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W. Eames

(Labilliere)

BHK

EARLY HISTORY
OF THE
COLONY OF VICTORIA,

FROM ITS DISCOVERY TO ITS ESTABLISHMENT AS
A SELF-GOVERNING PROVINCE OF THE
BRITISH EMPIRE.

BY

FRANCIS PETER LABILLIERE,
BARRISTER-AT-LAW OF THE MIDDLE TEMPLE, FELLOW OF THE ROYAL
COLONIAL INSTITUTE.

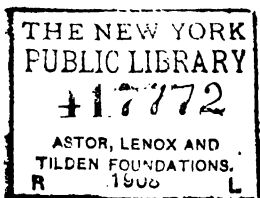
"Nothing in the history of mankind is like their progress. For my part, I never cast an eye upon their flourishing commerce, and their cultivated and commodious life, but they seem to me rather ancient nations grown to perfection through a long series of fortunate events, and a train of successful industry, accumulating wealth in many centuries, than the colonies of yesterday."—BURKE.

IN TWO VOLUMES.
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EARLY HISTORY OF VICTORIA.

CHAPTER I.

FIRST PERMANENT SETTLEMENT.

Timidity of Governments about formation of new settlements—Governor Bourke's despatch about one projected at Twofold Bay—Lord Aberdeen adverse—The First Founders of Victoria—The Hentys—Circumstances leading to their settlement at Portland Bay—Their application for land there—Governor Arthur favours formation of settlement—Claims of the Hentys—Their correspondence on the subject with the Government—Final adjustment—Proposed removal of Tasmanian Blacks to Portland.

EXPLORATION had now done its work. The long unknown region of Victoria had been crossed and re-crossed from end to end; Hume and Hovell had almost intersected the territory; Major Mitchell had struck through it from the North to its South-western extremity, and had then pursued a route which brought him out at its North-eastern boundary. He was more than able to confirm Hume and Hovell's favourable judgment of the country, and to dispel every vestige of lingering doubt, which previous condemnatory expressions and statements had raised and so long sustained. The judgment of Oxley and the prediction of Tuckey were

now for ever set aside. So impressed was the last great Victorian explorer with the beauty and fertility of the region through which he passed, that he gave it the name of *Australia Felix*, which the Colony would probably have retained, had not her Majesty, on its separation from New South Wales, signified her desire that it should be called after herself.

There have, however, always been some minds in which an obscurity of apprehension as to the advantages of colonization, even under the most favourable circumstances, has been insuperable. In spite of the splendid success which has attended the founding of so many Colonies, each new project of colonization has been strongly opposed or seriously questioned, on the ground of the expense it must occasion—an outlay, which these short-sighted objectors fail to perceive, has, within a few years, almost invariably been repaid with compound interest by the profits directly or indirectly derived from new settlements.

This timidity, against which all our colonizing experience has been a standing protest, nearly lost us New Zealand, prevented a more timely annexation of Fiji, and leaves New Guinea open for some undesirable neighbour.

This feeling was more justifiable when Sir Richard Bourke and Lord Aberdeen wrote the despatches to which we are about to refer, than it has been since so much subsequent experience has been acquired. Much light is thrown by the following correspondence in the Record Office, upon the early views of the governments, both in England and New South Wales, respecting the attempts to settle the territory of Victoria.

In a despatch of July 4th, 1834, Governor Bourke encloses to Mr. Sec. Stanley—the late Lord Derby—a letter

from Mr. James Atkinson, respecting a project, of Colonel Verner of the County Armagh and other gentlemen with whom Mr. Atkinson was connected, for the formation of a settlement near Twofold Bay, of a number of families from the North of Ireland. The Governor does not approve of granting the concessions asked for. He says,—

“Already have the flocks and herds of the colonists spread themselves over a large portion of this southern country. They are to be found in great numbers in Monaroo Plains to the westward of Twofold Bay, and some are said to roam as far to the southward as Cape Howe. . . . The excellence of the pastures in the part of the colony I am describing has induced the graziers to resort to it, and much of the fine wool which is exported to England is taken from sheep depastured on vacant crown land beyond the limits assigned for the location of settlers. It is not the policy nor would it be within the power of the government to prevent an occupation which produces so profitable a return, but being unauthorized it is understood by the occupiers that they cannot under such circumstances expect protection from the government. If a settlement be made as proposed by Col. Verner, or any other authorized settlement be established on the Southern Coast it will then be impossible to deny to persons already occupying lands in these parts the privilege of converting that occupation into property by purchase in the manner now fixed by regulation. This being effected, the Colonists thus regularly located, will claim the protection of the government, and the establishment of churches, schools, court-houses, gaols, custom-houses, a regular police and military force; and the numerous institutions of civilized life will be required in a country of great extent and slender population to the support of which institutions the persons to be benefited by them will not for some time be in a condition to contribute in any considerable degree.

“I have with reference to the proposed plan, thought it right to bring thus briefly before you the actual condition of the southern part of this colony and to state the certain effect upon expenditure consequent upon throwing it open to location. I beg, however, I may not be understood as opposing such a measure. On the contrary I would avoid as much as possible any obstacle to the profitable employment of rearing sheep, for which great extent of country is required. This

pursuit may indeed be continued for some time longer in its present form without much inconvenience, but the prevailing desire of the colonists to spread to the southward, the advantage which would result from enabling the graziers now scattered over that country to embark their wool for Europe, and salted meats for home or foreign consumption at Twofold Bay and to supply Van Diemen's Land from thence with live cattle induce me to think it would not be premature to extend the authorized limits of location as far to the Southward as that harbour. The augmenting revenue of the colony (derived, it is true, almost entirely from the duties of customs levied at Sydney) appears equal to the support of some additional establishment for the service of the southern country, and it would, perhaps, be desirable, as a measure of precaution, to disperse in that direction under legal restraint, and in military custody some of the numerous bodies of convicts who may be expected to arrive from Great Britain under the present system of transportation. With regard to the second point, it is to be remarked, that if the principle of competition be abandoned, and if the regulated price of land be reduced in favour of persons brought out at the cost of an association, a similar reduction may be claimed with perfect fairness by all persons who arrive at their own charge, and thus a material, and, in my opinion an injurious change will be made in the system under which the vacant Crown Lands have been disposed of since the 1st July, 1831. I cannot therefore recommend that the land which the association might select should be disposed of otherwise than by auction under the usual conditions or that the minimum rate should be less than five shillings an acre. The association would, however, be at liberty, as a matter of course, to avail itself of the aids offered to emigration by the bounties and advances payable under the existing regulations . . .

“In concluding this despatch I would observe that it is not beyond the southern boundary alone the flocks and herds of the Colonists have wandered for suitable pastures. They are numerous to the South West along the banks of the Murrumbidgee and to the North they have crossed the Mountain Range into Liverpool Plains. Here, indeed, and still more northerly on the banks of Peel's River, five-hundred thousand acres of land have been granted to the Australian Agricultural Company. In every direction the desire of procuring good pastures for sheep has led the Colonists far beyond the limits of location. The unauthorized occupants must not, however, be permitted to continue so long as to create any title to the land in the occupier.

Under the provisions of an act of council passed last year, 4 Gul. IV. No. 10 measures may be taken to prevent such a fraud on the Crown."

In a memorandum¹ or minute with the Van Diemen's Land Papers of 1835, written adversely to Batman's enterprise, it is stated that "a proposition was made (27th February, 1835) by Colonel Verner, M.P. for purchasing land in the neighbourhood of Twofold Bay," and that the application from an agent of his association was sent home by Sir R. Bourke, July 4th, 1834.

It is further stated that "Colonel Verner's project was negatived, and Lord Aberdeen in his despatch to Sir R. Bourke (December 25th, 1834) expressed a decided objection to the extension of the Colony beyond its present limits, on the ground that such a measure would tend directly to counteract and defeat one principal object which the government had in view in the late change in the land regulations, viz. the concentration of Colonists; and also on the ground of the increased expenditure which would attend the extension of that machinery of government, which the settlers in the new district would soon demand. Sir R. Bourke was further directed to discourage generally any projects of the like kind as 'many schemes of that nature, ostensibly for the purpose of encouraging emigration but in reality for the benefit of the projectors' had been encouraged by H. M. Government without realizing those projects of Public good which could alone justify the extraordinary privileges granted to private individuals."

When a project for colonizing a place so near Sydney as Twofold Bay was thus discountenanced, it was not to be expected that a settlement at the distance of Portland Bay

¹ A portion of this has already been quoted on the subject of the abandonment of the settlement at Western Port, vol. i. p. 251.

would be more favourably regarded. But, at the very time the Twofold Bay scheme was the subject of correspondence, between the Secretary of State and the Governor of New South Wales, the first permanent settlement in Victoria was being successfully established.

The Messrs. Henty are undoubtedly the first founders of Victoria, although from the fact that Portland is so far from the principal centres of the progress of the Colony, those who established the first permanent settlements on the shores of Port Phillip Bay seem to be regarded as the first founders of Victoria. Even had no other centres of colonization been established, there is little doubt that there was sufficient vitality in that formed at Portland, to have made it the medium of the occupation of the whole territory. The Hentys are therefore clearly entitled to the chief place among the founders of the Colony.

The expedition which thirty years before, under government auspices, made a futile effort to colonize Victoria, had, on abandoning the attempt as hopeless, crossed to Tasmania—a territory which appeared to offer better prospects of success; and it was from Tasmania that now, in 1834 and 1835, proceeded those three expeditions which under private management, so well laid the foundations of a great Colony. The pasture-lands of Tasmania having become occupied, the settlers, doubting the wisdom of allowing “the kangaroo to reign undisturbed lord of the soil,” and “to retain for ages” that lordship, had for some time seriously contemplated an inroad upon Lord Kangaroo’s domains. The Hentys led the invasion; Batman and Fawkner carried it on in another direction.

Something must be said of the founders of the Colony before speaking of their enterprise. In the part which

they took in this great event, as well as in their subsequent careers, the members of the Henty family certainly proved themselves to be Colonists who would have been a credit to any new community. Mr. Thomas Henty was a landowner and banker at West Tarring in Sussex. He was one of the few gentlemen—their number was but six—who kept flocks of Merino sheep. He laid the foundation of his stock from purchases made at the sale of King George III.'s Merinos, which were presented to that monarch by the King of Spain. Mr. Henty's first connexion with the Colonies arose from the sale of select rams for exportation to Australia. He had frequently sent specimens of his stock to the exhibitions of the Board of Trade, and was always successful. Having seven sons—most of whom still live—he determined on trying his fortune in the new country. Accordingly, in 1829 he despatched three of them to Western Australia with stock and outfit, and no less than forty servants. Such an importation, in accordance with the land regulations, entitled his family to a grant of upwards of 80,000 acres. Being disappointed with the quality of the soil, the Hentys proceeded in 1832 to Tasmania, intending to take up land there under the favourable regulations until then in force, but which, on arriving, they found had only just been altered.

Not long afterwards Mr. Thomas Henty himself went out to Tasmania, from whence he proceeded to see the land at Swan River, of which, like his sons, he formed an unfavourable opinion. "On his voyage"—so runs a statement in a copy of a letter written to their agents in England, in the possession of Mr. Wm. Henty—"he stopped at a great many parts along the coast, among others at Portland Bay, which he liked, and he thought as it was totally un-

occupied, and far removed from all the settlements, that it was not likely to be required by the government for years to come, and might perhaps therefore be obtained by him."

From the following documents it will be seen how the members of the family sought to be allowed to take up land at Portland. Colonel Arthur, Governor of Van Diemen's Land, was clearly favourable to their undertaking, and would gladly have had the territory placed under his government.

Less has been published about this first settlement than about that established at Port Phillip. It was, however, formed by the landing of Mr. Edward Henty and his brother Stephen, who, sailing from Launceston in October, with a considerable agricultural outfit of cattle, sheep, and servants, landed at Portland Bay, November 19th, 1834. We have no details of the early days of the settlement. It is to be hoped, however, that its founders may yet make public the leading incidents of their enterprise, for it is desirable that minute particulars of such a historical event should be given to the world.

The documents immediately following, copies of which are in the Record Office, contain some important facts, and have an interesting bearing on our subject. In a letter to Governor Arthur, dated Launceston, February 17th, 1834, Mr. James Henty encloses the following memorial, and explains the treatment pursued by his brother towards the blacks in Western Australia:—

" Copy.

" To the Right Hon. E. G. Stanley, Chief Secretary of State for
the Colonies.

" The humble Memorial of Thos. Henty, late of West Tarring in the County of Sussex, Landowner and Banker and now of Launceston in the Colony of Van Diemen's Land

“Sheweth—

“That your Memorialist having a family of seven sons the youngest of whom is nineteen years of age was induced to part with his landed property in England and emigrate to Van Diemen’s Land on the expectation of obtaining land under the regulations which existed in 1830. On his arrival here he found that the new system of selling lands had in a great measure deprived him of the means of providing for his sons in the manner he expected and was prepared to do.

“Your Memorialist having thus been shut out of land by the operation of the present regulations has been compelled to hire land in the Colony at an exorbitant rent and is now not so well off as he was in England simply from the effect of the Land Regulations at present in force.

“Your Memorialist having also suffered most severe and unexpected losses at Swan River, humbly submits that the proposition he now makes may receive the favourable consideration of His Majesty’s Government more especially as it is founded upon the principle of selling land which is now invariably adopted in the Colonies.

“Your Memorialist with the aid of his sons has made several excursions on the South Coast of New Holland altogether apart from the settled part of the Country. During these periodical visits they have found out islands, rivers, headlands and made various other geographical discoveries which have not been laid down in any Chart or Map hitherto published, he has also ascertained that many parts of the South Coast are faced with land to a considerable extent well calculated for sheep, a great portion of which your Memorialist conceives can be made available by industrious settlers. With this opinion, both himself and his sons are desirous of settling on some portion of this country; and without asking or requiring any protection from the Government or causing it to incur any expense whatever, propose that himself and each of his sons, be permitted to purchase from Government two thousand five hundred acres of land (2500) at five shillings an acre, such land to be selected by themselves between the parallels of 135 and 145 degrees East Longitude, under such restrictions as may be thought necessary. That being the first to settle in the country, greater expenses and greater difficulties will have to be encountered which will deprive them of a certain portion of their capital, and this capital they will require to enable them to bring the land into profitable cultivation. On these grounds they ask, on the payment of a

deposit of five per cent, they be permitted to have a credit of ten years to pay the remainder of the purchase-money, to be secured by mortgage on the land, bearing interest at five per cent.

“Your Memorialist respectfully begs further to state that in forming settlements in these colonies, the settler and aborigines have generally come into hostile collision, and mutual acts of aggression have been the consequence. In this respect your Memorialist feels himself perfectly safe. Four of his sons having had considerable experience in the management and treatment of the Natives at Swan River and King George’s Sound; at which latter place they are better managed and under better controul than in most others.

“A son of your Memorialist was living within three miles of the settlement at King George’s Sound between one and five years, in the midst of whole tribes of aborigines totally unprotected and such was the good feeling kept up between them, that no instance of misconduct occurred among them; they were taught to labour for, and earn the food with which they were occasionally supplied.

“The experience thus gained he hopes will be considered sufficient guarantee that the same system can be pursued in other places and thus by proper management the views of His Majesty’s Government in establishing a friendly intercourse and mutual good feeling with the Aborigines on the South Coast may be facilitated.

“Your Memorialist begs further to state that he has an order for land in the Colony of Western Australia to the extent of 80,000 acres, and which, should the proposition now submitted be acceded to, he will at once abandon; which will show that the object of your Memorialist is not to become a land-jobber but a real and *bond fide* settler.

“Your Memorialist’s eldest son is on the point of proceeding to England and will have the honour to lay before His Majesty’s Government such information as he may possess respecting the South Coast of New Holland.

“Your Memorialist as in duty bound will ever pray &c.

(Signed)

“THOMAS HENTY.
G. J. HENTY.”

In his despatch of April 18th, 1834, to Mr. Secretary Hay, Governor Arthur encloses copies of the Memorial and of Mr. J. Henty’s letter, and says,—

“Mr. Henty who left England in 1830 and afterwards remained

for some months at Swan River where having settled he suffered considerable losses arrived in this colony in 1832 where he met with a further disappointment in the cessation of the system of granting lands under the Quit rent.

“Mr. Henty and his family are highly respectable and deserve, so far as it can be consistently given, the support of the Government.”

Having stated the substance of the Memorial, the Governor proceeds,—

“Such a proposal I should recommend for favourable consideration did it not involve in some of its details an invasion of the general principle under which lands are sold, and might, therefore, be injurious as a precedent for other applications which the Government could not acquiesce in, and yet might be embarrassed in refusing.

“The settlement of the land pointed out by Mr. Henty is, however, most desirable—the country is rich, well watered and within a very short distance of Launceston,—indeed Mr. Henty’s application and his proposal to cede so much land at Swan River, if allowed to purchase an estate there, affords strong evidence of the high opinion that has been entertained of it upon inspection.

“Its proximity to Launceston, and the easy communication across the Straits unquestionably point it out as a station of importance to this colony, where the available territory has already been almost entirely appropriated, leaving but few spots for the selection of new immigrants, who might therefore, be sent to that station, and be protected by a small military party detached from this colony.

“Other arrangements might also be made from hence, which would not only save the first settlers from much of the distress commonly incident to the first occupation of a new country, which has been so much felt at Swan River, but what is of more moment might save them from coming into collision with the natives, who from Captain Sturt’s narrative appear to be numerous in that part of New Holland.

“My services are quite at Mr. Secretary Stanley’s command, if he would wish me personally to superintend for a few weeks the first formation of the settlement, and would desire a report upon its adaptation upon which His Majesty’s Government might entirely rely. So soon as a sufficient reinforcement of troops arrives in this garrison I could without apprehension of my absence being injuriously felt, cross the Straits for a short time, and nothing would individually

afford me greater gratification than being instrumental in aiding in the occupation of that part of the coast by means which might tend to secure the protection and promote the civilization of the Aborigines. When once New Holland is fully stocked with improved sheep, Great Britain will thenceforth be little dependant upon the Continent for wool, and in the promotion of this speculation the land on the Southern Coast might be sold and the proceeds applied to emigration. Convicts holding tickets of leave who have served with good conduct for a period which renders them eligible for emancipation might obtain that indulgence on condition of residing in Southern Australia—a measure which would be advantageous in drafting off part of our convict population, and thereby making room for the usual succession of transported felons to be certainly punished and probably reformed in Van Diemen's Land."

In a letter from Worthing, Sussex, dated September 20th, 1834, to the Secretary of State for the Colonies, the Right Hon. T. Spring Rice, M.P., Mr. James Henty—who had come to England to press the claim—states the circumstances respecting the allotment of 84,000 acres at Swan River, and the removal of himself and brothers to Tasmania with the forty people whom they had brought from England. Mr. James Henty—with the remainder of the property, which had not been removed by his brother, Mr. Stephen Henty, who had preceded him—sailed from Swan River in January, 1832, and reached Launceston March 1st. Here he "found that on the 10th February preceding new land regulations had been issued by which the system of granting land in proportion to the property of the settler was abolished, and instead of that system all land was to be sold at not less than 5s. per acre."

He proceeds to say that his brother, on his arrival from Swan River had no opportunity of informing him of the change of the Tasmanian land regulations. Mr. Henty continues:—

“The regulations that were alone known to us when we determined on proceeding to V. D. Land induced us to form that resolution. Those regulations would have entitled myself and my brother Stephen each to a maximum grant of 2560 acres and under the belief that we should obtain grants, my father with the rest of his family (3 sons and 1 daughter) left England for V. D. Land in the month of October, 1831, and that step he adopted in consequence of my having written informing him of my intention to quit Swan River and go to V. D. Land where I and my brother Stephen would be entitled to Maximum grants.”

Mr. Henty goes on to say that people who left England, or had begun to prepare to do so, before hearing of the new regulations, and all who had embarked from Swan River except his family, had obtained grants under the old regulations.

In a reply to Mr. James Henty of October 2nd, 1834, in the possession of Mr. Wm. Henty, Sir George Grey says, “I have to express Mr. Spring Rice’s regret that he does not perceive in your statements sufficient grounds to warrant his admitting your claim, or that of your brothers, to maximum grants of land upon the old terms.”

With a short letter, dated London, February 11th, 1835, to Mr. Secretary Hay, Mr. James Henty forwards the following statement:—

“Mr. Thomas Henty a landed proprietor in the county of Sussex having successfully introduced into the Colonies of Van Diemen’s Land and New South Wales a considerable number of his improved Merino sheep determined in 1828 on emigrating to Australia with his family consisting of ten individuals. He was induced to alter his original intention of going to the older settlements in consequence of the determination of His Majesty’s Government in 1829 to establish a Colony at Swan River upon the reports of Captain Stirling and Mr. J. Fraser, the former commanding His Majesty’s Ship *Success* and the latter holding the appointment of Colonial Botanist at Sydney from whence they sailed to examine it some time previous.

"The Reports of these gentlemen were decidedly favourable as regarded the quality of the soil and the capabilities of the place for a colony which induced Mr. Henty to send three of his sons to the proposed new settlement. The party was fully equipped with every necessary for such an undertaking including amongst implements and other things ten horses, ten choice cows and bulls, one hundred and eighty pure bred Merino and South Devon sheep and upwards of forty labourers and mechanics.

"The vessel arrived at the Swan River in October 1829 the value of the property landed by Messrs. Henty entitled them by the Government regulations to 84,413 acres of land which was accordingly allotted to them by the Lieutenant-Governor.

"It was evident to every unprejudiced mind that the quality of the land was far inferior to that described by Messrs. Stirling and Fraser, but having embarked so much property in the undertaking the Messrs. Hentys were unwilling to form a hasty opinion of its capabilities and every possible pains were taken during the next two years to find suitable land. In the course of their investigations every part of the settlement was visited, viz. Port Augusta (at Cape Lewin), Cape Naturaliste, Ports Vasse, Leschenault and Murray, the Swan and Canning Rivers to their sources across the Darling Range of Mountains to the Avon River and along its banks for thirty miles and King George's Sound from which several journeys into the interior for 50 or 60 miles were made.

"No land being found in any way calculated for farming purposes, they determined to abandon the settlement for Van Diemen's Land to which place, at a great cost they removed in 1831.

"On the receipt of this intelligence from his sons Mr. Thos. Henty, who was then occupied in disposing of his property and arranging his affairs in England, made an application to Lord Goderich for land in Van Diemen's Land stating the circumstances attending their abandonment of the Swan River. New regulations for the disposal of Crown Lands in that Colony having been some months previously issued by Government, the application was not acceded to, but a letter was given to him by Lord Howick, then Under Secretary for the Colonies authorizing him to reselect his land at Swan River if he found after visiting the Settlement that the land allotted to him was not as it had been described and was unfit for his purposes.

"At the time he accepted that letter he believed that his son's removal

to Van Diemen's Land would have entitled him to a grant according to the amount in value of the property they had conveyed there from Swan River so that in the event of his not finding land to suit his purposes at Swan River he should be able to fall back on the minor grant at Van Diemen's Land.

"All his arrangements having been previously made for emigrating to Van Diemen's Land, he was under the necessity of embarking for that Colony in October 1831 accompanied by five of his family the youngest of whom was 17 years of age.

"On his arrival at Van Diemen's Land he found to his utter astonishment and dismay that his sons had not been able to get away from Swan River in time by a few weeks, to entitle him to claim land in Van Diemen's Land under the old regulations consequently he was left in the distressing situation of an emigrant with a large family of young men, a considerable number of labourers and mechanics and a quantity of very superior live stock, unequalled in value by any ever imported, without the possession of an acre of land or the means of acquiring it under the new regulations notwithstanding he had expended upwards of £10,000 in sending his sons to Swan River and conveying his family and property to the Southern Hemisphere. Though he had the greatest confidence in the opinion and judgment of his eldest son with reference to the capabilities of the Swan River Settlement, another son was dispatched in 1832 to report upon it, and in the following year he was induced in compliance with Lord Howick's letter to embark for the same place accompanied by a third son, in order fully to satisfy himself on the subject and to show that he had taken every possible means to acquire an accurate and perfect knowledge of the soil and settlement.

"The result of these several opinions has fully confirmed that formed by the eldest son in 1831, which in the words of Mr. T. Henty are as follows—'Upon the banks of the Swan and Canning Rivers there are some spots of good alluvial land but the country generally is the reverse of what it is described to be by Mr. Fraser. . . . Speaking of the settlement generally I think it a miserable place for colonizing—deep sand or granite generally covered with grass-tree, Zamia and gigantic timber are the prominent features, scarcely any herbage (except in small flats) and not at all calculated for the object I had in view that of keeping a flock of fine long woolled sheep fitting for the finest fabrics, cattle and horses. The little money I have left if invested there would be sunk without a

chance of any return.' Again speaking of King George's Sound he says, 'Sir R. Spencer said the country had been much misrepresented. I quite agree with him if any party or parties intend settling here, I strongly recommend them to send out confidential persons who understand agriculture to *find land* before they venture to go out themselves.'

"During the progress of the several voyages undertaken by Messrs. Henty along the South Coast of New Holland they have visited and explored the following places entirely at their own expense under the expectation that His Majesty's Government would allow them to locate themselves on any part of the Coast vizt. King's Island at the entrance of Bass's Straits, Portland Bay in the 142nd degree of East Longitude, Lady Juliana Percy's Islands, Cape Bridgewater, and a deep Bay to the west not laid down by Flinders called by Mr. Henty Mount's Bay, Kangaroo Island, Spencer's Gulf, Encounter Bay, into which there are two openings (one a new discovery) Port Lincoln, Althorpes, Wedges, Flinders, Thistle, Snake, Middle and Goose Islands. Many of these places were explored interiorly particularly at Portland Bay, which they traversed in various directions for forty miles and found soil generally good and covered with excellent grass well adapted for sheep and cattle.

"Mr. Henty having at a great expense complied with the terms of the letter of the Under Secretary claims permission to select his land again agreeably to that authority, but as he finds it impossible to make any selection at the Swan River which will afford him a prospect of return and his deliberate opinion being, that money invested there will be certainly sunk or in other words irrevocably lost to himself and his family he prays that His Majesty's Government will permit him to make his selection at Portland Bay on the South Coast of New Holland in the 142 degree East Longitude and in such case he asks of the Government to give him one fourth of the quantity of land that was allotted to him at the Swan River which with his family of ten, and forty labourers he undertakes to locate within one year without expense or charge to the Government of any kind whatever.

"His claim upon Government is based upon grounds deserving the best consideration; he was induced to embark the greatest part of his fortune in the Swan River Settlement upon the faith of the report of Government officers (Captain Stirling and Mr. Fraser) whose statements have proved at variance with the truth. His sons' unavoidable

detention at Swan River with the wreck of that property after they were prepared to leave, deprived him of the means of obtaining a minor grant of land under the old land regulations and throwing upon him the burden (burden, because he had no land) of keeping his valuable stock of sheep cattle and horses and maintaining without beneficial employment 43 labourers whom he had conveyed there. He has explored the whole of the South-west Coast of New Holland after personally investigating the Swan River Settlement under the expectation that Government would allow him to re-select his grant if he should find land fit for agricultural operations. Such are the grounds that give him a claim upon the bounty of the Government—he is now between 60 and 70 years of age—he has expended his property in a delusive scheme which received countenance from Government and which would involve him and his family in certain ruin, if he invested the remainder of his property there. He now submits that it would be an act of justice to authorize him to settle upon land which he considers to be calculated for the object he originally had in view in embarking his property at Swan River vizt. the production of the finest kinds of wool. The spot he seeks permission to locate himself family and labourers upon is in a part of Australia wholly unexplored excepting by himself, at the least 500 miles distant from any other settlement and not within the boundaries of the South Australian Parliamentary grant."

In a letter to the Earl of Aberdeen of March 14th, 1835, Earl Surrey encloses the statement, and speaks of the Henty family as "most enterprising and highly respectable," and "well known to me in Sussex, where they sold their estate to go out." Lord Surrey further says,—

"Mr. James Henty has since he received Mr. Hay's answer, heard from his father that in pursuance of his scheme to settle at Portland he has actually chartered a ship from Van Diemen's Land with thirty-one head of cattle, pigs, live-stock in general, farming implements &c. Labourers &c., a frame of a house and other requisites of location.

