolve. None of these constitutional methods did they adopt. On the 8th of January, the Assembly having previously adjourned until February, notices appeared in the "Gazette" that the Governor, with the advice of the Executive Council, had removed from office all the Judges of County Courts, Courts of Mines, and of Insolvency; all the Chairmen of General Sessions, all coroners, all police magistrates, the heads of several departments, and many other officers. With how little care and consideration these wholesale dismissals had been made may be judged of by the fact that on the 25th of the same month the whole of the aforesaid Orders in Council relating to the dismissal of the judges, coroners, and police magistrates were cancelled and others promulgated, retaining some few in office.

The dismissal of the Judges of County Courts was followed by an order from the Minister of Justice directing the registrars of these courts not to issue any process nor to do anything which they are required by law to do. On a mandamus being applied for to compel a registrar to issue a summons, it was announced that all the registrars would be dismissed. So that whilst Parliament had established courts for the convenience of suitors throughout the Colony, the Executive Government set the Act of Parliament at defiance by dismissing the judges and prohibiting the officers of the courts from doing the very duty they were especially appointed to discharge.

To the great majority of the people the removal of the County Court Judges, Police Magistrates, and Coroners amounted to a practical denial of justice. More than nineteen-twentieths of the civil cases in the Colony are tried in the county courts. The police magistrates have certain special functions

assigned them in carrying out various Acts of Parliament ; by their dismissal these statutes are partially suspended. The duty of the coroners has been attempted to be cast on the unpaid magistracy, who have been directed to hold "magisterial inquiries" without juries, and, as your petitioners believe, without any warrant of law. The inconvenience and gross impropriety of this proceeding is illustrated by one case reported in the newspapers : the inquiry into the death of a workman who was killed by the machinery of a mill was held by the mill proprietor, who adjudicated without a jury in a case where blame might have attached to himself, and where the only witnesses were his own servants.

These high-handed and, as your petitioners believe, illegal proceedings have produced a most disastrous effect upon nearly every branch of business and enterprise. Trade is paralysed, property has become almost unsalable, capital is seeking investment elsewhere, and such a feeling of insecurity prevails, as your petitioners believe to be almost unknown within your Majesty's dominions.

If the majority of the Colonists desire that members of Parliament should be paid, your petitioners believe that they have but to express that wish at a general election, and to present the matter to the Legislative Council in a constitutional way, to secure its enactment.

The ministry now propose to pay moneys from the consolidated revenue on a vote of the Legislative Assembly, and without the authority of Parliament ; and a resolution approving that course has been passed in the Assembly. Inasmuch as the Constitution Act expressly declares that "the consolidated revenue shall be subject to be appropriated to such specific purposes as by any Act of the said Legislature shall be provided in that behalf," your petitioners believe that if the Governor sanctions payment without such authority, a further and graver breach of the law than any which has preceded it will be committed.

Your petitioners therefore most humbly pray your Majesty to take the premises into your gracious consideration, and to take such steps as your Majesty may think necessary to preserve the integrity of our constitution and to uphold the authority of the law.

Enclosure 2. in No. 9.

MINISTERIAL MEMORANDUM.

MINISTERS have had under consideration the petition to Her Majesty the Queen from a number of residents in Melbourne which has been forwarded to his Excellency the Governor for transmission.

The members of the Executive Council (that is members of former ministries) and other members of Parliament who have signed this petition are simply members of the Opposition to the present Government, and adherents of the small minority which voted against the address to Her Majesty which was adopted by the Legislative Assembly by a majority of 46 votes to 14, or including pairs, 56 to 24.

It hardly appears necessary to make any remarks on this document. It is merely a reproduction of the misrepresentations which have been published for some weeks past in the columns of the journal which is the organ of the Opposition.

This petition has been carried about the streets of the city for several days past by hired canvassers. Any petition on any subject can easily be got up in a similar manner in any large town.

The real facts of the cases referred to will be found in the address to Her Majesty from the Legislative Assembly in Parliament assembled, that is from the constitutional representatives of the people of Victoria.

Ministers are confident that the Imperial Government will accept the Parliament as the only constitutional exponent of the views and wishes of this community.

It will be observed that the petitioners pray the interference of Her Majesty against the action taken by the Colonial Ministry with the support of the Assembly. When a similar petition was sent from a number of persons in New Zealand a short time ago, the Earl of Carnarvon replied : "I must express my surprise that the memorialists should have thought fit to ask for the interference of Her Majesty in a matter within the competency of the Colonial Legislature, and on which the Legislature and Constituencies have long since expressed a decided opinion."

Government Offices,
Melbourne, February 20, 1878.

I have &c.,
(Signed) ROBERT LE POER TRENCH,
Attorney General,
For the Chief Secretary.

No. 10.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the EARL OF CARNARVON.

(Received April 8, 1878.)

MY LORD,

Government House, Melbourne February 21, 1878.

I WOULD ask permission to solicit attention to the passage in the address of the Legislative Assembly to the Queen (forwarded with my Despatch by this mail),* which refers to the position of the Governor of this Colony. It is as follows :—

"We cannot conclude without alluding to a paragraph in the address of the Legislative Council to your Majesty reflecting upon some of the public measures of your Majesty's Colonial Government as if they were personal acts of his Excellency the Governor. We need scarcely assure your Majesty that your Majesty's representative in this Colony has strictly followed the example of his Sovereign in performing no public act except with the advice of sworn councillors, upon whom alone the

responsibility of such acts devolves. It is only by ignoring fundamental maxims of the British Constitution that any personal or individual responsibility can be placed on the Crown or its representative for such proceedings.

“ It is suggested that whatever may be considered as open to party objection in the recent measures of your Majesty’s Colonial Government might have been avoided if the Governor had only refused to give them his assent. But it will be well known to your Majesty that if the advice of ministers possessing an immense majority in the popular branch of the Legislature were refused by the Crown, and recourse had to advisers representing a minority, the result would not be peace, but more perplexing and disastrous trouble.

“ We trust the impartiality and neutrality of the Crown, which endears it to the people will never be relinquished in any part of your Majesty’s dominions ; and we do not hesitate to say that if any representative of your Majesty were so unwise as to employ the influence and authority of the Crown to help a minority in impeding the wishes of the great body of the people, the certain result would be to diminish the just authority of his office and the legitimate influence of the Crown.”

2. It is certain that if I had adopted any other than the strictly neutral and constitutional course which I have held during the present crisis, I should have, in the words of Lord Cardwell, “ withdrawn these matters from their ordinary sphere, and so “ have given to the dispute a character which did not naturally belong to it, of a “ conflict between the Assembly of Victoria and the representative of the Crown.”

I have, &c.

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

(Signed) G. F. BOWEN.

No. 11.

DEPUTATION to the Right Hon. Sir M. E. HICKS-BEACH, Bart., M.P.

THE CRISIS IN VICTORIA.

YESTERDAY an influential deputation, consisting of members of the Victoria Legislature, magistrates, merchants, members of the learned professions, and landowners, in the Australian Colonies had an interview with Sir Michael Hicks-Beach, at the Colonial Office, to point out the errors into which they considered Sir George Bowen, the Governor of Victoria, had fallen by his recent conduct with respect to the payment of members of the Legislature of Victoria, and his conduct generally during the recent crisis. Lord Cadogan was with Sir M. Hicks-Beach. Among the deputation were Sir Charles Stirling, Mr. Dennistoun Wood, Mr. James A. Youl, Mr. George Armitage, Mr. Robert Landale, Mr. Bruce Smith, Mr. Myles Patterson, Mr. S. W. Silver, Mr. John Carter, Mr. H. G. Archer, Mr. F. J. Dalgety, Mr. F. A. Ducroz, and Mr. W. J. Mattison.

Mr. Dennistoun Wood read the following statement :—

April 9, 1878.

THE gentlemen present, who are or have been members of the Legislature, magistrates, merchants, members of the learned professions, or landowners in the Australian Colonies, or are otherwise interested in those Colonies, while glad to learn from the telegram of the 24th of March, read in the House of Lords on the 1st instant, that the differences between the two Houses in Victoria have for the present terminated, yet believe it to be our duty to bring certain facts under your consideration and to offer certain observations upon the recent crisis.

As we admit in the fullest manner that the question whether members of the Legislature of Victoria should receive payment for their services is a local matter which must be determined by the people of the Colony, we carefully abstain from expressing any opinion upon it. We desire, however, to submit the following facts for your consideration.

The recent general election turned not upon this question, but upon the questions of the imposition of a land tax, and of the adoption of protective duties, and the verdict of the country has not been taken upon it at any election. Members of the Legislative Council, who on the 11th of December last opposed the motion for the second reading of the Bill for payment of members, stated that if the Government,

thinking that they had the people with them, should appeal to the country, "the Council would be ready to bow to the decision that was given" (*see* "Argus Summary," 27th December 1877).

It may perhaps be said that the fact that a majority [of the members of a House of Legislature express shortly after a general election an opinion on a question, even although that question may not be the question on which the election turned, may be taken as strong evidence that their constituents share their opinion. This may generally be the case, for it very seldom happens that the members of the Legislature have an interest apart from the interests of the community at large. But the question whether members shall be paid is one in which they have an interest apart from the interests of their constituents, and it may easily be conceived that members may regard it as one of paramount importance, while their constituents may regard it with profound indifference or even with aversion.

If there is any use at all in an Upper House, that is, in a body which shall act as a check on the passing of measures which there is reason to believe, although approved of by the Lower House, are not approved of by the country, surely a measure which the Lower House has a direct and strong pecuniary interest in passing is a measure which more than any other should be subject to that supervision which the constitution has provided in the case of all other measures.

The Legislative Council had not previously to or at the time when it laid aside the Appropriation Bill expressed any opinion on the question whether payment of members was expedient. It had merely claimed that it had a right to express an opinion on the question. It did not lay aside the Bill for Payment of Members, or order it to be read a second time six months after the day on which it was set down for a second reading; it merely negatived the motion for the second reading on a particular day, because as an item for payment of members had been placed upon the estimates, it was told, to use the words of Sir Charles Sladen, the leader of the Opposition, that "if it did not accept payment of members in the one form, it would be forced on it in another." It laid aside the Appropriation Bill because the ministry by inserting in it an item for the payment of members avowedly sought to deprive the Council of the right of freely discussing a matter of policy.

We may be pardoned for pointing out that although the rate named in the Appropriation Bill for payment of members did not exceed the amount fixed by the Act of 1870, renewed by the Act of 1874, for payment of members, yet if the Council had once admitted the principle that the Assembly had the constitutional right to insert an item for the payment of members in the Appropriation Bill, and that it was the duty of the Council to treat a Bill containing such an item as one involving merely a matter of finance, and not a question of public policy, it could not on any future occasion have consistently rejected an Appropriation Bill even if the rate of payment had been increased to 1,000*l.*, or even a larger sum for each member.

We have made these remarks explanatory of the position assumed by the Legislative Council only by way of introduction, as we are of course aware that it is of the conduct of the Governor, and not of the Legislative Council, that you can officially express approval or disapproval. We therefore at once proceed to point out in what respects Sir George Bowen has in our opinion fallen into error in the course of conduct he has pursued.

By his telegram of the 19th September last, and by his Despatch of the same date, he requested the then Secretary for the Colonies, the Earl of Carnarvon, to state whether he was at liberty to sign a message recommending that a provision for payment of members should be placed on the estimates. As the Earl of Carnarvon, in his Despatch of the 20th December, 1877, informed the Governor that it would be his duty not to refuse to follow the advice of his Ministers in this respect, Sir George Bowen could plead the approval of the Colonial Office as his justification, provided his telegram and Despatch before mentioned had fully and correctly submitted for the consideration of the Earl of Carnarvon all the materials necessary to enable his Lordship to come to a sound conclusion. But we venture to submit that this was not the case. In the telegram and Despatch it is stated that payment of members in New Zealand and Canada is provided for by placing a sum of money on the estimates, and it is virtually asserted that there is nothing in the Constitution of Victoria which should prevent the same thing being done there.

We are unable to discover why the Governor should have referred to Canada as furnishing a precedent for the practice which he sought leave to introduce into

Victoria, for the payment of Members in the Dominion of Canada is provided for by the Act of Parliament of that Colony, 31 Vict. c. 3., "the Members Indemnity Act," and the amending Act, 39 Vict. c. 8. (assented to on 12th April 1876), and not by the annual Appropriation Acts.

But even if the payment to members of the Parliament of Canada had been provided for in the ordinary Appropriation Bill, the circumstance would have afforded no justification for the adoption of a similar course in Victoria, for the only restriction, so far as we are aware, imposed on the Senate of the Dominion in dealing with money Bills is that contained in the 53rd section of "The British North America Act" (30 Vict. c. 3), which provides that "Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the House of Commons." If therefore an item for payment of members were inserted in an Appropriation Bill, the Senate, if it disapproved of the principle of payment of members, could amend the Bill by omitting that item, and would therefore have the same opportunity of discussing the question as if it had been dealt with in a Bill exclusively relating to the payment of members; whereas, as by the 56th section of the Constitution Act of the Colony of Victoria (the first schedule to 18 & 19 Vict. c. 55.), it is enacted that "all Bills for appropriating any part of the revenue of Victoria, and for imposing any duty, rate, tax, return, or impost, shall originate in the Assembly, and may be rejected but not altered by the Council." It follows (according to the interpretation which has almost universally been put upon the section) that if an item for payment of members is inserted in the Appropriation Bill the Legislative Council cannot strike out the item, but is reduced to the alternative of either accepting the Bill as a whole or rejecting it as a whole.

It is no doubt the case that in New Zealand an item for payment of members has been placed on the estimates, but the circumstance furnishes no precedent for the adoption of a similar practice in Victoria. In New Zealand (*see* 15 & 16 Vict. c. 72., "An Act to grant a representative constitution to the Colony of New Zealand," ss. 54 & 66), as in Canada, the only disability imposed on the Upper House is that it cannot originate money Bills, which must originate in the Lower House or House of Representatives by a message from the Governor.

Whether therefore payment of members is provided for in New Zealand by a special Bill or by an Appropriation Bill is as immaterial as we have shown it to be in the case of Canada.

We submit that to enable the Earl of Carnarvon to come to a correct conclusion on the question whether it was the duty of the Governor to send a message to the Legislative Assembly placing a sum for payment of members on the estimates, Sir George Bowen should have informed his Lordship what the probable, if not certain, consequence of his doing so would be, and that he should have brought to his attention the passage from the address from the Legislative Council to a former Governor, which is set out at page 8 of the correspondence presented to Parliament on the 14th of March, and which is as follows:—

"Although your Excellency has not specified the manner in which payment of members is proposed to be carried into effect, we cannot ignore the fact that your Excellency's advisers have publicly stated that a sum will be placed upon the estimates for that purpose. We trust that we shall receive your Excellency's assurance that a change of such vital importance will not be brought under the consideration of the Legislature in a manner which, if it does not render the passing of the whole expenditure contingent on the concurrence of an absolute majority of both Houses, will at all events preclude the possibility of this House agreeing to the Appropriation Act."

Sir George Bowen, we think, ought to have informed the Earl of Carnarvon that he had no reason to suppose that the Council had altered its views as to the unconstitutionality of placing payment of members on the estimates. If the late Secretary for the Colonies had understood that the question really was whether the risk of losing the Appropriation Bill should be incurred, it is possible that he might have written otherwise than he did in his Despatch of the 20th December 1877, for there is nothing in that Despatch to show that his Lordship was aware that the placing of a sum for payment of members on the estimates would in probability lead to the Appropriation Bill being rejected.

We are bound in fairness to admit that the Earl of Carnarvon by his Despatch of 29th January 1878 expressed approval of the Governor's action in connexion with the address from the Legislative Council, but his Lordship was to a great extent

committed by his previous Despatch of 20th December, which, as we have endeavoured to show, was in reply to a Despatch of the Governor's which did not fully and correctly place the real state of the case before his Lordship.

But even if you should be of opinion that there are no sufficient grounds for questioning the propriety of the Governor's conduct up to the date of the dismissal of officials, we submit that his conduct on that occasion cannot be justified. Neither in his telegram of 23rd January (*see* Paper 27 of 1878, No. 11), nor in his Despatch of that date (*see* Paper 27 of 1878, No. 30), does the Governor state precisely the nature of the "large temporary reductions" to which he consented.

It is indeed only from the fact that a copy of the supplement to the Government Gazette containing the Order of the Governor in Council dismissing the officials is appended to the Address of the Legislative Council to Her Majesty that you have any official knowledge of the terms of the dismissal or of the number or position of the officials dismissed. From a perusal of the copy of this supplement (which will be found at pages 70 to 74 of Paper 27 of 1878) it will be seen that on the 8th of January last the Governor removed each and all of the persons holding the offices of Judges of County Courts, Courts of Mines, and the Court of Insolvency, Chairmen of General Sessions, Police Magistrates, Wardens or Coroners, three of the Crown prosecutors, and many other persons employed in the public service, several of whom were heads of departments, as, for instance, the Engineer-in-Chief of the Government Railways, and the Inspector-General of Public Works.

We would remark in passing that there is nothing in the Order of the Governor in Council which justifies the use of the words "temporary" and "temporarily" in the Governor's telegram in which he says "Ministers have made large *temporary* reductions," "a number of civil servants and minor officers of the Judicial Department have necessarily been dispensed with *temporarily*" for the order of dismissal is absolute in its terms.

It is unnecessary for us to comment on the manner in which the dismissals were carried out. Police magistrates of more than twenty years' standing learned for the first time on entering their courts to perform their duties that their services had been dispensed with. Besides the hardship to the individuals dismissed, and the great inconvenience occasioned to the public by the closing of so many tribunals of justice, the permanent ill effects upon the public service deserve consideration. What prudent father would destine his son to an employment from which after the labour of years he may be dismissed at a moment's notice, merely because his dismissal will further the ends of a Ministry?

But not only were these dismissals effected with harshness, the Governor and his Ministry have admitted that many of them were illegal. The illegality of the dismissals of the Judges of the Courts of Mines, and the Chairmen of General Sessions, for instance, may be easily shown. "The Mining Statute, 1865," enacts (*see* Section 81) that "within and for every mining district there shall be a court to be called a Court of Mines, and such court shall be holden before a judge qualified as hereinafter directed." So by the 13th Section of the Act, No. 502, it is provided that, "in and for every bailiwick there shall be a Court of General Sessions of the Peace," and subsequent sections provide for the appointment of chairman, and for the holding of courts "before any one of such chairmen, with or without any one or more Justices of the Peace," the presence of the chairmen being indispeasable. By dismissing all the Judges of the Courts of Mines, and all the Chairmen of General Sessions, the Governor in effect declared that in no Mining District should there be a Court of Mines holden before a judge, and in no bailiwick should there be a Court of General Sessions presided over by a chairman.

The Order in Council and the Acts we have referred to being manifestly inconsistent with each other, the former must have been illegal.

But it is unnecessary for us to dwell upon this point, for we find the Governor sixteen days after he had dismissed the judicial functionaries writing a memorandum containing the following passage (*see* Paper 27 of 1878, p. 68), "On the 8th instant the Governor was assured by his responsible advisers that the action proposed by ministers with regard to County Court Judges, the Coroners, the Police Magistrates, and other judicial officers was strictly legal, it has now become clear to his judgment that this is not so; it is therefore his duty to request ministers to cancel forthwith the notices in the Government Gazette of the 8th instant respecting judicial officers of every degree, and every other Act or notice whatsoever which has

“involved or may involve a violation of the law.” Accordingly, as Sir George Bowen states, “Mr. Berry at once called a meeting of the Cabinet, when it was agreed to “cancel the Acts referred to,” and we find that the Order of the Governor in Council removing the Judges of the County Courts, Courts of Mines, and of the Courts of Insolvency, Chairmen of General Sessions, Coroners, Police Magistrates, and Wardens was cancelled accordingly.

How it was made “clear to his judgment” that his conduct in dismissing these functionaries was illegal Sir George Bowen does not state. It is evident that it was not in consequence of any advice he had received from his Attorney General. As far as we can conjecture it was simply from considering what the inevitable consequences of his own act must be. We would respectfully press this point upon you that as the Governor admits that he had “grave doubts as to the legality” of the proposed measure of dismissal when it was first submitted to him (*see* p. 68 of Paper 27 of 1878), he might well have telegraphed for instructions to the Colonial Office, especially seeing that he thought it worth while to telegraph on the 23rd of January the fact that a number of officers of the judicial department had been dispensed with. A telegram before he had removed them might have been useful, we fail to see the utility of his telegram of the 23rd January.

It is somewhat curious that on the 23rd January we find Sir George Bowen telegraphing that “the Government will do nothing contrary to law,” and on the 24th writing his opinion that the act of dismissal done on the 8th had been contrary to law.

The summary dismissals were not only harsh, as we have shown, and illegal, as the Governor and his ministers at last admitted, they were as we contend, wholly unnecessary.

The plea used in support of the dismissals was that in consequence of the rejection of the Appropriation Bill there were no funds legally available for the payment of salaries to the officials who were dismissed, but the validity of this plea cannot, as we think, be established.

The Governor and his ministers were aware that on a previous occasion when an Appropriation Bill had been laid aside (because the Assembly had tacked to it a Bill for imposing new customs duties, with the view of depriving the Council of the opportunity of opposing the introduction of a protective tariff), the public servants were not dismissed from their offices, although their salaries remained unpaid for a considerable period. What was there to prevent the judges, police magistrates, coroners, and others from being informed that in consequence of the Appropriation Bill having been laid aside they could not, if they chose to continue to fulfil their duties, receive payment until an Appropriation Bill had become law. As the Governor observes in his memorandum, which appears at p. 41 of Paper 27 of 1878, “It would, in the Governor’s opinion, have been better” (instead of dismissing the judges of the courts of mines and other officials) “for many reasons to have suspended the salaries of the officers of the several departments instead of dispensing even temporarily with the services of such judicial and departmental officers as were willing and ready to serve without pay during the Parliamentary deadlock.”

Thus we find the Governor dismissing certain judges, and a fortnight afterwards, probably alarmed at the almost universal reprobation with which his conduct had been received (for he says, “there seems to be a disposition, even among many of the friends and supporters of ministers, to question alike the legality and expediency of the course pursued”), writing a memorandum in which he conclusively shows that there was no necessity for the dismissals.

We need scarcely observe that legal authority for the payment of salaries could have been obtained by the ministry with the greatest facility. If there had been a prorogation, an Appropriation Bill, which did not contain any item for the payment of members might have been introduced, and would have become law in the course of a few days. A new bill for payment of members could then have been introduced, and if it had been rejected by the Council, the verdict of the country might have been taken on the question, and to the verdict of the country the Council would have bowed, as it always has done.

There is another matter to which we desire to draw your attention, in doing so we regret that we shall unavoidably have to enter at some length upon the discussion of a question of law, but its great importance must be our justification. It is the question of law raised in the memorandum signed by Mr. Berry enclosed in

the Governor's Despatch of 31st December. What the ministers in their memorandum ask the Governor to do is to sign warrants authorising the issuing of money from the Treasury, upon the vote merely of the Legislative Assembly. In your telegram of the 22nd February, you instruct the Governor, if doubtful of the law, to have recourse to the legal advice at his command.

If by this you meant that he was to take the opinion of his Attorney General, we trust that it is not to be understood that because Mr. Trench, the late Attorney General, concurred in the opinion given by Mr. Fellows, the doctrine laid down in that opinion is to be accepted as conclusive. We would most earnestly urge that you will, should the Legislative Council so request, cause the question of law set forth in Mr. Berry's memorandum to be referred to the Judicial Committee of the Privy Council.

The telegram of the 15th of March read by Earl Cadogan in the House of Lords on the 21st instant contains the following passage, "The Assembly, the Law Officers, and the Audit Commissioners have declared that the 45th section of the Constitution Act, is a special appropriation, and the money thus legally available will carry on the Government until the end of June." The 45th section of the Constitution Act is as follows:—"The Consolidated Revenue of Victoria shall be permanently charged with all the costs, charges, and expenses incident to the collection, management, and receipt thereof, such costs, charges, and expenses being subject, nevertheless, to be received and audited in such manner as shall be directed by any Act of the Legislature."

The meaning of the telegram is probably that the salaries of the officers collecting customs duties, purchase money, rent, and license fees arising from sales or leases of, or other dealings with, Crown lands, fares from railway traffic, and any other sources of revenue, are to be deemed part of the costs, charges, and expenses incident to the collection, management, and receipt of consolidated revenue, and may be paid without any authorisation from the legislature in the shape of an Appropriation Act. We prefer at present not to say anything as to this interpretation of the 45th section. It will be observed, however, that even if this interpretation of the 45th section is correct it would not authorise the contention in Mr. Berry's memorandum, for the 45th section (according to this interpretation of it) would apply merely to the salaries of officers engaged in the collection, management, and receipt of revenue, whereas the claim of the memorandum is that upon the vote of the Legislative Assembly the Governor may authorise the issue of money "for the maintenance of the public service" generally, such as "for forts and other defensive works," and, no doubt, although not mentioned, for payment of members.

Again, according to the construction which it appears from the telegram has been put upon the 45th section of the Constitution Act, the sanction of the Legislative Assembly is no more necessary to authorise the payment of the salaries of the officers engaged in the collection of the revenue than is the sanction of the Legislative Council, whereas according to the doctrine contended for in the memorandum the votes of the Assembly are indispensable.

By the 35th section of the Constitution Act it is enacted that "after and subject to the payments to be made under the provisions herein-before contained, and to any pensions now payable and received under the Act firstly herein-before recited, and the schedule thereunto annexed marked B, all the consolidated revenue arising from taxes, duties, rates, and imposts levied by virtue of any Act of the Legislature, and from the disposal of the waste lands of the Crown under any such Act made in pursuance of the authority herein contained, shall be subject to be appropriated to such specific purposes as by any Act of the said Legislature shall be provided in that behalf."

The words of the section are "to be appropriated to such specific purposes as by any Act of the said Legislature," not Legislative Assembly, "shall be provided in that behalf." We submit therefore that it is clear that the mere vote of the Legislative Assembly cannot authorise an appropriation, and that sums are "not legally available" within the meaning of the 25th section of the Act, No. 86 (which is identical with the section of the Audit Act referred to in the case upon which Mr. Fellows wrote his opinion), unless they are payable by virtue of the Constitution Act, an Appropriation Act, or some other Act of the Legislature.

We understand that Mr. Fellows subsequently admitted that his opinion was erroneous, being based on a misconception as to the practice of the House of

Commons. The practice of the United Kingdom is thus stated in May's Parliamentary Practice (*see* page 21 of the Further Correspondence).

"In order to make the grants of the Commons available, and to anticipate the legal sanction of an Appropriation Act, clauses are inserted in the Acts passed at an earlier period of the session for the application of money out of the Consolidated Fund, and for raising money by Exchequer Bills for the service of the current year, which authorise the Treasury 'to issue and apply from time to time all such sums of money 'as shall be raised by Exchequer Bills to such services as shall then have been voted 'by the Commons in this present Session of Parliament.' By these enactments immediate effect is given to the votes of the Commons; but there is still an irregularity in proroguing or dissolving Parliament before an Appropriation Act has been passed, since, by such an event, all the votes of the Commons are rendered void, and the sums required to be voted again in the next session, before a legal appropriation can be effected."

The question, however, really turns not so much upon the practice of the United Kingdom as upon the meaning of the 55th section of the Constitution Act.

The Legislature of Victoria at length admitted that the Commissioners had taken the right view of the law in maintaining that the authority of an Act of Legislature was necessary to authorise the expenditure of the public revenue.

On the 18th June 1862, an Act (No. 138) was passed authorising the issuing and application of any sums of money not exceeding a certain amount which had been or should be voted by the Legislative Assembly for any purpose which had been theretofore recommended by a message of the Governor to the Assembly.

The Commissioners in their Report dated 30th May 1863 said, "the passing of "the Act is a distinct declaration of the wishes of Parliament as to the course "thenceforth to be pursued. That course cannot now under any circumstances be "altered, except by the sanction of Parliament itself." (*See* Paper 27 of 1878, page 51.)

This course of passing Supply or Consolidated Revenue Acts in anticipation of the Annual Appropriation Act has been followed from 1862 to the present time, and yet Mr. Berry, in the face of the clear words of the 55th section of the Constitution Act, and the interpretation of them which has been admitted by the Legislature itself for so many years, asks the Governor "to revert to the practice in force" previously to 1862.

In Sir George Bowen's Despatch of the 25th January last (p. 46 of Paper 27 of 1878) he asks to be favoured with instructions for his guidance on the question of law raised in the memorandum. We would respectfully urge you, for the reasons we have just set forth, to instruct him that he will not be justified in acting on the view of the law taken in the opinion of Mr. Fellows, and concurred in by Mr. Trench, the late Attorney General.

Without wishing to say anything in disparagement of the professional ability of Mr. Trench, who was the Attorney General of Victoria at the date of the Despatch last mentioned, and whose opinion is enclosed in it, we would observe that it is evident from the fact of his having advised in the first instance that the dismissal of the Judges of the Courts of Mines and Chairman of General Sessions "was strictly legal" and, of his having afterwards admitted, by concurring in the cancellation of the order of dismissal, that the dismissal was illegal, that his opinion that money may legally be paid upon the votes merely of the Legislative Assembly cannot carry with it so high a degree of authority that the Governor ought upon the strength of it to depart from the practice which has been followed for more than fifteen years.

In conclusion we may perhaps be pardoned for referring to certain misrepresentations respecting the constitution and conduct of the Legislative Council which have obtained circulation both in Victoria and in this country. It has been said that the Council is an oligarchy, the fact being that it is elected by a numerous constituency, all persons owning or occupying lands or houses rated at 50*l.* per annum, all graduates of any University in the British dominions, barristers, solicitors, legally qualified medical practitioners, ministers of religion, certificated schoolmasters, and officers in Her Majesty's forces not on actual service, being qualified to be electors.

It has also been said that the fact that a large majority of the Legislative Assembly supported the ministry, up to a certain date at all events (for as Sir George Bowen in a memorandum already quoted states "many of the friends and supporters of the ministers question alike the legality and the expediency of their recent

proceedings"), shows that the Council represents the opinions of only a small minority of the community; but the fact is that owing to the suffrage being uniform throughout the Colony, and to there being no provision for the representation of minorities, small majorities in the constituencies may return an overwhelming majority to the Legislative Assembly. Many persons are of opinion from calculations based on the number of votes given to the defeated candidates as compared with the number given to their successful opponents that the majority in the Assembly represents the opinions of a majority of electors exceeding the minority of only about a fifth.

This large minority the Council may be taken to represent.

Even the Colonial ministry would we believe not venture to deny that an immense majority of the wealthier and more educated classes of merchants, professional men, shareholders in banking, insurance, and other public companies, and owners of houses and lands sympathize with the Council and not with the Assembly. According to a statement in the *Argus* of the 23rd January, "Of Victorian Journals the Government is condemned by 54, and supported by only 20, while the intercolonial papers "are almost unanimous in denouncing the Berry coup, the numbers being 28 to 3."

Finally, it has been said that the Council is an obstructive body. This accusation is easily disposed of. The first Parliament under the new constitution met on 21st November 1856. In the comparatively short period that has since elapsed the Legislative Council has sanctioned bills establishing manhood suffrage, abolishing the property qualification required for members of the Assembly, and lowering by one half that required for members of the Council, reducing the duration of Parliaments to three years, abolishing State aid to religion, establishing a system of compulsory, gratuitous, and secular education, abolishing the royalty which the miner paid to the State in the form of an export duty on gold, abolishing in the case of country Crown lands the system of sale by auction, and establishing a system of sale on credit, providing for a limited period for payment of members, abolishing the law of primogeniture, imposing a tax on lands, and establishing the system of protection. To the measure for abolishing the sale of country Crown lands by auction, and selling them on credit, the members of the Council were opposed on conviction, while their interests as landowners pointed in the same direction.

The principle upon which the land tax was imposed has been condemned in this country by journals and statesmen of eminence, yet the Council, though consisting of landowners, passed the Land Tax Bill.

The majority of the members of the Council, as of intelligent persons everywhere, were freetraders. But as regards the measures we have enumerated, as well as others, the Council recognized the principle that when the country has clearly pronounced its opinion it is necessary to yield to it.

Surely in the face of these facts it is impossible to assert with truth that the Legislative Council has erred in offering too long and determined a resistance to Legislative changes.

Other Members of the Deputation having spoken,

Sir Michael Hicks Beach in reply said,*—I think it would not be advisable for me to enter upon any discussion of the Constitution of Victoria, or the respective merits, or power, or constitution of its two Houses of Parliament, for that is a matter which of course primarily concerns the Colony itself. I can well suppose that the occurrence of such a political crisis as that which has recently been happily overcome may largely interfere with the trade and commerce of the Colony, and does indirectly affect the interests of this country. Therefore I am not at all surprised that you should have thought it necessary to wait upon me and to favour me with your views upon the subject. But I cannot but think that this will be felt in the Colony itself as strongly as anywhere. It may afford to those who, as I said, are primarily interested in the matter good reason to think that some alteration in the Constitution may be necessary. If such an alteration in the Constitution should be agreed upon; if the action or advice or assistance of the Home Government should be desired by the Colony, any service we can render will be most readily given. But until such action is sought by those who are really affected, I think you will agree with me that it would be impossible for the Home Government to interfere. Nor shall I express any opinion with reference to the merits of the controversy between the two Houses, or

* From the "Times" of April 11, 1878.

to the action of either of them, in the matter. I think it is generally found in such cases that there is fault on both sides, and I dare say this case may not be any exception to the rule. But we have received only to-day a telegram from Sir George Bowen, which I think is of a very satisfactory character. "April 9.—Parliament "prorogued to-day. Next session will open in June. Appropriation and other Bills "passed. Political excitement already subsided. Colony tranquil. Generally pros- "perous. Very loyal and patriotic about its defences." I should, under circumstances like these, be most reluctant to say anything whatever which could have a tendency to awaken animosities which appear to be subsiding, and which might perhaps have the effect of hindering some specific settlement of the difficulties which are still before the Colony, which I am sure you are as anxious as anyone to see allayed. I think the point which your address sought to bring principally before me was that with which I am chiefly concerned, viz., the conduct of the Governor in the crisis. Now, I am bound to say that I regretted to hear the expression made use of by the last speaker, who said that Sir George Bowen had been guilty of deliberate partiality to the mob. I think it should be borne in mind that as lately as May last there was a general election, at which in the popular Assembly of the Colony—corresponding to the English House of Commons—a large majority was returned in favour of the present Ministry, and that, as a general rule, the Governor of a Colony ought to act upon the advice of his responsible Ministry. I think we should also remember that the Governor of a Colony is placed in a position of great responsibility, difficulty, and isolation; and I am sure that no one could wish to see him reduced to the position of a machine, or that his action should be merely that of a clerk unable to decide on any particular matter until he received his instructions from Downing street. We endeavour to make our colonial governorships positions of high dignity, and considerable emoluments, in order to obtain the services in those positions of capable men—men who are able and ready to act for themselves with clear sightedness, firmness, and wisdom in any emergency that may arise. Having regard to that, I think we are bound to place great confidence in those who are employed to fill those positions; and, above all, we ought to take care that our criticisms upon their acts are not too hasty, and that we do not form our judgment on certain things with which we may be imperfectly acquainted. I have received various documents, all of which, I think, have been presented to Parliament, bearing upon this subject, which are now under my consideration. I am informed that other documents, stating, I believe, another view of the case, are now on their way to this country, and, of course, it will be my duty when they are received fully to consider the subject with the advantage of this memorandum, which I am very much obliged to you for having placed before me. If it should appear that in any point Sir George Bowen has properly been to blame, I shall not hesitate to express my opinion upon it. But I think it should be remembered that his action throughout this crisis ought, in fairness to him, to be considered as a whole, and that if that action has been generally in accordance with his duty as the Governor of a Colony, and its result, as appears from telegrams which have reached us, has been to bring about a settlement of this difficulty in which both parties have concurred, I think that an error of judgment on a single point might very well be excused. The memorandum which you have handed in will be carefully considered, and I can only express my obligations for the pains you have taken to bring all the points of this very difficult question fairly and properly before me.

No. 12.

The RIGHT HON. SIR M. E. HICKS BEACH, BART., to Governor SIR G. F. BOWEN, G.C.M.G.

SIR, Downing Street, April 24, 1878.

I HAVE the honour to acknowledge the receipt of your Despatches of the numbers and dates noted in the margin,* on the subject of the differences which have arisen between the Legislative Council and Legislative Assembly of Victoria, and transmitting addresses to the Queen, which have been passed in both Houses.

* Paper 27 of 1878, Nos. 34, 35, 36 and 37; and Nos. 6, 7, 8, and 10 of this paper.

The questions at issue between the two Houses having been settled by the compromise of which you have informed me in your telegrams of the 28th and 29th of March and 9th of April, I think it preferable to delay tendering any advice to Her Majesty with respect to the addresses of the two Houses until I shall be in possession of the further particulars which have yet to arrive. It is desirable also that I should have before me the opinion of the Law Officers of the Crown upon the papers submitted to them in accordance with the suggestion made by you on behalf of your Ministers, in your Despatch of the 25th of January,* on the question whether the views which they entertained with respect to the circumstances in which money in the Treasury is "legally available" for and applicable to the public service are correct.

I have, &c.
(Signed) M. E. HICKS BEACH.

Governor Sir G. F. Bowen, G.C.M.G.

No. 13.

The RIGHT HON. SIR M. E. HICKS BEACH, BART., to GOVERNOR SIR G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, April 30, 1878.

I HAVE the honour to acknowledge the receipt of your Despatch of the 5th of February† in reference to the views put forward by the Legislative Council that your Ministers not having thought fit to resign their offices or to advise a dissolution it was your duty to seek the advice of other Ministers.

The passages which you quote from Lord Canterbury's Despatches show, as in previous cases, that in the circumstances to which those Despatches relate he acted with great prudence and judgment. There are, however, points which seem to have escaped your attention in which the recent crisis in Victoria fails to present an exact parallel to questions of Lord Canterbury's time, though no doubt the general resemblance is sufficiently obvious.

It is now happily unnecessary to discuss how far it would have been possible to allow the deadlock between the two Houses of the Legislature to continue without submitting the questions at issue between them for the decision of the constituencies, and it must be a matter for congratulation to all parties that the very grave consequences which might have ensued had such an appeal become unavoidable should have been averted by the compromise which has been agreed upon.

I have, &c.
(Signed) M. E. HICKS BEACH.

Governor G. F. Bowen, G.C.M.G.

No. 14.

The RIGHT HON. SIR M. E. HICKS BEACH, BART., to GOVERNOR SIR G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, April 30, 1878.

I have the honour to acknowledge the receipt of your Despatch of the 11th of February‡ transmitting copies of further addresses presented to you by the Legislative Council, and of your replies thereto, with reference to the desire entertained by the Council that you should communicate to it a copy of the memorandum of the Chief Secretary dated the 31st of December last upon the state of political affairs then existing in Victoria.

With respect to the question which you raise as to the right of the Legislative Council to ask the Governor to transmit a telegram to the Secretary of State, I am of opinion that in a case of emergency the Council would be justified in asking the Governor to communicate by telegraph with Her Majesty's Government; and that in such a case, and within reasonable limits as to expense, the Parliament would not be likely to demur to make provision for the outlay so incurred.

* Paper 27 of 1878, No. 33.

† No. 4.

‡ No. 5.

The Governor should, however, use his discretion both as to the matter to be communicated and the form in which the message should be sent, in the event of his thinking it right to become the medium of a telegraphic communication.

I have, &c.
(Signed) M. E. HICKS BEACH.

Governor G. F. Bowen, G.C.M.G.

No. 15.

The RIGHT HON. SIR M. E. HICKS BEACH, BART., to GOVERNOR SIR G. F. BOWEN, G.C.M.G.

SIR, Downing Street, April 30, 1878.
I have received your Despatch of the 21st of February* transmitting a petition to the Queen from persons resident in and around Melbourne in reference to the then existing state of political affairs in Victoria.

The crisis in the affairs of the Colony, to which the petition calls attention, having come to an end by the compromise which has been agreed upon between the Council and Assembly, it is happily unnecessary for me to tender any advice to Her Majesty with respect to the prayer of the petitioners. I request, however, that you will inform them that their petition has been laid before the Queen, and that Her Majesty has been pleased to receive it very graciously.

I have, &c.
(Signed) M. E. HICKS BEACH.

Governor G. F. Bowen, G.C.M.G.

No. 16.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the EARL OF CARNARVON.

(Received May 4, 1878.)

MY LORD, Government House, Melbourne, March 11, 1878.

I have the honour to report for your Lordship's information, that upon the advice of my ministers I have appointed to be a Member of the Executive Council of Victoria Sir Bryan O'Loughlen, Baronet, M.P. for the county of Clare in Ireland, and member for West Melbourne in the Legislative Assembly of this Colony.

2. Mr. Childers, who afterwards became a member of the Cabinet and of the House of Commons in England, began his political career as a member of the Executive Council and Assembly in Victoria. On the other hand, Sir Charles Gavan Duffy, after having been during some years a member of the House of Commons, became a member of the Executive Council and Assembly of Victoria. But it appears that Sir Bryan O'Loughlen is the first actual member of the Imperial Parliament who has also at the same time been a member of an Australian ministry and Parliament. Mr. Lowe was during several years a member of the Legislative Council of New South Wales, but not of the Executive Council.

3. Sir Bryan O'Loughlen has practised with much success for several years past at the Victorian Bar, and was for some time Crown prosecutor. His assistance will be of great value in the Executive Council, especially on legal and constitutional questions.

I have, &c.
(Signed) G. F. BOWEN.

To the Right Hon. the Earl of Carnarvon,
&c. &c. &c.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the EARL OF CARNARVON.

(Received May 4, 1878.)

MY LORD,

Government House, Melbourne, March 17, 1878.

I have the honor to report that on the 7th instant the Legislative Assembly passed by a majority of (48) forty eight to twelve (12), or including pairs, of fifty-six (56) to twenty (20), the subjoined resolutions, viz. :—

(1.) "That in accordance with the 45th section of the Constitution Statute, the costs, charges, and expenses incident to the collection, management, and receipts of the consolidated revenue shall, during the present financial year and no longer, be treated as a special appropriation."

(2.) That the Treasury shall ascertain the amount of the said costs, charges, and expenses from the 1st July 1877 to the 28th February 1878, and that the said amount so ascertained shall be transferred in aid of the Ways and Means Acts, 1877-8."

2. It will be seen from the speech* of the Prime Minister in proposing these resolutions that they are intended to have only a temporary effect, that is, until the 30th June next, the close of the current financial year; nor will they be put into operation unless the Legislative Council should still persist in refusing to pass the annual Appropriation Bill, and should thus deprive the Government of the funds necessary for the maintenance even of the police, the gaols, and of the other establishments necessary for the protection of life and property.

3. The Law Officers of the Crown and the Audit Commissioners entertain no doubt whatsoever as to the legality of this measure. I enclose the opinions of the Attorney-General (Mr. Le Poer Trench) and of Sir Bryan O'Loughlen. It will be seen that former Law Officers, including Mr. Michie and Mr. Higinbotham, held similar opinions.

4. On this question Ministers laid before me the following memorandum :—

"Ministers submit for the signature of the Governor a warrant prepared in accordance with a resolution of the Legislative Assembly, and authorised by the 45th section of the Constitution Statute, whereby the costs, charges, and expenses of the collection of the consolidated revenue are constituted a special appropriation, also the within opinion of the Attorney-General; and advise the Governor to sign the said warrant."

5. I replied in the following terms :—

The Governor has received the ministerial memorandum advising him to sign a warrant on the Treasury in pursuance of the 45th section of the Constitution Act, and of the resolutions on the subject recently adopted by the Legislative Assembly.

2. The Governor has also given his careful consideration to the formal written opinions of the Law Officers of the Crown, to the effect that the course recommended is strictly legal and constitutional.

3. Further, he observes that the Commissioners of Audit have certified, in the manner required by the Audit Act, that the public money included in the warrant is "legally available."

4. Nor has the Governor failed to take into consideration the fact that the measure proposed by ministers is of a temporary character, designed to meet a great and pressing emergency, and to provide funds for the maintenance (during the "stoppage of supplies," consequent on the rejection of the Appropriation Bill by the Legislative Council) of the police, the gaols, and the other establishments absolutely necessary for the protection of life and property in this Colony.

5. Moreover, the warrant in question will not be used by Ministers for the issue of public money, if an amicable arrangement of the differences between the two Houses of Parliament should be soon agreed upon, and if the Legislative Council should consent to pass the Annual Appropriation Bill.

6. On the whole, to quote the words used by his predecessor, the late Lord Canterbury, on an analogous occasion :—"The Governor, without expressing or

* See Parliamentary Debates.

“implying any opinion with respect to the policy of the step which he has been advised to take, either in itself, or as it may hereafter be regarded as a precedent, here or elsewhere, is prepared at once to act upon the recommendation submitted to him by the Honorable the Chief Secretary.”

11th March 1878.

(Signed) G. F. BOWEN.

6. I am fully aware that objections may be raised in some quarters to the course adopted by Ministers in this matter. But the responsibility of it rests entirely with them. Had I refused to follow their advice in an affair of purely Colonial concern, and not repugnant to the law and to the constitution, I should simply have brought the representative of the Crown into hopeless collision with the representatives of the people of Victoria.

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

I have, &c.,
(Signed) G. F. BOWEN.

P.S.—19th March. When the Law Officers of the Crown gave their opinions (as above) respecting the 45th section of the Constitution Act, it appears that certain opponents of the present ministry took the opinions on the same question of three leading counsel at the Victorian bar, viz., Mr. Holroyd, Mr. Webb, and Mr. Williams. But these gentlemen instead of dissenting from have expressed their agreement with the opinions of the Law Officers. I annex copies of the opinions of Mr. Webb and of Mr. Williams, which have been already published, and will forward the opinion of Mr. Holroyd also when it appears in print. This independent testimony to the legality of the action of the Government is the more valuable because Messrs. Holroyd, Webb, and Williams are unconnected with party politics.

G. F. B.

Enclosure 1. in No. 17.

OPINION of the HON. THE ATTORNEY-GENERAL.

The Governor desires the opinion of the Attorney-General on the following questions :—

Looking to the Resolution recently adopted by the Legislative Assembly, viz. :—“ That in accordance with the 45th section of the Constitution Statute, the costs, charges, and expenses incidental to the collection, management, and receipts of the consolidated revenue shall, during the present financial year, and no longer, be treated as a special appropriation ” :—

1. Will it be lawful for the Commissioners of Audit to certify that the public money is legally available?
and

2. For the Governor to sign the usual warrants for its issue, as proposed by the Resolution?

Unless the 45th section of the Constitution Act appropriates so much of the consolidated revenue as will cover the costs, charges, and expenses incident to its collection, management, and receipt, it can have no operation whatever. It must, however, be so interpreted as to give full effect to every word, and doing so, I think it all-sufficient in itself for the appropriation of the revenue to the purposes it specifically mentions.

I am therefore of opinion that it will not only be lawful, but a duty contemplated by this section for the Commissioners of Audit to certify that the public money is legally available for the purposes enumerated in the section under consideration, and that it will be lawful for the Governor to sign the usual warrants for its issue.

ROBERT LE POER TRENCH,
Attorney-General.

11th March 1878.

Enclosure 2. in No. 17.

OPINION of the Hon. Sir BRYAN O'LOGHLEN, Bart.

I FULLY concur in the opinion of the Attorney-General; and without stating my reasons at length, I may state that the 44th and 55th sections clearly show that no other construction can be placed on the 45th section.

11th March 1878.

BRYAN O'LOGHLEN.

Enclosure 3. in No. 17.

OPINION of the Hon. Sir BRYAN O'LOGHLEN, Bart.

I AM of opinion that the 45th section of the Constitution Act effects a special and preferent appropriation of the consolidated revenue of Victoria.

According to the 44th section of that Act, all the taxes and other public income of Victoria, from whatever source arising, are to form "one consolidated revenue, to be appropriated for the public service of the Colony of Victoria in the *manner and subject to the charges herein-after mentioned.*"

Then the 45th section provides that "the consolidated revenue of Victoria shall be *permanently charged* with all the costs, charges, and expenses incident to the collection, management, and receipt thereof."

So that while the 44th section says, as above, that "the consolidated revenue" is to be dealt with by the Victorian Legislature "*subject to the charges* herein-after mentioned," the first "*charge*" that is mentioned is in this 45th section—reasonably providing for and giving a preferent claim to the cost of the collection and management of that very revenue.

That, to my mind, is the first special appropriation or perhaps more correctly reservation under this Act. The next section, the 46th, appropriates a specific sum of £112,750 for certain purposes. Two or three succeeding sections go on to appropriate money for pensions. And then comes the 55th section, which provides "that *after* and *subject to the payments* to be made under the *provisions* herein-before contained" (*evidently* the 45th and 46th sections) "and to any pensions now payable" (which are provided for in the 49th, 50th, 51st, and 52nd sections) balance is to be dealt with.

The first thing to be noticed is that *payments* are to be made under these provisions (45th and 46th) (and other than the pension sections) in liquidation of the identical *charges* made in the 44th section.

Here then are three distinct special and preferent appropriations or reservations out of the consolidated revenue of Victoria.

There is first the appropriations for the costs, charges, and expenses incident to the collection, management, and receipt of revenue, which appropriation is not defined in amount, because at the time this Act was passed and previously when similar Acts were passed no estimate could be made as to what future revenue might be, or as to the cost of its collection. Therefore no sum is specified. The second appropriation is for a specific sum; and the third for pensions fixed in amounts but variable in its annual total by the number of individuals who might enjoy them.

These three appropriations or reservations are all referred to in the 44th section as "*the charges herein-after mentioned*" to which the appropriation of the consolidated revenue by the Victorian Legislature is to be *subject*, and it is *after* and *subject to payments* under these several provisions according to the 55th section that this Legislature can appropriate the *balance*—in fact they have to be provided for out of that revenue before the balance can be dealt with.

A practice has sprung up of disregarding this 45th section and providing for all these costs, charges, and expenses in the annual Appropriation Act; but the question is not one of practice, but of legality; and I have no doubt that the legal course is to act in accordance with the 45th section.

It has been contended that the concluding words of the 45th section—"such expenditure to be reviewed and audited as directed by any Act of the Legislature"—refer to an annual Appropriation Act, which is the last Act of the session; but, in my opinion, they in themselves exclude any such interpretation, for the words refer evidently to a reviewal and audit (*after* the moneys had been expended) by the Auditor-General or other officers in the way *directed* by the Legislature, and *not* to any action of the Legislature itself reviewing or auditing expenditure—(and it may be here noted that the use of the word expenses in this section, combined with an audit, completely explodes the construction that this section creates a bare charge and is not an appropriating section).

In tracing the history of this section it will clearly appear that this is an appropriating section—making a special and preferent reservation—and that the audit is a procedure subsequent to the expenditure.

Under the 9th of George IV., cap. 83, section 27, produce of duties was to be applied as the Governor with the advice of his Legislative Council should appoint; but the application thereof was to be "*accounted for*" to the Crown as the English Treasury should appoint. It is thus perfectly clear that in A.D. 1828 the procedure was expenditure first and audit afterwards by a different body from the appropriating one.

The next Statute was the 5 and 6 Victoria, cap. 76 (A.D. 1842), which contains in its 26th section nearly the *ipsissima verba* of the 45th section of our Constitution Act, and thus runs:—

"And be it enacted that the said revenue of the Colony of New South Wales shall be permanently charged with all the costs, charges, and expenses incident to the collection, management, and receipt thereof; such costs, charges, and expenses being subject nevertheless to be *regulated* and *audited* in such manner as shall be *directed* by any law of the Governor and Legislative Council"—clearly showing that the intent was *that a law* might direct regulation and audit of such expenditure, but not that the Legislature should audit it itself by the Appropriation Act. And this is clearer from the 37th section of same Act, which directs specific appropriated sums to be *accounted for* to Her Majesty's Treasury in England; and that this "*regulation and audit*" has nothing to do with a New South Wales Appropriation Act is still more clear from the use of the word "deductions" in the 34th section, showing that local appropriation can only act on the balance after the reservations have been provided for. This 34th section is equivalent to our 44th, but in ours the word "deductions" has been left out.

The next Statute is the 13 and 14 Victoria, cap. 59, and of this Act, which constitutes Victoria a Colony, the 15th section is conclusive. (Date 1850.) It is nearly the same as the quoted section (36th) of the 5 and 6 Victoria, cap. 76, but enacts that such costs and charges and expenses of duties of import and export are to be *regulated and audited* in such manner as shall be *directed by the English Treasury*, and those of all other branches of revenue which are subject to be *locally appropriated* to be *regulated and audited* in such manner as shall be *directed* by local laws.

This section is, in my opinion, historically conclusive, apart from the construction, which is manifest, in my opinion, on the face of the 44th, 45th, and 55th sections of our Act. I may also add that the 14th

section of the 13 and 14 Vict., cap. 59, which is equivalent to our 44th, uses the words "*with the deductions and subject to the provisions herein contained,*" before it confers on the local Legislature the power of appropriating the *balance*.

We thus find historically that the Act of 1828 provides for an audit apart from and subsequent to expenditure, and those of 1842 and 1850 made the costs and charges of collecting revenue, &c., a "*deduction,*" reservation, or preferent appropriation before the balance of revenue could be dealt with by the local Legislature, and further provides that these costs, &c., should be variously regulated and audited *either* by local laws or the English Treasury, which clearly excludes the contention that an Appropriation Act is intended in the concluding words of the 45th section, namely "to be reviewed and audited."

It has been further contended that the Audit Acts 21 Vict. No. 24 (now repealed), and 22 Vict. No. 86, have impliedly repealed the 45th section of the Constitution Act, A.D. 1855.

Now first as to the matter of fact. I cannot construe any section of the Audit Acts as negating, much less necessarily negating the provisions of the 45th section.

The principle of repeal by implication is that the latter Statute is couched in *negative* terms, or where its matter is so clearly repugnant that it *necessarily* implies a *negative*. On the other hand, two *affirmative* Statutes whose substance is such that both may stand together shall have a concurrent efficacy.

In this case, in my opinion, the Constitution Act of 1855, and the existing Audit Act No. 86, are affirmative, and can both be read together and stand together.

The review and audit referred to in the 45th section might have been carried out under the 24th, 25th, 26th, 27th, and 28th sections of the repealed Audit Act No. 24, and now could apparently under the 31st, 32nd, 33rd, and 34th sections of the present Act No. 86, which provide for an audit report and surcharge on the Treasurer of any disallowed expenditure.

But it is alleged that the 15th and 24th sections of the Audit Act No. 86 are repugnant to the 45th section, more particularly as they create a banking account which is termed the "public account" (which is not to be confounded with Her Majesty's Exchequer, but is in reality the "consolidated revenue account," or perhaps more correctly the "consolidated revenue of Victoria in the public account").

All moneys have to be paid into this account by the 15th section of the Audit Act, and by the 24th have to be withdrawn on the Treasurer's warrant, countersigned by the Commissioners of Audit, and approved by the Governor.

Now this section is read in support of this contention down to the words "appropriation thereof," entirely omitting the latter portion of the section. Now referring to the 44th section of the Constitution Act 1855, the meaning of the words "public service" and the "appropriation thereof" is manifest. What can be appropriated by the local Legislature for the public service goes under first portion of the 24th section of Audit Act and the first column of the schedule form in number "7" schedule. What is not appropriated by the local Legislature, but is nevertheless payable out of the Consolidated Revenue of Victoria under the provisions of the Constitution Act (sections 45 to 54) is drawn for by the Treasurer under the words in that 24th section of the Audit Act "or stating if not for the public service the purpose," and the second column of the same schedule form points out the place in the warrant to do so.

There is nothing, therefore, inconsistent with the 45th section in these sections of the Audit Act. All the consolidated revenue goes into the "public account," and when there is liable to the operation of the 45th as well as of the 46th, 49th, 50th, 51st, and 52nd sections of the Constitution Act. Thus to my mind there is no repugnancy between these Acts. Both are affirmative and both can stand. The case of the Conservators of the Thames *v. Hall*, 1 L.R.C.P., p. 419 (A.D. 1868), is in point. Mr. Justice Byles says—"The Court must be satisfied that the two enactments are *inconsistent before they can* from the language of the *later* imply a repeal of an *express prior enactment.*" Judge Keating says—"We are bound to satisfy ourselves that it is a necessary implication;" and Mr. Justice M. Smith—"The rule as laid down by Sir Orlando Bridgman in *Lyn v. Wyn* (*Bridgman's Judgments*, pp. 122-127) is that the law will not allow the exposition to revoke or alter by construction of general words any particular Statute when the words may have their proper operation without it."

I have come to the conclusion as a matter of fact and law that the 45th section is not impliedly repealed by the Audit Act; but I have left untouched, as unnecessary to be considered, two further questions:—

1. Whether the Audit Act could repeal it (the 45th section), taking into consideration the 4th section of 18 and 19 Vict., cap. 55, or not?
2. Whether special powers to alter or vary or repeal an Act can be exercised without a specific declaration of intention so to exercise them or not?

The decision of either of these two questions in the negative is fatal to any power of repeal in the Audit Act, but on my construction of that Act as consistent with the Constitution Act it is needless to discuss them.

In conclusion, I have no hesitation in declaring my clear opinion to be—

1. That the 45th section reserves and appropriates the costs and expenses of collection and management *preferently* out of the consolidated revenue of Victoria to any other appropriation.
2. That the annual Appropriation Act is not the reviewal and audit referred to in the 45th section.
3. That the 45th section has not been repealed by implication by the 15th, 24th, or any other section of the Audit Act, and that the Public Account is liable to the Treasurer's warrant thereunder.

I append the opinions given by the then Law Officers—Messieurs Higinbotham and Michie, on the same subject partly—in September 1865, and have marked some passages as fortifying mine.

BRYAN O'LOGHLEN.

11th March 1878, 54, Temple Court, Melbourne.

MEMORANDUM FOR THE ATTORNEY-GENERAL.

I shall be much obliged by the Attorney-General's favouring me with his views upon the following points:—

1. Is not the 45th section of the Constitution Act in effect an appropriation of the amount of "all the costs, charges, and expenses incident to the collection, management, and receipt of the revenue," such expenditure to be reviewed and audited as directed by the Legislature?

It appears to me that the only difference in effect between the 45th and 46th clauses is, that the latter provides for charges whose maximum is known, and therefore fixes a limit to the amount to be issued; the former provides for charges necessarily fluctuating in amount, and the sum, therefore, cannot be specified or even limited by stating a maximum.

Is there any practical or legal difference between the words "The consolidated revenue of Victoria shall be permanently charged," and the words "There shall be payable in every year out of the consolidated revenue of Victoria"?

I can hardly think the Audit Commissioners would question the sufficiency of this appropriation (to say nothing of the fact that the items have passed the Assembly), and if so, every officer and servant in any degree charged with the collection and management of any item of the revenue in its various branches can be paid in the ordinary way.

2. It is stated in the preamble of the *Civil Service Act* that its object is to classify the civil service, and regulate the salaries, &c.

By its 6th clause it is enacted that every class shall have a salary, the maximum and minimum of which is defined, and in the case of certain specific officers is definitely fixed (sect. 50), compensation for loss of office is provided, and superannuation for length of service, together with gratuities to officers retiring with the sanction of the Government on account of ill health.

If this law does not give to every officer in the civil service who comes within its operation a valid and indisputable claim against the Government for his salary up to the day on which it may be notified to him that he has ceased to be in its service, what is the practical or legal meaning of the terms "shall be entitled to" and "the salaries shall be"? And I particularly call attention to the 7th clause, which requires that the reductions, increases, and limits shall be adopted by the *Legislative Assembly*, and does not require the concurrence of the Legislative Council.

These limits, &c., have, I presume, all been adopted for the present year by the Assembly, and in that case it appears to me that the *Civil Service Act* renders claims against the Government based upon it as valid as those founded on *The Constitution Act* itself.

I bring these points under the Attorney-General's notice, because I think it desirable to make all payments in the usual and more regular way in all cases in which there is sufficient authority for the purpose.

(Signed)

C. H. DARLING.

Government House, 12th September 1865.

P.S.—Are not the costs, charges, and expenses of collecting the revenue, payments which, under the 55th clause of *The Constitution Act*, are to be made before the consolidated revenue is made liable to other appropriations?

(Initialed)

C. H. D.

Crown Law Offices, Melbourne, September 22, 1865.

We are of opinion that the 45th section of *The Constitution Act* is in effect an appropriation of the amount of "all the costs, charges, and expenses incident to the collection, management, and receipt of the revenue," "such expenditure to be reviewed and audited as directed by the Legislature." We are confirmed in this interpretation of the 45th section by the very plain and unambiguous language of the 55th section, which, referring amongst others to the 45th section, runs thus: "after and subject to the payments to be made under the provisions herein-before contained" (not under the provisions of any Appropriation Act), "and to any pensions now payable," &c., "all the consolidated revenue arising from taxes, duties, rates, and imposts levied by virtue of an Act of the Legislature, and from the disposal of the waste lands of the Crown, shall be subject to be appropriated to such specific purposes as by any Act of the said Legislature shall be provided in that behalf." Only after the payments to be made as above, and subject to such payments, can the consolidated revenue be appropriated to specific purposes by annual votes, and as the Appropriation Act can only be after the payments it would be absurd to say it must previously authorise them.

It follows from the above that no annual Appropriation Act would appear to be necessary for enabling the Government to pay the costs, charges, and expenses incident to the "collection, management, and receipt of the revenue," and these words of course cover all the expenditure of the civil service necessarily incurred in effecting the above purposes of "collecting, managing, and receiving." This view of the law seems to be made still clearer by the words, "such expenditure to be reviewed and audited as directed by the Legislature." If the above-mentioned costs, charges, and expenses were required to be part of and being so required were actually part of an annual Appropriation Act—i.e., specifically appropriated—how could they be reviewed, or to what purpose reviewed? Audited they might be, but they could not be reviewed under any other Act, having been by the supposition specifically and finally appropriated already.

Again. The annual and specific Appropriation Act, contemplated and provided for by the 55th section, is to be after, and subject to, the payments above mentioned. In other words, these payments are made a permanent first charge on the revenue, as distinct from and as independent of any annual Appropriation Act as are any of the pensions or other sums mentioned in the 46th clause of the Act; and this seems to be but reasonable, seeing that as no revenue can be collected, managed, or received without cost, that cost naturally and necessarily takes precedence of all the other expenses of civil government, and being actually indispensable to all Governments ought to be, as it seems to be here, protected from the possible contingency of an Appropriation Act not being passed. In such contingency the Legislature has

in effect said that the Government for the time being not only may, but must pay the "costs, charges, and expenses of collecting, managing, and receiving the revenue," out of that revenue as it comes to hand in order to enable the Government of the country to be carried on.

Again, as by the 55th section, it is only "after and subject to such payments" that the consolidated revenue is "to be subject to be appropriated to such specific purposes as by any Act of the Legislature shall be provided" no effect would be given to the above words "after and subject to," unless the payments referred to by those words were to be independent of specific appropriation, although to be reviewed as well as audited after expenditure, which is an operation reasonable and proper in respect of sums which have not been previously specifically appropriated; but which operation of reviewing would be absurdly superfluous and unavailing in respect of sums previously specifically and finally appropriated by any annual Appropriation Act.

From a careful review of the 45th, 46th, and 53rd clauses, it seems that the only necessary and proper subject matter for an annual Appropriation Act is that which lies out of and beyond the "costs, charges, and expenses of collecting, managing and receiving," &c., together with the other similarly classed matters, such as pensions, &c., referred to in the 46th clause.

We are further of opinion that the only difference between the 45th and 46th clauses is that the latter refers to ascertained and unvarying sums—the former to uncertain and fluctuating sums. Where the maximum of payments is mentioned, as in the schedules to the Act, the commencing language of the 46th clause is appropriatory, viz. :—"There shall be payable in every year, &c., the several sums not exceeding," &c. The language also "The consolidated revenue of Victoria shall be permanently charged," is an appropriate expression used for permanently appropriating charges, the definite amounts of which cannot, in their nature, be fixed by anticipation; and therefore, as a sort of equivalent for, and instead of, being deliberately inserted in an annual Appropriation Act, they are to be reviewed and audited after they are applied and expended.

It is not very easy either to apprehend or express the difference, if any there be, between the words "The consolidated revenue of Victoria shall be permanently charged," and the words "There shall be payable in every year out of the consolidated revenue of Victoria." *Every year* is of course each successive year, and successive years are continuity of time; and the word "permanently" here conveys the same idea, neither more nor less.

The provisions of the *Civil Service Act* seem to be consonant with the above interpretation. By the 6th, 7th, and 50th clauses of this Act every officer is to have a salary, which is to be fixed, as therein provided, and when fixed he "shall be entitled to" such salary; and the reductions, increases, and limits shall be "adopted by the Legislative Assembly." And here it may be specially observed that the provisions of this *Civil Service Act* singularly strengthen the above presented view of the meaning of the words "The consolidated revenue of Victoria shall be permanently charged," &c. For if (as must be contended for any different interpretation) "the costs, charges, and expenses of collecting, managing, and receiving of the revenue" were required to be put into an annual Appropriation Act, then that Act, as it must go before the Council, could be legally rejected by the Council, in which case what would become of the provision in the *Civil Service Act* which says officers shall "be entitled to their salaries as fixed and defined"? We see no escape from this position, for as the Council, under the 56th section of *The Constitution Act*, may legally reject an Appropriation Act, it is self-evident that when it rejects or neglects to pass an Appropriation Act providing for the payment of a salary, it affects to disallow, and, as far as it can, does disallow the fixing and payment of that very salary which under the *Civil Service Act* any particular officer is entitled to.

On this latter point, then, to recapitulate, salaries either must be or need not be contained in and sanctioned by an annual Appropriation Act. If they *must* be so contained they *may be* legally rejected; and thus the provisions of the *Civil Service Act* are ignored and expressly violated by the Council, a conclusion which is absurd; and if, on the other hand, salaries need not be put in an Appropriation Act the Government may pay them without the sanction of such an Act.

Thus, and only thus, will the words, "The consolidated revenue of Victoria shall be permanently charged" be satisfied.

In conclusion, we think that the above interpretation of the different enactments referred to, not only most reasonably consists with the language used in the various provisions, but is also most consonant with common sense, and with the probable intention of the Legislature.

It is indispensable to the preservation of every State that Government shall be carried on, but a thousand accidents may prevent the passing of an Appropriation Act. Wherefore the expenses of preserving the State by the functions of Government seem to be at the disposal of the Government for the time being, subject to being reviewed and audited subsequently, according to law.

The above opinion is independent of, and does not dispose of the question as to whether moneys to the credit of the public account are legally available to satisfy votes of the Assembly prior to the passing of an Appropriation Act. We are of opinion that such moneys are "legally available," and they were always so treated until the Audit Commissioners, some time back, expressed an opinion that such votes should receive, before being acted upon, the sanction of the entire Legislature; since which opinion of the Commissioners, the practice has been (but unnecessarily, as we think) to refrain from acting on these votes, until an Appropriation Act confirming them was passed.

(Signed)

GEO. HIGINBOTHAM,
ARCHD. MICHIE.

Enclosure 4. in No. 17.

OPINION of Mr. WEBB, Barrister-at-Law.

"Counsel is requested to consider and advise on the following questions:—

"1. Is not the 45th section of the Constitution Act (19th Vict.) in effect a special appropriation of the amount of all the costs, charges, and expenses incident to the collection, management, and receipt of the revenue, such expenditure to be reviewed and audited as directed by the Legislature?"

"2. By the 22nd Vict. c. 86, s. 11 (Audit Act), every collector of imposts, or other persons in the public service to whom any money shall be legally payable for or on account of the consolidated revenue, must pay all money which shall come to his possession to the receiver of revenue. By section 15, every receiver must pay all moneys into a bank to the public account. It is contended that up to this point there is no room for legally deducting the costs of collection. All money must be placed to the public account, and by section 24 all moneys paid to the public account shall be drawn from the said account in the following manner *only*—that is to say, the Treasurer is to calculate what he wants, classifying and arranging it under the divisions and subdivisions employed in the appropriation thereof, and then the Commissioners are to certify. It is contended that without an Appropriation Act, or a vote applied by the Ways and Means Act, called here a Supply Bill, the Treasurer cannot make the classification or arrangement in the required divisions and subdivisions. Counsel will please advise whether the 45th section of the Constitution Act is repealed by any of the provisions of the Audit Act, as it is submitted that they are inconsistent with and contrary to the Constitution Act, and generally thereon."

Mr. Webb's opinion was as follows:—

"1. In my opinion, the 45th section of the Constitution Act, being a charge upon the consolidated revenue of 'all the costs, charges, and expenses incident to the collection, management, and receipt thereof,' is in effect a special appropriation of the amount of such 'costs, charges, and expenses. By section 44 the gross revenue (*i.e.*, 'all taxes, &c., from whatever source arising') is to form 'one consolidated 'revenue,' to be appropriated 'subject to the charges herein-after mentioned.' Section 45 makes one charge upon the consolidated revenue, the cost of collection. Section 46 directs payment out of the consolidated revenue of the civil list enumerated in Schedule D. This is, in effect, another charge upon the consolidated revenue, although the word 'charge' is not used. Then by section 55, '*after and subject to the 'payments to be made under the provisions herein-before contained,'* all the consolidated revenue is made subject to be appropriated by the Legislature, and it is by this section expressly provided that the consolidation of the revenue shall not affect the payment of any sums theretofore 'charged' upon the revenue, thus covering both the charge of the cost of collection, by section 45, and the civil list given by section 46. The Constitution Act was a matter of bargain or contract between the Crown and the Colony, the Crown taking a civil list, and in consideration of it giving up all its territorial and other revenues from whatever source. It was therefore only reasonable that as the civil list was to be paid out of the consolidated revenue, provision should be made for the cost of collecting that revenue without rendering it dependent upon the passing of an annual Appropriation Act. The cost of collection is thus, in my opinion, made a just charge upon the revenue collected, in this respect following what up to the 17 and 18 Vict. cap. 94 was both the law and the practice in England as to the expenses of the collection of the consolidated revenue there. This was, in fact, the law in England at the time of the passing of the Constitution Bill in Victoria, which was reserved for the Royal assent on the 25th March 1854, the 17 and 18 Vict. cap. 94 not being passed until the 10th August 1854. A reference to Schedule B. of this Act will show that the cost of collection and management of the revenue of the Customs, the Inland revenue, and the Post Office, was under various Acts charged upon the revenue of the Customs, the Inland revenue, and the Post Office respectively, and these charges were independent of the control of Parliament, as is evident by the preamble of the Act, and by section 1, which enacts that these charges shall cease to be so charged, and shall be paid out of such aids or supplies as may be from time to time provided and appropriated by Parliament. The 45th section of the Constitution Act, in my opinion, constitutes a special appropriation equally with the 46th section, and by section 55 they are both equally made paramount to the power of appropriation by any subsequent Act of the Legislature. The same form of expression is used in section 4 of the Audit Act, No. 86, where the salaries of the audit commissioners are specially appropriated, *viz.*, 'such salaries shall 'be a charge upon and paid out of the consolidated revenue.' To compare the three sections, section 45 of the Constitution Act makes a 'charge' without saying anything of payment; section 46 directs payment without calling it a charge; and section 4 of the Audit Act uses both expressions—'shall be a charge 'upon and paid out of.' They are all three, in my opinion, the same in effect, and each constitutes a special appropriation.

"2. If section 45 constitutes a special appropriation, I am of opinion that there is nothing in the Audit Act amounting to a repeal of it by implication. If so, there is equally a repeal by implication of section 46, granting the civil list to the Crown, and the Audit Act, not having been reserved for Her Majesty's assent, as required by section 60, is wholly invalid and inoperative. The consolidated revenue spoken of in the Constitution Act and the Audit Act is, as I have already pointed out, the gross revenue received. By sections 11 and 15 of the Audit Act the entire of this is to be paid into the public account. Being there, it can only be got out again by warrant under section 24. But if by reason of the necessity for inserting in the warrant 'the divisions and subdivisions employed in the 'appropriation thereof,' such warrant can only be drawn after an Appropriation Act or a Supply Bill has been passed, then the same necessity exists for inserting these particulars, whether the money is drawn for the cost of collection under section 45, for the civil list under section 46, or for the payment of the salaries of the Audit Commissioners under section 4 of the Audit Act. This amounts to saying that the Audit Act by implication repealed all past special appropriations for the public service, and that no such special appropriation for the future could be of any avail unless made so as to show divisions and subdivisions in the same manner as is done upon the estimates for the year and the annual Appropriation Act. This would only apply where the payment was for the public service, for where not for the public service, the 'purpose' may be stated in the warrant. A large part of the civil list given by Schedule D. is for the public service—certainly parts 1, 2, 3, and 4; and if the contention as to the effect of section 24 of the Audit Act be correct, this much, at all events, of the civil list must have been repealed by implication also. The Act 17 and 18 Vict. cap. 94, sect. 1, expressly repeals what up to that time had been a charge upon the revenue—*i.e.*, the cost of collection, by enacting that it 'shall cease to be so charged and payable'; but the Audit Act contains no analogous enactment, and for the reasons above given I am of opinion that there is no repeal by implication of the charge created by section 45 of the Constitution Act, or that, if there is, then that the Audit Act is void for not having been reserved for the Royal assent, and for this reason does not repeal the charge in question.

"Temple Court, March 19, 1878.

GEO. H. F. WEBB."

Enclosure 5. in No 17.

The CONSTITUTION ACT, Section 45, and the AUDIT ACT.

Opinion.

1. By the 45th section of the Constitution Act, the consolidated revenue is permanently charged with the expenses incident to its collection, management, and receipt, while, under section 44, the whole revenue is to be appropriated to the public service "in the manner and subject to the charges after "mentioned," that is, subject to this charge amongst others. The effect of these sections is, in my opinion, that no part of the revenue can be lawfully appropriated by Parliament to any other purpose until the expenses of its collection, management, and receipt have been paid, or until provision has been made for their payment, and I think that the annual expenses ought to be discharged out of the annual receipts. I can see no objection to voting the amount in Committee of Supply, and including it in the Appropriation Act; but, whether so included *or not*, the money will, in my opinion, be legally available for the payment of the expenses, &c., *whenever* the ministers require it for that purpose. The Constitution Act expressly left it to future legislation to provide means by which the expenses of collection, management, &c., might be checked or controlled. Section 45 says that the expenses are subject to be reviewed and audited in such manner as shall be directed by any Act of the Legislature. No Act has *yet* been passed which creates any scheme of review; but the use of the word "review" in the 45th section imports, I think, that the Act of the Legislature thereby contemplated was one which would bring under reconsideration, payments *already made* or provided for; and that, until such Act was passed, the Legislature would have no control whatever over the before-mentioned expenses. With reference to the 55th section of the Constitution Act, it is, in my opinion, *immaterial* to the present question whether the word "payments" in that section includes only the specific sums mentioned in Schedule D., and by section 46, expressly made payable out of the consolidated revenue, or whether it embraces also the unascertained expenses referred to in section 45. If the word "payments" in section 55, includes expenses of collection, then by that section, those expenses are payable out of the revenue "before" its appropriation to specific purposes. If the more restricted meaning is adopted, then we are driven back to section 44, which renders the appropriation subject to the charge.

2. I do not think any of the sections of the Audit Act, 22 Victoria, No. 86, except section 4, affect my opinion as above expressed. Section 4 seems to me to afford a plain statutory confirmation of the view I have taken. It directs that each commissioner shall receive an annual salary of 1,000*l.*; which salary is to be "a charge upon *and paid out of* the consolidated revenue *after* and subject to *the payment and satisfaction* of all other sums which at the time of the passing of the former Audit Act, 'were by law "permanently charged thereon," referring unmistakably to the permanent charges created by the 45th section of the Constitution Act. In the former Audit Act, 21 Vict. No. 44, precisely similar language was used. Sections 15, 24 to 26 of the present Audit Act, to which sections my attention has been directed by the case, merely prescribe the manner in which the public moneys are to be paid into and paid out of the Treasury, but they do not touch the question whether the expenses of collecting and managing the revenue require to be appropriated by an Act of Parliament. These sections specify the persons who are to certify whether any moneys are legally available for the service or purpose for which they are designed, but they do not give any guide by which to determine whether the moneys are legally available or not, and it was evidently not intended that they should do so.

73 Chancery Lane, 19th March 1878.

HARTLEY WILLIAMS.

No. 18.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the EARL OF CARNARVON.

(Received May 4, 1878.)

MY LORD,

Government House, Melbourne, March 18, 1878.

I HAVE the honour to report that, on the arrival of the telegram from the Secretary of State of the 22nd February ultimo,* acknowledging the receipt of the memorandum of the Chief Secretary (Mr. Berry) of the 31st December 1877,† transmitted with my Despatch of the same date), I directed that document to be presented to both Houses of the Victorian Parliament.

2. I also addressed to Ministers, through the Chief Secretary, the subjoined memorandum:—

The Governor informs the Chief Secretary that he has received a telegram from the Secretary of State for the Colonies, acknowledging the receipt of the Chief Secretary's memorandum of 31st December ult., but declining to express any opinion thereon, as his intervention was not invited.

The Governor has throughout felt that his duty is clear, namely, in pursuance of the well-known principles of Parliamentary government, and of the repeated instructions of the Imperial authorities, to follow the advice of his Responsible Ministers in all measures of Colonial policy, not repugnant to law, or to Imperial interests.

It is certain that (as is mentioned in the Chief Secretary's memorandum) several successive Law Officers in Victoria have given opinions to the effect that

* Paper 27 of 1878, No. 26.

† Paper 27 of 1878, No. 25.

resolutions of a Committee of Supply of the Legislative Assembly, duly reported to and adopted by the House, are of themselves sufficient to render grants of public money "legally available" for issue, without waiting for the formal consent of the other branches of the Legislature. It also appears that up to the year 1862 the Commissioners of Audit habitually certified that such grants of public money were "legally available," and that former Governors accordingly signed the usual Treasury warrants.

But when this question was first brought under the Governor's consideration in last December, after the "laying aside" by the Legislative Council of the Appropriation Bill for the year, he felt doubts as to the applicability of the legal opinions referred to above to the new circumstances of the case. For it was proposed that he should sign warrants, not, as was formerly done, on the faith of the passing of the annual Appropriation Bill, but *after* the "laying aside" of that Bill. He did not feel justified in acceding to this proposal until he should be fully satisfied of its legality.

The Governor is disposed to believe that it would be advisable to request the opinion on the legal questions involved in this matter of the judges of the Supreme Court, who, in other Colonies, have occasionally assisted the Governor and the Executive Government in determining legal and constitutional points of difficulty and importance. But if this course should be impracticable in Victoria, owing to the judges declining to accede to it, or for any other reason, the Governor desires before coming to any final decision to have laid before him the full and formal opinion—on a case to be drawn up by the Crown Solicitor—of the Attorney-General, in conjunction with leading counsel at the Victorian bar.

It should also be ascertained if the Commissioners of Audit are prepared to certify that public money would be "legally available" under the circumstances stated above. Of course, in the absence of such certificate, the Governor is precluded by law from signing warrants on the Treasury.

To sum up: The main questions on which the Governor requires a full and explicit legal opinion are these:—Looking to the advice tendered in the Chief Secretary's memorandum of the 31st December 1877, and to all the existing circumstances of the case, especially to the "laying aside" of the annual Appropriation Bill by the Legislative Council, and to the resolution recently adopted by the Legislative Assembly, namely:—"That all votes or grants passed in Committee of Supply become legally available for expenditure immediately such resolutions are agreed to by the Legislative Assembly, and that henceforth in view of the serious public inconvenience caused by repeated rejections of the annual Appropriation Bill by the Legislative Council, this House resolves to revert to the practice which prevailed prior to 1862":—

- (1.) Would it be lawful for the Commissioners of Audit to certify that the public money voted by the Legislative Assembly is *now* "legally available"?
- (2.) Would it consequently be lawful for the Governor, on such certificates of the Commissioners of Audit, and on the advice and responsibility of ministers, to sign the usual warrants for the issue of such public money?

Government House,
Melbourne, 28th February 1878.

G. F. BOWEN.

3. The opinion furnished me by the Attorney-General is enclosed herewith.

4. I still entertain grave doubts as to the legal and constitutional character of the measure proposed in the memorandum of the 31st December ultimo. And it will be observed that this is no longer an hypothetical case; for the Appropriation Bill for the year has been definitely rejected by the Legislative Council; and the supplies now available will not enable the Government to be carried on beyond the end of next June. I shall then, doubtless, be again pressed to sign the warrants for the issue of public money in the manner proposed in the Chief Secretary's memorandum, with the object of preventing the anarchy which must ensue from the total stoppage of supplies.

5. It is true that the ministers and other leading public men of all parties are, together with myself, striving hard to bring about a fair compromise, which could be accepted by both the Council and the Assembly without any loss of dignity. But the majority of the Council, consisting of seventeen (17), or eighteen (18), out of the thirty (30) members, appear (as I am assured) hitherto determined to agree to no compromise whatsoever. They are said to be relying on support from England.

6. I earnestly hope that I shall be soon favoured with full instructions for my guidance on this vital question, which intimately concerns the maintenance of law and order and the carrying on of the Queen's Government in Victoria. All parties here will (I am assured) be disposed to defer to the decision of the Imperial Government in a matter of this kind, and to the opinion of the Law Officers of the Crown in England on the legal points involved. In fact, the opinion of the Imperial Government is practically invoked by the Addresses to the Queen from both Houses of Parliament.

7. This Colony is now again in a position closely resembling that in which it was placed during the former Parliamentary crisis and deadlock of ten years ago. Indeed, the position is exactly the same, if only the phrase "payment of members" be substituted for "Darling grant." And Lord Canterbury's Despatches describe not only his own but also my difficulties.

8. The former crisis was described by the then Secretary of State (the Duke of Buckingham) as "a contest dangerous, and increasingly dangerous, to the existing constitution of Victoria;" while the then Governor (Lord Canterbury) wrote of it as follows:—"I cannot conceal from myself, and I do not conceal from your Grace the fact, not the less certain because it is lamentable, that a conflict such as that which is now in progress strains the Constitution of the Colony; and I cannot assert that the Constitution will endure the strain, if it should be prolonged."

9. It will be remembered that the former crisis was suddenly ended, not by any concession on either side, but only by the relinquishment of his claims by Sir C. Darling, and by his subsequent death. There is no prospect whatever of so easy a solution of the question of the payment of the Members of Parliament.

I have, &c.

(Signed) G. F. BOWEN.

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

Enclosure in No. 18.

OPINION OF THE ATTORNEY-GENERAL.

So far back as the 10th December 1857, the Commissioners of Audit expressed the doubt as to whether the Audit Act, No. 24, permitted the issue of money until the Appropriation Act had passed, and they submitted the following question for the opinion of the Law Officers of the Crown:—

"Whether the words 'legally available' imply, as would seem to be the case, that the Appropriation Act must have passed both Houses, and have become law, or whether, on the ground of custom and precedent, the resolutions of the Assembly, duly agreed to by the House, but without the consent of the other branches of the Legislature, may be considered as making the money 'legally available' for issue?"

In a letter (No. 55), dated 27th January 1862, addressed by the Commissioners of Audit to the Treasurer, they say:—"Hitherto, guided by the decisions of the Law Officers of the Crown, we have considered money to be 'legally available' when voted in a Committee of Supply, and duly reported to the Legislative Assembly," &c.

In 1859 the Act No. 24 was repealed by the present Audit Act, No. 86, in the 25th section of which the words "legally available" were introduced.

So that for the five years during which the Commissioners of Audit were in office the practice of paying money under the authority of votes of the Assembly in anticipation of the Appropriation Act continued.

In 1862 a Bill, under the title of "Consolidated Revenue Bill," authorising the expenditure of money from the public account prior to the passing of the annual Appropriation Act, was introduced by the Treasurer and became law, and since then the Commissioners of Audit have based their certificates that sums are "legally available" on Acts authorising the issue of money out of the consolidated revenue, and to be applied from time to time to such services as shall then have been voted by the Legislative Assembly in the present session of any sums not exceeding an amount named.

I do not find that the Assembly has in any way precluded itself from recurring to the former practice, whenever it might deem it desirable to do so.

In my opinion, therefore, the Assembly had a perfect right to adopt the resolution of 6th February last, set out in the case stated, and "to revert to the practice which prevailed prior to 1862."

Before giving an opinion on the questions, I desire to say that the expedient of passing Supply Bills to authorise the issue of money from the consolidated revenue prior to the passing of the Appropriation Act does not, in my opinion, render the money voted by the Assembly "legally available," if it is good law to say that it cannot be legally available within the meaning and intention of the 25th section of the Audit Act until after the Appropriation Act has passed.

Such a Bill can only be considered effectual as an indemnity to the Commissioners. The votes of the Assembly will still require to be clothed with the form of law by the Appropriation Act. These Supply Bills do not and cannot contain any words of appropriation. But the votes of the Assembly are on the estimates, and certificates on such votes would be based altogether on appropriation. On the very exact appropriation, without the variation of a shilling, which must ultimately be included in the Appropriation Act. The various checks and safeguards provided by law have full effect in both modes of

practice. The Appropriation Act is anticipated by both equally, and, in my opinion, these Supply Bills are good for nothing save only as they may possibly be thought to indemnify the Commissioners of Audit.

Query 1.—In the first place, with regard to the fact that the Appropriation Act for the current financial year has been laid aside by the Council—this is not “rejection,” but something else, which will admit of its being restored to its position in the same session if desired. So that we are induced by the very action of the Council, falling short of rejection, to continue to look for an Appropriation Act before the session closes. But even should there be no Appropriation Act this session, precedents teach us to expect that the omission will be rectified in the next session.

The action of the Council so far does not affect the question, and the opinions of the Law Officers heretofore given are as applicable to-day as when they were written.

In this view the Commissioners of Audit will be fully justified in acting on those opinions now that it has been resolved to revert to the old practice.

I am aware that they are under an impression that the old practice cannot be revived except by an Act of Parliament. But this idea will not, I think, be supported by the opinion of any lawyer.

Neither the old nor the late practice was established by Act of Parliament. Both rested on the will of the Assembly, and when the late practice was first introduced there was no deliberate rejection of the former practice. No resolution to that effect or for the substitution and adoption of the latter, nor any consent of, or arrangement with the Council, nor any independent resolution by the Council with regard to either practice. Plainly, then, the same power that called the late practice into existence can will that it shall be discontinued at any moment.

Now as to its being lawful or otherwise for the Commissioners of Audit to fall in with the resolution of the Assembly, and certify, as formerly, that public money voted by the Assembly is “legally available,” I have carefully and critically studied the 55th section of the Constitution Act, and the 24th and subsequent sections of the Audit Act. The Commissioners’ certificates are based on the estimates, and the votes on these are, in the language of Sir George Lewis, in 1861, in the House of Commons, “the real appropriations, and constitute the substance of the Appropriation Bill,” &c. “Each vote is in fact an appropriation.” And Lord Palmerston, in the same debate, says, “that the Appropriation Act does not alter a single vote.” “It is a record of past transactions, and does not afford the House an opportunity of altering any vote. It is simply a form that is required by the Constitution, but it is not a Bill to give rise to any discussion.” So that it is in practice true that the revenue is being applied to the very specific purpose to which it can alone be appropriated by the Appropriation Act. I concur then in the opinions of former Law Officers of the Crown, that the Commissioners may lawfully certify that the votes of the Legislative Assembly on the estimates for the year are “legally available” in anticipation of the annual Appropriation Act. And, 2nd, That it would be lawful for the Governor on such certificates of the Commissioners, and on the advice and responsibility of his Ministers, to sign the usual warrants required by the Audit Act for the issue of such money.

18th March 1878.

ROBERT LE POER TRENCH, A.G.

No. 19.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the EARL OF CARNARVON.

(Received May 4, 1878.)

MY LORD,

Government House, Melbourne, March 20, 1878.

ADVERTING to my Despatch of the 21st February ultimo,* I have the honour to forward herewith a petition to Her Majesty the Queen from certain residents in Geelong, respecting the present condition of political affairs in this Colony. This petition is a copy of that forwarded with my above-mentioned Despatch.†

2. I am requested by my Responsible Advisers to transmit at the same time the enclosed Ministerial Memorandum.

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

I have, &c.
(Signed) G. F. BOWEN.

Enclosure in No. 19.

MEMORANDUM for HIS EXCELLENCY THE GOVERNOR.

The petition from Geelong is an exact counterpart of the one forwarded by the last mail, and the memorandum accompanying it is therefore equally applicable to this. Under these circumstances, Ministers refrain from offering any further remarks thereon.

Chief Secretary's Office,
Melbourne, March 20, 1878.

GRAHAM BERRY,
Chief Secretary.

* No. 9.

† See Enclosure 1 in No. 9.

No. 20.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the EARL OF CARNARVON.

(Received May 4, 1878.)

MY LORD,

Government House, Melbourne, 20 March, 1878.

I HAVE the honour to report that in pursuance of the permission granted to me in the telegram from the Secretary of State of the 6th instant,* of an address from the Assembly, and of the advice of my Responsible Ministers, I have presented to the Colonial Parliament certain hitherto unpublished Despatches of my predecessor, the late Lord Canterbury, relating to the former parliamentary dead-lock of 1867-8.

2. Directions were given that any paragraphs likely to give offence in any quarter should be omitted.

3. My Confidential Advisers and other leading public men believe that the opinions expressed by Lord Canterbury on the proper position and mutual relations of the two Houses of the Victorian Parliament, cannot fail to exercise a beneficial influence at the present time.

I have, &c.

(Signed) G. F. BOWEN.

The Right Hon. the Earl of Carnarvon,
&c. &c. &c.

P.S.—I enclose a leading article on the above subject from the most influential journal of Melbourne. It deserves a careful perusal.

G. F. B.

Enclosure in No. 20.

Melbourne, Wednesday, March 20, 1878.

THE extracts from the unpublished Despatches of the late Lord Canterbury to the Duke of Buckingham, which first saw the light in yesterday's *Age*, will be read with intense interest in the Colony, and might be studied with advantage by the Duke of Buckingham's successor at the Colonial Office. For while they give a history of the relative claims of the Assembly and the Council during the Darling grant crisis in 1867, they furnish by anticipation a complete vindication of the action of the Berry Government throughout the present crisis of 1878. In 1867, as in 1878, the Council resolutely refused to pass an Appropriation Bill on that occasion because it contained the obnoxious grant for Lady Darling in it; and in 1867, as in 1878, the ministry of the day, the Assembly, and the constituencies were arrayed as one man against the Council. The resistance of the Council in 1867 was based precisely on the same plea as they advance in 1878. They argued then, as they argue now, that they have the legal right to reject a money Bill; that in rejecting a money Bill they are only exercising the same power as the Upper House in England is entitled to exercise; and that as long as this cannot be disputed the Assembly cannot be justified in laying claim to the sole and undivided control over the finances. This is the whole contention on which the crisis hangs. It is the *causa belli*. The power of the purse, say the friends of the Assembly, must rest with the representatives of the people. By the letter of the law the Council may have a legal right to interfere, but it cannot have a constitutional right, and the letter of the law can only be interpreted by the spirit of the constitution. This is pronounced to be a monstrous doctrine by the party to whom the Council look for encouragement and support; and the authors of it have been scolded and lectured as though they were advancing something utterly foreign to the genius of English statesmanship. But what are Lord Canterbury's views?—

“As regards the claims of the Legislative Council, I have never hesitated to express my opinion, as far as I could properly do so, that the legitimate exercise of their *legal rights was defined by the practice rather than by the abstract claims or unexercised powers of the House of Lords*. And as regards the claims of the Legislative Assembly to the control of the finances, I cannot withhold my assent from their claims so far as they coincide with the practice of the House of Commons.”

It is one thing, we are told, for the Assembly to send up an Appropriation Bill pure and simple, but quite another to tack what has come to be called a political item to it. The contention is that payment of members involves a policy, and that in including payment of members in the Appropriation Bill the Assembly have attempted to coerce the Council, and are therefore the aggressors in the quarrel. Now on this part of the subject too, Lord Canterbury has an opportunity of speaking his mind, and he speaks it tolerably bluntly in the following passage from his Despatches:—

“If the Legislative Council should persevere (there is no doubt that they are legally empowered to do so) in continuously refusing supplies, because a grant to which they object is included in the Appropriation Bill by the Legislative Assembly, who are unquestionably entitled by law to include all grants in a general Bill of this character, it is clear that the Legislative Assembly *will hereafter refuse supplies unless and until the Legislative Council is reformed or abolished*. There is no law to prevent it. Your Grace would no doubt be of opinion that this would be a revolutionary movement on the part of the Legislative Assembly, and I certainly entertain that opinion myself. But the refusal of supplies is a very strong measure, and if it should be persistently persevered in by the Upper House for the purpose of reducing the Lower House to terms, the Legislative Assembly may not impossibly adopt the same means (and they can

use those means with even greater effect than the Legislative Council) for attacking the constitution or even the existence of the Upper House.”

This is not a crude or hastily digested opinion, thrown off on the impulse of the moment, or inspired by any passing sympathy with the *factors* of Lady Darling's cause; for, in a previous letter to the Duke of Buckingham, Lord Canterbury had written thus:—

“I trust that I shall not be regarded by your Grace as undervaluing the status of the Legislative Council, or underrating their rights and privileges, if I say that the conclusion at which I arrived in considering the question was that if the House of Commons had occupied the position held by the Legislative Assembly respecting the grant, they (the House of Commons) would have claimed the right to include the grant in the General Appropriation Act, and that they would not have been induced to refrain from asserting that right by the belief that the grant would be rejected by the Upper House if proposed in a separate measure.”

Nothing could prefigure with greater accuracy the motives which actuate the Council in the present crisis than Lord Canterbury's terse and summary explanation of the principles which regulated their conduct in 1867:—“As far as I can understand, their principles are—Observance of the letter of the law which regulates their powers, and the exercise of those powers to the extreme point allowed by the law “whenever they think proper, without reference to results, the responsibility of which is cast by them on “others, and especially on the Governor.”

Like Sir George Bowen, Lord Canterbury had a very difficult game to play, and like Sir George Bowen he recognised his proper attitude to be one of the strictest neutrality and impartiality. His first task was to ascertain how far the resistance of the Council was likely to be attended with success, and he gives the Secretary of State the reasons which he had for believing that that body must either come to a compromise, give way entirely, or be broken. These reasons were not far to seek. They were forced upon him by the logic of facts. The Ministry were supported by the Assembly, the Assembly were supported by the country. The Governor might appeal to the constituencies, but that would not help him out of the dilemma; for the constituencies were sure to return representatives in support of the grant, and the end neither Lord Canterbury nor anybody else could foresee. The continued resistance of the Council would, he writes, “lead to the popular demand for the supersession of their authority as an independent branch of “the Legislature.” Nay, he candidly tells the Duke of Buckingham that the struggle may lead to even more momentous results. He might be compelled to reject the advice of his ministers, and perhaps displace them, and thus “the Governor might involve the Imperial authorities in the conflict, and probably imperil “the relations of the colony with the mother country.” And this presentiment was so strong in his mind that he returns to it again on a subsequent occasion:—

“It is, I believe, a great mistake to believe that the Legislative Council can successfully resist the Legislative Assembly fresh from their constituencies in passing a measure, however objectionable in itself, in favour of which those constituencies have recently expressed a decided opinion. And the adhesion of the Governor under such circumstances to the Legislative Council would only implicate him in their disasters and defeat; unless indeed he (the Governor) should be acting under instructions from the Secretary of State, in which case the contest would be with the Imperial authorities, supported by the Upper House.”

The bearing of this last remark upon the present controversy is specially significant. Though it was addressed to the Duke of Buckingham, it is really a hint from a very excellent authority which every Secretary of State may profit by. The Governor of a colony with Parliamentary institutions occupies a most embarrassing position, for he has to take the advice of his Responsible Ministers on the one hand, and to obey the instructions of an irresponsible Imperial officer on the other. If his instructions run counter to his ministers' advice, he is compelled to follow the former and not the latter. That is to say, he abdicates his post as head of the parliamentary system of the colony, and sinks for the time being into the mere *employé* of Downing-street. The Secretary of State supersedes him and takes his place, and as Lord Canterbury puts it, the contest becomes one between the Colonists and the Imperial authorities. Now it is obvious that there are very strong reasons indeed why such a catastrophe should be avoided. The intervention of the Imperial authorities is calculated to exasperate rather than to reconcile the contending parties; and if they should be so unwisely advised as to array themselves on the side of the obstructionists, they must be prepared to subdue the resistance which they would be sure to meet with from the democracy of the Colony, or to take the consequences. The only way to avoid the dilemma is to take Lord Canterbury's teaching to heart, and leave the Colonists as much as possible to fight out their own battle in their own way. The object of the struggle is to obtain such a reform of the constitution as will render it impossible for the Upper House, in Lord Canterbury's phrase, to push its legal rights to their extreme limits at any future time, or, in other words, to give the Assembly the same control of the finances as the House of Commons claims. It is therefore idle for any Secretary of State to attempt to settle a constitutional controversy of such complexity in a Despatch or two to the Governor. Instructions may embarrass him, but they will not be allowed to embarrass the combatants, at least on the popular side. Lord Canterbury does not exaggerate the feeling of impatience which any dictation from outside will give rise to when he warns the Duke of Buckingham that it may “imperil the relations of the Colony with the mother country.” All that we want the statesmen of the mother country to do is to recognise the true character of the crisis in which we are engaged, and to co-operate with us in the task of rectifying the error in our constitution which is the cause of it.

Somehow or other the friends of the Council have always allowed themselves to be carried away with the notion that their cause is necessarily the cause of the Empire. They are always speaking and acting as though they were assured beforehand of the sympathy and assistance of the Imperial authorities. If they do not exactly represent themselves to be in the confidence of the Secretary of State, they flaunt their influence with that officer in the faces of their opponents, and ply him with addresses and remonstrances for all the world as if he was a member of their party, and could have no interest or concern for anybody but themselves. These tactics they pursued in 1867, and they are pursuing them now in 1878: That they impose upon themselves we can readily believe; but that they did not impose on Lord Canterbury, and most certainly do not impose upon Sir George Bowen, we may gather from the following extract from Lord Canterbury's letter, the publication of which at this particular juncture is a high tribute to Sir

George Bowen's sagacity, and cannot fail to earn him the gratitude of every one who is anxious to see the crisis brought to a pacific termination :—

"I should almost despair for the future were it not that I know that at the commencement of the contest the Legislative Council did rely on assistance and support from the Secretary of State; and I cannot but believe that if and when they realise fully the fact that this assistance and support will not be given they will be more amenable to compromise."

No. 21.

THE RIGHT HON. SIR M. E. HICKS BEACH, BART., TO GOVERNOR SIR G. F. BOWEN, G.C.M.G.

SIR, Downing Street, May 10, 1878.

I HAVE the honour to acknowledge the receipt of your Despatch of the 20th of March,* stating that, acting on the permission given in my telegram of the 6th of the same month, you have, in pursuance of an Address from the Assembly, and on the advice of your ministers, presented to the Colonial Parliament certain unpublished Despatches of the late Lord Canterbury relating to the parliamentary dead-lock of 1867-68.

It would have been convenient if a copy of the paper had accompanied your Despatch, and I have to request that you will furnish me with copies of it as speedily as possible.

I have, &c.

Governor Sir G. F. Bowen, (Signed) M. E. HICKS BEACH.
&c. &c. &c.

No. 22.

The RIGHT HON. SIR M. E. HICKS BEACH, BART., TO GOVERNOR SIR G. F. BOWEN, G.C.M.G.

SIR, Downing Street, May 11, 1878.

I HAVE the honour to acknowledge the receipt of your Dispatch of the 11th of March,† stating that you have, upon the advice of your ministers, appointed Sir Bryan O'Loughlen, Bart., to be a member of the Executive Council of Victoria.

I have, &c.

Governor Sir G. F. Bowen, (Signed) M. E. HICKS BEACH.
&c. &c. &c.

No. 23.

The RIGHT HON. SIR M. E. HICKS BEACH, BART., TO GOVERNOR SIR G. F. BOWEN, G.C.M.G.

SIR, Downing Street, May 13, 1878.

I HAVE the honour to acknowledge the receipt of your Despatch of the 20th of March,‡ transmitting a petition to the Queen from certain residents in Geelong, in reference to the then condition of political affairs in the Colony, together with a memorandum respecting it furnished to you by your ministers.

I request that you will cause a similar answer to be returned to this petition to that which I desired you by my Despatch of the 30th of April§ to give to the petition sent home from Melbourne.

I have, &c.

Governor Sir G. F. Bowen, (Signed) M. E. HICKS BEACH.
&c. &c. &c.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the EARL OF CARNARVON.

(Received May 14, 1878.)

MY LORD,

Government House, Melbourne, March 23, 1878.

WITH reference to my memorandum for ministers of the 28th February ultimo, of which a copy was forwarded with my Despatch of the 18th instant,* I have now the honour to transmit the enclosed memorandum submitted to me in reply by the Chief Secretary, on behalf of himself and of his colleagues.

2. It will be seen that the object of this memorandum is virtually to protest against the theory that the Governor of a Colony possessing Parliamentary Government would be justified, in matters of purely local concern, in declining to follow the advice of his responsible ministers, including the Law Officers of the Crown; or that he would, if not satisfied with the legality of any action recommended, be justified in having recourse to any other legal advice except that of those Law Officers.

3. It will be remembered that, in the Australian Colonies, the Law Officers are always leading members of the Colonial Cabinet; and that the rejection of the advice of the Cabinet is a constitutional ground for its resignation. Whenever the ministers are steadily supported (as is now the case in Victoria) by a large majority in the Assembly and in the constituencies, the Governor is compelled to ask himself the question, "How, in the event of their resignation, is the Queen's Government to be carried on?"

4. Moreover, in Victoria the judges of the Supreme Court decline to afford to the representative of the Queen that confidential advice and assistance on legal questions of importance which is generally afforded by the judges in other Colonies.

5. Again, in Australia there are no permanent and non-political Legal Advisers of the Governor or of the Government, analogous to the counsel attached to the chief departments of state in England.

6. On the whole, the position of an Australian Governor is one of rare difficulty and delicacy with regard to the question now under consideration; that is, what his course of action should be if he feels doubts as to the legality of the proceedings advised by his Responsible Ministers. There may possibly be extreme cases in which the law is so clear that a Governor would be supported by the Parliament and by public opinion in taking his stand upon it at all hazards.

But the legal points at issue are generally doubtful, and often of great intricacy; of such a nature that the ablest and most experienced lawyers are divided in opinion respecting them; and in which it seems presumptuous in a layman to set up his own views in opposition to the professional opinions of the Law Officers of the Crown.

7. These remarks apply particularly to matters of purely local and Colonial concern; for, it is, I think, generally admitted that, when Imperial interests are involved, the Governor, as the representative of the Crown, is entitled to exercise an independent judgment. But it is contended here that, with regard to all affairs of merely local interest, the position of a Colonial Governor has been properly defined by Sir Erskine May in the following passage of his *Constitutional History of England* (Vol. III. chap. 17.):—

"A colonial constitution has become the very image and reflection of parliamentary government in England. The Governor like the Sovereign whom he represents, holds himself aloof from, and superior to parties; and governs through constitutional advisers, who have acquired an ascendancy in the Legislature. He leaves contending parties to fight out their own battles; and by admitting the stronger party to his councils, brings the executive authority into harmony with popular sentiment. And as the recognition of this doctrine in England has practically transferred the supreme authority of the state from the Crown to Parliament and the people, so in the Colonies has it wrested from the Governor and from the parent state the direction of Colonial affairs. And again, as the Crown has gained in ease and popularity what it has lost in power, so has the mother country, in accepting to the full the principles of local self-government, established the closest relations of amity and confidence between herself and her Colonies."

I have, &c.

The Right Hon. the Earl of Carnarvon,

(Signed) G. F. BOWEN.

&c.

&c.

&c.

Enclosure in No. 24.

MEMORANDUM for HIS EXCELLENCY THE GOVERNOR.

MINISTERS acknowledge the receipt of a memorandum from the Governor, informing them of the contents of a telegram from the Secretary of State for the Colonies referring to the memorandum of the Chief Secretary of 31st December last addressed to the Governor, and by him transmitted to the Secretary of State.

Ministers feel bound to state that they hesitate to concur in any interpretation of this telegram which would be in direct contravention of the first principles of Responsible Government, viz., that the Governor should require for his guidance in the direction of public affairs other advice than that of his Responsible Advisers, including the Law Officers of the Crown.

Ministers will await with some anxiety the receipt by your Excellency of fuller Despatches on this important point, for so serious an interference with the principles of self government as is undoubtedly involved in charging the Governor with personal responsibility which might, and probably would, involve him in grave differences with ministers possessing the full confidence of the Legislative Assembly, to be followed by other graver complications with Parliament itself, is so obviously fraught with public danger that ministers protest against its application to the transaction of public business in this Colony.

Ministers note the difference referred to in your Excellency's memorandum between expenditure on the votes passed in Committee of Supply reported to and adopted by the Assembly on the faith of the said votes or grants being clothed with the form of law by the due passing of the annual Appropriation Bill, and existing circumstances, when the Appropriation Bill has been "laid aside by the Legislative Council." With respect to the suggestion in your Excellency's memorandum that ministers should request the opinion of the judges of the Supreme Court, your advisers desire to point out to your Excellency that such a course, however desirable on a question of law, would be altogether inadmissible in matters affecting the rights and privileges of Parliament, and that your advisers could not, under any circumstances, consent to refer questions involving constitutional action for which they are alone responsible, to any tribunal or persons whatsoever, no matter how great their authority or how high their attainments in their respective positions. Nor from a constitutional point of view can ministers admit for one moment that it is advisable to supplement the legal opinion of the Attorney-General with other opinions of leading barristers who, however able or eminent in their profession, possess none of the responsibility which wholly and entirely devolves on the Attorney-General.

Ministers have considered it their bounden duty thus early to place on record their protest against any interference, from any quarter whatever, with the well known principles of parliamentary government, which, so long as they continue the Responsible Advisers of your Excellency, they will steadily maintain.

Ministers, however, would remind your Excellency that the memorandum of the Chief Secretary of the 31st December ultimo simply indicated future possible advice if the unfortunate position of public affairs should remain unchanged for any protracted period, your Excellency may rest assured that although your advisers perceive grave constitutional objections to the suggestion contained in your Excellency's memorandum, which are fully stated above, they will very seriously consider any advice which they may feel called upon to tender to your Excellency, and that having so advised your Excellency, ministers will be prepared to take the full and entire responsibility of their advice.

March 23, 1878.

GRAHAM BERRY.

No. 25.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL HICKS BEACH, BART.

(Received June 1, 1878.)

SIR, Government House, Melbourne, April 3, 1878.

ADVERTING to my Despatch of the 11th ultimo,* I have now the honour to report that on the 27th ultimo, the late Attorney-General, the Hon. R. Le Poer Trench, tendered his resignation, having accepted the permanent office of Chief Commissioner under the provisions of the Land Tax Act.

2. At the instance of my Responsible Advisers I appointed Sir Bryan O'Loghlen, Bart., to succeed Mr. Trench as the Attorney-General of Victoria.

I have, &c.

The Right Hon. Sir M. E. Hicks Beach, M.P., (Signed) G. F. BOWEN.

&c.

&c.

&c.

P.S.—April 12.—The appointment of Sir Bryan O'Loghlen as Attorney-General vacated his seat for West Melbourne, and he was again opposed there by Mr. Francis, who contested that electorate with him a few weeks ago. This is chiefly a mercantile constituency, and Mr. Francis gained much support as a leading and popular merchant, and veteran politician. Moreover, West Melbourne is regarded as the stronghold of the party hostile to Mr. Berry's ministry. Still Sir Bryan O'Loghlen defeated Mr. Francis by a majority in the first election, of ninety (90), and in the second election, of one hundred and ten (110) votes.

G. F. B.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received June 1, 1878.)

SIR,

Government House, Melbourne, April 9, 1878.

I HAVE the honour to report that the subjoined Address adopted by the Legislative Assembly of Victoria without a division, was this day presented to me by the Speaker, accompanied by the whole House :

“To His Excellency Sir GEORGE FERGUSON BOWEN, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief in and over the Colony of Victoria and its Dependencies, and Vice-Admiral of the same, &c.

“MAY IT PLEASE YOUR EXCELLENCY :

“WE, Her Majesty’s most dutiful and loyal subjects, the Members of the Legislative Assembly of Victoria, in Parliament assembled, desire to approach your Excellency with the assurance of our continued loyalty and devotion to Her Most Gracious Majesty, and of our personal respect to your Excellency.

“Before closing an arduous and memorable session, we desire to approach your Excellency with the expression of our thanks for the constant vigilance, the wise forbearance, and the unwavering patience, which have so largely contributed to carry the country safely through a trying crisis.

“Under the pressure of serious difficulties your Excellency has maintained in their integrity the principles of English freedom embodied in our Constitution; principles which secure, at the same time, the liberty of the people and the authority of the Crown.

“With less constitutional foresight on the part of the Queen’s Representative, a conflict between the Constituencies and the Crown might have become inevitable. The unbroken order happily preserved throughout the country during a period of intense excitement is attributable, we are persuaded, beyond any other cause to the conviction in the minds of the people, that the high functions with which your Excellency is invested would be exercised in a spirit of equity and impartiality.

“In your relations to Parliament, to your advisers, and to the Crown, your Excellency has, in our judgment, exhibited a constant desire to preserve to each its legitimate authority; and, in after times, we doubt not, the example which you have set in a grave public emergency will be cited as a model for Constitutional Governors.

“(Signed) C. GAVAN DUFFY,
Speaker.”

“9th April 1878.

2. I delivered the following reply :—

“MR. SPEAKER AND GENTLEMEN :

“I THANK you in the name of the Queen for this assurance of your continued loyalty and devotion to our gracious and beloved Sovereign.

“On my own behalf I thank you for the expression of your respect, and for the testimony which your address contains to my constant endeavours to pursue a strictly constitutional course throughout the great political difficulties from which we have now happily emerged.

“It is always most satisfactory, on public grounds, that the representative of the Crown should enjoy the confidence of the representatives of the people, and this is an address from the representatives of a great Colony of which any representative of the Crown might well be proud.

“The events of the session now brought to its close will fill an important chapter in the history of Victoria. It is my earnest hope that any excited feelings caused by the recent conflict will rapidly disappear, and that the several branches of the Legislature, by the aid of mutual forbearance and wise moderation, will combine in harmony and goodwill to promote the true interests of all classes of this community.

“In conclusion, Mr. Speaker and Gentlemen, I request you once more to accept my hearty thanks for your address, and to receive the assurance of my sincere desire to co-operate cordially at all times with both Houses of Parliament.

“Government Offices,
“Melbourne, 9th April 1878.”

(Signed) G. F. BOWEN.

3. I am assured on all sides that this address of the Legislative Assembly conveys faithfully the opinions not only of the Colonial House of Commons, but also of the overwhelming majority of all classes in this community.

I have, &c.
(Signed) G. F. BOWEN.

The Right Hon. Sir M. E. Hicks Beach, Bart., M.P.,
&c. &c. &c.

No. 27.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received June 1, 1878.)

SIR, Government House, Melbourne, April 10, 1878.

I HAVE the honour to transmit herewith copies of the speech which, by the advice of my ministers, I read yesterday at the prorogation of the late arduous and memorable session of the Victorian Parliament.

I have, &c.
(Signed) G. F. BOWEN.

The Right Hon. Sir M. E. Hicks Beach, Bart., M.P.,
&c. &c. &c.

Enclosure in No. 27.

MR. PRESIDENT AND HON. GENTLEMEN OF THE LEGISLATIVE COUNCIL :

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY :

I am glad to be able to release you from your legislative duties, after a protracted and memorable session. The measures which you have passed are both numerous and important, and will, I trust, add to the contentment and prosperity of the people.

Grave questions of constitutional rights and powers have arisen, and been debated and maintained with inflexible resolution ; but I rejoice to add that a settlement has been ultimately found not inconsistent with the principles of responsible government and the spirit of the Constitution.

To avoid, however, the possibility of the recurrence of such a conflict in the future, my advisers will, with all possible despatch, prepare a measure to alter and amend the Constitution Statute.

It is satisfactory to announce that a land tax, so long imperatively demanded by the country, has become law, and that beneficial effects are already indicated by its operation.

The Railway Construction Bill will open up fresh tracts of country, and prove a boon to the large number of selectors who have made homes upon the soil.

The alteration of the tariff is well calculated to increase production, and at the same time to assist commerce.

Friendly Societies in Victoria have assumed an importance which justified comprehensive legislation, and I trust the Bill passed this session will tend to the consolidation and increase of these important organizations.

I regret that *phylloxera vastatrix* has made its appearance in the vineyards of the Colony, but the prompt measure of the Legislature will, I trust, stamp out this scourge in its infancy.

The war recently waged between Russia and Turkey has increased the danger of this Colony by the possibility of hostilities occurring between the former Power and Great Britain. My advisers have adopted every possible precaution with the view of placing Melbourne beyond the possibility of a successful attack from any quarter.

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY :

I thank you on behalf of Her Majesty for the liberality of your grants for carrying on the public service of the Colony and for the further development of its resources.

Notwithstanding the delay which unfortunately occurred in connexion with the passing of the Appropriation Bill, the public works of the Colony have been uninterruptedly continued, and the administration of justice, and of the several departments of the Government, has proceeded without intermission.

MR. PRESIDENT AND HONOURABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL :

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY :

During the recess, my advisers will be enabled carefully to scrutinize the various departments of the public service with a view to retrenchment.

In being relieved from your onerous duties you must be gratified to know that, under the blessing of Divine Providence, the country has continued prosperous, notwithstanding the prolonged political struggle.

In the name of Her Majesty I declare this Parliament prorogued to Tuesday the 21st day of May next, and it is hereby prorogued accordingly.

Melbourne, 9th April 1878.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received June 1, 1878.)

SIR,

Government House, Melbourne, April 11, 1878.

I HAVE the honour to transmit herewith a copy of an address to me adopted on the 2nd instant by a majority of the Legislative Council of Victoria, together with a copy of my reply, and of a ministerial memorandum, stating the views of my Responsible Advisers on the points raised in the address.

2. It will be remembered that the opinions expressed in this address respecting legal questions are at direct variance with the opinions not only of the Law Officers of the Crown, but also of all the eminent counsel at the Victorian bar who were consulted on the subject. On this point I would refer to my Despatch of the 17th March ultimo,* and to the documents transmitted with it.

3. It will be further perceived from the enclosed ministerial memorandum, that these legal questions are practically obsolete ; for the points in dispute between the Council and the Assembly had been already adjusted by a fair compromise, and the Appropriation Bill had been passed before the adoption of the address.

4. The only point in the address which affects the Governor is the extraordinary complaint that he followed the advice of his ministers, in preference to the attempted dictation of the Council, in the matter of the proposed publication in the Colony of Mr. Berry's memorandum of the 31st December ultimo, before it had reached or been acknowledged by the Secretary of State.

5. I may observe, in the first place, that it has been truly remarked here that few, if any, Governors have ever passed through so protracted and dangerous a political crisis which has evoked very angry passions on all sides, with only one complaint against their conduct from any quarter, and that of so very slight and unfounded a character as the complaint made in this address.

6. In the next place, I need scarcely state that I had no personal feeling in the matter, and that I performed no personal act, and incurred no personal responsibility with regard to it. I simply followed, as it was my duty to follow, in an affair of purely local concern the advice of my Responsible Ministers, the regulations of the public service, and the well known principles of parliamentary government.

7. It will be seen that the Legislative Council having first asked the ministers to publish this memorandum, and having found that they were unwilling to produce it for the reasons assigned by themselves took the very unusual step of addressing the Governor, and of calling upon him virtually to set at defiance, that is, of course, practically to dismiss his constitutional advisers. To this address I replied in the following terms :—

“MR. PRESIDENT AND GENTLEMEN :

“I THANK you for your renewed expressions of loyalty to Her Majesty's throne and person, and of respect for myself as Her Majesty's Representative.

“With regard to the Chief Secretary's memorandum to which you refer, I assure you that it will always afford me pleasure to carry out the wishes of either House of the Victorian Parliament, so far as my duty may permit.

“But it is a general and reasonable rule of the public service that documents forwarded to the Imperial Government should not be published until they shall have been received and acknowledged by the Secretary of State.

“I would observe, however, that the Imperial authorities will be in full possession of the views entertained by your honourable House upon the present position of political affairs in Victoria from the addresses, with the presentation of which I was favoured on the 13th November ultimo and on the 19th instant. Copies of these addresses have been forwarded to the Secretary of State for the Colonies, in pursuance of what I understand to be your desire.

(Signed) G. F. BOWEN.

“Government Offices, Melbourne,
“January 24, 1878.”

8. It may be added that the Assembly did not ask for the premature production of the memorandum in question, although that House would have had the same right to do so as the Council; and that, directly I learned by telegraph that the memorandum had been received and considered by you, copies of it were presented to both Houses of Parliament.

9. My first impulse was to take no notice in my reply to the address of the Council, of a matter of such slight importance. But it was urged that my silence would be misinterpreted; and, accordingly, with the advice of ministers, I forwarded the accompanying reply, which concluded in the following terms:

“It has ever been, and will continue to be, the desire of the Governor to treat the Legislative Council with the high consideration due to either House of Parliament. But it should be clearly understood that it is the duty of a constitutional Governor, in accordance with the instructions of the Imperial authorities, to follow the advice of his responsible ministers, and the well-known principles of parliamentary government, rather than any overt or implied dictation on the part of a single branch of the Legislature.

“The Governor, however, will not permit this action of the Council towards himself to induce him to alter his official relations with that honourable House, or to swerve in the slightest degree from that neutrality between political parties which belongs to the Crown which he represents. In other words, he will continue to give all fair and just support to his ministers for the time being, so long as they retain the confidence of the majority of the representatives of the people, while he will remain ready to give the same support to any other ministers, whether members of the Council or of the Assembly, whom the course of parliamentary proceedings may render it necessary for him at any future time to summon to his councils.”

10. I submit that the above is the only correct definition of the proper neutrality of a constitutional Governor. It is substantially identical with the definition given by Lord Cardwell in his Despatch to a former Governor of Victoria, and with the definitions given on previous occasions by the late Duke of Newcastle and by other English statesmen. On the other hand, the notion of the proper neutrality of a Governor held by a section of the Members of the Legislative Council, is that he evinces partiality whenever he declines to obey their behests to overrule his responsible ministers.

11. Moreover, it is certain that the definition given by me is the only *practicable* definition. The Parliaments and people of the Australian Colonies are willing to concede to the Governors, as the representatives of the Crown, an independent judgment and control in all matters of Imperial interest, provided that the Colonial ministries are generally, and except in extreme cases, left free to deal in their own way, and on their own responsibility, with all matters of merely Colonial concern. In the affair to which the Council has drawn attention, as also throughout the recent crisis, I had before me the choice of following the advice of my ministers, or of breaking with them and with the overwhelming majority in the Colonial House of Commons and also in the country at large which firmly supports the existing administration. If I had been so far forgetful of the duty of a constitutional Governor as to allow myself to be cajoled or threatened into the adoption of the latter alternative, it is certain that (in the words quoted by the ministers from one of Lord Canterbury's published Despatches) “the Governor would not have thereby enabled the Legislative Council to maintain its position, while he would have involved the Imperial Government in the conflict, and probably imperilled the relations of the Colony with the mother country.”

12. On the other hand, it is now generally agreed that the policy which I have inflexibly pursued has the merit not only of being strictly and constitutionally right but also of having obtained complete success. By no other policy could the parliamentary crisis have been brought to a close without a social and political convulsion, amounting (in the phrase of Lord Canterbury) to “a revolutionary condition of affairs.” By no other policy could the happy relations between the Colony and the mother country have been, instead of impaired, powerfully strengthened. On this point, the address to me adopted (without a division) by the Legislative Assembly bears emphatic testimony:—*

“Before closing an arduous and memorable session, we desire to approach your Excellency with the expression of our thanks for the constant vigilance, the wise for-

* See Governor of Victoria to Secretary of State, of 9th April 1878, No. 26.

bearance, and the unwavering patience, which have so largely contributed to carry the country safely through a trying crisis.

“Under the pressure of serious difficulties your Excellency has maintained in their integrity the principles of English freedom embodied in our Constitution; principles which secure at the same time the liberty of the people and the authority of the Crown.

“With less constitutional foresight on the part of the Queen’s Representative, a conflict between the constituencies and the Crown might have become inevitable. The unbroken order happily preserved throughout the country during a period of intense excitement is attributable, we are persuaded, beyond any other cause to the conviction in the minds of the people that the high functions with which your Excellency is invested would be exercised in a spirit of equity and impartiality.

“In your relations to Parliament, to your advisers, and to the Crown, your Excellency has, in our judgment, exhibited a constant desire to preserve to each its legitimate authority; and, in after times, we doubt not, the example which you have set in a grave public emergency will be cited as a model for constitutional Governors.”

13. I will ask permission to take this opportunity of explaining, once for all, the origin of the attacks recently made upon me, as formerly under similar circumstances, upon all my predecessors in the Government of Victoria, by a small section of this community and by some of its organs in the press.

14. On referring to the Despatches marked in the margin,* it will be remembered that in last November the Legislative Council took the very unusual if not entirely unprecedented step of presenting an address to the Governor, virtually calling upon him to follow a particular course, irrespective of the advice of his Responsible Ministers, upon a matter not yet officially before that House, viz., the continuance or cessation of the system which had prevailed during the seven previous years, “of reimbursing to the members of the Legislature their expenses in relation to their attendance upon Parliament.” The real object of this address was to prevent me from signing, in connexion with this measure, the message required by the Constitution Act to enable the Legislature even to discuss any vote whatsoever of public money.

15. It will be recollected that I took the precaution of procuring, first by telegraph, and afterwards by Despatch, the instructions on this point of the Secretary of State for the Colonies, who afterwards entirely approved and confirmed my action in replying, in strict conformity with those instructions to the address of the Council in the following terms:—

“MR. PRESIDENT AND GENTLEMEN:

“I THANK you in the name of the Queen for this assurance of your unabated loyalty to Her Majesty’s throne and person.

“For myself I receive your address with the high consideration due from the Representative of the Crown to any expression of opinion from either House of the Victorian Parliament.

“I have already consulted, and will again consult on the important question to which you have solicited attention, the responsible ministers, whose advice it is the undoubted duty of the Governor of every Colony possessing parliamentary institutions on the English model to follow generally in all matters of purely local concern, and in which neither the prerogatives of the Crown nor other Imperial interests are involved.

“Government Offices,
“Melbourne, 13th November 1877.”

(Signed) G. F. BOWEN.

16. I received, however, warnings at the time from several quarters that if I should determine to follow the instructions of the Secretary of State and the advice of my responsible ministers, in preference to the attempted dictation of a section of the Legislative Council, and of the small but active clique out of doors which inspires rather than adopts the opinions of that section, I should be pursued with persistent and malignant attacks, both in the Colony and in England, similar to those with which all my predecessors in the Government of Victoria have been pursued whenever, in the execution of their constitutional duties and in the maintenance of their constitutional neutrality, they have failed to obey implicitly the behests of that faction. The result

* See Governor of Victoria to Secretary of State, of 19th September 1877, Paper No. 27 of 1878, No. 3; and of 26th November 1877, No. 8 of same Paper; and Secretary of State to Governor of Victoria, of 20th December 1877, No. 5 of same Paper; and of 28th January 1878, No. 13 of same Paper.

has shown that these warnings were amply justified. My experience in this respect has been that of all my predecessors, of Mr. La Trobe, of Sir Charles Hotham, of Sir Henry Barkly, of Sir Charles Darling, and of Lord Canterbury, who wrote that in particular "the 'Argus' bitterly resented his refusal blindly to enlist himself as a " member of their party."

17. The clique or faction referred to is almost entirely without political power and influence in Victoria. Consequently (as has been said of a similar condition of affairs in Canada) "a beaten minority in the Colonial Parliament, instead of loyally " accepting its position, is never without a hope of wresting the victory from its " opponents by an appeal to opinion in the mother country, always ill-informed, and " therefore credulous, in matters of Colonial politics." As Lord Elgin wrote to the Secretary of State (14th January 1850):—"Factions in the Colonies are clamorous " and violent, with the hope of producing effect on the Imperial Parliament and Govern- " ment, just in proportion to their powerlessness at home."*

18. In fact, my case during the last three months has closely resembled that of Lord Normanby in New Zealand a short time ago; of Lord Elgin in Canada, from 1848 to 1851; and of Lord Dufferin in Canada in 1873; all of whom were assailed by beaten minorities because they steadily supported Ministries possessing the confidence of the majority of the Colonial Parliaments. Lord Dufferin used words in 1873 which might be adopted as descriptive of my own recent position:†—"My anxieties have been very " great and my position most embarrassing. If I have erred in the conduct of these " affairs I feel I can count upon your Lordship's indulgence to put a favourable con- " struction on my intentions. * * * My political instincts would revolt against " any undue exercise of the Crown's prerogative. Yet it is of this I find myself accused. " I trust, however, that reflection will dissipate such impressions, and that the people " of Canada will ultimately feel that it is for their permanent interest that a Governor- " General should unflinchingly maintain the principle of ministerial responsibility; and " that it is better he should be too tardy in relinquishing this palladium of Colonial " liberty than too rash in resorting to acts of personal interference." The Secretary of State entirely approved these views, and endorsed Lord Dufferin's satisfaction with a result "reached by a strict application of constitutional principles, and by the regular " working of the machinery of a free Parliament."‡

19. It will be recollected that it has been suggested (though only, I think, in one quarter) that when the Legislative Council rejected the Appropriation Bill I ought to have dismissed the ministry, though possessing the confidence of a great majority of the representatives of the people, and that I ought to have dissolved the Assembly, though only very recently elected, and, beyond all reasonable doubt, in harmony with the constituencies. Again, to quote Lord Dufferin,§ the dismissal of my ministry under such circumstances "would always have been regarded by its adherents as " having been brought about by violent means, and through the uncalled for inter- " vention of an Imperial Officer." And it is certain that any attempt on the part of the Governor to exercise personal authority in matters of purely local concern would be resisted by all parties in Victoria, except by the small clique which still clings to the traditions of that primitive and obsolete form of Colonial Government which was administered without responsibility to the Legislature, and which was superseded, nearly a quarter of a century ago, by parliamentary institutions on the English model. Indeed it is of vital importance to the permanent maintenance of the happy relations now existing between the Australian Colonies and the parent state, that when changes of ministry take place they should be brought about in the ordinary constitutional manner, that is, not by any personal act of the Governor, but by the displacement of the administration by a hostile majority in the Assembly. It would now be an act of perilous infatuation in an Australian Governor to cause the removal of a ministry by his own individual act and on account of proceedings of purely Colonial concern.

20. In this Despatch, and in many other Despatches by this || and by the preceding mails, I have endeavoured to lay before the Imperial Government a full report of what has happened in this Colony during the late Parliamentary "dead-lock"

* See Warland's "Life of Lord Elgin," chapter 5.

† Lord Dufferin to the Earl of Kimberley, 18th August 1873. See Papers on Canada presented to the Imperial Parliament in March 1874.

‡ The Earl of Kimberley to the Governor-General of Canada, 29th November 1873.

§ Lord Dufferin to Secretary of State, 7th November 1873.

|| See especially my Despatch of the 12th April 1878, which is printed as No. 29 of this Paper, and which should be read together with the present Despatch.

Under the auspicious reign of our most Gracious Sovereign we had confidently expected that your Excellency would make it your first care to see that justice is done to all, so far as it is in your power to influence or exercise it, and we feel assured that it is the desire of Her Majesty that the gentleman intrusted by Her Majesty with the important duty of presiding over any portion of Her Majesty's dominions, in the exalted position which your Excellency now occupies, should always act in that manner.

Your Excellency must permit us to say that the refusal on your Excellency's part, on the advice of ministers, to furnish the Council with a copy of the memorandum, when your Excellency thought fit to refer it to the Secretary of State, and in relation to which we have the authority of the Chief Secretary for stating, your Excellency expected to receive a reply by cable, in order "that" (as the Chief Secretary told the meeting at Geelong), "at the very earliest date he" (*i.e.*, your Excellency) "might have a warrant placed before him, and be advised by his ministers to sign it," was to deny to us, as one of the branches of the Legislature, that justice and consideration which we expected, and which we thought we had a right to expect; and we are bound to add that your sending to the Imperial authorities an *ex parte* view of the provisions of the Constitution Act (the effect of which, if it should unfortunately be attempted to carry it out, would be to place the whole Constitution upon an entirely new basis), and to prohibit all comment on the part of the Council and the public, whom the memorandum was intended so materially to affect, is scarcely consistent with "that neutrality which belongs to the Crown that" your Excellency "represents."

We desire to invite your Excellency's attention to a statement contained in the memorandum "that your Excellency will be justified, on receiving an address from the Legislative Assembly praying you so to do, to sign the warrants required by law for the issuing from the Treasury the public money voted and appropriated by the Assembly."

Without commenting upon or criticising the inaccurate remark that one House can "appropriate" the supplies, the illegality of the advice or suggestion offered to your Excellency is apparent from a decision of the Supreme Court on the 24th December 1867. Upon an occasion when one of your Excellency's predecessors resorted to the practice of signing warrants without any previous legislative authority, the matter came under the consideration of that court, and the practice was condemned as illegal. In pronouncing that decision the judges stated—"It is only necessary to go a step further and examine the certificate which the Commissioners are bound to give, and without which the warrant to the Treasurer cannot lawfully be made. It runs thus:—'We certify that the sums above mentioned are now legally available for and applicable to the services and purposes respectively above set forth;' but to render any part of the consolidated revenue legally available for and applicable to the payment of the amount of this judgment, Parliament must have voted and actually appropriated the money for the purpose; and this must have been effected either by a general or a special Appropriation Act, or the moneys comprised in what is known as a Supply Bill must have been applied to the particular purpose during the operation of that measure."

In support of the course above recommended, an opinion is quoted of Mr. Fellows (now Mr. Justice Fellows), given on the 11th January 1858.

We desire to call your Excellency's attention to a speech made by Mr. Fellows in the Legislative Council, on the 3rd October 1865 (appended hereto), in which he states very distinctly that that opinion was given under a misapprehension of the practice there alluded to, and referred to the provisions of the Audit Act 1857, which, in the amended Act 1859, were altered, so as to make his opinion no longer applicable; and therefore we respectfully submit it was not fair to that gentleman to put forward his opinion as now applicable. At the same time, it cannot be supposed that your Excellency was aware of the circumstances, although the Attorney-General, who endorses that opinion, ought to have been.

We now desire to call your Excellency's attention to another proposal of your Excellency's advisers to defray certain expenses under the 45th section of the Constitution Act.

On the 6th March the Chief Secretary moved in the Legislative Assembly—

1. That in accordance with the 45th section of the Constitution Act, the costs, charges, and expenses incident to the collection, management, and receipt of the consolidated revenue shall, during the present financial year, and no longer, be treated as a special appropriation.
2. That the Treasury shall ascertain the amount of the said costs, charges, and expenses from the 1st July 1877, to the 28th February 1878, and that the said amount so ascertained shall be transferred in aid of the Ways and Means Act, 1877-8.

Your Excellency's advisers contend that this section contains a special appropriation for the objects therein mentioned, and the only way of giving effect to it viewed in that light would be to deduct the expense of collection and pay only the balance into the public account.

The above section, although it creates a permanent charge, provides no machinery for carrying it out.

The next section, the 46th, deals with the Civil List, and provides that "there shall be payable in every year to Her Majesty, her heirs and successors, out of the consolidated revenue of Victoria, the several sums not exceeding in the whole £12,750*l.* for defraying the expense of the several services and purposes named in the several parts of Schedule D," and further provides that the said sums shall be issued by the Treasurer of Victoria in discharge of such warrants as shall be from time to time directed to him under the hand of the Governor.

We submit to your Excellency that these two sections point to a distinction between a "charge" and a "special appropriation." In the first instance a "charge" only is made, but no "appropriation;" in the second a charge is made which is a "special appropriation," the specific objects of which are precisely laid down, as also the mode of paying them and subsequently accounting for the moneys so paid.

In the first session after the Constitution Act was proclaimed in this colony, the Audit Act (No. 24) was passed, providing for the collection, receipt, and payment of the consolidated revenue, which Act was amended in 1859, by Act No. 86, being the Audit Act now in force.

By section 11 of that Act every collector of imposts, or other person in the public service to whom any money shall be legally payable for or on account of the consolidated revenue, must pay all money which shall come to his possession or control for or on account of the consolidated revenue to the Receiver of Revenue. By section 15 every receiver must pay "all moneys" which shall have come to his possession or control into a bank to "the public account."

Your Excellency will, therefore, perceive that up to this point there is no room for legally deducting the cost of collection. "All money" must reach the State coffers and be placed to "the public account."

By section 24 "all moneys paid to the public account shall be drawn from the said account in the following manner only," that is to say, the Treasurer is to calculate what he wants, classifying and arranging it under the divisions and subdivisions "employed in the appropriation thereof," and then the Commissioners are to certify.

Without an Appropriation Act, or a vote applied by a Ways and Means Act, commonly called here a "Supply Bill," the Treasurer cannot make the classification or arrangement in the required divisions and subdivisions, and the Commissioners of Audit would not be able to certify that the moneys required are legally available.

We submit that the mode of dealing with the consolidated revenue as provided by the Audit Act, and of appropriating it to specific purposes, as has been heretofore done by annual Appropriation Acts in conformity with the 55th section of the Constitution Act, is perfectly consistent with maintaining the permanent charge created by the 45th section for the objects therein mentioned—that charge being satisfied by the appropriations of the consolidated revenue in detail for the objects of the 45th section, and by their being paid next after the Civil List and certain pensions before mentioned.

The Audit Act therefore must be looked upon as ancillary to, and not inconsistent with, the 45th section.

In reference to the second of the Chief Secretary's resolutions above quoted, we submit that, whatever view may be taken of the 45th section, the transfer of the moneys alluded to in that resolution cannot legally be made under the 24th and 25th sections of the Audit Act. But we observe, with deep regret, in the public press, that your Excellency, acting under the advice of Ministers, has signed warrants for issuing money out of the Treasury.

We avail ourselves of the present opportunity to assure your Excellency that we are ready and anxious, as we always have been, to pass the annual Appropriation Bill whenever it shall be placed before us without the inclusion in it of the item for reimbursing members of Parliament, which, as involving a question of public policy, and concerning which the Council as well as the Assembly have the right to a deliberate voice, we consider an infringement of our legislative privileges; and we desire to inform your Excellency that the Appropriation Bill which we laid aside in December last was irrevocably disposed of so far as the Council is concerned.

We respectfully request that a copy of this address may be forwarded to Her Majesty's Secretary of State for the Colonies.

(Signed) W. H. F. MITCHELL,
President of the Council.

APPENDIX.

"Mr. Fellows desired to make a few observations in reference to the opinion the honourable member who had just sat down had alluded to on more than one occasion. He was stated to have given his opinion, and he did not shrink from admitting that that was the case, that moneys were 'legally available,' within the meaning of the Audit Act, so soon as the votes had been reported and agreed to in the Legislative Assembly. Whatever value was attached to that opinion at the time, the Audit Commissioners since it had come under their manipulation had shown that it was based upon an erroneous principle—that the assumed analogy upon which it was founded had, in reality, no existence. The Commissioners pointed out clearly in their first report that the opinion was erroneous, inasmuch as it assumed that the practice in England was to issue moneys upon the vote of the House of Commons. In one sense that was the case; but this issue was made only by means of an Act passed by both Houses, and assented to by Her Majesty, and providing expressly that any votes of the House of Commons might be paid out of the moneys standing to the credit of the Consolidated Fund. In this case the position of the House of Commons differed very little from that of the Governor-in-Council in certain cases. The immigration vote, for instance, was to be expended by the Governor-in-Council, and the Governor-in-Council was, in one sense, the authority for the expenditure of the money; but in point of fact the Governor-in-Council in the one case, and the House of Commons in the other, were nothing more than instruments. When he gave the opinion which had been quoted, he did not know that the English practice was as the Audit Commissioners described it, and therefore the opinion he gave was erroneous. He had no hesitation in making this admission, for it was absurd for a man who was convinced of his error to proceed in it. He desired also to point out the tendency of legislation in the matter. The first of the two Audit Acts both of which were drawn by himself, under instructions from the Treasurer of the day, and which, in extenuation of any shortcomings, he might state, were the first measures of their class prepared here—contained the two clauses Nos. 17 and 18, on which his opinion was given. Reference was made there to the warrant the Treasurer was to issue. These warrants, it was provided, were to state the amounts required for the next month, arranged in divisions and subdivisions in the form of the Estimates. This adoption of the Estimates as something to be recognised was erroneous, and it led him to the conclusion that moneys were 'legally available,' and could be disbursed on the votes of the Assembly. In consequence of the difficulties which speedily manifested themselves under the arrangement, he was directed to prepare two new Standing Orders for the Assembly, which were adopted by that House on the 4th November, 1858. These were—

"288. In framing the annual Estimates of Expenditure the several divisions thereof shall be expressly stated therein; and when they shall have passed through the Committee of Supply, and the resolutions of such Committee shall have been reported to and adopted by the House, the several votes so reported and adopted shall be printed, in the same manner and under the same divisions, subdivisions, and items of subdivisions that shall have been employed in framing the said Estimates."

"289. In order that the Treasurer's yearly statement of expenditure may correspond item for item with the Appropriation Act, the several votes so printed shall be appended to such Act in the form of a Schedule, in lieu of the details hitherto inserted in the body of such Act."

"The first two or three Appropriation Acts, as many honourable members would remember, contained a statement of the votes of the Assembly, but did not tally item by item with the Estimates; but the practice was now adopted of including the Estimates as a Schedule of the Appropriation Act. After

this, in 1859, the second Audit Act was passed, and here the words made use of were, that the warrants for the issue of moneys should be arranged so that they should correspond with the subdivisions, &c. 'employed in the appropriation thereof.' This marked distinction in the language of the two Acts showed that, though at the outset the houses and the Audit Commissioners scarcely knew their proper position in these money matters, yet that, as they progressed, as they discovered the inconveniences which followed their non-attention to the practice of the Imperial Parliament, they mended their hands. The 'Estimates' were recognised in the first Audit Act, and the 'appropriation' in the second. If, after this explanation, value were still attached to the unfortunate opinion he had given seven years ago, he could only regret the circumstance."

Enclosure 2. in No. 28.

REPLY of his Excellency the GOVERNOR to the ADDRESS from the LEGISLATIVE COUNCIL.

THE Governor acknowledges the receipt of the address of the Legislative Council of the 2nd instant, and, as requested, will forward it to the Secretary of State for the Colonies. But it has, of course, been referred, in the first instance, to the responsible ministry of the Colony: so that the allegations of the Council concerning the action of the Victorian Government may, in the terms of the Queen's Colonial Regulations (Act 220) be "duly verified, as well as reported upon, before they reach the Secretary of State."

The Governor will always pay due attention to any representations from either of the deliberate branches of the Legislature. But the Council cannot fail to be aware that the legal opinions respecting the 45th section of the Constitution Act, to which attention is drawn in this address, are at direct variance with the opinions, not only of the Law Officers of the Crown, but also of other eminent counsel at the Victorian bar, who have been consulted on this subject.

The Governor would be glad to add no more. But, lest by silence he should seem to sanction a proceeding hitherto (as he is assured) without precedence in Australia, he is advised that it is his duty, on public grounds, to point out the gravity of a departure, not only from parliamentary usage, but also from that loyal respect for his office which has heretofore always distinguished both Houses of the Victorian Parliament.

The Governor regrets that, in portions of this address, the majority of the Council should have advanced charges which can be regarded only as a personal and gratuitous attack on the representative of the Queen, who also himself constitutes one of the three branches of the Legislature. For the Council has ignored the first principles of parliamentary government on the English model, as established in this Colony, by attempting to fix on the Governor the personal responsibility of acts of purely local concern, performed by and with the advice of his constitutional ministers. From the error into which the Council has thus fallen, it would appear that a section of that body still clings to the traditions of that primitive and obsolete form of Colonial Government which was administered without responsibility to the representatives of the people, and with little regard to the public opinion and general wishes of the community, but which was superseded in Victoria nearly a quarter of a century ago by a Constitution framed on the principles of the British Constitution.

It has ever been, and will continue to be, the desire of the Governor to treat the Legislative Council with the high consideration due to either House of Parliament. But it should be clearly understood that it is the duty of a constitutional Governor, in accordance with the instructions of the Imperial authorities, to follow the advice of his responsible ministers, and the well known principles of parliamentary government, rather than any overt or implied dictation on the part of a single branch of the Legislature.

The Governor, however will not permit this action of the Council towards himself to induce him to alter his official relations with that honourable House, or to swerve in the slightest degree from that neutrality between political parties which belongs to the Crown which he represents. In other words, he will continue to give all fair and just support to his ministers for the time being, so long as they retain the confidence of the majority of the representatives of the people, while he will remain ready to give the same support to any other ministers, whether members of the Council or of the Assembly, whom the course of parliamentary proceedings may render it necessary for him, at any future time, to summon to his councils.

Government Offices,
Melbourne, April 4, 1878.

G. F. BOWEN.

Enclosure 3. in No. 28.

MINISTERIAL MEMORANDUM for HIS EXCELLENCY the GOVERNOR.

MINISTERS have read the address of the Legislative Council to His Excellency the Governor adopted on the 2nd April 1878.

They consider that address to be obsolete and uncalled for, seeing that the questions at issue between the Legislative Assembly and the Council relating to the Appropriation Bill and the Payment of Members Bill (the two principal matters in dispute) had been already adjusted before the adoption of the address. Ministers further wish to place on record the fact that, prior to such adoption, the Council were informed by the representative of the Government in that Chamber that, the Appropriation Bill having passed, there was no longer any intention on the part of the Government to issue money either on the votes of the Assembly in anticipation of the Appropriation Act or under the 45th section of the Constitution Act; although both of these proposals had been declared legal by the formal written opinions of the law officers of the Crown and of other eminent counsel at the Victorian bar.

As for the unfounded and gratuitous reflection on his Excellency the Governor with respect to the Premier's memorandum of 31st December ultimo, ministers observe:—

That they always regarded that memorandum as a confidential communication sent by them to his Excellency the Governor under very trying and peculiar circumstances, when the Appropriation Bill for

the year was laid aside by the Council ; and that without their consent, its contents ought not to be communicated to either House of Parliament. When, therefore, the Council presented an address to his Excellency requesting him to furnish that House with a copy of the memorandum, ministers pointed out to his Excellency that it would be opposed to their wishes and to the rule of the colonial service to accede to the request of the Council ; and that it would be impossible to carry on the executive Government if either House of Parliament had the right to insist on the immediate production of any documents of a confidential character placed by them in the hands of the Governor. The Council having, in the first instance, applied to the Government for a copy of the memorandum, and having been refused, actuated doubtless by a desire to produce disunion between the Governor and the ministry, insisted on presenting their address. Had their application been granted, ministers would have considered that a breach of confidence had been committed ; they would have felt that their advice had been disregarded ; and they would have tendered their resignations without hesitation ; for they knew that in the state of political parties then and now existing in this Colony no new ministry could be formed which would possess the confidence of the people or command a majority in the Assembly.

If the Governor had followed the dictation of the Council in a matter of purely local concern by supporting them against the ministry and Assembly, the inevitable result would have been (to quote the words of Lord Canterbury in one of his published Despatches) that his Excellency would "not thereby have enabled the Legislative Council to maintain its position, while he would have involved the Imperial Government in the conflict, and would probably have imperilled the relations of the Colony with the "mother country."

Chief Secretary's Office,
Melbourne, April 15, 1878.

(Signed) GRAHAM BERRY,
Chief Secretary.

No. 29.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received June 1, 1878.)

SIR,

Government House, Melbourne, April 12, 1878.

In my Despatches of the 9th and 10th instant,* I had the honour to transmit for your information copies of the address presented to me by the Legislative Assembly of Victoria, bearing testimony to the constitutional attitude which I have maintained throughout the late grave political difficulties, copies of my reply to that address, and also copies of the speech with which, by the advice of my ministers, I prorogued the late arduous and memorable session of the Colonial Parliament.

2. On the 29th ultimo I forwarded to you a telegram (of which a copy is transmitted with my Despatch of the 5th instant)† announcing the happy termination, through a fair compromise honourable to both sides, of the protracted crisis and "deadlock" between the two Houses of Parliament, which had caused so much excitement and agitation, and so much suffering and loss, in this community, and which was straining the Constitution of this Colony to a degree which it could not have endured for long.

3. In my Despatch of the 26th December ultimo,‡ I fully explained the circumstances under which the majority of the Legislative Council (contrary to the advice of its chief friends and supporters) rejected in last December a separate Bill continuing "the reimbursements of the expenses of the members of both Houses in relation to "their attendance on Parliament" to the end of the existing Parliament, and thus leaving this question to be finally decided at the next general election. The Council subsequently, on the 20th December ultimo, "laid aside" the annual Appropriation Bill for reasons stated in the *Parliamentary Debates*.

4. Ever since that time constant efforts have been made to induce the conflicting Houses to agree to an honourable compromise of their differences. Personally, I omitted no proper opportunity of recommending mutual forbearance and mutual concessions. It was proposed on behalf of the ministry and the Assembly that the Council should agree to pass the separate Bill sent up to them in December, and that the Assembly should simultaneously or as nearly so as might be, appoint a committee to search for the Appropriation Bill which had been "laid aside," and should then re-enact that Bill without the item objected to by the Upper House. The ministers, a strong minority of the Councillors, the Assembly, and the general public all united in pressing the Council to accept this arrangement ; but there were many disappointing delays and failures in the negotiations. Finally, however, all difficulties were overcome

* Nos. 26 and 27.

† Not printed.

‡ Paper 27 of 1878, No. 21.

and both the separate Bill continuing the expiring reimbursement of the expenses of members and the annual Appropriation Act have become law.*

5. General satisfaction has been felt and everywhere expressed at this termination of the late dangerous and disastrous parliamentary "deadlock," and the political and social animosities caused by it are already fast subsiding. The country is tranquil and generally prosperous. Before the commencement of the political crisis there had been a partial depression in trade and depreciation in the value of certain kinds of property, in consequence of a long drought succeeded by very heavy floods, and from other temporary causes. These evils have been aggravated by the sense of uncertainty rather than of insecurity produced by the fierce and protracted political and social agitation and antagonism of the last four months. But a young and strong community like that of Victoria, full of life and energy, and of that general good humour which flows from the habitual prosperity of all classes, rapidly recovers from depression and discontent however caused. Moreover, as it has been truly remarked,† any "serious invasion of the rights of property could scarcely proceed far, in communities where the intense appreciation of property and eagerness for its possession render all socialist theories even more impracticable than they are in older commonwealths." It was a profound observation of Lord Beaconsfield that the political and social stability of the United States of America depends mainly on what he aptly termed their "territorial democracy." So in Victoria and (to some degree) in all the Australian Colonies, the public lands are in steady process of occupation by a class of small freeholders, cultivating their own farms, in short by a "territorial democracy," bound over to the cause of law and order by that strong surety, the ownership of land.

6. It has been very satisfactory to me to receive the assurance that throughout the late financial deadlock, no public money has been expended except in due form of law, and in strict accordance with parliamentary usage. Those public works which had been legally provided for by Railway and Loan Acts, or otherwise, have been carried on without interruption, while by dint of strict economy and of the large retrenchments in the Civil Service effected by the ministry, the administration of justice and of the several departments of the Government has proceeded regularly and without intermission.

7. In a speech delivered in last October before the actual beginning of the recent crisis, but in anticipation of its near approach I recommended the members of both Houses of Parliament and of both political parties to lay to heart the subjoined passage‡ in one of Mr. J. S. Mill's works:—

"One of the most indispensable requisites in the practical conduct of politics, especially in the management of free institutions, is conciliation, a readiness to compromise, a willingness to concede something to opponents, and to shape good measures so as to be as little offensive as possible to persons of opposite views, and of this salutary habit the mutual give and take (as it has been called) between two Houses is a perpetual school; useful as such even now, and its utility would probably be even more felt in a more democratic constitution of the Legislature." Nor have I ever ceased to urge the adoption of such principles as those laid down by Mr. Merivale, when he wrote:§—"Moderation in success, self denial in the exercise of power, habitual consideration for the opinions and feelings of others, readiness to compromise differences, love of justice and fair play, reluctance to push principles to extremes, the moral courage which will dare to stand up against a majority, the habit of constantly, and, as it were, instinctively postponing self to the public interest, and this, whether arising from moral choice or from the constraint imposed by public opinion; these are the balancing qualities which prevent the misuse of political freedom."

8. What Lord Dufferin wrote|| concerning the crisis of 1873 in Canada is equally applicable to Victoria during the late crisis:—"Unfortunately in this country party animosity is intense, and the organs of each side denounce the public men opposed to them in terms of far greater vigour than those to which we are accustomed in England. The quarrel at this moment is exceptionally bitter * * * * * As a consequence, a mistrust of each other's fair dealings has been

* It should be mentioned that two members of Parliament, one from each side, viz., Messrs. Lyell and Munro, were specially active in bringing about the compromise between the two Houses.

† Merivale's "Colonies and Colonisation," page 646.

‡ "Mill's Representative Government," chapter 13.

§ "Colonies and Colonization," page 658.

|| Lord Dufferin to Secretary of State, 15th August 1873 (Correspondence presented to the Imperial Parliament in March 1874).

“engendered, which would render the *role* of mediator under any circumstances “extremely difficult.” However, like Lord Dufferin in Canada, I in Victoria have averted much mischief and have prevented the adoption of many extreme measures, by what Lord Grey has termed “A judicious use of the influence rather than of the “authority of my office.” As I have shown elsewhere,* the principles upon which I have acted in Victoria are identical with those acted upon in analogous cases by Lord Dufferin in Canada, and by Lord Normanby in New Zealand; principles which received the entire approval of the Imperial Government.†

9. With regard to the opinions which I have formed concerning the proper position and mutual relations of the two Houses of the Victorian Parliament, it will be remembered that my opinions are identical with those placed on record on that subject by the late Lord Canterbury, my able and experienced predecessor in my present office. It will also be recollected that I have steadily followed, during the crisis of 1877–8, the precedents made and the constitutional course pursued by Lord Canterbury during the previous crisis of 1867–8. In acknowledging Lord Canterbury’s Despatch No. 113 of 18th July 1868), reporting the termination of the crisis of 1867–8, the then Secretary of State for the Colonies (the Duke of Buckingham), wrote as follows:—

“I have to express my approval of your firm adherence to your constitutional position through these trying discussions; and I learn with satisfaction the cessation of a state of affairs which has been productive of so much inconvenience in the Colony.”

10. Having pursued exactly the same course and acted on exactly the same principles with my predecessor, I am confident that I shall receive similar personal support. Moreover, I venture to submit that it is of supreme importance, on public grounds, that the people of the Australian Colonies should know that the actions and conduct of successive Governors are not prompted by the personal views or idiosyncrasies of individuals, but that they are guided by a consistent and uniform policy, sanctioned by the authority of the Imperial Government.

I have, &c.
(Signed) G. F. BOWEN.

The Right Hon. Sir M. E. Hicks Beach, Bart., M.P.,
&c. &c. &c.

No. 30.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received June 1, 1878.)

SIR,

Government House, Melbourne, April 15, 1878.

I HAVE the honour to transmit a copy of a memorandum which I felt it to be my duty, now that the Appropriation Bill has become law, to address to ministers respecting the position of those officers of the judicial and civil departments in this Colony whose services were dispensed with in last January owing to the “stoppage of supplies.”‡

2. As the English mail will leave Melbourne to-morrow, I am obliged to defer until next month a report of the final decision of the ministers on this question, which they have taken into earnest consideration.

I have, &c.
(Signed) G. F. BOWEN.

The Right Hon. Sir M. E. Hicks Beach, Bart., M.P.,
&c. &c. &c.

P.S.—April 16th. The ministers have already reinstated all the county court judges who had not been already replaced, also the Crown prosecutors, and nearly all the police magistrates. A few of the latter class of officers have retired or been

* Governor of Victoria to Secretary of State, of 11th April 1878, No. 28 of this Paper.

† Secretary of State to Lord Dufferin, 29th November 1873, and several Despatches to Lord Normanby.

‡ See Governor of Victoria to Secretary of State, No. 10 of 23rd January 1878, No. 16 of 26th January 1878, No. 19 of 26th January 1878, and No. 23 of 4th February 1878, printed as Nos. 30, 34, 37 of Paper 27 of 1878, and No. 3 of this Paper.

superannuated, of course with the compensation provided by law. I am advised that the Colonial Parliament insists on large retrenchments in the overgrown civil service of this Colony; but that every case will be equitably and liberally considered. I annex copies of the "Gazette" published last night. A further report on this subject will be forwarded by the next mail.—G. F. B.

Enclosure 1. in No. 30.

MEMORANDUM FOR MINISTERS.

Now that the Appropriation Act has become law, the Governor feels it to be his duty once more to direct the attention of ministers to the position of those officers of the judicial and civil departments whose services were dispensed with in last January, on the grounds stated in the ministerial memorandum laid before the Governor on the 8th of that month, viz. :—

"Your Excellency's advisers respectfully communicate to your Excellency the decision of the Cabinet to make important reductions in the public service with the view to economise the funds at the disposal of the Government. This course has been adopted to provide to the latest possible moment for the protection of life and property, seriously jeopardised by the rejection of the annual Appropriation Bill by the Legislative Council."

The Governor is aware that this is a question of Colonial concern in which it can hardly be alleged that Imperial interests are involved. Consequently, he would not be justified in interfering with authority. But he earnestly hopes that ministers will deal with this important subject in a spirit not only of equity but also of a wise and politic liberality.

Government Offices, Melbourne,
11th April 1878.

G. F. BOWEN.

Enclosure 2. in No. 30.

SUPPLEMENT to the "VICTORIA GOVERNMENT GAZETTE" of Friday, April 12, 1878.—
Published by Authority.—No. 42. Monday, April 15, 1878.

JUDGES OF COUNTY COURTS.

The Governor, with the advice of the Executive Council, has been pleased to reinstate the under-mentioned gentlemen (formerly judges of county courts under the Act No. 345), viz. :—

Charles Bruce Graeme Skinner, Esq.,
Charles Prendergast Hackett, Esq., and
James Frederick Nolan, Esq.,

to be judges of county courts under the said Act; to commence from this date.

J. M. GRANT,
Minister of Justice.

Crown Law Offices,
Melbourne, 15th April 1878.

CROWN PROSECUTORS.

The Governor, with the advice of the Executive Council, has been pleased to reinstate the under-mentioned gentlemen (formerly prosecutors for the Queen), viz. :—

J. S. Armstrong, Esq.,
J. T. T. Smith, Esq., and
W. S. Garnett, Esq.,

to be prosecutors for the Queen; to commence from this date.

BRYAN O'LOGHLEN,
Attorney-General.

Crown Law Offices,
Melbourne, 15th April 1878.

POLICE MAGISTRATES, ETC.

The Governor, with the advice of the Executive Council, has been pleased to make the following appointments, viz. :—

F. Call, Esq.,
to be a police magistrate of Victoria and a coroner of Victoria, and to act as the first police magistrate, Melbourne, in addition to other duties;

J. A. Panton, Esq., police magistrate, warden of the goldfields, and Coroner of Victoria,
to be also second police magistrate, Melbourne, in addition to other duties.

J. M. GRANT,
Minister of Justice.

Crown Law Offices,
Melbourne, 15th April 1878.

DEPUTY JUDGE OF COUNTY COURTS, ETC.

The Governor, with the advice of the Executive Council, has been pleased to appoint—
James Frederick Nolan, Esq.,
to be a deputy judge of the county courts appointed to be held at Bairnsdale, Omeo, and Sale, on the 20th, 24th, and 16th instant respectively, acting for S. H. Bindon, Esq., the judge of such courts.

Crown Law Offices,
Melbourne, 15th April 1878.

J. M. GRANT,
Minister of Justice.

CHAIRMEN OF GENERAL SESSIONS.

The Governor, with the advice of the Executive Council, has been pleased to reinstate the under-mentioned gentlemen (formerly chairmen of general sessions under the provisions of the Act No. 502), viz. :—

Charles Bruce Graeme Skinner, Esq.,
Charles Prendergast Hackett, Esq., and
James Frederick Nolan, Esq.,

to be chairmen of general sessions under the said Act ; to commence from this date.

Crown Law Offices,
Melbourne, 15th April 1878.

J. M. GRANT,
Minister of Justice.

POLICE MAGISTRATES, ETC.

The Governor, with the advice of the Executive Council, has been pleased to reinstate each and all of the under-mentioned gentlemen (formerly police magistrates, wardens of the goldfields, coroners, &c.), viz. :—

J. H. Alley, Esq.,
C. W. Carr, Esq.,
J. F. Hamilton, Esq.,
T. D. S. Heron, Esq.,
A. W. Howitt, Esq.,
B. Smith, Esq.

C. Shuter, Esq.,
J. G. Taylor, Esq.,
J. C. Thomson, Esq.,
G. Webster, Esq.,
A. Wyatt, Esq.

as police magistrates of Victoria, wardens of the goldfields in and for Victoria, and coroners of Victoria, in addition to any other duties which they may be called upon to perform.

Crown Law Offices,
Melbourne, 15th April 1878.

J. M. GRANT,
Minister of Justice.

No. 31.

The RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR
G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, June 7, 1878.

I HAVE the honour to acknowledge the receipt of your despatch of the 3rd of April,* informing me of the appointment of Sir Bryan O'Loughlen, Bart., to be Attorney-General of Victoria, in the place of Mr. R. Le Poer Trench, appointed Chief Commissioner under the Land Tax Act.

Governor Sir G. F. Bowen,
&c. &c. &c.

I have, &c.,
(Signed) M. E. HICKS BEACH.

No. 32.

The RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR
G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, June 7, 1878.

I HAVE the honour to acknowledge the receipt of your Despatch of the 10th of April,† transmitting for my information copies of the speech with which you prorogued on the previous day the last session of the Parliament of Victoria.

Governor Sir G. F. Bowen,
&c. &c. &c.

I have, &c.
(Signed) M. E. HICKS BEACH.

No. 33.

The RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR
G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, June 7, 1878.

I HAVE the honour to acknowledge the receipt of your Despatches of the numbers and dates noted in the margin* in reference to the termination of the late parliamentary crisis in Victoria.

I have already informed you that I proposed to defer replying fully and definitively with respect to the important questions of principle and practice which have arisen during the late crisis until I should have received the details of the settlement between the Legislative Council and House of Assembly, and should have had an opportunity of consulting the law officers upon the subject.

I will therefore now only express to you the great satisfaction with which I have heard of the termination of the difficulty between the two Houses.

I have, &c.

Governor Sir G. F. Bowen,
&c. &c. &c.

(Signed) M. E. HICKS BEACH.

No. 34.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received July 1, 1878.)

SIR,

Government House, Melbourne, May 8, 1878.

ADVERTING to my Despatch of the 15th April† ultimo, and to its enclosure, I have now the honour to report that on the 24th ultimo I addressed to my ministers the additional memorandum here subjoined.

“ In continuation of his Memorandum of the 11th instant, the Governor wishes to express his great satisfaction at the consent of ministers to the reinstatement of all the county court judges and Crown prosecutors, and of as many of the police magistrates as are deemed necessary, and who have not retired on superannuation or compensation for loss of office as provided for by law.”

“ The Governor is also very glad to know that a considerable number of the officers of the several departments of the Civil Service have been reinstated. He would however urge on ministers to consider whether there should not be a general reinstatement, at least until the end of the financial year (30th June), seeing that the salaries have all been voted and included in the Appropriation Bill up to that date. The Governor is aware that large retrenchments in the Civil Service are called for by the general opinion of the Parliament and of the public ; but he requests ministers to consider whether such retrenchments should not be prospective, and carried out on a systematic plan, and after careful examination of the state and requirements of the several departments. He would also urge the adoption of the English system of competitive examinations, in the place of ministerial patronage, for future admission to the Civil Service.”

2. In reply to the above memorandum, and to that on the same subject forwarded with my Despatch, Ministers have submitted to me a Memorandum, of which I enclose a copy.

3. This Memorandum is signed by Sir Bryan O’Loughlen, the Attorney-General, on behalf of the Premier (Mr Berry) and his other colleagues, and states the principal reasons which in their opinion render impossible a general reinstatement of all the members of the Civil Service of this Colony who were removed from office in last January. There are of course many other reasons affecting the position, the antecedents, and the capacity of individual officials, which have been explained in the numerous discussions which I have held with the ministers on this subject. The departments which are universally admitted to have become much overgrown, are those of the Public Lands, of the Public Works, and of the Government Railways. Careful examination into the real requirements of these departments has been made by

the ministers responsible for their working, and I enclose reports and official documents resulting from those inquiries. In another Despatch* by this mail I have forwarded copies of the Report on the reorganisation of the Department of Public Instruction by the Special Commissioner appointed for that purpose, Mr. C. H. Pearson, formerly Fellow of Oriel College at Oxford, and who, in addition to his high University distinctions, is a scholar and historian of wide reputation, and has had large experience in the practical work of education.

4. It will be recollected that I did not agree with the particular manner in which the ministers, in the exercise of their undoubted constitutional privileges, and on their own responsibility to the Colonial Parliament, decided to carry out the retrenchments rendered necessary by the rejection of the Appropriation Bill. It will also be remembered that at my instance the ministers retraced their steps in cases where the technical legality of their action appeared somewhat doubtful.‡ But I am bound in fairness to state that it has been pointed out here that ministers have kept far within the course described by my predecessor, Lord Canterbury, as the only legitimate consequence of the stoppage of parliamentary supplies; and also far within the course which the Governor of British Guiana was positively instructed by the Imperial Government to pursue under analogous circumstances, for:—

(A.) During the former “deadlock” in Victoria of 1867–8, Lord Canterbury, in a Memorandum§ addressed to the ministers, wrote as follows:—

“It is clearly the duty of a constitutional government to look to parliamentary supplies, whether annual or fixed, and to parliamentary supplies alone, for meeting the liabilities of the Government; and it would be difficult to prove by abstract reasoning that the legitimate consequence, in a constitutional point of view, of the refusal of parliamentary supplies, is not the discontinuance of every service to the maintenance of which those supplies would, if available by the Government, have been applied. Such a conclusion would, under existing circumstances, involve the disbandment of the police, the cessation of discipline and inspection in the prisons and lunatic asylums, the discontinuance of the postal and railway services, and the complete disorganisation of every branch of the public service, excepting those for which provision is made by special Appropriation Acts.”

Again:—

(B.) Attention has been called here to the fact that when, in 1848, one branch of the legislature of British Guiana, under the influence of the planter oligarchy, had “stopped the supplies” in that colony, the Governor was positively instructed by the then Secretary of State (Earl Grey), that “he must strictly confine himself to his legal powers, and that those public services, for which he was refused the means of providing, must be discontinued, even if this involved disbanding the police, shutting up the hospitals, and an interruption of the regular administration of justice.” Earl Grey continued: “For my own part I greatly regretted the certain increase of the difficulties of the colonists, and the great danger to their lives and property which might arise from their refusing to the Government the means of meeting the charges of the civil establishment, including the police; but I did not think that those who were determined to proceed to these extremities ought to be relieved from the consequences of their own conduct. . . . On the contrary, I thought it absolutely necessary that they should be made to feel that we (*i.e.*, the Imperial authorities) would not flinch from the course that we had deliberately adopted, and that they must be prepared to meet the consequences of their own measures, of which the responsibility would rest solely on themselves.”

5. From the above-mentioned facts and precedents, it is argued on behalf of the Victorian ministers that even if, after the rejection of the Appropriation Bill (instead of making large reductions in superfluous offices while they continued without intermission the operation of every department of the public service), they had disbanded the police, opened the gaols, stopped the Government railways, shut up the courts of law, and so had interrupted the administration of justice, they would have done only what Lord Canterbury had declared to be the legitimate consequence of the stoppage of parliamentary supplies; and also what the Imperial authorities had themselves expressly instructed a Colonial Governor to do under circumstances of an analogous nature.

* Not printed.

‡ Paper 27 of 1878, No. 33.

§ On 8th November 1867.

6. So much with regard to the removal of the officials to whom reference has been made. With respect to my proposal that there should be a general reinstatement, after the final passing of the Appropriation Act, it will be seen * that the ministers have consented to the reinstatement of all the county court judges; for I insisted particularly on this point, on the ground that peculiar consideration should be shown to judicial officers of every class, although in Victoria the county court judges (improperly, as I think) hold their commissions only "during pleasure," and have their salaries annually voted on the estimates, and included in the Appropriation Act. The ministers have further consented to the reinstatement of all the Crown prosecutors, of several of the coroners, and of as many of the police magistrates (who will act also as coroners) as are deemed necessary. The consent to some of these reinstatements was reluctant because ministers agree with the general opinion that the administration of justice in this Colony is extravagantly costly; for, as it has been already shown elsewhere,† Victoria, though having only one twenty-fifth of the population of England, spends more than one-sixth of what England spends on its judicial department.

7. It will be moreover perceived from the enclosed Ministerial Memorandum,* that the question of a general reinstatement has been recently brought before the Colonial Parliament, and that the great majority supports the decision of the ministry, viz., that only such officers as are required for the proper working of the civil service shall be restored, while the remainder shall receive the liberal pensions, superannuations, and other compensations for loss of office provided by law.

8. Again, it will be observed that, in consequence of the action taken by a few persons in this community in urging the unconstitutional interference of the Representative of the Crown with the free play of Parliamentary Government, "ministers are impressed with the imperious necessity which exists for maintaining in their integrity the principles which underlie self-government, and therefore respectfully insist that the mode of dealing with the Civil Service of Victoria is purely a matter of Victorian concern; and, consequently, that ministers have the exclusive right of dealing with it on their own responsibility."

9. It cannot, I submit, be denied that there is ample authority for this assertion of ministerial privileges and responsibility. It is in harmony with the general spirit of the instructions of Her Majesty's Government to the Governors of Colonies possessing Parliamentary Government on the English model. Among many similar examples I may quote from the Despatches of the 27th January and 10th March 1862, addressed to myself, while Governor of Queensland, by the late Duke of Newcastle. His Grace wrote:—"The general principle by which the Governor of a Colony possessing responsible government is to be guided is this: that when Imperial interests are concerned, he is to consider himself the guardian of those interests; but in matters of purely local politics, he is bound, except in extreme cases, to follow the advice of a Ministry which appears to possess the confidence of the Legislature." The Duke of Newcastle, moreover, defined the "extreme cases" referred to by him as "such extreme and exceptional circumstances as would warrant a military or naval officer in taking some critical step against or beyond his orders. Like such an officer, the Governor, who took so unusual a course in the absence of instructions from home, would not be necessarily wrong, but he would necessarily act at his own peril. If the question were one in which Imperial interests were concerned, it would be for the Home Government to consider whether his exceptional measure had been right and prudent. If the question were one in which Colonial interests were alone or principally concerned, he would also make himself in a certain sense responsible to the Colonists, who might justify the course he had taken, and even prove their gratitude to him for taking it by supporting him against the ministers whose advice he had rejected; but who, on the other hand, if they perseveringly supported those ministers, might ultimately succeed in making it impossible for him to carry on the Government, and thus, perhaps, necessitate his recall."

10. The Duke of Newcastle added these significant remarks:—"In granting Responsible government to the larger Colonies of Great Britain, the Imperial Government were fully aware that the power they granted must occasionally be used amiss. But they have always trusted that the errors of a free government would cure themselves; and that the Colonists would be led to exert greater energy

* Inclosure No 1.

† Inclosure No. 3.

“and circumspection in legislation and government when they were made to feel that they would not be rescued from the consequences of any imprudence merely affecting themselves by authoritative intervention of the Crown or of the Governor.”

11. It can hardly, I submit, be reasonably contended in any quarter that a matter of such “purely local politics” as the increase or reduction of the Civil Service of Victoria is a question that would justify the Governor in interposing the authority of the Crown against his constitutional ministers and the Colonial Parliament, considering that, in the words of the Duke of Newcastle, “his doing so can only be justified by express instructions from home, or by such extreme or exceptional circumstances as would warrant a military or naval officer in taking some critical step against or beyond his orders.”

12. It will be recollected that the present ministry commands a majority of at least two thirds (or of about sixty (60) out of the eighty-six (86) members) of the Victorian House of Commons, and that it is generally agreed that the results of a dissolution at this time, and on a question of purely local policy like that under consideration, would certainly strengthen the party now in power; render it impossible for the Governor to procure other ministers; and deprive him of the moderating influence which he can exercise under existing circumstances. Assuredly, in the words of Lord Cardwell, “it would not be desirable for the Governor to interfere in any such a manner as to withdraw these matters from their ordinary sphere, and so give to the dispute a character, which did not naturally belong to it, of a conflict between the Assembly of Victoria and the Representative of the Crown.” For such action would, as my predecessor, Lord Canterbury, wrote of an analogous case, “involve the Imperial Government in the conflict, and probably imperil the relations of the Colony with the mother-country.”

13. As I have already shown elsewhere, I have also closely followed the precedents made, under analogous circumstances, by Lord Dufferin in Canada in 1873. He wrote that “the people of Canada will feel that it is for their permanent interest that a Governor General should unflinchingly maintain the principle of ministerial responsibility; and that it is better he should be too tardy in relinquishing this palladium of Colonial liberty than too rash in resorting to acts of personal interference.”

14. It is, indeed, beyond question that such principles, as those laid down by the Duke of Newcastle and the other statesmen to whom I have referred, are the inevitable conditions on which alone the Queen’s Government can be carried on in the more populous and advanced Colonies of the British Empire, and on which alone the existing happy relations between the Imperial and the Australian Governments can be permanently maintained. Australian ministers will remain ready to defer to the Secretary of State or to the Governor in matters in which Imperial interests are involved, provided that their constitutional privileges and responsibility in matters of purely Colonial policy are recognised and respected.

I have, &c.

(Signed) G. F. BOWEN.

The Right Hon. Sir Michael Hicks Beach, Bart., M.P.,

&c.

&c.

&c.

Enclosure 1. in No. 34.

MEMORANDUM FOR HIS EXCELLENCY THE GOVERNOR.

MINISTERS have carefully considered the Governor’s Memorandums of the 11th and 24th* of April, and note the expression of satisfaction at the re-appointment of the county court judges, of the Crown prosecutors, and of as many of the police magistrates as were deemed necessary, as also of several officers of the civil departments of the State.

With regard to a general reinstatement of all the officers whose services were dispensed with during the recent crisis, ministers respectfully state that such a course is not in their opinion advisable.

For years past the civil service has been marked out for very considerable reduction. In 1869 a Royal Commission was appointed, on the recommendation of Sir James McCulloch, to inquire into and report on this subject. For nearly three years that Commission prosecuted its labours, and its exhaustive report awaits legislative sanction.

* For Memo. of 11th April, see Enclosure 1 in No. 30, and for that of 24th April, see No. 34.

During the recent session of Parliament, Mr. Service, the Member for Maldon, brought the question of the then recent removal of the civil servants under the notice of the Assembly by means of a question to the Chief Secretary, and the statement of Mr. Berry, that only such officers as were required would be restored, met with the general and marked approval of a full House. Notwithstanding the exceptionally bitter feeling which prevailed at the time the Opposition did not venture to challenge the proposed action of the Government.

Ministers, therefore feel justified in the course they have adopted, as not only the original action of the Government, but the subsequent statement made by the Chief Secretary in the Assembly of their policy in this respect met a warm approval in that House.

Whilst anxious to afford your Excellency full information with respect to the past and future action of the Government, and readily recognising the strict impartiality of your Excellency and the able manner in which the onerous duties devolving on your Excellency have been performed, ministers earnestly desire to guard against the possibility of seeming to concur in any interference with the due course of responsible government; for they are aware how very persistently the opposite course of such interference is advocated by the very party that has vindictively assailed your Excellency for your constitutional non-interference, and that has been in itself, by its obstinate assertion of unconstitutional powers the very source of our late political troubles.

Ministers are consequently impressed with the imperious necessity which exists for maintaining in their integrity the principles which underlie self-government, and therefore respectfully insist that the mode of dealing with the Civil Service of Victoria is purely a matter of Victorian concern, and consequently that ministers have the exclusive right of dealing with it on their own responsibility.

Your Excellency is also without doubt already aware that the Public Service Act of Victoria, 25 Vict. No. 160, passed in 1862, provides on a liberal scale pensions and compensations for all officers whose services may be dispensed with either on account of age or for changes in a department, so that the course adopted of dispensing with such officers has been always in the contemplation of Parliament, as one to be followed whenever the exigencies of the public service require it. Such exigency has now arisen, for the opportunity and the time have come, in the judgment of ministers, when the re-organization of several departments, with a view to retrenchment combined with a greater efficiency of the public service, can be started in accordance with the oft-repeated and urgent demands of public opinion.

6th May 1878.

(Signed) BRYAN O'LOGHLEN,
For the Chief Secretary.

Enclosure 2. in No. 34.

REPORT TO THE HON. THE MINISTER OF LANDS AND AGRICULTURE.

IN compliance with the terms of your Minute of the 3rd inst., herewith I have the honour to attach two lists, showing the names of the officers in the Lands Department whose services were dispensed with on the 8th January last, the length of service of each in the department, the amount of salary payable to each when relieved, and the amount of pension or retiring allowance they were severally entitled to at that time. The two lists referred to are made out with the object of showing the number of classified officers as distinguished from the supernumeraries. The total number of classified officers included in the list is 21, two of whom have been reinstated, viz., Mr. J. A. Levey and Mr. J. Thomas. Eleven of these officers did duty in the Melbourne office, and ten in the country district offices. Of the 36 officers (supernumerary) dispensed with, 27 were attached to the Melbourne office and nine to the district offices. In reporting on the present state of the work in the department it will be convenient to divide my remarks under two heads:—1st, as regards the head office; 2nd, as to the district offices.

I. HEAD OFFICE.

Leaving open the question of the reinstatement of the permanent head of the department, I have to report generally that the work has been carried on satisfactorily by the reduced staff, so far as regards the classified officers by the redistribution and amalgamation of duties among the officers retained, with one exception, viz., the photographic branch, where the work suffers from the absence of Mr. J. Noone, and this will presently be more severely felt when the additional apparatus recently ordered for the use of this department is to hand. The reinstatement of this officer I would recommend for the favourable consideration of the minister. As regards the supernumerary clerical staff at head-quarters, the work has been so arranged that it will not be necessary to reinstate any of the gentlemen whose services have been dispensed with. Some little assistance is still required, but that can be obtained by the employment of smart youths at salaries to range from 40*l.* to 60*l.* per annum, the duties being such as not to warrant a higher remuneration. With regard to the supernumeraries engaged in professional work, I would recommend that the following gentlemen be reinstated, viz., Messrs. W. K. Andrews, L. Hall, and P. C. Matthews, to be attached to the compilation and computation branch; the two former gentlemen having superior qualifications for the conduct of the work, and the latter to fill a vacancy caused by a recent dismissal, as having at the same time claims on the department on account of injuries received in the service. I would also bring forward for the favourable consideration of the

minister the re-appointment of Mr. William Slight, engraver, who has so ably engraved the large map of Victoria, and supervised the completion of the smaller Victoria, which embraces the adjacent portions of the Colonies of New South Wales, South Australia, and Tasmania. Mr. Slight has been recently engaged on the engraving of a large map of the continent of Australia; three of the quarter sheets are completed, and considerable progress made with the fourth. The want of a good general map of Australia is felt throughout the Colonies. This will be met by the publication of the map in question, for the details of which the Survey Departments of the adjacent Colonies have afforded willing aid and valuable material.

II.—DISTRICT OFFICES.

The reduction in the numerical strength at the district offices was confined to the superior officers, of whom nine were classified and six unclassified. The loss of these officers has caused inconvenience, as in many instances the officer next in seniority at the district office had neither the official experience nor professional ability to fill the vacancy occasioned by the removal of his superior officer. Of the classified officers hitherto in charge of districts, one (Mr. P. Chauncy), having arrived at the age of 60, has retired from the service, after a service of upwards of 24 years, on a pension of 194*l.* per annum, and another (Mr. L. Clarke), who will attain the age of 60 within a few months (5), asked for reinstatement for that period only, with the view of then claiming a retiring pension; his period of service would then embrace 30 years. Mr. W. G. Sturgess, another classified officer, hitherto in charge of a district now abolished, will attain the age of 60 within a year and a half. When dispensed with he had served the Government for a period of 19½ years. Recently a joint report from the Inspector-General of Surveys and myself was submitted, suggesting the division of the Colony into five districts, in each of which the survey operations would be supervised by a district surveyor, who would exercise a general control over the officers engaged in the field and at the survey offices established within his particular district. To carry out this suggestion it would be necessary to re-appoint four out of the classified officers last mentioned, whose comparative value to the department has been before set out, while the fifth position would be occupied by an officer still borne on the strength of the department. The facilities afforded by the national system of railways for rapid locomotion from one extreme of the Colony to another justify me in making the suggestion that the number of district surveyors should be permanently reduced to the above standard. Some weak points, however, would still remain in the administration at the district offices where selection is prevalent, as, for instance, in the proposed combined district of Stawell and Ararat, Beechworth district, and the proposed combined districts of Warrnambool and Camperdown, where a Treasury officer, as at present arranged, would not be able to discharge the duties of the enlarged district. I would therefore suggest that three of the unclassified district surveyors recently dispensed with be re-appointed as administrative officers.

The total number of officers in the Lands Department whose services were dispensed with in January last was 57. Up to the present date there have been reinstated six, two being classified and four unclassified. In this report it is suggested that there be reinstated 12, five being classified and seven unclassified. Net balance dispensed with, 39, of whom 15 are classified and 24 unclassified.

Mr. Andrew Robertson, lately chief draftsman, second class officer, has served 23½ years, and is urging a claim for a pension in lieu of a retiring allowance, on the ground of permanent injury to his health, caused by over-close application to his duties. If a pension be accorded it would amount to 230*l.* per annum, while his retiring allowance would be represented by a gross payment of 1,181*l.* 9*s.* Mr. Charles Cubley, an unclassified officer of 16 years' service, is unable to resume duty through almost total loss of sight, brought on by the nature of his duties. He also prefers a claim to a pension in lieu of a retiring allowance. In his case the amount of pension would be 71*l.* 6*s.* 8*d.* per annum, and his retiring allowance a gross sum of 357*l.* 2*s.* 10*d.*

April 14, 1878.

(Signed) A. J. SKENE.

Enclosure 3. in No. 34.

MEMORANDUM for the HON. THE MINISTER OF PUBLIC WORKS.

In accordance with your instructions that I should furnish a report on the question as to whether the officers at present in this department are sufficient for carrying on the usual work thereof, and that I should also obtain the opinions of the officers in charge of the respective branches on the same subject, I beg to state that the attached reports from Mr. Barrett on the professional and in-door branch, Messrs. W. and P. Finlay on the inspecting branch, Mr. Davidson on the engineering branch of the Yan Yean, and Mr. Brookhouse on the quantity surveyors' branch, are all to the effect that for the ordinary work of the department the present staff is, and has been found from the experience of the last three months, to be sufficient, and in this view I concur. It may and will happen that, owing to larger or more amounts being voted for works, or from contracts having to be entered into or completed within a limited time, it will occasionally become necessary to employ both professional men and inspectors temporarily; and the same would apply should further assistance be required from this department for the defences. In the case of the information that is required to be obtained in order to enable Sir John Coode to make his reports, special and temporary professional assistance will be required to supplement the present staff.

April 8, 1878

(Signed) W. H. STEEL.

PUBLIC WORKS DEPARTMENT.—PROFESSIONAL BRANCH.

List of all officers whose services have been dispensed with :—

Name and Office.	Yearly Salary.			Amount of Compensation.		
	£	s.	d.	£	s.	d.
W. W. Wardell, Inspector-General of Public Works	1,200	0	0	1,886	17	11
S. H. Merrett, chief assistant architect and engineer	600	0	0	1,080	5	3
A. T. Snow, assistant architect	566	13	4	1,034	7	7
J. J. Clark, assistant architect	566	13	4	1,181	11	1
H. Mosely, engineering surveyor, &c.	566	13	4	951	6	11
Jas. H. Fox, measuring and quantities surveyor &c.	600	0	0	219	13	4
A. C. Todd, travelling superintending inspector of works	600	0	0	961	15	1
Hy. Topping, inspector of works	300	0	0	410	15	2
Geo. O'Connor, inspector of works	300	0	0	415	9	5
Thos. H. Williams, inspector of works	300	0	0	394	7	3
Jas. Martin, inspector of works	300	0	0	231	13	2
Leonard Carr, inspector of works	300	0	0	202	7	1
Wm. Gordon, inspector of works	300	0	0	245	2	4
Wm. Oxenham, clerk	150	0	0	Nil.		
Thos. Elliott, draftsman	273	0	0	Nil.		
John K. Terry, draftsman	208	0	0	Nil.		
John Gray, inspector of works (temporary)	260	0	0	Nil.		
Wm. Anderson, inspector of works (temporary)	260	0	0	Nil.		
Joseph Reilly, inspector of works (temporary)	260	0	0	Nil.		
John Hutton, inspector of works (temporary)	260	0	0	Nil.		
Arch. Deans, inspector of works (temporary)	260	0	0	Nil.		
Geo. Ravenscroft, inspector of works (temporary)	260	0	0	Nil.		
Hugh Kneen, inspector of works (temporary)	260	0	0	Nil.		
Danl. McPherson, inspector of works (temporary)	260	0	0	Nil.		
*C. J. Taylor, superintending engineer Melbourne Water Supply	650	0	0	Nil.		
*Chas. Rowand, engineer of roads and bridges	675	0	0	Nil.		
Totals	10,536	0	0	9,215	11	7
Administrative branch	1,585	0	0			
Total annual saving	12,121	0	0			

* Unless specially sanctioned by Parliament.

Department of Public Works,
Melbourne, April 4, 1878.

By direction of the Hon. the Minister of Public Works, Mr. Barrett will be so good as, after consulting with Mr. Kerr and other senior officers, to report as to whether he considers the present officers in the professional and indoor branch sufficient to carry on the ordinary and average work of the department, it being understood that in the event of a press of work additional assistance will be temporarily employed.

(Signed) W. H. STEEL.

April 5, 1878.

AFTER three months' trial I am of opinion that the present staff is sufficient to carry on the ordinary and average work of the department. In case of a press of work, or in the event of its being decided to press forward with greater rapidity the Houses of Parliament and new law courts than at present, additional temporary assistance will be required for the time being. Mr. Kerr and the other officers I have consulted concur in this view.

(Signed) CHARLES BARRETT.

Department of Public Works,
Melbourne, April 4, 1878.

By direction of the Hon. the Minister of Public Works, Messrs. W. and P. Finlay will be so good as to report upon the following questions: 1st. Whether, as travelling superintending officers, they are able to undertake the superintendence of the public works carried on by this department? 2nd. Whether the present inspectors of works under their charge, both staff and temporary, are sufficient to carry on the average work of the department, it being understood that, in the event of a press of work, additional assistance be temporarily employed?

(Signed) W. H. STEEL,
Acting Inspector-General of Public Works, &c.Department of Public Works,
Melbourne, April 5, 1878.

SIR,

REFERRING to the annexed questions, to which answers are required by the Hon. the Minister: 1st. "Whether as travelling superintending officers we are able to undertake the superintendence of the public works carried on by the department," we beg respectfully to reply that we are perfectly able to supervise all the works usually carried out by our branch of the

department. Our experience of the duties without the present facilities for travelling, and now with those facilities, enable us to state that we can do so with equal efficiency to that of any previous period. 2nd. "Whether the present inspectors of works under our charge, both staff and temporary, are sufficient to carry on the average work of the department, it being understood that in the event of a press of work additional assistance will be temporarily employed," we answer that by arranging and classifying the duties of the inspectors, the present staff is sufficient for ordinary purposes, additional inspectors being obtained during a press of work, but of whose competency in every respect we would be fully satisfied.

We have, &c.,
(Signed) WILLIAM FINLAY.
PETER FINLAY.

Department of Public Works,
Melbourne, April 4, 1878.

By direction of the Hon. the Minister of Public Works, will Mr. Davidson be so good as report whether he considers the present officers in the engineering branch of the Yan Yean Water Supply sufficient for carrying out the average work of that branch. It being understood that in the event of a press of work additional assistance will be temporarily employed.

(Signed) W. H. STEEL,
Acting Chief Engineer of Water Supply.

April 4.

THE present staff of the engineering branch is sufficient to carry on the routine work of the department. In the event of large survey or new constructions being undertaken, temporary assistance of a professional nature would be required.

(Signed) WM. DAVIDSON,
Acting Chief Engineer of Water Supply.

Department of Public Works,
Melbourne, April 4, 1878.

By direction of the Hon. the Minister of Public Works, Mr. Brookhouse will be so good as report as to whether he considers the present officers in the quantity surveyors' branch (exclusive of the two lately temporarily taken on) sufficient for carrying on the ordinary work of that branch. It being understood that in the event of a press of work additional assistance will be temporarily employed.

(Signed) W. H. STEEL.

With respect to above, I have the honour to report that the present staff is quite sufficient for carrying on the ordinary work of this branch.

(Signed) H. B. BROOKHOUSE,
Acting Quantity Surveyor.

Department of Public Works,
Melbourne, April 6, 1878.

Memo. for the Hon. the Commissioner of Public Works.

ADMINISTRATIVE BRANCH.—YAN YEAN.

List of officers whose services have been dispensed with since 8th January 1878 :—

Name and Office.	Annual Salary.	Compensation.
Alexander Galt, secretary - -	£700	£280 per ann.
William Stokes, clerk - -	485	£1,008 os. 10d. paid.
Sydney Moore, clerk - -	275	Nil.
Michael Casey, clerk - -	125	Nil.
	£1,585	

With reference to the present staff of the administrative branch, I may state that as a permanent staff it is sufficient for all requirements. The offices of the public works, water supply, and road and bridges being now concentrated, any press of business of a temporary nature in one branch can be met by assistance from another, and I do not anticipate any difficulty in carrying on the work efficiently with the present staff.

(Signed) C. LE CREN,
Secretary.

Enclosure 4. in No. 34.

REPORTS FROM THE RAILWAY DEPARTMENTS.

REPORTS have been furnished to the Minister of Railways from the heads of the three main branches of the Victorian railways—engineering, traffic, and accountant's branches—relative to the working of the departments since the reductions were made. It will be seen from the reports below that the outcome is satisfactory in every respect. The total reductions made amount to 20,614*l.* 2*s.* 1*d.* From this will have to be deducted, on account of re-appointments and superannuations, 4,297*l.* 16*s.* 2*d.*, leaving a net saving of 16,316*l.* 5*s.* 11*d.*

Mr. Watson, acting engineer-in-chief, reports under date 15th April, 1878, as follows:—
 “The efficiency of the Engineer-in-Chief's office has not been impaired, nor has the business been injuriously delayed by the reductions. A very great reduction in labour has been effected by adopting a uniform system in the preparation of contracts, the specifications, drawings, and schedules all being alike as far as circumstances will admit. A readjustment of inspectors' districts has supplied a sufficient number for the new lines. Mr. R. G. Ford can give fuller particulars if required. I do not think any re-appointment or new officers required at present. Wilkinson, Roberts, McDonald, Hill, Kerr, Luttie, Grant, and Benyon are employed.”

(Signed) ROBT. WATSON,
Acting Engineer-in-Chief.

MEMO. for the HON. the COMMISSIONER.

Victorian Railways, Traffic Manager's Office,
Melbourne, April 15, 1878.

I HAVE the honour to acknowledge receipt of your memo. of the 13th inst., and in reply thereto beg to state:—1st. That the efficiency of this branch of the service has not been impaired by the late reductions. 2nd. The names of the individuals dispensed with are as follows:—Mr. A. P. Mattieson, traffic manager; Mr. J. O'Malley, as inspector of staff and stations; Mr. P. J. Kirwan, as inspector of staff and stations; Mr. G. F. Dennis, piermaster; Mr. F. Johnston and Mr. C. S. Gill, superannuated; and Messrs. Hall, Jones, Rodin, Wright, Warren, Graham, McAlister, Kirk, Stalker, Hayes, and Cutten, temporary clerks. Beginning with the latter, I hope that as business revives all of them may be re-employed in their former positions. In reference to the piermaster, I have to report that, owing to the re-arrangement of the duties here, his absence has not been felt. In regard to the inspectors, I am of opinion that it would be to the interest of the department to again employ at least one of these officers. I trust the Commissioner will excuse me from making any reference to the late traffic manager.

(Signed) JOHN ANDERSON,
Acting Traffic Manager.

Railways Department, Accountant's Branch.

Office, Spencer Street, Melbourne,
April 15, 1878.

MEMO.

THE reductions made in this branch of the department, so far as the accountant's is concerned, have been attended with increased efficiency as well as economy. The new system of dealing with the stores has been attended with even greater success than I anticipated, and the changes latterly made in the engineering branch will admit of still further improving the working, both Messrs. Ford and Lunt having expressed their intention to assist in carrying out the regulations, and putting an end to the last of the duplicate work in connexion with the same which still obtains in that branch. The supply of stores, wherever wanted, is now generally marked by promptness instead of lengthened delay, and contractors' accounts are settled quickly and to their satisfaction. At the time of the change the stores staff consisted of one storekeeper, nine clerks, and seventeen storemen, at a cost per annum of 4,039*l.* 17*s.* 10*d.* The present staff consists of seven clerks and five storemen, at a cost of 1,779*l.* 5*s.* As soon as the new store is fitted up (now in progress) this will be further reduced by about 350*l.*, as two storemen now employed will not be required. Referring to the paying of the staff, this work prior to the late reductions occupied from ten to twelve days. It is now done in four, and with one clerk less. The general result, so far as the accounts are concerned, has therefore been increased efficiency, economy, and despatch of business, and I have had no complaints of overwork.

(Signed) GEO. T. A. LAVATER,
Accountant.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received July 1, 1878.)

Government House, Melbourne,
May 14, 1878.

SIR,

In pursuance of the Colonial regulations, and at the instance of Mr. Gaunt, late police magistrate at Ballarat, I have the honour to forward herewith the enclosed petition addressed by that gentleman to Her Majesty the Queen.

I annex also a Memorandum on this case by the Honourable J. M. Grant, Minister of Justice.

2. Mr. Gaunt is one of the Civil officers of this Colony, whose services were dispensed with by the responsible ministers, in consequence of the reductions rendered necessary, in their opinion, by the reduction of the Appropriation Bill, and the "stoppage of supplies."

3. My personal opinion on this question has been stated on several occasions, and especially in the Despatches marked in the margin.* But it will be remembered that ministers claim the constitutional right to decide, upon their own responsibility to the Colonial Parliament, this and all other matters of purely Colonial policy. In their Memorandum of the 6th May ultimo they wrote as follows :—

"Ministers are impressed with the imperious necessity which exists for maintaining in their integrity the principles which underlie self-government, and, therefore, respectfully insist that the mode of dealing with the Civil Service of Victoria is purely a matter of Victorian concern; and consequently, that ministers have the exclusive right of dealing with it on their own responsibility."

4. It need scarcely be said that no reflection whatever has been cast on Mr. Gaunt nor on the other officers whose services have been dispensed with solely on the above-mentioned ground. Mr. Gaunt is a barrister-at-law; and I am informed that he has resumed the practice of his profession. The First Minister (Mr. Berry) has publicly stated that those officers who were formerly in the service will be preferred for re-appointment as future vacancies may occur.

I have, &c.

The Right Hon. Sir M. E. Hicks Beach, Bart.,
&c. &c. &c.

(Signed) G. F. BOWEN.

Enclosure 1. in No. 35.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

MOST GRACIOUS SOVEREIGN,

The Petition of William Henry Gaunt, of Ballarat, in the Colony of Victoria, Barrister-at-Law, a loyal subject of your Majesty,

MOST HUMBLY SHOWETH,

That your Petitioner arrived in the Colony of Victoria on the 23rd day of June 1853, and on the 6th day of July following, on the invitation of his Excellency Charles Joseph Latrobe, Esquire, then Lieutenant-Governor of the Colony, your Petitioner entered the Colonial Civil Service of Your Majesty,

That your petitioner was shortly afterwards ordered to proceed to the Ovens Gold Field, and has from the said 6th day of July 1853 to the 8th day of January 1878, as recorded in the Colonial Office List, 1877, page 336, been actively and continuously employed in Your Majesty's service, having performed duty as from time to time directed on all the gold fields of the Colony.

That your petitioner has during the period mentioned, closely approaching to a quarter of a century, performed his duties with fidelity and zeal, and has repeatedly received the thanks of the successive Governments of Your Majesty for the manner in which those duties have been performed; while on no occasion has the efficiency of your petitioner been questioned, or his conduct, official or private, been made the subject of inquiry or censure.

That your petitioner in the discharge of his duties during the earlier days of the gold fields discoveries, underwent much exposure and many hardships, by which his health was affected, and that irrespective of this your petitioner has devoted all the best years of his life, videlicet, from 23 to 48 years of age to Your Majesty's service.

That your petitioner is at the present time in full enjoyment of his health, strength and faculties, and had the opportunity been afforded to him might have been enabled efficiently to perform the functions of his office for many years to come.

That your petitioner is married and has a family of seven children dependent upon your petitioner for maintenance and education, one of your petitioner's sons being now in the service of Your Majesty as a naval cadet on board H.M.S. "Britannia" at Dartmouth.

That on the 8th day of January 1878 your petitioner was in the full discharge of his duties as a police magistrate, warden for the gold fields, and coroner in and for the Colony within the district of Ballarat, where your petitioner had been stationed for a period of nine years.

That on the 9th day of January your petitioner having travelled a distance of 12 miles proceeded to take his seat on the Creswick bench, when your petitioner was informed for the first time by a practitioner in the court that your petitioner, in common with his colleagues, had been dismissed from Your Majesty's service.

That your petitioner on his return to Ballarat received a letter, of which the following is a true copy:—

SIR,

Crown Law Offices, Melbourne, January 8, 1878.

I am directed by the Minister of Justice to inform you that your services have been dispensed with by His Excellency the Governor in Council from and after this date.

I have, &c.

(Signed) B. C. HARRIMAN,
Secretary to Law Department.

W. H. Gaunt, Esq.,
Police Magistrate, Ballarat.

That your petitioner received his pay and allowances up to the 8th day of January last, but that no further communication of any kind has been made to him.

That your petitioner has seen by the public prints that on the 24th day of January the Order in Council of the 8th of January dismissing all the police magistrates was cancelled, and a second order dismissing all the police magistrates, with the exception of three, was issued, but no intimation of this was conveyed to your petitioner.

That of the three police magistrates retained, one was no less than 19 years the junior of your petitioner in the service.

That on the 16th day of April last, 14 of the dismissed police magistrates were re-appointed to their offices, all of whom, with one or two exceptions, were junior in the service to your petitioner.

That your petitioner while in Your Majesty's service has had many proposals made to him, both in this and other Colonies, calculated to improve your petitioner's position, but your petitioner in reliance upon the good faith and honour of the Crown, and the fact that on attaining the age of 60 years your petitioner would be entitled to a pension amounting to over 400*l.* per annum, elected to remain in Your Majesty's service in the Colony of Victoria.

That your petitioner by the acts of Your Majesty's Government above detailed has been deprived of the pension, 260*l.* per annum, accruing to him from his 25 years' service, and that the compensation for loss of office payable to your petitioner is only 1,300*l.*, or about 65*l.* per annum.

That your petitioner has suffered great and irreparable loss by his dismissal without cause, and at a moment's notice your petitioner's home has been broken up, and your petitioner compelled when nearly 50 years of age to commence life anew.

Your petitioner therefore most humbly prays that Your most Gracious Majesty will be pleased to afford your petitioner such relief herein as to Your Majesty may seem fit.

And your petitioner will ever pray, &c.

Ballarat, Victoria, May 6, 1878.

(Signed) WILLIAM H. GAUNT.

Enclosure 2. in No. 35.

MEMORANDUM for His Excellency the GOVERNOR.

Mr. Gaunt was an officer included in the second schedule to the Civil Service Act (No. 160, section 50), and was under the control of this department.

It was found necessary to reduce the number of such officers in this department (s. 27 of the Act), and in consequence of this necessity the services of Mr. Gaunt and others were dispensed with, as notified in the *Gazette* notices herewith enclosed; those officers were not dismissed.

The compensation provided for such a contingency is specified in s. 16 of the Act, and it is not in the power of the Government to do anything more for Mr. Gaunt as his case is not one which comes within the special provisions of section 49 of the Act. This compensation has not been applied for by Mr. Gaunt, as others have done, but it is payable on application.

I have, &c.

(Signed) J. M. GRANT,
Minister of Justice.

Department of Justice,
Melbourne, 13th May 1878.

DEPARTMENT OF MINISTER OF JUSTICE.

The Governor, with the advice of the Executive Council, has, in pursuance of the powers conferred by the 16th and 27th sections of the Civil Service Act (No. 160), dispensed with the services of each and every person now holding the office of police magistrate or police magistrate and warden, &c.

Crown Law Offices,
Melbourne, 8th January 1878.

(Signed) J. M. GRANT,
Minister of Justice.

POLICE MAGISTRATES, WARDENS, AND CORONERS.

The Governor, with the advice of the Executive Council, has directed that the Order in Council, dated the 8th instant, dispensing with the services of each and every person holding the office of police magistrate or police magistrate and warden, &c. be cancelled.

Crown Law Offices,
Melbourne, 24th January 1878.