"The die is now cast and Mr. Henty must abide the result of his scheme whether Government choose to protect him or not. Of this he cares little as he is determined to run the risk of being protected but what he requires of the Government is that in the event of the

District in the neighbourhood of Portland Bay ever becoming a Government Colony they will protect Mr. Henty in his priority of settlement—that is they will not disturb but will confirm his possession against any new comer.”

The following was Lord Aberdeen’s reply to the Earl of Surrey :²—

“ *Downing Street,*
“ *19th March, 1835.*”

“ MY LORD,—I have the honour to acknowledge the receipt of your lordship’s letter of the 14th instant, enclosing a memorandum from Mr. James Henty, to which your lordship requests my favourable consideration.

“ The object which this gentleman, as well as his father, are desirous of accomplishing, is one which could not with propriety receive encouragement from this department, as being not only at variance with the terms on which waste lands of the Crown are now disposed of in the Australian Colonies, but the land itself being far beyond the limits to which settlers are restricted in their locations.

“ The proposals of Mr. Henty’s father, when submitted to his late Majesty’s Government, were consequently declined by my predecessor ; and the same principle which guided him regulated my proceedings in deciding upon the application subsequently brought forward by his son.

“ I confess to your lordship, that I am much surprised at the step which Mr. Henty, senior, as represented by his son, has taken ; sufficient time not having elapsed for his becoming acquainted with the result of his application, and being aware, as he must have been when he made arrangements for proceeding to his intended destination, that he could have no security that his residence there would be permitted to continue. Under these circumstances, I request to acquaint your lordship, that I cannot hold out to Mr. Henty the pledge which he requires, viz. ‘That in the event of the district in the neighbourhood of Portland Bay ever becoming a permanent Colony, they will protect Mr.

² In “A Statement of the Claims of the Messrs. Henty upon the Colonial Government,” published in London, 1841, a copy of which was kindly lent to the author by Mr. Wm. Henty.

Henty in his rights of settlement; that is, they will not disturb, but will confirm, his possessions against any new comer;—although I am not prepared to say that Mr. Henty's pretensions to any land, *actually brought into cultivation by him and surrounded by a proper fence,*³ would not be favourably looked upon by his Majesty's Government at a future period, should the increase of the population of New South Wales, or other circumstances, extend the settlement of the territory to the quarter where Mr. Henty may have established himself.

"I have the honour to be

"Your lordship's most obedient humble servant,
(Signed) "ABERDEEN.

"The Earl of Surrey, &c. &c."

In a memorial of March 24th, 1840 to the Governor of New South Wales, in the Record Office, the Messrs. Henty state that before the receipt of Lord Aberdeen's letter—

"Four acres of land only had been enclosed to secure the stock as it had been landed and no buildings had been erected. those of your Memorialists who had proceeded there having lived in tents. . . .

"The result of their labours and expenditure has been the occupation of six stations, of which one is at Portland Bay, another fifteen miles distant at Cape Bridgewater, three at the open country about sixty miles inland called 'Merino Downs' situate on the River Wannon near its junction with the Glenelg and another station on the road from Portland Bay.

"They have erected two considerable houses at Portland Bay, one of them containing twelve rooms and two others at 'Merino Downs,' all of a substantial build, and also constructed the following buildings—viz. nine yards—shed, large barn, store, stable, carpenters blacksmith and shoe-makers' shop, dairy and other buildings. The value of the buildings, fencing, and other improvements that have been erected at Portland Bay, exceeds the sum of Five thousand pounds independent of the fences and the houses and buildings inland which together with the building of bridges, formation of roads and other expenses and improvements cannot in the whole be estimated at less than £8000 to £10,000.

³ The italics are in Lord Aberdeen's original.

"They have fenced in 135 acres (as measured by the Government Surveyors) in one paddock and other smaller paddocks—of the former sixty acres have been cleared and grubbed of stumps at an expense of not less than twenty-five pounds an acre and are now under crop.

"They have three portions of about 40 acres 15 acres and ten acres respectively fenced in at the inland stations and surrounding the two farms there.

"From Portland Bay to the interior they have with much labour and expense laid out and made an excellent road though the country is very heavy and its difficulties such as could not have been surmounted except by a party comprising great strength. This road crosses three rivers by means of bridges of their own erecting which has made the route open and easily accessible to future settlers.

"More fully to convey an impression of the value and importance of the improvements effected it may be mentioned that large quantities of stock of all kinds have been imported and that the number of souls engaged in the fencing and grazing establishments at the present time including a medical man and his family is

| | |
|---------|----|
| Males | 46 |
| Females | 7 |
| | — |
| Total | 53 |

and the average cost of each labourer has been sixty pounds per annum. All the labourers engaged from the commencement of the establishment have been free with the exception of two one an emancipist and the other a ticket of leave person who passed themselves off as free, but on being discovered were brought back at your Memorialists' expense and delivered to the authorities in Van Diemen's Land.

"Mr. Thomas Henty died in October, 1839, just as a prospect was beginning to open of remuneration for the sacrifices himself and family had made in bringing his plans to maturity."

The memorial refers to the progress made in six years, and to the fact that already a town has "been marked out and embracing within its limits a great part of the improvements made by your Memorialists;" who ask for a "grant of all land absolutely fenced in and occupied at Portland

Bay as provided for by the letter of Lord Aberdeen." In the event of this not being granted compensation is requested.

By a letter of March 31st, 1840, Mr. Deas Thomson, Colonial Secretary, informs the Messrs. Henty of the decision of the Executive Council at Sydney, refusing the prayer of the Memorial, and stating that the Council could not "perceive any ground on which this case can be distinguished from those of other unauthorized occupiers."

In a despatch of April 11th, 1840, Sir George Gipps encloses a letter addressed to the Secretary of State from the seven sons and one stepson—in the Memorial "son-in-law"—of the late Mr. Henty, namely Messrs. Jas. Henty, Samuel Bryan, C. S. Henty, W. Henty, Edwd. Henty, S. G. Henty, Jno. Henty, and F. R. Henty, requesting that they may be confirmed in or receive compensation for land occupied by them at Portland. The following extract from the despatch gives an estimate, formed at the time, of the services rendered by the founders of one of the most valuable of colonies. Governor Gipps says,—

"The Messrs. Henty, like the first settlers at Port Phillip, claim to have rendered good service to the Government, and to the Colony of N. S. Wales, by opening a district of country, which might otherwise have remained unoccupied for a number of years; but so far from considering this any advantage, I look upon it as directly the reverse; not only because the dispersion of population is increased by it, but because also we are forced prematurely to incur considerable expense in the formation of a new establishment. I have already, in consequence of the proceedings of the Messrs. Henty, been obliged to send two expeditions to Portland Bay, and I am under the necessity of organizing a Police Force there, and of laying out a Town, besides incurring expense for the protection of the aborigines."

In their letter to Lord John Russell, Secretary of State

for the Colonies, of April 3rd, 1840, enclosed in the preceding despatch of 11th, the Messrs. Henty say—speaking of the purchase from the natives attempted to be set up by Batman's Association—"such kind of claim they could have obtained and might now obtain for a handful of flour," but that "the Memorialists think, however, they pay greater respect to the British authority in forbearing to rest their claims on a title adverse to the Crown."

Speaking of Lord Aberdeen's response, they say,—

"Mr. Henty's application for 22000 acres was refused but the Memorialists considered encouragement was given in official language to cultivate and improve a spot at that time as little thought of for a place of settlement as the Gulf of Carpentaria is at present. They looked upon his Lordship as declaring in other words that a property of whose value they would be the sole creators should not be taken from them simply because they could not give it the power of motion.

"Contrary to the wishes of the Memorialists and contrary perhaps to the expectations of Lord Aberdeen at the time, the Colony of New South Wales has leaped—not marched to these its most western confines."

In a despatch of November 10th, 1840,⁴ to Sir George Gipps, in reply to one from him of April 11th, Lord John Russell says, "The reasons which you have assigned for declining to recognize the claims of the Messrs. Henty appear to me conclusive. You will have the goodness, therefore, to inform those gentlemen that I do not feel justified in complying with their application."

Sir George Gipps, in a despatch of October 27th, 1840, in the Record Office, informs Lord John Russell of the first sale of land at Portland Bay. He says,—

"As the sale of these allotments took place at Melbourne on the 15th inst., I have not yet received an official account of it; but I learn

⁴ Copy in possession of Mr. William Henty.

from authentic sources that 337 acres, offered for sale, produced the sum of £17,245 10s. 5d. being at the average rate of more than £50 per acre.

“The sale included 20 acres of building land in the proposed town, which sold at the rate of £551 6s. per acre; 50 acres of land fit for gardens, or the erection of villas, in the immediate neighbourhood of the town which produced £64 per acre; and 267 acres of land fit for cultivation, within the distance of two miles from the town which sold for £11 7s. per acre.

“When it is borne in mind, that as yet only one house (that of Mr. Henty’s) exists in the place, and that the nearest Government establishment is 150 miles distant, this result will, I doubt not, be considered by your Lordship as highly satisfactory; at any rate, I trust it will be taken as a proof that the measures which I adopted for opening the district were not premature.”

This is, certainly, an early departure from the view taken in the despatch of April 11th. The Governor continues,—

“I cannot abstain from remarking to your Lordship, that had Portland Bay been opened on the South Australian principle, the produce of the sale of land now reported, would have been £337 instead of £17,245 10s. 5d.

The despatch announces the appointment of Mr. James Blair as Police Magistrate at Portland Bay, and Mr. F. A. Powlett as Commissioner of Crown Lands for the district between Portland Bay and Port Phillip.

In a despatch of December 4th, 1840, Sir George Gipps encloses to the Secretary of State Mr. Blair’s letter to Mr. La Trobe—Superintendent of the Port Phillip District—dated November 13th, reporting the condition of Portland Bay. The Magistrate says,—

“The township consists at present of one good house and six decent cottages, besides a few huts, and contains a population of at least one hundred souls. The population of the entire district amounts to about six hundred.”

Mr. Blair does not speak favourably of the labouring classes; but he considers the harbour better than he expected, and that it might be made more available by the construction of a jetty at a cost of £300 or £400—an opinion in which, he states, Mr. Henty and Captain Moore concur with him. He adds,—

“I have examined a list of the vessels which have visited it since the 1st of January last and find that up to the 13th of November, 49 vessels whose tonnage amounted to 7010 tons had been here and all of them with the exception of 5 whalers and 2 revenue cutters were traders.

“I also ascertained that at least 1700 bales of wool will be shipped here this year and two vessels are expected immediately to load for England.”

In a letter to Mr. William Henty, of October 7th, 1842, kindly lent to the author by that gentleman, the Colonial Secretary at Sydney—in reply to one from him, “praying on behalf of the Messrs. Henty that the proceedings may be stayed which were instituted to remove these gentlemen from the land occupied by them at Portland Bay”—promises compliance with the request, “until his Excellency receives the despatch which it seems he may expect from Lord Stanley, but his Excellency can by no means promise that they shall not be immediately resumed after his Excellency shall have received it, and possess a knowledge of the contents of it; and though any proceedings that are incomplete may be stayed, his Excellency cannot revoke or undo anything that has been done.”

On October 28th, 1842, Mr. La Trobe writes to Mr. Wm. Henty,⁵ to Launceston, stating that he had received directions from Sydney to the above effect, and had “in-

⁵ Letter in his possession.

structed the Police Magistrate at Portland to take no further steps for the removal of any improvements that you may have made on the Town Lands in question until fresh directions are given to him.

“I shall,” continues Mr. La Trobe—with more courtesy than is displayed in the official communications from Sydney—“regret if the steps which it appeared imperative on the Government to take in regard to your removal, previously to any intimation being received that your claims were likely to form a subject of fresh discussion with the Home Government, should prove to have been disadvantageous to the interests of your family.”

The more favourable response of Lord Stanley, to the application of the agents of Messrs. Henty in this country, is conveyed in a despatch to Sir Geo. Gipps of May 27th, 1842.⁶ His Lordship says after the opening paragraph,—

“I am of opinion that the concluding part of the letter of Lord Aberdeen to Lord Surrey contains an implied promise of a favourable consideration of the claims of the Messrs. Henty in reference to such portion of the land in question as might be actually under cultivation and fenced.

“With respect, therefore, to any lands that may be proved to come within this description, I am prepared so far to alter the former decisions on this claim, as to authorize you either to allow the parties a pre-emption of such lands at the amount which it may be estimated that they would now realize without any improvements upon them, or if they have been already sold, to pay the Messrs. Henty the difference between that estimated value and the price actually received by the government. The value to be assumed for the purposes of this arrangement will be determined by the Local authorities, having regard to the price fetched by adjacent or similar lots in an unimproved state, and to any other circumstances that they may find ought to be

⁶ A copy is among the papers of Mr. Wm. Henty.

taken into account, in order to arrive at a correct and equitable conclusion.

“I wish at the same time distinctly to explain to you, that my judgment in this case proceeds on the expectation which the words employed in a former letter of the Secretary of State relating exclusively to the Messrs. Henty, may be supposed to have created in their minds, and that therefore the decision is not to be viewed as a general precedent or as opening the door to the wide extent of the demands which, I observe, it was at one time feared in the Council might arise out of a concession to this application.”

In a letter from Melbourne of February 22nd, 1843,⁷ Mr. La Trobe informs the Messrs. Henty of the purport of the decision of Executive Council in Sydney,—

“That in conformity with the authorization of the Secretary of State you should be allowed a pre-emption of such lands as might be actually under cultivation and fenced at the amount which it may be estimated that they would now realize without any improvements upon them; or if they have been already sold that Messrs. Henty should be paid the difference between that estimated value, and the price actually received by the Government.

“In obedience to the instruction conveyed to me I have the honour to state that I shall take immediate measures to ascertain the improvements effected upon the several portions of land amounting to 131½ acres, of which a list is enclosed more especially as regards the fencing and cultivation of the same, and the period when such improvements were effected.

“And such further steps as may appear necessary for ascertaining the present value of each portion of the said lands if in an unimproved state, and any other information requisite to carry into effect the decision of the Council.”

The following is the list of the allotments, making up the 131½ acres, mentioned in the letter :—

⁷ Copy in Mr. William Henty's possession.

| | | |
|---|----|-------|
| " At Cape Bridgewater . . . | 14 | acres |
| ,, Mount Eccersley . . . | 13 | " |
| ,, Merino Downs, South } of the Wannan. } | 35 | " |
| ,, North of the Wannan. . . | 20 | " |
| ,, In the Town of Portland . . | 47 | " |
| ,, Garden ground in the } suburbs of the Town. } | 2½ | " |

131½ acres

" One hundred and thirty one and a half acres."

In a subsequent minute of the Executive Council, of May 30th, 1843, and communicated by Mr. La Trobe, July 4th, in a letter in Mr. Wm. Henty's possession, it was provided that the 82 acres of county lands above specified, "should be granted to the Messrs. Henty at £2 per acre, being twice the established minimum price; and when it was borne in mind that they were all small and choice lots, his Excellency considered such a price to be a moderate one. But his Excellency observed that there were at some if not all of the places buildings standing on detached pieces of land, and which consequently would not be included in the 82 acres." These, it was provided, might be purchased at the same price, if measured in the manner described. As to the town lands, the Hentys were permitted to buy them, and also a further quantity in one continuous block, "equal to what had been already sold or appropriated by the government at the price of £100 an acre.

"His Excellency lastly proposed that they should be further allowed £118 compensation for the damage done to their house;" and that the Messrs. Henty "give up altogether their claim to the lands which have either been sold or appropriated in any other way by the government."

In a letter to Mr. La Trobe of October 13th, 1843, the Messrs. Henty decline the condition as to the waiver of their claims, object to the insufficiency of the compensation proposed, and to the high price put upon the land.

This letter was overlooked at Sydney, and no reply sent until January 20th, 1845, when the refusal of the government to accede to the claims put forward was communicated to Mr. La Trobe. The difference between the government and the Messrs. Henty was, however, afterwards finally adjusted upon the terms expressed in the following document, a copy of which Mr. Wm. Henty has kindly supplied.

(Copy)

“ Memorandum *Superintendent's Office,*
Messrs. Henty's 17th Aug. 1846
claim

I propose that Messrs. Henty should be allowed to take *Block 4.*

| | |
|--|-------|
| Town—Ten acres at £100 per acre . . . | £1000 |
| Block 3. | |
| Allotments 5 & 6 one acre at . . . | £100 |
| Country— <i>North</i> of Wannan, a parallelo- gram drawn in accordance with the Stipulation of the Executive Council from 70 to 100 acres at £2 per acre say 85 acres . . . | £170 |
| South of Wannan Merino Downs say 60 acres . . . | £120 |
| | £348 |

I further propose that the following claims shall be admitted

| | |
|---|------|
| For damage to buildings—Portland . . . | £118 |
| ,, loss of improvements on 5 acres sold by the Govt. } | 50 |
| Do. on 3 acres | 30 |
| Do. on 17½ | 150 |
| | £348 |

"The above arrangements to be considered final, but only admitted and concluded upon its being satisfactorily shown that the claims of the Messrs. Henty upon the Government of New South Wales are thereby fully met and extinguished.

(Signed) "C. J. LA TROBE."

Thus were the first founders of the most successful of Colonies rewarded. They were declared to have done positive harm, "by opening a district of country, which might otherwise have remained unoccupied for a number of years." But although Sir George Gipps wrote in these terms in April, 1840, we have heard the different strain which he was obliged to adopt so soon after as the following October. The idea of keeping the area of colonization contracted was dissipated by the settlement of Victoria, but the merit of the founders of the Colony was not recognized. Without going the length of granting the Hentys the full quantity of land they might have had in Western Australia, the government might at least have given them the few acres, for which they had to pay a high price. Considering the circumstances connected with their going to Western Australia—their having been too late to avail themselves of the favourable land regulations which had just ceased to exist on their arrival in Tasmania—and the fact that they were undoubtedly the very first pioneers of Victoria—some exception might have been made in their favour, without the possibility of any such concession being set up as a precedent. Batman, as we shall see, could not have put forward so strong a claim, even had he not attempted to derive a title from the natives independently of the Crown.

In a despatch of January 27th, 1835, to Mr. Spring Rice, Governor Arthur commends a proposal of Mr.

G. A. Robinson, who was in charge of the Tasmanian natives on Flinders Island, to remove them to Portland Bay. The despatch states that their numbers since they were sent to the island, were reduced to 130. Colonel Arthur thinks that, under Mr. Robinson's care, they might be made of use in promoting good relations with the natives on the mainland, and suggests that a small party of troops should be sent to Portland Bay. His desire to undertake the direction of the settlement in connexion with his government is evident, for he says,—

“The experience, however, derived from the process of colonizing in Van Diemen's Land may I think be turned to the best account in forming the new settlements now projected in New Holland, and also in subjecting to some regulations the settlers who have without authority sent from this Colony several flocks of sheep to be depastured on a part of the opposite coast—very near the Eastern boundary of the proposed Colony of Southern Australia.”

With a despatch of March 10th, Governor Arthur sends a copy of the correspondence with Mr. Robinson. In a letter of February 11th that gentleman, speaking of a previous expression of his views, says, “I stated it to be my opinion that a friendly communication might be effected with the aborigines of New Holland, at Norfolk or Portland Bay. After mature consideration on this subject I am convinced as to the practicability of such a measure, and feel persuaded it would be attended with very beneficial results, both to the government and the aboriginal natives, themselves. No scheme could be better adapted to ameliorate the condition of the aboriginal inhabitants and of affording protection to the emigrants who are fast crowding to the shores of New Holland than the one under consideration.” Mr.

Robinson then goes at some length into the details of his scheme.

Sir John Franklin, Governor of Van Diemen's Land, in a despatch to Lord Glenelg, August 3rd, 1837, encloses a report of Mr. Robinson, dated June 24th, in which that gentleman states that the mortality which had taken place among the natives on Flinders Island—seventeen deaths between January and June—induces him “ardently to desire that his Majesty's Government may accede to the removal of the present establishment to the adjacent coast of New Holland and where the Flinders Island aborigines would not only be found efficient, but willing auxiliaries in aiding the work of civilization, so urgently needed by the numerous tribes inhabiting that vast Continent.” Sir John Franklin says, “So many objections present themselves to this, however, that I feel unable to entertain the idea.”

With a despatch of January 31st, 1838, Lord Glenelg, sends to Sir George Gipps, Governor of New South Wales, copies of Sir John Franklin's despatch, and of Mr. Robinson's report, and communicates his intention to appoint Mr. Robinson chief aboriginal protector at Port Phillip, with four assistants, Messrs. Seivewright, Thomas, Dredge, and Parker. With reference to the removal of the Van Diemen's Land natives, the Secretary of State says he should not feel himself “justified in directing the adoption of it in opposition to such a statement” as that of the Governor of Van Diemen's Land, with whom he directs Sir George Gipps to communicate, remarking that, if “the result of the personal observations of Sir John Franklin, in the visit which he stated himself to be about to make to Flinders Island, should be such as to entirely satisfy him

that the natives might be so removed without personal risk or danger to themselves, and with their own free consent important advantages might be anticipated from the formation in New Holland of an aboriginal settlement comparatively so far advanced in civilization."

In a letter of Mr. Montagu, Colonial Secretary of Van Diemen's to Mr. Deas Thomson, Colonial Secretary of New South Wales, dated August 22nd, 1838, Mr. Robinson's acceptance of the office of Chief Protector at Port Phillip is notified, and it is stated that that gentlemen "is fully empowered by Sir John Franklin to make any arrangement which may meet the concurrence of Sir George Gipps, for the removal of the aborigines from Flinders Island to New Holland; his Excellency has after very mature consideration arrived at the opinion that such a measure will meet the calls of humanity towards the Van Diemen's Land natives themselves, and of policy towards the British settlers, in the increased safety they may expect by the admixture of the domesticated Blacks with the less civilized tribes, and the consequent decrease of hostility on the part of the latter towards the whites."

The number of the blacks was stated in the letter to be eighty-six, and they were possessed of a flock of 1300 sheep, which it was proposed they should take with them.

Sir Geo. Gipps, on November 10th, 1838, communicates the final decision respecting the removal of the Tasmanian aborigines, to the Secretary of State, Lord Glenelg, informing him that his despatch of January 31st had arrived at a time "when very great irritation existed in the Colony in consequence of the collisions between the settlers and the natives;" "so that the project of removing the Blacks from Flinders Island was no sooner known than it was

met with the most decided opposition by all classes in the Colony; and even in the Council, I could not find a single member who would look upon it favourably." It is also stated that Mr. Robinson, who had been examined before the Executive Council, had returned to Van Diemen's Land, from whence he was going to Port Phillip, taking one native family as his personal attendants.

CHAPTER II.

BATMAN'S EXPEDITION TO PORT PHILLIP.

Batman applies for land at Western Port—His letter to Governor Arthur describing his first visit to Port Phillip—Conveyance of land executed by natives—Colonel Arthur informs Secretary of State of Batman's expedition—Views of Colonial Office—Wedge's description of country and Aborigines—Further views of Governor Arthur.

WE now come to the expedition of Batman, by which the first permanent settlement was founded on the shores of Port Phillip Bay; and, as the particulars of this important event are so clearly and fully described in the following historical documents, which require a good deal of space, it is not desirable that they should be presented to the reader encumbered with any more explanation than is absolutely necessary to place them in distinct order. It will be seen, from the first letter, that John Batman had been contemplating the colonization of Victoria for some years before he carried out his design, for he thus wrote to Governor Darling during the existence of the Western Port Settlement:—

"Copy.

"*Launceston, 11th Jun. 1827.*

"SIR,¹—Understanding that it is your Excellency's intention to

¹ N. S. Wales Correspondence, October, 1835, Record Office.

establish a permanent settlement at Western Port and to afford encouragement to respectable persons to settle there, we beg leave most respectfully to solicit at the hands of your Excellency a grant of land at that place, proportionate to the property which we intend to embark.

"We are in possession of some flocks of sheep, highly improved, some of the Merino breed and others of the pure South Devon, of some pure Devon cattle imported from England and also of a fine breed of horses.

"We propose to ship from this place 1500 to 2000 sheep, 30 head of superior cows, oxen, horses, &c. &c. to the value of from 4 to £5000, the whole to be under the personal direction of Mr. Batman (who is a native of New South Wales) who will constantly reside for the protection of the establishment.

"Under these circumstances we are induced to hope your Excellency will be pleased to grant to us a tract of land proportionate to the sum of money we propose to expend, and also to afford us every encouragement in carrying the proposed object into effect.

"We have the honour to be sir

"Your Excellency's most obedt. and humble servants

"(Signed)

"J. T. GELLIBRAND.

"JOHN BATMAN.

"To His Excellency Lieut.-General Darling, &c. &c. &c."

The application was declined in these terms:—

*"Colonial Secretary's Office,
Sydney, 22nd March, 1827.*

"GENTLEMEN,—In reply to your letter of 11th January last soliciting a grant of land at Western Port I am directed by the Governor to inform you that no determination having been come to with respect to the settlement of that place it is not in His Excellency's power to comply with your request.

"I have the honour to be

"Gentlemen

"Your most obedt. servant

(Signed)

"ALEX. MCLHAY."

"Messrs. J. & T. Gellibrand and John Batman."

Nearly a year before Batman's expedition, we find some

Tasmanian Colonists turning their attention to the waste territories on the Australian mainland.

In August, 1834, a joint letter was addressed from Launceston to the Secretary for the Colonies, in which the writers state that, "in consequence of the great difficulty of now obtaining any extent of tolerably good land" in Van Diemen's Land, they "are desirous of forming a settlement on the Southern Coast of New Holland, between the Longitudes 135° and 150°." They ask to be allowed to purchase in fee the number of acres, respectively standing against their names, at five shillings an acre—payment of five per cent. to be made in three months, and the remainder in ten years. They speak of their experience as settlers, their possession of stock and facilities for conveying it to the opposite coast. The following are the names of the applicants who applied for ten thousand acres each, Geo. P. Ball, J.P., W. H. Browne, Theodore Bartley, J.P., Andrew Gatenby, and A. Clarke; Lieut.-Col., Joseph Haslewood, applied for 20,000, and St. John E. Browne and Henry Browne for 5000 each.

In the following letter,² Batman gives some particulars about himself, informs Governor Arthur of his recent visit to Port Phillip, and of the first steps taken to found a settlement in that territory:—

"Copy.

"*Hobart Town, 25th June, 1835.*

"SIR,—I have the honour of reporting to your Excellency for the information of His Majesty's Government, the result of an expedition undertaken by myself, at the expense and in conjunction with several gentlemen, inhabitants of Van Diemen's Land, to Port Phillip, on the South Western" (Eastern in pencil in margin) "point of New Holland,

² In V. Diemen's Land Correspondence, Record Office.

for the purpose of forming an extensive Pastoral Establishment, and combining therewith the civilization of the native tribes who are living in that part of the country.

“ Before I enter into the details, I deem it necessary to state for the information of His Majesty's Government, that I am a native of New South Wales, and that for the last six years I have been most actively employed in endeavouring to civilize the aboriginal natives of Van Diemen's Land, and in order to enable the local Government of this Colony to carry that important object into full effect, I procured from New South Wales eleven original natives of New Holland, who were, under my guidance mainly instrumental in carrying into effect the humane objects of this Government towards the Aborigines of this Island.

“ I also deem it necessary to state that I have been for many years impressed with the opinion that a most advantageous settlement might be formed at Western Port or Port Phillip, and that in 1827, Mr. J. T. Gellibrand and myself addressed a joint letter to the Colonial Government of New South Wales soliciting permission to occupy land at Port Phillip, with an undertaking to export to that place stock to the value of £5000, and which was to be placed for a certain number of years under my personal direction and superintendence.

“ This application was not granted by the Sydney Government because the land was beyond the limits of that Territory, and the occupation of Western Port had been altogether abandoned.³

“ It occurred to myself and some of the gentlemen who are associated with me that, inasmuch as the Sydney natives, who were living with me, had become well acquainted with the English language and manners, and had acquired habits of industry and agricultural pursuits, they might therefore be considered civilized, and as the available lands in this Colony were occupied by flocks and sheep, and fully stocked, it would be a favourable opportunity of opening a direct friendly intercourse with the Tribes in the neighbourhood of Port Phillip, and by obtaining from them a grant of a portion of that Territory upon equitable principles, not only might the resources of this Colony be considerably extended, but the object of civilization of a large portion of the Aborigines of that extensive country.

“ In pursuance of arrangements based upon these principles, I pro-

³ “ Qy date ? ” in pencil in margin.

ceeded on the 12th May, 1835, in a vessel from Launceston, accompanied by seven Sydney natives, and proceeded to Port Phillip, on the South Western Extremity of New Holland, where I landed on the 26th May.

“On the evening of our arrival at Port Phillip we saw the native fires at a distance of about five miles. I then made my arrangements for the purpose of opening an intercourse with the natives by means of those under my charge. I equipped them in their native dresses, and early in the morning we landed. I desired the natives to proceed unarmed and they preceded me a few hundred yards. When we had advanced within half a mile, we saw the native huts and smoke. My natives then proceeded quietly up to the huts, expecting that we should find the Tribe asleep, but when they had got to the huts it appeared that the natives had fled a few hours previously, leaving behind them their baskets and other articles.

“I concluded from this that the natives had discerned the vessel, and had quitted their huts through fear; and as I thought it probable they might in consequence quit the coast for a season, I determined immediately to put my natives upon the track, and if possible, overtake them, and at once obtain their confidence.

“My natives followed the track which appeared to have been very circuitous, and after we had proceeded about ten miles, we at length saw a Tribe consisting of twenty women and twenty four children.

“My natives then made to them some of their friendly signals, which it appeared were understood; and in the course of a few minutes, my natives joined the Tribe, and after remaining with them, as I judged, a sufficient length of time to conciliate them, and explain my friendly disposition, I advanced alone and joined them, and was introduced to them by my natives, two of whom spoke nearly the same language, and so as to be perfectly intelligible to them.

“The two interpreters explained to them, by my directions, that I had come in a vessel from the other shores, that I was, although a white, a countryman of theirs, and would protect them, and I wished them to return with me to their huts, where I had left some presents for them.

“After some conversation, the whole party, women and children, returned with me and my natives towards the huts, until they came within sight of the shore; they then stopt and hesitated in proceeding, and as I understood from the interpreters, were afraid I should take

them by force, and ill use them as some of their Tribe had been already.

"After the strong assurances on my part of my sincerity and friendly disposition, and that no harm should be done to them, they then proceeded to the huts, where I gave them a pair of blankets each, tomahawks, knives, scissors, looking-glasses, and I affixed round the neck of each woman and child a necklace.

"As soon as I had distributed the presents, they were informed by the interpreters that they might depart and join their friends, and I left them and proceeded on board the vessel. They appeared by my conduct to them highly gratified and excited, and showed by their manners that the fullest confidence existed.⁴

"On the next and five following days, I employed myself in surveying the country, and although I saw several native fires, I abstained from intruding upon them, leaving the interview I had with the women to have its full effect upon the Tribes before I visited them again.

"On the seventh day I proceeded towards the place where I had seen the fires, and where I had reason to believe the Tribes were and I sent my natives forward with the same instructions as upon the first occasion. We remained up the country all night and proceeded early next morning under the expectation of reaching the Tribes. After we had proceeded about seven miles we fell in with a native man and his wife and three children, who received my natives with apparent cordiality and informed them that the women to whom I had given the presents, although belonging to another Tribe, had communicated to them the reception they had met with from me.

"I learned from this native where the Chiefs of the Tribes were stationed and also their names, and this man most readily offered at once to act as our guide, and take us to the spot. We then proceeded with the man his wife and children, towards the huts of the Chiefs, but it appeared that the guide took us past the spot where the Chiefs were, and some of the children having observed a white man, gave the

⁴ Mr. Arden in his pamphlet, "Latest Information with regard to Australia Felix," published in Melbourne 1840, says, "By an inspection of Mr. Batman's journal, the writer is inclined to think this meeting took place upon the banks of the Weirabee—the Ex of the present settlers."

alarm, and almost immediately we found the Tribe in our rear, advancing towards us with spears and in a menacing position. My natives with the man woman and children, then called out to the Tribe, and they immediately dropt their spears and other implements in the grass, and the two sable parties advanced towards each other, and I shortly followed them.

“Some conversation then took place between my natives and the Tribe,—the object of my visit and my intentions were then explained to them, and the Chiefs then pressed me to proceed with them to see their wives and children, which is one of the strongest demonstrations of peace and confidence. Upon my assenting to this request the Chiefs then inquired of my interpreters, whether I would allow them to take up their implements of war, which I immediately assented to, and the principal Chief then gave me his best spear to carry, and I in return gave him my gun. We then proceeded towards the huts, and when a short distance from them, the Chief called out to the women not to be alarmed, and I was then introduced to the whole tribe, consisting of upwards of twenty men, containing altogether fifty-five men women and children.

“I joined this Tribe about 12 o'clock and staid with them until 12 o'clock the next day, during which time I fully explained to them that the object of my visit was to purchase from them a tract of their country, that I intended to settle among them with my wife and seven daughters, and that I intended to bring to the country sheep and cattle. I also explained my wish to protect them in every way, to employ them the same as my own natives, and also to clothe and feed them, and I also proposed to pay them an annual tribute in necessaries as a compensation for the enjoyment of the land. The chiefs appeared most fully to comprehend my proposals, and much delighted with the prospect of having me to live amongst them. I then explained to them the boundaries of the land I wished to purchase, and which are defined by hills to which they have affixed native names and the limits of the land purchased by me are defined in the Chart, which I have the honour of transmitting taken from personal Survey.

“On the next day the Chiefs proceeded with me to the boundaries and they marked with their own native marks, the trees which were at the corners of the boundaries, and they also gave me their own private mark, which is kept sacred by them, even so much so that the women are not allowed to see it.

“After the boundaries had been thus marked and described, I filled

up, as accurately as I could define it, the land agreed to be purchased by me from the Chiefs, and the deed when thus filled up was most carefully read over and explained to them by the two interpreters, so that they most fully comprehended its purport and effect. I then filled up two other parts of the deed, so as to make it in triplicate, and the three principal Chiefs and five of the subordinate Chiefs then executed each of the deeds, each part being separately read over, and they each delivered to me a piece of the soil for the purpose of putting me in possession thereof, and understanding that it was a form by which they delivered to me the tract of land.

“ I have the honour of enclosing herewith a copy of each of the deeds executed by the natives to me, which I confidently trust will most clearly manifest that I have proceeded upon an equitable principle, that my object has not been possession and expulsion, or what is worse, extermination, but, possession and civilization ; and the reservation of the annual tribute to those who are the real owners of the soil will afford evidence of the sincerity of my professions, in wishing to protect and civilize these tribes of benighted, but intelligent people ; and I confidently trust that the British Government will duly appreciate the Treaty which I have made with these Tribes, and will not in any manner molest the arrangements which I have made, but that I shall receive the support and encouragement of not only the local Government, but that of the British Government, in carrying the objects into effect.

“ I quitted Port Phillip on the 14th day of June, having parted with the Tribes in the most conciliatory manner, leaving five of my natives with three white men to commence a garden near the harbour, and to erect a house for my temporary occupation on my return with my wife and family.

“ I arrived at Launceston after a passage of 36 hours, which will at once show the geographical advantages of this territory to Van Diemen's Land ; and in a few years I have no hesitation in affirming, from the nature of the soil, that the exports of wool and meat to Van Diemen's Land will form a considerable feature in its commercial relations.

“ I traversed the country in opposite directions about fifty miles, and having had much experience in land and grazing in New South Wales and in this Colony, I have no hesitation in asserting that the general character of the country is decidedly superior to any which I have ever

seen. It is interspersed with fine rivers and creeks, and the Downs were extended on every side as far as the eye could reach, thickly covered with grass of the finest description, and containing an almost indescribable extent of fine land fit for any purposes.

"I have now finally to report that the following are the gentlemen who are associated with me in the Colonization at Port Phillip; many of whom will reside with their establishments at Port Phillip, and all of whom are prepared and intend immediately to export stock which will be under my general guidance and immediate superintendence:—

"C. Swanston, Thomas Bannister, James Simpson, J. T. Gellibrand, J. and W. Robertson, Henry Arthur, H. Wedge, John Sinclair, J. T. Collicott, A. Cotterell, W. G. Sams, M. Connolly, George Mercer.

"The quantity of stock exported this year will be at least 20,000 breeding ewes, and one of the leading stipulations will be, that none but married men of good character, with their families, will be sent either as overseers or servants, so that by no possibility any personal injury shall be offered to the natives or their families; and it is also intended, for the purpose of preserving due order and morals that a Minister or Catechist shall be attached to the establishment at the expense of the Association.

"The Chiefs to manifest their friendly feeling towards me, insisted upon my receiving from them two native cloaks and several baskets made by the women, and also some of their implements of defence, which I beg to transmit. The women generally are clothed with cloaks of a description somewhat similar, and they certainly appear to me to be of a superior race to any Natives which I have ever seen.

"I have the honour to be &c &c

(Signed)

"JOHN BATMAN."

"His Excellency

"Lieut.-Governor Arthur &c &c."

Mr. Bonwick, in his "Port Phillip," gives a few extracts from Batman's journal, containing some of the preceding particulars and mentioning some incidents not referred to in Batman's letter.

A MS. copy of the following deed, executed by the natives and referred to in the preceding letter, is to be

found in the Record Office, in the Van Diemen's Land Correspondence. It has also been published by Mr. Bonwick, Dr. Lang, and Mr. Arden, in their accounts of Batman's proceedings. Its terms are,—

“ Know all Persons that we three brothers Jagajaga, Jagajaga, Jagajaga being the principal Chiefs and also Bungarie, Yanyan, Moo-whip and Momarmallar, being the Chiefs of a certain native tribe called Dutigallar, situate at and near Port Phillip, called by us and the above-mentioned Chiefs Iramoo being possessed of the tract of land hereinafter-mentioned, for and in consideration of twenty pairs of blankets thirty tomahawks one hundred knives fifty pairs of scissors thirty looking-glasses two hundred hankerchiefs one hundred pounds of flour and six shirts delivered to us by John Batman residing in Van Diemen's Land Esquire but at present sojourning with us and our tribe Do for ourselves our heirs and successors give grand and enfeoff and confirm unto the said John Batman his heirs and assigns All that tract of country situate and being at Port Phillip running from the branch of the river at the top of the port about seven miles from the mouth of the river Forty miles north-east and from thence west Forty miles across Iramoo downs or plains and from thence south south-west across Mount Vilaermanartar to Geelong Harbcur at the head of the same and containing about five hundred thousand more or less acres as the same hath been before the execution of these presents delineated and marked out by us according to the custom of our tribe by certain marks made upon the trees growing along the boundaries of the said tract of land To hold the said Tract of land with all advantages belonging thereto unto and to the use of the said John Batman his heirs and assigns for ever To the intent that the said John Batman his heirs and assigns may occupy and possess the said tract of land and place thereon sheep and cattle Yielding and delivering to us and our heirs or successors the yearly rent or tribute of one hundred pair of blankets one hundred knives one hundred tomahawks fifty suits of clothing fifty looking-glasses fifty pairs of scissors and five tons of flour. In witness whereof we Jagajaga, Jagajaga, Jagajaga the above-mentioned principal Chiefs and also Cooloolook, Bungarie Yanyan Moo-whip and Momarmalar the Chiefs of the said tribe have hereunto affixed our seals to these presents and have signed the

same. Dated according to the Christian Era this sixth day of June one thousand eight hundred and thirty-five.

| | | |
|--------------------------|------|--------------------------|
| | (sd) | JAGAJAGA his x mark |
| | (,,) | JAGAJAGA his x mark |
| | (,,) | JAGAJAGA his x mark |
| "Signed sealed and deli- | (,,) | COOLOOLOCK his x mark |
| vered in the presence | (,,) | BUNGARIE |
| of us the same having | (,,) | YANYAN his x mark |
| been fully interpreted | (,,) | MOOWHIP his x mark |
| and explained to the | (,,) | MOMMARMALAR his x mark." |
| said Chiefs | | (Signed) JOHN BATMAN" |

(Signed) JAMES GUMM

(,,) ALEXANDER THOMSON

(,,) WM TODD

Signed on the Banks of Batman's Creek

6th June 1835 "

" Be it remembered that on the day and year within written possession and delivery of the tract of land within-mentioned was made by the within-named Jagajaga Jagajaga Jagajaga principal Chiefs and Cooloolook Bungarie Yanyan Moowhip and Mommarmallar also Chiefs of the tribes of natives called Dutigallar to the within-named John Batman by the said Chiefs taking up part of the soil of the said tract of land and delivering the same to the said John Batman in the name of the whole

JAGAJAGA his x mark

JAGAJAGA his x mark

JAGAJAGA his x mark

COOLOOLOCK his x mark

BUNGARIE his x mark

YANYAN his x mark

MOOWHIP his x mark

MOMMARMALAR his x mark

In the presence of

(Signed) JAMES GUMM

(,,) ALEXANDER THOMSON

(,,) WM. TODD."

If, as is stated in the deed, it were "fully interpreted and explained to the said Chiefs," and as Batman says in his letter, "it was explained to them by the two inter-

preters so that they most fully comprehended its purport and effect," they must have possessed a wonderful aptitude for English conveyancing ; for within a few days their legal minds had grasped the import of the words "give grant enfeoff and confirm unto," and had acquired a due appreciation of the solemnity of "signed sealed and delivered."

There is a second deed in the same terms, and between the same parties, except that the name of Cooloolook appears at the commencement—it being doubtless inadvertently omitted at the beginning of the original or preceding copy of the first deed. It deals with a tract of only a hundred thousand acres, for which a smaller number of blankets is to be given. The tribe is called "Iramoo and Geelong." The description of the land is "All that tract of country situate and being in the bay of Port Phillip known by the name of Indented Head but called by us Geelong, extending across from Geelong Harbour about due South for ten miles more or less to the head of Port Phillip taking in the whole neck or tract of land and containing about One Hundred Thousand acres."

In an indenture⁴ of the 29th of June, 1835, between Batman of the one part and Chas. Swanston, Thomas Bannister, James Simpson, Joseph Tice Gellibrand, John and Wm. Robertson, Henry Arthur, John Hilder Wedge, John Sinclair, John Thos. Collicott, Anthony Cotterell, Wm. Geo. Sams, and Michael Conolly, all described as of Van Diemen's Land, and Geo. Mercer as of Edinburgh of the other part, the deeds of purchase from the Aborigines are recited, and it is declared that Batman stands seised of the two tracts of land in the said deeds, in trust to hold for himself two undivided seventeenth parts, and for the others an undi-

⁴ N. S. Wales Correspondence, 1839, Record Office.

vided seventeenth each, and two other undivided seventeenth parts as Geo. Mercer may appoint. It was agreed that for twelve months Batman and Wedge shall manage the land, in conjunction with such of the other parties as may see fit to go to it, and that each of them shall send over five hundred breeding ewes within six months, and five hundred more within twelve. Among other things it was provided that the two tracts shall be surveyed and divided into seventeen parts—that no liquor of any description shall be landed—that Batman shall have the sole management of the natives—that the servants shall be of good character, and if possible, married men—that, on the confirmation of the grant by the Crown, the shares of the party shall be conveyed to them in fee simple—that none of them shall dispose of their interests for five years—that a medical man and catechist shall be provided—that a committee, consisting of Messrs. Swanston, Gellibrand, and Simpson, shall have power to carry the object of the deed into execution, and that one consisting of Messrs. Connolly, Sinclair, and Arthur shall superintend the shipment of the stock—that it is not intended to create a partnership, but notwithstanding joint management each person shall have a separate interest in his own flock—that disputes shall be submitted to arbitration, and a code of rules for the government of the settlement shall be agreed upon within twelve months.

By an indenture of June 30th, 1835, Batman conveys to Swanston, Gellibrand, and Simpson the two tracts of land upon the trusts specified in the deed of the previous day.

The following is a reply from the Colonial Secretary of Van Diemen's Land, to Batman's letter :⁶—

⁶ In Record Office.

“ Copy.

“ *Colonial Secretary's Office,*
3rd July, 1835.

“ SIB,—I am directed to inform you that the Lieut.-Governor having perused with much interest the account contained in your report of the 25th ult., of your expedition to Port Phillip, is highly gratified with the very favourable opinion you have been enabled to form of the fertility of the adjacent territory; thus confirming the various statements which have been made respecting it since the first occupation of that country in 1803 by Governor Collins, and more especially by Messrs. Hovell and Hume, and Captain Wright, whose reports have long since been in the possession of His Majesty's Government.

“ Though divided only by a few hours' sail from the most fertile portion of Van Diemen's Land, Port Phillip is not within the jurisdiction of this Government. His Excellency would, therefore, only observe that the recognition of the rights supposed to have been acquired by the Treaty into which you have entered with the natives, would appear to be a departure from the principle upon which a Parliamentary sanction, without reference to the Aborigines, has been given to the settlement of Southern Australia, as part of the possessions of the Crown.

“ The Lieut.-Governor will have great pleasure, however, in forwarding your report to His Majesty's Government, and in representing the enterprise manifested by yourself, the respectability of the parties interested in the undertaking, and the humane consideration which His Excellency is informed it is their intention to extend towards the Aboriginal inhabitants of Iramoo, but which justice and humanity alike require as a preliminary in the occupation of every new country; but at the same time the Lieut.-Governor would remark, for the reasons he has assigned, that he considers it would not be prudent in the gentlemen associated with you to incur expense in any reliance upon a confirmation from the Crown of your title to the land under the agreement into which you have entered; an opinion which His Excellency cannot avoid expressing although he is very sensible that the colonization of the country you have examined would, on account of its proximity, be highly conducive to the prosperity of Van Diemen's Land.

“ I am also to observe that in reference to the application of Mr. Henty to be allowed, under certain conditions, to locate a grant of land on the Southern Coast of New Holland, His Majesty's Government declined to accede to his proposal, conceiving that to have done

so would be to deviate from the principles involved in the Act for the Settlement of Southern Australia.

“ I remain &c. &c.

“(sd) JOHN MONTAGU.”

Col. Arthur’s despatch,⁷ communicating to the Secretary of State the preceding information, is as follows:—

“ The Right Hon.

T. Spring Rice, &c. &c.

“ *Van Diemen’s Land,*
Government House,
4th July, 1835.

“ SIR—I have the honour to enclose for your information the copy of a letter which I have received from Mr. John Batman, a settler in this Colony, who has recently visited the opposite Coast of New Holland,—examined a portion of the country in the vicinity of Port Phillip—and on behalf of an Association, of which it appears he is the agent, purchased 600,000 acres of land from one of the Native Tribes.

“ The settlement of this district would unquestionably be highly advantageous to Van Diemen’s Land. Its extensive plains, and rich pastures are capable of supporting large herds of cattle and sheep,—and as the distance between the two ports might be traversed by a steam boat in about twenty-four hours, it might very rapidly be covered with flocks and herds from this Colony—indeed I have no doubt that the foundation would soon be laid for a very beneficial intercourse between the two countries.

“ It would afford me therefore, great pleasure were the facilities which might be afforded by this Government rendered availing in the settlement of this very valuable territory,—which might I submit, with a view to economy, be placed temporarily under the jurisdiction of the Supreme Court of Van Diemen’s Land.

“ As regards the request of the Association that their feoffment in the land in question by the Aborigines should be confirmed by the Crown, I am constrained, notwithstanding the great respectability of the gentlemen interested in the arrangement, to observe that it does not appear to me that it can be advocated on any valid grounds.

⁷ In Record Office.

"The land was taken possession of by Col. Collins for the Crown previous to the settlement of Van Diemen's Land,—and subsequently, by Captain Wright in 1826, when a Military Post was, for a period, established there:—Messrs. Hovell and Hume, moreover, of whose journey I have an imperfect account before me—explored the country in 1824 and 1825.

"It appears, also, from a comparison of the descriptions given by Messrs. Hovell and Hume,—and Mr. Batman, that they had met with several tribes in the same district, who distinguished it by different names,—a circumstance which would render the original ownership doubtful, even were it true in contemplation of law, that a migratory savage tribe, consisting of from, perhaps, 30 to 40 individuals, roaming over an almost unlimited extent of country, could acquire such a property in the soil as to be able to convey it so effectually as to confer to the purchasers any right of possession which would be recognized in our Courts of law.

"In order, however, that the subject may be fully before His Majesty's Government, I have thought it proper to transmit a copy of the Deed of transfer which was executed by the native Chiefs.

"Mr. Batman is an enterprising settler—he has acted with prudence as well as humanity, in making it his first effort to conciliate the native tribe with whom he negotiated, and I trust that the good feeling which he appears to have established will be perpetuated—were a liberal grant of land given him in the country he has explored I think the gift would be well bestowed;—but as regards the confirmation of his treaty with the natives, I have plainly told him I could not hold out the slightest prospect of its being favourably considered; and the Colonial Secretary has addressed to him the letter of which the accompanying is a copy, wherein you will perceive that, I have refrained from encouraging the hope that the scheme of Association would be successful, so far, at least as the investiture of the land in question.

"As the Company will probably proceed at once to take possession, and as other individuals may follow their example for the purpose of occupying the adjoining land on the sea Coast—I cannot, I most respectfully submit, be made acquainted at too early a period, with the views, which His Majesty's Government entertain upon this very important subject. I have the honour to be, sir,

"Your most obedient humble servant,

"GEO. ARTHUR."

In a despatch,⁸ dated Downing Street, January, 1836, Governor Arthur is informed in the following terms of the views of the Colonial Minister, in reply to his communication of July 4th :—

“Without entering at present into the question of the right possessed by the Chiefs who were the contracting parties to the territory of which they agreed to dispose, or of the justness and fairness of the terms of the arrangement, I shall simply advert to the practical question at issue; namely—the expediency of confirming the grant to the Association.

“All schemes promoting settlements by private individuals or companies in the unlocated districts of Australia have of late years been discouraged by H.M. Government, as leading to fresh establishments involving the mother country in an indefinite expense, and exposing both the natives and the new settlers to many dangers and calamities. And there is so much of prudence and of justice and I think I may add of humanity in this policy, that I do not feel disposed to depart from it in the present instance.

“The conduct of Mr. Batman towards the natives has been such as to make me regret that I find it my duty not to advise H.M. to sanction the proceedings of that gentleman and his associates.

“Your proposal of forming a settlement in the vicinity of Port Phillip and of placing it under the jurisdiction of the Supreme Court of Van Diemen’s Land requires and shall have serious consideration. At present I shall only observe that it seems to me open to some very serious objections.”

On January 28th, 1836, Governor Arthur forwards to Mr. Secretary Hay, in a despatch, the following⁸—

“Description of the Country around Port Phillip.

By J. H. Wedge.”

“In traversing the interior of the country my attention was directed to that part of it from the northern extremity of the Port, round to the westward, including Indented Head and embracing about forty miles

⁸ Record Office.

inland. In describing the country I will take the several parts in the order which I examined them.

“The Peninsula of Indented Head first attracted my attention—its extent is about one hundred thousand acres. It is bounded on the west by the Barwurn, a river discovered by myself, which empties itself into Bass's Straits, a few miles to the westward of Indented Head, and in its course passes within about three miles of the western extremity of Port Phillip. The Eastern part of the Peninsula for about four or five miles from the margin of the Port, is a low and flat surface, the soil being light and sandy, and well covered with grass, thinly wooded with the honeysuckle, she-oak, mimosa and eucalyptus. The land then swells into low tiers, and alternates with beautiful hill and dale. On these hills the soil is of finer quality, and the grass more luxuriant than the plains; these hills gradually decline to the westward in gentle undulations, and terminate at the Barwurn, in some places in steep banks, varying in height from thirty to sixty feet. It is a great drawback to the availability of the Peninsula that the river Barwurn is subject to the tides, and is consequently salt up to where it is joined by another river, about three miles from the western extremity of the Port; otherwise it would be one of the finest situations for sheep-farming I have ever met with. On the Peninsula there are many small water-holes, which afford the natives a supply of water, but it is brackish and of bad quality, although I experienced no bad effects from the use of it. At the junction of the rivers, above alluded to, the one coming from the north-west is called the Yaloak by the natives; the other coming from the westward I have named the Byron, into which about ten or twelve miles up another stream falls, which I have named the Leigh. These rivers pass through very extensive open plains much further than the eye can reach, and from Buckley's information at least one hundred and fifty miles to the westward. About fifteen miles in a south-west direction from the junction of the Byron with the Yaloak is a lake called by the natives Moderwarrie, the intermediate country being grassy hills (called by the natives Barrubull) of moderate elevation, thickly covered with she-oak trees; and around the lake an undulating grassy country thickly timbered extends to the westward. On approaching the coast to the westward, the country gradually becomes more thickly timbered, and the quality of the soil not so good. The coast hence tends nearly south-west to Cape Otway, the country being hilly and thickly wooded, and

from its appearance I should not deem it fit for agricultural pursuits, although it not unfrequently happens that very erroneous ideas are formed by judging of the nature of a country by distant observations.

“Near the northern extremity of the Port, and about three or four miles from it, two rivers form a junction, the one coming from the north and the other from the eastward; and their united waters are discharged into the Port together. Both these rivers are navigable for vessels of about sixty tons, for five or six miles above the junction. There is a bar at the mouth of these rivers which precludes large vessels from entering—but up to the bar vessels of the largest burden can approach and find secure anchorage. The country between these rivers extending to the north forty or fifty miles, and to the east about twenty-five miles, to a tier of mountains, which range from the back of Western Port in a northerly direction, is undulating and intersected with valleys and is moderately wooded, especially to the east and north-east—to the north there are open plains. The soil is a sandy loam and is generally of good quality and in some of the valleys very rich—the surface is everywhere thickly covered with grass intermixed with rib grass and other herbs. I think very highly of this part of the country and consider it to be well adapted for agricultural pursuits. It will be desirable to form townships at the head of the Saltwater in each of these rivers. The river coming from the eastward is called by the natives Yarrow Yarrow.

“The country between the river coming from the northward and the western extremity of the Port, and from twenty-five to forty miles inland, is open and partakes more of the nature of Downs, the whole is thickly covered with a light growth of grass, the soil being in general stiff and shallow. About midway there is a river falling into the Port which comes from the north-west. I do not know whether it is navigable any distance inland, as I crossed it in the first instance about twelve or fourteen miles above the entrance into the Port, and in the second a considerable deal higher up at the foot of a range of hills which bound the plains on the north-west; about Station Mount (called by the Natives Villamanata) the country is wooded, with this exception and here and there along the shore of the Port, and along the course of the river just mentioned, the plains are quite open, as much so as the heaths of Cambridgeshire, and I have no doubt they will become valuable sheep stations for breeding flocks, although it is probable they are affected by the droughts in the dry summers; but there is no country without its disadvantages, and I do not think it

will be worse, nor indeed so bad in that respect as New South Wales, as it is more exposed to the south and westerly winds, from which direction the rains come. And as far as my observations went very heavy dews are prevalent.

"The country to the north and north-west of these is broken and hilly and I am inclined to think from its appearance, it is extensively adapted for pastoral purposes. There is a great deficiency of timber, fit for building and fencing purposes, the want of which will be seriously felt in this part of the country, whenever it becomes thickly inhabited. On the whole I think favourably of the country for the general purposes of colonization.

"During all my wanderings in Van Diemen's Land I never fell in with an emu in its wild state—this pleasure was reserved till my recent visit to Port Phillip; I saw there on several occasions, altogether about twenty in number; I had not before a conception of the stateliness and grandeur of these birds.

"There is not many kangaroos in that portion of the country which I examined, but those I did fall in with are the largest I have ever seen, and they are very swift of foot.

"There are large birds of the crane kind, and the wild goose, black swans, wild ducks and teals, in abundance and they are all with the exception of the quails, very wild and difficult to get at. There are wild native dogs which appear to me to be a description of small wolf, and I fear great watchfulness will be necessary to protect the sheep from their depredations."