(Signed) ROBERT LE POER TRENCH,
For the Minister of Justice.

POLICE MAGISTRATES, WARDENS, AND CORONERS.

The Governor, with the advice of the Executive Council, has, under the provisions of the Civil Service Act (No. 160), dispensed with the services of the under-mentioned persons holding the offices of police magistrates, wardens, and coroners, &c. :—

- | | |
|---------------------------------|----------------------------------|
| 1. A. P. Akehurst, Horsham. | 18. F. K. Orme, Dunolly. |
| 2. J. H. Alley, Palmerston. | 20. C. A. D. Pasco, Alexandra. |
| 3. W. Butler, Wangaratta. | 21. R. Pitcairn, Beechworth. |
| 4. F. Call, Melbourne. | 22. F. H. Puckle, Mortlake. |
| 5. C. W. Carr, Avoca. | 23. W. L. Richardson, Wentworth. |
| 6. J. Cogdon, Sandhurst. | 24. C. Shuter, Blackwood. |
| 7. C. C. Dowling, Clunes. | 25. B. Smith, Smythesdale. |
| 9. W. H. Gaunt, Ballarat. | 26. C. E. Strutt, Heidelberg. |
| 10. J. P. Hamilton, Hamilton. | 27. E. P. S. Sturt, Melbourne. |
| 11. T. D. S. Heron. | 28. J. G. Taylor, Castlemaine. |
| 13. A. W. Howitt, Bairnsdale. | 29. W. Templeton, Brighton. |
| 14. H. B. Lane, Belfast. | 30. J. C. Tomson, Kyneton. |
| 15. Geo. Langford, Echuca. | 31. G. Webster, Ararat. |
| 16. C. Mollison, Williamstown. | 32. A. Wyatt, Murchison. |
| 17. J. C. H. Ogier, St. Arnaud. | |

Crown Law Offices,
Melbourne, 24th January 1878.

ROBERT LE POER TRENCH,
For the Minister of Justice.

No. 36.

The RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, July 5, 1878.

I HAVE the honour to acknowledge the receipt of your Despatch of the 23rd March,* in which you transmit a Memorandum submitted to you by the Chief Secretary on behalf of the Colonial Government.

2. The object of this Memorandum you observe is virtually to protest against the theory that the Governor of a Colony possessing parliamentary government would be justified in matters of purely local concern in declining to follow the advice of his responsible ministers, including the law officers of the Crown, or that he would, if not satisfied with the legality of any action recommended, be justified in having recourse to any other legal advice, except that of the law officers.

3. The relations of a Governor with his responsible ministers in regard to local questions have been very fully discussed and clearly defined in former correspondence between my predecessors in this department and the Governors of Victoria and New South Wales, and it will be sufficient for me to explain briefly how, consistently with the instructions already laid down on this subject, I am of opinion that the two questions raised in the Memorandum should be answered.

4. In my telegram of the 22nd February* I informed you that your duty in the circumstances then described to me was clear, namely to act in accordance with the advice of your ministers, provided that you were satisfied that the action advised was lawful; that if not so satisfied you should take your stand on the law, and that if in doubt as to the law you should have recourse to the legal advice at your command.

5. I thus recognized on the one hand the general obligation of a Governor to follow the advice of his ministers in local matters, and on the other hand the necessity of special care on his part, as the representative of the Crown, to avoid any illegal act, and the responsibility, which under particular circumstances, may be thrown upon him to determine whether an act is or is not illegal.

6. It is not to be presumed that the Colonial Ministers will in the absence of a pressing emergency, or even then without carefully setting forth their reasons and explanations, advise a Governor to perform an act which they admit to be contrary to law, or not yet authorised by law. If, however, they think that there are grounds for tendering such advice, they will do so under the obligation of obtaining, in so far as they are themselves concerned, the subsequent approval of Parliament, with an indemnity should the circumstances appear to require it.

7. But it is not possible in the same manner, or to the same extent, to cover by the *ex post facto* sanction of the local parliament the action of a Governor who under ministerial advice has acted in a manner unauthorised by or contrary to the law. There are also cases in which the Governor has positive duties to perform which are prescribed by law, and which are not matters of policy or of opinion. The Constitution of Victoria specifies the Governor as the person by whom certain acts necessary for keeping in motion the administrative machinery of the country shall be done, and his responsibility in regard of such acts cannot entirely be borne by the ministers nor by the local parliament. For anything which he may do or decline to do the Governor is accountable to the Sovereign whom he represents, and not directly to the community over which he is appointed to preside, and if Her Majesty's Government should require him to show that his acts have been lawful, or if not in conformity with any law have been necessary to meet a pressing emergency, this would afford no ground for saying that the responsibility of the Colonial ministers in local matters has been in any degree interfered with.

8. It is therefore obvious that cases may arise in which it may become the duty of the Governor to consider and satisfy himself whether the act which he is invited to perform is lawful, and you are already aware that in my opinion if the Governor doubts in any particular case whether the view taken by the Colonial ministers is correct, and whether he can act on their view, consistently with his responsibility to the Crown, he should require from the Colonial law officers for the time being, in aid of his own judgment, a written statement, made not in their capacity of political advisers, but as the authorized exponents of the law, certifying that no infraction of the law is involved in the advice tendered to him.

9. I am of opinion that as a general rule a Governor would be justified in accepting and acting upon such a statement as a correct interpretation of the law, though it is possible to suppose a case in which his own individual judgment may lead him to a conclusion so clearly and distinctly opposed to it, that his responsibility to the Crown may require him to delay acting on the advice of his ministers, even when supported by legal opinions thus formally and authoritatively given. But the responsibility for such action must be his own, and from whatever materials his opinion may have been formed his justification must not be based on the advice of other judicial or legal authorities such as those referred to in your Despatch. But on the other hand it may of course be that the law officers cannot certify to the legality of an act which may nevertheless be pressed upon the Governor as urgently necessary, and in such a case it becomes a serious question for the Governor's individual judgment (a judgment in forming which he cannot however shelter himself from responsibility behind advice obtained from outside his ministry) whether the emergency is of that grave and urgent character which alone could justify him in consenting to perform the act advised, or whether he should inform his ministers that he must decline to do so even at the cost of having to accept their resignation of office.

10. I believe that I have now answered, as completely as the nature of the case admits, the two questions raised in your Despatch, and in doing so I have, as far as possible, treated them rather as abstract questions than with special reference to the difficulties which have lately occurred in Victoria.

I have, &c.
(Signed) M. E. HICKS BEACH.

Governor Sir G. F. Bowen, G.C.M.G.,
Victoria.

No. 37.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received July 8, 1878.)

Government House, Melbourne,
May 20, 1878.

SIR,

At the request of my responsible advisers, I have the honour to transmit herewith and to request attention to the enclosed Ministerial Memorandum, concerning certain telegrams from private individuals published in the official "correspondence" respecting differences which have arisen on certain constitutional points between the "two Houses of the Legislature of Victoria, presented to both Houses of Parliament" by command of Her Majesty on 14th March 1878.

I have, &c.
(Signed) G. F. BOWEN.

The Right Hon. Sir M. E. Hicks Beach, Bart., M.P.,
&c. &c. &c.

Enclosure in No. 37.

MEMORANDUM for His Excellency the GOVERNOR.

Ministers request your Excellency's attention to the publication amongst the "correspondence" respecting differences which have arisen on certain constitutional points between the two Houses of "the Legislature of Victoria," "presented to both Houses of Parliament by command of Her Majesty, "March 14th, 1878," of telegrams and letters from private individuals, addressed to the Secretary of State for the Colonies. Ministers would respectfully point out to your Excellency the grave impolicy of initiating such a new and dangerous course in thus giving a quasi official *imprimatur* the same status in the eyes of the Imperial Parliament, and of the outside public, to such communications as is therein given to State papers from the representative of the Queen, from responsible ministers, from the Legislative Assembly, from the Legislative Council, and from other public bodies.

Thus a fictitious importance is given to documents which ought in themselves to be disregarded. If such a course is persevered in, ministers cannot but foresee that the Secretary of State for the Colonies will be made the medium of publishing in England distorted versions of current events here by aspirants for notice in the next Blue Book, and this to the great detriment of this Colony.

One instance occurs (in page 16 of Paper 27 of 1878) of an hysterical telegram, dated January 10th, 1878, from "Adamson to Earl of Carnarvon." Mr. Adamson is a barrister in no practice, but holds office as Circuit Crown Prosecutor. This gentleman is a well-known partisan of the Legislative Council, and also, being interested in pastoral pursuits, sympathises with the opposition against the present Government. When, therefore, Ministers bring under the notice of your Excellency that in this telegram Mr. Adamson categorically demands of Lord Carnarvon to "stop anarchy"—a state of affairs that never had any existence here except in Mr. Adamson's excited brain, enough has been said to show that this private partisan telegram ought never to have appeared in this "Correspondence" as a quasi State paper.

A second instance is the letter of Messrs. Dalgety, Du Croz, and Co., dated 7th February 1878, (page 31 of Paper 27 of 1878), who, writing under some strange misapprehension of their Melbourne partner's conduct, mislead the Secretary of State by the following grave mis-statement: "as we carefully abstain in all our Colonial branches from entering the sphere of politics, and we feel convinced that our Melbourne partners would not have sent us the telegram," &c., &c.

Now the facts are that Mr. Blackwood, of Dalgety, Blackwood, and Co., Melbourne, and Mr. Ibbetson, of Dalgety, Ibbetson, and Co., Geelong, are both declared and open political opponents of the Ministry.

Mr. Blackwood, who till last year was president of a league opposed to the policy of Ministers, early in this year—in January and February—has had on the firm's premises, upon at least two occasions, previous to the election for West Melbourne, and about the dates of the telegrams annexed to letter of 7th February, semi-private political meetings, at which he himself was present, of 30 persons

and more including leading members of the Council party, for the purpose of supporting the candidature of Mr. Francis, the opposition candidate against Sir Bryan O'Loughlen, the Government candidate, and now Attorney-General for Victoria.

As for Mr. Ibbetson, in Geelong, he has been in the habit of having opposition newspapers posted up in the windows and on the doors of his office whenever anything peculiarly offensive was printed in reference to ministers.

These facts speak for themselves, and show how dangerous it is in the opinion of ministers, when papers are presented to Parliament to treat private communications, to which no responsibility attaches, in the same way as those emanating from responsible officers or public bodies.

As ministers may have, in the course of this year, to rely on the support of the British Government, of the British Parliament, and of public opinion in the British Islands, to obtain a proper reform of the present Victorian Constitution, so as to make it workable, they feel that it is of pressing importance to Victorian interests that no unfavorable impressions, arising from statements of partisan origin in relation to this question in its very inception should prejudice that Government, that Parliament, and that public opinion.

In this view ministers also emphatically protest against the statement of Colonists who are absentees from Victoria being accepted as of any political value, as suggested in the same letter of Messrs. Dalgety, Du Croz, and Co. (page 31 of Paper 27 of 1878). While these absentee Victorians are entitled to have their own views, they have no authority to speak on behalf of the resident population of Victoria, who through their responsible ministers, indignantly repudiate the representative capacity assumed by these gentlemen; one entirely self-imposed, and which is regarded throughout the whole of Victoria as an unwarrantable assumption of political agency on their part.

Ministers also desire to draw your Excellency's attention to the further mischief that may possibly accrue to this colony in its financial credit, by the natural credence that persons living at a distance give to documents published with an air of authority; the more so in this case, as a leading commercial organ (*The Argus*) in its mail summaries for Europe has not hesitated to follow a factious and unpatriotic course in forwarding to Europe gross perversions of the political facts of the day.

In conclusion, ministers trust that your Excellency will recommend to the Secretary of State for the Colonies that this Memorandum may receive in England the same publicity through the same channel of Parliamentary Blue Books as the telegrams and letters referred to have already obtained.

GRAHAM BERRY.

Government Offices, May 20th, 1878.

No. 38.

THE RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR
SIR G. F. BOWEN, G.C.M.G.

SIR, Downing street, July 15, 1878.

I have the honor to acknowledge the receipt of your Despatch of the 14th of May,* enclosing a petition to the Queen from Mr. W. H. Gaunt, late police magistrate at Ballarat, whose services were dispensed with by the Government of Victoria during the recent political crisis.

I request you to cause Mr. Gaunt to be informed that his petition has been laid before the Queen, but that I have been unable to advise Her Majesty to take any action in respect of its prayer, the matter being one which, under the Constitution of the Colony, lies within the jurisdiction of the Governor and the Executive Council.

I have, &c.

Governor Sir G. F. Bowen, G.C.M.G. (Signed) M. E. HICKS BEACH.

No. 39.

THE RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR G. F.
BOWEN, G.C.M.G.

SIR, Downing Street, July 23, 1878.

I have the honor to acknowledge the receipt of your Despatch of the 20th of May,† forwarding a ministerial Memorandum respecting the correspondence presented to Parliament by Her Majesty's command in March of this year on the subject of the differences which had arisen on certain constitutional points between the two Houses of the Legislature of Victoria.

No. 42.

GOVERNOR Sir G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL HICKS
BEACH, BART.

(Received July 27, 1878.)

SIR,

Government House, Melbourne, June 11, 1878.

AT the request of my responsible advisers, I have the honor to transmit herewith a ministerial Memorandum respecting the position of the members of the deputation which waited on you in last April to make certain representations respecting Victorian affairs.

The Right Hon.

Sir M. E. Hicks Beach, Bart., M.P.,

&c.

&c.

&c.

I have, &c.

(Signed) G. F. BOWEN.

Enclosure in No. 42.

MEMORANDUM for His Excellency the GOVERNOR.

MINISTERS request your Excellency's attention to the reports published in the London press of an interview on April 10th ult. between the Secretary of State for the Colonies and a deputation alleged in such accounts "to have consisted of members of the Victorian Legislature, magistrates, merchants, "members of the learned professions, and landowners in the Australian Colonies."—(See "Home News," April 12th, 1878, p. 20.)

Ministers observe, in the first place, that no member of the Victorian Legislature formed part of this deputation.

Ministers further search in vain amongst the published names of the members of this deputation for those of persons who have been known as residents in Victoria of late years in any of the above-named capacities.

None of the persons named have taken part in public life in Victoria, with the exception of Mr. Dennistoun Wood, who, originally a Tasmanian Colonist, has been absent from Victoria during the last eight or nine years. Some political episodes in this gentleman's public career, arising out of the temper and partisanship which he displayed, lost him any political influence he ever possessed in Victoria. He certainly has no claim to appear in any representative capacity on behalf of this Colony.

The list, in fact, comprises the names of permanent absentees from the Colony, men who make England, and not Victoria, their home, and who are of necessity the worst judges of the demands of public opinion here in respect of progressive political action.

Ministers again (as in their Memorandum of 20th May ult.)* protest very strongly against any set of persons residing in London putting themselves forward as if authorised to speak on behalf of Victoria, for the resident inhabitants of this country are endowed with representative institutions, and have within their power in those institutions the only constitutional and legitimate means of making their voice heard and their wishes known to the Sovereign and to the Imperial Government.

Ministers decline to enter at present upon any correction of the manifold mis-statements of this deputation, but when the Victorian Parliament meets next month they will expose those mis-statements in the proper time and place.

Your Excellency is requested to transmit this Memorandum to the Secretary of State for the Colonies. The interference in Victorian affairs of the absentees referred to above has excited general indignation in this community, and ministers respectfully protest against any attention being paid to their representations.

It is further submitted that, regarding these proceedings from an Imperial point of view, any memorials or petitions presented to the Imperial authorities should, in the spirit of the Colonial Regulations (Art. 220), be first referred to the Governor of Victoria, so that they may be "duly verified as well as reported on."

GRAHAM BERRY,
Premier.Government Offices, Melbourne,
June 8th, 1878.

No. 43.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL HICKS
BEACH, BART.

(Received July 27, 1878.)

SIR,

Government House, Melbourne, June 11, 1878.

AT the instance of my responsible advisers, I have the honor to transmit herewith a ministerial Memorandum respecting the present state of the labour market at Melbourne.

The Right Hon.

Sir M. E. Hicks Beach, Bart., M.P.,

&c.

&c.

&c.

I have, &c.

(Signed) G. F. BOWEN.

Enclosure in No. 43.

MEMORANDUM for His Excellency the GOVERNOR.

MINISTERS request your Excellency's attention to the statements in a section of the public press of Melbourne, charging the ministry with being the cause of the partial dearth of employment which has arisen during the last month amongst the class of ordinary labourers.

Many causes, beyond doubt, have contributed to the present depressed state of the labour market for that class of labour.

The large loans advanced by the banking institutions of Victoria on lands purchased in Riverina by the squatters (the money for which, to the extent of some millions, has been transferred from this Colony to the treasury of New South Wales)—the short export of wool from the Australian Colonies during 1877-8, consequent on the long-continued drought of last year (calculated roughly at sixty thousand bales, valued at one million and a half sterling), and the continued decrease in the yield of gold, particularly of alluvial gold, throughout Victoria. All these causes combined have at length so affected the money market at Melbourne as to make the rates of interest rule high—from 7 per cent. to 9 or 10 per cent.

Apart from the natural influence of this high price of money, advantage has been taken of this state of things to induce persons from political motives to stay building and other operations which involve at their outset a demand for unskilled labour.

Ministers have also traced political action behind the scenes in the getting up of several meetings of the unemployed.

Ministers are aware of the distress existing amongst some 600 labourers, commonly known as pick and shovel men, and cannot therefore but condemn in the strongest possible manner the action of employers politically urged on to this course by the partisans of the Legislative Council in order to embarrass the Government by increasing the amount of that distress.

It is to be recollected that the action of the Legislative Council in recently rejecting the Exhibition Bill, the Forts and Armaments Bill, and two Railway Bills, has stopped public works to the value of nearly one million sterling, which would have furnished ample employment for the labouring classes; and the attempt is now made to saddle the Government with the consequences of the unpatriotic action of the Legislative Council in its carrying out an obstructive policy.

Ministers request your Excellency to bring this Memorandum specially under the notice of the Secretary of State for the Colonies, in order that the possible effect of the misrepresentations as to the causes of the market for unskilled labour and as to the pretended scare of capital that have been sent to England by the outgoing mail may be counteracted by a knowledge of the real facts of the case.

Ministers would further request your Excellency's attention to the following facts, showing conclusively the substantial prosperity of this Colony during the present financial year (June 1877 to June 1878), notwithstanding the serious diminution in gold and wool returns:—

	£	s.	d.
Railway income for 11 months 1877-8	1,117,517	15	4
Probable amount for whole year ending 30th inst.	1,205,000	0	0
Probable excess over income of 1876-7	215,000	0	0
Probable Post Office and Telegraph revenue, 1877-8	242,000	0	0
In excess of 1876-7	13,000	0	0
Probable Water Supply revenue 1877-8	91,000	0	0
In excess of 1876-7	3,000	0	0

Lands and Customs revenue have been affected by reductions in taxation and withholding land from sale by auction, but will in their totals amount to 2,600,000*l.*

Government Offices,
Melbourne, 11th June 1878.

GRAHAM BERRY,
Premier.

No. 44.

THE RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR
G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, August 2, 1878.

I HAVE the honour to acknowledge the receipt of your Despatches of the 4th and 9th of June,* the first informing me of the resignation by Sir James McCulloch of his seat in the Legislative Assembly for Warrnambool, and of the election of Mr. J. G. Francis in his place, and the second acquainting me that Mr. C. H. Pearson has been elected member of Parliament for Castlemaine.

I have, &c.

Governor Sir G. F. Bowen, G.C.M.G.

(Signed) M. E. HICKS BEACH.

No. 45.

THE RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR
G. F. BOWEN, G.C.M.G.

SIR, Downing street, August 2, 1878.
I HAVE the honour to acknowledge the receipt of your Despatch of the 11th of June,* enclosing for my information a Memorandum from your Ministers with reference to the depressed state of the labour market in Victoria.

I have, &c.
Governor Sir G. F. Bowen, G.C.M.G. (Signed) M. E. HICKS BEACH.

No. 46.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH BART.

(Received August 5, 1878.)

SIR, Government House, Melbourne, June 17, 1878.
I HAVE the honour to forward herewith the accompanying petition to Her Majesty the Queen from certain residents in the Colony of Victoria.

I have, &c.
The Right Hon. (Signed) G. F. BOWEN.
Sir M. E. Hicks Beach Bart., M.P.,
&c. &c. &c.

Enclosure in No. 46.

To Her most Gracious Majesty the Queen.

MAY IT PLEASE YOUR MAJESTY,—

WE, Your Majesty's most dutiful and loyal subjects, resident in the Colony of Victoria, beg to approach Your Majesty with the assurance of our devoted loyalty to Your Majesty's throne and person.

In March of the present year 1878, there were laid before both Houses of the Imperial Parliament copies of certain despatches which had passed between his Excellency Sir George Ferguson Bowen, the Governor of this Colony, and Your Majesty's Secretary of State for the Colonies, relating to recent public events of grave importance to the Colony.

From these Despatches your petitioners learn that the Governor has made certain representations to the Secretary of State as to particular acts of his Excellency and his advisers, which acts, in the opinion of your petitioners, seriously affect the well-being of this Colony, and your petitioners, therefore, humbly beg Your Majesty's gracious attention to some of these acts, and to the representations made in the Despatches referred to in regard to them.

On the 8th January of the present year all judges of county courts, courts of mines and of insolvency, chairmen of general sessions, police magistrates and coroners, with many other public servants, were dismissed from their offices. Although these proceedings undoubtedly amounted to a suspension of the "execution of laws," declared by the Bill of Rights to be illegal, it appears from the Despatches before referred to that it was not until the 23rd of the same month that the Governor forwarded to the Secretary of State the following telegram:—

"In consequence of the rejection of the Annual Appropriation Bill by the Legislative Council, ministers have made large temporary reductions in the public expenditure to economise funds for police, gaols, and protection of life and property to the latest possible moment, that is, until next May. A number of civil servants, and minor officers of the judicial department, have necessarily been dispensed with temporarily, but sufficient provision has been made for the administration of justice and maintenance of law and order. The Government will do nothing contrary to law or Imperial interests. Full reports by mail."

On this telegram your petitioners would remark—

1. The reductions are not described as temporary in the ministerial Memorandum to the Governor, quoted in his Excellency's Despatch of January 23rd; nor was any intimation given to the dismissed officers that they were "temporary." The dismissals were absolute. The greater number of the officers were not reinstated when the orders of dismissal were cancelled, and have not been reinstated to the present day.
2. The allegation that the reductions were made to "economise funds in consequence of the rejection of the Annual Appropriation Act" is at variance with the Governor's own statement in paragraph 7 of his Despatch of December 26th, 1877, in which he says:—"The failure of the Council to pass the General Appropriation Bill will not

“produce any immediate inconvenience; for both Houses had previously passed unanimously a Supply Bill—assented to on the 31st October ultimo—for eight hundred thousand pounds (800,000*l.*); and it is calculated that the funds thus provided, together with other funds legally available under several permanent Acts of Parliament, will enable the Government to carry on the several branches of the public service without material disturbance until the ensuing month of March. It is hoped that before that period an agreement will be arrived at, and thus a parliamentary deadlock and stoppage of supplies will be avoided.” Further, the allegation is shown to be unfounded by the fact that although the Appropriation Act, providing for the public service until the end of the financial year, has now been passed some months, but few of the officers dispensed with have been reinstated.

3. The description “minor officers of the judicial department” is misleading; for the officers dismissed comprised every judicial officer in the service of the country except the judges of the Supreme Court.
4. The statement “sufficient provision has been made for the administration of justice” was, at the time it was written, entirely erroneous. On the 9th January the following circulars were issued from the Crown Law Offices:—

“Sir,—There being no judges of county courts, courts of mines or insolvency, I am directed by the Minister of Justice to request you to refrain from issuing any process, or doing anything in regard to such courts which may pertain to the judge or the holding of a court.—I have the honour to be, Sir, your obedient servant, B. C. HARRIMAN, Secretary to the Law Department. The Clerk of Courts.”

“Sir,—As the chairmen of general sessions have all been removed from office, I have the honour, by direction of the Minister of Justice, to request that you will take care that all committals for trial from petty sessions are made to the nearest court of assize for the bailiwick, instead of general sessions, even though a date for general sessions may have been fixed, which would be applicable.—I have the honor to be, Sir, your obedient servant, B. C. HARRIMAN, Secretary to the Law Department. The Clerks of Petty Sessions.”

“I am directed by the Minister of Justice to inform you that the coroners and deputy coroners of Victoria have been removed from office, and that it is intended in all cases in which death occurs under circumstances rendering necessary inquiry as to its cause, such inquiry shall be conducted by the justices of the locality.—I have, etc., B. C. HARRIMAN, Secretary of the Law Department. The Police Officers.”

The county courts were thus completely abolished, the general sessions were put an end to, no coroners' inquests could be held; and at the time the Governor made this statement nothing had been done to supply the void thus created in the administration of justice, except the appointing to the office of county court judge and chairman of general sessions for the Melbourne district a gentleman then holding the office of Crown prosecutor, which appointment was afterwards discovered to be wholly illegal and had to be cancelled.

5. The statement—“The Government will do nothing contrary to law” is irreconcilable with the Memorandum of the Governor to his ministers, dated 24th January, the day after the telegram, in which Memorandum the Governor says that “he again feels it his duty to direct the immediate attention of his ministers “to the question of the “legality of some of their recent acts;” and goes on to say that “some time back” he expressed his “grave doubts as to the legality and equity of some of the measures “adopted by ministers.” The Governor adds—“It has now become clear to his “judgment” that the dismissals of the judicial officers before referred to was not “strictly legal.” Yet, the day before the Governor penned this Memorandum, he informed the Secretary of State that the Government would “do nothing contrary “to law.”

On the 31st January the Governor forwarded to the Secretary of State the following telegram:—
 “It would do much public good if I might, in compliance with advice of ministers and address from Legislative Assembly, present to Parliament the public and confidential Despatches written in 1867 and 1868 by Lord Canterbury, or extracts from them which bear upon the present crisis. Please telegraph your answer.” To this Lord Carnarvon replied on 9th February—“I think preferable to postpone decision as to producing further Darling correspondence;” and on 22nd February Sir Michael Hicks Beach telegraphed:—“Telegraph your reasons for desiring to publish further correspondence in Darling case, more especially Despatches, which being confidential, I am disposed to think had better be withheld.” On 4th March, the Governor replied to the last-mentioned telegram:—“Lord Canterbury's Despatches during the last dead-lock, specially those referred to in my confidential Despatch of 28th September, define the position and mutual relations of the Council and Assembly, and their presentation to Parliament here would now do good.” On 6th March, the Secretary of State telegraphed a limited consent to the publication.

On these telegrams your petitioners would remark—

1. Confidential Despatches are presumed to be under the control of the Governor alone. Neither the ministers, therefore, nor the Legislative Assembly, could have known of their existence or have learnt their contents unless from information supplied by the Governor himself. The “advice of ministers” and the “address from the Legislative Assembly” mentioned in the first quoted telegram must, therefore, have

- resulted from disclosures made by the Governor as to their contents prior to his application to the Secretary of State, or else no such advice had then been tendered, nor any such address suggested.
2. No address from the Legislative Assembly on the subject had then been proposed, much less presented. On 5th March, a month after the first telegram, notice of motion was given in the Legislative Assembly for an address to the Governor for the production of these Despatches, and that motion was carried on the following day.
 3. The words "in compliance with the advice of ministers and address from Legislative Assembly" were, therefore, calculated to mislead the Secretary of State.
 4. The permission to publish the Despatches referred to was not given until 6th March; but, on 15th February, in the course of a speech made at Ballarat, the Governor is reported (see *Argus*, 16th February) to have used these words:—"We well know that there are a set of excellent and well-meaning persons in this Colony, and chiefly in Melbourne, generally respectable in all the social relations of life, but with little political influence, and for the most part hostile to free parliamentary institutions on the English model. These were the people of whom my able predecessor, Lord Canterbury, once wrote—"They bitterly revile every Governor who refuses blindly to enlist himself as a member of their party." Amongst the published Despatches of Lord Canterbury this passage is not to be found; but, in one of the confidential Despatches (dated 25th April 1868), the publication of which the Governor asked for, is this passage:—"Now, if I had adopted the views of the *Age* the *Argus* would not probably have resented that course more bitterly than they do resent my refusal blindly to enlist myself as a member of their party." From this it would appear that three weeks before the Governor had obtained from the Secretary of State permission to publish these confidential Despatches, he had not merely made use of one of them, but had misquoted it in such a way as to make it appear that those who disapprove of the acts of the Governor and his ministers had been represented by his predecessor as having "bitterly reviled" every Governor who differed from them; although Lord Canterbury said nothing about any other Governor, and his remark referred only to the conductors of a particular journal, whom he did not accuse of having "reviled" him at all.

There are many other representations made in these Despatches to which your petitioners take exception.

Your petitioners, however, believe that the particular representations they have herein dealt with are sufficient to warrant them in approaching Your Majesty on the subject, and they most humbly pray that Your Majesty will take the premises into your gracious consideration, and will give such directions therein as may conduce to the peace, prosperity, and good government of this portion of Your Majesty's dominions.

No. 47.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received August 5, 1878.)

Government House, Melbourne,
June 17, 1878.

Sir,

I HAVE the honour to transmit a ministerial Memorandum, signed by Mr. Berry, the Premier of this Colony, respecting the petition to the Queen, forwarded with my Despatch, of even date herewith.*

2. This Memorandum sets forth the character and animus of the petition, refutes its misrepresentations, and shows further that if I had not, for obvious reasons, discouraged the proposal, the counter petition to Her Majesty would have been prepared and signed by hundreds or thousands of persons for every signature attached to the petition now forwarded.

3. In my Despatch of the 11th April ultimo,† I explained, once for all, the origin of the personal attacks made upon me, as formerly, under similar circumstances, upon all my predecessors in the Government of Victoria by a small section of this community, possessing little or no political power or influence. I would ask your permission to request a re-perusal of that explanation. It will be seen, moreover, that in Victoria (as has been said of a similar condition of affairs in Canada), "a beaten minority in the Colonial Parliament,‡ instead of loyally accepting its position, is never without a hope of wresting the victory from its opponents, by an appeal to opinion in the mother country, always ill-informed, and, therefore, credulous in

* No. 46.

† No. 28.

‡ The petition is signed by only 8 out of the 30 members of the Council, and by only 5 out of the 86 members of the Assembly; in all by only 13 of the 116 members of the entire Legislature.

“matters of Colonial politics.” As Lord Elgin wrote to the Secretary of State (14th January 1850) : “Factions in the Colonies are clamorous and violent, with the hope of producing effect on the Imperial Parliament and Government, just in proportion to their powerlessness at home. The history of Canada during the past year furnishes ample evidence of this truth. Why was there so much violence on the part of the opposition here last summer, particularly against the Governor-General ? Because it felt itself to be weak in the Province, and looked for success to the effect it could produce in England alone.”*

4. It may be added that the subjoined extract from a recent article in one of the most influential journals of Australia states accurately what is, in the opinion of the great majority of this community, the real object of these reflections on the Governor :—

“The designs of the enemies of the Constitution and of the popular liberties identified with representative institutions were unmistakably revealed when their mouthpiece, Sir William Mitchell, intimated to Sir George Bowen that responsible government was a humbug which they wished to get rid of in this country. These designs, although at present apparently in abeyance, at least, here in Victoria, are in reality actively pursued at the centre of the Empire, in London, by the accomplices there of the local plotters here. The course pursued is to assail the Government of the Victorian people through the person of the Governor of the Colony, and, at the same time, to invoke the interference of the Secretary of State with the working of our political institutions. In this way they hope to accomplish several distinct purposes in furtherance of their ulterior object, which is, of course, according to Sir William Mitchell, the destruction here of responsible government. They expect to wreak their vengeance on Sir George Bowen by effecting his official ruin, and thus, by making an example of him, to deter all future Governors from doing as he has done in the late struggle, namely, holding the balance even between contending parties, and abstaining from favouring the obstructionist minority at the expense of the general community. They want to make his fate a warning to any other representative of the Crown hereafter, so that every future Governor may see that safety lies only in his making himself the partisan of the Mitchells and the Sladens, and the faction they represent. In fine, by means of the misrepresentations of the sympathising little knot of Victorian absentees in London, who act as their agents, they are in hopes of being able to induce the Secretary of State not only to intervene actively in the ordinary exercise of the Governor’s duties, but also to dictate to him the observance of certain narrow limits, within which he must confine the operations of responsible government. Especially must he ignore his ministers and the majority in Parliament, if either the one or the other, or both, are adverse to the pretensions of the obstructionist faction. Indeed, they are stupid enough to entertain the wish and the expectation of again restoring what Sir George Bowen so graphically described in his reply to the address of the Council recently, as ‘that primitive and obsolete form of Colonial government which was administered without responsibility to the representatives of the people, and with little regard to the public opinion and general wishes of the community, but which was superseded in Victoria nearly a quarter of a century ago by a Constitution framed on the principles of the British Constitution.’”

5. In another quarter it has been observed, that this petition is intended to influence the Secretary of State against the Government and the Assembly, and that the petitioners hope in this way to modify the effects of responsible government. For they believe that the Imperial Government, supported at home by the conservative party, cannot feel any sympathy with a Colonial democracy, and that in consequence of this appeal to England, the Governor may be so restrained by instructions as to impede and limit, if not entirely obstruct, the free working of parliamentary institutions. It is further argued that it is inexpedient, on the highest grounds of public policy, that a Governor should be (as it were) put on his trial on the petition of any disappointed and beaten faction ; and that the recent tendency in a section of the Victorian community to drag the Imperial authorities into local Colonial disputes, should be discouraged in the interests of the Imperial connexion ; for the administration of affairs in Colonies possessing self-government has passed from Downing Street to the local authorities, and it can never be resumed without danger to the integrity of the Empire. Granting that serious mistakes have been made by Colonial ministries and Parliaments,

* Warland’s *Life of Lord Elgin*, Chap. V.

it is better to let them work out their own cure in their own time and way, than to interfere from England.

6. Identical in spirit with the above remarks are the instructions addressed to me while Governor of Queensland by the late Duke of Newcastle, then Secretary of State for the Colonies. His Grace wrote :—“In granting responsible government to the larger Colonies of Great Britain, the Imperial Government were fully aware that the power they granted must occasionally be used amiss ; but they have always trusted that the errors of a free government would cure themselves, and that the Colonists would be led to exert greater energy and circumspection in legislation and government, when they were made to feel that they would not be rescued from the consequences of any imprudence merely affecting themselves by authoritative intervention of the Crown or of the Governor.”

7. In addition to the comments contained in the accompanying ministerial Memorandum (to which I beg to solicit attention), I will now proceed to make the following remarks on the petition to the Queen :—

(1.) It will be observed that the petitioners attempt to fix on the representative of the Crown the personal responsibility of the Acts of the Colonial ministry, and yet they cannot fail to be aware that this attempt is wholly inconsistent with the principles of parliamentary government. They also know from my published Despatches and Memoranda for ministers, to which they themselves refer, that I dissented very strongly from the manner in which my responsible advisers carried out the reductions rendered necessary, in their opinion, by the rejection of the annual Appropriation Bill, and the consequent “stoppage of supplies.” Moreover, the petitioners know that, at my instance, the ministers retraced their steps in cases where the strict legality of their proceedings appeared to be doubtful. In short, as is shown at length in my Despatch of the 8th May ultimo* (of which I beg to request a re-perusal), I went as far both in preventing the removal of the government officers who were dispensed with in last January, and also in procuring afterwards a general re-instatement,† as I could go without bringing the Crown into direct collision with the Victorian House of Commons, and also with the constituencies, in a matter of purely Colonial policy, in which no Imperial interests were involved, and with which the ministers assert their constitutional right to deal on their own responsibility to the local Parliament. I felt that this was an occasion when, in the words of Lord Cardwell, “it would not have been desirable to interfere in any such manner as to withdraw these matters from their ordinary sphere, and so give to the dispute a character which did not naturally belong to it, of a conflict between the Assembly of Victoria and the representative of the Crown.”

(2.) The petitioners criticise the wording of the two telegrams sent by me to the Colonial Office on the 23rd and 31st January ultimo respectively. In the first place, with regard to the telegram of the 23rd January, my course of action is quite clear from my Memoranda for ministers of 22nd January and 24th January. I was necessarily absent from Melbourne for several days in the middle of last January, having promised several weeks previously to preside at the opening of the railway to Portland, in the western district of the Colony, on the 9th of that month. After my return to the seat of government, I prepared the memorandum of 22nd January, in which, among other things, I placed on record my original dissent from the action taken in the removal of the government officers, and pointed out to ministers that I would not permit any infringement of the law or of Imperial interests. Ministers having assured me that no such infringement was contemplated, I despatched a short telegram to that effect (on the 23rd January), giving a full report in my Despatch of the same date. On the following day, after fully considering some fresh circumstances and legal opinions brought under my notice, I determined to write the second Memorandum (of the 24th January), in consequence of which ministers agreed to cancel all measures and notifications the legality of which seemed questionable.

(3.) In the first place, with regard to the telegram asking permission, on the advice of ministers, for the production of certain Despatches written by my predecessor, the late Lord Canterbury, during the last Victorian “deadlock,” I need scarcely say that I had no personal object and no personal feeling in the matter. Ministers assumed the entire responsibility in the terms of your telegram of the 6th

* No. 34.

† I certainly understood that the reductions made in last January were temporary, *i.e.*, during the “stoppage of supplies,” and this was the fair inference from the ministerial Memorandum of the 8th January ultimo.

March ultimo. They had previously urged that much public mischief was caused by the constant repetition here of the assertion that Lord Canterbury had been directed to obstruct the free play of parliamentary institutions in this Colony* ; that he had held different views from those held by myself and by the other Governors of Victoria respecting the position and mutual relations of the two Houses of the Victorian Parliament ; and generally as to the powers and duties of a constitutional Governor ; and that it was important, on public grounds, that these grave errors should be corrected. For so long as the Legislative Council believed that its policy and attitude were in accordance with the views of Lord Canterbury, supported by the Home Government, that House would resist the compromise proposed for the purpose of putting an end to the parliamentary "deadlock" which was exercising so disastrous an influence in this community. Further, I had followed throughout the late crisis the precedents made in the previous parliamentary "deadlock" of 1867-8 by Lord Canterbury, whose conduct had been entirely approved by the Imperial Government, and I believed it to be of the highest importance that the Parliament and people of this Colony should understand that the conduct of successive Governors does not depend on the idiosyncrasies of individuals, but on a steady, uniform, and constitutional policy sanctioned by the home authorities. Still, when I was informed by ministers that a motion would be forthwith made in the Assembly for an address praying for the production of any Despatches bearing on this question, I declined to produce them without the previous permission of the Secretary of State, and recommended that the proposed address in the Assembly should be delayed to allow time for such permission to be asked. Hence my telegram of 31st January, sent when I had not only the contingent, but also the actual advice of ministers, and the certain assurance of an address from the Assembly.

(4). The animus of the petitioners is shown by their introduction into a grave address to the Sovereign of a criticism of some words quoted by me from memory in an after-dinner speech at Ballarat last February, on the occasion of the opening in that city of the Juvenile Industrial Exhibition.

8. It will be observed that the petitioners do not attempt to show that I could have had any conceivable motive for representing in an unduly favourable light (as they insinuate) the actions of the present or of any other ministry. It need scarcely be said that the responsibility for such action rests, not with the Governor, but with the ministers who advise him. On this point I adopt the principles laid down by Lord Dufferin in Despatches written when he was placed in difficulties analogous to those with which I have had recently to contend, and when he was similarly assailed because he gave a fair and just support to his ministers for the time being. He remarked: "Your Lordship will perceive that I have not attempted to discuss much less to defend the action of my ministers on any of the occasions referred to, except so far as the justification of their own conduct follows as a corollary to the vindication of the attitude I myself have assumed. The propriety of their proceedings is a matter which they will have to settle with the Canadian Parliament. My contestation would be that the fact of their having acted judiciously or the reverse, is a result which can have no relation to my share in these transactions : and that, given the circumstances in which I found myself, I have acted in the highest interests of the Parliament and of the people of Canada. In the same way, if, from time to time, I have argued against any of the views maintained by the opposition, it has only been as contending against their implied condemnation of what I myself have done or said."

9. Lord Dufferin further used words which might be adopted (as I have remarked on a former occasion) as descriptive of my own position here: "My anxieties have been very great, and my position most embarrassing. If I have erred in the conduct of these affairs, I feel I can count upon your Lordship's indulgence to put a favourable construction on my intentions. . . . My political instincts would revolt against any undue exercise of the Crown's prerogative. Yet it is of this I find myself accused. I trust, however, that reflection will dissipate such impressions, and that the people of Canada will ultimately feel that it is for their permanent interest that a Governor should

* On this point it has been remarked:—"The quotation was obviously not intended to be literal. The *Argus* claims to represent the party which the Governor was describing, and it was fair to apply to the party the censure which Lord Canterbury laid upon its organ."

“unflinchingly maintain the principle of ministerial responsibility, and that it is better he should be too tardy in relinquishing this palladium of Colonial liberty than too rash in resorting to acts of personal interference.”

10. Mr. Merivale* has remarked that “the functions of a Colonial Governor under responsible government are occasionally arduous and difficult in the extreme. . . . He has to reconcile as well as he can his double function as Governor responsible to the Crown, and as a constitutional head of an executive controlled by his advisers. He has to watch and control, as best he may, those attempted infringements of the recognised principles of the connexion (with the mother country) which carelessness, or ignorance, or deliberate intention, or mere love of popularity may from time to time originate. And this duty of peculiar nicety he must perform alone He can have no assistance. His responsible ministers may (and probably will) entertain views quite different from his own. And the temptation to surround himself with a camarilla of special advisers distinct from these ministers is one which a Governor must carefully resist.” In Crown Colonies the Governor is supported by a permanent body of experienced councillors, nominated, like himself, by the Sovereign. But in Colonies possessing parliamentary government he stands alone; he is completely isolated; and his position in times of exceptional difficulty and when party spirit runs high should command general sympathy. And it will be remembered that the Chief Justice and his colleagues decline to give to the Governor of Victoria the advice and assistance on legal and constitutional questions of importance, which is generally afforded by the judges of the supreme courts to the Governors of other Colonies.

11. During the fierce political and social turmoil of the last nine months, I have had to prepare my reports entirely without aid of any kind, amid frequent interruptions, and while harassed by constant personal anxiety and public care, and by an overwhelming pressure of public business, I have throughout honestly laboured to furnish the Secretary of State with a fair and full account of the progress of political events in this Colony. It will be remembered, moreover, that by every mail I have forwarded, together with my own Despatches, copies of the parliamentary debates and other official documents, and of the leading journals of both parties, in which my own proceedings and those of the ministry and Parliament are discussed from every possible point of view. The Colonial Office has, therefore, always had before it abundant materials for the formation of an independent judgment.

12. It has often been observed here that the present Governor of Victoria appears to have no critics or opponents, except among the few secret or avowed enemies of parliamentary institutions on the English model. Moreover, it has been argued that as my critics do not venture to condemn my actions, but confine themselves to carping at the wording of two of my telegrams,† they practically admit that my position is impregnable. Neither the present petitioners nor any other of the critics of the recent administration of affairs in Victoria have even attempted to prove that the Governor could have taken any other course than that adopted by me, without (as Lord Canterbury wrote under similar circumstances), “involving the Imperial Government in the conflict, and probably imperilling the relations of the Colony with the mother country.” I would repeat that it has been my main object to avoid this danger, at whatever personal risk or cost.

13. In conclusion I may be permitted to assure you that I shall continue to observe strictly constitutional impartiality, as defined by a former Secretary of State for the Colonies,‡ when he wrote:—“While, on the one hand, it is his (the Governor’s) duty to afford to his actual advisers all fair and just support, consistently with the observance of the law, he ought, on the other hand, to be perfectly free to give the same support to any other ministers whom it may be necessary for him at any future time to call to his counsels. The Colony is entitled to know that the Governor gives this support to his ministers for the time being, and that he is able and willing, if the occasion should arise, to give the same support to others.”

I have, &c.

(Signed) G. F. BOWEN.

The Right Hon. Sir M. E. Hicks Beach, Bart., M.P.,
&c. &c. &c.

* “Colonization and Colonies,” page 666.

† Telegrams, and telegrams especially sent in cypher, are necessarily compressed and elliptical, but a full statement of every important case will always be found in the Despatches relating to the same events.

‡ Secretary of State to Governor of Victoria, of 26th Feb., 1866. (B1 of Session 1867, page 87). *

Enclosure in No. 47.

MEMORANDUM FOR HIS EXCELLENCY THE GOVERNOR.

MINISTERS request your Excellency's attention to the following observations which they desire to submit in reference to a petition to the Queen, sent forward by this outgoing mail, in which petition your Excellency is assailed in respect of certain telegrams and Despatches from your Excellency to the Secretary of State for the Colonies during the recent parliamentary crisis in Victoria.

This petition has been signed by less than five hundred (500) persons, out of a population of 250,000 in Melbourne, and of 860,000 in the entire Colony.

Further, this petition has been signed by only eight out of the thirty members of the Legislative Council, and by five only out of the eighty-six (86) members of the Legislative Assembly.

In fact, this petition represents only an extreme faction in this community, and that faction a defeated and embittered one, which stops at no misrepresentation, however baseless, with the object not of retrieving its position, for that is politically impossible, but of avenging its defeat.

For every signature appended to this petition (had ministers desired it) hundreds or thousands could have been obtained to a counter petition; but ministers, in accordance with your Excellency's wish, and in unison with the people of Victoria, are satisfied that no attention will be paid by the Imperial Government and Parliament to petitions emanating from a defeated faction.

The recent address from the representatives of the Victorian subjects of Her Majesty in Parliament assembled sets forth a full statement of the facts of the crisis.

That address bears well-merited testimony to the constitutional attitude of your Excellency throughout the arduous difficulties in which you have been placed; and also to your Excellency's political impartiality, which has saved this community from grave dangers.

The petition is simply a reproduction of certain recent articles in the *Argus* newspaper, the organ of the faction above alluded to; which journal (as your Excellency's predecessor, Lord Canterbury, remarked in one of his Despatches) "bitterly resented his refusal blindly to enlist himself as a member of their party;" and is notorious for having reviled other Governors of Victoria for precisely the same reason; and is, further, now credited generally in this community with a special personal hostility to your Excellency, which is obviously shown, apart from politics, in the studied discourtesy and malignity of its every-day paragraphs.

The extreme faction and this journal have just now concentrated their efforts on an endeavour to damage your Excellency and the Government of Victoria in the estimation of the public in England. In the Colony they have completely failed, as they are too well known as avowed enemies of the carrying out, in the spirit of the British Constitution, of the free institutions established here, and framed on the model of that Constitution. They are also known as the assailants of every Governor in succession who, differing from them, has preserved his constitutional impartiality.

With respect to the temporary dispensing with the services of the "judges of county courts, courts of mines, and of insolvency, and of chairmen of general sessions," referred to in paragraph four of the petition, ministers desire to call your Excellency's attention to the following facts:—

- (1.) That this high-sounding list of officers represents only six men—who were the county court judges, and who have been all since re-appointed;
- (2.) That all these courts were, in last January, in the middle of their long vacation, and practically were not to be re-opened until 1st February;
- (3.) That, as a matter of fact, judges were provided for these courts when the usual period for the sessions came round;
- (4.) That, as to the insolvency court, the Melbourne court having jurisdiction throughout the Colony was not interfered with;
- (5.) That even if the county court and general sessions jurisdiction had been swept away, as it is (contrary to fact) alleged, the Supreme Court was still open to all suitors, and available for the trial of all criminals.

As to the police magistrates, the large unpaid magistracy, consisting of several hundred gentlemen, resident in all parts of the Colony, was available to discharge on this emergency their necessary official duties, with the slight assistance of three paid magistrates, which was at once afforded. The result has been that the Government of Victoria has seen its way, on account of the greatly increased railway communication, to have the business of the country districts discharged by sixteen in place of thirty-two stipendiary magistrates, being in the proportion of one paid magistrate to every 55,000 of the population—a far higher proportion than exists in England.

As to the coroners, the unpaid magistrates held magisterial inquiries as to causes of death, and one coroner was shortly re-appointed in each principal centre of population, with the result, up to the present time, of the public business being satisfactorily disposed of by three coroners, the police magistrates (who are also coroners), and the unpaid magistracy.

These are the real facts; but ministers insist (as it has been often pointed out here) that their action was the result of the action of the Legislative Council, which, by rejecting the annual Appropriation Bill, stopped the supplies, and thus (as the Supreme Court of Victoria decided in the case of *Furnival v. the Queen*) practically discharged from the service all the public officers whose salaries were provided for in that Bill.

Acting on a similar principle, when supplies were refused in British Guiana in 1848, by the action of one branch of the Legislature, Earl Grey, the then Secretary of State for the Colonies, directed the Governor to disband the police and shut up the courts of law, if supplies were not granted.—(See Earl Grey's "Colonial Policy," Vol. I., page 150.)

If the ministry of Victoria had acted on the principle laid down by Lord Grey on behalf of Her Majesty's Government, they might have shut up the courts altogether, in place of keeping up (as they really did), without substantial interruption, the administration of justice.

Ministers further request your Excellency's attention to this point, that the question of the legality or illegality of the removal of all the county court judges, even if the execution of laws had been thereby

suspended, does not depend on the bare fact of removal, but on the *quo animo* of the act, *i.e.*, whether it is done with the intention of frustrating the law, or whether it is done in pursuance of a duty which ministers felt imposed on them, as the only solution of a grave financial and constitutional complication.

Your Excellency is aware that notwithstanding the desire of the ministry for the retrenchment of an overgrown Civil Service, the votes for that service had all passed through the Assembly, in amount nearly equal to that of the preceding year, so that if this grave financial and constitutional complication had not been forced on the ministry by the practically revolutionary action of the Legislative Council in the refusal of those supplies, this action, that is now denounced as illegal, would never have taken place. So far from the ministry having any intention of frustrating the law, they had amply provided on the estimates for its administration. Thus in this petition history is falsified, and the faction that are the very source of the wrong (if it be a wrong) are found assailing the involuntary channel through which that wrong must flow into practice.

Your Excellency is charged in this petition with describing these removals as temporary. Such was the intention of ministers in respect of all officers who were found to be required; and this intention has been carried out. For all the others, the Civil Service Act provides suitable compensation.

No new men have been appointed from outside the public service to replace those who have been removed, so that a substantial retrenchment has been secured.

Your Excellency is further assailed as to a statement in the same telegram that these reductions were made to economise funds for police, gaols, and the protection of life and property to the latest possible moment, that is, to the end of (the then) next May.

Nothing could be more correctly stated; and, as a matter of fact, the sequel proves that when the Legislative Council found that the financial collapse expected in March had been thus postponed until the end of May, and that afterwards, by the aid of the 45th section of the Constitution Act, it might be again postponed until the month of July, it resulted that this very economisation of the public moneys was ultimately one of the most potent levers in bringing about a settlement of the parliamentary deadlock.

Ministers decline to enter into the paltry verbal criticisms of this petition; and confine themselves simply to a statement of the above salient facts in refutation of the misrepresentations put forth by the petitioners.

In conclusion, ministers repeat, that the Legislative Council, by its revolutionary action, had forced on them the imperative necessity to devise means by which the Queen's Government could be carried on without yielding to the unconstitutional dictation of that body.

(Signed) GRAHAM BERRY,
Premier.

June 7, 1878.

No. 48.

THE RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR
G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, August 16, 1878.

I HAVE the honour to acknowledge the receipt of your Despatch of the 11th of June,* transmitting a Memorandum by your Ministers commenting upon the character and composition of the deputation which waited upon me on the 10th of April last with reference to the constitutional crisis in Victoria.

It does not appear to me to be necessary to discuss the subject of this Memorandum, for I cannot suppose that it is the intention of your Ministers to suggest to me any limitation upon the exercise of my discretion as to receiving any persons who may wish to wait upon me in connexion with public affairs, or as to the means which the Secretary of State should adopt for informing himself upon both sides of Colonial questions.

The desire expressed in the last paragraph of the Memorandum that communications made to Her Majesty's Government on matters relating to Victoria by persons not residing in the Colony, should in all cases be referred to the Governor of Victoria before they are considered, is one which I should prefer to regard as having been entertained under a misapprehension.

It would have been well if you had explained to your Ministers that section 220 of the Colonial Regulations, with the preceding sections to which it refers, relate expressly to documents coming from a Colony, and can have no bearing upon verbal or written representations addressed to Her Majesty's Government by persons in this country.

I have, &c.
(Signed) M. E. HICKS BEACH.

Governor Sir G. F. Bowen, G.C.M.G.,
&c. &c. &c.

THE RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR
G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, August 17, 1878.

In your Despatch of the 25th of January,* after referring me to your Despatch of the 31st December 1877,† and to the Ministerial Memorandum of the same date enclosed therein, you suggested, at the instance of your responsible advisers, that my predecessor in this office should consult the law officers of the Crown in this country upon the opinion given by the then Attorney-General of Victoria, Mr. Le Poer Trench, to the effect that resolutions adopted by the Assembly in Committee of Supply suffice to make "legally available" for the public service money standing to the credit of the public account. And in your subsequent Despatches of the 17th and 18th of March,‡ you transmitted to me further legal opinions which had been given by Sir Bryan O'Loghlen, who had succeeded Mr. Le Poer Trench in the office of Attorney-General, and by Mr. Trench and other leading lawyers in the Colony, on the separate question whether, having regard to the resolution adopted by the Legislative Assembly, "That in accordance with the 45th section of the Constitution Statute, the costs, charges, and expenses incidental to the collection, management, and receipts of the Consolidated Revenue shall, during the present financial year, and no longer, be treated as a special appropriation," it would be lawful for the Commissioners of Audit to certify that the public money was "legally available," and for the Governor to sign warrants for its issue.

2. As soon as I had received all the documents necessary to complete the case as stated by your ministers, I submitted them for the report of the law officers, and I have now to inform you that in their opinion the views entertained by your ministers and by the Attorney-General, as stated in the papers which you have transmitted to this Department, are not entirely correct. The law officers agree that the moneys necessary for defraying the costs, charges, and expenses mentioned in section 45 of the Act 18 & 19 Vict. c. 55 are legally available for and applicable to the purposes mentioned in that section, because they are, in fact, specifically appropriated by the statute in question. With respect, however, to the question whether, when the Committee of Supply has voted money for other purposes than those mentioned in the 45th section of the Act, and such vote has been duly reported to the Legislative Assembly, the amount voted becomes thereupon "legally available, &c.," the law officers are of opinion that it does not, and that it is not available until it has been appropriated by an Act of the Victorian Legislature.

3. As, however, the ministerial Memorandum seems to proceed upon a misapprehension of what is the exact procedure of the House of Commons in England with respect to taxation and appropriation, it will be convenient that I should explain for your information what really is the system which prevails in this country. That system may briefly be stated as follows:—

The annual charges for the army and navy, for the collection of revenue, and for the civil service, are examined and discussed in Committee of the whole House on Supply, and the sanction of the House of Commons is embodied in resolutions of that Committee, which are reported to and confirmed by the House. These resolutions grant limited sums for services separately defined and for the limited period of one year.

4. But the resolutions, although they record the sanction of the House of Commons to the expenditure submitted to them, do not enable the Government to draw from the Consolidated Fund (to which the whole of the accruing income of the State is paid) the money requisite to meet such expenditure. A further authority is required in the shape of a resolution in Committee of the whole House on ways and means, which must be reported to and confirmed by the House and must be embodied in a Bill, to be passed through both Houses of Parliament before practical effect can be given to the votes in supply by authorising the Treasury to take out of the Consolidated Fund the money required to defray the expenditure sanctioned by such votes. The votes in Committee of Supply authorise the expenditure, the votes in Committee of Ways and Means provide the funds to meet that expenditure.

* Paper 27 of 1878, No. 33.

† Paper 27 of 1878, No. 25.

‡ Nos. 17 and 18.

5. The manner in which this provision is made is as follows:—

Early in the session votes are taken for the pay, &c., of the naval and military forces, and a resolution is passed in Committee of ways and means for a general grant out of the Consolidated Fund towards making good the supply granted to Her Majesty. This resolution is reported to and confirmed by the House, and upon it a Bill is founded, which passes through its various stages, and finally receives the royal assent; and then, but not before, the Treasury are empowered to direct an issue out of the Consolidated Fund to meet the payments authorised by votes in supply of the House of Commons. This general grant of ways and means is made available, so far as it will go, to meet votes in supply passed both before and after it.

6. The constitutional effect of these regulations is that until the House of Lords and the Crown have assented to the grant of ways and means, the appropriation of the public money directed by votes in supply of the House of Commons is inoperative. These general grants of ways and means on account during the session in anticipation of the specific appropriations embodied in the Appropriation Act passed at the close of the session, may be viewed as the form in which Parliament considers it most convenient to convey their sanction to the ad interim issue of public money upon the appropriation directed by the Commons alone, relying upon their final confirmation being obtained at the close of the session. For example, on the 4th and 15th March 1878, votes amounting to more than £12,100,000 were granted in supply for the army and navy services of 1878-9. On the 19th March a vote of £12,000,000 in ways and means was taken towards making good the supply granted to Her Majesty for 1878-9, and this vote was embodied in a Ways and Means Bill which received the royal assent on 28th March.

7. These ways and means have since been used not only for military and naval services, but to meet such votes as have been granted in supply for civil services and collection of the revenue since the passing of the ways and means resolution on 19th March.

8. I have thus, I think, sufficiently explained that according to the practice followed in this country, a supply for some branch of the public service must have been granted to the Queen, and ways and means towards making good that supply must have been provided by an Act before Her Majesty can authorise the Treasury to issue any money; but that so soon as ways and means have been provided for any service, the Treasury may draw upon these ways and means so long as they last, in order to defray the expense of any votes comprised in the resolutions adopted in supply (whether before or after the date of the resolution in ways and means), provided always that such resolutions in supply have been passed in the same session of Parliament. Finally, the Appropriation Act, which is passed at the end of the session, specifically appropriates to the various services the sums granted in Committee of Supply, and by a covering grant of ways and means provides the money required to meet the whole of the supplies granted for the year.

9. I am confident that it is the desire of all parties in the Victorian Parliament that a sound and regular procedure should be followed in respect of the expenditure of public money, and I trust that the information which I have now been able to give you will be of service.

I have, &c.

(Signed) M. E. HICKS BEACH.

Governor Sir G. F. Bowen, G.C.M.G.,
&c. &c. &c.

No. 50.

THE RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR
G. F. BOWEN, G.C.M.G.

SIR, Downing Street, August 25, 1878.

I RECEIVED with much regret the Memorandum of your ministers enclosed in your Despatch of the 8th May,* stating that in their opinion a general reinstatement of all the members of the Civil Service of the Colony who were removed from office in January last was not advisable.

* No. 34.

2. In a recent Despatch I have explained to you that there are circumstances in which a Governor, when advised by his ministers to do an act represented by them to be expedient, must consider carefully, and on his own responsibility, whether in so acting he would strictly discharge the duties of his office ; but as I understand your ministers to express in the Memorandum now before me the opinion that your action in even questioning the course taken with regard to these public officers was to some extent an interference with the due course of responsible government, it is desirable that I should make some observations on your position in connexion with this particular transaction.

3. In doing so I shall avoid, as far as possible, any language which could be interpreted as expressing an opinion on the policy of your advisers, or on the merits of the late unfortunate controversy between the Legislative Council and the Legislative Assembly. I propose to deal solely with your own personal duties as Governor, not with the action of your ministers or of the Colonial Legislature.

4. I am aware, however, that at the present time, when party feeling unfortunately continues to be strongly expressed, it is possible that my remarks may be represented as involving in some degree the assumption of responsibility for matters lying within the jurisdiction of the Colonial ministers. I desire, therefore, that it may be clearly understood that I entirely disclaim any such assumption.

5. Her Majesty's Government have no wish to interfere with the discretion of the Colonial Government in regulating the numbers or pay of the Civil Service of Victoria. The Secretary of State has not the means of forming an opinion on this subject, nor is it his duty to do so. It is one which unquestionably rests with the Government of the Colony, that is to say, with the Governor acting by and with the advice of his ministers. By that advice, as my predecessor intimated to you, the Governor would, as a general rule, undoubtedly be guided in all questions of a local nature, though I may here observe that he has a clear right, which I regret to perceive that your ministers apparently dispute, to discuss with them any topic that may arise, and to express freely his opinions and suggestions in regard to it. Under ordinary circumstances, therefore, the course of affairs would be simple ; the Governor would, if no doubt as to his duty to the law or the Constitution presented itself, follow, as of course, the advice of his ministers in regard to appointments to and removals from office, and his action would not come under the review of Her Majesty's Government. But it is very obvious that the recent removal from office of a large number of the Civil servants of Victoria was no ordinary occasion, and involved constitutional principles of great importance, not only to Victoria, but (as being a precedent) to all Colonies living under Constitutions granted by the Crown or by the Parliament of Great Britain. It is an element of these Constitutions, on which their credit and stability in no small degree depend, that the permanent administrative officers are understood to be secure from being suddenly or arbitrarily removed from office at the discretion of the executive government for the time being, always supposing that no specific fault has been imputed to them, and that no mature scheme of reductions is being carried out, which had been distinctly sanctioned after full consideration by the Legislature.

6. The measures now in question were not decided upon from any such considerations. The Parliament of Victoria had not even in general terms insisted on large retrenchments in the Civil Service. On the contrary the pay of the persons who were removed from office had been included in the Appropriation Bill, which was introduced by your ministers, and was passed by the Assembly ; and I do not gather that any opinion has been formally expressed by Parliament since the date of the removals in favour of this particular form of retrenchment, or that the pay of the officers who have not been reinstated was omitted from the Appropriation Act which has since become law ; nor can the fact that the law provides compensation for an officer whose services are dispensed with under ordinary circumstances be interpreted as sufficient legislative sanction for the sudden and simultaneous discharge of a large number of civil officers whose cases had not been dealt with on any clearly defined principles.

7. It is, however, clear from the Memorandum laid before you by your ministers on the 8th January that the measure in question was not advised by them on the grounds to which I have already referred, but was proposed "with a view to economise the funds at the disposal of the Government," and in order to enable them to surmount a serious financial difficulty, which has since been entirely removed by the passing of the Appropriation Act.

8. The course which they recommended for this purpose was not merely the temporary suspension of these civil and judicial officers from duty, or the withholding of their salaries until the necessary funds could be provided ; it was their absolute removal from office : a step of the utmost gravity, deeply affecting not only the officers immediately concerned, but the interests of the public at large, and one which all parties, I presume, would agree to be justifiable only by a very special emergency.

9. It became then your duty (bearing in mind particularly the part which the law required you to perform) to satisfy yourself that the action which your ministers proposed that you should take was so justified, and from what I have already written you will have gathered that in this particular case it does not appear to me that any such " exclusive " right or responsibility was vested in your ministers as could relieve you of this duty.

10. I desire to make every allowance for the difficulties of your position ; but, so far as I am able to judge, I do not think that the emergency was of a character which can be held to justify the course which you adopted, and in my opinion you would have done better in the interests of the Colony, and in the maintenance of the principles of parliamentary or responsible government, if you had informed your advisers that you felt unable to put your name to the documents directing the removal of these officers.

11. I understand from your Despatches that this course might have involved the resignation of your ministers. But it might also have led to the suggestion of other means of surmounting the difficulty ; and even if these had not been found, and your ministers after resignation had been restored to office, either on the failure of others to form an administration or after a dissolution, it would have been of some advantage that an opportunity should have been afforded to the Colony for the full and serious discussion of the step proposed.

12. It is not, however, my desire or intention in thus frankly stating my view of your action with reference to that part of the late occurrences which I have noticed in this Despatch to convey censure. I recognise and fully approve the efforts which, after more mature consideration of all the circumstances, you made to obtain the reinstatement of all the dismissed officers and I am also sensible of your exertions to procure a settlement of the serious dispute between the two Houses, the prolongation of which was inflicting severe injury on the Colony.

13. The experience which you have acquired in a long and distinguished career will render it easy for you to understand that the expression by Her Majesty's Government of their opinion that in any particular case a better course might have been followed does not justify the inference that the attacks made upon a Governor by those who differ from him are concurred in.

14. I greatly regret the personal hostility with which you have been visited, after doing what you believed to be your duty, and I trust that a better feeling may shortly prevail.

I have, &c.

Governor Sir G. F. Bowen, G.C.M.G.,
&c. &c. &c.

(Signed) M. E. HICKS BEACH.

No. 51.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received August 27, 1878.)

SIR,

Government House, Melbourne, June 29, 1878.

ADVERTING to my despatches of the 17th instant,* I would mention that one of the most influential public journals in this Colony has made the following observations on the case to which they refer :

" When the Cabinet proposed to dispense with the services of the county court judges and police magistrates, in consequence of the Legislative Council having thrown out the Appropriation Bill, the Governor expressed grave doubts of the legality of the proceeding ; and later, he intimated to the Chief Secretary that he

could not sanction such a course, and that the steps which had been taken must be retraced. He told Mr. Berry that if any of his colleagues resisted this action he would be prepared to dismiss them, and afford him the opportunity of re-constructing the ministry. The attitude consistently taken by his Excellency throughout the crisis was this ; that, in matters of purely local concern, he would follow the advice of his ministers, while in matters affecting his duty to the Imperial Government the advice must be controlled by that duty, and further by the legality of what was proposed. The removal of the judicial officers coming within the scope of this last reservation, he finally rejected the advice tendered. And for doing this, for adhering consistently to the course he had marked out for himself, he has been charged in some quarters with giving the lie to all his professions ! A more unfounded or more malignant attack has never been made on any representative of the Crown. There could not have been a stronger proof of his impartiality, and of his determination to do his duty in the light in which he saw it. The publication of the despatches which disclosed the course he had taken, utterly cut the ground away from the persons who, in ignorance of his proceeding, had so vindictively assailed him. Justice as well as good policy suggested that they should frankly admit how grossly they had misrepresented him ; but too much bent on injuring him to be able to admit their error, they have attempted to distort the Despatches, and have got their deserts so far as a ridiculous failure could reach them. The trick has been exposed and the blow parried ; but what expression could be too strong to apply to persons who could so prostitute the truth for their own malevolent purposes ?”

2. The grave misgivings which I entertained respecting the legality and constitutional character of the course adopted by my responsible advisers, under the circumstances referred to above, were strengthened by the subsequent publication of some legal opinions of weight. Hence my second Memorandum for Ministers (of the 24th January), in which I called upon them to retrace their steps. It is only fair to add that hitherto the removals in question have not been pronounced to be illegal by any judicial authority, although the question has been twice brought before the Supreme Court of Victoria.

3. It will have been seen from several of my previous Despatches that I always considered those removals to be a great evil ; but that, after anxious consideration and careful searching for precedents, I believed that they would prove a less formidable evil than the practical dismissal of a ministry possessing an overwhelming majority in the Assembly and in the constituencies, and the consequent endangering of the internal tranquility of the Colony, and of its existing happy relations with the Imperial Government. It will be remembered that the Legislative Assembly, at the termination of the last session, addressed me in the following terms :—“ With less
“ constitutional foresight on the part of the Queen’s representative, a conflict between
“ the constituencies and the Crown might have become inevitable. The unbroken
“ order happily preserved throughout the country during a period of intense excite-
“ ment is attributable, we are persuaded, beyond any other cause, to the conviction
“ in the minds of the people that the high functions with which your Excellency is
“ invested would be exercised in a spirit of equity and impartiality.”

I have, &c.

(Signed) G. F. BOWEN.

The Right Hon. Sir M. E. Hicks Beach, Bart., M.P.

&c.

&c.

&c.

No. 52.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received August 27, 1878.)

Government House, Melbourne,

July 8, 1878.

SIR,

WITH reference to my Despatch of the 14th May* ultimo, forwarding a petition to the Queen from Mr. Gaunt, late police magistrate at Ballarat, in this Colony, I have now the honour to transmit, for your information, a Memorandum by

the Minister of Justice (Mr. Grant), showing that Mr. Gaunt has applied for and received the compensation for loss of office to which he is entitled by law.

I have, &c.

(Signed) G. F. BOWEN.

The Right Hon. Sir M. E. Hicks Beach, Bart., M.P.
&c. &c. &c.

Enclosure in No. 52.

MEMORANDUM for His Excellency the GOVERNOR.

Department of Justice, July 4, 1878.

WITH reference to the Memorandum from this Department, dated 13th May last, respecting the petition of Mr. Gaunt, the Minister of Justice now has the honour to report that the compensation for loss of office mentioned in that communication has been claimed by Mr. Gaunt, and his claim has been met in due course.

(Signed) J. M. GRANT,
Minister of Justice.

No. 53.

THE RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR
G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, August 27, 1878.

I HAVE the honour to acknowledge the receipt of your Despatch of the 17th of June,* forwarding a petition to the Queen from certain residents in the Colony of Victoria upon the subject of the course taken by you in various matters connected with the recent crisis in Victoria. A Ministerial Memorandum submitted in reference to this petition was transmitted to me in your Despatch of the 17th of June,† the receipt of which I also take the present opportunity of acknowledging.

I have perused both these documents, but I do not think that it is desirable so long after the termination of the parliamentary difficulty to keep alive the late unfortunate differences; and therefore, in laying the petition before the Queen, I have not felt it my duty to advise Her Majesty to take any action with regard to it.

I have, &c.

(Signed) M. E. HICKS BEACH.

Governor Sir G. F. Bowen, G.C.M.G.
&c. &c. &c.

No. 54.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received September 2, 1878.)

Government House, Melbourne,
July 13, 1878.

SIR,

I HAVE the honour to report that the session for the present year, being the second session of the ninth Parliament of Victoria, was opened with the customary formalities on the 9th instant.

2. I take advantage of the departure of the mail, *via* California, to forward herewith copies of the speech which, by the advice of my ministers, I read on this occasion. It contains, as usual the views of my responsible advisers on the present condition of political affairs, and refers to the principal measures which they intend to propose during this session.

3. The addresses in reply to the speech from both Houses of Parliament will not be presented to me in time for copies of them to be transmitted by the Californian mail, but they will be sent by the Suez mail.

4. I am happy to state that, so far, there appears to be a more moderate and conciliatory spirit than during the last session among the members of both Houses of Parliament, and of both political parties. I continue to take every proper opportunity of recommending to all sides mutual forbearance and mutual concessions.

I have, &c.

(Signed) G. F. BOWEN.

The Right Hon. Sir M. E. Hicks Beach, Bart, M.P.

&c.

&c.

&c.

Enclosure in No. 54.

MR. PRESIDENT AND HONOURABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL :

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY :

I HAVE called you together for the purpose of obtaining your advice and assistance at a most important juncture of public affairs.

Notwithstanding serious misgivings to the contrary, it is now probable that the peace of Europe will not be further disturbed, and it is gratifying to know that this satisfactory result has been largely influenced by the firm policy of the Imperial Government. I have, however, the satisfaction of informing you that my advisers have considerably improved the defence armaments of the Colony, and that the further recommendations of Sir William Jervois will be carried out with vigour to their completion at the earliest possible date.

Experience has abundantly proved that a single line of cable connecting Australasia with Europe is subject to such frequent interruptions as to impose great inconvenience and loss, and, in certain eventualities, serious danger. Impressed with a conviction of the necessity for a duplication of the submarine cable, my advisers readily accepted the suggestion of the Government of South Australia to hold a conference in Melbourne. The result has been embodied in a contract with the Eastern Extension Company, which in due course will be submitted to you, providing for the speedy laying down of a second cable.

The Victorian Department in the Great International Exhibition at Paris has attracted favourable notice, not only to our great national resources, but also to the mature advance made in the varied manufactures happily established amongst us. His Royal Highness the Prince of Wales has evinced considerable interest in the Victorian display in all its branches, and his hearty approval given on the spot to the result of the labours of the Victorian Commissioners cannot but be ratified by the generous endorsement of our whole community.

My advisers requested the Commissioners for the Paris Exhibition to adjudicate on the designs for the building in which it is proposed to hold the International Exhibition, and I am glad to inform you that the selection has been made, and that preparations have been commenced for the erection of the building on a most suitable and commanding site.

In accordance with promises made by my advisers during the last session, I have appointed Commissions to inquire into the closed roads of the Colony, the operation of the Land Act, the export of wattle bark, and other important subjects. The Commissioners having during the recess given practical attention to these various investigations at great sacrifice of time and personal exertion, and having accumulated stores of valuable information, are now in a position to submit for your consideration progress or final reports embodying the well-considered results of their inquiries.

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY :

I am glad to inform you that the finances of the country are in a satisfactory condition.

The estimates of the current financial year will be laid before you without delay ; and while a strict economy has been observed in their preparation, adequate provision has been made for the requirements of the public service.

My advisers have concluded an agreement with the directors of the Melbourne and Hobson's Bay United Railway Company for the purchase of that undertaking, subject to your approval and to that of the shareholders.

MR. PRESIDENT AND HONOURABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL :

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY :

The Constitution established in this country nearly a quarter of a century ago was, without doubt, intended to be fashioned on the model of the British Constitution. Unhappily the attempt to embody in comparatively rigid statute law the elasticity inherent in the principles and practice of that Constitution has not been completely successful, and differences in the interpretation of our Constitution Act have resulted in bringing the legislative machinery of the State to a temporary standstill on no less than four different occasions. A measure of constitutional reform, aiming at a final adjustment of the legislative functions of both the Council and the Assembly, will be immediately laid before you, and undoubtedly will be considered from a patriotic point of view by the members of both Houses, irrespective of party. Its acceptance will put an end for all time to the recurrence of those periodical "dead-locks," which are so injurious to trade and commerce, and a standing disgrace to the constitutional institutions of Victoria.

A Railway Construction Bill, embracing the establishment of a defined State system of railways, will be submitted to you. The increasing demands for railway facilities now arising from

extended agricultural settlement must be promptly met, if that settlement is to be permanently successful. Main trunk lines also to the junction of the Darling with the Murray and to the South Australian border are imperatively demanded in the interest of commerce. The increasing revenue from the existing lines, amounting in the last year to 1,200,000*l.*, is gratifying evidence of the financial soundness of the policy of extending our railways to meet the requirements of the agriculture and commerce of Victoria.

The construction of railways, the contemplated purchase of the Melbourne and Hobson's Bay Railway, the extension of waterworks, the further erection of State schools, the completion of the Law Courts and of the Houses of Parliament, and various other public works, will necessitate a further loan. The present condition of the money market in London is considered favourable for effecting this purpose, and a Bill authorising such loan will be submitted to you without delay.

The project of holding an International Exhibition in Melbourne in the year 1880 has been further considered and matured by my advisers during the recent recess. The experience gained in Paris by our Executive Commissioner, joined to the many offers of co-operation from influential quarters which have been received, fully justify the undertaking. A Bill for the purpose will be submitted for your consideration.

The gravity and importance of constitutional reform will most probably prevent your giving attention to other legislation except matters of most urgent moment; but my advisers are prepared to deal with many questions of great public importance, including a Mining on Private Property Bill, an Assembly Elections Bill, an Amending Electoral Bill, a Judicature and Court of Primary Appeal Bill, and an Amending Land Bill, which measures they will be ready to submit to you as soon as the Bill to amend the Constitution Act may become law.

The abundant rains of autumn and of the present winter give every promise of a prosperous season for all classes; and I trust that your labours will, under the blessing of Divine Providence, conduce to the further happiness and prosperity of the people of Victoria.

Melbourne, 9th July, 1878.

No. 55.

THE RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR
G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, September 10, 1878.

I HAVE the honour to acknowledge the receipt of your Despatch of the 13th of July,* reporting the opening on the 9th of that month of the parliamentary session for the present year, and transmitting printed copies of the speech delivered by you on that occasion.

I have, &c.

Governor Sir G. F. Bowen.

(Signed) M. E. HICKS BEACH.

No. 56.

THE RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR
G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, 16th September 1878.

I have the honour to acknowledge the receipt of your Despatch, No. 129, of the 29th of June last, upon the subject of the course pursued by you during the recent constitutional crisis on the advice of your responsible advisers.

I have, &c.

Governor Sir G. F. Bowen, G.C.M.G.,
&c. &c. &c.

(Signed) M. E. HICKS BEACH.

No. 57.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received September 20, 1878.)

Government House, Melbourne,
July 23, 1878.

SIR,

IN continuation of my Despatch of the 13th instant,* I have the honour to transmit herewith copies of the addresses voted by the two houses of the Victorian Parliament in reply to the speech with which the present session was opened.

I have, &c.

The Right Hon. Sir M. E. Hicks Beach, Bart.,
&c. &c. &c.

(Signed) G. F. BOWEN.

Enclosure 1. in No. 57.

EXTRACT FROM ADDRESS FROM THE LEGISLATIVE COUNCIL TO HIS EXCELLENCY THE GOVERNOR.

We shall give our careful consideration to the measure of constitutional reform to be submitted to Parliament, aiming, as your Excellency assures us, at a final adjustment of the legislative functions of both the Council and the Assembly.

(Signed) W. H. F. MITCHELL,
President.

Enclosure 2. in No. 57.

EXTRACT FROM ADDRESS FROM THE LEGISLATIVE ASSEMBLY TO HIS EXCELLENCY THE GOVERNOR.

We concur with your Excellency in the opinion that the Constitution established in this country nearly a quarter of a century ago was, without doubt, intended to be fashioned on the model of the British Constitution. Also, that unhappily, the attempt to embody in comparatively rigid statute law the elasticity inherent in the principles and practice of that Constitution has not been completely successful, and that differences in the interpretation of our Constitution Act have resulted in bringing the legislative machinery of the State to a temporary stand-still on no less than four different occasions. We thank your Excellency for informing us that a measure of constitutional reform, aiming at a final adjustment of the legislative functions of both the Council and the Assembly, will be immediately laid before us; and we express our conviction that it, undoubtedly, will be considered from a patriotic point of view by the members of both Houses, irrespective of party. We thank your Excellency for the assurance that its acceptance will put an end for all time to the recurrence of those periodical "dead-locks," which are so injurious to trade and commerce, and a standing disgrace to the constitutional institutions of Victoria.

We beg to inform your Excellency that we notice that the gravity and importance of constitutional reform will most probably prevent our giving attention to other legislation, except matters of most urgent moment; but that we are glad to learn that your Excellency's advisers are prepared to deal with many questions of great public importance, including a Mining on Private Property Bill, an Assembly Elections Bill, an Amending Electoral Bill, a Judicature and Court of Primary Appeal Bill, and an Amending Land Bill, which measures they will be ready to submit to us as soon as the Bill to amend the Constitution Act may become law.

(Signed) C. GAVAN DUFFY,
Speaker.

No. 58.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received September 20, 1878.)

Government House, Melbourne,
August 5, 1878.

SIR,

I HAVE already reported* that the session of the Victorian Parliament for the present year was opened on the 9th July ultimo, and I have transmitted copies of the speech containing the views of my responsible advisers, and a list of the chief measures which they intend to propose.

2. I am happy to be able to repeat the statement that during the first month of this session a more moderate and conciliatory spirit has appeared to prevail than during the last session.

3. A "Ways and Means" Bill in the usual form for nine hundred thousand pounds (900,000*l.*), that is, granting supplies for about three months, has passed both Houses of Parliament without opposition.

4. It will be remembered that the leading public men of all parties in Victoria, as well as the community in general, while attached, like all other English speaking communities, to the bicameral system, have during some years past recognised the necessity of such an amendment of the existing Parliamentary Constitution as would be calculated to produce greater harmony between the Council and the Assembly. Several schemes with this object have been projected or proposed by different ministries, but hitherto without any practical result. In particular, in 1874, Mr. Francis' ministry introduced a Bill adopting a modification of the Constitution of the

Storting, or Parliament of Norway. To quote the words of Mr Francis in an address to his constituents, it was proposed as follows :—

“When any measure shall have been passed by the Legislative Assembly in two consecutive ordinary sessions of Parliament, and shall have failed to pass through the Legislative Council and the Legislative Assembly, the Governor may prorogue Parliament, and within 60, and not less than 30 days, convene a meeting of the members of both Houses, who shall sit together and conduct and regulate their proceedings in accordance with the usages and practice of the Parliament of Victoria, such meeting to be for the purpose of considering and dealing with such rejected measure, and for no other purpose; and such measure shall only be passed, with or without amendments, by an absolute majority of the members of both Houses.”

5. The debates which took place on this question will be found in the Victorian *Hansard* for 1874. The Bill was opposed alike by those who thought it went too far, and by those who thought it did not go far enough, and it finally passed the Assembly with so small a majority that it was abandoned by its promoters, who saw no chance of getting it through the Council.

6. The prolonged Parliamentary crisis and “dead-lock” of the last session have again given prominence to this question. That the necessity of an amendment of the existing Constitution of the Legislative Council is generally recognised, is proved by the fact that, in addition to the ministerial measure introduced by Mr. Berry in the Assembly, a Bill for the above purpose has also been introduced in the Council by the leader in that House of the opposition to the present ministry. I transmit herewith copies of both these Bills, but I abstain from all comment upon them at present, seeing that they are now under discussion in both Houses, and that it may be safely foretold that neither of them will become law, at least, in its existing shape. I trust that moderate counsels may prevail, and that both measures may be referred to select committees of each House, and finally to a conference of both Houses.

7. The original idea of Mr. Berry was simply to propose the substitution in Victoria, in the place of the existing elective Council, of a nominated Council, in accordance with the analogy of the English Constitution, and on the plan of the Second Chambers, which are, on the whole, working well in the neighbouring Colonies of New South Wales, New Zealand, and Queensland. But it appears that a scheme of this kind did not approve itself generally either to the supporters or to the opponents of the present ministry; that there seemed little chance of success for it in either House, and that it was ultimately abandoned in favour of the measure actually introduced.

8. Mr. Cuthbert, the late Postmaster-General, and representative of the Government in the Legislative Council, a gentleman universally respected, has felt compelled to resign his office, in consequence of his disagreement with his colleagues respecting the principle and details of their Reform Bill. His place in the ministry has not yet been filled up, but a temporary arrangement has been made for the discharge of the duties of the Post and Telegraph Department by one of the other ministers.

9. The copies of the parliamentary debates, or Victorian *Hansard*, of the “Votes and Proceedings” of both Houses, and of the other parliamentary papers forwarded by this mail, will be found to furnish full information respecting the first month of the present session. The files of the leading journals of both sides are also transmitted, according to custom, and will show the views upheld and the arguments used by the supporters in the public press of the ministry and of the opposition respectively.

10. There will probably be protracted debates in both Houses on the Reform Bills now before them. I lose no proper opportunity of pointing out that the adoption of a spirit of fair compromise, of political sagacity, and of mutual forbearance, is quite as necessary as any fresh legislative machinery to ensure the harmonious working of the two deliberative branches of the Legislature.

I have, &c.

(Signed) G. F. BOWEN.

The Right Hon. Sir Michael Hicks Beach, Bart., M.P.

&c.

&c.

&c.

Enclosure 1. in No. 58.

LEGISLATIVE COUNCIL CONSTITUTION BILL, 1878.

Members to be increased to 42.

Six to be elected in 1879 for five years.

Six additional in 1880 for six years.

All members afterwards to be elected at biennial elections for six years.

Members to be qualified as heretofore, and lessees of improving leases for an original term of 10 years of a yearly value of 250*l.* over rent reserved in lease, to be qualified to sit as members.

Qualification of electors to be extended to *l.* [*exact amount cannot be stated until return ordered last session be made, but ranging between 25*l.* and 35*l.* a year*].

To compensate this proposed extension, freehold electors of 50*l.* to 150*l.* to have two votes; from 150*l.* and upwards three votes.

Leasehold electors of 50*l.* and upwards to have one vote, but none below that amount.

Provinces same as at present.

LEGISLATIVE COUNCIL.

A BILL TO ALTER THE CONSTITUTION OF THE LEGISLATIVE COUNCIL.

Preamble.

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, that is to say:—

Commencement and title of Act.

1. This Act shall come into operation on the _____ day of _____, in the year of our Lord One thousand eight hundred and seventy-eight. It shall be called and may be cited as "*The Legislative Council Act, 1878,*" and is divided into parts as follows:—

Part I.—Number and Qualification of Members, ss. 4–17.

Part II.—Qualification of Electors, ss. 18–28.

Part III.—Rolls of Ratepaying Electors, ss. 29–33.

Part IV.—Miscellaneous Provisions, ss. 34–48.

Repeal of Acts. First Schedule.

2. The Act, and the several parts of Acts, mentioned in the First Schedule to this Act, to the extent to which such parts of Acts are in and by the said schedule expressed to be repealed, shall be and the same are hereby repealed; but all acts, matters and things had, done, or happened under the enactments hereby repealed, or any of them, shall be of the same force and effect, and all offences against, and punishments and penalties incurred under, the said enactments or any of them, may be dealt with, inflicted, and enforced upon and against all persons liable thereto in like manner as to each case herein mentioned as if no such repeal had taken place. All acts, proceedings, matters, and things which at the time of the commencement of this Act have under the enactments hereby repealed, or any of them, been begun and are pending, shall respectively be continued, carried on, and completed under and in pursuance of the provisions of this Act in the like behalf.

Interpretation of words.

3. In this Act and the schedules thereto the following terms shall, if not inconsistent with the subject matter or context, have the respective meanings hereby assigned to them, that is to say:—

“ Council ” shall mean the Legislative Council.

“ Member ” shall mean a member of the Legislative Council.

“ Municipal district ” shall include the city of Melbourne, the town of Geelong, and every city, borough, shire, and road district.

“ Clerk ” shall include the town clerk of the city of Melbourne, of the town of Geelong, and of every city and borough, and the secretary or clerk of every shire and road district.

“ Province ” shall mean electoral province.

PART I.—NUMBER AND QUALIFICATION OF MEMBERS.

4. The Council shall consist of thirty members until that number shall be increased under the provisions herein-after contained, and shall thenceforth consist of that number and such additional number of members as shall, from time to time, become members thereof after the passing of this Act, so that the whole number shall not exceed forty-two; and for the purpose of returning such members the Colony shall be considered to be divided into six provinces, the boundaries whereof for the purposes of this Act shall be taken to be those set forth in the Second Schedule of the Act No. 279, and each province shall return an equal number of members.

5. Periodical elections for the several provinces, to supply the places of members retiring by rotation, shall be held in every province in every second year, commencing with the year one thousand eight hundred and eighty, and writs for such several elections shall be issued on the respective days set forth in the Second Schedule to this Act; and every such writ may be issued before the member or members about to retire by rotation (as provided by the third section of the Constitution Act) shall have retired; and every member so retiring by rotation shall, if not otherwise disqualified, be entitled to sit and vote as a member during the progress of, and until the completion of, the periodical election in the province represented by him.

6. An election for every province shall take place on some day between the twentieth day of March and the fifth day of April, in the year one thousand eight hundred and seventy-nine, at which the electors of every province shall elect one member to sit in the Council as a member for such province until the periodical election to be held in that province in the year one thousand eight hundred and eighty-four, and a writ for every such election shall be issued before the said twentieth day of March.

7. At the periodical election to be held in the year one thousand eight hundred and eighty for supplying the places of members retiring by rotation as aforesaid, the electors of every province shall elect to fill the place of the member retiring by rotation in that year one person who shall sit in the Council as member for such province until the periodical election to be held in the year one thousand eight hundred and eighty-six, and shall then retire, and shall also at the same election elect one other person, who shall sit in the Council as an additional member for such province until the periodical election to be held in such province in the year one thousand eight hundred and eighty-six, and shall then retire: At the periodical elections to be held in the year one thousand eight hundred and eighty-two the electors of every province shall elect to fill the place of the member retiring by rotation in that year one person who shall sit in the Council as member for such province until the periodical election to be held in such province in the year one thousand eight hundred and eighty-eight, and shall then retire: At the periodical elections to be held in the year one thousand eight hundred and eighty-four the electors of every province shall elect to fill the places of the two members retiring by rotation in that year two persons who shall sit in the Council as members for such province until the periodical election to be held in such province in the year one thousand eight hundred and ninety, and shall then retire: At the periodical elections to be held in the year one thousand eight hundred and eighty-six the electors of every province shall elect to fill the places of the two members retiring by rotation in that year two persons who shall sit in the Council as members for such province until the periodical election to be held in such province in the year one thousand eight hundred and ninety-two, and shall then retire: At the periodical elections to be held in the year one thousand eight hundred and eighty-eight the electors of every province shall elect to fill the place of the member retiring by rotation in that year one person who shall sit in the Council as member for such province until the periodical

Number of members.

Dates of periodical elections.

Second schedule

Election of six additional members in 1879.

Number of members to be elected at the several periodical elections.

election to be held in such province in the year one thousand eight hundred and ninety-four; and shall then retire: And the vacancy or vacancies to be caused from time to time in the representation of each province by the retirement in rotation as aforesaid of a member or members, as the case may be, at the expiration of each period of two years, as set forth in the Second Schedule to this Act, shall be filled up on each occasion with the number corresponding to that of the retiring member or members, anything herein contained to the contrary notwithstanding.

Present members to retain their seats for term for which they were elected.

8. The present members shall be entitled to retain their seats for the term for which they have severally been elected, and in the event of any of such seats being vacated by death, resignation, or disqualification, the member elected to fill such vacancy shall hold the seat during the unexpired portion of the term for which the previous member was elected.

Qualification of members.

9. No person shall be capable of being elected a member unless he be of the full age of thirty years, and a natural-born subject of Her Majesty the Queen; or, if not a natural-born subject of the Queen, shall have been naturalized for ten years previous to such election, and have resided in Victoria during that period, or unless he shall for one year previous to such election have been legally or equitably seized of or entitled to an estate of freehold in possession for his own use and benefit in lands or tenements in Victoria of the value of two thousand five hundred pounds, or of the annual value of two hundred and fifty pounds, above all charges and incumbrances affecting the same; or of leasehold lands or tenements in Victoria for the unexpired residue of any term originally created for a period of not less than ten years of the annual value of two hundred and fifty pounds over and above the rent reserved in the lease or leases of such lands or tenements, or of leasehold lands or tenements in Victoria for the unexpired residue of any term originally created for a period of not less than ten years of an annual value of less than two hundred and fifty pounds over and above such rent as aforesaid, if he shall also for one year previous to such election have been legally or equitably seized of or entitled to an estate of freehold in possession for his own use and benefit in lands or tenements in Victoria of an annual value sufficient, together with the annual value of such leasehold property in excess of the said rent, to make the aggregate annual value of such freehold and leasehold property amount to two hundred and fifty pounds above all charges and incumbrances affecting the said leasehold or the said freehold and leasehold properties respectively.

Judges and ministers of religion incapable of being elected.

10. No judge of any court in Victoria appointed during good behaviour, and no person being, or who has been, a minister of any religious denomination, whatever may be or have been his title, rank, or designation, shall be capable of being elected a member.

Traitor or felon not to be a member.

11. No person who has been attainted of any treason, or convicted of any felony or infamous offence within any part of Her Majesty's dominions shall be capable of being elected a member.

Declaration by members.

12. Every member shall, before taking his seat in the Council in each and every session of Parliament, make and subscribe a declaration in writing or in print, or partly in writing and partly in print, in the form or to the effect set forth in the Third Schedule to this Act, and shall deliver the same to the Clerk of the said Council, and the said Clerk shall file and keep every such declaration with the other records of his office.

Third Schedule.

Penalty for sitting before making declaration.

13. If any member sit or vote in the Council in any session of Parliament before he has in the same session made such declaration as aforesaid, he shall be liable for every day on which he shall so offend to pay the sum of two hundred pounds, to be recovered by any person who shall sue for the same in any court of competent jurisdiction.

Member may alter or make new declaration.

14. If any member after making such declaration as aforesaid shall wish to sell or otherwise dispose of the property or any part thereof

described in such declaration, or to make any alteration in the description of any property mentioned in such declaration, or to substitute other property for the property so described in such declaration, it shall be lawful for him at any time during the same session of Parliament to make and subscribe another declaration as in the twelfth section hereinbefore provided, and deliver the same to the Clerk of the Council, to be by him filed and kept as aforesaid.

15. Any person shall cease to be a member and shall be disqualified to sit or vote in the Council, who shall sell or otherwise dispose of the property mentioned in the declaration by him made and subscribed as hereinbefore provided, or any portion of such property, if the remaining portion of such property be insufficient to constitute the qualification hereinbefore required for a member; and if such person shall sit or vote in the Council during any session of Parliament after he shall have become so disqualified as aforesaid, he shall be liable for every day on which he shall so offend to pay the sum of two hundred pounds, to be recovered by any person who shall sue for the same in any court of competent jurisdiction: Provided always, that if such person shall at or before the time of selling or otherwise disposing of such property, or any part thereof, be legally or equitably seized of or entitled to other freehold or leasehold property sufficient to constitute the qualification of a member as hereinbefore provided, it shall be lawful for him to continue to sit and vote in the said Council if he shall make and subscribe another declaration as hereinbefore provided, and shall deliver the same to the clerk of the said Council, to be by him filed and kept as aforesaid.

Member selling qualifying property after making declaration disqualified to sit.

16. If any member knowingly and wilfully make any false declaration respecting his qualification as aforesaid, he shall be deemed guilty of a misdemeanor, and if he be thereof lawfully convicted he shall suffer the like pains and penalties as by law are incurred by persons guilty of wilful and corrupt perjury.

Consequence of false declaration.

17. If any person by this Act disqualified from or declared to be incapable of being a member be elected and returned as a member to serve in the Council, such election and return may be declared by the Council 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 sit or vote in Council as a member, he shall be liable to pay the sum of two hundred pounds, to be recovered by any person who shall sue for the same in any court of competent jurisdiction.

Election of member incapable of sitting may be declared void.

PART II.—QUALIFICATION OF ELECTORS.

18. Every male person of the full age of twenty-one years, if he be a naturalized subject of Her Majesty the Queen, and if he have resided in Victoria for twelve months previous to the first day of January or July in any year, and if he have been naturalized at least three years next preceding that day, and if he be not subject to any legal incapacity, shall, for the purposes of this part of this Act, be deemed and taken to be a natural-born subject of the Queen.

Persons naturalized to be deemed natural born.

19. Every male person of the full age of twenty-one years, being a natural-born subject of Her Majesty the Queen, and not subject to any legal incapacity, and being seized at law or in equity for his own life or for the life of another, or for any larger estate of lands or tenements in any one and the same province for his own use and benefit (such person being herein-after designated as "owner"), or being either the mortgagor or the mortgagee of any such lands or tenements, if in the actual possession or in receipt of the rents and profits thereof, or the cestuique trust in actual possession or in receipt of the rents and profits of any such lands or tenements, shall, subject to the provisions of this Act and of "The Electoral Act, 1865," be qualified to vote in the election of members for the province in which the lands or tenements of such owner, mortgagor, mortgagee, or cestuique trust are

Freehold qualification of electors.

situated, and to give one or more votes according to the following scale, that is to say, if such properties, whether consisting of one or more tenements, be rated in the rate book or rate books of any municipal district or districts upon a yearly value of £. and less than 50£., he shall be entitled to give one vote and no more, if upon a yearly value of 50£. and less than 150£. he shall be entitled to give two votes and no more, and if upon a yearly value of 150£. and upwards he shall be entitled to give three votes and no more. Provided always, that no trustee of any lands or tenements shall in any case be qualified to vote for or by reason of any trust estate.

Leasehold qualification of electors.

20. Every such male person as aforesaid, if he be entitled as lessee or assignee for the unexpired residue of any term originally created for a period of not less than five years to any lands or tenements in any one and the same province rated to some municipal district, or in the aggregate to some municipal districts, upon a value of not less than 50£. a year, shall, subject to the provisions of this Act and of "The Electoral Act, 1865," be qualified to vote in the election of a member or members for the province in which such lands or tenements are situated, but shall have one vote only.

Qualification of occupying tenant.

21. Every such male person as aforesaid, if he occupy as tenant any lands or tenements in any one and the same province rated to some municipal district, or in the aggregate to some municipal districts, upon a yearly value of not less than 50£., shall, subject to the provisions of this Act and "The Electoral Act, 1865," be qualified to vote in the election of a member or members for the province in which such lands or tenements are situate, but shall have one vote only.

Ratepaying electors.

22. Every such male person as aforesaid who shall under any Act or Acts now or hereafter to be in force relating to any municipal district be enrolled upon the citizen burgess or voters' roll of such municipal district or any ward or subdivision thereof in respect of rateable property either singly in one municipal district or in the aggregate in more than one municipal district situate in any one and the same province, of the yearly value of not less than £. in case the occupier be also the owner, or of the yearly value of 50£. in case the occupier be only a tenant, shall, subject to the provisions of this Act and "The Electoral Act, 1865," be qualified to vote in the election of a member or members for such province.

Premises owned or occupied in succession sufficient.

23. The lands or tenements in respect of which any person shall be qualified to vote as aforesaid shall not be required to be the same lands or tenements, but may be different lands or tenements owned held or occupied in immediate succession by such person.

Joint owners or lessees, how many may vote.

24. Where any such lands or tenements as aforesaid are jointly held or owned by two or more such male persons as aforesaid as such owners lessees or assignees as aforesaid, if the yearly value of such lands or tenements is such as being divided by the lowest amount herein-before declared to be a qualification entitling an owner lessee or assignee respectively to vote in the election of members for the province in which such lands or tenements are situated will give a quotient of two or more then so many respectively of such owners lessees or assignees (as the case may be) shall be entitled to vote in the election of a member or members for such province as are equal in number to such quotient.

Joint occupying tenants, how many may vote.

25. Where any such lands or tenements as aforesaid are jointly occupied by two or more such male persons as aforesaid as tenants, if the yearly value of such lands or tenements is such as being divided by the amount herein-before declared to be a qualification entitling a tenant to vote in the election of a member for the province in which such lands or tenements are situated will give a quotient of two or more, then so many of such joint occupiers shall be entitled to vote in the election of a member or members for such province as shall be equal in number to such quotient.

No one on roll of ratepaying electors may take out elector's right.

26. No person who is included in any roll of ratepaying electors for any division of a province shall take out an elector's right for such

province, but any person qualified to vote under the provisions of this Act in respect of lands or tenements not rated to one municipal district upon a yearly value sufficient to qualify him to vote but rated in the aggregate to more municipal districts than one upon a yearly value sufficient to qualify him to vote, shall be entitled to have an elector's right issued to him, and to have his name inserted and retained upon an ordinary roll for some division in such province, and such elector's right shall be in the form set forth in the Fourth Schedule hereto, to be printed and otherwise prepared as provided in the twenty-first section of "The Electoral Act, 1865," for electors' rights to vote at any election for a province, and the registrar for any division of a province is hereby authorised to issue any such right: Provided always, that if the applicant for such elector's right reside in any division of a province in which such qualification shall be situate he shall take out an elector's right only from the registrar of the division in which he shall reside.

Fourth Schedule.

27. Every such male person as aforesaid, if he be resident in Victoria and be a graduate of any university in the British dominions, or a barrister at law, solicitor, or conveyancer, or a legally qualified medical practitioner, or a duly appointed minister of any church or religious denomination, or a schoolmaster possessing a certificate that he is duly qualified to teach under the Commissioners of Education of Great Britain and Ireland, or the like certificate that he is qualified under some competent board appointed by the Government of this Colony under an Act of the Legislature, or an officer or retired officer of Her Majesty's land or sea forces, or a retired officer of the East India Company's forces, or if he have matriculated at the University of Melbourne, shall, subject to the provisions of this Act and of "The Electoral Act, 1865," be qualified to vote in any election of a member or members for the province in which he resides for the time being, and every such person shall procure an elector's right to be issued to him by the registrar of the division in which he shall reside of such province.

Graduates of any university, professional men, &c. may vote at elections.

28. If any person procure an elector's right to be issued to him in respect of any qualification under the provisions of this Act to which he is not entitled, he shall be deemed guilty of a misdemeanor, and if he be thereof lawfully convicted, he shall be liable to the like pains and penalties as by law are incurred by persons guilty of wilful and corrupt perjury.

Penalty for wrongfully procuring an elector's right.

PART III.—ROLLS OF RATEPAYING ELECTORS.

29. The clerk of every municipal district shall, between the fifteenth and thirty-first days of July, inclusive, in each year make out in the form contained in the Fifth Schedule to this Act, for each division or part of a division of every province which shall be within such municipal district, from every citizen burgess or voters' roll (as the case may be) of such municipal district, or any ward or subdivision (as the case may be) in such municipal district in force for the time being, a separate list in alphabetical order, of the Christian names and surnames of all male persons who shall be entered upon any such citizen burgess or voters' roll (as the case may be) in respect of rateable property situated within such division or part of a division (as the case may be) and rated to such municipal district as owners at not less than *l.* a year, or as leaseholders, assignees, or occupying tenants at not less than 50*l.* a year, and shall certify the same under his hand, and transmit the same so certified to the registrar of the division to which or to part of which the same shall relate.

Clerks in municipal districts to make out separate rolls. Fifth Schedule.

30. If before or on the thirty-first day of July in each year the registrar of any such division shall have received as aforesaid a greater number than one of such lists, relating each to separate parts of any division of which he shall be registrar, he shall forthwith make out from the same, in the form of the Sixth Schedule to this Act, one roll for such division in alphabetical order of surnames of all male persons named in

Registrar to combine rolls.

Sixth Schedule.

To have copies printed and one transmitted to returning officer.

such several lists, and shall prefix to each name on such roll a number, beginning with the number one to the first name on such roll and continuing the numbers in regular arithmetical series to the last name on such roll, and shall cause a sufficient number of copies of the roll so made out to be printed, and shall certify under his hand one of such copies which shall be the roll of ratepaying electors in force for the time being of such division, and shall send it to the returning officer of the province, and shall from time to time furnish to him so many copies thereof as shall be required and also furnish copies thereof to any person requiring them on payment of a reasonable price for the same.

Duties of registrar if only one roll for a division be sent.

31. If before or on the last day aforesaid the registrar of any such division shall have received as aforesaid but one such list in respect of such division whether for a part or the whole thereof, he shall forthwith head such list hereafter called "roll" in conformity with the heading in the form contained in the Sixth Schedule of this Act, and shall prefix to each name thereon a number beginning with number "one" to the first name on the said roll and continuing the numbers on in regular arithmetical series to the last name thereon, and shall cause a sufficient number of copies of such roll to be printed, and shall certify under his hand one of such copies which shall be the roll of ratepaying electors in force for the time being for such division, and shall transmit it to the returning officer of the province, and shall also furnish to him from time to time so many copies thereof as shall be required, and also furnish copies thereof to any persons requiring them on payment of a reasonable price for the same

Sixth Schedule.

Copies may be purchased.

Rolls of ratepaying electors to remain in force till new rolls prepared.

32. The rolls so certified and transmitted as in this part of this Act before provided and called herein "Rolls of Ratepaying Electors" shall severally, subject to the provisions of this Act and the Electoral Act, 1865, become and be electoral rolls for the province in the division to which the same shall refer, and shall each continue in force until the coming into operation of another roll of ratepaying electors for such division as herein and in the Electoral Act, 1865 : Provided whether such new roll shall have been made at the time herein appointed for the purpose or at any time afterwards.

Names improperly omitted.

33. If the clerk of any municipal district or if any registrar shall improperly or erroneously omit the name of any ratepayer entered upon any such citizen burgess or voters' roll, in respect of any rateable property rated upon a yearly value of not less than £. in the case of an owner, and not less than 50/. in the case of a person holding otherwise than as an owner, from any roll which such clerk or registrar (as the case may be) is hereby required to make out or certify, such ratepayer may by notice in writing signed by such ratepayer require such clerk or registrar (as the case may be) to appear before the court of petty sessions for the locality, at a time and place in the said notice mentioned, to show cause why the name of such ratepayer should not be inserted in the roll of ratepaying electors, and thereupon at such time and place, or at such other time and place as the court shall appoint, the said court may and shall, whether such clerk or registrar be present or not, inquire into the question mentioned in the said notice, and decide whether such name should or should not be inserted in such roll, and may award such costs to the ratepayer who has signed such notice, or to such clerk or registrar as shall appear to such court to be reasonable. The said court shall thereupon cause to be drawn up and shall sign a certificate of its decision, and shall forward the same to the returning officer, and the returning officer shall immediately upon the receipt at any time of such certificate (unless the same be received by him between the day of nomination and the day of polling at any election) insert such name in the roll of ratepaying electors in accordance with such certificate.

PART IV.—MISCELLANEOUS PROVISIONS.

Part of Electoral Act, 1865, amended.

34. Part II. of the Electoral Act, 1865, so far as the same relates to the Council, is hereby amended by substituting (except as herein-

before provided) November for August, December for September, January for October, February for November, June for March, July for April, and August for May, throughout the same.

35. All the provisions of the Electoral Act, 1865, except in so far as the same are varied by this Act, and except also where the same are inconsistent with any of the provisions of this Act, shall relate and be applied to the registration of electors by this Act qualified or entitled to vote in the election of members to serve in the Council for any province, and this Act shall be construed generally with and as part of the Electoral Act, 1865, except in so far as the last-mentioned Act is varied by this Act.

This Act to be construed as part of the Electoral Act, 1865.

36. Every candidate at any election for the Council shall, together with the nomination paper required by the Electoral Act, 1865, to be delivered to the returning officer, deliver to such returning officer a declaration in writing, or partly in writing and partly in print, made and subscribed by such candidate to the effect that he is legally or equitably seized of or entitled to lands or tenements in Victoria, either freehold or leasehold, or partly freehold and partly leasehold property, sufficient to qualify him under the provisions of this Act to be a member of the Council, and such declaration shall be in the form or to the effect set forth in the Seventh Schedule to this Act, and no nomination paper shall be accepted by such returning officer unless accompanied by such declaration, and such declaration when received shall be forthwith transmitted by such returning officer to the Clerk of the said Council, who shall file and keep the same with the other records in his office.

Candidate to make declaration, and send to returning officer with nomination paper.

Seventh Schedule.

37. The third sub-section of section 24 of the Electoral Act, 1865, so far as the same relates to the Council, shall be and the same is hereby repealed, and in lieu thereof the following questions before issuing any elector's right shall be put by the registrar to the person applying for the same, that is to say: "Are you a natural born or naturalized subject of Her Majesty Queen Victoria and which?" [*and if the answer be "naturalized"*] "Have you resided in Victoria for twelve months previously to the first day of January (*or if the case so require, July*) last?" and "Were you naturalized for three years at least next preceding that day?"

Repeal of sub-section 3 of section 24 of Electoral Act, 1865, and substituted questions.

38. At any election for electing one or more members to serve in the Council for any province the returning officer or his deputy, or other person appointed under the provisions of the Electoral Act, 1865, shall deliver to every voter who shall at the polling booth on the day of election signify to such returning officer or other person as aforesaid his intention of voting so many ballot papers as may be equal to the number of votes which such voter shall appear by any roll then in force to be entitled to give, and every such voter shall, without leaving the booth, strike out from such paper or papers the name of every candidate for whom he does not desire to vote. Provided that all the ballot papers to which any person may be entitled at any polling booth shall be received by him at one and the same time, and no person having once voted at any election shall at the same election receive any other such paper or exercise any further right of voting thereat. Provided also, that all the provisions of the Electoral Act, 1865, relating to the tendering of a vote and the delivering of a ballot paper shall apply to the tendering of more than one vote and to the delivery of more than one ballot paper under the provisions of this Act, and each ballot paper, whenever more than one under the provisions herein contained be delivered to one elector, shall be subject to the same provisions and be dealt with in the same manner as a ballot paper under the Electoral Act, 1865.

Where elector entitled to more than one vote returning officer to give as many ballot papers as elector has votes.

39. In any election for the Council the day of nomination shall be not less than four nor more than seven clear days after the day of the issue of the writ, and the day of polling shall be not less than four nor more than seven clear days after the day of nomination.

Period for nomination and election after the issue of writ.

Time for keeping open the poll.

40. Every polling at any election for the Council shall commence on the day appointed for the same at eight of the clock in the forenoon, and shall, unless lawfully adjourned, finally close at five of the clock in the afternoon of the same day, and shall be conducted in manner mentioned in this and the Electoral Act, 1865.

Hiring of vehicles at elections prohibited.

41. Any person who shall hire or afterwards pay for any conveyance hired for the purpose of bringing or carrying of any elector other than himself, in order that such elector may vote at any election, or for the purpose of taking away any elector other than himself after he shall have so voted, shall be deemed guilty of bribery within the meaning of the Electoral Act, 1865.

Hired canvassers may not vote.

42. No elector who within six months before or during any election for any province, shall have been or shall be retained, hired, or employed in consideration of some reward, pay, or remuneration as a canvasser on behalf of any candidate for such election shall be entitled to vote at such election, and if he shall so vote he shall be guilty of a misdemeanour and his vote if given shall be void.

Treating prohibited.

43. Every person who shall keep open or allow to be kept open any public-house, shop, booth, tent, or place of entertainment where or by means of which any spirituous or fermented liquor, or any food or eatables, liquor of any kind, shall be given or distributed, or who shall give or distribute any spirituous or fermented liquor, or any food or eatables of any kind to any elector on the day of polling without such elector then and there paying for the same, shall be deemed guilty of bribery within the meaning of the Electoral Act, 1865, and shall be punishable accordingly.

Penalty for misfeasance or neglect of registrar.

44. If any registrar, clerk, or other person shall be guilty of any misfeasance or act of commission or omission contrary to the provisions of this Act, he shall be liable, upon being summarily convicted thereof before any Court of Quarter Sessions, to forfeit and pay a sum of not more than fifty pounds nor less than five pounds, or at the discretion of the court to be imprisoned for any period not exceeding three months.

Any election before new rolls in force not to be affected by this Act.

45. If any election of a member to serve in the Council to fill up a vacancy caused by the death, resignation, or disqualification of any member shall take place after the coming into operation of this Act, and before the twentieth day of March one thousand eight hundred and seventy-nine, such election shall be held in all respects as if this Act had not been passed, and those persons only who but for the passing of this Act would have been entitled to vote at any such election shall be entitled to vote thereat, anything herein to the contrary notwithstanding.

Laws and Ordinances to remain in force except where superseded by this Act.

46. All laws, statutes, ordinances, and usages now in force respecting the election of members to serve in the Council, shall be and remain in full force except so far as the said laws, statutes, ordinances, or usages are repealed or altered by this Act or are inconsistent with any of the provisions hereof.

Writs to be issued by President.

47. Writs for the election of members in all cases shall be issued by the President of the said Council, but if at the time at which it may be necessary to issue any writ there be no President of the said Council, such writ shall be issued by the Governor under his hand and the seal of the Colony.

Provision as to Sundays and holidays.

48. When any matter or thing shall be directed by this Act or by any writ issued in pursuance thereof to be performed on a certain day, and that day shall happen to be Sunday, or on any day specially named in the Act No. 160, or in any Act to be hereafter passed, to be observed as a holiday in the public offices, such matter or thing shall be performed on the day next afterwards, not being Sunday or one of the days specially named to be observed as aforesaid.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

Date of Act.	Title of Act.	Extent of Repeal.
18 & 19 Vict. c. 55.	" <i>Constitution Act</i> "	So much of section 3 as relates to the number of Members and to the first election under that Act.
32 Vict., No. 334 ...	" <i>Legislative Council Amendment Act, 1868.</i> "	The whole.
29 Vict., No. 279 ...	" <i>The Electoral Act, 1865.</i> "	Sections 3 and 4 so far as they relate to the Council, section 15 so far as it relates to the number of Members assigned to each province. Sub-section 3 of section 24 so far as it relates to the Council. Section 17, and section 18 so far as it relates to non-residential qualifications of electors for the Council. Sections 63, 64, 65, 66, and 67 so far as they relate to the Council. The words "such" and "as aforesaid" in the 2nd line of the 81st section. The words "or denizen" in sub-section 5 of section 104.

SECOND SCHEDULE.

Section 5.

Name of Province.	Date of Issue of Writ.	—
Central Province - -	7th August	
South Province - -	7th August	
South-western Province -	15th August	
Western Province - -	21st August	
North-western Province -	28th August	
Eastern Province - -	28th August	

THIRD SCHEDULE.

Section 12.

FORM OF DECLARATION FOR A FREEHOLD QUALIFICATION.

In compliance with the provisions of the Act Victoria, No. , I do declare and testify that I am legally or equitably seized of or entitled to an estate of freehold for my own use and benefit, in lands or tenements in the Colony of Victoria, of the value [or the yearly value as the case may be] of pounds sterling money and upwards, above all charges and incumbrances affecting the same, and further that such lands or tenements are situated in the municipal district of , and are known as [here describe sufficiently for identification].

And I further declare that such of the said lands or tenements as are situate in the municipal district of are rated in the rate-book of such district upon a yearly value of l. [the actual amount set out in the rate-book], and that such of the said lands or tenements as are situate in the municipal district of are rated in the rate-book of such district upon a yearly value of l. [the actual amount set out in the rate-book]. [If property situate in several municipal districts repeat as above.]

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.

FORM OF DECLARATION FOR A LEASEHOLD QUALIFICATION.

In compliance with the provisions of the Act Victoria, No. , I do declare and testify that I am legally or equitably seized of or entitled to an estate of leasehold for my own use and benefit, in lands or tenements in the Colony of Victoria, of the yearly value of two hundred and fifty pounds sterling money over and above the yearly rent reserved by the instrument creating the lease of the said lands or tenements, and above all charges and incumbrances affecting the same. And I further declare that such leasehold property was created by

deed bearing date the _____ day of _____ 18____, and made between _____ of the one part, and _____ of the other part, and that the yearly rent reserved by such deed is _____ l., and that the term of such lease created by such deed was for _____ years, of which _____ years are unexpired. And I further declare that such leasehold lands or tenements are situate in the municipal district of _____, and _____, and are known as [here describe sufficiently for identification].

[The actual amount set out in the rate-book.]

And I further declare, that such of the said leasehold lands or tenements as are situate in the municipal district of _____ are rated in the rate-book of the said district upon a yearly value of* _____ pounds, and that such of the said leasehold lands or tenements as are situate in the municipal district of _____ are rated in the rate-book of such district upon a yearly value of* _____ pounds, and that such of the said leasehold lands, &c. And I further declare that I have not collusively or colourably obtained a title to or become possessed of the said leasehold lands or tenements, or any part thereof, for the purpose of enabling me to be returned a member of the Legislative Council.

Section 12. FORM OF DECLARATION FOR A QUALIFICATION PARTLY FREEHOLD AND PARTLY LEASEHOLD.

In compliance with the provisions of the Act _____ Victoria, No. _____, I do declare and testify that I am legally or equitably seized of or entitled to an estate of freehold, &c., &c. [as in the declaration for a freehold qualification as above down to the concluding paragraph as to collusive title]. And I further declare, that I am legally or equitably seized of or entitled to an estate of leasehold, &c. [as in the declaration for leasehold qualification]. And I further declare, that I have not collusively or colourably obtained a title to or become possessed of the said freehold and leasehold lands or tenements, or either or any of them, or any part of them, or any or either of them, for the purpose of enabling me to be returned a member of the Legislative Council.

Section 26.

FOURTH SCHEDULE.

[Burr.]	ELECTOR'S RIGHT.	
No.	Province.	No.
Province.	Division.	
	<i>Non-Residential Qualification.</i>	
	The holder hereof [name and description], of [place of residence] whose name is signed hereunder, being an owner [or as the case may be a lessee, assignee, or occupying tenant] is entitled, being duly enrolled, to vote at elections of Members of the Council in the above division of the above province for tenure of land known as _____, and _____, situated respectively in the municipal districts of _____, and rated in the rate-books of those districts upon the aggregate yearly value of _____ l. [the actual amount] [or if a lessee, assignee, or occupying tenant, 50l.].	
Name of elector to whom issued—	Signature of A. B., Registrar.	
Residence and occupation—	Signature of Elector.	
Qualification—		
Situation or other description of qualifying property.		

Section 29.

FIFTH SCHEDULE.

City of _____ [or Town of _____, or Borough of _____], or Road District of _____, A.D. 18____. SEPARATE LIST of Ratepayers in respect of Rateable Property valued at not less than _____ l. a year in the case of Owners, and not less than 50l. a year in the case of Lessees, Assignees, or Occupying Tenants, in the Division of the _____ Province:—

Surname in full.	Christian Name in full.	Residence and Post-town or Office.	Nature of Occupation.	Owner, Lessee, Assignee, or Occupying Tenant.	Situation or other Description of Rateable Property.	Yearly Value of Rateable Property.

Signature of A.B., Clerk.

SIXTH SCHEDULE.

Section 30.

ROLL OF RATEPAYING ELECTORS.

Province.
Division.

A.D. 18 .

Number on Roll.	Surname in full.	Christian Name in full.	Residence and Post-town or Post-office.	Nature of Occupation.	Owner, Lessee, Assignee, or Occupying Tenant.	Municipal District within which Rateable Property is situate.	Ward or Subdivision in which Rateable Property is situate.	Situation or other description of Rateable Property.	Yearly Value of Rateable Property.

Signature of A.B.,
Registrar.

SEVENTH SCHEDULE.

Section 36.

In compliance with the provisions of the Act Victoria No. , I of , in the Colony of Victoria, do declare and testify that I am a candidate for the office of member of the Legislative Council for the province at the election to be held for the said province, in pursuance of a writ issued the day of A.D. 18 .

And I declare that I am duly seized at law or in equity of an estate of freehold [*or* leasehold] [*or* partly freehold and partly leasehold] for my own use and benefit in lands or tenements in the Colony of Victoria, of sufficient value, above all charges and incumbrances affecting the same, to enable me to be elected a member of the said Council, and to sit and vote in Parliament as such member.

And I further declare that such lands or tenements are situated in the municipal district of and and respectively.

And I further declare that I have not colourably or collusively obtained a title to or become possessed of the said lands or tenements, or any of them, or any part of any of them, for the purpose of enabling me to be elected a member of the said Council.

Enclosure 2 in No. 58.

Read 1^o 17 July 1878.

LEGISLATIVE ASSEMBLY.

(Brought in by Mr. Berry and Sir Bryan O'Loughlen)

A BILL TO ALTER AND AMEND THE "CONSTITUTION ACT" AND TO PROVIDE A MODE OF SETTLING DIFFERENCES BETWEEN THE LEGISLATIVE COUNCIL AND THE LEGISLATIVE ASSEMBLY OF VICTORIA.

WHEREAS by the Act of the Imperial Parliament cited in Victoria as "The Constitution Statute," powers are conferred on the Legislature of Victoria to make laws altering or repealing all or any of the provisions of the First Schedule thereto, cited in Victoria as "The Constitution Act," and also to repeal certain conditions imposed by the said schedule: And whereas it is expedient to exercise the said powers for the purpose of the better ordering and adjusting of the legislative functions of the said Legislature: 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):—

Preamble.
18 & 19 Vict. c. 55.

1. This Act shall be called and may be cited as "The Constitution Act Amendment Act, 1878," and is divided into two parts as follows:—

Title of Act.

Part I.—Money and Tax Bills.

Part II.—All other Bills.

PART I.—MONEY AND TAX BILLS.

Repeal of sect. 45 and of provisoes to sect. 60 of schedule 1, 18 & 19 Vict. c 55.

2. The forty-fifth section and the two provisoes to the sixtieth section of "The Constitution Act" shall be and the same are hereby repealed.

Amendment of 56th section of Constitution Act.

3. The fifty-sixth section of "The Constitution Act" shall be altered and amended, and is hereby altered and amended by substituting in said section the words, "passed, but not altered or rejected," for the words, "rejected, but not altered."

Money or Tax Bill not passed within one month to be deemed passed,

4. Any Bill to which such fifty-sixth section relates having been passed by the Legislative Assembly and ordered to be carried therefrom to the Legislative Council for its concurrence if not formally passed by the Legislative Council within one month after the message transmitting the same has been communicated to the Legislative Council shall, unless the Parliament be sooner prorogued or dissolved, be then deemed to be a Bill which has been properly passed by the Legislative Council within the meaning of and in pursuance of the provisions of "The Constitution Act," and one also which it shall then be lawful to present to the Governor for Her Majesty's assent to be given to the same, by and with the advice and consent of the Legislative Council and of the Legislative Assembly, and every such Bill shall, as soon as the month herein mentioned shall have elapsed, be certified to by the Clerk of the Executive Council as having been passed by the Legislative Council, any Act of Parliament or Standing Order or Joint Standing Order to the contrary notwithstanding.

Form and validity of Act.

5. Every such Bill shall state the enacting authority in the established form, and shall be authenticated in the usual manner, and shall be presented to the Governor for Her Majesty's assent to the same as a Bill which has been properly passed; and after such assent has been given shall be valid in all respects to all intents and purposes as an Act of the Legislature of Victoria, within the meaning of "The Constitution Act."

Definition of Bills to which the 56th section relates.

6. Every "Annual Appropriation" Bill and every "Ways and Means" Bill shall be deemed to be a Bill to which the fifty-sixth section of "The Constitution Act" relates, and no other Bill shall be deemed to be such a Bill, save and except any Bill of which the primary object shall be the appropriating any part of the revenue of Victoria, or the imposing any duty, rate, tax, rent, return, or impost.

Preamble to be conclusive unless questioned. If questioned, an absolute majority of Assembly to decide.

7. Any Bill of which the primary object is such as in the preceding section mentioned shall state in its preamble the words "in pursuance of the provisions of the fifty-sixth section of 'The Constitution Act,'" and if before the third reading thereof any question shall arise in the Legislative Assembly as to the primary object of such Bill, such question shall be finally decided in respect of such Bill by a resolution of the Legislative Assembly carried with the concurrence of an absolute majority of the whole number of the members thereof, and not otherwise, and such decision shall be conclusive; and any Bill containing the said words in the preamble thereof, and which may be unquestioned before the third reading thereof, shall for the purposes of such preceding section be held to be a Bill to which the fifty-sixth section of "The Constitution Act" relates.

Amendments may be sent from the Council for consideration, and if agreed to by Assembly to form part of Bill.

8. Notwithstanding anything herein-before contained, it shall be lawful for the Legislative Council to suggest and transmit to the Legislative Assembly for consideration any amendments to any Bill to which the fifty-sixth section of "The Constitution Act" relates, save and except any annual Appropriation Bill, with their reasons therefor, one week at least before such month herein-before mentioned shall elapse; and if such amendments or any of them shall be agreed to by the Legislative Assembly within said month, any amendments so agreed to shall be inserted in said Bill by the clerk of the Legislative Council, and the Bill so amended shall be deemed to be the Bill passed.

PART II.—ALL OTHER BILLS.

9. Any Bill, other than a Bill to which the fifty-sixth section of "The Constitution Act" relates as herein-before defined, which shall be passed by the Legislative Assembly in two consecutive annual sessions of Parliament, and which shall be rejected by the Legislative Council in each of such sessions, shall, unless submitted to and disapproved of by the electors for the Legislative Assembly, at a general poll in the manner hereinafter provided, be then deemed to be a Bill which has been properly passed by the Legislative Council, within the meaning of and in pursuance of the provisions of "The Constitution Act," and one also which it shall then be lawful to present to the Governor for Her Majesty's assent to be given to the same, by and with the advice and consent of the Legislative Council and of the Legislative Assembly, and every such Bill shall be certified to by the Clerk of the Executive Council as having been passed by the Legislative Council, any Act of Parliament, Standing Order, or Joint Standing Order to the contrary notwithstanding.

Bills passed in two consecutive sessions by the Legislative Assembly if not disapproved of by the electors of Victoria to be deemed to have passed the Council.

10. Every such Bill shall state the enacting authority in the established form, and shall be authenticated in the usual manner, and shall be presented to the Governor for Her Majesty's assent to the same as a Bill which has been properly passed; and after such assent has been given shall be valid in all respects to all intents and purposes as an Act of the Legislature of Victoria, within the meaning of "The Constitution Act."

Form and validity of Act.

11. For the purposes of this part of this Act, and not otherwise, any Bill which shall not be passed by the Legislative Council within one month after the message transmitting the same has been communicated to the Legislative Council from the Legislative Assembly shall be deemed, unless the Parliament be sooner prorogued or dissolved, to have been "rejected:" Provided nevertheless that nothing herein contained shall be construed so as to prevent the Legislative Council from passing any such Bill after the expiration of such month.

What Bills deemed to be "rejected."

Proviso.

12. The question whether any Bill to be transmitted to the Legislative Council in the second of such consecutive annual sessions is substantially the same Bill as that which was rejected in the preceding session, and the questions whether the said sessions were "annual" and "consecutive" within the meaning of this part of this Act, shall be all finally decided before such transmission by a single resolution of the Legislative Assembly, carried with the concurrence of an absolute majority of the whole number of the members thereof, and not otherwise, and such decision shall be conclusive.

Questions of the Bill being substantially the same and as to annual and consecutive sessions to be decided by an absolute majority of Assembly.

13. No Bill shall be submitted to a general poll of the electors for the Legislative Assembly unless within twenty-one days after the second rejection thereof by the Legislative Council an address be presented to the Governor by the Legislative Council requesting that the Bill be so submitted: Provided always, that no such address requesting such submission of any Bill shall be so presented unless and until a resolution shall have been first carried in the Legislative Council approving of such address, with the concurrence of an absolute majority of the whole number of the members thereof.

Legislative Council to present address requesting a general poll.

14. Within seven days after any such address has been presented the Governor in Council shall proclaim a day for a general poll, being not less than fourteen days nor more than twenty-one days after the date of the publication of such proclamation in the *Government Gazette*, on which proclaimed day the returning officer of each electoral district who may be then acting or appointed under any Act for the time being for the election of members of the Legislative Assembly shall, without further or other authority than this Act, proceed to take a poll at the polling places lawfully under any such Act appointed for such district of all persons who would on such day be entitled to vote in the election of any member to serve in the Legislative Assembly for

General poll of all voters as to Bill.

such district, and who desire to vote for or against such Bill becoming law.

Votes how taken.
Schedule 1.

15. At the taking of such poll, ballot papers in the form of the Schedule hereto shall be used instead of the ordinary ballot papers, and the returning officer or his deputy shall, at the request of any person who is entitled to vote thereat, and who desires to vote on the question of such Bill becoming law, deliver to such person one of such papers; and such papers shall be deemed to be ballot papers within the meaning of any Act for the time being in force for the election of members of the Legislative Assembly.

Scrutineers.

16. Two scrutineers may be present in every polling booth, one of whom may be appointed by the President of the Legislative Council, and the other by the Speaker of the Legislative Assembly.

Ascertainment of result.

17. Immediately upon the close of the poll the returning officer and every deputy at the polling place at which each shall preside shall, in the presence and subject to the inspection of the poll clerks and such of the scrutineers as choose to be present, open the ballot box and proceed to ascertain the number of votes recorded, and each deputy shall immediately forward to the returning officer a list duly signed and verified, made up under the inspection of the scrutineers, of the number of votes recorded for and against the Bill respectively at the booth at which he took the poll; and every returning officer shall make up from the list so made out by him, and from such lists of his deputies, the state of the poll in his district, and publicly post the same, duly signed by him, and shall as soon as conveniently may be on or after the day of the poll transmit to the Clerks of the Executive and Legislative Councils, and of the Legislative Assembly respectively, a return signed by him showing such state of the poll.

Clerk of the Executive Council to ascertain result of general poll and publish same.

18. The Clerk of the Executive Council shall make up and certify to a return of the number of votes recorded in all the electoral districts of Victoria, from the returns so transmitted to him by the returning officers, and if the votes recorded against the Bill becoming law amount to one-half of the total number of votes recorded, then such Bill shall be deemed to have been "disapproved of" within the meaning of the ninth section of this Act, and shall not become law, but if such votes amount to less than one-half of such number, then such Bill shall be deemed to have been properly passed by the Legislative Council, and shall be certified to as herein-before provided, and may become law in accordance with the provisions of this Act; and in either case a notice of the result of the general poll of the electors for the Legislative Assembly shall be published in the *Government Gazette*, and shall be *prima facie* evidence of the result of such general poll.

Conduct of polls and power and duty of officers.

19. Subject to the foregoing provisions, upon the submitting of any Bill as aforesaid to the general poll of the electors, all proceedings shall be had and taken in each electoral district as nearly as may be as upon elections for the Legislative Assembly, and the various provisions as to persons, places, times, and matters connected with voting contained in the Acts in force for the time being relating to the elections of Members to serve in the Legislative Assembly shall so far as they are not inconsistent with this Act apply to district polls held hereunder; and all returning officers, substitute returning officers, deputy returning officers, scrutineers, and poll clerks shall and may exercise all such powers and authorities and perform all such duties in connexion with the taking and conduct of such polls hereunder as may be exercised by them respectively in connexion with such elections under any or all of such Acts relating thereto.

Declaration by officers.

20. Every returning officer, substitute returning officer, deputy returning officer, scrutineer, and poll clerk shall, before he shall enter upon any of the duties assigned to him with regard to any poll, make and sign before some justice a declaration in the form of the Second Schedule hereto, or to the like effect.

Schedule 2.

21. No poll shall be liable to be questioned by reason only of the defect in or any want of title of the person by or before whom any polling for the same shall have been held, if such person have been actually appointed to preside, or have been acting in the office giving the right to preside at such polling, or to be questioned by reason of any defect in the appointment of any polling place.

Poll not to be void for want of or defect in title of officers or in appointment of polling places.

22. No general or any other poll shall be void in consequence only of there having been no Clerk of the Executive Council, or no returning officer at the time of the publication of the proclamation to take a general poll, or of any delay in forwarding a return thereof to the clerks as aforesaid, or in publishing a notice of the result thereof; and where any accidental or unavoidable impediment, misfeasance, or omission shall have happened in any matters whatsoever under this Act, the Governor in Council may take all such measures as may be necessary for removing such impediment or rectifying such misfeasance or omission, or may declare any or all of the proceedings at or for any poll in any district valid as to and notwithstanding any such impediment, misfeasance, or omission; and every such Order in Council shall state specifically the nature of the impediment, misfeasance, or omission, and shall be forthwith published in the *Government Gazette*.

Nor for omissions and delays with power to cure defects.

23. So far as they are not inconsistent herewith, the penal provisions of all Acts in force for the time being relating to elections for the Legislative Assembly shall be deemed to be incorporated with and be part of this Act, and the like matters to those mentioned in such provisions shall, when committed in relation to polls under this Act, be deemed to be offences to be tried in the like jurisdictions, with the like procedure limited to the like times, and to be subject to the like penalties as may now or from time to time hereafter be imposed by such provisions.

Penal provisions of Electoral Acts to operate.

SCHEDULES.

SCHEDULE I.
BALLOT PAPER.

Insert short title of Bill.
[As Exhibition Bill.]

SHALL THIS BILL PASS ?	YES.
	NO.

DIRECTIONS.

This paper is to be dropped into the ballot box by the voter.
The voter is not permitted to take this paper out of the polling booth.
The voter is to strike out either Yes or No—the opposite answer to the way in which he wishes to vote, and to leave standing the answer such voter wishes to give.

SCHEDULE II.

Section 20.

DECLARATION.

I [A.B.] [returning officer, substitute returning officer, deputy returning officer, scrutineer, or poll clerk, as the case may be] do solemnly declare that I will faithfully observe all the provisions of all Acts of the Parliament of Victoria which relate to such my office of . . . And I further solemnly promise and declare that I will not attempt to ascertain, save in cases in which I may be expressly authorised by law so to do, how any person shall vote at any poll, and that in the discharge of my said duties I shall have learned or have the means of learning how any person shall vote or have voted at any poll, I will not by word or act or any other means whatsoever, directly or indirectly, divulge or discover, or aid in divulging or discovering the same, save in answer to some question which I am legally bound to answer, or in compliance with the express provisions of the law relating to parliamentary elections.

No. 59.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received September 20, 1878.)

Government House, Melbourne,
August 6, 1878.

SIR,

I HAVE the honour to transmit herewith for your information the enclosed ministerial Memorandum just placed in my hands, showing the views and intentions of my present responsible advisers on the subject of constitutional reform.

2. The English mail will be closed at Melbourne this day. However, even if there were sufficient time it would not, I submit, be right for me to comment at present on questions of this nature which are now under discussion by the Colonial Parliament.

I have, &c.

(Signed) G. F. BOWEN.

The Right Hon. Sir M. E. Hicks Beach, Bart., M.P.

&c.

&c.

&c.

Enclosure in No. 59.

MEMORANDUM FOR HIS EXCELLENCY THE GOVERNOR.

August 6, 1878.

MINISTERS desire to request your Excellency's attention to the important issue now put before the country on the submission by them for consideration of the Legislative Assembly of "A Bill to alter and amend the Constitution Act, and to provide a mode of settling differences between the Legislative Council and the Legislative Assembly of Victoria."

All parties are agreed that a reform of this nature and purpose is in this country the most urgent political necessity of the day, in order to prevent the recurrence of financial dead-locks.

Moreover, ordinary legislation earnestly demanded by the country and endorsed by the Assembly has been repeatedly defeated by the obstructive policy of the Council.

This Bill seeks to attain in one measure a reform of both these defects, by defining the limits of the legislative functions of the two Houses, first in respect of money and tax Bills, and secondly of all other Bills, giving in regard to those in the latter category an additional power to the Council to demand a general poll of the electors of the Legislative Assembly to endorse or reverse the decision of that body.

The Bill is now being debated in the Assembly on its second reading, and on each successive night the full weight of the debate has been on the side of ministers.

There can be little doubt that it has already received the full assent of a large majority in that House, and concurrently almost universal acceptance by the mass of the community outside.

When, therefore, in due course it has passed the Assembly, and been sent up to the Council, a time of great anxiety will have arrived.

It is impossible to predict with any certainty the probable course which will be adopted by the Council, but whatever that course may be, ministers are fully determined on meeting the Council in the spirit of concession and conciliation on all matters outside the principles involved in the Bill.

Should, however, conferences, or any other mode of effecting a conciliatory arrangement unfortunately fail, as it is to be feared they may, ministers will be most reluctantly compelled to despatch to England, on behalf of and with the express sanction of the Legislative Assembly, commissioners chosen from the leading members of that House, to lay before Her Majesty's Imperial Government the matured result of its deliberation, with a view to get that result embodied in an Act of the Imperial Legislature, and in the full confidence that it will be so embodied at the earliest possible moment to carry into effect the pressing policy of rendering our present constitution workable.

Ministers propose to take this step only in the last resort, when every effort at a settlement between the two Houses shall have failed, as they feel that the presentation of a Bill in this manner to the Imperial Parliament is, and ought to be, an exceptional proceeding. Only the circumstance that inherent defects exist in the Constitution Act, which, though passed originally in Victoria, was afterwards validated by its being incorporated as a schedule with an Imperial Act of Parliament, justifies, in the opinion of ministers, the contemplated appeal to the Imperial Parliament.

(Signed) GRAHAM BERRY.

No. 60.

The RIGHT HON. SIR M. E. HICKS BEACH, BART., to GOVERNOR SIR G. F.
BOWEN, G.C.M.G.

SIR,

Downing Street, October 1, 1878.

IN your Despatches of the 5th and 6th of last August,* (which with other Despatches received from you by the last mail and separately acknowledged, continue

your narrative of the proceedings of the Parliament of Victoria since its reassembling) you transmit to me copies of the two Bills which have been introduced in the Legislative Council and the Legislative Assembly respectively, for the purpose of amending the Constitution of the Council and providing a mode of settling differences between the Houses ; and you also transmit, without comment, a Memorandum submitted to you by your Ministers, in which they express their anticipation that they may find it necessary to despatch to England Commissioners chosen from the Assembly for the purpose of obtaining an Imperial enactment embodying those decisions of that body on the constitutional question which they fear may not meet with the concurrence of the Council.

2. It is of course my desire to avoid, as you have very properly done, all criticism of the two measures now under discussion in the Victorian Parliament. I share your hope that the whole question may be discussed with moderation and in a fair spirit of compromise, and I shall be sincerely pleased if, through the exercise of mutual forbearance and concession, the Legislative Houses of the great Colony of Victoria succeed in devising means for preventing the recurrence of such collisions as have seriously affected their reputation, and cannot but operate injuriously upon the credit of the Colony.

3. But as it may be found impossible to attain this desirable result, I think it may be convenient to your ministers and to those who are taking a leading part in the present proceedings that I should, at as early a stage as possible, place before you certain considerations which dispose me to the opinion that no sufficient cause has yet been shown for the intervention of the Imperial Parliament in the manner suggested by your Ministers.

4. Such a step, however justifiable in the last resort, as the only remaining means of carrying into effect the deliberately expressed will of the people of Victoria, upon an issue plainly presented to them, does not appear to me to be warranted by the circumstances contemplated by your ministers as likely to occur in the present case. However urgent may be the necessity for a reform in the Constitution of the Parliament of Victoria, the history of the question shows the variety of opinion in the Colony as to the principles upon which that reform should be based. You inform me that during some years past several schemes have been projected for this purpose, and you describe certain proposals brought forward by Mr. Francis, and passed by the Legislative Assembly in 1874, and others which were originally entertained by Mr. Berry during the recent crisis. But I observe that both of these differ entirely from the two measures now under discussion in the Council and Assembly, and that the particular scheme which your ministers have introduced is altogether new, includes changes—such as the plebiscite—of a graver character than any that have been hitherto suggested, and has never been directly brought before the constituencies at a general election.

5. I cannot therefore think, so far as the information now at my command enables me to judge, that the rejection by the Legislative Council of this scheme, on the first occasion of its introduction, and under the circumstances surrounding the whole case, would justify so “exceptional a proceeding,” as your ministers rightly term it, as an application to the Imperial Parliament to alter, without the previous assent of the Victorian Legislature, that Constitution Act which was originally framed in the Colony, and merely confirmed and made operative by an Imperial Statute.

6. I request, however, that you will inform your ministers that although I feel the question now awaiting settlement in Victoria is by no means ripe for legislation in this country, I am anxious to render to the Colony any service in the matter that may be in my power. If, after the close of your present session, it is thought that gentlemen representing the Council and the Assembly respectively could with advantage lay their views before me, I should be most ready to hear them and place at their disposal any advice or assistance I may be able to afford ; and in that manner I am not without hope that it might be possible to agree upon certain principles as the basis of a settlement of this difficult and important question, which would be generally acceptable to all parties in the Colony, and might subsequently be carried out in a manner consistent with the constitutional precedent to which I have already referred.

I have, &c.

(Signed) M. E. HICKS BEACH.

Sir G. F. Bowen, G.C.M.G.
&c. &c.

No. 61.

The RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, October 9, 1878.

I have the honour to acknowledge the receipt of your Despatch of the 23rd of July,* transmitting, for my information copies of the addresses presented to you by the Legislative Council and Legislative Assembly in reply to your speech opening the second session of the ninth Parliament of Victoria.

Governor Sir G. Bowen.

(Signed)

I have, &c.

M. E. HICKS BEACH.

No. 62.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL HICKS BEACH, BART.

(Received October 21, 1878.)

SIR,

Government House, Melbourne,
September 2, 1878.

In continuation of my Despatch of the 5th August ultimo,† I have the honour to report that protracted debates on the subject of constitutional reform have principally occupied during the past month the attention of both Houses of the Victorian Parliament.

2. The second reading of the Reform Bill introduced by the Ministry was carried on the 28th ultimo in the Legislative Assembly by a majority of 37, the numbers being fifty-nine (59) to twenty-two (22) in a House consisting of in all eighty-six (86) members. Only five members, including the Speaker, did not vote.

3. It is not probable that the Bill introduced by the Ministers in the Assembly will pass the Council in its present shape, or that the Bill introduced by a member of the opposition in the Council will pass the Assembly. It is hoped that moderate councils will prevail, and that this important question may ultimately be referred to a conference of members of both Houses.

4. Mr. Berry, the Premier and Treasurer, made his financial statement in the Assembly on the 15th ultimo. It will be seen that the receipts of the Colony last year amounted to 4,711,302*l.*, and the expenditure to 4,634,448*l.*, thus leaving a balance of 76,854*l.* to be carried forward to the credit of this year. The estimated revenue shows an increase of 370,253*l.* over that received last year, thus reaching a total of 5,208,428*l.*, while the estimated expenditure is 5,137,642*l.* A fresh loan is proposed for the construction of railways and other public works.

5. The Victorian "Hansard" contains full reports of the debates on the Reform Bills and Budget, and the speeches delivered in both Houses of Parliament by members of all shades of politics, together with the criticisms of the leading journals of both sides, afford ample material for the formation of an independent judgment on the questions at issue.

The Right Hon. Sir M. E. Hicks Beach, Bart, M.P.
&c. &c. &c.

I have, &c.
(Signed) G. F. BOWEN.

No. 63.

The RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, October 28, 1878.

I HAVE the honour to acknowledge the receipt of your Despatch of the 2nd of September,‡ informing me of the progress of the Bills which have been introduced into the Legislative Council and House of Assembly, with the object of reforming the Constitution of the Colony.

Governor Sir G. Bowen.

(Signed)

I have, &c.

M. E. HICKS BEACH.

No. 64.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received November 18, 1878.)

Government House, Melbourne,
October 3, 1878.

SIR,

WITH my Despatch of the 4th February ultimo,* I had the honour to transmit copies of the decision of the Supreme Court of Victoria on a motion brought before it, with the object of testing the legality of the action of the responsible ministry of this Colony in last January, with respect to certain Judges of the district or county courts. On that occasion the Supreme Court saw no reason to interfere with the action of the Executive Government.

2. Another motion with the same object was afterwards made before the Supreme Court, on an application for a writ of *quo warranto*. The question was fully argued, and the judges reserved their decision, which was delivered on the 25th September ultimo. It will be seen that the Supreme Court again decided that the action taken respecting the district judges was free from illegality, and dismissed with costs the summons for the writ of *quo warranto*.

3. The Attorney-General of Victoria (Sir Bryan O'Loughlen, Bart.) has requested me to transmit the enclosed copies of the judgments delivered in this case by the Judges of the Supreme Court.

I have, &c.

(Signed) G. F. BOWEN.

The Right Hon. Sir M. E. Hicks Beach, Bart., M.P.
&c. &c. &c.

Enclosure in No. 64.

DECISION of the SUPREME COURT in the Question of the Legality of the Removal of certain COUNTY COURT JUDGES.

MR. JUSTICE BARRY said:—It is my misfortune not to concur with the view which the learned Chief Justice has taken of this case. I have therefore to deliver my view as the case has presented itself to me. A summons was taken out before a judge in chambers, calling on Mr. Rogers to show cause why an information in the nature of a *quo warranto* should not be issued against him to show cause by what authority he claims to exercise the office of judge of County Courts, holden at certain towns, on the grounds—1. That a judge of the County Court under the County Court Statute, 1869, does not hold office during pleasure, and that the removal of Mr. C. B. G. Skinner from the office of such judge without any complaint, or notice to him of any complaint, by the Governor-in-Council is illegal and invalid. 2. That the appointment of Mr. Rogers was illegal and invalid. The case was referred by the learned judge to the Court the facts are set out in the affidavits filed, from which it appears that on the 8th of January 1878, his Excellency the Governor, with the advice of the Executive Council, purported to remove from their offices all the persons then holding the offices of judges of County Courts and others also, &c., of whom Mr. Skinner was one. That on the 24th of January the Governor, &c., purported to direct that the order of the 8th January should be cancelled, and by another order purported to remove from the office of judges of county courts Mr. Skinner by name, together with others also named, and that on the 1st of February the Governor, &c., appointed Mr. Rogers to be judge of County Courts at certain towns at some of which courts had been formerly held by Mr. Skinner. The contention was that Mr. Skinner having been improperly removed, no vacancy was created to which Mr. Rogers could be legally appointed. Reynolds' case, 9 Co. Rep. 96, shows that ancient offices were always granted for life, or at will, and that a judicial office cannot be created or held for a term of years, in consequence of the numerous manifest inconveniences which would be attendant thereon. In the law of powers relating to real estate, it is held that the power of appointment includes a power to revoke and a power to do an act which can only be effected by an appointment authorises an appointment, and therefore a revocation. Bishop of Oxford v. Leighton, 2 Vernon, 367. *Cujus est dare ejus est disponere* is the ruling principle. The application of this maxim has been demonstrated in cases of endless variety. Thus Lord Cromwell's case 2 Rep. 71, furnishes one. In the course of that it is said—"It was not unjust that the bargainor should annex such condition as pleased him to the estate of the land for the land moved from him, and the bargainor accepted it." Again, where an annuity was provided for a person while she should continue sole and unmarried the agreement was held to be valid, and not like the case of a forfeiture incurred by the party in case he married. The Court of K. B., citing the maxim, said:—This was an original gift with a condition annexed. *Gibson v. Dickie*, 3 M. & Selwyn, 463, it was recognized in the matter of the Dean of York, 2, 2, B, 36, where Lord Denman cites the strong language of Lord Holt's judgment. In *Phillips v. Bury*, Ld. Raym, 5, Skinner, 475, printed from his Lordship's MSS., 2 T. R., 346, 358, the founder might do as he would with his own; the parties deriving benefit from his endowment must abide by the condition he has annexed. Also, in ejectionment for a forfeiture by a lord against a copyholder, the defendant pleaded and proved a custom to dig clay for the purpose of making bricks. Lord Cranworth, delivering judgment, said, *inter alia*:—"The rights of these servants must have depended in their origin entirely on the will of the lord, and it is hard to say how any stipulation regulating such rights can, as between the tenant and the lord, be void as being unreasonable," concluding the paragraph with the quotation introduced as above. *Salisbury v. Gladstone*, 9 H. of L. 701. From these and many others it is manifest that the exercise of the will must in all cases prevail, unless controlled by an express restriction imposed by the donor himself. So also with regard to an estate at will in an office, whether granted by the prerogative of the Crown, in cases civil or military, by the appointment of a subject or a corporation,

by election or otherwise, whether wholly judicial or ministerial, or partaking of each character, the maxim applies (except where the power to appoint resides in one and to dismiss in another), and the person or power which made the appointment can revoke it at pleasure. History affords us an illustration of this in many instances of the summary dismissal of certain of the judges of the Superior Courts of Westminster who did not hold office *quam diu bene se gesserunt*, as did the Lord Chief Baron and Barons of the Exchequer, according to Lord Coke, in the Fourth Institute, 117, and certain other judges, including Archer, Puisne Judge of Common Pleas, tempore Car. II. who was dismissed A.D. 1672, and disregarding the Royal prohibition, put the Crown to a *scire facias* to repeal his commission, which it was not deemed expedient to bring. Raym, 216. See also Slingsby's case, 3 Swanson 178. The number of arbitrary dismissals and prohibitions of judges during the time the House of Stuart occupied the throne amounted to 27. It is proved also by the cases of Recorder of Cambridge (Pepis case), 2 Jones, 50; 1 Ventris, 342, 77, 82; Recorder of Abingdon (Halt's case), Jones, 52-3; Keble, 667, 700, 706, 734; 2 Shower, 504, 505; The Steward of Redding (Blagrave's case), 2 Siderfen, 6, 49, 72; the Steward of the Tolsey Court of Bristol; the King v. Griffiths, 5 B.A. 735; and in lay or non-judicial or ministerial offices; Constable of Stepney, 1 Buls, 174; Justices' Clerk ex parte Sandys, 4 B. and A. 863; Town Clerk of Stratford super Avon (Dighton's case), 1 Ventris, 77, 82; Parish Clerk, 8 T.R. 209; Surgeon of House of Correction, Hill v. the Queen, 8 Moo. P.C.; Commission of Crown Lands ex parte Robinson, 11 Moo. P.C. 296; the King v. Lyme Regis, 1 Doug. 149; per Lord Mansfield, 158. The exercise of the will of the grantor determines the tenure of the office, as in the case of the occupation of land at will, which is done by entry, exercise of acts, of ownership, sale, demise to a new tenant, or other disposition inconsistent with the continuation of the right to retain the possession—Littleton, 68, 2, Bl. Com. 145. During the argument it was submitted that there was a distinction between appointments made by the Queen and those made by the Governor in Council. Such offices may and do differ in dignity, but if they be granted at will, there is no difference in the nature of the tenure, no difference in the terms on which either may be determined, that is to say, at pleasure. It was also contended that the Governor in Council as distinguished from the Governor had no power to remove Mr. Skinner, or if he had such power, it must be under the Statute 23 Geo. III. cap. 75, which could only be exercised on cause shown. To this what appears to be a sufficient answer was given at the bar. 1. The English statute has no application whatever, and next as the Governor in Council makes the appointment, the revocation can be made by the same body and by none other, and if held at will, without cause shown. It was further urged that there was a distinction between the employment of the Royal prerogative to revoke an appointment, and of the power to remove persons holding office under the authority conferred by the Governor's commission or by the act of the Colonial Legislature. It is obvious that the acts of revocation differ in solemnity and in degree. The symbols of Royalty attach directly to the first; in delegated form to the second; the last partakes of these in no respect. Nevertheless the principle by which the power of revocation of an appointment to an office held at will is regulated, is the same whether it be done by the Lord Chancellor affixing the great seal or privy seal to a suitable writ, or by some other great officer of the State signifying in some other way Her Majesty's pleasure, or by the Governor imposing the seal of the Colony on a similar instrument, or by the less formal mode of an order made by the Governor in Council. It is not necessary that any cause should be assigned. Again, reliance was placed upon the fact of provision having been made for a pension to judges, and an argument was founded thereon that therefore it must have been the intention of the Legislature that the judges should have a more certain tenure of office than at will. Now, it must be observed that the words in the Act create only a contingency resting on expectation which attends the enjoyment of every office, be it for life or *quam diu bene se gesserit*, or at will conferred by the prerogative of the Crown by any other mode of appointment or by election. It is a promise that if certain events occur a certain result will follow. The holder of the office cannot have a vested interest in a pension until the time of service entitling him to it has expired and the services have been rendered. It is a claim dependent on the fulfilment of certain conditions, whatever be the nature of the tenure, whatever be the mode of determining the estate, whether by the *hoc volo, sic jubeo* of the Crown—Blagrave's case, 2 Siderfen, 72; Juvenal, sat. vi. 222—or other power which made the original appointment at will. Or in other cases of a greater estate in the premises, whether it be determined after notice and cause shown and grounds of incapacity or misconduct have been established, either before the tribunals of the country finding disqualifying acts committed in the discharge of the duties of the office, or conviction of a crime, or misdemeanour, bankruptcy, or insolvency outside the performance of those duties, or by the Lord Chancellor, commissioners, or other functionaries substituted for those tribunals; or on address by both Houses of Parliament after charges have been preferred, defence heard, and misbehaviour such as calls for dismissal has been proved. (Cases of Mr. Justice Fox, A.D. 1804, Mr. Baron McClelland, Sir Jonah Barrington, Mr. Justice Boothby.) Until the services have been performed without exception to the sufficiency of performance and the conduct of the judge, this contingency is not matured into a right, and even then that right, if any, determines nothing *a priori* as to the nature of the office previously held by the claimant. It inverts the process of reasoning to affirm that because by an Act of Parliament a pension may be gained by a meritorious class not previously entitled to such retiring allowance, it is therefore to be assumed that the nature of the tenure of office is thereby totally changed. If the entire proposition be not sustained by the example it amounts only to a probability capable of being applied either way. An attentive perusal of the whole of the last Act passed may commend to the belief an assurance that a more stable tenure than that by which the judges had held office previously was eminently desirable, not only on their own account, but because of the greatly extended field of operation opened out to them, and the much enlarged sphere of usefulness for the ease of suitors and the benefit of the community upon which they were about to enter, and also because of the much increased responsibility, and the strong reliance in their ability and integrity vouched by a lengthened experience. In the first place the jurisdiction of the Court is vastly increased. To the judges have been given by No. 365 powers to adjudicate, &c., in all personal actions, including replevin and ejectment, with certain exceptions unless by consent (sec. 39), and by consent of the parties those excepted may be tried and damages to any amount may be recovered. Cases of infringement of copyright or letters patent were originally excepted, and jurisdiction in them was subsequently conferred. 33 Vict. 350, sec. 55, repealed the portion of sec. 39. They have also jurisdiction in equity in many classes of important cases, in which the demand fund or property shall not exceed the sum of 500*l.*, with power to enjoin specific performance of agreements, to grant injunctions (common and special), and to exercise all the powers and authorities for the purposes of the Act of the Judges of the Supreme Court, sections 100 and 101. Until the repeal of Part IV. by 36 Vict. 427, they had jurisdiction in cases of probate and administration of the effects of deceased persons, which has been taken from them, and is now exercised in the Supreme Court under the name of the "probate jurisdiction." Jurisdiction in insolvency was given to all County Courts, except that held in Melbourne, 34 Vict. No. 379, section 9. This extended jurisdiction has apparently, in the opinion of the Legislature, imposed the necessity of procuring for the office gentlemen of longer standing and greater professional experience than were required under the former system, and now none may be appointed save those who shall have practised for seven years at the bar, a period short by one year of that required for a judge of the Court of Mines, 29 Vict. 291, sec. 88, p. 1754; equal to that required by the Insolvency Statute 1871, 34 Vict. 379; and exceeding by two years that required to make a member of the bar eligible for a seat on the bench of the Supreme Court, 15 Vict. No. 10, sec. 3; 19 Vict. No. 13, sec. 1; 36 Vict. No. 437, sec. 1. In addition to the argument derived from increased jurisdiction, the restriction which compels the judges to withdraw from practice at the bar—a restriction more comprehensive than that in the English Act, 9 & 10 Vict. c. 95, s. 17—was adduced as an argument why the office should be deemed more permanent than that of the judges previously appointed. According to 21 Vict. No. 29, s. 5, the judge was also rendered incapable of being elected or sitting in either House of Parliament. By another Act not permitted to practise as a conveyancer. That might suggest a reason why an augmentation of the ordinary salary of judges might be proposed to Parliament, where gentlemen appointed to be judges had been previously in lucrative

practice, but no inference as to a change in the nature of the tenure of the office can be fairly drawn by argument alone from the increased jurisdiction or from that circumstance. It is a generally prevailing doctrine in modern times that persons holding judicial offices, or, to speak more generally, persons occupying posts in the public service, shall not be pluralists as regards salary, or owe to their public duty, and to their clients or other employers a divided allegiance. The judge of the Court of Insolvency is restrained in the same manner by 34 Vict. No. 379, s. 8. A like restriction was imposed on the judge of the Court of Mines—21 Vict. No. 32, s. 14—who was, moreover, subject to a disability of a more severe nature, for it enacted that “no such judge shall, &c., hold any claim or any share or interest, &c., in any land comprised in any lease granted under this Act, situated within the “area of his jurisdiction.” But, again no registrar nor any officer of the County Court shall directly or indirectly, be engaged as counsel, attorney, or agent in the said Court, 33 Vict. No. 345, s. 27. A clause to the like effect is found in the Mining Statutes, with respect to clerks and other officers—21 Vict. No. 22, s. 21, 29 Vict. No. 291, s. 3. Officers of the Insolvent Court are in like manner restrained. By tacit conventional understanding, without express regulation, the same applies to all officers in the Supreme Court. Moreover, no judge of that Court shall be capable of accepting, taking, or performing the duties of any other office or place of profit or emolument within Victoria, excepting such office as may be granted to such judge by Her Majesty’s sign manual or under the great seal of the High Court of Admiralty—15 Vict. No. 10, section 6. The introduction of these stipulations affecting so many persons in the same way, must be referred to a higher principle than that of compensation by emolument or by improved tenure of office for supposed sacrifice; but even were that admitted, it does not follow that the increased jurisdiction conferred, or the deprivation of the right to pursue private practice, or of the common law right of investing money in any manner the possessor of it may desire, or that liberal salary or the prospective probability of attaining a pension by the incumbent, can of themselves individually, or as a whole collectively, alter or affect the tenure of an office. Each of these is an independent proposition, or rather inference. This is not a case of *singula juncta juvant*. In the year 1832, by virtue of 3 W. IV., No. 2, sec. 3, the commissioner was appointed by the Crown. An exercise of the prerogative would have terminated that appointment at pleasure. When a modification of the jurisdiction of the courts occurred, in the year 1842, power was given to the Governor by 6 Vict. No. 15, to appoint a commissioner; that Act was silent about removal. Affairs continued in this state until 1852, when by an Act of the Victorian Parliament, 16 Vict. No. 11 [when the Courts of Requests were abolished and County Courts instituted in their stead], the nature of the tenure of office of the judges was the same as that of the commissioner of the Court of Requests had been, and by section four power was given to the Lieutenant-Governor to appoint and remove the judges from office. By 17 Vict., No. 21, the jurisdiction of the court was extended; no allusion is made to the tenure of office of the judges. Arguments were drawn from the omission of the words used in former Acts relating to county courts, and the position in the section of the word “removed.” It is doubtless the fact that power to remove is given by express words in the earlier Act relating to County Courts, as also in many others which affect those holding judicial offices as coroners, justices of the peace, police magistrates, and visiting justices, and in the Acts enabling the appointment of persons filling ministerial and executive positions. However, if no greater estate than one at will be created, the alteration of the phraseology or the collocation of the word “removed,” which implies the existence of a power to remove, cannot affect the case. The reasoning that an estate at will becomes a greater estate because of the omission in the earlier part of the clause of a formal statement of the power contained in the word which follows, is not satisfactory. Considerable stress was laid on the language of the English Act regulating the appointment of judges of County Courts as compared with the Act of Victoria, and it was contended that as the judges of the former courts could not be dismissed except for cause, the same principle should be applied here. An epitome of the legislation of the two countries on the subject may be convenient for examination of the resemblance or dissimilarity. By 4 George IV. cap. 96., A.D. 1823, power was given to institute courts of requests in New South Wales and Tasmania. Courts were instituted, and by 10 Geo. IV., No. 2, N.S.W., 1829, power was given to the Governor to appoint commissioners—nothing was said about removal. The next Act, Vict. No. 29, repealed former Acts, and commenced with a preamble enumerating four distinct reasons why it was deemed expedient to alter the law. It says nothing as to the expediency of altering the tenure of office of the judges. It enacts that the judges who held office at the time of the commencement of that Act should be appointed to be the first judges of the County Courts to be holden under that Act, no difference in the nature of the tenure being suggested. No issue of commissions differing in form and substance being asserted, it follows from the statute and the practice thereon that the judges held the new office as they had held the old one—that is to say, at pleasure. There is, however, a change in the language. The words “appoint to” and “remove from” office, connected immediately as they had been in 16 Vict., No. 11, do not appear in 21 Vict., No. 29, or in 28 Vict., No. 261, or in 33 Vict., No. 345. The issuing of commissions is dispensed with altogether, and the judges are appointed under each Act; however, the continuity of the appointment and its identity in nature and character run through them all. No terms are inserted enlarging the estate held under the previous Acts, and the power to remove contained in the power to appoint is implied in the expression “die, resign, or be removed,” which pervades the whole. In England, the judges of County Courts never were subject to any such power of removal express or implied; they held office on terms absolutely incompatible with the idea that their tenure was at will. Their office was the same as that of their predecessors, the commissioners of the courts of requests, courts of conscience, and courts for the recovery of small debts. Under 8 & 9 Vict. cap. 127, sec. 10., the Lord Chancellor was empowered to decide as to charges of misbehaviour or incapacity in the cases of the persons who presided in those courts of inferior jurisdiction, as he is empowered to do now in the cases of their successors. Instead, therefore, of a resemblance or an analogy between the two classes of judges, their relative position has been and is wholly different. The nature of the tenure of office of each has been consistently maintained throughout on a different basis. The alteration of the phraseology in the later Acts passed in Victoria by the omission already stated is of no moment, for, according to Lord Kenyon in *Rex v. the inhabitants of Ealington*, 4 T.R. 172, it is wholly immaterial in what part of a deed powers are inserted, whether before or after the estate created. It carries the matter no further than does the dictum of my Lord Coke in the 4th Institute 116 (cited at the bar) with respect to the tenure of office of the justices of K. B. That work was written between the years 1629–1634, after he himself had been summarily dismissed in 1616. He there says “they ought not to be removed without just cause,”—an expression the same as that used by Hale, P.C. 155, adopted by Mr. Justice Blackstone in his Com. 4, 301, in describing the qualifications of grand jurors: “They ought to be freeholders,” which, according to the opinion of all the judges, A.D. 1810, is not required positively by law—Russ. and Ry. C. C. 177. The commission issued to Mr. Skinner was produced. It showed that he held office at will. If the Act under which the power to appoint was created conferred an ability to give a tenure during good behaviour, this commission cannot control his right. Nevertheless, if the commissions to the other judges and deputy judges ran in the same words, the remark “that it is strange such a practice should have prevailed during 20 years, and that the true position which these gentlemen were entitled to assert was not discovered by the law officers of the Crown, or “by them themselves,” was amply justified. Other points arose collaterally during the able argument presented to the Court, which were sufficiently answered, or do not appear to me to call for further notice. The conclusion at which I arrive is, that the office of judge of County Courts, filled by Mr. Skinner, was one which he held during pleasure, determinable by the Governor in Council; that it was determined; that a vacancy having been thus created, Mr. Rogers was appointed to the office; and that the summons should be dismissed with costs.

Note.—The following are the judges who were dismissed, superseded, prohibited from sitting in the Courts of King’s Bench, Common Pleas, and Exchequer during the reigns of James I., Charles I., Charles II., and James II.:—Sir Edward Coke, Lord Chief Justice of the King’s Bench, October 25, 1616; Sir Ranulph Crewe, Lord Chief Justice of the King’s Bench, November 9, 1626; Sir John Walter, Lord Chief Baron of the Exchequer, 1630; Sir

Robert Heath, Lord Chief Justice of the Common Pleas (Rymer, 19,364); Sir John Bramston, Lord Chief Justice of the King's Bench, 1642 (Rymer, 20,536); Sir John Davenport, Lord Chief Baron of the Exchequer, 1645 (W. Jones); Sir John Archer, Justice of the Common Pleas, 1672; (Siderfin, 1, 3, 163; T. Raymond, 217; T. Jones, 43); Sir Wm. Ellis, Justice of the Common Pleas, Oct. 1676 (Sir T. Raymond, 2, 7, 251, 407); Sir Richard Rainsford, Lord Chief Justice of the King's Bench, 1678 (Ventris, 329); Vere Bertie, Justice of the Common Pleas, 1679 (State Trials, 7, 261); Sir Francis Bramston, Baron of the Exchequer (Jones, 43); Sir Edward Thurland, Baron of the Exchequer; Sir William Wilde, Justice of the King's Bench; Sir Robert Atkyns, Justice of the Common Pleas, 1680 (State Trials, 8, 193); Sir William Scraggs, Lord Chief Justice of the King's Bench, 1681; Sir William Dolben, Justice of the King's Bench, 1683; Sir Francis Pemberton, Lord Chief Justice of the Common Pleas, 1683 (T. Raymond, 478); Sir Cresswell Levinz, Justice of the Common Pleas, 1683 (Levinz, 3, 257); Sir William Gregory, Baron of the Exchequer, 1686; Sir William Montague, Lord Chief Baron of the Exchequer, 1686 (2 Shower, 459); Sir Thomas Jones, Lord Chief Justice of the Common Pleas, 1686 (2 Shower, 459); Sir Edward Neville, Baron of the Exchequer, 1686 (2 Shower, 459); Sir J. Charlton, Justice of the Common Pleas, 1686 (2 Shower, 460); Sir Francis Wythens, Justice of the King's Bench, 1687 (2 Shower, 498); Sir Edward Herbert, Lord Chief Justice of the King's Bench, 1687 (2 Shower, 497); Sir John Powell, Justice of the King's Bench, 1688 (2 Shower, 459); Sir James Heath, Baron of the Exchequer, 1688 (2 Shower, 459).

MR. JUSTICE MOLESWORTH gave the following judgment:—The question in this case is whether our County Court judges hold their offices at the pleasure of the Governor in Council, and are liable to arbitrary dismissal. Various officers hold their offices by different tenures, some holding for life, some during good behaviour, or fitness, with various means of ascertaining behaviour or fitness; some appointed by one body or individual, removable by another; some removable without appeal, some with appeal; some entitled to investigation, though without appeal from the result; and some merely at the pleasure of some body or individual. These various systems have advantages and disadvantages. An office held during good behaviour will be accepted by men of higher qualification than one during pleasure, and men holding them will be careful not to lose them by misconduct. Good officers are sometimes displaced to put in the friends of those having the power of appointment. On the other hand, it is very important that men unfit for offices should be got rid of in the most rapid and simple manner. There is another consideration in favour of security of tenure to judicial officers, that they should be free from the dictation of persons having political power, and have no motive swaying them in legal contests in which such persons are engaged. Another obstacle to making offices permanent is the probability of their continuance not being wanted. As to various ancient offices, the tenure was settled by usage. The Legislatures of the mother country and of Victoria in creating offices have weighed these arguments on one side and the other, and have exercised different discretions as to the nature of the office to be dealt with. It is our business, in construing these enactments, to find what they intended—not to say what they should have intended. The appointment to the office of County Court judge is with the Governor in Council, our highest administrative body, by the Constitution Act having the general appointment to office, and which the Legislature should expect to act justly. As a power of appointment cannot reasonably be taken to mean of persons who shall hold for life, however unfit, an Act giving the Governor in Council power of appointment without any express provision for removal, any indication of what shall be unfitness for office, or means of inquiry as to it, indicates almost necessarily power of removal without inquiry. Passing to the Acts on the subject—the first Act for appointing County Court judges was 16 Vict., 11, giving power to the Governor only to appoint the County Courts and their judges, and it made the judge, registrar, and other officers, to be from time to time appointed to and removed from their respective offices in such manner as the Governor should direct. This put the other officers in the same position as the judge regarding permanency. Where an office is first created clearly during pleasure, Acts substituting other officers with the same name and similar duties should contain distinct words if the Legislature intended to alter the tenure. The 21 Vict., 29, places the appointments in the hands of the Governor in Council. It, sect. 4, authorises the appointment of as many fit persons as were needed to be judges of the County Courts, provides that those then holding the offices should be appointed the first judges, and that from time to time, when any judge appointed under the Act should die, resign, or be removed, another judge might be appointed in his stead. The word removed here seems to mean dismissed, for transfers are provided for in sect. 6. This Act contains no express power of dismissal, but takes its existence as a matter of course. The Act 261, 28 Vict., sect. 2, directs that persons formerly holding the office of judges should be the first judges under it, and that County Courts created, and subordinate officers appointed, should be deemed to be created and appointed under it. Sect. 5 authorises the appointment of as many fit persons as should be needed to be County Court judges, and provides that if any judge die, resign, or be removed, another might, be appointed in his stead. In sect. 7 there is a provision for transfer, so that the judge's salary shall not be reduced by the transfer. This shows removal does not mean transfer. It might be argued that judges having rights as to transfer is inconsistent with liability to arbitrary dismissal, but I think an Act may well provide for subordinate variations to be effected without the exercise of extreme power. See *Smyth v. Latham*, 1 Cr. & M. 572. Passing then to our present Act, 345, 33 Vict. It provides, sect. 2, that persons holding the office of County Court judge should be deemed the first judges under it, and continue to be the judges under and subject to it. Then County Courts before created, and clerks, &c. appointed before, should be deemed to be created, appointed under it. Section 3 authorises the Governor in Council to direct County Courts to be held, to fix the place of holding, and discontinue such courts. By section 5 there is to be a judge of each court. Section 9, the Governor in Council should appoint as many fit persons as needed to be judges of County Courts, and every such person might be appointed by one commission for several courts, or by separate commissions for each court, and from time to time when any judge appointed under this Act should be transferred, die, resign, or be removed, another judge might be appointed in his stead; provided also that no more persons than nine should hold the office of judge unless special addresses from Parliament, &c. Here we have transfer contrasted with removal, showing that the latter means dismissal. Section 11 originates a system of retired allowances to judges incapacitated by ill health or after long service. This is an additional benefit to such judges, and I do not see why it should impliedly improve their condition as to certainty of tenure. It is calculated in some cases very much to mitigate the hardship of arbitrary dismissal. Section 13 authorises redistribution of the duties of judges; 14 repeats provision as to a judge transferred, dying, resigning, or being removed that another should be appointed in his place. Another aspect of this case is as to the getting rid of judges whose services may not be wanted. The Act forbids generally more judges than nine, but does not say that there shall be so many. It cannot be regarded as certain that Victoria shall increase in population. She may increase in population but decrease in litigation. She may increase in litigation, but decrease in County Court litigation, business passing either to the Supreme Court or to magistrates' courts. Further, the increased facilities for travelling may very probably increase the powers of County Court judges to despatch business and allow a diminution in their number. (See *Smyth v. Latham*, 9 Bing. 703.) The idea that there should be a body of persons having the status of County Court judges, to be employed when wanted, and preferred for vacancies in actual employment, sometimes in suspense without business or emoluments, would be inconvenient and improbable. It has been argued that, even if the Governor in Council may dismiss arbitrarily, they should not dismiss without giving the judge an opportunity of being heard, which I fully recognise as to moral, not as to legal obligation. In *Willis v. Gipps*, 5 Moo., P.C.C. 379, it was held that a judge appointed by the Crown could not be removed by the Governor in Council under 22 Geo. III. c. 75, authorising removal for neglect or misbehaviour without being heard. Local authority to remove imperial officers for defined reasons. Teather, *in re*, 19 L.J., M.C. 70, is an authority for dismissal without charge; so the *Queen v. Governors, Darlington School*, 6 Q.B. 682. In the *Queen v. the Guardians of St. Martin's*, 17 Q.B. 150, something is said by two of the judges as to an officer, clerk of a board of guardians, holding during pleasure, not being removable without an opportunity to show cause. The question did not arise in the case, and was not, I think, material for its decision. The officer was a kind of servant of the commissioners and guardians mixed, having a variety of duties

prescribed by both, the power of appointment being in the former, of dismissal in the latter. There remains another point. Mr. Skinner, the judge whose dismissal is in question, took his appointment by commission during pleasure. If the office should be during good behaviour, and granted during pleasure, I am inclined to think that an office during good behaviour would not be created. I would say that the appointment was bad, rather than the restriction upon it. The appointers did not intend to give, and he did not expect to get, an office of the higher tenure, and if it was understood to be an office of the higher tenure, some other person might have been preferred to him. As to this, see case of Sutton's Hospital, 10 Co., 34 a., and Owen v. Saunders, 1 Ld. Raymond, 158. On the whole, I think that individual County Court judges are not by law protected against arbitrary dismissal, and that the summons should be dismissed with costs.

The Chief Justice gave the following judgment:—An application was made by summons under the enactment 15 Vict., No. 10 s. 19, returnable in Chambers and referred to the court, to compel Mr. John Warrington Rogers to show cause why an information in the nature of a *quo warranto* should not be exhibited against him to show by what authority he claims to exercise the office of judge of the County Court at Warrnambool, Belfast, Portland, St. Arnaud, and Moorsham. The facts of the case are contained in the affidavits which have been filed on either side, and are not in dispute. A preliminary objection to the sufficiency of interest in the relator was dealt with during the argument. A further objection, also of a preliminary character, was urged on the ground that the appointment of Mr. Rogers had been made by Commission from the Governor under the seal of the Colony. The present summons at the suit of the Crown was an attempt to impugn a commission granted by the Crown itself, and on the authority of *The Queen v. Taylor*, 3 P. and Dav. 652, could not be made. The Commission in this case is assumed to have been granted by the Crown, but the appointment is made under the authority of the local enactment relating to these Courts—County Court Statute 1869—and the power of appointment to such an office is vested in the Governor acting with the advice of the Executive Council, in contradistinction to the Governor alone, under the provisions of the 43rd section of the Act, contained in the schedule to the statute 18 and 19 Vict. cap. 55; in other words, the appointment is vested in the Government of Victoria, not in the Crown. Without offering any opinion as to the necessity for affixing the public seal, or its effect when affixed, the making by a commission in the form adopted, cannot, in my opinion, be regarded so much the act of the Crown as to preclude all inquiry under the present application into the validity of that appointment. The question really in dispute between the parties is whether Mr. Skinner was properly removed from his office. My observations on this question may be prefaced by stating that a vast majority of those who are popularly called Government officers do not in a legal sense hold any office at all; they merely have a place under Government, and though it may be as difficult to define where “office” ends and “place” begins as to draw the line between light and darkness, yet that a County Court judge is an officer, while a mere clerk is not, is as clear as that noon is on one side of the line and midnight on the other. *Ex parte Sandys*, 4 B. & Ad. 863. The legislation on the subject of the duration of offices may be divided into two classes—that which defines it and that which does not. Of the former class examples will be found in *Cloete v. The Queen*, 8 Moo. P.C. 484, and *ex parte Robertson*, 11 *id.* 288, in one of which the office was “during good behaviour,” and in the other “during pleasure.” In such cases there is no difficulty; but, as regards the other class, where there is “no express enactment as to the tenure of the office, the time during which it shall be held, or the mode of removal from it, these must be ascertained by a consideration of the nature of the office and of the scope and provisions of the Act”—*Hill v. The Queen*, 8 Moo. P.C. 155. The Exchequer Chamber has decided that the question “is no other than an inquiry into the meaning and intention of the statute itself”—*Smyth v. Latham*, 9 Bing. 703. There the office was held to be during pleasure, because among other reasons the Act showed that its object was only temporary, and that the office might at some time not be wanted at all. The Court says, page 705: “it is, therefore, upon the principle that the object of the Act cannot be completely carried into effect if the Commissioners of the Treasury have only a power to appoint but no power to remove, that we hold the construction of the Act to be that the power to appoint is a power to appoint during pleasure only and not for life.” With regard, then, “to the nature of the office”—which forms the first branch of the inquiry—“it hath been held,” says Twissden J., “that where any such like power is to choose one into a judicial office, as an alderman, whose place concerns judicature, that they cannot remove him without cause”—*Dighton's case*, 1 Ventr. 77. There are numerous other offices to which this rule applies. Amongst them may be mentioned a parish clerk, *R. v. Gaskin*, 8 T.R. 209; a master of a free school, *Doe v. Gurtham*, 1 Bing. 357; a town clerk, *R. v. Durham*, 10 Mod. 147; a sexton, *Iles' case*, 2 Keb., 820; a constable of a ville, the *Stepney case*, 1 Bulst. 184; the steward of an inferior court, *R. v. Griffiths*, 5 B. and Ald. 731, and the officers of the Court of Common Pleas appointed by the Chief Justice—*Colt v. Bishop of Coventry*, Hob. 153. These various offices are in their “nature” permanent, as opposed to temporary or casual. They are offices which, presumably, must always exist, and must, therefore, always be filled by someone, and the duties are such that it would be inconvenient to have constant changes taking place. This fixity of tenure in offices of comparatively small importance, it may be said, is inconsistent with the historic fact that the judges of the Superior Courts at Westminster were, prior to the Bill of Rights, removable at pleasure. There is not, however, really any such inconsistency, for, in the first place, their commissions were in express terms—*durante bene placito*—and when that is the actual term of the appointment (even when it is made by a subject, provided it be in accordance with the powers of the charter), the person with whom the appointment rests can remove at pleasure—*Pepys' case*, 1 Ventr. 342; and in the next place, the superior judges were appointed by the Crown, whose power to remove at will is apparently based on prerogative—*Grant v. Secretary of State for India*, 2 C.P. Div. 445. But where the appointment is “general,” and is not made by the Crown, the power to remove at pleasure does not exist—*R. v. St. Nicholas*, 4 M. & S. 326—unless, indeed, there be a custom to warrant it. *R. v. Churchwardens Taunton (St. James's)*, 1 Cowp. 413. Therefore, the appointment by a subject of the master of an hospital, though expressly stated to hold the office at the will of the grantors, was held nevertheless to be during good behaviour, the letters patent by which the office was created not specifying its duration—*Case of Sutton's Hospital*, 10 Rep. 23a. This distinction between the Crown and the subject is noticed *arguendo* in *Pepys' case*, 1 Ventr. 342, and there are many other instances. For example, grants from the Crown are to be construed favourably for the grantor, whereas grants from a subject are to be construed favourably for the grantee—*Attorney-General v. Ewelme Hospital*, 17 Beav. 366. The Crown always had the right of pleading double, but a subject had not—*Tobin v. The Queen*, 14 C.B., N.S. 505. The Crown is not bound by an Act of Parliament unless expressly named, though a subject is—*Mersey Docks v. Cameron*, 11 H.L. Ca. 443. If two subjects deliver writs of *fi. fa.* to a sheriff, the writ first delivered must be satisfied in full, though nothing be left for the second; but if the second were at the suit of the Crown, that must be satisfied first, though delivered last. In all these cases—and there are many others—the usual rule is inverted. This distinction is of some importance, for the County Court judges are not, either in England or Victoria, appointed by the Crown; but in the former by the Lord Chancellor or Chancellor of the Duchy of Lancaster, and in the latter by the Governor in Council. There is, therefore, no reason, in interpreting either Act, to consider whether the duration of the office for a longer or shorter period affects the prerogative of the Crown. I now proceed to consider the “scope and provisions” of the statute on which the question arises. By the Act which introduced County Courts into this country, 16 Vict., No. 11, s. 4, it is enacted “that every such court shall be holden by a judge appointed by the Lieutenant Governor,” and shall have a registrar and other officers, “which judge, registrar, and other officers shall from time to time be appointed to and removed from their respective offices in such manner as the said Lieutenant-Governor shall direct.” That language seems to be borrowed from 9 Geo. IV., cap. 83, s. 1, substituting the Lieutenant-Governor for “His Majesty,” apparently without considering that the difference between a supreme and a subordinate Legislature required a greater difference of expression. The colonial enactment contains no clause similar to that in the Imperial statute, declaring that “it shall be lawful for His Majesty, his heirs and successors, from time to time, as occasion may require, to remove and

“displace any such judge, and in his place and stead to appoint another fit and proper person.” The appointment, too, is twice provided for. Assuming, however, the effect to have been to make the judge hold during pleasure the use of another form of expression in subsequent legislation raises the question of whether those appointed under more recent statutes hold by the like or a different tenure. It is not, therefore, very material to consider what is the proper interpretation of the first Act. By the 21st Vict., No. 29, s. 1, the former statute was repealed, and by section 4 power is given to appoint judges, with a proviso that “the several persons, who at the time of the commencement of the Act shall hold the office of County Court judge, shall be appointed to be the first judges of the County Courts to be holden under this Act.” By section 6 power is given to transfer a judge from one court to another, but so that the salary of the judge transferred shall not be thereby diminished. That clause, it may be observed, would have been unnecessary if the office of judge under the Act were held during pleasure. By the 28 Vict., No. 261, s. 2, the preceding Act was repealed, and the then existing judges were to “be and be deemed to be the first judges of the County Courts holden under this Act,” the difference as regards appointment of the first judges between the two Acts being that the one merely commands, while the other actually makes the appointment of the first judges. Section 7 re-enacts the power of transfer, with the same condition as to salary. By the Act now in force, 33 Vict., No. 345, s. 1, the last preceding Act is repealed, and a stronger form of expression used respecting the then existing judges, viz., that they “shall continue to be the judges under and subject to this Act,” and by section 9, when any judge “shall be transferred, die, resign, or be removed, another may be appointed.” The language of these two sections is not unlike that which was under consideration in *R. v. Guardians of St. Martin’s* 17 Q.B. 151. There the provision was that every officer appointed to or holding any office “shall continue to hold the same until he die or resign, or be removed by the commissioners, or be proved to their satisfaction to be insane.” During the argument Lord Campbell, C.J., in alluding to the tenure, observes—“They may remove him at any time, but the appointment is equivalent to an appointment *quam diu se bene geeserit*,” p. 155; and in the judgment he says, “the removal ‘must be on some grounds.’” There are, however, other matters in connexion with the present Act which have a bearing on the question. By section 9 the judge is required to be a practising barrister of seven years’ standing, and by section 10 he is prevented from practising whilst he holds his office. It is scarcely to be supposed that the Legislature without using express words on the subject intended that a barrister should give up his practice and sever his professional connexion for a temporary office. Then the provision in section 11, as to the pension of a judge becoming incapable or serving 15 years, does not seem to contemplate a removal at pleasure; whilst the power given by section 13 “to redistribute the duties of judges among themselves, and to appoint the judge of any County Court to be ‘the judge of any new or additional court that may from time to time be created,’” would have been unnecessary if the office was held only at will, as the redistribution could be accomplished by the simple process of dismissal. Moreover, the statutory redistribution is to be among themselves, showing that all are to remain judges of some courts. The word “transferred” is for the first time associated in the present Act with death, resignation, or removal. Though the express power of “transfer” contained in the former Acts, 21 Vict., No. 29, s. 6, and 28 Vict., No. 261, s. 7, has been omitted, yet it has in effect been replaced by section 13, which, not using the word “transfer,” describes its equivalent—“redistribution among themselves”—both expressions alike implying that all the existing judges are to retain their office or status. The mode of transferring or redistributing would doubtless be by removing a judge from one court and appointing him to another, and such a removal could, of course, be at pleasure; but it would not be a removal from all courts; it would be merely a removal such as that described in 9 & 10 Vict. c. 95, s. 19, and in the 21 & 22 Vict., c. 74, s. 51, on the former of which our Local Act is based. The courts themselves, it must be remembered, are permanent institutions, not subject to Executive abolitions, for were it not so sections 42, 43, and 103, which prohibit proceedings in the Supreme Court, would amount to a denial of justice in the cases to which they relate. The word “remove” or “removal,” it must be remembered, is consistent with removal for cause or removal at pleasure. The word by itself does not determine the matter at issue, which is, not whether a County Court judge may be removed for cause—that is not in dispute—but whether he may be removed without cause. The proper meaning to be attached to the word removal must depend on the construction to be placed on the statute taken as a whole, not on any isolated word. Such are “the scope and provisions of the Acts” upon which the present question more immediately arises. The County Court judges have always held the offices of chairmen of general sessions, and the Acts in connexion with the latter may, as relating to the administration of justice, be regarded as in *pari materia*, and examined to ascertain their bearing on the question. Many of these acts converge to and culminate in the statute No. 502. By the Act 16 Vict., No. 3, section 5, which provides that the chairman of general sessions, appointed under section 3, and the Crown prosecutor, as he was popularly called, appointed under section 4, and the clerk of the peace, appointed under section 5, are to hold office during pleasure, the Legislature clearly shows that any intention that offices connected with the administration of the law should be held during pleasure has been expressed in explicit terms. Other instances are afforded by 15 Vict., No. 10, in relation to officers of the Supreme Court, section 7, and in relation to the office of sheriff, section 21. Those Acts, as the first County Court Act, were passed before the introduction of responsible government, and at a time when the judges of the Supreme Court held office at the pleasure of the Crown. But since that era legislation has naturally, and almost necessarily, partaken of a different character as regards some of these offices. In the Act No. 267, section 16, as well as in the Act No. 502, section 14, which is the present authority for appointing chairmen of general sessions, the words “during pleasure” do not occur. They are also omitted with reference to the clerk of the peace. An inference to a greater or lesser extent appears to be deducible from these omissions that the officers referred to were no longer to hold during pleasure. The same words are also omitted from the Act No. 267, section 17, in relation to Crown prosecutors. It may be well doubted, however, whether that omission affected a Crown prosecutor. If he was an officer in the legal sense of the term, he held under the Act 16 Vict. No. 3, section 5, during pleasure only; if on the contrary he had a place rather than office—and the Acts merely speak of him as a “person by whom and in whose name” offences shall be prosecuted—he could, of course, be displaced at will, so that *quâ cunque viâ* he had no permanent appointment. Considering, however, that his duties were more than those of a mere advocate, and comprised the inquisitorial functions of a grand jury, it is not surprising that the Legislature under responsible government should have converted into an “officer” the person to whose power the life and liberty of the subject had been to so large an extent confided. The statute No. 502, section 19, has apparently gone further than previous legislation, for it enacts that the existing Crown prosecutors, so called, shall remain as “prosecutors ‘for the Queen,’” but that they “shall hold the said office during pleasure,” omitting any limitation as regards prosecutors subsequently appointed. The distinction which has been drawn between prosecutors whom that section has transferred and prosecutors who should be thereafter appointed, shows that the difference was appreciated. The re-enactments relating to sheriffs, sections 5 and 6, carefully preserve the tenure “during pleasure,” as distinctly as it was under the provisions of 19 Vict., No. 13, section 6. In like manner the position of the office of coroner was affected by the Act No. 253, and a further step was taken by the Act No. 502, section 18, giving to the coroner’s inquisition its proper legal efficacy. Such an officer in England can be removed only for cause, *Ex parte Parnell*, 1 Jac. and W. 454. There may in some aspects be a difference between an officer elected and an officer appointed, though such difference ought to be less in the case of an appointment by such a body as the Governor in Council; but that difference alone would scarcely render it probable that the Legislature of this country intended the coroner to occupy a position similar to that of a coroner in England, in all respects save that of the duration of his office. In order that the public may repose confidence in the administration of the law, judges ought not to be subject to summary dismissal without any assignable reason. Such a power of removal must necessarily operate prejudicially, should they be called on to decide any matter in which political or party feelings may be involved. Every member of the community is interested in all officers entrusted with large civil and criminal jurisdiction, discharging their duties uninfluenced by results. And that they should be in a position to do so it seems essential that, whilst amenable to the law for misbehaviour, they should not hold office at will. Such being

“the nature of the office,” there is nothing in “the scope and provisions of the Act” to show the inapplicability of the general rule that “an officer shall not be removed without cause.” Com. Dig. Franchises, F. 32. There is nothing of a temporary nature in the County Court Acts, and the marked manner in which the words “during pleasure” have from time to time in the onward progress of legislation been omitted as to some officers, whilst re-enacted as to others, as well as the resemblance which their omission creates between parallel or corresponding officers in England, point to the conclusion that the judge of a County Court does not hold office at will. In considering the proper interpretation of the County Court Statute, the Civil Service Act ought not to be overlooked. That measure, framed to reward the faithful performance of duty, empowers the Government to dispense with the services of those who in consequence of departmental reductions (s. 27) or amalgamations are no longer required; but this authority is accompanied with a power (s. 16) to give compensation to those whose services are dispensed with; and removal in any other manner than that provided by the statute is prohibited (s. 27). The provisions of this enactment do not extend to county court judges. It was passed before the 28th Vict., No. 261. Without speculating on the reasons by which Parliament may have been guided in legislating on these subjects, it does seem singular that all lower appointments should have been given special advantages from which the higher were excluded, unless some equivalent was then contemplated, and was by subsequent legislation conferred; and that whilst tenure at will is modified, if not in effect abolished, in the case of those who hold mere places under Government, it is left in full force as regards those who hold offices generally regarded as important bulwarks in the constitution. These considerations are no doubt to be received with caution, and only in the absence of express legislation, or where, as in this case, the will of Parliament is left in doubt. In opposition to the *quo warranto* reliance was placed on the English Act, 9 & 10 Vict., cap. 95 s. 18, authorising the Lord Chancellor to remove for inability or misbehaviour, and it was urged that this power to remove on either of those grounds amounted to an implied enactment that the judge was not to be removed on any other ground, and consequently could not be removed at will, and that the absence of any such clause from our Act made the judge removable at pleasure. The application of that maxim appears on examination to be a *petitio principii*. It assumes the whole point in dispute, and takes for granted that in the absence of this *expressum* the power to remove at pleasure would be the *tacitum*; but that is the controversy. Would there be such power in England if the section were omitted? There is ample authority to show that, quite independently of any legislative enactment, inability or misbehaviour is good cause for removal from an office like that of judge, Bac. Abr. Offices, K. The object, therefore, of that section was not to make the judge removable on such grounds, for he was so already without it. Its object was to create a tribunal—the Chancellor—by whom the facts constituting the inability or misbehaviour were to be tried. In the absence of such tribunal the facts would have been triable only by a jury, as in the ordinary case of a master and servant where the latter complains of a wrongful dismissal. *R. v. Darlington Grammar School*, 6 B. 681. It is only when another tribunal is established that the ordinary tribunals of the country are superseded—*R. v. Dean and Chapter of Rochester*, 17 B. 1; *Roberts v. Bury Commissioners*, L. R. 5, C. P., 310—and even where, as in this section, the trial of the facts is intrusted to a special tribunal the jurisdiction of the Court is not altogether ousted; for although it has nothing to do with the facts, and consequently cannot inquire into them—*Ex parte Ramshay*, 18 B. 173—it will see that the charge itself is one that amounts in point of law to inability or misbehaviour. *R. v. Owen*, 15 B., 476. The absence from our Act of any express power of removal does not affect the tenure, but only the tribunal which is to try the case. In *R. v. Fox*, 8 E. and B., 943, Lord Campbell, C.J., says, “There may well be a power of removal which does not make the tenure a holding at pleasure; thus the Lord Chancellor may remove a county court judge, but only for incapacity or misconduct; the office therefore is not held at pleasure.” Moreover, the omission of any similar power may perhaps be accounted for by the statutes 22 Geo. III. cap. 77, s. 2, and 54 Geo. III. cap. 61, s. 1, which had long previously been decided to extend to judicial offices. *Montague v. Van Diemen’s Land*, 6 Moo. P. C. 489. In answer to the objection that, conceding the judge could not be removed from office, yet as the necessary supply might not be voted by Parliament, and the office could not continue without salary, the office itself would be abolished, it may be sufficient to observe that an office may exist though no fee, “annual or casual,” be attached to it (*Bishop of Salisbury’s case*), and this view of the law was adopted by Lord Ellenborough in *R. v. Bingham*, 2 East, 312. It may be well to notice an observation made, though not pressed on the acceptance by Mr. Skinner of a commission to hold during pleasure. The decisions already cited, especially that of *Sutton’s Hospital*, establish that commissions issued under a statute should be taken to have been issued in conformity with the words of that statute. The question must be solved by an interpretation of the legislation on the subject, not by the acts of any particular judge. Those acts cannot abridge the tenure of an office conferred by Parliament. In considering this case I have derived much assistance from notes on the various decisions and enactments which were prepared by our late colleague, before whom the summons was returnable. I think that judges appointed by or under the County Court Statute, 1869, do not hold office at will. The office of judge of the several courts referred to was, in my opinion, filled when Mr. Rogers was appointed, and I therefore advise that the order asked for by the summons should be granted; but as a majority of the Court hold a different opinion, the summons must be dismissed.

Summons for a writ of *quo warranto* dismissed with costs.

No. 65.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received Nov. 18, 1878.)

SIR,

Government House, Melbourne, October 4, 1878.

1. In continuation of my Despatches* I have the honour to report that during the past month the attention of both Houses of the Victorian Parliament has been occupied chiefly with the consideration of the proposed Loan Bill, and of the Bills for Constitutional Reform.

Aug. 5th and
Sept. 2nd.

2. The Loan Act passed through both Houses of Parliament without much opposition. It authorises a $4\frac{1}{2}$ per cent. loan of five millions sterling. Half of this sum is appropriated to the extension of the railways in the country districts; above one million to the purchase of the suburban lines of the Hobson’s Bay Railway Company; and the balance to miscellaneous public works.

3. A “Ways and Means” or Supply Bill for six hundred and thirteen thousand pounds (613,000*l.*) has also become law without opposition in either House.

4. The discussions on the Constitutional Reform Bills have been carried on with much animation. The two Bills adopted for this purpose by the Legislative Council have been sent to the Assembly, where they await consideration. The Ministerial Reform Bill passed its second reading (as I have already reported) by (59) fifty-nine votes to twenty-two (22) in the Assembly, which consists of eighty-six (86) members. It has since passed through Committee with a few alterations, and the third reading will take place next week, when the Bill will be sent to the Legislative Council. I am informed that negotiations are in progress for the remission of these three Reform Bills to a Conference of both Houses; and hopes are cherished that a satisfactory settlement may be the result. Meanwhile it would be premature for me to express my personal opinion on measures which are still under the consideration of Parliament, and the ultimate form of which is still uncertain.

5. The opinions of the leading men of all parties on the questions now before the Legislature can be learned from the Victorian *Hansard*, which, together with files of the chief journals of all sides, is forwarded by the mail leaving Melbourne this day.

I have, &c.

(Signed)

G. F. BOWEN.

The Right Hon. Sir M. E. Hicks Beach, Bart., M.P.,
&c. &c. &c.

No. 66.

The RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR
SIR G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, November 26, 1878.

I HAVE the honour to acknowledge the receipt of your Despatch of the 4th of October,* informing me of the progress of business in the Parliament of Victoria during the preceding month.

I have, &c.

(Signed)

M. E. HICKS BEACH.

Governor Sir G. F. Bowen.

No. 67.

The RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR
SIR G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, November 29, 1878.

I HAVE the honour to acknowledge the receipt of your Despatch of the 3rd of October,† enclosing for my information, at the request of the Attorney-General, copies of the judgments delivered by the judges of the Supreme Court of Victoria on the 25th of September on the question of the legality of the removal from office of certain county court judges by order of the Government of Victoria.

I have, &c.

(Signed)

M. E. HICKS BEACH.

Governor Sir G. F. Bowen.

No. 68.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received December 16, 1878.)

Government House, Melbourne,
October 16, 1878.

SIR,

I HAVE the honour to acknowledge the receipt of your Despatch of the 17th August ultimo,‡ conveying the opinion of the law officers of the Crown in England on

certain points submitted to them respecting the circumstances in which public money becomes "legally available" in Victoria.

2. I am naturally much gratified by the result of this reference; for it appears clearly that in the opinion of these high authorities I was right—

(1.) In being prepared to *consent* on the advice of my responsible ministers, and subject to the proper formalities and restrictions, to sign warrants for the issue of money from the Treasury under the 45th section of the Constitution Act.*

(2.) In determining to *refuse* to sign warrants, on the above advice, for the issue of money from the Treasury for other purposes than those mentioned in the 45th section of the Constitution Act, until such money should have been appropriated by an Act of the Victorian Legislature.†

3. I have presented your Despatch now under acknowledgment to both Houses of Parliament.

I have, &c.
(Signed) G. F. BOWEN.

The Right Hon. Sir M. E. Hicks Beach, Bart., M.P.
&c. &c. &c.

No. 69.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL HICKS BEACH, BART.

(Received December 16, 1878.)

Government House, Melbourne,
October 31, 1878.

SIR,

IN continuation of my Despatches noted in the margin, I have the honour to report that the principal political event of the past month was the conference held between committees of both Houses of Parliament of the subject of constitutional reform.

2. No satisfactory agreement having been arrived at, it has been determined to postpone the further consideration of this question until the session of next year, which will not begin before the usual period, that is, in next June or July.

3. It is expected that the Appropriation Bill and other important measures will be passed, and that the present session will be brought to a close without any fresh difficulty or disturbance in about a fortnight from the present date. There will then follow a parliamentary recess of six or seven months, during which some leading members of the Council and Assembly respectively will probably visit England, with the object of laying before Her Majesty's Government the difficulties connected with the existing form of the Constitution of Victoria. But no final arrangement has been made as yet on this point.

4. The monthly English mail *viâ* Suez will leave Melbourne to-morrow, but by the next opportunity I shall be able to forward a full report of the proceedings of the session. Meanwhile, copies of the parliamentary debates and files of the chief journals of all colours are transmitted as usual.

I have, &c.
(Signed) G. F. BOWEN.

The Right Hon. Sir M. E. Hicks Beach, Bart., M.P.
&c. &c. &c.

P.S., 1st November.—I transmit herewith—

(1.) The statement made in the Legislative Assembly by the Premier (Mr. Berry) respecting the conference between the two Houses of Parliament; and
(2.) A report on the same subject laid before the Legislative Council.

(Signed) G. F. B.

* See Governor of Victoria to Secretary of State, No. 51 of 17th March 1878, No. 17 of this Paper.

† See Governor of Victoria to Secretary of State, No. 202 of 31st December 1877, No. 15 of 25th January 1878, No. 53 of 18th March 1878, Nos. 25 and 33 of Paper 27 of 1878, and No. 18 of this Paper.

‡ No. 58.

§ No. 62.

|| No. 65.

Enclosure 1. in No. 69.

REFORM OF THE CONSTITUTION.
CONFERENCE.

MR. BERRY said—Mr. Speaker, I desire to inform the House of the result of the deliberations of the joint committees appointed by the two Houses of Parliament with regard to the Reform Bills now respectively before each Chamber. I may say at the outset that it was thought desirable in the first instance that the proceedings should be of an informal character; that the members of the two Houses appointed as the committee should meet and discuss freely whether it was possible or not to arrive at a basis on which negotiations might afterwards proceed; and the result, I am sorry to say, was that no common basis could possibly be agreed upon. I must say that I had been led to suppose that it was possible that a basis of agreement might be found. At all events, whether it was possible or not, I considered it my duty to ask this House to give an opportunity for the consideration of the question in a way and under circumstances most favourable to a settlement of the dispute between the two Houses. I therefore proposed it before the respective Bills could be dealt with—in the hope that I would thus forestall the somewhat angry expressions and statements not altogether complimentary to either House which might be made during the debates on the measures, and save, if there was no possibility of a common agreement, the waste of public time in discussing Bills which would subsequently find their way to the waste-paper basket. There have been three meetings. The discussion was carried on courteously and calmly by the members of both committees. I don't think anything can have arisen during the conference to increase the difficulty by which the question is admittedly surrounded beyond the fact, which I don't wish to lessen or ignore, that in a period of calm thought, with every facility for a fair consideration of a question so important to the peace of this country, after three days' deliberation by the leaders of both Houses, it has been found impossible to arrive at even a common basis upon which formal negotiations might afterwards have proceeded. Had we been able to arrive at a basis of negotiation, the whole character of the proceedings would have been altered, and the joint committee would have proceeded—with the press and shorthand reporters present—to enter into all the details by which the matter might have been brought to a successful issue. But at the expiration of the first day the differences appeared so complete that I arrived at the conclusion that we might very fairly separate without meeting again. However, the Attorney-General had thrown out some suggestions, and the gentlemen representing the Legislative Council asked for another day to consider them. I willingly and readily assented to the request, and a second day was appointed for the conference to meet. But instead of being then prepared to accept the suggestions, even with a modification, the gentlemen of the Council produced a written document, which started from a new point altogether. When I read the document I said immediately that I could not accept it in any form or shape for discussion in any way. I felt it was altogether outside the commission which the Assembly had given to us. Of course I could not object to any action which the representatives of the Council might take, and, as they indicated that it was their intention to submit to their House the proposal which they placed before us, I accepted a copy to read to the Assembly, so that in making my explanation the whole thing should be complete, and that honourable members of this House should not have to derive their knowledge from two different sources, at the same time guarding myself from the supposition that it was to be taken into serious consideration, and regarding the document as valuable only as indicating unmistakably how wide apart the views of the two Chambers are with respect to this question of reform. As that was the first document submitted, I will read it to honourable members. It is headed, "Propositions submitted by the committee of the Legislative Council," and is as follows:—

" ' All political troubles arising out of dead-locks, as they have been experienced in Victoria, owe their origin to a perverted use of the annual Appropriation Bill.