On the chart accompanying Wedge's description, we have the river "Yaroyaro" marked. The "Weariby" runs up in a N.W. direction; and a little to the east of the point to which it is traced is "Mount Bunyinyoke," which is about in the position of Mount Blackwood. Just to the N.W. of Mount Villumanata, Station Peak, are "Yowwham Hills," a short distance to the west of which we find "Onnikie Yamwham Hills." At the site of Geelong "Cayariya" is marked, and at the other side of a small stream, which stands in the position of Cowie's Creek, the name Gurweeth is inscribed. The upper part of the Barwourne, as it is written, is called the River Yaloak. This

from them, although I learnt from Buckley that in the treatment of each other they were treacherous. To command their respect I found it was necessary to make them fully understand that it was in our power not only to minister to their wants and comforts, but amply to avenge any outrage. In impressing them with this idea, Buckley was of great use to us by making known to them the ample means we had of furnishing them with food, blankets, &c. and explaining the object we had in view in settling amongst them, and our desire to be on friendly terms with them, which was mainly compassed by evincing a confidence devoid of fear in our deportment towards them, and by abstaining from any act which might lead them to doubt the sincerity of our intentions. I learnt from Buckley that they were cannibals, his statement on this head was confirmed by the two youths who attached themselves to me during my stay in New Holland, and who accompanied me on the several excursions I made into the interior, but they do not seem to indulge in this horrible propensity except when the tribes are at war with each other, when the bodies of those who are killed are roasted and their bones are infallibly picked by the teeth of their enemy; of this custom they make no secret, and on being questioned, speak of it as a matter of course, and describe the mode of preparing the victim for the repast. Disgusting as is this practice, the process of which is too revolting to commit to paper, a still more horrible one, if possible prevails—that of the mothers destroying many of their infants at their birth—the cause by which they appear to be thus influenced is the custom the women have of nursing their children till they are three or four years old; to get rid therefore, of the trouble and inconvenience of finding sustenance for two, should a second be born before the eldest is weaned, they destroy the youngest immediately after it is born. Although this explanation was given me by Buckley—and I have no doubt this is in most instances the case, yet some women perpetrate the murder of their infants from mere wantonness, and as it would seem to us, (and which is found even in the brute creation)—a total absence of maternal feeling.

“One woman in particular, the wife of Nullaboin I think, was pointed out to me who had destroyed ten out of eleven of her children, one of whom she killed a few days previous to my arrival at the port.

“Notwithstanding the increase of the tribes is thus kept down, Polygamy is common amongst them; few of the men having less than two wives and some of them four or more. The women as is the case

with most savages are quite⁹ subservient to the men and are kept in excellent discipline—Chastisement promptly follows the least offence and a fire stick is not unfrequently the instrument of correction. The wealth of the men may be said to consist in the number of their wives, for the chief employment is in procuring food for their Lords. On one occasion I was witness to a scene that afforded me some amusement, although it was no fun to the four women concerned. My attention was attracted by the outcry of the women who were undergoing chastisement from their husband (Murradonnanuke) who punished them by throwing fire sticks at them in the most furious manner; on inquiring I learnt that the only cause of their offence, arose from the poor creatures not having brought home that evening a quantity of provisions sufficient to satisfy his insatiable appetite. In the regulations which prevail respecting their wives they have one which seems to have some connexion with, or similar to the Mosaic Law—on the death of a husband his wives, whatever be their number, become the property of the eldest of his brothers, or his next of kin. The men are jealous of their wives; should any intrigue be discovered, it would probably lead to the death of one or both of the offending parties, although if the husband receives what he considers to be an adequate compensation he is accommodating to his friends in allowing them the favours of his wives, and I have understood that these indulgences are always to be purchased by bestowing upon the husband a liberal supply of food. The women are not allowed to have a voice on these occasions, but must obey the dictates of their tyrants. I do not believe that infidelity is frequent amongst the women, unless sanctioned by the husband—during the whole time I was among them, I never observed any advances or levity of conduct, on their part, although it is not at all improbable that they are restrained by the dread of the consequences that would ensue were they to be detected in an illicit amour. In bestowing daughters for wives, they are promised as soon as they are born, and on these occasions the parents receive presents of food, opossum and kangaroo rugs,

⁹ "Although they are designated 'savages' in contradistinction to ourselves who are called civilized beings yet no people upon earth, in a state of nature so little deserve the appellation, if kind-heartedness has any influence in our minds in wiping away the stigma of our refined expression, which in this narrative is merely used for the purposes of description."

clubs spears &c. from the person to whom she is betrothed; and this arrangement is considered to be binding, although it sometimes happens that these promises are broken by the parents, especially when the man, who has received the promise belongs to another and distant tribe. When this occurs it creates a feeling of enmity, and it is not unfrequently taken up by the whole tribe, who make common cause with the aggrieved party. If therefore determined on being revenged they never lose sight of their object till they have satisfied themselves by a general conflict with the tribe to whom the offending party belongs, or it sometimes happens that the poor girl and the husband are singled out, and at the dead of night the unerring spear gives both a passport to that land where the inhabitants live without hunting. Their revenge thus satiated, again they become friends.

“The men are prohibited from looking at the mother of the girl given them in marriage. This singular custom is observed with the strictest caution, on passing the huts of the mother-in-law, or any place where they suppose her to be, they carefully turn their heads in another direction, and evince great concern, if by any chance they should see her—although I am not aware of any penalty being attached to the offence save that of incurring the displeasure of the parents. On meeting with Nullaboin I took notice that a young girl who had just entered the married state carefully avoided to look at him for what reason I can't divine, unless it was that the old man had been promised her first daughter. From inquiries which I made on the spot, I am induced to believe that feeling of enmity does not exist permanently amongst the different tribes, as it is terminated by a Battle Royal, something after the style of a row at an Irish Fair.

“A short time previous to my departure a few men with their wives from an adjoining tribe came to that amongst whom I was living, with an invitation to join them in a conflict which they meditated with an adjoining tribe; they sent two or three young men to the tribe to the westward, inviting them also to join in their warlike excursion (or foray) on the occasion. I learnt that this hostile feeling had been created by one of these men having lost one of his eyes in a scuffle, with a man belonging to the Western Port tribe, this accident happened about eight months previously, and although the party who thus sought to avenge himself was the aggressor, having wounded his antagonist with a spear, he nevertheless had determined on having satisfaction, and had succeeded in inducing his own tribe and that

with which I was living, and probably would influence the other also, to whom the embassy of the young men had been despatched to espouse the cause of his odd eye, in fighting for which some lives would in all probability be lost, and a few heads broken, without enabling him to see a whit the better. They also gave especial invitation to the seven Sydney natives, and requested they would take their guns with them. This of course I discouraged and I was not without hopes that they might be induced through the influence of Buckley to forego their intention of taking their revenge, although from what he said I concluded there was not much chance of such a result.

“Buckley said the time of their meeting was very uncertain, that it might happen in a week or two, or it might be put off for some months, but that the collision was almost certain to take place sooner or later. In these conflicts it does not often happen that many lives are lost, seldom more than one or two, and frequently all return from the fight alive, and no other mischief is done, save a few heads broken, or an impression made on their coatless backs by a club or spear, so expert are they in avoiding the missiles of their opponents; all feeling of hostility ceases with the battle and cordiality again prevails till it is interrupted by the impulse of their feelings, which are extremely sensitive, in fact they are nearly as pugnacious as though their birth-place had been the Green Island.

“Like others uncivilized and in a state of nature, they are astonishingly dextrous in the use of weapons employed by them in the defence of their persons, and in procuring food; and in tracking each other, as well as the kangaroo, and other animals they are very expert—the most trifling disarrangement of the grass, a broken twig or the slightest thing which indicates the direction of the object of pursuit is at once perceived by them, and they follow the track with ease at a brisk pace—on several occasions I witnessed their adroitness in this respect. In fact their perceptions in seeing, hearing, and smelling are surprisingly acute,—and in the pursuit of their game, they evince that patient perseverance so peculiar to man living in a state of nature.

“Their food consists principally of kangaroo and other animals, fish and roots of various sorts, black swans, ducks and many other birds—and in fact there is scarcely any animal or bird that comes amiss to them—and many reptiles, amongst them a species of snake, come within their bill of fare. In their appetites they are quite ravenous

and the quantity they devour at one meal, would astonish even a London Alderman, although they are not quite so fastidious in the quality of their viands.

"I could not learn that they have any religious observances, and indeed from the information, I gathered from Buckley, I am led to believe that they have no idea whatever of a Supreme Being, although it is somewhat difficult to reconcile the fact of their believing in a future state, for they certainly entertain the idea that after death they again exist, being transformed into white men. This is obviously a new idea since they have become acquainted with us, and is an evidence that the friendly intercourse we have established with them, will by degrees operate upon their minds and gradually work an amelioration in their condition—of this being ultimately effected I entertain very sanguine expectations; and I think I am warranted in doing so by the result of the experiments I made to induce them to habits of industry, whilst residing amongst them. The men on several occasions rendered assistance in carrying sods for the erection of our huts, and many of the women were almost constantly employed in making baskets during the last week or ten days previous to my departure. In repayment for those and other services I gave them bread on the completion of their task, with which they were well satisfied and I have but little doubt if proper arrangements were made and attention paid that great progress might be made in a short time, towards establishing more civilized habits. Their whole time may be said to be devoted to procuring food during the day—all their thoughts seem to be directed towards ministering to their appetites, the women are the drudges of their husbands, and are seldom idle during the day, being for the most part employed either in getting the various edible roots, with which the country abounds, or in making baskets and nets and any other occupation dictated by their husbands.

"Their habitations are of the most rude and simple construction, the materials with which they are made being the branches of trees laid with tolerable compactness and pitched at an angle of about 45 degrees—in shape they form a segment of a circle, and their size is in proportion to the number of inmates of which the family is composed."

¹ In his despatch of August 28th, 1835, hereafter referred

¹ This and the succeeding documents quoted in this chapter are in the Record Office.

to, respecting Wm. Buckley, Colonel Arthur writes to Lord Glenelg,—

“ Since I had the honour to address the Secretary of State on the 4th ultimo upon this subject”—(Batman's enterprise)—“ it has come out that the Association have made overtures to His Majesty's Government through friends in England. The country they seek to possess is not within the Territory of Van Diemen's Land, and I have therefore no right to complain of the course they have pursued;—on the contrary, I beg to do them the justice to say that they are a very respectable, and in respect of pecuniary matters, responsible body—but at the same time, I cannot avoid expressing the hope that this fine tract of country may not be ceded to them to be converted into a sheep-walk, and cattle-run by absentee proprietors.

“ I have not seen any copy of Sir Richard Bourke's Commission, and therefore do not know whether Port Phillip is included within His Excellency's jurisdiction—if it be, all that is proper will be, I am well persuaded, speedily done for asserting the rights of the Crown;—but if the country be not within the boundaries of the Government of New South Wales,—then I recommend that a military officer be sent from hence, as a Commandant, with a small detachment,—and that a surveyor,—a medical officer—and a missionary be employed under him, with a few convicts of long approved good character as mechanics and labourers,—to form the Settlement—to establish a friendly intercourse with the natives,—and to duly control any ‘Squatters’—that an accurate knowledge of the country may be gained, and all the necessary preliminaries adjusted for its occupation under such regulations as His Majesty's Government may deem most desirable;—by this means, at a very trifling expense, which may be defrayed from our land revenue, the country may be occupied without those sad reverses which checked emigration to Swan River.

“ I have the honour to add in conclusion that I caused the Colonial Secretary to communicate with the corresponding Department in New South Wales on the subject of Mr. Batman's expedition, but that I have not as yet received any official reply.

“ I have the honour to be my Lord

“ Your Lordship's most obedt. humble servt.

“ GEO. ARTHUR.

The Right Hon. Lord Glenelg.”

Governor Arthur, on October 1st, 1835, in a letter to Lord Glenelg, says,—

“In my despatch of the 4th July last No. 53 I reported the occupation of Dutagalla on the opposite Coast of New Holland by certain flock-holders in this Colony, and the probability of their being joined by others, in consequence of the limited extent of the pasture-lands of Van Diemen’s Land.

“The proximity of this territory, and the circumstance that it presents great temptations to convicts to endeavour to escape thither, suggests the possibility that considerable advantage would accrue from giving the Supreme Court of Van Diemen’s Land a concurrent jurisdiction with that of New South Wales throughout those districts, and from providing that, for the purpose of taking runaways, the warrants of the magistrates should be executed (there and in the Islands in Bass’s Straits) which might be done obviously without prejudice to the interest of the Government of New South Wales, though it, I now find, certainly includes Dutagalla within its jurisdiction.”

In a letter to Mr. Secretary Hay from Hobart Town, October 26th, 1835, Mr. George Frankland, Surveyor, says,—

“I have lately received an interesting account of the Port Phillip country from Mr. Wedge (who lately resigned his post in my department on Colonel Arthur refusing him a month’s leave of absence). The natives appear very tractable, and open to imbibe any habits that may be inculcated in them. To be sure they are not of the most amicable manners,—the feeding on the flesh of their enemies, and destroying their children on a principle of economy being amongst their ordinary practices. Mr. Wedge has been teaching them to make baskets, by rewarding the industrious with increased rations. This is all very well while it lasts, but the first outrage committed by a white man will destroy the friendly feeling and then superior force must be the social standard. What will the King’s Government do with regard to these volunteering settlers of Port Phillip? I fancy that they will be allowed to keep the tracts of land they have taken, on paying some moderate sum per acre.

“They cannot long maintain themselves there without a government

of some sort,—and I suppose you will send thither a resident and a small government establishment.

“ It promises to be a fine sheep country but although there are many large rivers, streamlets are few, and it cannot be termed a well watered country. Of fuel the greatest deficiency exists and it is plain that even the first inhabitants will suffer great inconvenience from this disadvantage.”

CHAPTER III.

ROMANTIC STORY OF WILLIAM BUCKLEY.

Wedge's letter to Colonial Secretary Montagu about Buckley—Buckley petitions for a pardon—Governor Arthur grants it—Correspondence respecting Buckley—Wedge's sketch of his career and adventures—His own subsequent narrative—Learned theory as to how the world is propped up—Buckley's life among the whites again—His death.

THE romantic story of William Buckley—the white man who, after living for upwards of thirty years with the blacks, was restored to civilized society—is so closely connected with the history of the colonization of Victoria as to be clearly entitled to have a chapter devoted to it. All the official documents on the subject, given in the next few pages, are to be found in the Record Office, among the correspondence of both the Colonies from which they came.

Mr. Wedge brings Buckley—who had appeared at the first camp of the Colonists at Port Phillip a few days after their arrival—under the notice of the Government of Tasmania, in the following letter to the Colonial Secretary, Mr. Montagu :—

"Copy.

" *Bellarine Point,*
" *Port Phillip,*
" *9th July, 1835.*

"SIR,—In reference to the Petition of William Buckley for a free pardon which I have the honour to enclose herewith, I beg to bear testimony to the very essential service he has rendered in becoming the means of communication with the natives, and I have no hesitation in saying that through him there is every probability of making permanent the friendly intercourse that was commenced by Mr. Batman in his recent excursion, already detailed by that gentleman to the Government, with the natives, and from the circumstance of his having saved the lives of the eight men left here by Mr. Batman, together with the circumstance of his having made a voluntary offer of becoming in future the medium of communication with the aborigines, I beg most earnestly to recommend his petition to the favourable consideration of His Excellency the Lieut. Governor; and in doing so I scarcely need advert to the danger that would ensue to the lives of those who may in future reside here by his being driven to despair by the refusal of his petition which would probably induce him to join the natives again; and in which event there is no calculating on the mischief that might ensue by the hostile feelings that he would have it in his power to instil into the breasts of the natives. I doubt not, as an act of humanity towards those who may come to sojourn in this settlement, the above circumstance will have weight in the consideration His Excellency will bestow on the prayer of the Petition. If I may be allowed, I would respectfully suggest that it should at once be conceded to him, and his free Pardon sent by the next vessel that will be despatched to this place.

"Buckley is a most interesting character; from his long residence amongst the natives he has acquired a great influence with them, as well as their habits and language; in fact he had nearly forgotten his native tongue, and it was some days before he could express himself in it. The two men who absconded with him left him before he joined the natives, and he has never seen or heard of them since, he supposes they were killed by the natives. Buckley is gigantic in size, measuring in height six feet five inches and seven eighths without shoes, and of good proportions; and I have no doubt but he is indebted for his life to his ferocious appearance. From the circumstances of his being obliged to direct the whole of his attention to self-preservation, and to

procuring food for subsistence, his memory has almost altogether failed him as to time and events which occurred previous to his leaving England. He forgets the name of the vessel he came in, as well as that of the Captain and the Commandant of the settlement. From his information the natives are in the lowest grade of ignorance, having no idea of a Supreme Being. Although I have had, as yet but a short intercourse with them I am inclined to give credence to his statement. The few days I have been here I have devoted to studying their character, and I have acquired sufficient confidence in them to trust myself amongst them. I went a circuit of about twenty miles with them yesterday.

“ I have the honour to be

&c. &c.

(Signed) “ JOHN H. WEDGE.”

Buckley's petition is as follows :—

“ To His Excellency Colonel George Arthur,

“ Lieut. Governor of Van Diemen's Land.

“ The Humble Petition of William Buckley

“ Humbly Sheweth

“ That your Petitioner was a private in the Cheshire Supplementary Militia about two years, when he volunteered into the 4th Regiment of the Foot or King's Own, of which Regiment he was attached to the third Batallion and continued therein between two and three years, during which time he accompanied that Regiment in an expedition to Holland.

“ That your Petitioner was afterwards convicted of receiving stolen property and was transported for life.

“ That your Petitioner arrived at Port Phillip, New Holland, about thirty years ago, and on the breaking up of the establishment your Petitioner with two others (the name of one was William Marmon) absconded and subsisted on the sea Coast for about 12 months, when he fell in with a family of natives with whom he has continued up to the present time, that your petitioner has at various times suffered great privations from the want of food.

“ That your petitioner, previously to his joining the natives, returned to Port Phillip with the intention of surrendering himself to the authorities, but was prevented from doing so by the departure of the establishment.

“ That your petitioner has never seen a white man since that period until he came to the establishment formed by Mr. Batman, Mr. Wedge, and other gentlemen in July 1835.

“ That your petitioner two days previously to joining the establishment learnt from the natives that white men were in the neighbourhood, and that they, with others, intended to spear them, for the sake of the plunder which they would get.

“ That your petitioner remonstrated with them and dissuaded them from their intentions. That your petitioner has ever since exerted himself and has succeeded in convincing them of the friendly disposition of the white men towards the natives.

“ That your petitioner will continue to do all in his power to render permanent the good understanding that has been established, for which services your petitioner humbly prays for the indulgence of a Free Pardon.

“ And your petitioner will ever pray.”

The Colonial Secretary thus replies to the petition :—

“ The undersigned acquaints William Buckley that Lieut. Governor Arthur having had under his consideration the subject of his Petition together with a letter from John H. Wedge, Esq., in support thereof detailing the circumstances under which he became connected with the natives of New Holland and having also considered the laudable disposition evinced by William Buckley to promote a friendly feeling amongst the Aborigines towards the whites who have recently visited the Coast of New Holland, His Excellency has been pleased to grant him a free Pardon. The undersigned is however directed to impress upon William Buckley that in granting this boon it is the expectation of the Lieut. Governor that he will persevere in the same conciliatory course which he has commenced with so much advantage to the parties concerned and the cause of humanity generally.

(Signed)

“ JOHN MONTAGU,

“ Colonial Secretary.

“ Van Diemen's Land

“ Colonial Secretary's Office,

“ 25th August, 1835.”

The pardon, dated August 28th, 1835, describes Buckley's

height as six feet five inches without his shoes, and his age as sixty-seven.

In reply to Wedge, the Colonial Secretary of Tasmania states the course adopted by the government with respect to Buckley's pardon.

*“ Colonial Secretary's Office,
“ 25th August, 1835.*

“ SIR,—Having submitted to the Lieut. Governor your letter of the 9th July last enclosing a Petition from William Buckley a runaway convict recently discovered at Port Phillip after having been for some years domesticated with the natives of that part of the Coast of New Holland, and His Excellency having considered the subject of your representation of this man's conduct and the services he has rendered in promoting a friendly disposition between the Aborigines with whom he has been so long associated and the whites who have so recently visited the Coast of New Holland, I am directed to acquaint you that His Excellency is doubtful how far he is legally authorized to grant a free pardon to William Buckley, as he is not within the jurisdiction of this Government, but the Lieut. Governor has notwithstanding acquiesced in the preparation of the usual instrument, in the hope that from considerations of policy the indulgence will be acceded to by His Majesty's Government.

“ I am further desired to inform you that the Lieut.-Governor's compliance with your request is founded upon a desire to prevent bloodshed and with a view to remove any inducement on Buckley's part to make common cause with the natives in the commission of any outrages upon the white immigrants, which might lay the foundation of a war of extermination and His Excellency also entertains the sanguine hope that if this man's energies and influence be well devoted the Aborigines may be so thoroughly conciliated as to ensure a lasting amity between them and the present or any future immigrants to that part of the Coast of New Holland.

“ I am also directed to signify the desire of His Excellency that it may be distinctly understood, that the reasons stated in this letter form the only grounds for the present concession, which must not be construed into the admission of any claim made by the gentle-

men associated with Mr. Batman to the territory at Port Phillip or any part thereof.

“ I have the honour to be
&c. &c. &c.

(Signed) “ JOHN MONTAGU.

“ J. H. Wedge, Esq.
“ Port Phillip,
“ New Holland.”

In a despatch of August 28th, 1835, to Lord Glenelg, Governor Arthur also explains his reason for pardoning Buckley :—

“ With reference to my despatch of the 4th July last, enclosing Mr. Batman’s letter in elucidation of the circumstances under which he had visited the opposite Coast of New Holland, in furtherance of the views of an association on whose behalf he had concluded a treaty with the natives for an extent of pasture land in the vicinity of Port Phillip I have the honour to transmit for your Lordship’s perusal a letter which has been received from Mr Wedge, one of these adventurers (a very respectable person recently an officer in the Survey Department) in Dutergalla, soliciting a free pardon for a man of the name of Buckley, who had been with the Aborigines ever since 1803, having been one of the convicts sent thither when Col. Collins endeavoured to form a settlement on the Southern Coast of New Holland.

“ Buckley who is a man of extraordinary stature, after absconding joined a tribe of Natives, with whom he has associated himself for thirty two years and by whom he has long been acknowledged as their chief. Notwithstanding Mr. Batman’s pacific negotiations it seems the Blacks had meditated an hostile attack upon the persons he had left at Port Phillip—the execution of which was prevented by Buckley’s interposition, and hence Mr. Wedge has expressed great anxiety that Buckley’s petition for a pardon for the offence for which he was so many years ago transported should be granted.

“ No doubt whatever of course exists in my mind that the Lieut.-Governor of this Colony has no lawful authority to grant a pardon under such circumstances—but although I consider Mr. Batman, Mr. Wedge, and their followers, to be nothing more or less than unauthorized intruders, and to have consequently no claim to protection,—I

have nevertheless felt it to be my duty at once to grant the prayer of Buckley's Petition;—from very dear bought experience I know that such a man at the head of a tribe of savages may prove a most dangerous foe, and his good offices cannot be too soon propitiated by an apparent act of grace,—a copy of the instrument I issued, I have the honour to enclose,—and I humbly beg to advise that His Majesty would be graciously pleased to grant this man a pardon.

“Your Lordship will perceive by the Colonial Secretary's communication that care has been taken that the interference of Government in this matter shall not be construed into any recognition of the right of the association to establish a settlement at Port Phillip;—and as, whatever the final decision of His Majesty's Government with regard to the disposition of the soil may be there can be no question it is of infinite importance to establish friendly intercourse with the aborigines, I hope the course I have pursued will meet with your approbation.”

In a communication of the 22nd October, 1835, the Colonial Secretary of New South Wales acknowledges a letter of the Colonial Secretary of Van Diemen's Land, dated the 5th ultimo, “enclosing copies of communications from Mr. J. H. Wedge, and a convict named William Buckley,” and stating that Colonel Arthur had acceded to the application of the latter for a pardon. The Governor of New South Wales desires to inform the Governor of Van Diemen's Land, that “he shall be glad to find that Lieut.-Governor Arthur has obtained the good will of Buckley upon such easy terms.”

Colonel Arthur, in enclosing the following account of Buckley, by Mr. Wedge, in his despatch to Mr. Hay, of January 28th, 1836, remarks that it “contains some valuable suggestions as to the mode of preserving the friendship of the natives.” Mr. Wedge says:—

“William Buckley is a native of Morton near Macclesfield in Cheshire and is now about fifty-five years old. He entered the supplementary Militia of that county at an early age, to the third

Battalion of which he was attached; and in about two years afterwards volunteered into the fourth Regiment of the Line. He accompanied the army commanded by the late Duke of York, to Holland, and soon after his return from that expedition was convicted of mutiny¹ and sentenced to transportation for life. He arrived at Port Phillip in 1802 with the detachment of Prisoners destined to form an establishment at that place; and whilst there was employed at his trade of stone-mason in assisting to erect a building for the reception of Government stores. A short time previous to the abandonment of the settlement by Governor Collins, he absconded with two other men named Marmon and Pye. Whilst in the Bush the party experienced great difficulty in procuring food, and suffered great privations, their chief subsistence being cockles and mussels which they picked up on the beach of Port Phillip.

“Pye left his companions before they got to the river at the Northern extremity of the Port. The natives having set fire to the grass, afforded them the opportunity of obtaining fire which they were afterwards careful to keep with them. His other comrade (Marmon) continued with him till they had wandered nearly round the Port, and then left him somewhere on Indented Head, with the intention of returning to the establishment and surrendering himself to the authorities; but whether he or Pye succeeded in their object he cannot tell, as he never saw or heard of them afterwards; he thinks it probable they fell in with the natives and were killed by them. Continuing along the beach by himself he completed the circuit of the Port and afterwards proceeded a considerable distance along the Coast towards Cape Otway. At this period repenting of the step he had taken, and being tired of his precarious life, and in constant dread of falling in with the natives he determined on returning to the establishment.

“Soon after he had returned to the neighbourhood of Indented Head he fell in with the family of natives with whom he continued to live till he joined the party left by Mr. Batman. His memory fails him as to dates, but he supposes his falling in with the natives to have occurred about twelve months after he left the settlement. He was

¹ Note in the margin—“The offence for which Buckley was transported was for mutiny, he with 6 others having turned out to shoot the Duke of Kent at Gibraltar.”

received with kindness by the natives who supplied him with food. The name of the Chief or head of the family was Nullaboin, to whom he attached himself; and he continued with him and accompanied him in his wanderings till he joined the party left by Mr. Batman on the 12th July 1835. From the time he was abandoned by his comrades up to this period, a lapse of three and thirty years—he had never seen a white man. For the first few years of his sojourn with the natives his mind and time were fully occupied in guarding against the treachery of other natives whom they occasionally mixed with, and in procuring food; and indeed this may have been said to be the case ever afterwards, although from his having acquired a perfect knowledge of their language, and become acquainted with their habits, the danger to be apprehended from them latterly was not so great, and not more so than was the case with the natives with regard to each other, for he was entirely identified as one of themselves. He, as is every other white person is known by the name Ammijaic. The natives gave him a wife, but discovering that she had a preference to another man, he relinquished her, but it cost her and her paramour dearly—they were punished with death for violating the custom which prevails—for when once a female is promised as a wife, which generally happens as soon as born, the promise is considered binding; and the individual receiving the promise recompenses the parents with presents—such as kangaroo or opossum rugs, shields, clubs, and the like. Buckley has no family, legitimate or illegitimate. During the whole course of his residence, and amidst all his wanderings there were no interesting events, save the fact of his having passed thirty three years of his life amongst savages, and of his having retrograded from the habits of civilized life and lapsed into those of the savage; for in fact he was one amongst them, and except in cannibalism, he adopted their mode of life in everything. Indeed, isolated as he was, and without the necessaries of life to which he had been accustomed, or the means of procuring them, it was scarcely possible for him to do otherwise. Although to some it may appear strange that he should not have introduced some improvement in their mode of life, yet by those who have some experience by a residence in uncivilized countries, the difficulty of doing so will be fully understood. In fact as I have before said, his whole attention must have been directed to self-preservation, both in procuring food and in guarding against treachery. For an individual situated as was Buckley, to conciliate the natives, he must conform to

their customs—if they hunt he must hunt with them; and he must participate in all their pastimes. If their condition is to be ameliorated it must be by numbers and by force of example; by becoming acquainted with the comforts of civilization may be likely to lead them to be desirous of partaking thereof.