" ' The use of that Bill by the Assembly as a means of coercion has necessitated the exercise by the Council, in self-defence, of their power of veto under the 56th section of the Constitution Act.

" ' The Council committee admits that the exercise of that power is highly inconvenient, but contends that the Council ought not to have the alternative thrust upon them either of sanctioning, together with the supplies necessary for the usual and ordinary services of the year, some other matter foreign to the general scope and object of the annual Appropriation Bill, as to which matter they might desire the opportunity of free discussion; or of rejecting such Bill, and thereby stopping the supplies, because it contains matter concerning which they might claim the right of independent voice and action.

" ' Therefore the committee of the Legislative Council suggest either of the following proposals, marked respectively A. and B., as the basis of an enactment which it considers would prevent the occurrence of similar dead-locks:—

A.

" ' 1. Annual Appropriation Bill to contain grants for the usual and ordinary services of the year, and for no other purpose; and not to contain any matter foreign to such grants.

" ' 2. Council may, under a resolution passed by an absolute majority of its members, inform the Assembly by message that, in its opinion, any grant recommended in any message from the Governor ought not to be contained in the Appropriation Bill.

" ' 3. If Assembly disagree with such message, Council may request the Governor to refer the matter to arbitration before the tribunal herein-after provided.

" ' 4. Pending such reference the disputed grant to be in suspense, and the Appropriation Bill to proceed in the usual way, the grant being added thereto or not, according to the award.

" ' 5. Subject to Her Majesty's permission and directions the question, whether such grant is or is not rightly included in the Appropriation Bill to be submitted in a case stated to two Governors of neighbouring Colonies; such Governors to appoint, if need be, a third Governor as umpire, and the decision of any two to be binding.

" ' 6. In disputes between the two Houses on the construction of the Constitution Act, or of any other Act affecting their respective powers, either House may petition the Queen in Council.

B.

“ ‘ 1. Annual Appropriation Bill to contain grants for the usual and ordinary services of the year, and for no other purpose ; and not to contain any matter foreign to such grants.

“ ‘ 2. Council may, under a resolution passed by an absolute majority of its members, inform the Assembly by message that, in their opinion, any grant recommended in a message from the Governor ought not to be contained in the Appropriation Bill.

“ ‘ 3. If the Assembly disagree with such message, the Appropriation Bill, without such disputed grant, shall proceed in the usual way, and the Assembly shall send to the Council the disputed grant in the form of a separate Bill. If the disagreement between the two Houses thereon continue, and if the Governor in consequence thereof think fit to dissolve the Assembly, the Governor may at the same time also dissolve the Council.

“ ‘ 4. Effects of a dissolution of the Council to be similar to those of a resignation of each member.

“ ‘ 5. No dissolution of Council to take place within nine months of period of legal expiration of Assembly.

“ ‘ 6. Dissolution of Council, if it occur within nine months before the periodical elections, to be in substitution for them. If it occur within nine months after such elections, not to affect members then returned.

“ ‘ 7. On dispute between the Houses as to the construction of the Constitution Act, or other Act affecting their respective powers, either house may petition the Queen in Council.’

I have read this document in order that the proceedings may be consecutive, and that the House may be in possession of all the phases of the question. I did not desire, at the conference, to say or do anything calculated in any way to interfere with good will, or with the prospect of a favourable result to our deliberations ; but bearing in mind all the circumstances of the case, the position which the Assembly has always contended for, and the large majority by which the Reform Bill was passed, I almost regarded the proposal I have read as an insult. At all events I treated it as inadmissible. Following upon that, it was suggested, simply in order that the subject should be treated exhaustively, and not with any hope of a common basis of negotiation being arrived at, that the view of the Assembly should also be put in writing. Accordingly the representatives of the Assembly submitted the following as the only basis on which they could proceed :—

“ 1. That the Annual Appropriation Bill should in no circumstances be rejected by the Council.

“ 2. That definite legislative finality should be provided with respect to all other Bills.”

I indicated that if this basis were accepted in good faith, that no Appropriation Bill should be rejected, and that there should be some legislative finality with respect to measures which the country endorsed, very large latitude of deviation from the actual Bill passed by the Assembly would be allowed. All this took place early on the second day of meeting, and the meeting to day was chiefly arranged in order that there might be no exaggerated or mistaken statement made with respect to what had taken place at the conference ; it was arranged, not with any hope of arriving at a settlement, but simply in order that the matter might be presented to Parliament without exaggeration or misrepresentation at the earliest possible moment. However, your representatives, after thinking over the matter, felt that they would scarcely complete their task—that of exhausting every mode of solution of a satisfactory character to this House and the country—without submitting another proposition. Accordingly we submitted, in writing, the following :—

“ That a short Bill be introduced for submitting the rival Reform Bills prepared in the Council and the Assembly, with such amendments as either body may introduce, to be accepted or rejected in their entirety by a poll of qualified electors, the result of such a poll to be considered final, and to be carried into law by both Houses.”

Having discovered, as I think I may fairly say, that the representative men whom we met from the other Chamber—men who must have fully understood the House they represented, as I believe we did the House we represented—and ourselves had really arrived at a position in which any common agreement between the two Houses was hopeless, it appeared to us, following out the exhaustive process, only right and proper that the question should be submitted by means of a short Act of Parliament to the whole people, who alone are interested. I say that was a reasonable proposition which could be carried out without the excitement attendant upon a general election. Moreover, it had this peculiar advantage : Not only was it a mode of settlement which had commended itself to the liberal party, and had been accepted by this House in the Bill forwarded to the Legislative Council, but it was actually suggested in another place some months since. The first suggestion of a plebiscite came from the Legislative Council. When the difficulty about payment of members arose, the President of the Legislative Council authorised the Governor to ask the Chief Secretary whether he would be willing to submit that question to a plebiscite. At that time the opinion in high places was that payment of members was unpopular, and that the result of referring it to a plebiscite would be to ensure its rejection. Of course, that idea has been long since abandoned, and the idea of a plebiscite has been abandoned with it. I have to inform the House that this moderate proposal for referring the question in dispute to the arbitrament of the only parties who are interested in it was also refused by the representatives of the Legislative Council. In conclusion, Mr. Speaker, I have only to say I regret that this well-meant attempt, which was surrounded by many circumstances that might have tended to success, has simply resulted in showing conclusively that the two Houses cannot settle this question, and that it must be settled either by outside authority—by which I mean the Imperial Parliament—or ultimately by the people of this Colony themselves.

Enclosure 2, in No. 69.

1878.—VICTORIA.

REPORT of the COMMITTEE of the LEGISLATIVE COUNCIL appointed to confer with similar COMMITTEE of LEGISLATIVE ASSEMBLY on the Subject of the REFORM of the CONSTITUTION and certain Bills.

The two Committees have had three lengthy conferences, in the course of which the subject they were appointed to confer upon was discussed exhaustively and with the greatest freedom.

The following basis of negotiation was submitted and insisted on by the Committee representing the Assembly as the condition precedent to any scheme of Reform being entertained, viz. :—

1. That the annual Appropriation Bill should in no circumstances be rejected by the Council.
2. That definite legislative finality should be provided with respect to all other Bills.

On the other hand, your Committee refused to consider any proposal that implied any legislative inferiority in your Honorable House and that was inconsistent with its independence. In these circumstances no further negotiations were possible.

Although your Committee were thus unable to accept the proposed basis of a project for Constitutional Reform, they desired to suggest some means of so dealing with the Appropriation Bill, in case it should contain disputed matter, as to relieve your Honorable House from the necessity of having recourse in defence of your legislative independence to the painful remedy of rejection. They therefore submitted two alternative proposals for the accomplishment of this object. These proposals, however, the Committee representing the Assembly did not entertain.

The proposals, with an introductory preface, were as follow ;—

“All political troubles arising out of dead-locks, as they have been experienced in Victoria, owe their origin to a perverted use of the annual Appropriation Bill.

“The use of that Bill by the Assembly, as a means of coercion, has necessitated the exercise by the Council, in self-defence, of their power of veto under the 56th section of the Constitution Act.

“The Council Committee admits that the exercise of that power is highly inconvenient, but contends that the Council ought not to have the alternative thrust upon them either of sanctioning, together with the supplies necessary for the usual and ordinary services of the year, some other matter foreign to the general scope and object of the annual Appropriation Bill, as to which matter they might desire the opportunity of free discussion ; or, of rejecting such Bill, and thereby stopping the supplies, because it contains matter concerning which they might claim the right of independent voice and action.

“Therefore the Committee of the Legislative Council suggest either of the following proposals marked respectively A. and B. as the basis of an enactment which it considers would prevent the recurrence of similar dead-locks :—

A.

1. “Annual Appropriation Bill to contain grants for the usual and ordinary services of the year, and for no other purpose, and not to contain any matter foreign to such grants.
2. “Council may, under a resolution passed by an absolute majority of its members, inform the Assembly by Message that, in its opinion, any grant recommended in any Message from the Governor ought not to be contained in the Appropriation Bill.
3. “If Assembly disagree with such Message, Council may request the Governor to refer the matter to arbitration before the tribunal hereinafter provided.
4. “Pending such reference, the disputed grant to be in suspense, and the Appropriation Bill to proceed in the usual way, the grant being added thereto or not, according to the award.
5. “Subject to Her Majesty’s permission and directions, the question whether such grant is or is not rightly included in the Appropriation Bill to be submitted in a case stated to two Governors of neighboring Colonies ; such Governors to appoint if need be, a third Governor as umpire, and the decision of any two to be binding.
6. “In disputes between the two Houses on the construction of the Constitution Act, or of any other Act affecting their respective powers, either House may petition the Queen in Council.”

B.

1. “Annual Appropriation Bill to contain grants for the usual and ordinary services of the year, and for no other purpose ; and not to contain any matter foreign to such grants.
2. “Council may, under a resolution passed by an absolute majority of its members, inform the Assembly by Message that, in their opinion, any grant recommended in a Message from the Governor ought not to be contained in the Appropriation Bill.
3. “If the Assembly disagree with such Message, the Appropriation Bill, without such disputed grant, shall proceed in the usual way, and the Assembly shall send to the Council the disputed grant in the form of a separate Bill. If the disagreement between the two Houses thereon continue, and if the Governor in consequence thereof think fit to dissolve the Assembly, the Governor may at the same time also dissolve the Council.
4. “Effects of a dissolution of the Council to be similar to those of a resignation of each member.
5. “No dissolution of Council to take place within nine months or period of legal expiration of Assembly.
6. “Dissolution of Council, if it occur within nine months before the periodical elections, to be in substitution for them : If it occur within nine months after such elections, not to affect members then returned.
7. “On disputes between the Houses as to the construction of the Constitution Act, or other Act affecting their respective powers, either House may petition the Queen in Council.

Your Committee have further to report, that the Bill for altering the Constitution of your honorable House was brought under the notice of the Committee of the Assembly, and that they expressed their readiness to consider the Bill, if the conditions before mentioned, formulated by that committee, were first recognised.

Your Committee also further report that they urged the necessity of the constant presence in the Council of at least two, and if possible more, responsible ministers. They believe that such a rule, if it were habitually observed, would, as it has done in England, promote the harmonious working of the two Houses, would facilitate legislation and divide its labours, and would tend to prevent the danger of collision between the Houses, by transferring to the Cabinet in conformity with constitutional theory and usage the most numerous and the most serious causes of dispute.

At the final meeting of the Committees the Committee of the Assembly made the following proposition :—

“That a short Bill be introduced for submitting the rival Reform Bills prepared in the Council and the Assembly with such Amendments as either body may introduce to be accepted or rejected in their entirety by a poll of all qualified electors, the result of such a poll to be considered final, and to be carried into law by both Houses.”

Your Committee, however, did not consider that this proposition was of a character to induce them to prolong the Conference.

CHARLES SLADEN.
ROBERT S. ANDERSON.
W. E. HEARN.

No. 70.

THE RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR
SIR G. F. BOWEN, G.C.M.G.

SIR, Downing Street, December 23, 1878.

I HAVE the honour to acknowledge the receipt of your Despatch of the 16th of October,* informing me that you have received and have presented to both Houses of Parliament of Victoria my Despatch of the 17th of August,† in which I acquainted you with the opinion of the law officers of the Crown in this country upon the question which I submitted to them at the request of your Government, as to the circumstances in which public money becomes legally available in Victoria.

Governor Sir G. F. Bowen. I have, &c.,
(Signed) M. E. HICKS BEACH.

No. 71.

The RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR
SIR G. F. BOWEN, G.C.M.G.

SIR, Downing Street, December 26, 1878.

I HAVE the honour to acknowledge the receipt of your Despatch of the 31st of October,‡ informing me of the result of the Conference between the Committees of both Houses of the Parliament of Victoria on the subject of the reform of the Constitution of the Colony.

Governor Sir G. F. Bowen, I have, &c.,
&c., &c., &c. (Signed) M. E. HICKS BEACH.

No. 72.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received January 11, 1879.)

Government House, Melbourne,
November 28, 1878.

SIR, In continuation of my Despatch of the 31st October ultimo,‡ I have the honour to report that the business of the present session seems now to be practically concluded, and that unless something unforeseen should happen the prorogation will take place next week. The annual Appropriation Bill has passed the Assembly, and has been read twice already in the Council.

2. The monthly English mail via Suez will leave Melbourne to-morrow, and it appears better to defer until the next opportunity, when the session will have finally closed, any general observations which I may have to submit respecting the condition of affairs in Victoria.

3. In my Despatch by the last mail,‡ I reported that the conference between committees of both Houses of Parliament on the subject of constitutional reform had

led to no practical result. It was then supposed that the session would close very shortly ; but it has been prolonged in consequence of several further attempts at settlement (the details of which will be found in the Parliamentary journals and debates), which have also unfortunately failed, and of the discussions respecting the proposal of the Ministry that Mr. Berry, the Premier, and one or two other members of the Legislature, should proceed to England during the ensuing recess with the object (as I am assured) of laying before the Secretary of State for the Colonies the difficulties connected with the existing form of the constitution of Victoria, and of soliciting his counsel and assistance on this and on other points of pressing importance. Mr. Berry, who is the Treasurer as well as Premier, further believes that his presence in London will be useful in connection with the raising of the loan recently authorised by the Parliament, and with other business affecting the interests of this Colony.

4. There were long debates in the Assembly on the vote in the Supplementary Estimates for 5,000*l.*, to defray the expenses of the delegates to England, but it was finally carried by a majority of 13, the numbers being 47 in favour of, and 34 against the vote. All the members of the opposition appear to have joined with several habitual supporters of the Ministry in condemning the proposed delegation. It has also been condemned by the Council. Several public meetings, with conflicting results, have been held on this subject. While the supporters of the present Ministry, in and out of Parliament, contend that the delegation will be able to give full information at the Colonial Office respecting Victorian affairs, and will be productive of good in many ways, the opponents of the present Ministry urge that the delegation is objectionable on many grounds, and that, at all events, it is premature, because the constitutional means of reconciling existing differences within the Colony are far from having been exhausted.

5. It is not intended that the delegates shall leave Melbourne before the December mail, so that they cannot reach London before next February. The precise objects of this mission, and the persons who are to compose it, have not yet been finally decided on ; but I am informed that it will probably consist only of Mr. Berry and of Professor Pearson, formerly fellow of Oriel College at Oxford, and now a member of the Victorian Assembly. The Speaker (Sir Charles Gavan Duffy) was invited, but has declined to form part of the delegation.

6. The Legislative Council has adopted a statement for transmission to you, in explanation of its position. It will be forwarded officially by the first opportunity, together with a counter statement on the part of the Ministry and Assembly, which I am informed is in course of preparation by my responsible advisers.

7. Copies of the Victorian *Hansard*, or Parliamentary Debates, and of the journals of both Houses, and files of the leading newspapers of all sides, are transmitted as usual by this mail, and will enable you to form your own judgment on the events of the past month.

8. There will be a long Parliamentary recess after the close of the session next week, for the Victorian Parliament will not meet for the dispatch of business before the usual period of the year, that is, in next June or July.

I have, &c.,
(Signed) G. F. BOWEN.

The Right Hon. Sir Michael Hicks Beach, Bart., M.P.,
&c., &c., &c.

No. 73.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received January 11, 1879.)

SIR,

Government House, Melbourne,
November 22, 1878.

1. I HAVE the honour to acknowledge the receipt of your Despatch No. 102 of the 25th August ultimo.*

2. This Despatch has not unnaturally caused me much concern. It is true that you expressly disclaim all "desire or intention to convey censure," but I have hitherto

been so fortunate during my long career of 19 years (often in periods of manifold and trying difficulties), as Governor successively of the great Colonies of Queensland, New Zealand and Victoria, that this is, so far as I remember, the first time that any serious difference of opinion with regard to any part of my proceedings has been expressed by any one of the many Secretaries of State for the Colonies under whose directions I have served.

3. I will ask permission to submit a few observations respecting the Despatch now under acknowledgment, with every deference and respect, and simply with the object of explaining and justifying my own conduct in a position of almost unprecedented difficulty and anxiety.

4. It seems desirable in the first place, with the view of rendering more easy a full appreciation of my position during the recent political crisis, to submit a brief outline of my administration in Victoria which is now drawing to its close, owing to the expiration of my term of office here, and my appointment to the government of another Colony.

5. It will be recollected that during the first part of my administration this Colony enjoyed unaccustomed political quiet, and that though several reforms of the constitution and other important questions were vigorously debated in the Parliament, there was a marked absence of popular agitation in the country at large. In fact, when I went to England on leave of absence (the first leave for which I had applied during a continuous service in Australasia of 15 years) there reigned a profound political calm. On my return to my post in the beginning of 1876 I found myself in the midst of a political tempest, arising from events which had occurred during my absence in England, and over which I had no control. I would here observe that I desire to impute no blame to the Administrator of the Government during my absence, or to any one else. I simply state an historical fact.

6. On my return I found the late Premier (Sir James McCulloch) and his party in office, supported by a majority of the Parliament, and the present Premier (Mr. Berry) and his party in opposition, while a violent popular agitation was raging against the former (Sir James McCulloch). Numerous public meetings were held in various parts of the Colony, from which petitions were addressed to the Governor praying me to dismiss Sir James McCulloch and his colleagues, and to dissolve Parliament. From the official papers of that period it will be seen that I replied to these petitions to the effect that "according to the well-known principles of the constitution a Governor is bound, as a general rule, to support the ministers for the time being, with whatsoever political party they may be connected, so long as they act in conformity with the law, and possess the confidence of the majority of the representatives of the people in Parliament."

7. In short, on this as on all other occasions, I carried out the principle laid down by a former Secretary of State, *i.e.*, "While on the one hand it is the duty of a Governor to afford to his actual advisers all fair and just support consistently with the observance of the law, he ought on the other hand to be perfectly free to give the same support to any other ministers whom it may be necessary for him at any future time to call to his councils." Accordingly, when the last Parliament expired by effluxion of time, and the result of the general election of May 1877 had given an overwhelming majority to Mr. Berry, a majority far larger than any ever given to any other party leader in Australia, I placed that gentleman in office on the resignation of Sir James McCulloch, and I have always treated him and his colleagues exactly as I treated their predecessors.

8. At the commencement of the recent conflict between the Council and the Assembly, I foresaw the perilous difficulties which were imminent, and I consequently asked for the instructions of the Secretary of State under the circumstances fully stated in my Despatch of the 19th September 1877.* It will be seen that the question for decision practically was this. Should the Governor be guided in a matter of purely local concern by the view taken by a section of the Legislative Council, or by the advice of his constitutional and responsible ministers, possessing at that time the confidence of fully two-thirds of the Colonial House of Commons, and of the constituencies throughout the country?

9. The Secretary of State gave me in reply clear and imperative instructions, viz. :—“As the responsibility must rest entirely with ministers, I see no reason why you “should hesitate to follow their advice.”*

10. I have since carried out loyally the letter and spirit of these instructions, and in a manner approved and confirmed by the Secretary of State who issued them. They applied originally to the signing by the Governor of the formal message required by the Constitution Act to enable an item for the payment of the members of the Legislature to be placed by the ministers on the estimates. This act of the ministers was represented by the Legislative Council as an attempt to coerce that body. Following the precedent made, and adopting the language used in an analogous case by my predecessor, Lord Canterbury, I carefully guarded myself against “expressing or implying any opinion with respect to the policy of the step which I had been advised to take “either in itself or as it may hereafter be regarded as a precedent here or elsewhere.”† At the same time it appears that this case involves a graver constitutional principle than the reduction in the civil service carried out a few weeks later by my responsible ministers when supplies had been stopped in consequence of the rejection of the Appropriation Bill by the Legislative Council. I submit, therefore, that it was not unnatural for me to infer that if I was bound (to quote your words in your Despatch of 15th February 1878) “to avoid interference with the responsibility of my advisers” in the first case, I was *à fortiori* bound to avoid such interference also in the second place.

11. It is of course the paramount duty of a Colonial Governor, as the representative of the Crown, to carry out to the utmost of his ability any instructions which he may receive from Her Majesty’s Imperial Government. And if I had been so instructed, or if I had been given reason to believe that I should be supported by the home authorities in any such action, I should have been ready to resist the ministers by all constitutional means, both with regard to the question of the payment of the members of the Legislature and with regard to the reduction in the civil service.

12. It will be remembered that the law officers of the Crown advised that the proposed action in the latter case was legal, and that the ministers represented it to me as only temporary. I submit, moreover, that it was not unnatural that I should suppose that the latter case came within the spirit of the instructions issued, not only by Lord Carnarvon, but by several other Secretaries of State for the Colonies, especially by the late Duke of Newcastle, who gave me directions while I was Governor of Queensland in the following terms:—“The general principle by which the Governor of a Colony “possessing responsible government is to be guided is this: that when Imperial interests “are concerned, he is to consider himself the guardian of those interests; but in matters “of purely local politics he is bound, except in extreme cases, to follow the advice of a “ministry which appears to possess the confidence of the Legislature. But extreme “cases are those which cannot be reduced to any recognised principle, arising in cir- “cumstances which it is impossible or unwise to anticipate, and of which the full force “can in general be estimated only by persons in immediate contact with them.” The Duke of Newcastle further defined the “extreme cases” referred to by him as “such “extreme and exceptional circumstances as would warrant a military or naval officer in “taking some critical step against or beyond his orders. Like such an officer the “Governor who took so unusual a course in the absence of instructions from home “would not be necessarily wrong, but he would necessarily act at his own peril. If the “question were one in which Imperial interests were concerned, it would be for the “Home Government to consider whether his exceptional measure had been right and “prudent. If the question were one in which Colonial interests were alone or princi- “pally concerned, he would also make himself in a certain sense responsible to the “Colonists, who might justify the course he had taken, and even prove their gratitude “to him for having taken it, by supporting him against the ministers whose advice he “had rejected, but who on the other hand, if they perseveringly supported those “ministers, might ultimately succeed in making it impossible for him to carry on the “government, and thus, perhaps, necessitate his recall.”

13. The Duke of Newcastle added these very significant remarks: “In granting “responsible government to the larger Colonies of Great Britain, the Imperial Govern- “ment were fully aware that the power they granted must occasionally be used amiss, “but they have always trusted that the errors of a free government would cure them.

* Secretary of State, Earl of Carnarvon, to Governor of Victoria, “Telegraphic,” of September 27, 1877, No. 2 of Paper 27 of 1878. See also of December 20, 1877, No. 5 *ibid.*; of January 28, 1878, No. 13 *ibid.*

† See Governor of Victoria to Secretary of State of November 26, 1877 (Enclosure No. 7), No. 8 *ibid.*

“ selves, and that the Colonists would be led to exert greater energy and circumspection
 “ in legislation and government when they were made to feel that they would not be
 “ rescued from the consequences of any imprudence merely affecting themselves by
 “ authoritative intervention of the Crown or of the Governor.

14. It will have been seen from several of my Despatches and official Minutes* that I strongly dissented from, and remonstrated against, the manner in which the ministers carried out the reductions in the public service, which they considered indispensable in consequence of the rejection of the Appropriation Bill for the year; that in fact my view of the case was similar to that taken by yourself, that I caused the ministers to retrace their steps in all cases in which there appeared any doubt of the legality of their proceedings, and that I urged successfully in a large degree a general reinstatement of the public officers reduced so soon as supplies had been granted. But the emergency was undoubtedly of a most grave character, and I again submit that the course which I most reluctantly felt myself, in a choice of evils, constrained to pursue, *i.e.*, to follow the advice of my responsible ministers, was within the spirit of the above-quoted instructions of the Duke of Newcastle, as also in harmony with those of Lord Carnarvon, and with the principles laid down, and the precedents made, by Earl Grey,† by Lord Elgin, by Lord Dufferin, by my predecessor Lord Canterbury, and by a long line of statesmen and Colonial Governors, to some of whom reference has been made in my previous reports.

15. As my predecessor Lord Canterbury wrote‡ during the previous Parliamentary “ deadlock ” of 1867–8—“ the choice presented to me was one not only of “ difficulties, but of positive evils, and my vindication must therefore rest not on the “ abstract merits of the course adopted by me, but on the preponderance of the evils “ attendant on any other cause.” I have always considered and openly declared that the action of the ministers in last January was a “ positive evil,” but it was my duty to bear in mind that a preponderance of evils would have resulted from my practically enforcing their resignation during the late crisis on a matter of purely local concern. As a former Secretary of State remarked of controversies in the Colonies, “ Each case “ depends upon a variety of local considerations which can be adequately appreciated “ only by the Governor who is on the spot, and has the means of estimating the state of “ parties and the political feeling of the Colony at the moment.” And, as I have shown elsewhere, there can be no doubt but that the emergency in last January was greater, inasmuch as party animosities and popular passion ran much higher, and the ministry was supported by a still more overwhelming majority in the Colonial House of Commons and in the constituencies than the emergency in the previous deadlock of 1867–8. When Lord Canterbury wrote to this effect—“ I entertain no doubt whatsoever “ that the interposition by the Governor of his authority in opposition to his ministers “ . . . would be the signal for an overpowering manifestation of popular feeling in “ favour of those ministers, and that the result of a general election under the circum- “ stances would leave him (the Governor) powerless in the hands of those who would “ regard him as an aggressor and a beaten foe.” Under such circumstances the practical question arises, how is the Queen’s Government to be carried on?

16. The rival parties in the Australian Parliaments have hitherto been generally so nearly equally balanced that if the Governor declined to accept the advice of any particular ministry and so caused their resignation he could easily form another ministry. But it was my lot at the beginning of the present year to have in office a ministry supported by at least sixty (60) out of the eighty-six (86) members of the assembly, a majority equivalent to more than two thirds, or to about four hundred and fifty (450) votes in the House of Commons. It was, therefore, hopeless to attempt to form another ministry from the existing Parliament, and it was universally agreed that so strong was the feeling in the country during the late Parliamentary crisis that a dissolution on the question of the reduction in the civil service could have had no result but to restore Mr. Berry and his friends to power with greatly increased strength, and regarding the Governor “ as an aggressor and beaten foe,” and thus to deprive him of the moderating influence by the use of which I have been able to avert many evils. As an historian of repute§ has remarked, “ It is the fault of many “ historians and the misfortune of many statesmen that the latter are often judged

* Nos. 30 and 37 of Paper 27 of 1878, and 30 and 34 of this paper.

† Colonial Policy, Vol. I., p. 150.

‡ Governor of Victoria to Secretary of State, of Feb. 4, 1868, No. 5 of Appendix 1.

§ Lecky.

“almost exclusively by the measures which they have passed, and not at all by the evils which they have averted.” If this maxim be applied to the case of Colonial Governors it may be said with equal truth that they are often judged by actions of their ministers, from which they may have (as in my instance) strongly dissented, and not at all by the evils which their constitutional forbearance and neutrality have averted. It is submitted that, in the words of a former Secretary of State for the Colonies* “it would not have been desirable for the Governor to interfere in any such a manner as to withdraw these matters from their ordinary sphere, and so give to the dispute a character which did not naturally belong to it of a conflict between the Assembly of Victoria and the Representative of the Crown.” For such action would, as my predecessor Lord Canterbury wrote of an analogous case, “have involved the Imperial Government in the conflict, and probably imperilled the relations of the Colony with the Mother Country.”

17. It is a significant proof of the strength of the position of the ministry on the civil service question that, although there has been much declamation on the subject, the opposition in Parliament has not ventured to make any formal motion condemnatory of their conduct in this respect. This fact alone goes far to show that the Governor could not have formed another administration if he had broken with the present ministry on this question.

18. I have inflexibly adhered to the main principle which I laid down for my own guidance, and which I reported to the Colonial Office before the late Parliamentary conflict began. In other words, I have carried out in practice the conviction expressed by Lord Elgin, while Governor General of Canada, of the supreme importance of keeping the Imperial Government, at whatever cost or risk to the Governor personally, aloof from and above the strife of Colonial parties. This has been the main end which I have steadily kept in view throughout the trying discussions of the past 12 months; and I am assured that all unbiassed men fully acquainted with the circumstances agree that no other course except that pursued by me could have successfully secured this essential object. On this point the address† presented to me by the Victorian House of Commons bears emphatic testimony.

“Before closing an arduous and memorable session, we desire to approach your Excellency with the expression of our thanks for the constant vigilance, the wise forbearance, and the unwavering patience which have so largely contributed to carry the country safely through a trying crisis.”

“Under the pressure of serious difficulties your Excellency has maintained in their integrity the principles of English freedom embodied in our constitution, principles which secure at the same time the liberty of the people and the authority of the Crown.”

“With less constitutional foresight on the part of the Queen’s representative a conflict between the constituencies and the Crown might have become inevitable. The unbroken order happily preserved throughout the country during a period of intense excitement is attributable, we are persuaded, beyond any other cause to the conviction in the minds of the people that the high functions with which your Excellency is invested would be exercised in a spirit of equity and impartiality.”

“In your relations to Parliament to your advisers, and to the Crown, your Excellency has, in our judgment, exhibited a constant desire to preserve to each its legitimate authority; and in after times we doubt not the example which you have set in a grave public emergency will be cited as a model for Constitutional Governors.”

I would also request attention to the concluding paragraphs of the address from the Legislative Assembly to the Queen, forwarded with my Despatch of the 18th February ultimo.‡

19. There is another point of view to which perhaps attention should be solicited. For many years past, Canada, Victoria, and other Colonies have been permitted by the Imperial Government, almost without remonstrance, to adopt systems of political economy long ago abandoned by the Mother Country, and in particular to carry the principles of protectionism so far as to enforce very heavy duties against the manufactures and other produce of the United Kingdom. It is I presume certain that no Governor would be supported at home who should break with a powerful ministry on a question of this nature, though gravely affecting Imperial

* Viscount Cardwell to Governor of Victoria, of February 26, 1866 (B1 of Session 1867, page 86).

† Copy transmitted with Despatch No. 70 of April 9, 1878; No. 26 of this Paper.

‡ No. 6.

interests. How then could I foresee that I should be expected to break with the most powerful ministry hitherto known in Australia, and with the Parliament which supports it, on a question of purely local concern, such as the reduction of the civil service, appointed and paid by the Colonial Government.

20. It is the lot of Constitutional Governors, as of Constitutional Sovereigns, to be often obliged to accept as their responsible ministers men whose principles they disapprove, and from many of whose measures they dissent. It is well known that the last occasion on which an English Sovereign removed a ministry possessing the confidence of the House of Commons, because he personally disagreed with them, was in 1834. A text writer of high authority on the English Constitution* has shown that this measure utterly failed to produce the desired effect, and is "not to be coveted as a precedent. . . . After such a warning it is likely that our monarchs will pursue the policy which a long course of quiet precedent at present directs; they will leave a ministry trusted by Parliament to the judgment of Parliament." However this may be, it is certain that the traditional authority, dignity, and influence of the Sovereign do not attach, except in a comparatively slight degree, to the representatives of the Crown in the Colonies, and that it would be an act of perilous infatuation in any Colonial Governor to remove, solely because he personally disagreed with them on a measure of Colonial policy not repugnant to law, nor to Imperial interests, a ministry trusted by Parliament, unless indeed he were well assured that he would be able to replace them, either before or after a dissolution, by a new ministry commanding at least a working majority. Now it is admitted on all sides that, in last January, Mr. Berry's ministry was the only possible ministry. As I have reported in previous Despatches, I have carefully followed the precedents made, under analogous circumstances to those recently existing in Victoria, not only by my predecessors in this Colony, Sir Henry Barkly and Lord Canterbury, but also by Lord Elgin and Lord Dufferin in Canada. It will be remembered that Lord Elgin in 1848-51, and Lord Dufferin in 1873, were assailed (like myself, of late,) by a local faction for an alleged desire to afford undue assistance to their ministers for the time being. Lord Dufferin wrote, in justification of his own conduct, that the removal of his "late Government under such circumstances would always have been regarded by his adherents as having been brought about by violent means, and for the uncalled for intervention of an Imperial officer." And the Secretary of State, in reply, conveyed the entire approval of the Queen, and expressed his own concurrence in the "satisfaction which you express that the result arrived at has been reached by a strict application of constitutional principles, and by the regular working of the machinery of a free Parliament."

21. In conclusion I would repeat once more that Lord Dufferin used words in 1873 which might be adopted as descriptive of my own recent position here:—"My anxieties have been very great, and my position most embarrassing. If I have erred in the conduct of these affairs I feel I can count upon your Lordship's indulgence to put a favourable construction on my intentions. My political instincts would revolt against any undue exercise of the Crown's prerogative. Yet it is of this I find myself accused. I trust, however, that reflection will dissipate such impressions, and that the people of Canada will ultimately feel that it is for their permanent interest that a Governor-General should unflinchingly maintain the principle of ministerial responsibility, and that *it is better he should be too tardy in relinquishing this palladium of colonial liberty than too rash in resorting to acts of personal interference.*" This is the almost universal feeling of the people of Victoria. In the last paragraph of your Despatch, now under acknowledgment, you remark, "I greatly regret the personal hostility with which you have been visited, after doing what you believed to be your duty; and I trust that a better feeling may shortly prevail." I am assured, and I receive frequent proofs that the assurance is well founded, that no previous Governor of Victoria has been so strong as I am in the general support and sympathy of the great majority of this community, and that the only persons who regard me with hostility are a few members of the faction, insignificant in numbers, and almost entirely without political influence, who had previously assailed in a similar manner all my predecessors in the Government of Victoria, whenever in the execution of their constitutional duties and in the maintenance of their constitutional neutrality they have failed to obey the behests, or to promote the interests of that faction. As it has been pointed

* Bagehot's English Constitution, Chap. VII.

out in the Victorian Parliament, and already explained in my Despatch of the 8th May ultimo* (of which I would request a re-perusal), the personal hostility of this clique against myself arose from my decision to follow the instructions of the Secretary of State in preference to their attempted dictation. They are not inaccurately described in the language applied by Lord Elgin to a similar class in Canada, as "men who are worked upon by others more selfish and designing, to whom the principles of constitutional government are unfathomable mysteries, and who regarded the representative of royalty, and, in a more remote sense, the Crown and Government of England, as the butts of a most intense and unrelenting indignation, if political affairs be not administered in entire accordance with their sense of what is right."

22. Finally, I regret the length to which my explanation of my conduct with respect to the points referred to in your Despatch under reply has unavoidably extended. The reduction made in the civil service at the beginning of this year has caused me more pain and anxiety than any other event during my long official career. My main object in this Despatch has been to submit that in "avoiding interference with the responsibility of my advisers" on that occasion, though dissenting strongly from their policy, I had good reason to suppose that I was acting in harmony with the spirit of the recent instructions of the Colonial Office, and with the precedents made, and with the principles laid down, under analogous circumstances, by my predecessors in Victoria and by other Governors of great colonies. My lengthened personal experience of parliamentary government in Queensland, New Zealand, and Victoria, has led me to the conclusion that such principles as those laid down by the late Duke of Newcastle, and by the other statesmen to whom I have referred, are the necessary conditions on which alone the Queen's Government can be carried on in the more advanced and populous provinces of the British Empire, and on which alone the existing happy relations between the Imperial and the Australian Governments can be permanently maintained. For Australian ministers will remain ready to defer to the Secretary of State and to the local representative of the Crown in matters in which Imperial interests are involved, provided always that their constitutional privileges and responsibility in matters of purely Colonial policy not repugnant to law, continue to be recognised and respected. But as I have said above, it is the paramount duty of a Colonial Governor to carry out loyally the instructions which he may receive from Her Majesty's Secretary of State for the time being.

I have, &c.
(Signed) G. F. BOWEN.

Sir Michael Hicks Beach, Bart, M.P.,
&c. &c. &c.

P.S.—In the Despatch acknowledged above it is remarked: "I understand your ministers to express, in the memorandum now before me, the opinion that your action in even questioning the course taken with regard to these public officers was to some extent an interference with the due course of responsible government," and again: "He (the Governor) has a clear right, which I regret to perceive that your ministers apparently dispute, to discuss with them any topic that may arise, and to express freely his opinions and suggestions in regard to it."

2. The ministers request me to state that they entirely disclaim the opinions thus imputed to them, and that they regret they have not expressed themselves with sufficient clearness on this point. In justice to them I am bound to state that they have never resisted my constant practice of discussing with them, as with all preceding ministers, all public topics whatsoever, and of recommending the withdrawal or modification of all measures which I may deem objectionable. They have always been ready to defer to my opinion on matters of Imperial interest, and also (I may add) on many questions of local policy, in which they were not fettered by convictions previously expressed, or by party and Parliamentary exigencies.

3. Ministers will prepare for transmission by the next mail another Memorandum with further explanations on the whole case; and they hope that your Despatch,† of the 25th of August ultimo, will not be published until their observations can be published together with it.

(Signed) G. F. B.

No. 74.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received January 11, 1879.)

SIR,

Government House, Melbourne,
November 29, 1878.

WITH reference to my Despatch by this mail,* and to previous correspondence respecting the recent reductions in the civil service of Victoria, I have the honour to transmit an Official Memorandum showing the actual number of members reduced, and the amount of compensations and superannuation allowances actually paid.

2. From the above-mentioned Despatch, and from many previous communications on the same subject, it will be remembered that I did not concur with the policy of my responsible ministers in this respect.

The Right Hon.
Sir Michael Hicks Beach, Bart., M.P.,
&c. &c. &c.

I have, &c.
(Signed) G. F. BOWEN.

Enclosure in No. 74.

MEMORANDUM for his Excellency the Governor.

WITH reference to comments on the recent reductions in the civil service of Victoria, and to former ministerial Minutes on that subject, his Excellency the Governor is respectfully informed that the official returns show:—

(1.) That the total number of the members of the regular civil service of Victoria, classified or scheduled under the Civil Service Act, amounted on 1st January 1878 to 1,626 persons.

(2.) That of this number only sixty (60), or about one twenty-seventh of the whole, were permanently reduced during the year 1878 by the ministerial heads of departments in accordance with the provisions of the Civil Service Act, and on the ground that their services, for various reasons, were no longer required.

Many of these were superannuated in the usual manner, as contemplated by law, being over 60 years of age.

(3.) That the total amount of compensation already paid for loss of office pursuant to the Civil Service Act is above forty-four thousand pounds (44,133*l.*).

(4.) That the total amount of superannuation allowances paid annually is 3,422*l.*

Chief Secretary's Office,
Melbourne, November 28, 1878.

(Signed) FRANCIS LONGMORE,
For the Chief Secretary.

No. 75.

THE RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR G. F.
BOWEN, G.C.M.G.

SIR,

Downing Street, January 24, 1879.

I HAVE the honour to acknowledge the receipt of your Despatch of the 28th November last,† reporting upon the political affairs of the Colony, and informing me of the intended departure by the December mail of Commissioners who have been appointed for the purpose of conferring with me on the question of Constitutional Reform.

I made some observations on this latter subject in my Despatch of the 1st of October last.‡

I have, &c.
(Signed) M. E. HICKS BEACH.

Governor Sir G. F. Bowen.

No. 76.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received February 8, 1879.)

Government House, Melbourne,
December 16, 1878.

SIR,

1. IN continuation of my Despatch of the 28th November,* I have the honour to transmit herewith copies of the speech which, by the advice of my responsible ministers, I read on the 6th instant at the prorogation of the session for 1878 of the Victorian Parliament.

2. It will be seen that the question of Constitutional Reform, which has occupied much of the time of both Houses during the late session, has been postponed until next year. A number of motions were made and several resolutions proposed on this subject alike in the Council and in the Assembly, but with little practical result. These motions and resolutions and the debates upon them will be found in the "Victorian Hansard." Files of the leading journals of both sides are also transmitted. You will thus be enabled to form an independent judgment on the whole case.

3. Several measures of importance, to some of which reference is made in the speech, have become law.

4. The usual number of copies of the Acts† passed during the late session, in addition to those forwarded with my Despatch of the 2nd October ultimo, is transmitted herewith, together with the customary report‡ by the Attorney-General.

5. As I have already intimated, it is not proposed that the Parliament should meet again before the usual period of the year, that is the month of June or July next, so that there will be a Parliamentary recess of six or seven months.

I have, &c.

(Signed) G. F. BOWEN.

The Right Hon. Sir M. E. Hicks Beach, Bart., M.P.,

&c.

&c.

&c.

Enclosure in No. 76.

MR. PRESIDENT AND HONOURABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL :
MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY :

It is with pleasure that I release you from the duties of the session; which although somewhat less protracted than preceding sessions, has still been of such length as to enable you to exhibit patient assiduity and attention to the labours of Legislation.

Important measures have been passed, which, I have no doubt, will add to the general prosperity of the country.

I regret, however, that the grave and urgent question of Constitutional Reform has not been brought to a successful issue; but I hope that next session you may be enabled to surmount satisfactorily the difficulties surrounding this important problem.

Her Majesty has been pleased to express her approval of a Commission to be appointed under the Royal Sign Manual for the promotion of the Melbourne International Exhibition of 1880, and the Exhibition Act will enable the Commissioners to carry out this project, which will tend to attract the notice of the entire civilized world to the natural capabilities and industrial resources of this country.

The Loan Act will enable the national system of railways to be further extended by several hundred miles into various districts in which large numbers of land selectors have made their homes, and the consolidation of that system on the south of the city of Melbourne has been further secured by the purchase of the Melbourne and Hobson's Bay United Railway.

The amended Land Act is intended to ease the burdens of present and future land selectors, while at the same time it extends to persons of small capital engaged in business in cities and towns an opportunity of acquiring in the country districts homes to which they may retire after relinquishing their business avocations.

The Customs Act Amendment Act confers enabling powers on the Governor in Council to make arrangements for the cessation of the collection of duties on the land and river frontiers of Victoria, and may thus lead to the free interchange with the adjacent Colonies of the products of each, on terms of reciprocity.

I trust that the various Acts which you have passed tending to the improvement of the laws in connexion with Civil and Criminal procedure, by removing therefrom several anomalies, will have a beneficial effect on the general administration of justice.

The Imperial Government is at present engaged in a war which may eventuate in a collision with a foreign power. My advisers are confident that every possible step has been taken to strengthen and improve our defences, so as to prevent the possibility of a successful hostile demonstration against this country.

The Intercolonial Conference recently held in Melbourne to secure a duplicate cable between Port

* No. 72.

† Enclosure 2, not printed.

‡ Enclosure 3, not printed.

Darwin and Singapore having been successful, a contract with the Eastern Extension Telegraph Company has been signed, thus rendering telegraph communication with Europe and America reasonably secure.

I trust that the tenders calling for direct steam services between Plymouth and Melbourne will eventuate in obtaining both increased accommodation for passenger traffic, and also accelerated postal communication with England.

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY :

I thank you on behalf of the Queen for the liberality of your grants towards carrying on the public services, and in aid of the further development of the resources of Victoria.

My advisers will take steps to carry into effect your expressed wishes for the opening up of personal communication between them and the members of the Imperial Government on the subject of the existing defects in the Victorian Constitution Act.

MR. PRESIDENT AND HONOURABLE GENTLEMEN OF THE LEGISLATIVE COUNCIL :

MR. SPEAKER AND GENTLEMEN OF THE LEGISLATIVE ASSEMBLY :

During the recess my advisers will mature the various Bills which the length of the discussions on the main question of Reform has excluded from your consideration during this session, and will bring them before you early next session ; but whatever attention they propose to give to those Bills will be subordinated to what they feel to be the dominant and overwhelming political necessity of the day—an adjustment of the relations of the Council and the Assembly on a basis satisfactory to the people of this country.

In being relieved from your onerous duties you must be gratified to know that, under the blessing of Divine Providence, the producing and manufacturing interests of this country continue prosperous, notwithstanding the prolonged commercial depression which has prevailed here as well as in Europe, in America, and in the neighbouring Colonies of Australia.

In the name of Her Majesty I declare this Parliament prorogued to the fourteenth day of January 1879, and it is hereby prorogued accordingly.

Melbourne, 6th December 1878.

No. 77.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL HICKS BEACH, BART.

(Received February 8, 1879.)

Government House, Melbourne,
December 26, 1878.

SIR,

1. AT the request of the Legislative Council of Victoria, I have the honour to transmit herewith the accompanying "Statement embodying the circumstances under which differences have arisen between the Houses of Legislature on the question of "Constitutional Reform."

2. This manifesto was adopted by the Council at the close of the late session of the Victorian Parliament ; and I am informed that there was no time for a statement in reply to be prepared on behalf of the Assembly.

3. However, I am requested to solicit attention to the address to the Queen from the Assembly adopted in February 1878 (of which copies are annexed), and to the enclosed Memorandum by the Ministers, as representing a large majority of the Assembly.

4. With regard to the paragraph in the statement of the Council, in which reference is made to the general attitude of successive Governors of Victoria towards that House, I will only observe that I have followed the precedents in this respect of my predecessors, Sir Henry Barkly and Lord Canterbury, whose conduct was entirely approved by Her Majesty's Government. For the rest, it would seem that it is unnecessary for me again to repeat the facts and arguments of my previous Despatches on this subject, especially those noted in the margin.* It will be, moreover, remembered that I requested the instructions of the Secretary of State practically as to whether I should pursue the course which the Council attempted to dictate to me, or whether I should follow the advice of the responsible ministers, and that I was directed, in the most clear and explicit terms, to follow the advice of ministers.†

I have, &c.

(Signed) G. F. BOWEN.

The Right Hon. Sir M. E. Hicks Beach, Bart., M.P.,

&c.

&c.

&c.

* Governor of Victoria to Secretary of State, 26th January 1878, 26th January 1878, printed as Nos. 36 and 37 of Paper 27 of 1878 ; 8th May 1878, No. 34 of this paper ; 22nd November 1878, No. 73 of this paper.

† Secretary of State to Governor of Victoria (Telegraphic), 27th September 1877, No. 2 of Paper 27 of 1878 ; 20th December 1877, No. 5, *ibid.* ; 28th January 1878, No. 19, *ibid.*

Enclosure 1. in No. 77.

STATEMENT embodying "The circumstances under which Differences have arisen between the Houses of Legislature on the question of Constitutional Reform."

Appendix A.
Statement of
facts.

1. In the course of the present session two Bills, copies of which are hereto appended, purporting, the one to alter the constitution of the Legislative Council, the other to amend the Constitution Act, were originated in this House, and were passed by it. In the Legislative Assembly, although arrangements with a private member had been made for their reception, the Chief Secretary was so good as to undertake, though unasked, their charge. On his motion they were read a first time, and their second reading was made an order of the day for that day fortnight. No further proceedings appear to have been taken respecting them. In this same session a Bill, with the short title "The Constitution Act Amendment Act 1878," a copy of which is hereto appended, was sent by the Legislative Assembly to this House. The character of this measure was such that no member of the Council was willing to take even formal charge of it, much less to move its second reading. The Postmaster-General, who represented the Ministry in the Council, had, previous to its introduction, resigned his office rather than accept its advocacy. At the request of the Chief Secretary, a prominent member of the Council, as a matter of courtesy, moved the first reading. But as no member could be found who was willing to give any further assistance, the Bill necessarily fell to the ground. In these circumstances the Chief Secretary requested a conference between representatives of the two Houses upon the subject of the reform of the Constitution as discussed by both Houses in the present session. To this request the Council acceded, and the conference took place. At this conference of the representatives at which the reports are hereto appended, it was insisted on behalf of the Assembly—first, that the Council should in no circumstances reject an Appropriation Bill; and second, that all other Bills passed by the Assembly and rejected by the Council, should, after a certain interval, notwithstanding that rejection, become law. The representatives of the Council declined to acknowledge any legislative inferiority of this House, or in any way to compromise its independence. They made certain counter proposals, which the representatives of the Assembly declined to entertain, and the conference terminated without obtaining any basis for negotiations. It has been publicly announced that the Chief Secretary and other representatives of the Assembly are about to visit England for the purpose of requesting the assistance of Her Majesty's Government to procure an Act of the Imperial Parliament for the alteration of our Constitution in the direction that they wish. We do not entertain the notion that any representations made through a delegation from one House of this Legislature, and that House divided* in opinion as to the propriety of such an application, will move the Imperial Government to initiate such a measure. Our Constitution Act has provided all necessary means for making such modifications in our Constitution as experience may suggest; and it is a maxim which the Imperial Government has long and scrupulously observed, that "parliamentary legislation on any subject of exclusively internal concern to any British colony possessing a Representative Assembly is unconstitutional." But as one of the Houses of Legislature of a colony proud of being an integral portion of the Empire, and knowing that the heart of the Empire is in sympathy with its remotest members, we desire to place upon record, for the information of Her Majesty's Government, our views respecting recent events in this country.

Appendix B.

Appendix C.

Previous disputes
between the two
Houses.

2. Under the first section of the Constitution Act, Her Majesty, with the advice and consent of the Council and the Assembly, has power to make laws in and for Victoria in all cases whatsoever. This general power is by subsequent sections limited in various ways. Of those limiting provisions which relate to the forms of legislation, the only section which affects the relation of the two Houses is the 56th. That section deals with two classes of Bills—those for appropriating revenue, and those for imposing taxation. With respect to such Bills it contains two enactments—first, that they should originate in the Assembly; and second, that they shall not be altered in the Council. The section is, as regards the Council, restrictive, and not enabling; and, therefore, the general power of withholding its assent, which under the first section the Council possesses, is not taken away. But *ex abundanti cautela*, the 56th section expressly provides that the Council, although it may not alter, may reject Bills of these two exceptional classes. From the commencement of the New Constitution in 1856 until 1865 the two Houses worked together without any serious disagreement. In the latter year, however, there was a vehement agitation for a change in the financial policy of the country. For the purpose of ensuring the acceptance by the Council of a protectionist tariff, the Tariff Bill was first introduced to the Council in the form of a tack to the Appropriation Bill. The Council rejected the composite measure, on the ground that it was contrary to Parliamentary law. Ultimately the Bills were severed, and were dealt with in a separate form. The next serious dispute occurred in 1867, when a grant of £20,000 to the wife of the late Governor, Sir Charles Darling, was included in the Appropriation Bill, although the Council had previously expressed, on grounds of public policy, its grave disapprobation of the vote. In two successive sessions the Appropriation Bill was, on this account, laid aside. After much difficulty the matter was arranged; the grant was withdrawn from the Appropriation Bill; and it was in an altered state of circumstances passed in a separate Bill. The third dispute of this kind occurred in the end of 1877. The Act under which members of Parliament are paid for their services was then about to expire, and a Bill for its continuance was sent by the Assembly to the Council. But the Council had notice that, in anticipation of its rejection of this Bill, provision for the continuation of the usual payment had been made in the Estimates for the year. The Council, therefore, declined to consider the Bill until the threat implied by the vote in the Estimates was withdrawn. The Appropriation Bill, however, was passed by the Assembly containing the objectionable grant, and was consequently laid aside by the Council. Ultimately, although not without proceedings more violent and more deplorable than those that had taken place on former occasions, this dispute was also arranged: a new Appropriation Bill without the offensive clause was introduced, and the Payment of Members Bill during the present Parliament became law.

* Out of a House of eighty-six members the majority was forty-five against thirty-two.

3. Two causes of complaint have been alleged against the Council. One is that it has unreasonably obstructed general legislation; the other is that it has improperly rejected Appropriation Bills. In reply to the first assertion, it may be observed that the number of the Acts of the Parliament of Victoria now exceeds 600, and that this amount of Legislative activity is not consistent with any wilful obstruction to legislation. But it may be alleged, without danger of truthful contradiction, that not one single case can be shown of unreasonable opposition by the Council to any measure. On the contrary, the Council has on many occasions waived its well-founded objections, and has passed Bills contrary to its own wishes, because the state of public opinion at the time seemed to require the sacrifice. It has thus surrendered free trade. It has conceded the abolition of State aid to religion. It has permitted the sacrifice of that great public estate with which Her Majesty's bounty had endowed the colony. It has allowed a partial and unjust land tax to be imposed upon one section of its own constituents. On one important subject only, that of mining on private property, has it prevented the legislation that was proposed to it. On several occasions the Council has happily been able to protect the public from Mining Bills, to the principles of which serious objections existed. In relation to this kind of mining, much difficulty at one time existed, because legal opinion was divided respecting the ownership of gold in land sold by the Crown. As soon as this question was finally settled by the Judicial Committee of the Privy Council, the Council proceeded to deal with the whole subject. It has twice sent to the Legislative Assembly a comprehensive Bill which, although there is reason to suppose that it is acceptable to the mining interest throughout the country, has not had the good fortune of attracting the notice of the Assembly.

Alleged obstruction by Council to general legislation.

4. With regard to the rejection of Appropriation Bills, the brief statement already made shows that the disputes on this matter were not due to any attempt by the Council to assume any control over the ordinary financial arrangements of the year, but that they arose from the abuse by the Legislative Assembly of its legitimate financial powers for the purpose of carrying doubtful political measures on which it was at the time intent. It is true that from the nature of the case the odium of the rejection of the Appropriation Bill has been thrown upon the Council. Yet in every war the blame justly rests not with the party who strikes the first blow, but with the party who renders that blow necessary. It is unreasonable to blame the Council for protecting itself by the means which the law indicates, and which were the only means in its power. The true aggressors were those who, with a full knowledge of the facts, and with the undisguised intent to embarrass the Council, forced upon it, sorely against its will, this most inconvenient remedy. The constitutional remedy which each branch of the Legislature possesses against the undue encroachment of any other branch is its power of refusal. In all ordinary legislation this power is sufficient. Legislation which involves a change in the law can always wait. However desirable any reform may seem, the continued opposition of one legislative chamber is, in ordinary circumstances, conclusive proof that the country is not yet ripe for the change. In course of time either the opposition is overcome, or concessions are made by which it is disarmed. But the Appropriation Act differs from ordinary legislation. It cannot wait. It is rather in the nature of administration than of an alteration in the law. Consequently, the remedy which suits other projects of law operates very differently in the case of Appropriation Bills. In England the rejection of an Appropriation Bill is unknown, but the abuse of such Bills, whether by way of tuck or by the inclusion of grants to which the House of Lords has taken objection, is equally unknown. The House of Commons not only does not exercise such powers, but asserts distinctly the duty of its forbearance. In this country the Legislative Assembly is not so careful to avoid cause of offence. Its view seems to be that the Council should be bound to follow the practice of the House of Lords in never rejecting Appropriation Bills, but that the Assembly should not be bound by the practice of the House of Commons in confining such Bills to their legitimate function. In these circumstances the Council has anxiously sought for some remedy less injurious to the public interest and to Her Majesty's service than that of stopping the annual supplies. It has offered, not once but many times, to submit all disputes as to the interpretation of the Constitution Act to the decision of the Judicial Committee of the Privy Council. In its Bill of this session to amend the Constitution Act it suggested, as will presently appear, the surest remedy for the evil. In the recent conference its representatives proposed two other alternative schemes which carried concession to its extreme limits, and thus deserved at least consideration. But all its efforts have been ineffectual, and it is still exposed to the danger of being held up to universal obloquy as the cause of a great public disaster, or of being compelled to accept, by means which can only be described as a fraud upon an Act of Parliament, some measure to which upon political grounds it entertains an insuperable aversion.

Alleged improper rejection of Appropriation Bills.

5. The primary cause of the unsatisfactory relations between the two Houses is, indeed, an encroachment, but it is an encroachment not of the Council, but of the Assembly. It has been already observed that the interference by the Council with the ordinary course of supply has never been spontaneous, but has been forced upon it against its will. The Council has always disclaimed any desire for financial control, and has resented the necessity for rejecting the Appropriation Bill as an intolerable grievance. But the claims of the Assembly have not been few, nor has its assertion of these claims been without offence. It insists that it stands in the exact position of the House of Commons, and possesses, whether by the Constitution Act, or if not by some inherent vigour, all the financial privileges of that body. Such a claim has no foundation in law. The Legislative Assembly is not the House of Commons any more than the Legislative Council is the House of Lords. The two Houses of the Victorian Parliament are statutory bodies, all whose powers and duties depend upon and are defined by the Act which they administer. As to financial matters these powers are expressly set forth in the 56th section of the Constitution Act already cited. Whether they are more, or whether they are less than those of the House of Commons, they are just so much, and so much only, as that Act, rightly construed, allows. But the Legislative Assembly does not bound its demands even by the privileges of the House of Commons. It claims powers to which the House of Commons has never pretended. It has claimed the right by its own unaided authority of ordering the expenditure of the public revenue. It has claimed the right of tacking Appropriation Bills to Bills for imposing taxes. It has claimed the right to include in Appropriation

Encroachment of Legislative Assembly.

Bills grants which involve grave questions of public policy, and to which it had notice that the Council objected. Finally, it now, by its Bill—(Appendix A)—claims the right to make laws not only without the consent of the Council, but in spite of its expressed opposition. This last demand has, by the Chief Secretary, acting on behalf of the Assembly, been made the condition precedent of all amicable negotiations on the subject of constitutional reform between the two Houses. Such claims lead directly to the abolition of the Council, or—what would be worse—to its existence in a state of unconditional submission and open degradation.

Disturbance of original proportion between the two Houses.

6. It unfortunately happened that the equilibrium between the two Houses was disturbed very soon after the New Constitution came into operation. Under the Constitution Act a definite proportion between the two Houses was carefully observed. The property qualification for the members of the Council and that for its electors were respectively twice, with one slight exception, the amount of the qualification required for the members and electors of the Assembly. The duration of the Council was twice as long, and the number of its members was one-half as great as that of the Assembly. In all these particulars fundamental alterations were at an early period made in the Assembly, while the structure of the Council remained unchanged. The property qualification of members of the Assembly was abolished. Manhood suffrage was established. The duration of the Assembly was reduced from five years to three. The number of its members was increased from 60 to 78, and by a recent Act to 86. Thus the relations of the Houses were necessarily disturbed. In 1868 a partial attempt was made to correct this inconvenience. The property qualification both for members and for electors of the Council was reduced by one-half, and in the case of the other qualifications the franchise was extended. In the present session the Council, after repeated deliberation, passed a Bill by which it was proposed to make important alterations in the same direction. The property qualification of electors was again reduced by one-half, that is, from a rating of £50 to a rating of £25. The property qualification of members was reduced from a yearly rating of £250 to a like rating of £150. The tenure of office was reduced from ten years to six; and the number of members was increased from 30 to 42. The number of the provinces was doubled, and other popular changes were proposed. But although changes of this character had by those who were opposed to the Council been often demanded, the Bill which proposed those changes was not even taken into consideration.

Effect of the inequality of the Houses as to Money Bills.

7. So far as the aggressive tendency of the Legislative Assembly is due to positive law, the source of the evil lies in that provision of the 56th section of the Constitution Act which provides that the two classes of Bills therein mentioned may be rejected but not altered by the Council. This provision is the result of an attempt to reduce into a statutory form the well-known practice of the Imperial Parliament. There is, however, an important difference between the two cases. In England the origination of Money Bills by the Commons is a rule of law; but the exemption of such Bills from amendment has no legal validity, and is a mere practice dependent upon the prudent forbearance of the House of Lords. In Victoria both the origination and the exemption from amendment are regulated by the Constitution Act. Such a conversion of a custom into law not unfrequently produces unexpected results. The elasticity of a custom, and the reluctance to press to extremities a disputed right, lead to consequences very different from those which follow from the precise terms of an Act of Parliament, and from a sense of statutory superiority. This unfortunate provision is peculiar to Victoria. Neither in England, nor in any constitutional colony, nor in the United States, nor in any single state of the numerous states included in the Union, is a similar power conferred upon either House by law. The origination of Money Bills is indeed given by law in accordance with the English precedent, although in America even this rule is not always observed, to the more popular of the two Houses. Whatever in other respects their practice may be, the legal distinction does not go further. In all these countries, deadlocks, such as those with which we are too familiar, are unknown. Yet these countries, especially the other colonies, and Victoria agree, so far as regards their political institutions, in all other material respects except in this, that Victoria has, and that these other countries have not, an inequality in the powers of the two Houses in regard to the amendment of Money Bills. It is thus no rash inference that this inequality is the cause of deadlocks. It was under this conviction that the Council passed the Bill of this session to amend the Constitution Act. It seemed the wisest course to remove the root of the evil. It is not that the Council * desires any financial power beyond that which it possesses. But the removal of a useless inequality would take away both the belief in an undefined superiority, and the temptation to misuse an acknowledged power.

Disregard of the Council by the Governor.

8. There are other circumstances in which a deviation from the spirit of English precedents has tended to place the Council at a disadvantage. Neither from the Governor, nor the Advisers of the Governor, has the Council hitherto received proper consideration. This defect is probably a consequence of the aggressive tendencies of the Legislative Assembly; but these tendencies have been stimulated and not restrained by the action of the Executive. In England the Crown has not hesitated, when occasion required, to exert all its influence in order to restore and to maintain harmony between the two Houses; and it has invariably refused to lend its aid to either House to the detriment of the other. In this country a different practice has occasionally prevailed. Some Governors appear to have understood the principles of responsible government to mean that they were thereby deprived of all discretion, and were bound to permit the Ministry of the day not only to use the whole power of the prerogative, but to strain it, for the purpose of giving effect to the wishes of the Assembly against the Council. It has already been observed that the quarrels between the two Houses have arisen, not from the continued opposition of the Council to any legislative proposal on which the public mind was or was supposed to be intent, but from the abuse of the special financial powers of the Assembly. In every one of these cases the abuse of privilege was followed by an abuse of prerogative. The tack of 1865 was followed by those dealings with one of the banks which the Secretary of State declared to be illegal, and which led to the recall of Sir Charles Darling. The inclusion of the Darling grant in the Appropriation Bill led to the collusive judgments and the consequent modes of discharging public obligations

which the Supreme Court emphatically condemned. In the dispute about the payment of members the present Governor, acting on the advice of his responsible Ministers, considered that he was justified in dismissing in a body all the inferior judges and other judicial officers, and thus in suspending, without any pretence or color of law, numerous Acts of Parliament, and in stopping for large classes of Her Majesty's subjects the administration of justice itself. A list of the principal Acts and parts of Acts thus illegally suspended is appended hereto. For this proceeding, directly contrary to the terms of his Commission, and in open violation of the principles declared by the Bill of Rights, this Council made at the time complaint to Her Majesty; but Her Majesty has not yet been advised to grant any redress in the matter, or even to acknowledge the receipt of the Council's complaint. It would have been absolutely impossible for any Ministry to have wrought the mischief that has on these several occasions, but most of all within the present year, been done in the country, without the active assistance of the Governor. If proof of this assertion be wanting, it is found in the readiness with which the unlawful Proclamation of the 8th of January last was cancelled on the 24th of the same month. The Governor has at all times sufficient means to enforce the observance of law, if only he think fit to use them.

Appendix D.

9. As regards the relations of the two Houses and the Executive, there is a remarkable difference in the practice of this country and of England. In England the House of Lords always is largely represented in the Ministry. Not to speak of the earlier part of this century, when the preponderance of Peers in the Cabinet was immense, it may be stated that, according to the present practice, about half the Cabinet consists of Peers. At least four Cabinet offices—those of the Lord Chancellor, the Lord Privy Seal, the Lord President, and one Secretary of State—are necessarily held by members of the House of Lords. The number of Peers otherwise connected with the Administration is also considerable. In practice every great department is represented in both Houses of Parliament. No Administration could be formed in England from one House exclusively, and no such attempt has ever been made. "The fixed character of our Constitution," said the late Earl of Derby, "renders it the interest, not to say the paramount duty, of every Minister so to shape his course as, if possible, to keep the two Houses of Parliament in harmony; and not to throw himself absolutely and entirely into the hands of one branch of the Legislature, regardless of the wishes and feelings of the other." But in this country there has never been more than one Minister in the Council, and that Minister very rarely represents any of the more important departments. Frequently there has been none, and the Government business has been conducted by some person having nominally a seat in the Cabinet; but not holding an office under the Crown, or exercising any influence in public affairs. At the present time not even this nominal representation exists. The late Postmaster-General, as has been already stated, resigned his office because he could not support the Reform Bill; and he now, through courtesy, takes charge of Government business; but he is not a member of the Cabinet. Nothing, indeed, can more forcibly show the neglect of the Council by the Executive and the mischievous consequences of that neglect than the fact that not a single member of the Council can be found to move the second reading of the Ministerial Reform Bill. Yet that Bill is said to be of such importance, that not merely the existence of a colonial Ministry and of a colonial Legislative Chamber depends upon it, but even Imperial interests are supposed to be not remotely nor indirectly involved. If the Council had been properly represented in the Administration, the open contest between the two Houses would have been withdrawn to the confidential deliberations of the Cabinet. It is one great function of the modern Ministry to prevent collisions between the Crown and Parliament. But it is also its duty to mitigate, if it cannot entirely prevent, the evils of collision between the two Houses. No such duty has been here recognised, and the result has been that where the Ministry happens to command a large and compact majority in the Lower House the Council practically performs the functions which of right belong to the Opposition in the Assembly.

Disregard of the Council in the formation of Ministries.

10. For a long time attempts have been systematically made in this country to create a belief that the Council is composed of and represents persons of a single class, and whose interests are hostile to the interests of the general community. These statements seem, by force of constant iteration, to have been, to some extent, accepted in England. Instead of general contradiction, it will be preferable to state briefly certain facts which are stated in an Appendix and can easily be verified as to the composition of the Council and of its constituencies. The qualifications of electors for the Legislative Council are threefold. They arise from property, or from profession, or from education. Under the property qualification are included the owners, lessees, or occupiers of property rated at £50 a year. Under the professional qualification are included all members of the learned professions, all certificated schoolmasters, and all retired naval, military, and Indian officers. Under the educational qualification are included all graduates of any university in the British dominions, and all matriculated students of the University of Melbourne. A contested election for the Central Province, which includes Melbourne and its suburbs, was held on the 27th of August last. There is appended hereto an analysis of the occupations of the electors who polled on that occasion. This analysis will, perhaps, not appear to be consistent with a statement which, in his place in Parliament on the 7th November, the Chief Secretary is reported to have made, that the members of the Legislative Council "are elected by a very limited portion of the population, not particularly remarkable for intelligence, close application to politics, or for the high stand-point from which they view the public matters of the colony." Had it not been for this assurance of the Chief Secretary to the contrary, it might have been thought that the thriving, industrious, and intelligent classes enumerated in this list form some portion of the "people" of this country, and are entitled to some share in determining its legislation.

Alleged class character of Council.

Appendix E.

Appendix F.

11. Nor is there any reason to doubt that the present Council faithfully reflects the opinions of its constituents. It will be remembered that the Council is not subject to a general dissolution, either by the act of the Crown or by the effluxion of time. Its renewal is effected by means of biennial elections, which extend on each occasion to one-fifth of its entire number. It so happened that when the Ministerial Reform Bill was before the Assembly the time for these periodical elections arrived. In four out of the six provinces no attempt was made by the Ministers to avail

Council faithfully reflects opinions of its constituents.

themselves of the opportunity which the Constitution thus afforded them to increase their strength in the Council or to test public opinion. Two retiring members and two new members, all opponents of the Ministerial Bill, were elected without opposition. In the fifth province the retiring member was opposed by a candidate in the Ministerial interest, and was returned by a large majority. In the sixth—that is the Central Province—the retiring member did not seek re-election, and a contest, which was generally accepted as a trial of strength, took place between an avowed supporter and an avowed opponent of the Ministry. The result was that, in this, the most populous and the wealthiest constituency in the colony, the Ministerial candidate was defeated by the largest majority ever, it is believed, obtained in this country. Thus that appeal to its constituents which the law has provided for the Council has resulted in a condemnation of the Ministerial Bill so decisive that that Bill has not in the whole House one solitary adherent.

Opposition of
Council to
Ministerial Bill
justified.

12. In these circumstances the Council, thus supported by its constituents, declines to consent to any proposal which involves, or tends to involve, legislation for this country by one House only. It is more confirmed in its resolution by the fact that neither the present Ministerial Bill nor any other Bill with similar provisions has been placed before the constituencies of the Legislative Assembly. There has been no agitation upon the subject. There has been no change of Ministry. There has been no dissolution of the Assembly. The Bill has not even been passed a second time after re-consideration by the present Assembly. Instant submission to the demands of a party that has for the time secured the executive government is peremptorily required. But those demands are to destroy the system of Parliaments by reducing one House to a sham ; to destroy representative institutions by substituting for them a *plébiscite* ; to destroy colonial self-government by invoking, in a case where the law already gives to the colonial Legislature ample powers of change, and where no serious attempt has been made to exercise much less to exhaust these powers, the interference of Imperial authority. Ambiguous words have been spoken, and hints, meaningless if they do not approach to treason, have been suggested by Ministers of the Crown, and by some of their leading supporters, as to the consequences that may be expected if the Imperial Parliament decline to abolish our existing Constitution. This Council is not aware that in exercising, as it has done, its lawful powers, it has thereby deserved the punishment of annihilation. It is satisfied that it has honestly endeavoured to do its duty ; that it has been, and still is, willing to make any reasonable concession, not inconsistent with its duty, for the sake of peace, and of the great interests confided to its care ; and that both it and the people whom it represents desire above all things to live under the tempered freedom of Her Majesty's rule, and according to those good laws and honoured institutions which have for centuries been the birthright of Englishmen.

APPENDIX D.

LIST of Acts or parts of Acts suspended by the operation of the Orders of the Governor in Council, 8th January, 1878, removing from office all Judges of County Courts, Courts of Mines, and Courts of Insolvency ; also Chairmen of Courts of General Sessions of the Peace ; and all Coroners ; and dispensing with the services of all Police Magistrates and Wardens, and of certain specified officers, being all the Inspectors of Licensed Premises and Liquors :—

Copyright Act 1869, s. 55.

Coroners Statute 1865.

County Court Statute 1869.

Distillation Act 1862.

Fences Statute 1865.

Friendly Societies Statute 1865, s. 21.

Public Health Statute 1865, s. 58.

Imprisonment for Debt Act, s. 6.

Inebriates Act 1872.

Insolvency Statute, outside Melbourne district, the whole—within that district, s. 13.

Judicature Act, 1874, ss. 13, 14, 15.

Justices of the Peace Statute, 1865. Part II, ss. 18 to 29 ; Part VII, 135, 139 to 149.

Lands Compensation Statute.

Licensing (of Public Houses) Act 1876, ss. 33 to 52, as to applications for transfers of licenses ; ss. 95, 96, 97, relating to appointment of inspectors and inspection of public houses.

Local Government Act 1874, ss. 392 to 397.

Lunacy Statute, s. 22.

Markets Statute 1864, ss. 6 and 23.

Marriage and Matrimonial Causes Statute 1864, s. 40.

Mining Statute 1865, so far as relates to Courts of Mines.

Waterworks Act 1865, s. 8.

APPENDIX E.

THE First Election for the Legislative Council under the Constitution Act took place in 1856, and the House comprised—

8 stockowners (pastoral tenants of the Crown)	2 wine and spirit merchants
2 stock agents	1 auctioneer
6 general merchants	1 solicitor
2 farmers and journalists	1 contractor
2 physicians	1 retired merchant
1 banker	—
1 chemist	30
2 retired shopkeepers	—

Ten years afterwards, in 1866, the House comprised—

6 stockowners (pastoral tenants of the Crown)	1 saddler
1 cattle dealer and slaughterman	1 spirit merchant
6 merchants and shipowners	2 physicians
2 retired merchants	1 auctioneer
2 solicitors	1 miller
1 farmer and journalist	1 brewer
1 barrister	—
3 bankers	30
1 contractor	—

In 1878 the House comprises—

6 owners of large country estates	1 auctioneer
7 owners of smaller properties (two of these are pastoral tenants of the Crown)	1 banker
7 merchants and shipowners	1 farmer
2 barristers	1 mining proprietor
2 solicitors	1 broker
1 brewer	—
	30
	—

CLASSIFICATION OF ELECTORS FOR THE LEGISLATIVE COUNCIL UNDER THE EXISTING ACT.

Persons rated upon an annual value of—

	Freehold.	Leasehold.
£50 and under £100	10,992	6,650
100 „ 150	3,129	1,468
150 „ 200	1,266	474
200 „ 250	710	269
250 „ 300	422	168
300 „ 350	400	161
350 „ 400	147	87
400 and upwards	1,016	375
	<u>18,082</u>	<u>9,652</u>

18,082 freehold electors.

9,652 leasehold „

2,029 professional, &c.

29,763 Total electorate under existing Act.

Under the Bill, passed by the Council in the present Session, for altering the Constitution of the Council, the electors qualified by property would be increased to—

49,656

2,029 professional electors.

51,685 Total electorate under proposed Bill.

APPENDIX F.

OCCUPATION of Electors who voted at the Central Province Election, 27th August 1878.

Occupation.	Number.	Occupation.	Number.
Bakers, butchers, drapery, and retail storekeepers ...	681	Locksmiths and blacksmiths ...	45
Merchants and importers ...	527	Warehousemen ...	42
Gentlemen ...	515	Barristers ...	38
Licensed victuallers ...	487	Pawnbrokers ...	36
Builders and contractors ...	200	Architects ...	33
Civil service ...	145	Jewellers... ..	33
Agents	137	Secretaries	29
Clerks	126		
Solicitors... ..	113	Saddlers	28
Manufacturers	116	Hairdressers	26
Accountants	113	Coachmakers	26
Tailors	112	Masons	23
Surgeons and physicians ...	110	Brewers	23
Boot makers and dealers ...	104	Plumbers... ..	23
		Teachers and professors of music	22
School masters and teachers ...	78	Graziers and squatters ...	22
Carpenters	76	Matriculated students ...	24
Ministers... ..	74	Painters	20
Chemists	79	Travellers	19
Brokers	64	Laborers	19
Bankers and bank managers ...	59	Hatters	18
Auctioneers	54	Journalists	16
Printers and compositors ...	54	Salesmen	16
Engineers	49		
	<u>3,486</u>		

843

325

Occupation.	Number.	Occupation.	Number.
Boardinghouse-keepers ...	14	Stationmasters ...	2
Mechanics and artisans ...	13	Railway guards ...	2
Mariners ...	13	Diesinkers ...	2
Storemen ...	13		
Dairymen ...	12	Slaughtermen ...	2
Millers ...	12	Draymen ...	2
Gardeners ...	12	Shipchandlers ...	3
Cabmen ...	11	Ham and bacon curers ...	2
Engravers ...	10	Chaffcutters ...	2
Carters ...	10	Actors and managers ...	3
Curriers and tanners ...	10	Newspaper proprietors ...	2
Surveyors ...	18	Reporters ...	2
Watchmakers ...	17	Waiters ...	2
Cordial and gingerbeer makers ...	9	Deputy-registrars ...	3
Farriers ...	9	Chiropodists ...	2
Nurserymen ...	9	Pianoforte makers ...	2
Brickmakers ...	11	Milkmen ...	2
		Waiters ...	2
Unknown occupation ...	8	One vote each from the following :—	
Coopers ...	8	Office-keeper, sculptor, market	
Liverystable-keepers ...	8	lessee, lithographer, assignee,	
Upholsterers ...	8	porter, asphalter, locker, furrier,	
Undertakers ...	8	fireman, stationmaster, packer,	
Maltsters ...	7	assayer, bonded storekeeper, wool	
Trainers ...	7	stapler, publisher, arbitrator,	
Shipwrights ...	7	fisherman, dock proprietor, plate-	
Carver and gilder ...	7	layer, cook, quarryman, ship-	
Bricklayers ...	6	chandler, postmaster, photo-	
Inspector of Liquors ...	5	grapher, bath-keeper, goldbeater,	
Army officers ...	5	engine-driver ...	28
Gasfitters ...	5		
Notary Public ...	5		
Boilermakers ...	5		
Slaters ...	5		
Judges ...	5		
Wireworkers ...	5		
Stevedores ...	4		
Dyers ...	4		
Plasterers ...	6		
Letter-sorters ...	3		
Farriers ...	3		
Dock proprietors ...	3		
Pilots ...	3		
Money-lenders ...	3		
Police magistrates ...	2		
Overseers ...	2		
	203		
		Returns from scrutineers not com-	
		plete as to ...	444
		Votes polled ...	5,513
		Duplicate and triplicate votes,	
		absent and dead, ascertained ...	685
			6,198
		Possibly double that number of dead	
		and absent could not be traced	
		out.	
		Number of voters on the rolls used	
		—16 rolls, 1878—balance used,	
		1877 ...	10,302

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

21st November, 1878.

Enclosure 2 in No. 77.

To the Queen's most Excellent Majesty.

MOST GRACIOUS SOVEREIGN :

WE, your Majesty's dutiful and loyal subjects, the Legislative Assembly of Victoria, in Parliament assembled, approach Your Majesty with the expression of our continued loyalty and attachment to Your Majesty's throne and person.

Serious differences have occurred with the Legislative Council which are fraught with inconvenience and danger to the inhabitants of this portion of Your Majesty's dominions; and as systematic efforts are being made in influential quarters to misrepresent the policy and actions which we have sanctioned by unprecedentedly large majorities, we respectfully desire to lay before Your Majesty a brief statement of the circumstances which have given rise to the serious complications and difficulties by which Your Majesty's Government in this portion of Your Majesty's dominions is at the present moment confronted.

This Colony, on which Your Majesty was pleased as a testimony of your royal favour to confer Your Majesty's own name, is subject to a system of government framed as closely as circumstances permitted on the government of Your Majesty's United Kingdom. The framers of the Constitution stated in express terms their intention of creating a Legislature in which one Chamber should possess "the legislative functions of the House of Lords," and the other Chamber "all the rights and powers of the "House of Commons." To the Constitution framed in pursuance of this design Your Majesty, with the consent of the Lords and Commons, gave your assent, and it has been in operation for more than 20 years.

But from the beginning its harmonious working has been constantly disturbed by the claims of the Legislative Council to exercise a control over the public expenditure which has not been possessed or claimed by the House of Lords within the memory of living man. In violation of all constitutional usage

the Legislative Council did, on 8th November 1877—before any step had been taken with regard to payment of members—vote an address to his Excellency the Governor, the object of which was to induce his Excellency to refuse the anticipated advice of his responsible ministers by declining to forward at their request the formal message to enable us to consider the question.

The recent general election took place by effluxion of time on the 11th of May last, when Sir James McCulloch was Chief Secretary, the result being so overwhelmingly adverse to his policy that the Government resigned without meeting Parliament, and Mr. Berry was sent for. The ministry then formed has ever since enjoyed our uninterrupted confidence, and that in a larger measure than any previous administration ever received from Parliament.

During the present session of Parliament this House cheerfully granted to your Majesty all the supplies necessary for the efficient conduct of the public service of the colony; but when the Appropriation Bill in which they were contained reached the Legislative Council, that Chamber ventured on a measure which the House of Lords in the most stormy contests with the House of Commons in past generations never were tempted to employ: they laid aside the Appropriation Bill, and left the entire public service, the local force for the defence of the country, the police for the protection of public order, the judiciary, and the officers of the public departments without salaries; and the contractors, to whom Your Majesty was indebted for the performance of necessary public services, without funds for the payment of their claims.

At the same time a Bill to provide forts and armaments in pursuance of the recommendation of Sir Wm. Jervois, the officer appointed by Your Majesty's Imperial Government to advise the Colony in this respect, was adopted in this House, and sent to the Legislative Council for their concurrence. It was a measure of pressing and paramount urgency, as it was doubtful at that moment if Your Majesty might not find it necessary to take part in the war then waged in Europe. This measure also the Legislative Council laid aside, and the hands of Your Majesty's Colonial Government, in providing for the public defence of the Colony against foreign aggression in an alarming emergency, have been consequently paralysed.

Other measures of supreme importance shared the same fate, and a session which should have been fruitful in legislative results has been rendered comparatively barren by obstruction from a Chamber whose ready co-operation and assistance the country had a right to expect after the decisive verdict at the ballot box on the 11th of May last.

The pretence upon which the Appropriation Bill was laid aside is that it contained an item of expenditure which ought to have been provided for by a separate Bill. The Constitution of this Colony confers on the Legislative Assembly the exclusive right to initiate taxation and appropriation, and in express terms withholds from the Legislative Council the power to alter, in the slightest particular, Bills of either class. An Act of the Parliament of Victoria, assented to by the Legislative Council on two successive occasions, appropriates a portion of the public revenue to reimburse members of both Chambers their expenses in relation to their attendance in Parliament to the extent of 300*l.* per annum. This Act, unless renewed, expires with the present session. A vote for 18,000*l.* was accordingly included in the annual estimates of expenditure, to continue this system till the end of the current financial year. Subsequently it was suggested in the Assembly that it would be more satisfactory to the Legislative Council to have the provision again made in a separate Bill, and such a Bill, continuing the system till the end of the present Parliament (which will expire by effluxion of time in May 1880), was sent to the Council. They had twice before passed Bills of a similar character; but this Bill they negatived the second reading of; and immediately afterwards the Appropriation Bill, containing not the same proposal, but a sum providing for the same service for a period of six months, was also laid aside to assert their unfounded claim of prohibiting a particular item of expenditure authorised by the Legislative Assembly.

We respectfully submit to Your Majesty that the rejection of the Appropriation Bill, a measure the Legislative Council has no power to amend or alter because one item among many hundred was objected to, is a clear attempt to obtain indirectly and regardless of consequences a privilege which the Constitution Statute has in express terms withheld from that Chamber.

The ground upon which the Forts and Armaments Bill was laid aside is that it contained the preliminary paragraph known in Acts of Parliament granting aid to the Crown as "the free-gift preamble," implying a free gift made to the Crown by that House on which the Constitution confers the power of the purse. It will be enough to assure Your Majesty that the form of the Bill was expressly copied from Acts passed by the Imperial Parliament during the reign of Your Majesty to provide for the defence of the United Kingdom.

We humbly submit to Your Majesty's gracious consideration, therefore, that the question at issue is a very simple and intelligible one. It is, whether a Chamber elected by a small section of the people in which 16 persons constitute an absolute majority, a Chamber whose members are certainly not distinguished by any historic or eminent personal claims on the consideration of the community, shall be permitted to assert a control over the public expenditure which the Peers of England have long relinquished.

In the face of this reckless and unconstitutional action, by which the supplies granted by us to Your Majesty were arrested *in transitu*, Your Majesty's Colonial Government, who possess the full confidence of this House, had to consider what measures would most conduce to save at the same time the credit and character of the Colony and the just and necessary authority of Parliament. The refusal of an Appropriation Bill amounted in effect to the discharge of every officer in the public service, and to the closing of all public establishments supported by the State, which in this country include railways, telegraphs, public libraries, and lunatic asylums, as well as schools, post offices, and prisons. Under these circumstances the choice for Your Majesty's Victorian Government lay between anarchy, the sure forerunner of revolution, or a recurrence to the practice which obtained previous to the year 1862, of paying the public creditor on our votes in Committee of Supply reported to and adopted by the House. Loyalty, no less than sound policy, decided for the latter course, and we, the Legislative Assembly, have by a majority of 52 to 23 adopted the following resolution:—

"That all votes or grants passed in Committee of Supply become legally available for expenditure immediately such resolutions are agreed to by the Legislative Assembly; and that henceforth, in view of the serious public inconvenience caused by repeated rejections of the annual Appropriation Bill by the Legislative Council, this House resolves to revert to the practice which prevailed prior to 1862."

In the meantime economy and retrenchment in the public service have been adopted by Your Majesty's Colonial Government with our full concurrence, and although personal inconvenience and loss are

inseparable from a state of affairs such as now prevails in Victoria, we are happy to assure Your Majesty that inconvenience and loss have been reduced to a minimum, and that up to the present time due provision has been made for the preservation of law and order, the administration of justice, and the efficient carrying on of Your Majesty's Government.

The Legislative Council, in a recent address to Your Majesty, have suggested that Your Majesty's Colonial Government, instead of proceeding to economise the public funds at their disposal by reducing expenditure wherever it was practicable, might have preserved the action of responsible Government either by resigning their functions or by recommending a dissolution of Parliament.

We humbly submit to Your Majesty's consideration that, had they resigned their offices while they possessed the undiminished confidence of this House, they would not have preserved, but have sacrificed and betrayed the principle of responsible government, which recognises such confidence as one of its cardinal conditions. And though a dissolution of this House (the only Chamber liable to a dissolution) while fresh from its constituents would be a harsh and unreasonable measure, they were restrained from having recourse to it still more powerfully by the consideration that, on a former occasion, when a minister supported by a large majority in this House, dissolved the Assembly in a contest with the Council, he had afterwards to report to Your Majesty's representative that the Council refused to be bound by the result of the appeal.

If a dissolution of this House would settle once for all the principles upon which the finances of this country shall be regulated for the future, we would welcome such an appeal, however costly or inconvenient to ourselves. But this is the fourth occasion on which the Legislative Council have thrown the affairs of the Colony into confusion by rejecting an Appropriation Bill, and the time has arrived when, instead of a temporary expedient to settle a temporary controversy, some effectual barrier must be established against the recurrence of so grave a public calamity. Nor was their attempt to exercise an unwarranted control over the public expenditure the sole or even the gravest offence of the Council against the public interests of this colony. In that Chamber the owners of great estates, and the tenants of great territories leased from the Crown, have always predominated, and whenever a Government was in office that did not subserve their class interests they have expressed their displeasure by throwing out, sometimes without debate or explanation, public measures carefully matured in this House, and greatly desired by the people. Many times it has happened that nearly all the important Bills of a session were thus sacrificed; and this practice has more or less prevailed during the entire period of their existence. No community could have borne such a calamity with more temper and patience than Your Majesty's subjects in this Colony, but the present aggression has brought forbearance to an end.

It is our confident belief that it is the gracious desire of Your Majesty that Your Majesty's subjects in this Colony should enjoy to the same extent with Your Majesty's subjects in the United Kingdom the privileges of Constitutional and Parliamentary Government on the English model, and that is our sole aim and desire.

More than 10 years ago, in one of the many controversies which the claims of the Council have provoked, an agreement was at length, as it seemed, arrived at to the effect that the practice of the Lords and Commons respectively should be observed by the two Chambers in this Colony as to all subjects of aid and supply. To give effect to this agreement a joint standing order of the two Houses was suggested, and the Council have recently pleaded as their justification for not having carried out the agreement that it was not found practicable to frame a standing order having the requisite authority. During the present session this House have assured the Council that they were ready to concur in an Act of Parliament on the subject, whose authority could not be doubted. To this proposal the Council have made no reply; and they still persist in claiming and attempting to exercise a power in financial questions far beyond that exercised by the House of Lords.

We have performed a public duty in making Your Majesty acquainted with the actual condition of this portion of Your Majesty's dominions. It would not be decorous to trouble Your Majesty with any forecast of the measures which we consider necessary to restore public tranquillity and prosperity, now so seriously disturbed. These measures will reach Your Majesty in the ordinary process of parliamentary procedure through Your Majesty's representative. But we trust Your Majesty will confidently believe that loyalty to your throne and person, and attachment to the empire, will unite in whatever we undertake, with a desire for that wise and broad-based liberty, which it will be the chief glory of Your Majesty's reign to have established throughout your dominions.

We cannot conclude without alluding to a paragraph in the address of the Legislative Council to Your Majesty reflecting upon some of the public measures of Your Majesty's Colonial Government as if they were personal acts of his Excellency the Governor. We need scarcely assure Your Majesty that Your Majesty's representative of this Colony has strictly followed the example of his Sovereign in performing no public act except with the advice of sworn councillors, upon whom alone the responsibility of such act devolves. It is only by ignoring fundamental maxims of the British Constitution that any personal or individual responsibility can be placed on the Crown or its representative for such proceedings.

It is suggested that whatever may be considered as open to party objection in the recent measures of Your Majesty's Colonial Government might have been avoided if the Governor had only refused to give them his assent. But it will be well known to Your Majesty that if the advice of ministers possessing an immense majority in the popular branch of the Legislature were refused by the Crown, and recourse had to advisers representing a minority, the result would not be peace, but more perplexing and disastrous trouble.

We trust the impartiality and neutrality of the Crown, which endears it to the people, will never be relinquished in any part of Your Majesty's dominions; and we do not hesitate to say that if any representative of Your Majesty were so unwise as to employ the influence and authority of the Crown to help a minority in impeding the wishes of the great body of the people, the certain result would be to diminish the just authority of his office and the legitimate influence of the Crown.

Enclosure 3 in No. 77.

MEMORANDUM FOR HIS EXCELLENCY THE GOVERNOR.

Ministers desire to request your Excellency's attention to the following précis explanatory of the existing relations between the Council and the Assembly and of the course adopted by Ministers in the last session of Parliament in consequence of a statement embodying the circumstances under which differences have arisen between the Houses of Legislature on the question of Constitutional Reform having been forwarded through your Excellency to the Secretary of State for the Colonies from the Legislative Council.

In December 1877 the refusal to pass an Appropriation Bill for the fourth time in thirteen years by the Legislative Council was attended with heavy loss to the country, and with a dangerous excitement of public feeling. In March 1878 the Chief Secretary, Mr. Berry, introduced resolutions to the effect that the practice of the English Houses of Parliament should be followed in Victoria. As, however, the session was drawing to a close, Mr. Berry subsequently announced that his Government would prepare a scheme of Constitutional Reform, to be laid before the House of Assembly in the approaching session, and the Council presently determined to embody their own views in a rival measure. Ultimately two Bills bearing on this subject were sent down from the Council. One of these reduced the qualification for electors to the Council, and made a fresh distribution of the provinces, so as to diminish the expenses of elections. It also provided for reducing the tenure of office from ten years to six. The second gave the Council the power of making amendments in Money Bills. Neither provided against dead-locks, though it was assumed that the operation of the two would make dead-locks less likely to occur, as through the first the Council would reflect public opinion more truly, and through the second would have a larger control over Money Bills. The Assembly passed one Bill only. The first part of this embodied the practice of the English Constitution that the entire control over Money Bills should be vested in the representatives of the people. The second part provided that the Council's veto on general legislation should not extend beyond a second rejection occurring in the second of two consecutive annual sessions, but that if the Council had reason to believe that a Bill sent up by the Assembly did not represent the mature opinion of the country, it might take the sense of the constituencies by a special vote. This Bill was carried unanimously on its second reading; and by fifty-nine to twenty-three on its third, the dissentients on that occasion desiring to apply the principle of the plebiscite to Money Bills also. The Assembly's Bill, though passed by so large a majority, has never been discussed in the Council, and was discharged from the Notice-paper after it had been once read. The Council's Bills were introduced by the Chief Secretary in the Assembly, and have been kept on the Notice-paper till the last day, though it has not been thought possible to proceed with the second reading. The feeling in the country is not in favor of giving more power to the Council, but of reducing that which it has; and though the Council's first Bill might fairly be discussed as part of a scheme under which the Assembly's rights were settled, to pass it by itself would only protract the present unfortunate situation, by giving an excuse for delay, till the results of the new experiment had been ascertained. In the hopes of effecting a compromise, it was arranged that a conference should take place between representative members of the two Houses. The representatives of the Assembly proposed to start from the basis, that the Council should in no circumstances reject an Appropriation Bill, and that there should be some limit to the right of veto exercised by the Council on general legislation. The representatives of the Council refused to treat upon that basis. Subsequent proceedings in the two Houses have shown that each unanimously adheres to the basis proposed by its representatives. A second proposal made by the representatives of the Assembly, that either House should submit a well-considered Reform Bill to the vote of the constituencies, was rejected by the representatives of the Council, and has been passed over in silence by the Council. The Council has since then submitted its own views of reform, which are substantially that it shall receive the power to strike any items it objects to out of Appropriation Bills, that on any difference about such items it may be dissolved when the Assembly is dissolved, and that the legal construction of the Constitution Act shall be determined by appeal to the Queen in Council. All hope of compromise being exhausted, the Government determined to apply to the English Government for an enabling Act to confer power on the Assembly under certain conditions to amend the actual Constitution. This proposal was less favorably received in the Assembly than the Reform Bill had been, a portion of the Government's supporters holding that it was possible by the exercise of existing powers to settle the matter in the colony. As, however, no plan of effectual settlement has been proposed, except of tacking the Reform Bill to the Appropriation Bill of the year, or of paying out public money on the vote of the Assembly alone, the Government has steadily declined to resort to these violent expedients; and the Opposition has fallen away from 32, which it reached by the accidental union of extreme Liberals with Conservatives, to 24, which fairly represents the full Conservative strength in a House of 86.

2. The Victorian Constitution was an attempt to reproduce the English Constitution in a new country. It provided that all Money Bills should originate in the popular House, and that they should not be altered but might be rejected in the Council. Unfortunately, it did not provide for any means by which the Council might be brought into agreement with the Assembly. Accordingly, ever since the Constitution came into operation, the Council has aimed at usurping the right to amend Money Bills by exercising or threatening to exercise its extreme power of disallowing them, and has shown the same spirit, more legitimately but not less vexatiously, in matters of general legislation. In 1858 and 1859 it was proposed to throw out the Appropriation Bills of the year because the Estimates had been hastily prepared or were sent up late. In the latter year the Council actually amended the Appropriation Bill in deliberate defiance of the Constitution, but was obliged to withdraw its amendments. In 1860 a Land Act sent up from the Assembly was so dealt with by the Council that two leading members of the present Conservative Opposition resigned their portfolios. In 1865 the Government, acting on an opinion of a former Attorney-General, Mr. Dennistoun Wood, that the 56th section of the Constitution Act only applied to Bills in which Supply and Appropriation were coupled, tacked a Tariff Bill to an Appropriation Bill; and the Council, wishing to raise revenue by an export duty on gold, instead of by a high tariff, laid aside the Appropriation Bill. In 1867 the Council again on two occasions threw out the Appropriation Bill, because the Assembly had not deferred to an intimation that the Council objected to a proposed item, the grant of £20,000 to Lady Darling. In 1877 Mr. Berry's Government included

Appendix A.
Statement of the
present situa-
tion.

Previous disputes
between the two
Houses.

an estimate for Payment of Members in the Appropriation Bill, but later on sent it up in a separate Bill, on the understanding that it would be passed in that form. The Council, however, threw the Bill out, on the ground that the grant had not been taken out of the Estimates, a fact of which it was not officially seized. In previous dead-locks the Government of the day raised money by loans or by collusive actions at law, or worked the public offices on credit, and thus partly tided over the financial difficulties of the long period during which the country was debarred from the use of its own revenue by the action of a single Chamber. Even if the second and more effective of these expedients had not been condemned by the Courts of Law, Mr. Berry's Ministry would have declined to have recourse to it, as they believe that it familiarized the community with evasions of constitutional law, and protracted a very bitter dispute needlessly. There were grave reasons in 1877-8 why the second expedient should not be adopted. A sweeping reform of the Civil Service was urgently needed, and had been announced as part of Mr. Berry's programme when he took office. It would have been impossible, however, to effect this if the Civil Servants had acquired a claim to special consideration by serving without pay. The Government therefore faced the difficulty of carrying out Civil Service reform in the midst of its contest with the Council; and thanks to the overpowering unanimity with which all but a wealthy minority supported it in this policy, was enabled to do a portion of this work successfully. It cannot be denied that much suffering was entailed on innocent men by the suddenness with which reductions in the offices were made, and it is to be deplored that no consideration of the financial distress caused by their revolutionary action, or of the possible loss to the English creditor, was at any time entertained by the Legislative Council. Ultimately, an opinion of the Attorney-General, that money could be appropriated under clause 45 of the Constitution Act, removed the imminent danger of national bankruptcy. Soon afterwards the Council gave way, accepted the terms which had been offered in the preceding December, and passed the Bill for Payment of Members by itself, and then the Appropriation Bill.

Obstruction of
general legisla-
tion by the
Council in past
years.

3. During twenty-four years of legislative activity the Council has thrown out more than eighty Bills, has amended more than twenty others so that the Assembly preferred to let them drop, and has entirely transformed others, which the Assembly has agreed to take in their mutilated forms. It maintained State aid to religion during fifteen years, in opposition to the expressed will of the country. It has thrown out or mutilated till they were useless six Bills for Mining on Private Property. It has seven times thrown out Payment of Members. It has thrown out an Electoral Bill and a Tariff Bill that had been passed by large majorities. Besides the four Appropriation Bills, it has rejected one Temporary Supply Bill. It has thrown out a Bill to provide for the defence of the country at a time when invasion seemed imminent. A Bill for an International Exhibition in Melbourne was contemptuously thrown out on the plea that a Protectionist colony had nothing to exhibit. It transformed a Bill for aiding industrial schools raised and maintained by voluntary efforts into a system of schools, almost at the sole charge of the State, which have proved costly and ineffective. Every Act that deals with the public domain will be found to contain a clause favorable to the capitalist class, which has been consented to by the Assembly on the ground that the Bill would otherwise be rejected in the Council. Thus the Land Act of 1862 contained a clause by which men otherwise excluded were enabled to purchase in substituted names, thus obtaining valid titles in fraud of the policy of the Act by an assignment from selectors who had obtained possession of the land on false declarations. The Land Act of 1869 gave ten years' leases of twenty million acres at three half-pence an acre to the men in possession. The last Land Act of 1878 is no exception to this rule. It has been sent back from the Council with an amendment reducing the term during which land cannot be alienated to large owners by the original selectors of Crown lands from twenty years to six; and the Assembly has agreed to this in order that the whole Bill may not be sacrificed.

Claims put for-
ward by the
Council.

4. It will be seen from the foregoing statements that the Council has steadily endeavored to usurp the power of amending Appropriation Bills, and has exercised that right of veto upon them, which the Assembly contends is merely technical, as an instrument for controlling the Assembly's policy in finance and appropriation. It has persuaded itself that the clause in the Constitution Act which forbids it to amend Money Bills was accidentally inserted; and it has never remitted its efforts to change our Constitution from the English model. The Assembly, on the other hand, has always held firmly to English precedent, and desires only such amendment of the Constitution as shall make it possible to bear down the opposition of the Council in extreme cases, as has been done in England with the House of Lords on the occasions of the Treaty of Utrecht and of the first Reform Bill. No dispassionate man claims for the Assembly that it has been always wise in its policy, or that its orators have always been moderate in their language. No one desires at this moment to perpetuate the system of tacking on irrelevant matter to an Appropriation Bill. What liberals contend is, that tacks are only resorted to because the Council has repeatedly and in the strongest manner affirmed its determination to reject any Bill or item it may dislike to all time. On two occasions Parliament has been dissolved in order to take the verdict of the constituencies on the policy which the Council disallowed. Each time the verdict of the country has been emphatically in favor of the Government of the day, and each time the Council has refused to attach the smallest weight to the new elections. If the extreme claims of the Council be admitted, and if it is a co-ordinate House of Commons, sharing the Assembly's rights over taxation, and controlling the Assembly's power of general legislation, it will, in fact, possess greater powers than the Sovereign and the House of Lords, separately or conjointly, have attempted to exercise in England for two centuries. Victoria will be the one country in the world where the Sovereign and the representatives of the people may find themselves paralysed in all the functions of government by the stubborn opposition of a few gentlemen, who, if they are representatives at all, represent only a small minority of the country. The preamble of the Constitution Act expressly distinguishes the two Chambers as a Council and a House of Representatives. The idea of the time seems to have been that the members of the Council should correspond as nearly as possible to the old members of Legislative Councils in Crown colonies, with the single difference that they should not be nominated by the Governor. So far as this idea did not influence men's thoughts, the desire to reproduce the English House of Peers undoubtedly animated them. But it was felt to be impossible absolutely to reproduce what has been the growth of centuries in England; and the Legislative Council in Victoria has been endowed from the first with less dignity and smaller powers than the English House of Peers. Its titles are not hereditary, and have only a local value; it has never possessed any judicial functions. It is difficult to suppose that such a body can ever have been designed to exercise powers which are so vast as to have no parallel in past or present history.

5. In conformity with the view just expressed of the relations of the two Houses, the Assembly as representative, the Council as non-representative, it may be observed that the Assembly has repeatedly modified its own character so as to bring itself into closer union with the constituencies. It has abolished the property qualification of members and of electors, has shortened the duration of Parliaments, and has increased the number of members to correspond to the growth of population. Until within the last six months, the Council has done nothing more in the direction of bringing itself into conformity with public opinion than slightly to reduce the qualification of members and of electors, though it has at times been urged by the pressure of that opinion to make more decisive changes. Several of its most eminent members have repeatedly held language which implied that they did not consider the Council representative in the English sense of the word; have spoken of it as representing property, or have claimed for it the right to resist what it deems unwise legislation without regard to public opinion. The doctrine recently put forward that the Council represents its own special constituents, appears to imply the very dangerous consequences that members of the Assembly may regard themselves as representing a majority only, and that the minority may have the power of reversing in a second House, claiming also to be representative, but which shall not represent the majority, the decision of the general body of electors at the poll for the Assembly. The country would thus be divided into two hostile camps, and the only concession which the Council appears willing to make, that it may be dissolved simultaneously with the Assembly, would lead to worse dead-locks than before. Each Chamber would return from an election heated by strife, and re-invigorated by an appeal to its constituent body.

Non-representative character of the Council.

Appendix B.

6. It may readily be admitted that the conversion of a customary into a statutory right often produces an unforeseen and dangerous state of tension. The right of the House of Peers to reject Money Bills, is safe in the hands of hereditary legislators, who have learned by the tradition of centuries how to exercise powers, and whose associations and interests are inseparably connected with the greatness and welfare of England. Experience has shown that the same powers cannot be extended to colonial legislators, who have never been trained to give way, and who, at least in the early days of a colony, are more interested in controlling administration than in deferring to public will. It has not often been necessary to reduce Parliamentary practice to the shape of statutory enactment in England, because the House of Peers has habitually conceded rights which it seemed anomalous to maintain under changed circumstances. The right of originating Money Bills was not finally established by the Commons till the reign of Charles I., and the Lords exercised the right of amending them very freely till 1671. In the same spirit the Crown in 1855 relinquished the right to create life peers, which had been declared inherent in it only thirty-six years before by Lord Redesdale's Committee. This spirit of moderation has impressed itself upon English Parliamentary practice, and the House of Commons has in consequence felt itself at liberty to modify the extreme rule, that forbade amendments of Money Bills, while the Lords have relaxed their objection to the creation of life peers, since the principle for which they contended was conceded. The Victorian Assembly undoubtedly holds, as the House of Commons anciently held, that to permit constant amendments in Money Bills from a body that can veto them would be to sacrifice its control of the public purse. But it is so far from desiring to maintain its position unnecessarily that it proposed in its last Reform Bill to give the Council the right of suggesting amendments in return for legislative finality. Unhappily the Council, having at its command one extreme and it may be said revolutionary weapon, uses it very freely, and threatens to use it more often still. It has been asserted that Victoria is the only colony in which these difficulties occur, and undoubtedly for the last half century no instance can be found of a Council in any other colony rejecting four Appropriation Bills and one temporary Supply Bill within thirteen years. The reason of this may partly be traced to causes peculiar to Victoria, which, being populous and wealthy, has anticipated most of its neighbors in the keen discussion of grave political issues, and where there is a radical difference in character of the two Houses. But there is every reason for supposing that the same difficulties will occur throughout Australia. The South Australian Council has just rejected a land and property tax which had been voted by the Assembly and was urgently demanded by the country. The action has provoked serious discontent as an indication of the dislike felt by the wealthy class throughout Australia to submit to burdens upon property, but it has not as yet caused a dead-lock, because the Assembly has given way for the time. The Victorian Assembly has reached a point at which it must either obtain a clearer definition of its Parliamentary powers, or define them by its own act, or submit to become a cipher in legislation.

Character of a Colonial Council.

Appendix C.

7. The Council complains in its Memorandum that it has not hitherto received proper consideration from any Governor. When it is borne in mind that a Victorian Governor mixes habitually in social intercourse with the members of the Council and with the class from which the Council is drawn, and may have his life embittered by their hostility, the fact that Sir Henry Barkly, Sir Charles Darling, Lord Canterbury, and Sir George Bowen, our Governors since the Constitution was proclaimed, have all declined to side with the Council against the Assembly, may be taken as presumptive evidence that the Assembly is not unreasonable in its claims. The Governor of Victoria is an Imperial officer, chosen to represent Imperial interests, but not necessarily possessed of any knowledge of the country he comes to rule over. It is difficult to see by whose opinions, except those of his responsible advisers, a Governor ought to be guided. In the late dead-lock, had the Governor dismissed his actual Ministry, their successors could not have commanded more than about 20 followers in a House of 86; and a dissolution would have added several seats to the strength of the majority. The opinion that the Governor in Council, *i.e.* really the Responsible Ministers, was not justified, in the emergency caused by the rejection by the Council of the annual Appropriation Bill, in temporarily dispensing with the County Court Judges and Police Magistrates, even though the County Courts were in vacation, and though arrangements were made to discharge the duties of the Police Magistrates by the unpaid Magistracy, was confidently advanced at the time, and was so far deferred to from the desire to do nothing of doubtful validity, that a sufficient number of Judges to attend to the current business were reappointed before the close of the vacation. Police Magistrates were also reappointed for centres of population and outlying districts. A test case, to try the legality of the action of the Government, has since been brought before the Supreme Court, and has failed. From the moment it was understood that the Ministry and the Assembly had committed themselves to a contest with the Council, the public feeling in support of the Government became irresistible. Had the Governor thrown his weight into the opposite scale, the Assembly would have withheld Supplies, civil society would have been disorganized, and the feeling at first directed solely against the Council would have turned against the Queen's

Position of a Colonial Governor.

representative and the Imperial Government. As it was, a civil struggle of the gravest kind was tided over without violence or disorder; the Governor was recognized as an arbitrator, and was able to mediate differences and to further the restoration of public confidence. Ministers request particular attention to the statements on this point of the Address to the Queen from the Legislative Assembly adopted in February 1878.

Difficulty of taking Ministers from the Council.

8. In proportion as the Council has isolated itself from public sympathy and from the views held by the great majority of the people, has it become difficult or impossible to associate members of the Council with the Administration. The present Cabinet was fortunate enough at first to secure the services of a liberal member of Council. This gentleman remained a member of the Administration during the disputes of 1877 and throughout the dead-lock of 1878, but severed himself from the Government when it brought in its Bill for reforming the Constitution. Could a compromise between the two Houses be effected on the basis that legislative finality should be conceded to the Assembly and a greater share in administration to the Council, the arrangement would be generally hailed; and overtures to this effect have, in fact, been made, unofficially, from the Assembly, but without result. So long as the entire and undivided Council discharges the functions which of right belong to the Opposition in the Assembly, and no other, so long will it be difficult or impossible for any Cabinet to associate members of the Council with itself. During the last six months, for instance, the Cabinet could only have purchased the adhesion of a member of Council by sacrificing its vital policy of a Reform Bill.

Composition of the House of Assembly in Victoria. Appendix D.

9. If the composition of the two Houses of Parliament in Victoria be taken into consideration, the difference between them will become manifest. The Assembly contains a larger proportion of professional men: barristers, solicitors, engineers, journalists, or schoolmasters; the Council is chiefly recruited from wealthy landowners or merchants. The expenses of an election to the Assembly rarely exceed £300 on the popular side, and are sometimes as low even in contested elections as £20 or £30. The expenses of an election to the Council are believed to range from £1,000 to £3,000 where there is any contest. The two questions that have overshadowed all others during the last twenty years have been the land question and the tariff question. On the land question the objects paramount with the constituencies have been to limit the acquisition of land by a few wealthy individuals, to obtain a fair rent for the State domain, and to make land contribute to the national burdens. Landowners and the wealthy class, merchants or bankers, who advance money to landowners, or who supply them with stores, are believed almost without exception to be opposed to the land legislation which every successive Government is pledged to advocate. So again in matters of tariff. The country favors a protective legislation; but manufacturers and artisans are unrepresented on the Council, and stockowners and importers have an immediate interest in low duties. It is customary in Conservative circles to designate electors to the Assembly as "the mob" and "the rabble," and to assume that they are penniless desperadoes who wish for a general scramble. The last electoral return has shown that five-sixths of the electors are ratepayers, and a large proportion of the remaining sixth may fairly be assumed to be sons living with their fathers, unmarried men in lodgings, or men who are on the point of becoming ratepayers. The two great safeguards of society, education and the possession of property, are perhaps more generally diffused in Victoria than in any country in the world. The question at issue between the majority and the minority has not been whether property should be assailed, but whether property should continue to enjoy an absolute exemption from general taxation, which it did in fact enjoy till succession duties and a land tax were recently imposed.

Why the Council is not much affected by dissolutions.

10. The facts which have been just stated will explain why the last elections to the Council did not in any way change its character, and why little or nothing can be hoped from dissolving the Council as a remedy against dead-locks. The Liberal party contains many educated men in the receipt of good professional incomes, and whose whole fortunes are bound up with the future well-being of the colony, but it numbers very few indeed who can afford or who would care to spend from £1,000 to £3,000 on an election to the Council. A Liberal possessing the confidence of his fellow citizens naturally prefers to sit in the Assembly, where his party is strong, rather than in the Council, where he would be isolated. In the late election to the Central Province, the Liberal candidate was a Catholic, who had alienated the great mass of the Catholic community by a steady support of the State system of education; and partly on this account, partly because Liberal voters felt no interest in the constitution of the Council, nearly half the electors on the roll abstained from recording their votes. It is impossible to predict to what extent the Reform Bill proposed by the Council would change the character of the constituencies, and diminish the cost of elections. But if chiefly rich men, at variance with the mass of their fellow-countrymen on all subjects of politics, were elected under the new system, its only result would be to make dead-locks more frequent, more protracted, and more bitter than at present, since the Council would then be more widely representative than it can at present claim to be. If, on the other hand, it brought the Council into harmony with the Assembly, it is difficult to see why the Assembly's Reform Bill, which proposes no other result, should have been contemptuously laid aside. The present Government does not consider the reduction of electoral qualification proposed by the Council adequate; but has offered to consider the basis of election by all ratepayers, as a basis of negotiation for the adjustment of the relations of the two Houses.

There is no wish to abolish the Council.

11. The statement that the present Ministerial Bill has never been laid before the constituencies is so far accurate that the Bill, as drafted and passed, never has been; but would convey a false impression, if it is not understood that the principles of the Bill, legislative finality and arbitration by the plebiscite, were part of the universal Liberal programme at the last elections. There has been no agitation on the subject, because it would not be possible to hold a public meeting that should condemn the Bill; there has been no change of Ministry, because no Ministry can be formed that possesses the confidence of the Assembly except Mr. Berry's; there has been no dissolution, because the House had redeemed its pledges at the general election, and remained in accord both with the Executive Government and with the constituencies. The Government has made every effort at compromise that was compatible with legislative finality. It has declared itself willing to compensate the Council by greater administrative power; or to accept the so-called Norwegian plan of uniting the two Chambers on a disputed point in combination with a highly reduced electoral qualification for the Council. It has refused no answer to these overtures but an illusory offer of dissolution, and a demand for the power to amend Money Bills. "Let us be as we are or let us cease to exist," has been the tone of the Council from the first. The Government has no wish to reduce the second House to a sham; but it cannot admit that the Council will become unreal or will lose any power it possesses for good, simply because it loses the

power to obstruct at its pleasure for all time. Experience shows that a second House can never oppose itself as a barrier to strong popular excitement. It is either itself carried away, or it is intimidated. The House of Lords passed the penal statutes, and the American Senate has voted the Bland Silver Bill. The proper functions of a second House would therefore seem to be to offer counsel and to give time for deliberation; and it is believed that both counsel and delay will be most readily acquiesced in when it is known that resistance cannot be eternal. The Government is perfectly willing to be judged by its acts and by its words throughout its tenure of office. It did not provoke the contest of 1877-8 with the Council; it consented to compromise it. In the present question of the Reform Bill it was the first to propose a conference, it has caught at every overture of conciliation, and it is still willing to accept any reasonable terms that shall satisfy the country. Neither its present members nor its partisans ever assailed or slandered or threatened the Queen's Representative when they were in opposition, and they have supported him with unswerving loyalty throughout the present crisis.

(Signed)

GRAHAM BERRY.

27th December 1878.

APPENDIX A.

July 25, 1865. The Appropriation Bill was laid aside by 20 to 5.
 August 20, 1867. The Appropriation Bill was rejected by 23 to 6.
 October 16, 1867. The Appropriation Bill was again rejected by 20 to 5.
 December 20, 1877. The Appropriation Bill was laid aside without a division.

APPENDIX B.

"Does not this House expressly represent property?"—*Speech of Sir F. Murphy, May 20, 1874.* "This House * * * may be regarded as established to officially represent and protect the interests of property."—*Speech of Sir S. Wilson, October 2, 1877.* "I have only one thing more to say, and it will be with reference to the feeling some honorable members appear to entertain that it would be better for them to accept the Bill with all its imperfections than to expose themselves to obloquy and aspersion by running counter to what they think is the universal feeling of the country. I have heard the expression of that view within these walls greeted with a cheer, and I am sorry for it. It seems to me almost impossible to regard such a cheer in any other light than that of an insult."—*Speech of the Honorable N. Fitzgerald, September 27, 1877.*

APPENDIX C.

In 1552 a Money Bill was sent down from the Lords to the Commons.
 In 1593 Mr. Francis Bacon said, "The custom and privilege of this House has always been first to make an offer of the subsidies from hence, then to the Upper House—except it were that they present a Bill to this House with desire of our assent thereto, and then to send it up again."
 In 1628 the present preamble, only naming the Commons in case of subsidy, was introduced. The Lords sent a message objecting, but passed the Bill.—*Parry's Parliaments, 1552, 1593, 1628.*
Hatsell quotes fifteen cases of Money Bills amended by the Lords between 1659 and 13th April 1871, when the Commons passed a resolution against the right of the Lords to amend.—*Hatsell's Precedents, vol. 3, pp. 113-121.*

APPENDIX D.

CONSTITUTION OF THE ASSEMBLY.

7 Barristers.	2 Commission Agents.
4 Solicitors.	1 Tea Broker.
11 Journalists.	1 Manager of Loan and Discount Company.
4 Engineers.	1 Shire Secretary.
3 Schoolmasters (actual or retired).	1 Town Clerk.
1 Surgeon.	1 Mining Manager.
2 Accountants.	1 Mining Secretary.
1 Secretary of Building Company.	1 Miner.
5 Merchants.	2 Publicans.
1 Wine Merchant.	2 Printers.
4 Tradesmen (actual or retired).	2 Contractors.
4 Squatters.	6 Farmers.
1 Manager of Building Society.	1 Miller.
1 Analytical Chemist.	1 Brewer.
7 Auctioneers and Estate Agents (actual or retired).	7 without a profession.

The above enumeration is so far imperfect that many who are classed as professional men or as being in trade are independent or nearly so of professional work or other business. Where a member has belonged to more than one profession, he is assigned to that to which he belongs at present or by connection with which he is best known. Thus Sir Charles G. Duffy has been described not as a barrister but as a journalist.

No. 78.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received February 8, 1872.)

(No. 241.)

Government House, Melbourne,
December 27, 1878.

SIR,
AT the request of the Legislative Council of Victoria, I have the honour to transmit herewith an address and protest from that House, respecting the mission to England of certain Members of the Legislative Assembly (Mr. Berry and Mr. Pearson).

2. I forward at the same time the opinion of the Attorney-General of Victoria on the legal points raised in the above-mentioned documents.

3. I abstain from all comment, except the remark that there never has been any question of the issuing by the Governor of any Commission to Messrs. Berry and Pearson, who will proceed to England during the Parliamentary recess, as Delegates from the Legislative Assembly.

I have, &c.

(Signed) G. F. BOWEN.

The Right Hon. Sir Michael Hicks Beach, Bart., M.P.
&c. &c. &c.

Enclosure 1 in No. 78.

To His Excellency SIR GEORGE FERGUSON BOWEN, Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief in and over the Colony of Victoria and its Dependencies, and Vice-Admiral of the same.

MAY IT PLEASE YOUR EXCELLENCY—

1. We, Her Most Gracious Majesty's most dutiful and loyal subjects, the Members of the Legislative Council of Victoria, in Parliament assembled, beg to approach your Excellency with renewed expressions of our loyalty to Her Majesty's Throne and Person and of respect to your Excellency as Her Majesty's Representative.

2. We desire to invite your Excellency's attention to a grant contained in the Appropriation Bill of this Session, and expressed in the following terms, that is to say, "For defraying the expenses of three Commissioners to England, £5,000."

3. From statements publicly made by your Excellency's responsible advisers, it appears that by this grant it is intended to provide for the expenses of the Honorable the Chief Secretary and of other persons to go to England, for the purpose of making to the Secretary of State certain statements respecting the public affairs of this Colony, either on behalf of the Colony or on behalf of the Legislative Assembly thereof.

4. We desire to remind your Excellency that there is no power to appoint Commissioners for any such purpose without the authority of an Act of Parliament, and that no such Act exists.

5. In assenting to this grant, this House, as the protest appended hereto further shows, did not intend to authorise, and it has not under the terms of the Act in fact authorised the creation of any new office.

6. We, therefore, submit that your Excellency ought not to issue any such Commission as aforesaid in the absence of any Act of Parliament authorising the same, or to sign any warrant for the payment of any money in respect of this grant to any person to whom a lawful Commission has not been issued.

7. We request that your Excellency will be pleased to transmit this address, and the copy of the protest appended hereto, to the Right Honorable the Secretary of State for the Colonies at your earliest convenience.

(Signed) W. H. F. MITCHELL,
President.

PROTEST.

That this House objects to the vote "For defraying the expenses of three Commissioners to England," because—

1. The Bill does not disclose the scope or purport of the Commission under which the Commissioners are to act.
2. Assuming that the objects of this Commission are those stated publicly on divers occasions by the Honorable the Chief Secretary, there is no power to issue without the authority of an Act of Parliament any Commission for any of the purposes stated by him, and no such Act of Parliament exists.
3. The vote for defraying the expenses to England of persons who do not represent the Colony, but are the mere delegates of a political party, is a misapplication of the Public Revenue.

This House therefore protests against such vote, and also against the assumption by the Commissioners of any authority, either to represent this Colony, or to do any act which may be binding upon it. And it further declares that it passes this Bill, including the vote, with the sole view of preventing injury to Her Majesty's service from the stoppage of Supplies, and that it does not thereby, either by implication or otherwise, authorize or consent to the appointment of any such Commission.

Enclosure 2 in No. 78.

MEMORANDUM FOR HIS EXCELLENCY THE GOVERNOR.

The Attorney-General has the honour, pursuant to His Excellency's request, to forward herewith his opinion respecting the address and protest of the Legislative Council, and questions of law raised therein.

Crown Law Offices, Melbourne,
24th December 1878.

(Signed) BRYAN O'LOGHLEN,
Attorney-General.

Sub-enclosure in Enclosure 2 in No. 78.

OPINION.

I HAVE read the protest of the Legislative Council in reference to the vote "For defraying the expenses of three Commissioners to England," and also the address of that body to His Excellency the Governor founded on that protest.

Paragraphs 4, 5, and 6 of the address, as to the issue to the Commission, or as to the appointment of Commissioners under a Commission, are inapplicable to the circumstances of the vote referred to.

As a fact, there is to be no Commission (in the sense in which the word is used in those documents) issued by the Governor, and the Commissioners going to England are not to be appointed under any Commission.

Paragraph 6, as to the signing of a warrant for the payment of money; is untenable in its argument, however ingenious in its verbal quibbling. The vote recognises some persons or other called "Commissioners," to whose expenses the sum voted is applicable.

The Legislative Assembly approved of certain members, named to the House, going to England as Commissioners, giving to them that designation, whatever it may import, without any regard to anything in the shape of any instrument such as a Commission.

These members do not go, as it is alleged in the protest, as mere delegates of a political party, but they go as Commissioners on behalf of the Victorian Government, with the express sanction of the Legislative Assembly, and with the approval of the mass of the electors of Victoria, on a national mission in respect of the adjustment of the legislative powers and functions of the Council and of the Assembly.

The Commissioners of Audit and the Treasurer must take official notice of these persons, so designated by the Assembly as Commissioners, and can legally respectively certify and sign a warrant for the application of the sum in the vote in question, which vote appears in the schedule to the Appropriation Act, which the Council has passed into law, while protesting against the particular application of the vote, when it was and is the only application of that vote within the knowledge of the Council and that of the whole general public.

In the event of any such warrant being signed by the Treasurer and countersigned by the Commissioners of Audit it will be, in my opinion, the clear and manifest duty of the then Governor to approve and sign the same under the provisions of the 24th and 25th sections of the Act of Parliament of Victoria No. 86.

Crown Law Offices, Melbourne,
24th December 1878.

(Signed) BRYAN O'LOGHLEN,
Attorney-General.

No. 79.

GOVERNOR SIR G. F. BOWEN, G.C.M.G., to the RIGHT HON. SIR MICHAEL
HICKS BEACH, BART.

(Received February 8, 1879.)

Government House, Melbourne,
December 27, 1878.

SIR,

*I HAVE the honour to acknowledge the receipt of your Despatch of the 1st October† ultimo, on the subject of the Ministerial Memorandum transmitted with my Despatch of the 6th August ultimo,‡ respecting the proposed mission to England of delegates from the Legislative Assembly of Victoria.

2. It is, in my opinion, very unfortunate that this Despatch did not arrive before, or during the discussion of this question in the Victorian Parliament. It has, however, been published for general information, together with the correspondence relating to it, in the Government Gazette.

3. I entirely concur with the views which you have expressed in this Despatch. Indeed I had anticipated them by omitting no proper opportunity of pointing out here that it would be premature, in the present state of this question, to expect "the intervention of the Imperial Parliament . . . however justifiable in the last resort, as the only remaining means of carrying into effect the deliberately expressed will of the people of Victoria upon an issue plainly presented to them." Indeed,

* The Enclosures to this Despatch are not printed.

† No. 60.

‡ No. 59.

looking to the numerous and conflicting schemes of Constitutional Reform which were mooted during the last session (and which will be found recorded in the Parliamentary journals, and in the Victorian "Hansard"), it would appear that the opinion on this question of the Parliament itself, still less of the country at large, was far from being as yet sufficiently formed and matured to enable any definite measure to be placed with advantage before the constituencies at a general election during the past year. But the public mind is now being educated on this important subject, and there appears to be a strong and fast growing reaction against the extreme sections of both parties, and a general conviction that (again to quote your words), "through the exercise of mutual forbearance and concession, the Legislative Houses of the great Colony of Victoria (should) succeed in devising means for preventing the recurrence of such collisions as have seriously affected their reputation, and cannot but operate injuriously upon the credit of the Colony."

4. The Legislative Assembly (as was already reported)* has authorised Commissioners or delegates from that House to proceed to London during the Parliamentary recess, to solicit your advice and assistance, and to lay before you the views on the political affairs of Victoria entertained by the majority of the Colonial House of Commons.

5. As will be seen from the recent discussions in the Legislature, at public meetings, and in the press, opinions here are much divided as to the wisdom and necessity of this mission. The main feeling which has prompted its advocates appears to be that the political affairs of Victoria in general, and in particular the question of Constitutional Reform, have been misrepresented in England by the agents of a small but active minority in the Colony, and that it is just and necessary that the views of the majority should be clearly laid before the Imperial Government and Parliament and the public of the United Kingdom.

6. The delegates (who will proceed to England by the mail steamer leaving Melbourne to-morrow) are Mr. Berry, the Chief Secretary and Premier in the existing ministry, and Mr. C. H. Pearson, formerly Fellow of Oriel College at Oxford, and now a member of the Legislative Assembly of Victoria. They will be accompanied by Mr. H. H. Hayter, the Government Statist, as secretary.

7. The Legislative Council has declined to appoint any delegates to represent that House, and has placed on record a protest against the mission, which, and also a fresh statement of its (the Council's) case, are forwarded in separate Despatches by the outgoing mail.† It will be remembered that the views of the majority of the Council have also been set forth in several addresses, and other official documents, all of which have been transmitted by me in due course on previous occasions.

8. Whatever opinion may be formed concerning this mission in other respects, there is one point of view in which it can hardly fail to be considered satisfactory. The majority of the representatives of the people of Victoria now seek the counsel and aid of the Imperial Government, whereas a few years back all interference on the part of the home authorities was vehemently repudiated by that House. I would refer to the address voted by the Assembly on the motion of Mr., now Sir James, McCulloch, on 4th June 1868 (already quoted in my Despatch of the 19th September 1877‡); and also to the resolutions adopted in November 1869, on the motion of Mr. Higinbotham, and of which one was framed in the following terms:—"That the official communication of advice, suggestions, or instructions by the Secretary of State for the Colonies to Her Majesty's Representative in Victoria on any subject whatsoever connected with the administration of the local government, except the giving or withholding the Royal Assent to or the Reservation of Bills passed by the two Houses of the Victorian Parliament, is a practice not sanctioned by law, derogatory to the independence of the Queen's Representative, and a violation both of the principles of the system of responsible government and of the constitutional rights of the people of this Colony."

9. It may, perhaps, be expected that I should state briefly my own views as to the best means which can be adopted for carrying out that reform of the actual Constitution of Victoria, which is acknowledged on all sides to be desirable with the view to promote greater harmony between the Houses of Parliament.

10. While I have never lost any "proper opportunity of pointing out that the adoption of a spirit of fair compromise, of political sagacity, and of mutual forbear-

* Governor of Victoria to Secretary of State, 28th November 1878, No. 72.

† Governor of Victoria to Secretary of State, 27th December 1878, No. 78, 26th December 1878, No. 77.

‡ No. 3 of Paper 27 of 1878.

“ance, is quite as necessary as any fresh legislative machinery to ensure the harmonious “working of the two deliberative branches of the Legislature,”* I have not concealed that my long experience of more than 19 years in the administration of the Governments successively of Queensland, New Zealand, and Victoria has convinced me that it is on the whole better that the Second Chamber in these Colonies should be created by nomination rather than election. Among other reasons for this opinion, I may be permitted to specify the following :—

- (1.) A nominated Upper House is in closer analogy with the British Constitution. Nor is this argument based on mere sentiment, although it is certain that national sentiment is a powerful factor in the maintenance of the British Empire. The argument has much practical force. Men almost insensibly learn to conform their conduct to the institutions under which they live. Councils in our Colonies learn to consider themselves bound to follow the precedents of the House of Lords in its attitude towards and its transactions with the House of Commons.
- (2.) As I wrote in my Despatch† of the 26th December 1877 :—
“It will be remembered that my able predecessor in the Government of Victoria, the late Lord Canterbury, who had enlarged by long personal experience in the Imperial Legislature and in Colonial administration his inherited knowledge of Parliamentary law and practice, devoted much time and study to the elucidation of the causes of the repeated conflicts between the Council and the Assembly in this Colony. It was his decided opinion that the difficulty underlying these political struggles was simply as follows :—According to the terms and spirit of the Constitution Act, and the intention of its framers, the position and mutual relations of the Council and the Assembly respectively should be for all practical purposes, and so far as the circumstances of the case permit, analogous to those of the House of Lords and of the House of Commons. While the Assembly has claimed no more, in the opinion of Lord Canterbury, than the powers and privileges claimed by and conceded to the House of Commons, the Council has declined to be bound by the practice of the House of Lords, and asserts that it is, in the favourite phrase of several of its members, ‘a second House of Commons.’”
- (3.) It is a significant fact that the Parliament of Canada, after a long trial of an elective Upper House, returned to the system of nomination.
- (4.) There has never been any serious collision between the Houses of Parliament in New Zealand and Queensland, where nominated Upper Houses have always existed ; and the same system works well practically also in New South Wales.
- (5.) As I reported in my Despatch of the 5th August‡ ultimo, the original idea of the existing ministry was simply to propose the substitution in Victoria, in the place of the present elective Council, of a nominated Council. This scheme was ultimately abandoned in deference to the wishes of some of their supporters, in favour of the measure actually introduced during the recent session, and which included the *plébiscite* ; to which foreign device, destructive of Parliamentary government in the English sense, I am strongly opposed, in common, I believe, with most dispassionate observers in this community.
- (6.) It seems probable that the adoption of the system of nomination, with perhaps some restrictions and safeguards, will ultimately be regarded here as the best practicable escape from what all parties admit to be the formidable danger of frequent Parliamentary “dead-locks.” Sir Erskine May has remarked that the power given to the head of the Executive Government of adding fresh members in extreme cases, to a nominated Chamber, supplies a safety-valve against prolonged collisions, analogous to the power of dissolving the popular Chamber.

11. If it should be finally determined to retain in Victoria a second Chamber wholly created by election, I am of opinion that it should be provided that when any

* Governor of Victoria to Secretary of State, 5th August 1878, No. 58.

† No. 21 of Paper 27 of 1878.

‡ No. 58.

Bill shall have been passed by the Legislative Assembly in two consecutive ordinary sessions of Parliament, and been twice rejected by the Legislative Council, then either :—

- (a.) Under certain prescribed conditions, both Houses shall sit together, and the decision of an absolute majority of both Houses on the measure in question shall be final ; or,
- (b.) Both Houses shall be liable, again under certain defined conditions, to be dissolved.

12. Finally, looking to the improved and more moderate tone of public opinion prevailing here, and to the general desire shown to respect the arbitration of the home authorities, I am inclined to the conviction that, with your advice and assistance, it will soon become possible (as you remark in the concluding paragraph of the Despatch now under acknowledgment) “to agree upon certain principles as the basis of this “difficult and important question, which would be generally acceptable to all parties “in the Colony, and might subsequently be carried out in a manner consistent with “constitutional precedent.”

I have, &c.

The Right Hon. Sir M. E. Hicks Beach, Bart.
&c. &c. &c.

(Signed) G. F. BOWEN.

No. 80

The RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR SIR
G. F. BOWEN, G.C.M.G.

SIR,

Downing Street, February 17, 1879.

I have received your Despatch of the 22nd of November,* replying to mine of the 25th of August last,† in which I expressed the regret which Her Majesty's Government felt on learning the decision of your ministers not to reinstate all the members of the Civil Service of Victoria who were removed from office in January of last year.

2. I have also received your Despatch of the 29th of November‡ enclosing for my information a Memorandum from your ministers showing the actual number of the members of the Civil Service whose services have been permanently dispensed with, and also the amount of compensation and superannuation allowances which have been paid them by your Government.

3. I do not think it necessary to dwell upon the observations which you have offered in explanation and justification of your general conduct during the recent political crisis, which so far as it was discussed in my Despatch of the 25th of August last,† was referred to with approval.

4. The particular question dealt with in that Despatch was that of your action in assenting to the removal of certain judicial and civil officials. You have referred to views expressed by previous Secretaries of State, and to precedents made by Governors of great Colonies, in circumstances which you consider analogous to those in which you were placed. But I am led to believe by your statement that this incident has caused you more pain and anxiety than any other during your long official career, that you would yourself be prepared to admit that it was one of those exceptional cases which cannot be determined merely by reference to abstract propositions and past events, or anticipated by any general instructions. And it does not seem to me that the course which you adopted can be justified by the instructions given to you by my predecessor, on the 27th of September and 20th of December 1877,§ which were not, as you would appear to suppose, intended to be generally applicable to any question which might arise, but were strictly confined to the particular point which you had submitted for his consideration, namely, whether you might properly attach your signature as a matter of form required by the constitution of Victoria to a message to Parliament recommending a vote for the payment of members.

5. The removal of the judicial and civil officials was a totally different question. You inform me that your ministers represented it to you as only temporary. But the orders which you signed were of a permanent nature ; and the gravity of the principle involved in the step thus taken is not lessened by the fact that the number of officials

* No. 73

† No. 50.

‡ No. 74.

§ Nos. 2 and 5, paper 27 of 1878.

whose services have been finally dispensed with bears a comparatively small proportion to the total number of the civil service of Victoria, although the necessity of that step on the financial grounds given at the time may on this account be considered the less evident.

6. I regret therefore that I am unable, after full consideration of all the arguments contained in your Despatch, to change the opinion which I have already conveyed to you. I may observe, with reference to some expressions in your Despatch, that the course which I should have preferred would certainly not have involved the removal of your ministers, and would by no means have necessarily resulted in their resignation. For I cannot but think that had you in the first instance acted on the same view of the subject as when you subsequently induced your ministers partially to retrace their steps, the temporary financial difficulty might in all probability have been overcome without recourse to a measure open to such grave objections as that which was adopted. I will, however, readily publish your Despatch of the 22nd of November,* as explanatory of the views and principles which governed your action in a position of much difficulty, together with the rest of the correspondence on the subject, which it is now desirable to close.

7. I have to add that I have received with much satisfaction the intimation conveyed in the postscript to your Despatch, that your ministers disclaim the opinion, which I had understood them to express, that your action in questioning the course taken by them in this matter was an interference with the due course of responsible Government.

Governor Sir G. F. Bowen. I have, &c.
(Signed) M. E. HICKS BEACH.

No. 81.

GOVERNOR SIR G. F. BOWEN TO THE RIGHT HONORABLE SIR MICHAEL HICKS BEACH.

SIR, Government House, Melbourne, 27th December 1878.

At the request of the Honorable James Service, the leader in the Assembly of the Opposition to the present Ministry, I have the honor to transmit for your information the enclosed copy of the speech† delivered by that gentleman on the 3rd instant on the question of Constitutional Reform, which he has forwarded to me for that purpose.

I have, &c.,
(Signed) G. F. BOWEN.

The Right Honorable Sir M. E. Hicks Beach, Bart., M.P.,
&c. &c. &c.

No. 82.

GOVERNOR SIR G. F. BOWEN TO THE RIGHT HONBLE. SIR MICHAEL HICKS BEACH.

SIR, Government House, Melbourne, 4th January 1879.

ADVERTING to your despatch No. 102 of the 25th August ultimo,‡ concerning the reductions recently made in the civil service of this Colony, and to my reply No. 218 of the 22nd November ultimo,§ and especially to the postscript to the last mentioned despatch, I have the honor to state, that Mr. Berry and Mr. Pearson the delegates from the Victorian Assembly, will be prepared, on their arrival in London, to give any further information on this subject, and regarding the action of the Ministry in connexion with it, which may be required.

I have, &c.,
(Signed) G. F. BOWEN.

The Right Honorable Sir M. E. Hicks Beach, Bart., M.P.
&c. &c. &c.

GOVERNOR SIR G. F. BOWEN TO THE RIGHT HON. SIR MICHAEL HICKS BEACH.

SIR,

Government House, Melbourne, 25th January 1879.

I HAVE the honor to report that, since the close of the last Session of the Victorian Parliament, and the departure of Messrs. Berry and Pearson for England, there has been complete political quietude in this Colony. Indeed, the attention of the community has been directed chiefly to the customary amusements of the Christmas and New Year holidays, and especially to the cricket match between the English Eleven, of which Lord Harris is captain, and the Australian Eleven. It has often been remarked that the Australian Colonists are thoroughly devoted to the national sports and games of the Mother Country.

2. As you are already aware, it has been arranged that I shall leave Victoria for Mauritius by the mail steamer on the 22nd next month ; and that my successor in this Government, the Marquis of Normanby, will arrive here within a few hours of my departure.

3. I may be permitted to observe, that I cannot contemplate without emotion my approaching departure from Australia, in which I have spent nearly twenty years, the best, the happiest, and I trust the most useful of my life, as Governor successively of the great Colonies of Queensland, New Zealand, and Victoria ; and to the welfare and advancement of which I have honestly and zealously devoted all my care and all my faculties. As the first Governor of the new colony of Queensland, I organised, during my administration there, the Government and institutions of that community ; which, from the small beginnings of twenty years ago, has already grown to great importance and prosperity. During my administration in New Zealand, the Maori wars and troubles were brought to a close, and the foundations were laid of that steady and peaceful progress which promises one day to make New Zealand the most important of the Australasian communities. In Victoria, as in New Zealand, I have had to deal with circumstances of extraordinary difficulty ; and, in particular, with the dangerous political crises and parliamentary "dead-locks" of 1876 and 1878, both of which have been brought to an end without any disturbance of internal order, and without the slightest interruption of the cordial relations uniting this Colony with the Crown and with the Mother Country. It is generally believed that the term of office of my successor will be comparatively quiet and easy, and that any difficulties with which he may have to contend will be readily surmounted by a Governor of his ability and long experience.

4. It should, however, be remembered that the Governor of Victoria, owing to the character of this community and to the extreme violence of party spirit here, will always be placed in a position of far greater difficulty than the Governor of any of the adjacent colonies, where moderate principles and feelings prevail, and where political parties have generally been nearly equally balanced. It has been truly observed by a high authority that, in consequence of the character of the population attracted to Victoria some years ago by the wonderful richness of its goldfields and to a number of other causes, the democratic feeling is much stronger and more widely spread here than in any other English speaking community, except perhaps in one or two of the western states of the American Union. It has also been remarked, with equal truth, that the tone of Melbourne and of its Legislature is as different from that prevalent at Sydney and Adelaide as the society of a manufacturing town from that of an agricultural county in England.

5. It is, however, now believed, by those who are best able to judge of this question, that a reaction has set in against the violence of the extreme actions of both the opposing parties, and that, unless something unforeseen should happen, the weight of public opinion will soon force the Council and the Assembly to settle their long-continued differences permanently, and on terms of mutual concession and forbearance, such as those which guide the relations existing between the Houses of Lords and Commons.

6. In conclusion, I may be allowed to state on my own behalf that, during my six years' administration in Victoria, I have had four Ministries ; that is, those of which Mr. Francis, Mr. Kerferd, Sir James McCulloch, and Mr. Berry respectively have been the heads. The annals of the colony will show that I have inflexibly adhered to the only right rule of action for a Constitutional Governor, viz., to give a fair and just support, in all matters not repugnant to law or to Imperial interests, to the actual

Ministers, while I ever remained ready and willing to give exactly the same support to any other Ministers, whom the course of Parliamentary proceedings and the confidence of the majority of the Legislature might from time to time point out as my proper responsible advisers.

I have, &c.,
(Signed) G. F. BOWEN.

No. 84.

The RIGHT HON. SIR MICHAEL HICKS BEACH to GOVERNOR the MOST HONBLE.
the MARQUIS OF NORMANBY.

MY LORD,

Downing street, 24th March 1879.

I HAVE the honor to acknowledge the receipt of your Predecessor's Despatch No. 16, of the 25th of January last,* submitting observations respecting the political situation during the previous month, and upon the tone of feeling which appeared to be prevalent in Victoria. I trust that the anticipations of Sir G. Bowen as to the probability of some terms of mutual concession being adopted to prevent further differences between the Legislative Council and the House of Assembly may prove well founded, as it is, of course, in this direction that the best solution of such difficulties as have lately occurred may be sought.

I have, &c.,
(Signed) M. E. HICKS BEACH.

Governor the Most Honble.

The Marquis of Normanby, G.C.M.G.,
&c. &c. &c.

No. 85.

The RIGHT HON. SIR MICHAEL HICKS BEACH to GOVERNOR the MOST HONBLE.
the MARQUIS OF NORMANBY.

MY LORD,

Downing street, 5th April 1879.

I HAVE the honor to acknowledge the receipt of Sir G. Bowen's despatches Nos. 240† and 241‡, of the 26th and 27th of December last, the first transmitting to me, at the request of the Legislative Council of Victoria, a Statement setting forth its views as to the circumstances under which differences have arisen between the Houses of Legislature on the question of Constitutional Reform, together with a Memorandum signed by Mr. Graham Berry on behalf of the Ministers, in reply to the statement of the Council; and the second, enclosing an address and protest, which Sir G. Bowen had received from the Council in regard to the mission to this country of Mr. Graham Berry and Mr. Pearson, on the subject of Constitutional Reform.

I have also received Sir G. Bowen's Despatch No. 242§, of the 27th December, informing me that he had received my Despatch No. 121, of the first of October, respecting such a mission, too late to present it to the Parliament of Victoria before the close of the Session, but that he had caused it, together with the correspondence to which he referred, to be published for general information in the *Government Gazette*.

I do not propose at present to make any remarks upon these documents, but I have presented copies of them and of the rest of the correspondence on all the subjects to Parliament, and I shall in due course acquaint you with the result of my communications with Mr. Berry and Mr. Pearson.

I have, &c.
(Signed) M. E. HICKS BEACH.

Governor the Most Honble.

The Marquis of Normanby, G.C.M.G.,
&c. &c. &c.

P.S.—I take this opportunity of acknowledging the receipt of Sir G. Bowen's Despatch No. 2, of the 4th of January,|| in further reference to my Despatch of the 25th of August last, No. 102.¶

* No. 83.

† No. 77.

‡ No. 78.

§ No. 79.

|| No. 82.

¶ No. 50.

THE RIGHT HON. SIR MICHAEL HICKS BEACH, BART., to GOVERNOR THE
MOST HONBLE. THE MARQUIS OF NORMANBY.

MY LORD,

Downing Street, 3rd May, 1879.

In his despatch of 27th December, 1878,* Sir George Bowen informed me that the Legislative Assembly of Victoria had authorised Mr. Graham Berry, the Chief Secretary and Prime Minister, and Mr. Pearson, a member of the Assembly, to proceed to London as Commissioners or delegates, to solicit my advice and assistance, and to lay before me the views on the political affairs of Victoria entertained by the majority of the Assembly; and by the same mail he forwarded to me a statement that had been adopted by the Council, and other documents bearing upon the case. Shortly after the arrival of Mr. Berry and Mr. Pearson in England, I received them at this office, and Mr. Berry then left with me the letter of which I enclose a copy. The objects of their mission have since been fully discussed between us at several interviews, and I will now proceed to convey to you the opinion which Her Majesty's Government have formed upon the important question at issue, after full consideration of the statements that have been placed before them on behalf of the Government and the Assembly of Victoria on the one side, and of the Council on the other

2. In a memorandum dated the 6th August, 1878,† Sir George Bowen's Ministers had anticipated that they might be "compelled to despatch to England, on behalf of and with the express sanction of the Legislative Assembly, commissioners chosen from leading members of that House, to lay before Her Majesty's Imperial Government the matured result of its deliberation" on constitutional reform, "with a view to get that result embodied in an Act of the Imperial Legislature." On the receipt of that memorandum, I lost no time in placing before the Victorian Government the considerations which disposed me to the opinion that no sufficient cause had been shown for the intervention of the Imperial Parliament in the manner suggested.

3. The request urged by Mr. Berry in his letter of 26th February ‡ that Parliament should "by a simple alteration of the 60th section of the Constitution Act of Victoria, enable the Legislative Assembly to enact, in two distinct annual sessions, with a general election intervening, any measure for the reform of the Constitution," is, in my opinion, even more open to objection than the proposal I understood him to convey in his memorandum of 6th August. But it is not necessary to discuss the merits of this or any other proposal, for though fully recognizing the confidence in the mother country evinced by the reference of so important a question for the counsel and aid of the Imperial Government, I still feel that the circumstances do not yet justify any Imperial legislation for the amendment of that Constitution Act by which self-government, in the form which Victoria desired, was conceded to her, and by which the power of amending the Constitution was expressly, and as an essential incident of self-government, vested in the colonial Legislature with the consent of the Crown. The intervention of the Imperial Parliament would not, in my opinion, be justifiable, except in an extreme emergency, and in compliance with the urgent desire of the people of the colony, when all available efforts on their part have been exhausted. But it would, even if thus justified, be attended with much difficulty and risk, and be in itself a matter for grave regret. It would be held to involve an admission that the great colony of Victoria was compelled to ask the Imperial Parliament to resume a power which, desiring to promote her welfare, and believing in her capacity for self-government, the Imperial Parliament had voluntarily surrendered, and that this request was made because the leaders of political parties, from a general want of the moderation and sagacity essential to the success of constitutional government, had failed to agree upon any compromise for enabling the business of the Colonial Parliament to be carried on.

4. It is nevertheless important that the question should be settled as soon as possible where it can be properly dealt with—that is, in the Colonial Parliament; and I shall be glad if, by the observations which I am about to make, I can remove some part of the misunderstanding which has been amongst the chief obstacles to such a settlement.

5. Following the generally accepted precedent, the Constitution Act of Victoria established two Legislative Chambers, the Council and the Assembly, and

* No. 79.

† Enclosure in No. 59.

‡ Enclosure in this despatch.

laid down to a certain extent their mutual relations—of which, it appears to me, a better definition, rather than an alteration, is now required. For as no party in Victoria desires to abolish the Council, I feel confident that there can be no wish in the words of your Ministers to “reduce it to a sham,” or by depriving it of the powers which properly belong to a second Chamber, to confer on the Assembly a complete practical supremacy, uncontrolled even by that sense of sole responsibility which might exert a beneficial influence on the action of a single Chamber. Nor can I suppose that the extreme view of the position of the Council, which it has recently to a great extent itself disclaimed, can be supported by any who have sufficiently examined the subject.

6. The recent difference between the two Houses of Victoria, like the most serious of those which have preceded it, turned upon the ultimate control of finance. I observe that the address of the Legislative Assembly of the 14th February 1878,* dwells almost exclusively on the necessity of securing to that House sufficient financial control to enable adequate supplies to be provided for the public service, and it is prominently urged in Mr. Berry’s letter of 26th February,† in proof of the necessity for finding some solution of the present constitutional difficulty, that “scarcely a year passes but it becomes a question whether the supplies necessary for the Queen’s service will be granted.” But this difficulty would not arise if the two Houses of Victoria were guided in this matter, as in others, by the practice of the Imperial Parliament, the Council following the practice of the House of Lords, and the Assembly that of the House of Commons. The Assembly, like the House of Commons, would claim and in practice exercise the right of granting aids and supplies to the Crown, of limiting the matter, manner, measure, and time of such grants, and of so framing Bills of Supply that these rights should be maintained inviolate; and as it would refrain from annexing to a Bill of Aid or Supply any clause or clauses of a nature foreign to or different from the matter of such a Bill, so the Council would refrain from any steps so injurious to the public service as the rejection of an Appropriation Bill.

7. It would be well if the two Houses in Victoria, accepting the view which I have thus indicated of their mutual relations in this important part of the work, would maintain it in future by such a general understanding as would be most in harmony with the spirit of constitutional government. But, after all that has passed, it may be considered necessary to define those relations more closely than has been attempted here, and this might be effected either by adopting a joint standing order, as was proposed in 1867, or by legislation. Of these the former would seem to be the preferable course, for there might be no slight difficulty in framing a statute to declare the conditions under which one House of Parliament, in a colony having two Houses, should exercise or refrain from exercising the powers which, though conferred upon it, must not always be asserted. But I must add that the clearest definition of the relative position of the two Houses, however arrived at, would not suffice to prevent collisions, unless interpreted with that discretion and mutual forbearance which has been so often exemplified in the history of the Imperial Parliament.

8. If, however, it should be felt that the respective positions of the two Houses in matters of taxation and appropriation can only be defined by an amendment of the Constitution Act, there may be other points, such as a proposal to enact that a dissolution of Parliament shall apply to the Legislative Council as well as the Assembly, that might usefully be considered at the same time; but I refrain from discussing them now, feeling that their merits can best be appreciated in the Colony itself.

9. It has been urged that some legislation is necessary to insure mechanically the termination, after reasonable discussion and delay, of a prolonged difference between the two Houses upon questions not connected with finance. I do not yet like to admit that the Council of Victoria will not, like similar bodies in other great colonies, without any such stringent measure, recognise its constitutional position, and so transact its business that the wishes of the people, as clearly and repeatedly expressed, should ultimately prevail; nor have I yet seen any suggestion for such legislation which I can deem free from objection.

10. I hope that the views which I have expressed may not be without influence in securing such a mutual agreement between the two Houses as to remove

* Enclosure in No. 6.

† Enclosure in this despatch.

any necessity for Imperial legislation, and that, as both parties profess to desire only what is reasonable, and as there has been now an interval for reflection, a satisfactory and enduring solution of the difficulty may be arrived at in the colony. The course of action which Her Majesty's Government might adopt, should this hope unfortunately be disappointed, must in a great degree depend upon the circumstances which may then exist ; but I can hardly anticipate that the Imperial Parliament will consent to disturb, in any way, at the instance of one House of the Colonial Legislature, the settlement embodied in the Constitution Act, unless the Council should refuse to concur with the Assembly in some reasonable proposal for regulating the future relations of the two Houses in financial matters in accordance with the high constitutional precedent to which I have referred, and should persist in such refusal after the proposals of the Assembly for that purpose, an appeal having been made to the constituencies on the subject, have been ratified by the country, and again sent up by the Assembly for the consideration of the Council.

I have, &c.,
(Signed) M. E. HICKS BEACH.

Governor The Most Honorable the Marquis of Normanby,
&c. &c. &c.

Enclosure in No. 86.

The Honble. GRAHAM BERRY to Sir M. HICKS BEACH.

[Copy.]

SIR,

Westminster Palace Hotel, London, 26th February 1879.

A Despatch signed by yourself (No. 121 of the 1st of October 1878*) was handed to the Ministers by His Excellency Sir G. F. Bowen, a few days after Parliament had been prorogued. Had this Despatch been communicated in time to the Cabinet, Ministers would have felt it their duty to request that it might be laid before Parliament. It is only right, however, to add that the proved futility of attempts at reconciliation frequently renewed had produced a state of feeling in both Houses which made it undesirable to protract discussion in Parliament.

2. The Despatch alluded to the differences of opinion which have existed at various times in the colony as to the method in which reform should be effected. There is not, and there never has been, any difference of opinion among the large body of electors as to the principles on which reform must be based. All agree that the legislation of the colony ought to express the mature will of the great majority of the electors, whereas Government is controlled at present in all essential particulars by the veto of the minority. Mr. Francis proposed that both Houses should vote together in cases of dispute. The circumstances of the session 1877-8 induced Ministers to favor the plan of a nominee Upper House, and the measure they introduced last session proposed to limit the use of the veto enjoyed by the Legislative Council.

In all the proposals, however, the object aimed at was the same, to give effect to the deliberate purpose of the representative Chamber.

3. The legislative measures which, after mature deliberation, Ministers finally decided upon as most proper for the Assembly to request, and for the Imperial Parliament to grant, was a simple alteration of the 60th section of *The Constitution Act*, so as to enable the Legislative Assembly to enact in two distinct annual sessions, with a general election intervening, any measure for the reform of the Constitution. It can scarcely be called an extreme measure to propose that a Bill carried in the Assembly by an absolute majority, on the second and third readings, afterwards submitted to the constituencies, and again carried in the new House by absolute majorities, should at last pass into law. Such a change in the present Constitution would, it is believed, supply that safety-valve which is admittedly required. Ministers also feel that it would simply carry into effect the original intention of the Imperial Government, which undoubtedly intended to confer self-government on the colony.

4. The third paragraph of the Despatch proceeds to state that, in your opinion, no sufficient cause has been shown for the intervention of the Imperial Parliament in the manner suggested. I venture to believe that this opinion will be modified by a consideration of the events which have taken place since you received the information on which your Despatch is based. The Council has refused even to discuss the Bill carried in the Assembly. Invited by the Assembly to a conference, the representatives of the Council declined either to abandon the right to reject Money Bills, including the annual Appropriation Bill, or to substitute a suspensive for the absolute veto on legislation at present enjoyed and freely exercised by the Council.

Thus, after the long and exhaustive discussions, the representatives of the Assembly were compelled to report that not even a basis of negotiation could be secured ; and informal overtures for fresh negotiations have been barren of all result, except to show that the most conciliatory members of the Assembly could devise nothing which the Council would even consider. I feel it my duty to express a belief that no Ministry will be able to carry on the Queen's Government satisfactorily in Victoria if some solution to

present difficulties be not provided. At present, scarcely a year passes but it becomes a question whether the supplies necessary for the Queen's service will be granted, and the discussion of useful laws is unavoidably postponed to that of constitutional reform.

The Assembly has decided to invite the interposition of England, not because its members are in doubt with respect to powers conferred on them by the Constitution Act sufficient to practically establish the principle for which they contend, but in order to escape from exercise of those powers at times and under circumstances when the public mind becomes unduly if not dangerously excited.

I am, &c.,

(Signed)

GRAHAM BERRY,
Chief Secretary of Victoria.

The Right Honble. Sir M. E. Hicks Beach, Bt., M.P.,
&c. &c. &c.

APPENDIX I.

No. 1.

GOVERNOR THE HON. SIR J. H. T. MANNERS SUTTON, K.C.B., to the DUKE
OF BUCKINGHAM AND CHANDOS.

(Received September 14, 1867.)

MY LORD DUKE,

Government Offices, Melbourne, July 26, 1867.

IN my Despatch, marked in the margin, I have had the honour to report to your Grace the course which, upon full consideration, I have pursued with respect to the proposed grant of 20,000*l.* to Lady Darling; and to submit to your Grace a general, but necessarily a guarded, explanation of the grounds upon which I adopted that course. To that explanation it is, I think, desirable that I should add some details in this confidential Despatch, and I am the more anxious to place your Grace in full possession of all the facts of the case, and of the real character of the position which I occupy in connexion with the above-mentioned grant, because I entertain, personally, a very strong opinion that that grant is liable to very grave objections on grounds of general policy.

July 27, 1867,
No. 2 of H. C.
157 March, 1868.

2. It is scarcely necessary for me to say that if I had received instructions from your Grace to refuse my sanction to the proposal of the grant, those instructions would have been obeyed. In the absence of any such instructions (your Grace must not understand that I complain of this, or that I question the wisdom of the course pursued by your Grace in this respect), I have felt it be my first duty to ascertain whether there was a fair probability that my resistance to the proposed grant would be successful, and what would be the probable result of such resistance on my part.

3. It is true that I did succeed in inducing my Council to postpone the tender of any official advice to me upon the subject while Sir Charles Darling continued in the Colonial Service. But I did not attain this object without difficulty, and when the Council consented to the postponement of the question, they expressed to me, privately, their fears that they would not be able to hold their supporters (the majority) in the Legislative Assembly in check.

4. And in expressing (in the fourth paragraph of my official Despatch to your Grace) my conviction that my Responsible Advisers regard themselves as bound to realise the expectations held out to Sir Charles Darling in the address of the Legislative Assembly of the 9th May 1866, I have understated the fact. For not only do my Council regard themselves as so bound, in a political point of view, but they, and

a majority of the Legislative Assembly, as now constituted, are alike pledged to the grant to Lady Darling, and on that question they are, I am confident, indivisible.

6. But a Governor may appeal from his Government and the Legislature to the constituencies. A majority of the constituencies, however, are more or less bound by pledges similar to those which bind the members of the Government and the majority of the Legislative Assembly. And while I believe that if any grant such as that referred to were now proposed for the first time, it would receive very partial and meagre support in the Legislative Assembly, and still less among the constituencies; and although I think that, even under existing circumstances, the result of an appeal to the constituencies on the question would, if the Governor should be regarded as neutral, depend more on the general popularity or unpopularity of the two contending political parties than on the merits of the question at issue between them; yet I entertain no doubt whatever that the interposition by the Governor of his authority, in opposition to his Council, respecting the grant would be the signal for an overpowering manifestation of popular feeling in favour of the Council, if not of the grant; and that the result of a general election, under these circumstances, would leave him (the Governor) powerless in the hands of those who would regard him as an aggressor and as a beaten foe.

7. And although the grant would be stopped temporarily, it would be impossible for the Governor to persevere in his resistance to it, otherwise than under positive instructions from the Secretary of State.

8. And as I have now and in a preceding paragraph of this Despatch adverted to the absence of any positive instructions on the subject under consideration from the Secretary of State, I may, I hope, be permitted to express to your Grace my opinion that any positive instructions to prevent the grant would have converted into a claim, of an excited colony on Her Majesty's Government, that which is now the demand of a political party in the Colony on the Colonial Legislature.

9. Your Grace would naturally desire to receive from me some information with regard to the result to the impending conflict in the Legislature respecting the proposed vote to Lady Darling. But it is impossible to foretell the course of events in connexion with this question. I do not indeed doubt that the vote will be carried through the Legislative Assembly by a large majority after a more or less protracted struggle; but I believe that the majority in the Legislative Council have not as yet determined on the course to be adopted by them respecting it.

10. The Legislative Council may pass the Appropriation Bill (in which the grant to Lady Darling will be brought under their consideration) with a protest, on the ground that parliamentary precedents in England prescribe that course, or they may reject the Appropriation Bill. If they adopt this latter course, it will be, I believe, for the purpose of forcing a dissolution, and I entertain the opinion that their decision on this question will depend very much, although not entirely, on the prospects of support, in the constituencies, which may be afforded to them in the interval.

11. As regards my own position, your Grace will understand that it is one of absolute official neutrality. It will be my endeavour to maintain this position throughout the approaching contest, and I hope that I may succeed in combining with neutrality mediation and a moderating influence.

I have, &c.

(Signed) J. H. T. MANNERS SUTTON.

His Grace the Duke of Buckingham and Chandos,
&c. &c. &c.

No. 2.

GOVERNOR THE HON. SIR J. H. T. MANNERS SUTTON, K.C.B., to the DUKE OF BUCKINGHAM AND CHANDOS.

(Received October 16, 1867.)

MY LORD DUKE,

Melbourne, August 28, 1867.

IN my official Despatch, hurried as it necessarily has been, I have endeavoured to communicate to your Grace the principal features of the political situation here, and your Grace will I am sure pardon me if, placed as I am, in the midst of a ministerial crisis of the gravest character, and of which I cannot as yet descry the result, I

abstain from entering now, in this confidential Despatch, into many questions which I should under other circumstances have thought it right to bring under your Grace's consideration.

2. But there are two points on which it appears to me that immediate explanation is desirable.

Firstly, your Grace may perhaps take exception to the course which I pursued in permitting the proposed grant to Lady Darling to appear in the estimates thus sanctioning the inclusion of it in the Appropriation Bill. But if the grant had been recommended by me in a separate message (and without a message, it could not have been entertained by the Legislative Assembly), what ground could I have alleged for the recommendation? and if the grant had been proposed in a Bill, what would have been the preamble adopted by the Legislative Assembly to that Bill? And I must confess that as it certainly was less difficult for me to sanction its inclusion in the estimates than to recommend it as a separate measure, so I was disposed to believe (and I retain the opinion) that the course in connexion with this grant, which was the least embarrassing to me (the representative of the Crown), was also the least embarrassing to the Legislative Council. And notwithstanding the course which the Legislative Council has actually adopted, I doubt whether they would not have taken this view of the case, but for the Attorney-General's speech on the grant, in the Legislative Assembly, which speech certainly precluded in my mind the hope of any satisfactory arrangement between the two Houses without an intervening crisis.

3. But in point of fact I had before me only the choice of including the grant in the estimates, or of breaking with the Government, and the majority in the Legislative Assembly (and as I firmly believe in the constituencies also) which supports them. And I trust that I shall not be regarded by your Grace as undervaluing the status of the Legislative Council, or underrating their rights and privileges, if I say that the conclusion at which I arrived in considering the question was that if the House of Commons had occupied the position (pledged to the public and Sir Charles Darling) held by the Legislative Assembly respecting the grant, they (the House of Commons) would have claimed the right to include the grant in the General Appropriation Act, and that they would not have been induced to refrain from asserting that right by the belief that the grant would be rejected by the Upper House, if proposed in a separate measure.

4. There is one other point to which I wish to refer. Your Grace may perhaps be unable to discover why, when I sent for and consulted Mr. Fellows (the leader of the Opposition in the Legislative Council and elsewhere), I did not take the usual course of entrusting him with a commission to form and to submit to me a list as well as the programme of a new administration. But your Grace will observe that I have explained the reasons for the course which I pursued on this occasion in my memorandum of yesterday's date to Mr. Fraser, to whom I have not entrusted powers greater than those confided to Mr. Fellows.

And I should add that the conclusion of my communications with Mr. Fellows was not in reality so abrupt as it appears from the correspondence between us. For I had three lengthened and unreserved conversations with him, which left no doubt in my mind that although those with whom he acts were desirous (he is himself indifferent on the subject) that he should undertake the formation of an administration, I could not hope from any such administration a release from present pecuniary embarrassments; while the prospects for the future would not have been, in my opinion, improved.

5. It only remains for me to say that hitherto both parties, although neither have as yet shown any disposition to give way, have evinced towards me marked consideration and goodwill.

I have, &c.

(Signed) J. H. T. MANNERS SUTTON.

His Grace the Duke of Buckingham and Chandos,

&c.

&c.

&c.

No. 3.

GOVERNOR THE HON. SIR J. H. T. MANNERS SUTTON, K.C.B., to the DUKE OF BUCKINGHAM AND CHANDOS.

(Received November 16, 1867.)

MY LORD DUKE,

Melbourne, September 28, 1867.

My official Despatch, September 27, 1867, with the other Despatches, enclosing copies of the addresses, replies, and speeches which have passed between me and the two deliberative Houses of the Legislature during the past month, will, I hope and believe, place your Grace in possession of full and complete information as regards the character and present position of the "crisis" or "deadlock" as it appears to the public. It remains for me to add, in this confidential Despatch, an explanation, where any such explanation is necessary or may be useful to your Grace, of the motives by which, during the crisis, I and the two contending parties, as I believe, have been actuated, and to submit to your Grace, so far as the ever varying circumstances of the case justify me in expressing an opinion, my anticipations with respect to the future.

2. I should, in the first place, repeat the opinion already notified to your Grace, that, although, the alleged merits and demerits of Sir Charles Darling's administration of the Government of this colony are occasionally enlarged upon by the advocates and opponents respectively of the grant to Lady Darling, this question is not at the root of the dispute between the two Houses. Indeed I doubt very much whether, if the majority in the Legislative Assembly had not committed themselves, in May 1866, to the grant of 20,000*l.* to Lady Darling, they would, during the 12 months which have elapsed since I first had an opportunity of forming a judgment of their opinions and wishes, have proposed, *id est* originated, the proposal of any grant at all. And I doubt whether the recollection of the past would, in itself have led the Legislative Council determinately to refuse under existing circumstances, a liberal grant either to Sir Charles or to Lady Darling if it had been proposed consequently on his relinquishment of his connexion with the Colonial Service of the Crown.

3. And although the recall of Sir Charles Darling by the Crown was, at the moment of the recall, proclaimed by the Government as an interference, on the part of the Imperial Government, with the right of local self-government by the people of the Colony, this assertion was very generally admitted to be groundless when the correspondence relating to the recall was published. And the course which Her Majesty's Government have adopted in connexion with the proposed grant to Lady Darling has precluded the supporters of that grant from invoking popular support in resistance of "Downing Street dictation," although it has not prevented the opponents of the grant from citing the opinions of the Secretary of State in opposition to the grant. So far, then, it would appear as if this grant were a question not very difficult of solution.

4. But it is not so. During the 10 months which elapsed between my arrival in this Colony and my receipt of your Grace's Despatch announcing to me the final relinquishment by Sir Charles Darling of his connexion with the Colonial Service of the Crown, I had never lost sight of the question referred to in that Despatch, or neglected any opportunity of ascertaining the relative positions and necessities of the two Houses, in connexion with the grant. And I arrived at the conclusion, which subsequent events have fortified, that while the Legislative Council was justified by the abstract demerits of the case, if not called upon by the position occupied by them with respect to the grant, to oppose it, so long as they could do so consistently with a due regard to the maintenance of law and order; yet that it was of the highest importance that they should not overestimate or miscalculate their power of resistance. And I also arrived at the conclusion that the majority of the Legislative Assembly were irrevocably pledged to the grant; that the majority of the constituencies would support and, if necessary, return representatives to support the grant; that the continued resistance of the Legislative Council to the grant would lead to the popular demand for the supersession or ignoration of their authority as an independent branch of the Legislature; that the Responsible Advisers of the Governor would yield to popular pressure from without, and join in the demand for unconstitutional and illegal action on the part of the Governor, who would indeed reject, as he would be bound to reject, that advice; but that he would not thereby enable the Legislative Council to maintain its constitutional position, while he would involve the Imperial Government

in the conflict, and probably imperil the relations of the colony with the Mother Country.

5. With these opinions, and if they are erroneous it is not because they have not been reconsidered, your Grace will not be surprised that I have from the commencement of the crisis regarded the acquiescence by the Legislature in the proposed grant to Lady Darling as the only available means of escape from complications and difficulties far greater than any which have as yet occurred here.

6. But while in the course which I have pursued I have been guided by these opinions, I have eagerly availed myself of every opportunity of mitigating (by inculcating moderation and enforcing delay) the pressure of the Legislative Assembly on the Legislative Council, and of affording to the latter an opening for a dignified retreat. And that I have not been wholly unsuccessful is, I think proved by the fact that, even when the two Houses were apparently committed irrevocably to opposite decisions, negotiations between them were nevertheless in progress; that these negotiations have never absolutely ceased; and that now I believe that I am justified in entertaining a hope that they may be successful.

7. A considerable number of the members of the Legislative Council who voted for the rejection of the Appropriation Bill have, unless I am misinformed, expressed their willingness to vote for, although not approving of, the grant to Lady Darling, if it should be sent up to them in a separate Bill, with a message from the Governor, in the usual form, asking their "concurrence" in the grant. This course would involve my recommending separately, although still formally, the grant to Lady Darling to both Houses. And this necessity I have endeavored to avoid. But while I should not feel myself justified in sending down to either House a message recommending the grant upon its merits, I should not, on the other hand, feel myself justified in refusing to send down, on the recommendation of my Responsible Advisers, a separate message to each House, provided that those messages did not imply more than the official recommendation of the grant (which recommendation is required by the Constitution Act before the grant can be initiated in the Legislative Assembly), and provided also that the transmission of those messages should be necessary for, and efficacious in, terminating the existing crisis.

8. But although I have very little, if any, doubt that the Legislative Council would now (it would not have been so a few weeks ago) acquiesce in a separate Bill granting the £20,000 to Lady Darling, it is very doubtful, and even more than doubtful, whether the majority of the Legislative Assembly will consent to submit the grant for the consideration of the Legislative Council in a separate Bill.

9. It may be that I shall be able to see my way to obtain this object by a change of ministry. If it should be necessary, and if the prospect of success should justify the step, I should not hesitate to take it. But the consequences of failure might be serious. Meanwhile the majority of the Legislative Assembly are endeavouring to induce the Legislative Council to waive the demand for a separate Bill, and to be satisfied with a message asking their concurrence in the grant. It will be impossible for me to communicate to your Grace the result of these negotiations by this mail, which leaves Melbourne to-day at 2 p.m.

10. Your Grace will, I am confident, place a favourable construction on the course which, surrounded as I am by conflicting difficulties and complications, I have adopted and may pursue in my endeavors to restore harmonious action to the Legislature, and thus to prevent the still more grave complications and dangers which I should anticipate from a continuance of the crisis.

I have, &c.,

(Signed) J. H. T. MANNERS SUTTON.

His Grace the Duke of Buckingham and Chandos,
&c., &c., &c.

No. 4.

GOVERNOR THE HON. SIR J. H. T. MANNERS SUTTON, K.C.B., to the DUKE OF BUCKINGHAM AND CHANDOS.

(Received December 14, 1867.)

MY LORD DUKE,

Melbourne, October 28, 1867.

I DO not think that I can add to the contents of my Despatch October 26, 1867, any information as regards either the course of events in connexion with the "crisis," or the motives by which I have been actuated.

2. But I am anxious to lose no time in submitting to your Grace my anticipations (and they are forebodings of evil) with respect to the future.

3. I have not succeeded in my endeavour to place your Grace in possession of the real character of the "crisis" if I have not explained the fact that the "Darling grant" (although in itself sufficient to cause differences, if not to ensure a lengthened quarrel, between the two Houses) forms a part, I had almost said an insignificant part, of the question really in dispute between them.

4. This fact has progressively become more and more manifest. The Legislative Assembly was, at the commencement of the dispute, content to assert for itself here the position occupied by the House of Commons in Great Britain, and although it was not, perhaps, actuated by that desire for the maintenance of friendly relations with the Upper House which characterises the proceedings of the House of Commons, its position, as pledged to Sir Charles Darling personally, with respect to the proposed grant to Lady Darling must not be overlooked.

The Legislative Council, on the other hand, started with a simple assertion of their right to refuse their assent to a grant which they not only considered objectionable in itself, but as inflicting a stigma on themselves.

5. But this is not now the position of the two contending parties. The Legislative Assembly (I refer to speeches and newspaper "leaders," not to votes) claims the power of ignoring and passing by the Legislative Council in matters of supply; while the Legislative Council has already, in speeches and in newspaper "leaders," claimed, and will, I fear, by throwing out the Supply Bill on Tuesday, enforce, the claim of co-ordinate authority, excepting only the right to initiate and inability directly to amend Money Bills with the Legislative Assembly in questions of supply.

6. And I should add that the assertion in the Legislative Council (incautious, but not, I fear, contrary to fact) that the result of any number of appeals to the constituencies with respect to any item of supply, or the form of a Supply Bill, would not be accepted by them, has added fuel to the flame, and leads me to fear, if not to believe, that the result of a dissolution (which will, I have no doubt, fortify the Legislative Assembly in sending up the Darling grant in an Appropriation Bill) will be the prelude to a "crisis" even more aggravated and hopeless, if that be possible, than that which now exists, unless something be done in the interval to prevent this calamity.

7. Now my position as regards the two contending parties, and their conflicting claims, is capable of a very short explanation. On the merits of the Darling grant I am neutral, but both parties are aware that although, personally, I have strong objections to it in the abstract, I believe that the passage of the grant, unless relinquished (of which there is no chance) by the constituencies at the polls, is the only possible solution of existing difficulties.

8. As regards the claims of the Legislative Council, I have never hesitated to express my opinion, so far as I could do so, that the legitimate exercise of their legal rights was defined by the practice rather than by the abstract claims or unexercised powers of the House of Lords; and as regards the claims of the Legislative Assembly to the control of the finances, I cannot withhold my assent from these claims, so far as they coincide with the practice of the House of Commons.

9. These opinions, in the abstract, are not contested by my Advisers, or, so far as I know, by the Legislative Assembly, but the Legislative Council do not admit that their authority is to be limited by that of the House of Lords, or that the authority of the Legislative Assembly is co-extensive with that of the House of Commons.

10. There are, however, two points on which I dissent from my Advisers, and from the majority of the Legislative Assembly which supports them.

11. The first point is the extent to which these asserted rights of the Legislative Assembly should be exercised. They are prepared to exercise them to the utmost, and for this there is, perhaps, some palliation to be found in the conduct of the Upper House, which not only resists or ignores the claims of the Legislative Assembly, as representing the "Commons" of the Colony, but advances counter-claims of almost equal extent to those of the Legislative Assembly, in asserting that if any Money Bill containing an enactment (I do not refer to a "tack") objectionable to them should be submitted to them, they are entitled to reject it for ever, notwithstanding the deliberately expressed opinion to the contrary of the Lower House and of the constituencies.

12. Now I have contended (although, of course, my communications on this subject with my Advisers have been principally verbal, and are not known) that

moderation is no less necessary for the Legislative Assembly than for the Legislative Council. I can assure your Grace that these recommendations of moderation have been continuous, and there can be no doubt that my counsel would have been more effectual if the Legislative Council had assumed a less defiant attitude.

13. But the second point on which I dissent from my Advisers (or a majority of them) and those who support them in the Legislative Assembly, and in the country, is of greater importance. It is the mode in which the rights of the Legislative Assembly should be maintained.

14. The popular party here enunciate the principle that the popular will, expressed in a constitutional manner, is to guide legislation, and especially financial legislation ; and to this principle in the abstract no objection of course can be taken : but they also deduce therefrom the inference that if the Legislative Council should oppose any obstacles to carrying that principle into effect, those obstacles may be (not removed by legislation, but) swept away, or ignored, in compliance with the expression of the popular will.

15. I do not mean to assert, and I should not be justified in asserting, that this conclusion has been broadly laid down as generally applicable to the decisions of the Upper House. But if the Legislative Council may be ignored if it should reject a Money Bill, which it is entitled to reject by the Constitution Act, the ignoration of that branch of the Legislature whenever it differs from the Lower House is a matter of degree, of time, and of convenience alone.

16. I need not say that I have refused, and shall refuse, my assent to any such proposition. But it is on this point that eventually the representative of the Crown may, and not improbably will, be brought into collision with the majority of the representatives of the people, and with their constituencies ; and as at present advised, I think that this will be the result if the Legislative Council should persist in a refusal to yield to public opinion on the question of the Darling grant.

17. I wish that I could entertain a confident belief that this collision, which will be very serious if it should occur, and in which I fear that the Imperial Government would, through the Governor as their agent, be eventually involved, could be avoided by any effort on my part.

18. But it does not rest with me, nor will it, I believe, rest with the Legislative Assembly, for, unless I am mistaken, a large majority of the constituencies are determined to assert the dominant, if not exclusive, authority of the Lower House in matters of supply, and unless the result of a general election should be widely different from that which I expect, the majority of the new Legislative Assembly will be distinctly pledged, and therefore even more determined, if possible, than the majority of the present House, to maintain the position which they have assumed on this question.

19. And, in point of fact, I cannot discover any prospect of a restoration of combined action between the two Houses, or even of obtaining supplies, otherwise than through the acceptance by the Upper House of the Darling grant, and I confess that I entertain the opinion that they might after a general election accept it without loss of dignity or of legitimate authority.

20. For they have maintained their objections to the grant by the rejection, whether rightly or wrongly matters not, of two Appropriation Bills ; and they have thus proved conclusively that the inclusion by the Legislative Assembly in an Appropriation Bill of a vote does not prevent the Legislative Council from considering it on its merits, or from giving effect to their objections to it.

21. They have done more. They have not only maintained their ground against the Lower House, but they will, in fact, although indirectly, have subjected that House to the pains and penalties of a dissolution ; and I confess that I think they might, unless they claim an authority, irresponsible if not supreme, yield, without loss of dignity, to the expression of public opinion at the polls, that which they have successfully refused to concede to the Legislative Assembly.

22. But I entertain very grave doubts whether they will take this course, although I think that an expression of opinion to this effect from the Secretary of State would be accepted by them as conclusive.

I have, &c.,
(Signed) J. H. T. MANNERS SUTTON.

His Grace the Duke of Buckingham and Chandos,
&c., &c., &c.

GOVERNOR THE HON. SIR J. H. T. MANNERS SUTTON, K.C.B., to the DUKE OF BUCKINGHAM AND CHANDOS.

(Received March 5, 1868.)

MY LORD DUKE,

Melbourne, February 4, 1868.

I HAVE the honour to acknowledge the receipt of your Grace's Despatches marked in the margin. And, in thanking your Grace for the consideration evinced in those Despatches, as well as in your Grace's official Despatches on the same subject, for the difficulties and embarrassments of my position, I wish to assure your Grace that I shall endeavour to combine with perseverance, in a course of strict neutrality, mediation between the two contending parties. But I have not concealed from your Grace that hitherto my endeavours to mediate have been fruitless. Both parties are apparently now as determined to refuse all concession as ever; and I should almost despair for the future were it not that I know that at the commencement of the contest the Legislative Council did rely on assistance and support from the Secretary of State. And I cannot but believe that if and when they realize fully the fact that this assistance and support will not be given, at least in the matter of the Darling grant, they will be more amenable to compromise. But there is the danger that they may postpone concession until too late; and it may be doubted whether the time has not already arrived when the Legislative Assembly will accept nothing short of the concurrence of the Legislative Council in the Darling grant included in the Appropriation Bill. And, indeed, I believe myself that the Legislative Assembly will not be induced to modify this demand.

2. I now wish to submit to your Grace some documents and confidential remarks explanatory of the progress of the "general election" and of its probable results.

The enclosed document, marked A,‡ is the address of Mr. McCulloch (the Prime Minister), who has been returned since the issue of the address by a large (but in comparison with that of the preceding election a decreased) majority. This address is the production of the Cabinet, and is worthy of attention as setting forth the "issue," as the Government wish it to be regarded by the constituencies at large.

4. The document marked B is the address of Mr. Fellows who has resigned his seat in the Legislative Council to contest the representation of St. Kilda (a suburban borough) in the Legislative Assembly. I believe that he will be successful. His address sets forth the grounds on which he, as leader of the Opposition (but I am not sure that the Opposition are unanimous), impeaches the Government before the constituencies.

5. I should, perhaps, add that the charge adduced by Mr. Fellows respecting the "Police Reward Fund" has elicited from Mr. McCulloch an elaborate reply, to which a rejoinder has been given by Mr. Fellows in a speech delivered a few nights ago.

5. But I should not have adverted at all to this subject, which is only one of many minor "issues" which have been raised by candidates on both sides, were it not that I wish to bring under your Grace's special notice Mr. Fellows' speech (of which a copy is enclosed marked C), inasmuch as in that speech Mr. Fellows has very much strengthened the testimony previously given by him in his address, to the sincerity of my desire to maintain a position of neutrality between the party with which he is connected, and that of the Government. And his testimony will, I think, be regarded as irresistible when your Grace remembers the position which he has occupied as leader of the Opposition in the Legislative Council, and the character and result of the communications which have passed between us.

6. During the progress of the elections some violent speeches have been delivered, but these speeches have been exceptional. As a general rule, the tone of both the addresses and speeches, although very determined, has been moderate, and, when this rule has been violated, the offender has, I think, lost rather than gained thereby.

7. As regards the probable result of the general election, I may say that I am myself convinced, as I have always believed, that there will be fewer members of the Opposition in the new Legislative Assembly than there were in the last. Whether

* Not printed.

† Not printed.

‡ The documents marked A, B, and C are "not herewith."

the ministerial party in the new House will be as devoted to the existing Government as their supporters in the last House were may be doubted. I am inclined to believe that this will not be the case.

But, with very few exceptions, all who may be returned as ministerial members will be directly pledged to their constituents to compel the Legislative Council to accept the "Darling grant" in the Appropriation Bill.

8. But, while the ministerial majority in the Legislative Assembly will, I believe, be very large, the Opposition minorities at the polls will be also large, and especially so when compared with the numbers of Opposition candidates returned. And I rejoice in the belief that the Opposition has gained strength in the country, because, if this be the case, I shall be the more strongly supported in refusing to accept any illegal or unconstitutional advice if it should be tendered to me (which I doubt) by the majority. Your Grace will not, however, understand that my rejection of any such advice, if tendered to me, would be dependent on the prospect of support here.

It would be unconditional and immutable.

9. But I fear that the Legislative Council may rely too much on the largeness of the minorities in their favour. If they should look to these minorities as being susceptible of being matured by tact, patience, and statesmanship into majorities, they would, I believe, gain their object, and at no distant time; and they would, I believe, also lay the foundation for a great improvement in the administration for the future of public affairs. But if they should, as I apprehend may be the case, adduce the minorities which support them as a counterpoise to the majorities which support their opponents; and if they should continue to refuse supplies to the Crown, as submitted to them in the Appropriation Bill, by an overpowering majority of the Legislative Assembly fresh from the people and elated by their victories at the polls, the minorities will not grow into majorities, but the existence of the Legislative Council will be at stake.

10. If the Legislative Council should persevere (there is no doubt that they are legally empowered to do so) in continuously refusing supplies because a grant to which they object is included in the Appropriation Bill by the Legislative Assembly, who are unquestionably entitled by law to include all grants in a general Bill of this character, it is clear that the Legislative Assembly will not hereafter refuse supplies unless and until the Legislative Council is reformed or abolished? There is no law to prevent it. Your Grace will, no doubt, be of opinion that this would be a revolutionary movement on the part of the Legislative Assembly. I certainly entertain that opinion myself; but the refusal of supplies is a very strong measure, and if it should be persistently persevered in by the Upper House for the purpose of reducing the Lower House to terms, the Legislative Assembly may not impossibly adopt the same means (and they can use these means with greater effect than the Legislative Council) for attacking the Constitution or even the existence of the Upper House. And I am not prepared to assert that these tactics might not hereafter find favour with the majorities at the polls, if these majorities are persistently defied by the Legislative Council.

11. There would be no danger of any such proceeding, or of any other revolutionary or quasi-revolutionary movement, if the Legislative Council were guided by a consideration of their prospects of obtaining adequate support in the Legislative Assembly or at the polls.

12. But so far as I am able to understand the principles which regulate the conduct of the majority of the Upper House, these principles are, observance of the letter of the law which regulates their powers, and the exercise of those powers to the extreme limit allowed by the law whenever they think proper, without reference to results, the responsibility of which is cast by them on others, and especially on the Governor.

13. Nor is the case very different with the Lower House, although they (the Legislative Assembly) do not invoke the assistance or support of the Governor in the exercise of their extreme rights. They simply defy opposition from any quarter.

14. But the Legislative Assembly has some justification, in one sense of the word, in assuming this position. For, of the various authorities among which the supreme power is distributed, the Legislative Assembly is undoubtedly the strongest.

15. But the Legislative Council occupies a very different position, and although it is independent of, and may occasionally, and for a time, resist the Legislative Assembly with success, and thus afford time and opportunity for the action and

influence of matured and deliberate public opinion (of which, however, the majorities at the polls are constitutionally the ultimate exponents), it is, I believe, a great mistake to believe that the Legislative Council can successfully resist a Legislative Assembly, fresh from their constituencies, in passing a measure, however objectionable in itself, in favour of which those constituencies have recently expressed a decided opinion, and the adhesion of the Governor under such circumstances to the Legislative Council would only implicate him in their disasters and defeat; unless indeed he (the Governor) should be acting under instructions from the Secretary of State, in which case the contest would be with the Imperial authorities supported by the Upper House.

16. Your Grace may probably be of opinion that the obvious, or at least the most feasible, mode of solving existing difficulties would have been the embodiment by the Legislative Assembly of the Darling grant in a separate Bill, with an assurance (the Legislative Assembly would not relinquish the grant to which they regard themselves as pledged to Sir Charles Darling) that the Legislative Council would pass it under protest.

17. Now I have always felt myself that if I were a member of the Legislative Council, and deemed it essential to the public interests that a grant, very objectionable in itself, should be passed (and the majority of the Legislative Council could not consent or be asked to acquiesce, in the Darling grant on any other grounds), I should prefer that this objectionable grant should be embodied in the Appropriation Bill to its being sent up in a separate Bill for separate examination and discussion.

18. But I certainly am of opinion, and have always held and expressed the opinion, that the Legislative Assembly might, without loss of dignity or peril to its privileges, have adopted the latter mode of proceeding, and I have repeatedly, and most earnestly, urged on my Advisers the expediency of this proceeding, and at one time (very early in the contest) I am not sure that a majority of the Legislative Assembly might not have been induced to adopt this course, if the Legislative Council would have then given privately but distinctly an assurance that the separate Bill would be passed. But at that time the Legislative Council would give no such assurance, nor do I believe that they would have passed a separate Bill. Again, later in the contest, it might perhaps (I doubt it myself) have been possible to obtain the requisite assurance, as regards the success of a separate Bill, from a sufficient number of members of the Legislative Council. But the majority of the Legislative Assembly had then committed themselves too far. And, as your Grace is aware, the most anxious and full inquiries (these inquiries were not limited to members of the Government) failed to satisfy me, or even to afford me a reasonable expectation, that a majority could be obtained (even with a change of Government) in the Lower House for a separate Bill.

19. I have only now to add that, as my object in recommending a "separate Bill" to my Advisers was to induce the Legislative Assembly to concede something, not to fortify the Legislative Council in refusing to concede anything. My opinions on this subject, although well known, have not been placed officially and publicly on record.

20. My own opinion, then, is that before legislative harmony can be restored here, the decision of the new Legislative Assembly, as regards the Darling grant, and the form (which will be the Appropriation Bill) in which that grant is sent up to the Upper House, must be concurred in by them.

And I am of opinion that the more speedily this concurrence is given, under protest, if it be thought advisable, the greater will be the power and influence retained for the future by the Legislative Council.

21. I may add in this confidential Despatch that it is my belief that, if the Darling grant question should be speedily settled, the present Government would not long survive the settlement of it.

22. On the other hand, I believe that if the Legislative Council should not give way to a decided expression of the decided will of the Legislative Assembly on the Darling grant, and on its inclusion in the Appropriation Bill, the continuance of the controversy between the two Houses will invest with immensely increased power the advocates of extreme democratic opinions, and result ere long in a revolutionary condition of affairs.

I have, &c.,

(Signed) J. H. T. MANNERS SUTTON.

His Grace the Duke of Buckingham and Chandos,

&c.,

&c.,

&c.

GOVERNOR THE HON. SIR J. H. T. MANNERS SUTTON, K.C.B., to the DUKE
OF BUCKINGHAM AND CHANDOS.

(Received June 15, 1868.)

MY LORD DUKE,

Melbourne, April 25, 1868.

As usual I have the honour to transmit to your Grace, herein enclosed, summaries of the "Argus" and "Age" newspapers for the current month.*

I am not in the habit of attaching to newspaper articles here the importance with which they would be rightly invested if those newspapers were not the organs of the two extreme parties.

2. But this is the position occupied by the "Argus" and the "Age;" and unhappily it cannot be denied that the other newspapers (and they are numerous) derive their inspiration from one or other of these leaders of the Press. Now if I had taken part with those who adopt, rather than inspire, the opinions promulgated by the "Argus," I should not probably have been subjected to more severe criticism in the columns of its opponent, the "Age," than that to which I have been exposed because I am not a follower of the "Age." And on the other hand, if I had adopted the views of the "Age" the "Argus" would not, probably, have resented that course more bitterly than they do resent my refusal blindly to enlist myself as a member of their party.

3. And as the performance of my duties as the representative of the Crown is inconsistent with my identification with either political party, I must expect that the organs of both should denounce me.

4. Your Grace will not misunderstand me as feeling personally aggrieved by these denunciations, but I should be sorry if your Grace were led to attach credence to the premises from which my critics have deduced the inference that I have been supine, and that I shrink from the responsibility of taking a decided course. As regards the first charge, my official Despatch of this day's date will, I think, be a sufficient defence. As regards the second, my answer is, that hitherto I have been unable to arrive at the conclusion, or even at the belief, that I could by any course other than that which I have pursued remove or mitigate existing embarrassments.

5. The simple truth is, that the party having the majority is angry because I will not aid them in crushing the minority. And the party in the minority is incensed because I will not regard them as a majority.

6. Some of the minority still believe, and the "Argus" still implies, although it does not venture to assert, that, with my assistance, they might have become a majority if, at the commencement of this contest, I had dismissed their opponents from office, and given to them the dissolution which was inevitable. And they are aggrieved by my having refused to adopt this course.

6. But without discussing the question whether I could at that stage of the controversy have taken this step if I had entertained the hope that it would have been successful, it would obviously have been most improper (I might use a stronger word) if I had taken it with a certainty of failure. And I was certain it would fail. Subsequent events have, if possible, fortified this conviction; and, so far as I am concerned, I entertain no doubt whatever that if I had then yielded to the representations of the minority they would still after, and notwithstanding the dissolution, have continued to be a minority; and that the representative of the Crown would have been regarded by the majority as the leader of their defeated opponents; and such a condition of affairs would not have rendered existing embarrassments, great as they are, less complicated.

I have, &c.

(Signed) J. H. T. MANNERS SUTTON.

His Grace the Duke of Buckingham and Chandos,
&c. &c. &c.

GOVERNOR SIR J. H. T. MANNERS SUTTON, K.C.B., to the DUKE OF BUCKINGHAM AND CHANDOS.

(Received October 7, 1868.)

MY LORD DUKE,

Melbourne, August 15, 1868.

I HAVE the honour to forward as usual to your Grace copies of the "Argus" (with a summary for the past month) and of the "Age" newspapers of this day's date.* To the information just placed before your Grace, with respect to the course of events since the departure of the last mail, and the present condition of affairs here, I have but little to add.

2. Your Grace will, I think, recognise, in the result of the elections consequent on the acceptance of office by Mr. McCulloch and his colleagues, all of whom have been returned, a proof that I have not overrated the present numerical superiority of their supporters in the constituencies; and that I have had good reasons for declining to take, voluntarily, any step which would have identified the Governor with their opponents.

3. At the same time I must request your Grace to bear in mind that I have announced, in terms which no one has sought to misconstrue or to explain away, that the adherence by the Governor to his instructions is not dependent on the will of a majority; but that it is essential to the connection between the Colony and the mother country, and that I have maintained this principle.

4. The Darling grant controversy is absolutely and conclusively at an end. But the political differences and party animosities which aggravated and intensified that controversy have not been extinguished. The last "Deadlock," however, was allowed full play (which was not the case in 1865). And when the Supply Bill, last month, reopened the treasury, undisputed claims on the Government for more than 1,200,000*l.* were awaiting satisfaction.

5. This condition of affairs had of course produced general embarrassment, and, in very numerous instances, actual want. And I do not believe that any political party here will, hereafter, readily incur the odium which would attach to the promoters of a deadlock.

6. The present session will, I think, be short, although stormy. The necessary supplies will be granted; and the financial arrangements for the current year will be sanctioned. But all other business, including the steps necessary to provide for equalisation of the revenue and expenditure hereafter, will be postponed until next session, which will probably commence in October or November.

7. Then will re-commence the contest for power between the two contending political parties, and as the alternative presented by the Government will be retrenchment or additional taxation, I retain the belief, notwithstanding the result of the recent elections, that they may be displaced by the opposition. But this is a question to be decided by the local Legislature; and, although I entertain little, if any, doubt that questions of constitutional reform will be raised in the course of these discussions, I see no reason to believe that any complications requiring the intervention of the Secretary of State will arise.

I have, &c.

(Signed) J. H. T. MANNERS SUTTON.

His Grace the Duke of Buckingham and Chandos,

&c.

&c.

&c.

* Not printed.

APPENDIX II.

No. 1.

The EARL OF BELMORE to the DUKE OF BUCKINGHAM AND CHANDOS.

(Received August 10, 1868.)

MY LORD DUKE,

Government House, Sydney, June 17, 1868.

WITH reference to the latter part of the 9th paragraph of my Despatch of date April 22,* it occurs to me that I have not worded it in such a manner as to convey to your Grace what I intended to express.

2. I think it is possible that you may have understood me to say that it is the custom of ministers on their own responsibility to pay salaries in anticipation either of the votes of Parliament or of the Governor's warrant.

3. That was not my meaning. But it has been since the latter end of the session of 1858 a matter of constant occurrence for the minister of a Department in which the amount appropriated for any particular service has proved to be insufficient, or in which an item may have been casually omitted, or where some unforeseen emergency has arisen, to submit a Minute to the Executive Council for authority to expend a certain sum in anticipation of a parliamentary appropriation.

4. In the 8th paragraph of the Despatch which I have above adverted to I expressed an opinion as follows :—

“The Statute (*i. e.*, the Constitution Act) is silent on the point as to when the Governor may sign warrants. I think it may be assumed that it is in accordance with the spirit of the Act, and certainly of the institutions of this Colony, that the Governor should only authorise such payments as have received the sanction of Parliament by the passing of an Appropriation Act.”

5. Possibly I may have gone too far in considering that the actual passing of the Appropriation Act is necessary in a constitutional point of view before the Governor is at liberty to sign the warrants, and that it is sufficient that the Legislative Assembly should have passed a vote of credit for a specific period and for a specific amount.

6. But further consideration only strengthens my opinion that I should have been clearly acting *ultra vires* in a constitutional point of view had I even in accordance with the advice of my Responsible Ministers authorised by warrant the payments necessary to meet the regular requirements of the public service, supposing such advice had been offered to me in Council at the end of the month of March ultimo, that month's expense not having been covered by the vote of credit passed in January. As I informed your Grace in the Despatch in question, no warrants were then in fact submitted for my signature.

7. It seems to me that the practice of giving Executive sanction in anticipation of parliamentary appropriation to certain isolated items of expenditure only differs from what I have stated above in degree and not in principle, and I have entertained considerable doubts as to whether the Governor of this Colony might not lay himself open to the censure of Her Majesty's Government should this course be pursued with regard to any matter which might become the subject of contest afterwards in the Legislative Assembly. I have therefore endeavoured to ascertain from the Colonial Treasurer the origin and warrant for this practice, and also some further particulars respecting it, and he has furnished me with a Minute by himself and also with one by the Treasury Accountant bearing on the subject, which I enclose. I also enclose a parliamentary paper† entitled “An improved System of conducting the business of the Treasury,” at page 37 of which, under head section 32, will be found an opinion of the Attorney-General on which was founded the present mode of proceeding alluded to in Enclosure No. 2.

* Not printed.

† Not printed.

8. That mode of proceeding seems to me to hold every one safe except the Governor ; under it it is virtually impossible for him to tell whether or not the moneys expended or to be expended under the authority of his warrant are legally available, except he happens to know that they are not in consequence of Parliament having refused to pass the estimates for the month's supply.

9. He will of course take it for granted that nothing is included in the amounts to be covered by his warrant, except what has either been legally appropriated, or payments for which he has previously given his sanction in accordance with the advice of his Responsible Ministers in Council.

10. On my asking the Colonial Treasurer in conversation to show me how the Executive Council possessed a right to give such sanction, he gave it as his view that it was a constitutional right uniformly practised since the date of Responsible Government, and ratified by the repeated acquiescence of Parliament. At the same time he admitted that it was not a right which could be maintained in a court of law.

11. I confess that I am not satisfied that that is a correct view of the case, but on the other hand the alternative left to me seems to be to decline to act on the advice of my constitutional advisers with regard to a practice which no doubt, if not pushed too far, conduces to the convenience of the public service, and which appears to have been as a rule acquiesced in by my two immediate predecessors, one of whom in particular, from his former official connexion with the Imperial Treasury, possessed the best means of forming a correct judgment on the matter.

12. This question appears to me to be so important, and I feel so much difficulty as to my public duty with regard to it, that I take the liberty of requesting your Grace to instruct me as to whether it is competent for me to exercise the discretionary power, legally and constitutionally, which the Governors of this Colony have done during the last ten years, with regard to approving of Executive sanction being given in anticipation of parliamentary appropriation to such payments as I have brought under your notice in paragraph 3.

I have, &c.
(Signed) BELMORE.

His Grace the Duke of Buckingham and Chandos,
&c. &c. &c.

MEMORANDUM as to the practice in reference to Payments by authority of the Governor and Executive Council in anticipation of Parliamentary sanction.

FROM the commencement of Responsible Government in November 1855 to the year 1858, no payments appear to have been made that were not duly provided for by parliamentary appropriations, but it should be remarked that the Appropriation Acts of those years were passed before the commencement of the years to which they respectively applied.

In 1858 the Appropriation Act for the services of that year was not passed until the 26th November. The payments of the greater part of the year prior to that date were made under Votes of Credit and Resolutions of the Legislative Assembly. Towards the close of the session, however, the authority of the Executive Council was obtained for continuing payments until the Appropriation Act was passed.

The year 1858 may therefore be regarded as the period from which commenced the practice under Responsible Government of making payments by virtue of Executive authority in anticipation of parliamentary appropriation.

From that date to the present time it has been the invariable practice of every Government (as shown by the supplementary estimates embodied in the Appropriation Act of each succeeding year) to authorise expenditure in anticipation of parliamentary sanction, whenever the public necessities appeared to require it ; the authority of his Excellency in Council, acting under the advice of his Responsible Ministers, in all cases initiating the expenditure, and the ratification of Parliament in all cases following it.

I would finally remark that all payments, whether under Parliamentary or Executive Council authority, are made under the Governor's warrant.

(Signed) G. EAGAR.

The Treasury, Sydney, June 16, 1868.

MINUTE PAPER.

Subject—Payments under Executive Council authority in anticipation of Parliamentary Appropriation.

The Treasury, New South Wales,
Sydney, June 12, 1868.

A PRELIMINARY warrant for making payments from the Consolidated Revenue Fund is obtained from His Excellency the Governor for a sum of 200,000*l.* monthly (see form of warrant herewith). At the end of the month, when it has been ascertained what the amount of the payments under the preliminary warrant has actually been, a covering warrant is prepared for the same, and forwarded for signature of his Excellency.

Should any payments have been made during the month under the authority of the Executive Council in anticipation of parliamentary appropriation, they are included in the amount for which the covering warrant is procured, so that his Excellency in Council, having first authorised the payment to be made, legalizes the issue of the money from the Treasury by his signature to the covering warrant. Parliamentary sanction to the appropriation being afterwards obtained.

(Signed) JAMES THOMSON,
Accountant.

PRELIMINARY WARRANT FORM.

Payable out of the Consolidated Revenue Fund.

Warrant No. of 186 .

By his Excellency the Right Honourable Somerset Richard Earl of Belmore, a member of Her Majesty's most Honourable Privy Council in Ireland, Governor and Commander-in-Chief of the Colony of New South Wales, and Vice-Admiral of the same.

TREASURER,—

I hereby authorise and direct you to pay or cause to be paid out of the Consolidated Revenue Fund during the month of 186 to the several officers of Government, and to others who may be entitled to receive the same, sums not exceeding in the whole the sum of *l.*, and for so doing this, supported by the acquittances of the several officers and other persons to whom payments have been made therefrom, shall be your sufficient warrant and discharge.

Given under my hand, at Government House, Sydney, New South Wales, this day of , A.D. 1860.

We hereby certify that the Treasurer will require the above sum to enable him to meet the estimated charges on the Consolidated Revenue Fund payable during the month of 186 .

Accountant.

Chief Clerk, Pay Branch.

COVERING WARRANT FORM.

Payable out of the Consolidated Revenue Fund.

Warrant No. of 186 .

By his Excellency the Right Honourable Somerset Richard Earl of Belmore, a member of Her Majesty's most Honourable Privy Council in Ireland, Governor and Commander-in-Chief of the Colony of New South Wales, and the Vice-Admiral of the same.

TREASURER,—

Whereas by my warrant No. of 186 , you were authorised and directed to pay out of the Consolidated Revenue Fund during the month of

186 , to the several officers of the Government, and to others who might be entitled to receive the same, sums not exceeding in the whole the sum of £. ; and whereas the sums actually paid out of the said fund during the said month amount to £. as shown in the accompanying statement certified by the Colonial Treasurer. Now I do hereby finally ratify and approve such payments, and declare the same to have been duly made out of the Consolidated Revenue Fund of New South Wales.

Given under my hand, at Government House, Sydney, New South Wales,
this day of , A.D. 186 .

No. 2.

The DUKE OF BUCKINGHAM AND CHANDOS to the EARL OF BELMORE.

MY LORD,

Downing Street, September 30, 1868.

I HAVE to acknowledge the receipt of your Lordship's Despatch of the 17th of June,* in which you desire instructions as to whether it is competent for you to exercise the discretionary power legally and constitutionally which the Governors of New South Wales have done during the last 10 years with regard to approving of Executive sanction being given in anticipation of Parliament appropriation to such payments as are referred to in the third paragraph of your Despatch.

The payments mentioned in the third paragraph are called for when the amount appropriated for any particular service has proved to be insufficient, or an item may have been casually omitted, or some unforeseen emergency has arisen.

I apprehend that you cannot legally exercise a power of expending moneys without an Appropriation Act, and that you would *primâ facie* be bound to refuse to sign a warrant sanctioning any expenditure of public money which has not been authorised by law.

But as in England, so in New South Wales, cases of supreme emergency may arise, when it may be impossible to adhere to the strict and proper rule without detriment to the public interest, and when the Government at home takes upon itself the responsibility of sanctioning such expenditure. Such are cases where a service voted requires more money than has been voted, or where some wholly unforeseen contingency arises of too urgent a nature to allow of the required expenditure being previously submitted to Parliament for their sanction.

Cases of this kind must be dealt with by the Governor on the responsibility of his ministers, and he must exercise his own judgment upon a careful consideration of all the circumstances brought under his notice by those ministers.

I shall not attempt to give you more definite instructions upon this subject, as each case must stand or fall upon its own merits; but I should be disposed to say generally that such expenditure would be justifiable, first, on the ground of necessity, or, secondly, on the ground that it is sure to be subsequently sanctioned, joined to strong grounds of expediency, even though short of actual necessity.

You are probably aware that in England the Treasury have no power of transferring surpluses on civil or revenue service votes to meet deficiencies occurring on other votes of the same service; but a fund has been established by Parliament called the Civil Contingency Fund, amounting to 120,000£., out of which the Treasury can provide temporarily for any services such as you allude to in the third paragraph of your Despatch. In the following estimates a vote is taken for all such advances, and the sum so voted is repaid to the Civil Contingency Fund.

It appears to me worthy of your careful consideration whether a similar contingency fund might not usefully be established in the Colony, though without further information I am not myself in a position to judge whether such a measure would in the result prove beneficial, or whether if proposed it would be likely to obtain the sanction of the Colonial Legislature.

I have, &c.

(Signed) BUCKINGHAM AND CHANDOS.

Governor the Right Hon. the Earl of Belmore,

&c.

&c.

&c.

No. 3.

The EARL OF BELMORE to EARL GRANVILLE, K.G.

(Received May 17, 1869.)

MY LORD,

Government House, Sydney, March 25, 1869.

I HAVE the honour to draw your Lordship's attention to an Address which I have received from the Legislative Council, communicating copies of resolutions which they have agreed to with regard to the payment of last month's salaries, &c. in anticipation of the passing of a temporary Appropriation Act by their House.

2. I enclose a copy of the Minute of the Executive Council authorising the payments complained of, from which you will perceive that this step (which was quite unpremeditated and taken with no intention of infringing the privileges of the Legislative Council) was advised in consequence of that House having adjourned (unexpectedly) over one of their usual sitting days for one week, thus rendering the passing of the Bill in due form impossible before the payments fell due. The resolution for this adjournment was no doubt moved by the representative of the Government inadvertently.

3. They also have repeated some resolutions passed by them on the 29th June 1860. The circumstances which had occurred at that time will be found explained in Sir William Denison's Despatch, dated 13th July 1860, answered by the Duke of Newcastle's Despatch, dated 26th December 1860.

4. I understand that the unauthorised payments in 1860 had been made upon resolutions only of the Legislative Assembly, whereas in the present instance a Bill had passed the Assembly and been sent by message to the Legislative Council, which House, not having held a sitting after the message was sent up to them, had not, of course, received it before the salaries were paid.

5. I find upon inquiry that salaries only were paid upon my warrant under this authorisation by the Executive Council before the passing of the Act, and nothing was done that was not absolutely necessary. It seems to be supposed that I was advised improperly to sign the warrant. In point of fact that was not the advice given. As I read the Constitution Act, an appropriation is not required to authorise the Governor to sign any warrant, but to authorise the Treasurer to act upon the Governor's warrant, no matter when or how long before signed. If I am wrong in this view, I shall be glad of your Lordship's correction.

6. Further than this, under the system which prevails here a preliminary warrant is issued by the Governor to the Treasurer every month authorising him to pay a sum not exceeding a certain amount out of the Consolidated Revenue Fund. After the moneys are issued it is held necessary to give complete legality to the Treasurer's payments that the Governor should sign a final covering warrant for the exact sum paid, it being impossible to ascertain the amount of payments for the service of any month in due form until late in the month following. The preliminary warrant is all that has been signed in the present instance, the covering warrant not having up to the present moment been submitted to me in due course, although the Appropriation Bill was assented to on the 16th instant.

7. So much for technicalities. I now come to the ground upon which I justify my assenting to the advice of my Responsible Advisers.

8. Finding that I was constantly called on to authorise payments in anticipation of Parliamentary sanction, to be afterwards covered by the amounts being taken in supplementary estimates, and feeling strong doubts as to the propriety of what had become a very ordinary practice, I requested your predecessor to favour me with instructions for my guidance.

9. The points raised by me are recapitulated in the Duke of Buckingham's Despatch dated 30th September 1868,* and his Grace's opinion with regard to them concisely given. Applying those instructions to the present case, which differs from the former in so far as this concerns estimates in chief and one House of Parliament only, those supplementary estimates and both Houses, I consider the present (whoever may have been in fault) to be an "unforeseen contingency" of an urgent nature, and the course which has been pursued to be "justifiable," on the ground that it was presumably "sure to be subsequently sanctioned, joined to strong grounds of expediency, even though short of actual necessity."

I have, &c.

(Signed) BELMORE.

The Right Hon. the Earl Granville, K.G.
&c. &c. &c.

RESOLUTIONS adopted by the Legislative Council of New South Wales on
March 23, 1869.

(1.) That as it appears that certain moneys authorised to be issued out of the Consolidated Fund by the Act which received the Governor's assent on the 16th day of this month had been issued before the Bill was brought up to this House, the Council desires to express its regret that such an irregularity has been permitted, and in view thereof, to repeat its Resolutions as passed on the 29th day of June 1860.

(2.) That the above Resolution, and a copy of the Resolutions of 29th June 1860, be communicated by Address to his Excellency the Governor.

RESOLUTIONS adopted by the Legislative Council of New South Wales on
June 29, 1860.

(1.) That this Council proceeds to the order of the day for the third reading of the Appropriation Bill upon the full understanding that this measure will not, of itself, involve a sanction or indemnity with regard to any portion of the illegal expenditure of public moneys which has avowedly been made by the Government since the passing of the last Appropriation Act.

(2.) That the mere coincidence of any items in the Appropriation Act with an antecedent unauthorised expenditure is not alone, in the opinion of this Council, any ground of immunity to the persons concerned in thus violating the law and the constitution; and that even in cases where great public emergency can be pleaded in excuse, the illegality can only be properly condoned by a distinct act of indemnity, passed in due form by all branches of the Legislature.

(3.) That this Council, in further assertion of its undoubted rights as a branch of the Legislature, resolves that for any person or persons whatsoever employed in the payment of public money to pay or cause to be paid any sum or sums of money for or towards the support of services, whether voted in any session of Parliament or not, before the same be included in an Act of the Legislature duly passed according to law, is derogatory to the privileges of Parliament, and subversive of the constitution.

(4.) That the foregoing Resolutions be embodied in an Address to His Excellency the Governor General.

(5.) That his Excellency the Governor General be requested to forward a copy of the above Resolutions to Her Majesty's Principal Secretary of State for the information of Her Majesty's Government. W. W. Burton, President.

EXECUTIVE COUNCIL MINUTE No. 69/9, advised 25th February 1869, confirmed 3rd March 1869, approved B. 3rd March 1869.

His Excellency the Governor having called the attention of the Council to the circumstance of the Legislative Council having adjourned till Wednesday the 3rd proximo, and the consequent impossibility of an Appropriation Act being passed for legalizing the payment of salaries, &c., falling due on the 1st proximo, the Council advise that when the Legislative Assembly shall have passed a Bill authorising the before-mentioned payments for the month of February, that the Honourable the Colonial Treasurer be authorised to make such payments out of the Consolidated Revenue as if the Bill had been duly passed and assented to.

(Signed) A. C. BUDGE,
Clerk of the Council.

No. 4.

EARL GRANVILLE, K.G., to the EARL OF BELMORE.

MY LORD,

Downing Street, June 16, 1869.

I HAVE to acknowledge the receipt of your Lordship's Despatches of 22nd March,* and of 25th March.†

I have to convey to you the authority for which you apply in the former Despatch to lay before the Parliament of New South Wales my predecessor's Despatch marked Separate of 30th September 1868,‡ on the subject of the issues of public moneys.

* Not printed.

† No. 3 of Appendix II.

‡ No. 2 of Appendix II.

I cannot concur with your Lordship in your construction of the Constitution Act, as stated in your second Despatch.

To require the Governor's warrant as a condition of the expenditure of public money would be merely nugatory if the Governor were at liberty to issue that warrant for expenditure not justified by law. Having reference to the terms of the Duke of Buckingham's Despatch of 30th September, I am not prepared to disapprove the course which you adopted in authorising the payment of certain salaries in anticipation of an Appropriation Act, but at the same time I think that you have somewhat misunderstood the spirit of those instructions, and that the mere fact that a certain number of public officers would be put to a temporary inconvenience cannot be viewed as an unforeseen emergency, as it is a consequence which must in the nature of things result from any delay in passing an Appropriation Act, nor is it such a case of expediency as justifies a violation of law.

But independently of these considerations the question is settled prospectively by the action of the Legislative Council, as I consider it clear that, except in case of absolute and immediate necessity (such, *e.g.*, as the preservation of life), no expenditure of public money should be incurred without sanction of law, unless it may be presumed not only that both branches of the Legislature will hold the expenditure itself unobjectionable, but also that they will approve of that expenditure being made in anticipation of their consent.

Your Lordship will not therefore be at liberty on any future occasion to repeat the step which you have adopted in this case.

Governor the Earl of Belmore,
&c. &c. &c.

I am, &c.
(Signed) GRANVILLE.

No. 5.

The EARL OF BELMORE to the SECRETARY OF STATE FOR THE COLONIES.

(Received December 6, 1869.)

MY LORD,

Government House, Sydney, October 8, 1869.

At the instance of my Responsible Advisers I have the honor to forward a paper in the nature of a protest on their part against the instruction contained in your Lordship's Despatch of the present year* on the subject of the future issue of public money under certain circumstances.

The Right Hon. the Earl Granville, K.G.
&c. &c. &c.

I have, &c.
(Signed) BELMORE.

MINUTE PAPER.—Expenditure of Public Moneys.

I HAVE read the Despatch of the Right Honourable the Secretary of State for the Colonies of the 16th June 1869, referred to me by my colleagues, and now state, as requested by them, my views of the opinion therein expressed as to the expenditure of certain public moneys by this Government, which was the subject of his Excellency the Governor's Despatch to his Lordship of 25th March last, which was called forth by an Address from the Legislative Council, dated the 23rd idem.

To make the case intelligible I detail the circumstances under which the Address referred to was presented to his Excellency the Governor.

The session of Parliament, 1868--9, was opened on the 13th October 1868, and as the Address in reply to the Governor's speech was carried only by the casting vote of the Speaker, the House adjourned for a week, and the late ministry resigned a few days after.

On the 27th October the present ministry took office, when the House again adjourned to the 8th December following. On the 9th December 1868 the estimates for 1869 were for the first time laid before the Assembly.

From causes altogether beyond the control of ministers, the consideration of these estimates was not begun till late in January 1869.

A "vote of credit" was therefore taken for the salaries of January, an interim Appropriation Act for the amount was passed by the Assembly, concurred in by the Council, and assented to by the Governor within that month, and the salaries for January were paid in February following.

Meanwhile the estimates for the year were being proceeded with as expeditiously as possible, but as they could not be completed in February another "vote of credit" was taken for the salaries of that month, and another interim Act passed by the Assembly and sent up to the Council on the 26th February. The Council had, however, through some inadvertence, adjourned from the 24th February to the 3rd March, so that its concurrence could not possibly be obtained for the payment of the February salaries on their due date, that is, the 1st March following.

Under the circumstances, therefore, that the Assembly had given a vote of credit for the salaries and passed an Appropriation Bill for the amount of the vote, the ministers advised, and the Governor consented, that the payment should be made in March in the same manner as if the Bill had met the concurrence of the Council and received the royal assent. Payment of the salaries for February was, under Executive authority, made accordingly.

So soon as the fact of this payment became known notice of motion in the Council was given by the Hon. Mr. Docker, who had held respectively the offices of Postmaster General and Colonial Secretary in the preceding Administration. The motion was as follows, viz. :—

Resolved,

" 1. That this Council views with regret and alarm the disposition evinced by the present Administration to set aside the constitutional functions of this Chamber of the Legislature by advising the issue of warrants for the payment of moneys for the public service before the Bill by which such moneys could alone be legally appropriated had been brought up from the Legislative Assembly.

" 2. That the Constitution Act having expressly provided that all payments to be made out of the consolidated revenue should be appropriated to such specific purposes by an Act of the Legislature of the Colony, this Council, having on a previous occasion, by resolutions adopted and forwarded to the Secretary of State, declared ' That for any person or persons whatsoever employed in the payment of public money ' to pay or cause to be paid any sum or sums of money for or towards the support of ' services, whether voted in any session of Parliament or not, before the same be ' included in an Act of the Legislature, duly passed according to law, is derogatory to ' the privileges of Parliament and subversive of the Constitution,' and further, ' that ' even in cases where great public emergency can be pleaded in excuse, the illegality ' can only be properly condoned by a distinct Act of Indemnity passed in due form by ' all branches of the Legislature,' the repetition of such a violation of the law and the Constitution is an invasion of the rights and privileges of this Council, and tends to weaken its just authority as a co-ordinate branch of the Legislature of the Colony.

" (3.) That this Council having witnessed the disastrous results which followed the adoption of a similar policy in an adjoining Colony is the more imperatively called upon to repeat its protest against the continuance of an illegal course of conduct which, if persisted in, must inevitably terminate in a state of similar disorder.

" (4.) That the foregoing resolutions be embodied in an Address to his Excellency the Governor."

In the debate on this motion a material amendment of the question was proposed by the Hon. Mr. Hay, formerly Speaker of the Legislative Assembly and Secretary for Lands under a preceding Administration, and carried, as follows, viz. :—

(1.) That as it appears that certain moneys authorised to be issued out of the Consolidated Fund by the Act which received the Governor's assent on the 16th day of this month had been issued before the Bill was brought up to this House, the Council desires to express its regret that such an irregularity has been permitted, and in view thereof to repeat its resolutions as passed on the 29th day of June 1860.

(2.) That the above resolution, and a copy of the resolutions of 29th June 1860, be communicated by Address to his Excellency the Governor.

In transmitting these resolutions by Despatch of 25th March 1869, his Excellency the Governor pointed out to the Secretary of State the inadvertence by which the expenditure in this case was prevented from receiving the sanction of the Legislative

Council; and further represented that, under instructions received from the then Secretary of State for the Colonies, in November 1868, he considered himself justified in assenting to such expenditure.

It would appear that Lord Belmore, entertaining doubts of the propriety of anticipating by Executive authority the sanction of Parliament in certain cases of expenditure, had requested instructions upon the following points:—

(1.) In case of expenditure for any service the vote for which was found insufficient.

(2.) In case of any item casually omitted from the estimates.

(3.) In case of any unforeseen emergency.

I make the following extract from his Grace the Duke of Buckingham's Despatch in reply to Lord Belmore.

“As in England so in New South Wales, cases of supreme emergency may arise when it may be impossible to adhere to the strict and proper rule, without detriment to the public interest, and when the Government at home takes upon itself the responsibility of sanctioning such expenditure. Such are cases where a service voted requires more money than has been voted, or where some wholly unforeseen contingency arises of too urgent a nature to allow of the required expenditure being previously submitted to Parliament for their sanction.

“Cases of this kind must be dealt with by the Governor on the responsibility of his ministers, and he must exercise his own judgment upon a careful consideration of all the circumstances brought under his notice by those ministers.

“I shall not attempt to give you more definite instructions upon this subject, as each case must stand or fall upon its own merits, but I should be disposed to say generally that such expenditure would be justifiable first on the grounds of necessity, or secondly on the ground that it is sure to be subsequently sanctioned, joined to strong grounds of expediency, even though short of actual necessity.”

Lord Belmore's justification of himself on the ground of these instructions for having assented to the payments in the case under consideration is thus conveyed in his Despatch to Lord Granville, of 25th March, covering the resolutions of the Council.

“Applying these instructions to the present case, which differs from the former in so far as this concerns estimates in chief and one House of Parliament only—those supplementary estimates and both Houses, I consider the present to be an ‘unforeseen contingency’ of an urgent nature, and the course which has been pursued to be ‘justifiable’ on the ground that it was presumably ‘sure to be subsequently sanctioned, ‘joined to strong grounds of expediency, even though short of actual necessity.’”

Lord Granville in reply (Despatch 16th June 1869) expresses himself as follows:

“Having reference to the terms of the Duke of Buckingham's Despatch of 30th September, I am not prepared to disapprove the course which you adopted in authorising the payment of certain salaries in anticipation of an Appropriation Act; but at the same time I think that you have somewhat misunderstood the spirit of those instructions, and that the mere fact that a certain number of public officers would be put to a temporary inconvenience cannot be viewed as an unforeseen emergency, as it is a consequence which must in the nature of things result from any delay in passing an Appropriation Act; nor is it such a case of expediency as justifies a violation of law.

“But independently of these considerations, the question is settled prospectively by the action of the Legislative Council, as I consider it clear that except in case of absolute and immediate necessity (such, *e.g.*, as the preservation of life) no expenditure of public money should be incurred without sanction of law, unless it may be presumed not only that both branches of the Legislature will hold the expenditure itself unobjectionable, but also that they will approve of that expenditure being made in anticipation of their consent.

“Your Lordship will not therefore be at liberty on any future occasion to repeat the step which you have adopted in this case.”

Lord Granville appears to consider expenditure without parliamentary sanction justifiable on two grounds only—1st, on the ground of necessity, 2nd, on the ground of expediency accompanied by a reasonable presumption that both branches of the Legislature will subsequently approve of the expenditure.

Nevertheless, in the very case under consideration, Lord Granville, even if he does not directly censure, at least expressly prohibits for the future the course taken

by Lord Belmore in having, upon the advice of his ministers under circumstances of great emergency, assented to an expenditure which, although not strictly legal, had been sanctioned by the Legislative Assembly, both by resolution and by Bill, and to which, although the Bill for the purpose had by a mere inadvertence failed to pass the Legislative Council, there could be no doubt whatever that the sanction of that body would have been afterwards obtained.

Without further dwelling, however, upon this apparent discrepancy between principles laid down and the application of those principles by the Secretary of State for the Colonies, I invite the serious attention of my colleagues to the probable effect of these instructions, and to the embarrassments in which the present or any future Government of this Colony might be thereby involved.

We see that in a case where every constitutional step was taken, excepting the final step of obtaining the technical consent of the Upper Chamber, in a case of such "emergency" that delay on the part of the Executive might have been dangerous to the public interest, the Secretary of State's disapproval of the course adopted is scarcely withheld, while his injunction against its repetition is peremptorily imposed.

It then becomes a grave question whether by prohibitory instructions to the Governor of this kind the free action of responsible government in this Colony is not liable to be seriously impeded; whether our position and functions as Responsible Advisers of his Excellency, and ministers responsible to Parliament, are not interfered with by the Secretary of State so as to affect the principle of Colonial independence. Lord Granville seems to have overlooked the fact that the action of the Executive Council in cases like that referred to is not that of the Governor alone, but the joint action of the Governor and his Responsible Advisers. The Governor, no doubt, is responsible to the Imperial Government, but his advisers are responsible to the Parliament of this colony, and to bind the Governor by thus laying down an arbitrary course of procedure may bring him into collision with his ministers on matters affecting local interests alone, and involve such an encroachment upon the privileges of the people and Parliament of this colony as appears quite inconsistent with those broad and enlightened principles of self-government which have been long acknowledged in this colony, and of late so strongly impressed upon the colonies by the Imperial Government.

The magnitude and frequency of unexpected demands upon our public funds may be estimated from the amount of supplementary appropriations made by Parliament annually during a series of years, say ten :—

	£		£
1859 supplementary estimate,	81,623	1864 supplementary estimate,	121,593
1860 do. do.	78,190	1865 do. do.	107,060
1861 do. do.	78,634	1866 do. do.	181,574
1862 do. do.	148,050	1867 do. do.	124,666
1863 do. do.	406,718	1868 do. do.	201,070

The greater part of this large supplemental expenditure has been from time to time dealt with as having originated under circumstances of emergency which were held to justify the exercise of Executive responsibility, and which was afterwards on that ground legalized by the harmonious action of both Chambers.

I cannot refrain from noticing the remark of Lord Granville that "the question" of authorising payments in anticipation of an Appropriation Act "is settled prospectively by the action of the Legislative Council." It seems to me that the tendency of this remark is to place the Council in antagonism with the other branch of the Legislature by the unnecessary revival of questions connected with money Bills and the imposition of taxes and pecuniary burdens upon the people, and as the only "action" taken by the Council in the matter was to pass the resolution of 23rd March last, expressing regret that "irregularity" had occurred in issuing moneys before the Bill which authorised the issues had been brought up to the Council, and to repeat the resolutions passed in June 1860, I cannot see the force or significance of Lord Granville's remark, inasmuch as the "irregularity" complained of was explained by the Governor to have been caused by an inadvertence.

As to the resolutions of June 1860, which were passed in reference to the payment of expenses from January to June of that year under votes of credit only, I quote the opinion expressed by Sir William Denison in transmitting the resolutions :

"With regard to the resolutions themselves, whatever may be the view legally taken of the operation of the Appropriation Act, it is most certain that the principle

affirmed is altogether at variance with the practice which has prevailed in the Colonies, where the Government always assumed the responsibility of expending money for purposes not contemplated when the Estimates for the year were prepared, and has secured a practical indemnity for this by bringing in a supplementary estimate and inserting the amount in the Appropriation Act for the subsequent year."

To which I add the views expressed on the subject as conveyed by the Duke of Newcastle in reply to Sir William Denison :—

"I have received Sir W. Denison's despatch of the 13th July, forwarding, in accordance with the request of the Legislative Council of New South Wales, a series of resolutions adopted by that branch of the Legislature explanatory of the views entertained by them respecting the operation of the Appropriation Act in giving legislative sanction to the payments made by the Government for the public service previous to the passing of such an enactment.

(2.) "Sir W. Denison further explains the difference which had existed between the two branches of the Legislature as to the power of the Legislative Council in dealing with questions of expenditure.

(3.) "I transmit to you for your information copies of correspondence with the Governor of New Zealand on a similar question which arose within that Government.

(4.) "I trust that the moderation and prudence of both branches of the Legislature will prevent the recurrence of any similar difficulty in New South Wales."

From the correspondence referred to in the foregoing I make the following extract :—

(2.) "The question raised by your despatch is one of great importance in itself, and touching on the first principles of English constitutional law. In this country it has been the undisputed practice, as affirmed by a resolution of the House of Commons of the year 1678, that Bills for supply ought not to be changed or altered by the House of Lords." It is quite true that the New Zealand Constitutional Act contains no provision to the same effect. But it appears to me that the analogy of the English Constitution ought to prevail, the reason being the same, when the Upper House is not elected by the people. And in Canada, where the Constitutional Act is similar in this respect to that of New Zealand, the Legislative Assembly has hitherto exercised without dispute the same privilege in regard to money votes as the British House of Commons.

I have, &c.,
(Signed) G. GREY.

I may here point out that the practice in England is to pay moneys upon the resolution of the House of Commons alone, a practice expressly authorised and recognised by the 29th and 30th Vict. cap. 39, sec. 14, viz. :—

"When any sum or sums of money shall have been granted to Her Majesty by a resolution of the House of Commons or by an Act of Parliament to defray expenses for any specified public services, *it shall be lawful* for Her Majesty by Her Royal Order under the Sign Manual, countersigned by the Treasury, to *authorise and require* the Treasury to issue out of the credits to be granted to them on the Exchequer Accounts the sums which may be required from time to time to defray such expenses."

In opposition to the idea of Executive responsibility entertained by Lord Granville, I have recited by way of contrast the opinions on the subject expressed by the Dukes of Newcastle and Buckingham and Chandos, and Sir W. Denison, and Sir G. Grey. I also add an extract from Todd's work on "Parliamentary Government in England," viz. :—

"It is therefore erroneous to suppose that the Government can be absolutely *prevented* from any misapplication of the Parliamentary grants. Even were it possible to do so it would not be politic to restrain the Government from expending money under any circumstances without the previous authority of Parliament. In the words of Mr. Macaulay (Secretary to the Board of Audit), cases must constantly arise in so complicated a system of Government as ours where it becomes the duty of the Executive authorities, in the exercise of their discretionary powers, boldly to set aside the requirements of the Legislature, trusting to the good sense of Parliament, when all the facts of the case shall have been explained, to acquit them of all blame ; and it would be not a public advantage, but a public calamity, if the Government were to be deprived of the means of so exercising their discretionary

“authority.” To the same effect we have a declaration by a Committee of the House of Commons, that in special emergencies expenditure unauthorised by Parliament becomes absolutely essential. In all such cases the Executive must take the responsibility of sanctioning whatever immediate urgency requires ; and it has never been found that Parliament exhibited any reluctance to supply the means of meeting such expenditure.

Under these circumstances I advise my colleagues to join with me in an expression of opinion against the instructions lately issued by the Right Honorable the Secretary for State for the Colonies to His Excellency the Governor as amounting to an interference in matters of local government with our responsibility as Ministers of the Crown, and representatives of the Parliament and the people of this colony, upon a question entirely unconnected with Imperial interests.

The Treasury, New South Wales,
Sydney, 18th September 1869.

(Signed)

SAUL SAMUEL.

The Cabinet recommended that the above paper be transmitted through His Excellency the Governor to the Right Honourable the Secretary of State for the Colonies.

(Signed)

JOHN ROBERTSON. ;

No. 6.

The EARL GRANVILLE, K.G., to the EARL OF BELMORE.

MY LORD,

Downing Street, January 7, 1870.

In my Despatch of the 16th of June* I conveyed to you my opinion that, except in case of absolute and immediate necessity (such, *e.g.*, as the preservation of life), no expenditure of public money should be incurred without sanction of law, unless it could be presumed not only that both branches of the Legislature would hold the expenditure itself unobjectionable, but also that they would approve of that expenditure being made in anticipation of their consent ; and I added in effect an instruction that you would not be at liberty hereafter to issue your warrant for any expenditure not sanctioned by law, except under the conditions above described.

In your Despatch of the 8th of October† you acknowledge the receipt of these instructions, and on the recommendation of your ministers forward to me a paper which has been drawn up by the Colonial Treasurer, and which contains the following passage :

“It then becomes a grave question whether by prohibitory instructions to the Governor of this kind the free action of Responsible Government in this Colony is not liable to be seriously impeded ; whether our position and functions as Responsible Advisers of his Excellency and ministers responsible to Parliament are not interfered with by the Secretary of State so as to affect the principle of Colonial independence. Lord Granville seems to have overlooked the fact that the action of the Executive Council in cases like that referred to is not that of the Governor alone but the joint action of the Governor and his Responsible Advisers. The Governor, no doubt, is responsible to the Imperial Government, but his advisers are responsible to the Parliament of this Colony, and to bind the Governor by thus laying down an arbitrary course of procedure may bring him into collision with his ministers on matters affecting local interests alone, and involves such an encroachment upon the privileges of the people and Parliament of this Colony as appears quite inconsistent with those broad and enlightened principles of self-government which have long been acknowledged in this Colony, and of late so strongly impressed upon the Colonies by the Imperial Government.”

The paper concludes as follows :—

“Under these circumstances, I advise my colleagues to join with me in an expression of opinion against the instructions lately issued by the Right Honorable the Secretary of State for the Colonies to his Excellency the Governor as amounting to an interference in matters of local Government with our responsibility as ministers of the

* No. 4 of Appendix II.

† No. 5 of Appendix II.

Crown and representatives of the Parliament and people of this Colony upon a question entirely unconnected with Imperial interests."

So formal a protest from your ministers against the unconstitutional character of the instructions sent out to you renders it my duty to explain fully to them and to the people of New South Wales the position adopted in this matter by Her Majesty's Government and the considerations by which they are led to it.

I begin by admitting unreservedly that the matter now in hand is one of purely local interest, in respect to which Her Majesty's Government only desire that you should conform your conduct to the wishes of the Colony when constitutionally ascertained. Those wishes are constitutionally ascertained through two channels, the Legislature and the Executive Government.

The general rules by which the conduct of yourself and your ministers are to be regulated are prescribed by the Legislature in all free countries, the most solemn and authoritative organ of the national will.

In the application of those rules you are authorised to accept as the interpreter of public will a Council presumed to possess the confidence of the Legislature and constituting the Executive Government.

In any ordinary case, if the law required you to do one thing and your advisers recommend you to do another, there can be no doubt that the deliberate enactments of the Legislature would be more binding on you than the opinion of a Council deriving its authority from that Legislature, and commissioned not to dispense with the law but to administer it. It would be your plain duty to obey the law, and it would be idle to speak of such obedience as unconstitutional. This your ministry would probably admit, but they would argue that emergencies may confessedly arise in which it may become the duty of a public officer, or indeed of a private citizen, to overstep the law, and that in a case like the present it is for the Executive Council and not for the Governor to determine whether such a case has in fact arisen.

This present case, so far as it is material to this constitutional question, is as follows :

The 53rd section of the Constitution Act provides that, subject to certain charges, the revenue of the Colony "shall be subject to be appropriated to such "specific purposes as by any Act of the Legislature of the Colony shall be prescribed "in that behalf." The "Legislature of the Colony" consists of the Governor, Council, and Assembly, and it follows that to spend money without the authority of the Governor, Council, and Assembly is a breach of the law.

The 55th section of the Constitution Act provides that no part of that revenue "shall be issued or shall be made issuable except in pursuance of warrants under the "hand of the Governor of the Colony directed to the Public Treasurer thereof."

On the Governor, therefore, is imposed the duty of seeing that no breach of the law is committed.

Your ministers are of opinion that if they desire the Governor to sign a warrant authorising the issue of any amount of public money for a purpose confessedly unwarranted by law, he is bound, whatever his opinion may be, to comply with their demand, if only they place before him a statement, even if it appears to him to be unfounded, that an emergency has arisen justifying that expenditure. Any position less unqualified than this would leave some personal discretion to the Governor, and therefore some opening for the collision which Mr. Samuel holds to be unconstitutional.

Her Majesty's Government cannot adopt this conclusion. They admit that the Legislature of New South Wales might, if they had chosen, have deprived the Governor of all right to interfere with the public finance. It might have left the Treasurer without control in his issue of public money, or subjected him in this respect to the check of the Auditor or some other permanent or political officer. Instead of doing this they have made the Governor responsible for the execution, and therefore for every violation of the law. That responsibility is, in the opinion of Her Majesty's Government, a personal one.

The distinction drawn by Mr. Samuel in the passage I have first quoted from his memorandum between the action of the Governor alone and that of the Governor in Council is correct and material, but it is misapplied. He rightly assumes that duties imposed by law on the Governor alone are to be exercised by him, with an amount of personal discretion far greater than belongs to him when acting in Council. But it will be seen by reference to the above cited clause from the Constitution Act that, to reverse Mr. Samuel's language, "the action in cases like that referred to is

“that of the Governor alone, and not the joint action of the Governor and his Responsible Advisers.” It is true that the personal responsibility of the Governor in no way absolves him from attaching great weight to the opinions of his ministers in respect to fact, law, or expediency. He must almost necessarily accept their statements on matters on which he is himself imperfectly informed. But with these qualifications he remains in the last resort the judge of his own duty, and is not at liberty on the advice of his ministers to sign the warrant required by the 55th clause of the Constitution Act, if he is clearly convinced that to do so would be to commit an act contrary not only to the letter but to the spirit of the law.

I am unable therefore to recall the instructions already communicated to you. You are to consider the Legislature as the most authoritative exponent of the will of the Colony. When the Legislature has enacted a law you are not to transgress that law unless on a reasonable conviction that the Legislature would itself approve your doing so. But you are justified in assuming such an approval under the pressure of one of those overwhelming emergencies, dangerous to anticipate or define, which dispense with all rule, or in cases of less moment when there are specific reasons for presuming that the Legislature will sanction a certain specific expenditure, and will desire its sanction to be anticipated.

I trust there is little chance, as apprehended by Mr. Samuel, that adherence to these instructions will bring you into collision with your ministers. I should deeply regret it. But in so painful a contingency it would be better to be in collision with your advisers than with the law.

A difference, however, with your ministers would render it necessary to ascertain the wishes of the Colony. I am myself disposed to think that the obstacle which is imposed on unauthorised expenditure by requiring for it the personal sanction of the Governor, in addition of course to the judgment of the ministry, is a useful obstacle, and it is not improbable that the Colony would pronounce in favour of retaining it. But Her Majesty's Government have no desire to dictate one or the other conclusion. Whatever is the decision of the Colony you will be bound to defer to it.

If the question arises how that decision should be expressed, the first and most satisfactory answer is that it should be embodied in an enactment “repealing or modifying the 55th section of the Constitution Act.”

If, however, the passing of such an Act is likely to raise any collateral issues, or otherwise to be attended with difficulty or delay, I think that in the present case, which is rather constitutional than legal, the desire of the community would be sufficiently expressed by an Address from both branches of the Legislature.

If therefore the Council and Assembly should request you to be hereafter guided by the advice of your ministers in the execution of the duties imposed on you by the 55th section of the Constitution Act, Her Majesty authorises you to accede to that request, and will then hold you relieved from the personal responsibility which now attaches to you.

It only now remains to notice some points of detail.

1. It does not appear to me established (as stated by Mr. Samuel) that a delay on the part of the Executive in making the payments authorised by you would be “dangerous to the public interest,” the inconvenience arising to public officers from the non-payment of their salaries, however much it may be regretted, is not a public danger.

2. The magnitude and rapid increase of the supplemental expenditure, which in 1868 exceeded 200,000*l.*, and of which the greater part is stated by Mr. Samuel to have been unlawful, seems to me not to justify your acquiescence in it, but, on the contrary, to require that the Governor and all other officers who share his responsibility should unite to put a stop to it. The Parliament of this country would certainly not endure that anything like this proportion of the public revenue should be expended without its authority.

3. The fact that the custom of Parliament in this country precludes the House of Peers from altering a money Bill does not warrant the conclusion that the Council in New South should be deprived of the power of rejecting one, a power which undoubtedly belongs to the House of Peers in this country, but which would be taken away in New South Wales if the ministry had the power of spending money indefinitely on a vote of the Assembly.

4. Whatever may be the effect in England of the 14th section of the Act 29 & 30 Vict. c. 39, it is certain that that enactment is not in force in New South Wales.

In conclusion, and with reference to the main subject of this Despatch, Her Majesty desires it to be clearly understood that Her subjects in New South Wales are at liberty in matters affecting exclusively their own interests to judge for themselves what trust may properly be reposed in Her Representative. But they must remember that whatever trust they impose on him it is his duty to execute it punctually, and theirs to support him in doing so.

Governor the Right Hon. the Earl of Belmore,
&c. &c. &c.

I have, &c.
(Signed) GRANVILLE.

No. 7.

The EARL OF BELMORE to EARL GRANVILLE, K.G.

(Received July 15, 1870.)

MY LORD,

Government House, Sydney, May 10, 1870.

I HAVE the honour to forward herewith a copy of an Act of the Legislature of New South Wales, 33 Victoria, No. 18, intituled "An Act to regulate the receipt, custody, and issue of the public moneys and to provide for the audit of the Public Accounts," to which I have assented in the name and on the behalf of Her Majesty.

2. I trust your Lordship will not think it requisite to advise Her Majesty to exercise Her power of disallowance with regard to this Act.

3. It was set down for second reading on the Notice Paper of the Legislative Assembly at the time I received your Despatch of January 7, 1870,* upon the subject of public expenditure, which I take this opportunity of acknowledging.

4. I therefore caused your Despatch to be laid before Parliament as soon as possible, and I forwarded a Minute to my Responsible Advisers (copy enclosed) upon the subject of it, pointing out certain changes of practice which appeared to me to be either necessary or desirable in order to enable me the better to comply with your instructions, and referring to this Bill being before Parliament as a favourable opportunity of dealing with the subject.

5. I will now briefly point out how far the present Act accomplishes the objects which I desired.

6. I pointed out in my Minute the necessity of an audit before payment (which does not at present exist, having been abolished a few years ago), and also of a certificate of legal appropriation on each warrant by the Auditor General for my satisfaction. This is now provided for by the 11th and 12 clauses and the Second Schedule. Of course, if any moneys are to be issued in anticipation of parliamentary sanction they must be covered by a different warrant, and I must arrange some plan with the Treasurer to enable me to satisfy myself that nothing is included in such supplementary warrant but what I have assented to in Council.

7. The 18th clause allows the Governor in Council to authorise the application of unexpended balances under the head of any service for fixed establishments, for the purpose of supplementing any insufficient votes for other services, excepting special votes for public works. Something of the sort was intended to be provided for by the Bill as introduced before my Minute was written. The clause, however, has been modified in Committee, and the method of informing Parliament of such appropriation by the Governor in Council has been defined.

8. So much for my Minute. I may further point out that the 22nd clause provides that the Treasurer shall furnish the Auditor General with annual accounts, and these will be in such form as will enable Parliament to see the heads of appropriation under which payments are made.

9. The 24th clause provides that the Auditor-General shall hold during good behaviour and not as now during pleasure, whilst the 36th clause provides that he shall audit and report on the Treasurer's annual statement, and the 38th that his statement and report shall be laid before the Legislative Assembly within a limited time.

10. The question of relieving the Governor of personal responsibility in regard to public expenditure on the one hand, or of providing on the other hand either a contingency fund or of adopting the Victorian system, has not as yet been dealt with, but

as the Bill cannot be brought into operation until January next on account of the extensive changes in keeping the books of the Treasury and Audit Departments which it will entail, those matters can be, if thought desirable, considered in the next session of Parliament, which is intended to be held in the latter half of this year.

11. Meanwhile, in the absence of the new form of certificates, I must rely upon the Treasurer that the warrants submitted to me cover nothing that is not authorised by law, or that I have not assented to in Council under the discretionary power which you have instructed me I may exercise in certain cases.

The Right Hon. Earl Granville, K.G.
&c. &c. &c.

I have, &c.
(Signed) BELMORE.

1870.—LEGISLATIVE ASSEMBLY, NEW SOUTH WALES.

Expenditure of Public Moneys (Minute of his Excellency the Governor upon).

Ordered by the Legislative Assembly to be printed, April 8, 1870.

MINUTE for the consideration of my Responsible Advisers.

By the last mail a Despatch has arrived from Earl Granville, dated 7th January 1870. It has reference to perhaps the most important question, in a constitutional point of view, which it has been my duty to deal with since I have administered this Government, viz., the issue of public moneys in anticipation of the sanction of the Legislature. I have therefore caused it to be laid before Parliament without delay, together with my Despatch of the 8th October 1869, to the enclosure of which—a Minute by the Honorable the Colonial Treasurer—it is a reply. I now wish to draw the particular attention of ministers to certain points which arise out of it; and the present moment seems, independently of other urgent considerations, a particularly favourable one for doing so, from the fact that a Bill to regulate the audit of accounts and issue of public moneys is now before the Legislative Assembly.

I will begin by saying that this question was one of the first which engaged my attention after my arrival in the Colony; I am inclined to think that it was called to it before I was even sworn in, the estimates for 1868 not having then been passed. It has since formed the subject of a voluminous correspondence, at first unofficial, and afterwards partly unofficial, partly confidential, and partly official, with the Secretary of State for the time being, as well as of communications with different ministers; in short, it has been a subject of frequently recurring difficulty, and perhaps I may say of anxiety, to me.

With regard to the introductory paragraphs of Lord Granville's recent Despatch, I need only remark with reference to the act on the part of the Executive Council and myself which gave rise to his Lordship's Despatch of the 16th June, that at the time I sanctioned the expenditure therein referred to I had no doubt in my mind that the general conditions now laid down by Lord Granville as justifying a breach of the law (and which are substantially the same, one point only excepted, as those contained in the Duke of Buckingham's separate Despatch of the 30th September, upon which I based my justification in my Despatch of 25th March 1869), were fulfilled. I never attempted in my Despatch of the 25th March to claim absolute necessity as a justification; I urged only strong grounds of expediency joined to a presumption that the Legislature would be sure to subsequently sanction the course pursued. The question of the Legislative Council's objecting to the anticipation of its sanction under the peculiar accidental circumstances of the case (the point of difference alluded to above) never occurred to me, nor was it raised in the Duke of Buckingham's Despatch. The event unfortunately proved that the views taken by that House of those circumstances were not in accordance with those held by me. Had I anticipated that such would be the case it is hardly necessary to say that I should probably not have sanctioned the payments which were then about to become due being made until properly provided for.

The next division of Lord Granville's recent Despatch shows what is, in the opinion of Her Majesty's Government, the legal position of the Governor of New

Earl Granville
to Earl of
Belmore,
Jan. 7, 1870.

A Bill to regulate
the receipt,
custody, and
issue of the
public moneys,
and to provide
for the audit of
the public
accounts.
Mr. Cowper,
March 16, 1870.

Sept. 30, 1869.

South Wales with regard to the public finances, and what are his responsibilities. After referring to the 53rd and 55th sections of the Constitution Act, Lord Granville says, "On the Governor therefore is imposed the duty of seeing that no breach of the law is committed."

In other words, the Constitution Act imposes upon the Governor, who himself constitutes a branch of the Legislature, and who is an officer holding strictly during Her Majesty's pleasure, a duty which in England is performed by the Comptroller and Auditor General, who is independent of the ministry of the day, and an officer who holds during good behaviour.

The performance of this duty, it appears to me, is one imposed on the Governor of New South Wales by statute. It is not incidental to his position as Her Majesty's Representative, and it is one which, if I am rightly informed—and I think my authority is good—places him in a situation from which the Governors of the neighbouring Colonies of Victoria and Queensland are by their laws relieved.

Let us now consider what means the Legislature has provided to enable the Governor effectually to perform the duty of Comptroller of the Exchequer which it has cast upon him, when the Treasury warrants are placed before him for signature. I can only answer—none; at least as far as payments subject to annual appropriation are concerned.

Once a month the Treasury warrants (termed "preliminary warrants") are submitted to the Governor. There is a certificate attached to them, signed by two officers of the department, to the effect that the Treasurer will require an amount not exceeding a sum named to meet certain demands of the public service for the current month. After the money has been spent "final warrants" for the exact expenditure are submitted to and signed by the Governor. There is no certificate on the face of the documents relating to payments out of the Consolidated Revenue not specially provided for by Act of Parliament that the money required is legally available.

Now it is perfectly clear that the Governor cannot constitute himself into an Auditor before payment. That is a duty which can only be properly performed by the Department of the Auditor General. If the Governor is effectually to perform the duty, which it now appears was cast upon him by the Constitution Act, but which I can hardly think was recognised to its full extent of personal responsibility as so cast upon them by either of my immediate predecessors or their ministers, I assert in the strongest terms that an audit before payment, together with a certificate from the Auditor General that the money required is legally available, or if not all so available, then showing what the items in excess are, and that they have been sanctioned by the Governor in Council, are absolutely indispensable.

I lay the greater stress upon the necessity of showing the items in excess, because I have lately been more particular in calling for explanations than formerly, and I have found in a few instances (though I am bound to say that I do not think the practice is now carried on here to the lengths it has been elsewhere), that the sanction asked was not for the issue of the money, but an *ex post facto* sanction for past expenditure on the public account, to enable the department in which it had occurred to close its accounts with the Audit Office. I have declined of late to be a party to it, and have left the items to be dealt with in supplementary estimates. These irregular payments must, however, I presume, have been made at some former time under sanction of the Governor's warrant.

It will be observed that I do not for a moment propose that the Auditor General should be Comptroller.

I now come to that part of the Despatch which lays down the duty of the Governor in the event of a collision between the Governor and his ministers; an event which I, equally with Lord Granville, trust may never occur; but to the possibility of which, unless a very material change is made in the system heretofore regulating excess expenditure, it is useless to shut my eyes.

We may start with the proposition that Lord Granville's instructions must be obeyed at all risks. Lord Granville only admits of three classes of exceptions to the literal observance of the law. The first of these are cases of overwhelming emergency; they seldom occur, and when they do, present little difficulty. Perhaps the anticipations connected with railway expenditure, upon which depend questions not only of public convenience and of revenue, but also indirectly of safety to life and limb, are the only ones which have strictly come under this head since I have been Governor.

I say this because Lord Granville distinctly lays it down that the nonpayment of salaries, which stands on just the same footing as the nonpayment of any other ordinary class of public debts, is not a public inconvenience; still less then can such nonpayment constitute causes of overwhelming emergency. It ought, therefore, to be clearly understood that the Governor cannot now sanction on these grounds the payment of any account before parliamentary sanction is obtained to it, the nonpayment of which would merely cause personal inconvenience to the creditor. And it ought to be further generally understood that in my opinion a contract made with the Government in anticipation of parliamentary sanction is strictly a conditional contract, whether it be for work to be done, or goods to be supplied, or service to be rendered.

The second class of exceptions, consisting of cases where the subsequent sanction of Parliament to expenditure is reasonably certain, when joined to strong grounds of expediency, if it stood by itself, as it did in the Duke of Buckingham's Despatch, would not present much difficulty either.

But coupled with the third class, consisting of cases where a reasonable presumption of the subsequent sanction of Parliament, not only to the expenditure itself, but also to the anticipation of its assent to that expenditure, is necessary, it presents to my mind a great deal of difficulty. The element of chance enters largely into the matter. A change of ministry, a dissolution of Parliament followed by a general election, or many other obvious contingencies, occurring between the date of the expenditure and the consideration of the supplementary estimates might make all the difference in the world.

With regard to the present system regulating excess expenditure (or what was until recently the system), it seems to me to have been a very common practice (and I say it subject to the correction of ministers) whenever a vote was exhausted for the fixed establishments, and sometimes when some immediate increase of staff or otherwise in an establishment has been considered desirable, for the permanent officer in charge to send a requisition to the minister whose immediate subordinate he might be for an anticipation of parliamentary sanction to certain expenditure in excess of appropriation, and for the minister to recommend accordingly, if he or the Cabinet, as the case might be, approved of it, the amount being placed on supplementary estimates for the subsequent sanction of Parliament, and being generally sanctioned in Council very much as a matter of course, or after some explanation, and an assurance by the minister to the Governor that the money was required. This system of anticipation has been carried even further than I have here indicated.

I have seen this question argued as if it merely related to the payment of salaries. Were that so it could be very easily settled. The public servants need only simply be told that they must wait till the Appropriation Act was passed—and under the system which has been now established of granting temporary supply, when the consideration of the estimates has been delayed, they need never wait long. But a glance at the supplementary estimates will show that this question affects every branch of the public service.

I may here say, that I think that a suspension of the public works, such as has now become necessary to a certain extent, pending the passing of the estimates for 1870, is not altogether merely an inconvenience; it may involve ultimate additional expense, because works left in an unfinished state are extremely likely to deteriorate.

I think that I have now shown that the receipt of these instructions renders one of two things necessary; either that the Governor should be relieved of personal responsibility by one of the methods indicated by Lord Granville, or that a very decided change of part of the present system, with regard to issues of public money, must be adopted. Otherwise there is too much reason to fear that the public interest will suffer.

The first alternative, the one which would be undoubtedly the most agreeable to myself, is entirely one for the wisdom of Parliament to decide whether it will accept it or not. If it does accept it, I think it might with advantage adopt a plan, which perhaps after all would prove the most efficacious check upon undue expenditure, viz., to provide by law that copies of all Minutes of the Governor in Council sanctioning excess expenditure should be laid before it with as little delay as possible; and further, that the Auditor General should in like manner make a return of all such expenditure as might come under his official notice.

There is substantially a precedent for this principle in the provisions of the (Imperial) Railway Securities Act, 1866 (an Act with which I was personally

concerned, and) which was passed to cure a very great evil in connection with railway finance—the borrowing by railway boards in excess of their parliamentary powers without due publicity.

But assuming the other alternative, then I would suggest that the following changes, or some of them, are almost essential:—

- 1st. Certificates by the Auditor General as before indicated to be provided for by law.
- 2nd. Power similar to that granted by the English Appropriation Acts with respect to army and navy services, to transfer temporarily, with the consent of the Treasury, unexpended balances under one head of service, to supplement deficient votes in the same department, to be here given to the public service generally; the same to be exercised with the consent of the Governor in Council on the responsibility of ministers, to be afterwards accounted for in the same manner as unsanctioned expenditure.
- 3rd. The adoption of a plan similar to that shown in the following extract from the estimates of expenditure of the Colony of Victoria for the year 1870, instead of granting the present small amount of 3,000*l.* for unforeseen expenses:—

“ Unforeseen Expenditure.

- “ 1. To meet unforeseen and accidental expenditure for the service generally, and to meet claims against the votes of previous years, for which the books have been closed, 10,000*l.*”

“ Advance to Treasurer.

- “ 2. To enable the Treasurer to make advances to public officers and others, and on account of other Governments, the whole amount to be adjusted not later than 31st December 1871, or earlier, at the instance of the Legislative Assembly, 60,000*l.*”
- 4th. A civil contingency fund to be created of the same nature as that provided for by law in England and referred to in the Duke of Buckingham's Despatch of September the 30th.

With regard to the points of detail noticed at the end of Lord Granville's Despatch, as they are in answer to Mr. Samuel's arguments and not directly to mine, I need not dwell upon them.

With regard to the second one, I need only say that when I first came here the subject was quite new to me. The only authority I could at first rely on was an instruction which it appears from a Victorian Blue Book Mr. Cardwell gave to Sir Charles Darling, with respect to this or a kindred subject, in all things to conform himself to the law; an instruction which seemed to me to be at variance with the almost invariable practice in New South Wales, as far as I could ascertain it, with regard to these excess issues. I have since taken every pains to ascertain what was my duty in this respect, and latterly I have narrowly questioned every Minute of the kind under consideration about which I may have entertained doubts, and in several instances ministers have withdrawn them.

The third point I fully concede; and with regard to the fourth, I think that as the Act 29 & 30 Victoria, c. 39, sec. 4, has no application here, any arguments drawn from it at variance with the law of New South Wales are irrelevant.

In conclusion, I wish to assure my responsible advisers that whilst I have thought it my duty plainly to express to them my views upon a matter to which I have probably had occasion lately to give as much attention as any person here, and which is one which I consider of first-rate importance, I have tried to avoid saying anything which might be construed into adverse comment upon the action of my ministers past or present, some of whom I know hold strong views upon the question, and who have always avoided any collision with me in regard to it; as I have endeavoured to treat the Despatch itself (in the principles of which I fully concur) as one emanating from my official superior, whose instructions it is my duty to obey and not to criticise.

It may be noted that when the Constitution Act passed the financial system of the Colony differed materially (as I have reason to believe) from what it is at present. The Auditor General then and for some time afterwards possessed a limited power of control over issues which does not now exist, and the Governor had at any rate the

secs. 8 and 9,
provide for the
deposit of certi-
fied half-yearly
accounts with
the registrar of
joint stock com-
panies, &c., to
be open (by sec.
12) to public
inspection.

guarantee of his certificate for the legality of such proposed expenditure as might be covered by parliamentary appropriation. If a subsequent change of practice has had the effect of imposing a more onerous duty upon the Governor than was contemplated possibly by the framers of the Constitution Act, it seems to me to be the duty of the people of this Colony not only (to use Lord Granville's own words) "to support him in doing so," but further to provide him with the most effectual means of executing his duty "punctually."

(Signed) BELMORE.

March 28, 1870.

No. 8.

The EARL OF KIMBERLEY to the EARL OF BELMORE.

MY LORD,

Downing Street, August 1, 1870.

I HAVE the honour to inform you that Her Majesty will not be advised to exercise her power of disallowance with respect to the Act of the Legislature of New South Wales entitled "An Act to regulate the receipt, custody, and issue of the public moneys and to provide for the audit of the Public Accounts," a transcript of which accompanied your Lordship's Despatch of the 10th of May.*

I entirely approve your Lordship's proceedings in this matter, and I learn with satisfaction from your Despatch that the discussion which has taken place is not likely to impair the cordial feelings which ought to exist between you and your ministers.

I have, &c.

Governor the Right Hon. the Earl of Belmore,
&c. &c. &c.

(Signed) KIMBERLEY.

* No. 7 of Appendix II.

CORRESPONDENCE.

- (1.) NUMBERING OF CERTAIN ACTS OF PARLIAMENT.
(2.) EXPENSES OF WITNESSES BEFORE SELECT COMMITTEES
(LEGISLATIVE COUNCIL).

LAI'D ON THE COUNCIL TABLE BY THE HONORABLE THE PRESIDENT, 15TH JULY, 1879, AND
ORDERED BY THE COUNCIL TO BE PRINTED, 12TH AUGUST, 1879.

Parliament Houses,
Melbourne, 23rd June, 1879.

SIR,
I do myself the honor to submit to you copies of correspondence and memoranda on the subjects of—

- (1.) The numbering of certain Acts of the last Session of Parliament, and
(2.) The Expenses of Witnesses.

Having conferred with you during the correspondence, it is unnecessary for me to enlarge upon it.

I have the honor to be,
Sir,

Your most obedient servant,

G. W. RUSDEN,
C.L.C. & C.P.

The Honorable
The President of the Legislative Council.

(1.)

NUMBERING OF CERTAIN ACTS OF PARLIAMENT.

Parliament House,
6th May 1879.

SIR,
I do myself the honor, in accordance with my promise, to enclose a Memorandum on the subject of the numbering of the Acts, to which the Right Honorable the Secretary of State for the Colonies has called attention.

I have, &c.,
(Signed) G. W. RUSDEN,
C.L.C. & C.P.

The Private Secretary.

MEMORANDUM.

In the session ending 6th December, 1878, His Excellency Sir George Bowen, on various occasions, assented to Bills in the name of Her Majesty at the Government Offices.

On the 2nd December he thus assented, in the following order, to three Bills intituled—

630. "*An Act for the Conservation of the Public Health.*"

631. "*An Act to annul to a certain extent the operation and effect of an Order in Council, reserving from sale permanently the Public Reserve known as the Albert Park, and to vest part of the land thereby reserved in the Minister of Public Instruction.*"

632. "*An Act to amend the Police Offences Statute 1865.*"

The XIXth Joint Standing Order directs that every Act "shall be numbered in regular arithmetical series in the order in which the same shall be assented to by the Governor."

I numbered the above-mentioned Acts accordingly.

It is my custom to transmit a memorandum to the Printing Office, in order that the Acts, when issued in the *Government Gazette*, may bear the proper number.

The Governor informed both Houses by Message that he had assented to the three Acts at the Government Offices, and, by accident, the order in which the titles were arranged in the Message did not correspond with the order in which the Bills were signed by him.

I prepared the usual memorandum to acquaint the Government Printer with the numbers of the Acts.

An immediate prorogation was expected on the day (3rd December) on which the Governor's Message about the three Acts was presented to the Houses, and it was delayed only by the final stages of the Appropriation Bill and by amendments in a Land Bill, in which the Governor himself recommended an amendment on the 6th December, which was agreed to by both Houses. The prorogation took place on that day, the 6th December.

On the morning after the prorogation (7th December) I sent to the Government Printer a memorandum, informing him of the numbers to be printed upon the three Acts alluded to, and upon the Appropriation Act and the Land Act Amendment Act.

I received his written acknowledgment of the receipt of that memorandum on the forenoon of the 7th December.

I concluded that the Acts would be correctly numbered.

After the prorogation I was absent in a neighboring colony for some weeks.

On my return it came to my knowledge that the Acts had been issued in the *Government Gazette* with erroneous numbers.

I wrote a memorandum immediately to the Printer, a copy of which is subjoined. (Appendix A.)

I received from him in reply the memorandum subjoined. (Appendix B.)

I wrote in reply the memorandum subjoined. (Appendix C.)

I then thought it my duty to wait upon Sir Bryan O'Loughlen, who is Attorney-General and also Acting Chief Secretary, and I acquainted him with the whole of the facts, which he informed me he would take into consideration.

(Signed) G. W. RUSDEN,
&c., &c., &c.

6th May 1879.

(A.)

MEMO.

I find that, in the numbering of one or two of the Acts of last session, there has been some mistake in the *Government Gazette*.

The numbers, as the Acts were assented to by the Governor, were—

Contagious Diseases, 630.
Albert Park, 631.
Police Offences, 632.

But in the *Gazette* the numbers are given otherwise, viz.—

Police Offences, 630.
Contagious Diseases, 631.
Albert Park, 632.

I sent a memorandum to the Printing Office with the correct numbers, which was acknowledged in the book kept for the purpose.

(Signed) G. W. RUSDEN,
24th February 1879.

(B.)

25th February 1879.

In explanation of the mistake referred to in Mr. Rusden's Memo. of yesterday, I beg to state, that the Acts were numbered according to the order in which they appeared as assented to in the Minutes of Proceedings of the Legislative Council, the Votes and Proceedings of the Legislative Assembly, and the Governor's proclamation in the *Gazette*. (Copy herewith.) They were printed and circulated with the *Gazette* of Friday, 6th December. The Memo. giving the numbers is dated and was received on Saturday, December 7—the day after the publication.

(Signed) GEO. SKINNER.

(C.)

26th February 1879.

The explanation is quite convincing as to the manner in which a mistake has been made, but does not seem to recognize that the mistake must be remedied in the volumes of the Acts and in the *Gazette*, if the Acts used in the courts of law, and cited in legal documents, are to be what they purport to be—*fac similes* of the Acts on parchment assented to by the Governor in the name of the Queen.

The order of the Acts did not appear in the Minutes of the Proceedings of the Council in any other manner than in a Message from the Governor, in which Message, by some accident in the Private Secretary's or some other office, the order of the Governor's assent was departed from in quoting the titles. The Acts themselves in the parchment copies have the correct numbers as sent by me to the Printing Office the morning after the prorogation, the Appropriation Act and the Land Act having been assented to on the day of prorogation.

Noticing that in the Governor's Message the order in which the titles were arranged was different from that in which they were assented to, I thought it right to send the proper numbers of the five Acts which were numbered from 630 to 634, and it was not until yesterday that I became acquainted with the fact that, by non-adoption of the right numbers in the *Gazette*, the three copies (originals) preserved at the Registry, in England, and in the Parliament Houses differ from the print in the *Gazette*, although a Joint Standing Order of both Houses enacts with the force of law that every Act "shall be numbered in regular arithmetical series in the order in which the same shall be assented to by the Governor."

(Signed) G. W. RUSDEN.
C.L.C. & C.P.

P.S.—Both the Private Secretary and the Registrar-General have signed receipts for the Acts arranged and numbered as in the notice sent by me to the Printing Office.—G.W.R.

The Government Printer.

(2.)

EXPENSES OF WITNESSES BEFORE SELECT COMMITTEES
(LEGISLATIVE COUNCIL).

26/77.

Parliament Houses,
Melbourne, 25th October 1877.

SIR,

I think it my duty to bring before you the following circumstances in connection with the subject of paying witnesses summoned to give evidence before Committees of the Legislative Council :—

23 Feb. 1857.

1. In 1857 a Minute was received from the Chief Secretary, intimating that the attendance of such witnesses would be paid for out of a vote for the purpose.

21 Jan. 1859.

2. In 1859 a letter was received from the Chief Secretary, intimating that the Clerk of the Assembly, whose signature was thought requisite for vouchers for payment of witnesses out of the vote for Parliamentary witnesses, declined to comply with the suggestion of the Treasurer, that he should sign accounts for expenses of witnesses before the Council, to be charged against the vote.

Subsequently, to get over the difficulty, the Treasurer, in March, 1859, made the expense of certain witnesses a charge upon the Schedule D to the Constitution Act.

3. At the times above mentioned the liability of the Schedule to meet any such charges had not been made a subject of investigation; but in the year 1861 the whole question was inquired into, and was brought before His Excellency Sir Henry Barkly. The legal opinions then given, and the whole correspondence, are to be found in the volume of the Proceedings of the Legislative Council for 1869. It may safely be affirmed that it was then made clear that the Schedule is not chargeable with any such liability for payment of witnesses.

4. When it was decided during the current session to examine witnesses at the bar of the Council on the Railway Construction Bill, the Chairman of Committees declared that they would be paid, and he spoke to me privately in the House on the subject, informing me that witnesses had been paid in 1874, in which year I myself was absent from the colony. In reply to what he said to me, I answered that I would do all that I might be asked to do, in order to give effect to his declaration, in the same manner as had been resorted to in 1874. I assumed in my own mind that all that I could be asked to do would be to sign vouchers for payment of witnesses out of an appropriate provision for Parliamentary witnesses.

5. It was not until the first voucher was put before me for signature that I found that payment was sought from the Schedule D to the Constitution Act. I saw at once that payment could not properly be made from the Schedule, and that I should make myself liable to be surcharged by the Auditors for the amounts. But having promised Mr. Jenner that I would follow the precedent of 1874 (though ignorant at the time of its real nature), I could not honorably throw impediments in the way.

I therefore accepted the risk of being surcharged* rather than break my word, and signed the vouchers, resolving at the same time to lay the matter before you, when the whole of the expenses of witnesses on the Railway Bill might be paid.

Considerable sums have already been paid, but accounts are still coming in, and I am as yet unable to say what the total may be.

I have already certified to the amount of £40 19s.

6. As the Council has now appointed a Select Committee, with power to call for persons and papers on the Mining on Private Property Bill, I am compelled to lay the matter before you at once, as it is impossible for me to continue to sign vouchers which may subject me to being surcharged to an indefinite extent, and which in any case are not properly chargeable upon the Schedule.

I took the opportunity of mentioning yesterday to Mr. Wallace, who moved for the Select Committee on the Mining on Private Property Bill, and to another member of the Committee (Mr. Balfour), that I should have to lay the matter before you.

The Honorable
The President of the Legislative Council.

I have, &c., &c.,
(Signed) G. W. RUSDEN.

On 1st February 1858, the Clerk of the Council applied to the Chief Secretary for an authority to furnish accounts for the payment of witnesses to the Treasury; and on the 23rd February the following Minute was received :—

“ If the Clerk of the Council will be good enough to forward such accounts to the Clerk
“ of the Assembly they will be paid, if the charges agree with the enclosed scale of
“ allowances to witnesses.

“ 23rd February 1858.”

(Signed) “ J. MOORE.

* NOTE.—By sec. 46 of the Constitution Act, payments from Schedule D are to be accounted for “through the Lords
“ Commissioners of Her Majesty’s Treasury in such manner as Her Majesty shall be graciously pleased to direct.”

Chief Secretary's Office,
Melbourne, 21st January 1859.

SIR,

I have the honor to inform you, in reply to your letter of the 20th ultimo, that, according to the suggestion of the Honorable the Treasurer, the Clerk of the Assembly has been requested to charge the accounts for the expenses of the witnesses summoned by Select Committees of the Council against the vote under his control for the expenses of witnesses summoned by Committees of the Assembly, and that he declines to do so, on the ground that he has no power to charge votes for his department with expenses incurred in connection with another.

Mr. Barker has referred to the reports of the debates on the Estimates for 1858, and he states, that he finds no such understanding as that referred to by the Honorable the Treasurer, neither has he any recollection of such an arrangement.

I have, &c., &c.,
(Signed) J. MOORE.

The Clerk of the Legislative Council.

SIR,

Ballarat, 5/12/77.

Referring to the summons dated 30th October, which you sent me to attend before the Committee of the Legislative Council on Mining on Private Property Bill, I beg to inform you that I attended twice, viz., on 1st and 7th ult. Please forward me cheque for my expenses.

I am, Sir,

Your obedient servant,
(Signed) J. A. CHALK.

G. W. Rusden, Esq.,
Clerk of the Legislative Council.

SIR,

7th December 1877.

In reply to your note of the 5th instant, with regard to your attendance as a witness before a Select Committee of the Legislative Council, I do myself the honor to inform you that, no provision having been made for the purpose, I am unable to meet your views.

I have, &c., &c.,
(Signed) G. W. RUSDEN.

J. A. Chalk, Esq., Ballarat.

[MEMORANDUM from Under Treasurer (24th February, 1879), referring to claim of Mr. Chalk (£13 7s.), for expenses as a witness, forwarded through the Honorable Major Smith to the Treasury, and now transmitted to the Clerk of the Legislative Council. Papers noted and returned with following Minute—]

MEMO.—Mr. Chalk is in error in his statement that, on rendering an account for expenses, he was informed that the Council had no funds, and that he "must apply to the Government." He was informed by letter from me that, "no provision having been made for the purpose," I was unable to meet his views in dealing with the account rendered.

When the Select Committee met, it was known to the Chairman and to the other members, as well as to the Honorable Mr. Cuthbert, the representative of the Government, that there was no provision, and that Mr. Cuthbert had some conversation with the President of the Council about the general subject of payment to witnesses before Select Committees.

Pressure of other affairs appears to have prevented the matter from being considered or dealt with.

The Chairman of the Select Committee (the Honorable J. A. Wallace), mentioned Mr. Chalk's application to me, but I was compelled to inform him of the answer I had given previously to Mr. Chalk; and Mr. Wallace was indeed aware, when the Committee was appointed, that no funds were available.

Under these circumstances, it is perhaps unnecessary to comment upon the items of the account, further than to say, that I believe it would be largely reduced by the scale of payment sanctioned on paying witnesses before Select Committees.

(Signed)

G. W. RUSDEN,
C.L.C. & C.P.
24th Feb., 1879.

The Under Treasurer.

[COMMUNICATION from Under Treasurer (10th March, 1879), forwarding "for signature" to the Clerk of Legislative Council account of J. A. Chalk, £13 7s.—"Witness's Expenses."—]
(Memo. in reply, 13th March, 1879).

Account furnished by Mr. J. A. Chalk.

No fund exists out of which I could certify for payment of this account. When the Select Committee was formed before which Mr. Chalk appeared, the Chairman of the Committee and the President of the Council, and the member representing the Government, were well aware that there was no fund applicable. Mr. Chalk was himself informed in writing of the fact.

I have already at greater length explained the whole of the circumstances in a Minute dated 24th February, 1879.

I will again bring the subject before the President of the Council and the honorable member representing the Government as to future exigencies.

(Signed)

G. W. RUSDEN,
C.L.C. & C.P.
13th March, 1879.

The Under Treasurer.

14th March, 1879,
Parliament Houses, Melbourne.

SIR,

By desire of the Honorable the President of the Legislative Council, I do myself the honor of addressing a communication to you on the subject of the payment of witnesses attending before Committees of the Legislative Council.

At a long period ago payment was made to witnesses out of the vote for "Allowances to Witnesses attending Select Committees"; but for some cause or causes it has not been held that such payment can be made properly to witnesses attending before the Select Committees of the Council, the item itself appearing under Division No. 2, and under the heading "Legislative Assembly."

2. In October, 1877, a Select Committee was appointed by the Legislative Council on a Mining on Private Property Bill.

The President of the Council, the Chairman of the Select Committee, and the Honorable Mr. Cuthbert, who represented the Government, were all acquainted with the fact that there was no fund provided out of which witnesses could be paid, so far as existing arrangements permitted.

More than a dozen witnesses were examined.

One of them made application soon afterwards for payment of certain expenses (estimated by him at a much higher rate than is allowed to similar witnesses before Committees of the Legislative Assembly, and therefore liable to much reduction), and was informed by me by letter on the 7th December, 1877, that, "no provision having been made for the purpose," I was unable to meet his views.

Other witnesses asked verbally about their expenses and were similarly informed.

3. The witness who made written application has now applied at the Treasury for payment, and his application has been referred to me. I have pointed out the state of the case in a Minute to the Under Treasurer; but as it may not be the desire of the Government that inconvenience should be felt in such a matter, with the cognizance of the President of the Council, I now make this communication.

When it was seen that there was no provision for payment of witnesses, and the Committee on the Mining on Private Property Bill was sitting, the President had some conversations with the Honorable Mr. Cuthbert on the subject, and it was understood that it would be considered. Pressure of other subjects seems to have prevented that consideration from being given, so far as the President is aware.

To obviate difficulty in future, he wishes me to make this communication, in order that by an addition to the wording of the vote, or such other modification of it as may seem best, provision may be made in future.

I have, &c.,

(Signed) G. W. RUSDEN,
C.L.C. & C.P.

The Honorable
The Chief Secretary.

14th March, 1879,
Parliament Houses, Melbourne.

SIR,

Copy of preceding
letter enclosed.

Referring to my Memorandum of yesterday's date, and to my previous Memorandum of the 24th ult., I do myself the honor to enclose a copy of a letter which it has been thought desirable to address to the Honorable the Chief Secretary on the subject of payment of witnesses, in order that, if it should seem proper, provision may be made for payment of witnesses in the Estimates.

I may point out in particular, as an addition to my former minutes, that there are about twelve other persons in the same position as that of the applicant whose application was referred by you to me for explanation.

I have, &c.,

(Signed) G. W. RUSDEN,
C.L.C. & C.P.

The Under Treasurer.

No. 1199.

Chief Secretary's Office,
Melbourne, 24th March, 1879.

SIR,

I have the honor to acknowledge the receipt of your letter of the 14th instant, and in reply to inform you that the subject of the payment of witnesses attending Select Committees of the Legislative Council will be duly considered before the Estimates for 1879-80 are framed.

I have, &c.,

The Clerk
Legislative Council.

(Signed) W. H. ODGERS.

1879.
VICTORIA.

RAILWAY LOAN ACTS, 531 AND 608.

LAID UPON THE COUNCIL TABLE BY THE HONORABLE H. CUTHBERT, AND ORDERED BY THE
COUNCIL TO BE PRINTED, 12TH AUGUST 1879.

AN ESTIMATE of the Expenditure which the Board of Land and Works proposes to incur during the Year ending 30th June 1880, under the Loan Acts Nos. 531 and 608.

RAILWAY LOAN ACT 39 VICT. No. 531.

SECOND SCHEDULE, ITEM 1.

	£	s.	d.	£	s.	d.
<i>Act 41 Vict. No. 580.</i>						
For the Construction of the Seven Lines authorized under Act No. 580 ...	250,000	0	0			
<i>Act 42 Vict. No. 603.</i>						
For the Construction of the Goulburn Valley Line, authorized under Act No. 603 (in addition to £150,000 to be expended out of Loan Act 42 Vict. No. 608, Second Schedule, Item 2) ...	77,500	0	0			
<i>Act 42 Vict. No. 604.</i>						
For the Construction of the South Yarra and Oakleigh Line, authorized under Act No. 604 ...	66,000	0	0			
				393,500	0	0

SECOND SCHEDULE, ITEM 2.

For the Construction of Railway Bridges, &c.	1,000	0	0
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RAILWAY LOAN ACT 42 VICT. No. 608.

SECOND SCHEDULE, ITEM 2.

<i>Act 42 Vict. No. 603.</i>						
For the Construction of the Goulburn Valley Line, authorized under Act No. 603 (in addition to £77,500 to be expended out of Loan Act 39 Vict. No. 531, Second Schedule, Item 1)	150,000	0	0

SECOND SCHEDULE, ITEM 3.

Rolling-stock for Railways	180,000	0	0
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NOTE.—These Estimates include all repayments and credits to be made during the year.

SECOND SCHEDULE, ITEM 4.

For Railway Station, at Melbourne	75,000	0	0
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1879.

VICTORIA.

LEASE TRANSFERS.—LAND ACT 1869.

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL.

THE HONORABLE T. F. HAMILTON.—2ND SEPTEMBER, 1879.

LAI'D UPON THE COUNCIL TABLE BY THE HONORABLE H. CUTHBERT, AND ORDERED BY THE COUNCIL TO BE PRINTED, 10TH SEPTEMBER, 1879.

RETURN showing the number of applications to transfer Leaseholds under Section 20 of the Land Act 1869 which were refused, and setting forth how many of these were subsequently approved.

Number refused	...	...	...	...	...	...	132
Number of these which were subsequently approved	...	...	...	...	...	...	65

Reasons for refusal not stated.

A. MORRAH,
Secretary for Lands.

Department of Lands and Survey,
Melbourne, 27th August, 1879.

1879.
VICTORIA.

CERTAIN DEPARTMENTAL EXPENDITURE,
RETURNS OF.

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL.

THE HONORABLE F. T. SARGOOD.—16TH JULY, 1879.

LAI'D UPON THE COUNCIL TABLE BY THE HONORABLE H. CUTHBERT AND ORDERED BY THE
COUNCIL TO BE PRINTED, 16TH SEPTEMBER, 1879.

(1.)

A RETURN for the Quarters ending 31st March, 1877, 1878, and 1879, in the following form, and giving the following particulars :—

Name of Department.	Total Number of Officers in each Department.	Total amount of Salaries paid for the Quarters ending 31st March, 1877, 1878, 1879, out of—									Totals of A, B, C.		
		A. Votes for Salaries and Wages.			B. Votes for Contingencies.			C. Loans.					
		1877.	1878.	1879.	1877.	1878.	1879.	1877.	1878.	1879.	1877.	1878.	1879.

(2.)

A RETURN in the form, and giving the particulars, following, of the expenditure for the several works and purposes mentioned for the period from 1st June, 1877, to 30th June, 1879 :—

	Total amounts expended out of—		
	Votes for Salaries and Wages.	Votes for Contingencies.	Loans.
1. Alteration to the S.S. <i>Nelson</i>			
2. Works at the Railway Dock or side-cutting pit, for the purpose of getting spoil for the embankment at the station, West Melbourne			
3. Works at the Spencer street Railway Station			
4. Total cost of Oakleigh Line			
5. Total cost of assessing and collecting Land Tax including all charges relating to the appeals			

(1.)

[NOTE.—This Return does not include Public Vaccinators, Deputy Registrars of Births and Deaths, Electoral Registrars, &c.]

Division of Public Service.	Department.	Total Number of Officers in each Department.	Total amount of Salaries paid for the Quarters ending 31st March 1877, 1878, 1879, out of—									Totals of A, B, C.			
			A. Votes for Salaries and Wages.			B. Votes for Contingencies.			C. Loans.			1877.	1878.	1879.	
			1877.	1878.	1879.	1877.	1878.	1879.	1877.	1878.	1879.	1877.	1878.	1879.	
			£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	
	Legislative Council ¹														
	Legislative Assembly ..	{ 1877 .. 20 ^a 1878 .. 25 ^a 1879 .. 22 ^a }	1,543 15 4	1,817 10 2	1,572 11 7	11 14 0	19 10 0	49 13 6	..	..	..	1,555 9 4	1,837 0 2	1,622 5 1
	Parliament Library ..	{ 1877 .. 5 1878 .. 6 1879 .. 6 }	387 19 7	411 8 6	415 12 0	13 0 0	13 0 0	13 0 0	..	..	..	400 19 7	424 8 6	428 12 0
	Chief Secretary's Office..	{ 1877 .. 18 1878 .. 19 1879 .. 17 }	1,455 9 9	1,473 18 1	1,198 14 9	107 10 0	27 19 6	171 2 9	..	..	..	1,562 19 9	1,501 17 7	1,369 17 6
	Government Statist ..	{ 1877 ^a .. 12 1878 .. 13 1879 .. 10 }	405 0 0	420 0 0	521 0 0	115 0 0	117 0 0	103 0 0	..	..	..	520 0 0	537 0 0	624 0 0
	Police	{ 1877 .. 1145 1878 .. 1170 1879 .. 1182 }	40,096 4 9	42,000 4 8	42,607 10 6	..	..	..	..	..	..	40,096 4 9	42,000 4 8	42,607 10 6
	Penal and Gaols ..	{ 1877 .. 216 1878 .. 211 1879 .. 202 }	9,265 16 3	8,942 7 3	9,176 8 6	336 6 4	273 9 2	367 12 2	..	..	..	9,602 2 7	9,215 16 5	9,544 0 8
	Medical	{ 1877 .. 21 1878 .. 20 1879 .. 19 }	1,480 1 9	1,420 5 0	1,380 18 7	77 10 0	90 0 0	37 10 0	..	..	..	1,557 11 9	1,510 5 0	1,418 8 7
	Hospitals for Insane ..	{ 1877 .. 363 1878 .. 383 1879 .. 381 }	8,113 5 1	8,416 12 7	8,672 6 6	15 7 9	50 13 6	28 5 4	..	..	..	8,128 12 10	8,467 6 1	8,700 11 10
	Industrial and Reformatory Schools	{ 1877 .. 114 1878 .. 105 1879 .. 92 }	2,632 10 0	2,752 3 9	2,590 17 8	292 13 2	45 10 0	121 13 0	..	..	..	2,925 3 2	2,797 13 9	2,712 10 8
CHIEF SECRETARY ..	Observatory	{ 1877 .. 10 1878 .. 15 1879 .. 16 }	596 15 0	640 9 9	655 9 9	156 10 6	148 19 6	154 1 6	..	..	..	753 5 6	789 9 3	809 11 3
	Public Library, Museums, and National Gallery ..	{ 1877 .. 1878 .. 1879 .. }	39	1,497 10 0	1,523 7 0	1,507 18 4	105 0 0	46 8 0	91 18 0	..	..	1,602 10 0	1,569 15 0	1,599 16 4
	Government Botanist ..	{ 1877 .. 3 permanent and 1 temporary. 1878 .. 1879 .. }	270 0 0	270 0 0	287 10 0	27 6 0	27 6 0	39 0 0	..	..	..	297 6 0	297 6 0	326 10 0
	Shorthand Writer ..	{ 1877 .. 1878 .. 1879 .. }	6	562 1 6	583 6 6	587 10 0	..	..	..	..	..	562 1 6	583 6 6	587 10 0
	Victorian Hansard ..	{ 1877 .. 3 1878 .. 3 1879 .. 3 }	381 5 0	381 5 0	387 10 0	..	..	..	..	..	..	381 5 0	381 5 0	387 10 0
	Agent-General ^c														
	Audit Office	{ 1877 .. 29 1878 .. 30 1879 .. 33 ⁷ }	1,442 17 6	1,375 15 0	1,464 14 9	216 10 0	189 5 0	247 2 5	..	..	..	1,659 7 6	1,565 0 0	1,711 17 2

	Land Tax	{ 1877 .. nil 1878 .. 4 1879 .. 8 }	..	642 19 1	1,508 16 6	..	..	..	..	..	..	..	642 19 1	1,508 16 6
	Scab and Stock ° ..	{ 1877 .. 24 1878 .. 21 1879 .. 23 }	..	..	..	2,230 3 6	1,920 3 6	2,000 3 6	..	..	..	2,230 3 6	1,920 3 6	2,000 3 6
	Aborigines *														
	Friendly Societies ..	{ 1877 ¹⁰ 1878 .. 1 1879 .. 1 }	..	..	75 0 0	..	56 9 0	..	..	..	..	..	56 9 0	75 0 0
	TOTAL ..	{ 1877 .. 2029 1878 .. 2075 1879 .. 2064 }	70,130 11 6	73,071 12 4	74,610 9 5	3,704 11 3	3,025 13 2	3,424 2 2	..	..	..	73,835 2 9	76,097 5 6	78,034 11 7
MINISTER OF PUBLIC INSTRUCTION ..	.. .. ..	{ 1877 .. 117 1878 .. 136 1879 .. 130 }	8,953 15 0	3,126 1 3	4,491 0 11	806 8 8	1,277 14 3	1,273 9 11	1,996 5 0	2,100 19 6	1,604 4 2	6,756 8 8	6,504 15 0	7,368 15 0
	Their Honors the Judges	{ 1877 .. 4 1878 .. 5 1879 .. 4 }	300 0 0	341 1 5	300 0 0	..	..	..	..	..	..	300 0 0	341 1 5	300 0 0
	° Law Officers of the Crown, including Analytical Chemist and Certifying Barrister	{ 1877 .. 13 1878 .. 13 1879 .. 14 }	1,071 13 4	1,108 6 8	1,177 1 8	57 10 0	40 0 1	80 13 4	..	..	..	1,129 3 4	1,148 6 9	1,257 15 0
	Crown Solicitor ¹¹ ..	{ 1877 .. 18 1878 .. 18 1879 .. 20 }	1,307 1 8	1,319 15 0	1,436 13 4	85 0 0	115 0 0	145 1 8	..	..	..	1,392 1 8	1,434 15 0	1,581 15 0
	Prothonotary	{ 1877 } 6, and 1878 } 1 mes- 1879 } senger.	693 15 0	702 10 0	722 1 6	..	..	..	..	..	..	693 15 0	702 10 0	722 1 6
	Master in Equity ..	{ 1877 } 1878 } 7 ¹² 1879 }	386 5 0	412 10 0	531 5 0	78 0 0	87 10 0	..	..	..	..	464 5 0	500 0 0	531 5 0
	Probate, Administration, and Equity	{ 1877 } 1878 } 3 1879 }	215 0 0	277 10 0	277 10 0	¹³ 91 8 9	¹⁴ 36 1 0	..	..	..	..	306 8 9	313 11 0	277 10 0
	Court of Insolvency ..	{ 1877 } 1878 } 5 1879 }	607 10 0	612 1 8	627 18 4	..	..	..	..	..	..	607 10 0	612 1 8	627 18 4
	Registrar-General and Registrar of Titles	{ 1877 .. 66 1878 .. 68 1879 .. 68 }	4,718 15 2	4,858 15 0	5,020 1 0	488 10 6	509 3 0	424 12 10	..	..	..	5,207 5 8	5,367 18 0	5,444 13 10
	Sheriffs	{ 1877 } 1878 } 29 1879 }	1,895 2 6	2,035 0 0	2,072 10 0	..	..	..	..	..	..	1,895 2 6	2,035 0 0	2,072 10 0
	Prosecutors for the Queen	{ 1877 } 1878 } 6 1879 }	841 13 4	¹⁵ 588 14 0	1,000 0 0	..	..	..	..	..	..	841 13 4	588 14 0	1,000 0 0
		TOTAL ..	{ 1877 .. 158 1878 .. 161 1879 .. 163 }	12,036 16 0	12,256 3 9	13,165 0 10	800 9 3	787 14 1	650 7 10	12,637 5 3	13,043 17 10	13,815 8 8
		Carried forward

¹ Officers of the Legislative Council are not paid out of Votes.

² Including housekeeper, eight messengers, engineer and assistant, and one charwoman.

³ Including housekeeper, eight messengers, engineer and assistant, one charwoman, and four temporary messengers.

⁴ Including housekeeper, eight messengers, engineer and assistant, one charwoman, and one temporary messenger.

⁵ In 1877 and 1878 six, and in 1879 three of these were supernumeraries, temporarily employed, generally for very short periods.

⁶ The money is voted in a lump sum for this Department.

⁷ Three of the officers, at a cost during the quarter of £44 12s. 5d., were temporarily employed in performing the duties of officers on sick leave and in fetching up arrears. Two were discharged at the end of May, and the third remains only to December.

⁸ This return does not include persons who are remunerated by fees only, nor amounts paid as travelling expenses.

⁹ Not including salaries payable under Schedule D of the Constitution Act.

¹⁰ Prior to the year 1878 the office of Registrar of Friendly Societies was held in conjunction with another office, and had not a separate salary assigned to it.

¹¹ This return does not include the amounts paid to some of the above officers by the Education and Railway Departments for special work.

¹² Not including salary of the Master-in-Equity payable under Schedule D of the Constitution Act.

¹³ This includes £45 1s. 4d. paid to Mr. Allan for commission.

¹⁴ Amount paid to Mr. Allan for commission.

¹⁵ The difference in amounts is owing to the reductions in January 1878.

Division of Public Service.	Department.	Total Number of Officers in each Department.	Total amount of Salaries paid for the Quarters ending 31st March 1877, 1878, 1879, out of—									Totals of A, B, C.								
			A. Votes for Salaries and Wages.			B. Votes for Contingencies.			C. Loans.											
			1877.	1878.	1879.	1877.	1878.	1879.	1877.	1878.	1879.	1877.	1878.	1879.						
£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.								
	Brought forward ..	..																	
MINISTER OF JUSTICE ¹⁰	County Courts, Courts of Mines, and General Sessions ..	1877 .. 10	} 3,075 0 0	1878 .. 8	} 1,490 6 3	1879 .. 8	} 2,200 0 0	..	..	..	..	..	..	..	3,075 0 0	1,490 6 3	2,200 0 0
		1877 .. 31		1878 .. 31		1879 .. 15		5,063 1 10	1,563 13 0	2,525 0 0
		1877 .. 58		1878 .. 57		1879 .. 57	
	Clerks of Courts ..	1877 .. 58	1878 .. 57	1879 .. 57	4,582 15 0	4,516 0 3	4,360 1 0	..	..	..	..	..	..	..	4,582 15 0	4,516 0 3	4,360 1 0
	Clerks of Petty Sessions (Acting), Office-keepers, and Bailiffs	1877 .. 234	1878 .. 244	1879 .. 246	1,792 12 10	2,003 3 10	2,020 3 6	1,792 12 10	2,003 3 10	2,020 3 6		
	TOTAL ..	1877 .. 333 1878 .. 340 1879 .. 326	} 12,720 16 10	7,569 19 3	9,085 1 0	1,792 12 10	2,003 3 10	2,020 3 6	..	..	..	14,513 9 8	9,573 3 4	11,105 4 6			
TREASURER ..	Treasurer ..	1877 .. 92 1878 .. 85 1879 .. 95	} 6,359 0 0	5,783 0 0	5,981 0 0	337 0 0	321 0 0	578 0 0	..	..	..	6,606 0 0	6,104 0 0	6,559 0 0			
	Stores and Transport ..	1877 .. 3 1878 .. 3 1879 .. 2	} 287 10 0	179 5 0	148 5 3	..	..	..	..	..	..	287 10 0	179 5 0	148 5 3			
	Government Printer ..	1877 .. 188 1878 .. 185 1879 .. 196	} 7,324 10 10	7,145 13 4	7,901 8 6	..	..	..	..	..	..	7,324 10 10	7,145 13 4	7,901 8 6			
	Curator ..	1877 .. 5 1878 .. 5 1879 .. 5	} 281 5 0	275 0 0	277 10 0	16 5 0	18 15 0	18 15 0	..	..	..	287 10 0	293 15 0	296 5 0			
	Commandant ..	1877 .. 195 1878 .. 219 1879 .. 228	} 4,133 5 0	4,481 7 3	4,391 6 9	..	..	..	..	..	..	4,133 5 0	4,481 7 3	4,391 6 9			
	Naval ..	1877 .. 333 1878 .. 381 1879 .. 441	} 3,419 9 11	4,330 12 9	5,991 3 6	4 0 0	248 7 7	19 0 0	..	..	..	3,423 9 11	4,579 0 4	6,010 3 6			
	TOTAL ..	1877 .. 816 1878 .. 878 1879 .. 967	} 21,805 0 9	22,194 18 4	24,090 14 0	357 5 0	588 2 7	615 15 0	..	..	..	22,162 5 9	22,783 0 11	24,706 9 0			
COMMISSIONER OF CROWN LANDS	Lands and Survey ..	1877 .. 516 1878 .. 514 1879 .. 495	} 19,254 0 0	14,964 0 0	16,153 0 0	..	2,367 0 0	2,951 0 0	..	..	..	19,254 0 0	17,331 0 0	19,104 0 0			
	Agriculture ..	1877 .. 32 1878 .. 39 1879 .. 27	} 930 0 0	910 0 0	480 0 0	251 0 0	656 0 0	463 0 0	..	..	..	1,181 0 0	1,566 0 0	943 0 0			
	Parks and Gardens ..	1877 .. 56 1878 .. 62 1879 .. 65	} 475 0 0	550 0 0	475 0 0	1,271 0 0	1,345 0 0	882 0 0	..	..	..	1,746 0 0	1,895 0 0	1,357 0 0			

A. 5.

COMMISSIONER OF PUBLIC WORKS	Botanic Gardens ..	{ 1877 .. 73 1878 .. 60 1879 .. 56 }	960 0 0	955 0 0	1,497 0 0	1,036 0 0	760 0 0	..	..	..	..	1,996 0 0	1,715 0 0	1,497 0 0
	TOTAL ..	{ 1877 .. 677 1878 .. 675 1879 .. 633 }	21,619 0 0	17,379 0 0	18,605 0 0	2,558 0 0	5,128 0 0	4,296 0 0	..	..	..	24,177 0 0	22,507 0 0	22,901 0 0
	Public Works ..	{ 1877 .. 80 1878 .. 98 1879 .. 82 }	3,462 0 0	2,161 0 0	1,966 0 0	2,273 0 0	3,228 0 0	2,911 0 0	275 0 0	606 0 0	878 0 0	6,010 0 0	¹⁹ 5,995 0 0	5,755 0 0
	Public Works and Roads	{ 1877 .. 43 1878 .. 44 1879 .. 41 }	1,680 0 0	1,592 0 0	1,495 0 0	558 0 0	517 0 0	583 0 0	..	..	203 0 0	2,238 0 0	2,109 0 0	2,281 0 0
	Melbourne Water Supply	{ 1877 .. 123 1878 .. 142 1879 .. 123 }	5,142 0 0	3,753 0 0	3,461 0 0	2,831 0 0	3,745 0 0	3,491 0 0	275 0 0	606 0 0	1,081 0 0	8,248 0 0	8,104 0 0	8,036 0 0
	TOTAL ..	{ 1877 .. 123 1878 .. 142 1879 .. 123 }	5,142 0 0	3,753 0 0	3,461 0 0	2,831 0 0	3,745 0 0	3,491 0 0	275 0 0	606 0 0	1,081 0 0	8,248 0 0	8,104 0 0	8,036 0 0
POSTMASTER-GENERAL	Post Office and Telegraph	{ 1877 .. 948 1878 .. 991 1879 .. 1085 }	26,228 0 0	28,390 0 0	29,343 0 0	3,059 0 0	4,078 0 0	5,585 0 0	..	..	..	30,187 0 0	32,468 0 0	34,928 0 0
MINISTER OF MINES ..	Mines, including Water Supply Branch ..	{ 1877 .. 204 1878 .. 194 ²⁰ 1879 .. 182 }	1,640 10 0	3,426 5 2	5,185 15 3	4,441 4 2	191 1 2	562 14 6	1,815 7 9	1,174 8 5	..	7,897 1 11	4,791 14 9	²¹ 5,748 9 9
COMMISSIONER OF TRADE AND CUSTOMS	Customs ²² ..	{ 1877 .. 199 1878 .. 196 1879 .. 208 }	10,454 0 0	10,210 0 0	10,710 0 0	1,045 0 0	931 0 0	1,071 0 0	..	..	..	11,499 0 0	11,141 0 0	11,781 0 0
	Ports and Harbors ..	{ 1877 .. 101 1878 .. 101 1879 .. 120 }	3,842 0 0	3,685 0 0	²³ 4,140 0 0	²⁴ 5,532 0 0	²⁴ 2,721 0 0	^{24 25} 3,453 0 0	..	..	..	9,374 0 0	6,409 0 0	7,593 0 0
	Immigration, Mercantile, Marine, and Fisheries ..	{ 1877 .. 5 1878 .. 8 1879 }	191 0 0	181 0 0	See Ports and Harbors	45 0 0	45 0 0	See Ports and Harbors	..	..	..	236 0 0	226 0 0	See Ports and Harbors.
	Distilleries and Excise ..	{ 1877 .. 13 1878 .. 14 ²⁶ 1879 .. 35 }	²⁷ 854 0 0	²⁷ 797 0 0	²⁷ 1,755 0 0	50 0 0	182 0 0	12 0 0	..	..	..	904 0 0	979 0 0	1,767 0 0
	Powder Magazines ..	{ 1877 .. 2 1878 .. 4 1879 .. 4 }	95 0 0	95 0 0	173 0 0	..	47 0 0	..	..	..	..	95 0 0	142 0 0	173 0 0
	TOTAL ..	{ 1877 .. 320 1878 .. 320 1879 .. 367 }	15,436 0 0	14,968 0 0	16,778 0 0	6,672 0 0	3,929 0 0	4,536 0 0	..	..	..	22,108 0 0	18,897 0 0	21,314 0 0
COMMISSIONER OF RAILWAYS ..	.. ..	{ 1877 .. 213 ²⁸ 1878 .. 217 1879 .. 231 }	9,742 14 2	9,504 7 6	10,271 4 2	1,395 13 0	1,357 9 4	1,922 17 9	3,153 5 5	2,646 11 2	3,079 10 5	14,291 12 7	13,508 8 0	15,273 12 4
	TOTAL ..	{ 1877 .. 5,938 1878 .. 6,129 1879 .. 6,271 }	£200,455 4 3	195,639 7 10	209,086 5 7	29,318 4 2	26,110 18 5	28,380 10 8	7,239 18 2	6,527 19 1	5,764 14 7	237,013 6 7	228,278 5 4	243,231 10 10

¹⁹ This return does not include persons who are remunerated by fees only, nor amounts paid as travelling expenses.

²⁰ This sum includes salaries, &c., of thirteen caretakers previously charged against Agricultural Vote.

²¹ About £1500 of this sum is for wages of laborers in survey parties, previously paid out of Vote for Salaries and Wages.

²² Public Works and Roads 1878. Twenty-seven officers were reduced in January and February 1878. If the services of these officers had been continued on for the quarter, the total payments would have been £8253 instead of £5995.

²³ This number includes 28 officers whose services were dispensed with on the 9th January, and who therefore received salary for a few days only during the quarter. It also includes one officer whose services were dispensed with on 14th February 1878.

²⁴ The increase in this amount is principally due to the re-employment of several of the officers whose services were dispensed with on the 9th January 1878, and to the employment of new officers to take charge of and work the diamond drills imported by the Government.

²⁵ This return does not include allowances which are paid to sundry officers (belonging to other departments) for performing customs duty, nor allowances, &c., paid to officers and men engaged in the Marine Survey, which was discontinued in 1878 and not since renewed, nor amounts paid to extra tide-waiters or weighers only occasionally employed as required.

²⁶ Includes Mercantile Marine.

²⁷ Includes all labor for Graving Dock and Patent Slip not provided for under Salaries.

²⁸ Includes Immigration and Fisheries.

²⁹ From 1st to 8th January 25 officers; 11 dispensed with on 8th January.

³⁰ From 1st January to 31st March 1877 there were 13 officers. In June and July 10 Inspectors of licensed premises were transferred from the Department of the Minister of Justice. From 1st to 8th January 1878 there were 25 officers. On 9th January 11 were dispensed with. In July 20 Inspectors of licensed premises were transferred from the Police Force. From 1st January to 31st March 1879 there were 35 officers.

³¹ This includes salaried officers who were previously paid at daily wages.

(2.)

	Total amounts expended out of—			Total.
	Notes for Salaries and Wages.	Notes for Contingencies.	Loans.	
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Alteration to the S.S. <i>Nelson</i> ... ..	...	21,302 15 7 (Special vote for Defence)	...	21,302 15 7
Works at the Railway Dock or side-cutting pit, for the purpose of getting spoil for the embankment at the station, West Melbourne ... ..	* ...	...	103,427 9 7	103,427 9 7
Works at the Spencer-street Railway Station ... ..	...	...	...	...
Total cost of Oakleigh Line ... ..	...	...	106,833 16 9	106,833 16 9
Total cost of assessing and collecting Land Tax, including all charges relating to the appeals	5,581 0 0	21,428 1 8	...	†27,009 1 8
			Total ...	£258,573 3 7

* These works cannot be separated, as the two were done together and by the same men and machinery.

† Being £23,135, salaries, contingencies, &c., incurred in regard to the Commission, and £3874 1s. 8d., legal charges, &c., paid by the Government in defending appeals.

1879.

VICTORIA.

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NEWSPAPERS—GOVERNMENT ADVERTISING IN.

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL.

THE HONORABLE A. FRASER.—10TH SEPTEMBER, 1879.

LAI'D UPON THE COUNCIL TABLE BY THE HONORABLE H. CUTHBERT, AND ORDERED BY THE COUNCIL TO BE PRINTED, 1ST OCTOBER, 1879.

RETURN showing the Amount paid to each Newspaper in the Colony, from 1st July, 1878, to 30th June, 1879, inclusive, for Government Advertisements received either through the Government Printer or direct from the several Departments.

Name of Newspaper.	Amount.	Name of Newspaper.	Amount.
	£ s. d.		£ s. d.
Age	1,368 0 9	Daylesford Mercury	42 10 3
Argus	1,274 11 6	Dandenong Advertiser	24 5 0
Ararat Advertiser	89 1 1	Donald Times	14 3 6
Avoca Mail	55 2 4	Dimboola Banner	3 13 6
Australasian	36 2 6	Dunmunkle Standard	1 1 0
Alexandra Standard	17 18 9	Daylesford Advocate	0 15 0
Australasian Shipping News	15 4 6	Echuca Advertiser	83 17 9
Avoca Free Press	14 17 0	Eaglehawk Leader	50 4 6
Albury Banner	14 3 6	Evelyn Observer	24 16 3
Australian (Richmond)	2 16 3	East Charlton Tribune	22 14 6
Bendigo Independent	343 11 0	Emerald Hill Record	21 18 0
Ballarat Courier	337 9 3	Elmore Pioneer	4 7 6
Ballarat Star	308 3 9	Echo from Mountains	3 19 6
Bendigo Advertiser	288 18 6	Federal Standard	84 13 6
Ballarat Evening Post	251 4 0	Fitzroy Mercury	2 15 0
Bendigo Evening News	142 18 3	Footscray Chronicle	1 7 6
Benalla Standard	70 1 0	Footscray Advertiser	0 13 9
Bairnsdale Courier	34 8 4	Free Lance	1 2 6
Bairnsdale Advertiser	31 3 9	Geelong Advertiser	274 3 0
Border Post	27 5 6	Geelong Times	198 6 2
Belfast Gazette	21 18 0	Gippsland Mercury	158 6 3
Bacchus Marsh Express	21 14 6	Gippsland Times	94 17 6
Buninyong Telegraph	8 16 0	Gippsland Independent	25 14 6
Boroondara Standard	4 10 0	Grenville Advocate	24 8 3
Brunswick and Coburg Advertiser	1 4 0	Gippsland Standard	18 15 0
Castlemaine Representative	197 4 9	Gordon Advertiser	17 3 6
Clunes Guardian and Gazette	79 16 2	Goulburn Advertiser	13 1 0
Colac Herald	55 8 6	Gisborne Times	5 13 9
Casterton News	38 2 6	Grenville Times	1 5 10
Collingwood Observer	37 11 6	Goulburn Valley Advocate	0 5 0
Creswick Advertiser	30 18 9	Herald	950 2 3
Camperdown Chronicle	22 6 0	Horsham Times	127 6 9
Coleraine Albion	19 2 6	Hamilton Spectator	114 18 0
Colac Times and Reformer	11 19 3	Inglewood Advertiser	60 13 0
Daily Telegraph	115 6 6	Jamieson Chronicle	33 13 9
Dunolly Express	81 15 0	Kyneton Observer	75 3 9

RETURN—continued.

Name of Newspaper.	Amount.	Name of Newspaper.	Amount.
	£ s. d.		£ s. d.
Kerang Times	64 1 9	Riverine Herald	146 6 0
Kyneton Guardian	53 15 6	Riponshire Advocate	23 10 9
Kilmore Free Press	21 16 9	Rochester Express	18 15 9
Kilmore Advertiser	15 10 0	Stawell Chronicle	139 17 9
Kyneton Chronicle	12 15 9	St. Arnaud Mercury	62 9 6
Koroit Herald	4 4 0	Seymour Express	55 0 0
Leader	290 12 6	St. Arnaud Times	48 18 0
Lancefield Examiner	8 15 0	Shepparton News	40 15 3
Lancefield Chronicle	6 9 6	South Bourke and Mornington Journal	9 18 0
Lancefield Mercury	3 0 0	St. Kilda Advertiser	6 5 6
Mount Alexander Mail	244 9 2	Southern Cross (Brighton)	1 2 6
Maryborough Standard	132 9 9	Talbot Leader	46 5 9
Maryborough Advertiser	87 11 0	Tarrangower Times	21 5 11
Mansfield Guardian	28 11 0	Taradale Express	7 14 0
McIvor Times	28 9 3	Tarnagulla Courier	17 18 9
Mortlake Dispatch	10 17 6	Wangaratta Dispatch	114 5 2
Mooroopna and Toolamba Telegraph	8 8 0	Wimmera Star	75 18 0
North-Eastern Ensign	67 19 6	Wahgunyah News	46 11 9
North Melbourne Advertiser	6 19 6	Warrnambool Guardian	42 9 9
News of the Week	3 7 0	Warrnambool Standard	41 15 6
Ovens Advertiser	210 14 0	Waranga Chronicle	30 1 9
Ovens Spectator	64 19 0	Walhalla Chronicle	27 15 3
Ovens Register	63 10 4	Williamstown Chronicle	13 12 2
Pleasant Creek News	121 14 9	Williamstown Advertiser	11 12 7
Portland Guardian	66 4 9	Woodend News	1 10 0
Punch	30 2 9	Yarrowonga Mercury	4 11 6
Prahran Telegraph	7 0 3		

September 30, 1879.

J. FERRES.

1879.

VICTORIA.

DISCHARGED AND APPOINTED OFFICIALS.

[EXPLANATORY.]

LAID ON THE COUNCIL TABLE BY THE HONORABLE C. J. JENNER, AND ORDERED BY THE
COUNCIL TO BE PRINTED, 11TH NOVEMBER 1879.

MEMORANDUM RELATIVE TO THE RETURN OF "DISCHARGED AND APPOINTED
OFFICIALS," LAID UPON THE COUNCIL TABLE ON THE 7TH OCTOBER 1879.

THE words and figures "January 1st to June 30th 1879" which appear on the front page of the
Return, under the words "DISCHARGES, RESIGNATIONS, AND DISMISSALS," were inserted through
inadvertence, and should be struck out. The Return embraces the period from the 1st July 1877
to 1st July 1879.

W. H. ODGERS.

VICTORIA.

DISCHARGED AND APPOINTED OFFICIALS.

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL.

THE HONORABLE A. FRASER.—26TH AUGUST, 1879.

LAI'D UPON THE COUNCIL TABLE BY THE HONORABLE H. CUTHBERT, AND ORDERED BY THE COUNCIL TO BE PRINTED, 7TH OCTOBER, 1879.

A RETURN showing the respective Names, Occupations, and Salaries of all persons discharged from employment in the several Government Departments between the 1st July, 1877, and the 1st July, 1879; and the Name, Occupation, and Salary of every person appointed or re-appointed during the same period to any situation in the Government Service, whether permanent or temporary, and whether paid by salaries voted on Estimates, or out of monies appropriated for particular works.

CHIEF SECRETARY'S DEPARTMENT.

RETURN showing the respective Names, Occupations, and Salaries of all persons discharged, and the same of all persons appointed in the Chief Secretary's division of the Service, from the 1st July, 1877, to 1st July, 1879.

DISCHARGES, RESIGNATIONS, AND DISMISSALS.

January 1st to June 30th, 1879.

Name.	Occupation.	Salary.
H. Dore (resigned) ...	Warder, Yarra Bend Asylum ...	£26
M. A. Hickey (resigned) ...	Warder, Beechworth Asylum ...	30
R. Fleming (resigned) ...	Deputy Registrar of Births and Deaths ...	Fees.
T. Collingwood (resigned) ...	Deputy Electoral Registrar ...	"
A. Kirwan (dismissed) ...	Warder, probationer, Kew Asylum.	
J. Moore (resigned) ...	Deputy Registrar of Births and Deaths ...	Fees.
T. Meagher (resigned) ...	" " " "	"
Hon. D. E. Wilkie (resigned) ...	Member of the Medical Board of Victoria.	
J. McFarlane (dismissed) ...	Warder, Beechworth Asylum.	
Sir Bryan O'Loughlen, Bart., (resigned)	Land Tax Commissioner ...	£1500
J. E. Cherry (resigned) ...	Deputy Electoral Registrar ...	Fees.
H. Wright (resigned) ...	Warder (Dispenser), Penal Department.	
J. J. Martin (resigned) ...	Electoral Registrar ...	£25
R. G. Wood (resigned) ...	Deputy Electoral Registrar ...	Fees.
R. Montgomery (resigned) ...	" " " "	"
W. Long (resigned) ...	Warder, probationer, Kew Asylum.	
H. Conolly (resigned) ...	Warder, Beechworth Asylum.	
J. Jeffers (resigned) ...	Deputy Electoral Registrar ...	Fees.
F. Blythman (resigned) ...	Deputy Registrar of Births and Deaths ...	"
A. Morrison (resigned) ...	Acting Resident Medical Officer, Ararat Asylum.	
T. Walsh (resigned) ...	Deputy Electoral Registrar ...	Fees.
B. Mansfield (resigned) ...	Warder, Kew Asylum.	
S. R. Jones (resigned) ...	Deputy Electoral Registrar ...	Fees.
A. F. Rowe (resigned) ...	" " " "	"
J. Miskelly (resigned) ...	Electoral Registrar ...	£25
J. Angleton (dismissed) ...	Warder, Kew Asylum.	
W. J. Walsh (dispensed with) ...	Warder, probationer, Kew Asylum ...	20s. per week.
Janet Dunbar (resigned) ...	Deputy Registrar of Births and Deaths ...	Fees.
J. Proctor (resigned) ...	Electoral Registrar ...	£25

CHIEF SECRETARY'S DEPARTMENT—DISCHARGES, ETC.—*continued.*

Name.	Occupation.	Salary.	
M. Grady (resigned) ...	Deputy Registrar of Births and Deaths ...	Fees.	
M. Southern (resigned) ...	" " " " ...	"	
C. W. Caddy (resigned) ...	{ Deputy Registrar of Births and Deaths ...	"	
	{ Deputy Electoral Registrar ...	"	
J. Johnston (resigned) ...	Electoral Registrar ...	£25	
J. Angleton (resigned) ...	Warder, Kew Asylum.		
D. Kelly (resigned) ...	Deputy Registrar of Births and Deaths ...	Fees.	
W. Bickle (resigned) ...	" " " " ...	"	
J. Hannah (resigned) ...	" " " " ...	"	
W. H. Miller, M.D. (resigned) ...	Public Vaccinator ...	"	
F. Homan (resigned) ...	" " " " ...	"	
J. McCann (resigned) ...	Deputy Electoral Registrar ...	"	
J. Nicholl (resigned) ...	" " " " ...	"	
R. F. Russell (resigned) ...	Electoral Registrar ...	£25	
Chas. Groom (dispensed with) ...	Warder, probationer, Yarra Bend Asylum.		
Sarah Bamforth (resigned) ...	" " " " ...		
M. Taylor (resigned) ...	Laundress, Ballarat Asylum.		
J. Taylor (resigned) ...	Deputy Registrar of Births and Deaths ...	Fees.	
T. Martin (resigned) ...	" " " " ...	"	
P. Fahey (resigned) ...	" " " " ...	"	
J. McCann (resigned) ...	" " " " ...	"	
J. Anderson (resigned) ...	" " " " ...	"	
H. Fowler (resigned) ...	" " " " ...	"	
M. Howie (resigned) ...	Warder, Ararat Asylum.		
J. C. Thomson (resigned) ...	Returning Officer for Kyneton Borough.		
T. Laing (resigned) ...	Deputy Electoral Registrar ...	Fees.	
F. S. Falkiner (services dispensed with)	} Classifiers under the Land Tax Act.		
J. Harvey (services dispensed with)			
W. B. Say (services dispensed with)			
W. Brisbane (resigned) ...	Deputy Registrar of Births and Deaths ...	Fees.	
E. Davis (resigned) ...	" " " " ...	"	
M. McNamara (resigned) ...	" " " " ...	"	
G. Voss (resigned) ...	Deputy Electoral Registrar ...	"	
P. Hallinan (resigned) ...	" " " " ...	"	
H. B. Mercer (resigned) ...	Deputy Registrar of Births and Deaths ...	"	
R. Dickinson (resigned) ...	" " " " ...	"	
Margt. Collins (resigned) ...	Warder, Beechworth Asylum.		
R. B. Smyth (resigned) ...	{ Member of the Board for the Protection of Aborigines.		
	{ Secretary, Royal Commission on Closed Roads.		
J. Dunstan (resigned) ...	Deputy Electoral Registrar ...	Fees.	
J. B. O'Halloran (resigned) ...	" " " " ...	"	
P. Tennyson (resigned) ...	Deputy Registrar of Births and Deaths ...	"	
Ann Thomas (resigned) ...	" " " " ...	"	
P. Kelly (services dispensed with)	} Classifiers under Land Tax Department	63s. per diem.	
R. Walls (services dispensed with)			
W. Haines (services dispensed with)			
J. Stewart (services dispensed with)	} Classifiers under the Land Tax Act.		
M. McFadzean (services dispensed with)			
J. Woods (services dispensed with)			
E. Hopton (services dispensed with)	Inspector of Vineyards.		
E. W. C. Sadleir (resigned) ...	Fifth-class Clerk in Audit Office.		
Maria Steel (resigned) ...	Warder, Kew Asylum.		
Edward Barry (resigned) ...	Electoral Registrar ...	£25	
John Hefferin (resigned) ...	Deputy Registrar of Births and Deaths ...	Fees.	
J. D. Stocks (resigned) ...	Electoral Registrar.		
Richd. Garton (resigned) ...	" " " " ...		
Thomas Naughton ...	Deputy Electoral Registrar ...	Fees.	
M. Campbell ...	" " " " ...	"	
A. McMillan ...	Member Board of Advice under Scab Act.		
F. J. Dowling (resigned) ...	Public Vaccinator ...	Fees.	
J. Nuttall (resigned) ...	Deputy Registrar of Births and Deaths ...	"	
M. Breem (resigned) ...	" " " " ...	"	
H. A. Berger (resigned) ...	" " " " ...	"	

CHIEF SECRETARY'S DEPARTMENT—DISCHARGES, ETC.—continued.

Name.	Occupation.	Salary.
C. J. W. Cunningham (resigned)	Deputy Registrar of Births and Deaths	Fees.
E. Murphy (resigned)	Deputy " " " " " " " " " " " "	"
J. Vallence (resigned)	Deputy Electoral Registrar	"
S. McGonigal (resigned)	" " " " " " " " " " " "	"
Fredk. Miller	Fireman, Kew Asylum.	
T. Naughton (resigned)	Deputy Registrar of Births and Deaths	Fees.
W. Slater (resigned)...	Messenger, Beechworth Asylum.	
J. Egan (resigned)	Warder, Ballarat Asylum.	
T. L. Smith (resigned)	Deputy Registrar of Births and Deaths	Fees.
F. Cooke (resigned)	" " " " " " " " " " " "	"
W. Gorman (resigned)	Deputy Electoral Registrar	"
H. J. Frencham (dismissed)	Cook, Kew Asylum.	
John Givans	Warder, Penal and Gaols Department.	
W. Thomas	Public Vaccinator	Fees.
W. Craig	Deputy Registrar of Births and Deaths	"
L. Anderson (resigned)	Deputy Electoral Registrar	"
C. Clark (resigned)	Public Vaccinator	"
Rose Morley (resigned)	Warder, Penal and Gaols Department.	
W. R. Cook (resigned)	Fifth-class, Audit Office.	
N. M. McLean (resigned)	Deputy Registrar of Births and Deaths	Fees.
Elizabeth Thompson (resigned)	" " " " " " " " " " " "	"
J. J. Madden (resigned)	Deputy Electoral Registrar	"
W. J. Gilchrist	Electoral Registrar	£25
J. Orkney	Member Harbour Trust Commission.	
G. Webster	Returning Officer, Stawell.	
W. H. Foster	Returning Officer, North Gippsland.	
J. E. Matthews (resigned)	Electoral Registrar	£25
R. D. Pinnock (resigned)	Public Vaccinator	Fees.
H. A. Berger, J.P. (resigned)...	Visiting Justice, Jamieson Gaol.	
H. Winter (resigned)	Deputy Registrar of Births and Deaths.	
J. Parry (resigned)	Deputy Electoral Registrar	Fees.
J. H. Yates (removed from office)	Electoral Registrar	£25
W. Ponsford (resigned)	" " " " " " " " " " " "	25
T. Obbinson (resigned)	Deputy Registrar of Births and Deaths	Fees.
J. F. Daniell (resigned)	Returning Officer for Moira.	
Ann Butler (dismissed)	Warder, Ararat Asylum.	
Thomas Brisbane	Clerk in the Executive Council Office	£250
H. Bracken (resigned)	Warder, Beechworth Asylum.	
R. Officer, J.P. (resigned)	Returning Officer, South Province.	
R. J. Hutton (resigned)	Deputy Registrar of Births and Deaths	Fees.
J. Walker (resigned)	Deputy Electoral Registrar	"
Hon. C. G. Duffy	Member Royal Commission on Parliament Buildings.	
M. Macguire (dismissed)	Matron, Beechworth Asylum.	
J. Lowham (resigned)	Gardener, Ararat Asylum	£85
W. Draper (resigned)	Electoral Registrar	25
F. Passey (resigned)	Deputy Electoral Registrar	Fees.
W. W. Wardell (removed)	Member of the Central Board of Health.	
Hon. D. E. Wilkie, M.D.	Member of the Medical Board of Victoria.	
R. G. Meade (resigned)	{ Electoral Registrar	£25
	{ Deputy Electoral Registrar	Fees.
J. Brown (resigned)...	" " " " " " " " " " " "	"
W. Dawes (resigned)	" " " " " " " " " " " "	"
D. Corbett (resigned)	" " " " " " " " " " " "	"
E. P. S. Sturt (resigned)	{ Returning Officer, East Melbourne.	
	{ Returning Officer, Central Province.	
R. Officer, J.P. (resigned)	Returning Officer, South Province.	
H. Catchpole (resigned)	Deputy Electoral Registrar	Fees.
W. Croke, M.D. (resigned)	Member of the Central Board of Health.	
D. Morrison (resigned)	Deputy Registrar of Births and Deaths	Fees.
P. Kelly (resigned)	" " " " " " " " " " " "	"
Sir Francis Murphy (resigned)	Commissioner Melbourne International Exhibition 1880.	
J. A. Kennison (resigned)	Resident Medical Officer, Yarra Bend.	
H. Barnes (resigned)	{ Deputy Registrar of Births and Deaths	Fees.
	{ Deputy Electoral Registrar	"
D. Donaldson (resigned)	Deputy Registrar of Births and Deaths	"
W. Campbell (resigned)	Deputy Electoral Registrar	"
J. De Viessieux (resigned)	Deputy Registrar of Births and Deaths	"
Kate A. Howe (resigned)	Warder, Kew Asylum.	
P. W. Bromfield (resigned)	Deputy Registrar of Births and Deaths	Fees.
F. W. Needham (resigned)	Electoral Registrar	£25
J. Andrews (resigned)	Commissioner Melbourne Harbor Trust.	
A. Cobham (resigned)	Deputy Electoral Registrar	Fees.

CHIEF SECRETARY'S DEPARTMENT—DISCHARGES, ETC.—*continued.*

Name.	Occupation.	Salary.
Bridget Lawler (resigned) ...	Warder, Yarra Bend ...	£26
J. R. Wicks (resigned) ...	Deputy Registrar of Births and Deaths ...	Fees.
W. Gerrand (resigned) ...	Deputy Electoral Registrar ...	"
E. F. G. Butler (resigned) ...	Public Vaccinator ...	"
J. Wilkinson (resigned) ...	Electoral Registrar ...	£25
W. T. Hoare (resigned) ...	{ Electoral Registrar ...	25
	{ Deputy Registrar of Births and Deaths ...	Fees.
Kate Magree (resigned) ...	Hospital Warder, Beechworth Asylum ...	£55
W. Scott (resigned) ...	Deputy Registrar of Births and Deaths ...	Fees.
D. J. O'Brien (resigned) ...	" "	"
Geo. Page (resigned) ...	Deputy Electoral Registrar ...	"
Robt. Knapp, M.R.C.S. (resigned)	Official Visitor, Melbourne District Hospitals for the Insane.	
Geo. Lansell (resigned) ...	Commissioner Melbourne International Exhibition 1880.	
J. P. Smith (resigned) ...	Electoral Registrar ...	£25
J. W. Balchin (resigned) ...	Deputy Registrar of Births and Deaths ...	Fees.
H. Catchpole (resigned) ...	" "	"
R. S. Stanley (resigned) ...	Electoral Registrar ...	£25
J. Gray (resigned) ...	Public Vaccinator ...	Fees.
J. P. Smith (resigned) ...	Electoral Registrar ...	£25
W. Brisbane (resigned) ...	" "	25
E. H. Hawkins (resigned) ...	Deputy Electoral Registrar ...	Fees.
Geo. Page (resigned) ...	Deputy Registrar of Births and Deaths ...	"
J. Travis (resigned) ...	Electoral Registrar ...	£25
J. C. Caffin (resigned) ...	" "	25
J. R. Bray (resigned) ...	Deputy Registrar of Births and Deaths ...	Fees.
T. Rae (resigned) ...	Public Vaccinator ...	"
D. Sullivan (resigned) ...	Warder, Kew Asylum.	
R. Innis (resigned) ...	Cook, Kew Asylum.	
G. Williamson (resigned) ...	Deputy Electoral Registrar ...	Fees.
J. C. Duncan (resigned) ...	Public Vaccinator ...	"
Mary McCarthy (resigned) ...	Artisan Warder, Beechworth Asylum ...	£44
J. Travis (resigned) ...	Deputy Registrar of Births and Deaths ...	Fees.
F. R. Godfrey (resigned) ...	Member of the Board for the Protection of Aborigines.	
D. C. Smith (resigned) ...	Messenger, Public Library.	
— Stevens (resigned) ...	Dispenser, Yarra Bend ...	£180
J. C. Hunter (resigned) ...	Messenger, Legislative Council ...	60s. per week.
Adam Hope (resigned) ...	Deputy Registrar of Births and Deaths ...	Fees.
M. Mathieson, M.D. (resigned) ...	Public Vaccinator ...	"
G. R. Murphy (resigned) ...	Deputy Registrar of Births and Deaths ...	"
W. McElwain (resigned) ...	" "	"
S. M. Fisher (resigned) ...	" "	"
H. W. Mills (resigned) ...	Electoral Registrar ...	£25

APPOINTMENTS.

Name.	Occupation.	* Salary.
Hugh Boyd, M.D. ...	Public Vaccinator ...	Fees.
W. F. Poole ...	{ Deputy Electoral Registrar ...	"
A. Payne ...	{ Deputy Registrar of Births and Deaths ...	"
J. Eadie ...	Door-keeper, Legislative Assembly (<i>vice</i> Brophy, deceased) ...	72s. per week.
W. A. Blinkhorn ...	Public Vaccinator ...	Fees.
	{ Electoral Registrar (<i>vice</i> James, resigned) ...	£25
	{ Deputy Registrar of Births and Deaths (<i>vice</i> James, resigned) ...	Fees.
W. J. Chalkley ...	Deputy Registrar of Births and Deaths ...	"
W. Sefton ...	" "	"
W. Brown ...	" "	"
P. O'Donnell ...	Officer for the purpose of celebrating Marriages.	
A. H. Tomelty ...	" "	
G. Lonch ...	" "	
J. Fletcher ...	Deputy Registrar of Births and Deaths ...	Fees.
D. Mahon ...	Doorkeeper, Legislative Assembly (temporary) ...	60s. per week.
J. A. Chalk ...	Government Auditor—Municipal accounts.	
G. Pender ...	" "	
F. Homan (Surgeon) ...	Public Vaccinator ...	Fees.
E. Tillotson ...	Electoral Registrar ...	£25
D. Kennedy ...	" "	25

* See Note at end of Chief Secretary's Department.

CHIEF SECRETARY'S DEPARTMENT—APPOINTMENTS—*continued.*

Name.	Occupation.	Salary.
W. Campbell ...	Deputy Electoral Registrar (<i>vice</i> McCubbin, resigned)	Fees.
A. Wilson ...	Deputy Registrar of Births and Deaths (<i>vice</i> Shields)	"
J. J. Crump ...	Deputy Registrar of Births and Deaths (<i>vice</i> Ham, resigned)	"
H. M. Greaves ...	Deputy Registrar of Births and Deaths (<i>vice</i> Bishop, resigned)	"
J. Sloss ...	Deputy Registrar of Births and Deaths	"
E. J. White (3rd class)	2nd class Assistant Astronomer, Observatory	£500
S. Glenny ...	Doorkeeper, Legislative Assembly (temporary)	60s. per week.
E. C. Symonds (3rd class)	2nd class Clerk, Audit Office (<i>vice</i> McDunne, deceased)	£500
R. H. Carter (4th class)	3rd class Clerk, Audit Office (<i>vice</i> Symonds)	375
E. Booth (5th class)...	4th class Clerk, Audit Office (<i>vice</i> Carter)...	200
W. J. Kerrigan ...	5th class	80
F. H. Secretan (Sub-Inspector)	Inspector of Police (<i>vice</i> Culkin, resigned)...	250
Astrar Ellis ...	Deputy Electoral Registrar	Fees.
T. Barker, M.D. ...	Public Vaccinator	"
R. D. Pinnock, M.B.	Public Vaccinator (<i>vice</i> Locke, resigned)	"
T. Kelly ...	Deputy Electoral Registrar (<i>vice</i> Garthwaite, relieved)	"
J. Archibald ...	} Sub-Inspectors of Police	£255 each.
W. G. Drought ...		
J. N. Larner ...		
J. Babington ...		
H. Baber ...		
J. Toohey ...		
(1st class Sergeants)		
J. Richards ...	Overseer, Penal Department (<i>vice</i> Bates, deceased) ...	£200
S. Ripper ...	Warder, Penal Department (temporary) ...	7s. 6d. per diem.
W. Brady ...	Deputy Electoral Registrar (<i>vice</i> Young, resigned) ...	Fees.
W. Poynton ...	Electoral Registrar (<i>vice</i> O'Neill) ...	£25
A. Kirwan ...	Warder, Kew Asylum (temporary) ...	20s. per week.
J. Clark ...	Electoral Registrar (<i>vice</i> McDowell, resigned) ...	£25
A. McDonald ...	Public Vaccinator (<i>vice</i> Hedley, resigned) ...	Fees.
W. Dawes ...	Deputy Electoral Registrar (<i>vice</i> Wilson, resigned) ...	"
P. Fogarty...	Deputy Electoral Registrar (<i>vice</i> O'Neill, relieved) ...	"
B. B. Johnson ...	" " " " " " " "	"
H. Lennon ...	} Commissioners to the Queensland Agricultural and Industrial Exhibition.	
J. Buncle ...		
R. Richardson, M.P.		
J. Bosisto, M.P.		
J. Mirams, M.P.	} Additional Members of the Paris Exhibition Commission.	
L. Canbet ...		
D. Munro ...		
J. Zevenboom ...		
A. K. Smith, M.P.		
W. McCulloch ...		
W. P. A. Smith ...	Deputy Electoral Registrar	Fees.
W. McFarlane, M.D.	Acting Health Officer, Port Phillip (temporary).	
T. H. Williams ...	Gas Engineer, Industrial and Reformatory Schools	10s. per diem.
J. Munro ...	Trade Instructor, " " " "	8s. "
T. Thompson ...	" " " "	7s. 6d. "
J. B. Kendall ...	Agricultural Instructor, Industrial and Reformatory Schools	7s. "
H. Collins ...	" " " "	7s. "
W. Seignior ...	" " " "	6s. "
J. Anderson ...	Farm Laborer, Industrial and Reformatory Schools	6s. "
E. Marshall ...	" " " "	5s. "
T. Dobney ...	" " " "	6s. "
F. Deshon ...	Acting Resident Medical Officer, Yarra Bend	£400
A. Morrison ...	Acting Resident Medical Officer, Ararat Asylum	250
A. Morrison ...	Farm Bailiff, Kew Asylum	120
J. Ramage ...	Deputy Electoral Registrar (<i>vice</i> Bourke, deceased) ...	Fees.
R. C. Montgomery ...	Deputy Electoral Registrar (<i>vice</i> Dawson, resigned).	
W. Brown ...	" " " "	"
W. S. Walker ...	Clerk and Storekeeper, Ballarat Asylum	£180
W. B. Atkinson (5th class)	4th class Clerk, Police Department	200
J. C. Duncan ...	Public Vaccinator	Fees.
P. Smith ...	5th class Clerk, Police Department	£80
A. Baldwin ...	Senior Head Warder, Ballarat Asylum	200
W. A. Moubray (Warder)	Assistant Head Warder, Yarra Bend Asylum	150
J. E. King ...	Assistant Head Warder, Kew Asylum	150
M. Burke ...	Warder, probationer, Kew Asylum	20s. per week.
W. Stubbings ...	Cook, Ararat Asylum	£60

CHIEF SECRETARY'S DEPARTMENT—APPOINTMENTS—*continued.*

Name.	Occupation.	Salary.
J. Dunstone ...	Deputy Registrar of Births and Deaths ...	Fees.
Bridget Galvin ...	Warder, Kew Asylum ...	£26
Hon. R. L. P. Trench ...	} Commissioners of Land Tax ...	£1500
Sir B. O'Loghlen ...		
A. Fiske ...		
A. Payne ...	Doorkeeper, Legislative Assembly ...	60s. per week.
J. Howe ...	" " ...	"
D. Cautwell ...	" " ...	"
T. Gilchrist ...	Warder (temporary), Penal Department ...	7s. 6d. per diem.
D. Condon ...	Warder, probationer, Kew Asylum ...	20s. per week.
W. Long ...	" " ...	"
D. S. Robinson ...	" " ...	"
R. Oddy ...	" " ...	"
Rosanna Mulhall ...	Laundress, Ballarat Asylum ...	£36
A. Allan ...	Warder, probationer, Ararat Asylum ...	20s. per week.
E. E. Rastrick ...	Public Vaccinator ...	Fees.
S. McGoingal ...	Deputy Electoral Registrar ...	"
C. Moore ...	" ...	"
F. Passey ...	" ...	"
F. Haley ...	Public Vaccinator (<i>vice</i> Richardson, resigned) ...	"
Letitia Pinniger ...	Warder, Ararat Gaol (<i>vice</i> Alexander, relieved) ...	4s. 6d. per diem.
Thos. Smith ...	Clerk, Ararat Asylum ...	£80
B. Concannon ...	Laundress, Kew Asylum (<i>vice</i> Strahan, transferred) ...	36
R. Dunbar ...	Acting Deputy Registrar of Births and Deaths (during illness of Mrs. Dunbar) ...	Fees.
Martha Knight ...	Deputy Registrar of Births and Deaths (<i>vice</i> C. Knight, deceased) ...	"
A. Crichton ...	Deputy Electoral Registrar ...	"
J. Carroll ...	5th class Clerk, Audit Office ...	£80
M. Morris ...	Deputy Electoral Registrar ...	Fees.
J. Cleverdon ...	Electoral Registrar (<i>vice</i> Fairfax) ...	£25
A. Goding ...	Deputy Registrar of Births and Deaths (<i>vice</i> Woodman, removed) ...	Fees.
W. L. Richardson, M.D. ...	Acting Health Officer, Port Phillip ...	42s. per diem (when employed)
J. Brache ...	} Classifiers of Land Tax ...	{ 63s. per diem (temporary).
W. B. Lay ...		
W. E. Ivey ...		
R. Scott ...		
J. Nightingale ...		
J. Harvey ...	Deputy Registrar of Births and Deaths ...	Fees.
J. Cleverdon ...	Electoral Registrar (<i>vice</i> Peacock, removed) ...	£25
Margt. Taylor ...	Laundress, Ballarat Asylum ...	40
W. Andrews ...	Deputy Registrar of Births and Deaths (during Mr. Barry's leave) ...	Fees.
E. Beedon ...	{ Electoral Registrar ...	£25
P. Virtue, junior ...	{ Deputy Electoral Registrar ...	Fees.
J. Knaggs ...	Electoral Registrar ...	£25
R. T. Carty ...	} Classifiers of Land Tax (temporary) ...	63s. per diem.
R. Savage ...		
T. Sherwin ...	Warder, probationer, Ararat Asylum ...	20s. per week.
R. Williams (Cook, Kew Asylum) ...	Cook, Yarra Bend (<i>vice</i> Carpenter, resigned) ...	£80
R. Clifford ...	Cook, Kew Asylum ...	60
J. Blakeney (4th class) ...	3rd class Clerk, Chief Secretary's Office (<i>vice</i> Wall, transferred) ...	375
C. C. Duffy (5th class) ...	4th class Clerk, Chief Secretary's Office (<i>vice</i> Blakeney, promoted) ...	£200
J. Holly ...	Cook, Yarra Bend Asylum ...	£60
W. J. Walsh ...	Warder, probationer, Kew Asylum ...	20s. per week.
P. McLintock ...	Deputy Registrar of Births and Deaths (<i>vice</i> Fleming, resigned) ...	Fees.
N. T. Harris ...	Cook, Ararat Asylum (<i>vice</i> Martin, dismissed) ...	£80
Marion Tranter ...	Acting Deputy Registrar of Births and Deaths (temporary) ...	Fees.
J. Vallance ...	Deputy Electoral Registrar ...	"
J. B. Kelly ...	" ...	"
J. Martin, junior ...	Acting Deputy Registrar of Births and Deaths ...	"
J. Kelly ...	5th class Clerk, Police Department ...	£80
W. Caffin ...	Deputy Electoral Registrar ...	Fees.
C. Gardiner ...	" ...	"

CHIEF SECRETARY'S DEPARTMENT—APPOINTMENTS—*continued.*

Name.	Occupation.	Salary.
F. Date ...	Deputy Electoral Registrar ...	Fees.
A. Fuller ...	Electoral Registrar (<i>vice</i> Mayne, relieved) ...	£25
W. Thomas, M.B. ...	Public Vaccinator (<i>vice</i> Smith, resigned) ...	Fees.
T. L. Smith ...	Deputy Registrar of Births and Deaths ...	"
E. A. Thomson ...	" " ...	"
A. C. McDonald ...	" " ...	"
M. Lloyd ...	Warder, Yarra Bend Asylum ...	£26
A. Cochran ...	Public Vaccinator (<i>vice</i> Rigby, deceased) ...	Fees.
J. Ramsay ...	Warder, Ballarat Asylum ...	£26
R. Knaggs, J.P. ...	Returning Officer, West Melbourne (<i>vice</i> Moubray, absent).	
E. Hopton ...	} Inspectors of Vineyards (temporary).	
A. R. Wallis ...		
F. Geoffrey ...	Deputy Electoral Registrar ...	Fees.
A. Baird ...	} Warders (temporary), Penal Department ...	7s. 6d. per diem.
D. Phillips ...		
H. S. Willis ...	Engineer's Assistant, Legislative Assembly (<i>vice</i> Jeffreys, promoted)	10s. per week.
C. Smith, M.D. ...	Public Vaccinator (<i>vice</i> W. J. Smith, resigned) ...	Fees.
J. Field ...	Electoral Registrar ...	£25
A. J. Farley ...	Acting Deputy Registrar of Births and Deaths (temporary)	Fees.
A. J. Skene ...	Commissioner of Land Tax ...	Nil.
B. Mansfield ...	Warder, Kew Asylum ...	£26
N. W. Beresford ...	Warder, probationer, Beechworth Asylum ...	20s. per week.
J. Lloyd ...	Warder, Kew Asylum ...	£65
W. J. Chalkley ...	Deputy Electoral Registrar ...	Fees.
Ellen Kerrigan ...	Housekeeper, Chief Secretary's Office (<i>vice</i> Maria Kerrigan, deceased)	£50
W. Dyring ...	Deputy Electoral Registrar ...	Fees.
J. W. Hazledine ...	" " ...	"
J. Irwin ...	} Warders (temporary), Penal Department ...	7s. 6d. per diem.
F. Jennyn ...		
W. Landell ...		
J. Stevens, J.P. ...	Official Visitor, Beechworth Asylum (<i>vice</i> P.M., relieved)	Fees.
J. W. Banfield ...	Official Visitor, Ararat Asylum (<i>vice</i> the P.M. relieved)	Fees.
M. O'Hea ...	5th class Clerk, Chief Secretary's Office ...	£80
H. B. Mercer ...	Deputy Registrar of Births and Deaths (<i>vice</i> W. Mercer, deceased)	Fees.
M. Amos ...	Electoral Registrar (<i>vice</i> W. Mercer, deceased) ...	£25
T. Walsh ...	Electoral Registrar ...	25
S. Bowden ...	Inspector of Stock (<i>vice</i> Wright, deceased), temporary appointment	240
E. Murphy ...	Deputy Registrar of Births and Deaths ...	Fees.
A. Monahan ...	Warder, Kew Asylum ...	£26
H. Ryan ...	Warder, Beechworth Asylum ...	30
D. Sullivan ...	Warder, Kew Asylum ...	20s. per week.
C. Carrington ...	Warder, Kew Asylum (<i>vice</i> Barry resigned) ...	£26
P. Flood ...	Warder, Penal Department (temporary) ...	7s. 6d. per diem.
W. Bone, M.D. ...	Public Vaccinator (temporary appointment, <i>vice</i> Mercer deceased)	Fees.
M. Steel ...	Warder, Kew Asylum ...	£26
R. M. Macintyre ...	Warder, Kew Asylum (<i>vice</i> Mansfield resigned) ...	26
J. S. Christopher ...	Warder, Penal Department (temporary) ...	7s. 6d. per diem.
P. Cronin ...	Agricultural Instructor, Industrial Schools... ..	7s. per diem.
J. Mackie ...	Electoral Registrar (<i>vice</i> Kyd resigned) ...	£25
J. Cox, B.M. ...	Deputy Medical Inspecting Officer of Passenger Ships, Port of Melbourne.	
Mary Elphinstone ...	Deputy Registrar of Births and Deaths (<i>vice</i> Jno. Elphinstone deceased)	Fees.
H. U. Alcock ...	} Additional Members Paris Exhibition Commission.	
T. P. Fallon ...		
J. H. Yates ...	Electoral Registrar ...	£25
J. Russell, J.P. ...	Official Visitor, Ballarat Asylum ...	Fees.
H. Drayton ...	Deputy Electoral Register (<i>vice</i> Walsh resigned) ...	"
J. Voss ...	Deputy Electoral Registrar ...	"
R. Armstrong ...	Warder, Beechworth Asylum ...	£30
J. West ...	Deputy Electoral Registrar ...	Fees.
J. Morrow ...	" " ...	"
J. Scott ...	Warder, Ballarat Asylum (probationer) ...	20s. per week.
J. Mullooney ...	Warder, Penal Department ...	8s. 6d. per diem.

CHIEF SECRETARY'S DEPARTMENT—APPOINTMENTS—*continued.*

Name.	Occupation.	Salary.
J. Dobbyn ...	Warder, Penal Department ...	7s. 6d. per diem.
E. C. Graves ...	Deputy Registrar of Births and Deaths ...	Fees.
B. Hill ...	Electoral Registrar ...	£25
B. Henry ...	Overseer of Labor, Penal Department (<i>vice</i> Hackett, resigned)	200
J. H. Wilson ...	Resident Medical Officer, Kew Asylum ...	£250
E. Knights... ..	Deputy Registrar of Births and Deaths ...	Fees.
J. Darbyshire ...	Electoral Registrar (<i>vice</i> Kinchela, deceased) ...	£25
J. K. Barnet, M.D. ...	Public Vaccinator (<i>vice</i> Müller, resigned) ...	Fees.
C. H. Huxtable ...	Public Vaccinator (<i>vice</i> Roberts, deceased) ...	"
D. Clarke ...	{ Deputy Electoral Registrar ...	"
	{ Deputy Registrar of Births and Deaths ...	"
W. Cameron ...	" " ...	"
M. Morris ...	" " ...	"
J. Hannah ...	Acting Deputy Registrar of Births and Deaths (temporary)	"
T. Bedford... ..	Electoral Registrar ...	£25
J. Fitzgerald ...	Deputy Electoral Registrar ...	Fees.
A. Austin ...	Deputy Registrar of Births and Deaths ...	"
T. Tweedie ...	" " ...	"
T. Ryan ...	" " ...	"
G. Haley, M.B. ...	Public Vaccinator ...	"
H. Mackintosh ...	" " ...	"
J. Hefferin... ..	Deputy Electoral Registrar ...	"
A. Harris ...	Electoral Registrar ...	£25
H. Dewing ...	Inspector of Stock ...	220
J. Lloyd ...	Farm Laborer, Industrial Schools ...	6s. per diem.
Wm. Shaw ...	Acting Deputy Registrar of Births and Deaths (temporary)	Fees.
P. Horan ...	Deputy Electoral Registrar ...	Fees.
J. Day ...	Deputy Registrar of Births and Deaths ...	"
N. McL. McLean ...	" " ...	"
G. B. Casey ...	" " ...	"
J. Hefferin... ..	" " ...	"
E. J. Stranger ...	" " ...	"
J. Sholl ...	{ Deputy Registrar of Births and Deaths ...	"
	{ Deputy Electoral Registrar ...	"
J. A. Panton, P.M. ...	Examiner of the Classification of Land the Property of any Commissioners of Land Tax.	
G. Webster, P.M. ...	Visiting Justice, Sandhurst Gaol.	
B. Smith, P.M. ...	Visiting Justice, Woods Point Gaol.	
A. Wyatt, P.M. ...	Visiting Justice, Kilmore Gaol.	
J. G. Taylor, P.M. ...	Visiting Justice, Castlemaine Gaol.	
C. W. Carr, P.M. ...	Visiting Justice, Maryborough Gaol.	
A. P. Akehurst ...	Visiting Justice, Melbourne and Pentridge.	
A. W. Howitt, P.M. ...	Visiting Justice, Omeo and Sale Gaols.	
E. F. Owen ...	4th class Clerk, Government Statist's Office ...	£200
W. Shaw ...	Deputy Electoral Registrar ...	Fees.
W. Thomas ...	Electoral Registrar ...	£25
Ann Thomas ...	Deputy Registrar of Births and Deaths ...	Fees.
J. M. Nolan ...	Public Vaccinator ...	"
M. Matheson ...	" " ...	"
J. R. Ulyett ...	Deputy Registrar of Births and Deaths ...	"
T. R. Evans ...	" " ...	"
W. H. Miller, M.D. ...	Public Vaccinator ...	"
C. E. Gray, M.D. ...	" " ...	"
J. R. Bray ...	Deputy Registrar of Births and Deaths ...	"
Sarah Fortune ...	" " ...	"
J. Elkington ...	Deputy Electoral Registrar ...	Fees.
J. McClure ...	" " ...	"
P. Hallinan ...	" " ...	"
J. H. Blake ...	Hall Porter, Kew Asylum ...	£80
E. Dunn ...	Warder, probationer, Yarra Bend ...	20s. per week.
T. Jennings ...	Warder, Ballarat Gaol ...	7s. 6d. per diem.
J. R. Smith ...	Warder, probationer, Beechworth Asylum ...	20s. per week.
Wm. Gaulton ...	Returning Officer for Kyneton Boroughs.	
M. Horan ...	Deputy Electoral Registrar ...	Fees.
Mary J. Hopper ...	Warder, Beechworth Asylum ...	£30
E. Lawlor ...	Warder, Ararat Asylum ...	30
J. E. Fitzgerald ...	Deputy Registrar of Births and Deaths ...	Fees.
R. Fleming ...	" " ...	"
B. M. Foley (2nd class warder)	1st class Warder, Beechworth Asylum ...	£38

CHIEF SECRETARY'S DEPARTMENT—APPOINTMENTS—continued.

Name.	Occupation.	Salary.
J. Dennistoun ...	Deputy Registrars of Births and Deaths ...	Fees.
J. Evans ...		
J. A. Davis ...		
E. Davis ...		
W. Conche...		
A. Clarke (constable)	Keeper of the Bendoc Gaol.	
K. Kjellgren ...	Deputy Electoral Registrar ...	Fees.
J. Conboy ...		"
B. M. O. Theorell ...	Messenger, Public Library ...	£50
Mary E. Ward ...	Acting Deputy Registrar of Births and Deaths ...	Fees.
C. E. Wyer ...	Public Vaccinator ...	"
J. Campbell ...	" ...	"
E. Victor ...	Laundress, Ballarat Asylum ...	£36
W. Wellesley ...	Warder, Kew Asylum (temporary) ...	20s. per week.
C. Everett ...	} Warders, Penal and Gaols Department (temporary)	7s. 6d. per diem.
J. Bloy ...		
E. F. G. Butler ...	Public Vaccinator ...	Fees.
J. O'Brien ...	Deputy Electoral Registrar ...	"
W. Radcliffe ...	" ...	"
J. McClarren ...	{ Electoral Registrar ...	£25
	{ Deputy Electoral Registrar ...	Fees.
L. Prendergast ...	Deputy Registrar of Births and Deaths ...	"
E. M. Hayes ...	" ...	"
E. Coughlan ...	Warder, Ararat Asylum ...	£44
N. Wallis (3rd class warder) ...	2nd class Warder, Beechworth Asylum ...	90
T. Timmins (3rd class warder, Beechworth)	3rd class Warder, Yarra Bend.	
P. Duncan ...	Probationary Warder, Beechworth Asylum ...	20s. per week.
A. J. Leggatt ...	Public Vaccinator ...	Fees.
A. McLeod...	Electoral Registrar ...	£25
T. Maxwell ...	Deputy Registrar of Births and Deaths ...	Fees.
J. Raymond ...	" " " " ...	"
W. Thomas ...	" " " " ...	"
W. H. Draper ...	Acting Deputy Registrar of Births and Deaths ...	"
Ellen Torr ...	" " " " ...	"
T. T. Dick...	Medical Superintendent, Kew Asylum ...	£600
W. M. Watkins ...	Medical Superintendent, Beechworth Asylum ...	500
F. P. Deshon ...	Resident Medical Officer, Yarra Bend ...	400
J. Y. Fishbourne ...	Resident Medical Officer, Kew Asylum ...	400
J. A. Kennison ...	Resident Medical Officer, Yarra Bend ...	250
G. B. Jenkins ...	Reader's Assistant, Legislative Council ...	25s. per week.
T. G. Jamieson ...	Acting Deputy Electoral Registrar (temporary appointment)	Fees.
W. H. Foley (constable)	Keeper of the Gaol at Snowy Creek.	
Michael Nugent ...	Deputy Electoral Registrar ...	Fees.
J. J. Lear ...	{ Deputy Registrar Births & Deaths (<i>vice</i> T. J. W. Lear)	"
	{ Electoral Registrar (<i>vice</i> T. J. W. Lear) ...	£25
W. H. Bullivant ...	Member Board of Advice, under Scab Act.	
P. Cabill ...	Electoral Registrar ...	£25
B. Gaunson (Secretary Land Tax Department)	3rd class Officer, Civil Service ...	375
J. O'Brien ...	Resident Medical Officer, Beechworth Asylum ...	£250
Agnes Arden ...	Warder, Kew Asylum ...	26
William Cook ...	Auditor, Friendly Societies.	
J. Hosken ...	{ Deputy Electoral Registrar ...	Fees.
	{ Deputy Registrar of Births and Deaths ...	"
W. G. Stephenson ...	" " " " ...	"
T. G. Jamieson ...	Acting Deputy Registrar of Births and Deaths (temporary)	"
E. Knight, junior ...	Electoral Registrar ...	£25
W. H. Draper ...	Acting Electoral Registrar (temporary) ...	25
J. Firey ...	Deputy Electoral Registrar ...	Fees.
J. McWilliams ...	Doorkeeper, Legislative Assembly (temporary) ...	60s. per week.
S. McMichael ...	" " " " ...	60s. per week.
W. B. Peerless (surgeon)	Public Vaccinator ...	Fees.
John Grey...	" " " " ...	"
Fanny Cooke ...	Deputy Registrar of Births and Deaths ...	"
Joseph Archibald (sub-inspector)	To be 2nd class Inspector of Police ...	£275
Henry Pewtress (1st class sergeant)	To be Sub-Inspector of Police ...	255
C. E. Trenter ...	Deputy Registrar of Births and Deaths ...	Fees.
D. F. J. Wilson ...	5th class Clerk, Audit Office ...	£80

CHIEF SECRETARY'S DEPARTMENT—APPOINTMENTS—*continued.*

Name.	Occupation.	Salary.
J. H. Wilson ...	Resident Medical Officer, Kew Asylum ...	£250
William H. Bannister ...	Auditor Friendly Societies.	
F. W. Saunders ...	"	
J. T. Russell ...	Deputy Electoral Registrar.	
Edward Lawrence ...	Auditor Friendly Societies ...	Fees.
H. S. Parfett, J.P. ...	Returning Officer Eastern Province.	
A. MacLeod ...	Electoral Registrar (<i>vice</i> Ponsford, relieved)	£25
Daniel Oliver ...	"	25
Charles Dennis ...	" (<i>vice</i> Dunderdale, relieved)	25
C. G. Holmes ...	Acting Deputy Registrar Births and Deaths (temporary)	Fees.
William Scott ...	Deputy Registrar Births and Deaths	"
Michael Nugent ...	"	"
J. S. Anderson ...	"	"
Charles Phillips ...	"	"
Ellen Mary Hinkins ...	" (<i>vice</i> J. T. Hinkins, relieved)	"
D. S. Heron, P.M. ...	Official Visitor Lunacy Wards, Geelong Hospital.	
J. G. Taylor, P.M. ...	" " Castlemaine "	
G. Webster, P.M. ...	" " Sandhurst "	
William Wellesley ...	Carter, Kew Asylum ...	£60
Richard Hill ...	Hospital Warder, Ararat Asylum...	125
Denis Cantwell ...	Doorkeeper, Legislative Assembly	£3 12s. per week.
R. B. Michell ...	Electoral Registrar	£25
William Lawn ...	"	25
D. O'Neill ...	Deputy Electoral Registrar	Fees.
T. B. Donaldson ...	"	"
J. Powell ...	"	"
John Macdonald ...	"	"
J. Kelly ...	"	"
C. G. Holmes ...	Deputy Registrar Births and Deaths	"
John Bailey ...	} To be first Sergeants of Police ...	9s. 6d. per diem.
Richard Carden ...		
(2nd class sergeants)		
John Rogers ...	} Second class Sergeants of Police	8s. 6d. per diem.
Philip Purcell ...		
Michael O'Hear ...		
John Gray... (senior constables)		
Mary A. Cronin ...	Second class Warder, Kew Asylum	£26
Robert Williamson ...	Carter, Ballarat Asylum	60
B. M. O. Theorell ...	Attendant Public Library	60
M. F. Dowden ...	Messenger Public Library	50
John McPherson ...	Classifier, Clerk Land Tax Department	450
C. T. Stacey ...	"	330
A. E. Roffey ...	Auditor Friendly Societies.	
William Glover, J.P. ...	Visiting Justice Mornington Gaol.	
W. H. Draper ...	Electoral Registrar (<i>vice</i> A. Draper, deceased)	£25
John Raleigh ...	} Members Board of Advice under Scab Act.	
Austin Mack ...		
E. Allfrey ...		
W. Merry ...		
William Armstrong ...	} 2nd class Warder, Ballarat Asylum	£65
C. W. Greenwood ...		
Elizabeth Rogers ...	" Beechworth Asylum	30
A. Morris ...	Attendant Public Library, &c.	60
Lydia Draper ...	Deputy Registrar of Births and Deaths	Fees.
T. B. Donaldson ...	"	"
Rev. J. Bulmer ...	"	"
W. H. Johnson, M.B. ...	Public Vaccinator	"
E. Sharp ...	Matron Beechworth Asylum	£90
S. A. Barnard ...	Assistant Model-maker, Industrial and Technological Museum	50
J. Ashwood ...	Deputy Electoral Registrar	Fees.
J. C. Ryan ...	"	"
F. M. Harricks (Surgeon) ...	Public Vaccinator	"
Denis Barry ...	Deputy Registrar of Births and Deaths	"
J. Godden ...	Deputy Electoral Registrar	"
Charles Dixon ...	Public Vaccinator	"
J. Murray ...	Deputy Registrar of Births and Deaths	"
R. Wren ...	"	"
M. H. Wait ...	"	"
G. R. Murphy ...	"	"
J. Hewitt ...	Deputy Electoral Registrar	"

CHIEF SECRETARY'S DEPARTMENT—APPOINTMENTS—*continued.*

Name.	Occupation.	Salary.
S. M. Scott	Electoral Registrar	£25
Wm. W. Bryant	Deputy Electoral Registrar	Fees.
J. Spence	" " " " " " " "	"
M. Flynn (Carter)	Warder Ballarat Asylum	£65
D. M. Davies, M.P.	Member Lands Commission.	
T. G. Jamieson	Deputy Registrar of Births and Deaths	Fees.
Elizabeth E. Fricker... ..	" " " " " " " "	"
J. W. Balchin	" " " " " " " "	"
A. Mackimlay	" " " " " " " "	"
F. Lowe	Auditor Friendly Societies.	
T. Wyniet	Deputy Electoral Registrar	Fees.
J. B. Higgins	" " " " " " " "	"
J. McLaren	Deputy Registrar of Births and Deaths	"
J. Bray	Fireman, Kew Asylum	£60
A. Mackimlay (temporary)	Electoral Registrar	25
M. A. Dockery	Deputy Electoral Registrar	Fees.
R. Sitlington	{ Electoral Registrar	£25
	{ Deputy Registrar of Births and Deaths	Fees.
W. H. McFarlane	Acting Health Officer, Port Phillip.	
J. T. Fitzgerald	2nd class Warder, Ballarat Asylum	£65
R. W. V. McCall	5th class Clerk, Penal Department	80
J. Lynch (Senior Constable)	2nd class Sergeant Police	8s. 6d. per diem.
John Prettie	Cook, Kew Asylum	£60
J. O'Brien... ..	Resident Medical Officer, Beechworth Asylum	250
J. B. Higgins	Deputy Electoral Registrar	Fees.
Mary J. Duigan	Deputy Registrar of Births and Deaths (temporary)	"
J. W. Bridgman	Public Vaccinator	"
H. W. B. Gamble	" " " " " " " "	"
J. Travis	Electoral Registrar	£25
R. Alexander	Deputy Registrar of Births and Deaths	Fees.
W. P. A. Smith	" " " " " " " "	"
Mary Kentish	" " " " " " " "	"
T. Dickson... ..	Government Auditor under Metropolitan Gas Company Act	£105 fee.
H. O'Callaghan	Laundress, Kew Asylum	£36
M. A. Stiles	" " Beechworth Asylum	36
P. S. Mateer	Messenger " " " " " " " "	36
A. Durman... ..	2nd class Warder " " " " " " " "	30
W. Webster	Auditor Friendly Societies	Fees.
J. Elkington	Deputy Registrar of Births and Deaths	"
M. A. Dockery	" " " " " " " "	"
A. Morrison	Farm Bailiff, Kew Asylum " " " " " " " "	£120
E. C. Clark (5th class Clerk)	4th class Clerk, Penal and Gaols Department	200
W. McLean (4th class Clerk)	3rd class Clerk and Accountant	375
G. B. Wilson (Schoolmaster)	4th class Officer, Penal and Gaols Department	250
W. C. Tope	5th class Clerk, Audit Office	80
Mary Enright	2nd class Warder, Ararat Asylum (on probation)	30
G. Shaw (Surgeon)	Acting Health Officer, Port Phillip.	
Florence M. Morris	Acting Deputy Registrar Births and Deaths (temporary)	Fees.
Fanny S. Grey	Acting Deputy Registrar Births and Deaths	Fees.
P. Tennyson	Deputy Registrar of Births and Deaths	"
J. W. Hazledine	" " " " " " " "	"
J. H. McLeod	" " " " " " " "	"
R. Purdue	" " " " " " " "	"
B. Goulden	" " " " " " " "	"
J. Bertoli	" " " " " " " "	"
D. Waldon... ..	" " " " " " " "	"
J. A. Sutherland	" " " " " " " "	"
D. Waldon... ..	Deputy Electoral Registrar	"
J. Bertoli	" " " " " " " "	"
W. H. Wilson	" " " " " " " "	"
J. H. G. Drummond... ..	Public Vaccinator	"
H. Barnett... ..	" " " " " " " "	"
D. McArthur	Warder, Penal and Gaols Department (temporary appointment)	7s. 6d. per diem.
R. Clifford (Cook)	Carter, Kew Asylum	£60
H. A. Strong, M.A.	Trustee Public Library, Museums, &c.	
A. L. Whitby (3rd class)	2nd class Clerk, Chief Secretary's Office (<i>vice</i> Lascelles, superannuated)	£500
B. Lawlor	2nd class Warder, Yarra Bend Asylum	£26
R. Colquhoun	Public Vaccinator	Fees.

CHIEF SECRETARY'S DEPARTMENT—APPOINTMENTS—*continued.*

Name.	Occupation.	Salary.
R. W. Quarrill	Clerk, Chief Secretary's Office	£114
W. M. Dickinson	Public Vaccinator	Fees.
D. W. Eaton	" " " " " "	"
E. Hopton	Inspector of Vineyards (temporary appointment) ...	42s. per diem (exclusive of travelling expenses).
Elizabeth Sharp	Matron, Beechworth Asylum	£90
A. Anderson	Deputy Registrar of Births and Deaths	Fees.
R. Dale, J.P.	Visiting Justice, Jamieson Gaol.	"
W. Smith (constable) ...	Acting Deputy Registrar of Births and Deaths (temporary)	"
C. H. Nicholson (Inspecting Superintendent)	Assistant Commissioner of Police	£500
L. Fawsett (Sergeant of Police)	Keeper of the Gaol at Swan Hill (<i>vice</i> Hodgson, transferred).	
H. McMullen, M.B.	Acting Public Vaccinator	Fees.
R. W. E. McIvor	Member Central Board of Health (<i>vice</i> Dr. Bleasdale).	"
G. Mitchell	Veterinary Surgeon for the Inspection of Stock imported into Victoria	"
T. Sullivan... ..	Warder, Penal and Gaols Department (temporary) ...	7s. 6d. per diem.
S. W. Brooke	{ Deputy Electoral Registrar	Fees.
H. Forde (boatman)	{ Deputy Registrar of Births and Deaths	"
Thomas Keys	To be Coxswain in Health Officer's Crew	9s. 6d. per diem.
James Farrell	Boatman in Health Officer's Crew	7s. 6d. per diem.
G. H. Jenkins (2nd class clerk)	Librarian of Parliament... ..	£600
J. Nimmo, M.P.	Clerk Assistant, 1st class, Legislative Assembly ...	700
A. J. Farr (surgeon)	Member Melbourne Harbor Trust (<i>vice</i> Orkney, resigned).	
E. Wilson	Public Vaccinator	Fees.
S. Maguire... ..	Auditor, Friendly Societies	"
W. Shaw	Acting Deputy Registrar of Births and Deaths	"
S. Walker	Deputy Registrar of Births and Deaths	"
H. H. Hendren	Officer for the purpose of celebrating Marriages.	"
D. Sutton	Acting Government Statist (during Mr. Hayter's absence from the Colony).	
F. V. Brickley	Auditor, under the Friendly Societies Act	Fees.
R. Lee	" " " " " "	"
Edmund Kirly	Electoral Registrar	£25
Wm. Anderson	Classifier under Land Tax Act (temporary)	£3 3s. per diem.
Thomas Smith	" " " " " "	3 3s. per diem.
John Rogers	Warder, Penal Department (temporary)	7s. 6d. per diem.
James Kelly	" " " " " "	7s. 6d. per diem.
Henry Clarke	Carter, Beechworth Asylum	£60
W. Bunstead	Gardener, Ararat Asylum	85
E. J. Lock... ..	Electoral Registrar	25
H. McMullen	Public Vaccinator	Fees.
T. Wilson	" " " " " "	"
R. Frater	Warder, Beechworth Asylum	£65
R. Poynts	" " (temporary)	25s. per week
Robt. Mitchell	" " " " " "	"
Wm. Hancock	Returning Officer for the Borough of Steiglitz.	
Jas. Ramage	5th class Clerk, Audit Office	£80
F. Smith	Electoral Registrar	25
Robt. Knaggs, M.R.C.S.	Deputy Electoral Registrar	Fees.
James Odell	Member of the Medical Board of Victoria (<i>vice</i> Dr. Wilkie, resigned).	
W. H. Embling L.R.C.P.	{ Acting Electoral Registrar	£25
Thos. Chrisp	{ Acting Deputy Registrar of Births and Deaths ...	Fees.
P. Devlin	Member of the Central Board of Health (<i>vice</i> Wardell, removed).	
W. G. Hoare	{ Electoral Registrar	£25
J. M. Gannon	{ Deputy Electoral Registrar	Fees.
L. Le Gould	" " " " " "	"
Mary J. Hopper	" " " " " "	"
Thos. Hepburn	Warder, Beechworth Asylum	£30
J. Scott	Warder, Ballarat Asylum	65
J. A. Sutherland	" " " " " "	65
W. H. Jackson	Public Vaccinator	Fees.
J. Cleary	" " " " " "	"
	Warder, Penal Department (temporary)	7s. 6d. per diem.

CHIEF SECRETARY'S DEPARTMENT—APPOINTMENTS—*continued.*

Name.	Occupation.	Salary.
J. Meaney ...	Warders, Penal Department (temporary) ...	7s. 6d. per diem.
J. Clucas ...		
M. Reilly ...		
J. Gorey ...		
W. J. A. James ...		
T. Sherwin ...	Carter, Ararat Asylum ...	£60
Elizbth. Lawler ...	Warder, Ararat Asylum ...	30
P. McIvor ...	Warders, Beechworth Asylum ...	£65 per ann. ea.
Chas. Phillips ...		
E. Miller ...		
R. Mercer ...		
J. Kavanagh ...		
R. Wilson ...		
R. Oddy ...		
J. R. Smith ...	4th class Clerk, Audit Office ...	£200
Robt. Duncan ...		
W. J. Stoddart (5th class clerk, Audit Office)	Deputy Electoral Registrar ...	Fees.
W. Moore ...	" " (temporary) ...	"
J. Robertson ...	Warders, Kew Asylum ...	£65 each.
T. Shelley ...		
C. J. Mortimer ...		
W. Cosgrove ...		
M. Burke ...		
D. Condon ...		
O. W. Evans ...		
T. Renneban ...	Warders, Ararat Asylum ...	£65 each.
W. King ...		
J. Gordon ...		
A. Baird ...		
A. M. Allen ...	Warders, Yarra Bend ...	£65 each.
P. Murphy ...		
W. F. Dennis ...		
J. Rutherford ...		
P. Reynolds ...	Carter, Yarra Bend Asylum ...	£60
P. Connor ...		
E. Dunn ...	" " " ...	"
T. Foley ...	Warders, Kew Asylum ...	£65
T. J. Eaton ...		
J. Fitzgerald ...		
J. P. Mitchell ...		
J. Carney ...	Warder, Penal Department ...	7s. 6d. per diem.
Robt. McWilliam ...		
Jas. Ross ...	" " ...	"
J. Richardson ...	Returning Officer for the Creswick Electoral District.	
Robt. Knaggs, M.R.C.S.	Official Visitor at Hospitals for the Insane (<i>vice</i> Hon. J. T. Smith, deceased).	
Hon. R. Byrne ...	Returning Officer, East Melbourne.	
John Halfey, J.P. ...	Returning Officer, South Province.	
F. Call, P.M. ...	Returning Officer, Central Province.	
C. O'Leary ...	Warders, Penal Department (temporary) ...	7s. 6d. per diem.
T. Vaughan ...		
M. Lynch ...		
E. F. Mulcahey ...		
E. O'Reilly ...		
R. King ...	Deputy Electoral Registrar ...	Fees.
E. C. Britten ...		
Senr. Constable P. Harty ...	Sergeant of Police ...	8s. 6d. per diem.
D. P. Guinane ...	Assistant Teacher, Industrial Schools (<i>vice</i> Daniel, resigned)	£140
J. Gerrard ...	Deputy Electoral Registrar (<i>vice</i> Taylor, resigned) ...	Fees.
C. H. Hardy, M.D. ...	Member of the Central Board of Health (<i>vice</i> Hon. J. T. Smith, deceased).	
H. W. William ...	Deputy Registrar of Births and Deaths ...	Fees.
D. Dillon ...	Deputy Registrar of Births and Deaths (<i>vice</i> Noller, resigned)	"
J. E. Kelsall ...	Deputy Registrar of Births and Deaths (<i>vice</i> Ford, resigned)	"
R. Innis ...	Cook, Kew Asylum ...	£60
Agnes Arden ...	Warder, Kew Asylum (<i>vice</i> Cotter, resigned) ...	26
Wm. Haines ...	Inspector of Stock (temporary) ...	240*
Jessie Finlay ...	Act. Dep. Registrar of Births and Deaths (temporary)	Fees.
W. J. Falkiner ...	Resident Surgeon, Pentridge P.E. ...	£485

CHIEF SECRETARY'S DEPARTMENT—APPOINTMENTS—*continued.*

Name.	Occupation.	Salary.
Jas. Hider	Returning Officer, Warrnambool Electoral District (<i>vice</i> H. B. Lane, deceased).	
H. Julian	Public Vaccinator (<i>vice</i> Laidman, deceased) ...	Fees.
J. R. Weir	Manager, Stock Quarantine (temporary)	£4 per week.
C. M. Rowan	Acting Electoral Registrar (during three weeks' leave of Registrar Golden)	£25
Professor Nanson (Melbourne University)	Trustee of the Melbourne Public Library, Museums, &c. (<i>vice</i> Dr. Bleasdale, resigned).	
John Baker	Deputy Registrar of Births and Deaths	Fees.
C. W. Greenwood	Warder, Ballarat Asylum	£65
Elizbth. Rogers	Warder, Beechworth Asylum	30
J. M. Nolan (Surgeon)	Public Vaccinator	Fees.
P. F. Donald (Assist. Supdt.)	Acting Superintendent, Pentridge Penal Establishment (during illness of Mr. Gardiner).	
C. Hodgkinson	Member of the Central Board of Health.	
Jas. Laurence	Deputy Electoral Registrar	Fees.
W. Sanders	Deputy Registrar of Births and Deaths	"
G. Greenshields	" " " " " " " "	"
Elizbth. J. Wearing	Acting Deputy Registrar of Births and Deaths (during absence of Registrar)	"
J. Macnamara	Carter, Yarra Bend (temporary)	£60
J. Ingram, J.P.	Official Visitor, Beechworth Asylum (during six months' leave of absence of Mr. Stevens, J.P.).	
J. Stanley	Warder, Penal Department	7s. 6d. per diem.
J. Cleary	" " " " " " " "	"
T. Doyle	Carter, Ararat Asylum (temporary)	£60
T. Sherwin (carter)	Warder, Ararat Asylum (temporary)	65
W. Warren	Resident Medical Officer, Yarra Bend	250
T. F. P. Western	{ Deputy Electoral Registrar	Fees.
F. Drake	{ Deputy Registrar of Births and Deaths	"
J. Tipping	" " " " " " " "	"
T. R. Oddy	Returning Officer, Ripon and Hampden (<i>vice</i> Baggs, deceased).	
M. Gerrand	Deputy Electoral Registrar	Fees.
W. Ruse	Acting Electoral Registrar (temporary)	£25
W. M. Fehon	Returning Officer, Footscray (<i>vice</i> Ritchie, deceased).	
J. B. McIndoe	Returning Officer, Williamstown (<i>vice</i> Mason, removed).	
T. Lowe	Electoral Registrar (<i>vice</i> Anderson, relieved)	£25
J. Anderson	Deputy Electoral Registrar	Fees.
Annie Thurman	Acting Deputy Regr. of Births and Deaths (temporary)	"
A. Kirwan	Deputy Registrar of Births and Deaths	"
J. P. Fitzgerald	Warder, Ballarat Asylum	£65
H. A. Berger	Deputy Registrar of Births and Deaths	Fees.
J. Kelly	Warder, Beechworth Asylum	£65
R. Poynts	Carter " " " " " " " "	60
E. Johnson	Warder (Hospital), Yarra Bend	60
W. K. Andrews	Draughtsman, Land Tax Department (temporary)	350
J. C. Gamble	" " " " " " " "	150
R. S. Stanley	Electoral Registrar (<i>vice</i> Needham, resigned)	25
C. Hodgkinson	Commissioner Harbor Trust.	
Maria Kelly	Acting Deputy Registrar of Births and Deaths	Fees.
J. Davie	Deputy Registrar of Births and Deaths	"
G. S. Stewart	" " " " " " " "	"
F. Wellar	Deputy Electoral Registrar	"
Annie Campbell	Warder, Yarra Bend	£26
J. O'Halloran	Warder, Penal Department (temporary)	7s. 6d. per diem.
J. F. G. Mooney	{ Deputy Electoral Registrar	Fees.
J. Tipping	{ Deputy Registrar of Births and Deaths	"
J. Bray	Deputy Electoral Registrar	"
Mary A. Cronin	Fireman, Kew Asylum	£60
R. Betheras	Warder, Kew Asylum	26
E. W. Hawkins	Acting Deputy Registrar of Births & Deaths (temporary)	Fees.
F. L. Hooper (Surgeon)	Deputy Electoral Registrar	"
J. George	Public Vaccinator	"
Wm. Stack (Overseer)	Electoral Registrar	£25
John Corr (Senior Warder)	Storekeeper, Penal Dept. (<i>vice</i> Smith, superannuated)	300
W. Jones	Overseer, Penal Department (<i>vice</i> Stack)	200
A. S. Lane	Public Vaccinator	Fees.
J. H. Curle	Electoral Registrar	£25
W. Berthon	{ Acting Electoral Registrar	25
	{ Acting Deputy Electoral Registrar	Fees.
	5th class Clerk, Yarra Bend	£80

CHIEF SECRETARY'S DEPARTMENT—APPOINTMENTS—continued.

Name.	Occupation.	Salary.
Mary A. Stiles ...	Laundress, Bechworth Asylum ...	£36
Ellen Carpenter ...	Warder, Yarra Bend Asylum ...	26
Margt. Hoare ...	Deputy Registrar of Births and Deaths ...	Fees.
W. Kellie ...	" " " " " " " " " " " "	"
T. Garlick ...	Public Vaccinator ...	"
E. F. Hughes, junior ...	Deputy Registrar of Births and Deaths ...	"
J. Bennett, J.P. ...	Member of the Board for the Protection of Aborigines.	"
E. F. Atkinson ...	Acting Deputy Registrar of Births and Deaths ...	Fees.
S. Gray ...	Electoral Registrar ...	£25
W. Oddy, J.P. ...	Deputy Electoral Registrar ...	Fees.
W. Somerville ...	" " " " " " " " " " " "	"
D. Williamson ...	Returning Officer, Kara Kara (vice Stewart, removed).	"
A. G. Duncan ...	Acting Electoral Registrar (during three weeks' leave of absence granted to Registrar).	£25
A. E. Roffey ...	Electoral Registrar ...	£25
A. Grant ...	Deputy Registrar of Births and Deaths ...	Fees.
H. Wise ...	" " " " " " " " " " " "	"
S. Iffla, J.P. ...	Official Visitor, Hospitals for the Insane, Melb. district.	"
M. Larkin ...	Auditor, Friendly Societies ...	Fees.
Mary Scott... ..	Warder, Kew Asylum ...	£26
Mary Hansell ...	Deputy Registrar of Births and Deaths ...	Fees.
M. Woodhouse ...	" " " " " " " " " " " "	"
J. Meeney ...	Warder, " Penal and Gaols ...	7s. 6d. per diem.
W. Clifton ...	Deputy Electoral Registrar ...	Fees.
S. Paternoster ...	Electoral Registrar ...	£25
W. J. Lundy ...	" " " " " " " " " " " "	25
W. Philpott ...	Acting Electoral Registrar ...	25
J. B. Kelly ...	Electoral Registrar ...	25
J. Hamilton ...	Deputy Registrar of Births and Deaths ...	Fees.
J. Mason, J.P. ...	Visiting Justice, Belfast Gaol.	"
T. Foster ...	Public Vaccinator ...	Fees.
B. M. Foley ...	Hospital Warder, Beechworth Asylum ...	£55
E. H. England ...	Deputy Registrar of Births and Deaths ...	Fees.
W. Bodkin... ..	" " " " " " " " " " " "	"
W. Oddy ...	" " " " " " " " " " " "	"
S. S. Glass... ..	" " " " " " " " " " " "	"
A. B. Mackay, J.P. ...	Visiting Justice, Warrnambool Gaol.	"
T. Rae ...	Public Vaccinator ...	Fees.
J. Sweeney ...	Warder, Ballarat Asylum ...	£65
S. B. Hales ...	Deputy Electoral Registrar ...	Fees.
J. B. F. Ramsay ...	Deputy Registrar of Births and Deaths ...	"
Catherine Pascoe ...	Warder, Beechworth Asylum (artisan) ...	£44
E. Bowker ...	Acting Deputy Registrar of Births and Deaths ...	Fees.
J. E. Reid ...	Public Vaccinator ...	"
R. Purdue ...	Deputy Registrar of Births and Deaths ...	"
H. Harrison, J.P. ...	Deputy Electoral Registrar ...	"
G. Louch ...	Acting Electoral Registrar ...	£25
H. Harrison ...	Deputy Registrar of Births and Deaths ...	Fees.
S. Larkan ...	Acting Deputy Registrar of Births and Deaths ...	"
A. Bell, J.P. ...	Deputy Registrar of Births and Deaths ...	"
F. J. Drake ...	Messenger, Public Library ...	£50
Mary K. Oldham ...	Deputy Registrar of Births and Deaths ...	Fees.
James Monahan ...	Messenger, Legislative Council ...	60s. per week.
Thos. Dickson ...	Govt. Auditor under Metropolitan Gas Company Act	£105
W. W. Aumont ...	Dispenser, Kew Asylum ...	180
J. A. Wine ...	Dispenser, Yarra Bend ...	180
Margt. Price ...	Warder, Bechworth Asylum ...	30
Lizzie Elliott ...	" " " " " " " " " " " "	30
R. Askwith ...	Deputy Registrar of Births and Deaths ...	Fees.
J. F. Anderson ...	Public Vaccinator ...	"
J. Collins ...	Deputy Electoral Registrar ...	£10 and fees.
J. B. Marr ...	Acting Public Vaccinator ...	Fees.
C. H. Hardy, M. D. ...	Public Vaccinator ...	"
W. Henderson ...	Acting Electoral Registrar ...	£25
W. Rollison ...	Electoral Registrar ...	25
F. Date ...	Deputy Registrar of Births and Deaths ...	Fees.
Fanny S. Gray ...	" " " " " " " " " " " "	"
J. B. H. Farmer ...	" " " " " " " " " " " "	"
J. M. Medley ...	" " " " " " " " " " " "	"

N.B.—All persons mentioned in the foregoing returns that have salaries placed opposite their names are paid out of sums voted on the Estimates, or out of Special Appropriations for Electoral purposes.

EDUCATION DEPARTMENT.

LIST OF OFFICERS WHOSE SERVICES HAVE BEEN DISPENSED WITH BETWEEN THE 1ST JULY 1877
AND 1ST JULY 1879.

Name.	Position.	Salary at date services were dispensed with.	Date of services being dispensed with.
<i>Office Staff.</i>			
H. P. Venables ...	Secretary ...	£900 per annum ...	24th January 1878.
Thomas Testar ...	Accountant ...	550 " ...	"
W. H. Handfield ...	Chief Clerk ...	550 " ...	"
Thomas Abcott ...	Clerk ...	400 " ...	"
George K. Sircom ...	" ...	360 " ...	"
Robert Burke ...	" ...	320 " ...	"
<i>Inspection.</i>			
John Sircom ...	Inspector ...	£550 per annum ...	24th January 1878.
Harry Sasse ...	" ...	550 " ...	"
John Main ...	" ...	520 " ...	"
Thomas Brodribb ...	" ...	510 " ...	"
Joseph Baldwin ...	" ...	460 " ...	"
Robert Craig ...	" ...	410 " ...	"
James Holland ...	" ...	410 " ...	"
A. C. Curlewis ...	" ...	320 " ...	"
Henry Shelton ...	" ...	300 " ...	"
<i>Temporary Clerical Staff.</i>			
Charles E. Cutten ...	Clerk ...	10s. per diem ...	18th October 1877.
Joseph Edwards ...	" ...	" ...	23rd October 1877.
William C. Lonergan ...	" ...	" ...	31st October 1877.
Michael O'Reilly ...	" ...	" ...	3rd November 1877.
William D. Wilson ...	" ...	" ...	22nd November 1877.
Thomas B. Coe ...	" ...	" ...	8th August 1878.
William Sorrell ...	" ...	" ...	22nd January 1879.
<i>Architect's Branch.</i>			
P. W. Thorne ...	Clerk of Works..	£4 10 0 per week...	11th July 1877.
John Bain ...	" ...	4 0 0 " ...	4th August 1877.
Thomas Childlow ...	" ...	3 10 0 " ...	"
Edward Poulton ...	" ...	4 0 0 " ...	30th November 1877.
Richard Coney ...	" ...	4 0 0 " ...	8th December 1877.
Samuel Sloman ...	" ...	4 0 0 " ...	31st December 1877.
W. R. Cooper ...	" ...	4 0 0 " ...	10th May 1878.
W. F. Grant ...	" ...	3 10 0 " ...	31st May 1878.
R. F. Crichton ...	" ...	4 0 0 " ...	"
James M. Robertson ...	Draughtsman ...	4 0 0 " ...	31st August 1878.
James Ford ...	Clerk of Works..	4 0 0 " ...	"
Hugh Frazer... ..	" ...	4 0 0 " ...	"
William Chaffer ...	" ...	4 10 0 " ...	"
Joseph Avery ...	" ...	4 10 0 " ...	10th August 1878.
<i>Truant Officers.</i>			
John Munro ...	Truant Officer ...	£2 10 0 per week...	15th March 1878.
John Strachan ...	" ...	10s. per diem ...	8th May 1878.
P. W. Salmon ...	" ...	" ...	9th September 1878.

LIST OF APPOINTMENTS MADE BETWEEN THE 1ST JULY 1877 AND 1ST JULY 1879.

Name.	Position.	Salary.	Date of Appointment.	—
<i>Inspectors.</i>				
A. T. Lewis ...	Inspector ...	£375 0 0 per annum	24th April 1878 ...	} Voted on Estimates.
T. R. Hepburn ...	" ...	300 0 0 "	" ...	
R. Russell ...	" ...	300 0 0 "	1st May 1878 ...	
W. M. M. Campbell ...	" ...	300 0 0 "	" ...	
S. Ware ...	" ...	375 0 0 "	27th May 1878 ...	
A. Stewart ...	" ...	411 13 4 "	11th June 1878 ...	
W. M. Gamble ...	" ...	411 13 4 "	19th June 1878 ...	
Andrew Loughrey ...	" ...	375 0 0 "	21st July 1878 ...	
Ross Cox ...	" ...	411 13 4 "	29th November 1878 ...	
John Dennant ...	" ...	350 0 0 "	14th January 1879 ...	

EDUCATION DEPARTMENT—APPOINTMENTS, ETC.—*continued.*

Name.	Position.	Salary.	Date of Appointment.	—	
<i>Architect's Branch.</i>					
James Ford ...	Clerk of Works...	£4 per week	1st August 1877 ...	} Loan Act.	
Richard Coney ...	"	"	6th August 1877 ...		
Hugh Frazer ...	"	"	13th September 1877		
George Seamark ...	"	"	17th September 1877		
John Daniel ...	Messenger ...	£40 per annum	21st November 1877		
Charles A. Sherard ...	Clerk ...	"	1st December 1877 ...		
John Young ...	Clerk of Works...	£3 per week	17th December 1877		
W. R. Cooper ...	"	4 "	"		
W. Butterworth ...	Messenger ...	10s. "	19th December 1877		
<i>Temporary Clerical Assistance.</i>					
Sydenham Bowden ...	Clerk ...	10s. per diem	1st July 1877 ...	} Voted on Estimates.	
Thomas B. Waters ...	"	£1 10s. per week	5th July 1877 ...		
Thomas Reddin ...	"	10s. per diem	11th July 1877 ...		
William B. Loughren ...	"	"	23rd July 1877 ...		
Percy McDonnell ...	"	£50 per annum	8th August 1877 ...		
Charles E. Cutten ...	"	10s. per diem	23rd August 1877 ...		
Robert Gibbs ...	"	"	"		
William C. Lenergan ...	"	"	"		
John Mackie Dwyer ...	"	"	19th September 1877		
Michael O'Reilly ...	"	"	20th September 1877		
Joseph Edwards ...	"	"	19th October 1877 ...		
William D. Wilson ...	"	"	16th November 1877		
George Stanway ...	"	"	21st November 1877		
Thomas Burton... ..	"	"	8th January 1878 ...		
Wm. A. D. Burke ...	"	"	9th January 1878 ...		
William Whitlow ...	"	"	12th March 1878 ...		
John McKenzie ...	"	£50 per annum	18th March 1878 ...		
Henry Parry ...	"	2 per week	29th March 1878 ...		
Frederick Marsh ...	"	50 per annum	30th May 1878 ...		
Alfred Jackson... ..	"	200 "	11th June 1878 ...		
John P. Tennant ...	"	10s. per diem	1st July 1878 ...		
Thomas B. Coe... ..	"	"	8th July 1878 ...		
Lovell A. P. Harris ...	"	£50 per annum	12th August 1878 ...		
Francis Short ...	"	"	30th October 1878 ...		
Frank Richardson ...	"	10s. per diem	18th November 1878		
William Sorrell... ..	"	"	11th December 1878		
James F. Glennon ...	"	"	2nd January 1879 ...		
Ralph Lind ...	"	"	23rd January 1879 ...		
J. C. Knight ...	"	"	9th June 1879 ...		
<i>Truant Officers.</i>					
Ricciotti Garibaldi ...	Truant Officer...	10s. per diem	13th August 1877 ...		
W. H. Kingsbury ...	"	"	13th September 1877		
Charles Scott ...	"	"	15th October 1877 ...		
Alfred Currey ...	"	"	23rd October 1877 ...		
Wilton Barfoot ...	"	"	25th March 1878 ...		
Henry R. Tilt ...	"	"	1st April 1878 ...		
James McAlpine ...	"	"	8th April 1878 ...		
D. Aitkin ...	"	"	"		
George Allen ...	"	"	"		
Adam McNeill ...	"	"	27th May 1878 ...		
E. G. Moore ...	"	"	10th June 1878 ...		
P. W. Salmon ...	"	"	1st June 1878 ...		
James Ellis ...	"	"	1st July 1878 ...		
Richard Ireland ...	"	"	11th July 1878 ...		
J. T. Seymour ...	"	"	1st August 1878 ...		
Robt. V. Dermott ...	"	"	9th September 1878...		
Thomas B. Coe... ..	"	"	13th September 1878		
Thomas Eawosoe ...	"	£2 10s. per week	13th January 1879 ...		
Francis McGill... ..	"	10s. per diem	"		
John Drummond ...	"	"	5th February 1879 ...		
Enoch Downs ...	"	"	15th April 1879 ...		
<i>Miscellaneous.</i>					
Thomas Ferguson ...	Caretaker ...	£2 10s. per week	3rd January 1878 ...		
Mary Jane Costelloe ...	} Office-cleaners {	18s. "	1st March 1878 ...		
Fanny Smith ...		18s. "	5th March 1878 ...		
Joseph Phelan ...	Messenger ...	£2 2s. "	26th April 1878 ...		

EDUCATION DEPARTMENT—APPOINTMENTS, ETC.—*continued.*
LIST OF RE-APPOINTMENTS MADE BETWEEN 1ST JULY 1877 AND 1ST JULY 1879.

Name.	Position.	Salary at Dismissal.	Salary at date of Re-appointment.	Date of Re-appointment.	—	
<i>Office Staff.</i>						
W. H. Handfield ...	Chief Clerk ...	£550 ...	£550 ...	16th April 1878	} Voted on Estimates.	
<i>Inspection.</i>						
John Main ...	Inspector ...	£520 per annum	£610 0 0 per ann.	25th March 1878		
Thomas Brodribb ...	" ...	510 "	550 0 0 "	"		
Joseph Baldwin ...	" ...	460 "	460 0 0 "	1st February 1878		
Robert Craig ...	" ...	410 "	430 0 0 "	25th March 1878		
James Holland ...	" ...	410 "	411 13 4 "	"		
A. C. Curlewis ...	" ...	320 "	320 0 0 "	1st February 1878		
Henry Shelton ...	" ...	320 "	375 0 0 "	25th March 1878		
<i>Truant Officers.</i>						
P. W. Salmon ...	Truant Officer	10s. per diem ...	10s. per diem ...	30th October 1878		

Education Department,
16th September, 1879.

G. WILSON BROWN,
Secretary.

DEPARTMENT OF THE ATTORNEY-GENERAL.

A RETURN showing the respective Names, Occupations, and Salaries of all Persons discharged from employment in the Department of the Attorney-General, between the 1st of July 1877 and the 1st of July 1879, and the Name, Occupation, and Salary of every Person appointed or re-appointed during the same period to any situation in such Department, whether permanent or temporary, and whether paid by Salaries voted on Estimates, or out of Monies appropriated for particular Works.

No.	Name.	Discharged.		Appointed.		Re-appointed.		Whether Permanent or Temporary.	Whether paid by Salaries voted on Estimates or out of Monies appropriated for particular works.
		Occupation.	Salary.	Occupation.	Salary.	Occupation.	Salary.		
1	Armstrong, J. S. ...	Prosecutor for Queen	£600	... ..	...	Prosecutor for Queen	£600	Permanent	Estimates—Salary
2	Aylward, J. ...	...	...	Messenger	10s. per week	...	...	Temporary	" Contingencies
3	Bartlett, S. ...	Died	...	"	£170	...	...	Permanent	" Salary
4	Blagdon, A. W. ...	...	...	Clerk	80	...	...	"	" "
5	Burke, G. L. ...	...	...	"	80	...	...	"	" "
6	Caffin, W. ...	...	...	Deputy Registrar of Births, &c.	Fees	...	...	"	" Contingencies
7	Carroll, T. ...	...	...	Messenger	£170	...	...	"	" Salary
8	Cheshire, H. ...	...	...	Deputy Registrar of Births, &c.	Fees	...	...	"	" Contingencies
9	Clarke, J. ...	...	...	"	"	...	...	"	" "
10	Clarke, W. D. ...	...	...	"	"	...	...	"	" "
11	Claxton, F. M. ...	...	...	Assignee, Insolvency	"	...	...	"	" "
12	Cunningham, C. J. H. ...	...	...	Deputy Registrar of Births, &c.	"	...	...	"	" Contingencies
13	Elliott, A. D. E. ...	...	...	Clerk	10s. per day	...	...	Temporary	" "
14	Forster, J. C. ...	...	...	Deputy Registrar of Births, &c.	Fees	...	...	Permanent	" "
15	Garnett, W. S. ...	Prosecutor for Queen	£600	... ..	...	Prosecutor for Queen	£600	"	" Salary
16	Goldstein, J. R. Y. ...	...	...	Draftsman	Contract rates	...	...	Temporary	" Contingencies
17	Hawkins, A. G. ...	...	...	Deputy Registrar of Births, &c.	Fees	...	...	Permanent	" "
18	Henderson, J. C. ...	...	...	Clerk and Bailiff	£200	...	...	"	" Salary
19	Horne, J. G. T. ...	...	...	Associate	300	...	...	"	" "
20	Irwin, W. ...	...	...	Deputy Registrar of Births, &c.	Fees	...	...	"	" Contingencies
21	Jack, A. ...	...	...	"	"	...	...	"	" "
22	Kelly, J. ...	...	...	"	"	...	...	"	" "
23	Martin, J. ...	Clerk	10s. per day	Clerk	10s. per day	...	...	Temporary	" "
24	Monahan, J. ...	Resigned	...	Messenger	£100	...	...	Permanent	" Salary
25	Morris, F. A. ...	...	...	Deputy Registrar of Births, &c.	Fees	...	...	"	" Contingencies
26	McCann, E. ...	...	...	Messenger	£110	...	...	"	" Salary
27	McIntyre, H. ...	...	...	Deputy Registrar, Births, &c.	Fees	...	...	"	" Contingencies
28	McKee, W. D. ...	...	...	Assignee, Insolvency	"	...	...	"	" "
29	McNamara, M. ...	...	...	Deputy Registrar of Births, &c.	"	...	...	"	" Contingencies
30	O'Malley, E. ...	...	...	Clerk, 10s. per day (subsequently	£200	...	...	"	" Salary
31	O'Keeffe, T. K. ...	Clerk	10s. per day	Clerk	10s. per day	...	...	Temporary	" Contingencies
32	Pledger, T. ...	...	...	Messenger, 20s. per week (subsequently	£100	...	...	Permanent	" Salary
33	Potter, J. B. ...	Clerk	10s. per day	Clerk	10s. per day	...	...	Temporary	" Contingencies
34	Shackell, J. ...	...	...	Assignee, Insolvency	Fees	...	...	Permanent.	" "
35	Sherrard, C. A. ...	...	...	Clerk, £40 per annum (subsequently	70s. per week	...	...	Temporary	" Contingencies
36	Sinclair, H. ...	...	...	Deputy Registrar of Births, &c.	Fees	...	...	Permanent	" Contingencies
37	Smith, J. T. T. ...	Prosecutor for Queen	£600	... ..	...	Prosecutor for Queen	£600	"	" Salary
38	Stawell, W. ...	...	...	Associate	£300	...	...	"	" Salary
39	St. Lawrence, G. ...	...	...	Clerk	10s. per day	...	...	Temporary	" Contingencies
40	Stewart, T. ...	...	...	Assignee, Insolvency	Fees	...	...	Permanent.	" "
41	Tatchell, T. ...	...	...	"	"	...	...	"	" "
42	Thompson, W. R. ...	...	...	Deputy Registrar of Births, &c.	"	...	...	"	" Contingencies
43	Walsh, M. ...	...	...	Clerk	10s. per day	...	...	Temporary	" "
44	Whitehead, E. L. ...	...	...	Court-keeper, Crier, &c.	£150	...	...	Permanent	" Salary

Crown Law Offices,
Melbourne, 12th September 1879.

B. C. HARRIMAN,
Secretary to the Law Department.

DEPARTMENT OF THE MINISTER OF JUSTICE.

A RETURN showing the respective Names, Occupations, and Salaries of all persons discharged from employment in the Department of the Minister of Justice between the 1st day of July 1877 and the 1st day of July 1879; and the Name, Occupation, and Salary of every person appointed or re-appointed, during the same period, to any situation in such Department, whether permanent or temporary, and whether paid by Salaries voted on Estimates, or out of monies appropriated for particular works.

No.	Name.	Discharged.		Appointed.		Re-appointed.		Whether Permanent or Temporary.	Whether paid by Salaries voted on Estimates, or out of Monies appropriated for particular works.
		Occupation.	Salary.	Occupation.	Salary.	Occupation.	Salary.		
1	Akehurst, A. P. ...	Police Magistrate	£650	...	...	Police Magistrate...	£650	Permanent	Estimates, Salary.
2	Alley, J. H. ...	Police Magistrate	650	...	...	Police Magistrate...	650	Permanent	" "
3	Alston, H. W. ...	...	...	Baliff, C. Court	...	...	...	Permanent.	" "
4	Anderson, T. ...	Coroner	Fees	Coroner	...	...	...	...	Estimates, Contingencies.
5	Bailey, J....	Coroner	Fees.	...	...	...	...	...	...
6	Barkly, W. H. ...	...	...	Bailiff C. Court	...	Fees	...	Permanent.	...
7	Bartley, B. J. ...	Coroner	Fees.	...	...	...	...	...	...
8	Bateman, G. F. ...	...	...	Clerk of Courts (Acting)	...	£200	...	Permanent	Estimates, Contingencies.
9	Bennett, E. J. ...	Coroner	Fees.	...	...	...	...	...	...
10	Blunden, R. C. ...	...	...	Clerk of Petty Sessions (Acting)	...	Not fixed	...	Permanent	Estimates, Contingencies.
11	Brewer, H. E. ...	Coroner	Fees.	...	...	...	...	...	...
12	Brisbane, M. ...	Coroner	Fees.	...	...	...	...	...	...
13	Buchanan, R. F. ...	...	...	Clerk of Petty Sessions	...	£146 13s. 4d.	...	Permanent	Estimates, Salary.
14	Bunny, B. F. ...	Judge County Courts.	...	...	...	...	...	...	...
15	Butler, W. ...	Police Magistrate	£650	...	...	Compensated.	...	...	...
16	Caffin, J. C. ...	...	...	Clerk of Petty Sessions (Acting)	...	£75	...	Permanent	Estimates, Contingencies.
17	Call, F. ...	Police Magistrate	£800	...	...	Police Magistrate...	£850	Permanent	" "
18	Carr, C. W. ...	Police Magistrate	650	...	...	Police Magistrate...	650	Permanent	" Salary.
19	Cogdon, J. ...	Police Magistrate	650	...	...	Compensated.	...	...	...
20	Craig, J. H. ...	Coroner	Fees.	...	...	...	...	...	...
21	Darling, E. ...	Resigned	...	Clerk of Petty Sessions (Acting)	...	£60	...	Permanent	Estimates, Contingencies.
22	Dicker, C. ...	Coroner	Fees	Coroner	...	Fees	...	...	...
23	Dickson, W. ...	...	...	5th Class Clerk	...	£80	...	Permanent	" Salary."
24	Dobbin, W. A. ...	Coroner	Fees.	...	...	...	...	...	...
25	Dowling, C. C. ...	Police Magistrate	£650	...	...	Compensated.	...	...	...
26	Drummond, J. B. ...	...	...	Clerk of Courts	...	£485	Transferred from Mining Department	Permanent	Estimates, Salary.
27	Dwyer, P. J. ...	...	...	5th Class Clerk	...	80	...	Permanent	" "
28	Elliott, J....	...	...	Bailiff County Court	...	Fees	...	Permanent.	" "
29	Ellis, F. R. ...	...	...	Clerk Petty Sessions (Acting)...	...	£275	Transferred from Mining Department	Permanent	Estimates, Contingencies.
30	Forster, J. C. ...	...	...	Clerk Petty Sessions (Acting)...	...	30	...	Permanent	" "
31	Gamson, F. ...	Coroner	Fees.	...	...	...	...	...	...
32	Gaunt, W. H. ...	Police Magistrate	£650	...	...	Compensated.	...	...	...
33	Hackett, C. P. ...	Judge County Court	1500	...	...	...	Judge County Court	Permanent	Estimates, Salary.
34	Hamilton, J. P. ...	Police Magistrate	650	...	...	...	Police Magistrate...	Permanent	" "
35	Hanny, T. ...	Coroner	Fees.	...	...	...	...	...	...
36	Harsant, T. ...	Coroner	Fees.	...	...	...	...	...	...
37	Heily, J. V. ...	Coroner	Fees.	...	...	...	...	...	...
38	Heron, T. D. S. ...	Police Magistrate	£650	...	...	...	Police Magistrate...	Permanent	Estimates, Salary.
39	Horrocks, H. ...	...	...	Clerk Petty Session (Acting)...	...	£50	...	Permanent	" Contingencies.
40	Holmes, J. ...	Police Magistrate	£650	...	...	...	Compensated.	...	...
41	Holthouse, T. L. ...	Coroner	Fees.	...	...	...	...	...	...
42	Hider, J. ...	Coroner	Fees.	...	...	...	...	...	...
43	Howitt, A. W. ...	Police Magistrate	£650	...	...	...	Police Magistrate...	Permanent	Estimates, Salary.
44	Jessup, B. ...	Coroner	Fees.	...	...	...	...	...	...
45	James, H. ...	Coroner	Fees	Coroner	...	Fee	...	...	Estimates, Contingencies.
46	Laidman, F. M. ...	Coroner	Fees.	...	...	...	...	...	...

DEPARTMENT OF THE MINISTER OF JUSTICE—continued.

No.	Name.	Discharged.		Appointed.		Re-appointed.		Whether Permanent or Temporary.	Whether paid by Salaries voted on Estimates, or out of Monies appropriated for particular works.
		Occupation.	Salary.	Occupation.	Salary.	Occupation.	Salary.		
47	Langford, G. ...	Police Magistrate ...	£650	...	...	Compensated.	...		
48	Lane, H. B. ...	Police Magistrate ...	650	...	...	Pensioned.	...		
49	Leech, G. C. ...	...	...	Deputy Judge County Court ...	£1500	...	...	Temporary	Estimates, Salary.
50	Lees, W. B. ...	Coroner ...	Fees.	...	...	...	...
51	Lintott, E. ...	Coroner ...	Fees	Coroner ...	Fees	...	...	Permanent	Estimates, Contingencies
52	Little, T. ...	Coroner ...	Fees.	...	...	...	...
53	Littleton, T. ...	Coroner ...	Fees	Coroner ...	Fees	...	...	Permanent	Estimates, Contingencies.
54	Lloyd, J. W. ...	...	...	Clerk of Courts (Acting) ...	£100	...	...	Permanent	" "
55	Lumley, T. E. ...	Coroner ...	Fees.	...	...	...	...
56	Macan, R. S. ...	...	...	Bailiff C. C. ...	Fees	...	...	Permanent.	
57	Massy, E. H. C. ...	Coroner ...	Fees.	...	...	...	...
58	Miller, W. H. ...	Coroner ...	Fees.	...	...	...	...
59	Mollison, C. ...	Police Magistrate ...	£650	...	...	Pensioned.	...		
60	Moore, E. N. ...	...	...	5th Class Clerk ...	£80	...	...	Permanent	Estimates, Salary.
61	Morrison, R. G. ...	Coroner ...	Fees.	...	...	...	...
62	Mott, S. A. ...	...	...	5th Class Clerk ...	£80	...	...	Permanent	Estimates, Salary.
63	Mueller, A. ...	Coroner ...	Fees.	...	...	...	...
64	Murdoch, J. A. ...	...	...	5th Class Clerk ...	£80	...	...	Permanent	Estimates, Salary.
65	Murphy, D. ...	...	...	Clerk Petty Sessions (Acting) ...	30	...	...	Permanent	" Contingencies.
66	Nicholson, J. ...	Coroner ...	Fees.	...	...	...	...
67	Nolan, J. F. ...	Judge County Courts ...	£1500	...	...	Judge County Courts ...	£1500	Permanent	Estimates, Salary.
68	Ogier, J. C. II. ...	Police Magistrate ...	650	...	...	Compensated.	...		
69	Orme, F. K. ...	Police Magistrate ...	650	...	...	Pensioned.	...		
70	Pemberton, J. W. ...	...	...	Clerk Petty Sessions (Acting) ...	£50	...	...	Permanent	Estimates, Contingencies.
71	Pitcairn, R. ...	Police Magistrate ...	£650	...	...	Compensated.	...		
71½	Parkinson, T. H. ...	...	...	Bailiff C. C. ...	Fees	...	...	Permanent.	
72	Pounds, J. B. ...	Coroner ...	Fees.	...	...	...	...
72½	Pasco, C. A. D. ...	Police Magistrate ...	£650	...	...	Pensioned.	...		
73	Puckle, F. H. ...	Police Magistrate ...	650	...	...	Compensated.	...		
74	Rae, T. ...	Coroner ...	Fees.	...	...	...	...
75	Reid, J. A. ...	Coroner ...	Fees.	...	...	...	...
76	Rennie, E. C. ...	...	...	Clerk Petty Sessions (Acting) ...	£40	...	...	Permanent	Estimates, Contingencies.
77	Richardson, W. L. ...	Police Magistrate (Acting) ...	£50	...	...	Police Magistrate (Acting) ...	£50	Permanent	" "
78	Rigby, G. O. ...	Coroner ...	Fees.	...	...	...	...
79	Rigby, T. R. ...	...	...	Clerk Petty Sessions (Acting) ...	£25	...	...	Permanent	Estimates, Contingencies.
80	Rinder, S. ...	Coroner ...	Fees.	...	...	...	...
81	Robertson, J. S. ...	Coroner ...	Fees.	...	...	...	...
82	Robertson, J. L. ...	...	...	Clerk Petty Sessions (Acting) ...	£25	...	...	Permanent	Estimates, Contingencies.
83	Scarce, J. ...	...	...	Bailiff C. C. ...	Fees	...	...	Permanent.	
84	Shaw, E. ...	Coroner ...	Fees.	...	...	...	...
85	Shuter, C. ...	Police Magistrate ...	£650	...	...	Police Magistrate... ..	£650	Permanent	Estimates, Salary.
86	Skinner, C. B. G. ...	Judge County Court ...	1500	...	...	Judge County Court ...	1500	Permanent	" "
87	Slade, E. ...	Coroner ...	Fees.	...	...	...	...
88	Smith, B. ...	Police Magistrate ...	£650	...	...	Police Magistrate... ..	£650	Permanent	Estimates, Salary.
89	Smyth, George ...	Coroner ...	Fees.	...	...	...	...
90	Sparling, W. A. ...	Coroner ...	Fees.	...	...	...	...
91	Sprigg, A. ...	Coroner ...	Fees.	...	...	...	...
92	Steel, T. H. ...	Coroner ...	Fees.	...	...	...	...
93	Stobie, T. G. ...	Coroner ...	Fees.	...	...	...	...
94	Strutt, C. E. ...	Police Magistrate ...	£650	...	...	Pensioned.	...		