“Although Buckley was always anxious to return amongst his countrymen, he had for many years lost all hope of having an opportunity of doing so.

“The circumstances which led to his discovering the party left by Mr. Batman in his neighbourhood, were that two of the natives having stolen an axe, and being told by some of the natives that had been longer at the establishment than themselves, that they would be punished for the theft, they went away and on falling in with Buckley told him that white men were in the neighbourhood, and also the cause of their coming away from them, and intimated that they would induce other natives to join them for the purpose of returning to spear the white men. Buckley dissuaded them from making the attempt, stating that there were a great many white men where they came from, and that if any of the white men were killed, numbers would come and kill every black man that they could find. Thus intimidated they abandoned their intention. Buckley then went in search of Mr. Batman’s party, and in two days joined them. They were living in a sod hut which they had built and several native families were encamped about them. On Buckley’s coming to the place he was observed by one of the men, and it was with no little surprise, if not with a mixture of fear, that he and the other men contemplated the approach of a man so gigantic in appearance and whose general aspect, erect as he was and enveloped in his kangaroo skin rug, with his long beard and a head of hair of thirty three years’ growth, and bearing his spears, shield and clubs, was well calculated to instil fear into any one; but on this as well as on many other occasions during their intercourse with the natives, they showed great tact and presence of mind by not evincing fear if they felt any. They were impressed with the belief that Buckley was the head chief, and were doubtful whether he was peaceably inclined or not. Buckley went direct to the native encampment and sat himself down amongst them, apparently taking but little notice of the white men. They, however, went to him, and soon recognized the features of an European; and on questioning him, with some difficulty learnt who he was. He could not then express

himself in English, and on being asked questions he only repeated them as do all savages—at least all that I have fallen in with,—and it was about ten days before he could so collect himself as to express himself with any degree of fluency in his own language, and it not unfrequently happened that he put and answered questions in the language of the natives. Buckley in height is six feet six inches without shoes—is well proportioned, with an erect military gait. He subsisted, in common with the natives, on roots of various sorts, fish kangaroo and any other animals that chance brought in his way. Although his life was a wandering one, yet he resided principally on the sea coast, and in the neighbourhood of Indented Head; and never migrated far except I think upon one occasion only, when he went about one hundred and fifty miles to the westward of Port Phillip. On one occasion Buckley accompanied me on an excursion for a week, during which he fell in with the family that he had lived with. If I had any doubts as to the fact of his never having seen a white man during his residence with the natives (and I confess, knowing that the sealers were in the habit of sometimes visiting this part of the coast, I was not without them at first) they were now entirely removed. Nullaboin and his family had never seen a white man, till he saw me, he viewed and examined me with great curiosity, opening my waistcoat and shirt, to ascertain whether the whole of my body was white. The women were equally curious, much more so than is consistent with our notions of female delicacy. They were very attached to Buckley, and both Nullaboin and his wife cried bitterly when he left them.

“Buckley resides at present at the settlement formed by the gentlemen who have associated to form a new Colony through the means of the friendly intercourse established with the Aborigines, and he has expressed his intention of remaining for the purpose of being the medium of communication with the natives. On receiving his conditional pardon, which His Excellency the Lieut.-Governor so humanely and promptly granted him on being made acquainted with his case, as a reward for his meritorious conduct in preventing the natives from attacking the white men, his feelings were powerfully excited, so much so, that it was some time before he had the power of utterance. Never shall I forget the joy that beamed in his countenance when I communicated that he was a free man, and again received within the pale of civilized society.

“In desiring me to convey his grateful acknowledgments to the

Lieut.-Governor for his kindness, and to the gentleman who had interested himself in his behalf he was powerfully agitated, and if ever man was sincere in giving vent to his feelings, Buckley was so in expressing his thanks on this occasion."

Among the papers in the Record Office, relating to Collins' settlement at Port Phillip in 1803-4, the author has not discovered the name of Wm. Buckley in any list of prisoners except in a return of "Persons victualled at full allowance," in which "Time commenced," is put down October 17th, 1803, "Time discharged" December 27th, and "No. of days victualled" 72. Buckley is described as a prisoner. December 27th was the day the convicts escaped. His name also appears in the "Clothing List from 16th October to 31st December, 1804."

With a despatch of November 19th, 1837, Sir Richard Bourke transmits a petition of Wm. Buckley to the Governor, praying as follows:—

"That he may receive the indulgence of a grant of land, or such other assistance, as to your Excellency may seem fitting, in order that your petitioner may not in his old age be reduced to distress. Your Petitioner presumes not to make this request on the ground of his own deserts, but on the circumstance of his having during a period of thirty two years resided amongst the natives of Port Phillip; without ever during that period seen a white man.—And also your Petitioner respectfully sheweth that on the arrival of the party who first commenced sending stock and settling on the said Territory of Port Phillip, your Petitioner was instrumental in explaining the nature and object of their being there, and by this means inducing an amicable understanding between them. That your Petitioner from his age, and his having been separated from civilized life, during thirty two years, is unable to gain his livelihood, as others are; and further he has by joining his countrymen, so far displeased (his adopted countrymen during Thirty two years) the natives of Port Phillip, that he could not with that safety, comfort, or satisfaction, which he hitherto enjoyed again join

them, he therefore most earnestly and respectfully entreats the humane consideration of your Excellency to his very peculiar case," &c.

In forwarding the petition, the Governor remarks that Buckley "obtained presents and a salary of seventy-five pounds a year from the Port Phillip Association, which salary is continued to him by this government. He asks in addition for a grant of land, and appears to apprehend destitution in his old age. He has, however, been very carefully attended to and provided with everything needful, and as his services with the aborigines are sometimes required at a distance from the settlement he has had a horse given to him. I believe he would wish in future to be exempted from any duty, and as he is growing old and in consideration of the services he has rendered as an interpreter and mediator, I beg leave to recommend that he be allowed a pension of one hundred pounds a year, and receive a gratuity of one year in advance."

Lord Glenelg, in reply to Sir G. Gipps, June 4th, 1838, says,—

"To the application for a grant of land I must in any case have returned a decided refusal, but I confess that in the present instance I do not see any sufficient reason to justify the grant of a pension as suggested by Sir R. Bourke. Buckley has already obtained presents and a salary of £75 a year for services which he has rendered, but especially when taken in connexion with his former history they do not appear to me sufficient to warrant any further remuneration from the public."

According to Buckley's own statement²—which is often

² Buckley's narrative, as told by himself, has been put into a readable form by Mr. Morgan, in his "Life and Adventures of Buckley," published at Hobart Town in 1852, from which the following facts have been chiefly gathered.

far from clear—his memory, especially as to time, being very defective—he was born at Macclesfield in 1780 and brought up a bricklayer, after receiving a small amount of education. He, however, did not long continue at his trade. Having served some time in the Cheshire Militia, he entered the 4th regiment, the King's Own, with which he went to Gibraltar and fought in Holland, under that Earl of Chatham whose fame, unlike his father's, is derived from having on one occasion done nothing—

“The Earl of Chatham with sword drawn
Was waiting for Sir Richard Strachan ;
While Sir Richard, longing to be at 'em,
Was waiting for the Earl of Chatham.”

Buckley returned to England re-enlisted, receiving a bounty, the army authorities gladly retaining him in the service on account of his height—six feet five. Soon afterwards he was tried, convicted, and sentenced to transportation for some offence, the nature of which is not mentioned in Mr. Morgan's book, though the same statement as that given in Mr. Wedge's account was current in Australia—namely, that he had been concerned, when at Gibraltar, in an attempt against the life of the Duke of Kent. He was one of the convicts landed by Collins at Port Phillip in October, 1803. On the night of December the 27th, according to Collins' despatch of February 28th, 1804, and the diary of the Rev. Mr. Knopwood, six convicts attempted to escape; one of them was stopped by a shot from a sentry, which wounded him severely, another was also captured, and a third surrendered; but three succeeded in making their escape. One of these was Buckley.

His account is that the runaways, on taking to the bush,

entertained some wild idea of going overland to Sydney, through hundreds of miles of the uncolonized and unexplored territory. They had with them some food, and a few things, among others a kettle, which they soon threw away, and, singular to say, it was picked up more than thirty years afterwards. Buckley and his two companions wandered round Port Phillip Bay, crossing the Yarra a day or two after their escape. The supply of food which they had taken with them soon becoming exhausted, they were obliged to subsist on shell-fish, which they picked up on the shore, and on gum, found on some of the trees. At length, travelling round to the western side of the bay, to where it becomes narrow near the Heads, they saw the *Calcutta* lying near the eastern shore, some three or four miles from them. By this time the privations and hardships they had endured convinced them of the folly of what they had done, and though fearing punishment much, if they should again become prisoners, they feared starvation more; so for six days they did all they could to attract the notice of the people on board the *Calcutta*, by lighting fires at night, and hoisting shirts on trees by day. At last, to their great joy, they saw a boat moving off from the *Calcutta*, and coming towards them; but when it had reached about half way over, to their despair it turned round and went back to the vessel. Unable longer to hope for rescue from the man-of-war, Buckley's two companions thought they had better walk round the bay again and give themselves up at the settlement; but he, being of a different opinion, let them go, taking with them the gun the party had carried off. He never saw or heard anything more of them, nor has their fate ever been ascertained. Whenever Buckley, who was far from a bright man, was asked about them, he never

could or would give any more information, and it seemed always disagreeable to him to be spoken to upon the subject.

And now Buckley was a lone man—likely never again to behold the face of a civilized being, but to meet death from the hand of the first savage who might see him. He soon lost count of time. On the first day of his solitary wanderings he came in sight of a camp of about a hundred blacks. Seeing some of them coming towards where he was, he ran off, and in swimming a river, extinguished a fire-stick he carried with him; and consequently he had for some time to endure the privation of being without fire, until he at length came upon a camp-fire left by the blacks, at which he lighted another stick. He lived for some months after this at a place, with the native name of Nooraki, where he made himself a kind of hut in a hollow of a rock by the shore. One day, however, some blacks discovered him, and brought him off to their camp, where he remained for the night. In the morning he refused to accompany them where they were going, or to give them one of his old, worn-out stockings—which they seemed much to fancy—as a pledge that he would remain till their return. When they were gone he went off, and continued alone for some time. Finding himself without food, he repented leaving the blacks, who had seemed disposed to treat him well, and resolved if possible to rejoin them. In trying to do so, he got lost in the bush, and was for three days without food. At night his fire attracted wild dogs, or dingoes, as they are called, and opossums, which made a great noise around him.

After this he went to the coast, in hope of being rescued by some passing vessel. One day, being caught by the tide he climbed a cliff into a cavern, which was partially

flooded at high water. Here he passed the night. While in this place some monsters of the deep came in at the entrance of what had been their undisturbed retreat; but, on a noise being made by the strange intruder, they speedily plunged back again into the sea.

How long this solitary existence lasted Buckley could not say. Desiring to terminate it, he again started in search of the blacks, and soon came upon the grave of a native chief, who had been slain. The warrior's spear was stuck in it. Taking the weapon with him, Buckley proceeded on his way, and, in a day or two becoming exhausted, lay down and fell asleep. He was found in this condition by the blacks, who brought him to their camp, and treated him very kindly—giving him gum and water, and fine fat grubs, which are found in the rotten roots of dead trees and considered great delicacies by the aborigines.

To the possession of the spear Buckley ascribes the kindness he received; for, it being the belief of the blacks that after death they will, as they express it, "jump up white fellow," they concluded that he was their departed chief come to life again. They accordingly called him by that worthy's name—Murrangurk. The brother of the deceased, convinced of his fraternity, admitted him to share the family *mia mia* with himself, his wife, and son. For some time Buckley doubted the continuance of this good reception. He could not make out the extraordinary demeanour of his new friends. The tribe surrounded him, the men beating their breasts and heads with clubs, and the women tearing out their hair by handfuls. This, he afterwards discovered, was by way of lamentation for the sufferings they supposed he had undergone when killed. A great corroboree, or native dance, also took place.

Another version of his discovery by the natives, slightly differing from that of Mr. Morgan, above given, represented him as being found sitting or lying upon the mound beneath which one of the tribe had been buried.

Buckley could now no longer complain of solitude, though unable to boast of his society. He acquired the aboriginal language, and learned to use the native weapons and to live as a black. He relates how he was often disgusted by the frequent serious and mortal encounters between different tribes, and the murders which took place,—almost always on account of the fair sex. He states also that many of the natives were cannibals, under “particular circumstances,” such as in two instances he mentions,—one where, by way of revenge they ate part of a man they had killed, and another where they partook of a portion of one of their murdered friends, out of respect for the deceased. Buckley expressed horror at these proceedings, and frequently acted as peacemaker. The blacks took great care of him—on going to fight making him keep to the rear. He continued with them a long time, wandering from place to place, as their habit was, and never remaining long in any locality; until at length his supposed brother, sister-in-law, and nephew, with whom he had so long resided, were all cruelly murdered. This event caused him deep grief. He says he wept for hours, and never suffered more distress of mind during his strange wanderings; for from these poor savages he had received the greatest kindness they could show a near relative. This horrible event so completed his disgust with the blacks that he left them. In a few days, however, meeting some of them, who told him that the remains of his friends had been burned, he went to the place, and carefully collecting the ashes, buried them.

After this he went off to the coast—again hoping for the chance of being rescued by some passing ship, and lived by himself for a year, or perhaps two, in a dwelling he made close to a stream, where, by means of a weir, he was able to catch plenty of fish. Karaaf is the name of the place, which is shown, three or four miles from the fashionable watering-place of Queenscliff, which stands on the west shore of Port Phillip Bay close to the Heads.

Some of the blacks discovered his retreat, and after a time he returned to live with the tribe, but again left them in disgust, and went back to his residence at Karaaf, where some blacks visited him. He tells the extraordinary story, that they compelled him to take a wife, a widow of the tender age of twenty. Why they should have obliged him to do so then, and not previously, he does not say. He was soon deprived of his bride, for the blacks again visited him and carried her off—seemingly not much to her concern and certainly little to his grief, as he confesses. He continued for some time to live alone till another black woman came to him. For some time he took care of a blind native boy, until the poor fellow was murdered.

One day Buckley met some blacks near Indented Head, carrying a flag which they informed him they had taken from a small ship, to which they had swum out, while the people belonging to it were on shore. Buckley hastened off to the place, but found the ship had been moved further out from land. He endeavoured to induce some of the people on board to come to him, but was quite unable to call out to them in his mother tongue. At night he lighted a fire, but they evidently thought he was a native who hoped to entice them ashore to fall into the hands of his tribe. Next day a boat put off, and as it approached

land he renewed his signals. It came within three hundred yards, and then, turning off, steered along the coast, on which the men landed two or three miles off. Buckley hastened in the direction, arriving at the spot just as the boat was moving away with some wood, which the people on board had cut; and, to his dreadful disappointment, though he was so near to them, they would not wait to hold any communication with him, but went off, "laughing at my violent gesticulations and unintelligible cries, little thinking who I was, or that I was any other than I appeared to be in my native dress"—to quote the words in which Mr. Morgan dresses Buckley's account of the circumstance.

All hope of present rescue being over, it occurred to him that the men might have dropped something that would be of use to him; so, looking about where they had been, he discovered a place where the ground had been recently opened and filled up. Removing the earth, in hope of making a discovery of value, he at length came upon the body of a white man wrapped in a blanket. His first thought was to take this shroud, which would have been of great use to him. He could not, however, bring himself to do so, but left it with the corpse and again filled up the grave.

Some time after this, he came upon an eight-oared boat lying on the beach, rigged with blankets for sails, and was told by some blacks that they had met two white men and tried to inform them of his being in the neighbourhood; but, that after the strangers had remained with them some days and recovered their strength by being well fed, they had gone off by themselves. Buckley heard some months afterwards, that they had been murdered by the blacks near the Yarra.

A learned theory respecting the support of the earth, entertained by the tribe with which Buckley sojourned, is thus given in his Life by Mr. Morgan :—

“They (the aborigines) have a notion that the world is supported by props, which are in the charge of a man who lives at the furthest end of the earth. They were dreadfully alarmed on one occasion when I was with them, by news passing from tribe to tribe, that unless they could send him a supply of tomahawks for cutting some more props with, and some more rope to tie them with, the earth would go by the run, and all hands would be smothered. Fearful of this, they began to think, and enquire and calculate, where the highest mountains were, and how to get at them and on them so as to have some chance of escape from the threatened danger. Notwithstanding this forethought, they set to provide the needful and succeeded in this way. Passing on the word to the tribes along the coast some settlers at a very great distance were robbed of axes, and saws and rope, and tires of dray wheels all of which were forwarded on from tribe to tribe, to the old gentleman on the other side, and as was supposed in time to prevent the capsizing, for it never happened. A tribute of this description is paid whenever possible; but who the knowing old juggling receiving thief is, I could never make out.”

Passing over much that is told of Buckley, one day he met two blacks with coloured handkerchiefs, which they informed him had been given them by three white men, who with six blacks were in two white houses, and that they had been left by a “*koorong*”—a ship—which had gone away. His informants, Buckley stated, also told him they were going to collect the tribe to make an attack on the whites. Buckley started off in the direction in which they were described to be, and, after a long journey, at length caught sight of the Union Jack floating from a pole. He approached the tents, and sat down near them—thinking how he should introduce himself—and on perceiving he was observed, went forward. The whites could not make him out. They seemed astonished at his complexion, height,

and appearance. He could not speak or understand a word of English. At length, some bread being offered him, and the word pronounced, he was able to repeat it. He showed the letters W. B. on his arm, and it is related by one of the white men that after they had several times said "W for William and B for Burgess," he said "W for William and B for Buckley;" and thus it was ascertained that he was English.

He from that time remained with the new arrivals, who proved to be Batman's party. When the blacks found he had left them, they informed him that they intended to attack the whites, and would kill him as well as them if he would not side with the tribe. He at first pretended to consent, in order to keep them from their purpose, and advised them to postpone it till the return of Batman—who having landed the first detachment of his party, had gone back to Tasmania for the rest—when there would be more booty to plunder. He did not at first tell the whites, being unwilling to excite them against the blacks. On the latter becoming impatient at Batman's not returning as soon as they expected, Buckley warned the colonists, and told the blacks that he would be against them if they were hostile, but that they should have presents if they behaved well. No aggression was ever attempted by the natives upon Batman's party; on the contrary they were always so very quiet, that Buckley's story has been pronounced unreliable by some very good authorities among the early colonists.

On returning in the *Rebecca*, Batman found the mysterious stranger with his party, and was informed by him that he had come to the country about twenty years before, in a ship, the name of which he had forgotten; whereas it

was thirty-two years since he had arrived by the *Calcutta* in 1803—so far was he out in his reckoning of time. The *Rebecca* went back almost immediately to Van Diemen's Land, and returned, bringing a pardon for Buckley from Governor Arthur, dated, according to Mr. Morgan, August 21st,⁴ 1835; and he continued to act as interpreter to the party.

Soon afterwards the camp of the expedition was removed to Melbourne, where he entered the service of Captain Lonsdale, who came down from Sydney with—singular to say—a detachment of Buckley's old regiment. He also acted as constable, and accompanied Governor Bourke in a short expedition he made on visiting the settlement; he also took part in the search for Gellibrand and Hesse.

Feeling he was not trusted as he thought he should have been, Buckley left Port Phillip in 1837, and went over to Tasmania, where he was presented to the Governor, Sir John, and to Lady Franklin. He was made store-keeper at the Immigrant's Home shortly after, and subsequently gate-keeper at the Female Nursery. He held the latter employment until 1852, when he was put on a pension of twelve pounds a year, to which the Government of Victoria added an annuity of forty pounds. This income he enjoyed until his death, on February 2nd, 1856, which resulted from being thrown out of a cart. Not long after going to Tasmania he married a widow with one daughter.

Such are the chief incidents of a real career as romantic as the imaginary adventures of Robinson Crusoe. It is to be regretted that Buckley was a dull man, with such a bad memory; for there have, doubtless, been lost many

⁴ We have seen it was the 28th.

incidents of his bush life, which would have greatly enhanced the interest and value of his biography. Defoe could not have had a better foundation upon which to have built a work of fiction.

Little inferior in interest to Buckley's life with the blacks of Victoria was the more recent sojourn of a man named Morrill with those of Queensland.

CHAPTER IV.

MELBOURNE FOUNDED—EARLY PROGRESS.

Fawkner's party lands on site of Melbourne—Batman moves his headquarters there—Fawkner's account—Who first saw and selected site—Conclusive evidence of fact—The leaders of Victorian Colonization—Descriptions of infant Melbourne—First newspapers—First religious services—First land sale at Melbourne—Disadvantage of Port Phillip lands being sold at Sydney—Route and cost of journey there from Port Phillip *via* Launceston and Hobart Town—Williamstown—Geelong—Portland—Port Fairy—Mitchellstown—Pentridge—Journeys of Hawdon and Eyre—Disappearance of Gellibrand and Hesse—Who sheared first sheep—Starting-points of colonization.

AN account of the part taken by John Pascoe Fawkner now falls into its proper place in the order of our history of the colonization of Port Phillip. It is somewhat remarkable, that in the Record Office papers, the name of the founder of Melbourne is scarcely mentioned. One letter from him exists, strongly opposing the claims of Batman and his Association, and in no measured terms attacking some of its members. The following particulars have, therefore, been drawn from various sources—the author being able to add but little to already published information respecting Fawkner's share in the work of

colonizing Victoria.¹ That little, however, the author ventures to think, decides the question as to Fawkner's claim to the title of founder of Melbourne.

Batman had only just initiated the natives into the mysteries of English conveyancing, with a success which afforded cause for self-congratulation, when Port Phillip Bay, which his party began to consider their own, was entered by the *Enterprise*, fifty-ton schooner, bearing the rival expedition of John Pascoe Fawkner. Shortly after Batman—whom it has been said he wanted to join—had commenced his colonizing preparations, Fawkner also began to organize a party in Van Diemen's Land, which consisted of Captain Lancey, George Evans, Robert Hay Marr, W. Jackson, James, a blacksmith, and Wyse, a ploughman. By the middle of July, 1835, Fawkner's party was ready to put to sea; but a storm driving them back, they were unable finally to set out until August 4th. The expedition then embarked under the command of Captain Lancey, Fawkner being prevented by indisposition from accompanying it. The *Enterprise* reached Western Port on the 7th; the party, however, not being pleased with the look of the country, steered on the 15th towards Port Phillip Heads, which were entered next day. After spending a few days in taking soundings, and sending a boat up the river as far as the site of Melbourne, the *Enterprise* proceeded on the 29th up the Yarra Yarra. She had previously gone up the Saltwater River for a short distance, mistaking it for the main branch of the stream.

¹ Besides other sources of information indicated, the author has drawn a considerable portion of his facts respecting Fawkner's expedition from the writings of Mr. Bonwick, Mr. Westgarth, and Mr. Rusden.

About eight miles up the Yarra, some falls of slight elevation prevented the little craft from advancing further, and she was moored on the 30th just opposite where the Melbourne Custom House now stands. At this part of the river the banks were picturesque and the scenery, consisting of small hills or rises lightly timbered, presented an English park-like appearance, such as distinguishes the open forest country, which is one of the peculiar features of Australian landscape. The site was selected in accordance with the instructions of Fawcner, whose previous experience—he having been a boy or youth in Collins' expedition in 1803-4,—made him careful to direct his comrades to establish themselves only in a place possessing a good and permanent supply of fresh water; and on his arrival, on October 10th, he approved of the selection. The expedition lost no time in establishing itself and beginning to cultivate the soil.

According to one account the *Enterprise* was seen entering the Bay by Batman's party at Indented Head; according to another that one of them unexpectedly came upon her lying in the Yarra; but, however it may have been, the rival colonists had scarcely settled themselves on the banks of the Yarra, when one of Batman's party came and ordered them off the land claimed by the Association. They, however, refused to go; and, in September, 1835, according to Arden, the Batmanites changed head-quarters from Indented Head to the vicinity of the rival camp—taking up their position on a pleasant little hill close to the Yarra, long known as Batman's Hill. A quarter of a century ago this was a fashionable promenade, where a military band played once or twice a week; but a few years later, this historic hill was handed over to navvies, and cut away, in

order that some improvements might be carried out. It certainly deserved more consideration.

Shortly after their rivals had established themselves in their vicinity, the Fawknerites removed to the opposite, the south side of the Yarra, where the furrows of a large field, cultivated by the founder of Melbourne, were long visible. Although it is to be regretted that Fawkner always spoke of Batman and his party with considerable asperity, the hostility of the two sets of colonists seems soon to have died away, as they found it impossible to keep the place to themselves; for the reports of their success and of the available nature of the country, soon attracted other people to the new settlement. Even with Fawkner's expedition Mr. John Aitkin, the first Victorian squatter, came over from Tasmania on his own account, in a schooner called the *Endeavour*—bringing some sheep, with which he commenced what turned out a most successful squatting career.

The following statement respecting his expedition was made by Fawkner in the *Argus* of September 12th, 1868.

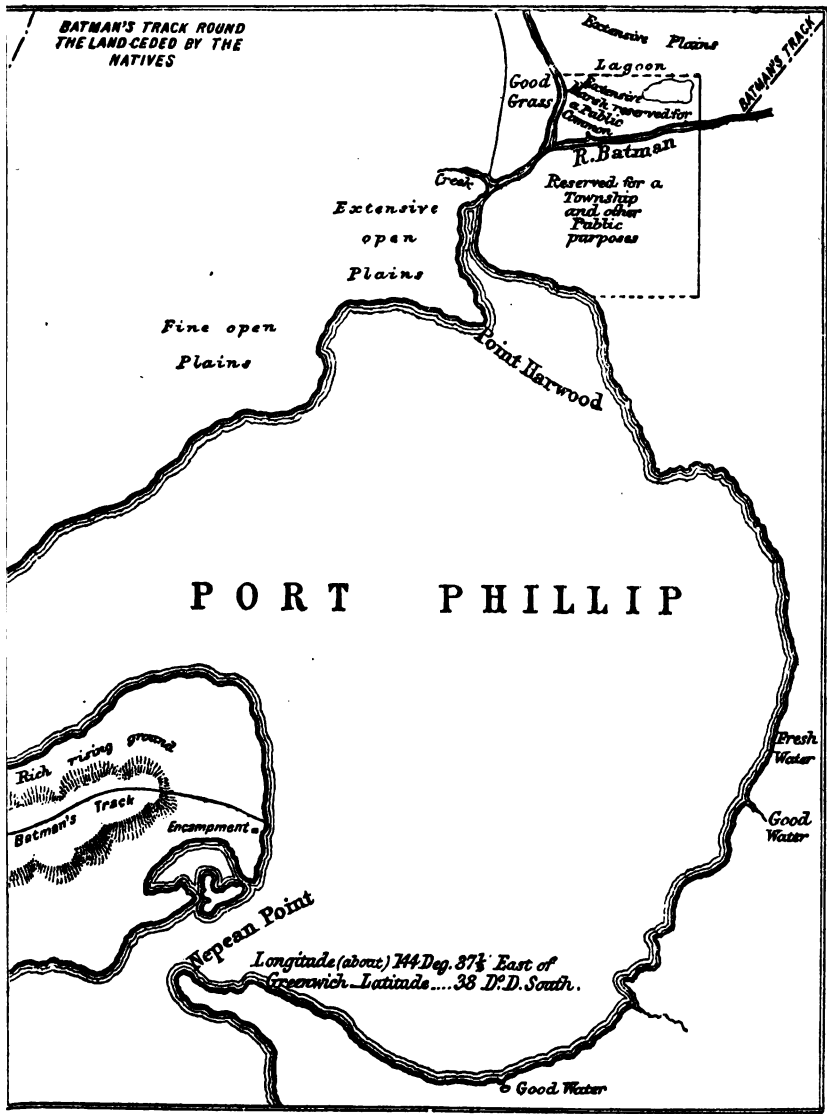
“Melbourne completed its thirty-third year on Saturday last. On the 29th of August, 1835, the first landing took place on a small rising ground, on which our tent was pitched on the evening of August 29th. Our horses were then landed and sent to graze. Early in 1835 I resolved to attempt to settle in Port Phillip, having been one of those who landed on Point Napean from the *Calcutta*, under Governor David Collins, to colonize at Port Phillip. This was on October 19th, 1803. Governor Collins declared the place unfit for settlement, and took the whole of the people to the Derwent. I sought out some friends to come with me in 1835, and five persons agreed to help to found the new colony. Their names were Robert Hay Marr, William Jackson, Samuel Jackson, Captain John Lancey, and George Evans. They all deserted me; some went away, and others took to sheep-farming, and I alone remained to found the famous city of Melbourne. I purchased a schooner, the *Enterprise*,

to bring my horses, cattle, and household goods ; and in six days after landing had five acres of land ploughed and sown with wheat. This produced 100 bushels in January, 1836. A wilderness in 1835, a fine flourishing colony in 1868, though only thirty-three years old."