95	Sturt, E. P. S.	Police Magistrate	£850						Pensioned.				
96	Sutherland, N. S.	Coroner	Fees.										
97	Sweetnam, N. F.	Coroner	Fees.										
98	Taylor, J. C.	Police Magistrate	£650						Police Magistrate...	£650	Permanent	Estimates, Salary.	
99	Templeton, W.	Police Magistrate	650						Compensated.				
100	Thomson, J. C.	Police Magistrate	650						Police Magistrate...	£650	Permanent	Estimates, Salary.	
101	Trangmar, G.	Coroner	Fees.										
102	Travis, J...	Coroner	Fees.										Estimates, Contingencies.
103	Tuck, J. ...	Coroner	Fees	Coroner				Fees					
104	Walsh, M.			Clerk Petty Sessions (Acting)				£150			Permanent	"	
105	Webster, G.	Police Magistrate	£650						Police Magistrate...	£650	Permanent	"	Salary."
106	Webster, J. D.			Clerk Petty Sessions (Acting)				£40			Permanent	"	Contingencies.
107	West, W. T.			Bailiff C. C.				Fees			Permanent.		
108	Wilton, A. L.	Coroner	Fees.										
109	Worsley, L.	Coroner	Fees.										
110	Wyatt, A.	Police Magistrate	£650						Police Magistrate...	£650	Permanent	Estimates, Salary.	
111	Youl, R.	Coroner	Fees						Coroner ...	Fees	Permanent	"	Contingencies.

B. C. HARRIMAN.

Crown Law Offices,
Melbourne, 12th September 1879.

TREASURY DEPARTMENT.

RETURN showing the Name, Occupation and Salary of every person appointed or re-appointed during the period 1st July 1877 and 1st July 1879, to any situation in the Treasury Department, whether Permanent or Temporary, and whether paid by Salaries voted on Estimates, or out of Monies appropriated for particular works.

Name.	Occupation.	Salary or Allowance.	Appointed.	Remarks.
Outtrim, E. S. ...	Receiver and Paymaster, Bright	Allowance, £40 per annum	6th August 1877	Also acts as Postmaster. ¹
Kentish, Mary ...	Issuer Miners' Rights, &c., Tarnagulla...	" 10 "	6th August "	Also acts as Postmistress. ²
Foster, J. C. ...	Issuer Miners' Rights, &c., Bethanga ...	" 7 "	20th August "	
Ferguson, Danl. ...	Receiver and Paymaster, Wodonga ...	" 50 "	October "	Also Collector of Customs. ³
Perry, Geo. ...	Issuer Miners' Rights, &c., Staffordshire Reef ...	" 10 "	November "	
Kaighin, T. C. ...	Issuer Miners' Rights, &c., Wandiligong	" 8 "	November "	Also Mining Registrar. ⁴
Nicholson, T. ...	Supernumerary Clerk, Receipt and Pay Office, Kerang	Salary 80	1st January 1878.	
Bastow, G. F. ...	Clerk	" 163/6/8 "	1st January "	Mr. Bastow had been previously in the service, but vacated his office by insolvency.
Carr, F. ...	Supernumerary Clerk	Salary £60	26th March "	
Mackay, A. R. ...	Supernumerary Clerk	" 80 "	1st April "	
McDonald, S. ...	Receiver and Paymaster, Shepparton	Allowance 30	April "	Also Acting Clerk of Petty Sessions. Resigned 19th September 1878. ⁵
Darbyshire, J. ...	Issuer Miners' Rights, &c., Bright	" 10 "	29th April "	
Martin, J. ...	Receiver and Paymaster, Dunolly	" 25 "	29th April "	Also Acting Clerk of Courts. ⁶
White, Jas. ...	Messenger	Salary 80	7th May "	
Pierce, Josh. ...	Receiver and Paymaster	" 485 "	1st May "	Mr. Pierce was previously Inspector of Stores, but his services were dispensed with 24th January 1878.
Woollard, Thos. ...	Supernumerary Clerk	Salary £200	1st May "	
Fynney, Jno. ...	Clerk (5th class)	" 80 "	13th May "	
Kitchen, Horace ...	Supernumerary Clerk	" 60 "	20th May "	
Hall, Jno. ...	Relieving Receiver and Paymaster	" 566/13/4 "	1st June "	Previously dispensed with 24th January 1878.
Gudemann, R. ...	Accountant, Treasury	" 700 "	1st June "	Previously dispensed with 24th January 1878.
Dwyer, P. J. ...	Assistant to Receiver and Paymaster, Bairnsdale	Allowance 20	1st June "	Mr. Dwyer is an officer belonging to and paid by Law Department.
Evans, J. G. ...	Supernumerary Clerk	Salary 50	13th June "	

¹ Mr. Outtrim is an officer attached to and paid salary by Post Office Department.—² M. Kentish ditto ditto ditto.—³ D. Ferguson ditto ditto Customs Department.—⁴ T. C. Kaighin ditto ditto Mines Department.—⁵ S. McDonald ditto ditto Law Department.
⁶ J. Martin ditto ditto Law Department.

TREASURY DEPARTMENT—continued.

PERSONS APPOINTED—continued.

Name.	Occupation.	Salary or Allowance.	Appointed.	Remarks.
Billson, W. J. ...	Supernumerary Clerk ...	Salary £120 per annum	9th July 1878	Since resigned.
Butler, J. R. ...	Messenger ...	" 52 "	25th July "	
Green, W. W. ...	Receiver and Paymaster, Smythesdale ...	Allowance 40 "	2nd July "	Also Clerk of Courts. ⁷
Reeve, Thos. ...	Receiver and Paymaster, Rutherglen ...	" 40 "	July "	
Radcliffe, W. ...	Issuer Miners' Rights, &c., Buckland ...	" 10 "	2nd July "	Also Mining Registrar. ⁸
Holderness T. ...	Receiver and Paymaster, B. Charlton ...	" 40 "	6th Sept. "	Also Postmaster. ⁹
Douglass, P. ...	Issuer Miners' Rights, &c., Amherst ...	Allowance not yet determined	6th Sept. "	
Hull, W. A. ...	Supernumerary Clerk ...	Salary £52 per annum	6th Sept. "	
McGonigal, F. ...	Supernumerary Clerk ...	" 100 "	9th Sept. "	
Hemming F. ...	Supernumerary Clerk ...	" 70 "	23rd Sept. "	
Murdoch, J. A. ...	Receiver and Paymaster, Rushworth ...	Allowance 25 "	16th Sept. "	Also Acting Clerk of Courts. ¹⁰
Wraith, Henry ...	Issuer Miners' Rights, &c., Harrierville ...	Allowance not yet determined	30th Sept. "	
Denis, Chas. ...	Receiver and Paymaster, Traralgon ...	Allowance £60 per annum	9th Dec. "	
Bell, T. N. ...	Supernumerary Clerk ...	Salary 70 "	9th Dec. "	
Toohy, H. ...	Assistant Messenger ...	" 7s. 6d. per day	2nd Jan. 1879	Since transferred to Parliament House.
Boyle, Robt. ...	Supernumerary Clerk ...	" £80 per annum	15th Jan. "	
Montgomery, W. ...	Issuer Miners' Rights, &c., Elaine ...	Allowance 10 "	3rd June "	
Kain, Andrew ...	Supernumerary Clerk ...	Salary 100 "	3rd June "	
Aston, A. H. ...	Receiver and Paymaster ...	" 485 "	8th July "	Mr. Aston's services previously dispensed with, viz., on 14th May 1878.

⁷ W. W. Green is an officer attached to and paid salary by Law Department.—⁸ W. Radcliffe ditto ditto Mines Department.—⁹ T. Holderness ditto ditto Post Office Department.—¹⁰ J. A. Murdoch ditto ditto Law Department.
NOTE.—All the above Appointments are of a permanent character, and paid by salaries, &c., voted on Estimates; none are paid out of monies appropriated for particular works.

RETURN showing the respective Names, Occupations, and Salaries of all Persons Discharged from Employment in TREASURY DEPARTMENT between 1st July 1877 and 1st July 1879.

PERSONS DISCHARGED.

Name.	Occupation.	Class.	Salary.	When Discharged.	Remarks.
Gudemann, R. ...	Accountant, Treasury ...	1	£ 800 0 0	24 January 1878	Re-appointed at £700 per annum, from 1st June 1878.
Walter, J. C. ...	Clerk, Treasury ...	3	485 0 0	"	
Haywood, R. ...	Clerk, Treasury ...	3	485 0 0	"	
Williams, H. J. ...	Clerk, Treasury ...	4	350 0 0	"	
Hall, Jno. ...	Clerk ...	2	566 13 4	"	Re-appointed as Relieving Receiver and Paymaster, 1st June 1878.
Forbes, Alex. ...	Clerk ...	4	300 0 0	"	
Pierce, Josh. ...	Inspector of Stores ...	3	485 0 0	"	Re-appointed as Receiver and Paymaster, 1st May 1878.
Walker, S. J. ...	Accountant, Government Printing Office ...	3	485 0 0	"	
Cartwright, R. J. W. ...	Reader, Government Printing Office ...	3 sch.	275 0 0	"	Pensioned under the 42nd and 44th secs. of C. S. Act.
Huntsman, B. ...	Overseer, Government Printing Office ...	4	350 0 0	"	Pensioned under the 42nd and 44th secs. of C. S. Act.
Alexander, Thos. ...	Clerk, Government Printing Office ...	4	350 0 0	"	
Reynell, A. ...	Receiver and Paymaster ...	3	485 0 0	"	Retired under operation of 39th sec. of C. S. Act. Subsequently deceased.
Thomas, J. ...	Clerk ...	4	350 0 0	"	Pensioned under sec. 44 of the C. S. Act.
Mullen, Jno. ...	Clerk, Government Printing Office ...	4	350 0 0	"	Pensioned under sec. 44 of the C. S. Act.
Bell, Wm. ...	Issuer of Miners' Rights, Elaine ...	...	10 0 0	1 April 1879	Removed from office in consequence of his insolvency.
Aston, A. H. ...	Receiver and Paymaster ...	3	485 0 0	14 May 1878	Re-appointed 8th July 1879.
Smith, J. P. ...	Issuer of Miners' Rights, Amherst ...	...	10 0 0	3 June 1878	Removed from office in consequence of irregularities in accounts.

GOVERNMENT PRINTING OFFICE.

STATEMENT showing the respective Names, Occupations, and Salaries of all persons discharged from employment in the Government Printing Office between 1st July 1877 and 1st July 1879; and the Name, Occupation, and Salary of every person appointed or re-appointed during the same period to any situation in such office, whether permanent or temporary, and whether paid by salaries voted on Estimates, or out of monies appropriated for particular works.

PERSONS DISCHARGED.

Name.	Occupation.	Salary.	Name.	Occupation.	Salary.
Walker, S. J. ...	Accountant ...	£485	*Williams, J. ¹ ...	Compositor ...	60s. per week.
Alexander, T. ...	Requisition Clerk ...	350	*Holmes, J. ¹ ...	" ...	"
Mullen, J. ...	Senior Advertising Clerk	350	*Watt, T. ¹ ...	" ...	"
Cartwright, R. J. W.	Reader ...	275	*Stafford, J. F. ¹ ...	" ...	"
Huntsman, B. ...	Binding Overseer ...	350	*Osmond, W. R. ¹ ...	" ...	"
*Casey, A. ...	Compositor ...	60s. per week.	*Wing, J. ¹ ...	" ...	"
*Machin, F. ...	" ...	"	*Toms, R. C. ¹ ...	" ...	"
*Bury, E. ...	" ...	"	*Cunningham, P. ¹ ...	" ...	"
*Buckland, W. J. ...	Pressman ...	"	*Reay, J. ¹ ...	" ...	"
*Stilwell, W. H. ...	Compositor ...	"	*Henry, W. J. ¹ ...	" ...	"
*Abbott, G. ...	" ...	"	*Thomson, A. W. ¹ ...	" ...	"
*Hardie, D. ...	" ...	"	*Stone, W. G. ² ...	" ...	"
*Shevill, T. W. ...	" ...	"	*Findlow, W. ² ...	" ...	"
*Hide, R. ...	" ...	"	*McKenzie, W. ² ...	" ...	"
*Kennedy, J. ...	" ...	"	*Bolger, J. C. ² ...	" ...	"
*Fraser, J. ...	" ...	"	*Fitzgerald, E. ² ...	" ...	"
*Gill, R. ...	" ...	"	*Horn, W. D. ² ...	" ...	"
*Crimp, W. ...	" ...	"	*Steel, F. ² ...	" ...	"
*Tucker, G. ...	" ...	"	*Brooks, J. F. ² ...	" ...	"
*Mitchell, J. ...	" ...	"	*Nicholls, T. ² ...	" ...	"
*Webb, S. ¹ ...	" ...	"	*Corbett, J. ² ...	" ...	"

PERSONS APPOINTED OR RE-APPOINTED.

Name.	Occupation.	Salary.	Name.	Occupation.	Salary.
Boom, H. M. ³ ...	Accountant ...	£375	†Hide, R. ...	Compositor ...	60s. per week.
Coakley, W. ⁴ ...	Sub-Overseer ...	350	†Kennedy, J. ...	" ...	"
Stock, J. W. ⁵ ...	Binding Overseer ...	325	†Fraser, J. ...	" ...	"
Hall, A. G. F. ⁶ ...	Binding Sub-overseer	200	†Gill, R. ...	" ...	"
Cooper, J. W. ...	Assistant Advertising Branch	48	†Crimp, W. ...	" ...	"
Webber, N. G. ...	Doorkeeper ...	50s. per week.	†Mitchell, J. ...	" ...	"
Rice, W. ⁷ ...	Compositor ...	70s. per week.	†Webb, S. ...	" ...	"
Anderson, T. E. ⁷ ...	" ...	"	†Williams, J. ...	" ...	"
Hall, Chas. ⁷ ...	" ...	"	†Holmes, J. ...	" ...	"
Heath, Geo. ⁷ ...	" ...	"	†Watt, T. ...	" ...	"
Berry, N. H. ⁷ ...	" ...	"	†Stafford, J. F. ...	" ...	"
Page, Wilton ⁷ ...	" ...	"	†Osmond, W. R. ...	" ...	"
Kemp, James ⁷ ...	" ...	"	†Wing, J. ...	" ...	"
Harrison, L. H. ⁷ ...	" ...	"	†Tucker, G. ⁸ ...	" ...	"
Skeeles, R. H. R. ⁷ ...	" ...	"	†Cunningham, P. ⁸ ...	" ...	"
Fenton, W. ⁷ ...	" ...	"	†Reay, J. ⁸ ...	" ...	"
Kendall, Joseph ⁷ ...	" ...	"	†Henry, W. J. ⁸ ...	" ...	"
Gainfort, E. ⁷ ...	" ...	"	†Thomson, A. W. ⁸ ...	" ...	"
McDougall, Robt., junr. ⁷	Warehouseman ...	60s. per week.	†Stone, W. G. ⁸ ...	" ...	"
†Casey, A. ...	Compositor ...	"	†Findlow, W. ⁸ ...	" ...	"
†Machin, F. ...	" ...	"	†McKenzie, W. ⁸ ...	" ...	"
†Bury, E. ...	" ...	"	†Bolger, J. C. ⁸ ...	" ...	"
†Buckland W. J. ...	Pressman ...	"	†Fitzgerald, E. ⁸ ...	" ...	"
†Stilwell, W. H. ...	Compositor ...	"	†Horn, W. D. ⁸ ...	" ...	"
†Abbott, G. ...	" ...	"	†Steel, F. ⁸ ...	" ...	"
†Hardie, D. ...	" ...	"	†Toms, R. C. ⁹ ...	" ...	"
†Shevill, T. W. ...	" ...	"	†Brooks, J. F. ⁹ ...	" ...	"
			†Nicholls, T. ⁹ ...	" ...	"
			†Corbett, J. ⁹ ...	" ...	"

* Casual employes who are discharged whenever work is slack.

† Employed casually as exigencies of the work may require.

¹ Discharged twice within the period.—² Discharged three times within the period.—³ Promoted from Clerk.—⁴ Classified at same salary.—⁵ Promoted from Sub-Overseer.—⁶ Promoted from Binder.—⁷ Promoted from temporary to permanent staff on 3rd Schedule.—⁸ Engaged twice within the period.—⁹ Engaged three times within the period.

NOTE.—All paid by salaries voted on Estimates.

J. FERRES,
Govt. Printer.

9/9/79.

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DEFENCES.

RETURN showing particulars for compilation of Return ordered by the Legislative Council.
(Treasury letter 5965—2/9/79.)

1.—Names, Occupations, and Salaries of all persons discharged from employment in the Military Department (not including the Artillery Corps), between 1st July 1877 and 1st July 1879.

Names.	Occupations.	Rate of Salaries.		Paid by Votes on Estimates.	Date of Discharge, &c.	Remarks.			
		s.	d.						
T. J. Ivy ...	Drill Instructor and General Vol. Work	10	0	Votes for pay of Instructors, &c.	Resigned, 12th July 1877.				
G. B. Skinner ...	"	7	6		Votes for Assistant Instructors.	Resigned, 30th September 1877.	Misconduct.		
C. Gray ...	"	7	6			Discharged, 30th November 1877			
T. J. Williams ...	"	8	6			Discharged, 8th December 1877			
Pk. Drill ...	"	7	6			Discharged, 6th March 1878 ...			
C. H. Tocknell ...	"	7	6			Resigned, 2nd April 1878.			
W. Cavanagh ...	"	7	6			Resigned, 26th May 1878.			
T. Taylor ...	"	7	6			Resigned, 30th June 1878.			
J. McMurray ...	"	9	0			Resigned, 30th September 1878.			
J. McDonald ...	"	9	0			11th November 1878...			
M. Murphy ...	"	7	6			Resigned, 11th November 1878.		Corps disbanded.	
H. A. C. Macdonald ...	Assistant Instructor	2	6			Vote for Assistant Instructors.		Resigned, 31st July 1877.	Service not required.
B. Jessup ...	"	2	6					Resigned, 31st August 1877.	
W. L. A. Elston ...	"	2	6	Resigned, 31st January 1878.					
W. Stephen ...	"	5	0	Discharged, 30th June 1878 ...					
W. Blackband ...	"	2	6	Discharged, 31st August 1878					
W. B. Draper ...	"	5	0	Discharged, 21st September 1878					

2.—Name, Occupation, and Salary of every person appointed, or re-appointed, during the same period (1st July 1877—1st July 1879), to any situation whether permanent, or temporary, and whether paid by salaries voted on Estimates, or out of monies appropriated for particular works.

Date of Appointment.	Names.	Occupations.	Rate of Salary on Appointment.	Permanent or Temporary Appointment.	Paid by Votes on Estimates.
1st September 1877 (<i>vice</i> T. J. Ivy, resigned)	M. Murphy ...	Drill Instructor and General Vol. Work	Per day. s. d. 7 6	Permanent ...	Paid by Votes on Estimates for Pay of Instructors, &c.
24th October 1877 (<i>vice</i> G. B. Skinner, resigned)	J. Merriott ...	"	7 6	" ...	
4th February 1878 (<i>vice</i> C. Gray, discharged)	T. Taylor ...	"	7 6	" ...	
20th February 1878 (<i>vice</i> T. J. Williams, discharged)	J. Kidd ...	"	7 6	" ...	
3rd April 1878 (<i>vice</i> C. H. Tocknell, resigned)	W. Cavanagh ...	"	7 6	Temporary to 26th May 1878	
27th May 1878 (<i>vice</i> W. Cavanagh)	H. Shepherd ...	"	7 6	Permanent ...	
12th November 1878 (<i>vice</i> M. Murphy, resigned)	J. E. Fahey ...	"	7 6	" ...	
1st August 1877 (<i>vice</i> Macdonald, resigned)	C. Dodd ...	Assistant Instructor...	2 6	Temporary ...	
1st September 1877 (<i>vice</i> Jessup, resigned)	W. L. A. Elston...	"	2 6	" ...	
1st March 1878 (<i>vice</i> Elston, resigned)	W. Blackband ...	"	2 6	" ...	
20th March 1878 ...	W. B. Draper ...	"	5 0	Temporary during the absence of Permanent Instructor on other duty	

W. A. D. ANDERSON,
Commandant.

5th September 1879.

STORES AND TRANSPORT.

From 1st July 1877 to 1st July 1879.

PERSONS DISCHARGED.

26th January 1878 ... | Joseph Pierce ... | 3rd Class ... | £485 ... | Inspector of Stores.
17th February 1878 ... | R. J. Cullen ... | 5th Class ... | 180 ... | Clerk.*

* Transferred to Public Works Department.

APPOINTMENTS.—Permanent.

7th May 1878 ... | George Browning ... | 5th Class ... | £80 ... | Clerk, in lieu of R. J. Cullen, transferred.
Salaries paid out of Votes on the Estimates for Salaries.

GEO. LANE,
Secretary Tender Board.

3rd September 1879.

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RETURN showing "the respective Names, Occupations, and Salaries of all persons discharged from employment in the several Government Departments between the 1st July 1877 and the 1st July 1879, and the Name, Occupation, and Salary of every person appointed or re-appointed during the same period to any situation in the Government Service, whether permanent or temporary, and whether paid by salaries voted on Estimates, or out of monies appropriated for particular works."

Name of Person Discharged.	Occupation.	Salary.	Department.	Name of Person Appointed.	Occupation.	Salary.	Permanent or Temporary.	How paid.
<i>Nemo.</i>			Curator of Estates of deceased persons.	<i>Nemo.</i>				

T. WEIGALL.

VICTORIAN NAVAL FORCES.—H.M.V.S. *NELSON*.

RETURN showing the amount of Money expended in Labor converting H.M.V.S. *Nelson*, and the Number of Men employed from 23rd February 1878 to 15th March 1879.

Number employed per Week.			Number of Weeks.	Rate of Pay per Day.		Average Sum per Man per Week.	Average Sum paid per Week for Wages.	Total Amount expended for Labor.	Remarks.
Max.	Min.	Average.		Max.	Min.				
150	5	77 $\frac{2}{3}$	57	14/-	3/6	£ s. d. 3 1 1	£ s. d. 235 4 1	£ s. d. 13,436 14 1	

The above expenditure was defrayed out of Public Works Vote for Defences.

NOTE.—All appointments in connection with this work were, of course, of a temporary character.

C. T. MANDEVILLE,

Capt. Commg. Naval Forces.

VICTORIAN NAVAL FORCES.

RETURN showing Names, Occupations, Salaries, of all Persons discharged from Employment in the Victorian Naval Forces between 1st July 1877 and 1st July 1879.

Names.	Occupation.	Salary per—		Date of Discharge.	Cause of Discharge.	Remarks.
		Annun.	Diem.			
Andrew Fogarty ...	Boy ...	£ s. d.	£ s. d.	8.7.77	For desertion.	
Captn. Panter ...	Senior Naval Officer	500 0 0	...	10.7.77	Resigned.	
Charles Bryan ...	Boy ...	...	0 2 6	12.7.77	Resigned.	
John Pooloo ...	" ...	...	0 1 6	14.7.77	Resigned.	
Albert Carlile ...	" ...	...	0 1 0	"	Resigned.	
John E. Robinson ...	" ...	...	0 0 9	"	Resigned.	
William Johnstone ...	" ...	...	0 1 6	12.7.77	For desertion.	
Henry Carlile ...	" ...	...	0 2 0	"	Insolence.	
George F. Argles ...	" ...	...	0 0 9	17.7.77	Resigned.	
John Norton ...	Leading Seaman ...	...	0 5 6	2.8.77	Deceased.	
Samuel Pierce ...	A.B. ...	...	0 5 0	11.8.77	Resigned.	
Lieut. Turner ...	Lieutenant ...	350 0 0	...	31.8.77	Dispensed with by request.	
Thomas Martin ...	A.B. ...	...	0 5 0	"	Resigned.	
George Forsyth ...	Ordinary Seaman...	...	0 2 6	"	Resigned.	
Henry Woolfe ...	Servant ...	...	0 2 6	"	Resigned.	
William Radcliff ...	Boy ...	...	0 1 0	27.8.77	Deserted.	
David Imirie ...	A.B. ...	...	0 5 0	1.9.77	Resigned.	
Frank Villiers ...	Cook ...	...	0 6 0	1.10.77	Resigned.	
George Banks ...	A.B. ...	...	0 5 0	"	Resigned.	
James Johnson ...	Servant ...	...	0 2 6	"	Resigned.	
Alexander Prentice ...	Boilermaker ...	...	0 6 6	5.10.77	Insolence to engineer.	
John A. Hoskins ...	Boy ...	...	0 0 9	12.10.77	For desertion.	
Charles Gay ...	" ...	...	0 1 0	7.11.77	For desertion.	
George Amess ...	" ...	...	0 0 9	20.11.77	For desertion.	
Francis Ennore ...	A.B. ...	...	0 5 0	16.12.77	Breaking leave.	
Richard Sanderson ...	" ...	...	0 5 0	"	Deceased.	
George Ardagh ...	" ...	...	0 5 0	"	Breaking leave.	
Sion Hook ...	" ...	...	0 5 0	25.12.77	Resigned.	
Robert Thomson ...	Boilermaker ...	...	0 6 6	4.1.78	Breaking leave.	
William H. Trueman ...	Cook ...	...	0 6 0	"	Resigned.	
Thomas Hardy ...	A.B. ...	...	0 5 0	6.1.78	Deserted.	
John McEwan ...	Boy ...	...	0 1 0	25.1.78	For desertion.	
James B. Bremner ...	A.B. ...	...	0 5 0	31.1.78	Resigned.	
Edward Ryan ...	" ...	...	0 5 0	24.2.78	Breaking leave.	
Archibald Stevenson ...	Boilermaker ...	...	0 6 6	11.3.78	Resigned.	
James Delaney ...	A.B. ...	...	0 5 0	12.3.78	Breaking leave.	
John Lane ...	Boy ...	...	0 0 9	6.3.78	For desertion.	
John Noonan ...	Stoker ...	...	0 5 0	13.4.78	Breaking leave.	
Samuel Tuckfield ...	Steward ...	...	0 6 0	30.4.78	Resigned.	
Mr. T. Bennett ...	Engineer ...	240 0 0	...	7.5.78	Resigned.	
Arthur E. Haines ...	A.B. ...	...	0 5 0	10.5.78	Deserted.	
James Bursley ...	" ...	...	0 5 0	23.5.78	Deserted.	
Richard Callard ...	Steward ...	...	0 6 0	31.5.78	Resigned.	
Charles Schultz ...	Acting Carpenter...	...	0 5 0	6.6.78	Breaking leave.	

VICTORIAN NAVAL FORCES—continued.

Names.	Occupation.	Salary per—		Date of Discharge.	Cause of Discharge.	Remarks.
		Annun.	Dlem.			
		£ s. d.	£ s. d.			
John Brown	A.B. ... ..	...	0 5 0	30.6.78	Breaking leave.	
William Thomas ... ..	" ... ..	...	0 5 0	10.7.78	Breaking leave.	
William Smith ... ..	" ... ..	...	0 5 0	"	Breaking leave.	
William Walkinshaw ... ..	" ... ..	...	0 5 0	17.7.78	Resigned.	
John Delaney	Boilermaker ... ..	...	0 6 6	31.7.78	Resigned.	
James Towers	A.B. ... ..	...	0 5 0	"	Deserted.	
W. J. Richardson ... ..	" ... ..	...	0 5 0	8.8.78	Resigned.	
Richard O'Meara	Boilermaker ... ..	...	0 6 6	9.8.78	Resigned.	
Frederick French	A.B. ... ..	...	0 5 0	10.8.78	Deserted.	
James Brennan	Stoker ... ..	...	0 5 0	28.8.78	Deceased.	
John Beckett	Leading Stoker ... ..	...	0 6 0	31.8.78	Breaking leave.	
Joseph Graham	Armourer ... ..	...	0 8 0	"	Breaking leave.	
Charles J. Williams	Boy ... ..	...	0 2 6	5.9.78	Resigned.	
Frederick Manning ... ..	" ... ..	...	0 0 9	8.9.78	For desertion.	
Henry Jones	A.B. ... ..	...	0 5 0	12.9.78	Deserted.	
Charles W. Lacey	Boy ... ..	...	0 0 9	13.9.78	For desertion.	
George Rolly	Leading Stoker ... ..	...	0 6 0	23.9.78	Resigned.	
William Vaughan	Boy ... ..	...	0 1 6	30.9.98	Resigned.	
Henry Richards	A.B. ... ..	...	0 5 0	19.10.78	Breaking leave.	
Charles Bell	Boy ... ..	...	0 2 6	21.10.78	Resigned.	
Edward Wells ... ..	" ... ..	...	0 0 9	31.10.78	Theft.	
James Flynn	Stoker ... ..	...	0 5 0	18.11.78	Infringement of clause 30 of <i>Discipline Act</i> .	
Moses Guthrie ... ..	" ... ..	...	0 5 0	6.12.78	Drunk on duty.	
Neil Smith ... ..	" ... ..	...	0 5 0	"	Drunk on duty.	
Walter McIlwrath ... ..	" ... ..	...	0 5 0	12.12.78	Refusing duty.	
William Smith	Acting Carpenter... ..	...	0 5 0	16.12.78	Deserted.	
Henry Hunter	A.B. ... ..	...	0 5 0	19.12.78	Breaking leave.	
Joseph Hart ... ..	" ... ..	...	0 5 0	21.12.78	Breaking leave.	
William Rangdale ... ..	" ... ..	...	0 5 0	31.12.78	Breaking leave.	
Charles Salter	Steward ... ..	...	0 6 0	3.1.79	Resigned.	
Philip Hughes	A.B. ... ..	...	0 5 0	4.1.79	Deserted.	
Andrew Louden ... ..	" ... ..	...	0 5 0	9.1.79	Breaking leave.	
Robert Kirby	Boy ... ..	...	0 1 0	28.1.79	For desertion.	
John Ramsay	Chief Quartermaster ... ..	...	0 6 6	2.2.79	Deceased.	
William Putner	A.B. ... ..	...	0 5 0	3.2.79	Deserted.	
George B. Marshall ... ..	" ... ..	...	0 5 0	6.2.79	Deserted.	
Samuel Meddings ... ..	" ... ..	...	0 5 0	10.2.79	Breaking leave.	
John McGivern	Boy ... ..	...	0 0 9	20.2.79	For desertion.	
John Proctor	A.B. ... ..	...	0 5 0	3.3.79	Resigned.	
William Stacey ... ..	" ... ..	...	0 5 0	5.3.79	Resigned.	
Henry Dixon	Cook ... ..	...	0 6 0	8.3.79	Cooking not satisfactory.	
James Hossack	Stoker ... ..	...	0 5 0	"	Resigned.	
John Cooper	Acting Carpenter... ..	...	0 5 0	"	Breaking leave.	
George Freestone	A.B. ... ..	...	0 5 0	10.4.79	Deserted.	
Evan Christopher ... ..	" ... ..	...	0 5 0	17.4.79	Breaking leave.	
Norman McDonald ... ..	" ... ..	...	0 5 0	19.4.79	Insolence and disobedience.	
Louis Berry ... ..	" ... ..	...	0 5 0	24.4.79	Breaking leave.	
William H. Davis ... ..	" ... ..	...	0 5 0	21.5.79	Resigned.	
Charles H. Burridge ... ..	" ... ..	...	0 5 0	"	Breaking leave.	
William Mason	Servant ... ..	...	0 2 6	31.5.79	Resigned.	
Lieut. Tandy	Lieutenant	400 0 0	...	2.6.79	Deceased.	
John Stoker	Quartermaster ... ..	...	0 6 0	3.6.79	Resigned.	
Henry Rewers	Acting Carpenter... ..	...	0 5 0	9.6.79	Resigned.	
James Ikings	A.B. ... ..	...	0 5 0	9.6.79	Resigned.	
Edward Ingram ... ..	" ... ..	...	0 5 0	30.6.79	Resigned.	
William B. Smart	Servant ... ..	...	0 2 6	"	Deserted.	
Mr. James Pound	Chief Gunner	180 0 0	...	30.5.79	Resigned through ill health.	

SUMMARY.

Why Discharged.	No.	Remarks.
Deceased	5	
Resigned through ill health	1	
Services dispensed with	1	
Deserted	12	
Breach of <i>Discipline Act</i>	42	
Resigned	40	
Total	101	

C. T. MANDEVILLE,
Capt. Commg. Naval Forces.

VICTORIAN NAVAL FORCES.

RETURN showing Name, Occupation, and Salary of every Person appointed, or re-appointed, from the 1st July 1877 to 1st July 1879, paid out of Sums voted on the Estimates.

Names.	Occupation.	Salary per—		Date of Appointment.	Remarks.
		Annun.	Dlem.		
		£ s. d.	£ s. d.		
Lieutenant Tandy ...	1st Lieutenant ...	400 0 0	...	1.7.77	Governor in Council. Re-appointed. Dead.
Captain Mandeville ...	Captain Commanding Naval Forces	600 0 0	...	11.7.77	Governor in Council.
George Forsyth ...	Ordinary Seaman ...	...	0 2 6	14.7.77	Re-appointed. Discharged.
Henry C. Stafford ...	Boy ...	...	0 2 0	"	Re-appointed.
William Radcliff ...	" ...	...	0 1 0	8.8.77	Since discharged.
Augustus Lawson ...	" ...	...	0 2 6	"	
Frederick Lander ...	A.B. ...	...	0 5 0	1.9.77	
Edward Ryan ...	" ...	...	0 5 0	"	Since discharged.
James Walton ...	" ...	...	0 5 0	4.9.77	
George Lewis ...	" ...	...	0 5 0	6.9.77	
Francis Callaghan ...	" ...	...	0 5 0	"	
William Organ ...	" ...	...	0 5 0	"	
Samuel Trusler ...	" ...	...	0 5 0	7.9.77	
James Wilkie ...	" ...	...	0 5 0	8.9.77	
Richard Vaughan ...	Stoker ...	...	0 5 0	"	
Joseph Graham ...	Armourer ...	...	0 6 6	10.9.77	Since discharged.
John W. Holder ...	Captain's Steward...	...	0 6 0	12.9.77	
George Dixon ...	Boy ...	...	0 1 3	17.9.77	
Peter J. Brennan ...	Wardroom Steward	...	0 5 0	29.9.77	
William Freeman ...	Boy ...	...	0 2 0	2.10.77	
Timothy Malone ...	" ...	...	0 2 0	5.10.77	
William H. Trueman ...	Officers' Cook ...	...	0 6 0	"	Since discharged.
Robert Thomson ...	Boilermaker ...	...	0 6 6	8.10.77	Since discharged.
John Dorgan ...	Boy ...	...	0 1 3	12.10.77	
John Miles ...	" ...	...	0 1 6	"	
John Morrison ...	A.B. ...	...	0 5 0	9.10.77	
Mr. O. Richards ...	Gunner ...	...	0 19 1	15.10.77	} Appointed in England— } Agent-General.
Mr. R. S. Groves ...	" ...	...	0 19 1	"	
Alfred Sinnett ...	Boy ...	...	0 1 3	12.11.77	
Samuel Meelelings ...	A.B. ...	...	0 5 0	15.12.27	Since discharged.
William Barclay ...	" ...	...	0 5 0	17.12.77	
Joseph Hart ...	" ...	...	0 5 0	18.12.77	Since discharged.
John Wingate ...	" ...	...	0 5 0	27.12.77	
Charles Meyers ...	" ...	...	0 5 0	29.12.77	
Thomas Hardy ...	" ...	...	0 5 0	"	Since discharged.
William Barnes ...	" ...	...	0 5 0	"	
William Slade ...	" ...	...	0 5 0	1.1.78	
Francis Stevenson ...	" ...	...	0 5 0	"	
William Morna ...	" ...	...	0 5 0	5.1.78	
Robert Jones ...	" ...	...	0 5 0	7.1.78	
Francis McDonald ...	" ...	...	0 5 0	8.1.78	
Charles P. Critten ...	" ...	...	0 5 0	7.1.78	
Charles H. Burridge ...	" ...	...	0 5 0	9.1.78	Since discharged.
James Hossack ...	Stoker ...	...	0 5 0	"	Since discharged.
Henry Dixon ...	Officers' Cook ...	...	0 6 0	10.1.78	From Public Works Department. Since discharged.
George H. Crellin ...	Boy ...	...	0 0 9	"	
John Buse ...	Ordinary Seaman ..	...	0 2 6	15.1.78	
Henry Jordan ...	Stoker ...	...	0 5 0	18.1.78	Re-appointed.
John Stoker ...	Quartermaster ...	...	0 6 0	"	Re-appointed.
Arthur Jamieson ...	" ...	...	0 6 0	"	Re-appointed.
Mr. J. Hiddle ...	Chief Engineer ...	350 0 0	...	"	Re-appointed. Governor in Council.
John Ramsay ...	Chief Quartermaster	...	0 6 6	"	Re-appointed. Deceased.
Alfred C. Webber ...	Boy ...	...	0 1 3	21.1.78	
Arthur J. Coghill ...	" ...	...	0 1 0	"	
Archibald Stevenson ...	Boilermaker ...	...	0 6 6	2.2.78	
Charles M. Elsum ...	Acting Carpenter ...	...	0 2 6	6.2.78	
James Flynn ...	Stoker ...	...	0 5 0	16.2.78	Since discharged.
James Brennan ...	" ...	...	0 5 0	"	Deceased.
Michael Geirname ...	" ...	...	0 5 0	"	
John Prend ...	A.B. ...	...	0 5 0	17.2.78	
William J. Richardson ...	" ...	...	0 5 0	19.2.78	Since discharged.
John Harding ...	" ...	...	0 5 0	"	
John Hazle ...	" ...	...	0 5 0	"	
Frederick Harris ...	" ...	...	0 5 0	22.2.78	
Harry Timberley ...	" ...	...	0 5 0	21.2.78	
Samuel Tuckfield ...	Steward ...	...	0 6 0	25.2.78	Since discharged.
John Campbell ...	A.B. ...	...	0 5 0	27.2.78	
James Hunter ...	" ...	...	0 5 0	1.3.78	Since discharged.
Louis Berry ...	" ...	...	0 5 0	11.3.78	Since discharged.
Richard McCormack ...	" ...	...	0 5 0	13.3.78	Re-appointed.
Henry Raynor ...	" ...	...	0 5 0	22.3.78	
George B. Marshall ...	" ...	...	0 5 0	23.3.78	Since discharged.
John Brown ...	" ...	...	0 5 0	30.3.78	Since discharged.
Charles Salter ...	Boy ...	...	0 2 6	1.4.78	Since discharged.
John Procter ...	A.B. ...	...	0 5 0	3.4.78	Since discharged.
Alfred Forrester ...	" ...	...	0 5 0	"	
James Jasper ...	" ...	...	0 5 0	"	
Nathaniel Crickard ...	" ...	...	0 5 0	5.4.78	

VICTORIAN NAVAL FORCES—*continued.*

Names.	Occupation.	Salary per—		Date of Appointment.	Remarks.
		Annun.	Diem.		
		£ s. d.	£ s. d.		
John Blair ...	A.B. ...	...	0 5 0	5.4.78	
William Vaughan ...	Boy ...	...	0 1 6	4.4.78	Since discharged.
Henry Irons ...	A.B. ...	...	0 5 0	6.4.78	
John Noonan ...	Stoker ...	...	0 5 0	8.4.78	Since discharged.
William Thomas ...	A.B. ...	...	0 5 0	"	Since discharged.
Henry Hunter ...	" ...	...	0 5 0	"	Since discharged.
George Claxton ...	Stoker ...	...	0 5 0	9.4.78	
Thomas Dowd ...	A.B. ...	...	0 5 0	"	
Henry Richards ...	" ...	...	0 5 0	"	Since discharged.
Frederick French ...	" ...	...	0 5 0	10.4.78	Since discharged.
Neil Smith ...	Stoker ...	...	0 5 0	"	Since discharged.
Walter Palmer ...	A.B. ...	...	0 5 0	"	
Benjamin B. Bastard	Stoker ...	...	0 5 0	11.4.78	
Thomas Malley ...	A.B. ...	...	0 5 0	13.4.78	
Samuel Buse ...	" ...	...	0 5 0	15.4.78	
Andrew Louden ...	" ...	...	0 5 0	"	Since discharged.
Charles Burton ...	" ...	...	0 5 0	16.4.78	
William Randale ...	" ...	...	0 5 0	"	Since discharged.
Arthur D. Ferguson	" ...	...	0 5 0	12.4.78	
Evan Christopher ...	" ...	...	0 5 0	20.4.78	Since discharged.
Peter Mass ...	" ...	...	0 5 0	22.4.78	
John Delaney ...	Boilermaker ...	...	0 6 6	18.4.78	Since discharged.
John Hobson ...	A.B. ...	...	0 5 0	24.4.78	Since discharged.
Charles Schultz ...	Acting Carpenter ...	...	0 5 0	1.5.78	Since discharged.
Richard Callard ...	Steward ...	...	0 6 0	"	Since discharged.
William Patner ...	A.B. ...	...	0 5 0	13.5.78	Since discharged.
John Bursøy ...	" ...	...	0 5 0	14.5.78	Since discharged.
William Smith ...	Acting Carpenter ...	...	0 5 0	15.5.78	Since discharged.
Norman McDonald ...	A.B. ...	...	0 5 0	2.5.78	Since discharged.
Arthur E. Haines ...	" ...	...	0 5 0	25.5.78	Since discharged.
James Powers ...	" ...	...	0 5 0	"	Since discharged.
Charles Bell ...	Boy ...	...	0 2 6	3.6.78	Since discharged.
Lawrence Bowen ...	A.B. ...	...	0 5 0	10.6.78	
Henry Jones ...	" ...	...	0 5 0	23.6.78	Since discharged.
William Stacey ...	" ...	...	0 5 0	29.6.78	Since discharged.
Daniel Fullerton ...	Carpenter's Mate ...	...	0 6 0	4.7.78	
Isaac Thomas ...	A.B. ...	...	0 5 0	15.7.78	
Hugh Herson ...	Ordinary Seaman ...	...	0 2 6	25.7.78	
William C. Copperthwaite	" ...	...	0 2 6	"	
Robert Goodwin ...	A.B. ...	...	0 5 0	27.7.78	
John Frew ...	" ...	...	0 5 0	"	
Richard O'Meara ...	Boilermaker ...	...	0 6 6	3.8.78	Since discharged.
Richard Beecher ...	Leading Seaman ...	...	0 5 6	9.8.78	
Robert McKenzie ...	A.B. ...	...	0 5 0	17.8.78	
Robert Pearson ...	" ...	...	0 5 0	24.8.78	
John Beckett ...	Leading Stoker ...	...	0 6 0	28.8.78	Since discharged.
John White ...	Armourer ...	...	0 8 0	1.9.78	
Charles J. Williams	Boy ...	...	0 2 6	6.9.78	Since discharged.
George Rolly ...	Leading Stoker ...	...	0 6 0	9.9.78	Since discharged.
William H. Davis ...	A.B. ...	...	0 5 0	28.9.78	Since discharged.
William Nichol ...	Leading Stoker ...	...	0 6 0	29.9.78	
Walter McIlwrath ...	Stoker ...	...	0 5 0	8.10.78	Since discharged.
Henry Woolfe ...	Servant ...	...	0 2 6	21.10.78	Re-appointed.
Thomas R. Hazle ...	A.B. ...	...	0 5 0	31.10.78	
James King ...	" ...	...	0 5 0	7.11.78	
Lawrence Fitzpatrick	" ...	...	0 5 0	18.11.78	
William Jones ...	" ...	...	0 5 0	"	
Horace Clairngbold	Boy ...	...	0 1 0	"	
Allen McNeilage ...	Stoker ...	...	0 5 0	19.11.78	Re-appointed.
John Jenkins ...	A.B. ...	...	0 5 0	21.11.78	
John Woolley ...	" ...	...	0 5 0	25.11.78	
George Anderson ...	Stoker ...	...	0 5 0	"	
William Byrne ...	" ...	...	0 5 0	"	
George Donoghue ...	" ...	...	0 5 0	"	
Ambrose Dickeson	A.B. ...	...	0 5 0	28.11.78	
Henry Rewers ...	Acting Carpenter ...	...	0 5 0	3.12.78	Since discharged.
Frederick Jarvinn ...	A.B. ...	...	0 5 0	"	
Henry Murray ...	" ...	...	0 5 0	"	
Edward Jones ...	" ...	...	0 5 0	4.12.78	
Edward Ward ...	Boy ...	...	0 0 9	13.12.78	
William Smith ...	Acting Carpenter ...	...	0 5 0	16.12.78	Since discharged.
Mr. A. Harrow ...	Engineer ...	200 0 0	...	1.1.79	Governor in Council.
Neil Smith ...	Stoker ...	...	0 5 0	"	Re-appointed.
Moses Guthrie ...	" ...	...	0 5 0	"	Re-appointed.
Matthew Connery ...	" ...	...	0 5 0	3.1.79	
Mr. J. L. Stalker ...	Navigating Sub-Lieutenant	180 0 0	...	8.1.79	Honorable the Treasurer.
William Mason ...	Servant ...	...	0 2 6	18.1.79	Since discharged.
Thomas Beechin ...	Acting Carpenter ...	...	0 5 0	23.1.79	
John W. Stokes ...	A.B. ...	...	0 5 0	27.1.79	
Michael O'Donnell ...	Stoker ...	...	0 5 0	4.2.79	
James Ikins ...	A.B. ...	...	0 5 0	10.2.79	Re-appointed. Since discharged.
Alexander Sutherland	" ...	...	0 5 0	"	
Joseph H. Welman ...	Cook ...	...	0 6 0	"	
Gilbert Clark ...	A.B. ...	...	0 5 0	21.2.79	
Donald McDeanniel	" ...	...	0 5 0	25.2.79	
Henry Nicholson ...	" ...	...	0 5 0	28.2.79	

VICTORIAN NAVAL FORCES—continued.

Names.	Occupation.	Salary per—		Date of Appointment,	Remarks.
		Annum.	Diem.		
		£ s. d.	£ s. d.		
John Bulley	A.B. ... ..	...	0 5 0	5.3.79	
William Fawkner ... ..	" ... ..	...	0 5 0	8.3.79	
Charles Roberts ... ..	" ... ..	...	0 5 0	"	Re-appointed.
John Cooper	Acting Carpenter ... ..	...	0 5 0	10.3.79	Since discharged.
Samuel Smart	Officers' Cook ... ..	...	0 6 0	"	
Thomas Woolrick	Stoker ... ..	...	0 5 0	27.3.79	
Joseph Hart	A.B. ... ..	...	0 5 0	28.3.79	Re-appointed.
William Philpot ... ..	" ... ..	...	0 5 0	3.4.79	
John Campbell ... ..	" ... ..	...	0 5 0	15.4.79	
Arthur Heales ... ..	" ... ..	...	0 5 0	"	
Francis Hopkins ... ..	" ... ..	...	0 5 0	1.5.79	
John Good ... ..	" ... ..	...	0 5 0	2.5.79	
William Saunders ... ..	" ... ..	...	0 5 0	19.5.79	
Malcolm McKenzie ... ..	" ... ..	...	0 5 0	9.5.79	
J. J. Smillie	Acting A.B. ... ..	...	0 5 0	16.5.79	
Charles G. Evans	A.B. ... ..	...	0 5 0	23.5.79	
James Wilson	Acting Carpenter ... ..	...	0 5 0	25.5.79	
Edward Williams	A.B. ... ..	...	0 5 0	28.5.79	
John Cooper	Acting Carpenter ... ..	...	0 5 0	29.5.79	Re-appointed.
Robert Gardiner ... ..	" ... ..	...	0 5 0	"	
John Hayle	A.B. ... ..	...	0 5 0	3.6.79	Re-appointed.
Malcolm McCaskill ... ..	" ... ..	...	0 5 0	"	
William B. Smart	Servant ... ..	...	0 2 6	1.6.79	Since discharged.
William McPhee	A.B. ... ..	...	0 5 0	3.6.79	
John Bock ... ..	" ... ..	...	0 5 0	4.6.79	
William J. Sims ... ..	" ... ..	...	0 5 0	11.6.79	
Peter F. Wallace	Acting Carpenter ... ..	...	0 5 0	17.6.79	

Total number appointed 191

Appointed by Governor in Council 8
 " Captain Commanding Naval Forces 183
 Since discharged 74

NOTE.—All the persons specified above have been regularly employed in accordance with sections 2 and 3 of the *Discipline Act* of 1870 and clauses 2, 6, and 70 of the Regulations under the same Act.

C. T. MANDEVILLE,

Capt. Commg. Naval Forces.

VICTORIAN NAVAL FORCES.

SUPPLEMENTARY RETURN showing Name, Occupation, and Salary of every Person appointed, or re-appointed, from the 1st July 1877 to 1st July 1879, paid out of Sums voted on the Estimates.

Names.	Occupation.	Salary per—		Date of Appointment.	Remarks.
		Annum.	Diem.		
		£ s. d.	£ s. d.		
Alexander Scott	Carpenter and Cooper, Torpedo Corps	150 0 0	...	6.9.78	Order in Council.
John Thomson	Mechanical Engineer, Torpedo Corps	180 0 0	...	15.10.78	Order in Council.

The above are permanent appointments.

C. T. MANDEVILLE,
 Captain Commanding Naval Forces.

DEPARTMENT OF LANDS AND AGRICULTURE.

RETURN showing the respective Names, Occupations, and Salaries of all persons discharged from employment in the several Government Departments between the 1st July 1877 and the 1st July 1879, and the Name, Occupation, and Salary of every person appointed or re-appointed during the same period to any situation in the Government Service, whether permanent or temporary, and whether paid by salaries voted on Estimates, or out of monies appropriated for particular works.

Name.	Discharged.		Appointed.		Re-appointed.		How employed.		How paid.	
	Occupation.	Salary.	Occupation.	Salary.	Occupation.	Salary.	Permanent.	Temporary.	Salaries voted on Estimates.	Monies appropriated for particular works.
		£ s. d.		£ s. d.		£ s. d.				
Lenny, E. H. ...	Draughtsman	168 5 0								
Smith, A. P. ...	Clerk	158 0 0								
Illman, G. ...			Lithographer	70 0 0			Permanently			Voted on Estimates.
Rathbone, J. ...			Crown Lands Bailiff	230 0 0			"			" "
Garland, M. ...			"	230 0 0			"			" "
Thomas, Joseph			Draughtsman	150 0 0			"			" "
Cawood, J. W. ...			Caretaker	50 0 0			"			" "
Kennedy, G. D.			"	50 0 0			"			" "
Fitzjohn, Jas. ...			"	250 0 0			"			" "
Larnach, R. J. ...			Clerk	96 0 0			"			" "
Jenkins, C. W.			"	40 0 0			"			" "
Jenkins, W. S. *			"	100 0 0			"			" "
Robin, J. ...			"	120 0 0			"			" "
Coffee, F. R. ...			Draughtsman	75 0 0			"			" "
Crocker, H. J. ...			"	156 10 0			"			" "
Gordon, G. S. ...			"	150 0 0			"			" "
Allan, H. O. ...			Clerk, &c.	40 0 0			"			" "
Anderson, W. P.			Draughtsman	120 0 0			"			" "
Rogerson, M. ...			"	110 0 0			"			" "
Nathan, A. ...			"	40 0 0			"			" "
Swan, W. J. ...			"	130 0 0			"			" "
Archer, W. H. ...	Secretary for Lands	1200 0 0								
Moore, H. B. ...	Asst. Surveyor-General	750 0 0								
Robertson, A. ...	Chief Draughtsman	600 0 0								
Vance, W. J. ...	Clerk	485 0 0								
Horrell, C. C. ...	Draughtsman	485 0 0								
Noone, John ...	Photo-lithographer	485 0 0					Permanently			Voted on Estimates.
Harding, F. ...	District Surveyor	485 0 0					"			" "
McLachlan, A. ...	Draughtsman	430 0 0								
Levey, J. A. ...	Clerk	411 13 4					Permanently			Voted on Estimates.
Thomas, James	"	350 0 0					"			" "
Freeman, W. ...	Draughtsman	350 0 0								
Green, John ...	"	350 0 0								
Raymond, P. B.	"	350 0 0								
Sturgess, W. G.	"	350 0 0								
Guille, J. M. ...	Clerk	287 10 0								
Pugh, T. N. ...	"	250 0 0								
Edmonds, H. ...	"	225 0 0								
Thurgaland, J.	"	217 10 0								
Fitzgerald, E. ...	"	174 10 0					Permanently			Voted on Estimates.
Jones, R. D. ...	"	108 0 0								
Hearn, H. M. ...	"	105 0 0								
Power, J. ...	Draughtsman	100 0 0					Permanently			Voted on Estimates.
Rogers, W. H. P.			Clerk	40 0 0						
Woodlands, W. H.			"	40 0 0						
Palmer, G. ...			"	40 0 0						
Rowe, P. J. ...			"	40 0 0						

A 7.	Buckley, E.	...	...	...	Clerk	...	40 0 0												
	Ord, H.	...	...	...	"	...	40 0 0												
	Fleming, A.	...	...	...	"	...	40 0 0												
	Atkinson, E. H.	...	...	...	"	...	40 0 0												
	Church, W. R.	...	...	...	"	...	40 0 0												
	Andrews, W. K.	Draughtsman	...	325 0 0	...	...	...	Draughtsman	...	325 0 0	Permanently	...	...	Voted on Estimates.					
	Price, E.	"	...	196 0 0	...	...	...									
	Rogers, R. R.	"	...	170 0 0	...	...	...									
	Morgan, R. R.	"	...	160 0 0	...	...	...									
	Kelly, H. L.	"	...	156 10 0	...	...	...									
	Ley, J. L. A.	"	...	150 0 0	...	...	...									
	Percival, W. B.	Clerk	...	120 0 0	...	...	...									
	Richards, F. E.	Draughtsman	...	100 0 0	...	...	...									
	Brown, Thos.	"	...	60 0 0	...	...	...									
	Slight, W.	Engraver	...	325 0 0	...	...	...	Engraver	...	325 0 0	Permanently	...	...	Voted on Estimates.					
	Slater, F.	...	...	...	Lithographer	...	195 12 6	...	...								
	Hocking, R.	Night Watchman	...	120 0 0	...	...	...	Laborer	...	6/ per diem	Permanently	...	...	Voted on Estimates.					
	Bogue, Jas.	Crown Lands Bailiff	...	132 10 0	...	...	...	...	...					
	Morres, E.	Officer in Charge	...	290 0 0	...	...	...	Officer in Charge	...	290 0 0	Permanently	...	...	Voted on Estimates.					
	Hardy, John	"	...	350 0 0	...	...	...	"	...	350 0 0	"	...	...	"			
	Clinch, P. J. B.	"	...	340 0 0	...	...	...	...	...					
	Thompson, Thos.	"	...	382 10 0	...	...	...	Inspecting Surveyor	...	382 10 0	Permanently	...	...	Voted on Estimates.					
	Ellis, E.	"	...	237 0 0	...	...	...	...	...					
	Chauncy, A. P.	"	...	180 0 0	...	...	...	...	...					
	Strong, P. D.	"	...	307 10 0	...	...	...	...	...					
	Walker, M.	Draughtsman	...	225 0 0	...	...	...	...	...					
	Muir, H. S.	...	...	...	Draughtsman	...	84 0 0	...	...	...	Permanently	...	...	Voted on Estimates.					
	Marshall, A.	...	...	...	Printer	...	40 0 0	...	...	...	"	...	...	"
	Anderson, Jas.	...	...	...	"	...	60 0 0	...	...	...	"	...	...	"
	Luplaw, W. P.	...	...	...	"	...	130 0 0	...	...	...	"	...	...	"
	Picton, J. D.	...	...	...	Clerk	...	40 0 0	...	...	...	"	...	...	"
	Crocker, H. J.	Draughtsman	...	156 10 0	...	...	...	...	...	...	"	...	...	"
	Woods, C. F.†	...	...	...	Clerk	...	100 0 0	...	...	...	Permanently	...	...	Voted on Estimates.					
	Blair, H. St. H.	...	...	...	Draughtsman	...	180 0 0	...	...	...	"	...	...	"
	Thorn, W.	...	...	...	"	...	120 0 0	...	...	...	"	...	...	"
	Lowe, R. N.	...	...	...	"	...	84 0 0	...	...	...	"	...	...	"
	Ditchburne, G.	...	...	...	"	...	144 0 0	...	...	...	"	...	...	"
	Wren, W. J.	...	...	...	"	...	90 0 0	...	...	...	"	...	...	"
	Paltam, C. J.	...	...	...	Clerk	...	50 0 0	...	...	...	"	...	...	"
	Clarke, L.	District Surveyor	...	600 0 0	...	...	...	...	...	...	"	...	...	"
	Taylor, J. H.	"	...	485 0 0	...	...	...	...	...	...	"	...	...	"
	Chauncy, P.	"	...	485 0 0	...	...	...	...	...	...	"	...	...	"
	Nixon, Thos.	"	...	485 0 0	...	...	...	District Surveyor...	...	485 0 0	Permanently	...	...	Voted on Estimates.					
	Pinniger, T. W.	"	...	485 0 0	...	...	...	"	...	485 0 0	"	...	...	"			
	Black, Alex.	"	...	485 0 0	...	...	...	"	...	485 0 0	"	...	...	"			
	McDonald, G. P.	"	...	448 6 8	...	...	...	...	...	...	"	...	...	"
	Morres, H.	Assistant Surveyor	...	350 0 0	...	...	...	...	...	...	"	...	...	"
	Webster, C.	"	...	250 0 0	...	...	...	Assistant Surveyor	...	300 0 0	Permanently	...	...	Voted on Estimates.					
	Shaw, J. R.	"	...	300 0 0	...	...	...	...	...	...	"	...	...	"
	Matthews, P. C.	"	...	250 0 0	...	...	...	Draughtsman	...	180 0 0	Permanently	...	...	Voted on Estimates.					
	Counsel, R. P.	Draughtsman	...	140 0 0	...	...	...	...	...	...	"	...	...	"
	Gibbs, J. J.	...	...	...	Lithographer	...	70 0 0	...	...	...	Permanently	...	...	Voted on Estimates.					
	Shea, John	...	...	...	Messenger	...	120 0 0	...	...	...	"	...	...	"
	Gribble, E. W. V.	...	...	...	Pupil Draughtsman	...	52 0 0	...	...	...	"	...	...	"
	Lucas, M.	...	...	...	"	...	52 0 0	...	...	...	"	...	...	"
	Wells, A. J.	...	...	...	"	...	52 0 0	...	...	...	"	...	...	"
	Carey, J. A.	...	...	...	Clerk	...	40 0 0	...	...	...	"	...	...	"
	Tait, J. B.	...	...	...	Computer	...	100 0 0	...	...	...	"	...	...	"

* Deceased. —† Resigned.

DEPARTMENT OF LANDS AND AGRICULTURE—continued.

Name.	Discharged.		Appointed.		Re-appointed.		How employed.		How paid.	
	Occupation.	Salary.	Occupation.	Salary.	Occupation.	Salary.	Permanent.	Temporary.	Salaries voted on Estimates.	Monies appropriated for particular works.
		£ s. d.		£ s. d.		£ s. d.				
Joy, C. J.	Office Assistant ...	26 0 0	...	...	Permanently	...	Voted on Estimates.	
Hook, Robert	Crown Lands Bailiff	50 0 0	...	...	"	...	" "
Sims, Jas.	" "	3/ per diem	...	...	"	...	" "
Smith, J. H.	" "	12 0 0	...	...	"	...	" "
Muir, J. J.	Draughtsman ...	120 0 0	...	...	"	...	" "
Smith, G. H. H.	" ...	52 0 0	...	...	"	...	" "
Mallett, F. T.	" ...	138 0 0	...	...	"	...	" "
Datari, P.	" ...	125 0 0	...	...	"	...	" "
Dunne, Chas.	Clerk ...	60 0 0	...	...	"	...	" "
Mould, A. H.	" ...	40 0 0	...	...	"	...	" "
Watson, J. F.	" ...	70 0 0	...	...	"	...	" "
Pateman, Robt.	" ...	40 0 0	...	...	"	...	" "
Sullivan, Thos.	" ...	40 0 0	...	...	"	...	" "
Chandler, G.	Asst. Photographer	80 0 0	...	...	"	...	" "
Hetherington, J.	Draughtsman ...	192 0 0	...	...	"	...	" "
Breen, M. D.	Assistant Surveyor	250 0 0	...	...	"	...	" "
Thompson, J. L.	Manager of Experimental Farm	300 0 0	...	...	"	...	" "
Mason, W. S.	Clerk ...	40 0 0	...	...	Permanently	...	Voted on Estimates.	
Kenyon, E. S.	" ...	100 0 0	...	...	"	...	" "
Parker, W.	Draughtsman ...	150 0 0	...	...	"	...	" "
Thompson, C. F.	" ...	100 0 0	...	...	"	...	" "
Watson, F.	" ...	75 0 0	...	...	"	...	" "
Kirwan, H. W.	" ...	150 0 0	...	...	"	...	" "
Hawley, R. M. C.	Clerk ...	40 0 0	...	...	"	...	" "
Forbes, J. W.	" ...	144 0 0	...	...	"	...	" "
Bond, A. L.	Draughtsman ...	180 0 0	...	...	"	...	" "
Boyd, D. M.	" ...	78 0 0	...	...	"	...	" "
McHutchison, J.	" ...	120 0 0	...	...	"	...	" "
King, H. S.	" ...	80 0 0	...	...	"	...	" "
Conrad, H. F.	" ...	120 0 0	...	...	"	...	" "
Blanchard, W.	Crown Lands Bailiff	150 0 0	...	...	"	...	" "
McDowall, Jas.	Temporary Crown Lands Bailiff	£4 per week	...	...	... ..	Temporary	" "	
Hopwood, G. M.*	Chemist and Analyst	250 0 0	...	...	Permanently	...	Voted on Estimates.	
Krausé, F. M.	Assistant Surveyor	350 0 0	...	...	"	...	" "
Foot, Chas.†	Draughtsman ...	120 0 0	...	...	"	...	" "
Campbell, F. W. ...	Clerk	90 0 0	...	...	...	...	"	...	" "
Picton, J. D. ...	"	40 0 0	...	...	...	...	"	...	" "
Campbell, R. O. ...	"	176 0 0	...	...	...	...	Permanently	...	Voted on Estimates.	
Swinburne, J.	In charge of Water	£1 per diem	...	...	...	Temporary	...	Boring for Water.
Maddigan, J. de L.	" [Auger	60/ per week	...	...	...	"	...	" "
Wright, W.	" "	10/ per diem	...	...	...	"	...	" "
Bannerman, W.	" "	8/ "	...	...	...	"	...	" "
Cox, W. G.	" "	10/ "	...	...	...	"	...	" "
Black, S. J. ...	Superintendent of Bailiffs	400 0 0	...	...	...	...	...	"	...	" "

* Transferred from Mining Department.—† Only employed for one month.

NOTE.—Office Cleaners and Laborers in Survey Parties are not included in this Return, inasmuch as they are employed and discharged by the Officers in charge and Assistant Surveyors.

PUBLIC WORKS DEPARTMENT.

1. RETURN showing the respective Names, Occupations, and Salaries of all Persons discharged from employment between the 1st July 1877 and the 1st July 1879.

Name.	Occupation.	Salary.	Remarks.
		£ s. d.	

PERMANENT CLASSIFIED OFFICERS PAID BY SALARIES VOTED ON ESTIMATES.

W. W. Wardell ...	Inspector-General of Public Works ...	1,200 0 0	
S. H. Merrett ...	Chief Assistant Architect and Engineer...	600 0 0	Re-engaged temporarily.
A. T. Snow ...	Assistant Architect ...	566 13 4	
J. J. Clark... ..	Ditto	566 13 4	Re-engaged temporarily.
H. Moseley... ..	Engineering Surveyor, &c. ...	566 13 4	
Jas. H. Fox ...	Measuring and Quantity Surveyor ...	600 0 0	
A. C. Todd... ..	Travelling Superintending Insp. of Works	600 0 0	
Hy. Topping ...	Inspector of Works	300 0 0	
Geo. O'Connor ...	Ditto	300 0 0	
Thos. H. Williams ...	Ditto	300 0 0	Re-engaged temporarily.
Jas. Martin... ..	Ditto	300 0 0	
L. Carr	Ditto	300 0 0	
Wm. Gordon ...	Ditto	300 0 0	Re-engaged temporarily.
A. Galt	Secretary for Public Works ...	700 0 0	Superaunuated—above 60.
Wm. Stokes ...	Clerk	485 0 0	

TEMPORARY UNCLASSIFIED OFFICERS PAID OUT OF CONTINGENCIES AND MONIES APPROPRIATED FOR PARTICULAR WORKS.

Sydney Moore ...	Clerk	275 0 0	
Wm. Oxenham ...	Ditto	150 0 0	
Thos. Elliott ...	Draftsman	273 0 0	
John K. Terry ...	Ditto	208 0 0	
T. Hoskin	Ditto	273 0 0	
Chas. Rowand ...	Engineer, Roads and Bridges Department	675 0 0	
W. W. Lyddiard ...	Surveyor, Roads and Bridges Department	300 0 0	
Geo. Donaldson ...	Assistant Engineer, Roads and Bridges Department	393 6 8	Re-engaged by Railway Department.
John Gray	Inspector of Works, Temporary Staff ...	260 0 0	
Wm. Anderson ...	Ditto	260 0 0	
Joseph Reilly ...	Ditto	260 0 0	
John Hutton ...	Ditto	260 0 0	Re-engaged.
Archd. Deans ...	Ditto	260 0 0	
G. Ravenscroft ...	Ditto	260 0 0	
H. Kneen	Ditto	260 0 0	Re-engaged.
D. McPherson ...	Ditto	260 0 0	
G. Thwaites ...	Caretaker of Furniture	208 0 0	Re-engaged.
W. B. Davis ...	Assistant to Measuring and Quantity Surveyor	312 0 0	
Nowell Stowers ...	Ditto	104 0 0	Resigned.
Geo. B. Nethersole ...	Draftsman for Defence Works	260 0 0	
C. H. E. Blackmann...	Draftsman	325 0 0	Resigned.
Jas. E. Swan ...	Junior Draftsman	80 0 0	Transferred to Yan Yean Branch.
E. J. Maplestone ...	Ditto	60 0 0	Resigned.
J. H. Stevens ...	Clerk	180 0 0	Dismissed.
H. Goulding ...	Caretaker of Quantity Surveyor's office	78 0 0	Transferred to Yan Yean Office Branch.
F. B. Raymond ...	Draftsman, Defences	350 0 0	
Chas. Brown ...	Overseer of Works, West Melbourne swamp	234 15 0	Dismissed.
W. Sutton	Overseer for opening up freestone quarries	260 0 0	
John Betheras ...	Ditto	260 0 0	
Thos. Doran ...	Overseer for Relief Works	234 15 0	Re-engaged.
Thos. Frost... ..	Ditto	234 15 0	Re-engaged.
A. J. Matthews ...	Junior Draftsman	52 0 0	
J. T. P. O'Meara ...	Clerk	84 0 0	Resigned.
Thos. W. H. Holmes...	Junior Draftsman	65 0 0	Transferred to Yan Yean Branch.
C. E. Marriott ...	Draftsman	208 0 0	
W. Kohler	Junior Draftsman	208 0 0	
Jas. Bates	Foreman for heating apparatus, Registrar-General's office	9s. per day.	
D. O'Neill	Night Watchman, New Public Offices	42s. per week.	Dismissed.
S. Laphorne ...	Master <i>George Rennie</i> , dredging steamer	£5 per week.	
John Doherty ...	Inspector of Landing Silt, Belfast ...	10s. per day.	
John White ...	Diver for Dredging Operations ...	15s. per day.	Resigned.
John Patterson ...	Engineer of snagging boat <i>Fraser</i> , River Murray	£4 per week.	Dismissed.

PUBLIC WORKS DEPARTMENT—continued.

2. RETURN of the Name, Occupation, and Salary of every Person appointed or re-appointed during the period from 1st July 1877 to 1st July 1879 to any situation in the Government Service, whether permanent or temporary, and whether paid by Salaries voted on Estimates, or out of Monies appropriated for particular works.

Name.	Occupation.	Salary.	Date of Appointment or Re-appointment.	Remarks.
		£ s. d.		
PERMANENT CLASSIFIED OFFICERS PAID BY SALARIES VOTED ON ESTIMATES.				
Chas. Le Cren	Secretary for Public Works and Water Supply	800 0 0	1/3/78	Promotion.
Wm. H. Steel	Inspector-General of Public Works, and Chief Engineer Melbourne Water Supply	900 0 0	1/7/78	Promotion.
Robt. J. Cullen	Clerk	225 0 0	18/2/78	Transferred from Stores and Transport Dept.
TEMPORARY UNCLASSIFIED OFFICERS PAID OUT OF CONTINGENCIES AND MONIES APPROPRIATED FOR PARTICULAR WORKS.				
John J. Clark	Architect, New Law Courts	500 0 0	1/7/78	Re-appointed.
Saml. H. Merrett	Engineer for Defence Works	520 0 0	2/9/78	Ditto.
Thos. H. Williams	Inspector of Works	260 0 0	6/5/78	Ditto.
Wm. Gordon	Ditto	312 0 0	10/5/78	Ditto.
George Thwaites	Caretaker of Furniture	208 0 0	23/1/78	Ditto.
Arthur John Matthews	Assistant Draftsman	52 0 0	6/6/78	
J. T. P. O'Meara	Junior Clerk	84 0 0	28/5/78	Resigned.
W. B. Davis	Measurer, New Law Courts	300 0 0	1/3/78	Re-appointed.
J. H. Harper	Assistant to Quantity Surveyor	140 0 0	"	
G. B. Nethersole	Draftsman for Defence Works	260 0 0	30/10/77	Discharged.
G. A. Badger	Ditto for Parliament House	360 0 0	12/11/77	
J. B. Cohen	Ditto for New Law Courts	340 0 0	"	
Thos. Elliott	Ditto for Parliament House	273 0 0	"	Discharged.
T. Hoskins	Ditto ditto	273 0 0	"	Ditto.
John K. Terry	Ditto ditto	208 0 0	"	Ditto.
Robt. Roberts	Assistant Draftsman	200 0 0	"	
Joseph A. Doolan	Ditto	156 0 0	"	
Jas. Welsh	Junior Draftsman	115 0 0	"	
E. H. Tate	Clerk	78 0 0	13/12/77	
Jas. Rowe	Junior Draftsman	84 0 0	7/2/78	
Michl. O'Meara	Resident Keeper of Government Offices	250 0 0	16/2/78	Transferred from Yan Yean Branch.
John Griffiths	Inspector of Works	260 0 0	16/7/77	
A. Jack	Enginedriver, West Melbourne swamp	169 0 0	1/12/77	Transferred to Lands Department.
Willm. Neale	Mechanic for Public Offices	208 0 0	26/11/77	
W. Sutton	Overseer for opening up freestone quarries	260 0 0	28/11/77	Discharged.
John Betheras	Ditto	260 0 0	2/4/78	Discharged.
Thos. Doran	Overseer of Relief Works...	234 15 0	27/5/78	
Thos. Frost	Ditto	234 15 0	11/6/78	
Andrew Young	Clerk in Roads Branch	150 0 0	12/11/77	
Thos. W. H. Holmes	Junior Draftsman	65 0 0	10/8/78	Transferred to Yan Yean Branch.
T. A. Patterson	Clerk, &c.	65 0 0	1/12/78	
Wm. Thwaites	Surveyor for Defences and Gippsland Lakes	312 0 0	16/1/79	
J. W. T. Norgate	Ditto, and Thompson River Works...	273 0 0	20/11/78	
Hy. Norman	Clerk	80 0 0	17/3/79	In place of O'Meara, resigned.
P. C. J. Glass	Junior Draftsman	52 0 0	1/5/79	Transferred from Yan Yean Branch.
C. E. Marriott	Draftsman, Law Courts	208 0 0	13/1/79	Discharged.
W. Kohler	Junior Draftsman, Parliament House	208 0 0	9/10/78	Ditto.
H. J. Kerr	Ditto	156 0 0	"	
B. A. Pickersgill	Junior Quantity-Surveyor's Assistant	109 4 0	10/2/79	
F. B. Raymond	Draftsman, Defences	350 0 0	28/5/78	Discharged.
Anne Martin	Assistant to Caretaker of State-rooms, Government House	40 0 0	1/5/79	
Jas. Bates	Fireman for heating apparatus, Registrar-General's office	9s. per day	15/7/78	Discharged.
M. B. Murphy	Foreman Laborer, Old Cemetery, Melbourne	7s. 6d. per day	10/12/77	
John Hutton	Inspector of Works, Jetty, Portland	260 0 0	26/8/78	Re-appointed.
Richd. Cooke	Ditto, Experimental Farm, Dookie	260 0 0	7/5/79	
Jas. Duncan	Clerk of Works, Exhibition Building	260 0 0	12/2/79	
Hugh Kneen	Ditto	260 0 0	28/2/79	Re-appointed.
W. Beddows	Ditto	260 0 0	20/2/79	
Chas. Robinson	Road Inspector	208 0 0	6/1/79	
John Audsley	Fireman for heating apparatus, Registrar-General's Office	7s. 6d. per day	1/5/79	Transferred from Yan Yean Branch.
D. O'Neil	Night Watchman, New Public Offices	42s. per week	26/2/78	Dismissed.
J. W. Elliott	Ditto	42s. per week	10/5/78	
A. Chirgwin	Foreman Laborer, New Public Offices	7s. 6d. per day	14/3/78	
Edwd. Toole	Hall Porter, New Public Offices	7s. per day	24/4/79	

PUBLIC WORKS DEPARTMENT—continued.

Name.	Occupation.	Salary.	Date of Appointment or Re-appointment.	Remarks.
P. McGregor ...	Engineer, dredge <i>Alligator</i> ...	£6 per week	1/7/78	Re-transferred from Harbor Trust on the Government resuming possession of the dredge <i>Alligator</i> .
L. Millar ...	Mate " ...	10s. 6d. per day	"	
John Silke ...	Second Mate " ...	8s. 6d. per day	"	
L. Hobbs ...	Fireman " ...	9s. per day	"	
G. Ramsay ...	" " ...	8s. per day	"	
S. Butterfield ...	Deck hand " ...	7s. 6d. per day	"	
David Caithness ...	" " ...	"	"	
Walter Jenkins ...	" " ...	"	"	
P. Marone ...	" " ...	"	"	
Geo. Bloomfield ...	" " ...	"	"	
L. Millar ...	" " ...	"	"	
Ed. Gilbert ...	" " ...	"	"	
Wm. Scott ...	Carpenter, dredge <i>Wombat</i> ...	13s. per day	6/10/77	Discharged. Temporary, during absence for six months of regular Engineer.
S. Laphorne ...	Master, tug <i>George Rennie</i> ...	£5 per week	18/4/78	
G. H. Botterell ...	Engineer " ...	£6 per week	16/4/79	
John Doherty ...	Inspecting Landing of Silt, Belfast ...	10s. per day	23/3/78	
Edwin Johnson ...	Engineer of snagging boat <i>Fraser</i> , River Murray	£3 5s. per week	16/9/78	Discharged.
Hy. Clark ...	Overseer of Works, Military Road ...	15s. per day.	14/2/79	

NOTE.—Ordinary Laborers—of which 800 or 1000 may have been employed on Relief and Road Works during the period specified—have not been included.

Public Works Department,
23rd September 1879.

CHARLES LE CREN,
Secretary.

MELBOURNE WATER SUPPLY.

RETURN showing the respective Names, Occupations, and Salaries of all Persons Discharged from Employment between the 1st July 1877 and the 1st July 1879.

Name.	Occupation.	Salary.	—
C. J. Taylor ...	Superintending Engineer	£650	Permanent; paid out of Salaries voted.
J. Mitchell ...	Inspector, Preston ...	250	Ditto ditto.
J. Simmott ...	Turncock ...	12s. per diem	Temporary; paid out of Contingencies.
M. Casey ...	Clerk ...	£125	Ditto ditto.
R. Goulding ...	Messenger ...	78	Ditto ditto.

RETURN showing the Name, Occupation, and Salary of every Person Appointed or Re-appointed between the 1st July 1877 and the 1st July 1879; whether permanent or temporary; and whether paid by Salaries voted on Estimates, or out of Monies appropriated for particular works.

Name.	Occupation.	Salary.	Date.	—	Remarks.
W. Davidson	Superintending Engineer	£500	March 1/78	Salaries voted; permanent	Previously Assistant Engineer.
H. Chirgwin	Inspector, Preston	250	April 1/78	" "	Vice J. Mitchell.
W. M. Jenkins	Clerk ...	65	Feb. 14/78	Temporary; paid out of Contingencies.	
P. C. J. Glass	" ...	52	Sept. 19/78	" "	Transferred to Public Works.
T. W. Holmes	" ...	65	March 1/79	" "	Vice Glass, transferred.
A. J. Evans ...	Rate Collector ...	200	Feb. 19/78	" "	Vice O'Meara, transferred to Public Works.
R. Richardson	Warrant Officer ...	180	Oct. 14/78	" "	Vice N. Dearman, resigned.
J. Audsley ...	Messenger ...	78	Oct. 28/78	" "	Transferred to Registrar-General.
F. Moore ...	" ...	39	May 15/79	" "	Vice Audsley, transferred.
T. Cattanach	Inspector ...	£5 4 ^p week	Oct. 14/78	" "	Inspector, Aqueduct Works; left Works completed.
J. Coombs ...	" ...	£4 10s. 4 ^p week	Feb. 6/79	" "	Inspector pipe casting; temporary.

CHARLES LE CREN,
Secretary.

Water Supply Office,
Melbourne, 20th September 1879.

DEPARTMENT OF TRADE AND CUSTOMS.

RETURN showing the respective Names, Occupations, and Salaries of all persons discharged from employment in the Department of Trade and Customs between the 1st July 1877 and the 1st July 1879; and the Name, Occupation, and Salary of every person appointed or re-appointed during the same period to any situation in the same Department, whether Permanent or Temporary, and whether paid by Salaries voted on Estimates, or out of Monies appropriated for particular Works.

PERSONS DISCHARGED.

Date.	Name.	Occupation.	Salary.	Remarks.
1877.				
31 August	... H. Ringwood ...	... Watchman at Wodonga ...	... £25 per annum ...	... Also in employ of New South Wales Government.
1 September	... W. Bruce ...	... Officer of Customs, Narung ...	... 20 " ...	... Dispensed with as Inspector of Stock by Chief Secretary.
24 "	... C. McDonald ...	... Coastwaiter, Conana ...	... 3 per week, £1 1s. allowance ...	... In consequence of irregularities in his accounts.
1878.				
9 January	... E. Black ...	... Clerk, 4th class, in Commissioner's Office ...	... £350 ...	... Received compensation, £706 13s. 3d.
"	... H. M. Guthrie ...	... Collector of Customs, 1st class ...	... 800 ...	... " £1920 8s. 7d.
"	... H. T. Hammond ...	... Warehouse-keeper, 3rd class ...	... 485 ...	... Re-appointed, 3rd class, 3rd June 1878.
"	... L. A. Moody ...	... Chief Inspector of Distilleries, Immigration Agent, Superintendent of the Marine Office, Melbourne, and Inspector of Fisheries	... 700 ...	... Received compensation, £1734 4s. 1d.
9 January	... J. Murphy ...	... Inspector of Licensed Premises, &c. ...	... £500 ...	... Received compensation, £158 12s.
"	... S. Martin ...	... " " ...	... 500 ...	... " 158 12s.
"	... H. S. Shaw ...	... " " ...	... 400, and £100 for travelling expenses	... " 173 7s. 9d.
"	... W. Fuller ...	... " " ...	... " "	... " 173 7s. 9d.
"	... W. H. Woodville ...	... " " ...	... " "	... " 173 7s. 9d.
"	... E. Joyce ...	... " " ...	... " "	... Subsequently appointed Weigher.
"	... T. Inglis ...	... " " ...	... " "	... Received compensation, £173 7s. 9d.
"	... T. Coffin ...	... " " ...	... " "	... " 173 7s. 9d.
"	... J. Tyson ...	... " " ...	... " "	... " 173 7s. 9d.
"	... J. Turner ...	... " " ...	... " "	... " 173 7s. 9d.
31 March	... Thos. Leggett ...	... Signalman, Port Albert ...	... 6s. 6d. per diem ...	... Dismissed 31st March 1878.
2 December	... D. C. Forrest ...	... Officers of Customs { Kotupna ... Echunga ... Barmah ... Stanley ...	... Allowance of £10 per annum ...	... { To date from 1st August 1878. " 1st December 1878. " " " "
"	... J. Kennedy ...			
"	... W. H. Johnson ...			
"	... J. Fitzjohn ...			
1879.				
17 January	... J. Meares ...	... Cook and Steward, <i>Pharos</i> ...	... 6s. per diem ...	... Reported as unfit for duties.
April	... J. M. Ormsby ...	... Extra Weigher ...	... 8s. per diem (when required) ...	... Removed from the list of extra officers.

In addition to the above, the following Persons employed on the Marine Survey were Discharged or Paid Off in consequence of the discontinuance of the Marine Survey.

1878.				
9 January	... J. Hiddle Engineer, <i>Victoria</i> 14s. per diem.	... } These men were retained for a short time as a skeleton crew, when the <i>Victoria</i> was paid off, and handed over to Chief Harbormaster, and by him to the Chief Naval Officer.
"	... G. Bottrell ...	... 2nd Engineer, <i>Victoria</i> ...	... £18 per month.
"	... J. Ramsay ...	... Chief Quartermaster ...	... 7s. 6d. per diem ...
"	... A. Jamieson ...	... Quartermaster ...	... 6s. 3d. " ...
"	... J. Stoker ...	... " ...	... 6s. 3d. " ...
"	... F. Groombridge ...	... " ...	... 6s. 3d. " ...
"	... C. Holtby ...	... Carpenter ...	... 7s. 6d. " ...
"	... G. Mustart ...	... Steward ...	... 6s. " ...

9 January	...	C. Brennan	...	...	Cook	...	...	...	...	5s. 9d. per diem.	
"	...	P. Sparks	...	...	A. B.	...	...	...	...	5s.	"
"	...	G. O. Reilly	...	...	"	...	...	...	...	5s.	"
"	...	J. McAteer	...	...	"	...	...	...	...	5s.	"
"	...	A. Gibbons	...	...	"	...	...	...	...	5s.	"
"	...	N. Cunningham	...	...	"	...	...	...	...	5s.	"
"	...	N. Thompson	...	...	"	...	...	...	...	5s.	"
"	...	W. Radcliff	...	...	"	...	...	...	...	5s.	"
"	...	T. B. Leggett	...	...	"	...	...	...	...	5s.	"
"	...	J. Coutts	...	...	"	...	...	...	...	5s.	"
7 January	...	J. Tart	...	...	"	...	...	...	...	5s.	"
"	...	J. Matheson	...	...	"	...	...	...	...	5s.	"
9 January	...	G. Lett	...	...	"	...	...	...	...	5s.	"
"	...	J. Sullivan	...	...	"	...	...	...	...	5s.	"
"	...	J. Cobb	...	...	"	...	...	...	...	5s.	"
"	...	J. Flynn	...	...	Stoker	...	...	...	...	6s.	"
"	...	C. Rundle	...	...	"	...	...	...	...	6s.	"
"	...	J. Brennan	...	...	"	...	...	...	...	6s.	"
"	...	H. Jordan	...	...	"	...	...	...	...	6s.	"
9 January	...	A. McNeilage	...	...	Trimmer	...	...	...	...	5s. per diem.	
"	...	G. Forsyth	...	...	Boy	...	...	...	...	2s. 6d.	"
"	...	H. W. Bird	...	...	"	...	...	...	...	2s. 6d.	"

Retained for a short time in the skeleton crew when the *Victoria* was paid off, and handed over to Chief Harbor-master, and by him to the Chief Naval Officer.

The above return does not include the Officers of the Marine Survey, whose allowances for Colonial Service were withdrawn on 9th January 1878, again allowed on the 11th January, and finally withdrawn on 30th June 1878. The allowances were as follow :—Admiralty Surveyor, £375 per annum ; Assistant Surveyor, 12s. per diem ; Writer, 6s. 6d. per diem ; Draftsman, 5s. per diem.

PERSONS APPOINTED.

Date of Appointment.	Name.	Occupation.	Salary.	Appointment.	How paid.	Remarks.
1877.						
3 July	Geo. Pentland, Acting Inspector of Stock	Acting Officer of Customs, Swan Hill	Nil	Temporary	...	During Mr. Corney's leave of absence.
4 July	E. Darcy, late of Police	Sub-Inspector of Distilleries	£150 per annum	Permanent	Salary on Estimates	Transferred from Police Force.
16 July	A. R. Pleace, Harbor Master, Geelong	Assistant Inspector of Fisheries	Nil	"	...	Vice Sergeant Toohy, resigned.
17 July	W. P. Power	Extra Clerk, Customs, Melbourne	£3 per week	Temporary	Vote on Estimates	Vice McDonald, transferred to Conana —subsequently relieved and sent to Echuca.
23 July	W. H. McWilliam, Inspector of Stock	Officer of Customs, Delegete	£20 per annum	"	"	Vice Roycraft, deceased.
30 July	George Tapp, Keeper Lighthouse, Gabo Island, at £200, 3rd Schedule	Keeper of Lighthouse, Cape Schanck, 3rd Schedule	£200	Permanent	Salary on Estimates	Vice Bowie, superannuated.
"	H. White, Boatman, Williamstown, at 7s. 6d., 3rd Schedule	Assistant Lighthouse Keeper, Shortlands Bluff, 3rd Schedule	7s. per diem	"	"	Vice Fanning, promoted.
"	Thomas Musgrave, Keeper of Lighthouse at Wilson's Promontory, at £180, 3rd Schedule	Keeper of Lighthouse, Gabo Island, 3rd Schedule	£200 per annum	"	"	Vice Tapp, transferred.
"	P. Fanning, Assistant Lightkeeper, Shortlands Bluff, at 7s. per diem, 3rd Schedule	Keeper of Lighthouse, Wilson's Promontory, 3rd Schedule	£180	"	"	Vice Musgrave, transferred.
"	T. McGowan, Quartermaster, <i>Victoria</i> , 6s. 3d. per diem	Boatman, Williamstown, 3rd Schedule	7s. 6d. per diem	"	"	Vice White, transferred.
"	J. Revell, Constable of Police	Officer of Customs, Lawloit	£20 per annum	Temporary	"	
13 August	W. P. Power, extra Clerk	Acting Weigher, Echuca	£2 10s. per week	"	Vote on Estimates	Died, 23rd October 1877.

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10 December	John Flynn, late Warder, Kew Lunatic Asylum	Coastmaster and Assistant Inspector of Fisheries	£3 per week, and allowance of £1 1s.	Permanent	Salary on Estimates	Vice Campbell, returned to Melbourne.
"	W. Andrews, Acting Receiver, Castlemaine	Acting Receiver of Duties chargeable on Spirits Distilled in Victoria, &c. &c., Castlemaine	Nil	Temporary	"	During absence of Mr. Greaves.
17 December	A. Willey	Acting Weigher at Wodonga	£2 10s. per week	Temporary	Vote on Estimates	Vice Flynn, promoted.
"	C. K. Smith, Engineer, Dockyard	Acting Engineer Surveyor and Examiner of Engineers, &c.	Nil	"	"	During Mr. Wilson's leave of absence.
"	J. Thomas, Senior Boatman, Port Albert, 3rd Schedule, at 8s. 6d.	Mate of West Channel Lightvessel, 3rd Schedule	£140 per annum	Permanent	Salary on Estimates	Vice Hanby, transferred.
"	T. Hocking, Boatman, Port Albert, at 7s. 6d., 3rd Schedule	Seaman, West Channel Lightvessel, 3rd Schedule	7s. 6d. per diem	"	"	Vice Thomson, transferred.
"	John Hanby, Mate, West Channel Lightship, at £140, 3rd Schedule	Senior Boatman at Port Albert 3rd Schedule	8s. 6d. per diem	"	"	Vice Thomas, transferred.
"	John Thomson, Seaman, West Channel, at 7s. 6d., 3rd Schedule	Boatman, Port Albert, 3rd Schedule	7s. 6d. per diem	"	"	Vice Hocking, transferred.
1878.						
7 January	W. Spurling, Inspector of Sheep and Stock	Acting Officer of Customs at Swan Hill	Nil	Temporary	"	During Mr. Byrne's leave of absence.
"	W. H. McWilliam, Inspector of Stock	Officer of Customs at Penola	Allowance, £20	"	Vote on Estimates	Vice Elliget.
8 January	J. Chatfield Tyler, Assistant Commissioner of Trade and Customs	Collector of Customs, Melbourne	Nil	Permanent	"	Vice H. M. Guthrie, dispensed with.
"	F. W. Howden, Chief Clerk, Customs, Melbourne	Collector of Imposts, and to sign all statements of revenue and salary accounts, &c.	"	"	"	"
"	C. B. Payne, R.N., Chief Harbor Master	Immigration Agent, Superintendent of Mercantile Marine Office, &c.	"	"	"	Vice L. A. Moody, dispensed with.
21 January	George Heath, Inspector of Distilleries	Emigration Officer	"	Permanent	"	"
"	T. W. A. Babb	Acting Chief Inspector of Distilleries	"	Temporary	"	"
28 January		Laborer at New Powder Magazine	7s. 6d. per diem	Permanent	Salary on Estimates	New Magazine being opened at Salt-water River.
18 February	Henry J. Leplastrier, Accountant Commissioner's Office, 3rd Class, at £485	Accountant and Inspector, 2nd Class	£500	"	"	On probation from 1 October 1876, vice R. Brown, Inspector, &c., superannuated. Appointment confirmed from that date, and promoted to 2nd Class from 1 July 1877.
"	Frank J. Jones, Clerk, Commissioner's Office, 4th Class, at £350	Clerk, 3rd Class	£375	"	"	In consequence of Mr. Leplastrier's appointment as Inspector, and to date from 1 July 1877.
"	F. R. Robinson, Engineer, at 14s. per diem	Engineer, 3rd Schedule	14s. per diem	"	"	"
8 February	Geo. Pentland	Acting Officer of Customs at Tocumwall	Nil	Temporary	"	Vice Pennefather, absent on leave.
18 February	A. W. Leonard, Assistant Lightkeeper at Gabo Island, 3rd Schedule, at 8s. 6d.	Boatman, Williamstown, 3rd Schedule	7s. 6d. per diem	Permanent	Salary on Estimates	Vice Watson, exchanged.
"	J. Watson, Boatman, Williamstown, at 7s. 6d., 3rd Schedule	Assistant Lightkeeper, Gabo Island, 3rd Schedule	8s. 6d. per diem	"	"	Vice Leonard, exchanged.
"	R. Perry, Inspector of Stock	Acting Officer of Customs at Tintaldra	Nil	Temporary	"	Vice Stuckey, absent on leave.
"	A. E. Gomm, Deputy Superintendent of Mercantile Marine Office, Melbourne	Collector of Imposts	"	"	"	During temporary absence of the Superintendent on duty.
27 February	J. Kennedy } W. H. Johnson } D. C. Forrest } J. Fitzjohn } F. DeLacy	Forest Rangers	Officers of Customs at { Echunga Barmah Kotupna Stanley	"	Vote on Estimates.	"
11 March		Officer in charge of Old Powder Magazine, Footscray	10s. per diem	Permanent	Salary on Estimates	Vice Keays, transferred to the new Magazine, the old Magazine being re-opened for storage of Dynamite, &c.
11 March	E. Darcy, Sub-Inspector	Inspector of Distilleries	£150 per annum	"	"	"
"	R. F. Talbot, Sub-Inspector	"	"	"	"	"
"	J. W. Stubbley, Sub-Inspector	"	£200 per annum	"	"	"
"	G. Cudden, Sub-Inspector	"	"	"	"	"
14 March	H. E. Story	Extra Clerk	£1 per week	Temporary	Vote on Estimates	Vice Olric Shaw, resigned.

DEPARTMENT OF TRADE AND CUSTOMS—continued.

Date of Appointment.	Name.	Occupation.	Salary.	Appointment.	How paid.	Remarks.
1878.						
25 March	S. Bowden, Acting Inspector of Stock	Officer of Customs at Howlong	£100 per annum	Temporary	Vote on Estimates...	Vice, Wright, deceased.
"	W. Spurling, Inspector of Sheep	Officer of Customs at Apsley	Nil	"	"	During Mr. Montgomery's absence on leave.
"	J. R. Keays, Keeper of Powder Magazine, Footscray, at £200, 3rd Schedule	Keeper of the New Magazine, Saltwater River, 3rd Schedule	£200	Permanent	Salary on Estimates	New Magazine being opened.
"	F. DeLacy, Keeper of Powder Magazine, Footscray	Locker	Nil	See 11 March, page 41	"	Consequent on the Magazine being re-opened for storage of Dynamite, &c.
1 April	J. F. Doolan, extra Clerk	Clerk, 5 Class	£80 per annum	Permanent	Salary on Estimates	Vice Henderson, resigned.
5 April	W. A. McGregor	Extra Clerk	£1 per week	Temporary	Vote on Estimates	Vice Doolan, promoted.
8 April	W. McC. Pearce, Seaman of <i>Pharos</i>	Signalman, Port Albert	6s. 6d. per diem	Permanent	Salary on Estimates	Vice Leggett, dismissed.
"	J. Lancaster, previously employed occasionally in Alfred Dock Yard	Watchman	7s. per diem	"	"	
29 April	J. McGlone	Assistant Inspector of Fisheries	7s. 6d. per diem, and from 1 August increased to 9s. 6d. per diem, to include all ordinary travelling expenses	Permanent	Vote on Estimates.	
29 April	D. Ferguson, Collector of Customs, Wodonga	Keeper of the Powder Magazine	Nil	"	Vote on Estimates.	
1 May	T. Durning	Extra Clerk	£1 per week	Temporary	Vote on Estimates.	
7 May	Dr. Walter Lindesey, Acting Health Officer, Queenscliff	Acting Tide Surveyor	Nil	"	"	During absence of Dr. Williams.
"	J. L. Bowen, extra Weigher	Weigher, 3rd Schedule	£200 per annum	Permanent	Salary on Estimates.	
"	Leopold Kabat, Superintendent of Police	Assistant Inspector of Fisheries	Nil	Temporary.	"	
"	Albert Willey, Acting Weigher, Wodonga	Weigher, 3rd Schedule	£200 per annum	Permanent	Salary on Estimates.	
"	R. W. Cerutti, Tide Waiter, at £200	Acting Tide Surveyor and Acting Assistant Emigration Officer	Allowance of £55 per annum	Temporary	"	During absence of Mr. Smart, on leave.
"	T. C. Morley	Weigher, 3rd Schedule	£200 per annum	Permanent	"	
"	J. S. McKeown	"	200	"	"	Vice Davis, promoted.
14 May	Henry Dewing	Officer of Customs at Yarrawonga	20	Temporary	Vote on Estimates	Vice Constables Crilly and Ryan, relieved.
16 May	W. E. Montgomery, Officer of Customs at Apsley, without allowance	Officer of Customs, Apsley	20	"	"	
"	W. H. McWilliam, Officer of Customs, Penola, without allowance	Officer of Customs, Penola	20	"	"	
30 May	Oscar E. Hoeberg, Constable of Police	To carry out portion of Part II of the "Passengers, Harbors, and Navigation Statute 1865," &c., &c., at Portarlington and St. Leonards	Nil	Temporary	"	Vice Constable Graham, relieved.
1 June	R. H. Tronsson	Acting Weigher, Wodonga	£2 10s. per week	"	Vote on Estimates	Vice Willey, promoted.
3 June	H. T. Hammond, late Warehouse Keeper, 3rd Class, Customs, Melbourne...	Collector of Customs, &c., &c., 3rd Class, Port Albert	£485	"	Salary on Estimates	Vice Falconbridge, returned to Distilleries.
11 June	William Ewers	Seaman, <i>Pharos</i>	5s. per diem	Permanent	Vote on Estimates	Vice M. C. Pearce, promoted.
"	G. E. Brown, Acting Weigher, Wodonga	Acting Collector of Customs, &c.	Nil	Temporary	"	During Mr. Ferguson's absence on duty
"	George Heath, Inspector of Distilleries	Supervisor	£485	Permanent	Salary on Estimates	To date, from 1 July 1877.
"	John Hart, Inspector of Distilleries, 4th Class, at £350	Inspector of Distilleries, 3rd Schedule	300	"	"	"
"	J. Falconbridge, Inspector of Distilleries, 4th Class, at £350	"	300	"	"	"
"	J. Hurley, Inspector of Distilleries, 4th Class, at £350	"	300	"	"	"
"	J. Watson, Inspector of Distilleries, 4th Class, at £350	"	300	"	"	"
"	W. A. B. Tobin, Sub-Inspector of Distilleries, at £200, 3rd Schedule	"	300	"	"	"

11 June	...	J. A. Fynmore, Sub-Inspector of Distilleries, at £200, 3rd Schedule	Inspector of Distilleries, 3rd Schedule...	£200	Permanent	Salary on Estimates	To date, from 1 July 1877.
"	...	J. Reeves, Sub-Inspector of Distilleries, at £200, 3rd Schedule	" " "	£250	"	" "	" "
"	...	G. T. Ashenhurst, Sub-Inspector of Distilleries, at £200, 3rd Schedule	" " "	£250	"	" "	" "
24 June	...	J. W. Longford	Assistant Inspector of Fisheries	7s. 6d. per diem, increased to 9s. 6d., from 1 August 1878	Permanent	Vote on Estimates	To date, from 11 June 1878.
2 July	...	R. V. Smith	Extra Clerk, Distilleries	£3 per week	Temporary	" "	
"	...	L. Moran, Senior Constable	Inspector of Licensed Premises and Liquors	£175 per annum	Permanent	" "	
"	...	J. Kilfeddar, Senior Constable	" " "	"	"	" "	
"	...	S. W. Bennett, Senior Constable	" " "	"	"	" "	
"	...	J. O'Connor, Senior Constable	" " "	"	"	" "	
"	...	J. Kelly, Senior Constable	" " "	"	"	" "	
"	...	J. Loneragan, Senior Constable	" " "	"	"	" "	
"	...	T. H. Tatlock, Senior Constable	" " "	"	"	" "	
"	...	T. Ellis, Senior Constable	" " "	"	"	" "	
"	...	M. Reidy, Constable	" " "	"	"	" "	
"	...	J. Barry, Senior Constable	" " "	"	"	" "	
"	...	W. Guest, Constable	" " "	"	"	" "	
"	...	R. Shirlow, Constable	" " "	"	"	" "	
"	...	J. Hehir, Constable	" " "	"	"	" "	
"	...	J. E. Watson, Constable	" " "	"	"	" "	
"	...	J. Smith, Constable	" " "	"	"	" "	
"	...	W. Carroll, Constable	" " "	"	"	" "	
"	...	W. M. Bride, Constable	" " "	"	"	" "	
"	...	C. Mayberry, Constable	" " "	"	"	" "	
"	...	P. Duane, Constable	" " "	"	"	" "	
"	...	P. Commons, Constable	" " "	"	"	" "	
8 July	...	H. Fowler, Constable	To carry out portion of Part II of the "Passengers, Harbors, and Navigation Statute 1865," &c. &c., at Dromana	Nil	Temporary	" "	Vice Bennett, removed
"	...	H. W. Corbett, Constable	To carry out portion of Part II of the "Passengers, Harbors, and Navigation Statute 1865," &c. &c., at Footscray	Nil	Temporary	" "	Vice Fowler, removed.
"	...	T. Musgrave, Keeper of Lighthouse, Gabo Island, 3rd Schedule, at £200	Keeper of Lighthouse at Cape Schanck, 3rd Schedule	£200 per annum	Permanent	Salary on Estimates	Vice Tapp, deceased.
"	...	P. Fanning, Keeper, Wilson's Promontory, 3rd Schedule, at £180	Keeper at Gabo Island, 3rd Schedule	"	"	" "	Vice Musgrave, transferred.
"	...	W. Martin, Senior Seaman, at Gellibrand's Point Lightship, 3rd Schedule, at 8s. 6d.	Keeper at Wilson's Promontory, 3rd Schedule	£180 per annum	"	" "	Vice Fanning, transferred.
"	...	J. Kiely	Assistant Keeper at South Channel, 3rd Schedule	7s. per diem	"	" "	Vice Llewellyn, transferred. Appointment cancelled 29 July.
"	...	A. Goff, Seaman on Gellibrand's Point Lightship, 3rd Schedule, at 7s. 6d.	Senior Seaman in Charge, 3rd Schedule	8s. 6d. per diem	"	" "	Vice Martin, transferred.
"	...	W. H. Llewellyn, Assistant Keeper, South Channel, 3rd Schedule, at 7s.	Seaman at Gellibrand's Point Lightship, 3rd Schedule	7s. 6d. per diem	"	" "	Vice Goff, promoted. Appointment cancelled 29 July.
11 July	...	M. O'Reilly	Extra Clerk	£2 10s. per week	Temporary	Vote on Estimates.	
12 July	...	A. Harper	"	"	"	" "	
18 July	...	Peter Nee, Constable	Officer of Customs at Bethanga	Allowance of £10 per annum	"	" "	
"	...	J. K. Waters, Constable	Inspector of Licensed Premises and Liquors	£175 per annum	Permanent	" "	Vice Commons, withdrawn.
16 July	...	E. C. Russell, extra Clerk	Clerk, 5th Class	£80	"	Salary on Estimates	Vice Molony, retired.
1 August	...	W. C. Abernethy	Extra Clerk	£1 per week	Temporary	Vote on Estimates	Vice Russell, promoted.
5 August	...	R. F. Talbot, Inspector of Distilleries, at £150	Inspector of Distilleries, 3rd Schedule...	£175 per annum	Permanent	" "	Vide Ante, page 41.
"	...	E. Darcy, Inspector of Distilleries, at £150	" " "	"	"	" "	" "
"	...	W. M. Bale, Clerk, 5th Class	Acting Deputy Superintendent of Mercantile Marine Office, Melbourne	Nil	Temporary.	" "	" "

DEPARTMENT OF TRADE AND CUSTOMS—continued.

Date of Appointment.	Name.	Occupation.	Salary.	Appointment.	How paid.	Remarks.
1878.						
5 August ...	C. H. Wheatland, Clerk, 4th Class, Treasury	Acting Collector of Customs, &c., Portland	Nil	Temporary	... ..	During Mr. Treacy's leave of absence.
12 August ...	A. Cartledge, Constable... ..	Inspector of Licensed Premises and Liquors	£175 per annum	Permanent	Vote on Estimates	Vice Bennett, withdrawn.
12 August ...	E. Guinane, Constable	" " " "	"	"	" "	Vice Lonergan, withdrawn.
" ...	M. G. Roche, Constable	" " " "	"	"	" "	Vice Hehir, withdrawn.
" ...	T. O'Connell, Constable	" " " "	"	"	" "	Vice Smith, withdrawn.
" ...	T. O'Leary, Constable	" " " "	"	"	" "	Vice Moran, withdrawn.
" ...	W. Briscoe, Assistant Keeper, La Trobe Island, 3rd Schedule, at 7s.	Seaman, Gellibrand's Point Lightship, 3rd Schedule	7s. 6d. per diem	"	Salary on Estimates	Vice Goff, promoted.
" ...	John Kiely	Assistant Keeper, La Trobe Island, 3rd Schedule	7s. per diem	"	" "	Vice Briscoe, transferred.
" ...	T. McBreen, Constable	Inspector of Licensed Premises and Liquors	£175 per annum	"	Vote on Estimates	Vice Elliott.
" ...	C. K. Smith, Engineer, Alfred Graving Dock	Acting Engineer, Surveyor, &c., under the Vic. S. N. Board	Allowance, 5s. per working day	Temporary	" "	During Mr. Wilson's leave of absence.
19 August ...	J. Aughir, Constable	Inspector of Licensed Premises and Liquors	£175 per annum	Permanent	" "	Vice Kelly, withdrawn.
30 September	Geo. Heath, Supervisor, at £485	Chief Inspector of Distilleries	£485	"	Salary on Estimates	Vide Ante, pp. 41 and 42.
" ...	J. Blackwood, Weigher, 3rd Schedule, at £175	Locker, 3rd Schedule	200	"	" "	Vice Davis, promoted.
" ...	F. L. Clarke, Weigher, 3rd Schedule, at £200	Drawback Officer, 3rd Schedule	200 per annum	Permanent	Salary on Estimates.	
" ...	A. Macintosh, Weigher, 3rd Schedule, at £200	" " " "	"	"	" "	
" ...	D. M. Davies, Weigher, 3rd Schedule, at £200	" " " "	"	"	" "	
" ...	J. L. Bowen, Weigher, 3rd Schedule, at £200	" " " "	"	"	" "	
" ...	T. C. Morley, Weigher, 3rd Schedule, at £200	" " " "	"	"	" "	
" ...	A. Willey, Weigher, 3rd Schedule, at £200	" " " "	"	"	" "	
" ...	J. S. McKeown, Weigher, 3rd Schedule, at £100	" " " "	"	"	" "	
" ...	T. McCaffrey, extra Weigher	" " " "	"	"	" "	
" ...	Geo. Ardill, Constable	An Officer to carry out portion of Part 2, &c., at Cowes	Nil	Temporary	... ..	Vice Deacon, transferred.
30 September	E. Joyce	Weigher, 3rd Schedule	£100 per annum	Permanent	Salary on Estimates	Vice Keown, promoted.
" ...	H. H. Taylor, Constable	An Officer to carry out portion of Part 2, &c., at Griffiths's Point	Nil	Temporary	... ..	Vice Ardill, transferred.
3 October ...	R. V. Smith, extra Clerk in Distilleries, at £3	Inspector of Distilleries, 3rd Schedule ...	£150 per annum	Permanent	Salary on Estimates	Vice Fynmore, deceased.
5 October ...	M. J. Richardson	Extra Clerk in Distilleries	£1 per week	Temporary	Vote on Estimates...	Vice Smith, promoted.
21 October ...	Yates Brooks, Tidewaiter, 3rd Schedule ...	Acting Clerk	Allowance of £50 per annum	"	Salary on Estimates.	
" ...	G. E. Brown, Acting Weigher, Wodonga ...	Acting Collector of Customs, &c., Wodonga	Nil ... ..	"	... ..	During Mr. Ferguson's absence on leave.
" ...	P. H. Nairne, Constable	Officer of Customs at Edenhope	Allowance of £20 per annum	"	Vote on Estimates...	Vice Welsh, removed.
" ...	J. M. Duffy	Weigher, 3rd Schedule	£100 per annum	Permanent	Salary on Estimates	Vice Dunning, resigned.
28 October ...	J. Dimond, Assistant Lighthouse-keeper, Shortland's Bluff, 3rd Schedule at 7s. per diem	Boatman, 3rd Schedule	7s. 6d. per diem	"	" "	Vice Franklin, transferred.
" ...	Isaac Franklin, Boatman, 3rd Schedule, at 7s. 6d. per diem	Assistant Lighthouse-keeper, Shortland's Bluff, 3rd Schedule	7s. per diem	"	" "	Vice Dimond, transferred.
11 November	R. D. Espinasse, Examiner in Navigation, &c., under the Vic. S. N. Board	Examiner in Navigation, &c., &c. ...	£300 per annum	"	" "	In lieu of former appointment, the fees formerly received by Mr. Espinasse being now paid to Revenue.
14 November	G. M. E. Stephen, extra Clerk in Mining Department	Inspector of Distilleries, 3rd Schedule...	" "	"	" "	Vice Tobin, transferred.
" ...	Dr. James Cox... ..	Acting Medical Inspecting Officer of Passenger Ships, &c.	Allowance of £1 for every 100 persons inspected	Temporary	Vote on Estimates...	Vice Dr. McLean, absent on leave.
2 December ...	Thos. Dickson, Coxswain, Health Officer's Boat	Coastwaiter, &c., Queenscliff, 3rd Schedule	10s. per diem	Permanent	Salary on Estimates	Previously paid by Chief Medical Officer.

2 December...	W. Smith, Constable	Acting Officer of Customs at Dartmoor	Allowance of £20 per annum	Temporary	Vote on Estimates...	During Constable Graves's absence on duty.
"	J. Sloan, extra Weigher	Weigher, 3rd Schedule	£100 per annum	Permanent	Salary on Estimates	Vice Blackwood, promoted.
"	E. D. Hollow, extra Weigher	" " " " " " " " " " " "	Nil " " " " " " " " " "	"	" " " " " " " " " "	Vice Withy, resigned.
9 December	H. E. Cheshire, Acting Receiver and Paymaster	Receiver of Duties chargeable on spirits distilled, &c., &c., at Castlemaine	Nil	Temporary	... ..	During Mr. Green's leave of absence.
17 December	W. J. Thomas, Landing Waiter	Acting Collector of Customs, Geelong ...	" ... ..	"	... ..	During Mr. Lane's leave of absence.
1879.						
1 January ...	A. E. Willey	Boy in <i>Pharos</i>	1s. per diem	"	Salary on Estimates.	
"	J. Meares	Cook and Steward in <i>Pharos</i>	6s. per diem	"	Vote on Estimates...	Reported unfit, and succeeded by Jardine. See 1 February (same page).
3 January ...	C. F. Bigley, Boy, at 4s. 6d. per diem ...	Assistant to Artisan, 3rd Schedule ...	6s. 6d. per working day ...	"	Salary on Estimates.	
"	Robert Stone, Boy, at 4s. 6d. per diem ...	" " " " " " " " " " " "	Nil " " " " " " " " " "	"	" " " " " " " " " "	During Mr. Tyler's leave of absence.
"	Chaloner Greville, Chief Clerk in Commissioner's Office	To certify accounts, &c., &c.	Nil ... ..	"	... ..
"	F. W. Honden, Chief Clerk	Acting Collector of Customs, Melbourne	Nil	Temporary	... ..	During Mr. Tyler's leave of absence.
"	W. H. Kingsbury	Travelling Inspector and Assistant to the Inspector of Fisheries	£300 per annum	Permanent	Vote on Estimates	This salary covers all ordinary travelling expenses.
"	H. T. Hammond, Collector of Customs, 3rd Class, Port Albert	Clerk, 3rd Class, Customs, Melbourne ...	£485 per annum	"	Salary on Estimates.	
21 January ...	Robert Stirling, Acting Inspector of Stock	Acting Officer of Customs at Willis ...	Nil	Temporary	... ..	During Mr. Mackenzie's absence on leave.
"	F. H. Bruford, Clerk, Landing Waiter at Warrnambool	Acting Collector of Customs, &c., &c., Belfast	Nil ... ..	"	... ..	Vice Richardson, suspended.
"	J. H. Bull	Assistant to the Buoymaker at the Dock Yard	2s. 6d. per working day ...	"	Salary on Estimates	Vice Stone, resigned.
24 January ...	J. Peasley	Seaman, <i>Pharos</i>	5s. per diem	Permanent	Vote on Estimates	Vice Morton, promoted to West Channel.
28 January ...	W. Martin Lighthouse-keeper, Wilson's Promontory, £180, 3rd Schedule	Keeper of the Lighthouse, Cape Otway, 3rd Schedule	£200 per annum	"	Salary on Estimates	Vice Ford, retired.
"	W. Fish, Lighthouse-keeper, South Channel, at 8s. 6d., 3rd Schedule	Keeper of the Lighthouse, Wilson's Promontory, 3rd Schedule	£180 per annum	"	" " " " " " " " " "	Vice Morton, transferred.
"	W. Cordell, Senior Assistant at Gabo Island, at 8s. 6d., 3rd Schedule	Keeper at South Channel, 3rd Schedule	8s. 6d. per diem	"	" " " " " " " " " "	Vice Fish, transferred.
"	J. Secker, Seaman, West Channel Lightship, at 6s. 6d., 3rd Schedule	Assistant Keeper at Gabo Island, 3rd Schedule	"	"	" " " " " " " " " "	Vice Cordell, transferred.
"	Thomas Morton, Seaman in <i>Pharos</i> , at 5s. ...	Seaman, West Channel Lightship, 3rd Schedule	"	"	" " " " " " " " " "	Vice Secker, transferred.
"	R. Johnston, Senior Seaman in <i>Pharos</i> , at 5s.	Boatman, Warrnambool, 3rd Schedule ...	7s. 6d. per diem	"	" " " " " " " " " "	
"	F. Dunk, Assistant, South Channel Light, at 7s., 3rd Schedule	Senior Lightkeeper, La Trobe Island, 3rd Schedule	8s 6d. per diem	"	" " " " " " " " " "	Vice Anderson, reduced and transferred.
"	Thomas Morton, Seaman, West Channel Lightship, at 6s. 6d., 3rd Schedule	Keeper at South Channel, 3rd Schedule	6s. 6d. per diem	"	" " " " " " " " " "	Vice Dunk, transferred.
"	J. Anderson, Senior Lightkeeper, La Trobe Island, at 8s. 6d., 3rd Schedule	Seaman, West Channel Lightship, 3rd Schedule	"	"	" " " " " " " " " "	Vice Morton, transferred.
1 February ...	D. Jardine	Cook and Steward, <i>Pharos</i>	6s. per diem	Temporary	Vote on Estimates	Vice Meares, reported unfit.
3 February ...	Robt. Alexander, Constable	An Officer to carry out that portion of Part II of Passenger, &c., Act, at Bairnsdale	Nil ... ..	"	... ..
11 February ...	Geo. Keys	Boy, <i>Pharos</i>	1s. per diem	"	Salary on Estimates.	
"	R. Christie, Landing Waiter, Melbourne ...	Acting Collector of Customs, &c., at Echuca	Nil ... ..	"	... ..	During Mr. Turner's leave of absence.
21 February ...	J. Cave, Assistant to Inspector of Fisheries, Ballarat	Assistant to Inspector of Fisheries, Ballarat	£50 per annum	"	Vote on Estimates.	
"	J. K. Freyer	Member of the Steam Navigation Board	Allowance of £2 2s. each sitting	"	" " " " " " " " " "	During Mr. Sutherland's absence.
1 March ...	J. Fraser	Extra Clerk	£2 10s. per week	"	" " " " " " " " " "	
4 March ...	P. J. Shanahan	Assistant Inspector of Fisheries	9s. 6d. per diem	Permanent	" " " " " " " " " "	
4 April ...	R. Hibberd	Acting Officer of Customs at Edenhope	Nil	Temporary	... ..	Vice Nairne.

DEPARTMENT OF TRADE AND CUSTOMS—continued.

Date of Appointment.	Name.	Occupation.	Salary.	Appointment.	How paid.	Remarks.
1879.						
9 April	J. W. Balchin	Officer of Customs, Edenhope	£20 per annum	Temporary	Vote on Estimates	Vice Hibberd.
22 April	R. D. Espinasse, Examiner in Navigation, &c.	Acting Marine Surveyor, &c.	Nil	"	"	During Mr. Birnie's leave of absence.
29 April	W. Ewers	Seaman, <i>Pharos</i>	5s. per diem	Permanent	Vote on Estimates	Vice Pearce, promoted to Port Albert as Signal-man.
"	John Bennie, Clerk, 4th Class, Customs, Melbourne	Collector of Customs, &c., 4th Class, Belfast	£350 per annum	"	Salary on Estimates	Vice Richardson, whose office was forfeited under sec. 30 of <i>C. S. Act.</i>
"	F. H. Bruford, Clerk and Landing Waiter, 4th Class, Warrnambool	Collector of Customs, &c., 4th Class, Port Albert	£325	"	"	Vice Hammond, transferred.
"	M. Dalton, Clerk, 5th Class, Customs, Melbourne	Clerk and Landing Waiter, 4th Class, Warrnambool	£200	"	"	Vice Bruford, transferred.
29 April	J. T. Smith, Messenger, 3rd Schedule, Customs, Belfast	Clerk, 5th Class, Customs, Melbourne	£80 per annum	Permanent	Salary on Estimates	Vice Dalton, promoted.
6 May	J. F. Corney, Officer of Customs, Narung	Acting Officer of Customs, Swan Hill	Nil	Temporary	"	During Mr. Byrne's absence on leave.
"	W. Spurling, Inspector of Sheep, &c.	Acting Officer of Customs, Narung	"	"	"	During Mr. Corney's absence at Swan Hill.
"	J. W. Balchin, Constable	Officer of Customs at Edenhope	Allowance £20 per annum	"	Vote on Estimates...	Vice Mairne, resigned.
13 May	W. Haines, Inspector of Sheep, &c.	Acting Officer of Customs at Lawloit	Nil	"	"	During Constable Revell's leave of absence.
16 May	J. F. Cole	Officer of Distilleries	£2 10s. per week	"	Vote on Estimates.	
"	J. T. O'Brien	"	"	"	"	
21 May	J. Fraser, extra Clerk	"	"	"	"	
27 May	J. W. Cawood, Crown Lands Bailiff	Assistant Inspector of Fisheries, Apollo Bay	Nil	"	"	
10 June	A. W. Dumaresq, Clerk, Treasury, Portland	Acting Collector of Customs, &c., Portland	"	"	"	During Mr. Treacy's absence through illness.
"	S. H. Rowe, Clerk of 5th Class in Commissioner's Office	Clerk, 4th Class	£200 per annum	Permanent	Salary on Estimates	Vice Black, dispensed with.
"	W. M. Bale, Clerk, 5th Class, Mercantile Marine Office	Clerk, 4th Class	"	"	"	
"	T. Birmingham, extra Clerk	Clerk, 5th Class	£80 per annum	"	"	Vice Rowe, promoted.
"	H. C. Story, extra Clerk	Clerk, 5th Class	"	"	"	Vice Bale, promoted and transferred.
17 June	J. C. H. Graves	Extra Clerk	£1 per week	Temporary	Vote on Estimates...	Vice Storey, appointed to 5th Class in Mercantile Marine Office.
21 June	J. McAteer	Seaman, <i>Pharos</i>	5s. per diem	Permanent	"	Vice McBean, transferred to Belfast.
24 June	S. O. Cadwallader, Station Master, Victorian Railways	Officer of Customs at Rutherglen	Allowance of £10 per annum	Temporary	"	Vice Wm. Leake, Chiltern.
"	D. Webster, Foreman and Shipwright at the Dock Yard, at £4 10s.	Foreman of the Dock Yard, 3rd Schedule	£300 per annum	Permanent	Salary on Estimates	Vice Birnie, retired.
24 June	A. A. Rouvray, Clerk, 5th Class	Acting Deputy Superintendent of the Mercantile Marine Office	Nil	"	"	Vice Bale, transferred.
"	J. McMillan	To be an Officer to carry out portion of Part 2, &c., &c., at Sale, La Trobe Wharf	Allowance of £20 per annum	Temporary	Vote on Estimates...	Vice Flint, relieved.
27 June	S. J. Priestly	Messenger, Customs, Belfast	12s. 6d. per week	Permanent	Salary on Estimates	Vice Smith, promoted.
30 June	G. McBain, Seaman, <i>Pharos</i> , at 5s.	Boatman, Belfast, 3rd Schedule	7s. 6d. per diem	"	"	Vice Prest, deceased.
"	A. W. Dumaresq, Treasury Clerk, Portland	Also to be Clerk for Customs at Portland	Nil	Temporary.	"	
"	H. Kitchen, Treasury Clerk, Belfast	Also to be Clerk for Customs at Belfast.	"	"	"	
"	A. G. Duncan, Treasury Clerk, Port Albert	Also to be Clerk for Customs at Port Albert	"	"	"	
1 July	J. Cave	Assistant Inspector of Fisheries	£50 per annum	"	Vote on Estimates.	
"	E. McGuinness	Acting Weigher at Echuca	£2 10s. per week	"	"	Consequent on the opening of the new Bridge at Echuca.

DEPARTMENT OF TRADE AND CUSTOMS—continued.

SUPPLEMENTARY RETURN showing the various persons appointed on board H.M.C.S. *Victoria*, whilst on Marine Survey Duty, under Commander Stanley, R.N.; also showing persons appointed as additional Officers, Charwomen, Dock-yard Laborers, &c., &c.

Date of Appointment.	Name.	Occupation.	Salary.	Appointment.	How paid.	Remarks.
1877. H.M.C.S. VICTORIA.						
1 October	G. Mustart	Steward	6s. per diem	Temporary		Vice G. Allard, discharged, 22 December, 1877.
"	T. B. Leggett	A.B.	5s. per diem	"		Discharged, 9 January, 1878.
"	A. McNeilage	Trimmer	"	"		"
"	W. Bennett	A.B.	"	"		Discharged sick, 18 October, 1877.
2 October	W. Bell	"	"	"		Resigned, 26 December, 1877.
"	N. Thompson	"	"	"		Discharged, 9 January, 1878.
"	W. Radcliff	"	"	"		"
"	J. Coult	"	"	"		"
"	A. Patience	"	"	"		Discharged sick, 18 October, 1877.
5 October	J. Findlay	Stoker	6s. per diem	"		Discharged, 31 December, 1877.
6 October	C. Brennan	Cook	5s. 9d. per diem	"		Discharged, 9 January, 1878.
8 October	J. Tart	A.B.	5s. per diem	"		Discharged, 7 January, 1878.
"	J. Matheson	"	"	"		"
11 October	J. Bird	"	"	"		Left, 31 October, 1877.
19 October	G. Lee	"	"	"		{ Vice Bennett. Discharged, 7 January, 1878.
20 October	J. Sullivan	"	"	"		{ Vice Patience. Discharged, 9 January, 1878.
1878.						
1 January	W. Bennett	A.B.	5s. per diem	Temporary		{ Vice Bell, resigned. Discharged, 7 January, 1878.
3 January	H. Jordan	Stoker	6s. per diem	"		{ Vice Findlay, discharged. Discharged, 10 February, 1878.

NOTE.—The *Victoria* was paid off on the 9th January, 1878, and subsequently transferred to the Department of the Honorable the Treasurer.

1877.						
5 July	J. Jones	Extra officer	8s. per diem	Temporary.		
1878.						
4 April	W. Cross	Extra officer	8s. per diem	Temporary.		
5 April	G. Lombard	"	"	"		Deceased, 3 October, 1878.
	E. C. Martin	"	"	"		
	W. H. Arnold	"	"	"		
8 April	D. McGuigan	"	"	"		
9 May	T. McCaffrey	"	"	"		Appointed Drawback Officer, 1 October, 1878.

DEPARTMENT OF TRADE AND CUSTOMS—(PERSONS APPOINTED)—*continued.*

Date of Appointment.	Name.	Occupation.	Salary.	Appointment.	How paid.	Remarks.
1878.						
27 May ...	A. West ...	Extra officer ...	8s. per diem ...	Temporary.		
	J. B. Carne ...	" ...	" ...	"		
6 November ...	M. L. King ...	" ...	" ...	"		
18 November	T. Kirkby ...	" ...	" ...	"		
4 December ...	J. M. Ormsby ...	" ...	" ...	"		Removed from the list of Extra Officers, April, 1879.
1879.						
21 May ...	A. J. Templeton ...	Extra officer ...	8s. per diem ...	Temporary.		
4 June ...	E. Hicks ...	" ...	" ...	"		
NOTE.—The above officers are only employed as occasion may require, their services being mostly paid for by merchants, &c., &c.						
From 1 July 1877 to 1 July 1879	Margaret Banks ... Anne Butler ... Eliza Renton ... Catherine Christie ... M. Ann Pearson ... Johanna B. Holland ... Anne Bell ... J. B. Morewood ...	Charwomen employed in keeping the Custom House in good order, &c.	6d. per hour ...	Temporary		
NOTE.—Only four of these Charwomen are employed at one time, and they are under the direction of the Caretaker (Mr. Brown), who receives £3 per week. The expenditure is partly re-couped from Post Office, Stock Department, &c., &c.						
1877.						
1 July ...	W. Maltman ...	Seaman, <i>Pharos</i> ...	5s. per diem ...	Permanent.		
28 July ...	W. P. Senior ...	Artisan in Dockyard ...	7s. 6d. per working day ...	"		
22 November	J. Davis ...	Engineer Surveyor, Western Harbors ...	Fees for survey, viz., £2 for steamer, £1 for engine	Temporary.		
1878.						
6 June ...	W. Dove ...	Cleaner of Machinery ...	12s. per working day ...	Temporary.		
" ...	J. Dove ...	" ...	5s. per working day ...	"		
9 October ...	W. Thompson ...	Officer of Customs ...	Nil ...	"		Paid as Laborer in Dockyard.
" ...	J. Lancaster ...	" ...	" ...	"		Paid as Watchman in Dockyard.
25 October ...	J. Burgess ...	Boy in Marine Yard ...	£1 per week ...	"		

NOTE.—The sum of £2648 12s. has been expended upon extra labor in docking and slipping vessels. The labor was casual, in many cases the men being only employed for a few hours at a time, as required.

Department of Trade and Customs,
Melbourne, 22nd September, 1879.

J. CHATFIELD TYLER,
Assistant Commissioner of Trade and Customs.

POST AND TELEGRAPH DEPARTMENT.

RETURN in compliance with an Order of the Legislative Council, on the motion of the Honorable A. Fraser, of Persons discharged from employment between 1st July 1877 and 1st July 1879.

PERSONS DISCHARGED.

Name.	Occupation.	Salary.	Remarks.
Jas. Young ...	Assistant Sorter ...	45s. per week ...	These officers were discharged for misconduct.
W. A. Holmes ...	Assistant Operator ...	£120 per annum...	
F. G. Lawrence ...	Fourth-class Clerk ...	350 " ...	
G. Waterton ...	Assistant Sorter ...	18s. per week ...	
J. Comyn ...	Line Repairer ...	57s. " ...	
J. T. Harper ...	Assistant Operator ...	£135 per annum...	
J. Reardon ...	Pillar Clearer ...	42s. per week ...	
J. Moloney ...	Assistant Messenger ...	12s. " ...	
A. Heggie ...	Porter ...	36s. " ...	
J. L. Keeling ...	Fourth-class Officer ...	£250 per annum...	
J. Fanning ...	Assistant Messenger ...	12s. per week ...	
C. W. Finlason ...	" ...	10s. 6d. " ...	
W. Martin ...	Messenger ...	27s. " ...	
T. Heron ...	Assistant Sorter ...	31s. " ...	
J. M. Davey ...	Temporary Assistant Letter Carrier...	18s. " ...	
J. J. Mansfield...	Messenger ...	25s. 6d. " ...	
W. Adams ...	Assistant Messenger ...	12s. " ...	
Jas. Shiel ...	" ...	12s. " ...	
D. J. Allen ...	" ...	20s. " ...	
H. J. Macmanamny ...	" ...	12s. " ...	
J. Wallis ...	" ...	12s. " ...	
J. G. Golding ...	Assistant Letter Carrier ...	27s. " ...	
J. Burns ...	Sup. Messenger ...	15s. " ...	
S. H. Tucker ...	Temporary Assistant ...	£30 per annum ...	
B. Williams ...	Assistant Messenger ...	12s. per week ...	
G. W. R. Stone ...	Assistant Letter Carrier ...	18s. " ...	
F. Mason ...	Assistant Messenger ...	12s. " ...	
F. Burns ...	Laborer on Telegraph Lines ...	7s. per day ...	
J. Burke ...	" " ...	" " ...	
B. Colville ...	" " ...	" " ...	
W. Colthurst ...	" " ...	" " ...	
J. Constance ...	" " ...	" " ...	
A. Davies ...	" " ...	" " ...	
J. Fleming ...	" " ...	" " ...	
W. Hartshorn ...	" " ...	" " ...	
J. Hagin ...	" " ...	" " ...	
J. W. Owen ...	" " ...	" " ...	
A. Palmer ...	" " ...	" " ...	
J. Palmer ...	" " ...	" " ...	
T. Rust ...	" " ...	" " ...	
J. Rhys ...	" " ...	" " ...	
G. Smith ...	" " ...	" " ...	
H. Smith ...	" " ...	" " ...	
W. Smith ...	" " ...	" " ...	
H. Steele ...	" " ...	" " ...	
T. Smith ...	" " ...	" " ...	
C. Toriano ...	" " ...	" " ...	
E. Williams ...	" " ...	" " ...	
J. Wright ...	" " ...	" " ...	
F. White ...	" " ...	" " ...	
F. W. Morgan ...	" " ...	" " ...	

PERSONS APPOINTED OR RE-APPOINTED.

Name.	Occupation.	Salary.	Remarks.
J. Biles ...	Assistant Letter Carrier ...	18s. per week ...	These appointments were made to fill vacancies caused by the dismissal, resignation, decease, &c., of other officers, and in consequence of the extension of the Postal and Telegraph business.
Jessie McKay ...	Female Assistant Sorter ...	£40 per annum ...	
Joseph Cohen ...	Assistant Letter Carrier ...	18s. per week ...	
E. Hitchins ...	Female Assistant Sorter ...	£40 per annum ...	
G. Hitchins ...	" " ...	" " ...	
C. Munro ...	" " ...	" " ...	
D. F. Molomby ...	Assistant Messenger ...	10s. 6d. per week ...	
John Moloney ...	" " ...	" " ...	
S. J. Elliott ...	" " ...	" " ...	
Frances O'Reilly ...	Female Assistant ...	21s. " ...	
S. Bleazby ...	Assistant Letter Carrier ...	18s. " ...	
Thomas Mulder ...	" " ...	" " ...	
H. M. Power ...	Female Assistant Sorter ...	£40 per annum ...	
R. Wilson ...	Assistant Letter Carrier ...	18s. per week ...	
A. Franz ...	Assistant Sorter, acting as Dispatching Officer ...	5s. per diem ...	
J. A. Mackenzie ...	Sup. Assistant ...	" " ...	Thirty-nine (39) additional officers were employed in the formation of a double staff for the Mail Branch, which the more prompt dispatch of early mails rendered necessary, the cost of which has been more than met by the saving in the overtime formerly paid.
A. E. Lemke ...	Porter ...	" " ...	
F. G. Cormack ...	Assistant Sorter ...	10s. 6d. per week ...	
M. Carmichael...	Female Assistant Sorter ...	£52 per annum ...	
E. S. Brett ...	Sup. Sorter ...	5s. per diem ...	
J. McMahon ...	Assistant Sorter ...	10s. 6d. per week ...	
W. R. Rundell ...	Sup. Clerk ...	£90 per annum ...	
M. Kenny ...	Porter ...	5s. per diem ...	
M. St. B. Foster ...	Female Assistant ...	£40 per annum ...	
M. Hare ...	Assistant Letter Carrier ...	18s. per week ...	

POST AND TELEGRAPH DEPARTMENT—APPOINTED, ETC.—*continued.*

Name.	Occupation.	Salary.	Remarks.
W. R. Armstrong ...	Assistant Sorter ...	10s. 6d. per week	
Jas. Lynar ...	Assistant Messenger ...	" " ...	
T. Tonkin ...	Assistant Letter Carrier ...	18s. " ...	
W. B. Aston ...	" " ...	" " ...	
D. M. Collins ...	Assistant Messenger ...	10s. 6d. " ...	
A. B. Weire ...	Extra Clerk ...	7s. 6d. per diem ...	
Jas. Cawley ...	Sup. Messenger ...	10s. 6d. per week	
J. O'Connell ...	Assistant Letter Carrier ...	18s. " ...	
R. Smith ...	Assistant Stamper ...	" " ...	
R. M. Hosking... ..	Assistant Sorter ...	10s. 6d. " ...	
W. Gleeson ...	Assistant Messenger ...	" " ...	
J. Odgers ...	Assistant Letter Carrier ...	18s. " ...	
C. A. Symonds ...	Extra Clerk ...	7s. 6d. per diem ...	
Jas. Manderson ...	Assistant Stamper ...	18s. per week ...	
J. Bolger ...	Assistant Letter Carrier ...	" " ...	
G. Waterton ...	Assistant Sorter ...	10s. 6d. " ...	
W. C. Garritty ...	Assistant Messenger ...	" " ...	
J. Merrifield ...	Pillar Clearer ...	6s. per diem ...	
M. Hutchinson... ..	Female Assistant Sorter ...	£52 per annum ...	
H. Watts ...	" " ...	" " ...	
Geo. Gardiner ...	Assistant Sorter ...	18s. per week ...	
B. P. M. Stanley ...	Female Assistant Sorter ...	£52 per annum ...	
W. A. Attenborough ...	Assistant Letter Carrier ...	18s. per week ...	
D. Robertson ...	Office Messenger ...	12s. " ...	
P. H. Dillon ...	Assistant Messenger ...	10s. 6d. " ...	
Geo. Clowser ...	Messenger ...	12s. 6d. " ...	
R. A. Meikle ...	Assistant Letter Carrier ...	18s. " ...	
S. Jeffs ...	Assistant Messenger ...	10s. 6d. " ...	
F. Archer ...	Assistant... ..	£52 per annum ...	
F. Williams ...	Assistant Messenger ...	10s. 6d. per week	
J. Clark ...	" " ...	" " ...	
L. Oldrieve ...	" " ...	" " ...	
F. Mason ...	Supernumerary Messenger ...	12s. " ...	
E. Dotter ...	Assistant Messenger ...	10s. 6d. " ...	
R. A. Parker ...	" " ...	" " ...	
J. D. Hutson ...	" " ...	" " ...	
R. Hayhow ...	" " ...	" " ...	
R. S. Lamont ...	Assistant Letter Carrier ...	18s. " ...	
A. J. Morris ...	" " ...	" " ...	
W. R. Parker ...	Supernumerary Messenger ...	7s. 6d. " ...	
W. H. Stephen... ..	Supernumerary Letter Carrier ...	10s. 6d. " ...	
F. Hopkinson ...	Supernumerary Messenger ...	12s. " ...	
Geo. Richardson ...	" " ...	" " ...	
C. A. Kell ...	Assistant Messenger ...	10s. 6d. " ...	
A. Chapman ...	Female Assistant ...	£26 per annum ...	
A. Ashmore ...	Assistant Messenger ...	10s. 6d. per week	
J. J. Miles ...	" " ...	" " ...	
A. C. Babbage... ..	Assistant Letter Carrier ...	18s. " ...	
Hy. Tune ...	Assistant Messenger ...	10s. 6d. " ...	
W. J. Backhouse ...	Assistant Letter Carrier ...	18s. " ...	
P. Leitch ...	" " ...	" " ...	
F. J. Hughes ...	Supernumerary Messenger ...	7s. " ...	
D. Gray ...	" " ...	" " ...	
T. Todd ...	Assistant Letter Carrier ...	18s. " ...	
T. Jobling ...	Assistant Messenger ...	10s. 6d. " ...	
C. E. Joynes ...	" " ...	" " ...	
A. B. Stanhope ...	" " ...	" " ...	
G. Thomas ...	Assistant Letter Carrier ...	18s. " ...	
J. A. Batten ...	Female Assistant ...	£52 per annum ...	
J. C. Bourke ...	Assistant Letter Carrier ...	18s. per week ...	
M. Knight ...	Assistant... ..	£52 per annum ...	
A. W. Dainty ...	Assistant Messenger ...	10s. 6d. per week	
J. J. Ruddell ...	Assistant Letter Carrier ...	18s. " ...	
C. J. Lawson ...	Female Assistant ...	£52 per annum ...	
E. M. B. George ...	" " ...	" " ...	
A. Jones ...	Assistant Letter Carrier ...	18s. per week ...	
J. Williams ...	" " ...	" " ...	
E. Hoskins ...	Assistant, Battery Room ...	6s. per diem ...	
J. G. Spellacy ...	Assistant Messenger ...	10s. 6d. per week	
A. J. Langan ...	" " ...	" " ...	
W. F. Williams ...	" " ...	" " ...	
D. Webster ...	" " ...	" " ...	
D. Kinloch ...	Assistant Letter Carrier ...	18s. " ...	
J. Nankervis ...	" " ...	" " ...	
A. Pohlman ...	Female Assistant ...	£52 per annum ...	
R. Samuel ...	" " ...	" " ...	
Jas. Webster ...	Assistant Messenger ...	10s. 6d. per week	
M. J. Wolfe ...	Assistant Letter Carrier ...	18s. " ...	
A. M. J. Davis ...	Female Assistant ...	£52 per annum ...	
M. Fitzgerald ...	" " ...	" " ...	
H. Moller ...	Assistant Letter Carrier ...	18s. per week ...	
R. F. Toutcher ...	" " ...	" " ...	
Jas. Dempster... ..	Assistant Messenger ...	10s. 6d. " ...	
A. Hellsten ...	Assistant ...	£40 per annum ...	
W. Bradbury ...	Assistant Letter Carrier ...	18s. per week ...	
W. Bradshaw ...	Assistant Messenger ...	10s. 6d. " ...	
G. A. Dando ...	" " ...	" " ...	
W. Spellacy ...	Driver ...	36s. " ...	
J. J. Kennedy ...	Assistant Messenger ...	10s. 6d. " ...	
C. M. Rosser ...	" " ...	" " ...	
F. W. Neil ...	Assistant Letter Carrier ...	18s. " ...	

These appointments were made to fill vacancies caused by the dismissal, resignation, decease, &c., of other officers, and in consequence of the extension of the Postal and Telegraph business.

Thirty-nine (39) additional officers were employed in the formation of a double staff for the Mail Branch, which the more prompt dispatch of early mails rendered necessary; the cost of which has been more than met by the saving in the overtime formerly paid.

Paid from Votes for Salaries and Wages.

Permanent appointments.

POST AND TELEGRAPH DEPARTMENT—APPOINTED, ETC.—continued.

Name.	Occupation.	Salary.	Remarks.
E. Tyson ...	Female Assistant ...	£52 per annum ...	
E. H. Cowan ...	" " ...	" " ...	
A. Feely ...	" " ...	" " ...	
F. J. Longmore ...	Extra Clerk ...	£60 " ...	
P. H. Bailhache ...	" " ...	" " ...	
J. W. Jolly ...	Assistant Letter Carrier ...	18s. per week ...	
J. Connor ...	" " ...	" " ...	
L. Megan ...	Female Assistant ...	£52 per annum ...	
J. Mayne ...	" " ...	" " ...	
C. Griffiths ...	" " ...	" " ...	
H. L. Hill ...	" " ...	" " ...	
W. J. Tait ...	Assistant Messenger ...	10s. 6d. per week ...	
M. J. Bygate ...	Female Assistant ...	£52 per annum ...	
C. Bradley ...	" " ...	" " ...	
E. Milne ...	" " ...	" " ...	
J. C. Robertson ...	" " ...	" " ...	
S. E. Davis ...	" " ...	" " ...	
M. Jamison ...	" " ...	" " ...	
A. Collier ...	Assistant Messenger ...	10s. 6d. per week ...	
J. Berry ...	" " ...	" " ...	
A. A. Brown ...	" " ...	" " ...	
O. E. M. Davies ...	Female Assistant Sorter ...	£52 per annum ...	
C. E. Burns ...	" " ...	" " ...	
A. Brownfield ...	" " ...	" " ...	
M. O'Reilly ...	" " ...	" " ...	
M. Tullett ...	" " ...	" " ...	
F. O'Neill ...	Assistant Messenger ...	12s. per week ...	
T. Hankins ...	" " ...	" " ...	
W. S. Williamson ...	" " ...	" " ...	
H. W. M. Little ...	Assistant Letter Carrier ...	18s. " ...	
T. Woodman ...	" " ...	" " ...	
J. B. Downing... ..	" " ...	" " ...	
W. J. Ambery... ..	" " ...	" " ...	
T. Nelan ...	Porter ...	6s. per diem ...	
J. McInnes ...	Assistant Letter Carrier ...	18s. per week ...	
N. Barnes ...	Assistant Line Repairer ...	7s. 6d. per diem ...	
E. M. Day ...	Female Assistant Sorter ...	£52 per annum ...	
E. G. Jones ...	" " ...	" " ...	
E. A. Reid ...	" " ...	" " ...	
M. Long ...	" " ...	" " ...	
J. E. Massey ...	Assistant Messenger ...	12s. per week ...	
C. J. Hardy ...	Resident Messenger ...	7s. per diem ...	
W. Dawkins ...	Assistant Letter Carrier ...	18s. per week ...	
W. H. Gilder ...	" " ...	" " ...	
H. Dumas ...	Female Assistant ...	£52 per annum ...	
C. Mussett ...	Assistant Line Repairer ...	36s. per week ...	
W. Mansfield ...	Assistant Messenger ...	10s. 6d. " ...	
R. Purvis ...	Assistant Letter Carrier ...	18s. " ...	
F. Thimbleby ...	" " ...	" " ...	
Thomas Davis... ..	" " ...	" " ...	
W. Carah ...	" " ...	" " ...	
W. C. Gale ...	" " ...	" " ...	
H. J. Dowd ...	" " ...	" " ...	
T. Thorn ...	" " ...	" " ...	
D. O'Connor ...	" " ...	" " ...	
C. Brown ...	Female Assistant Sorter ...	£52 per annum ...	
A. Mulcahy ...	Porter ...	6s. per diem ...	
E. R. Tyrrell ...	" " ...	" " ...	
Wm. Grieve ...	" " ...	" " ...	
W. H. Hollingsworth ...	" " ...	" " ...	
Sarah Frost ...	Female Assistant Sorter ...	£52 per annum ...	
C. C. Drury ...	" " ...	" " ...	
E. DeGruchy ...	" " ...	" " ...	
E. Collins ...	" " ...	" " ...	
M. Hughes ...	" " ...	" " ...	
E. McKenzie ...	" " ...	" " ...	
M. S. Ryan ...	" " ...	" " ...	
N. Mark ...	" " ...	" " ...	
C. O'Shea ...	" " ...	" " ...	
M. L. Saunders ...	" " ...	" " ...	
M. A. Kemp ...	" " ...	" " ...	
J. Stewart ...	" " ...	" " ...	
W. L. Estage ...	Assistant Messenger ...	10s. 6d. per week ...	
G. W. Bingham ...	" " ...	" " ...	
E. Nicol ...	Assistant ...	£52 per annum ...	
G. E. W. Goode ...	Assistant Messenger ...	10s. 6d. per week ...	
A. Gray ...	" " ...	" " ...	
C. C. Heley ...	Assistant Letter Carrier ...	18s. " ...	
A. McMahon ...	Assistant Messenger ...	10s. 6d. " ...	
R. J. Avard ...	" " ...	" " ...	
T. B. Taylor ...	" " ...	" " ...	
W. Johnston ...	" " ...	" " ...	
D. Brown ...	Assistant Letter Carrier ...	18s. " ...	
S. Thomson ...	Sup. Assistant Letter Carrier ...	" " ...	
R. D. Douglass ...	Assistant Messenger ...	10s. 6d. " ...	
W. Freebairn ...	Assistant Letter Carrier ...	18s. " ...	
F. D. Smith ...	Sup. Letter Carrier ...	6s. per diem ...	
Hy. F. Gates ...	" " ...	" " ...	
H. Gerber ...	Assistant Letter Carrier ...	18s. per week ...	
R. C. Rudland... ..	Sup. Messenger ...	10s. 6d. " ...	
T. C. Williams... ..	Assistant Messenger ...	" " ...	

These appointments were made to fill vacancies caused by the dismissal, resignation, decease, &c., of other officers, and in consequence of the extension of the Postal and Telegraph business.

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Permanent appointments.

POST AND TELEGRAPH DEPARTMENT—APPOINTED, ETC.—*continued.*

Name.	Occupation.	Salary.	Remarks.
F. D. McLeod ...	Assistant Messenger ...	10s. 6d. per week	
E. J. B. Catherall ...	Assistant Letter Carrier ...	18s. " "	
J. G. Golding ...	" " ...	" " "	
T. J. Cunningham ...	Assistant Messenger ...	10s. 6d. " "	
Hy. Traulson ...	" " ...	" " "	
S. Tatham ...	Assistant Letter Carrier ...	18s. " "	
T. Gerratty ...	Sup. Messenger ...	7s. " "	
L. A. De Gruchy ...	Assistant ...	£40 per annum ...	
W. Harley ...	Assistant Letter Carrier ...	18s. per week ...	
Jas. Carter ...	" " ...	" " "	
J. C. Crooke ...	" " ...	" " "	
M. Miller ...	Assistant... ...	£40 per annum ...	
W. J. Fitzpatrick ...	Assistant Sorter ...	10s. 6d. per week ...	
B. Williams ...	Assistant Messenger ...	" " "	
J. A. Gaylard ...	" " ...	" " "	
M. Cregan ...	Temporary Messenger ...	" " "	
J. Jolly ...	Assistant Messenger ...	" " "	
P. Alroe ...	" " ...	" " "	
C. S. Clarke ...	" " ...	" " "	
R. J. Collier ...	Assistant Letter Carrier ...	18s. " "	
W. Adams ...	Assistant Messenger ...	10s. 6d. " "	
J. McMahon ...	Sup. Letter Carrier ...	6s. per diem ...	
R. Evans ...	Assistant Messenger ...	10s. 6d. per week ...	
J. H. McGarvin ...	" " ...	" " "	
Jas. Shiel ...	" " ...	" " "	
A. Warnecke ...	" " ...	" " "	
J. Wallis ...	" " ...	" " "	
C. J. Harris ...	" " ...	" " "	
J. A. Jackson ...	" " ...	" " "	
O. H. Phillips ...	" " ...	" " "	
R. E. Tilt ...	" " ...	" " "	
S. Ellis ...	" " ...	" " "	
J. Robertson ...	" " ...	" " "	
T. O. Young ...	Assistant Letter Carrier ...	18s. " "	
H. E. Salkeld ...	Assistant Messenger ...	10s. 6d. " "	
M. Haverty ...	Assistant ...	£40 per annum ...	
M. H. Walsh ...	Sup. Messenger ...	15s. per week ...	
E. U. H. Blackham ...	Assistant Sorter ...	10s. 6d. " "	
W. Claringbold ...	Assistant Messenger ...	" " "	
A. Hearn ...	" " ...	" " "	
J. G. Schnitzler ...	Assistant Messenger ...	10s. 6d. per week...	
E. H. James ...	" " ...	" " "	
J. Bourke ...	" " ...	" " "	
J. R. McLeod ...	" " ...	" " "	
Jas. Bell ...	Assistant Letter Carrier ...	18s. per week ...	
D. Brennan ...	Sup. Messenger ...	10s. " "	
J. M. Davey ...	Assistant Letter Carrier ...	18s. " "	
J. Spence ...	Assistant Messenger ...	10s. 6d. " "	
P. Doody ...	Sup. Messenger ...	£20 per annum ...	
J. Collins ...	" " ...	10s. 6d. per week...	
W. J. K. Pomroy ...	Assistant Messenger ...	" " "	
F. Worthington ...	" " ...	" " "	
J. Berryman ...	" " ...	" " "	
A. Tapp ...	Assistant... ...	£60 per annum ...	
E. Kildahl ...	" " ...	40 " "	
A. P. Bock ...	Sup. Messenger ...	20s. per week ...	
R. R. Liston ...	" " ...	5s. per diem ...	
J. Brown ...	Sup. Letter Carrier ...	6s. " "	
K. S. Palmer ...	Assistant... ...	£40 per annum ...	
R. Smith ...	Sup. Messenger ...	10s. 6d. per week...	
J. S. Richards ...	Assistant Sorter ...	10s. 6d. " "	
J. Truran ...	Sup. Messenger ...	7s. 6d. " "	
H. R. Laycock ...	Assistant Messenger ...	12s. " "	
W. Hoey ...	Sup. Messenger ...	10s. 6d. " "	
W. Stafford ...	" " ...	7s. " "	
S. Anderson ...	Assistant Bag-mender ...	36s. " "	
E. Champion ...	Postmistress ...	£60 per annum ...	
B. Starke ...	" " ...	£72 " "	
C. C. Gascoyne ...	Porter ...	5s. per day ...	
E. Cleary ...	Assistant Messenger ...	10s. 6d. per week...	
L. D. Fyfe ...	Assistant... ...	£52 per annum ...	
E. Bull ...	" " ...	" " "	
M. Richardson... ..	Postmistress ...	£72 per annum ...	
W. H. Sproston ...	Assistant Messenger ...	10s. 6d. per week...	
A. Drummond... ..	" " ...	12s. " "	
H. D. Scorer ...	" " ...	10s. 6d. " "	
W. Hunter ...	Pillar Clearer ...	6s. per diem ...	
T. Murphy ...	Assistant Messenger ...	12s. per week ...	
A. L. Flint ...	" " ...	" " "	
Jas. Shaw ...	Assistant Carpenter ...	9s. per diem ...	
A. Harris ...	Supernumerary Messenger ...	10s. per week ...	
M. A. L. Colden ...	Postmistress ...	£52 per annum ...	
H. M. Linton ...	Assistant Messenger ...	12s. per week ...	
W. A. Macintire ...	Supernumerary Letter Carrier ...	6s. per diem ...	
J. Sharp ...	" " ...	" " "	
T. Anderson ...	" " ...	" " "	
R. Budd ...	" " ...	" " "	
M. Burns ...	" " ...	" " "	
C. Bowen ...	" " ...	" " "	
J. Burke ...	" " ...	" " "	
W. Colthurst ...	" " ...	" " "	
	Laborers on the Telegraph Lines ...	7s. per day ...	

These appointments were made to fill vacancies caused by the dismissal, resignation, decease, &c., of other officers, and in consequence of the extension of the Postal and Telegraph business.

Thirty-nine (39) additional officers were employed in the formation of a double staff for the Mail Branch, which the more prompt dispatch of early mails rendered necessary, the cost of which has been more than met by the saving in the overtime formerly paid.

Paid from Votes for Salaries and Wages.

Permanent appointments.

These persons are only temporarily employed as occasion may require, and their wages are paid out of moneys voted for Particular Works, viz., "Extensions of Telegraph Lines."

POST AND TELEGRAPH DEPARTMENT—APPOINTED, ETC.—continued.

Name.	Occupation.	Salary.	Remarks.
J. Constance ...	Laborers on the Telegraph Lines ...	7s. per day ...	These persons are only temporarily employed as occasion may require, and their wages are paid out of moneys voted for Particular Works, viz., "Extensions of Telegraph Lines."
R. Cross ...			
J. Chamberlain ...			
T. Connor ...			
A. Davies ...			
J. Donald ...			
W. Dawe ...			
J. P. Fisher ...			
J. Fleming ...			
E. Franklin ...			
T. Grogan ...			
R. Holman ...			
B. Johnson ...			
J. W. Owen ...			
F. Pratten ...			
T. Rust ...			
J. Rhys ...			
A. Rows ...			
G. Smith ...			
H. Steele ...			
T. Smith ...			
C. Sharpe ...			
C. Symonds ...			
J. Sullivan ...			
A. Stevens ...			
T. Tipping ...			
F. Turner ...			
F. Lloyd ...	Laborers on the Telegraph Lines ...	7s. per day ...	Temporarily employed.
F. White ...			
J. Miller ...			
F. Mueller ...			
W. Meadley ...			
J. Montgomery ...			
R. Murray ...			
J. Martin ...			

Post Office and Telegraph Department,
Melbourne, 24th September 1879.

T. W. JACKSON,
Deputy Postmaster-General.

VICTORIAN RAILWAYS.

RETURN showing the respective Names, Occupations, and Salaries of Officers whose Services have been dispensed with between 1st July 1877 and 1st July 1879, and the Name, Occupation, and Salary of every Person appointed or re-appointed during the same period, and whether paid by Salaries voted on Estimates, or out of Monies appropriated for particular Works.

Date.	Name.	Occupation.	Salary.	Remarks.
1877.			£ s. d.	
DISPENSED WITH.				
September 30 ...	P. T. Haslam ...	Clerk ...	300 0 0	Received compensation.
" ...	F. Johnston ...	" ...	237 10 0	"
October 15 ...	J. Lyall ...	Acting Chief Clerk ...	485 0 0	Retiring allowance of £242 10s. per annum.
October 31 ...	S. Bartlett ...	Clerk ...	225 0 0	Received compensation.
1878.				
January 8 ...	A. P. Mathison ...	Traffic Manager ...	750 0 0	Retiring allowance of £400 per annum.
" ...	G. F. Dennis ...	Pier Master... ..	325 0 0	Received compensation.
" ...	T. Higinbotham ...	Engineer-in-Chief ...	1,500 0 0	"
" ...	A. Wells ...	Resident Engineer ...	1,000 0 0	Retiring allowance of £500 per annum.
" ...	W. H. Greene ...	" ...	1,000 0 0	Received compensation.
" ...	W. F. Hardie ...	" ...	700 0 0	"
" ...	K. Cuthbert ...	District Engineer ...	500 0 0	"
January 24 ...	L. P. Moline ...	" ...	500 0 0	"
" ...	C. W. S. James ...	Assistant Engineer ...	350 0 0	"
" ...	J. Wilkinson ...	" ...	350 0 0	Re-appointed.
" ...	J. Anketell ...	Clerk ...	450 0 0	Received compensation.
" ...	J. R. O'Rorke ...	" ...	425 0 0	Re-appointed.
" ...	F. A. Le Masurier ...	" ...	225 0 0	"
" ...	S. Irwin ...	" ...	212 10 0	Received compensation.
October 31 ...	G. Dutton ...	Office Assistant ...	313 0 0	"
PERMANENT.—RE-APPOINTMENTS AND NEW APPOINTMENTS.				
1878.				
March 1 ...	J. Wilkinson ...	Assistant Engineer ...	£350 0 0	Re-appointed. Paid from money appropriated for particular works.
March 16 ...	J. R. O'Rorke ...	Clerk ...	425 0 0	Re-appointed. Paid from money voted on the Estimates.
1879.				
January 9 ...	F. A. Le Masurier ...	" ...	225 0 0	Re-appointed. Paid from money voted on the Estimates.
May 1 ...	E. Philpott ...	Signal Engineer ...	500 0 0	New appointment. Paid from money appropriated for particular works.

Railway Department,
16th September 1879.

P. P. LABERTOUCHE,
Secretary.

MINING DEPARTMENT.

A RETURN showing the respective Names, Occupations, and Salaries of all persons discharged from employment in the Departments under the Honorable the Minister of Mines between the 1st July 1877 and the 1st July 1879, and the Name, Occupation, and Salary of every person appointed or re-appointed during the same period to any situation in such Departments, whether permanent or temporary, and whether paid by salaries voted on Estimates, or out of monies appropriated for particular works.

NAMES, ETC., OF PERSONS WHOSE SERVICES WERE DISPENSED WITH DURING THE PERIOD ABOVE-MENTIONED.

Name.	Office.	Salary.	Date of Retirement.	Remarks.
J. Finnie ...	Litho. printer ...	18s. 4 ^p day ...	Jan. 9, 1878 ...	Re-appointed 21st Jan. 1878.
C. Thomas ...	Surveyor ...	20s. " ...	" ...	Re-appointed 31st Jan. 1878.
W. Nicholas ...	Clerk ...	£350 4 ^p annum	"	
J. B. Simmons ...	" ...	350 "	"	
A. Everett ...	Draftsman ...	300 "	" ...	Re-appointed 17th April 1878.
E. R. Morris ...	" ...	240 "	"	
Richd. Francis ...	Chief Clerk...	600 "	"	
S. D. S. Huyghue	Clerk ...	485 "	"	
J. B. Drummond...	Warden's Clerk	485 "	" ...	At once re-appointed in Law Department.
Richd. Shepherd...	Lithographer	485 "	" ...	Re-appointed 16th April 1878.
T. G. A. Hickey ...	Clerk ...	350 "	"	
E. M. Cairnes ...	Warden's Clerk	350 "	" ...	Re-appointed 16th April 1878.
W. E. Wollaston ...	Clerk ...	350 "	" ...	Subsequently re-employed in Audit Office and Chief Secretary's office.
W. A. Sullivan ...	Clerk ...	350 4 ^p annum	Jan. 9, 1878:	
S. McDonnell ...	Draftsman ...	290 "	"	
G. Lusty ...	Litho. printer ...	13s. 7 ^p day ...	" ...	Re-appointed 11th Feb. 1878.
H. Lane...	Assist. do. ...	5s. " ...	" ...	Re-appointed 29th April 1878.
R. A. F. Murray ...	Geological Surveyor...	40s. " ...	" ...	Re-appointed 1st May 1878.
F. M. Krause ...	" "	35s. " ...	"	
N. Taylor ...	" "	35s. " ...	"	
F. R. Ellis ...	Warden's Clerk ...	£275 4 ^p annum	" ...	Re-appointed 22nd Feb. 1878. Salary divided equally between Mines and Law Departments.
W. R. Rundell ...	Assistant do. ...	£150 4 ^p annum	Jan. 9, 1878 ...	Re-employed in Post Office Department.
J. Anderson ...	" ...	100 "	" ...	Re-appointed 23rd July 1878.
J. C. Newberry ...	Analyst ...	200 "	" ...	Re-appointed 23rd April 1878.
H. B. Nicholas ...	Inspector of Mines ...	300 "	" ...	Re-appointed 18th April 1878.
R. W. S. Grey ...	Mining Surveyor and Registrar and Inspector of Mines	95 "	June 30, 1878...	Succeeded by Ainsworth, Fennelly, and Cotler.
H. Horrocks ...	Warden's Clerk ...	£10 4 ^p annum	June 30, 1879 ...	Warden's Office at Eldorado closed.
J. McNeé ...	Magazine Keeper ...	10	" " ...	Magazine at Alexandra closed.
A. Anderson ...	Foreman, diamond drill	£4 10s. 4 ^p week	Feb. 4 " ...	
W. H. Cochrane ...	Mining Registrar ...	£25 4 ^p annum	Jan. 31, 1878 ...	Succeeded by D. H. Gilmore.
G. Gordon ...	Chief Engineer for Water Supply	£1200 "	" 9 "	
J. B. Henderson ...	Assistant Engineer ...	500 "	" 15 "	
J. H. Home ...	" "	300 "	Dec. 18, 1877 ...	Transferred to Yan Yean Branch.
G. Smellie ...	Clerk ...	400 "	Jan. 9, 1878.	
J. T. Praagst ...	Draftsman ...	300 "	Dec. 31, 1877.	
R. C. Carr ...	Clerk ...	275 "	Jan. 9, 1878 ...	Re-appointed 17th April 1878.
D. Davies ...	Inspector of Works ...	£5 5s. 4 ^p week	Feb. 14 "	
G. Hampton ...	Overseer of Works ...	15s. 4 ^p day ...	Dec. 28, 1877.	
D. McLennan ...	" "	15s. " ...	" 31 "	
D. McLean ...	Inspector of Works ...	15s. " ...	July 13 "	
W. J. Bedford ...	Clerk ...	6s. 6d. " ...	Jan. 9, 1878 ...	Re-appointed 1st Feb. 1878.
W. H. Ackland ...	" ...	10s. " ...	" " ...	Re-appointed 1st Feb. 1878.
A. E. Pearse ...	" ...	5s. " ...	" " ...	Re-appointed 17th June 1878.
W. McKean ...	Inspector of Works ...	15s. " ...	Feb. 16 " ...	Re-appointed 13th March 1878.

THE FOLLOWING PERSONS WHO WERE DISCHARGING THE DUTIES OF MINING SURVEYORS AND INSPECTORS OF MINES WERE RELIEVED OF THEIR DUTIES AS INSPECTORS OF MINES ONLY.

Name.	Office.	Salary.	Date of Retirement.	Remarks.
T. Cowan ...	Inspector of Mines	£200 4 ^p annum	Jan. 9, 1879.	
R. M. Harvey ...	"	50 " ...	"	
J. Lynch ...	"	50 " ...	"	
J. Stevenson ...	"	50 " ...	"	
R. Arrowsmith ...	"	25 " ...	"	Re-appointed 1 July 1879.
D. O'Leary ...	"	40 " ...	"	
J. Smith ...	"	25 " ...	"	
T. L. Brown...	"	40 " ...	"	
M. Amos ...	"	50 " ...	"	
H. Archdall...	"	25 " ...	"	
R. Nankivell ...	"	25 " ...	"	
H. C. Bate ...	"	50 " ...	" ...	Re-appointed 7 June 1879.
H. Davidson...	"	50 " ...	" ...	Re-appointed 1 July 1879.
J. F. O'Dwyer ...	"	Nil...	"	

MINING DEPARTMENT—*continued.*

THE UNDERMENTIONED ALLOWANCE WAS DISCONTINUED FOR GEOLOGICAL WORK.

Name.	Office.	Salary.	Date of Retirement.	Remarks.
A. W. Howitt	£100 $\frac{1}{2}$ annum	Jan. 9, 1879.	

CONSEQUENT on change of station, &c., of Officers of other Departments who were also performing duty for this Department at small allowances in addition to their ordinary salaries, the Officers undermentioned ceased to act for this Department in the capacity severally set forth.

Name.	Office.	Salary.	Date of Retirement.	Remarks.
T. Woodman ...	Warden's Clerk... ..	£10 $\frac{1}{2}$ annum	July 20, 1877	Succeeded by S. Cooper.
R. McNiece ...	" "	20 " ...	" 24 "	O. W. Collins.
R. J. Webb (constable)	Keeper of Magazine ...	20 " ...	Aug. 8 "	T. Wilson.
T. Holderness ...	Warden's Clerk... ..	10 " ...	Sept. 27 "	H. Horrocks.
W. Heap ...	" "	20 " ...	Oct. 31 "	F. H. D. Cotter.
T. Wilson (constable)	Keeper of Magazine ...	20 " ...	Jan. 7, 1878	T. Farrell.
M. McCraith " ...	" "	15 " ...	Mar. 31 "	C. Jesse.
J. Martin ...	Warden's Clerk... ..	10 " ...	April 29 "	G. F. Bateman.
R. McCall ...	" "	10 " ...	May 13 "	R. W. V. McCall.
S. Larkan (constable)	Keeper of Magazine ...	10 " ...	June 18 "	E. B. Shoebridge.
G. R. Murphy ...	Mining Registrar and Warden's Clerk	60 " ...	" 30 "	H. M. Murphy.
E. E. Williams ...	Warden's Clerk... ..	£45 $\frac{1}{2}$ annum	June 30, 1878	Succeeded by G. R. Murphy.
C. Jessie (constable) ...	Keeper of Magazine ...	15 " ...	July 8 "	W. Acton.
J. Kelly " ...	" "	10 " ...	" 12 "	P. Madigan.
S. Mand " ...	" "	10 " ...	" 20 "	T. Keane.
T. Ellis " ...	Warden's Clerk... ..	15 " ...	" 31 "	H. Harkin.
R. M. V. McCall ...	" "	10 " ...	Aug. 31 "	J. Murdoch.
T. A. Duncan ...	Clerk to Mining Board ...	50 " ...	Sept. 30 "	J. J. Cummins.
P. Madigan (constable)	Keeper of Magazine ...	10 " ...	" 16 "	J. Kelly.
R. Irvine " ...	" "	10 " ...	Dec. 31 "	J. McNee.
W. Phipps ...	Warden's Clerk and Mining Registrar	60 " ...	Jan. 13, 1879	J. O'Dell.
J. Kilbride (constable)	Keeper of Magazine ...	£30 $\frac{1}{2}$ annum	April 15, 1879	Succeeded by J. Parsons.
J. Kelly " ...	" "	10 " ...	June 13 "	P. Bain.
W. Acton " ...	" "	15 " ...	" 9 "	— Steel.

THE following Transfers and Alterations also took place:—

G. F. Bateman, an officer of the Law Department, was transferred to this Department on 18th July, 1877. Re-transferred to Law Department on 30th November 1877.

G. Anderson was acting as Mining Registrar at Chiltern during the leave of absence of Mr. Arrowsmith. His connection with the Department ceased when Mr. Arrowsmith resumed duty on 1st January 1878.

Professor McCoy was informed that his allowance as Palaeontologist would cease from 9th January 1878. It was continued, however, until 30th June 1878, and provision has been made in the Estimates for its payment from that date.

THE FOLLOWING APPOINTMENTS OR RE-APPOINTMENTS WERE MADE:—

Name.	Office.	Salary.	Date of Commencement.	Remarks.
T. J. C. Foster ...	Mining Registrar ...	£10 per annum ...	July 30, 1877	New office opened at Bethanga.
T. T. C. Karghin ...	" "	5 " ...	Sept. 17 "	Wandiligong.
P. Frank Brown ...	Clerk to Mining Board... ..	150 " ...	Nov. 26 "	Vice Burnside, deceased.
T. H. Busst ...	Officekeeper to Sandhurst Mining Board	10 " ...	Jan. 1, 1878	Vice Hogan, resigned.
T. T. Ellis ...	Warden's Clerk ...	15 " ...	" 1 "	New office opened at Wodonga.
P. N. G. Stephens ...	" "	70 " ...	" 10 "	Mr. Stephens held the appointment of District Mining Registrar. The duties of Warden's Clerk were imposed on him on the removal of Mr. Cairnes to the head office.
P. J. Finnie ...	Litho. Printer... ..	18s. per day ...	Jan. 21, 1878	Re-appointment.
T.* C. Thomas ...	Underground Surveyor ...	20s. " ...	" 31 "	" "
T. D. H. Gilmore ...	Mining Registrar ...	£20 per annum ...	Feb. 1 "	Vice Cochrane, relieved.
P. G. Lusty ...	Litho. Printer... ..	13s. per day ...	" 11 "	Re-appointment.
P. F. R. Ellis ...	Warden's Clerk ...	£137 10s. per ann. ...	" 22 "	" "
T. J. Darbyshire ...	Mining Registrar ...	15 " ...	Mar. 29 "	Vice Kinchela, deceased.
P. R. Hain ...	Inspector of Explosives and of Leased Land	4 per week ...	Apr. 1 "	" "
P. C. Stewart ...	Inspector of Mines ...	£4 per week ...	Apr. 11, 1878.	Re-appointment.
P. R. Shepherd ...	Lithographer ...	£485 per annum... ..	" 16 "	" "
P. E. M. Cairnes ...	Clerk ...	350 " ...	" 16 "	" "
P. A. Everett ...	Draftsman ...	300 " ...	" 17 "	" "
P. H. B. Nicholas ...	Inspector of Mines ...	300 " ...	" 18 "	" "
P. J. C. Newbery ...	Analyst ...	200 " ...	" 29 "	" "
P. H. Lane ...	Asst. Litho. Printer ...	5s. per day ...	" 29 "	" "
P. R. A. F. Murray ...	Geological Surveyor ...	40s. " ...	May 1 "	" "
T. J. Hefferin ...	Mining Registrar ...	£10 per annum ...	" 6 "	Vice McCann, resigned.
P. H. C. Bate ...	Inspector of Mines ...	50 " ...	June 7 "	Re-appointment.

* See Note on succeeding page.

MINING DEPARTMENT—continued.

—	Name.	Office.	Salary.	Date of Commencement.	Remarks.
P.	R. Arrowsmith ...	Inspector of Mines ...	£25 per annum...	July 1, 1878	Re-appointment.
P.	H. Davidson ...	"	25 " "	" 1 "	"
T.	M. Nugent ...	Mining Registrar ...	10 " "	" 1 "	Vice Hefferin, resigned.
P.	R. Fennelly ...	Mining Surveyor ...	10 " "	" 1 "	Increased to £20 from 2/9/78. Mr. Fennelly was appointed vice Strong, deceased, and Greig, relieved.
P.	J. Anderson ...	Clerk ...	£140 per annum...	July 23, 1878	Re-appointment.
T.*	C. Griscom ...	Superintendent of Diamond Drills	300 " "	Aug. 12 "	"
T.*	E. T. Jones ...	Foreman of Diamond Drills	200 " "	" 20 "	"
T.*	G. M. Newman ...	"	4 10s. per week	Oct. 21 "	"
P.	W. A. B. Tobin ...	Clerk " " "	250 per annum...	Nov. 21 "	Transferred from Customs Department.
T.*	A. Anderson ...	Foreman, Drill ...	4 10s. per week	Dec. 17 "	"
T.	W. O'Shaunassy	Warden's Clerk ...	10 per annum...	" 17 "	New office opened at Lilydale.
P.	D. O'Neill ...	Messenger ...	125 " "	" 21 "	Vice Stoops, promoted.
P.	D. W. Spreull ...	Assistant Surveyor ...	12 " "	Jan. 14, 1879	Vice Rowe, resigned.
T.*	J. Palmer ...	Fitter of Bits for Diamond Drills	4 10s. per week	Feb. 7 "	"
T.	J. Stevenson, jun.	Mining Registrar ...	£30 per annum...	June 2 "	Vice J. Stevenson, sen., deceased.
T.	C. J. Steele (constable)	Keeper of Magazine ...	15 " "	" 10 "	Vice Acton.
P.*	C. L. Lutz ...	Draftsman and Computer	£4 per week ...	Aug. 29, 1877.	"
P.	R. C. Carr ...	Clerk ...	£275 per annum...	Apr. 17, 1878	Re-appointment.
P.	W. McKean ...	Inspector of Works ...	15s. per day ...	Mar. 13 "	"
P.	W. H. Ackland ...	Clerk ...	10s. " "	Feb. 1 "	"
P.	W. J. Bedford ...	"	6s. 6d. " "	" 1 "	"
P.	A. S. Pearce ...	"	5s. " "	June 17 "	"
P.*	R. M. Gale ...	Assistant Engineer and Draftsman	£260 per annum	Jan. 23, 1879.	"

THE FOLLOWING PROMOTIONS WERE MADE:—

—	Name.	Office.	Salary.	Date of Commencement.	Remarks.
P.	John Andrews ...	Chief Clerk and Accountant, and 2nd class officer ordinary division of Civil Service	£500 per annum	July 1, 1878	Mr. Andrews was discharging the duties of Chief Clerk and Accountant, but was not classified.
P.	H. A. Barnes ...	Clerk ...	£92 "	" 1 "	Formerly Messenger.
P.	John Stoops ...	Office Keeper ...	£150 "	Dec. 16 "	Formerly Messenger.

CONSEQUENT upon changes in the stations of Officers of other Departments who were discharging also duties for this Department at small allowances in addition to their ordinary salaries, the following Persons commenced duty in this Department in the capacities severally set forth:—

—	Name.	Office.	Salary.	Date of Commencement.	Remarks.
T.	S. Cooper ...	Warden's Clerk ...	£10 per annum ...	July 21, 1877	Vice Woodman.
T.	O. W. Collins ...	"	20 " "	" 25 "	" McNiece.
T.	H. Horrocks ...	"	10 " "	Sept. 28 "	" Holderness.
T.	F. H. D. Cotter ...	"	20 " "	Nov. 1 "	" Heap.
T.	T. Farrell (constable)...	Keeper of Magazine	20 " "	Jan. 8, 1878	" Wilson.
T.	T. Wilson (constable)...	"	20 " "	Aug. 9, 1877	" Webb.
T.	C. Jesse ...	"	15 " "	April 1, 1878	" McCraith.
T.	G. F. Bateman ...	Warden's Clerk ...	10 " "	" 30 "	" Martin.
T.	R. W. V. McCall ...	"	10 " "	May 14 "	" R. W. McCall.
T.	E. B. Shoebridge ...	Keeper of Magazine	10 " "	June 19 "	" Larkan.
T.	H. M. Murphy ...	Mining Registrar and Warden's Clerk	35 " "	July 1 "	" G. R. Murphy.
T.	G. R. Murphy ...	Mining Registrar and Warden's Clerk ...	£45 per annum ...	July 1, 1878	Vice Williams.
T.	W. Acton (constable)...	Keeper of Magazine	£15 per annum ...	July 10, 1878	Vice Jesse.
T.	P. Madigan (constable)	"	10 " "	" 13 "	" Kelly.
T.	T. Keane (constable) ...	"	10 " "	" 21 "	" Mand.
T.	H. Harken ...	Warden's Clerk ...	15 " "	Aug. 1 "	" Ellis.
T.	J. A. Murdoch ...	"	10 " "	Sept. 1 "	" R. W. V. McCall.
T.	J. H. D. Cotter ...	Mining Registrar ...	10 " "	" 9 "	" Greig, relieved.
T.	J. Kelly (constable) ...	Keeper of Magazine	10 " "	" 17 "	" Madigan.
T.	J. J. Cummins ...	Clerk to Mining Board	50 " "	Oct. 19 "	" Duncan.
T.	J. McNee (constable)...	Keeper of Magazine	10 " "	Jan. 1, 1879	" Irvine.
T.	J. O'Dell ...	Warden's Clerk and Mining Registrar	60 " "	" 14 "	" Phipps.
T.	J. Parsons (constable)	Keeper of Magazine	£30 per annum ...	April 16, 1879	Vice Kilbride.
T.	P. Bain (constable) ...	"	10 " "	June 14 "	" Kelly.

NOTE.—The appointments marked P are of a permanent character. Ditto marked T are temporary. Ditto marked with an Asterisk are those the salaries of which are paid from Votes for Particular Works. All others are paid from Votes for Salaries.

T. COUCHMAN,
Secretary for Mines.

1st October 1879.

1879.

VICTORIA.

RAILWAY CONNECTION WITH SOUTH AUSTRALIA.

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL.

THE HONORABLE W. CAMPBELL.—28TH OCTOBER, 1879.

LAI'D ON THE COUNCIL TABLE BY THE HONORABLE C. J. JENNER, AND ORDERED BY THE
COUNCIL TO BE PRINTED, 11TH NOVEMBER, 1879.

RETURN showing a copy of any correspondence that has taken place since 27th July 1878, between
this Government and the South Australian Government, relating to Railway Connection.

CORRESPONDENCE.

The Commissioner of Railways, Victoria, to the Treasurer, South Australia.

(Telegram.)

The Honorable J. P. BOUCAUT, M.P., Treasurer of South Australia, Adelaide.

27 July 1878.

I have read your recent remarks on railways and confirm all you say. Whatever point we may
touch your boundary line, our first destination is Wentworth.

(Signed) JOHN WOODS.

The Treasurer, South Australia, to the Commissioner of Railways, Victoria.

(Telegram.)

The Honorable Mr. WOODS.

Adelaide, 29/7/78.

Thanks for your telegram. Wish you all speed, and I hope one of these days to meet you at
Wentworth. There might be a worse place than that for the future federal capital.

(Signed) JAS. P. BOUCAUT.

The Chief Secretary, South Australia, to the Chief Secretary, Victoria.

SOUTH AUSTRALIA.

SIR,

Chief Secretary's Office, Adelaide, 13th October 1879.

I have the honor to enclose copy of a Resolution passed by the House of Assembly on the 10th ultimo, affirming the desirability of a Conference between the colonies of Victoria, New South Wales, Queensland, and South Australia to discuss the question of connecting those colonies by railway, and should be glad to know if the proposal meets the views of your Government.

Should it do so, I will communicate with you again as to the time and place of meeting.

With regard to the latter, however, no doubt Sydney would be the most convenient place, as probably a great many members of the several Australian Parliaments will be attending the Exhibition there in the course of the next few months.

I have, &c.,
(Signed) WILLIAM MORGAN.

The Honorable the Chief Secretary, Victoria.

[Enclosure.]

Resolution—

"That, in the opinion of this House, it would be beneficial to the people of Australia to connect the railway systems of South Australia, Victoria, New South Wales, and Queensland, and that the co-operation of those colonies should be invited at a Conference of Representatives of all of them to consider and report upon the best course to adopt to accomplish that connection."

The Chief Secretary, Victoria, to the Chief Secretary, South Australia.

VICTORIA.

No. 4427.

SIR,

Chief Secretary's Office, Melbourne, 20th October 1879.

Victoria, New
South Wales,
Queensland,
South Australia.

I have the honor to acknowledge the receipt of your letter of the 13th instant, referring to a Resolution passed in the South Australian House of Assembly on the 10th ultimo, and enquiring if the proposal for a Conference between the Colonies named in the margin to discuss the question of connecting them by railway will have the concurrence of this Government.

I have, &c.,
For Chief Secretary,
(Signed) W. H. ODGERS.

The Honorable the Chief Secretary, South Australia.

The Chief Secretary, Victoria, to the Chief Secretary, South Australia.

VICTORIA.

No. 4473.

SIR,

Chief Secretary's Office, Melbourne, 23rd October 1879.

With reference to your letter of the 13th instant, No. 845, bringing under the consideration of this Government the proposal for a Conference between the Colonies of Victoria, New South Wales, Queensland, and South Australia, to discuss the question of connecting their territories by railway, I have the honor to state that, should the time which may be fixed for holding the proposed Conference prove convenient, this Government will be prepared to co-operate.

I have, &c.,
(Signed) GRAHAM BERRY.

The Honorable the Chief Secretary, South Australia.

1879.

VICTORIA.

BILLS DRAFTED.

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL.

THE HONORABLE F. T. SARGOOD.—10TH SEPTEMBER, 1879.

LAI D ON THE COUNCIL TABLE BY THE HONORABLE C. J. JENNER, AND ORDERED BY THE COUNCIL TO BE PRINTED, 11TH NOVEMBER, 1879.

RETURN giving a list of all the Bills drafted, or in the process of drafting, during the last eighteen months by persons other than officers of the Law Department, giving the name of the Draftsman in each case and the amount paid to each.

RETURN of all the Bills drafted, or in the process of drafting, during the Eighteen Months from 10th March 1878 to 10th September 1879, by Persons other than Officers of the Law Department, giving the Name of the Draftsman in each case, and the Amount paid to each.

Draftsman.	Title of Bill.	Particulars.	Fee paid.	Remarks.
Duffy, F. G. ...	Assembly Elections 1878	Drawing, preparing <i>précis</i> for Cabinet, also interleaved copies of Assembly Election Act and the Electoral Act 1865, with notes of proposed changes, &c.	£ s. d. 182 5 3	This Bill was drafted prior to the present Attorney-General coming into office, 28th March 1878. All the other Bills in this Return have been drafted subsequent to that date under instructions from the present Attorney-General.
McDonnell, M. A.	To Amend the Process Practice and Mode of Pleading in and to improve the Jurisdiction of the Supreme Court of Victoria and to erect a new Primary Court of Appeal	Drafting and consultations ...	463 6 1	
Worthington, G. ...	To empower the Melbourne and Hobson's Bay United Railway Company to sell to Government	Drawing, perusing Company's proposed clauses and alterations, also alterations by Attorney-General, re-perusing Company's clauses and opinions thereon, altering clauses and consultations	85 16 6	
Webb, T. P. ...	To provide for Drainage of Sebastopol and Ballarat Plateau	Drafting, altering, and revising on fresh instructions	} 72 17 0	
Gregory, J. B. ...	Local Government Acts Amendment	Conferences, and drafting Bye-Laws under above Bill		144 16 6
Duffy, F. G. ...	Civil Service ...	Perusing Report of Royal Commission and other papers, and examining and collating proposed alterations in Act No. 160 with view to an Amending Bill	18 7 0	
Rogers, J. W. ...	Mining Laws Amendment	Drafting and consultations on account	107 12 6	
Hughes, D. T. ...	Land Tax Act Amendment	Drafting; revising and amending first proof copy after consultations; conferences	39 11 0	

The following Fees have also been paid for Services rendered in the preparation of the Bills specified, viz. :—

Draftsman.	Title of Bill.	Particulars.	Fee paid.	Remarks.
Wilson, T. R. ...	To consolidate and amend the Laws relating to Public Health	Professional assistance rendered in connection with the drafting and revision of Bill—(243 clauses and 10 schedules)	£ s. d. 75 0 0	
Keene, J. A. ...	Victorian Gas Companies' Regulation	Searching Imperial Statutes, and extracting and compiling 119 clauses for a draft Bill, having for its object the amendment of portion of the Metropolitan Gas Company Act No. 586, and to regulate by one uniform standard the sale and supply of gas by all Gas Companies in the Colony of Victoria, with 18 practical Schedules attached thereto	75 0 0	

5/11/79.

JOHN W. FOSBERY,
Accountant Law Department.

1879.

VICTORIA.

GOVERNMENT PRINTING OFFICE EMPLOYÉS.

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL.
THE HONORABLE J. LORIMER.—21st OCTOBER, 1879.

LAI D ON THE COUNCIL TABLE BY THE HONORABLE H. CUTHBERT, AND ORDERED BY THE COUNCIL TO BE PRINTED, 25th NOVEMBER, 1879.

- RETURN showing the names of all Supernumeraries employed in the Printing Branch of the Government Printing Office since May, 1877, with the number of years and months actually employed.
- (2.) The names, length of actual service, and grounds of appointment of those placed on the Third Schedule since May, 1877.
 - (3.) On whose recommendation the various Appointments and Promotions were made since May, 1877.
 - (4.) The nature and amount of work performed by each of such *Employés*, with the number of hours occupied in such work, during the month of January, 1878.

RETURN showing the Names of all Supernumeraries employed in the Printing Branch of the Government Printing Office since May, 1877, with the Number of Years and Months actually employed.

Name.	Occupation.	Date when first employed.	Date when last employed as Supernumerary.	Total of the various periods of actual employment.	
				Years.	Months.
Page, Wilton ...	Compositor ...	21 February 1873 ¹ ...	30 June 1877 * ...	3	11
Kemp, James ...	" ...	30 April 1874 ² ...	30 June 1877 * ...	3	2
Heath, George ...	" ...	6 May 1874 ³ ...	30 June 1877 * ...	3	2
Hall, Chas. ...	" ...	1 September 1869 ...	30 June 1877 * ...	5	2
Webb, Alfred ...	" ...	26 August 1872 ...	12 August 1878 ...	4	9
Wilkinson, J. ...	" ...	26 September 1865 ...	Now employed ...	9	4
Harrison, L. H. ...	" ...	24 September 1860 ...	30 June 1877 * ...	3	7
Skeeles, R. H. R. ...	" ...	3 September 1874 ...	30 June 1877 * ...	2	10
Fenton, William ...	" ...	14 April 1866 ...	30 June 1877 * ...	3	2
Berry, N. H. ...	" ...	29 April 1874 ⁴ ...	30 June 1877 * ...	3	—
Gainfort, E. ...	" ...	11 September 1860 ...	30 September 1878 ...	7	7
Prender, Luke ...	" ...	5 March 1861 ...	Now employed ...	7	11
O'Reilly, P. A. ...	" ...	31 August 1866 ...	" ...	5	9
Rice, William ...	" ...	3 September 1871 ...	30 June 1877 * ...	5	3
Anderson, T. E. ...	" ...	25 March 1872 ...	30 June 1877 * ...	3	1
Kendall, Joseph ...	" ...	24 January 1875 ⁵ ...	30 June 1878 * ...	3	3
Bannister, H. G. ...	" ...	4 September 1873 ...	Now employed ...	3	11
O'Leary, Daniel ...	" ...	26 August 1872 ...	" ...	5	2
Work, T. L. ...	" ...	17 June 1867 ...	" ...	5	9
Hoy, J. A. ...	" ...	4 September 1873 ...	" ...	5	5
McKimm, R. J. ...	" ...	24 November 1863 ...	" ...	3	7
Fergie, A. J. ...	" ...	18 August 1876 ...	" ...	3	2
Mitchell, W. D. ...	" ...	4 September 1874 ...	" ...	4	6
Osmond, W. R. ...	" ...	30 October 1865 ...	" ...	5	7
Williams, John ...	" ...	28 March 1859 ...	" ...	3	11
Stafford, J. F. ...	" ...	5 October 1875 ...	" ...	2	4
Watt, T. A. ...	" ...	27 August 1877 ...	" ...	1	10
Holmes, Jos. ...	" ...	17 August 1876 ...	" ...	2	4
Thomson, A. W. ...	" ...	9 September 1878 ...	" ...	—	11
Findlow, W. ...	" ...	3 September 1873 ...	" ...	3	2
Corbett, Jas. ...	" ...	11 December 1877 ...	" ...	1	—
McKenzie, W. ...	" ...	21 February 1873 ⁶ ...	" ...	4	2
Henry, W. J. ...	" ...	26 August 1878 ...	" ...	—	9
Bolger, J. C. ...	" ...	3 February 1859 ...	" ...	3	8

* Promoted to Third Schedule on day after this.

¹ Apprenticeship from 21 February 1868 to 20 February 1873.—² Apprenticeship from 30 April 1869 to 29 April 1874.—³ Apprenticeship from 6 May 1869 to 5 May 1874.—⁴ Apprenticeship from 29 April 1869 to 28 April 1874.—⁵ Apprenticeship from 24 January 1870 to 23 January 1875.—⁶ Apprenticeship from 21 February 1868 to 20 February 1873.

RETURN—continued.

Name.	Occupation.	Date when first employed.	Date when last employed as Supernumerary.	Total of the various periods of actual employment.	
				Years.	Months.
Horn, W. D. ...	Compositor ...	26 July 1872 ...	Now employed ...	3	3
Toms, R. C. ...	" ...	10 December 1877 ...	" ...	1	—
Brooks, J. F. ...	" ...	10 December 1877 ...	" ...	1	—
Tucker, G. ...	" ...	7 January 1879 ...	" ...	—	6
Wing, J. ...	" ...	16 September 1873 ...	" ...	1	2
Stone, W. G. ...	" ...	12 May 1866 ...	" ...	4	4
Nicholls, T. ...	" ...	6 January 1879 ...	" ...	—	5
Cunningham, P. ...	" ...	10 December 1877 ...	" ...	—	10
Shade, A. R. ...	" ...	17 July 1879 ...	" ...	—	3
Mitchell, W. ...	" ...	17 July 1879 ...	" ...	—	3
Bliss, Theodore ...	" ...	17 July 1879 ...	" ...	—	3
Stillwell, W. H. ...	" ...	9 December 1876 ...	29 December 1877 ...	—	5
Hardie, D. ...	" ...	27 August 1877 ...	22 September 1877 ...	—	3 weeks.
Webb, S. ...	" ...	31 August 1877 ...	2 February 1878 ...	—	4 mths.
Shevill, T. W. ...	" ...	30 August 1877 ...	22 September 1877 ...	—	3 weeks.
Sheppard, T. ...	" ...	31 August 1865 ...	22 September 1877 ...	2	3 mths.
Abbott, G. ...	" ...	24 August 1875 ...	22 September 1877 ...	—	9
Fitzgerald, E. ...	" ...	14 September 1875 ...	25 January 1879 ...	1	2
Hide, R. ...	" ...	11 September 1872 ...	22 September 1877 ...	—	8
Steel, F. ...	" ...	8 March 1860 ...	25 January 1879 ...	8	4
Kennedy, J. ...	" ...	12 December 1877 ...	2 February 1878 ...	—	2
Reay, J. ...	" ...	8 January 1878 ...	21 January 1879 ...	—	1
Machin, F. ...	" ...	14 December 1877 ...	2 February 1878 ...	—	1
Casey, A. ...	" ...	14 December 1877 ...	2 February 1878 ...	—	1
Thornhill, M. ...	" ...	7 January 1878 ...	29 January 1878 ...	—	3 weeks.
O'Daly, L. F. ...	" ...	14 January 1878 ...	1 February 1879 ...	—	10 mths.
Gill, R. ...	" ...	14 October 1878 ...	19 October 1878 ...	—	1 week.
Fraser, J. ...	" ...	14 October 1878 ...	25 January 1879 ...	—	3 mths.
Crimp, W. ...	" ...	6 January 1879 ...	8 January 1879 ...	—	3 days.
Mitchell, J. ...	" ...	7 January 1879 ...	25 January 1879 ...	—	2 weeks.
Wild, J. ...	Pressman ...	5 July 1876 ...	29 March 1879 ...	2	9 mths.
Kerr, Robt. ...	" ...	27 August 1877 ...	21 September 1878 ...	—	6
Rose, H. ...	" ...	11 July 1876 ...	4 May 1878 ...	1	10
Newlands, T. ...	Machineman ...	13 June 1876 ...	19 July 1877 ...	1	1
Hucker, J. C. ...	" ...	15 August 1877 ...	Now employed ...	2	2
James, J. W. ...	Pressman ...	27 August 1877 ...	4 October 1879 ...	—	1

J. FERRES,
Government Printer.

RETURN showing (2) The Names, Length of Actual Service, and Grounds of Appointment of those placed on the Third Schedule since May 1877; and
(3) On whose recommendation the various Appointments and Promotions were made since May 1877.

APPOINTMENTS TO THIRD SCHEDULE.

Name.	Occupation.	Date when first employed as Supernumerary.	Date of Appointment to Schedule.	Length of Actual Service.						Grounds of Appointment.	Appointment recommended by—
				On Supernumerary Staff.		On Schedule Staff.		Total.			
				Yrs.	Mths.	Yrs.	Mths.	Yrs.	Mths.		
Rice, Wm. ...	Compositor ...	3 Sept. 1871	1 July 1877...	5	3	2	3	7	6	Ability and industry " " " " " " Ability and to fill vacancy " " Ability and industry " " Ability and to fill vacancy Length of service and ability	Government Printer.
Anderson, T. E. ...	" ...	25 March 1872	1 July 1877...	3	1	2	3	5	4		
Hall, Chas. ...	" ...	1 Sept. 1869	1 July 1877...	5	2	2	3	7	5		
Heath, Geo. ...	" ...	6 May 1874 ¹	1 July 1877...	3	2	2	3	5	5		
Berry, N. H. ...	" ...	29 April 1874 ²	1 July 1877...	3	—	2	3	5	3		
Page, Wilton ...	" ...	21 Feb. 1873 ³	1 July 1877...	3	11	2	3	6	2		
Kemp, Jas. ...	" ...	30 April 1874 ⁴	1 July 1877...	3	2	2	3	5	5		
Harrison, L. H. ...	" ...	24 Sept. 1860	1 July 1877...	3	7	2	3	5	10		
Skeeles, R. H. R. ...	" ...	3 Sept. 1874	1 July 1877...	2	10	2	3	5	1		
Fenton, Wm. ...	" ...	14 April 1866	1 July 1877...	3	2	2	3	5	5		
Kendall, Jos. ...	" ...	24 Jan. 1875 ⁵	1 July 1878...	3	3	1	3	4	6		
Gainfort, E. ...	" ...	11 Sept. 1860	1 Oct. 1878...	7	7	1	1	8	8		
Marshall, W. ...	Machineman ...	14 June 1875 ⁶	1 July 1877...	1	11	2	3	4	2		
Porritt, E. G. ...	Pressman ...	30 Jan. 1863	1 July 1877...	12	1	2	3	14	4		
Denby, W. ...	" ...	4 April 1865 ⁷	1 July 1877...	12	—	2	3	14	3		
McDougall, R., jr. ...	Warehouseman ...	3 April 1877 ⁸	5 May 1879...	2	1	—	6	2	7		
Edwards, W. G. ...	Printer's Joiner ...	24 Oct. 1870	1 July 1877...	5	8	2	3	7	11		

¹ Apprenticeship from 6 May 1869 to 5 May 1874. — ² Apprenticeship from 29 April 1869 to 28 April 1874. — ³ Apprenticeship from 21 February 1868 to 20 February 1873. — ⁴ Apprenticeship from 30 April 1869 to 29 April 1874. — ⁵ Apprenticeship from 24 January 1870 to 23 January 1875. — ⁶ Apprenticeship from 14 June 1870 to 13 June 1875. — ⁷ Apprenticeship from 4 April 1860 to 3 April 1865. — ⁸ Apprenticeship to bookbinding from 3 April 1872 to 2 April 1877.

RETURN—continued.

PROMOTIONS IN THIRD SCHEDULE.

Name.	Occupation.	Date when first employed.	Promotion recommended by—
Newnham, Wm.	Compositor	27 July 1857	Government Printer.
Heelis, Edwd.	"	25 June 1856	"
Dunn, W. H.	"	31 December 1863 ¹	"
Porritt, E. G.	Pressman	30 January 1863	"
Ellis, W. H.	Machineman	5 February 1858	"
Noar, H.	Pressman's Assistant	12 April 1856	"
Gane, W.	Compositor	4 August 1863.	"
Astley, W.	"	18 September 1862	Government Printer.
Fox, Edwd.	"	29 October 1862	"

¹ Apprentice from 31 December 1858 to 30 December 1863.

J. FERRES,
Government Printer.

RETURN showing (4) The Nature and Amount of Work performed by each of such *Employés*, with the Number of Hours occupied in such work, during the month of January, 1878.

The records kept in this office are not sufficient to enable me to furnish this information.

J. FERRES,
Government Printer.



1879.

VICTORIA.

COMMISSIONS AND BOARDS OF ENQUIRY.

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL.

THE HONORABLE W. CAMPBELL, 2ND SEPTEMBER 1879.

LAI'D ON THE COUNCIL TABLE BY THE HONORABLE H. CUTHBERT, AND ORDERED BY THE
COUNCIL TO BE PRINTED, 27TH NOVEMBER 1879.

A RETURN giving the following particulars relating to each Royal Commission or Board of Enquiry appointed since 1st July 1877 :—

- (1.) The date of its appointment.
- (2.) The object for which it was appointed.
- (3.) The total cost connected with it, including the following particulars :—
 - (a) Amount paid or due for transit expenses.
 - (b) Amount paid or due for reporting and printing, including proportion of salaries.
 - (c) Amount paid or due for hotel or refreshment expenses.
 - (d) Amount paid or due to witnesses.
 - (e) Amount paid or due for incidental and all other expenses.
- (4.) The same information respecting Select Committees of either House, appointed during the present Parliament, which have obtained leave to move from place to place and to sit on days on which the House does not sit.
- (5.) The names of the members of each Commission or Board.
- (6.) The names of members or officers who certified to the correctness of the accounts to the Treasury.

ORDER OF RETURNS.

DEPARTMENT OF—

{ Chief Secretary.
{ Treasurer.
Minister of Public Instruction.
{ Attorney-General.
{ Minister of Justice.
Commissioner of Crown Lands.

Commissioner of Public Works.
Commissioner of Trade and Customs.
Postmaster-General.
Commissioner of Railways and Roads.
Minister of Mines.

SELECT COMMITTEES of the Legislative Council appointed during the present Parliament, which have obtained leave to move from place to place, and to sit on days on which the House does not sit.

Nil.

Legislative Assembly Chambers,
Melbourne, 9th September 1879.

SIR,
In reply to your letter dated 5th September inst., No. 3572, addressed to the Honorable the Speaker of the Legislative Assembly, requesting to be supplied with certain information respecting Select Committees of the Assembly, for the purpose of its being laid before the Legislative Council in compliance with an order on the motion of the Honorable W. Campbell, I have the honor, by direction of the Honorable the Speaker, to state that the usual method of obtaining by one branch of the Legislature information in possession of the other is by Message, which can be submitted to the latter House for its decision.

I have, &c.,
(Signed) JOHN BARKER,
Clerk of Assembly.

To the Under-Secretary,
&c., &c., &c.

CHIEF SECRETARY'S DIVISION.

Name of Royal Commission or Board.	Date of Appointment.	Object for which it was appointed.	Expenditure paid or due.						Names of Members.	Names of Members or Officers who certified to correctness of Accounts.
			Total Cost.	Transit Expenses.	Reporting and Printing, including proportion of Salaries.	Hotel or Refreshment Expenses.	Witnesses.	Incidental and all other Expenses.		
			£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.		
Paris Exhibition ...	16th July, 1877 ...	For the purposes of the Paris Exhibition, 1878	10,009 0 3	1,739 12 4	335 17 4	17 3 0	...	7,916 7 7	Hon. J. J. Casey, M.P., Hon. P. Lalor, M.P., Hon. W. Wilson, M.L.C., Hon. J. Munro, M.P., Hon. S. H. Bindon, J. Paterson. J. Danks, J. Bosisto, M.P., L. Caubet, W. McCulloch, J. Mirams, M.P., D. Munro, R. Richardson, M.P., A. K. Smith, M.P., J. Zevenboom.	
Warder Pearse ...	16th July, 1877 ...	To inquire into conduct of Warder Pearse, Ararat Gaol	16 0 0	8 0 0	...	...	...	8 0 0	J. James, M.P., W. H. Gaunt, H. Hill.
Warder Enright ...	23rd July, 1879 ...	To inquire into conduct of Warder Enright	...	...	...	...	...	...	G. P. Langridge, M.P., T. W. Ware, W. R. Stephens.
Police Appeals ...	15th October, 1877...	To inquire into claims of certain discharged police constables for reinstatement	{ 50 3 0 21 18 4	15 12 0 9 18 4	...	6 0 0	10 10 0	18 1 0 12 0 0	J. H. Graves, M.P., J. Rees, M.P. R. Rede.	
Pentridge Inquiry ...	15th October, 1877...	To inquire into counter charges between Superintendent Gardiner and Warder Gwan, Pentridge Penal Establishment	...	...	...	...	...	...	T. Cooper, M.P., T. Couchman, T. W. Ware.
Shaw Inquiry Board— Audit Office	1st November, 1877	Appeal against report of Audit Commissioners	24 18 0	...	18 18 0	...	...	6 0 0	Hon. T. T. a'Beckeett, M.P., Hon. J. Munro, M.P., C. Hodgkinson.
Reed Inquiry ...	4th March, 1878 ...	Charges against Dr. Reed ...	4 16 0	0 15 0	...	0 7 6	...	3 13 6	A. T. Clark, M.P., E. J. Dixon, M.P., E. M. Curr.	
Jika Reformatory ...	8th March, 1878 ...	Into causes of outbreak by Inmates	155 12 9	12 0 0	122 11 0	9 5 3	...	11 16 6	J. James, M.P., R. Macgregor, M.P., M. Clarke.	
Closed Roads ...	15th April, 1878 ...	Into question of occupancies (sic) by land owners of closed roads	1,541 1 0	93 3 3	906 14 0	300 1 6	5 0 0	236 2 3	A. L. Tucker, M.P., J. M. Barr, M.P., T. Cope, M.P., G. D. Langridge, M.P., R. Richardson, M.P., J. H. Graves, M.P., T. Hunt, M.P.,	

passed to the Treasury on the certificate of the permanent Head of the Department.

Dr. Colden Inquiry ...	20th May, 1878 ...	Charges against Medical Officer, Beechworth Asylum	1 11 6	...	...	...	1 11 6	...	A. T. Clark, M.P., D. Gaunson, M.P., R. de B. Johnstone, M.P., D. Cameron, M.P., J. Dwyer, M.P., D. M. Davies, M.P., G. Billson, M.P., W. G. Brett, J. Ingram.
Land Act Inquiry ...	16th May, 1878 ...	To advise as to best mode of dealing with the lands of the colony	*1,522 18 10	111 6 6	556 15 6	243 17 6	22 12 0	588 7 4	W. J. O'Hea, M.P., J. L. Dow, M.P., R. Clark, M.P. (Wimmera), H. R. Williams, M.P., A. L. Tucker, M.P., J. Rees, M.P., T. Cope, M.P., J. Andrew, M.P., D. M. Davies, M.P., J. M. Barr, M.P., H. H. Sainsbury, M.P., C. W. Carr.
Warder Parr ...	12th August, 1878 ...	Maryborough Gaol Inquiry ...	...	...	...	...	...	...	A. T. Clark, M.P., G. D. Langridge, M.P., J. Farrell.
Frencham (cook, Kew Asylum)	2nd September, 1878	Charge against the Steward ...	5 18 6	0 15 0	...	0 19 6	...	4 4 0	See Schedule attached.
Melbourne International Exhibition	2nd September, 1878, 20 March, 1879	...	†9,442 10 10	304 1 0	850 13 10	...	...	8,287 16 0	J. Sergeant, M.P., W. Thomson, A. T. Dickens.
Kenneth McDonald ...	18th September, 1878	Inquiry into escape from Hamilton Gaol	...	...	...	...	...	...	J. Andrew, M.P., R. Gudemann, J. W. Fosbery.
Messenger Browning (Medical Dept.)	10th January, 1879	Supposed loss of £5 ...	...	...	...	...	...	...	R. Richardson, M.P., J. Nimmo, M.P., J. Mirams, M.P.
Prisoner M. Weiberg...	28th January, 1879	Inquiry into Escape ...	147 8 0	27 14 0	70 19 0	15 15 0	...	33 0 0	G. T. A. Lavater, W. Davidson, G. Maundrell.
Unemployed ...	25th June, 1879 ...	To devise best means for finding Employment	123 12 6	18 17 6	...	...	...	104 15 0	J. Turner, T. Truswell, J. Ingram.
Warder Gibson ...	18th August, 1879 ...	Inquiry into conduct ...	...	...	...	...	...	...
Total Chief Secretary's Department			£ 23,067 9 6	2,341 14 11	2,862 8 8	593 9 3	39 13 6	17,230 3 2	

TREASURY DEPARTMENT.

Bastow Inquiry ...	1st September, 1879	To inquire into charges against Clerk in Receipt and Pay Office, Castlemaine	9 14 6	4 7 0	...	...	...	5 7 6	R. Colles, T. W. Ware, H. J. Leplastrier.
Carried forward			£ 23,077 4 0	2,346 1 11	2,862 8 8	593 9 3	39 13 6	17,235 10 8	

* In addition to the above expenditure an advance of £200 is not yet adjusted, but it is understood that the amount will all be expended

† Exclusive of buildings.

NOTE.—The Chairman of a Board certifies to the correctness of the accounts and they are subsequently

RETURN of Expenditure not included in Returns furnished by other Ministerial Departments as being defrayed by the Chief Secretary's and Government Printer's Offices.

Name of Royal Commission or Board.	Date of Appointment.	Object for which it was appointed.	Expenditure paid or due.						Names of Members.	Names of Members or Officers who certified to correctness of Accounts.
			Total Cost.	Transit Expenses.	Reporting and Printing, including proportion of Salaries.	Hotel or Refreshment Expenses.	Witnesses.	Incidental and all other Expenses.		
		Brought forward ...	£ 23,077 4 0	£ 2,346 1 11	£ 2,862 8 8	£ 593 9 3	£ 39 13 6	£ 17,235 10 8		
EDUCATION DEPARTMENT.										
Murchison Enquiry ...	12th July 1877 ...	Board of Enquiry ...	12 17 6	11 17 6	...	...	...	1 0 0	
LAW DEPARTMENT.										
Hodges Enquiry ...	6th August, 1877 ...	To enquire into conduct of Chinese Interpreter	64 1 3	12 9 9	...	0 5 0	36 11 0	14 15 6	See Law Department Return.	
Ogier Enquiry ...	29th October, 1877...	To enquire into charges brought against a Police Magistrate	144 18 0	79 10 6	...	6 5 0	51 2 6	8 0 0	" "	
Monk Enquiry ...	— 1879 ...	To investigate statement as to supposed assault	381 4 0	22 1 0	45 8 0	...	108 10 0	205 5 0	J. A. Panton.	
Mulcahy Enquiry ...	— 1879 ...	To investigate conduct of Bailiff Mulcahy	5 10 0	1 10 0	...	...	1 0 0	3 0 0	
LANDS DEPARTMENT.										
Claims of English ...	... ..	Claims against Lands Department	43 19 0	0 18 0	...	...	...	43 1 0	} See Lands Department Return.
Kerang ...	2nd December, 1878	Evasions of Land Act	393 7 9	...	393 7 9	...	...	...
Shepparton ...	27th June, 1879 ...	" "	435 9 6	...	435 9 6	...	...	...
Tallangatta ...	23rd April, 1879 ...	" "	72 15 9	...	72 15 9	...	...	...
CUSTOMS DEPARTMENT.										
Centurion Board ...	... ..	As to missing goods <i>ex Centurion</i>	411 2 3	3 12 0	144 18 0	10 8 0	17 9 6	234 14 9	
MINING DEPARTMENT.										
Safety Cages ...	9th May, 1878 ...	To examine into Inventions for Safety Cages	415 10 7	25 15 0	67 5 0	63 11 6	...	258 19 1	See Mining Department Return.	
		Total ...	£ 25,457 19 7	£ 2,503 15 8	£ 4,021 12 8	£ 673 18 9	£ 254 6 6	£ 18,004 6 0		

Note.—The Chairman of a Board certifies to the correctness of the accounts and they are subsequently passed to the Treasury on the certificate of the permanent Head of the Department.

SCHEDULE.

(See Page 3.)

INTERNATIONAL EXHIBITION 1880.

To The Honorable William John Clarke, M.L.C. ;
 The Honorable James Joseph Casey, C.M.G., M.P. ;
 The Honorable James Munro, M.P. ;
 The Honorable Sir Bryan O'Loughlen, Baronet, M.P., Attorney-General, &c., of the Colony of Victoria ;
 The Honorable Sir George F. Verdon, K.C.M.G., C.B., F.R.S. ;
 The Honorable Sir Samuel Wilson, M.L.C. ;
 The Honorable Graham Berry, M.P., Chief Secretary of the said Colony ;
 The Honorable James Macpherson Grant, M.P., Minister of Justice of the said Colony ;
 The Honorable Major William Collard Smith, M.P., Minister of Mines and Minister of Public Instruction, &c., of the said Colony ;
 The Honorable Francis Longmore, M.P., President of the Board of Land and Works and Commissioner of Crown Lands and Survey of the said Colony ;
 The Honorable James Brown Patterson, M.P., Commissioner of Public Works, &c., of the said Colony ;
 The Honorable John Woods, M.P., Commissioner of Railways of the said Colony ;
 The Honorable Peter Lalor, M.P., Commissioner of Trade and Customs of the said Colony ;
 The Honorable Henry Cuthbert, M.L.C. ;
 The Honorable John Cumming, M.L.C. ;
 The Honorable Caleb Joshua Jenner, M.L.C. ;
 The Honorable Robert Dyce Reid, M.L.C. ;
 The Honorable William Wilson, M.L.C. ;
 The Honorable Sir Charles Gavan Duffy, K.C.M.G., Speaker of the Legislative Assembly of the said Colony ,
 John Andrew, Esq., M.P. ;
 Henry Bell, Esq., M.P. ;
 George Billson, Esq., M.P., J.P. ;
 Joseph Bosisto, Esq., M.P., J.P. ;
 Robert Bowman, Esq., M.P. ;
 Alfred Thomas Clark, Esq., M.P., J.P. ;
 Edward John Dixon, Esq., M.P., J.P. ;
 John L. Dow, Esq., M.P. ;
 Jeremiah Dwyer, Esq., M.P. ;
 James Fergusson, Esq., M.P., J.P. ;
 George Randall Fincham, Esq., M.P. ;
 James H. Graves, Esq., M.P. ;

To Thomas Hunt, Esq., M.P., J.P. ;
 Robert de Bruce Johnstone, Esq., M.P., J.P. ;
 George D. Langridge, Esq., M.P., J.P. ;
 John Laurens, Esq., M.P., J.P. ;
 James Mirams, Esq., M.P., J.P. ;
 John Nimmo, Esq., M.P., J.P. ;
 William Joseph O'Hea, Esq., M.P. ;
 John Orr, Esq., M.P., J.P. ;
 Richard Richardson, Esq., M.P., J.P. ;
 Alexander Kennedy Smith, Esq., M.P., C.E., J.P. ;
 Joseph Story, Esq., M.P., J.P., Mayor of the City of Melbourne ;
 Ephraim Lamén Zox, Esq., M.P., J.P. ;
 The Honorable Samuel Henry Bindon ;
 The Honorable Thomas Loader ;
 The Honorable William Mountford Kinsey Vale ;
 Joseph Aarons, Esq., J.P., a Member of the Council of the City of Melbourne ;
 Richard Bowen, Esq., J.P., a Member of the Council of the City of Melbourne ;
 John McIlwraith, Esq., J.P., a Member of the Council of the City of Melbourne ;
 Thomas O'Grady, Esq., J.P., a Member of the Council of the City of Melbourne ;
 John Pigdon, Esq., J.P., a Member of the Council of the City of Melbourne ;
 Robert Richardson, Esq., a Member of the Council of the City of Melbourne ;
 Joseph Anderson Panton, Esq., P.M. ;
 John Buncl, Esq., J.P. ;
 James Dallas, Esq. ;
 John Danks, Esq. ;
 George E. Douglas, Esq. ;
 William Gillbee, Esq., M.R.C.S.E. ;
 The Right Honorable Viscount Canterbury ;
 The Right Honorable H. C. E. Childers, M.P. ;
 Sir Hy. Barkly, K.C.B., G.C.M.G. ;
 Col. Chas. Pasley, R.E. ;
 Daniel Grant ;
 John Inglis ;
 Alfred T. Thomson ;
 J. Badcock ;

To The Honorable H. Spensley ;
 A. L. Tucker, M.P. ;
 Geo. Meares ;
 Chev. A. de Goyzueta ;
 Sir F. Murphy ;
 L. Marinucci ;
 William Gray, Esq. ;
 John Halfey, Esq., J.P. ;
 William Bushby Jones Esq., J.P. ;
 Edmund Keogh, Esq., J.P. ;
 Robert Knaggs, Esq., J.P., M.R.C.S.E. ;
 George Lansell, Esq. ;
 Alexander Marks, Esq., J.P. ;
 L. L. Mount, Esq. ;
 David Munro, Esq. ;
 William E. Murphy, Esq. ;
 John Owen, Esq. ;
 J. A. Reid, Esq. ;
 D. C. Sterry, Esq. ;
 William Kerr Thomson, Esq., J.P. ;
 William Williams, Esq., J.P. ;
 E. A. Wynne, Esq. ;
 William R. Yeomans, Esq. ;
 John Zevenboom, Esq., J.P. ;
 Louis Thoneman, Esq., Consul for Austria-Hungary ;
 Gustave Beckx, Esq., Consul-General for Belgium ;
 Jonathan Binns Were, Esq., Consul for Brazil, Chili, Denmark, Peru, Sweden, and Norway, and Consul-General for Portugal ;
 Charles Fauconnet, Esq., Consul of France ;
 William Alexander Brahe, Esq., Consul for the German Empire ;
 George N. Oakley, Esq., Consul for Hawaii ;
 Henri J. Hart, Esq., Vice-Consul for Italy ;
 Daniel Ploos van Amstel, Vice-Consul for the Netherlands ;
 Thomas Charles Napier Cooper, Esq., Consul for Portugal ;
 James Damyon, Esq., Consul for Russia ;
 Robert Murray Smith, Esq., M.P., Vice-Consul for Spain ;
 Guillaume de Pury, Esq., Consul for the Swiss Confederation ;
 O. M. Spencer, Esq., Consul-General for the United States ;
 Samuel Perkins Lord, Esq., Vice-Consul General for the United States ; and
 Samuel M. Gibbs, Esq., Consul for Venezuela.

EDUCATION DEPARTMENT.

RETURN relating to Royal Commissions or Boards of Enquiry appointed since the 1st July 1877, to be laid on the Table of the Legislative Council on the motion of the Honorable W. Campbell.

RETURN RELATING TO ROYAL COMMISSIONS OR BOARDS OF ENQUIRY APPOINTED SINCE 1ST JULY 1877.

The Date of its Appointment.	The Object for which it was appointed.	Total Cost connected with it.	Amount paid or due for Transit Expenses.	Amount paid or due for Reporting and Printing, including proportion of Salaries.	Amount paid or due for Hotel or Refreshment Expenses.	Amount paid or due to Witnesses.	Amount paid or due for Incidental and all other Expenses.	The Names of the Members of each Commission or Board.	The Names of Members or Officers who certified to the Correctness of the Accounts to the Treasury.
		£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.		
5th July 1877 ...	To investigate charges made against Miss R. E. Neil by the Head Teacher of School No. 755, Gordons	4 15 0	4 15 0	...	...	...	...	Mr. J. James, M.P. (Chair.) ... Mr. Lyon, P.M., Mr. Armstrong, Head Teacher of School No. 33, Ballarat.	Certified by the Chairman, and countersigned by the Hon. W. Collard Smith.
23rd August 1877 ...	To investigate certain claims made by various Teachers against the Department	204 16 11	27 13 6	...	0 17 6	...	176 5 11	Mr. E. J. Dixon, M.P. (Chair.)... Mr. G. R. Fincham, M.P., Mr. H. R. Williams, M.P., Mr. J. G. Duffy, M.P., Mr. J. Mirams, M.P.	Certified by the Chairman, and countersigned by the Hon. W. Collard Smith.
9th September 1877	To investigate charges made against Miss Watson, of School No. 654, Winslow, by Mr. Smithwick	13 19 6	2 15 6	...	...	...	11 4 0	Mr. J. Dwyer, M.P. (Chair.)... Mr. H. B. Lane, P.M., Mr. J. G. Cramond, Mayor of Warrnambool.	Certified by the Chairman, and countersigned by the Hon. W. C. Smith.
21st January 1878...	To investigate charges made against Mr. J. M'Swiney, Head Teacher of School No. 1203, Buangor, by Mr. R. Hornsby	15 17 0	1 3 0	...	...	...	14 14 0	Mr. W. H. Gaunt, P.M. (Chair.) ... Mr. G. Webster, P.M., Mr. R. Welsh, Head Teacher of School No. 800, Araarat.	Certified by the Chairman, and countersigned by the Hon. W. C. Smith.
11th November 1878	To investigate charges made against Mr. W. M. Cox, Head Teacher, by Mr. and Mrs. Streeter, Assistants, of School No. 2022, Macarthur street, Ballt.	25 4 0	...	...	...	...	25 4 0	Mr. J. W. Gray, J.P. (Chairman) ... Mr. Saml. Figgis, Mr. Andrew Anderson.	Certified by the Chairman, and countersigned by the Hon. W. C. Smith.
16th June 1879 ...	To investigate charges made against Mr. R. F. Taylor, Head Teacher of School No. 699, Yea, by Mr. J. W. Cairns	12 0 0	4 13 0	...	...	...	7 7 0	Mr. B. Smith, P.M. (Chair.) ... Mr. J. Smith, Head Teacher of School No. 1181, Emerald Hill, Mr. W. L. Ker, J.P.	Certified by the Chairman, and countersigned by the Hon. W. C. Smith.

NOTE.—See also Supplementary Return, Chief Secretary's Office.

G. WILSON BROWN.

LAW DEPARTMENT.

RETURN to the Order of the Legislative Council on the motion of the Honorable W. Campbell, relative to Commissions and Boards of Enquiry.

No.	Date of Appointment.	Object for which Board or Commission appointed.	Amount paid by this Department and Nature of Service.	Names of Members of Board or Commission.	Names of Members or Officers who certified to the correctness of the accounts to the Treasury.
1	6th August 1877 ...	Board to inquire into and report upon the conduct of Mr. Hodges (Chief Chinese Interpreter) in regard to charges made against him for interference with Parliamentary Election	Nil	J. H. Graves, Esq., M.P. (Chairman) Robert Rede, Esq., and John Holmes, Esq.	
2	29th October 1877 and 19th November 1877	Board to inquire into and report upon certain charges made against Mr. Ogier in reference to his conduct in dealing with cases that came before him as Police Magistrate and Warden	To Mr. Ogier for his travelling expenses in relation to the inquiry, £63. Conveyance of certain witnesses, £3. To Mr. Ogier's solicitor, taxed costs, £189 2s. 7d.	James McBain, Esq., M.P. (Chairman) ... Richard Colles, Esq., and T. D. S. Heron, Esq., Police Magistrate.	Certified by the Accountant to the Law Department and approved by the Minister.
3	13th May 1879 ...	Commission, under Section 26 of the Act No. 240, to consider and report upon the petition of Charles Phillips, of Dandenong, for an extension of the term of certain Letters Patent granted to him	To the Attorney-General, with brief, £11. To the Secretary to the Commission, £6 6s. To Mr. McDonnell, one of the Commission, £15 4s.	The Hon. Robert Molesworth (Chairman) Sir Redmond Barry, The Hon. R. Le Poer Trench, Q.C., T. S. Cope, Esq., M. A. McDonnell, Esq.	These sums in usual course were paid out of the customary deposit required to meet such and any other costs. Paid by the Crown to the Commissioner in usual course. Account certified by the Accountant to the Law Department and approved by the Minister.

N.B.—This includes such payments only as were made by this Department. See Supplementary Return, Chief Secretary's Department, for the remainder.

Crown Law Offices, Melbourne.

B. C. HARRIMAN,
Secretary to the Law Department.

LANDS DEPARTMENT.

Date of Appointment.	Amount paid or due for Transit Expenses.	Amount paid or due for Printing, &c.	Amount paid for Hotel or Refreshment Expenses.	Amount paid or due to Witnesses.	Amount paid or due for Incidental and all other Expenses.	Names of the Members of each Commission or Board.	Names of Members or Officers who certified to Accounts.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.		
<i>Kerang Board.</i>							
2nd December 1878	... | 55 0 0	...* |	190 0 0	164 0 0	823 9 0 †	Alexander Black (Chairman) ... Thomas Nixon, T. W. Pinniger. <i>Re Evasions of The Land Act 1869.</i>	Certified to by Chairman of each Commission or Board, and by A. Morrah, Esq., Secretary for Lands.
<i>Shepparton Board.</i>							
22nd June 1879	... | 45 0 0	...* |	110 0 0	202 0 0 †	298 0 0 §	Ditto ...	Ditto, ditto.
<i>Tallangatta Board.</i>							
23rd April 1879	... | 31 0 0	...* |	27 0 0	...	... ||	Ditto. <i>Re Charges made by Crown Lands Bailiff Fitzjohn against officials and local bodies of the Beechworth district and administration of the district generally.</i>	Ditto, ditto.
<i>Board of Inquiry on Land Officer, Bairnsdale.</i>							
10th June 1879	... | 14 0 0	... |	11 0 0	...	...	Edward J. Agg (Chairman) ... H. C. Stavelly, Thos. Thompson.	Ditto, ditto.

* Government Printer will probably be able to insert this amount.

† Passed against Vote for Commissions and Boards of Inquiry, £137 5s.

‡ Ditto, £93 os. 9d.

§ Ditto, £242 8s. 3d.

|| Ditto, £52 19s. 3d.

Department of Lands and Survey,
Melbourne, 22nd September, 1879.

A. MORRAH,
Secretary for Lands.

PUBLIC WORKS DEPARTMENT.

RETURN to an Order of the Legislative Council on the motion of the Honorable W. Campbell—That there be laid on the Table of the House a Return giving the following particulars relating to each Royal Commission or Board of Enquiry appointed since 1st July, 1877.

A 11.

<i>Particulars Required.</i>	<i>Particulars Furnished.</i>
1. The date of its appointment	1. 9th September, 1878.
2. The object for which it was appointed	2. To examine and report upon suitable stone for the new Houses of Parliament.
3. The total cost connected with it, including the following particulars:—	3. £1123 8s. 1d.
(a) Amount paid or due for transit expenses	(a) £233 12s. 6d.
(b) Amount paid or due for reporting and printing, including proportion of salaries	(b) Nil.
(c) Amount paid or due for hotel or refreshment expenses	(c) £131 6s. 7d.
(d) Amount paid or due to witnesses	(d) Nil.
(e) Amount paid or due for incidental and all other expenses	(e) £758 9s., members' fees, and cost of opening up quarries.
5. The names of the members of each Commission or Board	5. James Leggat, Esq., Chairman. W. Finlay, Esq. J. Cosmo Newberry, Esq. P. Kerr, Esq. Wm. Beardall, Esq. Geo. Chambers, Esq.
6. The names of Members or Officers who certified to the correctness of the accounts to the Treasury	6. James Leggat, Esq., Chairman of Board, and Charles Le Cren, Esq., Secretary for Public Works.

7th October, 1879.

CHARLES LE CREN, Secretary for Public Works.

YAN YEAN WATER SUPPLY.

COMMISSIONS AND BOARDS OF ENQUIRY.

THE HON. W. CAMPBELL, in accordance with *amended* notice, moved—That there be laid on the Table of the House a Return giving the following particulars relating to each Royal Commission or Board of Enquiry appointed since 1st July, 1877.

6

B

<i>Questions.</i>	<i>Answers.</i>
1. The date of its appointment	(1.) 26th March, 1878.
2. The object for which it was appointed	(2.) To inquire into and report upon the circumstances in connection with the recent damage to the Yan Yean Aqueduct, and the means to be adopted to prevent a recurrence of a similar casualty; likewise as to the supply generally, with a view of preventing in future the city and suburbs being at any time deprived of water.
3. The total cost connected with it, including the following particulars:—	(3.) £206 14s.
(a) Amount paid or due for transit expenses	(a) £52.
(b) Amount paid or due for reporting and printing, including proportion of salaries	(b) £109 6s.
(c) Amount paid or due for hotel or refreshment expenses	(c) £116 6s.
(d) Amount paid or due to witnesses	(d) Nil.
(e) Amount paid or due for incidental and all other expenses	(e) £38 8s.
5. The names of the Members of each Commission or Board	5. John Nimmo, Esq., M.P. (Chairman), Alexander Kennedy Smith, Esq., M.P., George David Langridge, Esq., M.P., Albert Lee Tucker, Esq., M.P., William Elsdon, Esq., C.E.
6. The names of Members or Officers who certified to the correctness of the accounts to the Treasury	6. John Nimmo (Chairman), Charles Le Cren, Secretary Public Works.

Water Supply Office, Melbourne, 30th September 1879.

CHARLES LE CREN, Secretary.

TRADE AND CUSTOMS DEPARTMENT.

PARTICULARS respecting Boards of Enquiry appointed since the 1st July, 1877.

Date of Appointment,	Object for which it was appointed.	The total Cost connected with it, including the following particulars:—					The Names of the Members of each Board.	The Names of Members or Officers who certified to the correctness of the Accounts.
		Amount paid or due for Transit Expenses.	Amount paid or due for Reporting and Printing, including proportion of Salaries.	Amount paid or due for Hotel or Refreshment Expenses.	Amount paid or due for Witnesses.	Amount paid or due for Incidental and all other Expenses.		
		£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.		
27th August, 1877 ...	... To enquire into certain charges brought by Mr. Trist, Master of the <i>Secret</i> , against J. Anderson, Light-keeper, Port Albert	7 5 0	Nil	Nil	Nil	6 6 0	J. H. Alley, Esq., Capt. E. Slade, R.N., L. Kabat, Esq.	Chief Harbor Master as regards £2 ; the rest by the Under Secretary.
7th January, 1878 ...	... To enquire into the subject of Wattle Bark	128 0 0	60 0 0	124 2 6	...	244 19 7	Baron von Mueller, C.M.G. J. Bosisto, Esq., M.P., T. Cope, Esq., M.P., E. J. Dixon, Esq., M.P., G. A. Fincham, Esq., M.P., M. L. King, Esq., M.P., J. Rees, Esq., M.P.	Under Secretary.
29th January, 1878...	... To enquire into charges preferred against T. Leggatt, Signalman, Port Albert, by his superior officer, Mr. Falconbridge, and countercharge against Mr. Falconbridge by Leggatt	Nil	Nil	Nil	Nil	3 3 0	J. H. Alley, Esq., P.M., Capt. E. Slade, R.N., J. Ferris, Esq.	Under Secretary.
8th April, 1878 ...	... To enquire into charges brought by L. Gray, Blacksmith, against Mr. G. Birnie, Superintendent of Dock-yard, &c.	Nil	Nil	Nil	Nil	Nil	A. L. Tucker, Esq., M.P., D. Gaunson, Esq., M.P., J. Andrew, Esq., M.P.	
3rd October, 1878 ...	... To enquire into charges preferred against Mr. P. Baker, Weigher H.M. Customs	Nil	Nil	Nil	Nil	Nil	Hon. S. H. Bindon, A. T. Clark, Esq., M.P., F. Call, Esq., M.P.	
24th June, 1879 ...	... To enquire into and report on the Fish Trade of Melbourne	Nil	Nil	Nil	Nil	Nil	F. L. Smyth, Esq., M.P., F. C. Mason, Esq., M.P., B. G. Davies, Esq., Capt. C. B. Payne, R.N., Chief Harbor Master.	

NOTE.—See also Supplementary Return, Chief Secretary's Department.

POST OFFICE AND TELEGRAPH DEPARTMENT.

RETURN showing particulars of Boards of Enquiry appointed since 1st July, 1877, in connection with matters relating to the Post Office and Telegraph Department.

Date of Appointment.	Object for which appointed.	Cost in connection with Board.						Names of Members of Board.	Names of Members or Officers who certified to correctness of Accounts.
		Transit Expenses.	Reporting and Printing.	Hotel or Refreshment Expenses.	Amount paid to Witnesses.	Incidental and other Expenses.	Total Expenses.		
		£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.		
12th November, 1877 ...	To enquire into charge preferred against Line-Repairer John Hayes for being absent without leave	3 6 6	...	...	...	2 0 0	5 6 6	{ Mr. Call, P.M., Mr. Hunt, M.P., Captain Bance, R.N.	
12th November, 1877 ...	To enquire into charge of drunkenness, &c., brought against Letter-Carrier Hinds								
12th August, 1878 ...	To enquire into certain charges preferred against Line-Repairer Comyns of taking receipt for livery of Government horse, and not paying the money, &c.	...	...	...	...	...	...	Mr. Storey, M.P., Mr. Cook, M.P., Mr. Bosisto, M.P.	
12th August, 1878 ...	To enquire into and report upon circumstances attending the construction of the Loop Telegraph Line between Buln Buln and the Railway Station at Drouin, and trespass on private lands of certain selectors	9 17 0	...	8 7 0	2 0 0	6 0 0	26 4 0	Mr. Storey, M.P., Mr. Cook, M.P., Mr. Bosisto, M.P.	
9th December, 1878 ...	To enquire into charges of drunkenness and absence from duty without leave brought against Sorter Thomas Cork	...	...	...	...	...	...	Mr. Tucker, M.P., Mr. Langridge, M.P., Mr. Le Cren.	
17th December, 1878 ...	To enquire into statements made by Mrs. Worley relative to death of her husband, S. P. Worley, formerly an Assistant Letter-Carrier	...	...	...	...	...	...	Mr. Mirams, M.P., Mr. Andrew, M.P., Mr. Couchman.	
27th May, 1879 ...	To enquire into circumstances connected with the separation or removal of bank notes from the envelope of a registered letter while under the charge of Mr. J. L. Keeling	...	...	...	...	...	...	Mr. Fergusson, M.P., Mr. Harriman, Mr. Couchman.	

Post Office and Telegraph Department,
Melbourne, 15th September, 1879.

T. W. JACKSON,
Deputy Postmaster-General.

RAILWAY DEPARTMENT.

COMMISSIONS and Boards of Inquiry appointed in connection with the Railway Department since 1st July, 1877.

Date of Appointment.	Object of Appointment.	(a) Amount paid or due for Transit Expenses.	(b) Amount paid or due for Reporting and Printing, including pro- portion of Salaries.	(c) Amount paid or due for Hotel or Refreshment Expenses.	(d) Amount paid or due to Witnesses.	(e) Amount paid or due for Incidental and all other Expenses.	Total Cost.	Names of Members.	Accounts certified to by—
		£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.		
5th July, 1877 ...	<i>Cundy Board.</i> To inquire whether Wm. Cundy in- efficiently performed his duties as Inspector of Colonial made Locomo- tives	...	...	14 4 0	8 14 1	24 3 0	47 1 1	R. Richardson, Esq., M.P. (Chairman) J. Holmes, Esq., P.M., J. Bunce, Esq.	The Chairman.
30th July, 1877 ...	<i>Power Board.</i> To inquire into certain charges pre- ferred against G. J. Power, Cash Clerk, of irregularities and gross carelessness in the discharge of his duties	...	...	5 5 0	...	3 3 0	8 8 0	M. L. King, Esq., M.P. (Chairman) ... T. Cope, Esq., M.P., J. Andrew, M.P.	The Chairman.
22nd October, 1877 ...	<i>Nason Board.</i> To inquire into certain charges of irregularities and insubordination preferred against J. Nason, Time- keeper	...	*21 0 0	3 7 0	...	12 12 0	36 19 0	E. J. Dixon, Esq., M.P. (Chairman) ... G. R. Fincham, Esq., M.P., J. H. Graves, Esq., M.P.	The Chairman.
6th February, 1878 ...	<i>Echuca Bridge Commission.</i> To inquire into certain matters con- nected with the design and construc- tion of the Bridge over the Murray at Echuca	...	†115 11 0	55 6 2	18 18 0	54 9 0	244 4 2	R. Richardson, Esq., M.P. (President) A. K. Smith, Esq., M.P., J. Bunce, Esq.	The President.

* Paid by Government Printer and Shorthand writer, £115 11s. 9d.—† Paid by Government Printer and Shorthand writer, £163 10s. 9d.

NOTE.—Government Shorthand writers were employed in connection with the Nason Board and the Echuca Bridge Commission, but this department is unable to say what proportion of their salaries is respectively chargeable to the expenses of these Boards.

MINING DEPARTMENT.

SAFETY CAGE BOARD.

1. The date of its appointment.—9th May, 1878.
2. The object for which it was appointed.—To examine the several inventions for safety mining cages which have been brought under the notice of the Mining Department and to report as to those which appear to be most effective for the purpose intended.
3. The total cost connected with it, including the following particulars :—
 - (a) Amount paid or due for transit expenses.
 - (b) Amount due or paid for reporting and printing, including proportion of salaries.
 - (c) Amount paid or due for hotel or refreshment expenses.
 - (d) Amount paid or due to witnesses.
 - (e) Amount paid or due for incidental and all other expenses.—
 The expenses of the Board were defrayed out of—Appropriation of Revenue, Chief Secretary, Miscellaneous—Expenses of Commissions and Boards of Inquiry.

NOTE.—See Supplementary Return, Chief Secretary's Department.

5. The names of the members of each Commission or Board.—

R. Clark, Esq., M.P. (Sandhurst),
G. R. Fincham, Esq., M.P.,
A. K. Smith, Esq., M.P.,
R. Richardson, Esq., M.P.,
H. R. Williams, Esq., M.P.
6. The names of members or officers who certified to the correctness of the accounts to the Treasury.—(See Reply to No. 3.)

MINING VOTE.—BOARD OF ADVICE.

1. The date of its appointment.—16th May, 1878.
2. The object for which it was appointed.—To advise as to the best and most effective mode of expending the sum voted for prospecting for goldfields under Subdivision No. 1 of Division No. 78 of the Appropriation Act for the current financial year, in accordance with the regulations framed and published in the *Government Gazette*.
3. The total cost connected with it, including the following particulars :—
 - (a) Amount paid or due for transit expenses.—Paid, £8 17s. 6d. ; due, Nil.
 - (b) Amount paid or due for reporting and printing, including proportion of salaries.—Nil.
 - (c) Amount paid or due for hotel or refreshment expenses.—Paid, £7 7s. 6d. ; due, Nil.
 - (d) Amount paid or due to witnesses.—Nil.
 - (e) Amount paid or due for incidental and all other expenses.—£10.
5. The names of the members of each Commission or Board of Enquiry.—

Frederick Leopold Smyth, Esq., M.P.,	James Farrell, Esq., M.P.,
David Gaunson, Esq., M.P.,	John Lamond Dow, Esq., M.P.,
Daniel Brophy, Esq., M.P.,	Richard Richardson, Esq., M.P.,
Robert Bowman, Esq., M.P.,	Henry Robert Williams, Esq., M.P.,
Robert Clark, Esq., M.P. (Sandhurst),	Peter Wright, Esq., M.P.,
George Billson, Esq., M.P.,	John Orr, Esq., M.P.
6. The names of members or officers who certified to the correctness of the accounts to the Treasury.—

W. C. Smith, Minister of Mines (Chairman of the Board),
T. Couchman, Esq., Secretary for Mines.

J. H.

1879.

VICTORIA.

STOCK DEPARTMENT.

CERTAIN RETURNS TO AN ORDER OF THE LEGISLATIVE COUNCIL.

THE HONORABLE W. WILSON, 3RD DECEMBER 1879.

LAI D ON THE COUNCIL TABLE BY THE HONORABLE H. CUTHBERT, AND ORDERED BY THE COUNCIL TO BE PRINTED, 3RD DECEMBER 1879.

RETURNS showing—

1. Annual Report of Stock Department for the last three years.
2. How many cases of Pleuro-pneumonia and other diseases have been reported during that period?
3. How many prosecutions have been made at the instance of the Department?
4. What steps were taken in cases of reported disease in detail?

No. 1.—There are no Annual Reports furnished by the Stock Department.

Nos. 2, 3, 4.—See papers herewith.

W. H. ODGERS.

2.—How many cases of Pleuro-pneumonia and other diseases have been reported during that period?

Ans.—Ninety-five (95) cases.

3.—How many Prosecutions have been made at the instance of the Department?

Ans.—I could not say accurately without communicating with such of the Inspectors as are still alive, which would cause a long delay, but they may be set down at about 20 or 25; at all events, convictions were obtained in 13 cases.

4.—What steps were taken in cases of reported disease, in detail?

Here follow the Replies in detail to this question, viz. :—

Inspectors.	Names of Diseases and Cases.	Steps taken.	Prosecutions.
MONTH OF NOVEMBER 1876.			
J. F. Shaw ...	Pleuro—2 cows ...	Both destroyed ...	Owner not proceeded against, he having consented to destroy these animals.
R. Kerr ...	Small per centage of herd of 2450	Recovered from mild form of Pleuro	Ditto.
J. Riley ...	Three cases of Pleurisy, 7 head of cattle	Owners treated them. Some recovered and some died.	
MONTH OF DECEMBER 1876.			
J. Riley ...	Pleurisy—4 head of cattle ...	One killed, others recovered ...	Not necessary.
J. F. Shaw ...	Pleuro—2 head on the common pound, the City	Destroyed with the consent of the owner	Owner having consented to destroy, no proceedings necessary.
MONTH OF JANUARY 1877.			
Richd. Perry ...	Pleuro—1 beast ...	Destroyed ...	Proceedings against owner unnecessary.
W. H. Stephen ...	Ditto—1 ditto ...	Destroyed ...	Ditto.
W. H. Stephen ...	Suspected Pleuro—herd of cattle	No foundation for report	Ditto.
M. McEachern ...	Pleuro—2 head ...	Destroyed ...	Ditto.
W. H. Stephen ...	Suspected Pleuro in herd of cattle	Two head destroyed, all the others healthy	Ditto.

RETURNS—*continued.*

Inspectors.	Names of Diseases and Cases.	Steps taken.	Prosecutions.
MONTH OF FEBRUARY 1877.			
J. F. Shaw ...	Pleuro—1 cow ...	Destroyed with the consent of the owner	Proceedings against owner unnecessary.
M. McEachern ...	Black Quarter—4 calves ...	Died ...	Ditto.
MONTH OF APRIL 1877.			
R. Perry ...	Pleuro—1 beast ...	Quarantine ...	Proceedings not necessary.
MONTH OF MAY 1877.			
M. McEachern ...	Supposed Pleuro ...	Found not to be Pleuro, but wheezing in throat. No steps taken.	
R. Stirling*	Pleuro—supposed ...	Ditto.	
MONTHS OF JUNE AND JULY 1877.			
Nil. Nil.			
MONTH OF AUGUST 1877.			
James Riley ...	Bronchitis—4 head ...	No steps taken ...	Proceedings not necessary.
Robt. Stirling ...	Pleuro—2 head ...	Isolated and destroyed.	
MONTH OF SEPTEMBER 1877.			
J. F. Shaw ...	Scab—14 scabby sheep were found on board the mail steamer	Destroyed by order of Inspector	The captain of the steamer having consented to destroy these scabby sheep, no proceedings were taken.
W. H. Stephen ...	Suspected outbreak of Pleuro—15 head—several deaths	Inspected the cattle; pronounced the herd to be suffering from starvation, and not from disease	Proceedings not necessary.
MONTH OF OCTOBER 1877.			
J. Riley ...	Pleuro—1 beast ...	Destroyed by request of Colac Shire Council, having been found on the roads	Owner fined £20, with £10 10s. costs.
MONTH OF NOVEMBER 1877.			
W. H. Stephen ...	Pleuro—3 beasts ...	Died; no symptoms in rest of herd	Proceedings not necessary.
MONTH OF DECEMBER 1877.			
R. Perry ...	Pleuro—6 head ...	Quarantined ...	Proceedings not necessary.
MONTH OF JANUARY 1878.			
J. Riley ...	Pleuro said to be in a herd of 220 head of cattle	Inspected and found cattle healthy; one died from inflammation and from being choked	Proceedings not necessary.
R. Perry ...	Pleuro—1 beast ...	Destroyed ...	Proceedings not taken, owner having destroyed beast.
W. H. Stephen ...	Cumberland Disease—5 cows, 13 pigs	Died; farms placed in quarantine, and released when the disease had disappeared	Proceedings not necessary, owners having taken every precaution.
MONTH OF FEBRUARY 1878.			
J. F. Shaw ...	Pleuro—1 cow ...	Destroyed by stockowners in neighborhood	Proceedings not necessary.
W. H. Stephen ...	Pleuro—1 cow ...	Destroyed; none of the others showed signs of disease	Proceedings not necessary; owners having consented to destroy.
MONTH OF MARCH 1878.			
W. H. Stephen ...	Pleuro was reported in a herd of 290 head	Inspected and found report false	Not necessary.
MONTH OF APRIL 1878.			
W. H. Stephen ...	Pleuro—20 head of cattle ...	Found 3 beasts had died; others isolated in a securely fenced paddock	Not necessary.
MONTH OF MAY 1878.			
R. Stirling ...	Pleuro—14 beasts on various farms	Destroyed—died; remainder of herd inoculated and placed in quarantine	Proceedings not necessary; the owners having destroyed the diseased ones and isolated the others.
W. H. Stephen ...	Pleuro—2 head ...	Died ...	Ditto.
MONTH OF JUNE 1878.			
W. H. Stephen ...	Pleuro—1 head; 1 dead cow found in paddock	Destroyed in presence of Inspector; farm placed in quarantine	Proceedings not necessary; the owners having destroyed the diseased ones and isolated the others.

* R. Stirling, for July:—One head of cattle, suffering from Pleuro, subsequently recovered.

RETURNS—*continued.*

Inspectors.	Names of Diseases and Cases.	Steps taken.	Prosecutions.
MONTH OF JULY 1878.			
J. F. Shaw ...	Pleuro—2 cows ...	Destroyed, and land placed in quarantine	Proceedings not necessary; the owner having destroyed the diseased ones and isolated the others.
R. Stirling ...	Pleuro—1 beast; 2 ditto ...	Destroyed; quarantined ...	Ditto.
J. Riley ...	Pleuro—1 cow ...	Destroyed by owner ...	Ditto.
R. Perry ...	Pleuro—3 beasts ...	Ditto ...	Ditto.
W. H. Stephen ...	Pleuro—25 head ...	Died and destroyed ...	Ditto.
W. H. Stephen ...	Pleuro—3 head ...	Died, and remainder inoculated	Ditto.
MONTH OF AUGUST 1878.			
W. H. Stephen ...	Pleuro—2 head ...	Isolated in secure paddock ...	Proceedings not necessary.
R. Perry ...	Pleuro—1 head ...	Destroyed by Inspector ...	Ditto.
J. Riley ...	Pleuro—1 head ...	Destroyed by Inspector ...	Ditto.
MONTH OF SEPTEMBER 1878.			
A. Perry ...	Pleuro—1 head ...	Isolated in secure paddock ...	Proceedings not necessary.
W. Spurling ...	Pleuro—1 head ...	Destroyed by owner, and remainder of herd placed in a secure paddock	Ditto.
W. H. Stephen ...	Pleuro—1 head ...	Destroyed in presence of the Inspector	Ditto.
W. H. Stephen ...	Pleuro—1 head ...	Destroyed in presence of Inspector	Ditto.
W. H. Stephen ...	Pleuro—1 head ...	Destroyed in presence of the Inspector	The owner having consented to destroy, proceedings were not necessary.
MONTH OF OCTOBER 1878.			
W. Spurling ...	Pleuro—1 head ...	Destroyed by the owner ...	Every precaution having been taken, proceedings not necessary.
W. H. Stephen ...	Pleuro—6 head ...	Ditto ...	Ditto.
W. H. Stephen ...	Pleuro—2 head ...	Ditto ...	Ditto.
J. Riley ...	Pleurisy—19 head ...	Destroyed and died ...	Ditto.
E. Elliget ...	Pleuro—2 head ...	Died ...	Ditto.
R. Stirling ...	Pleuro—3 head ...	Destroyed ...	Ditto.
R. Perry ...	Pleuro—11 head ...	Destroyed in the presence of the Inspector	Ditto.
MONTH OF NOVEMBER 1878.			
W. H. Stephen ...	Pleuro—1 head ...	Died ...	Owner fined £10 under sec. 23 of Regulations.
A. Perry ...	Pleuro—13 head ...	Destroyed in presence of Inspector	Owner having destroyed cattle, proceedings not necessary.
J. F. Shaw ...	Pleuro—1 head ...	Destroyed ...	Agent prosecuted; case dismissed.
MONTH OF JANUARY 1879.			
R. Perry ...	Pleuro—1 head ...	Destroyed in presence of Inspector	The owner having destroyed, proceedings not necessary.
W. H. Stephen ...	Pleuro—1 head ...	Ditto ...	Ditto.
W. H. Stephen ...	Pleuro—2 head ...	Ditto ...	Ditto.
W. Spurling ...	Pleuro—1 head ...	Ditto ...	Ditto.
R. Stirling ...	Pleuro—1 head ...	Ditto ...	Ditto.
MONTH OF FEBRUARY 1879.			
R. Stirling ...	Pleuro—1 head ...	Destroyed ...	No proceedings necessary.
J. Riley ...	Pleurisy—1 head ...	Died ...	Ditto.
J. Riley ...	Bronchitis—1 bull ...	Ditto ...	Ditto.
MONTH OF MARCH 1879.			
W. Spurling ...	Suspected Pleuro ...	Inspector found them to all appearance healthy	No proceedings necessary.
W. H. Stephen ...	Suspected Pleuro in herd of 79 head	Cause of death, from want of feed; to all appearance healthy	Ditto.
MONTH OF MAY 1879.			
J. Riley ...	Suspected Pleuro—2 cows ...	Died; supposed from eating some poisonous herb	No proceedings necessary.
MONTH OF JUNE 1879.			
J. F. Shaw ...	Pleuro—1 cow ...	Destroyed ...	Proceedings not necessary.
MONTH OF JULY 1879.			
W. Spurling ...	Pleuro—3 cows ...	Died; remainder kept in secure place	Proceedings not necessary.
W. H. Stephen ...	Pleuro—2 head ...	Destroyed ...	Ditto.
W. H. Stephen ...	Suspected Pleuro in 39 head of cattle	On inspection, Inspector found them healthy, but in dreadfully low condition	Ditto.

RETURNS—*continued.*

Inspectors.	Names of Diseases and Cases.	Steps taken.	Prosecutions.
MONTH OF SEPTEMBER 1879.			
W. H. Stephen ...	Pleuro—2 head ...	Destroyed by owner ...	Proceedings not necessary.
W. H. Stephen ...	Pleuro—10 head ...	Nine died, 1 destroyed, remainder inoculated	Ditto.
W. H. Stephen ...	Pleuro—1 cow ...	Destroyed at abattoirs ...	Ditto.
R. Perry ...	Pleuro—3 head ...	Destroyed in presence of the Inspector.	
MONTH OF OCTOBER 1879.			
W. H. Stephen ...	Pleuro—2 head ...	Destroyed by owner in presence of police	Prosecuted by police, but case dismissed.
R. Perry ...	Pleuro—1 head ...	Destroyed in presence of the Inspector	Proceedings not necessary.
R. Stirling ...	Pleuro—2 head ...	Ditto ...	Ditto.
R. Stirling ...	Pleuro—1 head ...	Ditto ...	Ditto.
F. M. Cobham ...	Pleuro—18 head belonging to 14 different owners, and reported at various times	Destroyed with the consent of the several owners	Ditto.
MONTH OF NOVEMBER 1879.			
Returns not to hand yet.			

1st December 1879.

EDWARD M. CURR,
Chief Inspector of Stock.

1879-80.

VICTORIA.

ALTERATIONS AND OMISSIONS IN BOOKS USED
IN STATE SCHOOLS.

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL.
THE HONORABLE J. BALFOUR.—27TH JANUARY, 1880.

LAI D ON THE COUNCIL TABLE BY THE HONORABLE W. WILSON, AND ORDERED BY THE
COUNCIL TO BE PRINTED, 27TH JANUARY, 1880.

COPIES of the Alterations or Omissions made by authority of the Education Department in Nelson's Series of
Royal Readers, and which altered reading books are now used in the State Schools.

RETURN showing the words "expurgated by order of the Education Department from the Royal Readers" published
by T. Nelson and Sons, and the words substituted in place of the same.

ROYAL SCHOOL PRIMER.

Page.	Line.	Words or Passage Excised.	Words or Passage Substituted.
		Nil.	Nil.

ROYAL READER, No. 1.

Page.	Line.	Words or Passage Excised.*	Words or Passage Substituted.*
		SPRING.	SPRING.
43	1	<i>Spring is come</i> , and everything is waking from its winter sleep. The fields are dressed in a fresh robe of green.	<i>Spring is come</i> . The days are growing warmer and longer. The elms and the poplars are putting out leaves. The wattles on the river-banks are in flower. How sweet their scent is! The cherry and the plum trees in the gardens are white with blossom. Parrots scream among the trees, and magpies pipe from the lofty gums. The young lambs play in the fields. The farmers sow grain, and the gardeners dig up the ground and hoe up the weeds. Soon the gardens will be bright with flowers, and the fields green with the young corn. The rain does not now last so long or feel so cold as it did in winter. It is by the rain and sunshine that God makes the corn to grow and the fruit to ripen.
	9	There are buds on the trees, and the wild flowers once more begin to peep forth. The white snow-drop is one of the first flowers of spring. How lovely it is!	
	9	Birds sing among the trees, and begin to get ready their nests for summer.	
44	1	Men begin now to plough and to sow in the fields. The gardener digs the ground, and sows seeds in the garden.	
		The days are warmer, for brighter sunshine has come again. Everything is full of life and joy.	
	9	Soon the soft spring showers will fall, to water the earth and make the seeds to grow.	

* In the column headed "Words or Passage Substituted," the words which, having been previously excised, are re-embodied in the new context, are printed in Italics, as well as in the column headed "Words or Passage Excised."

Page.	Line.	Words or Passage Excised.	Words or Passage Substituted.
44	20	bread come earth	<i>spring</i> come elms leaves
		<i>fields</i> fruit ground	sweet scent plum white
		<i>leaves</i> plough rain	scream <i>fields</i> lambs grain
		<i>sleep</i> <i>spring</i> white	hoe bright grow fruit
		PRONOUNCE in syllables :—	PRONOUNCE in syllables :—
		<i>blos'-som</i> bright'-er	grow-ing wat'-tles riv'-er
		gar'-den pleas'-ant	cher'-ry <i>blos'-som</i> par'-rots
		show'-ers snow'-drop	mag'-pies lof'-ty far'-mers
		sum'-mer <i>win'-ter</i>	gar'-dens flow'-ers <i>win'-ter</i>
	26	<i>Spring.</i> Seeds. Sow. <i>Rain.</i>	<i>Spring.</i> Sweet. Scent. <i>Rain.</i> Pipe. Play. Fruit. Green.
46	15	South	North
	17	South	North
	18	Left	Right
47	2	North	South
	3	Left	Right
		SUMMER.	SUMMER.
51	1	Now it is summer. The days are long, and the sun is up in the sky hours before you are awake.	THE summer has come. The days are long, and the sky is without a cloud. Sometimes there is no rain for weeks. The wind from the north is quite hot, and in town brings up clouds of dust. The leaves of the trees have lost the bright green of spring, and the grass begins to turn brown. Plums and other early fruits are now ripe, and the fields of oats and wheat are ready for reaping. The sheep are now shorn, and their wool is made up into bales and sent away in drays. What a dust these drays raise on the dry roads ; and how strong the horses must be, to draw such big loads.
		The trees are full of leaves, and the garden is gay with flowers.	
		The hay-makers are busy in the fields. Do you know what hay is ? It is long grass cut down and dried. The men who cut it down are called the mowers. They cut it with long sharp scythes, or with reaping machines. And women and girls toss it about in the field, that the wind and the sun may dry it. How sweetly smells the new-mown hay !	
52	9		
	1		
		When the hay is dry, it is made into a hay-stack. It is now ready to be used to feed horses and cows in winter, when there is no grass in the fields for them to eat.	On some days the air is full of smoke, from the grass on the plains or the trees on the mountains taking fire. These fires often do a great deal of harm : the fences on the farms get burned ; and the grass on the runs is also burned, so that there is no food for the poor sheep.
	9		
		AUTUMN.	AUTUMN.
53	1	AUTUMN has come. The green leaves are fading. Some have fallen from the trees, and are now lying dead on the ground.	It is now autumn. The fields are quite yellow, and there is very little grass, for want of rain. The corn has been cut down, and the golden grain packed up in bags and sent to town to be made into the loaves of bread we eat. Grapes, melons, and other late fruits, are ripe. Boys and girls pluck the grapes from the vines. The clusters are put into large vats, to be crushed and made into wine. The apples are packed in boxes and sent to market. Sometimes the sky becomes black with clouds, and a storm comes on. The rain falls in big drops for two or three hours. Then the sun shines, and the grass springs up again. The leaves of the fruit trees, and of such trees as the elm and poplar, begin to turn yellow ; and after a windy night we find many of their leaves on the ground. Soon winter will come with frost and rain.
		Now is the time for fruit. Apples, pears, plums, and all kinds of fruit are ripe.	
		The corn, too, is ripe. The reapers begin to cut it down.* See how the tall stalks nod and waive in the sunshine ! They bend under the weight of the golden grain.	
54	9		
	1		
		How many loaves of bread will be made from that field of wheat ! How many hungry mouths will be fed from it ! When we eat our food let us not forget to thank Him who causes the corn to grow.	
	5		
		WINTER.	WINTER.
57	1	<i>Winter has come at last.</i> There are no flowers now in the garden, and every leaf is gone from the trees.	<i>Winter has come at last.</i> The days are now cooler, and sometimes it rains for nearly a week. The creeks which were almost dry in summer are full of water, so that we cannot cross them. The plains are green again with young grass, and the gum trees and the wattles are no longer dusty and brown ; but the elms and the fruit trees in our gardens have lost all their leaves. Sometimes, when we go out in the morning, we find the grass quite white. This we call frost. The farmers now plough up their fields, and sow the grain that gets ripe in summer. In some places you see the little lambs running after their mothers.
		The snow lies thick upon the ground, and the poor little birds hop about seeking in vain for food.	
		Here comes little robin redbreast. Do you see him on the tree ? He is a bold little fellow. If we put some crumbs of bread upon the window-sill, he will come and pick them up. But we must be very quiet, or he will take fright and fly away. Pretty robin, come again to-morrow, and we will give you some more nice crumbs.	
	10		
58	1		

ROYAL READER, No. 1—continued.

Page.	Line.	Words or Passage Excised.	Words or Passage Substituted.																								
58	5	<p>In winter we should think of the wants of the poor. Many a child has no fire to warm him, little food to eat, or clothing to shield him from the cold. But God has given all these things to you. Thank him with all your heart, and try to help the poor.</p> <p>Though we do not now see leaves and flowers, still the roots of the plants are safely locked up beneath the snow. Again the voice of Spring will be heard. Again the flowers will burst into beauty, and the trees will put on their robe of green. They are not dead. They are only in their winter sleep.</p>	<p>In winter, it is often so cold that we have fires of wood or coal in our houses; and we need strong boots and thick coats to keep us dry and warm. We should thank God with all our heart that we have warm fires and thick clothes for the winter. We should pity those poor little boys and girls that have no boots to wear, and no good clothes to keep out the cold. We should not only pity them; we should try to help them and give them what we can spare.</p>																								
		<table border="0"> <tr> <td>child</td> <td>fright</td> <td>roots</td> <td>their</td> </tr> <tr> <td>crumbs</td> <td>gone</td> <td>shields</td> <td><i>thick</i></td> </tr> <tr> <td>dead</td> <td>leaf</td> <td>snow</td> <td>voice</td> </tr> </table>	child	fright	roots	their	crumbs	gone	shields	<i>thick</i>	dead	leaf	snow	voice	<table border="0"> <tr> <td>week</td> <td>young</td> <td>cool</td> <td>hearts</td> </tr> <tr> <td>cross</td> <td>plough</td> <td><i>thick</i></td> <td>wear</td> </tr> <tr> <td>plains</td> <td>lambs</td> <td>coats</td> <td>should</td> </tr> </table>	week	young	cool	hearts	cross	plough	<i>thick</i>	wear	plains	lambs	coats	should
child	fright	roots	their																								
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		<p>PRONOUNCE in Syllables.</p> <table border="0"> <tr> <td>beau'-ty</td> <td>fel'-low</td> <td>rob'-in</td> <td>win'-dow</td> </tr> <tr> <td>be-neath'</td> <td>qui'-et</td> <td>seek'-ing</td> <td>win'-ter</td> </tr> </table>	beau'-ty	fel'-low	rob'-in	win'-dow	be-neath'	qui'-et	seek'-ing	win'-ter	<p>PRONOUNCE in Syllables :—</p> <table border="0"> <tr> <td>win'-ter</td> <td>al'-most</td> <td>dust'-y</td> <td>lit'-tle</td> </tr> <tr> <td>cool'-er</td> <td>can'-not</td> <td>morn'-ing</td> <td>pit'-y</td> </tr> </table>	win'-ter	al'-most	dust'-y	lit'-tle	cool'-er	can'-not	morn'-ing	pit'-y								
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cool'-er	can'-not	morn'-ing	pit'-y																								
	25	<p>Snow. Winter. Poor. Sleep.</p>	<p>Winter. Poor. Clothes. Should.</p>																								

ROYAL READER No. 2.

Page.	Line.	Words or Passage Excised.	Words or Passage Substituted.
92	13	<p>What kind of weather have we in winter? Very cold, with frost and snow.</p>	<p>What kind of weather have we in winter? Cold and wet, with frost, and sometimes snow on the mountains.</p>
92	17	<p>Of what use is snow? It covers the earth, and guards the seeds and young plants from the frost.</p>	<p>Nil.</p>
92	23	<p>How do we play on the ice? We skate and slide.</p> <p>How do we play with the snow? We build snow-houses, and throw snow-balls.</p> <p>Where do the birds go in winter?—Many of them go to warmer countries—as the swallow, the cuckoo, and the nightingale.</p> <p>What do those that remain do? They come near our houses, and become very tame.</p> <p>How are the birds fed on Christmas-day in some countries? A sheaf of corn is tied on a pole, and put up for them to eat.</p> <p>What birds often hop into the house in winter? The robin redbreast in Britain; the black and white snow-bird in America.</p> <p>What do some animals do in winter? Hide themselves in holes, and sleep for weeks at a time.</p>	<p>What do you notice about the sheep in winter? It is the time when the little lambs play in the fields.</p> <p>What does the farmer do in winter? He ploughs the ground and sows the seed.</p>
93	1	<p>What changes do you then see in nature? The grass becomes green, the flowers begin to send up new leaves, and the little buds appear on the hedges and trees.</p> <p>What does the farmer do in spring? He ploughs and harrows the ground, and sows the seed.</p> <p>What is a harrow? A large kind of rake with long teeth, used to break the clods of earth which the plough has turned up.</p> <p>When is the ground harrowed again? After the seed is sown, to cover the seeds with earth.</p> <p>What is the young corn like? Green, like blades of grass.</p> <p>What helps it to grow? The rain and the sunshine.</p> <p>What do the birds do in spring? They begin to build their nests.</p> <p>What are the chief birds of spring? The thrush and the cuckoo, in England; in America, the robin and the song-sparrow. The cuckoo is called in England the bird of spring.</p>	<p>What changes do you then see in nature? The leaves on the gum-tree and the wattle are a brighter green, and the fruit-trees in the gardens, the elms and the poplars, come into leaf. The plum and the cherry trees are white with blossoms.</p> <p>What change occurs in the ploughed fields? They become a bright green, from the young corn springing up.</p>
93	23	<p>What goes on in the fields in summer? Haymaking.</p> <p>What is hay? Ripe grass cut down and dried in the sun.</p> <p>For what is it used? To feed horses and cows, chiefly in winter, when they cannot get fresh grass.</p> <p>What is the corn like in summer? It is full-grown, the ears are formed on the stalk, and it is growing yellow as it ripens in the sun.</p> <p>What do you notice about the sheep in summer? It is the time when the little lambs play in the fields.</p> <p>What is done to the sheep then? They are washed in a pool or stream, and then their wool is shorn.</p>	<p>What goes on in the fields in summer? Harvest; that is, the corn is cut down and gathered in.</p> <p>How is this done? First the corn is cut down by reaping-machines drawn by horses; it is then bound in bundles, and taken in drays to the threshing-machine, where the grain is separated from the straw.</p> <p>What is done with the grain? It is put into bags and taken to the mill.</p> <p>What is done at the mill? The corn is ground into a fine white powder, which is called flour.</p> <p>Who buy the flour? Bakers buy the flour, to make it into bread.</p> <p>What is done to the sheep in summer? Their wool is shorn.</p>
	41		

ROYAL READER No. 2—continued.

Page.	Line.	Words or Passage Excised.	Words or Passage Substituted.																																
94	1	<p>What are the birds doing in summer? The young birds have learned to fly about and are singing in the woods. What bird comes back to us in summer? The swallow. Why are the woods and fields so pleasant in summer? The flowers are in full bloom, the air is sweet and soft, and the trees shelter us from the warm sunshine. What is midsummer day? The longest day in the year. And after that? The days get shorter and shorter, and so we are carried into Autumn.</p> <p>AUTUMN.—What is Autumn the season of? Of harvest. What is harvest? The in-gathering of the fruits of the earth. What is the first work the farmer has to do then? Reaping or cutting down the corn. What is done with it after it is cut down? It is left in the field to dry for some time, and is then built into stacks. What is done with it when it is required for food? It is sent to the threshing-mill, where the seeds are separated from the straw and from the chaff. What is straw? The stalk or stem of corn. What is it used for? As bedding for horses and as roofing for houses. Sometimes it is plaited, and made into hats and bonnets. What is chaff? The empty husk of the corn-seed. Where is the seed sent from the threshing-mill? To the flour-mill to be ground into flour and meal. Where is it sent next? It is now ready for the baker, who makes it into loaves and rolls. What kind of flour is chiefly used in making bread? Wheat-flour. What does the farmer grow besides hay and corn? Pease and beans for his horses; turnips for his cattle in winter; and potatoes to last us till next summer. What else is gathered in autumn? Fruit is gathered, in gardens and orchards; nuts and blackberries are gathered in the woods.</p>	<p>AUTUMN.—What fruits are ripe in autumn? Grapes, melons, and apples. What is done with grapes? They are gathered by boys and girls, and are put into a large vat and crushed. The juice is made into wine. What is done with apples? They are gathered and put in boxes and sent to market. But what difference is there? After the middle of spring, the days get longer and the nights shorter; after the middle of autumn, the days get shorter and the nights longer. And after autumn? We pass again to the cold days of winter.</p> <p>PRONOUNCE in syllables :—</p> <table border="0"> <tr> <td>sea'-sons</td> <td>cold'-est</td> <td>weath'-er</td> <td>sur'-face</td> </tr> <tr> <td>di-vid'-ed</td> <td>nor'-thern</td> <td>moun'-tains</td> <td>di'-fer-ence</td> </tr> <tr> <td>sum'-mer</td> <td>south'-ern</td> <td>fro'-zen</td> <td>in'-jure</td> </tr> <tr> <td>au'-tumn</td> <td>di-rect'-ly</td> <td>crum'-bles</td> <td>ma-chine'</td> </tr> <tr> <td>win'-ter</td> <td>loñ'-gest</td> <td>in'-sects</td> <td>har'-vest</td> </tr> </table> <p>WRITE :—</p> <table border="0"> <tr> <td>spring</td> <td>lamb</td> <td>bright</td> <td>grain</td> </tr> <tr> <td>frost</td> <td>ploughs</td> <td>length</td> <td>flour</td> </tr> <tr> <td>snow</td> <td>fields</td> <td>drays</td> <td>juice</td> </tr> </table>	sea'-sons	cold'-est	weath'-er	sur'-face	di-vid'-ed	nor'-thern	moun'-tains	di'-fer-ence	sum'-mer	south'-ern	fro'-zen	in'-jure	au'-tumn	di-rect'-ly	crum'-bles	ma-chine'	win'-ter	loñ'-gest	in'-sects	har'-vest	spring	lamb	bright	grain	frost	ploughs	length	flour	snow	fields	drays	juice
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ROYAL READER No. 3.

Page.	Line.	Words or Passage Excised.	Words or Passage Substituted.
		Nil.	Nil.

ROYAL READER No. 4.

Page.	Line.	Words or Passage Excised.	Words or Passage Substituted.
20	20	Christian	Religious
133	1	<p>MORE than half a century passed away. That aged and faithful man of God had long ago been gathered to his fathers, though his memory still lingered in many a retired glen, among the children's children of parents whom he had baptized. His son, whose locks were white with age, was preaching to a congregation of <i>Highlanders in one of our great cities</i>. The subject of his discourse was the love of Christ. In illustrating the self-sacrificing nature of that "love which seeketh not her own," he narrated the above story of the Highland widow, whom he had himself known in his boyhood, and he asked, "If that child is now alive, what would you think of his heart, if he did not cherish an</p>	<p>More than half a century later, the son of that clergyman was one day <i>preaching to a congregation of Highlanders in one of our great cities</i>. In the course of his sermon he told the above story of the widow and her son, and he asked, "If that child is now alive, what would you think of his heart if he did not cherish an affection for his mother's memory?" During the following week he was called to visit a dying soldier. The sick man grasped the minister's hand and said, "You do not know me, I dare say; but I know you well. After being a wanderer in many lands, I came to this town a few weeks ago in bad health. Last Sunday I went to your church, and heard you tell the story of the widow and her son."</p>

Page.	Line.	Words or Passage Excised.	Words or Passage Substituted.
133	15	affection for his mother's memory ; and if the sight of her poor tattered shawl, which he had wrapped around him, in order to save his life at the cost of her own, did not fill him with gratitude and love too deep for words? Yet what hearts have you, my hearers, if in memory of your Saviour's sacrifice of himself, you do not feel them glow with deeper love and with adoring gratitude?"	Here his <i>voice faltered</i> ; but recovering himself, he cried, "I am that son!" and burst into tears.
		A few days later, a message was sent to this clergyman by a dying man, who requested to see him. The request was speedily complied with.	"Yes," he continued, "I am that son! Never, never did I forget my mother's love. Well might you ask, What a heart should mine have been if she had been forgotten by me? Very dear to me is her memory; and my only desire is, to lay my bones beside hers in the old church-yard among the hills."
134	28	The sick man seized the minister by the hand, and, gazing intently in his face, said, "You do not, you cannot recognize me. But I know you, and knew your father before you. I have been a wanderer in many lands. I have visited every quarter of the globe, and fought and bled for my king and country.	The wish, thus fervently expressed, was not forgotten when, a few days later, the old soldier died.
	1	"I came to this town a few weeks ago in bad health. Last Lord's day I entered your church—the church of my countrymen—where I could once more hear, in the language of my youth and of my heart, the gospel preached. I heard you tell the story of the widow and her son." Here the voice of the old soldier faltered, his emotion almost choked his utterance; but recovering himself for a moment, he cried, "I am that son!" and burst into a flood of tears.	QUESTIONS.—Who were out in the storm? What part did she succeed in reaching? How far off was her cottage? Where did she at last find shelter? What did she do with her child? What did she resolve to do when night came on? What did the villagers find next morning? How did they discover her child? What did the pastor do that evening? Who referred to the incident more than half a century afterwards? Where? Whom was the preacher called to visit the following week? Whom did he declare himself to be? What were his feelings toward his mother's memory? What wish did he express?
		"Yes," he continued, "I am that son! Never, never did I forget my mother's love. Well might you ask what a heart should mine have been if she had been forgotten by me. Dear, very dear to me is her memory; and my only desire now is, to lay my bones beside hers in the old church-yard among the hills.	PRONOUNCE in syllables :— hab-i-ta'-tion preç'-i-piç-es shep'-herds cler'-gy-man jour'-ney ac-cu'-mu-lât-ing as-sist'-ance con'-gre-ga'-tion re-mem'-bered ap-proached' lan'-guage fal'-tered at-tempt'-ed ex-am'-in-ing ex-hor-ta'-tion con-tin'-ued
	22	"But, sir, what breaks my heart and covers me with shame is this—until now I never truly saw the love of my Saviour in giving himself for me. I confess it! I confess it!" he cried, looking up to heaven, his eyes streaming with tears; and pressing the minister's hand close to his breast, he added, "It was God who made you tell that story.	FORGIVENESS. A-maze'-ment, great wonder. Col'-onel (kur-nel), the chief officer of a regiment. Con-fine'-ment, being put in prison; imprisonment. Cul'-prit, offender; one charged with a fault. Faç'-ings, the collar and lapel of a soldier's coat; of a different colour from the rest, as green facings on a red
	32	"Praise be to his holy name that my dear mother did not die in vain; and that the prayers which, I was told, she used to offer for me have been at last answered: for the love of my mother has been blessed in making me see, as I never saw before, the love of my Saviour. I see it; I believe it. I have found deliverance in old age where I found it in my childhood—in the clift of the Rock; but it is the ROCK OF AGES!"	coat, red facings on a blue coat. Gar'-ri-son town, a town having barracks, or a castle, in which soldiers stay. Per-verse', stubborn; unable to be kept right. Sol'-i-ta-ry, lonely; by oneself. Sur-prised', made to wonder.
135	1	And clasping his hands, he repeated, with intense fervour, "Can a mother forget her sucking child, that she should not have compassion on the son of her womb? They may forget, yet will I not forget thee!"	A SOLDIER, whose regiment was in a garrison* town in England, was about to be brought before his colonel* for some offence. He was an old offender, and had been often punished. "Here he is again," said the officer, on his name being mentioned. "Flogging, disgrace, solitary* confinement*—everything has been tried with him." The sergeant stepped forward, and asking pardon for the liberty he took, said, "There is one thing which has never been done with him yet, sir." "What is that?" said the officer. "Well, sir," said the sergeant, "he has never been forgiven." "Forgiven!" said the colonel, surprised* at the advice. He thought for a few moments, then ordered the culprit* to be brought in, and asked him what he had to say to the charge. "Nothing, sir," was his reply; "only—I am sorry for what I have done." Turning a kind and pitiful look on the man, who expected nothing less than that his punishment would be increased, as he had offended so often before, the colonel addressed him, saying, "Well, we have tried everything with you, and now we are resolved—to forgive you." The soldier was struck dumb with amazement.* The tears started to his eyes, and he wept like a child. He was humbled to the dust, and thanking his colonel, he retired. To be the old, perverse,* vicious man? No; from that day forward he was a new man. He who tells the story had him for years under his eye, and a better conducted man never wore the Queen's facings.* In him kindness bent one whom harshness could not break.
	12	QUESTIONS—Who referred to the incident more than half a century afterwards? Where? For what purpose? who sent for the preacher a few days later? Who did he declare himself to be? What were his feelings towards his mother's memory? What covered him with shame? What effect had the story had upon him?	
	13	PRONOUNCE in syllables :— con'-gre-ga'-tion sac'-ri-fice ut'-ter-ance re-peat'-ed il-lus'-trât-ing a-dör'-ing for-got'-ten fer-vour grat'-i-tude rec-og-nize' de-liv'-er-ance com-pas'-sion	

ROYAL READER No. 4—continued.

Page.	Line.	Words or Passage Excised.	Words or Passage Substituted.
			<p>Have you to do with one upon whom you have tried every kind of punishment in vain? The next time you are going to strike the blow, stay your hand, and say, "Well, I have tried everything with you; now I have resolved to forgive you."</p> <p>QUESTIONS—Before whom was a soldier about to be brought? What did the colonel say when his name was mentioned? What did the sergeant advise? What did the colonel ask the culprit when brought in? What did he reply? What did the soldier expect? What did the officer say to him? How did this affect the soldier? What change did it make in his conduct? What had failed to break him before? What bent him now?</p> <p>PRONOUNCE in syllables :—</p> <p>reg'-i-ment ser'-geant ex-pect'-ed con-duct'-ed of-fen'-der lib'-er-ty pun'-ish-ment kind'-ness men'-tioned pit'-i-ful vi'-cious con'-quered</p>
		<p>Dictation :—</p>	<p>Dictation :—</p>
135	23	<p>More than half a century later, the child, grown to be a battered old soldier, heard from the pulpit the story of his mother's death; and was thereby led to see the self-sacrificing love of his Saviour.</p>	<p>So, in the hardest human heart, One little well appears,— A fountain in some hidden part, Brimful of gentle tears.</p>
	31	<p>Yea, fainter than the star's pale ray Before the noontide blaze of day, Is all of love that man can know, All that in angel hearts can glow, Compared, O Lord, with thine!</p>	<p>It only needs the master-touch Of Love's or Pity's hand, And, lo! the rock with water bursts, And gushes o'er the land.</p>
201	36	THE GREAT REFORMER, JOHN WYCLIFFE.	THE CELEBRATED JOHN WYCLIFFE.
248	14	<p>When I think of all that the human hand has wrought, from the day when Eve put forth her erring hand to pluck the fruit of the forbidden tree, to that dark hour when the pierced hands of the Saviour of the world were nailed to the predicted tree of shame, and of all that human hands have done of good and evil since, I lift up my hand and gaze upon it with wonder and awe.</p>	<p>When I think of all that human hands have done of good and evil, since the day when Eve put forth her erring hand to pluck the fruit of the forbidden tree, I lift up my hand and gaze upon it with wonder and awe.</p>
	21		
278	*20	As has already been mentioned.	Nil.
161	*9	Christian	frantic

ROYAL READER No. 5.

Page.	Line.	Words or Passage Excised.	Words or Passage Substituted.
		<p>HYMN OF THE HEBREW MAID.</p>	<p>THE VISION OF BELSHAZZAR.</p>
98	31	<p>WHEN Israel, of the LORD beloved, Out of the land of 'bondage' came, Her fathers' God before her moved, An 'awful guide,' in smoke and flame.</p>	<p>THE King' was on his throne, The satraps' thronged the hall; A thousand bright lamps shone O'er that high 'festival.</p>
99	1	<p>By day, along the 'astonished lands The cloudy pillar 'glided slow; By night, Arabia's crimsoned sands Returned the fiery column's glow.</p> <p>Then rose the 'choral hymn of praise, And trump and timbril answered keen; And Zion's daughters poured their lays, With priest's and warrior's voice between. No portents³ now our foes amaze, 'Forsaken Israel wanders lone;— Our fathers would not know THY ways, And THOU hast left them to their own.</p> <p>But, present still, though now unseen, When brightly shines the 'prosperous day, Be thoughts' of 'THEE a cloudy screen To temper the 'deceitful ray! And, oh! when stoops on Judah's path In shade and storm the frequent night, Be THOU, long-suffering, slow to wrath, A burning and a shining light!</p>	<p>A thousand cups of gold, In Judah deemed divine— Jehovah's vessels' bold The godless heathen's wine!</p> <p>In that same hour and hall, The fingers of a hand Came forth against the wall, And wrote as if on sand; The fingers of a man, A solitary hand, Along the letters ran, And traced them like a wand!</p> <p>The 'monarch saw, and shook, And bade no more rejoice; All bloodless waxed his look, And 'tremulous his voice: "Let the men of lore' appear, The wisest of the earth, And 'expound the words of fear, Which mar our royal mirth."</p>

ROYAL READER No. 5—continued.

Page.	Line.	Words or Passage Excised.	Words or Passage Substituted.
99	21	<p>HYMN OF THE HEBREW MAID—continued.</p> <p>Our harps were left by Babel's streams,⁵ The tyrant's jest, the Gentile's scorn ; No censor⁶ round our alter beams, And mute are timbrel, trump, and horn ; But Thou hast said⁷ the blood of goat, The flesh of rams, I will not prize ; A con⁸trite heart, an humble thought, Are MINE accepted sacrifice.</p> <p>SIR WALTER SCOTT (1771-1832).</p>	<p>THE VISION OF BELSHAZZAR—continued.</p> <p>Chaldea's⁵ seers are good, But here they have no skill ; And the unknown letters stood Untold and awful still. And Babel's men of age Are wise and deep in lore ; But now they were not sage— They saw—but knew no more.</p> <p>A captive⁶ in the land A stranger, and a youth, He heard the King's command, He saw that writing's truth. The lamps around were bright, The prophecy in view ; He read it on that night— The morrow proved it true :—</p> <p>"Belshazzar's grave is made, His kingdom passed away ; He, in the balance weighed, Is light and worthless clay The shroud his robe of state, His canopy the stone ; The Mede is at his gate ! The Persian on his throne !"</p>
143	8	<p>THE NATIVITY.</p> <p>WHEN Jordan hushed his waters still, And silence slept on Zion hill ; When Salem's¹ shepherds through the night Watched o'er their flocks by starry light,—</p> <p>Hark ! from the midnight hills around, A voice of more than mortal sound, In distant hallelujahs² stole, Wild murmuring o'er the raptured soul.</p> <p>Then swift to every startled eye, New streams of glory³ gild the sky : Heaven bursts her azure gates,⁴ to pour Her spirits⁵ to the midnight hour.</p> <p>On wheels of light, on wings of flame, The glorious hosts to Zion came ; High Heaven with songs of triumph rung, While thus they smote their harps and sung :—</p> <p>"O Zion ! lift thy raptured eye : The long-expected hour is nigh ; The joys of nature rise again ; The Prince of Salem⁶ comes to reign.</p> <p>"See Mercy from her golden urn, Pours a rich stream to them that mourn ; Behold, she binds, with tender care, The bleeding bosom of Despair.</p> <p>"He comes to cheer the trembling heart, Bids Satan and his host depart ; Again the Day-star⁷ gilds the gloom, Again the bowers of Eden bloom."⁸</p> <p>"O Zion ! lift thy raptured eye : The long-expected hour is nigh ; The joys of nature rise again ; The Prince of Salem comes to reign "</p>	<p>ADDRESS TO THE DEITY.</p> <p>LORD of all being, throned afar ! Thy glory flames from sun and star ; Centre and soul of every sphere Yet to each loving heart how near !</p> <p>Sun of our life, Thy quickening ray Sheds on our path the glow of day ; Star of our hope, Thy softened light Cheers the long watches of the night.</p> <p>Our midnight is Thy smile withdrawn, Our noontide is Thy gracious dawn ; Our rainbow arch, Thy mercy's sign ;— All, save the clouds of sin, are Thine !</p> <p>Lord of all life, below, above, Whose light is truth, whose warmth is love, Before Thy ever-blazing throne We ask no lustre of our own.</p> <p>Grant us Thy truth to make us free, And kindling hearts that burn for Thee, Till all Thy living altars claim One holy light, one heavenly flame !</p>
144	33 1	<p>THE SONG OF THE ANGELS.</p> <p>It came upon the midnight clear, That glorious song of old, From angels bending near the Earth To touch their harps of gold : "Peace to the Earth, good-will to men From Heaven's all gracious King !" The world in solemn stillness lay To hear the angels sing.</p> <p>Still through the cloven skies they come, With peaceful wings unfurled ; And still their heavenly music floats O'er all the weary world :</p>	<p>HARVEST HYMN.</p> <p>We plough the fields and scatter The good seed on the land ; But it is fed and watered By God's almighty hand. He sends the frost in winter, The warmth to swell the grain, The breezes and the sunshine, And soft refreshing rain.</p> <p>All good gifts around us Are sent from Heaven above ; Then thank the Lord, oh, thank the Lord For all His love.</p>

gra'cious, kind ; mer'ci-ful.	lus'tre, bright'ness.	sphere, heavenly body ; orb.
kin'dling, glow'ing.	noon'tide, mid'day,	withdrawn', drawn off.
liv'ing altars, human hearts.	quick'ening, life-giving	watch'es, portions of time.
	rain'bow, sign of God's mercy.	

Page.	Line.	Words or Passage Excised.	Words or Passage Substituted.
		THE SONG OF THE ANGELS—continued.	HARVEST HYMN—continued.
144	17	Above its sad and lowly plains They bend on heavenly wing, And ever o'er its Babel sounds The bless'd angels sing.	He only is the Maker Of all things near and far; He paints the wayside flower, He lights the evening star. The winds and waves obey Him. By Him the birds are fed ; Much more to us His children He gives our daily bread.
145	1	Yet with the woes of sin and strife The world has suffered long ; Beneath the angel-strain have rolled Two thousand years of wrong ; And men at war with men, hear not The love-song which they bring ;— Oh, hush the noise, ye men of strife, And hear the angels sing !	All good gifts around us Are sent from Heaven above ; Then thank the Lord, oh, thank the Lord For all His love.
		And ye, beneath life's crushing load Whose forms are bending low,— Who toil along the climbing way With painful steps and slow,— Look now ! for glad and golden hours Come swiftly on the wing ; Oh ! rest beside the weary road, And hear the angels sing !	We thank Thee, then, O Father, For all things bright and good,— The seed-time and the harvest, Our life, our health, our food. Accept the praise we offer For all thy love imparts ; And what thou most desirest,— Our thankful humble hearts.
		For lo ! the days are hastening on, By prophet-bards foretold, When with the ever-circling years Comes round the age of gold ; When Peace shall over all the Earth Her ancient splendours fling, And the whole world send back the song Which now the angels sing.	All good gifts around us Are sent from Heaven above ; Then thank the Lord, oh, thank the Lord For all His love.
	22		
146		BEHOLD, THE BRIDEGROOM COMETH.	THE TURF SHALL BE MY FRAGRANT SHRINE.
		<small>"Then shall the kingdom of heaven be likened unto ten virgins, which took their lamps, and went forth to meet the bridegroom. And five of them were wise, and five were foolish. They that were foolish took their lamps, and took no oil with them : but the wise took oil in their vessels with their lamps. While the bridegroom tarried they all slumbered and slept. And at midnight there was a cry made, Behold, the bridegroom cometh ; go ye out to meet him. . . . And the bridegroom came ; and they that were ready went in with him to the marriage." (Matthew xxv. 1-10.)</small>	THE turf shall be my 'fragrant 'shrine ; My temple, Lord, that 'arch of Thine ; My 'censer's breath the mountain airs, And silent thoughts my only prayers.
	29	BEHOLD, the Bridegroom cometh in the middle of the night, And blest is he whose loins are girt, whose lamp is burning bright ; But woe to that dull servant whom the Master shall sur- prise,	My 'choir shall be the moonlit waves, When murm'ring homeward to their caves ; Or when the stillness of the sea, Ev'n more than music, breathes of Thee.
	32	With lamp untrimmed, unburning, and with slumber in his eyes !	I'll seek by day some 'glade unknown, All light and silence, like Thy throne ; And the pale stars shall be, at night, The only eyes that watch my 'rite.
147	1	Do thou, my soul, beware, beware, lest thou in sleep sink down ; Lest thou be given o'er to death, and lose the golden crown ; But see that thou be sober, with watchful eyes, and thus Cry "Holy, holy, holy, God, have mercy upon us !" That day, the day of fear, shall come : my soul slack not thy toil, But light thy lamp, and feed it well, and make it bright with oil ; Who knowest not how soon may sound the cry at eventide, "Behold, the Bridegroom comes ! Arise ! go forth to meet the Bride !" ¹ Beware, my soul ; beware, beware, lest thou in slumber lie, And, like the five, remain without, and knock and vainly cry ; But watch, and bear thy lamp undimmed, and Christ shall gird thee on His own bright wedding-robe of light,—the glory of the Son.	Thy heaven, on which 'tis bliss to look, Shall be my pure and shining book, Where I shall read, in words or flame, The glories of thy 'wondrous name. I'll read Thine anger in the 'rack That clouds a while the sunbeam's track ; Thy mercy in the 'azure hue Of sunny brightness breaking through ! There's nothing bright, above, below, From flowers that bloom to stars that glow, But in its light my soul may see Some 'feature of thy 'Deity ! There's nothing dark, below, above, But in its gloom I trace thy love, And meekly wait that moment when Thy touch shall turn all bright again !
	17	<small>¹ To meet the Bride.—This variation is warranted by a reading in one of the Greek MSS. of Matthew : "Went forth to meet the bridegroom AND THE BRIDE." The BRIDE in that case represents the Church ; and the parable is consistent with the Eastern custom of the bridegroom going to the house of the bride to lead her to his own home. This hymn is the "Midnight Hymn" of the Eastern Church, translated from the Greek by G. Moultrie.</small>	T. MOORE.
		TOO LATE.	THE RULE OF GOD.
		<small>"Afterwards came also the other virgins, saying, Lord, Lord, open to us. But he answered and said, Verily I say unto you, I know you not. Watch therefore, for ye know neither the day nor the hour wherein the Son of man cometh." (Matthew xxv. 11-13.)</small>	I SAY to thee—Do thou repeat To the first man thou mayest meet, In lane, highway, or open street, That he, and we, and all men move Under a 'canopy of love, As broad as the blue sky above ; That doubt and trouble, fear and pain, And 'anguish, all are shadows vain, That death itself shall not 'remain :
28		LATE, late, so late ! and dark the night and chill ! Late, late, so late ! but we can enter still.— TOO LATE, TOO LATE ! YE CANNOT ENTER NOW.	

arch of Thine, the sky.
azure, sky-blue.
cen'ser, a vessel for
burning incense.
choir, company of
singers.

De'ity, God'head.
fea'ture, form, as'pect.
fra'grant, sweet-smell-
ing.
glade, open space in a
forest.

rack, flying clouds.
shrine, place of wor-
ship, altar.
rite, worship.
won'drous, won'derful.

Page.	Line.	Words or Passage Excluded.	Words or Passage Substituted.
		TOO LATE—continued.	THE RULE OF GOD—continued.
147	31	No light had we, for that we do repent ;	That weary deserts we may tread,
	33	And learning this, the Bridegroom will relent.¹— TOO LATE, TOO LATE ! YE CANNOT ENTER NOW.	A dreary labyrinth may thread, Through dark ways underground be led ;
148	1	No light, so late ! and dark and chill the night ! O let us in, that we may find the light !— TOO LATE, TOO LATE ! YE CANNOT ENTER NOW.	Yet, if we will one Guide obey, The dreariest path, the darkest way Shall issue out in heavenly day ;
	6	Have we not heard the Bridegroom is so sweet ? Oh let us in, though late, to kiss His feet !— No, no ; TOO LATE ! YE CANNOT ENTER NOW.	And we, on divers shores now cast, Shall meet, our perilous voyage past, All in our Father's house at last.
		ALFRED TENNYSON.²	And ere thou leave him, say thou this : Yet one word more—They only miss The winning of that perfect bliss,
		¹ Relent, feel compassion for ; pardon. The meaning is, "When the Bridegroom learns that we repent because we had no light, he will surely have pity on us, and recall the order which keeps the door shut ; but the answer comes,— "TOO LATE, TOO LATE ! YE CANNOT ENTER NOW."	Who will not count it true, that love— Blessing, not cursing—rules above ; And that in it we live and move.
		² Alfred Tennyson. (See p. 21, Note 5.)	And one thing further, make him know : That to believe these things are so, This firm faith never to forego—
			Despite of all that seems at strife With blessing, all with curses rife,— That this is blessing, this is life.
			anguish, keen grief. can'opy, covering. despite' of, in spite of. di'vers, many. forego', give up, quit.
			is'sue out, end. lab'yri'nth, a place full of winding passages ; maze. per'fect, complete'.
			per'ilous, dan'gerous. remain', continue to be ; survive'. rife, plen'tiful ; abound-ing.
		THAT DAY OF WRATH !	THE SPACIOUS FIRMAMENT.
	12	THAT day of wrath !¹ that dreadful day, When heaven and earth shall pass away ! What power shall be the sinner's stay ? How shall he meet that dreadful day,—	THE spacious firmament on high, With all the blue ethereal sky, And spangled heavens, a shining frame, Their great Original proclaim. The unwearièd sun, from day to day, Does his Creator's power display ; And publishes to every land The work of an Almighty hand.
		When, shrivelling like a parchèd scroll, The flaming heavens together roll ;² And louder yet, and yet more dread, Swell the high trump that wakes the dead ?	Soon as the evening shades prevail, The moon takes up the wondrous tale, And, nightly to the listening earth, Repeats the story of her birth ; While all the stars that round her burn, And all the planets in their turn, Confirm the tidings as they roll, And spread the truth from pole to pole.
	23	Oh ! on that day, that wrathful day, When man to judgment wakes from clay, Be thou, O Christ, the sinner's stay, Though heaven and earth shall pass away !	What though in solemn silence all Move round the dark terrestrial ball ? What though no real voice, nor sound, Amidst their radiant orbs be found ? In Reason's ear they all rejoice, And utter forth a glorious voice ; For ever singing, as they shine, "The hand that made us is divine." ADDISON.
		¹ That day of wrath.—This hymn is an adaptation and abridgment by Sir Walter Scott of the Dies Iræ (Day of Wrath), a famous Latin medieval hymn on the Day of Judgment. The authorship of the hymn is generally ascribed to an Italian monk of the thirteenth century. Wesley's hymn, "Lo ! he comes with clouds descending," and Newton's "Day of Judgment, day of wonders," are also founded on the Dies Iræ. It has always been a great favourite with poets, and it has been frequently translated into modern languages.	confirm', give strength to. display', show forth. divine', of God. eth'e'rial, light, airy. firmament, sky, heavens. glo'rious, grand ; telling of glory. lis'tening, anxious to hear. orbs, globes, spheres.
		² Heavens together roll.—"The heavens shall pass away with a great noise, and the elements shall melt with fervent heat." (2 Peter iii. 10.)	Original, Crea'tor. plan'e'ts, wan'dering stars. prevail', get the better (of the day). proclaim', make known ; declare. pub'li-h'e's, makes known. ra'diant, shi'ning. rea'son, the thinking principle.
		³ The high trump that wakes the dead.—"We shall all be changed, in a moment, in the twinkling of an eye, at the last trump : for the trumpet shall sound, and the dead shall be raised incorruptible." (1 Corinthians xv. 51, 52.)	rejoice', are glad. repeats', tells again. shades, shad'ows, dark-ness. sol'emn, grave, sober. spa'cious, wide. spa'ngled, gli't'ering. ter'res'trial, earthly ti'dings, news. unwea'ried, never tired ; always busy. won'drous, won'derful.
377	20	"The last Trump." The trumpet of Doomsday, which shall awaken the dead, "In a moment, in the twinkling of an eye, at the last Trump."—(See note ² middle of page 377).	¹ Cabin door. Not the cabin of a ship, but a humble cottage. ² Fate hath one end for fest'ival and tear. Fest'ival is here put for joy, and tear for grief ; and both have one end—the tomb, as explai'ned in next stanza. ³ Cor'morant the sea raven ; a gl'it-ting bird of the pelican order, which lives chiefly on fish.

Page.	Line.	Words or Passage Excised.	Words or Passage Substituted.
42	15	See Revelation xxii. 15. (Foot-note.)	
142	5	Perhaps the Christian volume ³ is the theme,— How guiltless blood for guilty man was shed ; How He who bore in heaven the second name Had not on earth whereon to lay His head : How His first followers and servants sped ; The precepts sage they wrote to many a land : How he, who lone in Patmos ⁴ banish'd, Saw in the sun a mighty angel stand, And heard great Babylon's doom pronounced by Heaven's command.	Nil.
203	1 & 2	The Mosaic dispensation had come to a close and	Nil.
		PAUL AT ATHENS.	WONDERS OF THE COTTON MANUFACTURE.
255	32	THERE was something, to such an one as Paul, ^(b) that was spirit-stirring in the mighty array that he had to cope with at Athens. ¹ He was full of courage and of hope. In the cause of Christ he had gone on conquering, and would trust that, even here, he should conquer. He felt that it was enough, even if he saved but one, to recompense the effort and the peril—that it was enough, if, by his faithfulness, he only delivered his own soul.	A BAG of cotton, even in its unmanufactured state, is a wonderful example of commercial enterprise and tact ; for the quantity of the fibrous material yielded by each plant is exceedingly small, and the "magic of numbers" is required to make up a bag or bale. Considerably more than a million of such bales of raw cotton are now received in Liverpool yearly ; while in 1755 only FIVE bales of American cotton were imported.
256	41 1	But his was a mind to look and aim at more than this. He felt the splendour of the triumph there would be in levelling the wisdom and the idolatry of Athens at the foot of the Cross. He burned to make Olym'pus ² bow its awful head, and cast down its coronet of gods, at His feet who dwelt in Zion ; and the pæans of Bac'chus and Apol'lo ³ were, in his ear, but preludes to the swelling "song of Moses and of the Lamb."	Scarcely anything can excite the wonder of a stranger more than the enormous trains of trucks laden with cotton which run smoothly over the thirty miles between Liverpool and Manchester, and deposit their stores at the terminus.
		Animated by such feelings, we may now regard Paul, in what must have been one of the most interesting moments of even his eventful life, pre- paring himself on the Hill of Mars ⁴ to address an auditory of Athenians on behalf of Christianity. He would feel the imposing associations of the spot on which he stood, where, in the darkness of night, and under the canopy of heaven, justice had been administered in its most awful form, by characters the most venerable. Accompanied as it was with the solemnities of religion, it was attended with an authority which public opinion assimilated rather with the decrees of conscience and of the gods than with the ordinary power of human tribunals.	The perfection of the cotton machinery, and the wonderful rapidity with which the raw fibre can be manufactured into cloth, may be illustrated by the following example :—A Preston ¹ manufacturer pur- chased some raw cotton, which was despatched from Liverpool at three o'clock on a Friday morning. It was delivered at the Preston factory at eight minutes past nine o'clock ; and before eleven o'clock part of it had passed through the several operations of mixing, scutching, ² carding ³ , drawing, slubbing, ⁴ roving, ⁵ and spinning. At half-past eleven o'clock a portion of it was made into cloth by the power- loom, ⁶ and at half-past four a portion of good shirting cloth was despatched by railway to Liver- pool, which it reached by seven in the evening.
		He would look around on many an immortal trophy of architect and sculptor ; where genius had triumphed, but triumphed only in the cause of that idolatry to which they had been dedicated, and for which they existed. And beyond the city, clinging around its temples, like its inhabitants to their enshrined idols, would open on his view that lovely country and the sublime ocean, and the serene heavens bending over them, and bearing that testi- mony to the Universal Creator which man and man's works withheld.	Thus the same specimen of cotton went through all the stages of manufacture, from the raw fibre to the woven cloth, and travelled about seventy miles, all between three in the morning and seven in the evening ! The Preston weaver wore a garment made of this cloth on the same evening !
		With all would Grecian glory be connected— the brightness of a day that was closing, and of a sun that had already set, where recollections of grandeur faded into sensations of melancholy. And he would gaze on a thronging auditory, the representatives, to his fancy, of all that had been, and of all that was ; and think of the intellects with which he had to grapple, and of the hearts in whose very core he aimed to plant the barbed arrows of conviction.	Many of the manufacturers pride themselves on the fineness of the yarn they produce ; and well may they do so. One manufacturer has succeeded in producing so exquisite a degree of fineness as to obtain 386,400 yards, or 220 miles of yarn from one single pound of cotton ! Five or six hundred million pounds are yearly wrought up into yarn ; and if the whole were wrought to this fineness, such is the astounding magnitude of this manufacture in England, that in six hours we might spin a thread that would reach from the Earth to the Sun ; and in less than a fortnight we might make a fairy rope- ladder to the planet Neptune ! ⁷
		There was that Multitude, so acute, so inquisi- tive, so polished, so athirst for novelty, and so	Mr. Kohl, a German traveller, appears to have been struck, as every stranger must be, with the completeness of the arrangements for despatching bales of finished goods from Manchester to foreign countries. After describing the vast warehouses, and the bales of goods piled up in them, he says,

Page.	Line.	Words or Passage Excised.	Words or Passage Substituted.			
257	43 1	<p>impressible by eloquence; yet with whom a barbarian accent might break the charm of the most persuasive tongue; over whom their own oligarchy of orators would soon reassert their dominion, in spite of the invasion of a stranger; and with whom taste, feeling, and habit would throw up all their barriers against the eloquence of Christianity. There would be the Priest, astonished at an attempt so daring; and as the speaker's design opened on his mind, anxiously, and with alternate contempt and rage, measuring the strength of the Samson⁵ who thus grasped the pillars of his temples, threatening to whelm him, his altars, and his gods beneath their ruins.</p>	<p>“Every country has its particular partialities in the goods it purchases. The speculating merchant must always be well acquainted with these, no less than with the real wants and customs of each nation. From the Manchester warehouses great quantities of black cloth are annually sent to Italy, in order to clothe the innumerable priests of that country; but this black cloth must always be of a particular coal-black, without the slightest tinge of brown or blue.</p>			
		<p>There would be the Stoic,⁶ in the coldness of his pride, looking sedately down, as on a child playing with children, to see what new game was afloat, and what trick or toy was now produced for wonderment. There the Epicurean,⁷ tasting, as it were, the preacher's doctrine, to see if it promised aught of merriment; just lending enough of idle attention not to lose amusement should it offer; and venting the full explosion of his ridicule on the resurrection of the dead.</p>	<p>“Goods must also be packed differently for different nations. Thus, I saw bales of cotton intended for China packed in the Chinese manner, and decorated with bright, tasteful little pictures, representing Chinese customs, ceremonies, costumes, &c. Nor must the manner of transport used in the interior of the countries for which they are intended be forgotten in the packing of the goods. Wares to be carried on the backs of elephants, camels, or llamas, must be differently packed from those to be conveyed by waggons, canals, or railways.”</p>			
		<p>There the Sophist,⁸ won, perhaps, into something of an approving and complacent smile by the dexterity of Paul's introduction;⁹ but finding, as he proceeded, that this was no mere show of art or war of words; and vibrating between the habitual love of entangling, bewildering, and insulting an opponent, and the repulsiveness which there always is to such men in the language of honest and zealous conviction. There the Slave, timidly crouching at a distance to catch what stray sounds the winds might waft to him, after they had reached his master's ears, of that doctrine, so strange and blessed, of man's fraternity. And there the young and noble Roman, who had come to Athens for education;—not to sit like a humble scholar at a master's feet, but, with all the pride of Rome upon his brow, to accept what artists, poets, and philosophers could offer as their homage to the lords of Earth.</p>	<p>The patterns for the home market are generally indefinite, consisting of spots, stripes, and curves, bearing no resemblance to any particular objects. The Chinese market requires exact copies of some natural objects, such as buds or flowers, without any attempt at perspective.⁸ The South American market calls for the most gorgeous assemblage of colours—blue, yellow, and red—that the dyer and printer can give.</p> <p>The printing of calicoes has gone on increasing year after year to an amazing extent. At the beginning of the present century the quantity was about thirty million yards, whereas it is now somewhere about five hundred millions.</p> <p>A calico-printing establishment, like a cotton-mill, is a wonderful triumph of modern science; and when the mechanical and chemical improvements of both are viewed together, they form a splendid and matchless exhibition of science applied to the arts, and easily account for a rapidity of growth and a vastness of extension in the manufacture which has no parallel in the records of industry.</p>			
	34	<p>If for a moment Paul was overwhelmed by the feeling,—in the circumstances, perfectly natural,—that he was the central object of such a scene and such an assemblage, there would rush upon his mind the majesty of Jehovah; and the words of the glorified Jesus; and the thunders that had struck himself to the earth on the road to Damascus;¹⁰ and the sense of former efforts, conflicts, and successes; and the approach of that judgment to come, whose righteousness and universality it was now his duty to announce.</p>				
257	35	<p>Unappalled and collected, he began:—“Ye men of Athens,¹¹ I perceive that in all things ye are too superstitious. For as I passed by, and beheld your devotions, I found an altar with this inscription, TO THE UNKNOWN GOD. Whom therefore ye ignorantly worship, him I declare unto you. God that made the world and all things therein seeing that he is Lord of heaven and earth, dwelleth not in temples made with hands; neither is worshipped with men's hands, as though he needed anything, seeing he giveth to all life, and breath, and all things; and hath made</p>	<table border="0"> <tr> <td data-bbox="756 1846 952 2175"> <p>acquaint'ed, familliar. arrange'ments, plans. assemblage, collection. astounding, amaz'ing. ceremonies, shows; rites. commercial, mercantile considerably, a good deal. costumes', modes of dress. decorated, ornament'ed. depos'it, lay down, del'iver. despatched', sent off. enormous, very great. enterprise, bold, venturing.</p> </td> <td data-bbox="960 1846 1156 2175"> <p>example, instance; case in point. exhibition, display'. exquisite, very delicate. fibrous, made up of threads. garment, piece of dress. gorgeous, brill'iant. illustrated, set forth; shown. import'ed, brought into a country. indefinite, vague; not formal. innumerable, very numerous. magnitude, size. operations, processes.</p> </td> <td data-bbox="1164 1846 1368 2175"> <p>parallel, equal. partialities, lik'ings; tastes. perfection, state of being complete'. purchased, bought. rapidity, quick'ness. resemblance, like'ness. specimen, sam'ple; piece. speculating, risk'ing one's money. succeeded, man'aged. terminus, end of a railway line. transport, conveyance of goods. triumph, victory unmanufactured, raw.</p> </td> </tr> </table>	<p>acquaint'ed, familliar. arrange'ments, plans. assemblage, collection. astounding, amaz'ing. ceremonies, shows; rites. commercial, mercantile considerably, a good deal. costumes', modes of dress. decorated, ornament'ed. depos'it, lay down, del'iver. despatched', sent off. enormous, very great. enterprise, bold, venturing.</p>	<p>example, instance; case in point. exhibition, display'. exquisite, very delicate. fibrous, made up of threads. garment, piece of dress. gorgeous, brill'iant. illustrated, set forth; shown. import'ed, brought into a country. indefinite, vague; not formal. innumerable, very numerous. magnitude, size. operations, processes.</p>	<p>parallel, equal. partialities, lik'ings; tastes. perfection, state of being complete'. purchased, bought. rapidity, quick'ness. resemblance, like'ness. specimen, sam'ple; piece. speculating, risk'ing one's money. succeeded, man'aged. terminus, end of a railway line. transport, conveyance of goods. triumph, victory unmanufactured, raw.</p>
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		<p>⁵ Preston, in Lancashire, about 30 miles from Liverpool by rail. ⁶ Scutching, loosening the fibre of cotton, by heating. ⁷ Carding, combing, or disentangling.</p>	<p>⁸ Slubbing, drawing out the threads and partially twisting them. ⁹ Roving, twisting in the roving-frame.</p>			

Page.	Line.	Words or Passage Excised.	Words or Passage Substituted.
258	1	of one blood all nations of men for to dwell on all the face of the earth." W. J. Fox. admin'istered, dispensed/ an'imated, inspired/ announce', proclaim' array', display/ assim'ilated, iden'tified. aston'ished, surpris'd/ au'ditory, au'dience. Barba'rian, for'eign. Compla'cent, sar'isfied. con'quering, tri'umph- ing. cor'onet, crown. enshrined' con'secrated. frater'nity, broth'er- hood. grap'ple, strug'gle. hom'age, trib'ute of praise. mer'rimint, amuse- ment. recollec'tions, remem'- brances rec'ompense, repay'. sedate'ly, calm'ly. sensa'tions, pangs. superst'i'tious, idol'- atrous. Tro'phy, achieve'ment. unappal'ed, undis- mayed'. universal'ity, compre- hen'siveness. vi'brating, os'cillating.	<p>⁶ Power-loom, a weaving machine worked by mechanical power, as steam or water; opposed to HAND-LOOM.</p> <p>⁷ Neptune, the most distant of the planets yet discovered. It is 2755 million miles from the Sun, which is 91,725,000 miles from the Earth.</p> <p>⁸ Perspective, the art of representing in a picture objects with the relative size and positions as they have in nature.</p> <p>QUESTIONS.—Why is a bag of cotton so wonderful an example of commercial enterprise? How many bales of raw cotton are now received in Liverpool yearly? How many were imported in 1755? What is the distance between Liverpool and Manchester? What excites the wonder of a stranger on the line? At what time was some raw cotton once sent from Liverpool to Preston? When was it delivered at the factory? What had been done to it before eleven? When was a portion of it made into cloth? When was a piece of the cloth received in Liverpool? What does this example illustrate? What was thus accomplished in sixteen hours? On what do many of the manufacturers pride themselves? Give an example. What amount of cotton is yearly wrought up into yarn? What time would it take to spin a thread that would reach from the Earth to the Sun? What might be done in less than a fortnight? What struck Mr. Kohl? Mention an example of the partialities of different countries, which must be attended to. What considerations regulate the different modes of packing? What differences are noticeable in the patterns? What fact shows the great increase in calico-printing? Of what do the improvements in cotton-spinning and dyeing form a splendid exhibition?</p>
		<p>¹ At Athens.—Paul's visit to Athens was made in what is known as his second missionary tour.—A.D. 51-54. Driven by persecution from Philippi and from Thessaloni'ca, he took refuge in Bere'a, where for a time his ministry was successful; but to avoid a storm of hostility which seemed to be gathering there also, he secretly left Bere'a and went to Athens. (Acts, xvii.)</p> <p>² Olym'pus, a famous mountain on the borders of Macedonia and Thessaly, which, probably from its great height, was regarded as the abode of the gods. It is here used as the symbol of the whole system of Greek mythology.</p> <p>³ Pæ'ans of Bac'chus and Apol'lo.—A pæan is a song of praise, originally in honor of Apollo, the god of culture and art, from whose epithet Paian the word pæan is taken. It was afterwards applied to hymns in praise of other gods, and to the revels of the worshippers of Bacchus, the god of wine.</p> <p>⁴ Hill of Mars, a translation of the Greek name Areop'agus, the seat of the Areopagites, the supreme court of Athens. This court, for the trial and punishment of murderers and persons charged with impieties and immoralities, held its sessions in the open air; and during the darkness of night, because justice should be blind to everything but facts. A little to the south-east rose the steep height of the Acrop'olis, or citadel, on whose level summit were crowded more and richer idolatrous structures than on any other equal space in the world. There stood the temples of Pal'las and Nep'tune, the great bronze statue of the former, and, above all, the Par'thenon, the glory of Grecian architecture.</p> <p>⁵ The Samson.—Samson was the great military Judge and deliverer of Israel; who, having been taken and blinded by the Philistines, destroyed himself and the temple and lords of the Philistines, by pulling down the pillars that supported the house. The heathen priest at Athens is supposed to have regarded Paul as a moral Samson, who threatened to destroy his temples and altars by sheer force of overwhelming argument.</p> <p>⁶ The Stoic.—The Stoics, followers of Zeno, (b) were so called from stoa, the Greek word for a porch, because their founder had taught his disciples in a portico of Athens. Pride was their great characteristic. They enforced a sort of stern virtue, and an indifference both to pleasure and to pain, which led to some noble deeds. In spirit they much resembled the Jewish Pharisees.</p> <p>⁷ The Epicure'an.—The Epicurean, —followers of Epicu'rus, (b) who died B.C. 271,—were the children of pleasure. They were practical atheists, and unmeasured scoffers. The rule of life laid down by their founder was the pursuit of pleasure properly regulated and controlled. But his followers forgot the regulation and control which he enjoined, and pursued pleasure for its own sake.</p> <p>⁸ The Soph'ist.—The Sophists were an inferior class of teachers in Athens, who dealt in verbal niceties and quibbles. Aristotle (b) used the word in the sense of a false teacher of philosophy. The Sophists were instrumental in procuring the death of Soc'rates, (b) 339 B.C.</p> <p>⁹ The dexterity of Paul's introduction.—Paul was peculiarly skillful and happy in adapting his addresses to the circumstances of his audience. In this address, for example, he struck a key-note which would at once arrest the proud and idolatrous Athenians, by telling them how "superstitious" (that is, zealous for the gods) they appeared to be, judging by the number of magnificent temples by which he was surrounded. When preaching in the synagogue at Antioch, on the other hand, he rapidly sketched God's dealings with Israel, and preached Christ to them as the son of David. (Acts, xiii. 16-20). When addressing Agrippa, a highly educated Syrian prince, he appeals to him, saying, "King Agrippa, believest thou the prophets? I know that thou believest." (Acts, xxvi. 27.)</p> <p>¹⁰ On the road to Damascus,—on the occasion of Paul's conversion. (See Acts, ix. 3-9.)</p> <p>¹¹ Ye men of Athens. (See Acts, xvii. 22-26.)</p>	<p>TO A WATERFOWL.</p> <p>WHITHER, midst the falling dew, While glow the heavens with the last steps of Day, Far through their rosy depths dost thou pursue Thy solitary way?</p> <p>Vainly the fowler's eye Might mark thy distant flight to do thee wrong, As, darkly painted on the crimson sky, Thy figure floats along.</p> <p>Seek'st thou the plashy brink Of weedy lake, or marge of river wide, Or where the rocking billows rise and sink On the chafed ocean side?</p> <p>There is a Power whose care Teaches thy way along that pathless coast— The desert and illimitable air— Lone wandering, but not lost.</p> <p>All day thy wings have fanned, At that far height, the cold, thin atmosphere, Yet stoop not, weary, to the welcome land, Though the dark night is near.</p> <p>And soon that toil shall end; So shalt thou find a summer home, and rest, And scream among thy fellows; reeds shall bend Soon o'er thy sheltered nest.</p> <p>Thou'rt gone—the abyss of heaven Hath swallowed up thy form; yet on my heart Deeply hath sunk the lesson thou hast given, And shall not soon depart.</p> <p>HE who from zone to zone Guides through the boundless sky thy certain flight, In the long way that I must tread alone, Will lead my steps aright.</p> <p>W. C. BRYANT.</p>
259	69	<p>QUESTIONS.—What feelings would encourage Paul to preach boldly at Athens? Where did he address the Athenians? What "imposing associations" would the place suggest to his mind? What would he see from that spot? What classes of people would be represented in his audience? By what would the Sophist be won at first? What was that introduction?</p>	

1879-80.

VICTORIA.

RAILWAY DEPARTMENT—DISCHARGED AND APPOINTED OFFICIALS.

RETURN TO AN ORDER OF THE LEGISLATIVE COUNCIL.

THE HONORABLE R. S. ANDERSON.—3RD DECEMBER, 1879.

LAI D ON THE COUNCIL TABLE BY THE HONORABLE H. CUTHBERT, 20TH JANUARY, 1880, AND ORDERED BY THE COUNCIL TO BE PRINTED, 4TH FEBRUARY, 1880.

RETURN showing the respective Names, Occupations, and Salaries of all Persons discharged from employment in the Railway Department between the 1st July, 1877, and the 1st July, 1879; and the Name, Occupation, and Salary of every Person appointed or re-appointed during the same period to any situation in the Government Service in the Railway Department, whether permanent or temporary, and whether paid by salaries voted on Estimates, or out of monies appropriated for particular works, and not receiving pay at a rate below 7s. per diem.

VICTORIAN RAILWAYS.

RETURN No. A.

RETURN showing the respective Names, Occupations, and Salaries of all Persons discharged from employment in the Railway Department between the 1st July, 1877, and the 1st July, 1879.

Name.	Occupation.	Rate of Pay.		Remarks.
		Salary per Annum.	Wages per Diem.	
		£	s. d.	s. d.

SECRETARY'S BRANCH.

Anketel, J.	...	Clerk	...	450	0	0	...	Received compensation.
Bartlett, S.	...	"	...	225	0	0	...	" "
Donegan P.	...	Storeman	...	...			7 0	" "
Faure, C.	...	"	...	...			8 0	" "
Grant, J.	...	Watchman	...	...			7 0	" "
Genery, C.	...	Storeman	...	...			8 0	" "
Haslam, P. J.	...	Clerk	...	300	0	0	...	" "
Irwin, S.	...	"	...	212	10	0	...	" "
Kennedy, P.	...	Storeman	...	...			7 0	" "
Lyll, J....	...	Acting-Chief Clerk	...	485	0	0	...	Retiring allowance of £242 10s. per annum.
Le Masurier, F. A.	...	Clerk	...	225	0	0	...	Re-appointed.
O'Rorke, J. R.	...	"	...	425	0	0	...	"
Plummer, W. A. K.	...	Temporary Clerk	...	...			10 0	"
Rice, J. ...	...	Head Storeman	...	...			13 0	Received compensation.

RETURN NO. A.—PERSONS DISCHARGED—*continued.*

Name.	Occupation.	Rate of Pay.				Remarks.
		Salary per Annum.		Wages per Diem.		
		£	s.	d.	s.		d.
TRAFFIC BRANCH.						
Ball, Antonio ...	Stationmaster ...	250	0	0		
Barclay, C. ...	Porter ...	...			7	0
Brooks, Z. ...	Pointsman ...	...			7	0
Carson, J. C. L. ...	Guard ...	...			9	6
Cahill, M. ...	Shunter ...	...			7	0
Colgin, T. ...	" ...	...			7	0
Condon, J. ...	Porter ...	...			7	0
Cathie, R. ...	" ...	...			7	0
Dennis, G. F. ...	Piermaster ...	325	0	0	...	Received compensation.
Donnelly, J. F. ...	Porter ...	...			7	0
Daniel, G. ...	Porter in charge ...	...			7	0
Dayle, J. ...	Watchman ...	...			7	6
Deering, J. ...	Porter ...	...			7	0
Gill, C. S. ...	Clerk ...	300	0	0	...	Received compensation.
Graham, W. ...	" ...	...			8	0
Grant, W. ...	Messenger ...	...			7	0
Graham M. ...	Porter in charge ...	...			7	0
Guillick, W. ...	Signalman ...	...			9	0
Hughes, F. ...	Clerk ...	137	10	0		
Hall, W. L. ...	Temporary Clerk ...	...			8	0
Hayden, W. ...	Goods Porter ...	...			7	6
Johnston, F. ...	Clerk ...	237	10	0	...	Received compensation.
Jannett, J. ...	Head Porter ...	...			8	6
Jenkins, R. S. ...	Porter in charge ...	...			7	0
King, H. ...	Watchman ...	...			7	0
Lowe, W. ...	Porter in charge ...	...			8	0
Mathison, A. P. ...	Traffic Manager ...	750	0	0	...	Retiring allowance of £91 5s. per annum. Retiring allowance of £400 per annum.
Morze, Jas. ...	Guard ...	...			9	6
Murphy, E. ...	" ...	...			9	0
Maxwell, C. ...	Clerk ...	...			10	0
McAllister, J. ...	Temporary Clerk ...	...			7	0
McFadzean, W. L. ...	Goods Foreman ...	...			8	6
McBreen, T. ...	Pointsman ...	...			7	0
McLean, J. ...	" ...	...			7	0
McEwan, R. A. ...	Clerk ...	...			9	0
McLeod, W. ...	Watchman ...	...			7	0
McDonald, C. F. ...	Clerk in charge ...	...			7	0
McAuliffe, P. ...	Signalman ...	...			8	0
Nason, J. ...	Timekeeper ...	262	10	0		
O'Connor, T. C. ...	Stationmaster ...	150	0	0		
Phair, T. ...	Gatekeeper ...	...			8	0
Pearse, Hy. ...	Clerk ...	...			7	0
Ryan, J. ...	Watchman ...	...			7	0
Reid, R. ...	" ...	...			7	0
Rochefort, C. ...	Porter ...	...			7	0
Rodier, W. ...	Clerk ...	...			8	0
Sarsfield, J. ...	Porter ...	...			7	0
Simpson, J. ...	Guard ...	...			9	0
Stewart, E. McP. ...	Porter in charge ...	...			8	0
Suares, A. ...	Signalman ...	...			8	0
Warren, G. ...	Temporary Clerk ...	...			8	0
Wilson, S. ...	Porter ...	...			7	0
Walsh, P. ...	Head Porter ...	...			8	0
Stalker, J. L. ...	Clerk Tally ...	...			8	0
Kirk, J. K. ...	" ...	...			8	0
TELEGRAPH BRANCH.						
Anderson, J. ...	Laborer			7	0
Carty, P. ...	"			7	0
Kennedy, R. ...	"			7	0
Quirk, M. ...	"			7	0
Ready, P. ...	"			7	0
Redmond, G. ...	"			7	0

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Name.	Occupation.	Rate of Pay.		Remarks.
		Salary per Annum.	Wages per Diem.	
		£ s. d.	s. d.	
LOCOMOTIVE BRANCH.				
Annear, S.	Fitter ...	...	9 0	
Blandford, C.	Carr Builder ...	...	10 0	
Bradshaw, W. J.	Boilermaker ...	...	10 0	
Burke, T.	Cleaner ...	...	7 0	
Branthwaite, D.	" ...	...	7 0	
Cazaly, H.	Storeman ...	...	8 0	
Cody, G.	Cleaner ...	...	7 0	
Cross, H.	Boilermaker's Assistant	...	9 0	
Dillon, J.	Storeman ...	...	8 0	
Duncan, G.	Fireman ...	...	9 0	
Evans, J.	Coppersmith ...	...	10 0	
Fallow, A.	Pumper ...	...	10 0	Received compensation.
Fellows, E. F.	Striker ...	...	8 0	
Ferreter, W.	Boilermaker ...	...	10 0	
Fowler, F. E.	Fireman ...	...	10 0	
Graham, Nicol	Engineer ...	£19 per month	...	Fulfilled agreement, returned to New York.
Gunn, M.	Assistant Lighter-up	...	7 6	
Henderson, J.	Driver ...	...	12 0	
Hunt, J.	Fitter ...	...	7 0	
Irlam, J.	Fireman ...	...	10 0	
Looney, J.	Truck Repairer ...	...	10 0	
Lomax, W.	Boilermaker ...	...	11 0	
Martell, H.	Fireman ...	...	9 0	
Megarrell, R.	Truck Repairer ...	...	9 0	
Moody, G.	Cleaner ...	...	7 0	
McIntyre, D.	Driver ...	...	12 0	
Newton, J.	Boilermaker ...	...	10 0	
Peacock, W.	Waggon Builder ...	...	10 0	
Rose, J.	Greaser ...	...	10 0	
Ryan, T. J.	Driver ...	...	12 0	
Swan, W.	Boilermaker ...	...	12 0	
Spencer, S.	Fitter ...	...	12 0	
Thompson, W.	Boilermaker ...	...	10 0	
Toohy, H.	Hammerman ...	...	8 0	
Ferguson, W.	Fireman ...	...	9 0	
Cole, R....	Driver ...	...	13 0	Received compensation.
Rowell, W.	" ...	...	15 0	" "
Sharp, J.	Pumper ...	...	7 6	" "
Street, P.	Foreman ...	...	18 0	" "
Bremner, J.	Turner ...	...	13 0	Retiring allowance of £101 14s. 6d. per annum.
Law, B....	Fuelman ...	...	10 0	Retiring allowance of £78 5s. per annum.
Allan, G. E.	Cleaner ...	...	7 0	Re-appointed since discharge.
Blacker, J.	Machinist... ..	...	7 0	" "
Duncan, C.	Fireman ...	...	9 0	" "
Hitchins, A.	Pumper ...	...	8 0	" "
Jenkins, L. C.	Fireman ...	...	10 0	" "
Kinnane, J.	Blacksmith ...	...	11 0	" "
Mills, N.	Furnaceman ...	...	10 0	" "
Muir, W.	Pumper ...	...	10 0	" "
Fennah, W.	Boilermaker's Asst.	...	9 0	" "

ENGINEER-IN-CHIEF'S BRANCH.**OFFICE AND FIELD STAFF.**

Armstrong, C. B.	Field Assistant ...	...	15 0	
August, R. W.	" ...	...	15 0	Received compensation.
Atkins, W.	Inspector of Works...	...	15 0	
Barling, J.	Chainman ...	...	7 0	
Bloomfield, T. R.	Draftsman ...	...	7 0	Re-appointed as clerk at lower rate.
Barnes, H.	Cook ...	...	7 0	
Beauchamp, G. F.	Chainman ...	...	7 0	

RETURN NO. A.—PERSONS DISCHARGED—continued.

Name.	Occupation.	Rate of Pay.				Remarks.	
		Salary per Annum.			Wages per Diem.		
		£	s.	d.	s.	d.	
Beynon, J. ...	Inspector...	...	...	...	10	0	
Buchanan, J. ...	Field Assistant	...	...	...	10	0	
Byrne, J. R. ...	Chainman	...	...	...	7	0	
Baker, W. ...	"	...	...	...	7	0	
Cuthbert, K. ...	District Engineer	500	0	0	...	...	Received compensation.
Campbell, F. A. ...	Field Assistant	...	...	...	15	0	
Chaplin, A. ...	"	...	...	...	10	0	
Connolly, D. J. ...	Chainman	...	...	...	7	0	
Connell, W. ...	"	...	...	...	7	0	
Crisp, J. G. ...	Inspector...	...	...	...	10	0	
Curtois, W. ...	Field Assistant	...	...	...	15	0	Re-employed.
Cardie, J. ...	Inspector...	...	...	...	12	6	"
Carroll, J. ...	Chainman	...	...	...	7	0	"
Chapple, J. M. ...	"	...	...	...	7	0	
Cadien, G. M. ...	"	...	...	...	7	0	
Cook, R. ...	Inspector ...	...	...	...	10	0	
Dutton, G. ...	Clerk ..	313	0	0	...	...	Received compensation.
Darbyshire, G. C. ...	Engineer of Surveys	...	...	...	63	0	
Davies, J. H. ...	Assistant Engineer...	...	...	...	25	0	
Demillo, X. ...	Cook ...	...	...	...	7	0	Re-employed.
Davies, F. A. ...	" ...	...	...	...	7	0	
Day, G. ...	" ...	...	...	...	7	0	
Edwards, G. H. ...	Draftsman	...	...	...	27	6	Received compensation.
Finnon, W. ...	Chainman	...	...	...	7	0	
Feigehen, J. ...	"	...	...	...	7	0	
Greene, W. H. ...	Resident Engineer	1,000	0	0	...	...	Received compensation.
Grant, H. Q. ...	Draftsman	...	...	...	10	0	
Grimes, W. W. ...	Inspector...	...	...	...	16	8	
Gates, J. F. ...	Chainman	...	...	...	7	0	
Gatis, C. C. ...	"	...	...	...	7	0	
Higinbotham, T. ...	Engineer-in-Chief	1,500	0	0	...	...	Received compensation.
Hardie, W. F. ...	District Engineer	700	0	0	...	...	" "
Harbord, D. ...	Draftsman	...	...	...	17	6	" "
Hazlewood, R. ...	Chainman	...	...	...	7	0	
Hill, W. E. ...	Draftsman	...	...	...	15	0	Re-appointed.
Hornsby, J. R. ...	Chainman	...	...	...	7	0	
James, C. W. S. ...	Assistant Engineer...	350	0	0	...	...	Received compensation.
Kay, A. ...	Chainman	...	...	...	7	0	
Kerr, M. ...	Inspector ...	...	...	...	15	0	
Lacy, D. ...	Chainman	...	...	...	7	0	
Love, A. ...	Field Assistant	...	...	...	10	0	
Lawless, J. ...	Chainman	...	...	...	7	0	
Moline, L. P. ...	District Engineer	500	0	0	...	...
Martin, N. ...	Field Assistant	...	...	...	10	0	
Muir, R. J. ...	Inspector...	...	...	...	15	0	
Muir, J. ...	Chainman	...	...	...	7	0	
Macartney, A. ...	"	...	...	...	7	0	
Martin, A. L. ...	Assistant Engineer...	...	...	...	25	0	Received compensation.
Murray, J. ...	Chainman	...	...	...	7	0	
McCaw, W. ...	Inspector...	...	...	...	12	6	Received compensation.
Moody, H. F. ...	Chainman	...	...	...	7	0	
Morris, J. ...	"	...	...	...	7	0	
McDonald, D. ...	"	...	...	...	8	0	
McDonald, C. ...	Cook ...	...	...	...	7	0	
McIntosh, A. R. ...	Chainman	...	...	...	7	0	
McKenzie, W. ...	"	...	...	...	7	0	
McEachern, H. ...	"	...	...	...	35/4	wk.	
McRae, J. ...	Cook ...	...	...	...	7	0	
Monie, W. ...	Field Assistant	...	...	...	12	6	
Oliver, C. E. ...	"	...	...	...	10	0	
Phillips, T. ...	Chainman	...	...	...	7	0	
Pakenham, A. ...	"	...	...	...	7	0	
Quinlan, W. ...	"	...	...	...	7	0	
Roberts, T. ...	Draftsman	...	...	...	20	0	
Stafford, G. ...	Assistant Engineer...	...	...	...	25	0	
Stirling, J. ...	Office Assistant	...	...	...	8	6	
Suttie, A. ...	Inspector...	...	...	...	16	8	
Sharp, J. ...	"	...	...	...	17	6	
Stiles, W. ...	"	...	...	...	16	8	
Savage, W. ...	Chainman	...	...	...	7	0	

RETURN NO. A.—PERSONS DISCHARGED—*continued.*

Name.	Occupation.	Rate of Pay.		Remarks	
		Salary per Annum.	Wages per Diem.		
		£	s. d.	s. d.	
Stephen, H. R. ...	Chainman ...	...	...	7 0	
Smith, J. ...	" ...	...	...	7 0	
Shaw, R. ...	" ...	...	...	7 0	
Temperley, J. R. ...	Draftsman ...	...	...	25 0	
Tulloch, J. ...	Field Assistant ...	...	...	15 0	
Wells, A. ...	Resident Engineer ...	1,000	0 0	...	Retiring allowance of £500 per annum.
Wilkinson, Jno. ...	Assistant Engineer...	350	0 0	...	Re-appointed.
Walton, E. ...	Chainman ...	...	...	7 0	
Whelan, J. ...	" ...	...	...	7 0	
Weir, W. ...	" ...	...	...	7 0	

GANGERS, PLATELAYERS, CARPENTERS, ETC.

Northern System.

Boyett, C. ...	Carpenter...	...	...	7 6
Bartlett, C. J. ...	" ...	...	...	10 0
Bartlett, H. ...	" ...	...	...	10 0
Burge, R. ...	Blacksmith ...	...	...	12 0
Booker, D. ...	Signalman ...	...	...	8 0
Burley, E. ...	Painter ...	...	...	7 6
Campbell, D. ...	Ganger ...	...	...	9 0
Corlett, W. ...	Carpenter...	...	...	10 0
Coates, J. ...	Painter ...	...	...	10 0
De Gruchy, J. ...	Carpenter...	...	...	10 0
Goudie, A. ...	" ...	...	...	10 0
Howell, R. ...	" ...	...	...	10 0
Healey, T. ...	Striker ...	...	...	8 6
Hard, C. ...	Carpenter ...	...	...	10 0
Lemon, R. ...	Bricklayer ...	...	...	10 0
McGrath, H. ...	Carpenter...	...	...	10 0
Myers, A. ...	" ...	...	...	10 0
Mitchell, G. ...	Plumber ...	...	...	12 0
Naughten, W. ...	Ganger ...	...	...	9 0
Peet, T. ...	Bricklayer ...	...	...	12 0
Page, M. ...	Painter ...	...	...	10 0
Quinn, P. ...	Mason ...	...	...	12 0
Robbins, W. ...	Bricklayer ...	...	...	10 0
Sweeney, J. ...	Carpenter ...	...	...	10 0
Sexton, J. ...	Fitter ...	...	...	10 0
Strachan, J. M. ...	Carpenter ...	...	...	10 0
Spencer, H. ...	Plumber ...	...	...	12 0
Seddon, J. ...	Bricklayer ...	...	...	12 0
Taylor, G. ...	Blacksmith ...	...	...	11 0
Thomas, W. ...	Striker ...	...	...	8 6
Thomson, S. ...	Painter ...	...	...	10 0
Wallace, J. ...	Blacksmith ...	...	...	12 0
Wilson, J. ...	Carpenter ...	...	...	10 0

Western System.

Birch, W. N. ...	Ganger ...	...	...	9 0
Berry, J. ...	" ...	...	...	9 0
Child, A. ...	Carpenter ...	...	...	10 0
Cooper, J. ...	" ...	...	...	10 0
Cull, E. ...	Painter ...	...	...	8 0
Drew, E. ...	Plumber ...	...	...	10 0
Dickson, G. ...	Fencer ...	...	...	7 0
Foreman, J. ...	Ganger ...	...	...	9 0
Fullerton, W. ...	Carpenter ...	...	...	10 0
Flower, A. ...	Painter ...	...	...	9 0
Fallon, W. ...	Ganger ...	...	...	9 0
Geary, J. ...	" ...	...	...	9 0
Gunthorpe, T. ...	Painter ...	...	...	10 0
Grant, J. ...	Carpenter ...	...	...	10 0
Harvey, W. ...	Ganger ...	...	...	9 0
Henlock, J. ...	Carpenter ...	...	...	10 0
Haslett, C. ...	" ...	...	...	12 0

RETURN NO. A.—PERSONS DISCHARGED—*continued.*

Name.	Occupation.	Rate of Pay.				Remarks.	
		Salary per Annum.			Wages per Diem.		
		£	s.	d.	s.	d.	
Jenkins, A. ...	Painter ...	...	...	...	9	0	
Keys, H. S. ...	Carpenter ...	...	...	...	10	0	
King, A. ...	" ...	...	...	...	10	0	
Lang, J. ...	" ...	...	...	...	10	0	
Lee, J. ...	Painter ...	...	...	...	9	0	
McDonnell, T. ...	Ganger ...	...	...	...	9	0	
McManus, O. ...	" ...	...	...	...	9	0	
Murray, A. J. ...	Painter ...	...	...	...	10	0	
McIntosh, W. ...	Carpenter ...	...	...	...	10	0	
McLennan, H. ...	" ...	...	...	...	11	0	
Oldfield, R. E. ...	" ...	...	...	...	10	0	
Podmore, G. ...	Ganger ...	...	...	...	9	0	
Porter, J. ...	Bricklayer ...	...	...	...	10	0	
Riley, C. ...	Ganger ...	...	...	...	9	0	
Sissons, W. ...	Fencer ...	...	...	...	7	0	
Strickland, G. ...	Carpenter ...	...	...	...	11	0	
Tibb, J. ...	Fencer ...	...	...	...	8	0	
Williams, R. ...	Carpenter ...	...	...	...	10	0	
Watson, J. ...	Painter ...	...	...	...	9	0	
Welsh, J. ...	" ...	...	...	...	9	0	

North-Eastern and Eastern Systems.

Beale, J. ...	Bricklayer ...	...	...	...	10	6	
Beaumont, G. ...	Painter ...	...	...	...	9	0	
Cameron, J. ...	Fitter ...	...	...	...	13	0	
Delaney, T. ...	Carpenter ...	...	...	...	9	0	
Douglas, W. ...	" ...	...	...	...	10	0	
Dodd, G. ...	Bricklayer ...	...	...	...	12	6	
Eastlake, J. ...	Carpenter ...	...	...	...	10	0	
Ferguson, J. ...	" ...	...	...	...	9	0	
Hazlemore, S. ...	Ganger ...	...	...	...	9	0	
Hamilton, J. ...	Carpenter ...	...	...	...	10	0	
Humphreys, J. ...	" ...	...	...	...	10	0	
Lewin, T. ...	" ...	...	...	...	10	0	
Morris, J. ...	Fitter ...	...	...	...	13	0	
McColl J. ...	Painter ...	...	...	...	9	0	
McKenzie, W. ...	" ...	...	...	...	9	0	
McDougall, J. ...	" ...	...	...	...	9	0	
McIntosh, W. ...	Ganger ...	...	...	...	10	0	
O'Dea, A. ...	" ...	...	...	...	9	0	
Pattin, J. H. ...	Carpenter ...	...	...	...	10	0	
Pyves, R. ...	Fitter ...	...	...	...	13	0	
Pennifold, H. ...	Ganger ...	...	...	...	9	0	
Rule, H. ...	Painter ...	...	...	...	10	0	
Rees, F....	Carpenter ...	...	...	...	10	0	
Shannon, R. ...	Laborer ...	...	...	...	7	0	
Sinnott, J. ...	" ...	...	...	...	7	0	
Sterling, W. ...	Painter ...	...	...	...	9	0	
Weir, G. ...	Carpenter ...	...	...	...	10	0	
Wilkinson, J. ...	" ...	...	...	...	10	0	

Extra Gang, Eastern System.

Albertoni, G. ...	Laborer ...	...	...	...	7	0	
Burrowes, A. ...	" ...	...	...	...	7	0	
Brown, P. ...	" ...	...	...	...	7	0	
Begg, H. ...	" ...	...	...	...	7	0	
Bourke, M. ...	" ...	...	...	...	7	0	
Clark, P. ...	" ...	...	...	...	7	0	
Cummings, M. ...	" ...	...	...	...	7	0	
Cook, G. ...	Guard ...	...	...	...	8	0	
Doolan, W. ...	Laborer ...	...	...	...	7	0	
Dunn, M. ...	" ...	...	...	...	7	0	
Daly, J. ...	" ...	...	...	...	7	0	
Egan, S. ...	" ...	...	...	...	7	0	
Foster, A. ...	" ...	...	...	...	7	0	
Fitzpatrick, G. ...	" ...	...	...	...	7	0	
Griffin, J. ...	" ...	...	...	...	7	0	

RETURN NO. A.—PERSONS DISCHARGED—*continued.*

Name.	Occupation.	Rate of Pay.		Remarks.
		Salary per Annum.	Wages per Diem.	
		£	s. d.	
Hammell, F. ...	Laborer ...	...	7 0	
Hayes, E. ...	" ...	...	7 0	
Kett, D....	" ...	...	7 0	
Kearney, T. ...	" ...	...	7 0	
Lawson, M. ...	" ...	...	7 0	
Lanigan, M. ...	" ...	...	7 0	
Lawrey, J. F. ...	" ...	...	7 0	
McGrath, P. ...	" ...	...	7 0	
Moore, J. ...	" ...	...	7 0	
Maher, J. ...	" ...	...	7 0	
McIntyre, J. ...	" ...	...	7 0	
Matthews, H. ...	" ...	...	7 0	
McHaskell, D. ...	" ...	...	7 0	
Neville, M. ...	" ...	...	7 0	
Nolan, M. ...	Ganger ...	...	8 0	
Quigley, P. ...	Laborer ...	...	7 0	
Robinson, J. ...	" ...	...	7 0	
Smith, T. ...	" ...	...	7 0	
Sheedy, M. ...	" ...	...	7 0	
Silcock C. ...	" ...	...	7 0	
Spencer, M. ...	" ...	...	7 0	
Tolmie, R. ...	" ...	...	7 0	
Vallely, F. ...	" ...	...	7 0	
Vrinland, S. ...	" ...	...	7 0	
Whelan, P. ...	" ...	...	7 0	
Walsh, J. (2) ...	" ...	...	7 0	
Walsh, P. ...	" ...	...	7 0	
Walsh, M. ...	" ...	...	7 0	
Walsh, T. ...	" ...	...	7 0	
Walsh, J. (1) ...	" ...	...	7 0	

NOTE.—All the men in the above Extra Gang were temporarily employed on new works on the Oakleigh and Sale Line.

MISCELLANEOUS.

SILT MEN.

Atkins, H. ...	Laborer ...	...	8 0
Ashman, G. ...	" ...	...	8 0
Bredin, E. ...	" ...	...	8 0
Burke, G. ...	" ...	...	8 0
Brown, C. ...	" ...	...	8 0
Butler, T. ...	" ...	...	8 0
Brackley, C. ...	" ...	...	8 0
Burns, H. ...	" ...	...	8 0
Banks, G. ...	" ...	...	8 0
Brady, C. ...	" ...	...	8 0
Butler, W. ...	" ...	...	8 0
Barron, J. ...	" ...	...	8 0
Brown, G. ...	" ...	...	8 0
Boddington, T. ...	" ...	...	7 0
Boddington, A. ...	" ...	...	8 0
Crowley, M. ...	" ...	...	8 0
Connor, J. ...	" ...	...	8 0
Cassidy, B. ...	" ...	...	8 0
Connelly, J. ...	" ...	...	8 0
Carey, S. ...	" ...	...	8 0
Cullen, M. ...	" ...	...	8 0
Cassidy, T. ...	" ...	...	8 0
Cameron, A. ...	" ...	...	8 0
Doherty, M. ...	" ...	...	8 0
Donaldson, A. ...	" ...	...	8 0
Dunphy, J. ...	" ...	...	8 0
Doherty, J. ...	" ...	...	8 0
Downey, J. ...	" ...	...	8 0
Davis, B. ...	" ...	...	8 0
Duggan, J. ...	" ...	...	8 0
Davis, J. ...	" ...	...	7 0
Dennett, W. ...	" ...	...	7 0

RETURN NO. A.—PERSONS DISCHARGED—*continued.*

Name.	Occupation.	Rate of Pay.				Remarks.	
		Salary per Annum.			Wages per Diem.		
		£	s.	d.	s.	d.	
Daly, J. ...	Laborer ...	...	...	...	8	0	
Fair, T. ...	" ...	...	...	...	8	0	
Gallagher, J. ...	" ...	...	...	...	8	0	
Gaffney, W. ...	" ...	...	...	...	8	0	
Green, A. ...	" ...	...	...	...	8	0	
Glanville, T. ...	" ...	...	...	...	8	0	
Henry, F. ...	" ...	...	...	...	8	0	
Hall, J. ...	" ...	...	...	...	8	0	
Hackett, M. ...	" ...	...	...	...	8	0	
Henry, H. ...	" ...	...	...	...	8	0	
Horan, W. ...	" ...	...	...	...	8	0	
Hearle, J. ...	" ...	...	...	...	8	0	
Hylands, J. ...	" ...	...	...	...	8	0	
Jones, J. ...	" ...	...	...	...	8	0	
Johnson, W. ...	" ...	...	...	...	8	0	
Jones, E. ...	" ...	...	...	...	8	0	
Johnstone, Rae ...	" ...	...	...	...	8	0	
Johnstone, Robt. ...	" ...	...	...	...	8	0	
Johnston, F. ...	" ...	...	...	...	8	0	
Knaggs, J. ...	" ...	...	...	...	7	6	
King, T. ...	" ...	...	...	...	8	0	
Kelly, Jas. ...	Inspector ...	...	...	...	16	8	
Kirkland, G. ...	Laborer ...	...	...	...	8	0	
Kennedy, M. ...	" ...	...	...	...	7	0	
Kelly, P. ...	" ...	...	...	...	8	0	
Kelly, M. ...	" ...	...	...	...	8	0	
Lohowsky, F. ...	" ...	...	...	...	8	0	
Logan, M. ...	" ...	...	...	...	8	0	
Meredith, J. ...	" ...	...	...	...	7	0	
Mulcahy, E. ...	" ...	...	...	...	8	0	
Mahoney, P. ...	" ...	...	...	...	8	0	
Maher, J. ...	" ...	...	...	...	8	0	
Mohonan, P. ...	" ...	...	...	...	7	0	
Mallaney, T. ...	" ...	...	...	...	7	0	
McLennan, D. ...	" ...	...	...	...	8	0	
McGrath, J. ...	" ...	...	...	...	8	0	
McKean, F. ...	" ...	...	...	...	8	0	
McGrath, M. ...	" ...	...	...	...	8	0	
McMahon, G. ...	" ...	...	...	...	8	0	
McCann, J. ...	" ...	...	...	...	7	0	
Neenan, D. ...	" ...	...	...	...	8	0	
Neenan, T. ...	" ...	...	...	...	7	0	
Prunty, B. ...	" ...	...	...	...	8	0	
Penwarn, G. ...	" ...	...	...	...	8	0	
Palmer, J. ...	" ...	...	...	...	8	0	
Rooney, M. ...	" ...	...	...	...	8	0	
Russell, W. ...	" ...	...	...	...	8	0	
Ryan, P. ...	" ...	...	...	...	8	0	
Ryan, J. ...	" ...	...	...	...	8	0	
Sullivan, J. ...	" ...	...	...	...	8	0	
Samuels, R. ...	" ...	...	...	...	7	0	
Sprentall, G. ...	" ...	...	...	...	8	0	
Spargo, J. ...	" ...	...	...	...	8	0	
Snadden, J. ...	" ...	...	...	...	8	0	
Scott, J. ...	" ...	...	...	...	8	0	
Soby, C. ...	" ...	...	...	...	8	0	
Townsend, J. ...	" ...	...	...	...	8	0	
Thompson, J. ...	" ...	...	...	...	7	0	
Thompson, R. ...	" ...	...	...	...	7	0	
Thomas, J. ...	" ...	...	...	...	8	0	
Thompson, W. ...	" ...	...	...	...	8	0	
Vickers, W. ...	" ...	...	...	...	8	0	
Weeks, J. ...	" ...	...	...	...	8	0	
Wile, T. ...	" ...	...	...	...	8	0	
Whelan, M. ...	" ...	...	...	...	8	0	
Wilson, J. ...	" ...	...	...	...	8	0	
Winkle, J. ...	" ...	...	...	...	8	0	
Woolley, H. ...	" ...	...	...	...	8	0	
White, J. ...	" ...	...	...	...	8	0	
Wilson (No. 2), J. ...	" ...	...	...	...	8	0	

RETURN NO. A.—PERSONS DISCHARGED—*continued.*

Name.	Occupation.	Rate of Pay.		Remarks.
		Salary per Annum.	Wages per Diem.	
		£	s. d.	
Wishart, J. ...	Carpenter ...	...	9 0	
Young, R. ...	Laborer ...	...	8 0	

MISCELLANEOUS.

Adams, J. ...	Ironworker ...	...	10 0	
Bisset, R. ...	Carpenter ...	...	10 0	
Bedford, F. ...	" ...	...	10 0	
Barr, T. ...	Bricklayer ...	...	11 0	
Bruce, D. ...	Blacksmith ...	...	10 0	
Buckley, J. ...	Laborer ...	...	7 0	
Boarder, H. ...	" ...	...	7 0	
Bowman, T. ...	" ...	...	7 0	
Cuthbert, M. ...	Carpenter ...	...	10 0	
Cunningham, N. ...	" ...	...	10 0	
Carstairs, A. ...	Ganger and Laborer ...	...	7 6	
Cox, T. ...	Laborer ...	...	7 0	
Clarke, G. ...	" ...	...	7 0	
Dalglisch, W. ...	Carpenter ...	...	10 0	
Dalglisch, A. ...	" ...	...	13 0	
Downs, J. ...	Pile driver ...	...	8 0	
Drury, T. ...	Asphalter ...	...	10 0	
Doocy, M. ...	Laborer ...	...	7 0	
De Vere, M. ...	" ...	...	7 0	
Downey, J. ...	" ...	...	7 0	
Flatley, C. ...	Carpenter ...	...	10 0	
Fraser, W. ...	" ...	...	10 0	
Fearys W. ...	Painter ...	...	9 0	
Forrest, W. ...	Laborer ...	...	7 0	
Fitzpatrick, T. ...	" ...	...	7 0	
Goodsir, R. ...	Carpenter ...	...	10 0	
Grierson, J. ...	" ...	...	10 0	
Gray, J. ...	" ...	...	10 0	
Golding, W. ...	Painter ...	...	9 0	
Grey, H. ...	Laborer ...	...	7 0	
Gaffney, W. ...	Laborer ...	...	7 0	
Hockings, W. ...	Carpenter ...	...	10 0	
Hanley, J. ...	" ...	...	10 0	
Hartness, W. ...	Mason ...	...	12 0	
Herrold, A. ...	Painter ...	...	9 0	
Hourigan, J. ...	Laborer ...	...	7 0	
Jolliffe, W. ...	Carpenter ...	...	10 0	
Johnston, J. ...	Painter ...	...	8 0	
Lamont, R. ...	Carpenter ...	...	10 0	
Leverett, W. ...	Laborer ...	...	7 0	
Marshall, A. ...	Carpenter ...	...	10 0	
Mowat, L. ...	" ...	...	10 0	
Morrison, J. ...	" ...	...	10 0	
Morris, C. ...	" ...	...	10 0	
McClure, H. ...	" ...	...	10 0	
McFarlane, D. ...	" ...	...	10 0	
Morgan, J. ...	Painter ...	...	8 0	
McGrath, J. ...	Laborer ...	...	7 0	
McBean, J. ...	Laborer and Assistant Timekeeper	...	7 0	
Mack, P. ...	Laborer ...	...	7 0	
McIntyre, A. ...	" ...	...	7 0	
Mahonan, P. ...	" ...	...	7 0	
Newton, J. ...	Painter ...	...	9 0	
O'Brien, J. ...	Laborer ...	...	7 0	
Petty, J. ...	Carpenter ...	...	10 0	
Power, J. ...	Pile-driver ...	...	8 0	
Patterson, A. ...	Signal Adjuster ...	...	7 0	
Ramsbotham, J. ...	Carpenter ...	...	10 0	
Ralph, J. C. ...	Timekeeper ...	...	7 0	
Searsby, S. ...	Carpenter ...	...	10 0	
Smyth, J. ...	Painter ...	...	9 0	
Snell, J. ...	Bricklayer ...	...	10 0	
Snadden, W. ...	Painter ...	...	8 0	
Smith, S. ...	Laborer ...	...	7 0	

RETURN NO. A.—PERSONS DISCHARGED—*continued.*

Name.	Occupation.	Rate of Pay.				Remarks.	
		Salary per Annum.			Wages per Diem.		
		£	s.	d.	s.		d.
Stringleman, J. ...	Laborer ...	...	...	...	7	0	
Shannon, J. ...	„ ...	...	...	...	7	0	
Thomas, J. ...	Carpenter ...	...	...	...	10	0	
Taylor, D. ...	„ ...	...	...	...	10	0	
Taylor, G. ...	„ ...	...	...	...	10	0	
Thornton, J. ...	Fitter ...	...	...	...	11	0	
Waycott, H. ...	Carpenter ...	...	...	...	10	0	
Wilmott, W. ...	Polisher ...	...	...	...	12	0	
Wallace, W. ...	Pile-driver ...	...	...	...	8	0	
Wilkes, H. ...	Laborer ...	...	...	...	7	0	

RETURN No. B.

RETURN showing the Name, Occupation, and Salary of every person appointed or re-appointed, between the 1st July 1877 and the 1st July 1879, to any situation in the Government Service, in the Railway Department, whether permanent or temporary, and whether paid by Salaries voted on Estimates or out of Monies appropriated for particular works, and not receiving pay at a rate below 7s. per diem.

Name.	Occupation.	Rate of Pay.				Remarks.
		Salary per Annum.			Wages per Diem.	
		£	s.	d.	s.		d.

SECRETARY'S BRANCH.

LeMasurier, F. A. ...	Clerk ...	225	0	0	...	Re-appointed.	
O'Rorke, J. R. ...	Clerk ...	425	0	0	...	„	
Kelleher, W. ...	Temporary Clerk ...	...	...	...	10	0	Temporarily employed.
Plummer, W. A. K. ...	Temporary Clerk ...	...	...	...	10	0	Ditto; since discharged.

TRAFFIC BRANCH.

Allard, Geo. ...	Guard ...	...	...	...	9	0	
Austin, F. ...	Messenger ...	...	...	...	7	0	
Bruce, Jas. ...	Clerk ...	...	...	...	15	0	
Bayne, H. A. ...	Porter ...	...	...	...	7	0	
Behan, W. ...	Clerk ...	...	...	...	12	6	Since left.
Bigelow, C. S. ...	„ ...	...	...	...	7	0	
Carson, J. C. L. ...	Guard ...	...	...	...	9	6	Re-employed.
Clark, Joseph ...	Number Taker ...	...	...	...	7	0	
Collings, W. ...	Clerk ...	...	...	...	8	6	Temporary for few weeks only; not on now.
Cooney, J. ...	Porter ...	...	...	...	7	0	
Carpenter, T. ...	Charge of Junction... ..	...	...	...	8	0	
Dixon, E. ...	Shunter ...	...	...	...	7	0	
Dalglish, J. ...	Watchman ...	...	...	...	7	0	
Down, J. E. ...	Clerk ...	...	...	...	8	0	Few weeks only; left.
Eastwood, Hy. ...	Porter ...	...	...	...	7	0	
Fussell, J. H. ...	Pointsman ...	...	...	...	7	0	
Finlay, T. A. ...	Clerk ...	...	...	...	9	0	
Harrington, T. R....	Porter ...	...	...	...	7	0	
Hanrahan, J. ...	Pointsman and Gate-keeper	...	...	...	7	0	
Howard, T. ...	Tally Porter ...	...	...	...	7	0	Few weeks only; left.
Hodges, T. R. ...	Gateman ...	...	...	...	7	0	
Harvey, P. L. ...	Tally Clerk ...	...	...	...	10	0	Occasionally employed.
Hitchins, F. ...	„ ...	...	...	...	10	0	Since promoted to £175 per annum as coal clerk.
Hawkeswood, T. ...	Clerk ...	...	...	...	8	0	
Horne, F. ...	„ ...	...	...	...	7	0	
Jones, S. P. ...	„ ...	...	...	...	8	0	
Jones, R. ...	Watchman ...	...	...	...	7	0	

RETURN NO. B.—APPOINTMENTS AND RE-APPOINTMENTS—*continued.*

Name.	Occupation.	Rate of Pay.		Remarks.	
		Salary per Annum.	Wages per Diem.		
		£	s. d.	s. d.	
Kettle, E. G. ...	Porter ...	...	...	7 0	Re-appointed.
Liston, Jas. ...	... ..	...	...	7 0	A few weeks only ; left.
Maber, P. ...	Porter ...	...	...	7 0	
Mulholland, J. ...	" ...	...	...	7 0	
Menzies, J. ...	Goods Porter ...	...	...	7 0	
Maddox, F. ...	Clerk ...	...	...	7 0	
McShane, M. ...	Porter ...	...	...	7 0	Re-appointed.
McAllister, J. ...	Clerk ...	...	...	8 0	"
McEwan, R. A. ...	" ...	...	...	9 0	"
McLeod, W. ...	" ...	...	...	7 0	"
Norman, A. ...	" ...	...	...	7 0	A few days only ; left.
O'Farrell, E. ...	Watchman ...	...	...	7 0	Left.
Powell, Jas. ...	Pointsman ...	...	...	7 0	
Round, E. J. ...	" ...	...	...	7 0	
Robson, E. ...	" ...	...	...	7 0	
Ryan, J. ...	Watchman ...	...	...	7 0	
Sullivan, C. ...	Porter ...	...	...	7 0	
Shields, Jas. ...	Watchman ...	...	...	7 0	
Stewart, E. McP. ...	Porter in Charge ...	...	...	8 0	Re-appointed.
Toohy, T. ...	Porter ...	...	...	7 0	
Vaughan, J. B. ...	Clerk ...	...	...	8 0	
Warren, Geo. ...	" ...	...	...	8 0	
Wright, S. ...	" ...	...	...	8 0	Casually employed.
Watkins, W. ...	" ...	...	...	10 0	" "
Walker, W. ...	" ...	...	...	8 0	" "
Walsh, P. ...	Head Porter ...	...	...	8 0	Re-appointed.

TELEGRAPH BRANCH.

Adams, G. ...	Laborer ...	...	...	7 0	
Anderson, J. ...	" ...	...	...	7 0	
Carty, P. ...	" ...	...	...	7 0	
Coleman, S. A. ...	" ...	...	...	7 0	
Davies, D. ...	" ...	...	...	7 0	
Howard, T. ...	Clerk ...	...	...	7 0	Died, 4/12/78
Kennedy, R. ...	Laborer ...	...	...	7 0	
Larkins, J. ...	" ...	...	...	7 0	
McDonell, J. ...	Line Overseer ...	...	...	9 0	
McIntyre, C. C. ...	Clerk ...	...	...	7 0	
Oldfield, R. E. ...	Line Overseer ...	...	...	10 0	Resigned, 28/2/79.
Pearce, A. ...	Operator ...	...	...	7 0	
Quirk, M. ...	Laborer ...	...	...	7 0	
Ready, P. ...	" ...	...	...	7 0	
Redmond, G. ...	" ...	...	...	7 0	

LOCOMOTIVE BRANCH.

Abell, W. ...	Fitter ...	...	...	10 0	
Alexander, A. ...	Turner ...	...	...	8 0	
Barry, R. ...	Holder up ...	...	...	8 0	
Barry, T. ...	" ...	...	...	8 0	
Boyce, W. ...	Truck Fitter ...	...	...	10 0	
Baker, J. ...	Fitter ...	...	...	11 0	
Bartlett, A. C. ...	Sty. Engine-driver ...	...	...	9 0	
Beal, G. W. ...	Waggon Builder ...	...	...	9 0	
Blair, T. ...	Striker ...	...	...	7 6	
Cole, R. ...	Waggon Builder ...	...	...	10 0	
Cousins, J. ...	" ...	...	...	10 0	
Cleak, C. ...	Blacksmith ...	...	...	11 0	
Connelly, M. ...	Striker ...	...	...	7 0	
Crockford, H. ...	" ...	...	...	8 0	Re-appointed.
Cook, T. ...	Fitter ...	...	...	10 0	
Carter, W. ...	Waggon Builder ...	...	...	9 0	
Churchman, T. ...	French Polisher ...	...	...	9 0	
Dale, W. ...	Inspector of Black-wood	...	...	10 0	
Dunsmore, J. ...	Boilermaker ...	...	...	10 0	
Devlin, J. ...	Blacksmith ...	...	...	11 0	
Douglas, S. ...	Striker ...	...	...	7 6	

RETURN NO. B.—APPOINTMENTS AND RE-APPOINTMENTS—*continued.*

Name.	Occupation.	Rate of Pay.				Remarks.
		Salary per Annum.			Wages per Diem.	
		£	s.	d.	s.	d.
Davis, J. ...	Turner ...	...	...	...	10	6
Edwards, Jas. ...	Sewing Machinist ...	...	...	...	9	0
Evans, F. ...	Hammerman ...	...	...	...	7	6
Ferreter, W. ...	Boilermaker's Assistant	...	...	...	10	0
Ford, E. ...	Turner ...	...	...	...	10	6
Fletcher, G. ...	Striker ...	...	...	...	7	6
Goodsir, R. ...	Carpenter ...	...	...	...	10	0
Gale, J. M. ...	Carr Builder ...	...	...	...	10	0
Gathercole, R. M. ...	Blacksmith ...	...	...	...	10	0
Hopkins, J. ...	Waggon Repairer ...	...	...	...	10	0
Henderson, G. ...	Boilermaker ...	...	...	...	10	0
Hall, G. ...	Blacksmith ...	...	...	...	12	0
Hinds, C. ...	Fitter ...	...	...	...	11	0
Hobroyd, T. ...	Carpenter ...	...	...	...	8	0
Hitchins, A. ...	Pumper ...	...	...	...	8	0
Hamment, J. ...	Holder-up ...	...	...	...	7	0
Harnock, F. L. ...	Carr Builder ...	...	...	...	9	0
Harsley, J. ...	Waggon Builder ...	...	...	...	9	0
Herbert, J. ...	" ...	...	...	...	9	0
Henderson, W. ...	Driller ...	...	...	...	8	0
Hunt, J. ...	Fitter ...	...	...	...	7	0
Kelly, N. J. ...	Storeman... ...	...	...	...	8	0
Kinnane, J. ...	Blacksmith ...	...	...	...	11	0
Kerville, W. ...	Fuelman ...	...	...	...	7	0
Kington, G. ...	Waggon Builder ...	...	...	...	9	0
Lambert, A. A. ...	Carr Fitter ...	...	...	...	10	0
Lanc, Z. ...	Fitter and Train Examiner	...	...	...	10	0
Lane, J. ...	Carr Builder ...	...	...	...	10	0
Lewis, S. ...	" ...	...	...	...	10	0
Longmore, J. ...	Waggon Builder ...	...	...	...	9	0
Lamont, R. ...	Waggon Hand ...	...	...	...	9	0
Lockwood, J. ...	Blacksmith ...	...	...	...	11	0
Lomax, W. ...	Boilermaker ...	...	...	...	11	0
Mayer, J. ...	" ...	...	...	...	12	0
Moore, J. ...	" ...	...	...	...	10	0
Mathers, J. ...	Greaser and Lifter ...	...	...	...	9	0
Manderson, H. ...	Turner ...	...	...	...	10	0
Marshall, A. ...	Waggon Builder ...	...	...	...	10	0
Mattinson, D. G. ...	Fitter ...	...	...	...	8	0
Macaulay, R. ...	Carpenter ...	...	...	...	10	0
McMillan, W. ...	Boilermaker ...	...	...	...	10	0
McCance, W. ...	Striker ...	...	...	...	8	0
Nettleton, A. ...	Carr Fitter ...	...	...	...	10	0
Newton, J. ...	Boilermaker ...	...	...	...	10	0
Norster, S. ...	Laborer ...	...	...	...	7	0
Newman, G. ...	Hammerman ...	...	...	...	7	0
Oldham, J. ...	Boilermaker ...	...	...	...	13	0
O'Meara, R. ...	Boilermaker ...	...	...	...	10	0
Parker, G. ...	Greaser ...	...	...	...	7	0
Peel, S. R. ...	Inspector ...	...	...	...	18	0
Prosser, C. J. ...	Carr Builder ...	...	...	...	9	0
Pitt, W. ...	" ...	...	...	...	10	0
Pratt, A. ...	Waggon Builder ...	...	...	...	9	0
Padgham, J. ...	" ...	...	...	...	9	0
Parker, W. ...	Blacksmith ...	...	...	...	11	0
Ridgwell, J. ...	Holder-up ...	...	...	...	7	0
Ross, G. S. ...	Boilermaker ...	...	...	...	10	0
Rule, R. ...	Fitter ...	...	...	...	10	0
Rodda, T. ...	Boilermaker's Laborer ...	...	...	...	7	0
Roberts, W. ...	Greaser, &c. ...	...	...	...	9	0
Rees, T. ...	Boilermaker ...	...	...	...	10	0
Rigby, J. ...	Striker ...	...	...	...	7	6
Sinclair, W. ...	Carr Fitter ...	...	...	...	10	0
Strafford, G. ...	Boilermaker's Assistant	...	...	...	8	0
Sutherland, W. ...	Holder-up ...	...	...	...	7	0
Stevenson, A. ...	Boilermaker ...	...	...	...	10	0
Swindells, H. G. ...	Painter ...	...	...	...	9	0

RETURN NO. B.—APPOINTMENTS AND RE-APPOINTMENTS—*continued.*

Name.	Occupation.	Rate of Pay.		Remarks.
		Salary per Annum.	Wages per Diem.	
		£ s. d.	s. d.	
Stoneman, A. ...	Springmaker ...	...	11 0	
Sievers, A. ...	Striker ...	...	8 0	
Stevenson, D. ...	Fitter ...	...	11 0	
Sutherland, R. ...	Blacksmith ...	...	10 0	
Skinner, G. ...	" ...	...	11 0	
Symons, T. ...	Striker ...	...	7 0	
Toohey, H. ...	Hammerman ...	...	8 0	
Tyler, T. ...	Painter ...	...	9 0	
Thompson, W. ...	Boilermaker ...	...	10 0	
Thomas, T. ...	Joiner ...	...	10 0	
Taylor, G. L. ...	Blacksmith ...	...	11 0	
Thomas, W. ...	Striker ...	...	7 6	
Trapp, H. ...	Waggon Builder ...	...	9 0	
Thomas, J. ...	Coal Viewer ...	250 0 0		
Webber, C. ...	Leather hand ...	...	8 0	
Wilson, J. ...	Fitter ...	...	11 0	
Watkin, D. ...	Boilermaker's Assist. ...	...	8 0	
Wade, F. ...	Striker ...	...	8 0	
Whorlton, T. ...	Carr Builder ...	...	10 0	
Wrigley, J. ...	Fitter ...	...	11 0	
Wilson, H. ...	Striker ...	...	7 0	
Weeks, E. ...	Waggon Builder ...	...	9 0	
Weeks, T. ...	Carr Builder ...	...	11 0	
Allen, G. E. ...	Cleaner ...	...	7 0	Re-appointed.
Burridge, J. H. ...	Coppersmith ...	...	9 0	"
Batters, R. ...	Fitter ...	...	11 0	"
Blacker, J. ...	Machinist ...	...	7 0	"
Duncan, C. ...	Fireman ...	...	9 0	"
Dillon, J. ...	Storeman ...	...	8 0	Re-appointed (not in service 30th June, 1879).
Edwards, Jno. ...	Turner and Fitter ...	...	10 6	Re-appointed.
Fermah, W. ...	Boilermaker's Assist. ...	...	9 0	"
Fowler, F. E. ...	Fireman ...	...	10 0	Re-appointed (not in service 30th June, 1879).
Jenkins, L. C. ...	" ...	...	10 0	Re-appointed.
Mills, N. ...	Furnaceman ...	...	10 0	"
Muir, W. ...	Pumper ...	...	10 0	"
Spencer, S. ...	Fitter ...	...	12 0	Re-appointed (not in service 30th June 1879).

NOTE.—This return includes appointments made in connection with the construction of rolling-stock at the Yarra-bank workshops.

TEMPORARY HANDS, CHIEFLY COALHEAVERS, WORKING WHEN REQUIRED.

Baker, W. ...	Laborer ...	...	7 0	Working portion of 1 month.
Bardsley, E. ...	" ...	...	7 0	" 1 "
Blume, H. ...	Coalman ...	...	7 0	" 5 "
Crenrose, J. ...	Laborer ...	...	7 0	" 1 "
Currie, J. ...	" ...	...	7 0	" 3 "
Dunbar, W. ...	" ...	...	7 0	" 1 "
Harrison, J. ...	" ...	...	7 0	" 1 "
Johnson, W. ...	" ...	...	7 0	" 9 "
Jones, E. ...	" ...	...	7 0	" 1 "
McDermott, F. ...	" ...	...	7 0	" 2 "
Nelson, C. ...	" ...	...	7 0	" 1 "
Nicholson, J. ...	" ...	...	7 0	" 3 "
Phillips, J. ...	" ...	...	7 0	" 1 "
Probart, W. ...	" ...	...	7 0	" 3 "
Simpson, J. ...	Coalman ...	...	7 0	" 5 "
Smith, P. ...	Laborer ...	...	7 0	" 1 "
Jennett, J. ...	Coalman ...	...	7 0	Employed a few days every month as required.
Keating, J. ...	" ...	...	7 0	" " "
Murray, T. ...	" ...	...	7 0	" " "
McSorley, J. ...	" ...	...	7 0	" " "
Purchase, G. ...	" ...	...	7 0	" " "
Vaughan, T. ...	" ...	...	7 0	" " "

RETURN NO. B.—APPOINTMENTS AND RE-APPOINTMENTS—*continued.*

Name.	Occupation.	Rate of Pay.				Remarks.
		Salary per Annum.		Wages per Diem.		
		£	s. d.	s.	d.	

ENGINEER-IN-CHIEF'S BRANCH.

OFFICE AND FIELD STAFF.

Barnes, H.	Cook	...	...	7	0	Re-appointment.
Barling, J.	Chainman	...	...	7	0	"
Buchanan, J.	Field Assistant	...	...	12	6	"
Beauchamp, G. F.	Chainman	...	...	7	0	"
Corbett, F. R.	"	...	...	7	0	"
Connolly, D. J.	"	...	...	7	0	Re-appointment.
Curtois, W.	Field Assistant	...	...	18	6	"
Cardie, J.	Inspector	...	...	13	4	"
Carroll, J.	Chainman	...	...	7	0	"
Demllo, X.	Cook	...	...	7	0	"
Fettes, W. A.	Draftsman	...	...	15	0	"
Finucane, M.	Groom	...	...	7	0	"
Hadland, J.	Cook	...	...	7	0	"
Hill, W. E.	Draftsman	...	...	15	0	Re-appointment.
Hutchinson, W.	Field Assistant	...	...	12	6	"
Kerr, M.	Inspector	...	...	16	8	Re-appointment.
Matthews, R. F.	Foreman Chainman	...	...	9	0	"
Matthews, T.	Chainman	...	...	7	0	"
Muir, J.	"	...	...	7	0	Re-appointment.
Macartney, A.	"	...	...	7	0	"
McDonald, D.	"	...	...	8	0	"
McDonald, C.	"	...	...	7	0	"
McIntosh, A. R.	"	...	...	7	0	"
McEachern, H.	Draftsman	...	...	10	6	"
Murray, J.	Chainman	...	...	7	0	"
Philpott, E.	Signal Engineer	...	500 0 0			"
Roberts, J.	Inspector	...	...	16	8	Re-appointment.
Rogers, F. P.	Draftsman	...	...	20	0	"
Ritson, W. H.	Chainman	...	...	7	0	"
Smellie, R. W.	"	...	...	7	0	"
Sinclair, P.	Draftsman	...	...	15	0	"
Suttie, A.	Inspector	...	...	17	6	Re-appointment.
Thompson, J. T.	Draftsman	...	...	16	8	"
Walton, E.	Chainman	...	...	7	0	Re-appointment.
Wilkinson, J.	Assistant Engineer	...	350 0 0	...		"

GANGERS, PLATELAYERS, CARPENTERS, ETC.

Northern System.

Coates, J.	Painter	...	...	10	0	
Colgan, E.	Carpenter	...	...	10	0	
Corlett, W.	"	...	...	10	0	
Fallon, T.	Ganger	...	...	9	0	
Goudie, A.	Carpenter	...	...	10	0	
Healey, T.	Repairer	...	...	6	6	Re-appointment.
Howell, R.	Carpenter	...	...	10	0	"
Hickey, J.	Painter	...	...	10	0	
Myers, A.	Carpenter	...	...	10	0	Re-appointment.
Oakley, F.	"	...	...	10	0	
Quinn, P.	Mason	...	...	12	0	
Strachan, J. M.	"	...	...	10	0	Re-appointment.
Spence, H.	Plumber	...	...	10	0	"

Western System.

Alexander, J.	Ganger	...	...	9	0	Appointed to Portland and Hamilton Line when opened for traffic.
Bultie, A.	Foreman Carpenter	...	...	12	0	Re-appointment.
Child, A.	Carpenter	...	...	10	0	
Cooper, J.	"	...	...	10	0	
Cull, E.	Painter	...	...	8	0	
Cooper, B.	Ganger	...	...	9	0	Appointed to Portland and Hamilton Line when opened for traffic.
Collins, D.	"	...	...	9	0	Appointed to Stawell and Horsham Line when opened for traffic.

RETURN NO. B.—APPOINTMENTS AND RE-APPOINTMENTS—*continued.*

Name.	Occupation.	Rate of Pay.		Remarks.	
		Salary per Annum.	Wages per Diem.		
		£	s. d.	s. d.	
Crowley, J.	Ganger	...	...	9 0	Appointed to Ararat and Hamilton Line when opened for traffic.
Costello, P.	"	...	...	9 0	"
Corbett, D.	"	...	...	9 0	Appointed to Portland and Hamilton Line when opened for traffic.
Davern, J.	"	...	...	9 0	Appointed to Ararat and Hamilton Line when opened for traffic.
Donnelly, W.	"	...	...	9 0	Appointed to Portland and Hamilton Line when opened for traffic.
Drew, E.	Plumber	...	...	10 0	
Dickson, G.	Fencer	...	...	7 0	
Drysdale, J.	"	...	...	9 0	
Foley, T.	Ganger	...	...	9 0	Appointed to Ararat and Hamilton Line when opened for traffic.
Fullarton, W.	Carpenter	...	...	10 0	
Flower, T.	Painter	...	...	9 0	
Flower, H.	"	...	...	9 0	
Flower, A.	"	...	...	9 0	
Flower, W.	"	...	...	9 0	
Geary, J.	Ganger	...	...	9 0	Appointed to Portland and Hamilton Line when opened for traffic.
Gaff, A.	Carpenter	...	...	10 0	Re-appointment.
Gunthorpe, T.	Painter	...	...	10 0	
Grant, J.	Carpenter	...	...	10 0	
Harvey, W.	Ganger	...	...	9 0	Appointed to Ararat and Hamilton Line when opened for traffic.
Hudson, W.	"	...	...	9 0	Appointed to Portland and Hamilton Line when opened for traffic.
Henlock, J.	Carpenter	...	...	10 0	
Herbert, D.	Bricklayer	...	...	10 0	
Haslett, C.	Carpenter	...	...	12 0	
Ingrey, J.	Ganger	...	...	9 0	Appointed to Portland and Hamilton Line when opened for traffic.
Jenkins, A.	Painter	...	...	9 0	
Jack, D.	Foreman Carpenter	...	...	12 0	
Knight, W.	Ganger	...	...	9 0	Appointed to Ararat and Hamilton Line when opened for traffic.
Keys, H. S.	Carpenter	...	...	10 0	
King, A.	"	...	...	10 0	
Lee, M.	"	...	...	9 0	Appointed to Portland and Hamilton Line when opened for traffic.
Lowe, J.	Ganger	...	...	9 0	Appointed to Stawell and Horsham Line when opened for traffic.
Lysaght, J.	"	...	...	9 0	Appointed to Geelong to Queenscliff Line when opened for traffic.
Lang, J.	Carpenter	...	...	10 0	
Lee, J.	Painter	...	...	9 0	
Lamont, R.	Carpenter	...	...	9 0	
Mullins, J.	Ganger	...	...	9 0	Appointed to Ararat and Hamilton Line when opened for traffic.
McLean, A.	"	...	...	9 0	"
McWilliams, J.	"	...	...	9 0	Re-appointment.
McKenzie, A.	"	...	...	9 0	Appointed to Portland and Hamilton Line when opened for traffic.
McManus, O.	"	...	...	9 0	Appointed to Stawell and Horsham Line when opened for traffic.
Murray, A. J.	Painter	...	...	10 0	
McLennan, H.	Carpenter	...	...	11 0	
McIntosh, W.	"	...	...	10 0	
Nestor, M.	Ganger	...	...	9 0	Appointed to Stawell and Horsham Line when opened for traffic.
Oldfield, R. E.	Carpenter	...	...	10 0	
Podmore, G.	Ganger	...	...	9 0	Appointed to Ararat and Hamilton Line when opened for traffic.
Porter, J.	Bricklayer	...	...	10 0	
Patterson, W.	Carpenter	...	...	10 0	
Ryan, J.	Ganger	...	...	9 0	Appointed to Ararat and Hamilton Line when opened for traffic.
Rogers, G.	"	...	...	9 0	Appointed to Portland and Hamilton Line when opened for traffic.

RETURN NO. B.—APPOINTMENTS AND RE-APPOINTMENTS—*continued.*

Name.	Occupation.	Rate of Pay.		Remarks.
		Salary per Annum.	Wages per Diem.	
		£ s. d.	s. d.	
Rankin, J. ...	Painter ...	...	10 0	
Rankin, R. ...	" ...	...	9 0	
Scullin, J. ...	Ganger ...	...	9 0	Appointed to Ararat and Hamilton Line when opened for traffic.
Smith, J. ...	" ...	...	9 0	" "
Stevens, A. ...	" ...	...	9 0	" "
Synon, J. ...	" ...	...	9 0	Appointed to Portland and Hamilton Line when opened for traffic.
Sissons, W. ...	Fencer ...	...	7 0	
Strickland, G. ...	Carpenter ...	...	11 0	
Todd, T. ...	Ganger ...	...	9 0	Appointed to Ararat and Hamilton Line when opened for traffic.
Tibb, J. ...	Fencer ...	...	8 0	
Wells, S. ...	Ganger ...	...	9 0	Appointed to Ararat and Hamilton Line when opened for traffic.
Wells, H. ...	" ...	...	9 0	" "
Waters, M. ...	" ...	...	9 0	Appointed to Portland and Hamilton Line when opened for traffic.
Walsh, J. ...	" ...	...	9 0	" "
Williams, R. ...	Carpenter ...	...	10 0	
Watson, J. ...	Painter ...	...	9 0	
Welsh, J. ...	" ...	...	9 0	

North-Eastern and Eastern Systems.

Alexander, W. ...	Carpenter ...	...	8 0	
Burdick, S. ...	" ...	...	9 0	
Beale, J. ...	Bricklayer ...	...	10 6	
Beaumont, G. ...	Painter ...	...	9 0	
Chaffer, W. ...	Carpenter ...	...	10 0	
Cameron, J. ...	Fitter ...	...	13 0	
Curran, J. ...	Ganger ...	...	9 0	Appointed to Oakleigh and Sale Line when opened for traffic.
Darey, M. ...	" ...	...	9 0	" "
Delaney, T. ...	Carpenter ...	...	9 0	
Douglas, W. ...	" ...	...	10 0	
Dodd, G. ...	Bricklayer ...	...	12 6	
Eastlake, J. ...	Carpenter ...	...	10 0	
Ferguson, Jno. ...	" ...	...	9 0	
Flower, J. ...	Ganger ...	...	9 0	Appointed to Oakleigh and Sale Line when opened for traffic.
Green, J. ...	" ...	...	9 0	" "
Gill, A. G. ...	Carpenter ...	...	10 0	
Hamilton, J. ...	" ...	...	10 0	
Jones, J. ...	Ganger ...	...	9 0	Appointed to Oakleigh and Sale Line when opened for traffic.
King, A. ...	Carpenter ...	...	10 0	
Kerr, W. ...	" ...	...	9 0	
Lee, Jas. ...	Painter ...	...	9 0	
Lee, Jno. ...	" ...	...	8 0	
Morris, J. ...	Fitter ...	...	10 0	
McColl, J. ...	Painter ...	...	9 0	
McKenzie, W. ...	" ...	...	9 0	
McDougall, J. ...	" ...	...	9 0	
McKenzie, E. ...	Carpenter ...	...	10 0	
McIntosh, W. ...	Ganger ...	...	10 0	Appointed temporarily to South Yarra and Oakleigh Line.
Pennifold, H. ...	" ...	...	9 0	Appointed to Oakleigh and Sale Line when opened for traffic.
Pattin, J. H. ...	Carpenter ...	...	10 0	
Pyves, R. ...	Fitter ...	...	13 0	
Rule, H. ...	Painter ...	...	10 0	
Rees, F. ...	Carpenter ...	...	10 0	
Shannon, R. ...	Laborer ...	...	7 0	
Sinnott, J. ...	" ...	...	7 0	
Sherborne, T. ...	Carpenter ...	...	10 0	
Stirling, W. ...	Painter ...	...	9 0	
Todd, G. ...	Bricklayer ...	...	12 6	
Weir, G. ...	Carpenter ...	...	10 0	

RETURN No. B.—APPOINTMENTS AND RE-APPOINTMENTS—*continued.*

Name.	Occupation.	Rate of Pay.		Remarks.
		Salary per Annum.	Wages per Diem.	
		£ s. d.	s. d.	
<i>Extra Gang.—Eastern System.</i>				
Albertoni, G.	Laborer	...	7 0	
Burrows, A.	"	...	7 0	
Brown, P.	"	...	7 0	
Begg, H.	"	...	7 0	
Bourke, M.	"	...	7 0	
Clark, P.	"	...	7 0	
Cummings, M.	"	...	7 0	
Cook, G.	Guard	...	8 0	
Doolan, W.	Laborer	...	7 0	
Dunn, M.	"	...	7 0	
Daly, J.	"	...	7 0	
Egan, S.	"	...	7 0	
Foster, A.	"	...	7 0	
Fitzpatrick, G.	"	...	7 0	
Griffin, J.	"	...	7 0	
Hammell, F.	"	...	7 0	
Hayes, E.	"	...	7 0	
Kett, D....	"	...	7 0	
Kearney, T.	"	...	7 0	
Lawson, M.	"	...	7 0	
Lanigan, M.	"	...	7 0	
Lawrey, J. F.	"	...	7 0	
McGrath, P.	"	...	7 0	
Moore, J.	"	...	7 0	
Maher, J.	"	...	7 0	
McIntyre, J.	"	...	7 0	
Matthews, H.	"	...	7 0	
McHaskell, D.	"	...	7 0	
Neville, M.	"	...	7 0	
Nolan, M.	Ganger	...	8 0	
Quigley, P.	Laborer	...	7 0	
Robinson, J.	"	...	7 0	
Smith, T.	"	...	7 0	
Sheedy, M.	"	...	7 0	
Silcock, C.	"	...	7 0	
Spencer, M.	"	...	7 0	
Tolmie, R.	"	...	7 0	
Valley, F.	"	...	7 0	
Vrinland, S.	"	...	7 0	
Whelan, P.	"	...	7 0	
Walsh, J. (2)	"	...	7 0	
Walsh, P.	"	...	7 0	
Walsh, M.	"	...	7 0	
Walsh, T.	"	...	7 0	
Walsh, J. (1)	"	...	7 0	

NOTE.—All the men in the above Extra Gang were temporarily employed on new works on the Oakleigh and Sale Line.

MISCELLANEOUS.

SILT MEN.

Atkins, H.	Laborer	...	8 0	
Ashman, G.	"	...	8 0	
Bredin, E.	"	...	8 0	
Burke, G.	"	...	8 0	
Brown, C.	"	...	8 0	
Butler, T.	"	...	8 0	
Brackley, C.	"	...	8 0	
Burns, H.	"	...	8 0	
Banks, G.	"	...	8 0	
Brady, C.	"	...	8 0	
Butler, W.	"	...	8 0	
Barron, J.	"	...	8 0	
Brown, G.	"	...	8 0	
Boddington, T.	"	...	7 0	

RETURN NO. B.—APPOINTMENTS AND RE-APPOINTMENTS—*continued.*

Name.	Occupation.	Rate of Pay.				Remarks.
		Salary per Annum.			Wages per Diem.	
		£	s.	d.	s.	d.
Boddington, A. ...	Laborer ...	...	...	...	8	0
Crowley, M. ...	" ...	...	...	...	8	0
Connor, J. ...	" ...	...	...	...	8	0
Cassidy, B. ...	" ...	...	...	...	8	0
Connelly, J. ...	" ...	...	...	...	8	0
Carey, S. ...	" ...	...	...	...	8	0
Cullen, M. ...	" ...	...	...	...	8	0
Cassidy, T. ...	" ...	...	...	...	8	0
Cameron, A. ...	" ...	...	...	...	8	0
Doherty, M. ...	" ...	...	...	...	8	0
Donaldson, A. ...	" ...	...	...	...	8	0
Dunphy, J. ...	" ...	...	...	...	8	0
Doherty, J. ...	" ...	...	...	...	8	0
Downey, J. ...	" ...	...	...	...	8	0
Davis, B. ...	" ...	...	...	...	8	0
Duggan, J. ...	" ...	...	...	...	8	0
Davis, J. ...	" ...	...	...	...	7	0
Dennett, W. ...	" ...	...	...	...	7	0
Daly, J....	" ...	...	...	...	8	0
Fair, T....	" ...	...	...	...	8	0
Gallagher, J. ...	" ...	...	...	...	8	0
Gaffney, W. ...	" ...	...	...	...	8	0
Green, A. ...	" ...	...	...	...	8	0
Glanville, T. ...	" ...	...	...	...	8	0
Henry, F. ...	" ...	...	...	...	8	0
Hall, J. ...	" ...	...	...	...	8	0
Hackett, M. ...	" ...	...	...	...	8	0
Henry, H. ...	" ...	...	...	...	8	0
Horan, W. ...	" ...	...	...	...	8	0
Hearle, J. ...	" ...	...	...	...	8	0
Hyland, J. ...	" ...	...	...	...	8	0
Jones, J. ...	" ...	...	...	...	8	0
Johnson, W. ...	" ...	...	...	...	8	0
Jones, E. ...	" ...	...	...	...	8	0
Johnstone, Rae ...	" ...	...	...	...	8	0
Johnstone, Rob. ...	" ...	...	...	...	8	0
Johnston, F. ...	" ...	...	...	...	8	0
Kuaggs, J. ...	" ...	...	...	...	7	6
King, T. ...	" ...	...	...	...	8	0
Kelly, Jas. ...	Inspector ...	...	...	...	16	8
Kirkland, G. ...	Laborer ...	...	...	...	8	0
Kennedy, M. ...	" ...	...	...	...	7	0
Kelly, P. ...	" ...	...	...	...	8	0
Kelly, M. ...	" ...	...	...	...	8	0
Lohowsky, F. ...	" ...	...	...	...	8	0
Logan, M. ...	" ...	...	...	...	8	0
Meredith, J. ...	" ...	...	...	...	7	0
Mulcahy, E. ...	" ...	...	...	...	8	0
Mahoney, P. ...	" ...	...	...	...	8	0
Maher, J. ...	" ...	...	...	...	8	0
Mohonan, P. ...	" ...	...	...	...	7	0
Mallaney, T. ...	" ...	...	...	...	7	0
McLennan, D. ...	" ...	...	...	...	8	0
McGrath, J. ...	" ...	...	...	...	8	0
McKean, F. ...	" ...	...	...	...	8	0
McGrath, M. ...	" ...	...	...	...	8	0
McMahon, G. ...	" ...	...	...	...	8	0
McCann, J. ...	" ...	...	...	...	7	0
Neenan, D. ...	" ...	...	...	...	8	0
Neenan, T. ...	" ...	...	...	...	7	0
Prunty, B. ...	" ...	...	...	...	8	0
Penwarn, G. ...	" ...	...	...	...	8	0
Palmer, J. ...	" ...	...	...	...	8	0
Rooney, M. ...	" ...	...	...	...	8	0
Russell, W. ...	" ...	...	...	...	8	0
Ryan, P. ...	" ...	...	...	...	8	0
Ryan, J. ...	" ...	...	...	...	8	0
Sullivan, J. ...	" ...	...	...	...	8	0
Samuels, R. ...	" ...	...	...	...	7	0
Sprentall, G. ...	" ...	...	...	...	8	0

RETURN NO. B.—APPOINTMENTS AND RE-APPOINTMENTS—*continued.*

Name.	Occupation.	Rate of Pay.				Remarks.	
		Salary per Annum.		Wages per Diem.			
		£	s.	d.	s.	d.	
Spargo, J. ...	Laborer ...	...	...	...	8	0	
Snadden, J. ...	" ...	...	...	...	8	0	
Scott, J. ...	" ...	...	...	...	8	0	
Sobaye, C. ...	" ...	...	...	...	8	0	
Townsend, J. ...	" ...	...	...	...	8	0	
Thompson, J. ...	" ...	...	...	...	7	0	
Thompson, R. ...	" ...	...	...	...	7	0	
Thomas, J. ...	" ...	...	...	...	8	0	
Thompson, W. ...	" ...	...	...	...	8	0	
Vickers, W. ...	" ...	...	...	...	8	0	
Weeks, J. ...	" ...	...	...	...	8	0	
Wile, T. ...	" ...	...	...	...	8	0	
Whelan, M. ...	" ...	...	...	...	8	0	
Wilson, J. ...	" ...	...	...	...	8	0	
Winkle, J. ...	" ...	...	...	...	8	0	
Woolley, H. ...	" ...	...	...	...	8	0	
White, J. ...	" ...	...	...	...	8	0	
Wilson, J. (No. 2) ...	" ...	...	...	...	8	0	
Wishart, J. ...	Carpenter ...	...	...	...	9	0	
Young, R. ...	Laborer ...	...	...	...	8	0	

MISCELLANEOUS.

Adams, J. ...	Ironworker ...	...	...	...	10	0	
Andrews, W. ...	Assistant Ironworker ...	...	...	...	8	0	
Bissett, R. ...	Carpenter ...	...	...	...	10	0	
Bedford, F. ...	" ...	...	...	...	10	0	
Bennett, J. ...	" ...	...	...	...	10	0	
Barr, T. ...	Bricklayer ...	...	...	...	11	0	
Bruce, D. ...	Blacksmith ...	...	...	...	10	0	
Bennett, J. ...	Painter ...	...	...	...	10	0	
Buckley, J. ...	Laborer ...	...	...	...	7	0	
Boarder, H. ...	" ...	...	...	...	7	0	
Bowman, T. ...	" ...	...	...	...	7	0	
Cuthbert, M. ...	Carpenter ...	...	...	...	10	0	
Campbell, J. ...	" ...	...	...	...	10	0	
Cunningham, M. ...	" ...	...	...	...	10	0	
Chessell, A. ...	" ...	...	...	...	8	0	
Carstairs, A. ...	Ganger and Laborer ...	...	...	...	7	6	
Cox, T. ...	Laborer ...	...	...	...	7	0	
Conway, J. ...	" ...	...	...	...	7	0	
Clarke, G. ...	" ...	...	...	...	7	0	
Dalglish, W. ...	Carpenter ...	...	...	...	10	0	
Dalglish, A. ...	" ...	...	...	...	13	0	
Doyle, P. ...	" ...	...	...	...	10	0	
Daly, J. ...	" ...	...	...	...	10	0	
Davidson, J. ...	" ...	...	...	...	10	0	
Dixon, R. ...	Inspector ...	...	...	...	20	0	
Downs, T. ...	Pile-driver ...	...	...	...	8	0	
Drury, T. ...	Asphalter ...	...	...	...	10	0	
Doocy, M. ...	Laborer ..	...	...	...	7	0	
De Vere, M. ...	" ...	...	...	...	7	0	
Downey, J. ...	" ...	...	...	...	7	0	
Dorrell, J. ...	Fitter ...	...	...	...	11	0	
Flatley, C. ...	Carpenter ...	...	...	...	10	0	
Fraser, W. ...	" ...	...	...	...	10	0	
Fearys, W. ...	Painter ...	...	...	...	9	0	
Fenton, D. ...	Fitter ...	...	...	...	12	0	
Forrest, W. ...	Laborer ...	...	...	...	7	0	
Fitzpatrick, T. ...	" ...	...	...	...	7	0	
Goodsir, R. ...	Carpenter ...	...	...	...	10	0	
Grierson, J. ...	" ...	...	...	...	10	0	
Gray, J. ...	" ...	...	...	...	10	0	
Golding, W. ...	Painter ...	...	...	...	9	0	
Grey, H. ...	Laborer ...	...	...	...	7	0	
Gaffney, W. ...	" ...	...	...	...	7	0	
Hockings, W. ...	Carpenter ...	...	...	...	10	0	
Hanley, J. ...	" ...	...	...	...	10	0	
Hughes, E. ...	" ...	...	...	...	10	0	

RETURN NO. B.—APPOINTMENTS AND RE-APPOINTMENTS—*continued.*

Name.	Occupation.	Rate of Pay.				Remarks.
		Salary per Annum.			Wages per Diem.	
		£	s.	d.	s.	d.
Hamilton, J. ...	Carpenter ...	...	...	...	10	0
Hartness, W. ...	Mason ...	...	...	...	12	0
Hughes, H. ...	Striker ...	...	...	...	8	0
Herrold, A. ...	Painter ...	...	...	...	9	0
Haynes, P. ...	Laborer ...	...	...	...	7	0
Healy, A. ...	" ...	...	...	...	7	0
Hourigan, J. ...	" ...	...	...	...	7	0
Hanify, J. ...	" ...	...	...	...	7	0
Jolliffe, W. ...	Carpenter ...	...	...	...	10	0
Johnston, J. ...	Painter ...	...	...	...	8	0
Kerr, J. ...	Carpenter ...	...	...	...	10	0
Keddie, R. ...	Acting Inspector ...	...	...	...	12	0
Keddie, J. ...	Carpenter ...	...	...	...	10	0
Keig, R. ...	" ...	...	...	...	10	0
Lamont, R. ...	" ...	...	...	...	10	0
Love, W. D. ...	" ...	...	...	...	10	0
Lucas, W. ...	Mason ...	...	...	...	11	0
Londergan, C. ...	Laborer ...	...	...	...	7	0
Leverett, W. ...	" ...	...	...	...	7	0
Marshall, A. ...	Carpenter ...	...	...	...	10	0
McDonald, A. ...	" ...	...	...	...	10	0
Moonie, W. ...	" ...	...	...	...	10	0
Mowat, L. ...	" ...	...	...	...	10	0
Morrison, J. ...	" ...	...	...	...	10	0
Merrington, C. ...	" ...	...	...	...	10	0
Morris, C. ...	" ...	...	...	...	10	0
McClure, H. ...	" ...	...	...	...	10	0
McFarlane, D. ...	" ...	...	...	...	10	0
McKirdy, J. ...	" ...	...	...	...	10	0
McCallum, J. ...	" ...	...	...	...	10	0
McLean, A. ...	" ...	...	...	...	10	0
McFarlane, C. J. ...	" ...	...	...	...	10	0
McAulay, W. ...	Blacksmith ...	...	...	...	10	0
Morgan, J. ...	Painter ...	...	...	...	8	0
McGrath, J. ...	Laborer ...	...	...	...	7	0
McGowan, J. ...	" ...	...	...	...	7	0
McBean, J. ...	Laborer and Assistant Timekeeper	...	...	...	7	0
Mack, P. ...	Laborer ...	...	...	...	7	0
McCormack, J. ...	" ...	...	...	...	7	0
McIntyre, A. ...	" ...	...	...	...	7	0
Maguinness, J. ...	" ...	...	...	...	7	0
Meany, P. ...	" ...	...	...	...	7	0
Mahonan, P. ...	" ...	...	...	...	7	0
Nichol, P. ...	Carpenter ...	...	...	...	10	0
Newton, J. ...	Painter ...	...	...	...	9	0
O'Connor, P. ...	Carpenter ...	...	...	...	10	0
Orr, W. ...	Ironworker ...	...	...	...	10	0
O'Connor, J. ...	" ...	...	...	...	8	0
Oekenden, T. ...	Laborer ...	...	...	...	7	0
O'Brien, J. ...	" ...	...	...	...	7	0
Petty, J. ...	Carpenter ...	...	...	...	10	0
Panton, W. ...	" ...	...	...	...	10	0
Power, J. ...	Pile Driver ...	...	...	...	8	0
Patterson, A. ...	Signal Adjuster ...	...	...	...	7	0
Quin, P. ...	Laborer ...	...	...	...	7	0
Ramsbotham J. ...	Carpenter ...	...	...	...	10	0
Ross, J. ...	" ...	...	...	...	10	0
Robertson, J. ...	" ...	...	...	...	10	0
Ray, H. ...	Foreman Painter ...	...	...	...	10	0
Ralph, J. C. ...	Timekeeper ...	...	...	...	7	0
Rowlent, J. ...	Laborer ...	...	...	...	7	0
Scott, F. ...	Carpenter ...	...	...	...	10	0
Scott, A. ...	" ...	...	...	...	10	0
Swaney, T. ...	" ...	...	...	...	10	0
Stewart, J. ...	" ...	...	...	...	10	0
Searsby, S. ...	" ...	...	...	...	10	0
Sturrick, G. ...	" ...	...	...	...	10	0
Smith, J. ...	Pile Driver ...	...	...	...	8	0
Smyth, J. ...	Painter ...	...	...	...	9	0

RETURN NO. B.—APPOINTMENTS AND RE-APPOINTMENTS—*continued.*

Name.	Occupation.	Rate of Pay.		Remarks.
		Salary per Annum.	Wages per Diem.	
		£	s. d.	s. d.
Snell, J. ...	Bricklayer ...	...	...	10 0
Suadden, W. ...	Painter ...	...	...	8 0
Stevens, L. ...	Bricklayer ...	...	...	11 0
Smith, S. ...	Laborer ...	...	...	7 0
Stringleman, J. ...	„ ...	...	...	7 0
Shannon, J. ...	„ ...	...	...	7 0
Thomas, J. ...	Carpenter ...	...	...	10 0
Taylor, D. ...	„ ...	...	...	10 0
Taylor, G. ...	„ ...	...	...	10 0
Tibb, J. ...	Fencer ...	...	...	7 0
Taylor, G. ...	Painter ...	...	...	9 0
Thornton, J. ...	Fitter ...	...	...	11 0
Tobin, M. ...	Laborer ...	...	...	7 0
Waycott, H. ...	Carpenter ...	...	...	10 0
Warren, J. ...	„ ...	...	...	10 0
Wood, W. ...	„ ...	...	...	10 0
Wilmott, W. ...	Polisher ...	...	...	12 0
Wallace, W. ...	Pile-driver ...	...	...	8 0
Warman, J. ...	Fencer ...	...	...	7 0
Worrell, E. ...	Fitter ...	...	...	8 0
Wilkes, H. ...	Laborer ...	...	...	7 0
Waldron, J. ...	„ ...	...	...	7 0

P. P. LABERTOUCHE,
Secretary.

19/1/80.

1879.

VICTORIA.

LEGISLATIVE COUNCIL.

FIRST REPORT

OF THE

PRINTING COMMITTEE.

LAI'D UPON THE TABLE BY THE HONORABLE J. CUMMING, AND ORDERED BY THE COUNCIL
TO BE PRINTED, 12TH AUGUST, 1879.

By Authority

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

REPORT.

In pursuance of the Order of your Honorable House, your Committee have had referred to them the several Papers mentioned in the following table, upon which your Committee beg to report, as appears by such table :—

Title of Paper.	When moved for and by whom.	When laid on the Council Table.	By Command.	Report and Remarks of the Committee.
Fisheries Act—Notices under— Close season for English Trout Definition of Mouth of Yarra Prohibition of use of nets in lakes Burrumbeet, Learmonth, and Connewarra	1879. 8th July	By Command	No order made.
Post Office and Telegraph Department Report, 1878	"	"	"
Pilot Board.—Accounts for year ending 31st August 1878	"	"	"
Telegraph Messages—Private and Press.—Order in Council (2nd July, 1879)	"	"	"
Post Office Savings Bank—Statement of Accounts of, for year ending 31st December, 1878	"	"	"
Import, Export, Transhipment, and Shipping Returns, with Customs Revenue Abstract 1878, &c.	"	"	"
Numbering of certain Acts of Parliament.—Payment of Witnesses.—Correspondence relating thereto	15th July	... ..	Recommended to be printed.
Land Act 1869.—Regulations (3rd January, 1879)	"	By Command	No order made.
Post Office Savings Banks—Withdrawal of Deposits in.—Order in Council (7th July, 1879)	"	"	"
Statistical Register, Colony of Victoria, 1878.— Part I.—Blue Book Part II.—Population Part III.—Finance, &c. Part IV.—Vital Statistics, &c.	"	"	"
Friendly Societies—Statistics of—for 1877	"	"	"
Despatch from the Right Honorable the Secretary of State for the Colonies, announcing the death of Her Royal Highness the Princess Alice (16th December, 1878)	"	"	"
Despatch from the Right Honorable the Secretary of State for the Colonies, acknowledging Despatch from Sir G. Bowen, respecting the death of Her Royal Highness the Princess Alice (12th February, 1879)	"	"	"
Health Officer.—Report for year ending 31st December, 1878	"	"	"
Sanatory Station.—Report of Chief Medical Officer, for year ending 31st December, 1878	"	"	"
Diseases and Deaths—Return of—for year 1878.—Chief Medical Officer	"	"	"
Paris Universal Exhibition, 1878.—Despatch (and en- closures) from the Right Honorable the Secretary of State for the Colonies (30th December 1878)	"	"	"
Mines—Report of Chief Inspector of—for 1878	"	"	"
Mining Surveyors and Registrars—Reports of—for quarter ending 31st December, 1878	"	"	"
Mining Surveyors and Registrars—Reports of—for quarter ending 31st March, 1879	"	"	"
Mineral Statistics, 1878	"	"	"
Explosives—Report of Inspectors of (1878)	"	"	"
Public Library, Museums, and National Gallery—Report of Trustees for 1878	"	"
Spring Gully, Castlemaine—Mining Operations at.— Order in Council (4th March, 1879)	"	"
Polling Places in Mining Districts—Additional.—Orders in Council (21st January, 1879; 3rd February, 1879; 11th February, 1879)	"	"
University of Melbourne.—Report for year ending 31st May, 1879	"	"
Public Accounts.—Regulations (13th May, 1879; 24th June, 1879)	"	"
Neglected and Criminal Children Act 1864—Regulations under (6th May, 1879)	"	"
Neglected and Criminal Children's Acts.—Regulations and Amendments of Regulations	"	"
Land Act 1869.—Regulations.—Order in Council (1st April, 1879)	16th July	By Command	"

Title of Paper.	When moved for and by whom.	When laid on the Council Table.	By Command.	Report and Remarks of the Committee.
Products Exported—Value of—1871 to 1878	1879. 16th July	By Command	No order made.
Ditto, ditto—"specifying the colonies or countries to which exported"	"	"	"
Safety Mining Cages.—Report of Board (1878-9)	22nd July	"	"
Land Act 1869—Report of Proceedings under—during year ending 31st December, 1878	"	"	"
Neglected and Criminal Children Act 1864—Regulations. —Order in Council (24th June, 1879)	"	"
Public Accounts—Regulation respecting (7th July, 1879)	"	"
Education—Estimate of Expenditure during year ending 30th June 1880, under Section 12 of Act No. 608	"	"
Imports consumed in Victoria—Value of—during years 1871 to 1878 inclusive	29th July	By Command	"
Friendly Societies—Report of Registrar.—Year ending 31st December, 1878	"	"
Neglected and Criminal Children's Amendment Act 1874.—Regulations.—Order in Council (7th July, 1879)	"	"
Patents Statute 1865.—Additional Rule (14th July, 1879)	"	"
Parliament Buildings Committee (Joint)—Report from	5th August	... ..	Recommended to be printed.
Railway Loan Act 1878, No. 608—Estimate of Proposed Expenditure during year ending 30th June, 1880	"	No order made.
Railway Loan Act 1876, No. 531—Yan Yean Water Supply—Estimate of Proposed Expenditure during year ending 30th June, 1880	"	"
Associated Banks—Correspondence respecting Over- draft, &c.—Public Account	"	By Command	"
Associated Banks—Further Correspondence	"	"	"
Fisheries Acts—Notices under.—Gippsland Lakes (July, 1879)	"	"	"

JOHN CUMMING,
Chairman.

Committee Room,
Parliament House,
12th August, 1879.

1879.
VICTORIA.

REPORT

FROM THE

SELECT (JOINT) COMMITTEE

UPON THE

PARLIAMENT BUILDINGS.

ORDERED BY THE LEGISLATIVE COUNCIL TO BE PRINTED, 12TH AUGUST 1879.

By Authority:
JOHN FERRIS, GOVERNMENT PRINTER, MELBOURNE.

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1. The first part of the document is a list of the names of the members of the committee.

2. The second part of the document is a list of the names of the members of the committee.

3. The third part of the document is a list of the names of the members of the committee.

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REPORT.

THE JOINT COMMITTEE of both Houses of Parliament, appointed to manage and superintend the Parliament Buildings, have the honor to Report—

1. That, in the opinion of your Committee, two Hall porters should be specially appointed to attend to the new Hall and Vestibule, and keep them in proper order ; and that both such persons should be artisans.

2. That the custody of the Hall, Vestibule, and steps in front should be placed in the hands of the Sergeant-at-Arms until the commencement of next Session ; and that he should have the responsibility of the control and supervision of the two attendants, and see that the Hall, Vestibule, and steps are cleaned daily.