Forty-three years have not yet elapsed since the falls of the Yarra stopped the *Enterprise*, and Fawkner's party landed on the quiet rural banks of the river. From that day all that was rural and quiet rapidly began to pass away ; first to give place to a small hut village, soon to be expanded into a town ; the town into a bustling, crowded metropolis. It would have been a flight of fancy far too high for sober imagination to have conceived on that famous day, August 29th, 1835, when the placid waters of the Yarra were ruffled by Fawkner's little ship, that they were so soon to be disturbed by a ceaseless throng of vessels of various sorts and sizes ; that their purity was to be darkened by the pollutions of trade ; the fresh air of their banks contaminated by smoke and steam—the atmosphere of commercial prosperity ; and the stillness of ages broken by the harsh screech of the civilizing locomotive, and the many sounds of industry and commerce. But here, as at many other points in early colonial history, when we think of the pictures which fancy might have painted, but never even ventured to sketch, we must remember Burke's description of colonial progress—"fiction lags after fact, invention is unfruitful, and imagination cold and barren."

The question which colonists first saw and selected the site of Melbourne seems never to have been finally set at rest, though the evidence for determining it appears conclusive. There exists in the Record Office a map delineating Port Phillip Bay, and Batman's tract of land, having inscribed upon it the words "In Col. Arthur's No. 53 of 4 July,

**BATMAN'S TRACK ROUND
THE LAND CEDED BY THE
NATIVES**



Reasonable Plains

Lagoon

Good Grass

Reserved for a Township and other Public purposes

R. Batman

Reserved for a Township and other Public purposes

Extensive open Plains

Fine open Plains

Point Harwood

P O R T P H I L L I P

Rich rising ground

Batman's Track

Encampment

Nepean Point

Longitude (about) 144 Deg. 37 1/2 East of Greenwich - Latitude 38 D. D. South.

Fresh Water

Good Water

Good Water

BATMAN'S TRACK

1835,"—the first despatch, already given, reporting Batman's colonizing enterprise. The map clearly delineates the country, and completely decides the question which of the two founders of the settlements on Port Phillip Bay first visited, and which selected, the site of Melbourne. From the accompanying extract from this chart of Batman's, it will be observed that he had selected an extensive reserve for a township, reaching about as far as Sandridge. Only a portion, less than a third of the whole area, is on the north side of the Yarra, which is called River Batman. Its limits extend from the junction of the Saltwater River, and the northern and eastern boundary-lines just take in the lagoon at the western extremity of the present city; so that certainly no part of its site east of Spencer Street, is included in the reserve, though the greater part, if not the whole, is within the area of the extensive tract marked as purchased from the natives.

Batman evidently intended to have the town on the south side of the river; for across the portion of the reserve, on the north side is written "Extensive marsh reserved for a public common," whilst on that at the south are the words "Reserved for a Township and other public purposes." It is clear, therefore, that, though Batman first visited the site of Melbourne, Fawkner's party selected it, and were the first to settle upon it. The point at Williamstown is in the chart in the Record Office called Point Harwood. The land between Geelong and Bass's Strait is described, as "called Geelong by the natives," and the elevation in the centre of it is named Wedge's Range. The largest of the Station Peak Hills is marked as Mount Collicott, and the two others Mounts Vilumanata and Cottrell.²

² Mr. Rusden gives a similar chart in his "Discovery of Port Phillip."

It is satisfactory, therefore, that to the leaders of the three expeditions which inaugurated the colonization of Port Phillip, due credit for their respective shares in the great enterprise can be fairly meted out. The Hentys were the very first pioneers of the colony; Batman the first colonizer of the shores of Port Phillip Bay, and Fawkner the founder of Melbourne.

Until his death, on September 4th, 1869, Fawkner bore the undisputed title of "the oldest inhabitant," being the only man in the colony who had been in Collins's expedition. He continued from the establishment of two houses of legislature in Victoria, to be one of the representatives in the Upper House of the electoral district in which Melbourne is comprised. He had previously taken an active part in politics in the first Victorian legislature, as well as before one was established, and was always a straightforward politician. The *Argus* of September 11th, 1869, in its memoir of him, states that he was seventy-six years of age, having been born in London August 20th, 1792, that 228 carriages attended his funeral, and 10,000 or 12,000 people lined the streets through which it passed. Mr. Edward Henty is the remaining survivor of the three founders of the colony. The address presented to the Duke of Edinburgh on his visit to Melbourne, by inhabitants of the colony of twenty-five years' standing, was read by Mr. Henty, as the first founder of Victoria; and Fawkner made some observations to the Prince on the interesting occasion. It is to be regretted that Batman, the other of the founders of Victoria, lived to see so little of the progress of the settlement, and that his family did not derive greater benefit from his exertions.

The earliest pamphlet published in the colony is probably that of Mr. George Arden—a copy of which the

author has in his possession.³ It appeared in the year 1840, and consists of 118 closely printed pages, containing much valuable information ; but is by no means accurate with respect to the history of the colony prior to its settlement. The discovery of Port Phillip Bay is stated to have been made by Flinders in 1798, and Murray's name is not once mentioned in connexion with it. Speaking of Collins' expedition Mr. Arden says,—“ In the absence of all official data, and any published accounts, the writer has been obliged to resort to tradition, chiefly oral, for the purpose of recording as clear and consecutive a chain of events connected with this expedition as in pursuance of his original scheme it was found necessary to acquire.”

Infant Melbourne was up to and for some time after Governor Bourke visited and named it, generally called “the Settlement.” In Mr. Stewart's report we shall see, that it also went by the extraordinary name of Bearbrass, perhaps a misprint for Baregrass. It was supposed it would have been called Glenelg after the Colonial Minister.

The appearance and condition of the place, shortly after the rival parties of Batman and Fawknor were established there, at the end of the year of its foundation, 1835, are thus described in Mr. Arden's pamphlet just referred to,—

“ The settlement was composed of two weather-boarded huts, with brick chimnies, and eight or ten sod erections, occupied by Dr. Cotter,

³ Its full title is “ Latest Information with regard to Australia Felix, the finest Province of the great Territory of New South Wales ; including the History, Geography, Natural Resources, Government, Commerce and Finances of Port Phillip ; Sketches of the Aboriginal Population, and Advice to Immigrants. By the Editor of the Port Phillip Gazette, Melbourne.”

the superintendent and others, the servants of the Association; the sum total of the population could not have exceeded fifty. The number of live stock in the place had been pretty accurately estimated at 100 head of cattle and 1400 sheep, six horses, and a small proportion of dogs, rabbits, and poultry; three stations had been formed within a distance of ten miles, which were known by the names of their respective owners—Connolly's, Swanston's, and Solomon's; the number of shipping entered inwards was eight—one barque, two brigs, four schooners, and one cutter; finally, the country had been explored northward to an extent of twenty miles by a party of gentlemen, and found in every portion to exceed the utmost expectation that had been formed of its fertility. During the early months of the following year (1836) this germ of the future capital was rapidly progressing. The first adventurers began to open their eyes to the necessity of acquiring neighbours and friends for mutual protection and support; each one, accordingly wrote to those in whom he might be interested, counselling their immediate translation to the land of promise."

Mr. Arden further on gives a later description of Melbourne:—

"When the writer first saw this settlement, in January, 1838, a few months after its authorized establishment, it presented more the appearance of the villages he had seen in the interior of India; a nucleus of huts embowered in the forest foliage and peering at itself in the river stream that laved the thresholds of its tenements—than any collection of buildings formed by European hands. It was at the time possessed of two wooden houses, serving the purposes of hotels or inns to the settlers, who frequented the little town upon the occasion of their bringing their wool produce to the port, or new arrivals before they committed themselves to the trials and privations of the 'bush.' A small square wooden building, with an old ship's bell suspended from a most defamatory-looking, gallows-like structure, fulfilled the duty of church or chapel to the various religious denominations, whence, however, the solemn voice of prayer and praise, sounding over the yet wild country, had an effect the most interesting and impressive. . . . Two or three shops, forming general emporiums for every description of immediately useful articles, although exceedingly inferior,

opened their stores to the public, whilst a branch establishment of a Van Diemen's Land Bank flourished on its monetary exchanges, discounts, and circulation."

"The writer left for Sydney in February of the same year, and on his return, after the lapse of six months, so great was the general improvement, so rapid had been its progress, as to render it impossible for the memory to keep pace with the movement; brick buildings were numerous, some boasting of two and even three stories; the hotels were transformed into handsome and convenient inns, and the lines of streets had been cleared, marked, and were in some parts under a process of partial Macadamization; branches of two Sydney Banks were in active operation and the population had well-nigh quadrupled its former number, bringing with them or rather in their wake houses of agency, and a multitude of intermediate dealers, fully alive to all the advantages deducible from an incipient trade."

A few words descriptive of the site of Melbourne, as seen by the same eye-witness, before it had quite lost its early rural aspect, cannot but be interesting. He thus speaks of the place in 1840,—

"The principal part of the town is laid out in a low fertile valley, the rich soil of which, extending back with a gentle slope from the river banks, affords a fine material for the numerous gardens which are attached to several houses of the place. The extreme ends of the town are carried over two rising and picturesque eminences, and the whole situated, as it were on the verge of a beautiful park, the grounds and scenery in the suburbs partaking in a manner most pleasing to English recollections, of all the quiet subdued interest of an old English domain."

To the energy and enterprise of Fawcner, "the father of Melbourne," much of its early success and progress seem due. Like Batman at Indented Head, he lost no time in breaking the new soil. He opened the first inn for the colonists, and provided them with the first newspaper. The Victorian press—the growth of which has probably been unsurpassed in any community, young or old—first had an

existence January 1st, 1838, when Fawcner brought out the "Melbourne Advertiser." It appeared at first weekly, for nine times in manuscript, and afterwards in print. The circulation was limited to one number, which was kept at Fawcner's hotel, for the Melbourne public to read. The issue of this organ of opinion was interrupted, by the proprietor's omission to give the security in Sydney, required in those days before starting a paper in New South Wales. On a change in the law, enabling him to enter into the suretyship in Melbourne, he again brought out his paper, Feb. 16th, 1839, under the title of the "Port Phillip Patriot."⁴ In the interim, Mr. Arden's paper, the "Port Phillip Gazette," appeared on October 27th, 1838. Mr. Bonwick describes the difficulty of printing the first number—the type being old and imperfect, and some makeshift contrivance serving the purpose of a printing-press.⁵ The "Port Phillip Herald" appeared in January 1840; and in October of the same year, the "Geelong Advertiser,"—the only one of the four journals still existing under the same name,—came out as a weekly paper. The others were bi-weekly.

The first public religious service took place in Melbourne in April, 1836, when the Rev. Mr. Orton, a Wesleyan clergyman, read the Church of England service to a congregation which occupied seats placed under the she-oak-trees on the eastern slope of Batman's Hill. Mr Orton preached from the text, "Except a man be born again, he

⁴ The "Patriot" was afterwards merged in the "Melbourne Daily News," which in its turn was merged in the "Argus."

⁵ The first number of the "Advertiser" is given by Mr. Bonwick in his "Discovery, &c., of Port Phillip," and the second by Mr. Westgarth in his "Colony of Victoria."

cannot see the kingdom of God." For some time after this, the police magistrate, Captain Lonsdale, read the Church service every Sunday at the primitive Court-house. The first Church of England clergyman, the Rev. J. C. Grylls, arrived October 12th, 1838, and preached from one of St. Paul's grandest texts, which was most appropriate for a first sermon after the foundation of a young city,— "I determined not to know anything among you, save Jesus Christ and Him crucified." The foundation of the first Church, St. James's, was laid November 9th, 1839, adjoining the wooden building which for some time served the purposes of both church and school-room.⁶

The first land sale in Melbourne took place June 1st, 1837, and the second November 1st—average prices at the former being 35*l.* the half-acre lot, and at the latter 42*l.* A purchaser at one of these sales is reported to have forfeited his deposit-money for half an acre—afterwards worth thousands of pounds—in one of the most leading parts of the city.

The wonderful increase in the value of Melbourne land, in the forty years which have elapsed, since these first sales took place, is noted in the following short paragraph, in the *Argus* of October 31st, 1877: "As showing the great value of Melbourne city property, it may be mentioned that a block of land in Collins Street East, with a frontage of sixty-six feet, was recently passed in, the owner declining to accept 46,500*l.*, the highest bid. This is at the rate of over 700*l.* per foot."

The injury to the new settlement and the hardship to

⁶ The accounts of the services and the texts are given by Mr. Bonwick, who also gives extensive particulars respecting the land sales, and the names of purchasers.

its colonists, of the sales of land in it being held at Sydney, were forcibly pointed out in the following documents, which exist in the Record Office. In a letter to Lord Glenelg, dated Hobart Town, December 6th, 1836, Mr. G. Mackillop encloses two memorials—"as chairman of two public meetings of persons who were possessed of sheep and other live-stock at Port Phillip before that settlement was lately taken possession of by the Sydney Government, but who are not concerned with the company and association who some time since purchased large districts of the country from the blacks." Mr. Mackillop states that the first meeting was held October 6th and the second on November 22nd; that the second memorial was also signed in a day or two after the meeting "by several persons who intend to proceed to Port Phillip;" and "that no settlers have yet gone or are likely to go there with sheep from New South Wales, at least for some years." He also says, "When I forwarded the memorial last referred to, to General Bourke, I took occasion to mention, that several gentlemen of respectability have lately arrived in this island, on their way to Port Phillip, from England and India; but on their arrival they have been much disappointed to find they cannot get there for the present even allotments on which they could during the 'present summer build cottages for their families.'"

"To His Excellency General Sir Richard Bourke, Governor-in-Chief of New South Wales, &c., &c., &c.

"May it please your Excellency,—

"We the undersigned either proprietors of stock at Port Phillip, or now intending to go there as settlers, beg to state the following circumstances for the consideration of your Excellency.

“About three months ago authentic information was received here from London that instructions had been sent to your Excellency from the Secretary of State for the Colonies to sell the land at Port Phillip forthwith ; and on such information being made public, several families proceeded from this Island to that place in the expectation they would be able to purchase land immediately, at all events sufficient for a homestead. Other families proposed to follow but are now deterred from doing so by the tenor of your Excellency’s Proclamation of the 9th September last, since made public here, as by it, it does not appear, that any of the land will be sold for the present;—nor after it shall have been surveyed, we imagine from the tenor of the Land Regulations of New South Wales will any of it be disposed of till it shall have been advertised for three months in the Sydney Government Gazette.

“We are aware that in ordinary cases little hardship results to the Immigrant in New South Wales from these regulations ; but we would submit to your Excellency, that the case is widely different at Port Phillip. In New South Wales an immigrant finds no difficulty in procuring a temporary abode in which he can remain till the land he intends to purchase be brought to sale ; nor has he difficulty in procuring grain or provisions of any kind for his family at moderate prices ;—but at Port Phillip there is no house nor place of any kind, in which the settler can lodge himself, or his family, nor can he get grain or provisions of any sort except by importing them from Van Diemen’s Land.

“Hence it would be a great favour to the settlers at Port Phillip, if small allotments of land could be sold to them soon after their arrival. If the allotment required by the settler be in a Township, or in any place the acting authority there may consider likely to become one, the quantity of land might be restricted, say to one or two acres, or even to half an acre ; and the purchaser be bound to build a house on it of a certain value and within a certain period ; or, if the Colonist require land for a small farm, where he could grow grain, and fatten pigs and other stock for the use of his sheep establishment, perhaps he might be allowed, without occasioning much inconvenience to the officers of the Survey Department, to select a portion of land, say one two or three hundred acres, according as his flock of sheep in the Colony may be large or small, and which allotment might be sold either at a fixed price, or be put up for sale by auction at the Township at Port Phillip.

We are aware that what we are recommending is contrary to the Sydney Land Regulations, but the exigency of the case requires a special remedy. If what we propose or some similar remedy be not adopted, the Colonists now at Port Phillip will not be able to construct houses for their families before the ensuing winter, nor to get land prepared for seed crops by next spring. We hope, therefore, the interests of this growing Colony will induce your Excellency to deviate from the Sydney standing Regulations in this case, and to adopt some such measures as those we have recommended. It is obvious, that it must be very inconvenient to families to remain during the winter at Port Phillip in temporary buildings, the thermometer Fahrenheit being often there as low as 26 deg. This circumstance we doubt not will have due influence with your Excellency.

“ We beg further to represent,—it appears to us that all the land at Port Phillip should be sold there, and not at Sydney—Our reasons for saying so are as follows—

“ It is known to your Excellency, that all the settlers at Port Phillip were formerly Colonists in this Island; and it is therefore very probable that more than nine-tenths of them know of no one at Sydney, whom they would be willing to trust to act as their agents in the purchase of land and in paying for it.

“ It would be extremely inconvenient too, for settlers at Port Phillip to have to go to Sydney every time they may have occasion to purchase land. In illustration of this we may remark, that though eighty or ninety vessels have arrived at Port Phillip in the last twelve months, it is only lately that any have come there from Sydney with either stock or merchandise, and it is therefore extremely improbable that the Colonist would be able to get a passage from Port Phillip direct to Sydney at the time he may wish to go there. If he have to come here on his way to Sydney, the expense, besides the loss of time, would be ruinous to him, as the following statement will show. He would have to pay—

| | |
|--|-------|
| “ The amount of a passage from Port Phillip to George | |
| Town | £5 |
| For a boat from thence to Launceston say | 1 |
| Passage by the mail or coach from thence to this | 5 |
| Do. from this to Sydney | 10 |
| | <hr/> |
| | £21 |

| | |
|--|----|
| The same expenses would be again incurred in his return from Sydney | 21 |
|--|----|

£42

| | |
|---|----|
| Add to this his incidental expenses, which on reflection we cannot estimate at less than | 48 |
|---|----|

£90

“ In the case of a Colonist with small capital the land he may be in quest of, may not sell for more than two or three hundred pounds, yet to get to Sydney to purchase it, he is obliged to incur an expense of 90*l.* as explained above; besides the loss of two or three months of his time, which may be even much more prejudicial to his interests. Nor is this the only inconvenience, after he has got to Sydney, it is quite uncertain that he shall be able to purchase the land on account of which he has incurred so much expense. Parties there, trusting entirely perhaps to his knowledge of its value, may outbid him, in the expectation that they will be able to resell thereafter at a profit; or what is more likely still the land may be purchased by parties who expect to induce him to take it off their hands immediately at an advanced price.

“ On the other hand we think that the land at Port Phillip would be sooner sold, and bring more money if put up for sale there than if it be disposed of at Sydney. If it be sold at Sydney, many persons at Port Phillip desirous to purchase will be deterred by the expense from remitting their funds to Sydney under the uncertainty whether at an auction sale they will be able to get the land they wish to purchase at what they consider its fair market value; whereas if the land were put up for sale at Port Phillip all parties desirous of purchasing it would be on the spot, and hence there would be no chance of any sections of it being sold much below their value.

“ It will, however, in most cases, in our opinion, be more convenient for the purchasers to pay for the land at Sydney than at Port Phillip, though purchased at the latter place; and should that happen, it will be for the interest of Government to grant all facilities in this respect, that can be conceded without inconvenience, for the more facilities that are given as to the modes of payment, the more money the land is likely to bring.

“ From all the accounts we have heard or seen of the land at Port Phillip it will certainly bring a very unusually large sum of money into the Sydney Treasury, when put up for sale. As this fact must be

well known to your Excellency, we do not suppose that you will object to what we have just proposed, on the ground either of the extra trouble, or expense, that may have to be incurred by the Government on account of the land being at Port Phillip.

“There is only one other matter which we wish to bring to your Excellency’s consideration. Many parties here, who propose to purchase land at Port Phillip, are possessed of large properties in this Island, but any large amount of gold could not be withdrawn from this without seriously affecting the currency of this place. We think it likely that a great proportion of the proceeds of the land at Port Phillip may be intended to be remitted to the English Government for the purpose of promoting Emigration to these Colonies. If this be the intention of your Excellency, we beg leave respectfully to suggest that bills on His Majesty’s Treasury may be received in part payment of the land to be sold in Port Phillip, say to the amount of two-thirds of the purchase price, or such other proportion as your Excellency may consider expedient. We make this suggestion, not because the withdrawing of gold from this would derange the circulation of Van Diemen’s Land, but because by granting the facility asked for, the purchasers would be better able to pay for the land at Port Phillip, and thus the amount produced by it would likely be augmented.

“We have the honour to be

Your Excellency’s very humble servants,

“Hobart Town,

25th November, 1836.

“Signed

| | | |
|-------------------------|-----------------|----------------|
| GEO. FRED READ | CHAS. McLACHLAN | GEO. MACKILLOP |
| GEO. CARTWRIGHT | JOSEPH ALPORT | JOHN BELL |
| MICHL. STEEL | RICHARD COOKE | JOHN CLARK |
| THOS. JOHNSTONE | WILLM. CLARK | ALEXR. FRASER |
| THOS. WINTER | JAMES CLARK | JOHN DOBSON |
| WILLIAM HUTTON | JAMES BROWN | ALEX. IRVINE |
| J. F. STRACHAN for self | | |

and DAVID BARCLAY

F. L. SYMERS

ALEX. SYMERS

ALEX. THOMSON

FRED. TAYLOR

JOHN ROBERTSON

WILLM. ROBERTSON

CHAS. STEAL

JOHN BROWN

ROBERT CALDWELL

“A true copy,

“(Sigd) G. MACKILLOP.”

Mr. Arden says that Williamstown "was evidently intended by nature to be the principal settlement of the province;" but "a species of caprice which it is difficult to account for drew the whole stream of emigrants to locate at Melbourne. . . . The secret of this preference evidently lies in the fact of Melbourne having had a supply of fresh water from the river which ran through its centre, while at Williamstown the operation of well-sinking was requisite for the attainment of this absolute necessary of life; the introduction, however, of steam on the Yarra, and the clearance of the river banks so as to admit of the extension of the two towns towards each other, will before many years have elapsed complete the facilities of communication to such a degree as to render a division between the populations of these settlements even less nominal than that existing between the 'City' and 'Westminster.'" The writer seems not to have considered the greater distance between Melbourne and Williamstown. He continues,—

"Williamstown, at this time, contains about one hundred buildings, including two hotels, eight or ten mercantile stores upon a scale quite equal to any in Melbourne, and one or two retail shops. A small pier to afford accommodation for ships' boats, and a lighthouse for the direction of vessels navigating the bay at night have been lately constructed; a well, which contributes greatly to the comfort of the inhabitants, was sunk by mutual subscription." The want of a wharf, place of worship, and school is mentioned, and it is stated that "Land is almost as valuable as at Melbourne."

Geelong was founded shortly after Melbourne, about forty miles from it, on the opposite, the western corner of

Port Phillip Bay. Sir R. Bourke, when he visited and named Melbourne, went there also and gave directions about laying out the town. Speaking of Geelong and its backward condition, Mr. Arden in his pamphlet says,—

“The principal cause is to be found in the improper retention of town allotments in the hands of the Government; until the month of August in the present year” (1840), “not a single building site had been alienated to desiring purchasers, with the exception of a few in 1838, and these having been disposed of in Sydney were bought by speculators, whose last object it was either to settle themselves or part with the possession on improving leases. Thus up to this hour Geelong presents a few straggling houses, comprising in one spot the dwelling of the police magistrate and constabulary, and in another locality nearly a mile distant a few mercantile stores and private buildings. The number, however, of inhabitants in the immediate neighbourhood, occupying suburban lands previously sold, supply the church of the town with a congregation, which upon occasions exceeds the number of two hundred.”

“Geelong is the seat of a magisterial bench, having a resident justice of the peace, and being a court of judicature for the Crown Commissioner of the district; a coast wailer from the Customs department is stationed at the township, for the inspection of vessels receiving and discharging goods under an entrance or clearance from the sub-collector at Melbourne. The local government will, it is expected, take some notice of this township under its present improving aspect and afford a small sum for the erection of a pier upon the beach, a police office and watch-house in some more convenient portion of the town than is now occupied by the magistrate, for a supply of water as well to the residents as the shipping, and in support of a stronger police for the extensive and unprotected district attached to the town. A branch of the Port Phillip Bank is stationed at Geelong, and there are resident directors of the Melbourne Insurance and Steam Packet Companies; a newspaper, to be styled the ‘Geelong Advertiser,’ which will shortly be published in the township, must become an invaluable commercial and political agent.”

The preceding extracts, descriptive of the early condition of the infant settlement and of its two leading towns,

penned on the spot at the time, point a striking contrast between the past and the present and give some conception of colonial progress in a few short years.

Geelong stands on a beautiful arm of Port Phillip Bay. Its harbour is good, and would have made the town a very formidable, if not a successful rival to Melbourne, but for the bar dividing the deep water near shore from that further out. The air at Geelong is considered better than at Melbourne; and the surrounding country, especially about the Barrabool Hills, is very fertile. Many people think Geelong would have been a better site for the capital of the colony than Melbourne. Certainly, before the existence of railway communication between Melbourne and Hobson's Bay and the construction of piers at Williamstown and Sandridge, Geelong presented greater advantages as a port than Melbourne. The site of Melbourne, however, had a strong recommendation to its founders—in the abundant supply of water afforded by the Yarra, possessed by no other locality round Port Phillip Bay. The Barwon, the river at Geelong, is not as fine, and is a little distance from the town. Melbourne could not well have been placed nearer the mouth of the Yarra, which below the city runs between very flat banks.

Mr. Arden tells us that as "early as the year 1833, Portland Bay was frequented by vessels from Van Diemen's Land for the value of its fisheries. The first vessel which filled with oil from the whaling ground of the port, was the 'Socrates,' the property of the Launceston Fishing Company, a mercantile house of Hobarton. Incited by the success of this venture, other shipowners entered into the lucrative field of competition thus laid open to them, until year after year the fleet of whalers increased to the num-

ber of fourteen, which annually carry away from fifteen hundred to two thousand tons of oil in a single season. Mr. Henty, the industrious, enterprising, and fortunate settler, whose name and success are so intimately acquainted with the early history of this port, was led from the result of shrewd calculations, based upon personal observation and trustworthy reports, to form a whaling establishment on the coast. Obligated to provide for the necessities of his own charge, he was led to enter into cultivation to some extent. His farming operations have proved as successful as his other speculations, while the fortunate returns of a few seasons have enabled him to import cattle and sheep from Launceston. Thus of every natural resource, an incipient commerce has been created by the energy, it may be said, of a single individual, to whose benefit as well as of those who may follow in his steps, it cannot fail early to conduce."

It is further stated that Captain Fyans, Police Magistrate of Geelong, and Assistant Surveyor Smythe were sent in May and returned in August, 1839, to report upon the eligibility of Portland Bay for a government settlement; and that they were "in raptures of its beauty and fertility," and pronounced it "the finest site for a settlement throughout the colonies." A census then taken by Captain Fyans gave the population at three hundred. It is elsewhere stated to possess three or four stores.

Mr. Arden says that at Port Fairy, "Mr. Griffiths, of Van Diemen's Land, has a fishing-station there, said to be productive." Mitchellstown, he speaks of as "prettily situated on the river Goulburn, at a distance of eighty miles from Melbourne, and on the direct line of mail communication between this town and Sydney. . . .

A small inn, known as the Travellers' Rest, with some stockyards and paddocks for the accommodation of cattle driving along the road for Melbourne, Portland, or Adelaide, has been for some time licensed at this place."