3. That a constable should be kept constantly on duty in and about the Hall, and that the Sergeant-at-Arms be empowered to obtain such additional police assistance as may from time to time be required.

4. As the electric and other clocks throughout the Parliament Buildings have latterly been keeping time irregularly, it is recommended that Mr. Thomas Gaunt, of Bourke street, be re-appointed to the charge of them.



1879.
—
VICTORIA.

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R E P O R T

OF THE

SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL

ON THE

SUPREME COURT JURISDICTION AND PROCEDURE BILL,

TOGETHER WITH

THE PROCEEDINGS OF COMMITTEE, MINUTES OF EVIDENCE,
AND THE PROPOSED AMENDED BILL AS APPENDIX.

ORDERED BY THE COUNCIL TO BE PRINTED, 21ST OCTOBER, 1879.

By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

TUESDAY, 12TH AUGUST, 1879.

SUPREME COURT JURISDICTION AND PROCEDURE BILL.—The Order of the Day for the second reading of this Bill being read, The Honorable Dr. Dobson moved, That the Bill be now read a second time.
Debate ensued.
Question—put and passed.
Bill read a second time.
The Honorable Dr. Dobson moved, That the Bill be referred to a Select Committee consisting of seven Members.
Question—put and passed.
The Honorable Dr. Dobson moved, That the following be the Members of the Committee, viz., the Honorables W. E. Hearn, R. S. Anderson, Sir C. Sladen, H. Cuthbert, J. Lorimer, J. Balfour, and the Mover,
Question—put and passed.

TUESDAY, 14TH OCTOBER, 1879.

SUPREME COURT JURISDICTION AND PROCEDURE BILL—SELECT COMMITTEE.—The Honorable Dr. Dobson, with leave of the Council, moved, without notice, That a Message be sent to the Legislative Assembly to request that they will give leave to the Honorable Robert Ramsay to attend and give evidence, if he think fit, before a Select Committee of the Legislative Council upon the Supreme Court Jurisdiction and Procedure Bill.
Question—put and passed.

WEDNESDAY, 15TH OCTOBER, 1879.

SUPREME COURT JUDICATURE AND PROCEDURE BILL—SELECT COMMITTEE.—The Honorable J. Lorimer, with leave of the Council, moved, without notice, That the Select Committee appointed on the Supreme Court Judicature and Procedure Bill have power to call for persons and papers, and to sit on days on which this House does not sit.
Question—put and passed.

TUESDAY, 21ST OCTOBER, 1879.

SUPREME COURT JURISDICTION AND PROCEDURE BILL.—REPORT OF SELECT COMMITTEE.—The Honorable Dr. Dobson brought up the Report of the Select Committee to which the Supreme Court Jurisdiction and Procedure Bill was referred on the 12th August, and moved, That the same be printed.
Question—put and passed.
The Honorable Dr. Dobson moved, That the adoption of the Report be made an Order of the Day for to-morrow.
Question—put and passed.

R E P O R T .

THE SELECT COMMITTEE appointed by your Honorable House on the 12th August, 1879, and to whom was referred a "Bill to improve the Jurisdiction and Procedure of the Supreme Court and for other purposes connected therewith," have the honor to submit the following Report:—

Your Committee have considered the measure referred to them, and have examined the following witnesses with reference to the proposed alterations in the mode of administering justice in this Colony:—His Honor the Chief Justice, Mr. J. W. Rogers, Q.C., Mr. Webb, Q.C., Mr. Hamilton, Mr. Moule, and Mr. J. C. Stewart.

The Committee have made some alterations in the Bill as referred to them, which are embodied in the Bill appended hereto and which they beg leave to present in lieu thereof. In making these alterations the Committee have kept steadily in view the necessity for making legal proceedings as economical and as speedy as possible consistently with doing complete justice between the litigants.

Wherever it has been found practicable, the Committee have followed the Imperial legislation *verbatim*.

F. STANLEY DOBSON,

Chairman.

21st October 1879.

PROCEEDINGS OF THE COMMITTEE.

TUESDAY, 19TH AUGUST, 1879.

Members present :

The Hon. Sir C. Sladen	|	The Hon. W. E. Hearn
R. S. Anderson		J. Balfour
J. Lorimer		Dr. Dobson.

On the motion of the Honorable Sir C. Sladen, the Honorable Dr. Dobson was appointed Chairman. The Committee deliberated and adjourned until Tuesday, the 2nd September.

TUESDAY, 2ND SEPTEMBER, 1879.

Members present :

The Hon. Dr. DOBSON, in the chair ;
The Hon. W. E. Hearn | The Hon. Sir C. Sladen.

The Clerk was instructed to have the Bill with certain suggested amendments printed before the next meeting of Committee.

The Committee adjourned.

WEDNESDAY, 15TH OCTOBER, 1879.

Members present :

The Hon. Dr. DOBSON, in the chair ;
The Hon. Sir C. Sladen | The Hon. R. S. Anderson
W. E. Hearn | J. Lorimer.

His Honor the Chief Justice was examined.

J. W. Rogers, Esq., Q.C., was examined.

The Committee adjourned until next day at half-past two o'clock.

THURSDAY, 16TH OCTOBER 1879.

Members present :

The Hon. Dr. DOBSON, in the chair ;
The Hon. W. E. Hearn | The Hon. J. Lorimer.

J. G. Moule, Esq., was examined.

Edward B. Hamilton, Esq., Barrister-at-Law, was examined.

The Committee adjourned until Three o'clock on Tuesday the 21st instant.

TUESDAY, 21ST OCTOBER 1879.

Members present :

The Hon. Dr. DOBSON, in the chair ;
The Hon. Sir C. Sladen | The Hon. R. S. Anderson.
W. E. Hearn |

J. C. Stewart, Esq., was examined.

G. H. F. Webb, Esq., Q.C., was examined.

The Chairman submitted Draft Report, which was agreed to, and the Chairman was directed to report to the House.

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MINUTES OF EVIDENCE.

SUPREME COURT BILL.

WEDNESDAY, 15TH OCTOBER, 1879.

Members present :

The Hon. Dr. DOBSON, in the chair ;

The Hon. Sir C. Sladen
W. E. Hearn

The Hon. R. S. Anderson
J. Lorimer.

His Honor Sir William Foster Stawell, Chief Justice, examined.

1. *By the Hon. the Chairman.*—I believe you have given some attention to the recent Act in regard to judicature that has passed in England?—Yes ; I have compared the Acts passed in our sister colonies, Queensland and South Australia, with the English Act, and considered the views they have taken ; and whether the measures they have proposed are improvements or not ; and I have read the Bill introduced into the Council.

Sir W. F. Stawell,
15th Oct. 1879.

2. That Bill was almost exactly the same as one that you had assisted to prepare in a previous session?—Yes, my late colleague and myself were engaged upon that.

3. Judge Fellows?—Judge Fellows ; but he wished to adhere as closely as possible to the English Judicature Act, and was opposed to any departure whatsoever from it ; and I was anxious that an Act of some kind should be introduced, satisfied in my own mind that, if power was reserved to the judges, a mode of procedure would be adopted suited to the country, and regretting very much indeed that no such Act should have been introduced and passed by Parliament years ago. I consider that the administration of justice cannot be carried out in the prompt and efficient way in which it ought to be done under our present system. The separation of law and equity to every person who reflects upon the subject is opposed to principle, and it is only by referring to the historical account of how this separation and the modes of procedure were adopted that we can account for the separation. Now-a-days it appears to me that there is something wrong in the proposition that a suitor may be informed, as he may be, in bringing an action at law—"You have a good cause of action ; you have suffered an injury and are entitled to redress ; but you cannot obtain it upon this side of the court ; you must go to the other." Certainly, if a suitor can be addressed in that way, there must be something wrong in the procedure itself ; and, therefore, I was anxious to get that which appears to me to be the foundation of these Judicature Acts, the fusion of law and equity obtained—that a suitor coming into the court should be regarded as a person coming into a building, and having once got into that building he was not to be turned out of it till he received an answer to his claim, and till his complaint had been entertained, considered, and disposed of in one way or another.

4. Do you think that the Bill as drafted at present practically carries out those views, or tends towards carrying them out?—I think it tends towards carrying them out. I think it is perhaps wiser that the Legislature should proceed tentatively, recognizing certain principles, and allowing the actual mode to be determined finally by rules, which could be altered from time to time, so as to be adapted to our own peculiar and special condition of matters and mode of transacting the business, because I think every country has such a mode ; and I do not think myself, though my late colleague thought very strongly the other way, that we should gain very much by adhering rigidly to the English mode of procedure. After all, it is a point that each judge is supposed to be competent to decide to a great extent in the court over which he presides. A number of competent judges ought certainly, with assistance from different members of the profession, to be able to discover in what respects the mode of procedure is unsuited to their wants and requirements, and to insert or alter the rules in such a way as to adapt themselves to, and fit them to carry them into execution, and gain the object that was really desired to be obtained. We wish to have simplicity—no doubt that is a great object—but simplicity is not unalloyed with a certain amount of difficulty and a certain amount of risk. In the carriage and conduct of a law suit it is supposed that simplicity in pleading will prevent or lessen expense, and will facilitate the disposing of business. I think that must be taken with some exception, and I think it will be found necessary to adopt some mode by which the parties can agree upon the issue, or the judge can settle an issue for them, so as to trace clearly the matter in dispute ; that is to a certain extent a novelty, and will require very great care and caution, and ought not to be adopted hastily ; but at the same time the difficulty must not be lost sight of, that in putting down in very simple language the matter in dispute, the parties very often lose the real question ; and there can be no doubt in my mind that the old system of special pleading was calculated to bring the parties to an issue in the most admirable manner possible, but it was attended with very great objections ; and now it will be found that the simplicity of pleading will cast a great deal of duty upon the judges and upon the profession ; they will have to find out what the issue is very suddenly, and in all the hurry and dispatch of business at *Nisi Prius*. The procedure proposed is sufficiently simple, but this is just an illustration of some of the points which will require consideration hereafter, and which I do not think we ought to attempt to obtain hastily. Another would be, the abolishing of every unnecessary step in the progress of a cause ; the principle being rigidly adhered to, that the parties should never be compelled to take a single step that could in reason be avoided. It is easy to enunciate this proposition which I think will be accepted by all, but I can quite see that it would be attended with difficulty in carrying it into execution.

5. In the Bill which we have prepared, the divisions of the Court which were adopted in England and in the former Bill have been excised ; is that with your approval?—Thoroughly, I think it is wholly unnecessary in our Court. I think we enjoy special advantages and possess special facilities for

Sir W. F. Stawel,
continued,
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the introduction of a measure like the Judicature Act. We administer law and equity indiscriminately so far as the judges are concerned. It is true that one judge has been specially allotted to the business of Equity, but we are all judges of co-ordinate jurisdiction and all judges who try processes at law and suits in equity. There have been none of the divisions which rendered it so difficult to pass the Judicature Act in England. There is no division as to procedure; there are separate allotments of business, but any judge has jurisdiction to try any suit. Each judge should try every case that is brought before him, no matter what it may be; and the abolition of the expressions "Suit in Equity" and "Action at Law" is of great importance. All actions should be spoken of and all suits described and spoken of by some one name—"plaint," or whatever it is deemed best. "Plaint," I think, is the expression adopted in the Bill.

6. No, "Action"?—It is comparatively immaterial, so long as one word only is used.

7. By the orders, the defendant is allowed to set off a claim for unliquidated damages. Do you think that is a desirable alteration in the law?—I think it is a principle that has been recognised to a certain extent by allowing a verdict for defendant to the excess. The proposed arrangement is only an extension of that principle, and it will contribute very much indeed to disposing more rapidly of litigation than is possible at present in an action commenced between two persons. It is a reproach to our system, that a cross action should be requisite by defendant against the plaintiff, when the whole might have been disposed of, it appears to me, not only much more promptly, but much more effectively, by the same jury who heard both sides; and the mere division between the liquidated damages and the unliquidated damages is a matter of detail that ought not to be allowed to interfere with the carrying out a sound principle. If the defendant proves that, instead of his owing anything to the plaintiff, the plaintiff owes him, I think that should be disposed of in the same suit. Our great object should be to ensure dispatch as much as possible. I think that that would be appreciated in all mercantile communities, but specially I think in this country, and in all new countries where time is of great importance, where suitors are anxious to recover the amount due to them, or to dispose of a claim against them as promptly as possible.

8. Under our present system we have a different length of time for a defendant to enter an appearance, according as he lives in Melbourne, or within fifty miles of the Post Office, or beyond that distance. This Act only allows one time for appearance. Do you think that eight days would be sufficient from the service of the writ for appearance in whatever part of the colony the defendant might be situated?—If writs could be issued only from Melbourne, I question whether it would be; and that involves another consideration; that is, the establishment of district registries.

9. Would you prefer to keep the present arrangement eight days and sixteen—sixteen seems somewhat long?—I think sixteen is long, but I should prefer the establishment of district registries, which would at once justify the time being the same, or very nearly so.

10. In the Bill, as printed, we have inserted a clause which is not yet in print—a draft clause kindly drawn by Mr. Rogers—giving the Governor in Council power to establish District Registries at any time where assizes are held. Assuming that to pass, would it be sufficient to allow eight days in all cases?—I think so. I think we ought to encourage as much as possible the disposing of suits by jurors in the vicinities; and I think the expense of sending witnesses to Melbourne, and the costs of the agency charges, as they are termed, ought to be as much as can be obliterated. I see no reason now, with the facility of railway communication, why counsel may not attend at the assize courts and the whole proceedings take place in the assize town, and the case itself be tried, and the judgment signed, at the assize town. I have observed the desire (so far it is more conjecture, perhaps, than actual proof); but I have observed a desire, as it appeared to me, to dispose of cases and try cases in the assize courts. I see that that is increasing, as the communication is more and more facilitated; and I think myself it is not only a very natural but also a very healthy sign, and should be encouraged. The old rules, requiring the jury to be summoned from the vicinity, are correct and right, and founded on sound grounds; and I cannot see valid reasons why witnesses are to be brought, even though they may be brought readily by railway, from the different inland towns to one central place.

11. Would you confine the duties of the office of a district registry to those of a merely ministerial nature; because in England they seem to have larger powers?—I should be disposed to give them the larger powers. I think some of the officers now in the County Courts (the Clerk of County Courts I think he is termed) are fully competent to discharge those duties.

12. Would you allow them to tax costs in a Supreme Court action?—I think so. I cannot say that I have devoted much attention to the subject, but I do not see why not. It requires some experience, no doubt, but I think that experience would be very soon gained.

13. In other words, you would make those officers, as they are called in this cause, Deputy Prothonotaries?—Yes; I would certainly. Whether it should be done at first or not perhaps may require some consideration; but I look forward to seeing everything disposed of in the assize town, and by the deputy prothonotary in the same way as the Prothonotary disposes of business in Melbourne.

14. Down so far as issuing execution?—Yes. I do not think very complicated cases would be tried in that way. I think a very heavy and important case, such as the Gong Gong Reservoir case recently tried in this Court, would come to Melbourne for various reasons, but the majority of ordinary cases tried at *Nisi Prius* would be disposed of at the assize towns.

15. *By the Hon. R. S. Anderson.*—Are you aware whether costs are taxed by any provincial officer in England—Supreme Court costs?—No; I cannot say that I am.

16. Do not you think that it would be dangerous to allow the taxation of costs indiscriminately to County Court officials, considering the nature of the case and the difficulty of acquiring the necessary information to do it efficiently?—I think not. I think the difference between the taxation of costs in County Courts and in the Supreme Court is not so very great. I rely much more upon the vigilance of the professional men on each side. The taxing officer hears the objections made to a particular item, and hears the answer, and decides as a judge between them, according to certain rules of practice. He has a certain discretion vested in him.

17. He has supreme power vested in him?—He has supreme power, no doubt, liable to be set right if he departs from any principle, upon the application in the usual way to review the taxation. We have not the same facilities as they enjoy at home in conducting agency matters; the agency fee which pays one attorney in London will not pay one attorney here for the agency business; the agency business is not

sufficient, and therefore necessarily the fee is higher. That seems to me to be, to a certain extent, prohibitory. And I think it is desirable to bear in mind these difficulties to which, to a certain extent, we must be subject, and remove the obstructions which at present exist rather than allow them to continue.

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continued.
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18. *By the Hon. the Chairman.*—By the new system it is contemplated to allow either party to administer interrogatories to the other at certain stages, as of course, without leave; do you think that is a desirable innovation?—I do; I think that it is all important that both sides should be afforded every opportunity of discovering what really is the ground of action on the part of the plaintiff, and the ground of defence on the part of the defendant; and I think that postponing that discovery until the trial, causes more miscarriage of justice and entails more delay than perhaps anything else. I think if both sides were at liberty to exhibit interrogatories, or if necessary, to examine the parties or persons whom they considered necessary orally before a judge, it ought to be encouraged in every way. It is a common expression which is really very applicable, and I may use it—I cannot conceive why both plaintiff and defendant should not be compelled to show their hands at once. If the complainant has a good cause of action, why should he conceal it? and if the defendant has a good and honest defence, why should he conceal it—if he has not, why should he not admit the cause of action? If a person has incurred a debt, and is endeavoring to postpone payment of that debt by devices which the law allows, why should the creditor who sues him not be apprised of all the facts sustaining those devices, and be prepared to answer them as fully as he possibly can? I feel very strongly upon that point, because I think if that was carried out thoroughly, the proceedings at a *Nisi Prius* trial would be much shorter, there would be fewer witnesses, and the expense would consequently be very considerably diminished. And I must be allowed to say that, what I consider in one sense as almost a reproach to our administration of justice, “points reserved” would be very much fewer. Mines are sprung at a trial; no tribunal can be prepared to dispose of everything at a moment, and points are reserved which are afterwards considered fully by the court. This cannot be prevented in all cases; but it may be diminished very considerably by the defendant’s knowing exactly what the cause of action is, and how it is to be supported; and by the plaintiff’s knowing exactly what the defence is, and how it is to be supported. Now the cost of witnesses is no advantage to professional men. It forms frequently a very large proportion indeed in the bill of costs. It is unprofitable. Speaking professionally, it is perfectly barren work. The more the number of witnesses can be lessened, the more, in my opinion, will the due and proper administration of justice be expedited.

19. *By the Hon. R. S. Anderson.*—Would not that also prevent trials from going to issue that really ought not to be tried at all?—I am sure of that. I feel assured that the parties themselves are often not aware of their true position—it has not been thought over and not considered. Suitors are a great deal too much disposed to rush into law at once. Issuing a writ is supposed to be nothing. In my opinion, before the writ is issued, the case should be considered fully and fairly; and if professional opinion were asked, it would be money wisely spent. Then the litigant is told by his adviser—“You have a case, but it is a dangerous one, and it is attended with these difficulties, and it is for you to consider whether it is worth your while to take the risk and spend the amount you must expend, or to submit.” And the same observations would apply to the defendant—“You have heard now and know what your defence is. You have heard our opinion, and have heard what substantially the plaintiff complains of; had not you better pay the money at once, and make some arrangement between the parties, rather than incur the risk of having to pay your own costs and his costs, and all those damages besides.”

20. *By the Hon. Sir C. Sladen.*—It would cause a decrease of litigation?—In one sense it would not be a decrease of litigation, but it would be litigation conducted through proper channels. No matter how perfect our system may be, a certain amount of dispute will arise, and will necessarily arise if trade increases. Just in the same way as, no matter how well people may be educated and instructed, and how well they may be governed, there is a certain amount of crime that will be thrown off, you must anticipate it; and so there is a certain amount of litigation arising from men trading. Two persons enter into a contract; one takes one view and another takes another view of the same contract; that is all done in perfect honesty. If they differed, they ought to go with confidence to the court with a certainty that right will be done, and done promptly and quickly. That would abolish all arbitrations, which I consider to be a perfect reflection on the administration of justice. There should never be an arbitration. The court and the jury should be the best arbitrators. In effect, it is admitting that the courts cannot deal with the case, and are compelled to hand it over to the arbitrators, persons quite unacquainted with the administration of justice. It is no reproach to them to say that they have no idea of what evidence is, and yet more from a desire to dispose of cases, and from a supposition that justice is done, to use an expression so commonly adopted, do suitors fly to arbitration, and think they are better dealt with there than they are in courts. Let justice be prompt, be dear if it may be, but still let the conviction exist on sure grounds that there will be no delay, and business will be disposed of in a business way.

21. *By the Hon. R. S. Anderson.*—Do not you think arbitration is frequently caused by the delay of settling causes by the Court, and also by the idea that there would be a considerable saving of expense?—I entertain no doubt myself on the subject; in my own opinion arbitration is the most expensive suit you can commence; but then we must remember that, in order to ensure this promptness, no unnecessary steps should be taken, and the Court should sit from month to month, instead of having four sittings a year. The Court should sit, I should say, once a month, or eleven times in the year, and the cases (I do not know whether I referred to that) ought to be transmitted for trial by the prothonotary, if the parties themselves do not take them down for trial within the time limited.

22. *By the Hon. W. E. Hearn.*—I suppose you have some means of quickly determining the issues between the parties?—Yes, there is a clause which I believe it is proposed should be introduced—[*A paper was handed in to His Honor*]*—*that would require a great deal of consideration, but if it was introduced as a rule, it might be modified and altered. I think it is calculated to gain the object, but as we have no experience of a clause which goes that length in any of the other courts, we must proceed in a cautious way. I think that clause would answer as a rule. The whole is no doubt in one sense legislation, but such a clause I think comes fairly within the head of Procedure.

23. Would you think it would be desirable to abolish the system of pleading generally, to confine the parties to a mere statement of their views?—I think the form suggested will meet the end—a simple

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statement of the plaint, or first complaint, which shall be in few words, and written in the same way as a letter ought to be written, an accurate statement of what you complain of; I think the pleadings should be confined to a replication; there would be the complaint by the plaintiff, and answer by the defendant, and in very few cases a replication.

24. Then suppose the parties could not join issue?—Then I think both parties should appear before a judge, and the issue should be settled. If those pleadings—I do not know what to call them—the plaint and answer, and replication, are properly drawn, I think both parties ought to be brought to an issue in the great majority of cases; but if they are not, I think there is no use in going on further with rejoinder and surrejoinder, and rebutter and surrebutter. Let both parties, one summon the other to appear in Chambers, and at a very small cost indeed, by the exhibition of interrogatories and the examination of parties, it could be ascertained what the dispute between them really is—it may be put into the form of an issue, and would be the only issue to be tried.

25. Do you think that the ascertaining of a definite issue would tend to increase or diminish the expense of subsequent litigation?—It would tend very considerably to diminish it for the reasons I have already assigned; it would diminish the number of witnesses very considerably, and it would diminish the cost of counsel and the preparation of briefs. There would be a simple question, “Aye” or “Nay.” What difficulty is experienced in our criminal courts? Points reserved there hardly ever occur; they form the exception; men’s lives and liberties are at stake; and the issue is merely “Guilty,” or “Not Guilty.”

26. Then any expenditure in obtaining that issue would be money well laid out, so far as the litigants are concerned?—Yes, it would be money very well laid out, and would be very economical indeed. The suit should be ventilated as much as possible. At some time or other it must be, and it is manifestly less expense to do that before trial—before witnesses are summoned—than afterwards, or during the trial; and if ventilation can take place before the trial, it may end either in the parties themselves arranging the matter; or if not, it would certainly tend to a diminution in the cost of trial, the number of witnesses, and the various other attendant expenses.

27. Would it have any effect upon points reserved?—Yes.

28. Or new trials?—I think it would stop both, because the necessity of reserving points is caused in the majority of instances from a question arising which has never occurred to either party. An objection is kept *in petto*. A point is preserved as a profound secret until the proper time arrives, and then it comes with fatal force upon the unfortunate litigant, who knowing he has a just cause of action or a good defence, goes out of the court disappointed, disheartened, and almost disgusted, and blaming everyone who ought not to be blamed, and not blaming what ought to be blamed, and that is, the mode of procedure. Now, I desire to put an end to this retention of points as much as possible, and as a necessary consequence to these reservations, I would make them exposed and disposed of at some time or other before the trial. That ought to be the great object, or one of our great objects—simplicity and promptness, quickness of trial, and disposal of technical objections before the trial, instead of after. If the case is to be tried twice over at the trial and afterwards at *Banco*, much better that it should be tried first of all in Chambers, and then at the trial.

29. Then the principal causes of expense in litigation are—first the witnesses, and second the reservations, the cause not being finally dealt with?—Yes.

30. Therefore the object of this procedure should be as far as possible to reduce those two sources of expense?—Yes.

31. And those sources of expense are gain to no person?—They are gain to no person, and a great advantage would be this: We cannot suppose that there will not be points reserved, and that there will not be cases argued in *Banco*, but they will be much facilitated and immaterial points would be at once sifted and got rid of, and then attention would be concentrated upon the material issues, and upon those only, and Court and practitioners would be saved from considering a number of matters which distract the attention and occupy a vast amount of time, and in the event of an appeal to the final court, the parties themselves would see how narrow the issue was and how very short the compass in which the whole question is comprised, and they might form an opinion as to the probability of their success or not.

32. Then new trials and other appellate matters, so to speak, require some provision; how do you think they ought to be tried—all points reserved and the like, where should they be heard?—They should be heard before the Full Court.

33. What do you mean by the “Full Court”?—Never less than three judges, and I think not less than five judges. I think those five judges should be as much as possible together; occasionally one may be unoccupied unavoidably; but it should be expected that if possible five, and if not five, then certainly not less than three ought to attend.

34. Are there any other matters that you think ought to go before the Full Court?—No, I think not.

35. Prerogative writs, for example?—Yes, certainly, those should; in short, those cases which now go before what is termed the Court-in-Banc ought to go before the Full Court.

36. When a new trial is ordered, would you have the cause sent back to a single judge, or would you try it at bar?—Sent back. I think a trial at bar, except in very occasional cases, not an advantage. That is to say, I do not think the advantage derived from the number of judges is at all commensurate with the immense public inconvenience of accuyping the time of five judges. I think it is an unnecessary expenditure of judicial strength; the advantage of a trial at bar is, that it prevents a new trial, on the grounds of improper reception of evidence, or misdirection. There is the advantage of conference unquestionably, but if the case has been fully sifted and is required to be tried over again, I do not see any reason for not sending it to one judge; he knows the opinions of his brethern, and if he has any doubts, he can confer with them.

37. *By the Hon. the Chairman.*—Have you any other suggestions to make to the Committee?—None other occur to me, except that it is still proposed to retain the form of endorsed writ. I think it should be looked forward to merely as an experiment. The principle ought to be recognised, although it may not be considered expedient to carry it into practice at first; that it is not necessary to compel a person to appear. There should be no writ, and, as a necessary consequence, no appearance. If that is recognised, I should not consider it necessary to alter the Bill as it now stands, but I think it ought to be recognised and admitted that, if one person complains in a proper way of another, that other ought to be expected to answer the complaint against him without being compelled to come into court.

38. How would you recognise the principle in any way other than the recognition the Bill contains? —It is a difficult question to answer, how to do it without alteration, and I am unwilling to interfere with the Bill. Sir W. F. Stowell,
continued,
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39. The Council of Judges are to report annually to the Governor such improvements as they think desirable, and that might form a part of one of their reports?—It might. It is a part of a whole, because if it is regarded that the complaint is formally made, that complaint will not be made lightly and without due consideration; whereas if it is looked upon that a writ may be issued as at present, it is probable I think that in many cases writs will be issued without due consideration. We all know that in a number of cases the causes never proceed farther than the issue of a writ.

40. Do not they exercise a useful function in that respect?—In such instances the complaint would be shorter than it is now. It would be merely a complaint as short as a writ: "You accepted a bill of exchange, and you did not pay it." "You endorsed a bill of exchange to me, which I hold, and you did not pay it." All those cases might be reduced to a very brief statement.

41. Would not that be almost comparing the attorney's letter demanding payment to a writ? a mere demand of payment does not always mean that a man is going to pursue his rights at law. An attorney's letter often leads to negotiation; whereas in this case a man might never know on receiving an attorney's letter whether judgment would not be signed against him?—This would be a complaint to call upon him to appear and answer, and if he does not answer, judgment will go against him by default. The mere shot to make a vessel heave to would be the same whether you call it a writ or a complaint. One feature which I think would result from abolishing the writ and the appearance, would be, that the action itself would not be commenced so lightly as it is now.

42. *By the Hon. R. S. Anderson.*—Would it not be much easier for a man to get himself into an action by his own letter than by consultation with his adviser, and might he not get into an action by a letter without intending it?—No, there would be a form of plaint prescribed. There would be sufficient formality to leave no doubt in the mind of the person to whom it was addressed that that was equivalent to a writ. "You are called upon to answer my complaint. My complaint is as follows:—What is your answer? If you do not answer, judgment will be signed against you." The present Bill is in conformity with the English Statute.

43. *By the Hon. W. E. Hearn.*—There is some division in the rules, I think, respecting the extent of a very simple remedy in cases of debt or liquidated damages on affidavit; in fact, extending the Bill of Exchange Act to other cases. Do you approve of that?—Yes, I should prefer that clause to the Bills of Exchange Act. I should like to make that clause comprise all. I think under the present Bills of Exchange Act, in the vast majority of cases, leave to appear is granted almost as of course. I confess I myself do not see any great advantage resulting to the mercantile community from that; they ought to be good judges themselves. There are certain conditions imposed; that is almost the only advantage; and in doubtful cases the amount is occasionally brought into court, or security is entered into.

His Honor withdrew.

John Warrington Rogers, Esq., Q.C., examined.

44. *By the Hon. the Chairman.*—I believe you have devoted some considerable time to considering the question of the fusion of law and equity?—Yes, I have. I may say, in fact, that most of the principles in the present English Judicature Act were considered more than twenty-five years ago. At that time I was a member of the council of the Law Amendment Society, in England, and they were proposed then, although only recently effect has been given to the suggestions that emanated from the society.

45. Have you been through the Bill, as amended, which is handed to us to-day?—Yes, I have, with the Orders.

46. Speaking generally, do you consider that it would be a valuable measure to pass?—I have no doubt of it; it gives effect to some leading principles. There is the administration of legal and equitable rights in the same suit or action, which is an important one; there is another, that there shall be one mode of instituting all contentious proceedings, instead of a variety, and one mode of instituting all administrative proceedings; those being the two great classes of business in the court, administrative and contentious litigation. Then it institutes a clear distinction between the duties of the primary judge and the Appellate Court, and provides that, in the Appellate Court, there shall be never less than three judges, a matter of very great importance. Again, it proposes that all cases shall be tried by a judge without a jury, unless the parties desire some question which is fit to go before a jury to be tried by a jury, which I take it is a very important principle. Again, it provides that, instead of the year being broken up into terms and vacations, the court shall at all times be sitting, except during a reasonable time of vacation; so that instead of the business being delayed for a specific period to come on, it shall be disposed of as it becomes ripe; that gets rid of a great deal of delay. Then it provides for great simplicity in stating the case by the parties, instead of the present system of pleading, by which unfortunately it so often happens, that the litigation is disposed of not in respect of the matter in dispute between the parties, but upon some technical difficulty which has arisen in the mode of stating matters. There is power also given to carry out a local administration of justice by the Supreme Court, by giving power to the Governor to institute Local Registries, which has been done in England, and was proposed many years ago; so parties can in their own neighbourhood carry out all the different steps in a cause without sending them to Melbourne to be carried out. Then in the matter of appeal it introduces a very important change, which is, that all appeals shall be by way of re-hearing; and in reference to that perhaps I might say, that I should imagine that it must eventually practically get rid of all motions for new trials in the sense in which we understand new trials now, and that question which was put to the learned Chief Justice will not arise, whether new trials should go to a single judge or to a trial at bar; because I take it that, if every appeal is to be in the nature of a re-hearing, if you want a new trial you will bring forward an appellate motion, and you will get a re-hearing if you are not satisfied with the hearing in the court below, and that re-hearing will be before the Full Court in the nature of a new trial at Bar. New trials now often arise from the perversity of juries, or from the improper reception or rejection

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of evidence, or misdirection; but, if the former trial be set aside and the re-hearing be in the nature of an appeal, it will come before the Full Court, and there is an end of it as far as the colony is concerned; so you get finality with a much less expenditure of time and cost.

47. Do you approve of the non-establishment of divisions of the court here?—Certainly. I never could understand how it was proposed originally to introduce them here, because while they were actually necessary in England, when there were more than thirty judges when the Supreme Court was created (England had no Supreme Court, but several Superior Courts, and they had to create a Supreme Court, that is, a court having universal jurisdiction) we have a Supreme Court administering law and equity, and therefore having universal jurisdiction, and, with the small number of judges, you could not divide it as the courts in England are divided, and as it was proposed to divide the Court here in a Bill two or three sessions ago; you would have had to create as many divisions as there are individual judges. In fact, I have no doubt it would only create complexity, and in England I believe it will be swept away as their system progresses. They have a primary jurisdiction there before a single judge, then the case goes to the Divisional Court, and then to the Full Court, and the reports seem to indicate that the decision of the primary judge is often reversed in the Divisional Court, and then the decision of the Divisional Court is often reversed by the Full Court.

48. *By the Hon. W. E. Hearn.*—I suppose the division arose from historical causes?—No doubt. Besides there were thirty judges there, all new to the system proposed to be introduced, and I do not think they could have divided the business unless it had been done by Parliament. There is one matter that perhaps I may be allowed to mention. The learned Chief Justice was asked as to voluntary interrogatories, that is to say, interrogatories without the aid of the Court, and he said he would allow them by all means. I take it that that should be so; but I think that care should be taken that, if a party refused to answer, the consequences of a refusal, if he refused improperly, should be set right at once by bringing him before the judge, otherwise a latent defect might only be discovered at the trial—in other words, that the introduction of interrogatories by the parties without the intervention of the Court would require to be guarded very much to prevent difficulties of that kind arising.

49. What limitations would you propose upon that?—I would say, unless the parties applied within fourteen days after the day fixed for the return of the interrogatories, or some fixed period, a week or a fortnight to the Court to compel the interrogatories to be answered, no objection should be taken on the ground that the interrogatories were not answered at any subsequent stage of the proceedings. I think, if you do not do that, there might be difficulties very often. I think a skilful practitioner would lie by to take the objection.

50. *By the Hon. the Chairman.*—Have you any further suggestions that you wish to make?—In reference to the mode of pleading and commencing an action, I must say myself that I think that a better mode would certainly be to commence proceedings by a plaint, and to require then a defence, and to have a reply, and then the proceedings should be complete. The learned Chief Justice, in fact, put that, but I think, from what fell from one or two members of the Committee, he was not quite understood. This plaint should be a proceeding issuing from the Court; in fact, something very much analogous to the plaint now issuing from the County Court. The introduction of that system of plaint, defence, and reply would save unnecessary steps, as it seems to me; there would be no writ and no appearance, the plaint would take the place of the double step—the writ and declaration where there was no special endorsement, or of the writ with the endorsement. The principle should be this, to require every man before he stirs the water to consider well what he is about, and to consider what it is he claims as against the other person; he should be obliged to consider his case carefully, and to consult probably his legal adviser before he took any step in the first instance. The plaint would be carefully prepared, and the person looking at it would know at once if he had any defence; if not, he would allow judgment to go by default, or make some arrangement; if he had, he would answer it, and it would save the unnecessary step of an appearance, and so save time and expense; but the principal thing is to ensure care and consideration before a man begins an action. I believe many actions are commenced without sufficient consideration, and then the defects are not cured afterwards. The learned Chief Justice seemed to think that some provision must be made in the Bill to introduce this at some subsequent period—I think so too. I think there is a great division of opinion in the profession as to whether the plaint system should be introduced instead of the writ system, and it would be a pity to delay the Bill, as it is so important a Bill, but I do not think it would be wise to leave the system to be recommended to the Executive. I think if it were provided in the clause that gives the judges power to frame rules, enacting that they might also, if they thought it desirable to abolish writs, to do so, and to introduce some other system of commencing actions that would leave the judges open to do it without moving the Crown, and without interfering with the principles that Parliament had affirmed. Of course the plaints would issue under the seal of the Court just as the writ does, but the great thing is that the plaint states carefully what the real ground of complaint is.

51. *By the Hon. W. E. Hearn.*—If you were to add to clause 28 “and the mode of initiating actions,” would not that be sufficient?—Yes.

52. That would leave the thing open?—Yes, it would leave the thing open, which it hardly is now. The clause, to which the learned Chief Justice alluded, as to settling the proceedings before a judge, is a matter of enormous importance. The great difference between this clause and the English Bill is this, that the English Bill does not at all contemplate the examination of the parties before the judge—the introduction of that principle of examining the parties would, I am quite satisfied, lead to two things; in cases which are likely to be fought out it will eliminate the real question in dispute between the parties, and in the other classes of cases it will bring about a settlement; but without this special power a judge cannot do that—he cannot compel the examination of parties or the production of documents under the English system; he could merely deal with the pleading as it is framed, but without getting information—this clause would enable him to get all the information and to amend the pleading effectively.

53. *By the Hon. Sir C. Sladen.*—It would supersede demurrers?—Yes, completely, and also supersede that difficulty which often arises at a trial, when it is found that the evidence does not fit with the issues raised, and therefore, all your labor is lost. I wish to mention the matter of local registers; they would be confined to assize towns—the registrars of the County Courts are the superior officers attached to the department—they are all chief clerks in Insolvency, and they are accustomed to tax costs and do all the duties that would attach to deputy prothonotaries; but of course, in many of the small towns they will be quite unfit to do those duties.

The witness withdrew.

Ordered that this Committee be adjourned to to-morrow at half-past two o'clock.

THURSDAY, 16TH OCTOBER, 1879.

Members present :

The Hon. Dr. DOBSON, in the chair ;

The Hon. W. E. HEARN

The Hon. J. LORIMER.

Frederick G. MOULE, Esq., Solicitor, examined.

54. *By the Hon. the Chairman.*—Have you looked into the method by which recent legislation in England has provided for the fusion of law and equity?—I have glanced at it. I have not made myself completely master of it, but I understand the principles of it. F. G. Moule, Esq.,
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55. As far as you are acquainted with it, do you believe the method adopted will be successful?—I think so ; it appears to be working well at home.

56. In the English system, they have kept up distinctions between the courts by what they call "Divisions" ; it is proposed to omit those here. Does that proposition meet with your approval?—It does. I have always thought that there ought to be no distinction made between law and equity in the court.

57. There is provision here for allowing set-off of unliquidated damages in an action. Of course, you are aware of the present existing system?—Yes.

58. Do you think that the change would be productive of advantage or not?—It would, in point of fact, be trying two different classes of action at one time.

59. But would you oppose the introduction of such a system?—Certainly ; I should myself.

60. I may mention, that power is given to the plaintiff here where a set-off is put in, of such a nature, to apply to a judge to limit or to strike out such a set-off, if he thinks it cannot conveniently be tried with plaintiff's claim—subject to such a power, do you see any objection to it?—Subject to such a power, I see no objection to it.

61. There has been some difference of opinion as to the mode in which an action should commence. You are familiar with the difference between the commencement of an action at law, and a suit in equity?—Yes.

62. The present mode is a compromise between the two, by a writ endorsed with a concise statement of the plaintiff's claim. Would you prefer commencing with a plaint, or with a writ so endorsed?—I would prefer commencing every case with a writ, containing a short statement of the plaintiff's claim. I see no object in abolishing the writ.

63. In your experience, do many actions terminate with the issue of the writ?—My experience is, that nine out of ten do ; they never go beyond the writ. Then, I may say that nine out of ten writs are issued on bills of exchange.

64. As many as that?—Yes, quite that.

65. Is that simply from your experience during the commercial dullness of the last few years?—No ; it has always been the same, but of course my practice has been very much with banks. Then I issue more writs, perhaps, than those not connected with banks do ; but nine out of ten, I should say, are on bills of exchange.

66. Would you have any idea with regard to the writs issued generally, whether the writs on bills of exchange are more than half, say?—Certainly, more than half.

67. Of all the writs issued?—Of all the writs issued.

68. There have been over 6000 writs issued this year already?—I should say at least 4000 of those have been on bills. I should say a great many more ; but there have been that at least.

69. *By the Hon. W. E. Hearn.*—You commence an action with a writ, and then there is an appearance, then there is a declaration, and then the plea—there are four steps. Would it not be possible to reduce those four steps—is it absolutely necessary for the purpose of justice that you should have those four steps?—The question in my mind is, whether reducing the number of steps you do not increase the original expense of defences. I mean, if the different actions are commenced by a writ, and there is no defence at all, you get judgment at once.

70. No doubt, but assuming that to be so?—I think that would be a good provision if we could count upon there being a defence in every action.

71. I do not think I have made myself quite clear to you. We start suppose with a writ, whatever you call it. Some commencement. The name is not very material. Suppose that that were not answered within eight days, a judgment were then to issue as of course?—That is the case now.

72. Precisely. Then if there is any defence, he could ask for further information, or plead, or apply for additional time. If that were all done, would not that give only two steps, and yet answer all the purposes quite as well?—If the defendant would be satisfied with a short statement of the claim it would.

73. If he wants more, he can ask for it?—Exactly.

74. Would it not be possible to work it in that way, and so to avoid two steps out of the four, as I put it to you?—There is no special virtue in an appearance ; it is a simple notice to the plaintiff that the defendant intends to defend.

75. Quite so, and as to the first statement, as you call it, plaint or writ, it will be a notice of complaint with a statement endorsed?—Yes, whatever it is called.

76. Then, if that is the case, you can give up the appearance?—You may, but you will increase in most instances the cost of the writ, because you will have to set out what we call a declaration now in the writ.

77. Suppose you did that. Suppose in fact we abolish both writ and appearance and start straight off with a declaration?—I think that would be unnecessarily increasing the expense ; for this reason—You can issue a writ now, with ordinary particulars, and the expense is merely nominal, simply a shilling to issue, and the expense is merely clerical.

78. What do you charge ordinarily for issuing a writ?—Nineteen shillings.

79. And what is the ordinary charge for entering an appearance?—Six shillings ; that is, five shillings for the appearance and a shilling to pay.

80. Then it is hardly worth reducing that?—No, it is not ; as far as the saving of expense is, there is nothing in it.

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81. As to the time, would there be any difference in that?—I think the time we now have is quite reasonable.

82. Would you save any time by upsetting the present arrangement?—No.

83. The whole saving would be nineteen shillings and six shillings?—No, you would not save the nineteen shillings, for you must issue the writ; you would increase the cost of the writ by endorsing the cause of action upon it.

84. What is the cost of declaration?—All declarations out of the ordinary course for goods sold and delivered, and so on, are settled by counsel, and there are two or three guineas for counsel's fee, and we are entitled to £1 17s. 6d. besides counsel's fee.

85. *By the Hon. the Chairman.*—In the English system they allow all over England only eight days for appearance to a writ. Here we allow eight days and sixteen days, according as the defendant lives within or beyond fifty miles of the post-office. You think it would be possible or desirable that eight days should be made sufficient through the colony, or would you allow a longer time than eight days beyond fifty miles off?—I think eight days is sufficient all over the colony.

86. The Chief Justice agreed with me yesterday that eight days and twelve days would do; but on thinking it over this morning, I am inclined to your opinion?—I say eight days from the service of the writ, and he can reach the Supreme Court here in two days from any part of the colony.

87. By telegram?—Yes. I think eight days is quite sufficient. I have always thought the prolonged time for fifty miles is too long.

88. This system was adopted in 1856, when our present system of railways and telegraphs was not in existence?—Yes, just so.

89. In England, the Queen, by an order in Council, has power to appoint District Registrars to carry on the official business, and the ministerial business of the Court in country districts. Now we have proposed here to establish Deputy Prothonotaries in all assize towns, for the purpose of issuing writs and entering appearances; and if there be no appearance, signing judgment, and so on—Do you think it would be necessary to decentralize the ministerial business of the Supreme Court?—No, I do not. I am sure it would increase the expense very much. It would put us to this expense: If a plaintiff in a country district sued a man, the proceedings would all be taken in the district prothonotary's office, and it would put the town defendant to the expense of sending up there to search for what has been done; whereas, if all proceedings were taken in Melbourne, either the defendant's solicitor, or the plaintiff's agent, if he is in the country, can ascertain at once, by going to the office, what is done.

90. It would be no saving of expense, it would simply transfer the expense?—That is all, and it is a great deal of trouble. If those country offices were established, I should have to send up to an agent there to see what is done; whereas, I can now go to the office at once and see what is done.

91. If both the plaintiff and the defendant live, say at Ararat?—If they both live there, it could be done there if they like.

92. If the parties both live in the bailiwick, might they not do it?—It would increase the expense to the colony very much, having district offices.

93. *By the Hon. W. E. Hearn.*—How about the expense to the client?—If the two clients lived in the same town, of course the expense would be less.

94. Your point is, that it will have to be limited to that class of cases?—Yes; where both parties reside in the same district.

95. *By the Hon. the Chairman.*—Suppose the parties resided in two separate districts?—Then it ought to be in Melbourne, I think.

96. One in Sale, and the other in Ararat?—Yes, it would be much more convenient to both to have it in Melbourne.

97. There is a point which I forgot to ask the Chief Justice and Mr. Rogers yesterday—it has been talked about in England a good many times—and that is: Is it desirable to have a shorthand-writer attached to the court as an officer, to take down notes of the evidence and the summing up in such cases as either party may request, and make the cost of it dependent upon the direction of the judge? Supposing, for instance, the defendant vexatiously insisted upon a shorthand report in a trumpery case, make him pay for it; but if the parties consented in the first instance to have a shorthand-writer, let it be costs in the cause; or the judge, on the application of either party, thought it a proper case, judging from the *Nisi Prius* report before him, if a large sum of money were involved, or large interests, it would be desirable to have the thing attended to with more than ordinary care—you are aware that it is a provision in the Insolvency Statute?—Yes; but this difficulty would still arise, that if the shorthand-writer's notes disagreed with the judge's notes, the judge would prefer taking his own notes to the shorthand-writer's. I think it would be hard to impose upon either party the expense of a shorthand-writer, if he did not want it.

98. Even if the judge thought it was reasonable?—Yes, that is my opinion; because any party who likes can have it now.

99. At his own expense?—Yes, at his own expense.

100. And it is not officially acknowledged?—No.

101. In England they have two classes of referees, official and special—I should like to ask you whether you think it is desirable to exclude the power to appoint special referees, or to put it in?—I think it most desirable to include such a power. I think the special referee would be a most valuable adjunct to the court; for instance, in an architectural, in an engineering case, in a seafaring case, and a multitude of other cases, an official referee would be of no use whatever—he would be but a mere judge—but a special referee, specially posted in the case referred to him, would be of much use.

102. *By the Hon. W. E. Hearn.*—Do you think the object would be obtained by having one or two of those men to sit with the judge, as assessors with the judge, in trying such cases?—I do not think so. I do not think the judge would like it. It is not merely to assess damages, but to decide any point that would be referred to them by the judge.

103. Just so—he advises the judge?—It really almost comes to the same thing, whether you have him as an assessor or as a referee.

104. No, it is not; it is a very different thing for the judge to turn over the whole case?—If you have an assessor appointed, you will hardly know how to limit his powers.

105. *By the Hon. the Chairman.*—Read section 24 of the Bill before the Committee. This section F.G. Moule, Esq.,
continued,
16th Oct. 1879. 24, which alludes in the margin to section 56 in the English Act, is very different, because section 56 applies to referring the question in a cause, not the cause itself?—It appears to me that the principle of the thing is the same. That the judge is referring to another person to tell him something which he is perfectly unqualified to know himself, a particular point upon some subject which the assessor or referee is specially qualified to determine; and whether he is called assessor or referee, I think the principle is the same.

106. *By the Hon. W. E. Hearn.*—Is not this the difference, that you keep the responsibility fixed upon the judge, and do not let him get out of the responsibility, and he has to do it?—Yes, he has to adopt the decision of the referee or not. One particular reason why I prefer a referee to an assessor is this, that if a particular point in some technical subject arises, the Court can appoint a person to go and see the work; but if he is sitting on the bench with the judge he could not do that.

107. But if you send down a referee to examine the work, it is only one man's opinion; he is only a witness; and the other side might bring a number of witnesses against him?—Yes.

108. So it is a question of evidence, and it is the duty of the judge to sift the evidence?—But I thought the parties were to agree upon a referee.

109. What is that but compelling them to arbitrate?—I may be allowed to say, that the same principle seems to exist as to the English Act, whether it is to be a referee or an assessor; and I think if we can adopt the English Act, it would be far preferable to making any alterations; let us follow the English Act for the sake of availing ourselves of the English decisions.

110. *By the Hon. the Chairman.*—If I understand you aright, you would retain the power of referring the question in a case to a referee?—I would certainly, as far as my opinion goes.

111. Generally you consider it desirable to adhere as closely as possible to the English Act and rules, so as to avail ourselves of the English decisions?—Most distinctly, if the Act is to be adopted at all, because I may say that it is my private opinion there is no occasion for any such Act at all; but if we are to have an Act, I should stick to the English Act as closely as possible.

112. *By the Hon. W. E. Hearn.*—What would you have—I thought you were a great advocate for the Act?—I would have a much more sweeping Act than this. Of course they have much more need for such an Act in England than we have here. I practised in England and I know what it was, but here there is one Supreme Court, and there is not the occasion there was in England for this Judicature Act; but if we are to have it, let us have the English Act as closely as possible.

113. How far would you go?—If I had my way, I would abolish all the Courts but one, and have no County Courts, but I would have the Supreme Court in various jurisdictions.

114. But you would have a Court of Petty Sessions?—Yes, I would not abolish those, but I would abolish all distinctions between law and equity. I would have all cases tried as to questions of fact by a jury. I would have all questions of law decided by a judge; and questions of fact too, if the parties chose.

115. *By the Hon. the Chairman.*—The rule under this Act, if it passes, will be, that all questions of fact shall be tried by a judge without a jury, unless either party chooses to demand one?—Yes.

116. *By the Hon. J. Lorimer.*—Have you read this Bill?—I have not had time to do so.

117. *By the Hon. W. E. Hearn.*—If that provision is in the Act, it would meet your views?—Yes.

118. *By the Hon. the Chairman.*—Is there any other suggestion you would like to make?—No, I do not think that there is.

The witness withdrew.

Edward Blayney Hamilton, Esq., examined.

119. *By the Hon. the Chairman.*—You are a barrister-at-law, of King's Inn, Ireland?—Yes.

120. Have you looked into the English measures for fusing law and equity?—Yes, in a general way, as they passed. I never had occasion specially to study either of the Acts.

121. Do you think it is desirable that some such system should be adopted in the colonies?—I think it is, because all the English decisions upon practice are perfectly useless to us, as we are left in the old stereotyped forms that are unfit for use in England, and the business of the law here and at home is so much alike, that if it is an improved system in England, it is an improved system for this colony.

122. Are you familiar with the Irish practice of settling the issues before trial?—Yes.

123. Do you know the mode adopted in the Bill of commencing every action with a writ endorsed with a concise statement of the claim?—That is in the new Bill.

124. Do you think that is preferable to the Irish mode of settling an issue?—I think so, especially after hearing what was said by Mr. Moule. In Ireland the writ and the declaration, as it is called in England, were one and the same document—they were called the summons and plaint. The result was that, in every case where it was necessary to issue a writ, counsel, as a rule, had to be previously consulted to draw the pleadings. The attorney had to get up the case for counsel and send it to him, and counsel drew what is here called a declaration. It was sealed with the court seal, as well as I remember; it then had to be served of course. The usual mode of service was as you serve a writ here—you showed the man the original, and gave him a copy. In the country districts this often led to a considerable amount of confusion from the stupidity of attorneys' clerks and others. In places where they had not got good copyists, mistakes were made in the copying, and frequent applications were made to the court to set aside a service on the ground that a true copy had not been served, and consequently there were many applications to the judges to take the originals off the file for re-service. Here you file a *præcipe*, but there they filed the original, or a copy. Here I think that would lead—certainly in one instance—to very great confusion, or at any rate to very great trouble, when defendants are suddenly decamping from a colony and running away. Now you get a writ at once, serve the man, and make application to the judge for an order to arrest him; but if you have to go to counsel to settle the writ (sometimes the proceedings are very complicated) he could not perhaps do it in time. This inconvenience would be aggravated very much under the new system of pleading, which is a very lengthy one; and it would take very much more time under the new system than under the old, for we have the forms at hand ready for use in a moment. Why, the defendant might be half way to Sydney before counsel had the declaration ready, and if you put in a short cause of action—"goods sold and delivered,"—or anything that was not the real cause of action, you might not be able to arrest him; and, at all events, you might have to amend your pleadings and go to more expense afterwards.

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125. Taking into consideration what Mr. Moule said, that so many actions end with the issue of the writ, it would be undesirable to have any pleadings upon the writ?—I think it would be very satisfactory to the bar—the pleadings would be increased and their fees would be increased, but it would not be very satisfactory to the suitors.

126. *By the Hon. W. E. Hearn.*—You say that the present summons and plaint is a substitution for the declaration and writ?—Yes. Recently the Irish practice has been assimilated to the English, but when I came here the “summons and plaint” was issued. It consisted of what you see in the schedule to the Common Law Procedure Act in Ireland. It is a summons to the man to appear, for that so-and-so has made a complaint against him.

127. After you got the summons and plaint, what was done then?—Then you have to serve it.

128. But in the way of pleading; is there any further declaration?—The next step was for the defendant; he put in a defence.

129. Does he appear?—He used to appear and defend at the same time; the appearance and defence were one and the same document.

130. There are only the two steps there?—Yes.

131. *By the Hon. the Chairman.*—There were?—There were only the two stages then. At present they have the English practice.

132. *By the Hon. W. E. Hearn.*—They have abandoned the practice you have described?—Yes; and they carry out what you are proposing here exactly.

133. But under the former system, had not they some way of settling the issues before the judge?—Yes, but it was very seldom necessary to go before a judge; after the defence was handed in, you went to the plaintiff's counsel who drew the issues. The issue document there was also in the form to be seen set out in the Statute. It was sent to defendant's counsel for approval.

134. They called it a defence?—Yes; the appearance and defence.

135. Was there no reply?—Not as a rule. You had to get special leave to reply. If reply was necessary it was usually done by amendment. Here they put in a replication. There you would have amended your declaration so as to render it unnecessary.

136. What was the advantage of that?—I do not know; nobody could know; but it was provided by the Act.

137. How did you do if the parties could not agree after the defence was in?—The counsel settled the issues.

138. Both counsel?—First the counsel for the plaintiff; then counsel for defendant. Supposing it was an ordinary declaration upon the money counts, the issue would run: “Therefore let a jury come and try whether any goods were sold by the plaintiff to the defendant,” as alleged, and so on through the various counts in the declaration; and then the defences in confession and avoidance would come in order as they had been put in. Of course, if you traverse the selling of the goods, the issue would be whether any goods were sold, and so on. Supposing a defendant said, as he might do, “I object to the way the plaintiff has drawn this,” then they must go before the judge to settle the form of the issues.

139. When they went before the judge, what did he do?—I think it hardly ever occurred. I never saw it; but I suppose he would deal with the matter as he would with any application about the form of a pleading.

140. It was only a nominal power?—It was a power that hardly ever was necessary to be exercised. Counsel knew perfectly well what the issues were, and they had no difficulty in settling them.

141. *By the Hon. the Chairman.*—Have you any suggestion you would like to make with regard to the course of law reform, and what it should take in the way of procedure?—No; but I may mention this—as you were talking to Mr. Moule upon the subject of shorthand writers being employed—I think if you will look at the Report of the Royal Commission on Judicature, published about 1865 or 1866, it is a unanimous recommendation that shorthand writers' notes of a judge's ruling should be accepted as evidence of what the ruling was. The Commissioners do not, however, as far as I remember, sketch out any plan by which proper shorthand writers should be secured. It is a common thing in England to use shorthand writers' notes in important cases. Take, for instance, the two Tichborne trials. Chief Justice Bovill in the first trial adopted—with the consent of counsel on both sides—the shorthand writers' notes as his notes of the evidence. They were printed from day to day, and used by counsel on both sides and the jury.

142. Then you would be in favor of making some arrangement to secure that shorthand writers' notes, either by consent of parties or by direction of the judge, should be accepted?—Yes, if you could secure proper shorthand writers. Something must depend upon the integrity and incorruptibility of the shorthand writers, especially in big cases that will have to go to the Privy Council.

143. But the integrity of the shorthand writer will not relieve the junior from the duty of taking the evidence very nearly *verbatim*, and if there was any glaring mistake in the evidence upon a material point, it would attract the attention of the judge, the jury, and the counsel, and no shorthand writer would dare to do such a thing?—Yes, I suppose it may be a mythical danger, but I think I should take time to consider whether it is a danger or not. The shorthand writer's notes are a transcript which none of us can read, and what he might do would be in the copy, which might be a very improper representation of what is in his own notes, and there might be no occasion to get a copy of the evidence till long after the trial, when a great deal would be forgotten by judge, jury, and counsel. I may tell you that in the Admiralty Courts and the Insolvency Courts in England it is the practice, I believe, to employ these men—they are duly sworn to take notes of the evidence correctly, and their notes are used.

The witness withdrew.

Ordered that this Committee be adjourned to Tuesday next at Three o'clock.

TUESDAY, 21ST OCTOBER, 1879.

Members present:

The Hon. Dr. DOBSON, in the chair;
The Hon. Sir C. Sladen | The Hon. R. S. Anderson.
W. E. Hearn |

James Cooper Stewart, Esq., Solicitor, examined.

J. C. Stewart,
Esq.,
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144. *By the Hon. the Chairman.*—You are a member of the firm of Malleeson, England, and Stewart?—Yes.

145. Have you considered the mode recently adopted in England for the fusion of law and equity?— I have given it some little attention. I read the Act when it was passed.

146. Generally speaking, do you think that is calculated to carry out the intention of the Act?—It struck me as being so.

147. In England they kept up what they called "Divisions of the Supreme Court of Judicature"?—Yes.

148. Those we propose to omit here—do you think it would be desirable to keep them in or to omit them?—I should say, to omit them. I do not see any necessity for their existence in this colony.

149. There is one question upon which there has been some disagreement of opinion—the Chief Justice and some others are against the view I take, that is, with reference to the 56th section of the English Act, 1853. Shortly, it is this: in England they have two kinds of referees—official and special?—Yes.

150. The former are paid officers of the court. We considered it was undesirable to have that class of officers, and then a discussion arose as to having special referees. In the 56th section there is power given to the court or judge, before whom such cause or matter may be pending for inquiry, to refer?—Any question may be referred by a court or a judge.

151. Yes, to any special referee, and the report of any such referee may be adopted wholly or partially by the court, and may, if so adopted, be enforced by an order of the court?—Yes.

152. That is carried out by making orders for trials before a special referee, either in a cause or any matter in a cause. The Committee would like to hear your opinion as to whether it would be desirable to refer a cause or a matter in a cause to a special referee?—The whole subject matter?

153. Either that or a single point in it, such as whether a piece of work is up to specification, or whether a piece of mining machinery is erected properly, or whether there is an encroachment in a mine, and if so, to what extent—any little point of that kind—is it desirable to retain such power or to excise it?—I should like to see that I clearly understand you. Do you mean, power for a judge or a court to direct that a particular point of fact may be ascertained by a referee, who shall report it to the court, instead of being remitted to a jury for trial?

154. Yes?—I should most certainly prefer the referee to a jury upon a matter of that kind.

155. It is only where a question arises which would only probably arise on a question of one or possibly of both the parties, and apparently there is no such power now known to our court?—No; my experience has been, that there is a number of cases which are tried before a jury that would be more satisfactorily disposed of by a referee. I believe in many cases there has been substantially what I would call miscarriage of justice by the trial of a case before a jury, notwithstanding the advantage they have of having a judge to direct them. I often debate the chances where the question is to go to a jury. I calculate the character of the jurymen as juries are now composed, and I say to myself, "I know that in spite of all the judge can charge, the sympathies of the jury will run in a certain way, and I will get a verdict"; when, if the case was put before a man who would be able to deal with the merits of the matter from a scientific or technical point of view, I would have little chance.

156. You are clearly in favor of retaining the power, rather than of excising it?—I would give the power.

157. *By the Hon. W. E. Hearn.*—Would it meet your views to have assessors?—That is better still; assessors sitting with a judge.

158. That would be preferable to a referee?—Yes; I much prefer that a case should be tried by a judge and assessors, rather than send it to any particular individual to ascertain a question of fact; it would be cheaper in the end, and I think more satisfactory.

159. *By the Hon. the Chairman.*—The referee is a man who can be sent about from one end of the colony to the other to report, having a special knowledge of some point in the case. The assessors, if they are with the judge, sit through the trial with the judge and do not move?—After all, if the assessors are competent men, it is a mere matter of collecting evidence. You bring the evidence to the assessors, or you send the referee to the evidence, and it is a mere question of cost; I would much prefer to have the judge with the assessors than to have a travelling referee.

160. You think the assessors would be sufficient, without the referee?—Yes, in that aspect of it; a judge and assessors.

161. In the same clause they provide apparently for both, looking upon both as desirable?—I see they have both in England.

162. Will you look at Order 36?—I am not sufficiently conversant with the state of circumstances in England to know why it was the two classes of officers were appointed.

163. *By the Hon. the Chairman.*—As far as I can understand it, they want a referee or an assessor who can travel about—in certain cases it is desirable?—No doubt.

164. No doubt upon the ground of expense; in order to send a cause out to an arbitrator before, it was necessary to have a judge's order?—Yes, and I should set my face against arbitration. Arbitrations are most unsatisfactory as a rule; and if it is intended that these assessors or referees should simply stand in the place of the old arbitrators, I should oppose it.

165. It is simply a question whether it is desirable to retain the power; it may probably not often be used; it may not come in useful in many instances; the Chief Justice is opposed to it, and Dr. Hearn is opposed to it?—I do not say that this may not be a desirable power to possess, but in the circumstances of the colony at present, I do not see the necessity for it; and of the two I much prefer the judge and assessors.

166. In England they only give eight days from the service of the writ for entering an appearance?—Yes.

167. As you know, here we have eight days and sixteen days?—Yes.

168. Do you think that eight days would be sufficient, as a uniform time, for entering an appearance merely, not necessarily for putting in a defence?—Certainly; the eight days is quite sufficient in any part of the colony. Of course, in a matter of pleading, we can always obtain further time from a judge, if we had not received instructions from the client.

169. Do you consider that the alteration of allowing a set-off of damages to be a good one?—I think so. I do not see why every matter that is in dispute between parties should not be settled and disposed of once for all, provided that each party gets full notice of the other's claim.

170. That would apply to the power given to a defendant to give notice to a person from whom he claims indemnity to come in and defend the action too, as in the case where a surety is sued for the debt of the principal debtor?—Yes.

171. Then it is proposed to appoint deputy prothonotaries at all the assize towns for the purpose of issuing writs and judgments being signed, and other official work being done as far as possible at those different assize towns, instead of all being done by agency in Melbourne. Do you think that that would be a saving of expense to suitors?—I daresay it would. It would save the agency charges, but it would be a saving in that respect only, as far as I can see.

172. It was suggested by Mr. Moule, that expense would be entailed by instituting searches?—Yes. The matter has not been suggested to me before.

173. The searching would have to be done in every district registry to see if judgment was registered against the man?—I do not altogether follow that. We rarely make searches at the prothonotary's, because the registration of judgment does not bind the land; it is the registration of the execution in the Registrar-General's office that binds the land.

174. No searches would be necessary except at the Registrar-General's office?—I do not see the object of a search except for such a proceeding as binds the land.

175. *By the Hon. W. E. Hearn.*—Mr. Moule's view was, that that would answer where both parties were living in the same district, not otherwise?—Just so, but I do not see why we want to search at all. If I had any dealings with a person who I will surmise may be sued up the country, I should have no necessity to search, because his personal property is not affected by anything in the hands of the sheriff until actual levy; it is only dealings with land where execution is registered against the land that I have to deal with. If all executions against land are to continue to be registered in the Registrar-General's office in Melbourne, the difficulty about country registries would disappear from my mind. On reflection, however, I see some reasons which would give point to Mr. Moule's objection.

176. *By the Hon. the Chairman.*—Do you think any advantage would be gained by these district registries or deputy-prothonotaries?—I do not think so, because Supreme Court writs from country places are very few; parties avail themselves of the County Courts which have a jurisdiction up to £250. Most of the writs above £250 are issued from merchants and banks in Melbourne. I know that the banking institutions in Melbourne insist that all their business intended to be transacted through the Supreme Court shall be sent to the head-office in Melbourne, and that the writs be issued by the Melbourne solicitors.

177. In that respect you would not make it necessary for a plaintiff residing in an assize district to issue this process from the district registry?—I do not see a great advantage in it. Does the measure intend to confer upon those officers of the local registries the full powers of the prothonotary?

178. It is left entirely open to the rules to be made by the judges?—I think it would be difficult to find local parties competent to do all the duties of prothonotaries. I have had a vast deal of experience in the prothonotary's office here, and with all the experience of the registrars of County Courts, they could not do the duties satisfactorily. The taxation of costs in the Supreme Court is a very different matter from the taxation of County Court costs. I find that the County Court officers, in the very few cases in which they are allowed to tax County Court costs (for the judge generally does the whole of the work), rely upon the judge; they continually go in to ask him upon points that arise. I have known many instances in the County Courts where, if it had been worth while to review before the Supreme Court, the taxation would have been shown to be utterly without principle.

179. *By the Hon. R. S. Anderson.*—And at the present time are there not many cases when complaints are made about the taxation of costs, even by the prothonotary with all his experience, and his decisions are often overruled by the Supreme Court?—Yes; a vast discretion is given to the prothonotary in the taxation of costs which the Supreme Court recognise. I should be very sorry to see such a discretion given to men whom I regard as incompetent to perform the duties. The Supreme Court judges often meet you with this—"That is a matter within the discretion of the prothonotary, and he has exercised his discretion, and we will not interfere; though if we had had it to exercise, we should have acted differently."

180. Would it not be better for the solicitors to have those men reviewing costs?—The solicitors would get more money; for in instances where I should have liked to review, I know that the man has got much more than the proper amount.

181. *By the Hon. the Chairman.*—You do not see the advantage of these deputy prothonotaries?—I do not see any, except the gain of a couple of days sending down to issue a writ, say from Beechworth, and sending it back for service.

182. You may have observed in this Bill that the repealing schedule repeals the clauses of the Common Law Procedure Statute with regard to foreign attachment?—Yes, I was struck by that.

183. I had a correspondence with the late Mr. Justice Fellows about that, and his opinion was, that the power given by this Act to serve a writ out of the jurisdiction was a power substituted, and it was not desirable to keep the two systems alive. Do you consider that the power to serve a writ out of the jurisdiction is equivalent to procedure by foreign attachment?—I do not. I think it eminently desirable to retain it. I had a case the other day where I was anxious to sue parties resident in America for breach of a contract upon bill of lading. They had funds here in the hands of a merchant, and the only way I could have the action tried here, and have secured and got a hold over that money as a security was by foreign attachment. It is quite true, that service out of the jurisdiction would allow the case to be tried here, and then, if I got judgment, that I could send the judgment to America and seek to enforce it there; but the people's circumstances might be changed—the money would be gone, and I would have lost the fruit of my work. I do not see the disadvantage of foreign attachment, because a defendant can always come in and, upon giving security to pay the amount of the verdict, relieve the funds which have been attached.

184. Is not that occasionally a very great hardship—are there not cases of "try on," to use a common expression?—Yes, no doubt there is that disadvantage too. Some people may institute a suit merely to attach funds that otherwise would have gone to England or some other place, and try to coerce payment that they otherwise would not have been entitled to; but those are very rare cases. I would be inclined not to allow foreign attachment in the case of the Australian colonies, because we can get judgment here and send it there and issue execution on it at once; but in the case of America and

England and distant places, where we have to bring an action on the colonial judgment, I do not see why we should not retain it.

185. *By the Hon. R. S. Anderson.*—And have both?—Yes.

186. *By the Hon. the Chairman.*—In England they have not only a number to every action—each action having a serial number, as we have here—but they also provide for a letter, the initial letter of the first plaintiff's name. We have struck that out through the Bill, thinking it is unnecessary here; that there are not so many Supreme Court writs as to make it necessary to burden the record by sticking a letter upon it as well as a number?—I do not think it necessary, having regard to the manner in which the prothonotary conducts his business. I have made many searches and I have never found the slightest difficulty in tracing anything.

187. *By the number merely?*—Yes.

188. Have you any suggestions to make to the Committee?—No; I cannot say at this moment that I can suggest anything. The Bill seems to me to supply the want very well, and it leaves to Rules and Orders the mode of carrying it out.

The witness withdrew.

George Henry Frederick Webb, Esq., Q.C., examined.

189. *By the Hon. the Chairman.*—Have you paid any attention to the recent legislation for the fusion of law and equity in England?—I have perused the Judicature Act, that is the English Act, and I made some inquiries as to its operation when I was in London, three or four years ago. I have made myself generally acquainted with the subject, though I have not gone into very minute details.

190. Do you think that, upon the whole, it is an improvement upon our present system?—No doubt it is a great improvement upon the old system, both as to pleading and practice. One very great advantage derived from it is, that under the present system in England, the whole question in dispute between litigants can be decided in one proceeding; instead of, as was the case very frequently before, its being necessary to go to one side of Westminster Hall to control an action which was pending on the other side. That I look upon as the principal advantage has matter of principle. There is considerable advantage also from the simplification of the pleadings. Under the old system pleadings at law were too short, and pleadings in equity were too long; in many cases the one gave no idea of what the matter in dispute was, and the other elaborated it to such an extent that it required a trained professional man to ascertain what was meant. Under the new system, any person who is served with a statement of claim may, without any professional advice, know what it is he is sued for. The whole practice is very much simplified; the length of time necessary to determine the matter in issue between the parties is very considerably shortened; and that must necessarily tend to lessen the expense. So that in every regard it seems to me that suitors would be very considerably benefited by the adoption of the system now in force in England.

191. You may have observed that, in our Bill, we have omitted any division of the Court into divisions such as they have at home. Do you think it is desirable to retain the divisions, or unnecessary?—In this colony we have one Supreme Court, which possesses all the jurisdiction necessary for all branches of the law; it is therefore wholly unnecessary, as it seems to me, to split it up into divisions. I imagine the principal reason why the Divisional Courts were established in England was the prejudices entertained as to abolishing the old Courts; so that whilst they are abolished in name, practically they are retained under the names of Divisions. Here we have no such prejudices. Our Court, as one Court, has jurisdiction over everything, and I can see no advantage whatever in splitting it up into divisions.

192. This Bill by the repealing section repeals Clauses 211 to 228 of the Common Law Procedure Statute which relate to foreign attachment. The late Mr. Justice Fellows, who did this in the first instance, conceived that the new power of serving a writ out of the jurisdiction was a sufficient substitute for the process of foreign attachment; but several gentlemen, and Mr. Moule and Mr. Stewart, the only attorneys who have given us evidence upon the point, are very strongly in favor of retaining both systems?—I am not so familiar with the details of practice as to foreign attachment as probably gentlemen of the other branch of the profession would be, or probably as gentlemen practising more on the other side of the Court are; but as far as I am aware of the provisions of the present Bill as to services out of the jurisdiction I cannot see how the power to serve a writ out of the jurisdiction can give the power to attach by a garnishee order.

193. The idea seems in these gentlemen's minds to be, that it would be desirable to retain both systems?—The object of foreign attachment is to get a security for the payment of a debt, the debtor being out of the jurisdiction; and you get that security by attaching in the hands of garnishees any assets which he may have in the colony. So far as my memory serves me, having read this Bill through, there is no provision for attaching anything in the hands of garnishees; and, if the old foreign attachment sections are repealed, creditors here will lose the security which they have under the present law, which I think undesirable.

194. Have you any suggestion you could make with reference to extending the provisions, or modifying them in any way?—As to foreign attachment?

195. No, as to the Bill generally?—I think, there being no Divisional Courts here, it would be desirable to provide that the judges should regulate the business in some way, in order that you might not have what are now the equity cases and the common law cases interspersed.

196. Order 50 probably would meet what you are thinking of. Any cause may at any stage be transferred from one judge to another judge by an order of the Chief Justice?—I do not know how they succeed at home in keeping the equity business and common law business apart, notwithstanding this fusion.

197. If you get a counter claim on equitable grounds in a common law claim, a common law man must deal with it?—The way it is done at home is, by the party who institutes the claim marking the division into which it should go. There being no divisions in this Bill, there should I think be some means of marking out the business.

198. The rule would be, that the case would be tried by the judge who had undertaken to hear cases in that particular month. An equity case would come before, say a man who has been hitherto simply a common law man; both plaintiff and defendant would find that their suit had come ripe for hearing before

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a man whom neither of them wanted?—Then they might postpone if for a month, or two months, till they got the judge they wanted. It is a thing that may right itself as the judges become accustomed to take the classes of business. Another suggestion I would make is that, in my opinion, it would be desirable to make both plaintiff and defendant verify their statement of claim and defence.

199. *By the Hon. Sir C. Sladen.*—In what way?—By a short affidavit verifying it. That would prevent a great deal of useless matter being put down which could not be supported afterwards, and it would bring the parties face to face with the real question in dispute between them.

200. *By the Hon. W. E. Hearn.*—There are certain classes of cases that they propose to do that practically in ; to plead upon oath under the rules?—Why not plead upon oath in all cases. You do not want to allow a man to put an untruth upon the pleas in any case, that I can see.

201. It would be rather hard to make a man swear to whatever his solicitor told him?—There would be no need to make a man swear to a matter of law. The old short system of pleading is abolished altogether. Under the present system a defendant pleads *non est factum* to a deed, which traverses both the execution and the legal effect of the deed, although he does not mean really to deny that he did sign the deed, but only that it has the effect it is said to have. There would, therefore, be great injustice under the present system in making a man verify his pleadings, but I see no injustice under the new system where you make a man state the very substance of the thing he intends to rely on, and neither more nor less. I know it saves a great deal of trouble in equity where a man admits all the allegations as true, if he does not intend to deny them ; and he states certain other things in defence, always with the qualification, that he knows he may be cross-examined about them and be prosecuted for perjury if he does not state them truly ; and I do not see why the system should not be extended to all cases now that we are going to have short statements of facts instead of technical pleadings.

202. *By the Hon. the Chairman.*—In a vast number of cases would it not entail the necessity and cost of an affidavit?—I do not think so. There could be a short statutory form of verification at the foot of the statement of claim or defence, and let it be sworn. The only extra expense of swearing an answer is giving the commissioner a shilling ; you need not repeat the whole thing over in an affidavit.

203. In that way it would not take the practical effect of a prosecution for perjury. I should think it would be very difficult to get a conviction ; you seldom see a man prosecuted for perjury for a false answer in equity ; have you ever known it done?—I have seen very few instances in which I had reason to believe there was a false answer. I think, even if it were not verified with the sanction of an oath, it should be required to be put in under the signature of the party—even that would be better than leaving it large ; even if you could not assign perjury upon it.

204. I see the advantage you speak of with regard to the answer on oath in equity, where you have a long statement, and it is desirable to have an admission that binds a man ; but practically that is gained under this system, which somewhat differs from the equity system—that a man admits what he does not deny—whether he admits upon oath or not is immaterial, and any facts he alleges by way of counter claim he must at some time or other in the proceedings verify upon oath, either upon affidavit or oral testimony, or the Court will not act upon them, and why should he swear them twice?—I rather look at the possibility of a man putting in a defence which he may be utterly unable to prove, and which may gain him time, and thereby the creditor is damnified.

205. I suppose that might fairly come within the powers of making rules. The Court has very strong powers under the 28th section of the Bill for regulating sittings, regulating pleadings and practice and procedure in the Court, and for the initiation of actions and proceedings therein?—It seems to me so far a matter of principle, that I think it is undesirable to leave it to be determined from time to time by rules of Court. Supposing my view to be right, or supposing it to be wrong, I think it is a question for the Legislature to determine rather than the judges.

206. But in your opinion, would not the judges have the power under the 2nd or 3rd subdivision of Section 28 to say that all pleadings in future must be verified?—There may be some doubt whether perjury could be assigned in such a case.

207. In the Divorce Court, surely, it is only by a rule that verification is required?—[*The witness referred to the Statutes.*]—I see it is in the Act. Of course there is the general principle that every rule made under an Act of Parliament is to be regarded as part of the Act.

208. Do you think it is desirable to follow the English Rules and Act as closely as possible?—Altogether irrespective of the benefits *per se* to be derived from the fusion of law and equity and the simplifying of practice, even if the advantages were not so great as I conceive them to be, it would, I think, be desirable to follow the English legislation upon the subject as closely as possible, as I conceive it to be for the interest as well of the suitors, the bench, and the bar, that our law, both as to principles and practice should be as nearly assimilated to the English as possible, so that we may obtain the benefit of the decisions given in England from time to time, both on matters of law and of practice.

209. *By the Hon. Sir C. Sladen.*—Would it not be hard upon some of the new judges—men, for instance, who have been altogether accustomed to common law?—We find by experience here that gentlemen who have given their principal attention to one branch of practice, without any compulsion arising from the fusion of the systems, have, when elevated to the bench, administered principally the law in the other branch. However difficult it may be at the first start, I apprehend the object is to create one system of jurisprudence instead of two, and that everybody should understand the whole of it, and you must make a start at some time. Beside, it is really no greater difficulty than has always existed here. Our Court of Appeal in Equity has usually consisted of three common law judges, and until of late years the equity business of the Court was usually taken by each of the judges in rotation. The practice of the profession in Ireland has always been, that gentlemen practise indiscriminately on both sides of the Court.

210. *By the Hon. the Chairman.*—Have you any further suggestion to make?—It struck me that, if the principle now adopted as to actions on bills of exchange could be extended to ordinary money demands it would be desirable—that is, that in a case of a simple money demand, as for example, for goods sold and delivered, a defendant should only be allowed to defend on obtaining leave from a judge so to do.

211. Yes. By Order 3, Rule 6, you are entitled to endorse your writs specially, just the same as now, except you can claim for money due under a trust ; and under Order 14, Rule 3, where a man puts in a defence to a writ so endorsed, the plaintiff can make any affidavit that he believes there is no real defence upon the merits. The defendant is then called upon to show upon affidavit what his defence is, and if he does not show a good defence he is not allowed to defend?—My idea was, to apply to simple contract debts the summary remedy now existing upon bills of exchange, and that seems to carry out that view.

The witness withdrew.

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APPENDIX.

[PROPOSED AMENDED BILL.]

A BILL

To improve the Jurisdiction and Procedure of
the Supreme Court and for other purposes
connected therewith.

WHEREAS it is expedient that the amended principles and practice of the Law of England should be extended and applied to this colony so far as the different circumstances of the two countries will permit: 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 :—

PRELIMINARY.

1. This Act may be cited for all purposes as "*The Supreme Court Act 1879*," and except any provision thereof which is declared to take effect on the passing of this Act shall commence and come into operation on the first day of July One thousand eight hundred and eighty.
2. The several enactments mentioned in the First Schedule to this Act to the extent to which such enactments are in and by the said schedule expressed to be repealed shall be and the same are hereby repealed.
3. In the construction of the provisions herein contained, unless there is anything in the subject or context repugnant thereto, the several words herein mentioned shall have, or include, the meanings following (that is to say) :—
- "Action" shall mean a civil proceeding commenced by writ, or
- in
- [36]—
- Short title and commencement of Act.
36 & 37 Vict. c. 66,
ss. 1, 2.
- Repeal of present Acts.
- Interpretation of terms.
Ib. s. 100.

- in such other manner as may be prescribed by Rules of Court, and shall not include a criminal proceeding by the Crown.
- “Cause” shall include any action, suit, or other original proceeding between a plaintiff and a defendant, and any criminal proceeding by the Crown. 5
- “Chief Justice” shall in the absence of the Chief Justice from the colony mean the senior puisne Judge for the time being present therein.
- “Court” shall mean the Supreme Court.
- “Crown cases reserved” shall mean such questions of law reserved in Criminal Trials as are mentioned in The Criminal Law and Practice Statute 1864 or in the Act No. 502. 10
- “Defendant” shall include every person served with any writ of summons or process, or served with notice of, or entitled to attend, any proceedings. 15
- “Existing” shall mean existing at the time appointed for the commencement of this Act.
- “Full Court” shall mean all the Judges of the Supreme Court or not less than any three of them. 20
- “Judgment” shall include decree.
- “Matter” shall include every proceeding in the Court not in a cause.
- “Oath” shall include solemn affirmation and statutory declaration. 25
- “Order” shall include rule.
- “Party” shall include every person served with notice of, or attending any, proceeding, although not named on the Record.
- “Petitioner” shall include every person making any application to the Court, either by petition, motion, or summons, otherwise than as against any defendant. 30
- “Plaintiff” shall include every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the same be taken by action, suit, petition, motion, summons, or otherwise. 35
- “Pleading” shall include any petition or summons, and also shall include the statements in writing of the claim or demand of any plaintiff, and of the defence of any defendant thereto, and of the reply of the plaintiff to the defence or to any counter-claim of a defendant. 40
- “Rules of Court” shall include forms.
- “Suit” shall include action.

JURISDICTION AND LAW.

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Court of Chief Judge
of Courts of Mines.
36 & 37 Vict. c. 66,
s. 16.

4. Subject as in this Act is mentioned there shall be transferred to and vested in the Court the jurisdiction which at the commencement of

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of this Act was vested in or capable of being exercised by the Central Criminal Court or by any Court of Assize or by the Court of the Chief Judge of Courts of Mines. The jurisdiction by this Act transferred to the Court shall include the jurisdiction which at the commencement of this Act was vested in or capable of being exercised by any of the Judges of any of the said Courts sitting in court or chambers or elsewhere when acting as a Judge in pursuance of any Statute, and all powers given to any such Court or to any of the said Judges by any Statute, and also all ministerial powers duties and authorities incident to any and every part of the jurisdiction so transferred.

5. From and after the commencement of this Act the several jurisdictions of the Central Criminal Court of the Courts of Assize and of the Court of the Chief Judge of Courts of Mines shall cease to be exercised except by the Court as provided by this Act, and in all causes, matters, and proceedings whatsoever which shall have been fully heard, and in which judgment shall not have been given, or having been given shall not have been signed, drawn up, passed, entered, or otherwise perfected at the time appointed for the commencement of this Act, such judgment, decree, rule, or order may be given or made, signed, drawn up, passed, entered, or perfected respectively, after the commencement of this Act, in the name of the same Court, and by the same judges and officers and generally in the same manner, in all respects, as if this Act had not passed; and the same shall take effect, to all intents and purposes, as if the same had been duly perfected before the commencement of this Act; and every judgment, decree, rule, or order which shall have been duly perfected at any time before the commencement of this Act, may be executed and enforced, and, if necessary, amended or discharged by the Court, in the same manner as if it had been a judgment decree rule or order of the Court perfected after the commencement of this Act, and all causes, matters, and proceedings whatsoever, whether Civil or Criminal, which shall be pending at the commencement of this Act, shall, so far as relates to the form and manner of procedure, be continued and concluded, in the Court, which shall have the same jurisdiction in relation to all such causes, matters, and proceedings as if the same had been commenced in the Court after the commencement of this Act, and so far as relates to the form and manner of procedure, such causes, matters, and proceedings, or any of them may be continued and concluded in and before the Court, either in the same or the like manner as they would have been continued and concluded before the passing of this Act, or according to the ordinary course of the Court (so far as the same may be applicable thereto) as the Court may think fit to direct.

6. All Acts of Parliament relating to the Central Criminal Court or to Courts of Assize or to Judges of either of the said Courts or to the Court of the Chief Judge of Courts of Mines, or to such Judge or wherein any such Courts or Judges are mentioned or referred to, shall be

Disposal of pending business.

36 & 37 Vict. c. 66, s. 22.

Acts relating to certain Courts to apply to the Supreme Court.

Ib. s. 76.

be construed and take effect, so far as relates to anything done or to be done after the commencement of this Act, as if the Court and the Judges thereof respectively, as the case may be, had been named therein instead of such first-mentioned Court or Judge, and section 233 of the Mining Statute 1865 giving power to the Chief Judge of Courts of Mines with any two or more of the Judges of Courts of Mines to make Rules of Court to frame forms and to fix Scales of Costs shall be read as though the Chief Justice had been named in such section instead of the Chief Judge of Courts of Mines. 5

Transfer of books and papers to Supreme Court. 36 & 37 Vict. c. 66, s. 92.

7. All books, documents, papers, and chattels in the possession of the Central Criminal Court or of any Court of Assize or of the Court of the Chief Judge of Courts of Mines, or of any officer or person attached to any such Court, as such officer, or by reason of his being so attached, shall be transferred to the Court, and shall be dealt with by such officer or person in such manner as the Court may by order direct ; and any person failing to comply with any order made for the purpose of giving effect to this section shall be guilty of a contempt of the Court. 10 15

Rules as to exercise of jurisdiction. Ib. s. 23.

8. The jurisdiction of the Court shall be exercised (so far as regards procedure and practice) in the manner provided by this Act, or by such Rules and Orders of Court as may be made pursuant to this Act ; and where no special provision is contained in this Act, or in any such Rules or Orders of Court with reference thereto, it shall be exercised as nearly as may be in the same manner as the same might have been exercised by the Court before the passing of this Act. 20 25

Law and equity to be concurrently administered. Ib. s. 24.

9. In every civil cause or matter commenced in the Court law and equity shall be administered by the Court according to the Rules following :

(I.) If any plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim whatsoever asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right, which heretofore could only have been given by a Court of Equity, the Court, and every Judge thereof, shall give to such plaintiff or petitioner such and the same relief as ought to have been given by the Court in its equitable jurisdiction in a suit or proceeding for the same or the like purpose properly instituted before the passing of this Act. 30 35 40

(II.) If any defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim asserted by any plaintiff or petitioner in such cause or matter, or alleges any ground of equitable defence to any claim of the plaintiff or petitioner in such cause or matter, the Court, and every Judge thereof, shall give 45

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give to every equitable estate, right, or ground of relief so claimed, and to every equitable defence so alleged, such and the same effect, by way of defence against the claim of such plaintiff or petitioner as the Court in its equitable jurisdiction ought to have given if the same or the like matters had been relied on by way of defence in any suit or proceeding instituted for the same or the like purpose before the passing of this Act.

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(iii.) The Court, and every Judge thereof, shall also have power to grant to any defendant in respect of any equitable estate or right, or other matter of equity, and also in respect of any legal estate, right, or title claimed or asserted by him all such relief against any plaintiff or petitioner as such defendant shall have properly claimed by his pleading, and as the Court, or any Judge thereof, might have granted in any suit instituted for that purpose by the same defendant against the same plaintiff or petitioner; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who shall have been duly served with notice in writing of such claim pursuant to any Rule of Court or any Order of the Court, as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the said defendant for the same purpose; and every person served with any such notice shall thenceforth be deemed a party to such cause or matter, with the same rights in respect of his defence against such claim as if he had been duly sued in the ordinary way by such defendant.

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(iv.) The Court, and every Judge thereof, shall recognise and take notice of all equitable estates, titles, and rights, and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the Court in its equitable jurisdiction would have recognised and taken notice of the same in any suit or proceeding duly instituted therein before the passing of this Act.

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(v.) No cause or proceeding at any time pending in the Court shall be restrained by prohibition or injunction; but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained if this Act had not passed, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto: Provided always that nothing in this Act contained shall disable the Court from directing a stay of proceedings in any cause or matter pending before it if it shall think fit; and any person, whether a party or not to any such cause or matter, who would have been entitled, if this Act had not passed, to apply to the Court to restrain the

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the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any judgment, decree, rule, or order, contrary to which all or any part of the proceedings in such cause or matter may have been taken, shall be at liberty to apply to the Court, by motion in a summary way, for a stay of proceedings in such cause or matter, either generally, or so far as may be necessary for the purposes of justice ; and the Court shall thereupon make such Order as shall be just. 5

(VI.) Subject to the aforesaid provisions for giving effect to equitable rights and other matters of equity in manner aforesaid, and to the other express provisions of this Act, the Court, and every Judge thereof, shall recognise and give effect to all legal claims and demands, and all estates, titles, rights, duties, obligations, and liabilities existing by the Common Law, or created by any Statute, in the same manner as the same would have been recognised and given effect to if this Act had not passed. 10 15

(VII.) The Court, in the exercise of the jurisdiction vested in it by this Act in every cause or matter pending before it, shall have power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as to such Court shall seem just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter ; so that, as far as possible, all matters so in controversy between the said parties respectively may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided. 20 25 30

10. The Law to be hereafter administered as to the matters next hereinafter mentioned shall be as follows :—

(I.) In the administration by the Court of the assets of any person who may die after the commencement of this Act, and whose estate may prove to be insufficient for the payment in full of his debts and liabilities, and in the winding-up of any company under *The Companies Statute 1864* whose assets may prove to be insufficient for the payment of its debts and liabilities and the costs of winding-up, the same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors, and as to debts and liabilities provable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being under the law of insolvency with respect to estates placed under sequestration ; and all persons who in any such case would be entitled to prove for and receive dividends out of the estate of any such deceased person or out of the assets of any such company may come in 35 40 45 in

Rules of law upon certain points.
36 & 37 Vict. c. 66,
s. 25.

Administration of assets of insolvent estates.
38 & 39 Vict. c. 77,
s. 10.

in under the decree or order for the administration of such estate or under the winding up of such company and make such claims against the same as they may respectively be entitled to by virtue of this Act.

- 5 (II.) No claim of a *cestui que trust* against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any Statute of Limitations. Statutes of Limitation inapplicable to express trusts.
- 10 (III.) An estate for life without impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer such right shall expressly appear by the instrument creating such estate. Equitable waste.
- 15 (IV.) There shall not, after the commencement of this Act, be any merger by operation of law only of any estate, the beneficial interest in which would not be deemed to be merged or extinguished in equity. Merger.
- 20 (V.) A mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land as to which no notice of his intention to take possession or to enter into the receipt of the rents and profits thereof shall have been given by the mortgagee, may sue for such possession, or for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relative thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person. Suits for possession of land by mortgagors.
- 25 (VI.) Any absolute assignment, by writing under the hand of the assignor (not purporting to be by way of charge only), of any debt or other legal chose in action, of which express notice in writing shall have been given to the debtor, trustee, or other person from whom the assignor would have been entitled to receive or claim such debt or chose in action, shall be and be deemed to have been effectual in law (subject to all equities which would have been entitled to priority over the right of the assignee if this Act had not passed), to pass and transfer the legal right to such debt or chose in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same, without the concurrence of the assignor: Provided always, that if the debtor, trustee, or other person liable in respect of such debt or chose in action shall have had notice that such assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or chose in action, he shall be entitled, if he think fit, to call upon the several persons making claim thereto to interplead concerning the same, or he may, if he think fit, pay the same into the Court under and in conformity
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- Assignment of debts and choses in action.

- conformity with the provisions of the Acts for the relief of trustees.
- Stipulations not of the essence of contracts. 38 & 39 Vict. c. 77, s. 10. (VII.) Stipulations in contracts, as to time or otherwise, which would not before the commencement of this Act have been deemed to be or to have become of the essence of such contracts in a Court of Equity, shall receive in the Court the same construction and effect as they would have heretofore received in Equity. 5
- Injunctions and receivers. (VIII.) A mandamus or an injunction may be granted or a receiver appointed by an interlocutory Order of the Court in all cases in which it shall appear to the Court to be just or convenient that such Order should be made; and any such Order may be made either unconditionally or upon such terms and conditions as the Court shall think just; and if an injunction is asked, either before or at, or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, such injunction may be granted, if the Court shall think fit, whether the person against whom such injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any color of title; and whether the estates claimed by both or by either of the parties are legal or equitable. 10 15 20
- Damages by collisions at sea. (IX.) In any cause or proceeding for damages arising out of a collision between two ships, if both ships shall be found to have been in fault, the Rules hitherto in force in the Court of Vice-Admiralty, so far as they have been at variance with the Rules in force in Courts of Common Law, shall prevail. 25
- Infants. (X.) In questions relating to the custody and education of infants the Rules of Equity shall prevail. 30
- Cases of conflict not enumerated. (XI.) Generally in all matters not herein-before particularly mentioned, in which there is any conflict or variance between the Rules of Equity and the Rules of the Common Law with reference to the same matter, the Rules of Equity shall prevail. 35

SITTINGS AND DISTRIBUTION OF BUSINESS.

- Business to be disposed of in Full Court. 11. The Full Court shall hear and determine all appeals from the Court and from a single Judge whether sitting in Court or in Chambers. All motions for new trials. All appeals from the Court of Insolvency. 40 All appeals from County Courts and Courts of Mines. All proceedings by way of appeal or review from General and Petty Sessions respectively. All points reserved whether Civil or Criminal. All applications under section 21 of the 38 Vic. No. 502. 45 All proceedings upon or connected with *caveats* under the Transfer of Land Statute. All

All rules returnable before the Full Court.

All matters referred to the Full Court by the Court or by a single Judge whether sitting in Court or in Chambers.

All trials at Bar.

5 All matters which under any Act now or hereafter to be in force are required to be determined by the Supreme Court when sitting in Banco.

And generally all causes and matters which by any rule of Court shall be required to be heard or disposed of in the Full Court.

10 **12.** Any single Judge whether sitting in Court or in Chambers shall hear and determine subject to appeal to the Full Court where appeal lies the following matters :—

Business to be disposed of in Court before single Judge or in Chambers.

All motions for *Rules Nisi* and motions without notice excepting motions for new trials.

15 All causes other than trials at Bar and re-hearings directed to be taken before the Full Court.

And generally all causes matters and proceedings not required under this Act or any other Act or the Rules to be heard and determined by the Full Court or before the Supreme Court when sitting in Banco.

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13. The division of the legal year into terms shall be abolished so far as relates to the administration of justice and there shall no longer be terms applicable to any sitting or business of the court; but in all other cases in which under the law now existing the terms into which the legal year is divided are used as a measure for determining the time at or within which any act is required to be done the same may continue to be referred to for the same or the like purpose unless and until provision is otherwise made by any lawful authority.

Abolition of terms.

14. Subject to Rules of Court, the Court and the Judges thereof respectively shall have power to sit and act at any time and at any place for the transaction of any part of the business of such Court or of such Judges or for the discharge of any duty which by any Act of Parliament or otherwise is required to be discharged during or after term. And the provisions of sections sixteen and seventeen of the Act No. 502 shall apply to the Court as though the Court had been expressly named in such sections instead of Courts of Assize.

Time and place of sitting.
36 & 37 Vict. c. 66,
s. 26.

15. Subject to the Rules of Court the Full Court shall sit in Melbourne on such days as shall be necessary for the continuous and prompt despatch of the business of such Court, excepting from the twentieth day of December to the first of February following and excepting upon Sundays public holidays and during the time when the business of the Court shall prevent the number of judges requisite to form the Full Court from attending.

Continuous sittings.

16. Subject to the Rules of Court sittings shall be held in Melbourne for the trial of causes and questions on issues of fact on such

Sittings in Melbourne.

such days and by so many judges as may be necessary for the trial of causes and questions and issues of fact so soon as possible after they are ready for trial, excepting from the twentieth day of December to the first February following and except on Sundays public holidays and during the time when sittings in other bailiwicks shall prevent the attendance of a judge for the trial of causes in Melbourne. 5

Criminal sittings. Sittings shall be held for the hearing of criminal trials at such times and in such places as is now or shall hereafter be fixed by law.

Chamber business. 36 & 37 Vict. c. 66, s. 28. 17. Provision shall be made by Rules of Court for the hearing in Melbourne at all times by a Judge of the Court of all such applications as may require to be immediately or promptly heard. 10

Jurisdiction on circuit and at sittings. Ib. s. 29. 18. Subject to any restrictions or conditions imposed by Rules of Court any party to any cause or matter involving the trial of a question or issue of fact may, with the leave of a judge require the question or issue to be tried and determined at sittings to be held in any Bailiwick as hereinafter in this Act mentioned, and such question or issue shall be tried and determined accordingly. 15

Questions of law. A cause or matter not involving any question or issue of fact may be tried and determined in like manner with the consent of all the parties thereto. 20

Sittings for trial by jury. Ib. s. 30. 19. Any Judge of the Court sitting for the trial of causes and issues in any Bailiwick at any place heretofore accustomed or to be hereafter determined by Rules of Court shall be deemed to constitute the Court.

Powers of one Judge. Ib. s. 39. 20. Any Judge of the Court may, subject to any Rules of Court and to the provisions herein contained, exercise in Court or in Chambers all or any part of the jurisdiction by this Act vested in the Court, in all such causes and matters, and in all such proceedings in any causes or matters, as before the passing of this Act might have been heard in Court or in Chambers respectively, by a single Judge of the Court or by a Judge of Assize or by the Chief Judge of Courts of Mines, or as may be directed or authorized to be so heard by any Rules of Court to be hereafter made : in all such cases any Judge sitting in Court shall be deemed to constitute a Court. 25 30

Cases and points may be reserved. Ib. s. 46. 21. Subject to any Rules of Court, any Judge of the Court, sitting in the exercise of its jurisdiction, may reserve any case, or any point in a case, for the consideration of the Full Court, or may direct any case, or point in a case, to be argued before the Full Court ; and the Full Court shall have power to hear and determine any such case or point so reserved or so directed to be argued ; but nothing in this Act nor in any rule or order made under the powers hereof shall take away or prejudice the right of any party to any action to have the issues for trial by Jury submitted and left by the Judge to the jury before whom the same shall come for trial with a proper and complete direction to 35 40

38 & 39 Vict. c. 77, s. 22.

to the jury upon the law, and as to the evidence applicable to such issues, and the said right may be enforced by motion in the Court.

22. No order made by the Court or any Judge thereof, by the consent of parties, or as to costs only, which by law are left to the discretion of the Court, shall be subject to any appeal, except by leave of the Court or Judge making such order.

What orders shall not be subject to Appeal.
36 & 37 Vict. c. 66, s. 49.

23. Every order made by a Judge in Chambers, except as in the last preceding section except orders made in the exercise of such discretion as aforesaid, may be set aside or discharged upon notice by the Full Court; and no appeal shall lie from any such order, to set aside or discharge which no such motion has been made, unless by special leave of the Judge by whom such order was made, or of Her Majesty's Privy Council.

As to discharging orders made in chambers.
Ib. s. 50.

TRIAL AND PROCEDURE.

24. Subject to any Rules of Court and to such right as may now exist to have particular cases submitted to the verdict of a jury the Court or Judge may in any cause or matter (other than a criminal proceeding as aforesaid by the Crown) call in the aid of one or more assessors specially qualified, and try and hear such cause or matter wholly or partially with the assistance of such assessors, but the Court or Judge shall not be bound by the opinion or finding of any such assessors. The remuneration, if any, to be paid to such assessors shall be determined by the Court.

Assessors.
Ib. s. 56,

25. The Rules of Court in the last Schedule to this Act shall come into operation at the commencement of this Act, and, as to all matters to which they extend, shall thenceforth until altered under the powers contained in the next following section regulate the proceedings in the Court; but such Rules of Court and also all such other Rules of Court (if any) as may be made after the passing and before the commencement of this Act under the authority of the next section may be annulled or altered by the authority by which new Rules of Court may be made after the commencement of this Act.

Rules in Schedule to regulate procedure till changed.
38 & 39 Vict. c. 77, s. 16.

26. From and after the passing of this Act, the Court may at any time, with the concurrence of a majority of the Judges thereof present at any meeting for that purpose held (of which majority the Chief Justice shall be one), alter and annul any Rules of Court for the time being in force, and make any further or additional Rules of Court for carrying this Act into effect, and in particular for all or any of the following matters, that is to say:—

Power to make and alter Rules after commencement of Act.
Ib. s. 17.

- 40 (I.) For regulating the sittings of the Court and of the Judges of the Court sitting in Chambers ;
(II.) For regulating the pleading, practice, and procedure in the Court ; and the initiating actions and proceedings therein.
(III.) Generally,

(III.) Generally, for regulating any matters relating to the practice and procedure of the Court, or to the duties of the officers thereof, or to the costs of proceedings therein.

Rules to be laid before Parliament and may be annulled on address from either House. 38 & 39 Vict. c. 77, ss. 17, 25.

27. All Rules of Court made in pursuance of this Act shall be laid before each House of Parliament within forty days next after they are made, if Parliament is then sitting, or if not, within forty days after the commencement of the then next ensuing session ; and if an address is presented to the Governor by either House of Parliament within the next subsequent forty days on which the said House shall have sat, praying that any such Rule may be annulled, the Governor may thereupon by Order in Council annul the same ; and the Rule so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which may in the meantime have been taken under the same. This section shall come into operation immediately on the passing of this Act.

Application and effect of Rules. Ib. s. 17.

28. All Rules of Court made in pursuance of this Act if made before the commencement of this Act shall from and after the commencement of this Act, and if made after the commencement of this Act shall from and after they come into operation, regulate all matters to which they extend until annulled or altered in pursuance of the provisions hereinbefore contained.

Existing Rules of Probate and Divorce. Ib. s. 18.

29. All Rules and Orders of Court in force at the time of the commencement of this Act relative to Probate and to Divorce and Matrimonial Causes respectively, except so far as they are expressly varied by the last Schedule hereto or by Rules of Court made before the commencement of this Act, shall remain and be in force in the Court until they shall respectively be altered or annulled by any Rules of Court made after the commencement of this Act.

Criminal procedure. Ib. s. 19.

30. Subject to the last Schedule hereto and any Rules of Court to be made under this Act, the practice and procedure in all criminal causes and matters whatsoever in the Court, including the practice and procedure with respect to Crown Cases reserved, shall be the same as the practice and procedure in similar causes and matters before the commencement of this Act.

Act not to affect rules of evidence or juries. Ib. s. 20.

31. Nothing in this Act or in the last Schedule hereto, or in any Rules of Court to be made under this Act, save as far as relates to the power of the Court for special reasons to allow depositions or affidavits to be read, shall affect the mode of giving evidence by the oral examination of witnesses in trial by jury, or the Rules of Evidence, or the law relating to jurymen or juries.

Saving of existing procedure. Ib. s. 21.

32. Save as by this Act or by any Rules of Court may be otherwise provided, all forms and methods of procedure which at the commencement of this Act were in force in the Court or in the Central Criminal Court or in Courts of Assize or in the Court of the Chief Judge

490.

Judge of Courts of Mines under or by virtue of any law, general Order, or Rules whatsoever, and which are not inconsistent with this Act or with any Rules of Court, may continue to be used and practised in the Court in such and the like cases, and for such and the like purposes, as those to which they would have been applicable if this Act had not passed.

33. It shall be lawful for the Governor in Council upon the recommendation of the Council of Judges to appoint Deputy Prothonotaries to discharge the duties of Prothonotaries at such places and in reference to such matters and duties as the said Council of Judges shall recommend, and it shall be lawful for the Judges of the Supreme Court to direct by any rules of Court to be made under this Act, what process may be issued by such Deputy Prothonotaries and what duties shall be discharged by them, and such Deputy Prothonotaries shall be deemed to be officers of the Court.

Deputy Prothonotaries.

34. A Council of the Judges of the Court, of which due notice shall be given to all the said Judges, shall assemble once at least in every year, on such day or days as shall be fixed by the Chief Justice, for the purpose of considering the operation of this Act and of the Rules of Court for the time being in force, and also the working of the several offices and the arrangements relative to the duties of the officers of the said Court, and of inquiring and examining into any defects which may appear to exist in the system of procedure or the administration of the law in the said Court, or in any other Court from which any appeal lies to the said Court or any Judge thereof: And they shall report annually to the Governor what (if any) amendments or alterations it would in their judgment be expedient to make in this Act, or in any other law relating to the administration of justice, and what other provisions (if any) which cannot be carried into effect without the authority of Parliament it would be expedient to make for the better administration of justice. Any Extraordinary Council of the said Judges may also at any time be convened by the Chief Justice.

Council of Judges. 36 & 37 Vict. c. 66, s. 75.

OFFICERS AND OFFICES.

35. The business to be performed in the Court, shall be distributed among the several officers attached to the Court in such manner as may be directed by Rules of Court; and such officers shall perform such duties in relation to such business as may be directed by Rules of Court; with this qualification, that the duties required to be performed by any officer shall be the same, or duties analogous to those which he performed previously to the passing of this Act; and, subject to such Rules of Court, all such officers respectively shall continue to perform the same duties as nearly as may be, in the same manner as if this Act had not passed.

Duties of officers. Ib. s. 77.

JURISDICTION

JURISDICTION OF INFERIOR COURTS.

Power of inferior
Courts having
Equity jurisdiction.
36 & 37 Vict. c. 66,
s. 89.

36. Every inferior Court which now has, or which may after the passing of this Act have jurisdiction in equity or at law and in equity shall as regards all causes of action within its jurisdiction for the time being have power to grant and shall grant in any proceedings before such Court, such relief redress or remedy or combination of remedies either absolute or conditional and shall in every such proceeding give such and the like effect to every ground of defence or counter-claim equitable or legal (subject to the provision next hereinafter contained) in as full and ample a manner as might and ought to be done in the like case by the Court. 5 10

Counter-claims in
inferior Courts and
transfers there-
from.
Ib. s. 90.

37. Where in any proceeding before any such inferior Court any defence or counter-claim of the defendant involves matter beyond the jurisdiction of the court, such defence or counter-claim shall not affect the competence or the duty of the Court to dispose of the whole matter in controversy so far as relates to the demand of the plaintiff and the defence thereto, but no relief exceeding that which the Court has jurisdiction to administer shall be given to the defendant upon any such counter-claim. Provided always that in such case it shall be lawful for the Court or any Judge thereof, if it shall be thought fit on the application of any party to the proceeding to order that the whole proceeding be transferred from such inferior Court to the Court; and in such case the record or other documents or papers in such proceeding shall be transmitted by the registrar, or other proper officer, of the inferior Court to the Court; and the same shall thenceforth be continued and prosecuted in the Court as if it had been originally commenced therein. 15 20 25

Rules of law to apply
to inferior Courts.
Ib. s. 91.

38. The several rules of law enacted by this Act shall be in force and receive effect in all Courts whatsoever, so far as the matters to which such Rules relate shall be respectively cognizable by such Courts. 30

MISCELLANEOUS PROVISIONS.

Re-hearing of point.

39. Any case or point in a case which for any reason may be deemed fit to be re-argued before decision, or to be re-heard before final judgment, may be so re-argued or re-heard before the full Court, if the Court think fit so to direct. 35

The full Court shall have power to hear and determine any such case or point so reserved or so desired or directed to be argued or to be re-argued or re-heard.

Holding of Courts,
&c.

All such arrangements as may be necessary or proper for the transaction of the business from time to time pending before the full Court and for constituting and holding such Court shall be made by and 40

and under the direction of the Judges of the said Court, and in case of difference among them in such manner as a majority of the said Judges with the concurrence of the Chief Justice shall determine.

40. The Chief Justice may by writing addressed to any Judge
5 request the attendance at any time of such Judge at any sitting of the Full Court; and the judge whose attendance is requested shall attend accordingly.

Chief Justice may request attendance of other judges.
38 & 39 Vict. c. 77, s. 4.

41. In case any defendant, being a British subject, is residing out
of the jurisdiction of the Supreme Court in any place, it shall be lawful
10 for the plaintiff to issue a writ of summons in the form contained in the Second Schedule to this Act, which writ shall bear the indorsement contained in the said form, purporting that such writ is for service out of the jurisdiction of the said Court; and the time for appearance by the defendant to such writ shall be regulated by the distance from
15 Victoria of the place where the defendant is residing; and it shall be lawful for the Court or Judge, upon being satisfied by affidavit that there is a cause of action, which arose within the jurisdiction, or in respect of the breach of a contract made within the jurisdiction, and that the writ was personally served upon the defendant, or that reasonable efforts were made to effect personal service thereof upon the
20 defendant, and that it came to his knowledge, and either that the defendant wilfully neglects to appear to such writ, or that he is living out of the jurisdiction of the said Court, in order to defeat and delay his creditors, to direct from time to time that the plaintiff shall be at
25 liberty to proceed in the action in such manner and subject to such conditions as to such Court or Judge may seem fit, having regard to the time allowed for the defendant to appear being reasonable, and to the other circumstances of the case: Provided always, that the plaintiff shall and he is hereby required to prove the amount of the debt or
30 damages claimed by him in such action, either before a jury upon an inquiry, or before the Prothonotary, in the manner provided by *The Common Law Procedure Statute* 1865, according to the nature of the case, as such Court or Judge may direct; and the making such proof shall be a condition precedent to his obtaining judgment.

Actions against British subjects residing out of the colony.
15 & 16 Vict. c. 76, s. 18.

35 42. In any action against a person residing out of the jurisdiction of the said Court, and not being a British subject, the like proceedings may be taken as against a British subject resident out of the jurisdiction, save, that in lieu of the form of writ of summons in the Second Schedule to this Act the plaintiff shall issue a writ of summons
40 according to the form contained in the Third Schedule hereto, and shall in manner aforesaid serve a notice of such last-mentioned writ upon the defendant therein mentioned, which notice shall be in the form contained in the Fourth Schedule to this Act; and such service shall be of the same force and effect as the service of the writ of summons
45 in any action against a British subject resident abroad, and by leave of the

As to actions against foreigners residing out of the colony.
Ib. s. 19.

the Court or a Judge, upon their or his being satisfied by affidavit as aforesaid, the like proceedings may be had and taken thereupon.

One form of writ
may be substituted
for another.
15 & 16 Vict. c. 76,
s. 21.

43. If the form of writ of summons contained in the Fifth Schedule to *The Common Law Procedure Statute* 1865, or either of the forms of writ of summons contained in the Second and Third Schedules to this Act, shall by mistake or inadvertence be substituted for any other of them, such mistake or inadvertence shall not be an objection to the writ or any other proceeding in such action, but the writ may, upon an *ex parte* application to a Judge, whether before or after any application to set aside such writ or any proceeding thereon, and whether the same or notice thereof shall have been served or not, be amended by such Judge without costs. 5 10

Writs for service in
or out of the colony.
Ib. s. 22.

44. A writ for service within the jurisdiction may be issued and marked as a concurrent writ with one for service out of the jurisdiction, and a writ for service out of the jurisdiction may be issued and marked as a concurrent writ with one for service within the jurisdiction. 15

Power of charging
stock defined.
3 & 4 Vict. c. 82, s. 1.

45. The two hundred and eighth section of *The Common Law Procedure Statute* 1865 shall be deemed and taken to extend to the interest of any judgment debtor, whether in possession, remainder, or reversion, and whether vested or contingent as well in any such stocks, funds, annuities, or shares as in the said Statute mentioned, as also in the dividends, interest, or annual produce of any such stock, funds, annuities, or shares; and whenever any such judgment debtor shall have any estate, right, title, or interest, vested or contingent, in possession, remainder or reversion, in, to, or out of any such stocks, funds, annuities, or shares as aforesaid which are now or shall hereafter be standing in the name of any officer of the Supreme Court, or in, to, or out of the dividends, interest, or annual produce thereof, it shall be lawful for a Judge to make any order as to such stock, funds, annuities, or shares, or the interest, dividends, or annual produce thereof, in the same way as if the same had been standing in the name of a trustee of such judgment debtor: provided always, that no order of any Judge as to any stock, funds, annuities, or shares standing in the name of any such officer as aforesaid, or as to the interest, dividends, or annual produce thereof shall prevent the Treasurer of the colony, or any public company, from permitting any transfer of such stocks, funds, annuities, or shares, or payment of the interest, dividends, or annual produce thereof, in such manner as the Court may direct, or shall have any greater effect than if such debtor had charged such stock, funds, annuities, or shares, or the interest, dividends, or annual produce thereof, in favor of the judgment creditor, with the amount of the sum to be mentioned in any such order. 20 25 30 35 40

Specific delivery of
goods sold.
19 & 20 Vict. c. 97,
s. 2.

46. In all actions and suits in the Supreme Court for breach of a contract to deliver goods for a price in money, on the application of the plaintiff, and by leave of the Judge before whom the cause is tried, the jury 45

jury shall, if they find the plaintiff entitled to recover, find by their verdict what are the goods in respect of the non-delivery of which the plaintiff is entitled to recover and which remain undelivered; what (if any) is the sum the plaintiff would have been liable to pay for the delivery thereof; what damages (if any) the plaintiff would have sustained if the goods should be delivered under execution, as herinafter mentioned, and what damages if not so delivered; and thereupon, if judgment shall be given for the plaintiff, the Court or any Judge thereof, at their or his discretion, on the application of the plaintiff shall have power to order execution to issue for the delivery, on payment of such sum (if any) as shall have been found to be payable by the plaintiff as aforesaid, of the said goods, without giving the defendant the option of retaining the same upon paying the damages assessed; and such writ of execution may be for the delivery of such goods; and if such goods so ordered to be delivered, or any part thereof, cannot be found, and unless the Court, or such Judge as aforesaid, shall otherwise order, the sheriff, or other officer of such Court, shall distrain the defendant by all his lands and chattels in the said sheriff's bailiwick, till the defendant deliver such goods, or, at the option of the plaintiff, cause to be made of the defendant's goods the assessed value or damages, or a due proportion thereof; provided that the plaintiff shall, either by the same or a separate writ of execution, be entitled to have made of the defendant's goods the damages, costs, and interest in such action or suit.

47. Nothing contained in this Act shall be construed to take away lessen or impair any statutory or other jurisdiction power or authority of the Supreme Court or of the Judges thereof.

Act not to lessen jurisdiction of Supreme Court.

48. No writ of right of dower or writ of dower *unde nihil habet* shall be brought after the passing of this Act in any Court whatsoever; but where any such writ or action would now lie, an action may be commenced by writ of summons in the same manner and form as the writ of summons in an ordinary action, and upon such writ shall be indorsed a notice that the plaintiff intends to declare in dower.

Actions for dower. 23 & 24 Vict. c. 126 s. 26.

49. The service of the writ, appearance of the defendant, proceedings in default of appearance, pleadings, judgment, execution, and all other proceedings and costs upon such writ, shall be subject to the same rules and practice as nearly as may be as the proceedings in an ordinary action commenced by writ of summons; and the provisions of The Common Law Procedure Statute 1865 shall apply to the writ and pleadings and proceedings thereupon.

Proceedings therein. Ib. s. 27.

THE

THE FIRST SCHEDULE.

Date of Act.	Title of Act.	Extent of Repeal.
15 Vict. No. 10 ...	<i>"An Act to make provision for the better Administration of Justice in the colony of Victoria."</i>	The 5th, 33rd, and subsequent sections.
19 Vict. No. 13 ...	<i>"An Act to amend an Act intituled 'An Act to make provision for the better Administration of Justice in the colony of Victoria.'"</i>	The last thirty-four words of the 1st section, and also the 3rd, 4th, and 5th sections.
27 Vict. No. 268	<i>"An Act to Consolidate the Laws relating to Marriage and to Deserted Wives and Children and to Divorce and Matrimonial Causes."</i>	The 105th section.
28 Vict. No. 274	<i>"An Act to Consolidate the Laws relating to the Pleading and Practice of the Supreme Court in its Common Law Jurisdiction."</i>	The 77th section, the Proviso at the end of section 78.
29 Vict. No. 291	<i>"An Act to provide for the Management of and the Administration of Justice in relation to Mining Interests."</i>	The 82nd section.
38 Vict. No. 502	<i>"An Act to erect a new Court for the trial of Offences, to establish Uniformity of Venue in Civil and Criminal Judicature, and to amend the Practice and Procedure of Courts of Criminal Jurisdiction."</i>	Sections 9, 10, 11.

THE SECOND SCHEDULE.

Section 43.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith. To _____ of _____ greeting. We command you, That within [*here insert a sufficient number of days within which the defendant might appear, with reference to the distance he may be at from Victoria*] days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in our Supreme Court at Melbourne in the colony of Victoria Australia, in an action at the suit of _____ who in default of your so doing may proceed therein to judgment and execution.

Witness—Sir W. F. S., Knight, at Melbourne the _____ day of _____

N.B.—This writ is to be served within [*six*] calendar months from the day of the date thereof, or of the last renewal thereof, including such day, and not afterwards.

Indorsement to be made on the Writ before service thereof.

This writ is for service out of the jurisdiction of the Court, and was issued by E. F., of _____ attorney for the within-named plaintiff [*or agent for attorney for the within-named plaintiff or by the plaintiff in person who resides at _____*].

[NOTE.—*The indorsement required on a writ for service within the jurisdiction should be made on this writ, but should allow the defendant the time limited for appearance to pay the debt and costs.*]

THE THIRD SCHEDULE.

Section 44.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith. To _____ of _____ greeting. We command you, That within [*here insert a sufficient number of days within which the defendant*]

defendant might appear, with reference to the distance he may be at from Victoria] days after notice of this writ is served on you, inclusive of the day of such service, you do cause an appearance to be entered for you in our Supreme Court at Melbourne in the colony of Victoria Australia in an action at the suit of A.B., who in default of your so doing may proceed therein to judgment and execution.

Witness Sir W. F. S., Knight, at Melbourne, the _____ day of _____

N.B.—Notice of this writ is to be served within [six] calendar months from the date thereof, including such day, and not afterwards.

Indorsements as in other cases.

THE FOURTH SCHEDULE.

To O.P., late of Brighton in the colony of Victoria [or now residing at Paris in France]. Section 44.

Take notice that A.B. of _____ in the colony of Victoria in Australia has commenced an action at law against you in Her Majesty's Supreme Court at Melbourne in the said colony by a writ of that Court, dated the _____ day of _____ instant; and you are required within _____ days after the receipt of this notice, inclusive of the day of such receipt, to defend the said action by causing an appearance to be entered for you in the said Court to the said action; and in default of your so doing the said A.B. may proceed thereon to judgment and execution.

[NOTE.—Here state amount of claim as required on a writ for service within the jurisdiction, but allowing the defendant the time limited for appearance to pay debt and costs.]

(Signed) E.F., of _____ &c., Attorney for the plaintiff.

THE LAST SCHEDULE.

RULES OF COURT.

[NOTE.—Where no other provision is made by the Act or these Rules the present procedure and practice remain in force.

The number, in each case, is the same as that of the corresponding order, rule, appendix, part, form, and section in England, except where it is otherwise denoted by a marginal reference.]

ORDER I.

FORM AND COMMENCEMENT OF ACTION.

1. All actions which have hitherto been commenced by writ, and all suits which have hitherto been commenced by bill or information, or by citation or otherwise in the Supreme Court, shall be instituted by a proceeding to be called an action. Proceedings to be by action.
2. With respect to interpleader, the procedure and practice now used by the Supreme Court under "The Common Law Procedure Statute 1865" shall apply to all actions, and the application by a defendant shall be made at any time after being served with a writ of summons and before delivering a defence. Interpleader.
3. All other proceedings in and applications to the said Court may, subject to these Rules, be taken and made in the same manner as they would have been taken and made in any Court in which any proceeding or application of the like kind could have been taken or made if the Act had not been passed. Other matters.

ORDER II.

WRIT OF SUMMONS AND PROCEDURE.

1. Every action in the Supreme Court shall be commenced by a writ of summons, which shall be indorsed with a statement of the nature of the claim made, or of the relief or remedy required in the action. Actions to be commenced by writ indorsed.
2. Any costs occasioned by the use of any more prolix or other forms of writs and of indorsements thereon than the forms hereinafter prescribed shall be borne by the parties using the same, unless the Court shall otherwise direct. Costs of prolixity.
3. The writ of summons for the commencement of an action shall, except in the cases in which any different form is hereinafter provided, be in Form No. 1 in Part I of Appendix (A) hereto, with such variations as circumstances may require. Form of writ.
4. No

- Writs for service out of colony.
Form and notice.
4. No writ of summons for service out of the jurisdiction, or of which notice is to be given out of the jurisdiction, shall be issued without the leave of the Court or Judge.
5. A writ of summons to be served out of the jurisdiction, or of which notice is to be given out of the jurisdiction, shall be in Form No. 2 in Part I of Appendix (A) hereto, with such variations as circumstances may require. Such notice shall be in Form No. 3 in the same part, with such variations as circumstances may require.
- Actions on bills of exchange.
6. With respect to actions upon a bill of exchange or promissory note, commenced within six months after the same shall have become due and payable, the procedure under Part I of "*The Instruments and Securities Statute 1864*" shall continue to be used.
- Date and teste.
* 8.
- 7*. Every writ of summons and also every other writ shall bear date on the day on which the same shall be issued, and shall be tested in the name of the Chief Justice, or if the office shall be vacant or he shall be absent from the colony in the name of the senior puisne Judge present therein.

ORDER III.

INDORSEMENTS OF CLAIM.

- When to be made.
Substance and amendment.
1. The indorsement of claim shall be made on every writ of summons before it is issued.
2. In the indorsement required by Order II, Rule 1, it shall not be essential to set forth the precise ground of complaint, or the precise remedy or relief to which the plaintiff considers himself entitled. The plaintiff may by leave of the Court or Judge amend such indorsement so as to extend it to any other cause of action or any additional remedy or relief.
- Form of it.
3. The indorsement of claim may be to the effect of such of the Forms in Part II of Appendix (A) hereto as shall be applicable to the case, or if none be found applicable then such other similarly concise form as the nature of the case may require.
- Representative character.
* VIII.
4. If the plaintiff sues or the defendant or any of the defendants is sued in a representative capacity, the indorsement shall show, in manner appearing by the statement in Appendix (A) hereto, Part II, section VII,* or by any other statement to the like effect, in what capacity the plaintiff or defendant sues or is sued.
- In Probate actions.
5. In Probate actions the indorsement shall show whether the plaintiff claims as creditor, executor, administrator, residuary legatee, legatee, next of kin, heir at law, devisee, or in any and what other character.
- Special indorsements.
6. In all actions where the plaintiff seeks merely to recover a debt or liquidated demand in money payable by the defendant, with or without interest, arising upon a contract, express or implied, as, for instance, on a bill of exchange, promissory note, cheque, or other simple contract debt, or on a bond or contract under seal for payment of a liquidated amount of money, or on a Statute where the sum sought to be recovered is a fixed sum of money or in the nature of a debt, or on a guaranty, whether under seal or not, where the claim against the principal is in respect of such debt or liquidated demand, bill, cheque, or note, or on a trust, the writ of summons may be specially indorsed with the particulars of the amount sought to be recovered, after giving credit for any payment or set-off.
- Indorsement of notice as to stay of proceedings.
7. Wherever the plaintiff's claim is for a debt or liquidated demand only, the indorsement, beside stating the nature of the claim, shall state the amount claimed for debt, or in respect of such demand, and for costs respectively, and shall further state that upon payment thereof within four days after service, or in case of a writ not for service within the jurisdiction within the time allowed for appearance, further proceedings will be stayed. Such statement may be in the form in Appendix (A) hereto, Part II, section III. The defendant may, notwithstanding such payment, have the costs taxed, and if more than one-sixth shall be disallowed, the plaintiff's solicitor shall pay the costs of taxation.
- Indorsement of claim for account.
8. In all cases of ordinary account, as, for instance, in the case of a partnership or executorship or ordinary trust account, where the plaintiff, in the first instance, desires to have an account taken, the writ of summons shall be indorsed with a claim that such account be taken.

ORDER IV.

INDORSEMENT OF ADDRESS.

- What to be stated.
1. The solicitor of a plaintiff suing by a solicitor shall indorse upon every writ of summons and notice in lieu of service of a writ of summons the address of the plaintiff, and also his own name or firm and place of business, and also, if his place of business shall be

be more than three miles from the General Post Office, another proper place, to be called his address for service, which shall not be more than three miles from the General Post Office, where writs, notices, petitions, orders, summonses, warrants, and other documents, proceedings, and written communications may be left for him. And where any such solicitor is only agent of another solicitor, he shall add to his own name or firm and place of business the name or firm and place of business of the principal solicitor.

2. A plaintiff suing in person shall indorse upon every writ of summons and notice in lieu of service of a writ of summons his place of residence and occupation, and also, if his place of residence shall be more than three miles from the General Post Office, another proper place, to be called his address for service, which shall not be more than three miles from the General Post Office, where writs, notices, petitions, orders, summonses, warrants, and other documents, proceedings, and written communications may be left for him. Where plaintiff sues in person.

ORDER V.

ISSUE OF WRITS OF SUMMONS.

1*. Writs of summons shall be prepared by the plaintiff or his solicitor, and shall be written or printed, or partly written and partly printed, on paper. Preparation of writ. * 5.

2*. Every writ of summons shall be sealed by the proper officer, and shall thereupon be deemed to be issued. Sealing. * 6.

3*. The plaintiff or his solicitor shall, on presenting any writ of summons for sealing, leave with the officer a copy, written or printed, or partly written and partly printed, on paper, of such writ, and all the indorsements thereon, and such copy shall be signed by or for the solicitor leaving the same, or by the plaintiff himself if he sues in person. Copy to be left with officer. * 7.

4*. The officer receiving such copy shall file the same, and an entry of the filing thereof shall be made in a book to be called the Cause Book, which shall be in such form and kept in such manner as the Chief Justice may from time to time direct, and the action shall be distinguished by the date of the year and a number. Officer to file copy. * 8.

5*. The issue of a writ of summons in Probate actions shall be preceded by the filing of an affidavit made by the plaintiff or one of the plaintiffs in verification of the indorsement on the writ. Indorsement on writ to be verified in Probate actions. * 10.

ORDER VI.

CONCURRENT WRITS.

1. The plaintiff in any action may, at the time of or at any time during twelve months after the issuing of the original writ of summons, issue one or more concurrent writ or writs, each concurrent writ to bear teste of the same day as the original writ, and to be marked with a seal bearing the word "concurrent," and the date of issuing the concurrent writ; and such seal shall be impressed upon the writ by the proper officer: Provided always, that such concurrent writ or writs shall only be in force for the period during which the original writ in such action shall be in force. Teste and date.

2. A writ for service within the jurisdiction may be issued and marked as a concurrent writ with one for service, or whereof notice in lieu of service is to be given, out of the jurisdiction; and a writ for service, or whereof notice in lieu of service is to be given, out of the jurisdiction may be issued and marked as a concurrent writ with one for service within the jurisdiction. Concurrent writs within and beyond the jurisdiction.

ORDER VII.

DISCLOSURE BY SOLICITORS AND PLAINTIFFS.

1. Every solicitor whose name shall be indorsed on any writ of summons shall, on demand in writing made by or on behalf of any defendant who has been served therewith or has appeared thereto, declare forthwith whether such writ has been issued by him or with his authority or privity; and if such solicitor shall declare that the writ was not issued by him or with his authority or privity, all proceedings upon the same shall be stayed, and no further proceedings shall be taken thereupon without leave of the Court or a Judge. Solicitor to declare whether writ issued by his authority.

2. When

Firm suing to state names and addresses of partners.

2. When a writ is sued out by partners in the name of their firm, the plaintiffs or their solicitors shall, on demand in writing by or on behalf of any defendant, declare forthwith the names and places of residence of all the persons constituting the firm. And if the plaintiffs or their solicitor shall fail to comply with such demand, all proceedings in the action may, upon an application for that purpose, be stayed upon such terms as the Court or a Judge may direct. And when the names of the partners are so declared, the action shall proceed in the same manner and the same consequences in all respects shall follow as if they had been named as the plaintiffs in the writ. But all proceedings shall, nevertheless, continue in the name of the firm.

ORDER VIII.

RENEWAL OF WRIT.

Original writ to be in force for twelve months; may be renewed.

1. No original writ of summons shall be in force for more than twelve months from the day of the date thereof, including the day of such date; but if any defendant therein named shall not have been served therewith, the plaintiff may, before the expiration of the twelve months, apply to a Judge for leave to renew the writ; and the Judge, if satisfied that reasonable efforts have been made to serve such defendant, or for other good reason, may order that the original or concurrent writ of summons be renewed for six months from the date of such renewal, and so from time to time during the currency of the renewed writ. And the writ shall in such case be renewed by being marked with a seal bearing the date of the day, month, and year of such renewal; such seal to be provided and kept for that purpose at the proper office, and to be impressed upon the writ by the proper officer, upon delivery to him by the plaintiff or his solicitor of a memorandum in Form No. 4* in Appendix (A), Part I; and a writ of summons so renewed shall remain in force and be available to prevent the operation of any Statute whereby the time for the commencement of the action may be limited, and for all other purposes, from the date of the issuing of the original writ of summons.

* 5.

Evidence of renewal.

2. The production of a writ of summons purporting to be marked with the seal of the Court, showing the same to have been renewed in manner aforesaid, shall be sufficient evidence of its having been so renewed, and of the commencement of the action as of the first date of such renewed writ for all purposes.

ORDER IX.

SERVICE OF WRIT OF SUMMONS.

1. *Mode of Service.*

Acceptance of service.

1. No service of writ shall be required when the defendant, by his solicitor, agrees to accept service, and enters an appearance.

Service.

2. When service is required the writ shall, wherever it is practicable, be served in the manner in which personal service is now made, but if it be made to appear to the Court or to a Judge that the plaintiff is from any cause unable to effect prompt personal service, the Court or Judge may make such order for substituted or other service, or for the substitution of notice for service, as may seem just.

2. *On Particular Defendants.*

On husband and wife.

3. When husband and wife are both defendants to the action, service on the husband shall be deemed good service on the wife, but the Court or a Judge may order that the wife shall be served with or without service on the husband.

Infant defendant.

4. When an infant is a defendant to the action, service on his or her father or guardian, or if none, then upon the person with whom the infant resides or under whose care he or she is, shall, unless the Court or Judge otherwise orders, be deemed good service on the infant; provided that the Court or Judge may order that service made or to be made on the infant shall be deemed good service.

Lunatic defendant.

5. When a lunatic or person of unsound mind, not so found by inquisition, is a defendant to the action, service on the committee of the lunatic, or on the person with whom the person of unsound mind resides or under whose care he or she is, shall, unless the Court or Judge otherwise orders, be deemed good service on such defendant.

3. *On*

3. *On Partners and other Bodies.*

6. Where partners are sued in the name of their firm, the writ shall be served either upon any one or more of the partners, or at the principal place within the jurisdiction of the business of the partnership, upon any person having at the time of service the control or management of the partnership business there; and, subject to the rules hereinafter contained, such service shall be deemed good service upon the firm. Where firm sued.

6a. Where one person carrying on business in the name of a firm apparently consisting of more than one person shall be sued in the firm name, the writ may be served at the principal place, within the jurisdiction of the business so carried on, upon any person having at the time of service the control or management of the business there, and subject to any of the rules of the court such service shall be deemed good service on the person so sued. Rules, June 1876.

7. Whenever, by any Statute, provision is made for service of any writ of summons, bill, petition, or other process upon any corporation, or upon any society or fellowship, or any body or number of persons, whether corporate or otherwise, every writ of summons may be served in the manner so provided. On corporation or other bodies.

4. *In Particular Actions.*

8. Service of a writ of summons in an action to recover land may, in case of vacant possession, when it cannot otherwise be effected, be made by posting a copy of the writ upon the door of the dwelling-house or other conspicuous part of the property. To recover vacant land.

Generally.

9*. The person serving a writ of summons shall, within three days at most after such service, indorse on the writ the day of the month and week of the service thereof, otherwise the plaintiff shall not be at liberty, in case of non-appearance, to proceed by default; and every affidavit of service of such writ shall mention the day on which such indorsement was made. Person serving writ to indorse date of service.
* 13.

ORDER X.

SUBSTITUTED SERVICE.

Every application to the Court or a Judge, under Order IX, Rule 2, for an order for substituted or other service, or for the substitution of notice for service, shall be supported by an affidavit setting forth the grounds upon which the application is made. Application for substituted service.

ORDER XI.

SERVICE OUT OF THE JURISDICTION.

1. Service out of the jurisdiction of a writ of summons or notice of a writ of summons may be allowed by the Court or a Judge whenever the whole or any part of the subject-matter of the action is land or stock, or other property situate within the jurisdiction, or any act, deed, will, or thing affecting such land, stock, or property, and whenever the contract which is sought to be enforced or rescinded, dissolved, annulled, or otherwise affected in any such action, or for the breach whereof damages or other relief are or is demanded in such action, was made or entered into within the jurisdiction, and whenever there has been a breach within the jurisdiction of any contract wherever made, and whenever any act or thing sought to be restrained or removed, or for which damages are sought to be recovered, was or is to be done or is situate within the jurisdiction. When service or notice may be allowed out of the jurisdiction.

1a. Whenever any action is brought in respect of any contract which is sought to be enforced or rescinded, dissolved, annulled, or otherwise affected in such action, or for the breach whereof damages or other relief are or is demanded in such action, when such contract was made or entered into within the jurisdiction, or whenever there has been a breach within the jurisdiction of any contract wherever made, the Judge, in exercising his discretion as to granting leave to serve such writ or notice on a defendant out of the jurisdiction, shall have regard to the amount or value of the property in dispute or sought to be recovered, and to the existence in the place of residence of the defendant, if resident in any Australasian colony of a local Court of limited jurisdiction having jurisdiction in the matter in question, and to the comparative Circumstances to be considered by judge.
Reg. 26 June 1876.

comparative cost and convenience of proceeding in Victoria or in the place of such defendant's residence, and in all the above mentioned cases no such leave is to be granted without an affidavit stating the particulars necessary for enabling the Judge to exercise his discretion in manner aforesaid, and all such other particulars (if any) as he may require to be shown.

In Probate actions.

2. In Probate actions service of a writ of summons or notice of a writ of summons may by leave of the Court or Judge be allowed out of the jurisdiction.

Application to be supported by affidavit.

3. Every application for an order for leave to serve such writ or notice on a defendant out of the jurisdiction shall be supported by evidence, by affidavit, or otherwise, showing in what place or country such defendant is or probably may be found, and whether such defendant is a British subject or not, and the grounds upon which the application is made.

Time for appearance.

4. Any order giving leave to effect such service or give such notice shall limit a time after such service or notice within which such defendant is to enter an appearance, such time to depend on the place or country where or within which the writ is to be served or the notice given.

Notice how given.

5. Notice in lieu of service shall be given in the manner in which writs of summons are served.

ORDER XII.

APPEARANCE.

In Melbourne.

1. In all cases provided for by these Rules a defendant shall enter his appearance in Melbourne.

Mode of appearance.

2*. A defendant shall enter his appearance to a writ of summons by delivering to the proper officer a memorandum in writing, dated on the day of the delivering the same, and containing the name of the defendant's solicitor, or stating that the defendant defends in person.

* 6.

Address for service of solicitor.

3*. The solicitor of a defendant appearing by a solicitor, shall state in such memorandum his place of business, and a place, to be called his address for service, which shall not be more than three miles from the General Post Office.

* 7.

Address for service of defendant in person.

4*. A defendant appearing in person shall state in such memorandum his address, and a place, to be called his address for service, which shall not be more than three miles from the General Post Office.

* 8.

Defective address.

5*. If the memorandum does not contain such address it shall not be received; and if any such address shall be illusory or fictitious, the appearance may be set aside by the Court or a Judge, on the application of the plaintiff.

* 9.

Form of appearance.

6*. The memorandum of appearance shall be in the Form No. 5†, Appendix (A), Part I, with such variations as the circumstances of the case may require.

* 10, † 6.

Entry in cause book.

7*. Upon receipt of a memorandum of appearance, the officer shall forthwith enter the appearance in the cause book.

* 11.

Partners.

8*. Where partners are sued in the name of their firm, they shall appear individually in their own names. But all subsequent proceedings shall, nevertheless, continue in the name of the firm.

* 12.

Firm.

8*a. Where any person carrying on business in the name of a firm apparently consisting of more than one person shall be sued in the name of the firm, he shall appear in his own name, but all subsequent proceedings shall nevertheless continue in the name of the firm.

* 12a. Reg. 26 June 1876.

Several defendants.

9*. If two or more defendants in the same action shall appear by the same solicitor and at the same time, the names of all the defendants so appearing shall be inserted in one memorandum.

* 13.

Appearance not entered on undertaking.

10*. A solicitor not entering an appearance in pursuance of his written undertaking so to do on behalf of any defendant shall be liable to an attachment.

* 14.

Appearance allowed before judgment.

11*. A defendant may appear at any time before judgment. If he appear at any time after the time limited for appearance he shall on the same day give notice thereof to the plaintiff's solicitor, or to the plaintiff himself if he sues in person, and he shall

* 15.

shall not, unless the Court or Judge otherwise orders, be entitled to any further time for delivering his defence, or for any other purpose, than if he had appeared according to the writ.

12*. In Probate actions any person not named in the writ may intervene and appear in the action on filing an affidavit showing how he is interested in the estate of the deceased.

Intervener in Probate actions.
* 16.

13*. Any person not named as a defendant in a writ of summons for the recovery of land may by leave of the Court or Judge appear and defend, on filing an affidavit showing that he is in possession of the land either by himself or his tenant.

Person not named may defend for land.
* 18.

14*. Any person appearing to defend an action for the recovery of land as landlord in respect of property whereof he is in possession only by his tenant, shall state in his appearance that he appears as landlord.

Landlord to appear as such.
* 19.

15*. Where a person not named as defendant in any writ of summons for the recovery of land has obtained leave of the Court or Judge to appear and defend, he shall enter an appearance according to the foregoing rules, intituled in the action against the party or parties named in the writ as defendant or defendants, and shall forthwith give notice of such appearance to the plaintiff's solicitor, or to the plaintiff if he sues in person, and shall in all subsequent proceedings be named as a party defendant to the action.

Person appearing to be named as a defendant.
* 20.

17*. Any person appearing to a writ of summons for the recovery of land shall be at liberty to limit his defence to a part only of the property mentioned in the writ, describing that part with reasonable certainty in his memorandum of appearance or in a notice intituled in the cause, and signed by him or his solicitor; such notice to be served within four days after appearance; and an appearance where the defence is not so limited shall be deemed an appearance to defend for the whole.

Defence may be limited.
* 21.

18*. The notice mentioned in the last preceding Rule may be in the Form No. 6†, in Part I of Appendix (A) hereto, with such variations as circumstances may require.

Notice of limitation.
* 22, † 7.

ORDER XIII.

DEFAULT OF APPEARANCE.

1. Where no appearance has been entered to a writ of summons for a defendant who is an infant or a person of unsound mind not so found by inquisition, the plaintiff may apply to the Court or a Judge for an order that some proper person be assigned guardian of such defendant, by whom he may appear and defend the action. But no such order shall be made unless it appears on the hearing of such application that the writ of summons was duly served, and that notice of such application was after the expiration of the time allowed for appearance, and at least six clear days before the day in such notice named for hearing the application, served upon or left at the dwelling-house of the person with whom or under whose care such defendant was at the time of serving such writ of summons, and also (in the case of such defendant being an infant not residing with or under the care of his father or guardian) served upon or left at the dwelling-house of the father or guardian, if any, of such infant, unless the Court or Judge at the time of hearing such application shall dispense with such last-mentioned service.

Default of appearance by infant or person of unsound mind. Application for guardian.

2. Where any defendant fails to appear to a writ of summons, and the plaintiff is desirous of proceeding upon default of appearance under any of the following Rules of this Order, or under Order XV, Rule 1, he shall, before taking such proceeding upon default, file an affidavit of service, or of notice in lieu of service, as the case may be.

Affidavit of service.

3. In case of non-appearance by the defendant where the writ of summons is specially indorsed, under Order III, Rule 6, the plaintiff may sign final judgment for any sum not exceeding the sum indorsed on the writ, together with interest at the rate specified, if any, to the date of the judgment, and a sum for costs, but it shall be lawful for the Court or a Judge to set aside or vary such judgment upon such terms as may seem just.

Final judgment when writ specially indorsed.

4. Where there are several defendants to a writ specially indorsed for a debt or liquidated demand in money, under Order III, Rule 6, and one or more of them appear

When final judgment against some defendants not appearing.

appear to the writ, and another or others of them do not appear, the plaintiff may enter final judgment against such as have not appeared, and may issue execution upon such judgment without prejudice to his right to proceed with his action against such as have appeared.

When writ not specially indorsed.

5. Where the defendant fails to appear to the writ of summons and the writ is not specially indorsed, but the plaintiff's claim is for a debt or liquidated demand only, no statement of claim need be delivered, but the plaintiff may file an affidavit of service or notice in lieu of service, as the case may be, and a statement of the particulars of his claim in respect of the causes of action stated in the indorsement upon the writ, and may, after the expiration of eight days, enter final judgment for the amount shown thereby and costs to be taxed, provided that the amount shall not be more than the sum indorsed upon the writ besides costs.

When claim not liquidated judgment interlocutory.

6. Where the defendant fails to appear to the writ of summons and the plaintiff's claim is not for a debt or liquidated demand only, but for detention of goods and pecuniary damages, or either of them, no statement of claim need be delivered, but interlocutory judgment may be entered, and the value of the goods and the damages, or the damages only, as the case may be, in respect of the causes of action disclosed by the indorsement on the writ of summons, shall be assessed by a jury, but the Court or a Judge may order that instead of such assessment the value or amount of damages or either of them shall be ascertained in any way in which any question arising in an action may be tried.

Possession of land where no appearance.

7. In case no appearance shall be entered in an action for the recovery of land, within the time limited for appearance, or if an appearance be entered but the defence be limited to part only, the plaintiff shall be at liberty to enter a judgment that the person whose title is asserted in the writ shall recover possession of the land, or of the part thereof to which the defence does not apply.

Mesne profits or damages.

8. Where the plaintiff has indorsed a claim for mesne profits, arrears of rent, or damages for breach of contract, upon a writ for the recovery of land, he may enter judgment as in the last preceding Rule mentioned for the land; and may proceed as in the other preceding Rules of this Order as to such other claim so indorsed.

Default of appearance in Equity, Probate, and other actions.

9. In all actions not by the Rules in this Order otherwise specially provided for, in case the party served with the writ does not appear within the time limited for appearance, upon the filing by the plaintiff of a proper affidavit of service the action may proceed as if such party had appeared.

ORDER XIV.

LEAVE TO DEFEND WHERE WRIT SPECIALLY INDORSED.

Plaintiff may apply to sign final judgment.
Reg. May 1877.

1. Where the defendant appears to a writ of summons specially indorsed, under Order III, Rule 6, the plaintiff may, on affidavit made by himself or by any other person who can swear positively to the debt or cause of action verifying the cause of action, and stating that in his belief there is no defence to the action, call on the defendant to show cause before the Court or a Judge why the plaintiff should not be at liberty to sign final judgment for the amount so indorsed, together with interest, if any, and costs. A copy of the affidavit shall accompany the summons or notice of motion. The Court or a Judge may thereupon, unless the defendant, by affidavit or otherwise, satisfy the Court or Judge that he has a good defence to the action on the merits, or disclose such facts as may be deemed sufficient to entitle him to defend, make an order empowering the plaintiff to sign judgment accordingly.

By summons.

2. The application by the plaintiff for leave to enter final judgment under the last preceding Rule shall be made by summons returnable not less than two clear days after service.

Defendant may show cause.

3. The defendant may show cause against such application by offering to bring into Court the sum indorsed on the writ, or by affidavit. In such affidavit he shall state

state whether the defence he alleges goes to the whole or to part only, and if so, to what part of the plaintiff's claim. And the Judge may, if he think fit, order the defendant to attend and be examined upon oath; or to produce any books or documents or copies of or extracts therefrom.

4. If it appear that the defence set up by the defendant applies only to a part of the plaintiff's claim; or that any part of his claim is admitted to be due; the plaintiff shall have judgment forthwith for such part of his claim as the defence does not apply to or as is admitted to be due, subject to such terms, if any, as to suspending execution, or the payment of the amount levied or any part thereof into Court by the sheriff, the taxation of costs, or otherwise, as the Judge may think fit. And the defendant may be allowed to defend as to the residue of the plaintiff's claim. Judgment may be for part of claim.

5. If it appears to the Judge that any defendant has a good defence to or ought to be permitted to defend the action, and that any other defendant has not such defence and ought not to be permitted to defend, the former may be permitted to defend, and the plaintiff shall be entitled to enter final judgment against the latter, and may issue execution upon such judgment without prejudice to his right to proceed with his action against the former. Or against one defendant.

6. Leave to defend may be given unconditionally or subject to such terms as to giving security, or otherwise, as the Court or a Judge may think fit. Leave on terms.

ORDER XV.

APPLICATION FOR ACCOUNT WHERE WRIT INDORSED UNDER ORDER III, RULE 8.

1. In default of appearance to a summons indorsed under Order III, Rule 8, and after appearance, unless the defendant, by affidavit or otherwise, satisfy the Court or a Judge that there is some preliminary question to be tried, an order for the account claimed, with all directions now usual in the Court in similar cases shall be forthwith made. Order for account.

2. An application for such order as mentioned in the last preceding Rule shall be made by summons, and be supported by an affidavit filed on behalf of the plaintiff, stating concisely the grounds of his claim to an account. The application may be made at any time after the time for entering an appearance has expired. Application for it.

ORDER XVI.

PARTIES.

1. All persons may be joined as plaintiffs in whom the right to any relief claimed is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person or persons who shall not be found entitled to relief, unless the Court in disposing of the costs of the action shall otherwise direct. Plaintiffs may claim jointly, severally, or in the alternative.

2. Where an action has been commenced in the name of the wrong person as plaintiff, or where it is doubtful whether it has been commenced in the name of the right plaintiff or plaintiffs, the Court or a Judge may, if satisfied that it has been so commenced through a *bonâ fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person or persons to be substituted or added as plaintiff or plaintiffs upon such terms as may seem just. Plaintiffs may be substituted or added.

3. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment. Defendants may be sued jointly, severally, or in the alternative.

4. It

- Defendant having only partial interest. 4. It shall not be necessary that every defendant to any action shall be interested as to all the relief thereby prayed for, or as to every cause of action included therein; but the Court or a Judge may make such order as may appear just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in such action in which he may have no interest.
- Plaintiff's option as to joinder. 5. The plaintiff may, at his option, join as parties to the same action all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange and promissory notes.
- Plaintiff in doubt may join defendants for alternative redress. 6. Where in any action, whether founded upon contract or otherwise, the plaintiff is in doubt as to the person from whom he is entitled to redress, he may, in such manner as hereinafter mentioned, or as may be prescribed by any special order, join two or more defendants, to the intent that in such action the question as to which, if any, of the defendants is liable, and to what extent, may be determined as between all parties to the action.
- Trustees, executors, and representative parties. 7. Trustees, executors, and administrators may sue and be sued on behalf of or as representing the property or estate of which they are trustees or representatives, without joining any of the parties beneficially interested in the trust or estate, and shall be considered as representing such parties in the action; but the Court or a Judge may, at any stage of the proceedings, order any of such parties to be made parties to the action, either in addition to or in lieu of the previously existing parties thereto.
- Married women and infants. 8. Married women and infants may respectively sue as plaintiffs by their next friends, in the manner practised in the Court before the passing of this Act; and infants may, in like manner, defend any action by their guardians appointed for that purpose. Married women may also, by the leave of the Court or a Judge, sue or defend without their husbands and without a next friend, on giving such security, if any, for costs as the Court or a Judge may require.
- Where parties are numerous. 9. Where there are numerous parties having the same interest in one action, one or more of such parties may sue or be sued, or may be authorized by the Court to defend in such action, on behalf or for the benefit of all parties so interested.
- Where heir-at-law, next of kin, or class unknown.
Reg. 26 June 1876. 9a. In any case in which the right of an heir-at-law, or the next of kin, or a class shall depend upon the construction which the Court may put upon an instrument, and it shall not be known or be difficult to ascertain who is or are such heir-at-law, or next of kin, or class, and the Court shall consider that in order to save expense or for some other reason it will be convenient to have the question or questions of construction determined before such heir-at-law, next of kin, or class, shall have been ascertained by means of inquiry or otherwise, the Court may appoint some one or more person or persons to represent such heir-at-law, next of kin, or class, and the judgment of the Court in the presence of such person or persons shall be binding upon the party or parties or class so represented.
- Partners may sue and be sued in the name of their firm. 10. Any two or more persons claiming or being liable as co-partners may sue or be sued in the name of their respective firms, if any; and any party to an action may in such case apply by summons to a Judge for a statement of the names of the persons who are co-partners in any such firm, to be furnished in such manner, and verified on oath or otherwise, as the Judge may direct.
- Individual may be sued.
Reg. 26 June 1876.
Objections for want of parties. 10a. Any person carrying on business in the name of a firm apparently consisting of more than one person may be sued in the name of such firm.
11. Subject to the other provisions of the Act, and these Rules, the provisions as to parties, contained in chapters 5 and 6 of the Rules of the Supreme Court of the 1st February 1854, shall be in force as to actions in the Court.
- Probate actions. 12. Subject as last aforesaid, in all Probate actions the Rules as to parties, heretofore in use in the Court, shall continue to be in force.
- Amendment on misjoinder of parties. 13. No action shall be defeated by reason of the misjoinder of parties, and the Court may in every action deal with the matter in controversy so far as regards the rights

rights and interests of the parties actually before it. The Court or a Judge may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court or a Judge to be just, order that the name or names of any party or parties, whether as plaintiffs or as defendants, improperly joined be struck out; and that the name or names of any party or parties, whether plaintiffs or defendants, who ought to have been joined, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the action, be added. No person shall be added as a plaintiff suing without a next friend, or as the next friend of a plaintiff under any disability, without his own consent thereto. All parties whose names are so added as defendants shall be served with a summons or notice in manner hereinafter mentioned, or in such manner as may be prescribed by any special order, and the proceedings as against them shall be deemed to have begun only on the service of such summons or notice.

14. Any application to add or strike out or substitute a plaintiff or defendant may be made to the Court or a Judge at any time before trial by motion or summons, or at the trial of the action in a summary manner. Application for it.

15. Where a defendant is added, unless otherwise ordered by the Court or a Judge, the plaintiff shall file an amended copy of and sue out a writ of summons, and serve such new defendant with such writ or notice in lieu of service thereof in the same manner as original defendants are served. Amended writ.

16. If a statement of claim has been delivered previously to such defendant being added, the same shall, unless otherwise ordered by the Court or a Judge, be amended in such manner as the making such new defendant a party shall render desirable, and a copy of such amended statement of claim shall be delivered to such new defendant at the time when he is served with the writ of summons or notice or afterwards, within four days after his appearance. Amended statement.

17. Where a defendant is or claims to be entitled to contribution or indemnity, or any other remedy or relief over against any other person, or where from any other cause it appears to the Court or a Judge that a question in the action should be determined not only as between the plaintiff and defendant, but as between the plaintiff, defendant, and any other person, or between any or either of them, the Court or a Judge may, on notice being given to such last-mentioned person, make such order as may be proper for having the question so determined. Claim of defendant over against person not party.

18. Where a defendant claims to be entitled to contribution, indemnity, or other remedy or relief over against any person not a party to the action, he may, by leave of the Court or a Judge, issue a notice to that effect, stamped with the seal with which writs of summons are sealed. A copy of such notice shall be filed with the proper officer and served on such person according to the rules relating to the service of writs of summons. The notice shall state the nature and grounds of the claim, and shall, unless otherwise ordered by the Court or a Judge, be served within the time limited for delivering his statement of defence. Such notice may be in the form or to the effect of the Form No. 1 in Appendix (B) hereto with such variations as circumstances may require, and therewith shall be served a copy of the statement of claim, or if there be no statement of claim, then a copy of the writ of summons in the action. Notice by defendant to person not party.

19. When under Rule 17 of this Order it is made to appear to the Court or a Judge at any time before or at the trial that a question in the action should be determined, not only as between the plaintiff and defendant, but as between the plaintiff and the defendant and any other person, or between any or either of them, the Court or a Judge, before or at the time of making the order for having such question determined, shall direct such notice to be given by the plaintiff at such time and to such person and in such manner as may be thought proper, and if made at the trial the Judge may postpone such trial as he may think fit. Notice to person not party ordered by Judge.

20. If

Person not party
may appear.

20. If a person not a party to the action, who is served as mentioned in Rule 18, desires to dispute the plaintiff's claim in the action as against the defendant on whose behalf the notice has been given, he must enter an appearance in the action within eight days from the service of the notice. In default of his so doing, he shall be deemed to admit the validity of the judgment obtained against such defendant, whether obtained by consent or otherwise. Provided always that a person so served and failing to appear within the said period of eight days may apply to the Court or a Judge for leave to appear, and such leave may be given upon such terms, if any, as the Court or a Judge shall think fit.

And defend.

21. If a person not a party to the action served under these Rules appears pursuant to the notice, the party giving the notice may apply to the Court or a Judge for directions as to the mode of having the question in the action determined; and the Court or Judge, upon the hearing of such application, may, if it shall appear desirable so to do, give the person so served liberty to defend the action upon such terms as shall seem just, and may direct such pleadings to be delivered, or such amendments in any pleadings to be made, and generally may direct such proceedings to be taken, and give such directions as to the Court or a Judge shall appear proper for having the question most conveniently determined, and as to the mode and extent in or to which the person so served shall be bound or made liable by the decision of the question.

ORDER XVII.

JOINDER OF CAUSES OF ACTION.

Joinder of several
causes.

1. Subject to the following Rules, the plaintiff may unite in the same action and in the same statement of claim several causes of action, but if it appear to the Court or a Judge that any such causes of action cannot be conveniently tried or disposed of together, the Court or Judge may order separate trials of any of such causes of action to be had, or may make such other order as may be necessary or expedient for the separate disposal thereof.

Not with action for
recovery of land.

2. No cause of action shall, unless by leave of the Court or a Judge, be joined with an action for the recovery of land, except claims in respect of mesne profits or arrears of rent in respect of the premises claimed, or any part thereof, and damages for breach of any contract under which the same or any part thereof are held.

Or by trustee in
Insolvency.

3. Claims by a trustee in insolvency as such shall not, unless by leave of the Court or a Judge, be joined with any claim by him in any other capacity.

Husband and wife.

4. Claims by or against husband and wife may be joined with claims by or against either of them separately.

Executors.

5. Claims by or against an executor or administrator as such may be joined with claims by or against him personally, provided the last-mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor or administrator.

Joint and separate
claims.

6. Claims by plaintiffs jointly may be joined with claims by them or any of them separately against the same defendant.

Subject to Rule 1.

7. The last three preceding Rules shall be subject to Rule 1 of this Order, and to the Rules hereinafter contained.

Application of de-
fendant to confine
action.

8. Any defendant alleging that the plaintiff has united in the same action several causes of action which cannot be conveniently disposed of in one action, may at any time apply to the Court or a Judge for an order confining the action to such of the causes of action as may be conveniently disposed of in one proceeding.

Judge may exclude
causes inconvenient
to be joined.

9. If, on the hearing of such application as in the last preceding Rule mentioned, it shall appear to the Court or a Judge that the causes of action are such as cannot all be conveniently disposed of in one action, the Court or a Judge may order any of such causes of action to be excluded, and may direct the statement of claim, or, if no statement of claim has been delivered, the copy of the writ of summons, and the indorsement of claim on the writ of summons, to be amended accordingly, and may make such order as to costs as may be just.

ORDER XVIII.

ORDER XVIII.

ACTIONS BY AND AGAINST LUNATICS AND PERSONS OF UNSOUND MIND.

1. In all cases in which lunatics and persons of unsound mind not so found by inquisition might respectively before the passing of the Act have sued as plaintiffs or would have been liable to be sued as defendants in any action or suit, they may respectively sue as plaintiffs in any action by their committee or next friend in manner practised in the Court before the passing of the said Act, and may in like manner defend any action by their committees or guardians appointed for that purpose.

Lunatics and persons of unsound mind.

ORDER XIX.

PLEADING GENERALLY.

1. The following Rules of pleading shall be substituted for those heretofore used in the Court, in the Common Law, Equity, and Probate Jurisdictions.

New pleading rules.

2. Unless the defendant in an action at the time of his appearance shall state that he does not require the delivery of a statement of complaint, the plaintiff shall, within such time and in such manner as hereinafter prescribed, deliver to the defendant after his appearance a statement of his complaint and of the relief or remedy to which he claims to be entitled. The defendant shall within such time and in such manner as hereinafter prescribed deliver to the plaintiff a statement of his defence, set-off, or counter-claim (if any), and the plaintiff shall in like manner deliver a statement of his reply (if any) to such defence, set-off, or counter-claim. Such statement shall be as brief as the nature of the case will admit, and the Court in adjusting the costs of the action shall inquire at the instance of any party into any unnecessary prolixity, and order the costs occasioned by such prolixity to be borne by the party chargeable with the same.

Complaint.

Defence.

Reply.

Not to be prolix.

3. A defendant in an action may set-off, or set-up, by way of counter-claim against the claims of the plaintiff, any right or claim, whether such set-off or counter-claim sound in damages or not, and such set-off or counter-claim shall have the same effect as a statement of claim in a cross action, so as to enable the Court to pronounce a final judgment in the same action, both on the original and on the cross claim. But the Court or a Judge may, on the application of the plaintiff before trial, if in the opinion of the Court or Judge such set-off or counter-claim cannot be conveniently disposed of in the pending action, or ought not to be allowed, refuse permission to the defendant to avail himself thereof.

Defendant may set-off or counter-claim.

4. Every pleading shall contain as concisely as may be a statement of the material facts on which the party pleading relies, but not the evidence by which they are to be proved, such statement being divided into paragraphs, numbered consecutively, and each paragraph containing, as nearly as may be, a separate allegation. Dates, sums, and numbers shall be expressed in figures and not in words. Signature of counsel shall not be necessary. Forms similar to those in Appendix (C) hereto may be used.

Form of pleading.

5. Every pleading may be either printed or written, or partly printed and partly written.

Written or printed

6. Every pleading or other document required to be delivered to a party, or between parties, shall be delivered in the manner now in use to the solicitor of every party who appears by a solicitor, or to the party if he does not appear by a solicitor, but if no appearance has been entered for any party, then such pleading or document shall be delivered by being filed with the proper officer.

Mode of delivery.

7. Every pleading in an action shall be delivered between parties, and shall be marked on the face with the date of the day on which it is delivered, and with the reference to the number of the action, the title of the action, the description of the pleading, and the name and place of business of the solicitor and agent, if any, delivering the same, or the name and address of the party delivering the same if he does not act by a solicitor.

Delivery and marking of pleadings.

8. Every

8. Every statement of claim shall state specifically the relief which the plaintiff claims, either simply or in the alternative, and may also ask for general relief. And the same rule shall apply to any counter-claim made, or relief claimed by the defendant, in his statement of defence. If the plaintiff's claim be for discovery only, the statement of claim shall show it.
9. Where the plaintiff seeks relief in respect of several distinct claims or causes of complaint founded upon separate and distinct facts, they shall be stated, as far as may be, separately and distinctly. And the same rule shall apply where the defendant relies upon several distinct grounds of defence, set-off, or counter-claim founded upon separate and distinct facts.
10. Where any defendant seeks to rely upon any facts as supporting a right of set-off or counter-claim, he shall, in his statement of defence, state specifically that he does so by way of set-off or counter-claim.
11. If either party wishes to deny the right of any other party to claim as executor, or as trustee whether in insolvency or otherwise, or in any representative or other alleged capacity, or the alleged constitution of any partnership firm, he shall deny the same specifically.
12. In Probate actions where the plaintiff disputes the interest of the defendant, he shall allege in his statement of claim that he denies the defendant's interest.
13. No plea or defence shall be pleaded in abatement.
14. No new assignment shall hereafter be necessary or used. But everything which has heretofore been alleged by way of new assignment may hereafter be introduced by amendment of the statement of claim.
15. No defendant in an action for the recovery of land who is in possession by himself or his tenant need plead his title, unless his defence depends on an equitable estate or right, or he claims relief upon any equitable ground against any right or title asserted by the plaintiff. But, except in the cases hereinbefore mentioned, it shall be sufficient to state by way of defence that he is so in possession. And he may nevertheless rely upon any ground of defence which he can prove, except as hereinbefore mentioned.
16. Nothing in these Rules contained shall affect the right of any defendant to plead not guilty by statute. And every defence of not guilty by statute shall have the same effect as a plea of not guilty by statute has heretofore had. But if the defendant so plead he shall not plead any other defence without the leave of the Court or the Judge, except by consent.
17. Every allegation of fact in any pleading in an action, not being a petition or summons, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the opposite party, shall be taken to be admitted, except as against an infant, lunatic, or person of unsound mind not so found by inquisition.
18. Each party in any pleading, not being a petition or summons, must allege all such facts not appearing in the previous pleadings as he means to rely on, and must raise all such grounds of defence or reply, as the case may be, as if not raised on the pleadings would be likely to take the opposite party by surprise, or would raise new issues of fact not arising out of the pleadings, as, for instance, fraud, or that any claim has been barred by the Statute of Limitations or has been released.
19. No pleading, not being a petition or summons, shall, except by way of amendment, raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same.
20. It shall not be sufficient for a defendant in his defence to deny generally the facts alleged by the statement of claim, or for a plaintiff in his reply to deny generally the facts alleged in a defence by way of counter-claim, but each party must deal specifically with each allegation of fact of which he does not admit the truth.
21. Subject to the last preceding Rule, the plaintiff by his reply may join issue upon the defence, and each party in his pleading, if any, subsequent to reply, may join issue
- Statement of claim and counter-claim.
- Separate statement of separate claim.
- Set-off or counter-claim to be so stated.
- Representative capacities specifically traversed.
- Denial of interest in Probate action.
- No pleading in abatement.
- No new assignment.
- Plea of title unnecessary.
- Not guilty by statute preserved.
- Admissions implied.
- Special pleading.
- No departure.
- Denial of allegations to be specific.
- Joinder of issue.

issue upon the previous pleading. Such joinder of issue shall operate as a denial of every material allegation of fact in the pleading upon which issue is joined, but it may except any facts which the party may be willing to admit, and shall then operate as a denial of the facts not so admitted.

22. When a party in any pleading denies an allegation of fact in the previous pleading of the opposite party, he must not do so evasively, but answer the point of substance. Thus, if it be alleged that he received a certain sum of money, it shall not be sufficient to deny that he received that particular amount, but he must deny that he received that sum or any part thereof, or else set out how much he received. And so when a matter of fact is alleged with divers circumstances, it shall not be sufficient to deny it as alleged along with those circumstances, but a fair and substantial answer must be given.

23. When a contract is alleged in any pleading, a bare denial of the contract by the opposite party shall be construed only as a denial of the making of the contract in fact, and not of its legality or its sufficiency in law, whether with reference to the Statute of Frauds or otherwise.

24. Wherever the contents of any document are material, it shall be sufficient in any pleading to state the effect thereof as briefly as possible, without setting out the whole or any part thereof unless the precise words of the document or any part thereof are material.

25. Wherever it is material to allege malice, fraudulent intention, knowledge, or other condition of the mind of any person, it shall be sufficient to allege the same as a fact without setting out the circumstances from which the same is to be inferred.

26. Wherever it is material to allege notice to any person of any fact, matter, or thing, it shall be sufficient to allege such notice as a fact, unless the form or the precise terms of such notice be material.

27. Wherever any contract or any relation between any persons does not arise from an express agreement, but is to be implied from a series of letters or conversations, or otherwise from a number of circumstances, it shall be sufficient to allege such contract or relation as a fact, and to refer generally to such letters, conversations, or circumstances without setting them out in detail. And if in such case the person so pleading desires to rely in the alternative upon more contracts or relations than one as to be implied from such circumstances, he may state the same in the alternative.

28. Neither party need in any pleading allege any matter of fact which the law presumes in his favor or as to which the burden of proof lies upon the other side, unless the same has first been specifically denied.

[*E.g.*—Consideration for a bill of exchange where the plaintiff sues only on the bill, and not for the consideration as a substantive ground of claim.]

29*. In actions for damage by collision between vessels, unless the Court or a Judge shall otherwise order, each solicitor shall, before any pleading is delivered, file with the proper officer a document which shall be sealed up and shall not be opened until ordered by the Court or a Judge, and which shall contain a statement of the following particulars:—

- (a.) The names of the vessels which came into collision and the names of their masters.
- (b.) The time of the collision.
- (c.) The place of the collision.
- (d.) The direction of the wind.
- (e.) The state of the weather.
- (f.) The state and force of the tide.
- (g.) The course and speed of the vessel when the other was first seen.
- (h.) The lights, if any, carried by her.
- (i.) The distance and bearing of the other vessel when first seen.
- (k.) The lights, if any, of the other vessel which were first seen.

(l.) Whether

Denial to be substantial answer.

Effect of denial of contract.

Contents of document.

Allegation of malice, intent, or knowledge.

Of notice.

Of implied contract.

Presumptions of law.

Preliminary step in actions of collision.
* 30.

- (l.) Whether any lights of the other vessel, other than those first seen, came into view before the collision.
- (m.) What measures were taken, and when, to avoid the collision.
- (n.) The parts of each vessel which first came into contact.

If both solicitors consent, the Court or a Judge may order the document to be opened and the evidence to be taken thereon without its being necessary to deliver any pleadings.

ORDER XX.

PLEADING MATTERS ARISING PENDING THE ACTION.

Defence arising after action before statement.

1. Any ground of defence which has arisen after action brought, but before the defendant has delivered his statement of defence, and before the time limited for his doing so has expired, may be pleaded by the defendant in his statement of defence, either alone or together with other grounds of defence. And if, after a statement of defence has been delivered, any ground of defence arises to any set-off or counter-claim alleged therein by the defendant, it may be pleaded by the plaintiff in his reply, either alone or together with any other ground of reply.

Defence arising after statement.

2. Where any ground of defence arises after the defendant has delivered a statement of defence, or after the time limited for his doing so has expired, the defendant may, and where any ground of defence to any set-off or counter-claim arises after reply, or after the time limited for delivering a reply has expired, the plaintiff may, within eight days after such ground of defence has arisen, and by leave of the Court or a Judge or by consent, deliver a further defence or further reply, as the case may be, setting forth the same.

Confession by plaintiff.

3. Whenever any defendant, in his statement of defence, or in any further statement of defence as in the last rule mentioned, alleges any ground of defence which has arisen after the commencement of the action, the plaintiff may deliver a confession of such defence, which confession may be in the Form No. 2 in Appendix (B) hereto, with such variations as circumstances may require, and he may thereupon sign judgment for his costs up to the time of the pleading of such defence unless the Court or a Judge shall, either before or after the delivery of such confession, otherwise order.

ORDER XXI.

STATEMENT OF CLAIM.

Practice.

1. Subject to Rule 2 of this Order, the delivery of statements of claim shall be regulated as follows:—

Delivery.

(a.) If the defendant shall not state that he does not require the delivery of a statement of claim, the plaintiff shall, unless otherwise ordered by the Court or a Judge or by consent, deliver it within six weeks from the time of the defendant's entering his appearance.

Optional when not required.

(b.) The plaintiff may, if he think fit, at any time after the issue of the writ of summons, deliver a statement of claim, with the writ of summons, or notice in lieu of writ of summons, or at any time afterwards, either before or after appearance, and although the defendant may have appeared and stated that he does not require the delivery of a statement of claim: Provided that in no case where a defendant has appeared shall a statement be delivered more than six weeks after the appearance has been entered unless otherwise ordered by the Court or a Judge or by consent.

Subject to costs.

(c.) Where a plaintiff delivers a statement of claim without being required to do so, the Court or a Judge may make such order as to the costs occasioned thereby as shall seem just, if it appears that the delivery of a statement of claim was unnecessary or improper.

2. In

2. In Probate actions the plaintiff shall, unless otherwise ordered by the Court or a Judge, deliver his statement of claim within six weeks from the entry of appearance by the defendant, or from the time limited for his appearance in case he has made default; but where the defendant has appeared, the plaintiff shall not be compelled to deliver it until the expiration of eight days after the defendant has filed his affidavit as to scripts. In Probate actions.

3*. Where the writ is specially indorsed, and the defendant has not dispensed with a statement of claim, it shall be sufficient for the plaintiff to deliver as his statement of claim a notice to the effect that his claim is that which appears by the indorsement upon the writ, unless the Court or a Judge shall order him to deliver a further statement. Such notice may be either written or printed or partly written and partly printed, and may be in the Form No. 3 in Appendix (B) hereto, and shall be marked on the face in the same manner as is required in the case of an ordinary statement of claim. And when the plaintiff is ordered to deliver such further statement it shall be delivered within such time as by such order shall be directed, and if no time be so limited then within the time prescribed by Rule 1 of this Order. Statement after special indorsement.
* 4.

ORDER XXII.

DEFENCE.

1. Where a statement of claim is delivered to a defendant he shall deliver his defence within eight days from the delivery of the statement of claim, or from the time limited for appearance, whichever shall be last, unless such time is extended by the Court or a Judge or by consent. Time for defence.

2. A defendant who has appeared in an action and stated that he does not require the delivery of a statement of claim, and to whom a statement of claim is not delivered, may deliver a defence at any time within eight days after his appearance, unless such time is extended by the Court or a Judge or by consent. Defence without statement.

3. Where leave has been given to a defendant to defend under Order XIV, Rule 1, he shall deliver his defence, if any, within such time as shall be limited by the order giving him leave to defend, or if no time is thereby limited, then within eight days after the order. Limited time on leave to defend.

4. Where the Court or a Judge shall be of opinion that any allegations of fact denied or not admitted by the defence ought to have been admitted, the Court may make such order as shall be just with respect to any extra costs occasioned by their having been denied or not admitted. Costs of improper traverse.

5. Where a defendant by his defence sets up any counter-claim which raises questions between himself and the plaintiff along with any other person or persons, he shall add to the title of his defence a further title similar to the title in a statement of complaint, setting forth the names of all the persons who, if such counter-claim were to be enforced by cross action, would be defendants to such cross action, and shall deliver his defence to such of them as are parties to the action within the period within which he is required to deliver it to the plaintiff. Defence including person not party.

6. Where any such person as in the last preceding rule mentioned is not a party to the action, he shall be summoned to appear by being served with a copy of the defence, and such service shall be regulated by the same rules as are hereinbefore contained with respect to the service of a writ of summons, and every defence so served shall be indorsed in the Form No. 4 in Appendix (B) hereto, or to the like effect. Service on person not party.

7. Any person not a defendant to the action who is served with a defence and counter-claim as aforesaid must appear thereto as if he had been served with a writ of summons to appear in an action. Must appear.

8. Any person named in a defence as a party to a counter-claim thereby made may deliver a reply within the time within which he might deliver a defence if it were a statement of claim. May deliver reply.

9. Where a defendant by his statement of defence sets up a counter-claim, if the plaintiff or any other person named in manner aforesaid as party to such counter-claim contends that the claim thereby raised ought not to be disposed of by way of counter-claim Counter-claim may be excluded from action.

claim, but in an independent action, he may at any time before reply apply to the Court or a Judge for an order that such counter-claim may be excluded, and the Court or a Judge may, on the hearing of such application, make such order as shall be just.

Judgment may be given for defendant for balance.

10. Where in any action a set-off or counter-claim is established as a defence against the plaintiff's claim, the Court may, if the balance is in favor of the defendant, give judgment for the defendant for such balance, or may otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case.

In Probate action proof in solemn form.

11. In Probate actions the party opposing a will may, with his defence, give notice to the party setting up the will that he merely insists upon the will being proved in solemn form of law, and only intends to cross-examine the witnesses produced in support of the will, and he shall thereupon be at liberty to do so, and shall be subject to the same liabilities in respect of costs as he would have been under similar circumstances according to the practice heretofore in use.

ORDER XXIII.

DISCONTINUANCE.

May be entire or partial before defence; not without leave afterwards.

1. The plaintiff may, at any time before receipt of the defendant's statement of defence, or after the receipt thereof before taking any other proceeding in the action (save any interlocutory application), by notice in writing, wholly discontinue his action or withdraw any part or parts of his alleged cause of complaint, and thereupon he shall pay the defendant's costs of the action, or, if the action be not wholly discontinued, the defendant's costs occasioned by the matter so withdrawn. Such costs shall be taxed, and such discontinuance or withdrawal, as the case may be, shall not be a defence to any subsequent action. Save as in this Rule otherwise provided, it shall not be competent for the plaintiff to withdraw the record or discontinue the action without leave of the Court or a Judge, but the Court or a Judge may, before, or at, or after the hearing or trial, upon such terms as to costs, and as to any other action, and otherwise as may seem fit, order the action to be discontinued, or any part of the alleged cause of complaint to be struck out. The Court or a Judge may, in like manner, and with the like discretion as to terms, upon the application of a defendant, order the whole or any part of his alleged grounds of defence or counter-claim to be withdrawn or struck out, but it shall not be competent to a defendant to withdraw his defence or any part thereof without such leave.

Unless by consent. Reg. Gen. 1 Dec. 1875.

2. When a cause has been entered for trial it may be withdrawn by either plaintiff or defendant, upon producing to the proper officer a consent in writing signed by or on behalf of the parties.

Costs. Reg. 26 June 1876.

2a. A defendant may sign judgment for the costs of an action if it is wholly discontinued, or for the costs occasioned by the matter withdrawn if the action be not wholly discontinued.

ORDER XXIV.

REPLY AND SUBSEQUENT PLEADINGS.

Time for reply.

1. A plaintiff shall deliver his reply, if any, within four days after the defence or the last of the defences shall have been delivered unless the time shall be extended by the Court or a Judge or by consent.

Joinder of issue after reply.

2. No pleading subsequent to reply other than a joinder of issue shall be pleaded (except by consent) without leave of the Court or a Judge, and then upon such terms as the Court or Judge shall think fit or as shall be consented to.

Time for pleading after reply.

3. Subject to the last preceding Rule, every pleading subsequent to reply shall be delivered within four days after the delivery of the previous pleading, unless the time shall be extended by the Court or a Judge or by consent.

ORDER XXV.

CLOSE OF PLEADINGS.

Pleadings closed on joinder of issue.

1. As soon as either party has joined issue upon any pleading of the opposite party simply without adding any further or other pleading thereto, the pleadings as between such parties shall be deemed to be closed.

ORDER XXVI.

ORDER XXVI.

ISSUES.

1. Where in any action it appears to a Judge that the statement of claim or defence or reply does not sufficiently define the issues of fact in dispute between the parties, he may direct the parties to prepare issues, and such issues shall, if the parties differ, be settled by the Judge. Judge may settle issues.

2. Any party in an action at any stage of the action before trial if he be advised that the matter in dispute is not stated in the pleadings or in any part of the pleadings with sufficient clearness or accuracy to secure the decision of the real question in dispute between the parties, may by summons call upon the other parties in the action to attend on a day named in such summons to have the sufficiency of the pleadings for the purpose of the ascertainment of the real question in dispute inquired into and determined. And upon the return of such summons whether all the parties served attend or not the sufficiency of the pleadings shall be inquired into, and for such purpose all or any of the parties and all or any of their attorneys and any person who may be tendered for examination may be examined and all documents which may be necessary to the inquiry shall be produced for inspection. And the Judge shall then and there either dismiss the summons adjourn the same or make an order requiring such amendment to be made in the pleadings as shall appear to be necessary for the decision of the real question in dispute or for the framing of any issue between the parties or any of the parties in the action. And if it shall be determined upon the hearing of such summons that any part of the pleadings of the plaintiff require amendment the Judge shall have power to stay proceedings in the action until the amendments in the pleadings of the plaintiff which upon the hearing of such summons shall be deemed to be necessary shall have been made. And in the event of it being determined that any part of the pleadings of the defendant require amendment the Judge shall order such amendment to be made within a time to be named in the order, and if such amendment be not made within the time so ordered he may order that the defendant's pleadings be set aside and that judgment against the defendant who shall have neglected to amend his pleading be entered for the plaintiff as though judgment against the said defendant had gone by default.

ORDER XXVII.

AMENDMENT OF PLEADINGS.

1. The Court or a Judge or the opposite party may, at any stage of the proceedings, allow either party to alter his statement of claim or defence or reply or subsequent pleading, and the Court or a Judge may order to be struck out or amended any matter in such statements respectively which may be scandalous, or which may tend to prejudice, embarrass, or delay the fair trial of the action, and all such amendments shall be made as may be necessary for the purpose of determining the real questions or question in controversy between the parties. May be allowed or ordered.

2. The plaintiff may, without any leave, amend his statement of claim once at any time before the expiration of the time limited for reply and before replying, or, where no defence is delivered, at any time before the expiration of four weeks from the appearance of the defendant who shall have last appeared. Plaintiff may amend once without leave.

3. A defendant who has set up in his defence any set-off or counter-claim may, without any leave, amend such set-off or counter-claim at any time before the expiration of the time allowed him for pleading to the reply, and before pleading thereto, or in case there be no reply, then at any time before the expiration of twenty-eight days from the filing of his defence. Defendant may amend without leave within time limited.

4. Where any party has amended his pleading under either of the last two preceding Rules, the opposite party may, within eight days after the delivery to him of the amended pleading, apply to the Court or a Judge to disallow the amendment, or any part thereof, and the Court or Judge may, if satisfied that the justice of the case requires it, disallow the same, or allow it subject to such terms as to costs or otherwise as may seem just. Amended pleading may be disallowed.

5. Where

demurrer shall not be entered and notice thereof given within ten days after delivery, and if the party whose pleading is demurred to does not within such time amend, the demurrer shall be held sufficient for the same purposes and with the same result as to costs as if it had been allowed on argument.

7. While a demurrer to the whole or any part of a pleading is pending, such pleading shall not be amended, unless by order of the Court or a Judge or by consent; and no such order shall be made except on payment of the costs of the demurrer. *Amendment while demurrer pending.*

8. Where a demurrer to the whole or part of any pleading is allowed upon argument, the party whose pleading is demurred to shall, unless the Court otherwise order, pay to the demurring party the costs of the demurrer. *Costs of successful demurrer.*

9. If a demurrer to the whole of a statement of claim be allowed, the plaintiff, subject to the power of the Court to allow the statement of claim to be amended, shall pay to the demurring defendant the costs of the action, unless the Court shall otherwise order. *Costs of action on successful demurrer.*

10. Where a demurrer to any pleading or part of a pleading is allowed in any case not falling within the last preceding Rule, then (subject to the power of the Court to allow an amendment) the matter demurred to shall as between the parties to the demurrer be deemed to be struck out of the pleadings, and the rights of the parties shall be the same as if it had not been pleaded. *Matter struck out on demurrer allowed.*

11. Where a demurrer is overruled, the demurring party shall pay to the opposite party the costs occasioned by the demurrer, unless the Court shall otherwise direct. *Costs of overruled demurrer.*

12. Where a demurrer is overruled, the Court may make such order and upon such terms as to the Court shall seem right for allowing the demurring party to raise by pleading any case he may be desirous to set up in opposition to the matter demurred to. *Amended defence where demurrer overruled.*

13. A demurrer shall be entered for argument by delivering to the proper officer a memorandum of entry in the Form No. 21 in Appendix (C). *Form of entry for argument.*

ORDER XXIX.

DEFAULT OF PLEADING.

1. If the plaintiff, being bound to deliver a statement of claim, does not deliver the same within the time allowed for that purpose, the defendant may, at the expiration of that time, apply to the Court or a Judge to dismiss the action with costs, for want of prosecution; and on the hearing of such application the Court or Judge may, if no statement of claim have been delivered, order the action to be dismissed accordingly, or may make such other order on such terms as to the Court or Judge shall seem just. *Non-delivery of statement of claim.*

2. If the plaintiff's claim be only for a debt or liquidated demand, and the defendant does not, within the time allowed for that purpose, deliver a defence or demurrer, the plaintiff may, at the expiration of such time, enter final judgment for the amount claimed, with costs. *Judgment by default.*

3. When in any such action as in the last preceding Rule mentioned there are several defendants, if one of them make default as mentioned in the last preceding Rule, the plaintiff may enter final judgment against the defendant so making default, and issue execution upon such judgment without prejudice to his right to proceed with his action against the other defendants. *Default of one of several defendants.*

4. If the plaintiff's claim be for detention of goods and pecuniary damages, or either of them, and the defendant makes default as mentioned in Rule 2, the plaintiff may enter an interlocutory judgment against the defendant, and the value of the goods and the damages, or the damages only, as the case may be, shall be assessed by a jury, but the Court or a Judge may order that instead of such assessment the value and amount of damages or either of them shall be ascertained in any way in which any question arising in an action may be tried. *Judgment for unliquidated demand.*

5. When in any such action as in Rule 4 mentioned there are several defendants, if one of them make default as mentioned in Rule 2, the plaintiff may enter an interlocutory judgment against the defendant so making default, and proceed with his action against the others. And in such case, damages against the defendant making default shall be assessed at the same time with the trial of the action or issues therein against the other defendants, unless the Court or a Judge shall otherwise direct. *On default of one of several defendants.*

6. If

- Final judgment for part with interlocutory for other part. 6. If the plaintiff's claim be for a debt or liquidated demand, and also for detention of goods and pecuniary damages, or pecuniary damages only, and the defendant makes default as mentioned in Rule 2, the plaintiff may enter final judgment for the debt or liquidated demand, and also enter interlocutory judgment for the value of the goods and the damages, or the damages only, as the case may be, and proceed as mentioned in Rule 4.
- Recovery of land in default of defence. 7. In an action for the recovery of land, if the defendant makes default as mentioned in Rule 2, the plaintiff may enter a judgment that the person whose title is asserted in the writ of summons shall recover possession of the land, with his costs.
- Mesne profits. 8. Where the plaintiff has endorsed a claim for mesne profits, arrears of rent, or damages for breach of contract upon a writ for the recovery of land, if the defendant makes default as mentioned in Rule 2, or (if there be more than one defendant) some or one of the defendants make such default, the plaintiff may enter judgment against the defaulting defendant or defendants and proceed as mentioned in Rules 4 and 5.
- In Probate actions default of defence. 9. In Probate actions, if any defendant make default in filing and delivering a defence or demurrer, the action may proceed, notwithstanding such default.
- Motion for judgment on default. 10. In all other actions than those in the preceding Rules of this Order mentioned, if the defendant makes default in delivering a defence or demurrer, the plaintiff may set down the action on motion for judgment, and such judgment shall be given as upon the statement of claim the Court shall consider the plaintiff to be entitled to.
- On default of one of several defendants. 11. Where, in any such action as mentioned in the last preceding Rule, there are several defendants, then, if one of such defendants make such default as aforesaid, the plaintiff may either set down the action at once on motion for judgment against the defendant so making default, or may set it down against him at the time when it is entered for trial or set down on motion for judgment against the other defendants.
- Default in subsequent pleading. 12. If the plaintiff does not deliver a reply or demurrer, or any party does not deliver any subsequent pleading, or a demurrer, within the period allowed for that purpose, the pleadings shall be deemed to be closed at the expiration of that period, and the statement of fact in the pleading last delivered shall be deemed to be admitted.
- Default of any other party to issue. 13. In any case in which issues arise in an action other than between plaintiff and defendant, if any party to any such issue makes default in delivering any pleading, the opposite party may apply to the Court or a Judge for such judgment, if any, as upon the pleadings he may appear to be entitled to. And the Court may order judgment to be entered accordingly, or may make such other order as may be necessary to do complete justice between the parties.
- Judgment may be set aside. 14. Any judgment by default, whether under this Order or under any other of these Rules, may be set aside by the Court or a Judge, upon such terms as to costs or otherwise as such Court or Judge may think fit.

ORDER XXX.

PAYMENT INTO COURT IN SATISFACTION.

- By defendant. 1. Where any action is brought to recover a debt or damages, any defendant may at any time after service of the writ, and before or at the time of delivering his defence, or by leave of the Court or a Judge at any later time, pay into Court a sum of money by way of satisfaction or amends. Payment into Court shall be pleaded in the defence, and the claim or cause of action in respect of which such payment shall be made shall be specified therein.
- How payment made. 2. Such sum of money shall be paid to the proper officer, who shall give a receipt for the same. If such payment be made before delivering his defence, the defendant shall thereupon serve upon the plaintiff a notice that he has paid in such money, and in respect of what claim, in the Form No. 5 in Appendix (B) hereto.
- Money may be paid out to plaintiff. 3. Money paid into Court as aforesaid may, unless otherwise ordered by a Judge, be paid out to the plaintiff, or to his solicitor on the written authority of the plaintiff or his solicitor on demand. No affidavit shall be necessary to verify the plaintiff's signature to such written authority unless specially required by the officer of the Court.
- Plaintiff may accept payment in satisfaction. 4. The plaintiff, if payment into Court is made before delivering a defence, may within four days after receipt of notice of such payment, or if such payment is first stated in a defence delivered, then may before reply, accept the same in satisfaction of the

the causes of action in respect of which it is paid in; in which case he shall give notice to the defendant in the Form No. 6 in Appendix (B) hereto, and shall be at liberty, in case the sum paid in is accepted in satisfaction of the entire cause of action, to tax his costs, and, in case of non-payment within forty-eight hours, to sign judgment for his costs so taxed.

Summonses to stay on payment of a smaller sum than the sum demanded shall not be issued but instead thereof the amount shall be paid into Court and a copy of the receipt sent to the plaintiff's solicitor.

Weekly Notes 1875,
p. 201.

ORDER XXXI.

DISCOVERY AND INSPECTION.

1. The plaintiff may, at the time of delivering his statement of claim, or at any subsequent time not later than the close of the pleadings, and a defendant may, at the time of delivering his defence, or at any subsequent time not later than the close of the pleadings, without any order for that purpose, and either party may at any time, by leave of the Court or a Judge or by consent, deliver interrogatories in writing for the examination of the opposite party or parties, or any one or more of such parties, with a note at the foot thereof, stating which of such interrogatories each of such persons is required to answer: Provided that no party shall deliver more than one set of interrogatories to the same party without an order or consent for that purpose.

Interrogatories may
be delivered.

2. The Court in adjusting the costs of the action shall at the instance of any party inquire or cause inquiry to be made into the propriety of exhibiting such interrogatories, and if it is the opinion of the taxing officer or of the Court or Judge that such interrogatories have been exhibited unreasonably, vexatiously, or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be borne by the party in fault.

Costs of unreason-
able or vexatious
interrogatories.

3. Interrogatories may be in the Form No. 7 in Appendix (B) hereto, with such variations as circumstances may require.

Form of interroga-
tories.

4. If any party to an action be a body corporate or a joint stock company, whether incorporated or not, or any other body of persons, empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may, by leave of the Court or a Judge or by consent, deliver interrogatories to any member or officer of such corporation, company, or body, and an order may be made accordingly.

Interrogatories to
corporation or com-
pany.

5. Any objection to answering one or more of several interrogatories on the ground that it or they is or are scandalous or irrelevant or not *bonâ fide* for the purpose of the action, or that the matters inquired into are not sufficiently material at that stage of the action, or on any other ground, may be taken in the affidavit in answer.

Objections to answer
may be taken in
answer.
Rules, November
1878.

6. Interrogatories shall be answered by affidavit to be filed within ten days, or within such other time as a Judge may allow.

Answer.

7. An affidavit in answer to interrogatories shall and may be in the Form No. 8 in Appendix (B) hereto, with such variations as circumstances may require.

Form.

8. An application to set aside the interrogatories on the ground that they have been exhibited unreasonably or vexatiously, or to strike out any interrogatory or interrogatories on the ground that it or they is or are scandalous may be made at chambers within four days after service of the interrogatories.

Applications to set
aside.
Rules, November
1878.

9. No exceptions shall be taken to any affidavit in answer, but the sufficiency or otherwise of any such affidavit objected to as insufficient shall be determined by the Court or a Judge on motion or summons.

Sufficiency of
answer.

10. If any person interrogated omits to answer, or answers insufficiently, the party interrogating may apply to the Court or a Judge for an order requiring him to answer, or to answer further, as the case may be. And an order may be made requiring him to answer or answer further either by affidavit or by *vivâ voce* examination, as the Judge may direct.

Order for further
answer.

11. It shall be lawful for the Court or a Judge at any time during the pendency therein of any action or proceeding, to order the production by any party thereto, upon oath, of such of the documents in his possession or power, relating to any matter in question in such action or proceeding, as the Court or Judge shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just.

Production of docu-
ments.

12. Any

Discovery of documents.

12. Any party may, without filing any affidavit, apply to a Judge for an order directing any other party to the action to make discovery on oath of the documents which are or have been in his possession or power, relating to any matter in question in the action.

Affidavit in opposition.

13. The affidavit to be made by a party against whom such order as is mentioned in the last preceding Rule has been made, shall specify which, if any, of the documents therein mentioned he objects to produce, and it may be in the Form No. 9 in Appendix (B) hereto, with such variations as circumstances may require.

Inspection of documents.

14. Every party to an action or other proceeding shall be entitled, at any time before or at the hearing thereof, by notice in writing, to give notice to any other party, in whose pleadings or affidavits reference is made to any document, to produce such document for the inspection of the party giving such notice, or of his solicitor, and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such action or proceeding, unless he shall satisfy the Court that such document relates only to his own title, he being a defendant to the action, or that he had some other sufficient cause for not complying with such notice.

Notice to produce.

15. Notice to any party to produce any documents referred to in his pleading or affidavits shall be in the Form No. 10 in Appendix (B) hereto.

Appointment for inspection.

16. The party to whom such notice is given shall, within two days from the receipt of such notice, if all the documents therein referred to have been set forth by him in such affidavit as is mentioned in Rule 13, or if any of the documents referred to in such notice have not been set forth by him in any such affidavit, then within four days from the receipt of such notice, deliver to the party giving the same a notice stating a time within three days from the delivery thereof at which the documents, or such of them as he does not object to produce, may be inspected at the office of his solicitor, and stating which (if any) of the documents he objects to produce, and on what ground. Such notice may be in the Form No. 11 in Appendix (B) hereto, with such variations as circumstances may require.

Order for inspection.

17. If the party served with notice under Rule 15 omits to give such notice of a time for inspection, or objects to give inspection, the party desiring it may apply to a Judge for an order for inspection.

Application for it.

18. Every application for an order for inspection of documents shall be to a Judge. And except in the case of documents referred to in the pleadings or affidavits of the party against whom the application is made, or disclosed in his affidavit of documents, such application shall be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them, and that they are in the possession or power of the other party.

Question of inspection may be reserved.

19. If the party from whom discovery of any kind or inspection is sought objects to the same, or any part thereof, the Court or a Judge may, if satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question in dispute in the action, or that for any other reason it is desirable that any issue or question in dispute in the action should be determined before deciding upon the right to the discovery or inspection, order that such issue or question be determined first, and reserve the question as to the discovery or inspection.

Attachment on failure to comply with order.

20. If any party fails to comply with any order to answer interrogatories, or for discovery or inspection of documents, he shall be liable to attachment. He shall also, if a plaintiff, be liable to have his action dismissed for want of prosecution, and, if a defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not defended, and the party interrogating may apply to the Court or a Judge for an order to that effect, and an order may be made accordingly.

Service on solicitor.

21. Service of an order for discovery or inspection made against any party on his solicitor shall be sufficient service to found an application for an attachment for disobedience to the order. But the party against whom the application for an attachment is made may show in answer to the application that he has had no notice or knowledge of the order.

Notice to client.

22. A solicitor upon whom an order against any party for discovery or inspection is served under the last Rule, who neglects without reasonable excuse to give notice thereof to his client, shall be liable to attachment.

23. Any

23. Any party may, at the trial of an action or issue, use in evidence any one or more of the answers of the opposite party to interrogatories without putting in the others: Provided always, that in such case the Judge may look at the whole of the answers, and if he shall be of opinion that any other of them are so connected with those put in that the last-mentioned answers ought not to be used without them, he may direct them to be put in.

One answer may be used without the rest.

ORDER XXXII.

ADMISSIONS.

1. Any party to an action may give notice, by his own statement or otherwise, that he admits the truth of the whole or any part of the case stated or referred to in the statement of claim, defence, or reply of any other party.

Party may admit opposite case.

2. Either party may call upon the other party to admit any document or fact, saving all just exceptions; and in case of refusal or neglect to admit, after such notice, the costs of proving any such document or fact shall be paid by the party so neglecting or refusing, whatever the result of the action may be, unless at the hearing or trial the Court certify that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice be given, except where the omission to give the notice is, in the opinion of the taxing officer, a saving of expense.

May call for admissions.

3. A notice to admit documents and facts may be in the Form No. 12 in Appendix (B) hereto.

Form of notice.

4. An affidavit of the solicitor or his clerk, of the due signature of any admissions made in pursuance of any notice to admit documents and facts and annexed to the affidavit, shall be sufficient evidence of such admissions.

Evidence of admission.

ORDER XXXIII.

INQUIRIES AND ACCOUNTS.

1. The Court or a Judge may, at any stage of the proceedings in a cause or matter, direct any necessary inquiries or accounts to be made or taken, notwithstanding that it may appear that there is some special or further relief sought for or some special issue to be tried, as to which it may be proper that the cause or matter should proceed in the ordinary manner.

Inquiry or account at any stage.

ORDER XXXIV.

QUESTIONS OF LAW.

1. The parties may, after the writ of summons has been issued, concur in stating the questions of law arising in the action in the form of a special case for the opinion of the Court. Every such special case shall be divided into paragraphs numbered consecutively, and shall concisely state such facts and documents as may be necessary to enable the Court to decide the questions raised thereby. Upon the argument of such case the Court and the parties shall be at liberty to refer to the whole contents of such documents, and the Court shall be at liberty to draw from the facts and documents stated in any such special case any inference, whether of fact or law, which might have been drawn therefrom if proved at a trial.

Parties may state special case.

2. If it appear to the Court or a Judge, either from the statement of claim or defence or reply or otherwise, that there is in any action a question of law, which it would be convenient to have decided before any evidence is given or any question or issue of fact is tried, or before any reference is made to an Arbitrator, the Court or Judge may make an order accordingly, and may direct such question of law to be raised for the opinion of the Court, either by special case or in such other manner as the Court or Judge may deem expedient, and all such further proceedings as the decisions of such question of law may render unnecessary may thereupon be stayed.

Question of law may be decided first.

3. Every

Special case.

IV. Ord. in Council,
12 Aug. 1875.

Married woman,
infant, or person
of unsound mind.

Entry of special case
for argument.

3. Every special case whether original or in an action shall be signed by the several parties or their solicitors, and shall be filed by the plaintiff. Copies for the use of the Judges shall be delivered as heretofore.

4. No special case in an action to which a married woman, infant, or person of unsound mind is a party shall be set down for argument without leave of the Court or a Judge, the application for which must be supported by sufficient evidence that the statements contained in such special case, so far as the same affect the interest of such married woman, infant, or person of unsound mind, are true.

5. Either party may enter a special case for argument by delivering to the proper officer a memorandum of entry, in the Form No. 13 in Appendix (B) hereto, and also if any married woman, infant, or person of unsound mind be a party to the action, producing a copy of the order giving leave to enter the same for argument.

* XXXVI.

ORDER XXXV.*

TRIAL.

No local venue.
Place of trial pro-
posed by plaintiff.

1. There shall be no local venue for the trial of any action, but when the plaintiff proposes to have the action tried elsewhere than in the Central Bailiwick, he shall in his statement of claim name that in which he proposes that the action shall be tried, and the action shall, unless a Judge otherwise orders, be tried in the bailiwick so named. Where no place of trial is named in the statement of claim, the place of trial shall, unless a Judge otherwise orders, be the Central Bailiwick. Any order of a Judge, as to such place of trial, may be discharged or varied by the full Court.

Mode of trial.

2. Actions shall be tried and heard either before a Judge or Judges, or before a Judge sitting with assessors, or before a Judge and Jury.

Plaintiff may specify
mode of trial, sub-
ject to right of
defendant to jury.

3. Subject to the provisions of the following Rules, the plaintiff may, with his reply, or at any time after the close of the pleadings, give notice of trial of the action, and thereby specify one of the modes mentioned in Rule 2; and the defendant may, upon giving notice within four days from the time of the service of the notice of trial, or within such extended time as a Court or Judge may allow, to the effect that he desires to have the issues of fact tried before a Judge and Jury, be entitled to have the same so tried.

Defendant may spe-
cify mode on failure
of plaintiff, subject
to right of plaintiff
to try facts by jury.

4. Subject to the provisions of the following Rules, if the plaintiff does not within six weeks after the close of the pleadings, or within such extended time as a Court or Judge may allow, give notice of trial, the defendant may, before notice of trial given by the plaintiff, give notice of trial, and thereby specify one of the modes mentioned in Rule 2; and in such case the plaintiff, on giving notice within the time fixed by Rule 3 that he desires to have the issues of fact tried before a Judge and Jury, be entitled to have the same so tried.

Or may apply to dis-
miss action.
Reg. 26 June 1876.

4a. The defendant, instead of giving notice of trial, may apply to the Court or Judge to dismiss the action for want of prosecution; and on the hearing of such application the Court or a Judge may order the action to be dismissed accordingly, or may make such other order and on such terms as to the Court or Judge may seem just.

Party may apply to
alter mode of trial.

5. In any case in which neither the plaintiff nor defendant has given notice under the preceding Rules that he desires to have the issues of fact tried before a Judge and Jury, if the plaintiff or defendant desires to have the action tried in any other mode than that specified in the notice of trial, he shall apply to the Court or a Judge for an order to that effect, within four days from the time of the service of the notice of trial, or within such extended time as a Court or Judge may allow.

Different questions
may be tried in
different way.

6. Subject to the provisions of the preceding Rules, the Court or a Judge may, in any action at any time or from time to time, order that different questions of fact arising therein be tried by different modes of trial, or that one or more questions of fact be tried before the others, and may appoint the place or places for such trial or trials, and in all cases may order that one or more issues of fact be tried before any other or others.

7. Every

7. Every trial of any question or issue of fact by a jury shall be held before a single Judge, unless such trial be specially ordered to be held before two or more Judges. Trial by jury.
8. Notice of trial shall state whether it is for the trial of the action or of issues therein; and the place and sittings or assizes for which it is to be entered for trial. It may be in the Form No. 14 in Appendix (B), with such variations as circumstances may require. Notice of trial.
Reg. 1 Dec. 1875.
9. Twelve days' notice of trial shall be given, unless the party to whom it is given has consented to take short notice of trial; and shall be sufficient in all cases, unless otherwise ordered by the Court or a Judge or by consent. Short notice of trial shall be six days' notice. Length of it.
10. Notice of trial shall be given before entering the action for trial. Time of it.
- 10a. Unless within six days after notice of trial is given the cause shall be entered for trial by one party or the other, the notice of trial shall be no longer in force. This rule is not to apply to trials not in the Central Bailiwick. How long in force.
Reg. 1 Dec. 1875.
11. Notice of trial for the Central Bailiwick shall be deemed to be for any day after the expiration of the notice on which the action may come on for trial in its order upon the list. For sittings.
12. Notice of trial elsewhere than in the Central Bailiwick shall be deemed to be for the first day of the then next assizes at the place for which notice of trial is given. For assizes.
13. No notice of trial shall be countermanded, except by consent, or by leave of the Court or a Judge, which leave may be given subject to such terms as to costs, or otherwise, as may be just. No countermand of notice.
14. If the party giving notice of trial for the Central Bailiwick omits to enter the action for trial on the day or day after giving notice of trial, the party to whom notice has been given may, unless the notice has been countermanded under the last Rule, within four days enter the action for trial. Entry for trial in town.
15. If notice of trial is given for elsewhere than in the Central Bailiwick, either party may enter the action for trial. If both parties enter the action for trial, it shall be tried in the order of the plaintiff's entry. In the country.
16. The list or lists of actions for trial at the sittings in the Central Bailiwick shall be prepared and the actions shall be allotted for trial with reference to their early determination. In the Central Bailiwick no allotment to Division.
17. The party entering the action for trial shall deliver to the officer two copies of the whole of the pleadings in the action, one of which shall be for the use of the Judge at the trial. Such copy shall be on paper of the size and in the form ordinarily used in cases of briefs. Delivery of pleadings on entering action.
Reg. 1st Dec. 1875.
18. If, when an action is called on for trial, the plaintiff appears, and the defendant does not appear, then the plaintiff may prove his claim, so far as the burden of proof lies upon him. Non-appearance of defendant at trial.
19. If, when an action is called on for trial, the defendant appears, and the plaintiff does not appear, the defendant, if he has no counter-claim, shall be entitled to judgment dismissing the action, but if he has a counter-claim, then he may prove such claim so far as the burden of proof lies upon him. Of plaintiff.
20. Any verdict or judgment obtained where one party does not appear at the trial, may be set aside by the Court or a Judge upon such terms as may seem fit, upon an application made within the first four days of the sitting of the Full Court next after the trial. Such application may also be made at the assizes or sittings. Setting aside verdict obtained on party not appearing.
21. The Judge may, if he think it expedient for the interests of justice, postpone or adjourn the trial for such time and upon such terms, if any, as he shall think fit. Judge may postpone trial.
22. Upon

- Entry of judgment.
Reg. 1 Dec. 1876. 22. Upon the trial of an action, the Judge may, at or after the trial, direct that judgment be entered for any or either party, or adjourn the case for further consideration, or leave any party to move for judgment. No judgment shall be entered after a trial without the order of a Court or Judge.
- Associate may enter findings. 23. Upon every trial at the assizes or sittings, where the officer present at the trial is not the officer by whom judgments ought to be entered, the associate shall enter all such findings of fact as the Judge may direct to be entered, and the directions, if any, of the Judge as to judgment, and the certificates, if any, granted by the Judge, in a book to be kept for the purpose.
- Authority for judgment. 24. If the Judge shall direct that any judgment be entered for any party absolutely, his certificate to that effect shall be a sufficient authority to the proper officer to enter judgment accordingly. The certificate may be in the Form No. 15 in Appendix (B) hereto.
- Judgment with leave to move. 25. If the Judge shall direct that any judgment be entered for any party subject to leave to move, judgment shall be entered accordingly upon the production of the Judge's certificate.
- Trial without jury. 26. The Court or a Judge may, if it shall appear desirable, direct a trial without a jury of any question or issue of fact, or partly of fact and partly of law, arising in any cause or matter which previously to the passing of the Act could, without any consent of parties, be tried without a jury.
- Trial before jury. 27. The Court or a Judge may, if it shall appear either before or at the trial that any issue of fact can be more conveniently tried before a jury, direct that such issue shall be tried by a Judge with a jury.
- Trial with assessors. 28. Trials with assessors shall take place in such manner and upon such terms as the Court or a Judge shall direct.
- Trial at assizes or sittings. 29. In any cause the Court or a Judge may, at any time or from time to time, order the trial and determination of any question or issue of fact, or partly of fact and partly of law, at the assizes or at the sittings to be held in the Central Bailiwick, and such question or issue shall be tried and determined accordingly.

* XXXVII.

ORDER XXXVI.*

EVIDENCE GENERALLY.

- Examination of witnesses at trial. 1. In the absence of any agreement between the parties, and subject to these Rules, the witnesses at the trial of any action or at any assessment of damages shall be examined *vivâ voce* and in open court, but the Court or a Judge may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing or trial, on such conditions as the Court or Judge may think reasonable, or that any witness whose attendance in court ought for some sufficient cause to be dispensed with, be examined by interrogatories or otherwise before a commissioner or examiner; provided that where it appears to the Court or Judge that the other party *bonâ fide* desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit.
- Evidence by affidavit. 2. Upon any motion, petition, or summons evidence may be given by affidavit; but the Court or a Judge may, on the application of either party, order the attendance for cross-examination of the person making any such affidavit.

3. Affidavits

3. Affidavits shall be confined to such facts as the witness is able of his own knowledge to prove, except on interlocutory motions, on which statements as to his belief, with the grounds thereof, may be admitted. The costs of every affidavit which shall unnecessarily set forth matters of hearsay, or argumentative matter, or copies of or extracts from documents, shall be paid by the party filing the same. Matter of affidavit.

4. The Court or a Judge may, in any cause or matter where it shall appear necessary for the purposes of justice, make any order for the examination upon oath before any officer of the Court, or any other person or persons, and at any place, of any witness or person, and may order any deposition so taken to be filed in the Court, and may empower any party to any such cause or matter to give such deposition in evidence therein on such terms, if any, as the Court or a Judge may direct. Order for evidence.

ORDER XXXVII.*

*XXXVIII.

EVIDENCE BY AFFIDAVIT.

1. Within fourteen days after a consent for taking evidence by affidavit as between the plaintiff and the defendant has been given, or within such time as the parties may agree upon, or a Judge in Chambers may allow, the plaintiff shall file his affidavits and deliver to the defendant or his solicitor a list thereof. Evidence by consent; affidavits of plaintiff.

2. The defendant within fourteen days after delivery of such list, or within such time as the parties may agree upon, or a Judge in Chambers may allow, shall file his affidavits and deliver to the plaintiff or his solicitor a list thereof. Of defendant.

3. Within seven days after the expiration of the said fourteen days, or such other time as aforesaid, the plaintiff shall file his affidavits in reply, which affidavits shall be confined to matters strictly in reply, and shall deliver to the defendant or his solicitor a list thereof. Of plaintiff in reply.

4. When the evidence is taken by affidavit, any party desiring to cross-examine a deponent who has made an affidavit filed on behalf of the opposite party, may serve upon the party by whom such affidavit has been filed, a notice in writing, requiring the production of the deponent for cross-examination before the Court at the trial, such notice to be served at any time before the expiration of fourteen days next after the end of the time allowed for filing affidavits in reply, or within such time as in any case the Court or a Judge may specially appoint; and unless such deponent is produced accordingly, his affidavit shall not be used as evidence unless by the special leave of the Court. The party producing such deponent for cross-examination shall not be entitled to demand the expenses thereof in the first instance from the party requiring such production. Cross-examination of deponent.

5. The party to whom such notice as is mentioned in the last preceding Rule is given, shall be entitled to compel the attendance of the deponent for cross-examination in the same way as he might compel the attendance of a witness to be examined. Compelling attendance of deponent.

6. When the evidence in any action is under this Order taken by affidavit, the notice of trial shall be given at the same time or times after the close of the evidence as in other cases is by these Rules provided after the close of the pleadings. Proceeding to trial.

ORDER XXXVIII.*

*XXXIX.

MOTION FOR NEW TRIAL.

1. A party desirous of obtaining a new trial of any cause on which a verdict has been found by a jury, or by a Judge without a jury, must apply for the same to Manner of application for new trial.

to the full Court by motion for an order calling upon the opposite party to show cause why a new trial should not be directed. Such motion shall be made within four days after the trial if the Court is then sitting or within the first four days after the commencement of the sitting of the Court next after the trial, or within such extended time as the Court or a Judge may allow.

- Service of order. 2. A copy of such order shall be served on the opposite party within one day from the time of the same being made.
- No new trial unless substantial wrong. 3. A new trial shall not be granted on the ground of misdirection or of the improper admission or rejection of evidence, unless in the opinion of the full Court some substantial wrong or miscarriage has been thereby occasioned in the trial of the action; and if it appear to such Court that such wrong or miscarriage affects part only of the matter in controversy, the said Court may give final judgment as to part thereof, and direct a new trial as to the other part only.
- New trial as to part. 4. A new trial may be ordered on any question in an action, whatever be the grounds for the new trial, without interfering with the finding or decision upon any other question.
- Order to show cause a stay. 5. An order to show cause shall be a stay of proceedings in the action, unless the full Court shall order that it shall not be so as to the whole or any part of the action.

ORDER XXXIX.*

* XL.

MOTION FOR JUDGMENT.

- Judgment to be on motion. 1. Except where by the Act or by these Rules it is provided that judgment may be obtained in any other manner, the judgment of the Court shall be obtained by motion to the full Court for judgment.
- Notice of motion where leave reserved. 2. Where at the trial of an action the Judge has ordered that any judgment be entered subject to leave to move, the party to whom leave has been reserved shall set down the action on motion for judgment, and give notice thereof to the other parties within the time limited by the Judge in reserving leave, or if no time has been limited, within ten days after the trial. The notice of motion shall state the grounds of the motion, and the relief sought, and that the motion is pursuant to leave reserved.
- Motion where no judgment directed. 3. Where at the trial of an action the Judge abstains from directing any judgment to be entered, the plaintiff may set down the action on motion for judgment. If he does not so set it down and give notice thereof to the other parties within ten days after the trial, any defendant may set down the action on motion for judgment, and give notice thereof to the other parties.
- Motion to set aside judgment on trial by jury. Reg. 1 Dec. 1876. 4. Where at or after the trial of an action by a jury the Judge has directed that any judgment be entered, any party may, without any leave reserved, apply to set aside such judgment, and enter any other judgment, on the ground that the judgment directed to be entered is wrong by reason of the Judge having caused the finding to be wrongly entered, with reference to the finding of the jury upon the question or questions submitted to them.
- Motion to set aside judgment on trial by Judge. Ib. 5. Where at or after the trial of an action by a Judge the Judge has directed that any judgment be entered, any party may without any leave reserved apply to set aside such judgment, and to enter any other judgment upon the ground that upon the finding as entered the judgment so directed is wrong.

7. Where

6. Where issues have been ordered to be tried, or issues or questions of fact to be determined in any manner, the plaintiff may set down the action on motion for judgment as soon as such issues or questions have been determined. If he does not so set it down, and give notice thereof to the other parties within ten days after his right so to do has arisen, then after the expiration of such ten days any defendant may set down the action on motion for judgment, and give notice thereof to the other parties.

Right of plaintiff to set down motion for judgment; and of defendant.

7. Where issues have been ordered to be tried, or issues or questions of fact to be determined in any manner, and some only of such issues or questions of fact have been tried or determined, any party who considers that the result of such trial or determination renders the trial or determination of the others of them unnecessary, or renders it desirable that the trial or determination thereof should be postponed, may apply to the Court or a Judge for leave to set down the action on motion for judgment, without waiting for such trial or determination. And the Court or Judge may, if satisfied of the expediency thereof, give such leave, upon such terms, if any, as shall appear just, and may give any directions which may appear desirable as to postponing the trial of the other questions of fact.

Motion for judgment where certain issues only determined.

8. No action shall, except by leave of the Court or a Judge, be set down on motion for judgment after the expiration of one year from the time when the party seeking to set down the same first became entitled so to do.

No motion for judgment after a year.

9. Upon a motion for judgment, or for a new trial, the full Court may, if satisfied that it has before it all the materials necessary for finally determining the questions in dispute, or any of them, or for awarding any relief sought, give judgment accordingly, or may, if it shall be of opinion that it has not sufficient materials before it to enable it to give judgment, direct the motion to stand over for further consideration, and direct such issues or questions to be tried or determined, and such accounts and inquiries to be taken and made as it may think fit.

Court may determine questions in dispute on motion for judgment.

10. Any party to an action may at any stage thereof apply to the Court or a Judge for such order as he may, upon any admissions of fact in the pleadings, be entitled to, without waiting for the determination of any other question between the parties. The foregoing Rules of this Order shall not apply to such applications, but any such application may be made by motion, so soon as the right of the party applying to the relief claimed has appeared from the pleadings. The Court or a Judge may, on any such application, give such relief, subject to such terms, if any, as such Court or Judge may think fit.

Order of Court during action.

ORDER XL.*

*XLI.

ENTRY OF JUDGMENT.

1. Every judgment shall be entered by the proper officer in the book to be kept for the purpose. The party entering the judgment shall deliver to the officer a copy of the whole of the pleadings in the action other than any petition or summons: Provided that no copy need be delivered of any pleading a copy of which has been delivered on entering any previous judgment in such action. The forms in Appendix (D) hereto may be used with such variations as circumstances may require.

Mode and form of entry of judgment.

2. Where any judgment is pronounced in Court, the entry of the judgment shall be dated as of the day on which such judgment is pronounced, and the judgment shall take effect from that date.

Where judgment pronounced in Court.

3. In all cases not within the last preceding Rule, the entry of judgment shall be dated as of the day on which the requisite documents are left with the proper officer for the purpose of such entry, and the judgment shall take effect from that date.

In other cases.

4. Where

- Requisition before judgment. 4. Where under the Act or these Rules, or otherwise, it is provided that any judgment may be entered or signed upon the filing of any affidavit or production of any document, the officer shall examine the affidavit or document produced, and if the same be regular and contain all that is by law required, he shall enter judgment accordingly.
- Judgment pursuant to order or certificate. 5. Where by the Act or these Rules, or otherwise, any judgment may be entered pursuant to any order or certificate or return to any writ, the production of such order or certificate sealed with the seal of the Court, or of such return, shall be a sufficient authority to the officer to enter judgment accordingly.
- Nonsuit to have effect of judgment on merits. 6. Any judgment of nonsuit, unless the Court or a Judge otherwise directs, shall have the same effect as a judgment upon the merits for the defendant; but in any case of mistake, surprise, or accident, any judgment of nonsuit may be set aside on such terms, as to payment of costs and otherwise, as to the Court or a Judge shall seem just.

* XLII.

ORDER XLI.*

EXECUTION.

- Judgment may be enforced as heretofore. 1. A judgment for the recovery by or payment to any person of money may be enforced by any of the modes by which a judgment or decree for the payment of money might have been enforced in the Court at the time of the passing of this Act.
- Judgment for payment into Court. 2. A judgment for the payment of money into Court may be enforced by writ of sequestration, or in cases in which attachment is authorized by law, by attachment.
- For recovery of land. 3. A judgment for the recovery or for the delivery of the possession of land may be enforced by writ of possession.
- For recovery of other property. 4. A judgment for the recovery of any property other than land or money may be enforced:—
 (a.) By writ for delivery of the property:
 (b.) By writ of attachment:
 (c.) By writ of sequestration.
- For any other matter. 5. A judgment requiring any person to do any act other than the payment of money, or to abstain from doing anything, may be enforced by writ of attachment, or by committal.
- Meaning of "writ of execution," and "issuing execution." 6. In these Rules the term "writ of execution" shall include writs of fieri facias, capias, sequestration, and attachment, and all subsequent writs that may issue for giving effect thereto. And the term "issuing execution against any party" shall mean the issuing of any such process against his person or property as under the preceding Rules of this Order shall be applicable to the case.
- Judgment on condition. 7. Where a judgment is to the effect that any party is entitled to any relief subject to or upon the fulfilment of any condition or contingency, the party so entitled may, upon the fulfilment of the condition or contingency, and demand made upon the party against whom he is entitled to relief, apply to the Court or a Judge for leave to issue execution against such party. And the Court or Judge may, if satisfied that the right to relief has arisen according to the terms of the judgment, order that execution issue accordingly, or may direct that any issue or question necessary for the determination of the rights of the parties be tried in any of the ways in which questions arising in an action may be tried.
- Execution against partners. 8. Where a judgment is against partners in the name of the firm, execution may issue in manner following:—
 (a.) Against any property of the partners as such:
 (b.) Against any person who has admitted on the pleadings that he is, or has been adjudged to be a partner:
 (c.) Against any person who has been served, as a partner, with the writ of summons, and has failed to appear.

If

If the party who has obtained judgment claims to be entitled to issue execution against any other person as being a member of the firm, he may apply to the Court or a Judge for leave so to do; and the Court or Judge may give such leave if the liability be not disputed, or if such liability be disputed, may order that the liability of such person be tried and determined in any manner in which any issue or question in an action may be tried and determined.

9. No writ of execution shall be issued without the production to the officer by whom the same should be issued, of the judgment upon which the writ of execution is to issue, or an office copy thereof, showing the date of entry. And the officer shall be satisfied that the proper time has elapsed to entitle the judgment creditor to execution.

Production of judgment.

10. No writ of execution shall be issued without the party issuing it, or his solicitor, filing a præcipe for that purpose. The præcipe shall contain the title of the action, the reference to the record, the date of the judgment, and of the order, if any, directing the execution to be issued, the names of the parties against whom, or of the firms against whose goods, the execution is to be issued; and shall be signed by or on behalf of the solicitor of the party issuing it, or by the party issuing it, if he do so in person. The forms in Appendix (E) hereto may be used, with such variations as circumstances may require.

Præcipe.
Reg. 26 June 1876.

11. Every writ of execution shall be indorsed with the name and place of abode or office of business of the solicitor actually suing out the same, and when the solicitor actually suing out the writ shall sue out the same as agent for another solicitor, the name and place of abode of such other solicitor shall also be indorsed upon the writ; and in case no solicitor shall be employed to issue the writ, then it shall be indorsed with a memorandum expressing that the same has been sued out by the plaintiff or defendant in person, as the case may be, mentioning the city, town, or borough, and also the name of the hamlet, street, and number of the house of such plaintiff's or defendant's residence, if any such there be.

Writ of execution to be indorsed.

12. Every writ of execution shall bear date of the day on which it is issued. The forms in Appendix (F) hereto may be used, with such variations as circumstances may require.

Form of writ of execution.

13. In every case of execution the party entitled to execution may levy the poundage, fees, and expenses of execution, over and above the sum recovered.

Fees and expenses.

14. Every writ of execution for the recovery of money shall be indorsed with a direction to the sheriff, or other officer or person to whom the writ is directed, to levy the money really due and payable and sought to be recovered under the judgment, stating the amount.

Indorsement to sheriff.

15. Every person to whom any sum of money or any costs shall be payable under a judgment, shall immediately after the time when the judgment was duly entered, be entitled to sue out one or more writ or writs of *feri facias* to enforce payment thereof, subject nevertheless as follows:—

Execution issuable on entry of judgment.

(a.) If the judgment is for payment within a period therein mentioned, no such writ as aforesaid shall be issued until after the expiration of such period.

(b.) The Court or Judge at the time of giving judgment, or the Court or a Judge afterwards, may give leave to issue execution before, or may stay execution until any time after the expiration of the periods hereinbefore prescribed.

16. A writ of execution if unexecuted shall remain in force for one year only from its issue, unless renewed in the manner hereinafter provided; but such writ may, at any time before its expiration, by leave of the Court or a Judge, be renewed, by the party issuing it, for one year from the date of such renewal, and so on from time to time during the continuance of the renewed writ, either by being marked with a seal of the Court bearing the date of the day, month, and year of such renewal, or by such party giving a written notice of renewal to the sheriff, signed by the party or his attorney

Writ in force for one year; with power to renew.

attorney, and bearing the like seal of the Court; and a writ of execution so renewed shall have effect, and be entitled to priority, according to the time of the original delivery thereof.

- Evidence of renewal.** 17. The production of a writ of execution, or of the notice renewing the same, purporting to be marked with such seal as in the last preceding Rule mentioned, showing the same to have been renewed, shall be sufficient evidence of its having been so renewed.
- Execution within six years.** 18. As between the original parties to a judgment, execution may issue at any time within six years from the recovery of the judgment.
- Subsequently with leave.** 19. Where six years have elapsed since the judgment, or any change has taken place by death or otherwise in the parties entitled or liable to execution, the party alleging himself to be entitled to execution may apply to the Court or a Judge for leave to issue execution accordingly. And such Court or Judge may, if satisfied that the party so applying is entitled to issue execution, make an order to that effect, or may order that any issue or question necessary to determine the rights of the parties, shall be tried in any of the ways in which any question in an action may be tried. And in either case such Court or Judge may impose such terms, as to costs or otherwise, as shall seem just.
- Order enforceable as judgment.** 20. Every order of the Court or a Judge, whether in an action, cause, or matter, may be enforced in the same manner as a judgment to the same effect.
- Person not party may have rights as party.** 21. In cases other than those mentioned in Rule 18 any person not being a party in an action, who obtains any order or in whose favor any order is made, shall be entitled to enforce obedience to such order by the same process as if he were a party to the action; and any person not being a party in an action, against whom obedience to any judgment or order may be enforced, shall be liable to the same process for enforcing obedience to such judgment or order as if he were a party to the action.
- Audita querela abolished.** 22. No proceeding by *audita querela* shall hereafter be used; but any party against whom judgment has been given may apply to the Court or a Judge for a stay of execution or other relief against such judgment, upon the ground of facts which have arisen too late to be pleaded; and the Court or Judge may give such relief and upon such terms as may be just.
- Former rights reserved.** 23. Nothing in any of the Rules of this Order shall take away or curtail any right heretofore existing to enforce or give effect to any judgment or order in any manner or against any person or property whatsoever.
- Order of writs.** 24. Nothing in this Order shall affect the order in which writs of execution may be issued.

*XLIII.

ORDER XLII.*

WRIT OF FIERI FACIAS.

- Its effect.** 1. A writ of *fieri facias* shall have the same force and effect as the like writ has heretofore had, and shall be executed in the same manner in which the like writ has heretofore been executed.
- And other writs in aid.** 2. Writs of *venditioni exponas*, *distringas nuper vice comitem*, and all other writs in aid of a writ of *fieri facias*, may be issued and executed in the same cases and in the same manner as heretofore.

*XLIV.

ORDER XLIII.*

ATTACHMENT.

- As heretofore.** 1. A writ of attachment shall have the same effect as a writ of attachment issued out of the Court in its equitable jurisdiction has heretofore had.
- Not without leave.** 2. No writ of attachment shall be issued without the leave of the Court or a Judge, to be applied for on notice to the party against whom the attachment is to be issued.

ORDER XLIV.*

ORDER XLIV.*

*XLV.

ATTACHMENT OF DEBTS.

1. Where a judgment is for the recovery by or payment to any person of money, the party entitled to enforce it may apply to the Court or a Judge for an order that the judgment debtor be orally examined as to whether any and what debts are owing to him, before an officer of the Court, or such other person as the Court or Judge shall appoint; and the Court or Judge may make an order for the examination of such judgment debtor, and for the production of any books or documents.

Oral examination of judgment debtor.

2. The Court or a Judge may, upon the *ex parte* application of such judgment creditor, either before or after such oral examination, and upon affidavit by himself or his solicitor stating that judgment has been recovered, and that it is still unsatisfied, and to what amount, and that any other person is indebted to the judgment debtor, and is within the jurisdiction, order that all debts owing or accruing from such third person (hereinafter called the garnishee) to the judgment debtor shall be attached to answer the judgment debt; and by the same or any subsequent order it may be ordered that the garnishee shall appear before the Court or a Judge or an officer of the Court, as such Court or Judge shall appoint, to show cause why he should not pay the judgment creditor the debt due from him to the judgment debtor, or so much thereof as may be sufficient to satisfy the judgment debt.

Judge may direct garnishee order.

3. Service of an order that debts due or accruing to the judgment debtor shall be attached, or notice thereof to the garnishee, in such manner as the Court or Judge shall direct, shall bind such debts in his hands.

Service of order binds debts.

4. If the garnishee does not forthwith pay into Court the amount due from him to the judgment debtor, or an amount equal to the judgment debt, and does not dispute the debt due or claimed to be due from him to the judgment debtor, or if he does not appear upon summons, then the Court or Judge may order execution to issue, and it may issue accordingly, without any previous writ or process, to levy the amount due from such garnishee, or so much thereof as may be sufficient to satisfy the judgment debt.

Execution on garnishee order.

5. If the garnishee disputes his liability, the Court or Judge, instead of making an order that execution shall issue, may order that any issue or question necessary for determining his liability be tried or determined in any manner in which any issue or question in an action may be tried or determined.

Garnishee disputing liability.

6. Whenever in proceedings to obtain an attachment of debts it is suggested by the garnishee that the debt sought to be attached belongs to some third person, or that any third person has a lien or charge upon it, the Court or Judge may order such third person to appear, and state the nature and particulars of his claim upon such debt.

Lien of third person on debt of garnishee.

7. After hearing the allegations of such third person under such order, and of any other person whom by the same or any subsequent order the Court or Judge may order to appear, or in case of such third person not appearing when ordered, the Court or Judge may order execution to issue to levy the amount due from such garnishee, or any issue or question to be tried or determined according to the preceding Rules of this Order, and may bar the claim of such third person, or make such other order as such Court or Judge shall think fit, upon such terms, in all cases, with respect to the lien or charge (if any) of such third person, and to costs, as the Court or Judge shall think just and reasonable.

Judge may determine claim of third party.

8. Payment made by or execution levied upon the garnishee under any such proceeding as aforesaid shall be a valid discharge to him as against the judgment debtor, to the amount paid or levied, although such proceeding may be set aside, or the judgment reversed.

Discharge of garnishee.

9. There shall be kept by the proper officer a debt attachment book, and in such book entries shall be made of the attachment and proceedings thereon, with names, dates,

Attachment book.

dates, and statements of the amount recovered, and otherwise; and copies of any entries made therein may be taken by any person upon application to the proper officer.

Costs.

10. The costs of any application for an attachment of debts and of any proceedings arising from or incidental to such application, shall be in the discretion of the Court or a Judge.

* XLVI.

ORDER XLV.*

CHARGING OF STOCK OR SHARES.

Order charging stock or shares.

1. An order charging stock or shares may be made by the Court or by any Judge, and the proceedings for obtaining such order shall be such as are directed, and the effect shall be such as is provided by the Common Law Procedure Statute 1865 and this Act.

* XLVII.

ORDER XLVI.*

WRIT OF SEQUESTRATION.

Against estate of disobedient person.

1. Where any person is by any judgment directed to pay money into Court or to do any other act in a limited time, and after due service of such judgment refuses or neglects to obey the same according to the exigency thereof, the person prosecuting such judgment shall, at the expiration of the time limited for the performance thereof, be entitled, without obtaining any order for that purpose, to issue a writ of sequestration against the estate and effects of such disobedient person. Such writ of sequestration shall have the same effect as a writ of sequestration in Equity has heretofore had, and the proceeds of such sequestration may be dealt with in the same manner as the proceeds of writs of sequestration have heretofore been dealt with by the Court.

* XLVIII.

ORDER XLVII.*

WRIT OF POSSESSION.

Form.

1. A judgment that a party do recover possession of any land may be enforced by writ of possession in manner heretofore used in actions of ejectment in the Court.

Issuing.

2. Where by any judgment any person therein named is directed to deliver up possession of any lands to some other person, the person prosecuting such judgment shall, without any order for that purpose, be entitled to sue out a writ of possession on filing an affidavit showing due service of such judgment and that the same has not been obeyed.

* XLIX.

ORDER XLVIII.*

WRIT OF DELIVERY.

As in *detinue* heretofore.

1. A writ for delivery of any property other than land or money may be issued and enforced in the manner heretofore in use in actions of *detinue* in the Court.

* L.

ORDER XLIX.*

CHANGE OF PARTIES BY DEATH, ETC.

No abatement of action.

1. An action shall not become abated by reason of the marriage, death, or insolvency of any of the parties, if the cause of action survive or continue, and shall not become defective by the assignment, creation, or devolution of any estate or title *pendente lite*.

Parties may be added.

2. In case of the marriage, death, or insolvency, or devolution of estate by operation of law, of any party to an action, the Court or a Judge may, if it be deemed necessary for the complete settlement of all the questions involved in the action, order that the husband, personal representative, trustee, or other successor in interest, if any, of such party, be made a party to the action, or be served with notice thereof in such manner and form as hereinafter prescribed, and on such terms as the Court or Judge shall think just, and shall make such order for the disposal of the action as may be just.

3. In

3. In case of an assignment, creation, or devolution of any estate or title *pendente lite*, the action may be continued by or against the person to or upon whom such estate or title has come or devolved. Transfer of estate *pendente lite*.

4. Where by reason of marriage, death, or insolvency, or any other event occurring after the commencement of an action, and causing a change or transmission of interest or liability, or by reason of any person interested coming into existence after the commencement of the action, it becomes necessary or desirable that any person not already a party to the action should be made a party thereto, or that any person already a party thereto should be made a party thereto in another capacity, an order that the proceedings in the action shall be carried on between the continuing parties to the action, and such new party or parties, may be obtained *ex parte* on application to the Court or a Judge, upon an allegation of such change, or transmission of interest or liability, or of such person interested having come into existence. Party added by order on change of interest.

5. An order so obtained shall, unless the Court or Judge shall otherwise direct, be served upon the continuing party or parties to the action, or their solicitors, and also upon each such new party, unless the person making the application be himself the only new party, and the order shall from the time of such service, subject nevertheless to the next two following Rules, be binding on the persons served therewith, and every person served therewith who is not already a party to the action shall be bound to enter an appearance thereto within the same time and in the same manner as if he had been served with a writ of summons. Service of order.

6. Where any person who is under no disability, or under no disability other than coverture, or being under any disability other than coverture, but having a guardian *ad litem* in the action, shall be served with such order, such person may apply to the Court or a Judge to discharge or vary such order at any time within twelve days from the service thereof. Discharge or variation of order.

7. Where any person, being under any disability, other than coverture, and not having had a guardian *ad litem* appointed in the action, is served with any such order, such person may apply to the Court or a Judge to discharge or vary such order at any time within twelve days from the appointment of a guardian or guardians *ad litem* for such party, and until such period of twelve days shall have expired such order shall have no force or effect as against such last-mentioned person. Person under disability.

ORDER L.*

* LI.

TRANSFERS AND CONSOLIDATION.

1*. Any action or actions may at any stage be transferred from one Judge to another Judge by an order of the Chief Justice. Action may be transferred. * 1 and 2.

2*. Actions may be consolidated by order of the Court or a Judge in the manner heretofore in use in the Common Law jurisdiction of the Court. Actions may be consolidated. * 4.

ORDER LI.*

* LII.

INTERLOCUTORY ORDERS AS TO MANDAMUS INJUNCTIONS OR INTERIM PRESERVATION OF PROPERTY, ETC.

1. When by any contract a *primâ facie* case of liability is established, and there is alleged as matter of defence a right to be relieved wholly or partially from such liability, the Court or a Judge may make an order for the preservation or interim custody of the subject-matter of the litigation, or may order that the amount in dispute be brought into Court or otherwise secured. Interim order for preservation of subject of action.

2. It shall be lawful for the Court or a Judge, on the application of any party to any action, to make any order for the sale, by any person or persons named in such order, and in such manner, and on such terms as to the Court or Judge may seem desirable, Order for sale of certain property.

desirable, of any goods, wares, or merchandise which may be of a perishable nature or likely to injure from keeping, or which for any other just and sufficient reason it may be desirable to have sold at once.

Order for detention, preservation, or inspection of property.

3. It shall be lawful for the Court or a Judge, upon the application of any party to an action, and upon such terms as may seem just, to make any order for the detention, preservation, or inspection of any property, being the subject of such action, and for all or any of the purposes aforesaid to authorize any person or persons to enter upon or into any land or building in the possession of any party to such action, and for all or any of the purposes aforesaid to authorize any samples to be taken, or any observation to be made or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

Application for order.

4. An application for an order under section 10, sub-section 8, of the Act, or under Rules 2 or 3 of this Order, may be made to the Court or a Judge by any party. If the application be by the plaintiff for an order under the said sub-section 8, it may be made either *ex parte* or with notice, and if for an order under the said Rules 2 or 3 of this Order it may be made after notice to the defendant at any time after the issue of the writ of summons, and if it be by any other party, then on notice to the plaintiff, and at any time after appearance by the party making the application.

By plaintiff.

5. An application for an order under Rule 1 may be made by the plaintiff at any time after his right thereto appears from the pleadings; or, if there be no pleadings, is made to appear by affidavit or otherwise to the satisfaction of the Court or a Judge.

Payment into Court in discharge of lien.

6. Where an action is brought to recover, or a defendant in his statement of defence seeks by way of counter-claim to recover specific property other than land, and the party from whom such recovery is sought does not dispute the title of the party seeking to recover the same, but claims to retain the property by virtue of a lien or otherwise as security for any sum of money, the Court or a Judge may, at any time after such last-mentioned claim appears from the pleadings, or, if there be no pleadings, by affidavit or otherwise to the satisfaction of such Court or Judge, order that the party claiming to recover the property be at liberty to pay into Court, to abide the event of the action, the amount of money in respect of which the lien or security is claimed, and such further sum (if any) for interest and costs as such Court or Judge may direct, and that upon such payment into Court being made, the property claimed be given up to the party claiming it.

Rules of Court, March 1879.

6a. Whenever the trusts of any will or settlement are being administered and a sale is ordered of any property vested in the trustees of such will or settlement upon trust for sale, or with power of sale by such trustees, the conduct of such sale shall be given to such trustees, unless the Judges shall otherwise direct.

* LIII.

ORDER LII.*

MOTIONS AND OTHER APPLICATIONS.

Application by motion.

1. Where by these Rules any application is authorised to be made to the Court or a Judge in an action, such application, if made in Court, shall be made by motion.

Rule to show cause.

2. No rule or order to show cause shall be granted in any action, except in the cases in which an application for such rule or order is expressly authorized by these Rules.

Previous notice of motion.

3. Except where by the practice existing at the time of the passing of the Act any order or rule has heretofore been made *ex parte* absolute in the first instance, and except where by these Rules it is otherwise provided, and except where the motion is for a rule to show cause only, no motion shall be made without previous notice to the parties affected thereby. But the Court or Judge, if satisfied that the delay caused by proceeding in the ordinary way would or might entail irreparable or serious mischief, may make any order *ex parte* upon such terms as to costs or otherwise, and subject to such undertaking, if any, as the Court or Judge may think just; and any party affected by such order may move to set it aside.

4. Unless

4. Unless the Court or Judge give special leave to the contrary there must be at least two clear days between the service of a notice of motion and the day named in the notice for hearing the motion.

Two clear days between notice and hearing.

5. If on the hearing of a motion or other application the Court or Judge shall be of opinion that any person to whom notice has not been given ought to have or to have had such notice, the Court or Judge may either dismiss the motion or application, or adjourn the hearing thereof, in order that such notice may be given, upon such terms, if any, as the Court or Judge may think fit to impose.

Motion dismissed or adjourned for further notice.

6. The hearing of any motion or application may from time to time be adjourned upon such terms, if any, as the Court or Judge shall think fit.

Or hearing adjourned.

7. The plaintiff shall, without any special leave, be at liberty to serve any notice of motion or other notice, or any petition or summons upon any defendant, who, having been duly served with a writ of summons to appear in the action, has not appeared within the time limited for that purpose.

Notice of motion to defendant not appearing.

8. The plaintiff may, by leave of the Court or a Judge to be obtained *ex parte*, serve any notice of motion upon any defendant along with the writ of summons, or at any time after service of the writ of summons and before the time limited for the appearance of such defendant.

And with writ, by leave.

ORDER LIII.*

* LIV.

APPLICATIONS AT CHAMBERS.

1. Every application at chambers authorized by these Rules shall be made in a summary way by summons.

Summons.

2*. Every appeal to the full court from any decision at chambers shall be by motion, and shall be made within the first eight days of the sitting of the full court next after the decision appealed against.

Appeal to Court. * 6.
Rules of Supreme Court, March 1879.

ORDER LIV.*

* V. Ord. in Council, 12 Aug. 1875.

OFFICE AND OTHER COPIES AND AFFIDAVITS.

1*. The party by or on whose behalf any deposition, affidavit, or certificate is filed, shall leave a copy with the officer with whom the same is filed, who shall examine it with the original and mark it as an office copy.

Party filing affidavit to leave copy. * 6.

2*. The party or solicitor who has taken any office copy of any deposition or affidavit is to produce the same upon every proceeding to which the same relates.

Production of office copy by party taking it. * 7.

3*. Where any party is entitled to a copy of any deposition, affidavit, proceeding, or document filed or prepared by or on behalf of another party, such copy shall be furnished by the party by or on whose behalf the same has been filed or prepared.

Opposite party to furnish copy. * 8.

4*. The party requiring any such copy, or his solicitor, is to make a written application to the party by whom the copy is to be furnished, or his solicitor, with an undertaking to pay the proper charges, and thereupon such copy is to be made and ready to be delivered at the expiration of twenty-four hours after the receipt of such request and undertaking, or within such other time as the Court or Judge may in any case direct, and is to be furnished accordingly upon demand and payment of the proper charges.

Mode and time of application and delivery in general. * 9.

5*. In the case of an *ex parte* application for an injunction or writ of *capias* or *ne exeat coloniã*, the party making such application is to furnish copies of the affidavits upon which it is granted upon payment of the proper charges immediately upon the receipt of such written request and undertaking as aforesaid, or within such time as may be specified in such request, or may have been directed by the Court or a Judge.

And on certain *ex parte* applications. * 10.

6*. It shall be stated in a note at the foot of every affidavit filed on whose behalf it is so filed, and such note shall be copied on every office copy and copy furnished to a party.

Affidavit to show on whose behalf filed. * 11.

7*. The

Indorsements on copies. * 12.

7*. The name and address of the party or solicitor by whom any copy is furnished is to be indorsed thereon in like manner as upon proceedings in Court, and such party or solicitor is to be answerable for the same being a true copy of the original, or of an office copy of the original, of which it purports to be a copy, as the case may be.

Folios to be numbered. * 13.

8*. The folios of all office copies, and copies delivered or furnished to a party, shall be numbered consecutively in the margin thereof, and such copies, if written, shall be written in a neat and legible manner on paper of the size and in the form ordinarily used in case of briefs.

Consequence of not furnishing copies. * 14.

9*. In case any party or solicitor who shall be required to furnish any such copy aforesaid shall either refuse, or for twenty-four hours from the time when the application for such copy has been made, neglect to furnish the same, the person by whom such application shall be made shall be at liberty to procure an office copy from the office in which the original shall have been filed, and in such case no costs shall be due or payable to the solicitor so making default in respect of the copy or copies so applied for.

ORDER LV.

COSTS.

Costs, with certain exceptions, to be in the discretion of the Court.

1. Subject to the provisions of the Act, the costs of and incident to all proceedings in the Court shall be in the discretion of the Court; but nothing herein contained shall deprive a trustee, mortgagee, or other person of any right to costs out of a particular estate or fund to which he would be entitled according to the rules hitherto acted upon in Courts of Equity: Provided that where any action or issue is tried by a jury, the costs shall follow the event, unless upon application made at the trial for good cause shown the Judge before whom such action or issue is tried or the Full Court shall otherwise order.

Security.
Reg. 23 Feb. 1876.

2. In any cause or matter in which security for costs is required, the security shall be of such amount and be given at such time or times and in such manner and form as the court or a judge shall direct.

ORDER LVI.

NOTICES AND PAPERS, ETC.

Notices to be in writing.

1. All notices and consents required by these Rules shall be in writing, unless expressly authorized by a Court or Judge to be given orally.

Form of printed proceedings.

2. Proceedings required to be on paper shall be printed or written, or partly printed and partly written, on paper of the size and in the form ordinarily used in case of briefs.

Affidavit in print or manuscript.

3. Any affidavit may be sworn to either in print or in manuscript, or partly in print and partly in manuscript.

ORDER LVII.

TIME.

Months are calendar months.

1. Where by these Rules, or by any judgment or order given or made after the commencement of the Act, time for doing any act or taking any proceeding is limited by months, not expressed to be lunar months, such time shall be computed by calendar months

Certain days not reckoned.

2. Where any limited time less than six days from or after any date or event is appointed or allowed for doing any act or taking any proceeding, Sunday, Christmas Day, and Good Friday shall not be reckoned in the computation of such limited time.

Time expiring on Sunday or when offices closed.

3. Where the time for doing any act or taking any proceeding expires on a Sunday, or other day on which the offices are closed, and by reason thereof such act or proceeding

proceeding cannot be done or taken on that day, such act or proceeding shall, so far as regards the time of doing or taking the same, be held to be duly done or taken if done or taken on the day on which the offices shall next be open.

No pleadings in long vacation.

4. No pleadings shall be amended or delivered in the long vacation, unless directed by the Court or a Judge.

Long vacation not reckoned.

5. The time of the long vacation shall not be reckoned in the computation of the times appointed or allowed by these Rules for filing, amending, or delivering any pleading, unless otherwise directed by the Court or a Judge.

Enlargement or abridgment of time.

6. The Court or a Judge shall have power to enlarge or abridge the time appointed by these Rules, or fixed by any order enlarging time, for doing any act or taking any proceeding, upon such terms (if any) as the justice of the case may require, and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed.

ORDER LVIII.

APPEALS.

1. Bills of exceptions and proceedings in error shall be abolished.

Bills of exceptions and error abolished. Appeal no stay. *16.

2*. An appeal shall not operate as a stay of execution or of proceedings under the decision appealed from, except so far as the Court, or any Judge thereof, or the Privy Council, may so order; and no intermediate act or proceeding shall be invalidated, except so far as the Court appealed from may direct.

ORDER LIX.

EFFECT OF NON-COMPLIANCE.

1. Non-compliance with any of these Rules shall not render the proceedings in any action void unless the Court or a Judge shall so direct, but such proceedings may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with in such manner and upon such terms as the Court or Judge shall think fit.

Not to avoid action.

ORDER LX.*

SITTINGS AND VACATIONS.

1*. The vacations and holidays to be observed in the several courts and offices of the Court shall remain as at the commencement of the Act.

Vacations and holidays. *2.

2*. The several offices of the Court shall be open on the days and for the hours in that behalf specified in the "*Common Law Procedure Statute 1865.*"

When offices to be open. *4.

4*. One of the Judges of the Court shall be selected at the commencement of each long vacation for the hearing in Melbourne during vacation of all such applications as may require to be immediately or promptly heard. Such Judge shall act as vacation Judge for one year from his appointment. The vacation Judge shall be the Judge last appointed who has not already served as vacation Judge, if there shall be a Judge for the time being who shall not have so served.

Vacation Judge. *5.

5*. No order made by a vacation Judge shall be reversed or varied except by the Full Court or by the Judge who made the order. Any other Judge of the Court may sit for the vacation Judge.

Sittings and authority of vacation Judge. *6.

6*. The

Extending beyond vacation. *7.

6*. The vacation or any other Judge of the Court may dispose of all actions, matters, and other business of an urgent nature during any interval between the sittings of the Court, although such interval may not be called or known as a vacation.

*LXII.

ORDER LXI*.

EXCEPTIONS FROM THE RULES.

Rules not to affect certain matters.

Nothing in these Rules shall affect the practice or procedure in any of the following causes or matters:—

- (a.) Criminal proceedings:
- (b.) Proceedings on the Crown side of the Court:
- (c.) Proceedings in Revenue cases:
- (d.) Proceedings for Divorce or other Matrimonial Causes.
- (e.) Proceedings under the Insolvency Statute 1871.

*VI. Ord. in Council, 28 Oct. 1875.

ORDER LXII.*

SCALE OF COSTS.

Lower scale.

1. Solicitors shall be entitled to charge and be allowed the fees set forth in the column headed "lower scale" in the Appendix (G) hereto—

- (a.) In all actions for purposes to which any of the forms of indorsement of claims on writs of summons in Sections II, IV, and VII, in Part II of Appendix A, referred to in Order III, Rule 3, or other similar forms, are applicable (except as hereinafter provided by section 2 of this order) where the debt or damage claimed in any action shall not exceed £100, and where the debt or damage recovered in any action together with the money (if any) paid into Court shall be less than £50 unless the Court or a judge shall otherwise order;
- (b.) And also in causes and matters in the following cases (that is to say):—
 - (I.) By creditors, legatees (whether specific, pecuniary, or residuary), devisees (whether in trust or otherwise), next-of-kin, in which the personal or real or personal and real estate for or against or in respect of which or for an account or administration of which the demand may be made shall be under the amount or value of £1000.
 - (II.) For the execution of trusts or appointment of new trustees in which the trust estate or fund shall be under the amount or value of £1000.
 - (III.) For dissolution of partnership or the taking of partnership or any other accounts in which the partnership assets or the estate or fund shall be under the amount or value of £1000.
 - (IV.) For foreclosure or redemption, or for enforcing any charge or lien in which the mortgage whereon the suit is founded or the charge or lien sought to be enforced shall be under the amount of £1000.
 - (V.) And for specific performance in which the purchase-money or consideration shall be under the amount or value of £1000.
 - (VI.) In all proceedings under the Trustees Relief Acts, or under the Trustees Acts, or under any of such Acts, in which the trust estate or fund to which the proceeding relates shall be under the amount or value of £1000.
 - (VII.) In

- (VII.) In all proceedings relating to the guardianship or maintenance of infants in which the property of the infant shall be under the amount or value of £1000.
- (VIII.) In all proceedings by original special case, and in all proceedings relating to funds carried to separate accounts, and in all proceedings under any private Act of Parliament, or under any other statutory or summary jurisdiction, and generally in all other cases where the estate or fund to be dealt with shall be under the amount or value of £1000.
- (IX.) In all causes and matters which would have been within the exclusive cognizance of the Court of the Chief Judge of Courts of Mines if this Act had not been passed, where the subject in dispute shall be under the amount or value of £1000.
- (X.) In all proceedings upon or connected with *caveats* under The Transfer of Land Statute where the property sought to be dealt with is under the value of £1000.
- (XI.) In all appeals from a County Court or the Court of Insolvency.

2. Solicitors shall be entitled to charge and be allowed the fees set forth in the column headed "higher scale" in the Appendix (G) hereto: in all actions for special injunctions to restrain the commission or continuance of waste, nuisances, breaches of covenant, injuries to property and infringement of rights, easements, patents and copyrights, and other similar cases where the procuring such injunction is the principal relief sought to be obtained, and in all cases other than those to which the fees in the column headed "lower scale" are hereby made applicable.

3. Notwithstanding these rules, the Court or Judge may in any case direct the fees set forth in either of the said two columns to be allowed to all or either or any of the parties, and as to all or any part of the costs.

ORDER LXIII.*

SPECIAL ALLOWANCES AND GENERAL PROVISIONS.

1. As to writs of summons requiring special indorsement, original special cases, pleadings and affidavits in answer to interrogatories, and other special affidavits, when the higher scale is applicable, the taxing officer may, in lieu of the allowances for instructions and preparing or drawing, make such allowance for work, labor, and expenses in or about the preparation of such documents as in his discretion he may think proper.
2. As to drawing any pleading or other document, the fees allowed shall include any copy made for the use of the solicitor, agent, or client, or for counsel to settle.
3. As to instructions to sue or defend, when the higher scale is applicable, if in consequence of the instructions being taken separately from more than three persons (not being co-partners) the taxing officer shall consider the fee above provided inadequate, he may make such further allowance as he shall in his discretion consider reasonable.
4. As to affidavits, when there are several deponents to be sworn, or it is necessary for the purpose of an affidavit being sworn to go to a distance, or to employ an agent, such reasonable allowance may be made as the taxing officer in his discretion may think fit.
5. The allowances for instructions and drawing an affidavit in answer to interrogatories and other special affidavits, and attending the deponent to be sworn, include all attendances on the deponents to settle and read over.
6. As to delivery of pleadings, services, and notices, the fees are not to be allowed when the same solicitor is for both parties, unless it be necessary for the purpose of making an affidavit of service.

Higher scale.

Court or Judge may allow fees on either scale.

*VI. Ord. in Council, 28 October 1875.

Taxing officer to have discretion.

Fees to include copy for use.

Where parties instructing exceed three, further allowance.

And on affidavit of several deponents.

Allowance includes attendances.

Where same solicitor for both parties.

7. As

- Perusals. 7. As to perusals, the fees are not to apply where the same solicitor is for both parties.
- Procuring evidence. 8. As to evidence, such just and reasonable charges and expenses as appear to have been properly incurred in procuring evidence, and the attendance of witnesses, are to be allowed.
- Agency correspondence. 9. As to agency correspondence, in country agency causes and matters, if it be shown to the satisfaction of the taxing officer that such correspondence has been special and extensive, he is to be at liberty to make such special allowance in respect thereof as in his discretion he may think proper.
- Higher remuneration may be allowed on special circumstances in attendance at Chambers. 10. As to attendances at the Judge's Chambers, or in the Master's office, where, from the length of the attendance, or from the difficulty of the case, the Judge or Master shall think the highest of the above fees an insufficient remuneration for the services performed, or where the preparation of the case or matter to lay it before the Judge or Master in Chambers, or on a summons, shall have required skill and labour for which no fee has been allowed, the Judge or Master may allow such fee in lieu of the fee of £1 1s. above provided, not exceeding £2 2s., or where the higher scale is applicable £3 3s., or in proceedings to wind up a company £5 5s., as in his discretion he may think fit; and where the preparation of the case or matter to lay it before a Judge at Chambers on a summons shall have required and received from the solicitor such extraordinary skill and labour as materially to conduce to the satisfactory and speedy disposal of the business, and therefore shall appear to the Judge to deserve higher remuneration than the ordinary fees, the Judge may allow to the solicitor, by a memorandum in writing expressly made for that purpose, and signed by the Judge, specifying distinctly the grounds of such allowance, such fee, not exceeding 10 guineas, as in his discretion he may think fit, instead of the above fees of £2 2s., £3 3s., and £5 5s.
- On non-attendance by party at Chambers Judge may order costs. 11. As to attendances at the Judge's Chambers, where by reason of the non-attendance of any party (and it is not considered expedient to proceed *ex parte*), or where by reason of the neglect of any party in not being prepared with any proper evidence, account, or other proceeding, the attendance is adjourned without any useful progress being made, the Judge may order such an amount of costs (if any) as he shall think reasonable to be paid to the party attending by the party so absent or neglectful, or by his solicitor personally; and the party so absent or neglectful is not to be allowed any fee as against any other party, or any estate or fund in which any other party is interested.
- Folios. 12. A folio is to comprise 72 words, every figure comprised in a column being counted as one word.
- Costs of procuring advice of counsel. 13. Such costs of procuring the advice of counsel on the pleadings, evidence, and proceedings in any cause or matter as the taxing officer shall in his discretion think just and reasonable, and of procuring counsel to settle such pleadings and special affidavits as the taxing officer shall in his discretion think proper to be settled by counsel, are to be allowed; but as to affidavits, a separate fee is not to be allowed for each affidavit, but one fee for all the affidavits proper to be so settled, which are or ought to be filed at the same time.
- Counsel at Chambers. 14. As to counsel attending at Judges' Chambers, no costs thereof shall in any case be allowed, unless the Judge certifies it to be a proper case for counsel to attend.
- Allowance for notice to inspect. 15. As to the inspection of documents under Order XXXI, Rule 14, no allowance is to be made for any notice or inspection, unless it is shown to the satisfaction of the taxing officer that there were good and sufficient reasons for giving such notice and making such inspection.
- Rate of payment for copies of documents. 16. As to taking copies of documents in possession of another party, or extracts therefrom, under Rules of Court or any special Order, the party entitled to take the copy or extract is to pay the solicitor of the party producing the document for such copy or extract as he may by writing require, at the rate of 6d. per folio; and if the solicitor

solicitor of the party producing the document refuses or neglects to supply the same, the solicitor requiring the copy or extract is to be at liberty to make it, and the solicitor for the party producing is not to be entitled to any fee in respect thereof.

17. Where a petition in any cause or matter mentioned in Order LXII,* Rule 1 (b) is served, and notice is given to the party served that in case of his appearance in Court his costs will be objected to, and accompanied by a tender of costs for perusing the same, the amount to be tendered shall be £2 2s. The party making such payment shall be allowed the same in his costs, provided such service was proper, but not otherwise; but this order is without prejudice to the rights of either party to costs, or to object to costs where no such tender is made, or where the Court or Judge shall consider the party entitled, notwithstanding such notice or tender, to appear in Court. In any other case in which a solicitor of a party served necessarily or properly peruses any such petition without appearing thereon, he is to be allowed a fee not exceeding £2 2s.

Tender of costs for perusing petition.

18. The Court or Judge may, at the hearing of any cause or matter, or upon any application or procedure in any cause or matter in Court or at chambers, and whether the same is objected to or not, direct the costs of any pleading, affidavit, evidence, notice to cross-examine witnesses, account, statement, or other proceeding, or any part thereof, which is improper, unnecessary, or contains unnecessary matter, or is of unnecessary length, to be disallowed, or may direct the taxing officer to look into the same and to disallow the costs thereof, or of such part thereof as he shall find to be improper, unnecessary, or to contain unnecessary matter, or to be of unnecessary length; and in such case the party whose costs are so disallowed shall pay the costs occasioned to the other parties by such unnecessary proceeding, matter, or length; and in any case where such question shall not have been raised before and dealt with by the Court or Judge, the taxing officer may look into the same (and, as to evidence, although the same may be entered as read in any decree or order) for the purpose aforesaid, and thereupon the same consequences shall ensue as if he had been specially directed to do so.

Court or Judge may disallow costs of pleading or matter improper or unnecessary, as may taxing officer.

19. In any case in which, under the preceding Rule No. 18, or any other Rule of Court, or by the order or direction of a Court or Judge, or otherwise, a party entitled to receive costs is liable to pay costs to any other party, the taxing officer may tax the costs such party is so liable to pay, and may adjust the same by way of deduction or set-off, or may, if he shall think fit, delay the allowance of the costs such party is entitled to receive until he has paid or tendered the costs he is liable to pay; or such officer may allow or certify the costs to be paid, and the same may be recovered by the party entitled thereto in the same manner as costs ordered to be paid may be recovered.

Costs may be set off or adjusted between parties.

20*. Where any party appears upon any application or proceeding in Court or at chambers, in which he is not interested, or upon which, according to the practice of the Court, he ought not to attend, he is not to be allowed any costs of such appearance unless the Court or Judge shall expressly direct such costs to be allowed.

Party improperly attending not allowed costs. * 21.

21*. As to applications to extend the time for taking any proceeding limited by Rules of Court (subject to any special order as to the costs of and occasioned by any such application), the costs of one application are, without special order, to be allowed as costs in the cause or matter, but (unless specially ordered) no costs are to be allowed of any further application to the party making the same as against any other party, or any estate or fund in which any other party is interested.

Costs of one application to extend time, costs in the cause. * 22.

22*. The taxing officers of the Court shall, for the purpose of any proceeding before them, have power and authority to administer oaths, and shall, in relation to the taxation of costs, perform all such duties as have heretofore been performed by the Master or Prothonotary; and shall, in respect thereof, have such powers and authorities as previous to the commencement of the Act were vested in any of such officers, including examining witnesses, directing production of books,

Taxing officers may administer oaths. * 23.

papers,

543

papers, and documents, making separate certificates or allocaturs, requiring any party to be represented by a separate solicitor, and to direct and adopt all such other proceedings as could be directed and adopted by any such officer on references for the taxation of costs, and taking accounts of what is due in respect of such costs, and such other accounts connected therewith as may be directed by the Court or a Judge.

Taxing officer regulates the attendance of parties on taxation. * 24.

23*. The taxing officer shall have authority to arrange and direct what parties are to attend before him on the taxation of costs to be borne by a fund or estate, and to disallow the costs of any party whose attendance such officer shall in his discretion consider unnecessary in consequence of the interest of such party in such fund or estate being small or remote or sufficiently protected by other parties interested.

On neglect of party to tax costs, taxing officer may prevent prejudice to other party. * 25.

24*. When any party entitled to costs refuses or neglects to bring in his costs for taxation, or to procure the same to be taxed, and thereby prejudices any other party, the taxing officer shall be at liberty to certify the costs of the other parties, and certify such refusal or neglect, or may allow such party refusing or neglecting a nominal or other sum for such costs, so as to prevent any other party being prejudiced by such refusal or neglect.

Unnecessary costs not to be allowed. * 26.

25*. As to costs to be paid or borne by another party, no costs are to be allowed which do not appear to the taxing officer to have been necessary or proper for the attainment of justice or defending the rights of the party, or which appear to the taxing officer to have been incurred through over-caution, negligence, or mistake, or merely at the desire of the party.

Fees for work and labor. * 27.

26*. As to any work and labor properly performed and not herein provided for, and in respect of which fees have heretofore been allowed, the same or similar fees are to be allowed for such work and labor as have heretofore been allowed.

Discretionary fees. * 29.

27*. As to all fees or allowances which are discretionary, the same are, unless otherwise provided, to be allowed at the discretion of the taxing officer, who, in the exercise of such discretion, is to take into consideration the other fees and allowances to the solicitor and counsel, if any, in respect of the work to which any such allowance applies, the nature and importance of the cause or matter, the amount involved, the interest of the parties, the fund or persons to bear the costs, the general conduct and costs of the proceedings, and all other circumstances.

Party dissatisfied with taxation may object. * 30.

28*. Any party who may be dissatisfied with the allowance or disallowance by the taxing officer, in any bill of costs taxed by him, of the whole or any part of any item or items, may, at any time before the certificate or allocatur is signed, deliver to the other party interested therein, and carry in before the taxing officer, an objection in writing to such allowance or disallowance, specifying therein by a list, in a short and concise form, the item or items, or parts or part thereof, objected to, and may thereupon apply to the taxing officer to review the taxation in respect of the same.

And taxing master review his taxation. * 31.

29*. Upon such application the taxing officer shall re-consider and review his taxation upon such objections, and he may, if he shall think fit, receive further evidence in respect thereof, and, if so required by either party, he shall state either in his certificate of taxation or allocatur, or by reference to such objection, the grounds and reasons of his decision thereon, and any special facts or circumstances relating thereto.

Party dissatisfied with taxing officer may apply to Judge. * 32.

30*. Any party who may be dissatisfied with the certificate or allocatur of the taxing officer, as to any item or part of an item which may have been objected to as aforesaid, may apply to a Judge at Chambers for an order to review the taxation as to the same item or part of an item, and the Judge may thereupon make such order as to the Judge may seem just; but the certificate or allocatur of the taxing officer shall be final and conclusive as to all matters which shall not have been objected to in manner aforesaid.

Who shall hear application. * 33.

31*. Such application shall be heard and determined by the Judge upon the evidence which shall have been brought in before the taxing officer, and no further evidence shall be received upon the hearing thereof, unless the Judge shall otherwise direct.

ORDER LXIV.*

ORDER LXIV.*

COURT FEES AND PER CENTAGES.

* I. Ord. in Council,
28 Oct. 1875.

1. *The fees and per centages contained in Part I of Appendix (H) hereto are to be, and shall be taken in the Court and in any office which is connected with it, or in which any business connected with it is conducted, and by any officer paid wholly or partly out of public moneys who is attached to the Court, or any Judge thereof.* Amount.
2. *The fees and per centages set forth in the column headed Lower Scale in Part I of Appendix (H) hereto, are to be taken and paid in all cases in which the Lower Scale of fees is to be charged and allowed to solicitors under the provisions of Order LXII*, and the fees and per centages set forth in the column headed Higher Scale in Part I of Appendix (H) are to be taken and paid in all other cases.* Lower and Higher Scales.
II. Ib.
3. In causes and matters mentioned in Order LXII*, Rule 1 (b) the solicitor or party acting in person shall, on any proceeding in which he claims to pay fees according to the Lower Scale, file with the proper officer a certificate in the form set forth in Part II of Appendix (H), of which certificate the officer is, at the request of any solicitor or any party acting in person in the cause or matter, to mark a copy without a fee. Certificate where solicitor or party claims to pay fees on Lower Scale in proceedings in Equity Division.
III. Ib.
- On production of such copy of the certificate, all officers of the Court are to receive and file all proceedings in the cause or matter bearing stamps according to the Lower Scale.
4. In any case certified for the Lower Scale of Court fees, in which it shall happen that the solicitor shall become entitled to charge and be allowed according to the Higher Scale of solicitors' fees, the deficiency in the fees of Court is to be made good. Deficiency.
Ib.
5. In any case in which the fees have been paid upon the Higher Scale, and in which it shall happen that the solicitor shall become entitled to charge and be allowed only according to the Lower Scale of solicitors' fees, the excess of fees so paid may be allowed upon the taxation of costs, if the circumstances of the case shall, in the judgment of the taxing officer, justify such allowance. Excess.
Ib.
6. The provisions in this Order shall not apply to or affect any of the matters following (that is to say):— This Order not to apply in certain cases.
IV. Ib.
- (a.) The existing fees and per centages in respect of any matter at the time of the commencement of the Act within the Probate or Divorce jurisdictions of the Court, or relating to any appeal from the Court of Insolvency, except so far as the procedure in any such matter, or the fees or per centages to be taken in respect thereof, is or are expressly varied by these Rules or by any Rules of Court to be made before the commencement of the said Act:
- (b.) The existing fees and per centages in respect of any criminal proceedings, other than such proceedings on the Crown side as the scale contained in Part I of Appendix (H) hereto may be applicable to:
- (c.) The existing fees and per centages authorized to be taken by any sheriffs, bailiffs, or other officers or ministers of sheriffs:
- (d.) The existing fees and per centages to be taken or paid by any Act of Parliament, and in respect of which no fee or per centage is hereby provided:
- (e.) The existing fees and per centages which shall have become due or payable before the commencement of the Act:
- (f.) The existing fees and per centages in respect of any proceedings in any cause or matter pending at the commencement of the said Act, and in respect of which no fee or per centage is hereby provided.
7. The existing rules and practice, applicable to proceedings by persons suing *in formâ pauperis*, shall continue and be applicable to proceedings to which this Order relates. Suits *in formâ pauperis*.
V. Ib.

8. Save

Existing fees and per centages abolished, except as here provided.

8. Save as otherwise provided by this Order, all existing fees and per centages which may be taken in the Court, or in any office which is connected with it, or in which any business connected with it is conducted, or by any officer paid wholly or partly out of public moneys who is attached to the Court or to any Judge thereof, shall be and are hereby abolished.

* LXIII.

ORDER LXV.*

INTERPRETATION OF TERMS.

Section 50. Construction.

1. The provisions of the 3rd section of the Act shall apply to these Rules.
2. In the construction of these Rules, unless there is anything in the subject or context repugnant thereto, the several words hereinafter mentioned or referred to shall have or include the meanings following:—

Person.

“ Person ” shall include a body corporate or politic:

Probate actions.

“ Probate actions ” shall include actions and other matters relating to the grant or recall of probate or of letters of administration other than common form business:

Proper officer.

“ Proper officer ” shall, unless and until any rule to the contrary is made, mean an officer to be ascertained as follows:—

(a.) Where any duty to be discharged under the Act or these Rules is a duty which has heretofore been discharged by any officer, such officer shall continue to be the proper officer to discharge the same:

(b.) Where any new duty is under the Act or these Rules to be discharged, the proper officer to discharge the same shall be such officer, having previously discharged analogous duties, as may from time to time be directed to discharge the same by the Chief Justice:

The Act.

“ The Act ” and “ the said Act ” shall respectively mean this Act:

Solicitor.

“ Solicitor ” shall mean attorney, solicitor, and proctor.

THE APPENDICES ABOVE REFERRED TO.

APPENDIX (A).

PART I.

FORMS OF WRITS OF SUMMONS, ETC.

No. 1.

Writ for service within the jurisdiction.

187 . [Here put the number.]
Between A.B. Plaintiff,
and
C.D. and E.F. Defendants.

Order II, Rule 3.

In the Supreme Court.

VICTORIA, by the grace of God, &c.

To C.D. of in the county of and E.F. of

We command you, That within eight days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in the Our Supreme Court in an action at the suit of A.B.; and take notice, that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence. Witness Sir W. F. S., Knight, at Melbourne, the day of

Memorandum to be subscribed on the writ.

N.B.—This writ is to be served within (twelve) calendar months from the date thereof, or, if renewed, from the date of such renewal, including the day of such date, and not afterwards.
The

The defendant [or defendants] may appear hereto by entering an appearance [or appearances] either personally or by solicitor at the [Master's or Prothonotary's] office in street, Melbourne.

Indorsements to be made on the writ before issue thereof.

The plaintiff's claim is for, &c.

This writ was issued by *E.F.*, of

solicitor for the said plaintiff, who resides at

, or, this writ was issued by the plaintiff in person, who resides at

[mention the city, town, borough, or place, and also the name of the street and number of the house of the plaintiff's residence, if any].

Indorsement to be made on the writ after service thereof.

This writ was served by *X.Y.* on *L.M.* [the defendant, or one of the defendants] on Monday the day of 18 .

(Signed)

X.Y.

APPENDIX (A).

No. 2.

Writ for service out of the jurisdiction, or where notice in lieu of service is to be given out of the jurisdiction.

In the Supreme Court.

187 . [Here put the number.]

Between *A.B.* Plaintiff,

and

C.D. and *E.F.* Defendants.

VICTORIA, by the grace of God, &c.

To *C.D.* of

We command you, *C.D.*, That within [here insert the number of days directed by the Court or Judge ordering the service or notice] after the service of this writ [or notice of this writ, as the case may be] on you, inclusive of the day of such service, you do cause an appearance to be entered for you in Our Supreme Court in an action at the suit of *A.B.*; and take notice, that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence. Witness Sir W. F. S., Knight, &c.

Memoranda and Indorsements as in Form No. 1.

Indorsement to be made on the writ before the issue thereof.

N.B.—This writ is to be used where the defendant or all the defendants or one or more defendant or defendants is or are out of the jurisdiction.

No. 3.

Notice of Writ in lieu of service to be given out of the jurisdiction.

In the Supreme Court.

187 . [Here put the number.]

Between *A.B.* Plaintiff,

and

C.D., *E.F.*, and *G.H.* Defendants.

To *G.H.*, of

Take notice, that *A.B.*, of has commenced an action against you, *G.H.*, in Her Majesty's Supreme Court at Melbourne in the colony of Victoria, in Australia, by writ of that Court, dated the day of A.D. 18 ; which writ is indorsed as follows [copy in full the indorsements], and you are required within days after the receipt of this notice, inclusive of the day of such receipt, to defend the said action, by causing an appearance to be entered for you in the said Court to the said action; and in default of your so doing, the said *A.B.* may proceed therein, and judgment may be given in your absence.

You may appear to the said writ by entering an appearance personally or by your solicitor at the [Prothonotary's or Master's] office at Melbourne.

(Signed)

A.B. of &c.

or

X.Y. of &c.

Solicitor for *A.B.*

No. 4.*

Order VIII, Rule 1.

Form of Memorandum for Renewed Writ.

In the Supreme Court.

Between *A.B.*, Plaintiff,

and

C.D., Defendant.

Seal renewed writ of summons in this action indorsed as follows :—
[Copy original writ and the indorsements.]

No. 5.*

APPENDIX (A).

No. 5.*
Memorandum of Appearance.
 187 . [Here put the number.]
 Supreme Court.
 A.B. v. C.D. and others.
 in this action.
 Enter an appearance for
 Dated this day of X.Y.,
 Solicitor for the defendant.
 The place of business of X.Y. is
 His address for service is or [C.D.,
 Defendant in person.
 The address of C.D. is
 His address for service is .]
 The said defendant [requires, or does not require] a statement of complaint to be filed and delivered.

No. 6.*
Notice limiting Defence.
 187 . [Here put the number.]
 In the Supreme Court.
 Between A.B., Plaintiff,
 and
 C.D., and
 E.F., Defendants.
 The defendant C.D. limits his defence to part only of the property mentioned in the writ in this action, that is to say, to the close called "the Big field."
 Yours, &c.,
 G.H.,
 Solicitor for the said defendant C.D.
 To Mr. X.Y., plaintiff's solicitor.

PART II.

SECTION I.

GENERAL INDORSEMENTS.

1. *Creditor to administer Estate.*

The plaintiff's claim is as a creditor of X.Y., of deceased, to have the estate of the said X.Y. administered. The defendant C.D. is sued as the administrator of the said X.Y.

2. *Legatee to administer Estate.*

The plaintiff's claim is as a legatee under the will dated the day of 18 of X.Y. deceased, to have the estate of the said X.Y. administered. The defendant C.D. is sued as the executor of the said X.Y.

3. *Partnership.*

The plaintiff's claim is to have an account taken of the partnership dealings between the plaintiff and defendant [under articles of partnership dated the day of], and to have the affairs of the partnership wound up.

4. *By Mortgagee.*

The plaintiff's claim is to have an account taken of what is due to him for principal, interest, and costs on a mortgage [dated the day of made between or by deposit of title deeds], and that the mortgage may be enforced by foreclosure or sale.

5. *By Mortgagor.*

The plaintiff's claim is to have an account taken of what, if anything, is due on a mortgage dated and made between [parties], and to redeem the property comprised therein.

6. *Raising Portions.*

The plaintiff's claim is that the sum of £ , which by an indenture of settlement dated was provided for the portions of the younger children of may be raised.

7. *Execution of Trusts.*

The plaintiff's claim is to have the trusts of an indenture dated and made between carried into execution.

8. *Cancellation or Rectification.*

The plaintiff's claim is to have a deed dated and made between [parties] set aside or rectified.

9. *Specific Performance.*

The plaintiff's claim is for specific performance of an agreement dated the day of , for the sale by the plaintiff to the defendant of certain [freehold] hereditaments at

SECTION II.

SECTION II.

Money Claims where no Special Indorsement under Order III, Rule 6.

The plaintiff's claim is £ [here state it as follows, or as the case may be] :—
 For the price of goods sold. [This Form shall suffice whether the claim be in respect of goods sold and delivered, or of goods bargained and sold.]
 For money lent [and £ for interest].
 Whereof £ is for the price of goods sold, and £ for money lent, and £ for interest.
 For arrears of rent.
 For arrears of salary as a clerk [or as the case may be].
 For interest upon money lent.
 For a general average contribution.
 For freight and demurrage.
 For lighterage.
 For market tolls and stallage.
 For penalties under the Statute [. . .]
 For money deposited with the defendant as a banker.
 For fees for work done [and £ money expended] as a solicitor.
 For commission earned as [state character, as auctioneer, cotton broker, &c.].
 For medical attendances.
 For a return of premiums paid upon policies of insurance.
 For the warehousing of goods.
 For the carriage of goods by railway.
 For the use and occupation of a house.
 For the hire of [furniture].
 For work done as a surveyor.
 For board and lodging.
 For the board, lodging, and tuition of X.Y.
 For money received by the defendant as solicitor [or factor, or collector, or, &c.] of the plaintiff.
 For fees received by the defendant under colour of the office of
 For a return of money overcharged for the carriage of goods by railway.
 For a return of fees overcharged by the defendant as
 For a return of money deposited with the defendant as stakeholder.
 For money entrusted to the defendant as stakeholder, and become payable to plaintiff.
 For a return of money entrusted to the defendant as agent of the plaintiff.
 For a return of money obtained from the plaintiff by fraud.
 For a return of money paid to the defendant by mistake.
 For a return of money paid to the defendant for [work to be done, and left undone; or, a bill to be taken up, and not taken up; or, &c.].
 For a return of money paid as a deposit upon shares to be allotted.
 For money paid for the defendant as his surety.
 For money paid for rent due by the defendant.
 Upon a bill of exchange accepted [or indorsed] for the defendant's accommodation.
 For a contribution in respect of money paid by the plaintiff as surety.
 For a contribution in respect of a joint debt of the plaintiff and the defendant, paid by the plaintiff.
 For money paid for calls upon shares, against which the defendant was bound to indemnify the plaintiff.
 For money payable under an award.
 Upon a policy of insurance upon the life of X.Y., deceased.
 Upon a bond to secure payment of £1000, and interest.
 Upon a judgment of the Court, in the Empire of Russia.
 Upon a cheque drawn by the defendant.
 Upon a bill of exchange accepted [or drawn, or indorsed] by the defendant.
 Upon a promissory note made [or indorsed] by the defendant.
 Against the defendant A.B. as acceptor, and against the defendant C.D. as drawer [or indorser] of a bill of exchange.
 Against the defendant as surety for the price of goods sold.
 Against the defendant A.B. as principal, and against the defendant C.D. as surety, for the price of goods sold [or arrears of rent, or for money lent, or for money received by the defendant A.B. as traveller for the plaintiffs; or, &c.].
 Against the defendant as a *del credere* agent for the price of goods sold [or losses under a policy].
 For calls upon shares.
 For crops, tillage, manure [or as the case may be] left by the defendant as outgoing tenant of a farm.

APPENDIX (A).

Goods sold.
 Money lent.
 Several demands.
 Rent.
 Salary, &c.
 Interest.
 General average.
 Freight, &c.
 Lighterage.
 Tolls.
 Penalties.
 Banker's balance.
 Fees, &c., as solicitors.
 Commission.
 Medical attendance, &c.
 Return of premium.
 Warehouse rent.
 Carriage of goods.
 Use and occupation of houses.
 Hire of goods.
 Work done.
 Board and lodging.
 Schooling.
 Money received.
 Fees of office.
 Money overpaid.
 Return of money by stakeholder.
 Money won, from stakeholder.
 Money entrusted to agent.
 Money obtained by fraud.
 Money paid by mistake.
 Money paid for consideration which has failed.
 Money paid by surety for defendant.
 Rent paid.
 Money paid on accommodation bill.
 Contribution by surety.
 By co-debtor.
 Money paid for calls.
 Money payable under award.
 Life policy.
 Money bond.
 Foreign judgment.
 Bills of exchange, &c.
 Surety.
Del credere agent.
 Calls.
 Waygoing crops, &c.

SECTION III.

Indorsement for Costs, &c. [add to the above Forms].

And £ for costs; and if the amount claimed be paid to the plaintiff or his solicitor within four days [or if the writ is to be served out of the jurisdiction, or notice in lieu of service allowed, insert the time for appearance limited by the order] from the service hereof, further proceedings will be stayed.

SECTION IV.

APPENDIX (A).

SECTION IV.

Damages and other Claims.

	The plaintiff's claim is [<i>here state the cause of action as follows, or as the case may be</i>] :—
Agent, &c.	For damages for breach of a contract to employ the plaintiff as traveller. For damages for wrongful dismissal from the defendant's employment as traveller [and £ for arrears of wages]. For damages for the defendant's wrongfully quitting the plaintiff's employment as manager. For damages for breach of duty as factor [<i>or, &c.</i>] of the plaintiff [and £ for money received as factor, &c.].
Apprentices.	For damages for breach of the terms of a deed of apprenticeship of X.Y. to the defendant [<i>or plaintiff</i>].
Arbitration.	For damages for non-compliance with the award of X.Y.
Assault, &c.	For damages for assault [and false imprisonment, and for malicious prosecution].
By husband and wife.	For damages for assault and false imprisonment of the plaintiff C.D.
Solicitor.	For damages for injury by the defendant's negligence as solicitor of the plaintiff.
Bailment.	For damages for negligence in the custody of goods [and for wrongfully detaining the same].
Pledge.	For damages for negligence in the keeping of goods pawned [and for wrongfully detaining the same].
Hire.	For damages for negligence in the custody of furniture lent on hire [<i>or a carriage lent</i>], [and for wrongfully, &c.].
Banker.	For damages for wrongfully neglecting [<i>or refusing</i>] to pay the plaintiff's cheque.
Bill.	For damages for breach of a contract to accept the plaintiff's drafts.
Bond.	Upon a bond conditioned not to carry on the trade of a
Carrier.	For damages for refusing to carry the plaintiff's goods by railway. For damages for refusing to carry the plaintiff by railway. For damages for breach of duty in and about the carriage and delivery of coals by railway. For damages for breach of duty in and about the carriage and delivery of machinery by sea.
Charter-party.	For damages for breach of charter-party of ship [<i>Mary</i>].
Claim for return of goods; damages.	For return of household furniture, or, &c., or their value, and for damages for detaining the same.
Damages for depriving of goods.	For wrongfully depriving plaintiff of goods, household furniture, &c.
Defamation.	For damages for libel. For damages for slander.
Replevin.	In replevin for goods wrongfully distrained.
Wrongful distress.	For damages for improperly distraining. [<i>This Form shall be sufficient whether the distress complained of be wrongful or excessive, or irregular, and whether the claim be for damages only, or for double value.</i>]
Ejectment.	To recover possession of a house, No. in street, or of a farm called Blackacre, situate in the parish of in the county of
To establish title and recover rents.	To establish his title to [<i>here describe property</i>], and to recover the rents thereof. [<i>The two previous Forms may be combined.</i>]
Dower.	For dower.
Fishery.	For damages for infringement of the plaintiff's right of fishing.
Fraud.	For damages for fraudulent misrepresentation on the sale of a horse [<i>or a business, or shares, or, &c.</i>]. For damages for fraudulent misrepresentation of the credit of A.B.
Guarantee.	For damages for breach of a contract of guarantee for A.B.
Insurance.	For damages for breach of a contract to indemnify the plaintiff as the defendant's agent to distrain. For a loss under a policy upon the ship <i>Royal Charter</i> , and freight or cargo [<i>or for return of premiums</i>]. [<i>This Form shall be sufficient whether the loss claimed be total or partial.</i>]
Fire insurance.	For a loss under a policy of fire insurance upon house and furniture.
Landlord and tenant.	For damages for breach of a contract to insure a house. For damages for breach of contract to keep a house in repair. For damages for breaches of covenants contained in a lease of a farm.
Medical man.	For damages for injury to the plaintiff from the defendant's negligence as a medical man.
Mischievous animal.	For damages for injury by the defendant's dog.
Negligence.	For damages for injury to the plaintiff [<i>or, if by husband and wife, to the plaintiff, C.D.</i>] by the negligent driving of the defendant or his servants. For damages for injury to the plaintiff while a passenger on the defendant's railway by the negligence of the defendant's servants. For damages for injury to the plaintiff at the defendant's railway station, from the defective condition of the station.
Statute of Wrongs.	As executor of A.B., deceased, for damages for the death of the said A.B. from injuries received while a passenger on the defendant's railway, by the negligence of the defendant's servants.
Promise of marriage.	For damages for breach of promise of marriage.
Seduction.	For damages for the seduction of the plaintiff's daughter.
Sale of goods.	For damages for breach of contract to accept and pay for goods. For damages for non-delivery [<i>or short delivery, or defective quality, or other breach of contract of sale</i>] of cotton [<i>or, &c.</i>].
Sale of land.	For damages for breach of warranty of a horse. For damages for breach of a contract to sell [<i>or purchase</i>] land. For damages for breach of a contract to let [<i>or take</i>] a house. For damages for breach of a contract to sell [<i>or purchase</i>] the lease, with goodwill, fixtures, and stock-in-trade of a public house.

For

	APPENDIX (A).
For damages for breach of covenant for title [or for quiet enjoyment, or, &c.] in a conveyance of land.	
For damages for wrongfully entering the plaintiff's land and drawing water from his well [or cutting his grass, or pulling down his timber, or pulling down his fences, or removing his gate, or using his road or path, or crossing his field, or depositing sand there, or carrying away gravel from thence, or carrying away stones from his river].	Trespass to land.
For damages for wrongfully taking away the support of plaintiff's land [or house, or mine].	Support.
For damages for wrongfully obstructing a way [public highway, or a private way].	Way.
For damages for wrongfully diverting [or obstructing, or polluting, or diverting water from] a water-course.	Watercourse, &c.
For damages for wrongfully discharging water upon the plaintiff's land [or into the plaintiff's mine].	
For damages for wrongfully obstructing the plaintiff's use of a well.	
For damages for the infringement of the plaintiff's right of pasture.	Pasture.
[This Form shall be sufficient whatever the nature of the right to pasture be.]	
For damages for obstructing the access of light to plaintiff's house.	Light.
For damages for the infringement of the plaintiff's right of sporting.	Sporting.
For damages for the infringement of the plaintiff's patent.	Patent.
For damages for the infringement of the plaintiff's copyright.	Copyright.
For damages for wrongfully using [or imitating] the plaintiff's trade mark.	Trade mark.
For damages for breach of a contract to build a ship [or to repair a house, &c.].	Work.
For damages for breach of a contract to employ the plaintiff to build a ship [or, &c.].	
For damages to his house, trees, crops, &c., caused by noxious vapours from the defendant's factory [or, &c.].	Nuisance.
For damages from nuisance by noise from the defendant's works [or stables, or, &c.].	
For damages for loss of the plaintiff's goods in the defendant's inn.	Innkeeper.
Add to Indorsement:—	
And for a mandamus.	Mandamus.
Add to Indorsement:—	
And for an injunction.	Injunction
Add to Indorsement where claim is to land, or to establish title, or both:—	
And for mesne profits.	Mesne profits.
And for an account of rents or arrears of rent.	Arrears of rent.
And for breach of covenant for [repairs].	Breach of covenant.

SECTION V.

Probate.

1. *By an executor or legatee propounding a will in solemn form.*

The plaintiff claims to be executor of the last will dated the day of of C.W., late of gentleman, deceased, who died on the day of and to have the said will established. This writ is issued against you as one of the next of kin of the said deceased [or as the case may be].

2. *By an executor or legatee of a former will, or a next of kin, &c., of the deceased seeking to obtain the revocation of a Probate granted in common form.*

The plaintiff claims to be executor of the last will dated the day of of C.D., late of gentleman, deceased, who died on the day of and to have the probate of a pretended will of the said deceased, dated the day of revoked. This writ is issued against you as the executor of the said pretended will [or as the case may be].

3. *By an executor or legatee of a will when letters of administration have been granted as in an intestacy.*

The plaintiff claims to be executor of the last will of C.D., late of gentleman, deceased, who died on the day of dated the day of The plaintiff claims that the grant of letters of administration of the estate of the said deceased obtained by you should be revoked, and probate of the said will granted to him.

4. *By a person claiming a grant of administration as a next of kin of the deceased, but whose interest as next of kin is disputed.*

The plaintiff claims to be the brother and sole next of kin of C.D., of gentleman, deceased, who died on the day of intestate, and to have as such a grant of administration to the estate of the said intestate. This writ is issued against you because you have entered a caveat, and have alleged that you are the sole next of kin of the deceased [or as the case may be].

SECTION VI.*

* VII.

Special Indorsements under Order III, Rule 6.

1. The plaintiff's claim is for the price of goods sold. The following are the particulars:—

	£	s.	d.
1873—31st December.—			
Balance of account for butcher's meat to this date ...	35	10	0
1874—1st January to 31st March.—			
Butcher's meat supplied 	74	5	0
			109 15 0
1874—1st February.—Paid 	45	0	0
			£64 15 0

2. The

APPENDIX (A).

2. The plaintiff's claim is against the defendant *A.B.* as principal, and against the defendant *C.D.* as surety, for the price of goods sold to *A.B.* The following are the particulars:—
1874—2nd February. Guarantee by *C.D.* of the price of woollen goods to be supplied to *A.B.*

	£	s.	d.
2nd February.—To goods... ..	47	15	0
3rd March.—To goods	105	14	0
17th March.—To goods	14	12	0
5th April.—To goods	34	0	0
	£202 1 0		

3. The plaintiff's claim is against the defendant, as maker of a promissory note. The following are the particulars:—

Promissory note for £250, dated 1st January 1874, made by defendant, payable four months after date.

Principal	£250
Interest... ..	

4. The plaintiff's claim is against the defendant *A.B.* as acceptor, and against the defendant *C.D.* as drawer, of a bill of exchange. The following are the particulars:—

Bill of exchange for £500, dated 1st January 1874, drawn by defendant *C.D.* upon and accepted by defendant *A.B.*, payable three months after date.

Principal	£500
Interest... ..	

5. The plaintiff's claim is for principal and interest due upon a bond. The following are the particulars:—

Bond dated 1st January 1873. Condition for payment of £100 on the 26th December 1873.

Principal due	£50
Interest... ..	

6. The plaintiff's claim is for principal and interest due under a covenant. The following are the particulars:—

Deed dated	covenant to pay £100 and interest.	
Principal due		£80
Interest... ..		

SECTION VII.*

Indorsements of Character of Parties.

*VIII.

- Executors. The plaintiff's claim is as executor [*or administrator*] of *C.D.*, deceased, for, &c.
The plaintiff's claim is against the defendant *A.B.* as executor [*or, &c.*] of *C.D.*, deceased, for, &c.
The plaintiff's claim is against the defendant *A.B.*, as executor of *X.Y.*, deceased, and against the defendant *C.D.*, in his personal capacity, for, &c.
- Husband and wife, executrix. The claim of the plaintiff *C.D.* is as executrix of *X.Y.*, deceased, and the claim of the plaintiff *A.B.* as her husband, for
The claim of the plaintiff is against the defendant *C.D.*, as executrix of the defendant *C.D.*, deceased, and against the defendant *A.B.*, as her husband, for
- Trustee in insolvency. The plaintiff's claim is as trustee under the insolvency of *A.B.* for
- Trustees. The plaintiff's claim is against the defendant as trustee under the insolvency of *A.B.* for
The plaintiff's claim is as [*or is against the defendant as*] trustee under the will of *A.B.* [*or under the settlement upon the marriage of A.B. and X.Y., his wife*].
- Principal and surety. The plaintiff's claim is against the defendant *A.B.* as principal, and against the defendant *C.D.* as surety for
- Qui tam* action. The plaintiff's claim is as well for the Queen as for himself, for

APPENDIX (B).

FORMS OF PROCEEDINGS.

No. 1.

Order XVI., rule 18.

Notice by Defendant to Third Party.

In the Supreme Court. 187 . [Here put the number.]
Notice filed 187 .

Between *A.B.*, Plaintiff,
and
C.D., Defendant.

To Mr. *X.Y.*

Take notice that this action has been brought by the plaintiff against the defendant [as surety for *M.N.*, upon a bond conditioned for payment of £2000 and interest to the plaintiff.

The defendant claims to be entitled to contribution from you to the extent of one-half of any sum which the plaintiff may recover against him, on the ground that you are [his co-surety under the said bond, *or*, also surety for the said *M.N.*, in respect of the said matter, under another bond made by you in favor of the said plaintiff, dated the day of A.D.]].

Or

Or [as acceptor of a bill of exchange for £500, dated the _____ day of _____ A.D. drawn by you upon and accepted by the defendant, and payable three months after date.

The defendant claims to be indemnified by you against liability under the said bill, on the ground that it was accepted for your accommodation.]

Or [to recover damages for a breach of a contract for the sale and delivery to the plaintiff of 1000 tons of coal.

The defendant claims to be indemnified by you against liability in respect of the said contract, or any breach thereof, on the ground that it was made by him on your behalf and as your agent.]

And take notice that, if you wish to dispute the plaintiff's claim in this action as against the defendant *C.D.*, you must cause an appearance to be entered for you within eight days after service of this notice.

In default of your so appearing, you will not be entitled in any future proceeding between the defendant *C.D.* and yourself to dispute the validity of the judgment in this action, whether obtained by consent or otherwise.

(Signed) *E.T.*
Or, *X.Y.*,
Solicitor for the defendant,
E.T.

Appearance to be entered at _____

APPENDIX (B).

No. 2.
Confession of Defence.

Order XX., rule 3.

In the Supreme Court.

187 . [Here put the number.]

Between *A.B.*, Plaintiff,
and
C.D., Defendant.

The plaintiff confesses the defence stated in the paragraph of the defendant's statement of defence [or, of the defendant's further statement of defence].

No. 3.
Particulars of Claim.

Order XXI., rule 3*.

In the Supreme Court.

187 . [Here put the number.]

Between *A.B.*, Plaintiff,
and
C.D., Defendant.

The particulars of the plaintiff's complaint herein, and of the relief and remedy to which he claims to be entitled, appear by the indorsement upon the writ of summons.

No. 4.
Notice to appear to Counter-claim.

Order XXII., rule 6.

"To the within-named *X.Y.*

"Take notice that if you do not appear to the within counter-claim of the within-named *C.D.* within eight days from the service of this defence and counter-claim upon you, you will be liable to have judgment given against you in your absence.

"Appearances are to be entered at _____."

No. 5.
Notice of Payment into Court.

Order XXX., rule 2.

In the Supreme Court.

1875. No.

A.B. v. C.D.

Take notice that the defendant has paid into Court £ _____, and says that that sum is enough to satisfy the plaintiff's claim [or the plaintiff's claim for, &c.]

To Mr. *X.Y.*,
the plaintiff's solicitor.

W.Z.,
Defendant's solicitor.

No. 6.
Acceptance of Sum paid into Court.

Ib., rule 4.

In the Supreme Court.

1875. No.

A.B. v. C.D.

Take notice that the plaintiff accepts the sum of £ _____ paid by you into Court in satisfaction of the claim in respect of which it is paid in.

No. .

APPENDIX (B).

Order XXXI., rule 3.

In the Supreme Court.

No. 7.

Form of Interrogatories.

1874. No.

Between A.B., Plaintiff,
and

C.D., E.F., and G.H., Defendants.

Interrogatories on behalf of the above-named [plaintiff, or defendant C.D.] for the examination of the above-named [defendants E.F. and G.H., or plaintiff].

1. Did not, &c.

2. Has not, &c.

&c., &c., &c.

[The defendant E.F. is required to answer the interrogatories numbered .]

[The defendant G.H. is required to answer the interrogatories numbered .]

Ib., rule 7.

In the Supreme Court.

No. 8.

Form of Answer to Interrogatories.

1874. No.

Between A.B., Plaintiff,
and

C.D., E.F., and G.H., Defendants.

The answer of the above-named defendant E.F. to the interrogatories for his examination by the above-named plaintiff.

In answer to the said interrogatories, I, the above-named E.F., make oath and say as follows:—

I., rule 13.

In the Supreme Court.

No. 9.

Form of Affidavit as to Documents.

1874. No.

Between A.B., Plaintiff,
and

C.D., Defendant.

I, the above-named defendant C.D. make oath and say as follows:—

1. I have in my possession or power the documents relating to the matters in question in this suit set forth in the first and second parts of the first schedule hereto.

2. I object to produce the said documents set forth in the second part of the said first schedule hereto.

3. That [here state upon what grounds the objection is made, and verify the facts as far as may be].

4. I have had, but have not now, in my possession or power the documents relating to the matters in question in this suit set forth in the second schedule hereto.

5. The last-mentioned documents were last in my possession or power on [state when].

6. That [here state what has become of the last-mentioned documents, and in whose possession they now are].

7. According to the best of my knowledge, information, and belief, I have not now, and never had in my possession, custody, or power, or in the possession, custody, or power of my solicitors or agents, solicitor or agent, or in the possession, custody, or power of any other persons or person on my behalf, any deed, account, book of account, voucher, receipt, letter, memorandum, paper, or writing, or any copy of or extract from any such document, or any other document whatsoever, relating to the matters in question in this suit, or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except the documents set forth in the said first and second schedules hereto.

Ib., rule 15.

In the Supreme Court.

No. 10.

Form of Notice to produce Documents.

A.B. v. C.D.

Take notice that the [plaintiff or defendant] requires you to produce for his inspection the following documents referred to in your [statement of claim, or defence, or affidavit, dated the day of

A.D.

Describe documents required.

To Mr. W.Z.,
Solicitor for

X.Y.,
Solicitor to the

No. 11

No. 11.

Form of Notice to inspect Documents.

APPENDIX (B).

Order XXXI., rule 16.

In the Supreme Court.

A.B. v. C.D.

Take notice that [you can inspect the documents mentioned in your notice of the day of ^{A.D.} [except the deed numbered in that notice] at my office on Thursday next the instant, between the hours of 12 and 4 o'clock, or the [plaintiff or defendant] objects to giving you inspection of the documents mentioned in your notice of the ^{A.D.} day of on the ground that [state the ground] :—].

No. 12.

Form of Notice to admit.

Order XXXII., rule 3.

In the Supreme Court.

A.B. v. C.D.

Take notice that the plaintiff [or defendant] in this cause proposes to prove the several facts and documents hereunder specified, and that the documents may be inspected by the defendant [or plaintiff], his solicitor or agent, at on between the hours of ; and the defendant [or plaintiff] is hereby required, within forty-eight hours from the last-mentioned hour, to admit the said several facts, and that such of the said documents as are specified to be originals were respectively written, signed, or executed, as they purport respectively to have been ; that such as are specified as copies are true copies ; and such documents as are stated to have been served, sent, or delivered, were so served, sent, or delivered respectively ; saving all just exceptions to the admissibility of all such facts and documents as evidence in this cause.

Dated, &c.

To E.F., solicitor [or agent] for defendant [or plaintiff].

G.H., solicitor [or agent] for plaintiff [or defendant]

[Here describe the documents, the manner of doing which may be as follows :—]

ORIGINALS.

Description of Documents.	Dates.
Deed of covenant between A.B. and C.D. first part, and E.F. second part ...	January 1, 1848.
Indenture of lease from A.B. to C.D.	February 1, 1848.
Indenture of release between A.B., C.D. first part, &c.	February 2, 1848.
Letter—defendant to plaintiff	March 1, 1848.
Policy of insurance on goods by ship <i>Isabella</i> , on voyage from Oporto to London	December 3, 1847.
Memorandum of agreement between C.D., captain of said ship, and E.F. ...	January 1, 1848.
Bill of exchange for £100 at three months, drawn by A.B. on and accepted by C.D., indorsed by E.F. and G.H.	May 1, 1849.

COPIES.

Description of Documents.	Dates.	Original or Duplicate served, sent, or delivered, when, how, and by whom.
Register of baptism of A.B. in the parish of X. ...	January 1, 1848.	
Letter—plaintiff to defendant	February 1, 1848	Sent by General Post, February 2, 1848.
Notice to produce papers	March 1, 1848 ...	Served March 2, 1848, on defendant's solicitor by E.F. of —
Record of a judgment of the Court of Queen's Bench at Dublin in an action <i>J.S. v. J.N.</i>	Trinity Term, 10th Vic.	
Letters Patent of King Charles II.	January 1, 1680.	

FACTS.

1. That A.B. was married to C.D. on, &c., at, &c.
2. That the said A.B. died on, &c.

No. 13.

APPENDIX (B.)

No. 13.

Setting down Special Case.

Order XXXIV, rule 5.

In the Supreme Court.

1875. No.

Between *A.B.*, Plaintiff,
and

C.D. and others, Defendants.

Set down for argument the special case filed in this action on the _____ day of _____ 187
X.Y., Solicitor for

Order XXXV., rule 8.

No. 14.

Form of Notice of Trial.

In the Supreme Court.

A.B. v. C.D.

Take notice of trial of this action [or of the issues in this action ordered to be tried] by a Judge and jury [or as the case may be] for the next assizes [or sittings] at _____
X.Y., plaintiff's Solicitor [or as the case may be].

Dated

To Mr. *W.Z.*, defendant's Solicitor [or as the case may be].

1b., rule 24.

No. 15.

Form of Certificate after Trial by a Jury.

30th November 1876.
In the Supreme Court.

1876. No.

Between *A.B.*, Plaintiff,
and
C.D., Defendant.

I certify that this action was tried before me and a special jury at _____ on the 12th and 13th days of November 1876.

The jury found [state findings].

I direct that judgment shall be entered for the plaintiff for £ _____ with costs of summons [or as the case may be].

A.B.

No. 16.

Affidavit of Scripts.

In the Supreme Court.

Between *A.B.* - - - Plaintiff,
and

C.D. - - - Defendant.

I, *A.B.*, of _____ in the county of _____ party in this cause, make oath and say, that no paper or parchment writing, being or purporting to be or having the form or effect of a will or codicil or other testamentary disposition of *E.F.*, late of _____ in the county of _____ deceased, the deceased in this cause, or being or purporting to be instructions for, or the draft of, any will, codicil, or testamentary disposition of the said *E.F.*, has at any time, either before or since his death, come to the hands, possession, or knowledge of me, this deponent, or to the hands, possession, or knowledge of my solicitors in this suit, so far as is known to me, this deponent, save and except the true and original last will and testament of the said deceased now remaining in the principal registry of this Court [or hereunto annexed, or as the case may be], the said will bearing date the day of _____ 18 [or as the case may be], also save and except [here add the dates and particulars of any other testamentary papers of which the deponent has any knowledge].

(Signed) *A.B.*

Sworn at _____ on the _____ day of _____ 18

Before me

[Person authorized to administer oaths.]

APPENDIX (C).

APPENDIX (C).

FORMS OF PLEADINGS.

No. 1.

In the Supreme Court.

Writ issued 3rd August 1875.

187 . No.

Between *A.B.* - - - - - Plaintiff,
 and
C.D. - - - - - Defendant.

Statement of Claim.

1. Between the 1st of January and the 28th of February 1875 the plaintiff supplied to the defendant various articles of drapery; and accounts and invoices of the goods so supplied, and their prices, were from time to time furnished to the defendant, and payments on account were from time to time made by the defendant.

2. On the 28th of February 1875 a balance remained due to the plaintiff of £75 9s., and an account was on that day sent by the plaintiff to the defendant, showing that balance.

3. On the 1st of March following the plaintiff's collector saw the defendant at his house, and asked for payment of the said balance, and the defendant then paid him by cheque £25 on account of the same. The residue of the said balance, amounting to £50 9s., has never been paid.

The plaintiff claims £

The plaintiff proposes that this action should be tried in the bailiwick.

APPENDIX (C).

Order XIX, rule 4.

ACCOUNT STATED.

Claim.

No. 2.

In the Supreme Court.

Writ issued 22nd December 1876.

[1876. No. 233.]

ADMINISTRATION OF
ESTATE.

In the matter of the estate of *A.B.*, deceased.
 Between *E.F.* - - - - - Plaintiff,
 and
G.H. - - - - - Defendant.

Statement of Claim.

1. *A.B.* of *K.*, in the county of *L.*, died on the 1st of July 1875, intestate. The defendant *G.H.* is the administrator of *A.B.*

2. *A.B.* died entitled to lands in the said county for an estate in fee-simple, and also to some other real estate and to personal estate. The defendant has entered into possession of the real estate of *A.B.*, and received the rents thereof. The legal estate in such real estate is outstanding in mortgagees under mortgages created by the intestate.

3. *A.B.* was never married; he had one brother only, who pre-deceased him without having been married, and two sisters only, both of whom also pre-deceased him, namely *M.N.* and *P.Q.* The plaintiff is the only child of *M.N.*, and the defendant is the only child of *P.Q.*

The plaintiff claims—

1. To have the real and personal estate of *A.B.* administered in this Court, and for that purpose to have all proper directions given and accounts taken.

2. Such further or other relief as the nature of the case may require.

Claim.

In the Supreme Court.

In the matter of the estate of *A.B.*, deceased.

[1876. No. 233.]

Between *E.F.* - - - - - Plaintiff,
 and
G.H. - - - - - Defendant.

Statement of Defence.

1. The plaintiff is an illegitimate child of *M.N.* She was never married.
 2. The intestate was not entitled to any real estate at his death, except a copyhold estate situate in the county of *R.*, and held of the manor of *S.* According to the custom of that manor, when the copyholder dies without issue, and without leaving a brother, or issue of a deceased brother, the copyhold descends to his elder sister and her issue in preference to his younger sister and her issue. *P.Q.* was older than *M.N.*

3. The personal estate of *A.B.* was not sufficient for the payment of his debts, and has all been applied in payment of his funeral and testamentary expenses, and part of his debts.

Defence.

[1876. No. 233.]

In the Supreme Court.

In the matter of the estate of *A.B.*, deceased.

Between *E.F.* - - - - - Plaintiff,
 and
G.H. - - - - - Defendant.

Reply.

The plaintiff joins issue with the defendant upon his defence.

Reply.

No. 3.

APPENDIX (C).

No. 3.

In the Supreme Court.

[1876. No. 234.]

Writ issued 22nd December 1876.

In the matter of the estate of *A.B.*, deceased.Between *E.F.* - - - - Plaintiff,

and

G.H. - - - - Defendant.

Claim.

1. *A.B.* of *K.*, in the county of *L.*, duly made his last will, dated the 1st day of March 1873, whereby he appointed the defendant and *M.N.* (who died in the testator's lifetime) executors thereof, and devised and bequeathed his real and personal estate to and to the use of his executors in trust, to pay the rents and income thereof to the plaintiff for his life; and after his decease, and in default of his having a son who should attain 21, or a daughter who should attain that age, or marry, upon trust as to his real estate for the person who would be the testator's heir-at-law, and as to his personal estate for the persons who would be the testator's next of kin if he had died intestate at the time of the death of the plaintiff, and such failure of his issue as aforesaid.

2. The testator died on the 1st day of July 1873, and his will was proved by the defendant on the 4th of October 1873. The plaintiff has not been married.

3. The testator was at his death entitled to real and personal estate; the defendant entered into the receipt of the rents of the real estate and got in the personal estate; he has sold some part of the real estate.

The plaintiff claims—

1. To have the real and personal estate of *A.B.* administered in this Court, and for that purpose to have all proper directions given and accounts taken.
2. Such further or other relief as the nature of the case may require.

In the Supreme Court.

In the matter of the estate of *A.B.*, deceased.

[1876. No. 234.]

Between *E.F.* - - - - Plaintiff,

and

G.H. - - - - Defendant.

Defence.

Statement of Defence.

1. *A.B.*'s will contained a charge of debts; he died insolvent; he was entitled at his death to some real estate, which the defendant sold, and which produced the net sum of £4300, and the testator had some personal estate, which the defendant got in, and which produced the net sum of £1204. The defendant applied the whole of the said sums and the sum of £84, which the defendant received from rents of the real estate, in the payment of the funeral and testamentary expenses and some of the debts of the testator. The defendant made up his accounts and sent a copy thereof to the plaintiff on the 10th of January 1875, and offered the plaintiff free access to the vouchers to verify such accounts, but he declined to avail himself of the defendant's offer. The defendant submits that the plaintiff ought to pay the costs of this action.

In the Supreme Court.

In the matter of the estate of *A.B.*, deceased.

[1876. No. 234.]

Between *E.F.* - - - - Plaintiff,

and

G.H. - - - - Defendant.

Reply.

Reply.

The plaintiff joins issue with the defendant upon his defence.

No. 4.

In the Supreme Court.

In the matter of the estate of *W.H.*, deceased.

[1876. No. 235.]

Writ issued 22nd December 1876.

Between *A.B.* and *C.* his wife - - - - Plaintiffs,

and

E.F. and *G.H.* - - - - Defendants.

Claim.

Statement of Claim.

1. *W.H.* of *H.*, in the county of *L.*, duly made his last will, dated the 19th day of March 1861, whereby he appointed the defendants the executors thereof, and bequeathed to them all his personal estate in trust, to call in, sell, and convert the same into money, and thereout to pay his debts and funeral and testamentary expenses, and to divide the ultimate surplus into three shares, and to pay one of such three shares to each of his two children, *T.H.*, and *E.*, the wife of *E.W.*, and to stand possessed of the remaining third share upon trust for the children of the testator's son *J.H.* in equal shares, to be divided among them when the youngest of such children should attain the age of 21 years. And the testator

testator devised his real estates to the defendants upon trust until the youngest child of the said J.H. should attain the age of 21 years, to pay one third part of the rents thereof to the said T.H., and one other third part thereof to the said E.W., and to accumulate the remaining third part by way of compound interest, and so soon as the youngest child of the said J.H. should attain the age of 21 years to sell the said real estates, and out of the proceeds of such sale to pay the sum of £1000 to the said T.H., and to invest one moiety of the residue in manner therein mentioned, and stand possessed thereof in trust to pay the income thereof to the said E., the wife of the said E.W., during her life for her separate use, and after her death for her children, the interests of such children being contingent on their attaining the age of 21 years, and to divide the other moiety of such proceeds of sale and the accumulations of the third share of rents thereinbefore directed to be accumulated among such of the children of the said J.H. as should be then living, and the issue of such of them as should be then dead, in equal shares per stirpes.

2. The testator died on the 25th day of April 1873, and his said will was proved by the defendants in the month of June 1873.

3. The testator died possessed of one third share in a leasehold colliery called the Paradise Colliery, and in the engines, machinery, stock-in-trade, book debts, and effects belonging thereto. He was also entitled to real estate, and other personal estate.

4. The testator left T.H. and E., the wife of E.W., him surviving. J.H. had died in the testator's lifetime, leaving four children, and no more. The plaintiff C.B. is the youngest of the children of J.H., and attained the age of 21 years on the 1st of June 1871. The other three children of J.H. died without issue in the lifetime of the testator.

5. E.W. has several children, but no child has attained the age of 21 years.

6. T.H. is the testator's heir-at-law.

7. The defendants have not called in, sold, and converted into money the whole of the testator's personal estate, but have allowed a considerable part thereof to remain outstanding; and in particular the defendants have not called in, sold, or converted into money the testator's interest in the said colliery, but have, from the death of the testator to the present time, continued to work the same in partnership with the other persons interested therein. The estate of the testator has sustained considerable loss by reason of such interest not having been called in, sold, or converted into money.

8. The defendants did not upon the death of the testator sell the testator's furniture, plate, linen, and china, but allowed the testator's widow to possess herself of a great part thereof, without accounting for the same, and the same has thereby been lost to the testator's estate.

9. The defendants have not invested the share of the testator's residuary personal estate given by his will to the children of the testator's son J.H., and have not accumulated one third of the rents and profits of his real estate as directed by the said will, but have mixed the same share and rents with their own moneys, and employed them in business on their own account.

10. The defendants have sold part of the real estate of the testator, but a considerable part thereof remains unsold.

11. A receiver ought to be appointed of the outstanding personal estate of the testator, and the rents and profits of his real estate remaining unsold.

The plaintiffs claim—

1. That the estate of the said testator may be administered and the trusts of his will carried into execution under the direction of the Court.
2. That it may be declared that the defendants, by carrying on the business of the said colliery instead of realizing the same, have committed a breach of trust, and that the parties interested in the testator's estate are entitled to the value of the testator's interest in the said partnership property as it stood at the testator's death, with interest thereon, or at their election to the profits which have been made by the defendants in respect thereof since the testator's death, whichever shall be found most for their benefit.
3. That an account may be taken of the interest of the testator in the said colliery, and in the machinery, book debts, stock, and effects belonging thereto, according to the value thereof at the testator's death, and an account of all sums of money received by or by the order, or for the use of the defendants, or either of them, on account of the testator's interest in the said colliery, and that the defendants may be ordered to make good to the estate of the testator the loss arising from their not having realized the interest of the testator in the said colliery within a reasonable time after his decease.
4. That an account may be taken of all other personal estate of the testator come to the hands of the defendants, or either of them, or to the hands of any other person by their or either of their order, or for their or either of their use, or which, but for their wilful neglect or default, might have been so received; and an account of the rents and profits of the testator's real estate, and the moneys arising from the sale thereof, possessed or received by or by the order, or for the use of the defendants, or either of them.
5. That the real estate of the testator remaining unsold may be sold under the direction of the Court.
6. That the defendants may be decreed, at the election of the parties interested in the testator's estate, either to pay interest at the rate of £5 per cent. per annum upon such moneys belonging to the estate of the testator as they have improperly mixed with their own moneys and employed in business on their own account, and that half-yearly rests may

APPENDIX (C).

may be made in taking such account as respects all moneys which by the said will were directed to be accumulated, or to account for all profits by the employment in their business of the said trust money.

7. That a receiver may be appointed of the outstanding personal estate of the testator, and to receive the rents and profits of his real estate remaining unsold.
8. Such further or other relief as the nature of the case may require.

In the Supreme Court.

[1876. No. 235.]

Between *A.B.* and *C.*, his wife - - Plaintiffs,
and
E.F. and *G.H.* - - Defendants.

Statement of Defence of the above-named Defendants.

Defence.

1. Shortly after the decease of the testator, the defendants, as his executors, possessed themselves of and converted into money the testator's personal estate, except his share in the colliery mentioned in the plaintiffs' statement of claim. The moneys so arising were applied in payment of part of the testator's debts and funeral and testamentary expenses, but such moneys were not sufficient for the payment thereof in full.
2. The Paradise Colliery was, at the testator's decease, worked by him in partnership with *J.Y.*, and *W.Y.*, and *T.Y.*, both since deceased. No written articles of partnership had been entered into, and for many years the testator had not taken any part in the management of the said colliery, but it was managed exclusively by the other partners, and the defendants did not know with certainty to what share therein the testator was entitled.
3. Upon the death of the testator, the defendants endeavoured to ascertain the value of the testator's share in the colliery, but the other partners refused to give them any information. The defendants thereupon had the books of the colliery examined by a competent accountant, but they had been so carelessly kept that it was impossible to obtain from them any accurate information respecting the state of the concern; it was, however, ascertained that a considerable sum was due to the testator's estate.
4. Between the death of the testator and the beginning of the year 1874, the defendants made frequent applications to *J.Y.*, *W.Y.*, and *T.Y.* for a settlement of the accounts of the colliery. Such applications having proved fruitless, the defendants, in January 1874, filed their bill of complaint in the Supreme Court against *J.Y.*, *W.Y.*, and *T.Y.*, praying for an account of the partnership dealings between the testator and the defendants thereto, and that the partnership might be wound up under the direction of the Court.
5. The said *T.Y.* died in the year 1874, and the suit was revived against *J.P.* and *T.S.*, his executors. The suit is still pending.
6. As to the Paradise Colliery, the defendants have acted to the best of their judgment for the benefit of the testator's estate, and they deny being under any liability in respect of the said colliery not having been realized. They submit to act under the direction of the Court as to the further prosecution of the said suit, and generally as to the realization of the testator's interest in the said colliery.
7. With respect to the statements in the eighth paragraph of the statement of claim, the defendants say, that upon the death of the testator they sold the whole of his furniture, linen, and china, and also all his plate, except a few silver teaspoons of very small value, which were taken possession of by his widow, and they applied the proceeds of such sale as part of the testator's personal estate, and they deny being under any liability in respect of such furniture, linen, china, and plate.
8. With respect to the statements in paragraph seven of the statement of claim, the defendants say that all moneys received by them, or either of them, on account of the testator's estate, were paid by them to their executorship account at the bank of Messrs. *H.* and *Co.*, and until the sale of the testator's real estate took place as hereinafter mentioned, the balance to their credit was never greater than was necessary for the administration of the trusts of the testator's will, and they therefore were unable to make any such investment or accumulation as directed by the testator's will. No moneys belonging to the testator's estate have ever been mixed with the moneys of the defendants, or either of them, nor has any money of the testator's been employed in business since the testator's decease, except that his share in the said colliery, for the reason hereinbefore appearing, has not been got in.
9. In 1874, after the plaintiff *C.B.* had attained her age of 21 years, the defendants sold the real estate of the testator for sums amounting to £15,080, and no part thereof remains unsold. They received the purchase moneys in December 1874, and on the _____ day of _____ 1875 they paid such proceeds into Court to the credit of this action, with the exception of £500 retained on account of costs incurred and to be incurred by them.

In the Supreme Court.

[1876. No. 235.]

Between *A.B.* and *C.* his wife - - Plaintiffs,
and
E.F. and *G.H.* - - Defendants.

Reply.

Reply.

The plaintiffs join issue with the defendants upon their defence.

No. 5

In the Supreme Court. No. 5. 187 . No.
 Writ issued 3rd August 1875.
 Between *A.B.* and *Company* - - - Plaintiffs,
 and
E.F. and *Company* - - - Defendants.

APPENDIX (C).

AGENT.

CLAIM.

Statement of Claim.

1. The plaintiffs are manufacturers of artificial manures, carrying on business at in the county of .
 2. The defendants are commission agents, carrying on business in London.
 3. In the early part of the year 187 the plaintiffs commenced, and down to the continued to consign to the defendants, as their agents, large quantities of their manures for sale, and the defendants sold the same, and received the price thereof and accounted to the plaintiffs therefor.
 4. No express agreement has ever been entered into between the plaintiffs and the defendants with respect to the terms of the defendants' employment as agents. The defendants have always charged the plaintiffs a commission at per cent. on all sales effected by them, which is the rate of commission ordinarily charged by *del credere* agents in the said trade. And the defendants in fact always accounted to the plaintiffs for the price, whether they received the same from the purchasers or not.
 5. The plaintiffs contend that the defendants are liable to them as *del credere* agents, but if not so liable are, under the circumstances hereinafter mentioned, liable as ordinary agents.
 6. On the the plaintiffs consigned to the defendants for sale a large quantity of goods, including tons of
 7. On or about the the defendants sold tons of part of such goods to one *G.H.* for £ , at three months' credit, and delivered the same to him.
 8. *G.H.* was not at that time in good credit, and was in insolvent circumstances, and the defendants might, by ordinary care and diligence, have ascertained the fact.
 9. *G.H.* did not pay for the said goods, but before the expiration of the said three months for which credit had been given was adjudicated a bankrupt, and the plaintiffs have never received the said sum of £ or any part thereof.

The plaintiffs claim:—

1. Damages to the amount of £
2. Such further or other relief as the nature of the case may require.

The plaintiffs propose that this action should be tried in the bailiwick.

[Title as in claim, omitting date of issue of writ.]

Statement of Defence.

DEFENCE.

1. The defendants deny that the said commission of per cent., mentioned in paragraph 4 of the claim, is the rate of commission ordinarily charged by *del credere* agents in the said trade, and say that the same is the ordinary commission for agents other than *del credere* agents, and they deny that they ever accounted to the plaintiffs for the price of any goods, except after they had received the same from the purchasers.
 2. The defendants deny that they were ever liable to the plaintiffs as *del credere* agents.
 3. With respect to the eighth paragraph of the plaintiffs' statement of claim, the defendants say that, at the time of the said sale to the said *G.H.*, the said *G.H.* was a person in good credit. If it be true that the said *G.H.* was then in insolvent circumstances (which the defendants do not admit), the defendants did not and had no reason to suspect the same, and could not by ordinary care or diligence have ascertained the fact.

[Title as in defence.]

Reply.

REPLY.

The plaintiffs join issue upon the defendants' statement of defence.

In the Supreme Court. No. 6. 187 . No.
 Writ issued 3rd August 1876.
 Between *A.B.* and *C.D.* - - - Plaintiffs,
 and
E.F. and *G.H.* - - - Defendants.

BILL OF EXCHANGE.

CLAIM.

Statement of Claim.

1. Messrs. *M.N. & Co.* on the day of drew a bill of exchange upon the defendants for £ , payable to the order of the said Messrs. *M.N. & Co.* three months after date, and the defendants accepted the same.
 2. Messrs. *M.N. & Co.* indorsed the bill to the plaintiffs.
 3. The bill became due on the and the defendants have not paid it.
 The plaintiffs claim—

[Title.]

APPENDIX (C).

Defence.

[Title.]

Statement of Defence.

1. The bill of exchange mentioned in the statement of claim was drawn and accepted under the circumstances hereinafter stated, and, except as hereinafter mentioned, there never was any consideration for the acceptance or payment thereof by the defendants.
2. Shortly before the acceptance of the said bill it was agreed between the said Messrs. *M.N. & Co.*, the drawers thereof, and the defendants, that the said Messrs. *M.N. & Co.* should sell and deliver to the defendants free on board ship at the port of _____ 1200 tons of coals during the month of _____ and that the defendants should pay for the same by accepting the said Messrs. *M.N. & Co.*'s draft for £ _____ at six months.
3. The said Messrs. *M.N. & Co.* accordingly drew upon the defendants, and the defendants accepted the bill of exchange now sued upon.
4. The defendants did all things which were necessary to entitle them to delivery by the said Messrs. *M.N. & Co.* of the said 1200 tons of coals under their said contract, and the time for delivery has long since elapsed; but the said Messrs. *M.N. & Co.* never delivered the same, or any part thereof, but have always refused to do so, whereby the consideration for the defendants' acceptance has wholly failed.
5. The plaintiffs first received the said bill, and it was first indorsed to them after it was overdue.
6. The plaintiffs never gave any value or consideration for the said bill.
7. The plaintiffs took the said bill with notice of the facts stated in the second, third, and fourth paragraphs hereof.

[Title.]

Reply.

Reply.

1. The plaintiff joins issue upon the defendants' statement of defence.
2. The plaintiff gave value and consideration for the said bill in manner following, that is to say, on the _____ day of _____ 187 _____ the said Messrs. *M.N. & Co.* were indebted to the plaintiff in about £ _____, the balance of an account for goods sold from time to time by him to them. On that day they ordered of the plaintiff further goods to the value of about £ _____, which last-mentioned goods have since been delivered by him to them. And at the time of the order for such last-mentioned goods it was agreed between Messrs. *M.N. & Co.* and the plaintiff, and the order was received upon the terms, that they should indorse and hand over to him the bill of exchange sued upon, together with various other securities on account of the said previous balance, and the price of the goods so ordered on that day. The said securities, including the bill sued upon, were thereupon on the same day indorsed and handed over to the plaintiff.

No. 7.

187 . No.

BILL OF EXCHANGE AND CONSIDERATION.

In the Supreme Court.

Writ issued 3rd August 1876.

Between *A.B.* and *C.D.* - - - Plaintiffs,
and
E.F. and *G.H.* - - - Defendants.

Statement of Claim.

Claim.

1. The plaintiffs are _____ merchants, factors, and commission agents, carrying on business in London.
2. The defendants are merchants and commission agents, carrying on business at Hong Kong.
3. For several years prior to the _____ 1875 the plaintiffs had been in the habit of consigning goods to the defendants for sale, as their agents, and the defendants had been in the habit of consigning goods to the plaintiffs for sale, as their agents; and each party always received the price of the goods sold by him for the other; and a balance was from time to time struck between the parties, and paid.
On the _____ of _____ the moneys so received by the defendants for the plaintiffs, and remaining in their hands, largely exceeded the moneys received by the plaintiffs for the defendants, and a balance of £ _____ was accordingly due to the plaintiffs from the defendants.
4. On or about the _____ 1875 the plaintiffs sent to the defendants a statement of the accounts between them, showing the said sum as the balance due to the plaintiffs from the defendants; and the defendants agreed to the said statement of accounts as correct, and to the said sum of £ _____ as the balance due by them to the plaintiffs, and agreed to pay interest on such balance if time were given to them.
5. The defendants requested the plaintiffs to give them three months' time for payment of the said sum of £ _____, and the plaintiffs agreed to do so upon the defendants' accepting the bills of exchange hereinafter mentioned.
6. The plaintiffs thereupon on the _____ drew two bills of exchange upon the defendants, one for £ _____ and the other for £ _____, both payable to the order of the plaintiffs three months after date, and the defendants accepted the bills.
The said bills became due on the _____ 187 _____, and the defendants have not paid the bills, or either of them, nor the said sum of £ _____
The plaintiffs claim—
£ _____ and interest to the date of judgment.
The plaintiffs propose that the action should be tried in the _____ bailiwick.

No. 8.*

APPENDIX (C).

£1000 paid (subject to such deduction) to the plaintiffs' agents at Calcutta by the defendants on or about the 12th November 1874.

3. With respect to the alleged breach of warranty and the alleged damages therefrom, stated in the seventh, eighth, and ninth paragraphs, the plaintiffs say that the steamship was, at the date of the charter-party, capable of steaming nine knots an hour on a consumption of 30 tons of coal a day. If the steamship did not, during the said charter, steam more than eight knots an hour, and that on a consumption of more than 35 tons a day, as alleged (which the plaintiffs do not admit), it was in consequence of the bad and unfit quality of the coals provided by the defendants for the ship's use,

[Title.]

Joinder of Issue.

Rejoinder.

The defendants join issue upon the plaintiffs' reply to their set-off and counter-claim.

*14.

FORECLOSURE.

No. 9.*

1876. No. 672.

In the Supreme Court.

Writ issued [- - -].
Between R. W. - - - - - Plaintiff,
and
O. S. and J. B. - - - - - Defendants.

Claim.

Statement of Claim.

1. By an indenture dated the 25th day of March 1867, made between the defendant O. S. of the one part, and the plaintiff of the other part, the defendant O. S., in consideration of the sum of £10,000 paid to him by the plaintiff, conveyed to the plaintiff and his heirs a farm containing 398 acres, situate in the parish of B., in the county of D., with all the coal mines, seams of coal, and other mines and minerals in and under the same, subject to a proviso for redemption of the same premises on payment by the defendant O. S., his heirs, executors, administrators, or assigns, to the plaintiff, his executors, administrators, or assigns, of the sum of £10,000, with interest for the same in the meantime at the rate of £4 per cent. per annum, on the 25th day of September then next.

2. By an indenture dated the 1st day of April 1867, made between the defendant O. S. of the one part, and the defendant J. B. of the other part, the defendant O. S. conveyed to the defendant J. B. and his heirs the hereditaments comprised in the hereinbefore stated security of the plaintiff, or some parts thereof, subject to the plaintiff's said security, and subject to a proviso for redemption of the same premises on payment by the defendant O. S., his heirs, executors, administrators, or assigns, to the defendant J. B., his executors, administrators, or assigns, of the sum of £15,000, with interest for the same in the meantime at the rate of £5 per cent. per annum.

3. The whole of the said sum of £10,000, with an arrear of interest thereon, remains due to the plaintiff on his said security.

The plaintiff claims as follows:—

1. That an account may be taken of what is due to the plaintiff for principal money and interest on his said security, and that the defendants may be decreed to pay to the plaintiff what shall be found due to him on taking such account, together with his costs of this action, by a day to be appointed by the Court, the plaintiff being ready and willing, and hereby offering, upon being paid his principal money, interest, and costs, at such appointed time, to convey the said mortgaged premises as the Court shall direct.
2. That in default of such payment the defendants may be foreclosed of the equity of redemption in the mortgaged premises,
3. Such further or other relief as the nature of the case may require.

1876. 672.

In the Supreme Court.

Between R. W. - - - - - Plaintiff,
and
O. S. and J. B. - - - - - Defendants,
(by original action),
And between the said O. S. - - - - - Plaintiff,
and
The said R. W., and J. B., and J. W. - - - Defendants,
(by counter-claim).

Defence.

The Defence and Counter-claim of the above-named O. S.

1. This defendant does not admit that the contents of the indenture of the 25th day of March 1867, in the plaintiff's statement of complaint mentioned, are correctly stated therein.

2. The indenture of the 1st day of April 1867, in the statement of claim mentioned, was not a security for the sum of £15,000 and interest at £5 per cent. per annum, but for the sum of £14,000 only, with interest at the rate of £4 10s. per cent. per annum.

3. This

565.

3. This defendant submits that under the circumstances in his counter-claim mentioned, the said indentures of the 25th day of March 1867 and the 1st day of April 1867 did not create any effectual security upon the mines and minerals in and under the lands in the same indentures comprised, and that the same mines and minerals ought to be treated as excepted out of the said securities.

And by way of counter-claim this defendant states as follows :—

Counter-claim.

1. At the time of the execution of the indenture next hereinafter stated, J. C. A. was seised in fee simple in possession of the lands described in the said indentures, and the mines and minerals in and under the same.
2. By indenture dated the 24th of March 1860, made between the said J. C. A. of the first part, E. his wife, then E. S., spinster, of the second part, and this defendant and the above-named J. W. of the third part, being a settlement made in contemplation of the marriage, shortly after solemnized, between the said J. C. A. and his said wife, the said J. C. A. granted to this defendant and the said J. W., and their heirs, all the coal mines, beds of coal, and other the mines and minerals under the said lands, with such powers and privileges as in the now-stating indenture mentioned, for the purpose of winning, working, and getting the same mines and minerals, to hold the same premises to this defendant and the said J. W. and their heirs to the use of the said J. C. A., his heirs and assigns, till the solemnization of the said marriage, and after the solemnization thereof to the use of this defendant and the said J. W., their executors and administrators, for the term of 500 years, from the day of the date of the now-stating indenture, upon the trusts therein mentioned, being trusts for the benefit of the said J. C. A., and his wife and the children of their marriage, and from and after the expiration or other determination of the said term of 500 years, and in the meantime subject thereto, to the use of the said J. C. A., his heirs and assigns for ever.
3. By indenture dated the 12th of May 1860, made between the said J. C. A. of the one part, and W. N. of the other part, the said J. C. A. granted to the said W. N. and his heirs the said lands, except the coal mines, beds of coal, and other mines and minerals thereunder, to hold the same premises unto and to the use of the said W. N., his heirs and assigns for ever, by way of mortgage, for securing the payment to the said W. N., his executors, administrators, or assigns, of the sum of £26,000, with interest as therein mentioned.
4. On the 14th of January 1864, the said J. C. A. was adjudicated a bankrupt, and shortly afterwards J. L. was appointed creditors' assignee of his estate.
5. Some time after the said bankruptcy, the said W. N., under a power of sale in his said mortgage deed, contracted with this defendant for the absolute sale to this defendant of the property comprised in his said security for an estate in fee simple in possession, free from incumbrances, for the sum of £26,000, and the said J. L., as such assignee as aforesaid, agreed to join in the conveyance to this defendant for the purpose of signifying his assent to such sale.
6. By indenture dated the 1st of September 1866, made between the said W. N. of the first part, the said J. L. of the second part, the said J. C. A. of the third part, and this defendant of the fourth part, reciting the said agreement for sale, and reciting that the said J. L., being satisfied that the said sum of £26,000 was a proper price, had agreed to confirm the said sale, it was witnessed that in consideration of the sum of £26,000. with the privity and approbation of the said J. L., paid by this defendant to the said W. N., he the said W. N. granted, and the said J. C. A. ratified and confirmed to this defendant and his heirs, all the hereditaments comprised in the said security of the 12th day of May 1860, with their rights, members, and appurtenances, and all the estate, right, title, and interest of them, the said W. N. and J. C. A., therein, to hold the same premises unto and to the use of this defendant, his heirs and assigns for ever.
7. The sale to this defendant was not intended to include anything not included in the security of the 12th of May 1860, and the said J. L. only concurred therein to signify his approval of the said sale, and did not purport to convey any estate vested in him; and the lastly hereinbefore stated indenture did not vest in this defendant any estate in the said mines and minerals.
8. The plaintiff and the defendant J. B. respectively had before they advanced to this defendant the moneys lent by them on their securities in the plaintiff's claim mentioned full notice that the mines and minerals under the said lands did not belong to this defendant. This fact appeared on the abstracts of title delivered to them before the preparation of their said securities. A valuation of the property made by a surveyor was furnished to them respectively on behalf of this defendant before they agreed to advance their money on their said securities; but although the said lands are in a mineral district, the mines and minerals were omitted from such valuation, and they respectively knew at the time of taking their said securities that the same did not include any interest in the mines and minerals.
9. At the time when the securities of the plaintiff and the defendant J. B. were respectively executed, the plaintiff and the defendant J. B. respectively had notice of the said indenture of settlement of the 24th day of March 1860.
10. At the time when the plaintiff's security was executed, the mines and minerals under the said lands, with such powers and privileges as aforesaid, were vested in this defendant and the said J. W. for the residue of the said term of 500 years, and, subject to the said term, the inheritance in the same mines, minerals, powers, and privileges was vested in the said J. L. as such assignee as aforesaid.
11. The

APPENDIX (C.)

5. At various times between the 29th of September and the 25th of December 1873, *M.N.* received on behalf of the plaintiffs and as their collector sums of money from debtors of the plaintiffs amounting in the whole to the sum of £950; and of this amount *M.N.* neglected to account for or pay over to the plaintiffs sums amounting in the whole to £227, and appropriated the last-mentioned sums to his own use.
 6. The defendant has not paid the last-mentioned sums or any part thereof to the plaintiffs.
 The plaintiffs claim :—

*17.
 INTEREST SUIT (PROBATE).

No. 12.*

187 . No.

In the Supreme Court.

Between *A.B.* - - - - Plaintiff,
 and
C.D. - - - - Defendant.

Claim.

Statement of Claim.
 1. *M.N.*, late of No. High street, in the county of , grocer, deceased, died on or about the day of , at No. 1 High street, , aforesaid, a widower, without child, parent, brother or sister, uncle or aunt, nephew or niece.
 2. The plaintiff is the cousin-german, and one of the next of kin of the deceased.
 The plaintiff claims :—
 That the Court decree to him a grant of letters of administration of the personal estate and effects of the said deceased as his lawful cousin-german and one of his next of kin.

Defence.

[Title.]
Defence.
 1. The defendant admits that *M.N.* died a widower, without child, parent, brother or sister, uncle or aunt, or niece, but he denies that he died without nephew.
 2. The deceased had a brother named *G.B.*, who died in his lifetime.
 3. *G.B.* was married to *E.H.* in the parish church of in the county of on the day of , and had issue of such marriage the defendant, who was born in the month of and is the nephew and next of kin of the deceased.
 The defendant therefore claims :—
 That the Court pronounce that he is the nephew and next of kin of the deceased, and as such entitled to a grant of letters of administration of the personal estate and effects of the deceased.

Reply

[Title.]
Reply.
 1. The plaintiff denies that *G.B.* was married to *E.H.*
 2. He also denies that the defendant is the issue of such marriage.

* 18.
 LANDLORD AND TENANT.

No. 13.*

187 . No.

In the Supreme Court.

Writ issued 3rd August 1876.

Between *A.B.* - - - - Plaintiff,
 and
C.D. - - - - Defendant.

Claim.

Statement of Claim.
 1. On the day of the plaintiff, by deed, let to the defendant a house and premises, No. 52 street, in the city of Melbourne, for a term of twenty-one years from the day of , at the yearly rent of £120, payable quarterly.
 2. By the said deed the defendant covenanted to keep the said house and premises in good and tenantable repair.
 3. The said deed also contained a clause of re-entry, entitling the plaintiff to re-enter upon the said house and premises, in case the rent thereby reserved, whether demanded or not, should be in arrear for twenty-one days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.
 4. On the 24th June 187 a quarter's rent became due, and on the 29th of September 187 another quarter's rent became due; on the 21st October 187 both had been in arrear for twenty-one days, and both are still due.
 5. On the same 21st October 187 the house and premises were not and are not now in good or tenantable repair, and it would require the expenditure of a large sum of money to reinstate the same in good and tenantable repair, and the plaintiff's reversion is much depreciated in value.
 The plaintiff claims :—
 1. Possession of the said house and premises.
 2. £ for arrears of rent.
 3. £ damages for the defendant's breach of his covenant to repair.
 4. £ for the occupation of the house and premises from the 29th of September 187 to the day of recovering possession.
 The plaintiff proposes that this action should be tried in the bailwick.

No. 14.*

569

No. 14.*

187 . No.

APPENDIX (C.)

In the Supreme Court.

Writ issued 3rd August 1876.

Between *A.B.* - - - - - Plaintiff,
 and
E.F. - - - - - Defendant.

* 20.
NEGLIGENCE.

Statement of Claim.

1. The plaintiff is a shoemaker, carrying on business at candle manufacturer, of . The defendant is a soap and Claim.

2. On the 23rd May 1875, the plaintiff was walking eastward along the south side of Queen street, in the city of Melbourne, at about three o'clock in the afternoon. He was obliged to cross street, which is a street running into Queen street at right angles on the side. While he was crossing this street, and just before he could reach the foot pavement on the further side thereof, a two-horse van of the defendant's, under the charge and control of the defendant's servants, was negligently, suddenly, and without any warning, turned at a rapid and dangerous pace out of Queen street into street. The pole of the van struck the plaintiff and knocked him down, and he was much trampled by the horses.

2. By the blow, and fall, and trampling, the plaintiff's left arm was broken, and he was bruised and injured on the side and back as well as internally, and in consequence thereof the plaintiff was for four months ill and in suffering, and unable to attend to his business, and incurred heavy medical and other expenses, and sustained great loss of business and profits.

The plaintiff claims £ damages.

[Title.]

Statement of Defence.

1. The defendant denies that the van was the defendant's van, or that it was under the charge or control of the defendant's servant. The van belonged to Mr. John Smith, of , a carman and contractor employed by the defendant to carry and deliver goods for him; and the persons under whose charge and control the said van was were the servants of the said Mr. John Smith. Defence.

2. The defendant does not admit that the van was turned out of Queen street, either negligently suddenly, or without warning, or at a rapid or dangerous pace.

3. The defendant says that the plaintiff might and could, by the exercise of reasonable care and diligence, have seen the van approaching him, and avoided any collision with it.

4. The defendant does not admit the statements of the third paragraph of the statement of claim.

[Title.]

Reply.

The plaintiff joins issue upon the defendant's statement of defence.

Reply.

No. 15.*

187 . No.

* 22.
PROMISSORY NOTE.

In the Supreme Court.

Writ issued 3rd August 1876.

Between *A.B.* - - - - - Plaintiff,
 and
E.F. - - - - - Defendant.

Statement of Claim.

1. The defendant on the day of made his promissory note, whereby he promised to pay to the plaintiff or his order £ three months after date. Claim.

2. The note became due on the day of 1874, and the defendant has not paid it.

The plaintiff claims :—

The amount of the note and interest thereon to judgment.

The plaintiff proposes that this action should be tried in the bailiwick.

[Title.]

Statement of Defence.

1. The defendant made the note sued upon under the following circumstances :—The plaintiff and defendant had for some years been in partnership as coal merchants, and it had been agreed between them that they should dissolve partnership, that the plaintiff should retire from the business, that the defendant should take over the whole of the partnership assets and liabilities, and should pay the plaintiff the value of his share in the assets after deducting the liabilities. Defence.

2. The plaintiff thereupon undertook to examine the partnership books, and inquire into the state of the partnership assets and liabilities; and he did accordingly examine the books, and make the said inquiries, and he thereupon represented to the defendant that the assets of the firm exceeded £10,000, and that the liabilities of the firm were under £3000, whereas the fact was that the assets of the firm were less than £5000, and the liabilities of the firm largely exceeded the assets.

3. The misrepresentations mentioned in the last paragraph induced the defendant to make the note now sued on, and there never was any other consideration for the making of the note.

[Title.]

Reply.

The plaintiff joins issue on the defence.

Reply.

No. 16.*

APPENDIX (C.)

No. 16.*

187 . No.

*23.

In the Supreme Court,

Writ issued [- - -].

PROBATE OF WILL IN SOLEMN FORM.

Between A.B. - - - - Plaintiff,
and
E.F. - - - - Defendant.

Claim.

Statement of Claim.

1. C. T., late of Bicester, in the county of Bourke, gentleman, deceased, who died on the 20th of January 1875, at Bicester, being of the age of twenty-one years, made his last will, with one codicil thereto, the said will bearing date the first day of October 1874, and the said codicil the first of January 1875, and in the said will appointed the plaintiff sole executor thereof.
2. The said will and codicil were signed by the deceased [or by X.Y., in the presence and by the directions of the deceased, or signed by the deceased, who acknowledged his signature, or as the case may be] in the presence of two witnesses present at the same time, the said will in the presence of H. P. and J. R., and the said codicil in the presence of J. D. and G. E., and who subscribed the same in the presence of the said deceased.
3. The deceased was at the time of the execution of the said will and codicil respectively of sound mind, memory, and understanding.

The plaintiff claims:—

That the Court shall decree probate of the said will and codicil in solemn form of law.

[Title.]

Defence.

Statement of Defence.

The defendant says as follows:—

1. The said will and codicil of the said deceased were not duly executed according to the provisions of the statute 27 Vict. No. 222.
2. The deceased at the time the said will and codicil respectively purport to have been executed was not of sound mind, memory, and understanding.
3. The execution of the said will and codicil was obtained by the undue influence of the plaintiff [and others acting with him, whose names are at present unknown to the defendant].
4. The execution of the said will and codicil was obtained by the fraud of the plaintiff, such fraud, so far as is within the defendant's present knowledge, being [state the nature of the fraud].
5. The said deceased at the time of the execution of the said will and codicil did not know and approve of the contents thereof, or of the contents of the residuary clause in the said will [as the case may be].
6. The deceased made his true last will, dated the 1st day of January 1873, and in the said will appointed the defendant sole executor thereof. [Propound this will as in paragraphs 2 and 3 of claim.]

The defendant claims:—

1. That the Court will pronounce against the said will and codicil propounded by the plaintiff.
2. That the Court will decree probate of the said will of the said deceased, dated the 1st of January 1873, in solemn form of law.

[Title.]

Reply.

Reply.

1. The plaintiff joins issue upon the statement of defence of the defendant, as contained in the first, second, third, fourth, and fifth paragraphs thereof.
2. The plaintiff says that the said will of the said deceased, dated the 1st of January 1873, was duly revoked by the will of the said 1st of October 1873, propounded by the plaintiff in his statement of claim.

No. 17.*

187 . No.

*24.

RECOVERY OF LAND. LANDLORD AND TENANT.

In the Supreme Court,

Writ issued 3rd August 1876.

Between A.B. - - - - Plaintiff,
and
C.D. - - - - Defendant.

Claim.

Statement of Claim.

1. On the _____ day of _____ the plaintiff let to the defendant a house, No. 52 _____ street, in the city of Melbourne, as tenant from year to year, at the yearly rent of £120, payable quarterly, the tenancy to commence on the _____ day of _____
2. The defendant took possession of the house and continued tenant thereof until the _____ day of _____ last, when the tenancy determined by a notice duly given.
3. The defendant has disregarded the notice and still retains possession of the house.

The plaintiff claims:—

1. Possession of the house.
2. £ _____ for mesne profits from the _____ day of _____

The plaintiff proposes that this action should be tried in the _____ bailiwick.

187 . B.

APPENDIX (C.)

[Title.]

Statement of Defence.

Defence.

1. The defendant is the eldest son of *I. L.*, deceased, who was the eldest son of *K. L.*, in the statement of claim named.
2. By articles bearing date the 31st day of May 1827, and made previous to the marriage of *K. L.* with Martha his intended wife, *K. L.*, in consideration of such intended marriage, agreed to settle the house and two farms in the statement of claim mentioned (and of which he was then seised in fee) to the use of himself for his life, with remainder to the use of his intended wife for her life, and after the survivor's decease, to the use of the heirs of the body of the said *K. L.* on his wife begotten, with other remainders over.
3. The marriage soon after took effect, *K. L.*, by deeds of lease and release, bearing date respectively the 4th and 5th of April 1828, after reciting the articles in alleged performance of them, conveyed the house and two farms to the use of himself for his life, with remainder to the use of his wife for her life, and after the decease of the survivor of them, to the use of the heirs of the body of *K. L.* on the said Martha to be begotten, with other remainders over.
4. There was issue of the marriage an only son Thomas L and two daughters. After the death of Thomas L, which took place in February 1864, *K. L.*, on the 3rd May 1864, executed a disentailing assurance, which was duly enrolled, and thereby conveyed the house and two farms to the use of himself in fee.

[Title.]

Reply.

Reply.

The plaintiffs join issue upon the defendant's statement of defence.

* 27.
TRESPASS TO LAND.

No. 19.*

187 . No.

In the Supreme Court.

Writ issued 3rd August 1876.

Between *A.B.* - - - - - Plaintiff,
and
E.F. - - - - - Defendant.

Statement of Claim.

Claim.

1. The plaintiff was, on the 5th March 1876, and still is the owner and occupier of a farm called Highfield farm, in the parish of and county of and in the bailiwick.
 2. A private road, known as Highfield lane, runs through a portion of the plaintiff's farm. It is bounded upon both sides by fields of the plaintiff's, and is separated therefrom by a hedge and ditch.
 3. For a long time prior to the 5th March 1876 the defendant had wrongfully claimed to use the said road for his horses and carriages on the alleged ground that the same was a public highway, and the plaintiff had frequently warned him that the same was not a public highway, but the plaintiff's private road, and that the defendant must not so use it.
 4. On the 5th March 1876 the defendant came with a cart and horse and a large number of servants and workmen, and forcibly used the road, and broke down and removed a gate which the plaintiff had caused to be placed across the same.
 5. The defendant and his servants and workmen on the same occasion pulled down and damaged the plaintiff's hedge and ditch upon each side of the road, and went upon the plaintiff's field beyond the hedge and ditch, and injured the crops there growing, and dug up and injured the soil of the road; and in any case the acts mentioned in this paragraph were wholly unnecessary for the assertion of the defendant's alleged right to use, or the user of the said road as a highway.
- The plaintiff claims:—
1. Damages for the wrongs complained of.
 2. An injunction restraining the defendant from any repetition of any of the acts complained of.
 3. Such further relief as the nature of the case may require.

[Title.]

Statement of Defence.

Defence.

1. The defendant says that the road was and is a public highway for horses and carriages; and a few days before the 5th March 1876 the plaintiff wrongfully erected the gate across the road for the purpose of obstructing and preventing, and it did obstruct and prevent the use of the road as a highway. And the defendant on the said 5th March 1876 caused the said gate to be removed, in order to enable him lawfully to use the road by his horses and carriages as a highway.
2. The defendant denies the allegations of the fifth paragraph of the statement of claim, and says that neither he nor any of his workmen or servants did any act or used any violence other than was necessary to enable the plaintiff lawfully to use the highway.

[Title.]

Reply.

Reply.

The plaintiff joins issue upon the defendant's statement of defence.

No. 20.*

No. 20.*
Form of Demurrer.

APPENDIX (C).

In the Supreme Court.

A.B. v. C.D.

* 28.

The defendant [plaintiff] demurs to the [plaintiff's statement of complaint or defendant's statement of defence, or of set-off, or of counter-claim], [or to so much of the plaintiff's statement of complaint as claims . . . or as alleges as a breach of contract the matters mentioned in paragraph seventeen, or as the case may be], and says that the same is bad in law on the ground that [here state a ground of demurrer] and on other grounds, sufficient in law to sustain this demurrer.

No. 21*.

Memorandum of Entry of Demurrer for Argument.

29.

In the Supreme Court.

A.B. v. C.D.
to

187 . No.

Enter for the argument the demurrer of

X.Y.,
Solicitor for the plaintiff [or, &c.]

APPENDIX (D).

Order XL,* rule 1.

FORMS OF JUDGMENT.

1. Default of Appearance and Defence in Case of Liquidated Demand.

1876. No.

In the Supreme Court.

Between A.B. - - - - Plaintiff,
and
C.D. and E.F. - - - - Defendants.

30th November 1876.

The defendants [or the defendant C.D.] not having appeared to the writ of summons herein [or not having delivered any statement of defence], it is this day adjudged that the plaintiff recover against the said defendant £ and costs, to be taxed.

2. Judgment in default of Appearance in Action for Recovery of Land.

[Title, &c.]

30th November 1876.

No appearance having been entered to the writ of summons herein, it is this day adjudged that the plaintiff recover possession of the land in the said writ mentioned.

3. Judgment in default of Appearance and Defence after Assessment of Damages.

1876. No.

In the Supreme Court.

Between A.B. and C.D. - - - - Plaintiffs,
and
E.F. and G.H. - - - - Defendants.

30th November 1876.

The defendants not having appeared to the writ of summons herein [or not having delivered a statement of defence], and an inquiry having been had to assess the damages which the plaintiff was entitled to recover, and the said damages having been assessed at £ , it is adjudged that the plaintiff recover £ , and costs to be taxed.

4. Judgment

APPENDIX (D).

4. Judgment at Trial by Judge without a Jury.

[Year and number.]

In the Supreme Court.

18

Between *A.B.* - - - - - Plaintiff,
 and
C.D., E.F., and G.H. - - - - - Defendants.

This action coming on for trial [the day of and] this day, before
 in the presence of counsel for the plaintiff and the defendants [or, if some of the defendants do not appear,
 for the plaintiff and the defendant *C.D.*, no one appearing for the defendants *E.F.* and *G.H.*, although they
 were duly served with notice of trial as by the affidavit of filed the day of
 appears], upon hearing the probate of the will of , the answers of the defendants *C.D., E.F.,*
 and *G.H.* to interrogatories, the admission in writing, dated and signed by [Mr.
 the solicitor for] the plaintiff *A.B.* and by [Mr. the solicitor for] the defendant *C.D.*, the
 affidavit of filed the day of , the affidavit of filed the
 day of , the evidence of taken on their oral examination at the trial, and an
 exhibit marked X, being an indenture dated, &c., and made between [parties], and what was alleged by
 counsel on both sides : This Court doth declare, &c.
 And this Court doth order and adjudge, &c.

5. Judgment after Trial by a Jury.

[Title, &c.]

15th November 1876.

The action having on the 12th and 13th November 1876 been tried before the Honorable Mr. Justice
 and a special jury at Geelong, and the jury having found [state findings as in
Judge's certificate], and the said Judge having ordered that judgment be entered for the plaintiff for £
 and costs of suit [or as the case may be] : Therefore it is adjudged that the plaintiff recover against the
 defendant £ and £ for his costs of suit [or that the plaintiff recover nothing against the defendant,
 and that the defendant recover against the plaintiff £ for his costs of defence, or as the case may be].

6.* Judgment upon Motion for Judgment.

[Title, &c.]

*7.

30th November 1876.

This day before Mr. X. of counsel for the plaintiff [or as the case may be], moved on
 behalf of the said [state judgment moved for], and the said Mr. X. having been heard of counsel
 for and Mr. Y. of counsel for the Court adjudged

XLL,* rule 10.

APPENDIX (E).

FORMS OF PRÆCIPE.

1. *Fieri Facias.*

1876. No.

In the Supreme Court.

Between *A.B.* - - - - - Plaintiff,
 and
C.D. and others - - - - - Defendants.

Seal a writ of *fieri facias* directed to the sheriff of the bailiwick to levy against *C.D.*
 the sum of £ and also £ for interest thereon [and £ costs and also £ for interest thereon]
 [Taxing officer's certificate, dated day of .]
X.Y., solicitor for [party on whose behalf writ is to issue].

2. *Venditioni Exponas.*

187. No.

In the Supreme Court.

Between *A.B.* - - - - - Plaintiff,
 and
C.D. and others - - - - - Defendants.

Seal a writ of *venditioni exponas* directed to the sheriff of the bailiwick to sell the real and
 personal estate of *C.D.* taken under a writ of *fieri facias* in this action tested day of
X.Y., solicitor for

3.* Writ

535

3.* Writ of Sequestration.

187 . No.

APPENDIX (E).

In the Supreme Court.

Between A.B. - - - - - Plaintiff,

and

C.D. and others - - - - - Defendants.

* 6.

Seal a writ of sequestration against C.D. for not at the suit of A.B. directed to
[names of Commissioners].
Order dated day of

4.* Writ of Possession.

187 . No.

* 7.

In the Supreme Court.

Between A.B. - - - - - Plaintiff,

and

C.D. and others - - - - - Defendants.

Seal a writ of possession directed to the sheriff of the bailiwick to deliver possession
to A.B. of
Judgment dated day of

5.* Writ of Delivery.

187 . No.

* 8.

In the Supreme Court.

Between A.B. - - - - - Plaintiff,

and

C.D. and others - - - - - Defendants.

Seal a writ of delivery directed to the sheriff of the bailiwick to make delivery to
A.B. of

6.* Writ of Attachment.

187 . No.

* 9.

In the Supreme Court.

Between A.B. - - - - - Plaintiff,

and

C.D. and others - - - - - Defendants.

Seal in pursuance of order dated the day of an attachment directed to the
sheriff of the bailiwick against C.D. for not delivering to A.B.

APPENDIX (F).

Order XXI,* rule 12.

FORMS OF WRITS OF EXECUTION.

1. Writ of Fieri Facias.

187 . No.

In the Supreme Court.

Between A.B. - - - - - Plaintiff,

and

C.D. and others - - - - - Defendants.

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

To the sheriff of the bailiwick, greeting.

We command you that of the real and personal estate of C.D. in your bailiwick you cause to be
made the sum of £ and also £ for interest thereon until this day, which
said sum of money and interest were lately before us in our Supreme Court in a certain action [or certain
actions, as the case may be] wherein A.B. is plaintiff and C.D. and others are defendants [or in a certain
matter there depending intituled "In the matter of E.F.," as the case may be] by a judgment [or order, as
the case may be] of our said Court, bearing date the day of adjudged [or ordered, as the
case may be] to be paid by the said C.D. to A.B., together with certain costs in the said judgment [or
order, as the case may be] mentioned, and which costs have been taxed and allowed at the sum of £ ,
as

APPENDIX (F).

as appears by the certificate of the taxing officer, dated the day of : And that of the real and personal estate of the said *C.D.* in your bailiwick you further cause to be made the said sum of £ [costs] together with £ for interest thereon until this day, † and that you have that money and interest before us in the said Division of our said Court immediately after the execution hereof to be paid to the said *A.B.* in pursuance of the said judgment [or order, *as the case may be*]: And in what manner you shall have executed this our writ make appear to us in the said Division of our said Court immediately after the execution thereof; and have there then this writ.

Witness Sir W. F. S., Knight, at Melbourne, the day of

† The writ *must* be so moulded as to follow the substance of the judgment or order. The interest will be calculated on the money recovered from the date of the judgment or order and on the costs from the date of the allocatur. Fractional parts of interest may be omitted, in which case they will be waived.

* 3.

2.* *Writ of Venditioni Exponas.*

187 . No.

In the Supreme Court.

Between *A.B.* - - - - - Plaintiff,
and

C.D. and others - - - - - Defendants.

Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To the sheriff of the bailiwick, greeting.

Whereas by our writ we lately commanded you that of the real and personal estate of *C.D.* [*here recite the fieri facias to the end*]: And on the day of you returned to us in our said Court, that by virtue of the said writ to you directed you had taken real and personal estate of the said *C.D.* to the value of the money and interest aforesaid, which said real and personal estate remained in your hands unsold for want of buyers: Therefore we, being desirous that the said *A.B.* should be satisfied his money and interest aforesaid, command you that you expose to sale, and sell or cause to be sold, the real and personal estate of the said *C.D.*, by you in form aforesaid taken, and every part thereof, for the best price that can be gotten for the same, and have the money arising from such sale before us in our said Court immediately after the execution hereof, to be paid to the said *A.B.* And have there then this writ.

Witness Sir W. F. S., Knight, at Melbourne the day of

* 7.

3.* *Writ of Possession.*

187 . No.

In the Supreme Court.

Between *A.B.* - - - - - Plaintiff,

and

C.D. and others - - - - - Defendants.

Victoria, &c.

To the sheriff of the bailiwick, greeting.

Whereas lately in our Supreme Court, by a judgment of the same Court [*A.B.* recovered] or [*E.F.* was ordered to deliver to *A.B.*] possession of all that with the appurtenances in your bailiwick: Therefore we command you that, without delay, you cause the said *A.B.* to have possession of the said land and premises with the appurtenances: And in what manner you have executed this our writ make appear to us in of our said Court immediately after the execution hereof; and have you there then this writ. Witness, &c.

* 8.

4.* *Writ of Delivery.*

187 . No.

In the Supreme Court.

Between *A.B.* - - - - - Plaintiff,

and

C.D. and others - - - - - Defendants.

Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To the sheriff of the bailiwick, greeting.

We command you that without delay you cause the following chattels, that is to say [*here enumerate the chattels recovered by the judgment for the return of which execution has been ordered to issue*] to be returned

returned to *A.B.*, which the said *A.B.* lately in our Supreme Court recovered against *C.D.* [*or C.D.* was ordered to deliver to the said *A.B.*] in an action in our said Court: And we further command you, that if the said chattels cannot be found in your bailiwick,† you distraint the said *C.D.* by all his lands and chattels in your bailiwick, so that neither the said *C.D.* nor any one for him do lay hands on the same until the said *C.D.* render to the said *A.B.* the said chattels: And in what manner you shall have executed this our writ make appear to us in our said Court immediately after the execution hereof; and have you there then this writ. Witness, &c.

APPENDIX (F).

The Like, in another form.

[*Proceed as in the preceding form until the † and then thus:*] of the goods and chattels of the said *C.D.* in your bailiwick you cause to be made £ [the assessed value of the chattels]: And in what manner you shall have executed this our writ make appear to us in our said Court, immediately after the execution hereof; and have you there then this writ. Witness, &c.

5.* *Writ of Attachment.*

187 . No.

*9.

In the Supreme Court.

Between *A.B.* - - - - - Plaintiff,
and
C.D. and others - - - - - Defendants.

Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender
of the Faith.

To the sheriff of the bailiwick, greeting.

We command you to attach *C.D.* so as to have him before us in our Supreme Court, there to answer to us, as well touching a contempt which he it is alleged hath committed against us, as also such other matters as shall be then and there laid to his charge, and further to perform and abide such order as our said Court shall make in this behalf; and hereof fail not, and bring this writ with you. Witness, &c.

6.* *Writ of Sequestration.*

187 . No.

*10.

In the Supreme Court.

Between *A.B.* - - - - - Plaintiff,
and
C.D. and others - - - - - Defendants.

Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender
of the Faith.

To [names of not less than four Commissioners] greeting.

Whereas lately in our Supreme Court, in a certain action there depending, wherein *A.B.* is plaintiff and *C.D.* and others are defendants [*or* in a certain matter then depending, intituled "In the matter of *E.F.*," as the case may be] by a judgment [*or* order, as the case may be] of our said Court, made in the said action [*or* matter], and bearing date the day of 187 , it was ordered that the said *C.D.* should [pay into Court to the credit of the said action the sum of £ , *or* as the case may be]: Know ye, therefore, that we, in confidence of your prudence and fidelity, have given, and by these presents do give to you, or any three or two of you, full power and authority to enter upon all the messuages, lands, tenements, and real estate whatsoever of the said *C.D.*, and to collect, receive, and sequester into your hands not only all the rents and profits of his said messuages, lands, tenements, and real estate, but also all his goods, chattels, and personal estates whatsoever; and therefore we command you, any three or two of you, that you do at certain proper and convenient days and hours go to and enter upon all the messuages, lands, tenements, and real estates of the said *C.D.*, and that you do collect, take, and get into your hands not only the rents and profits of his said real estate, but also all his goods, chattels, and personal estate, and detain and keep the same under sequestration in your hands until the said *C.D.* shall [pay into Court to the credit of the said action the sum of £ *or*, as the case may be, clear his contempt], and our said Court make other order to the contrary. Witness, &c.

APPENDIX (G).

APPENDIX (G).

APPENDIX (G).

Order LXII.*

SCALE OF COSTS.

Subject Matter.	Lower Scale.	Higher Scale.
<i>Writs, Summonses, and Warrants.</i>		
Writ of summons for the commencement of any action	£ s. d. 0 9 0	£ s. d. 0 18 0
And for indorsement of claim, if special	0 5 0	0 5 0
Concurrent writ of summons	0 6 8	0 10 0
Renewal of a writ of summons	0 7 6	0 15 0
Notice of a writ for service in lieu of writ out of jurisdiction	0 4 0	0 5 0
Writ of mandamus or injunction	0 10 0	1 1 0
Or per folio.....	0 1 4	0 1 6
Writ of subpoena, <i>duces tecum</i>	0 6 0	0 12 0
And if more than four folios, for each folio beyond four	0 1 4	0 1 6
Writ or writs of subpoena <i>ad testificandum</i> for any number of persons	0 5 0	0 10 0
Writ of execution or other writ to enforce any judgment or order	0 9 0	0 18 0
And, if for more than four folios, for each folio beyond four	0 1 4	0 1 6
Procuring a writ of execution or notice to the sheriff, marked with a seal of renewal	0 6 8	0 10 0
Notice thereof to serve on sheriff	0 4 0	0 5 0
Any writ not included in the above	0 9 0	0 18 0
These fees include all indorsements and copies, or <i>præcipes</i> , for the officer sealing them, and attendances to issue or seal, but not the court fees.		
Summonses to attend at judges' chambers	0 5 0	0 10 0
Or, if special, at taxing officer's discretion, not exceeding	0 10 0	1 1 0
Copy for the judge, when required	0 2 0	0 5 0
Or per folio.....	—	0 0 6
Warrant for proceedings in master's office in the Equity division	0 13 4	1 1 0
<i>Services, Notices, and Demands.</i>		
Service of any writ, summons, warrant, interrogatories, petition, order, notice, or demand on a party who has not entered an appearance, and if not authorized to be served by post	0 5 0	0 10 0
If served at a distance of more than two miles from the nearest place of business, or office of the solicitor serving the same, for each mile beyond such two miles therefrom	0 1 0	0 1 6
Where, in consequence of the distance of the party to be served, it is proper to effect such service through an agent (other than the Melbourne agent), for correspondence in addition	0 7 0	0 10 0
Correspondent's charges	1 10 0	1 10 0
Where more than one attendance is necessary to effect service, or to ground an application for substituted service, such further allowance may be made as the taxing officer shall think fit.		
For service out of the jurisdiction such allowance is to be made as the taxing officer shall think fit.		
Service where an appearance has been entered on the solicitor or party	0 2 6	0 5 0
Or if authorized to be served by post	0 1 6	0 2 6
Where any writ, order, and notice, or any two of them, have to be served together, one fee only for service is to be allowed.		
In addition to the above fees the following allowances are to be made:—		
As to writs, if exceeding two folios, for copy for service, per folio beyond such two	0 0 6	0 0 6
As to summonses to attend at the judges' chambers, for each copy to serve	0 2 6	0 5 0
Or per folio	0 0 6	0 0 6
As to notice in proceedings to wind up companies, for preparing or filling up each notice to creditors to attend and receive debts, and to contributories to settle list of contributories	0 1 0	0 2 0
And for preparing or filling up each notice to contributories to be served with a general order for a call, or an order for payment of a call	0 1 0	0 2 0
And for drawing notice to be served on contributories or creditors of a meeting, per folio	0 1 0	0 2 0
For each copy of the last-mentioned notice to serve, per folio	0 0 6	0 0 6
For preparing or filling up for service in any other cause or matter, each notice to creditors to prove claims, and each notice that cheques may be received, specifying the amount to be received for principal and interest, and costs, if any	0 1 0	0 2 0
For preparing notice to produce or admit, and one copy	0 5 0	0 10 0
If special or necessarily long, such allowance as the taxing officer shall think proper, not exceeding per folio	0 0 8	0 1 6

SCALE

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SCALE OF COSTS—continued.

APPENDIX (G).

Subject Matter.	Lower Scale.			Higher Scale.		
	£	s.	d.	£	s.	d.
And for each copy beyond the first, such allowance as the taxing officer shall think proper, not exceeding per folio	0	0	6	0	0	6
For preparing notice of motion	0	2	6	0	5	0
Or per folio	0	1	0	0	1	6
Copy for service	0	1	0	0	2	6
Or per folio	0	0	6	0	0	6
For preparing any necessary or proper notice, not otherwise provided for and demand	0	2	6	0	5	0
Or if special, and necessarily exceeding three folios, for preparing same, for each folio beyond three	0	1	0	0	1	6
And for each copy for service, per folio beyond such three	0	0	6	0	0	6
Copies for service of interrogatories and petitions and of orders with necessary notices (if any) to accompany, per folio	0	0	6	0	0	6
Except as otherwise provided, the allowances for services include copies for service.						
Where notice of filing affidavits is required, only one notice is to be allowed for a set of affidavits filed, or which ought to be filed together.						
In proceedings to wind up a company, the charges relating to printing shall be allowed in lieu of copies for service, where the fee for copies would exceed the charges for printing, and amount to more than £3.						
Where any appointment is or ought to be adjourned, service of a notice of the adjournment, or next appointment, is not to be allowed.						
<i>Appearances.</i>						
Entering any appearance	0	6	8	0	10	0
If entered at one time, for more than one person, for every defendant beyond the first	0	1	6	0	3	0
If a person appearing to a writ of summons to recover land limits his defence by his memorandum of appearance, in addition to the above	0	6	8	0	6	8
<i>Instructions.</i>						
To sue or defend	0	6	8	0	13	4
For statement of complaint	0	13	4	2	2	0
For statement or further statement of defence	0	6	8	0	13	4
For counter-claim	0	6	8	0	13	4
For reply by plaintiff when defendant sets up a counter-claim	0	13	4	1	1	0
For reply or further reply in any other case by plaintiff or other person, with or without joinder of issue	0	6	8	0	13	4
For confession of defence	0	6	8	0	13	4
For joinder of issue without other matter and for demurrer	0	6	8	0	13	4
For special case, special petition, any other pleading (not being a summons), and interrogatories for examination of a party or witness	0	6	8	0	13	4
To amend any pleading	0	6	8	0	13	4
For affidavit in answer to interrogatories and other special affidavits ..	0	6	8	0	10	0
To add parties by order of court or judge	0	6	8	0	13	4
For counsel to advise on evidence when the evidence in chief is to be taken orally	0	6	8	1	0	0
Or not to exceed	0	13	4	1	10	0
For counsel to make any application to a court or judge where no other brief	0	6	8	0	10	0
For brief on motion for special injunction	0	13	4	1	1	0
For brief on hearing or trial of action upon notice of trial given, whether such trial be before a judge, with or without a jury, or before a special referee, or on trial of an issue of fact before a judge or referee, or on assessment of damages	1	1	0	2	2	0
For such brief such fee may be allowed as the taxing officer shall think fit, having regard to all the circumstances of the case, and to other allowances, if any, for attendances on witnesses and procuring evidence.						
The fees for instructions for brief are not to apply to a hearing on further consideration.						
<i>Drawing Pleadings, and other Documents.</i>						
Statement of claim	0	10	0	1	1	0
Or per folio	0	1	0	0	1	6
Statement of defence	0	5	0	0	10	0
Or per folio	0	1	0	0	1	6

SCALE

APPENDIX (G).

SCALE OF COSTS—continued.

Subject Matter.	Lower Scale.		Higher Scale.	
	£	s. d.	£	s. d.
Statement of defence and counter-claim	0	5 0	1	1 0
Or per folio.....	0	1 0	0	1 6
Reply, with or without joinder of issue, confession of defence, joinder of issue without other matter, demurrer, and any other pleading (not being a petition or summons) and amendments of any pleading	0	5 0	0	10 0
Or per folio.....	0	1 0	0	1 6
Particulars, breaches, and objections, when required, and one copy to deliver...	0	5 0	0	10 0
Or such amount as the taxing officer shall think fit, not exceeding per folio ...	0	0 8	0	1 6
If more than one copy to be delivered, for each other copy per folio.....	0	0 6	0	0 6
Special case, whether original or in action, affidavits in answer to interrogatories and other special affidavits, special petitions, and interrogatories, per folio	0	1 0	0	1 6
Brief, on trial or hearing of cause, issue of fact, assessment of damages, examination of witnesses, demurrer, special case and petition before a court or judge, referee, examiner, or officer of the court, when necessary and proper in addition to pleadings, including necessary and proper observations, per folio	0	1 0	0	1 6
Brief on application to add parties.....	0	6 8	0	10 0
Or per folio.....	0	1 0	0	1 6
Brief on further consideration, per sheet of ten folios	0	6 8	0	10 0
Accounts, statements, and other documents for the judges' chambers, when required, and fair copy to leave, per folio	0	0 8	0	1 6
Bill of costs for taxation, including copy for the taxing officer, per folio.....	0	0 9	0	1 6
For each copy	0	0 6	0	0 6
<i>Copies.</i>				
Of pleadings, briefs, and other documents where no other provision is made, at per folio	0	0 6	0	0 6
Of briefs.....	0	0 8	0	0 8
And of any pleading, special case, petition of right or evidence for the use of counsel in court, and in country agency causes when proper to be sent as a close copy for the use of the country solicitor, at per folio	0	0 3	0	0 6
Close copies are not to be allowed as of course, but the allowance is to depend on the propriety of making or sending the copies, which in each case is to be shown and considered by the taxing officer.				
Inserting amendments in a copy of any pleading, special case, or petition of right or per folio	0	1 0	0	5 0
Or per folio	0	0 6	0	0 6
<i>Perusals.</i>				
Of statement of complaint, statement of defence, reply, joinder of issue, demurrer, and other pleading (not being a petition or summons) by the solicitor of the party to whom the same are delivered	0	6 8	0	13 4
Or per folio.....	0	0 6	0	0 6
Of amendment of any such pleading	0	6 8	0	10 0
Or per folio	0	0 6	0	0 6
Of interrogatories to be answered by a party by his solicitor	0	6 8	0	13 4
Or per folio	0	0 0	0	0 6
Of special case by the solicitor of any party except the one by whom it is prepared.....	0	6 8	0	13 4
Or per folio.....	0	0 6	0	0 6
Of copy order to add parties, notice of defendant's claim against any person not a party to the action under Order XVI, Rule 18, and of defendant's statement of defence and counter-claim served on a person not a party under Order XXII, Rule 6, by the solicitor of the party served therewith, and in these several cases the perusal of the plaintiff's statement of complaint is also to be allowed unless the solicitor has been previously allowed such perusal.....	0	6 8	0	13 4
Or per folio.....	0	0 6	0	0 6
Of notice to produce and notice to admit by the solicitor of the party served...	0	6 8	0	13 4
Of affidavit in answer to interrogatories by the solicitor of the party interrogating, and of other special affidavits by the solicitor of the party against whom the same can be read, per folio	0	0 4	0	0 6
<i>Attendances.</i>				
To obtain consent of next friend to sue in his name.....	0	6 8	0	13 4
To deliver or file any pleading (not being a petition or summons) and a special case	0	3 4	0	6 8

SCALE

SCALE OF COSTS—continued.

APPENDIX (G.)

Subject Matter.	Lower Scale.		Higher Scale.	
	£	s. d.	£	s. d.
To inspect, or produce for inspection, documents pursuant to a notice to admit	0	6 8	0	13 4
Or per hour.....	0	6 8	0	10 0
To examine and sign admissions	0	6 8	0	13 4
To inspect, or produce for inspection, documents referred to in any pleading or affidavit, pursuant to notice under Order XXXI, rule 14	0	6 8	0	10 0
Or per hour.....	0	6 8	0	10 0
To obtain or give any necessary or proper consent	0	6 8	0	10 0
To obtain an appointment to examine witnesses	0	6 8	0	10 0
On examination of witnesses before any examiner, officer, or other person	0	13 4	1	0 0
Or according to circumstances, not to exceed	2	2 0	3	3 0
Or if without counsel, not to exceed	0	0 0	3	3 0
On deponents being sworn, or by a solicitor or his clerk to be sworn, to an affidavit in answer to interrogatories or other special affidavit	0	6 8	0	6 8
On a summons at judges' chambers	0	6 8	0	10 0
Or according to circumstances, not to exceed.....	1	1 0	2	2 0
To file taxing officers' certificates, and get copy marked as an office copy	0	6 8	0	10 0
On counsel with brief or other papers—				
If counsel's fee one guinea	0	3 4	0	6 8
If more and under five guineas	0	6 8	0	10 0
If five guineas and under twenty guineas.....	0	6 8	0	13 4
If twenty guineas	0	13 4	1	1 0
If forty guineas or more	0	0 0	2	2 0
On consultation or conference with counsel.....	0	13 4	1	0 0
To enter or set down action, demurrer, or special case, for hearing or trial...	0	6 8	0	6 8
In court on motion of course and on counsel and for order	0	10 0	1	0 0
To present petition for order of course and for order	0	6 8	0	13 4
In court on every special motion, each day.....	0	10 0	1	0 0
On same when heard each day	1	0 0	1	10 0
Or according to circumstances	1	10 0	3	0 0
On demurrer, special case, or special petition, or application adjourned from the judges' chambers, when in the special paper for the day, or likely to be heard	0	6 8	0	10 0
On same when heard	0	13 4	1	1 0
Or according to circumstances, not to exceed	1	1 0	2	2 0
On hearing or trial of any cause, or matter, or issue of fact, in Melbourne, or the town where the solicitor resides or carries on business, whether before a judge with or without a jury, special referee, or on assessment of damages, when in the paper	0	10 0	1	0 0
When heard or tried	1	1 0	2	2 0
For every hour after the first two... ..	0	6 8	0	10 0
When not in Melbourne nor in the town where the solicitor resides or carries on business, for each day (except Sundays) he is necessarily absent	2	2 0	3	3 0
And expenses (besides actual reasonable travelling expenses) each day, including Sundays.....	1	1 0	1	10 0
Or if the solicitor has to attend on more than one trial or assessment at the same time and place, in each case	1	1 0	1	11 6
The expenses in such case to be rateably divided.				
To hear judgment when same adjourned.....	0	10 0	1	0 0
Or according to circumstances	0	13 4	1	10 0
To deliver papers (when required) for the use of a judge prior to a hearing ...	0	6 8	0	10 0
If more than one judge.....	0	13 4	0	13 4
On taxation of a bill of costs	0	6 8	0	6 8
Or according to circumstances, not to exceed	2	2 0	3	3 0
In causes for purposes within the cognizance of a Court of Equity before the Act passed, such further fee as the taxing officer may think fit, not exceeding the allowances heretofore made.				
To obtain or give an undertaking to appear	0	6 8	0	10 0
To present a special petition, and for same answered	0	6 8	0	10 0
On printer to insert advertisement in <i>Gazette</i>	0	6 8	0	10 0
On printer to insert same in other papers, each printer	0	6 8	0	10 0
Or every two	0	6 8	0	10 0
On officer to certify that a cause set down is settled, or for any reason not to come into the paper for hearing	0	6 8	0	10

Note.—An order of course means an order made on an *ex parte* application, and to which a party is entitled as of right on his own statement and at his own risk.

SCALE

APPENDIX (G.)

SCALE OF COSTS—continued.

Subject Matter.	Lower Scale.	Higher Scale.
<i>Oaths and Exhibits.</i>		
Commissioners to take oaths or affidavits. For every oath, declaration, or affirmation	£ s. d. 0 1 6	£ s. d. 0 1 6
The solicitor for preparing each exhibit in town or country	0 1 0	0 1 6
The commissioner for marking each exhibit	0 1 0	0 1 0
<i>Term Fees, &c.</i>		
For every term in which a proceeding in the cause or matter by or affecting the party, other than the issuing and serving the writ of summons, shall take place	0 15 0	1 0 0
And further, in country agency causes or matters, for letters.....	0 6 0	0 10 0
Where no proceeding in the cause or matter is taken which carries a term fee, a charge for letters may be allowed, if the circumstances require it.		
In addition to the above an allowance is to be made for the necessary expense of postages, carriage, and transmission of documents.		
Attorney's managing clerk's fee where there is a trial.....	0 15 0	1 10 0

Order LIV.*

APPENDIX (H).

PART I.

COURT FEES AND PER CENTAGES.

Subject Matter.	Lower Scale.	Higher Scale.
<i>Summonses, Writs, Commissions, and Warrants.</i>		
On sealing a writ of summons for commencement of an action	£ s. d. 0 1 0	£ s. d. 0 1 0
On sealing a concurrent, renewed, or amended writ of summons for commencement of an action.....	0 1 0	0 1 0
On sealing a notice for service under Order XVI, Rule 18	0 1 0	0 1 0
On sealing a writ of mandamus or injunction.....	0 10 0	1 0 0
On sealing a writ of subpoena	0 1 0	0 1 0
On sealing every other writ	0 1 0	0 1 0
On sealing a summons to originate proceedings in the Equity Division.....	0 5 0	0 10 0
On sealing a duplicate thereof	0 1 0	0 5 0
On sealing a copy of same for service	0 1 0	0 5 0
On sealing or issuing any other summons or warrant	0 2 0	0 3 0
On sealing or issuing a commission to take oaths or affidavits in the Supreme Court	5 0 0	5 0 0
Every other commission.....	0 5 0	0 5 0
On marking a copy of a petition of right for service.....	0 1 0	0 5 0
<i>Appearances.</i>		
On entering an appearance, for each person	0 1 0	0 1 0
<i>Copies.</i>		
For examining a copy, and marking same as an office copy, for each folio	0 0 2	0 0 2
For making a copy and marking same as an office copy, for each folio.....	0 0 6	0 0 6
For a copy in a foreign language, the actual cost.		
For a copy of a plan, map, section, drawing, photograph, or diagram, the actual cost.		
<i>Attendances.</i>		
On an application, with or without a subpoena, for any officer to attend as a witness, or to produce any record or document to be given in evidence (in addition to the reasonable expenses of the officer), for each day or part of a day he shall necessarily be absent from his office.....	1 1 0	1 1 0
The officer may require a deposit of stamps on account of any further fees, and a deposit of money on account of any further expenses which may probably become payable beyond the amount paid for fees and expenses on the application, and the officer or his clerk taking such deposit shall thereupon make a memorandum thereof on the application.		
The officer may also require an undertaking in writing to pay any further fees and expenses which may become payable beyond the amounts so paid and deposited.		

COURT

COURT FEES AND PER CENTAGES—continued.

APPENDIX (H.)

Subject Matter.	Lower Scale.		Higher Scale.	
	£	s. d.	£	s. d.
On an application for any officer to attend a Judge in Chambers to produce any record or document which the party making the application requires to lay before such judge, for each occasion	0	5 0	0	5 0
<i>Filing.</i>				
On filing a special case or petition of right.....	0	10 0	1	0 0
On filing an affidavit with exhibits (if any) annexed, submission to arbitration, award, warrant of attorney, cognovit, bail, satisfaction piece, and writ of execution with return	0	0 6	0	0 6
On filing a caveat	0	5 0	0	5 0
<i>Certificates.</i>				
For a certificate of appearance, or of a pleading, affidavit, or proceeding having been entered, filed, or taken, or of the negative thereof.....	0	1 0	0	1 0
<i>Searches and Inspections.</i>				
On an application to search for an appearance or an affidavit, and inspecting the same	0	1 0	0	1 0
On an application to search an index, and inspect a pleading, decree, order, or other record, unless otherwise expressly provided for by any Act of Parliament or these Orders, and to inspect documents deposited for safe custody or production pursuant to an order, for each hour or part of an hour occupied	0	2 6	0	2 6
Not exceeding on one day.....	0	10 0	0	10 0
<i>Hearing.</i>				
For entering or setting down, or re-entering or re-setting down, a cause for trial or hearing, including a demurrer, special case, and petition of right, but not any other petition, nor a summons adjourned from Chambers.....	1	0 0	2	0 0
For a certificate of a Judge of the result of trial	0	5 0	0	5 0
<i>Judgments, Decrees, and Orders.</i>				
For drawing up and entering a judgment, or a decree or decretal order, whether on the original hearing of a cause or on further consideration, and an order on the hearing of a special case or petition	0	10 0	1	0 0
For drawing up and entering any other order, whether made in Court or at Chambers.....	0	1 0	0	1 0
For copy of a plan, map, section, drawing, photograph, or diagram, required to accompany any order, the actual cost.				
<i>Taking Accounts.</i>				
On taking an account of a receiver, guardian, consignee, bailee, manager, provisional, official, or voluntary liquidator, or sequestrator, or of an executor, administrator, trustee, agent, solicitor, mortgagee, co-tenant, co-partner, execution creditor, or other person liable to account, when the amount found to have been received without deducting any payment shall not exceed £200.....	0	2 0	0	2 0
Where such amount shall exceed £200, for every £50 or fraction of £50.....	0	0 6	0	0 6
In the case of any such receiver, guardian, consignee, bailee, manager, liquidator, sequestrator, or execution creditor, the fees shall, upon payment, be allowed in the account unless the Court or Judge shall otherwise direct, and in the case of taking the accounts of such other accounting parties, the fees shall be paid by the party having the conduct of the order under which such account is taken, as part of his costs of the cause or matter (unless the Court or Judge shall otherwise direct), and in such case shall be taken upon the certificate of the result of any such account; but the fees shall be due and payable, although no certificate is required, on the account taken, or on such part thereof as may be taken, and the solicitor or party suing in person shall in such case cause the proper stamps (the amount thereof to be fixed by the officer) to be impressed on or affixed to the account.				
The officer taking the account may require a deposit of stamps on account of fees before taking the account, not exceeding the fees on the full amount appearing by the account to have been received, and the officer or his clerk taking such deposit shall make a memorandum thereof on the account.				

COURT

585

1879.
—
VICTORIA.

R E P O R T

OF THE

SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL

ON THE

STAMP DUTIES BILL,

TOGETHER WITH

THE PROCEEDINGS OF THE COMMITTEE.

ORDERED BY THE COUNCIL TO BE PRINTED, 10TH DECEMBER, 1879.

By Authority:
JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.

EXTRACTED FROM THE MINUTES.

TUESDAY, 2ND DECEMBER 1879.

STAMP DUTIES BILL.—The Order of the Day for the second reading of this Bill being read, the Honorable H. Cuthbert moved, That this Bill be now read a second time.

Debate ensued.

Amendment moved by the Honorable Sir C. Sladen, That all the words after the word “be” be omitted, with a view to insert instead thereof the words “referred to a Select Committee, and that such Committee be instructed to investigate the practice of the Imperial Parliament with reference to Bills imposing Stamp or other Duties, and to report to the Council—

“(1.) Whether it is in conformity with that practice to include in the Bill imposing Duties the machinery for the management and collection thereof ;

“(2.) Whether this Bill, providing, as it does, for the granting of Stamp Duties, and also for the management and collection thereof, is a Bill under the 56th section of the Constitution Act, which the Council is restricted from altering.

“(3.) That such Committee consist of seven Members, and be chosen by ballot.”

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 this Bill be referred to a Select Committee, and that such Committee be instructed to investigate the practice of the Imperial Parliament with reference to Bills imposing Stamp or other Duties, and to report to the Council—

(1.) Whether it is in conformity with that practice to include in the Bill imposing Duties the machinery for the management and collection thereof ;

(2.) Whether this Bill, providing, as it does, for the granting of Stamp Duties, and also for the management and collection thereof, is a Bill under the 56th section of the Constitution Act, which the Council is restricted from altering.

(3.) That such Committee consist of seven Members, and be chosen by ballot.

—put and passed.

The Council proceeded to 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 Sir C. Sladen, W. E. Hearn, H. Cuthbert, The President, R. S. Anderson, F. T. Sargood, and Dr. Dobson.

The Honorable Sir C. Sladen moved, That the Committee have power to sit on days on which the House does not sit, and to call for persons and papers.

Question—put and passed.

WEDNESDAY, 10TH DECEMBER 1879.

STAMP DUTIES BILL—REPORT OF SELECT COMMITTEE.—The Honorable Sir C. Sladen brought up the Report of the Select Committee to which the Stamp Duties Bill was referred on the 2nd instant.

The Report was read at the Table by the Clerk.

The Honorable Sir C. Sladen moved, That the consideration of the Report be made an Order of the Day for to-morrow.

Question—put and passed.

The Honorable H. Cuthbert moved, That the Report be printed.

Question—put and passed.

REPORT.

THE SELECT COMMITTEE, appointed by your Honorable House during the present Session of Parliament, to which was referred the Stamp Duties Bill, have the honor to submit the following Report :—

1. The instructions to your Committee require them to report, 1st upon the practice of the Imperial Parliament with respect to the inclusion in the same Bill of grants of Duties, and of provisions as to the management and collection thereof ; and 2nd, as to whether the Bill referred to them is or is not within the meaning of the 56th section of the Constitution Act.

2. We have not made a complete examination of the history of English fiscal legislation. Such an enquiry would have far exceeded the limits of time which the exigency of the case prescribed, and did not on consideration appear to us to be essential for the present purpose.

3. It may be stated—although in the absence of an exhaustive inquiry our conclusions must be offered with reserve—that as a general rule each of the earlier Tax Acts included every provision connected with its object, and dealt alike with the imposition of the duty, with its appropriation, and with its collection and its management. When, in the time of Mr. Pitt, the Consolidated Fund was established, the distinction between the charge and the application of the charge was firmly settled. Later legislation has made a further advance in the same direction, and in modern practice a marked distinction is habitually drawn between Acts for creating or for appropriating revenue and Acts for its regulation and its protection. Acts which provide or which distribute revenue are regarded as belonging rather to administration than to legislation in the proper sense of the term. They are under the special if not the exclusive care of the House of Commons, and they bear, in addition to a special procedure, the visible symbol of their character in the form which is usually known as the Free Gift Preamble. Acts which are intended to facilitate the collection of the Revenue and to secure it against loss are part of the general legislation of the country, and are passed in the usual manner, and without any exceptional preamble. They form a standard to which every new Act creating duties refers, and they provide for such new Act its proper machinery. Such are the Acts for establishing the Commissioners of Inland Revenue (12 & 13 Vict., c. 1), the Customs Consolidation Act (16 & 17 Vict., c. 107), and the Stamp Duties Management Act 1870—No one of these Acts imposes duties, and no one of them consequently contains the Free Gift Preamble ; but they supply the means by which Acts which impose new duties of Customs, or stamps, or income tax, or succession duties, or other forms of inland revenue are administered.

4. We are unable to find any authority for the addition of clauses granting duties to those modern Bills which are intended to provide not for the collection and management of certain special duties, but for matters of general financial administration. Bills for granting duties constantly and necessarily refer to these general Administration Acts, but these general Acts never include or notice particular duties.

5. The Bill which has been referred to us has a composite title. It is intitled, “ *An Act for granting certain Stamp Duties and to provide for the management and collection thereof.*”

If the provisions of the Bill were strictly limited to this title, the question would arise whether, according to modern practice, that is the practice of the Parliament of the United Kingdom, a Bill for granting duties can in any circumstances also include provisions relating to collection and management other than those which some general statute upon the subject contains. But it is not necessary now to decide this question, both because our sole guide is the Constitution Act and because the contents of the Bill before us go far beyond the indications of its title. According to its title, this Bill is meant to grant certain stamp duties and to provide for the collection and management thereof, *i.e.*, of the specific duties which it grants. In fact, however, it provides for the management not only of these duties, but of all stamp duties from time to time chargeable by law. That is, it includes the grant of Stamp Duties in a Bill which provides for the permanent administration of a branch of the public service, and it brings under the Free Gift Preamble matters relating to the general business and to the general criminal law of the country. In both these respects it does not conform to English precedents.

6. The Bill bears upon its face clear indications of the manner in which this result has occurred. It is composed, as its marginal references show, of two separate Imperial Acts, the 33rd & 34th Vict. c.c. 97 & 98. These two Acts are Consolidation Acts. The former relates to the granting of Stamp Duties, and contains the Free Gift Preamble. The latter relates to the management of Stamp Duties, and does not contain any preamble. This latter Act, as we have already observed, is a general Administration Act, and its sections have been copied into the present Bill without limiting their extent to the matter with which the Bill affects to deal. Thus the English Acts separate matters which are distinct, but the Bill before us combines them.

7. We next proceed to the second question upon which your Honorable House has desired an opinion, viz.—Whether the present Bill is within the meaning of the 56th section of the Constitution Act. Even at the risk of once more debating a subject that has been repeatedly discussed, it is necessary to state as briefly as may be our views as to the construction of this section.

8. The first section of the Constitution Act enables, in general terms, Her Majesty, with the advice and consent of the two Houses of Parliament, to make laws. The general power thus given is limited as to each of the two Houses by ss. 56 & 57 respectively. The latter section prohibits the Assembly from appropriating the Consolidated Revenue without a message from the Governor. The former with which we are now concerned limits the power of the Council in the case first of Appropriation Bills, and second of Bills for imposing taxation. Bills of these two classes cannot originate in or be amended by the Council, and must either be accepted or rejected as a whole. In this respect, the powers of the Council are more restricted than those of the House of Lords. It is undisputed that the Lords have the legal power to amend, in any respect, the Bill that comes before them; and if the House of Commons choose in any particular instance to waive the objections which, in certain cases, it habitually takes to the exercise of their Lordships' right, there is no difficulty in the amendment. But the Council is prohibited by law from making any such amendment, and no consent on the part of the Assembly can remedy the deficiency of power. In England, the relation of the two Houses is determined by the superiority of one of two competing rights. In this country, while the general power of the one House is untouched, the general power of the other House is restrained by an express disability. In each case the result is an inequality of power; but in each case the result arises from a different cause.

9. An example of the difference in the powers of the several branches of the Legislature in England and in this country, under the unwritten usage of the Imperial Parliament and the express language of our Constitution Act, is found in the Bill before us. In its present form, the date of the commencement of that Bill is fixed for the 8th of December. That commencement is now impossible, unless it be intended, which we do not presume, that the effect of the Bill shall be retrospective. In similar circumstances, if we may judge from past practice, the House of Lords would probably amend the date, and the House of Commons would probably accept the amendment. But the Crown could afford no relief. In this colony the Council cannot propose the alteration, but under the terms of the Constitution Act the Governor can.

10. These considerations show, what is otherwise beyond dispute, that the powers, duties, and relations of our legislature are exclusively statutory. They arise from the Constitution Statute, the Constitution Act, and the other Acts amending that Act; and they do not rest upon any assumed resemblance of either of our Houses to either House of the Imperial Parliament, or upon any other authority. It is, therefore, for our present purpose necessary and sufficient to ascertain the true meaning of that clause of the 56th section of the Constitution Act, which contains the words "Bills for imposing" taxes.

11. We think that the Council cannot alter any Bill of which the sole object is the imposition of taxation. But if any Bill which purports to be a Bill for imposing taxes contains any matter in excess of the grant, that matter to the extent at least of that excess, is in excess of the privilege. To that extent therefore (if not further, a point which it is unnecessary now to discuss) the Bill is not within the protection of the section, and may, as we conceive, be amended in the ordinary way. Unprivileged matter cannot become privileged by simply calling it so, and if unprivileged matter be mixed with privileged matter, the several characters of the two matters remain unchanged. If therefore the Assembly desires that any tax Bill should be unalterable by the Council, it must take care to keep such Bill within the limits of that protection which the Constitution Act allows to it.

12. The case of a Bill which incidentally imposes taxes—that is, of a Bill which imposes taxes as distinguished from a Bill for imposing taxes, is not within the words of the 56th section. It has, however, been the practice of the Council to treat the money clauses of such a Bill in the same manner as if they formed a Bill of which the sole object was the imposition of taxation.

13. The present Bill, in addition to the clauses that properly relate to the imposition of duties, contains twenty-one sections which are taken from the Stamp Management Act, 1870. These are sections which the Imperial Parliament seem to have regarded as unfit matter for a Money Bill, and they (as we have shown) relate not to the particular duties which it is proposed to grant, but to the general administration of all Stamp Duties from time to time chargeable by law. Some of these sections are of great importance. One of them creates a group of felonies punishable with the heaviest term of imprisonment that our criminal law awards. Another of them gives unusual powers to a Government officer to enter and search the house of a distributor of stamps without any search warrant. These provisions are general, and profess to provide machinery for all similar financial legislation. But the privilege of the Assembly, or rather the disablement of the Council, is meant to apply to the grant, and not to the establishment of a new class of felonies, or of a new species of visitation and search. It follows, therefore, that the Bill contains, along with privileged matter, matter that is not privileged; that to the extent of this excess it is not within the protection of the 56th section; and that consequently the ordinary power of the Council is not, as regards this unprivileged matter, taken away.

14. We have thus stated our opinion upon the application of the 56th section of the Constitution Act to the present Bill, and the reasons for that opinion. We very earnestly wish that some means existed by which this question and all other questions relating to the interpretation of this section could be finally determined in the only way in which such questions can be determined, namely, by the decision of a court of competent jurisdiction. If the views we have stated be correct, it follows that grave objections exist to this Bill becoming law in its present form. It raises a dangerous precedent. It is a departure from the Imperial practice. It is a retrogression from a more advanced rule of legislation to a rule that is less advanced. It creates, by the confusion of what is general with what is special, the risk of disputes in the construction of future Acts.

On the other hand, your Honorable House would probably feel reluctant either to reject the Bill and so disturb the financial arrangements of the Government, or to amend it and possibly excite disputes between the two Houses on the construction of an Act of Parliament, disputes which from their nature are interminable, and which, at all times to be regretted, would in the present state of public affairs be exceptionally inconvenient.

CHARLES SLADEN,
Chairman.

PROCEEDINGS OF THE COMMITTEE.

WEDNESDAY, 3RD DECEMBER, 1879.

Members present :

The Hon. Sir C. Sladen The President W. E. Hearn R. S. Anderson		The Hon. F. T. Sargood Dr. Dobson H. Cuthbert.
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The Honorable Sir C. Sladen was appointed Chairman.
The Committee deliberated and adjourned until Two o'clock the following day.

THURSDAY, 4TH DECEMBER, 1879.

Members present :

The Hon. Sir C. SLADEN (Chairman) ;		
The Hon. The President W. E. Hearn F. T. Sargood	|	The Hon. R. S. Anderson H. Cuthbert.

The Committee deliberated and adjourned until Two o'clock on Tuesday, the 9th inst.

TUESDAY, 9TH DECEMBER, 1879.

Members present :

The Hon. Sir C. SLADEN (Chairman) ;		
The Hon. The President W. E. Hearn F. T. Sargood	|	The Hon. R. S. Anderson Dr. Dobson H. Cuthbert.

Draft Report read and considered.
The Committee adjourned until half-past Two o'clock next day.

WEDNESDAY, 10TH DECEMBER, 1879.

Members present :

The Hon. Sir C. SLADEN (Chairman) ;		
The Hon. H. Cuthbert W. E. Hearn The President	|	The Hon. F. T. Sargood Dr. Dobson.

Draft Report read paragraph by paragraph, considered, and adopted.
Chairman directed to report same to the House.

1879-80.

VICTORIA.

MINING ON PRIVATE PROPERTY BILL.

PETITION.

(PRESENTED TO THE COUNCIL, 24TH SEPTEMBER 1872.)

ORDERED BY THE LEGISLATIVE COUNCIL TO BE PRINTED, 3RD FEBRUARY, 1880.

TO THE HONORABLE THE PRESIDENT AND MEMBERS OF THE LEGISLATIVE COUNCIL OF THE COLONY OF VICTORIA
IN PARLIAMENT ASSEMBLED.

The Petition of the undersigned Electors of the North-Western Province,

HUMBLY SHEWETH:

That your Petitioners are greatly dissatisfied with the provisions of a Bill now before your Honorable House, intituled "*An Act to provide for Mining on Private Property for Gold and Silver.*"

Your Petitioners respectfully submit that the proposed Bill is an unwarrantable interference with the rights of property, and would not, in their opinion, be at all a satisfactory settlement of this important question.

In this locality, land owners are most anxious to make fair and equitable terms with miners, who are, as a rule, better satisfied with the terms and tenure of their agreements with owners of property than on Crown lands, because they are only required to pay in case of success.

Your Petitioners believe that the proposed Bill would not be at all advantageous to *bonâ fide* miners, nor tend to develop the auriferous treasures of the district; the land would be got hold of by speculators and agents.

Your Petitioners respectfully submit that a Bill to legalize and register agreements, by which the rights, covenants, and conditions of the contracting parties could be secured, would be more likely to work harmoniously, and give general satisfaction.

Your Petitioners believe that the power proposed in this Bill to be given to the Governor in Council to make regulations, &c., and issue leases for mining on private land, would be a dangerous one, and ought not to be allowed to become law.

For these and other reasons your Petitioners respectfully pray that your Honorable House will reject this Bill in its present form.

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

William Bell, Long Swamp.
Alexander Falconer, Long Swamp.
James Pascoe, farmer, Newlyn.
John James, farmer, Newlyn.
John James, jun., farmer, Newlyn.
Thomas Juffs, farmer, Newlyn.
Francis Harris, farmer, Newlyn.
W. J. T. Pascoe, farmer, Newlyn.
Thomas Prendergast, farmer, Newlyn.
Frank Wikins, butcher, Newlyn.
John Henry Hales, Newlyn.
William Gostelow, farmer, Spring Hill.
David Talent, farmer, Spring Hill.
James Talent, farmer, Creswick.
John Darcey, farmer, Spring Hill.
George Clark, farmer, Bullarook.
Richard Ellwood, farmer, Spring Hill.
Patrick Ryan, farmer, Spring Hill.
Geo. Roche, L.R.C.S.E., Bullarook.
Robert Allan, farmer, Bullarook.
John Bloink, storekeeper.
John Russell, farmer.
Wm. Hanrahan, farmer, Spring Hill.
Wm. Kelly, farmer, Spring Hill.
Robert Warren, farmer, Dean.
Stephen Mack.
Nathaniel Wms. Quick, farmer, Spring Hill.

William Henry Newton, Bullarook.
Robert Broomfield, farmer.
Robert Richardson, farmer.
John Richardson, Spring Hill.
Daniel Curre, farmer, Bullarook.
William Allan, farmer, Bullarook.
William Davies, Creswick.
Alexander Mitchell, Creswick.
Cornelius Rowe, Creswick.
Harry Knight Patching, Creswick.
George Sherriff, Creswick.
E. Norman, Creswick.
John Carr, farmer, Smeaton.
Wm. Beal, Creswick.
Wm. Wildman, Creswick.
John Colebank, Kingston.
John B. Carney, Creswick.
Daniel Dunning, Creswick.
Martin Moore, Creswick.
Geo. Haverson, Creswick.
Joseph Wallace, Creswick.
George Swindle.
Pearce Samuel, Creswick.
Roderick Charleson, Creswick.
William Marwood, Creswick.
Joseph Williams, Creswick.
Robert Vuast, Creswick.

William Karger, Creswick.
 George Newberry, Creswick.
 William Caham, Creswick.
 Edward Ashmore, Creswick.
 Thomas Hymers, Creswick.
 George Wilson, Creswick.
 Robt. Colvin, Creswick.
 Samuel Paull, Creswick.
 Thos. Miller, Creswick.
 F. Huntington, Creswick.
 Wm. Lambert, Creswick.
 S. N. Anthony, hotelkeeper, Creswick.
 Oliver Ware, Creswick.
 John W. Williams, storekeeper, Creswick.
 Robert Holly, livery stables, Creswick.
 Ad. Janssen, storekeeper, Creswick.
 G. Redman, hotelkeeper, Tulk Gully.
 James Orr, merchant.
 Duncan Robertson, sheep farmer, Smeaton.
 Joseph Rickey, farmer, Dean.
 John Cooney, farmer, Dean.
 Daniel Ryan, farmer, Spring Hill.
 George Golding, Creswick.
 Joseph Moore, Creswick.
 Matthew McCormick, grocer,
 O. Booth, Creswick.
 P. H. O. Jones, Creswick.
 John Philip Healy, Creswick.
 John Port Thomson, builder, Creswick.
 Alexander McGregor.
 Aug. W. Jenner, Creswick.
 James Davie, Creswick.
 Isaac Whan, Creswick.
 William Ayars, Creswick.
 Samuel Whem, Creswick.
 Leonard Robinson Carter, Creswick.
 Edward Brawn, miner, Creswick.
 Capel H. Lewis, miner, Creswick.
 George Fraser, miner, Creswick.
 J. Martyr, mining agent, Creswick.
 William Pobjoy, auctioneer, Creswick.
 A. Leweis, Creswick.
 James Oprued, Creswick.
 C. W. Bronley, Creswick.
 Archid. Fleming, farmer, Creswick.
 John Waltery, builder, Creswick.
 James Brawn, farmer and miner.
 John Crichton, miner, Creswick.
 Wm. Solis, miner, Creswick.
 Wm. Allison, Creswick.
 W. Marwood, Creswick.
 Wm. Cullen.
 Thos. Jacob, miner, Creswick.
 John Smith, Sulky Gully.
 W. Power, joiner.
 James Hook, Creswick.
 Joseph Congdon, Creswick, miner.

Thomas Brewer, butcher.
 Thomas Seddon, brickmaker.
 James McIntosh.
 Philip Hambley, gentleman.
 Jno. G. Barker, Creswick.
 T. Guttem, Creswick.
 James H. Peacock, draper.
 William Hill, Dean, farmer.
 A. Stephens, storekeeper, Creswick.
 John Parkin, farmer, Kingston.
 John W. Williams, ironmonger, Creswick.
 B. H. Williams, ironmonger, Creswick.
 R. A. Cruelois, landholder, Creswick.
 O. Booth, Creswick.
 Edward Brawn, Creswick.
 T. Jasper, Creswick.
 David Meeking, Creswick.
 Chester Eagle, Spring Hill.
 Thomas Symonds, farmer, Creswick.
 John Trewin, farmer, Spring Hill.
 James Wilson, holder, Spring Hill.
 James Talent, farmer, Creswick.
 William Ross, Spring Hill.
 John Ross, Spring Hill.
 John Nance, Spring Hill.
 Matthew Murnam, Spring Hill.
 Angus Ross, farmer, Scrub Hill.
 James Cumming, farmer, Scrub Hill.
 Richd. Richardson, farmer.
 William Yelland, farmer.
 John Nightingale, hotelkeeper.
 William Tyzzer, Spring Hill.
 Alfred Bunn, Spring Hill.
 Robert Mitchell, Spring Hill.
 James Orr, Spring Hill.
 Thomas Manning, Spring Hill.
 Thomas Brown, Mount Prospect.
 James Davidson, Newlyn.
 William Trewin, Newlyn.
 Archibald Hay, Newlyn.
 Robert Smith, Newlyn.
 Thomas Blanchfield, Bulrook.
 Patrick Drenneys, toll-collector, Newlyn.
 Thomas Murphy, Newlyn.
 Alex. Penny Cook, farmer, Spring Hill.
 David Davies, farmer, Spring Hill.
 John Trewin, jun., farmer, Spring Hill.
 John Phillip, farmer, Spring Hill.
 R. Allan, farmer, Creswick.
 Chas. Gardiner, farmer, Creswick.
 John Tippet, farmer, Creswick.
 Thomas Symonds, farmer, Creswick.
 H. Webster Edwards, miner, Creswick.
 J. T. Lennon, storekeeper and draper, Creswick.
 Wm. Allison, miner, Creswick.
 James Johnson, Creswick.
 Henry Lihan, Jayes' Creek.

VICTORIA.



VOTES
AND
PROCEEDINGS
OF THE
LEGISLATIVE
COUNCIL.

SESSION

1879-80.

LIBRARY