A township, in a favourable locality for travellers, is also spoken of as "marked out for location at the Violet River, about forty miles beyond Michellstown on the way to Sydney, and nearly equidistant between the rivers Goulburn and Ovens," The "village reserve of Pentridge," Arden reports, "will shortly, it is expected, be open for purchase."

Mr. Arden mentions some explorations of the territory made subsequently to its settlement. He says,—

"Mr. Hawdon leaving Melbourne, crossed the country in a N.N.E. direction, until arrived at the junction of the Goulburn with the Murray, where keeping the river as a line of travel, he followed its banks into the Crown province"—South Australia—"within a distance of fifty miles from Adelaide; Mr. Eyre," in 1838, "more original and ambitious, discarded this virtually safe route, struck across Australia Felix in a longitudinal direction, and crossing the Loddon and Yarraine rivers, came upon the Wimmera not far from its sources, with the view of following the stream until it should lead (as he expected) to nearly the same point of the Murray as that to which his precursor, Mr. Hawdon, would arrive by a longer and more tedious route; it need hardly be repeated that his bolder project failed from the sudden termination of the Wimmera in a salt lake," Hindmarsh, "situate just beyond the line of longitude that divides this province from the neighbouring Colony, in a desert sandy waste; nor needs it to be shown how, with an indefatigable temperament, he succeeded in reaching at last the banks of the Murray, northward of his position, and met with final success on that road. . . . The most extraordinary, however, of these overland journeys, and certainly the most important, as displaying the natural facilities of the country for topographical research is that performed by Messrs. Hawdon and Mundy in a *tandem*, of

which may be found the following account in the Gazette⁷ of September 21st, 1839 :—

“ We hasten to lay before the public the welcome intelligence of the safe arrival of Messrs. Hawdon and Mundy at Adelaide. These gentlemen left the stations in the neighbourhood of Mount Macedon, on the 11th July, and drove in a tandem through the uninhabited country of Australia Felix, with as much ease as they might have done through an English park, to the junction of the Murray with Lake Alexandrina, crossing that river on the 8th of August. This journey of five hundred and forty miles was accomplished in twenty-seven days. Their average daily rate of travelling appears to have been about twenty miles. Tuesday 16th, the travellers arrived at a station of Mr. Bowerman’s, on a rivulet which by them was considered as a tributary of the Yarraine. Mr. Allan, the gentleman in charge of the property, showed them the skull of a human being, which Mr. Hawdon describes as being of a highly intellectual formation, and indubitably that of a European; on the back of the skull were the marks of two blows inflicted by a tomahawk. This circumstance leads on the part of the South Australian Register, to an interesting conjecture respecting the deplored yet unknown fate of Messrs. Gellibrand and Hesse.— Thursday, the 18th, they crossed for seventeen miles over a succession of stringy bark ranges forming the lowest and eastern extremity of the Australian Pyrenees so named by Major Mitchell. On the 19th passed through a picturesque country, bounded on the right by the mountain ranges of the Grampians, the summits of which are described as of conical termination, indicating volcanic origin and action, and encamped by moonlight on the Hopkins! (St. Iago what a name!) On the day following, the travellers, in following down the valley of this river, met a native skulking among the reeds, whose fright or desire of treachery, prevented any communication. On the 21st ‘it snowed heavily.’ As the day cleared up, however, the party pursued their excursion for twenty miles, driving at the rate of eight miles an hour, through a beautiful open forest of she-oak. This day they rounded the most southern point of the Grampians.

“ On the 22nd they reached the upper part of the river called by Major Mitchell the Wannon. ‘Large broad and deep sheets of water, occasionally extending a mile in length, were covered with ducks and

⁷ The “Port Phillip Gazette,” Mr. Arden’s journal.

swans.' Tuesday, 23rd, continued along the banks of this river for twenty-five miles, through a most beautiful forest, and over a thick carpeting of grass; the country altogether being of exactly the same description as that on the Yarra Yarra, eight miles from Melbourne. To-day they fell in with a tribe of blacks, who ran shouting and screaming after the gig. Mr. Mundy, it appears, having a natural antipathy to these children of nature, flogged the horses with such a will as to leave them far behind. On Wednesday, 24th, Messrs. Hawdon and Mundy were agreeably surprised by meeting with a shepherd and his flock, upon some fertile plains at the edge of a forest, which were found to be the property of the Messrs. Winter, whose arrival at Portland Bay, we noticed some weeks past in the Gazette. At this station they passed the night, whence they proceeded by an hour and a quarter's drive to Mr. Henty's station, forty miles north of Portland Bay. 'The Messrs. Henty,' says Mr. Hawdon, 'have the merit of discovering and first settling in this fine country, and in my opinion have displayed singular judgment in the selection.' Friday, 26th, reached the junction of the Wannon and Glenelg, the latter having at this season very little water running in its bed. 'Having now,' continues the journal, 'proceeded down the Wannon from its source to the Glenelg, I can safely say that on either side the whole distance, one hundred miles, it is the most beautiful country and the richest land yet seen in Australia—well might Major Mitchell call it Australia Felix.' About thirty miles W.N.W of their crossing-place at the Glenelg, they came upon a lake nine miles square; it was subsequently called by Mr. Holloway Lake Mundy. This lake, by their computation, is situated in the 141st degree of longitude, the boundary-line between the two Colonies.

"From this date to the moment of their crossing the Murray, at a point where some gentlemen from Adelaide were making a special survey, nothing of interest appears to have occurred. The country, although containing sufficient water and grass to enable them, by easy stages, to complete their undertaking, *was yet in comparison to our side of the Glenelg, a desert.*"

It is to be regretted that such petty jealousy of the sister settlement of South Australia, should in one or two instances be so early exhibited. The pamphlet speaks in one place of "the vaunted Adelaide." This childish feel-

ing among young communities must be put away, as they pass from infancy to maturity.

The mysterious disappearance of Mr. Gellibrand—whose name was connected with one of the earliest projects for colonizing Port Phillip,—and of Mr. Hesse, was a melancholy event in the early history of Victoria. The story is briefly told. The two gentlemen left Geelong together to ride to Melbourne, over the plains which extend almost the whole distance between the two places—the Bay being close at hand on the right and scarcely ever out of view. It is difficult to conceive how any one taking a direct course, could have been lost even in those days. The travellers, however, never reached their destination, and although search was promptly made, no certain traces of them or of their horses were ever discovered. Remains, which, it was thought, might be theirs, were found some time afterwards, but it is most doubtful if they were. Their names were given to two hills in the opposite direction to that in which they set out—there having at one time been some reason to believe they had perished in that neighbourhood.

The following letter published in the “Australasian,” of June 17th, 1876, throws light upon some interesting facts in the history of the colony.

“WHO SHEARED THE FIRST SHEEP IN VICTORIA ?

“*To the Editor of the AUSTRALASIAN.*”

“SIR,—The enclosed statement, made up from portion of a letter to me from Mr. Kenneth S. Clarke, now in New Zealand, relative to a query by ‘Old Colonist,’ in your issue of the 25th of last March, as to who sheared the first sheep in Victoria, may be interesting to some of your readers who, like ‘Old Colonist,’ take an active interest in the history of the early days of this colony.—I am, &c.,

“Peerewur, June 9.

“W. H. BACCHUS.”

"The schooner *Hetty* left George Town Heads, Tasmania, on the afternoon of the 24th March, 1836. Passengers (cabin)—Mr. George Russell, Mr. M'Killop, and Mr. Kenneth S. Clarke. She had on board 600 sheep, four bullocks, one horse, the property of Mr. M'Killop, in charge of Mr. Clarke. Entered Port Phillip Heads about 3 p.m. on the 25th, it then blowing strong from the S.W., flood tides; passed the brig *Chilli*, ashore in the Eastern Channel with the nucleus of the late Mr. John Aitkin's since celebrated sheep on board; came to single anchor about five miles south of the Red Bluff. Gale increasing, parted from her anchor and went ashore; landed the stock next morning with loss of one sheep. A pastoral association, called the Great Lake Company, chartered and fitted out the brig *Henry*, Capt. White, to take their stock from Tasmania to Victoria, the *Hetty* having been condemned. Mr. Clarke returned to George Town, and took charge of the company's stock as manager, which were brought over by the *Henry* in three trips, with a loss of 17 sheep. Mr. Clarke camped with his sheep at the Saltwater River, opposite the present racecourse, and commenced shearing on the 9th November, 1836, finished on the 27th. The sheep were like all those then in Tasmania, scabby; they were dressed by the manager, as they came from the shears, with a mixture of tobacco, water, salt, and soap; they were cured of scab, and remained clean for three years, until infected by scabby sheep which were brought into their neighbourhood. On the 29th November Mr. Clarke started with the sheep for where Bacchus Marsh now is, where he remained until the beginning of 1838, when he decided to occupy and reside at the locality called by him, and since known as, the Pentland Hills, where he had already formed out-stations. Mount Blackwood, at that time, was called Clarke's Big Hill. Mr. Clarke gave up the country about the Marsh to Captain Bacchus and son, who had brought sheep from Tasmania, and were then encamped at the Parete Creek. The members of the Great Lake Company were Thomas Winter, Charles M'Lauchlan, manager Bank of Van Diemen's Land, — Dobson, father of Judge Dobson, of Tasmania, and James Clarke."

For a short time the colonizers of Victoria came exclusively from Tasmania, bringing their flocks by sea. Their favourable reports of the country soon, however, caused a stream of colonization to flow from the opposite direction, —the occupied territories of New South Wales,—from

whence a number of settlers poured in with their flocks and herds across the Upper Murray. These "overlanders," as they were called, meeting the tide of colonists advancing from the seaboard, assisted materially in effecting the rapid occupation of the new country. The "overlanders" commenced to move forward, soon after the return of Mitchell's expedition.

The colonization of the Australian Continent has proceeded from three great starting-points,—first, the original settlement founded at Sydney in 1788, from which colonists pushing north have occupied the greater part of the east coast of Australia, up to its northern extremity, Cape York; then there was Port Phillip, from which the tide of colonization, flowing north and east, soon became mingled with that flowing south and west from New South Wales; and lastly from the South Australian settlement—established at Adelaide, within a few months of that formed at Melbourne—flowed eastward a tide of colonization which soon met that flowing westward from Port Phillip. Thus, in a few years—by the meeting of these three separate streams of colonists, commencing from different sources—a long unbroken expanse of settled country fringed the southern and eastern shores of Australia, and has ever since been growing wider and wider, by the spread of population inland; so that what a few years ago was but a fringe to the great Island-Continent has been widening into a mantle.

CHAPTER V.

THE GOVERNMENT AND BATMAN'S ENTERPRISE.

Sir Richard Bourke's despatch to Lord Glenelg—The Governor's view on Colonization—His Proclamation respecting land at Port Phillip—Batman seeks Government supervision—Mr. Stewart sent by the Sydney Government to Port Phillip—His Report—The Secretary of State sanctions opening of country there.

THE steps taken by the Sydney Government, in the interval between the establishment of Batman's party at Port Phillip, and the arrival of the sanction of the Home Government, to the district being opened up for settlement, are clearly detailed in the official documents contained in this chapter. The first of these is the letter of Sir Richard Bourke, informing the Colonial Minister of the state of things at Port Phillip, and the last is the despatch of Lord Glenelg, authorizing the establishment of British rule in what is now the self-governing colony of Victoria. Governor Bourke thus writes ¹:—

*“ Government House, Sydney,
10th October, 1835.*

“ MY LORD,—Being informed by the Lieut.-Governor of Van Diemen's

¹ The documents in this chapter are copied from the N. S. Wales and Van Diemen's Land papers in the Record Office.

Land that several British subjects connected with this Colony have taken possession of a tract of land on the South-Western² Coast of New Holland in virtue of a treaty with a tribe of aboriginal natives, it becomes my duty to report to your Lordship this intrusion upon part of the territory described in the Commission which I have the honour to hold from His Majesty. The particulars are contained in the correspondence which has passed between Mr. Batman a settler of Van Diemen's Land and the Government of that Island. Copies of that correspondence received by me from Lieut.-Governor Arthur accompany this despatch.³ From Mr. Batman's letter your Lordship will perceive that this gentleman and his associates rest their claim to a recognition by His Majesty's Government of their treaty with the natives, rather on the merits of their undertaking than to any Title to the land which that Treaty is presumed to convey. It also appears that Colonel Arthur without holding out any prospect of such recognition, has undertaken to submit their case to His Majesty's Government and entertains a favourable opinion of the parties. To him, therefore, as the officer under whose immediate charge those parties reside, I would leave the representation of every particular regarding their personal character, views and resources; but I have considered it incumbent on me immediately to protest against any consequences derogatory to the rights of the British Crown that might be imagined to flow from the alleged Treaty. I have accordingly issued, with the advice of the Executive Council of this Colony, a Proclamation of which I transmit a copy. It is not my present intention, and I shall probably not see cause to take any other step in this matter until I have had the honour to receive your Lordship's commands on the subject. In the mean time there is little doubt that Mr. Batman and his party will continue to convey cattle to Port Phillip, and to invest capital in building and other improvements at that place.

“ Having thus briefly laid before your Lordship the present state and probable prospects of this unauthorized expedition, I may perhaps be permitted to offer some observations upon the policy of allowing the occupation of land so distant from the seat of Government and other located parts of the Colony. To Mr. Batman's proceeding there ap-

² In a letter to Mr. Hay, of December 21st, Sir Richard corrects this obvious mistake, though intimating that he need scarcely do so.

³ Batman's letter of June 25th and Mr. Montagu's of July 3rd.

pears weighty objections, not only in the irregular mode he has had recourse to for obtaining land, but on account of the absence of any provision for the control and government of the inhabitants of the intended settlement. It is hopeless to expect that any precautions he can adopt in the choice of shepherds and labourers will preclude occasional disorders among a population wholly released from legal restraint. In such emergencies there will be no accessible authority, military or civil. The undertaking must sooner or later prove a total failure, unless supported by the interference and protection of Government. If this support be afforded, it is but reasonable that the settlement should contribute to the revenue of the Government which upholds it, and that its lands should be acquired under the general regulations of this Colony, or under such others as His Majesty's Government may see fit to impose.

“ I have before had occasion to submit to the Secretary of State the opinion I entertain of the propriety of extending in a southern direction the limits within which land may be acquired from the Crown in New South Wales. On this subject, I beg leave to refer your Lordship to my despatch of the 4th July 1834 No. 59, in which I communicated a proposal of Mr. James Atkinson for the settlement of Twofold Bay by means of emigration from the North of Ireland. Though I objected to Mr. Atkinson's plan in many particulars, I expressed myself in favour of an extension of the limits of location as far as Twofold Bay provided the lands were to be disposed of under the existing regulations. In this opinion, however, I was not honoured with the concurrence of your Lordship's predecessor. The Earl of Aberdeen has stated, in his despatch of the 25th of December last, that 'His Majesty's Government are not prepared to authorize a measure the consequence of which would be to spread over a still further extent of Territory a population which it was the object of the late Land Regulations to concentrate.'

“ After this intimation, it is only on account of the question being forced upon me by the transaction I have related, that I am induced to revert to the subject. In recurring to it, I am bound to state that further reflection, and the advantages of personal observation afforded by a recent excursion to Twofold Bay and the neighbouring country, have more strongly than ever impressed me with the correctness of the opinions expressed in my despatch of July 1834. On the excursion alluded to I found the greater part of the vast tract of fertile

land lying between the County St. Vincent and Twofold Bay depastured by flocks and herds, attended by shepherds and stockmen, the pastures already contributing largely to the wealth of the Colony, and exceeding in importance many of the districts where land is disposable by sale or on lease.

“An export of live stock from Twofold Bay to Van Diemen's Land had commenced, and is likely to increase and a considerable supply of grain and other agricultural produce would in all probability be furnished from the district for the Sydney Market, in the event of the land there being thrown open to purchase.

“Admitting, as every reasonable person must, that a certain degree of concentration is necessary for the advancement of wealth and civilization, and that it enables Government to become at once efficient and economical, I cannot avoid perceiving the peculiarities which, in this Colony, render it impolitic, and even impossible, to restrain dispersion within limits that would be expedient elsewhere. The wool of New South Wales forms, at present, and is likely long to continue, its chief wealth. It is only by a free range over the wide expanse of native herbage which the Colony affords the production of this staple article can be upheld at its present rate of increase in quantity, or standard of value in quality. The proprietors of thousands of acres already find it necessary equally with the poorer settlers, to send large flocks beyond the present boundary of location to preserve them in health throughout the year. The Colonists must otherwise restrain the increase, or endeavour to raise artificial food for their stock. Whilst nature presents all around an unlimited supply of the most wholesome nutriment, either course would seem a perverse rejection of the Bounty of Providence, and the latter would require more labour than can at present be obtained in the Colony, or Immigration profitably supply. Independently of these powerful reasons for allowing dispersion, it is not to be disguised that the Government is unable to prevent it. No adequate measures could be resorted to for the general and permanent removal of intruders from waste lands, without incurring probably a greater expense than would be sufficient to extend a large share of the control and protection of Government over the country they desire to occupy. One principal objection to dispersion thus becomes as powerful against its restraint.

“I do not, however, mean to admit the claim of every wanderer in search of pasture to the protection of a civil or military force. The

question, I would beg leave to submit, is simply this. How may this Government turn to the best advantage a state of things which it cannot wholly interdict? It may I would suggest, be found practicable, by means of the sale of land in situations peculiarly advantageous, however distant from other locations, to procure the means of diminishing the evils of dispersion; and, by establishing Townships and Ports, and facilitating the intercourse between remote and more settled districts of this vast Territory, to provide, though but imperfectly, centres of civilization and Government, and thus gradually to extend the power of order and social union to the most distant parts of the wilderness.

“Such are the considerations which rendered me unwilling to oppose the settlement of Twofold Bay. The same considerations induce me to believe that it will be more desirable to impose reasonable conditions on Mr. Batman and his associates, than to insist on their abandoning their undertaking. I would propose that a township be marked out, both at Twofold Bay and in some eligible spot on the coast to which Mr. Batman’s party has proceeded. The Town allotments and the adjoining Territory might then be declared open to location according to the existing regulations, and I have no doubt that in both places considerable purchases would at once be made. The proceeds might be at first excepted from the rule which assigns this branch of the revenue as a fund for encouraging emigration, and applied in the beginning towards defraying the expenses attendant upon the new settlements. The outlay would chiefly be required for the survey and measurement of the land; the appointment of a Police Magistrate with a Constabulary Force; and of an officer of customs.

“I would also earnestly recommend that a provision be made for schools in which the children of persons of different religious tenets may be instructed without distinction, on the plan now adopted in Ireland. The means of education secured, I should feel disposed to leave it to the voluntary contributions of the inhabitants to provide for churches and clergy. To aid all alike, where the creeds are various, seems impossible, and a partial distribution of the public funds appears nearly allied to injustice.

“In the event of a Township being established at Twofold Bay, it would be desirable to form a road from thence to Minaro Plains, a part of which would pass over a rocky range of mountain. The remoteness

of this work would render it a very desirable employment for the convicts of the second class sent here to labour for a certain period on the public works before assignment to settlers.

"I beg leave to observe that it is in consideration of the capital expended by Mr. Batman and his associates, that I am inclined to recommend so early an occupation of Port Phillip. This measure would have otherwise appeared to me premature, and I should have preferred witnessing the success of the nearer establishment of Twofold Bay before suggesting the more distant settlement. It is with reference to Van Diemen's Land chiefly that the occupation in the neighbourhood of Port Phillip may be regarded as advantageous. I consider Twofold Bay as ripe for settlement, as sufficient advantages are already derived from the lands behind it to admit of their purchase (by the occupiers and others) being rendered the means of the gradual introduction of the various Institutions of Society. To refrain from their introduction, through the fear of encouraging dispersion, is, I am persuaded, a fallacious policy. The dispersion will go on notwithstanding the discouragement, but accompanied by much evil that might be prevented by the guidance and control of authority opportunely introduced."

"I have the honour to be,

"My Lord,

"Your Lordship's

"Most obedient humble servant,

"RICHD. BOURKE.

"The Right Honourable
Lord Glenelg."

The annexed is the copy of the Governor's proclamation, referred to in his despatch:—

"Copy.

"Proclamation

"By His Excellency Major-General Sir Richard Bourke, K.C.B., commanding His Majesty's Forces, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, &c. &c.

"Whereas, it has been represented to me, that divers of His Majesty's subjects have taken possession of vacant lands of the Crown, within the limits of this Colony, under the pretence of a treaty, bargain

or contract, for the purchase thereof with the Aboriginal Natives; Now therefore, I, the Governor, in virtue and in exercise of the power and authority in me vested, do hereby proclaim and notify to all His Majesty's subjects, and others whom it may concern, that every such treaty, bargain, and contract with the Aboriginal Natives, as aforesaid, for the possession, title or claim to any lands lying and being within the limits of the Government of the Colony of New South Wales, as the same are laid down and defined by His Majesty's Commission; that is to say, extending from the Northern Cape, or extremity of the Coast called Cape York, in the latitude of ten degrees thirty-seven minutes South, to the Southern extremity of the said Territory of New South Wales, or Wilson's Promontory, in the latitude of thirty-nine degrees twelve minutes South, and embracing all the country inland to the westward, as far as the one hundred and twenty-ninth degree of east longitude, reckoning from the meridian of Greenwich, including all the Islands adjacent, in the Pacific Ocean within the latitude aforesaid, and including also Norfolk Island, is void and of no effect against the rights of the Crown; and that all Persons who shall be found in possession of any such lands as aforesaid, without the licence or authority of His Majesty's Government, for such purpose first had and obtained will be considered a trespasser and liable to be dealt with in like manner as the other intruders upon the vacant lands of the Crown within the said Colony.

" Given under my Hand and Seal at the Government House, Sydney, this twenty-sixth day of August one thousand eight hundred and thirty-five.

" (Signed) RICHARD BOURKE."

" By His Excellency's Command,

" (Signed) ALEXANDER MCLEAY."

" God save the King!

" True Copy,

" A. DEAS THOMSON,

" Clk. Col."

In the interval between the departure of the despatch of October 10th, and the reply of the Secretary of State of April 13th, 1836, the following correspondence took place respecting Batman's application for Government protection at Port Phillip; Mr. Stewart was also sent

down to the infant colony, and made his report, which is also subjoined.

The following is Batman's letter to Governor Arthur applying for protection, a copy of which is enclosed by Governor Bourke, with a despatch of December 21st.

"(Copy.)

" *Launceston,*
23rd October, 1835.

"SIR,—I had the honour, in the month of July last, of transmitting you a report of my proceedings at Port Phillip for the purpose of effecting an amicable settlement with the natives of that part of New Holland, and of the Treaty concluded by me for the occupation of a certain tract of country under a certain annual tribute, and to be used for Pastoral purposes, and in that report, I communicated to your Excellency, the names of the gentlemen who are associated with me in forming the settlement.

"At that time it was considered by the members of the Association, that the Territory in question was beyond the jurisdiction of His Excellency the Governor of New South Wales, and the report was therefore addressed to your Excellency for the purpose of being transmitted to the British Government under the expectation of the Crown confirming the land thus ceded upon such terms as might appear equitable and just, and for that purpose full instructions were transmitted by the gentlemen of the Association to responsible agents in London to represent their interests with the British Government and to fulfil such conditions as they might agree with the Crown for a full confirmation or grant of the Territory in question; but as it now appears by the Governor-in-Chief's Proclamation, that His Excellency exercises jurisdiction over the Territory in question as part of New South Wales; I have the honour to solicit, that you will be pleased to fully inform His Excellency General Bourke of the proposed plans of the Association, their capacity for carrying them into execution, and the principles under which they wish to establish a Colony at Port Phillip.

"I have the honour to inform your Excellency, that the Association does not possess any community of interest, but the stock will be the separate property of each party shipping, and be placed upon separate establishments; and that so soon as the pleasure of the British

Government is known, with respect to the terms upon which the Territory may be granted that a division of the lands will then be formally made, and from that period each party will form a separate and distinct permanent establishment, furnishing a proportion of quit rent or tribute payable for the same, and also of other expenses which will be necessarily imposed in carrying the objects of civilization into effect.

“The parties have engaged two ships for the transmission of stock and supplies, and in the course of six months they will have property there to the value of twenty-five thousand pounds, at least; and there can be little doubt that in a very short space of time a Colony of great importance—not only to the mother country but to both the Colonies will be established.

“The Association has already felt some inconvenience by individuals who have recently quitted the Port of Launceston, and in defiance of our occupation of the land from the natives, have fixed themselves on part of the Territory, and serious apprehensions are entertained that they will materially check, if not destroy the principle of colonization, unless controlled by competent authority, and I am therefore requested most respectfully to suggest the propriety of proper authority being given to some individual for the purpose of enabling the members of the Association to carry on unimpeded the principles of colonization and civilization, until the pleasure of the British Government may be communicated, and maturer plans adopted; and I am authorized to add, that the members of the Association will most cheerfully defray such portion of the expense attendant upon this measure, as the local governments may consider fair and reasonable.

“I propose immediately to proceed with my family to Port Phillip, to take, with Mr. Wedge, the direction of the affairs of the Association, and the arrangements of the Native Tribes, and as the vessels will be engaged for the next six months in conveying stock from this Port to Port Phillip, the Association will be happy to carry into effect any arrangements for buildings, for such persons as the Government may think fit to send.

“I have the honour of reporting the progress made by the Association since July last with the Native Tribes—from that period up to the commencement of this month, when Mr. Wedge left Port Phillip, the intercourse has been kept up upon the most friendly terms, and

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from eighty to a hundred natives have been clothed and supplied with daily rations at the expense of the Association. The natives have been partially occupied in habits of industry, and I have not the least hesitation in affirming, that if no unforeseen obstacles occur, a gradual system of civilization will obtain.

"In the report the Association communicated their intention of engaging a surgeon and catechist; this pledge has been realized, and Doctor Thomson proceeds with me to execute those duties."

"I have, &c.

"(Signed) JOHN BATMAN."

"A true Copy,

"C. DEAS THOMSON,

"Clk. Col."

In a despatch of November 14th, 1835, to the Colonial Secretary of New South Wales, enclosing Batman's letter, Mr. Montagu, Colonial Secretary of Van Dieman's Land, says,—

"I am to remark, for Sir Richard Bourke's consideration, that it would appear to be very evident that the association in question is already suffering from the want of some superintending authority, competent to protect, as well as to control the parties who may settle in the adjacent Territory.

"I am to state for the information of Sir Richard Bourke, that Lieutenant-Governor Arthur has lately conferred with Mr. J. H. Wedge, formerly an officer of the Survey Department of Van Diemen's Land, who resigned his appointment for the purpose of settling on the Southern Coast of New Holland; and it appears from his statement, that the Aborigines are cannibals, addicted to infanticide, and are also in other respects, in the most uncivilized state. Little dependence can therefore be placed upon them, unless impressed with that appearance of strength and determination among the white settlers, which the latter will not be able to present if they are not united among themselves, and if their intercourse with the blacks be not marked by uniformity of purpose as well as by mild and conciliatory spirit.

"I am further to observe, that it is at the same time perfectly evident to Lieutenant-Governor Arthur, that a consistent course of

such conduct cannot be expected from the settlers at Dutergalla, unless the District be placed under some form of Government, and although His Excellency is aware that the association are not in strictness entitled to any protection from the Government as they are unauthorized intruders on the lands which they now occupy—nevertheless, from considerations of humanity, and in order to prevent the possibility of the commencement of an exterminating war between them and the Aborigines, the evil consequences of which would certainly extend to any more regular settlement which His Majesty's Government might afterwards establish, Lieutenant-Governor Arthur would take the liberty of drawing the attention of the Government of New South Wales to the present situation of these emigrants; and he is further induced to do so, because the vicinity of the Territory of Dutergalla to Van Diemen's Land, and the easy navigation between the opposite coasts will, it may be feared, hold out strong inducements to the convicts to endeavour to escape thither, in the hope, if no Government be constituted, of leading a lawless life, or of receiving high wages in a situation where labour will unquestionably, for a long period, bear a very high value.

“I am to add that Lieutenant-Governor Arthur would have great pleasure in co-operating with Sir Richard Bourke for the purpose of conferring upon the settlers at Dutergalla some of the more indispensable advantages which can only be enjoyed when there is a power to carry laws into force, and to protect the lives and properties of the individuals constituting the community.”

The Governor of New South Wales, in a despatch of December 21st, 1835, encloses the correspondence relating to Batman's application for Government protection, also an extract from the minutes of the Executive Council of December 17th, approving his Excellency's decision not to extend the authority of the Government to what is called the territory of Dutergalla. His Excellency assigns the following reason:—

“Considering, however, that Mr. Batman's occupation is wholly unauthorized, and having reference to the instruction received from the Earl of Aberdeen (in His Lordship's Despatch of December 25th 1834)

to discountenance every undertaking having a tendency to disperse the population of the Colony, I do not feel myself at liberty to extend to these adventurers even that degree of assistance which Colonel Arthur appears inclined to concede, without the direct permission of His Majesty's Government. Having consulted the Executive Council, I find their view of the case to coincide with my own, as your Lordship will perceive by the extract of proceedings transmitted herewith.

"I have accordingly informed Colonel Arthur to this effect, and have now only to await your Lordship's commands upon the whole question as submitted in my former and present despatch."

The members of the Executive Council present were the Governor, the Colonial Secretary, and Lieutenant-Colonel Snodgrass; and their concurrence is expressed almost in the same terms as those of the despatch above quoted.

In a despatch to Mr. Secretary Hay, of January 28th, 1836, Governor Arthur also encloses copies of the preceding correspondence, "respecting the territory of Dutergallar," remarking that—

"As Dutergallar is so near Van Diemen's Land, and especially the northern portion of the Island, it was my wish to have taken an active interest in its settlement. I have since, however, perceived from the perusal of a Proclamation of Sir Richard Bourke, defining the limits of his Government, that it forms an integral portion of the Colony of New South Wales, and of course, I have in consequence determined not to interfere with His Excellency's jurisdiction, retaining as I nevertheless do, the strongest desire that some form of government should be established there, and impressed as I am with the importance, and as I have suggested to Sir Richard Bourke, of appointing a resident authority for the purpose of preventing the intermixture with the settlers of runaway convicts, and of above all maintaining some uniform course, such as, after patient inquiry, may appear to be the best adapted for the purpose of conciliating the natives and preventing bloodshed."

The following in the Record Office, is the account given

of his visit to Port Phillip by Mr. Stewart, who is described in Mr. Arden's pamphlet, as "the police magistrate of the Goulburn District in New South Wales:"—

"Copy Report by George Stewart, Esq., to the Colonial Secretary at Sydney, dated 18th June, 1836."

Sydney, 10th June, 1836.

"SIR,—In obedience to the commands of His Excellency the Governor conveyed to me in your letter of the 4th ultimo, I embarked on board the Revenue Cutter on the 6th of that month for the purpose of proceeding to Port Phillip; and when off the Heads of Port Jackson, I delivered to Captain Roach his sealed instructions.

"2. Our arrival at Port Phillip was delayed by contrary winds, but we reached it on the 25th of May, and on the 27th I had the pleasure of seeing Mr. John Wedge, who resides about thirty (30) miles west of what is called the Settlement. To this gentleman and all other residents, I am indebted for all the information which they readily afforded me.

"3. I have, in the first place, to report, that the parties who are believed to have committed the two outrages at Western Port, one upwards of 18 months ago, and the other in March last, have long since left the Colony.

"The principal accused of perpetrating the first, commanded a sealing vessel, and was killed by the natives in the vicinity of Spencer's Gulph. One of the females he carried from Western Port is reported to have been with him at the time he was killed. The perpetrator of the latter, is, I have every reason to believe, a half-caste named Tomlins, at present employed in a whaling establishment at Portland Bay. In the spring of the year, when the whaling season is over, it is the custom of the men belonging to the establishment to employ themselves in collecting Mimosa bark, during which employment an attack was made upon a native family, in which two women were wounded. It is expected that next season they will again return to Western Port, when, should the Government not deem it necessary to make any Police Establishment, I have every reason to hope that the delinquent—and his accomplices, if any, will be apprehended by the residents of Port Phillip.

"4. The only aggression known to have been attempted by an European at Port Phillip upon any of the blacks was committed by a

Stockman, who some time ago attempted forcibly to violate the person of one of their females, and who, on that account, was sent back to Van Diemen's Land by Messrs. Wedge and Batman, with which punishment the friends of the female were quite satisfied.

"5. The Port Philip residents appear to be treating the blacks with great kindness, and are endeavouring to instil habits of industry into them. But, like all savages, they will steal when they can find any opportunity; and three of them are reported to have speared two white men near 'Indented Head,' that they might possess themselves of some flour these two were carrying. The tribe they belonged to, however, offered to give them up to the Europeans for punishment, which offer, under existing circumstances, was declined.

"6. The only convicts that are known to have escaped to Port Philip, are two from Van Diemen's Land, who secreted themselves in the *Caledonia* trader, on her trip from Launceston. They are supposed to be lurking within ten miles of the Settlement, and during my stay of eight days, I used every exertion for their apprehension, but having completed every other object of His Excellency's instructions, I did not feel myself at liberty to detain the cutter longer, and accordingly I embarked on the 3rd instant on my return to Sydney. I had less inducement to delay my departure, knowing that the residents are keeping a strict watch on these men, and there is little chance of their long escaping detection. Such is the feeling, indeed, among the persons now forming the establishment at Port Philip, that they expressed to me their determination to use their best endeavours to apprehend any convict who may escape thither, and to forward him by the first opportunity to the police of either New South Wales or Van Diemen's Land.

"7. On the 1st June, I held a conference with the aboriginal natives, and I distributed to them some of the blankets which were placed at my disposal for that purpose. So far as my information extends I am of opinion the number frequenting the country occupied by Europeans is about eight hundred (800) of which four hundred (400) have assembled on the Settlement at one time. Their movements are, however, very uncertain; and though I was somewhat surprised that, from the means I adopted of sending notice that blankets would be distributed, a larger number did not meet, the residents accounted for the circumstance in various ways, and my impression is, that either the shortness of the notice, or some feast at which they were supposed to be present, occasioned the small assemblage. Messrs.

Wedge and Batman having undertaken the charge of the remainder of the blankets, and promised to distribute them to the natives, I have no doubt His Excellency will approve my having left them with these gentlemen for that purpose, and I am informed by Buckley that even if I remained another fortnight I might not see more of them.

"8. The use of tobacco is yet unknown to them, and it would not be appreciated had any been distributed.

"The respectable residents are anxious to prevent their acquiring a taste for either it or spirits; and by their advice I have brought it back to Sydney. The articles most prized by the blacks are blankets, tomahawks, knives and brass ornaments.

"9. The blacks above alluded to are divided into seven (7) principal tribes, and the following, as far as I have been able to ascertain, is the name of each, its chief, and the country it inhabits, viz.

| <i>Tribes</i> | <i>Chiefs</i> |
|------------------|----------------|
| Yow Whamgetée, | Murradannanuke |
| Wodewawow, | Coralcurke |
| Geraltimié, | Boddoneuneuke |
| Bemgalité | Nullamboine, |
| Odeboligitcorong | Eugait, |
| Dutagalla | Jagagaga |
| Boatnairo | Wodelanenuke |

I am inclined to think it has not been sufficiently ascertained what distinguishing title the chief prizes most, but have been led to believe that they designate themselves as the chief of such a tribe, and not the king of such a country.

"10. On the same day of my holding the conference with the natives, there was a meeting of the Europeans at the Settlement, and I embraced that opportunity of promulgating the Proclamation of His Excellency Sir Richard Bourke, and circulated copies of each, for the purpose of their being posted up at the various stations of Europeans.

"11. I further, agreeably to my instructions, embraced the opportunity of my stay at Port Philip, to collect all the information I could relative to that Settlement, and neighbouring country, and the following is the result of my inquiries. The Bay of Port Philip is about 100 miles in circumference, and, owing to the numerous shoals, is of rather difficult access. All the vessels, with the exception of one, which always chooses the western passage, go by the eastern channel,

although the western is the more direct to the Settlement, owing to the former not being so well known. The town 'Bearbrass,' is on the left hand of the Yarro Yarro, about seven miles from its mouth, which at present consists of thirteen buildings, viz. three weather-boarded, two slate, and eight turf huts.

"The whole amount of European population consists of 142 males and 35 females; of these, nine are proprietors claiming under Mr. Batman's treaty with the natives in June 1835; four of whom reside on their lands, and some of the others are soon expected to follow their example.

"Twenty-four others are individuals who have settled in the vicinity without any regard to the above treaty and the remainder are composed of⁴ and servants of the above.

"The number of sheep grazing at Port Philip when I left was computed at 26,500, the number of horses at 57, and of horned cattle 100. The estimated value of the whole stock, together with farming implements, &c. was computed at 80,000*l*. There was last year under cultivation 60 acres, and the settlers have now brought the means to cultivate to any extent which under the tenure of their circumstances, they may deem expedient. I could not find, however, that their object was so much agriculture as to secure pasture for their stock. The wheat which had been grown, Mr. Batman assured me, was of excellent quality.

"12. The Europeans occupy an extent of about 100 miles of country, but no person is known to have penetrated more than 70 miles within land, and the most distant station is not, that I could learn, more than 35 miles from the township.

"The soil is generally available for all agricultural purposes, and for the most part, open grassy plains or downs. A very considerable tract of fine country is represented as extending to the westward of Port Philip. The land in other directions beyond the limits claimed by the proprietors who acquired under Mr. Batman's treaty with the natives, is not known to any extent, but it is supposed there is an available country extending to the north and north-west, as well as to the eastward as far as the western extremity of the Australian Alps.

"13. The country about Port Philip did not suffer last season from the severe drought that was experienced in New South Wales and Van Diemen's Land; and Buckley states that during his long expe-

⁴ This blank is in the printed copy of the report.

rience of upwards of thirty years, he has never seen the pastures materially affected by the want of rain nor the country during all that period flooded. In a ride which I took across the country between the two branches of the Yarro, I observed on some plains considerable cracks in the ground, which I thought must have been caused by the dry weather, but, on my remarking the circumstance, I was told that the pasture did not suffer in the least.

“14. Little appears to be known by the residents of Port Philip relative to the country about Western Port; but the impression seems to be, that there is at the latter place but a small extent of available country compared with the former. On our way to Port Philip, being caught in the straights by a gale of wind, which injured the sails of the cutter so materially as to compel us to put into Western Port to repair, I took the opportunity of visiting the country where the Settlement formerly was, (about eight miles from where we anchored,) and walked for some miles through as rich a country as I have seen. It was thickly clothed with Kangaroo grass, upwards of three feet in height, and in mentioning this at Port Philip, I was informed that, in that direction, there are excellent *cattle* stations, but the ground is considered too wet for sheep.

“I beg to annex a long and interesting communication addressed to me by Mr. George M’Killop, an intelligent gentleman lately from India, who has embarked a large capital in the Port Phillip speculation.

“It is perhaps unnecessary for me to draw the attention of His Excellency to any separate portion of that letter, except it be the important subject mentioned in the postscript, viz., the smuggling of tobacco, which, together with spirits, I found were, by means of the vessels trading thither, constantly imported without duty either at Sydney or Van Diemen’s Land.

“For His Excellency’s information, the following list of the vessels now employed in bringing stock from Van Diemen’s Land is given:—

| | | | | | |
|-------------|----|----|---------|----|---------|
| Enterprise | .. | .. | 55 Tons | .. | 9 Trips |
| Adelaide .. | .. | .. | 100 ” | .. | 14 ” |
| Norval .. | .. | .. | 300 ” | .. | 7 ” |
| Caledonia | .. | .. | 300 ” | .. | 4 ” |
| Champion | .. | .. | 110 ” | .. | 3 ” |
| Vansittart | .. | .. | 110 ” | .. | 2 ” |
| Gem .. | .. | .. | 80 ” | .. | 3 ” |
| Hetty .. | .. | .. | 100 ” | .. | 1 ” |

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| | | |
|------------------|----------|-----------------|
| Chili | 200 Tons | 2 Trips |
| Henry | 150 " | 2 " |
| Edward | 60 " | 1 " |
| — — — | | |
| Total tons | 1565 | No. of trips 48 |

Indeed, if I may venture to give an opinion, the establishment of a branch of the customs appears necessary to regulate the introduction of those articles of trade.

"15. In conclusion, I beg to assure His Excellency, that the residents generally express great satisfaction at the Government of New South Wales having made inquiry into their state, and would, I am persuaded, feel much gratified if this Government would extend to them its protection.

"I have the honour to be,

"Sir,

"Your most obedient servant,

(Signed)

"GEORGE STEWART.

"To the Honourable the Colonial Secretary, &c."

Mr. Stewart was accompanied in the revenue cutter by Captain Roach.

Mr. Arden, in his pamphlet says that Mr. Stewart was enabled to gather the following points of statistical information:—"In the six months which had elapsed since the close of the preceding year"—1835—"the settlement had assumed the appearance of a village; several buildings, although of a rude construction, having been erected; of these many had their plot of garden ground attached; a blacksmith's forge was at work; soil fit for the manufacture of bricks had been discovered and experimentally tried, and upwards of fifty acres of rich light black loam had been brought into general cultivation. The number of sheep which had been imported amounted to sixteen thousand nine hundred and seventy-five, which, in addition to those belonging to the colony in December, and their sub-

sequent increase, would give a total of twenty thousand; the number of shipping arrivals had been in all thirty-five barques, brigs, and schooners, besides the revenue cutter *Prince George*, and the population had increased to upwards of two hundred; stations had been formed in number proportionate to the increase of stock, and the surrounding country for fifty miles laid open for location."

On April 6th, 1836, General Bourke writes to Lord Glenelg, "The emigration from Van Diemen's Land to Port Phillip continues in active operation. I trust I shall soon be honoured by your lordship's commands on the subject; lest such confusion should prevail there as may require an interference upon my own responsibility." The instructions so much desired, were, when this was written, a week old, by the date of the following despatch of Lord Glenelg:—

"G.

"13th April.

"Governor Bourke,

&c. &c.

"Sir,—I have received your Despatch dated the 10th of October last No. 99, reporting the proceedings of Mr. Batman and others at Port Phillip and Twofold Bay and suggesting the measures which ought to be adopted to meet this new exigency in the affairs of your Government.

"I approve of the course which you have hitherto pursued on this subject, and especially of your Proclamation maintaining the right of the Crown to the soil on which these new settlements have been effected. Although many circumstances have contributed to render me anxious that the aborigines should be placed under a zealous and effective protection, and that their rights should be studiously defended, I yet believe that we should consult very ill for the real welfare of that helpless and unfortunate race, by recognizing in them any right to alienate to private adventurers the land of the Colony. It is indeed enough to observe that such a concession would subvert the foundation on which all proprietary rights in New South Wales at present rest and defeat a large part of the most important regulations of the Local Government.

"It is altogether superfluous to enter on the present occasion into any discussion or formal statement of the principles which form the basis of the rules according to which land is disposed of in the Australian Colonies. The views of the Earl of Ripon have been adopted and enforced by every one of his successors. The object of Lord Ripon's rules would counteract the tendency of settlers in a new country to disperse themselves as detached families over its surface, and to promote the co-operation of the inhabitants in all works of public utility, and in the employment of labour and capital. But to suppose that Lord Ripon could have contemplated the concentration of the people as the ultimate end to be aimed at, or that he regarded it in any other light than as the means through which other great social purposes were to be attained, would indeed be entirely to misapprehend his policy. He deprecated dispersion in so far as it might interfere with the advancement of the Colony in wealth and other social advantages, and with the maintenance of those religious and scholastic establishments to which he was so justly attached. But he would not have deprecated concentration at the expense of any of those objects.

"If, however, my information be accurate, the Eastern shores of New Holland, at least on the Southern half of that great region so far as they have hitherto been explored whether coastwise or inland, present a physical impediment to the close concentration of the inhabitants, with which it would be only futile to contend by human laws. The age of manufacturing industry is of course remote, even tillage can scarcely be pursued advantageously to any great extent, while the whole surface of the country exhibits a range of sheep walks which though not naturally fertile, are yet when occupied in large masses, of almost unrivalled value for the production of the finest description of wool. New South Wales is therefore not only marked out by nature for a Pastoral Country but for a country of which the pasturage must from the quality of the soil inevitably separate the shepherds and herdsmen, and all their associates from the general seat of Government and from each other. The principle of counteracting dispersion when reduced to practice, must unavoidably be narrowed within the limits which these physical peculiarities of the Colony dictate and require.

"But that principle must also bend to a necessity of a different kind. It is wholly vain to expect that any positive laws, especially those of a

⁶ Query "advocated," but so in original.

very young and thinly peopled country, will be energetic enough to repress the spirit of adventure and speculation in which the unauthorized settlements at Port Phillip and Twofold Bay have originated. The motives which are urging mankind especially in these days of general peace and increasing population, to break through the restraints which would forbid their settling themselves and their families in such situations are too strong to be encountered with effect by ordinary means. To engage in such a struggle would be wholly irrational. All that remains for the Government in such circumstances, is to assume the guidance and direction of enterprizes which though it cannot prevent or retard it may yet conduct to happy results.

"It may indeed admit of serious doubt whether the settlers at Port Phillip and Twofold Bay have not in reality given birth to undertakings which most deliberate reflection would have recommended rather than discouraged. Each of these places will probably at a time more or less distant form the nucleus of a new and flourishing settlement, interchanging with the districts at present occupied in the vicinity of Sydney many articles of internal commerce, and contributing to expedite the general occupation by the people of this kingdom or their descendants of those vast territories in which our national wealth and industry have already, in the last half-century converted an unproductive waste, into two great and flourishing provinces. In producing and multiplying such results as these it has I believe always occurred, and is perhaps inevitable that the sanguine ardour of private speculation should quicken and anticipate the more cautious movements of the Government.

"I have entered on these general remarks not as supposing that they could convey to you any new information or suggestions, but from my solicitude to show that in yielding to the unforeseen exigency which has arisen H. M. Government are not forgetful of, or departing from those important principles of colonization which Lord Ripon so earnestly inculcated. In truth I know not how under the new circumstances of the case, effect could be given to those principles, unless the Local Government should as you propose place itself at the head of the undertakings in which the unauthorized settlers have engaged.

"The settlement at Port Phillip will probably be reinforced by a large number of emigrants, and a considerable introduction of capital from Scotland. I enclose for your information copies of the correspondence in which I have already been engaged with some gentlemen on

that subject. You will perceive that I had to a considerable extent anticipated your own views.

“Respecting the arrangements to be made for settling a form of government at Port Phillip and Twofold Bay, I advance no further than to express my general concurrence in your views, and to sanction your acting on them in the manner which you propose. I feel that writing at this distance on a subject so novel and peculiar, I should rather encumber than assist you by attempting to enter with more minuteness into the details of your plan.—I have the honour to be, &c. &c.”

Never was a Government more completely drawn along by a few of its subjects, than in the colonization of Victoria. While despatches were passing between the Secretary of State and the Governor of New South Wales, evolving theories about dispersion of population, the problem was practically taken in hand and solved by the founders of Victoria, at Portland and Port Phillip Bays. By the action of a few individuals the Government—which so recently had refused to sanction the area of colonization being carried as far even as Twofold Bay—was now obliged to authorize its extension to a much greater distance. The Imperial Government gave way with a very good grace; and there seems little doubt, from his statesmanlike despatch, that Lord Glenelg was convinced that the time had arrived for a great advance in the march of Australian colonization.

CHAPTER VI.

FIRST ESTABLISHMENT OF A GOVERNMENT.

Law-abiding disposition of the pioneers of Victoria—Measures taken by Sir Richard Bourke—Captain Lonsdale sent as Police Magistrate to Port Phillip—His instructions—Appointment of other officials—Governor Bourke visits Port Phillip—Names Melbourne—Despatch reporting his proceedings at the new settlement—Commendation of Captain Hobson and his officers—Various official arrangements—Mr. La Trobe appointed Superintendent of Port Phillip.

THE first step towards the extension of the authority of the New South Wales Government to Port Phillip, was, as we have seen, the sending of Mr. Stewart to report upon the new settlement. Mr. Arden describes the efforts made by the early Colonists, to supply the want of regularly constituted authority. He says,—

“During his” Mr. Stewart’s, “visit a meeting was held of the staid and elderly inhabitants, chiefly stock proprietors, for the purpose of framing certain resolutions, the object of which should be the creation of a provisional government previous to the appointment of a Police Magistrate for the district. The main-spring of this temporary order of rule seems to have consisted in the erection of a Court of Appeal, to which any member of the community was privileged to have access against the real or fancied aggressions of another: its authority, however, rested upon the simple plan of causing inquiry and proclaiming award,

no power having been vested in them to infringe the personal freedom of the subject. Another point of almost equal importance was the desire evinced to the meeting to bind each other down by some very wholesome and prudent rules in respect to their relative position with the aborigines, a determination to refrain from encouraging a use of fire-arms amongst the savages, and to protect the harmless and more peaceable among them from any system of wanton aggression. These, when subscribed to, were submitted to the perusal of the magistrate before mentioned, who was well pleased to find so respectable a community in so wild a land, having evidently been impressed with very unfavourable ideas regarding the character of this nest of adventurers. The date of this circumstance, by reference to Mr. Fawkner's Journal, was the 1st of June, 1836."

Much light is thrown upon this laudable proceeding of the pioneers of Victoria, in the "Australasian" of December 20th, 1873, by the following important letter and document from Mr. Henry Creswick, an early Colonist. The former—as does Mr. Stewart's Report—completely vindicates Victoria from Mr. Trollope's insinuation that the infant settlement bore the taint of convictism; the latter is of great historical interest, and shows the high value which the founders of the colony set upon law and order and the establishment of constituted authority.

"To the Editor of the AUSTRALASIAN,—

"SIR,—With many others who have read Mr. Trollope's *Australia and New Zealand*, I am ready to admit that, considering the time he gave himself to collect the information which he has so fearlessly published, his book is a marvellous production of genius. I must, however, challenge the correctness of Chapter 42, . . . wherein is stated,—'Even Port Phillip which is now Victoria, was first occupied by convicts sent thither from the parent colony—though it is right to say that the convict system never took root there, and that the attempt never reached fulfilment. On the same principle New South Wales sent an offshoot convict depôt to King George's Sound, which is now part of Western Australia—an unhappy colony which, in its sore distress, as I have just explained, was des-

tined to save itself from utter destruction, by delivering itself to the custody of 'compelled immigrants,' who could be made to come thither and work when others would not come. In this all the now existing Australian Colonies, except South Australia, have either owed their origin to convicts, or have been at one period of their existence fostered by convict labour.'

"Now what would the general reader infer from this but that Port Phillip (now Victoria) was in some way or other founded on 'compelled immigrants.' I here state, and defy contradiction, that Port Phillip (now Victoria) was in no way indebted to 'compelled immigration' for its formation. It is true that the country now known as Victoria, which can only be said to date from the arrival of the Hentys at Portland, and Batman, Fawkner, and others at Melbourne, the former in 1834, and the latter in 1835, was occupied by Governor Collins with a cargo in 1803, and abandoned almost immediately for Hobart Town. This clearly cannot be said to have anything to do with Port Phillip, now Victoria; and further, the Imperial Government sent out about 1844 as 'free immigrants' prisoners from Pentonville, and immediately the colonists discovered the class of persons which were being foisted upon them, they not only refused to have them, but sent the ships away which contained them, and would not allow them to be landed.

"I, therefore, consider Mr. Trollope's remarks unjust to Victoria, for while I do not wish to cast a single reflection upon any of the other colonies for their origin, I do not see that our good neighbour, South Australia, should alone have the benefit of the following:— 'But South Australia has never been blessed or cursed with the custody of a single British exile.'

"In support of the position I have now taken, it is fortunate that I have the opportunity of submitting herewith for publication the oldest constitution which pertains to the history of Port Phillip, which, with other interesting colonial matters, I recently found among the papers of the late Dr. Alexander Thomson of Geelong; and it should, I think, carry conviction to the mind of Mr. Trollope that his cursory view and report of our early history is simply incorrect and liable, if not corrected, to remain to our prejudice. I may add that the Old Colonists' Association, at the formation of their Society put forth the following statement:—'The Colony of Victoria having been established by the enterprise and

energy of the early settlers, without assistance of any kind from the Imperial Government, thus avoiding, fortunately, the reproach of convict taint, so generally attendant on any pecuniary aid afforded by the parent state to young colonies, it has been thought well to place on record, by the establishment of an Old Colonists' Association, the names of those who have been instrumental in founding, on a broad and firm basis, a colony which promises to outstrip in wealth and greatness all the Colonial dependencies of the British crown. Yours, &c.

“H. CRESWICK.”

“1, Market Street, Melbourne, December 10th.”

The following document is printed immediately after Mr. Creswick's letter which enclosed it; and the author is much indebted to that gentleman for calling his attention to such a valuable record, just in time to enable it to be given in these pages. Mr. Creswick informs him that the original is among his papers in Australia. (See Appendix, page 355.)

“At a meeting of the residents at Port Phillip, held on this 1st day of June, 1836—present John Batman, John Helder Wedge, John Pascoe Fawcner, John C. Darke, John Wood, Frederic Taylor, David R. Pitcairn, William Diprose, Thomas Roadknight, W. G. Sams, John Aitken, Alexander Thompson, Joseph Sutherland, William Roadknight, James Simpson, and G. Mackillop—

“It was proposed by John Pascoe Fawcner, seconded by Mr. John Wood, and carried unanimously—‘That Mr. James Simpson be appointed to arbitrate between individuals disputing on all questions, except those relating to land, with power to him to name two assistants when he may deem fit.’

“It was proposed by Mr. John C. Darke and seconded by Mr. Wedge and carried unanimously—‘That the arbitrator or arbitrators, be empowered to inflict any fine that he or they may deem fit, proportionate to the injury complained of.’

“Proposed by Mr. Fawcner, and seconded by Mr. Thompson, carried unanimously—‘That all the subscribing parties to these resolutions bind themselves not to raise any action at law or equity

against the arbitrator or arbitrators, for any act he or they may perform in the execution of the duties hereinbefore imposed on them.'

"Proposed by Mr. Wedge, seconded by Mr. Aitken, and carried unanimously—'That the residents not present at this meeting be invited to become parties to these resolutions.'

"Proposed by Mr. Pitcairn, seconded by Mr. Thompson, carried unanimously—'That all parties do bind themselves to communicate to the arbitrator any aggression committed upon or by the Aborigines, that may come to their knowledge, by the earliest opportunity, and that he be empowered to proceed in the matter as he shall deem fit.'

"Proposed by Mr. Wedge, seconded by Mr. Fawcner, carried unanimously—'That all subscribing parties pledge themselves to afford protection to the Aborigines to the utmost of their power; and further, that they will not teach them the use of fire-arms or allow their servants to do, nor on any account to allow the Aborigines to be in possession of any fire-arms.'

"Proposed by Dr. Thompson, seconded by — Batman, carried unanimously—'That the arbitrator collect all fines, and hold them until the next general meeting of the settlers, on the 1st day of September next.'

"Proposed by — Roadknight, seconded by — Aitken, carried unanimously—'That destruction of wild dogs being of great importance to the colony, a reward of 5s. be given for the production of every head of the same, and that a fund be raised by subscription for that purpose, the master's certificate being sufficient proof of the destruction.'

"Proposed by Mr. Fawcner, seconded by Wedge, carried unanimously—'That a petition be prepared to Governor Bourke, praying him to appoint a resident magistrate at Port Phillip, and that he will be further pleased to appoint from among the residents here, other gentlemen to assist him when required. Signed

D. R. PITCAIRN.
G. MACKILLOP.
JOHN WOOD.
T. ROADKNIGHT.
W. G. G. SAMS.
JOHN AITKEN.
WM. ROADKNIGHT.

FRED TAYLOR.
ROBT. M'LEOD.
HENRY BATMAN.
WM. WINBURY.
MICHEL LONNARD.
WILLIAM CHAPTER x his mark.
B. G. HOLLINS.

| | |
|--------------------------|------------------------------|
| A. THOMSON. | J. SOLOMON, P.P.E.F. |
| JNO. H. WEDGE. | MICHL. CARR. |
| JOHN PASCOE FAWKNER. | JOHN MYLAND. |
| JOHN CHAS. DARKE. | WILLIAM PARKER × his mark. |
| JOHN BATMAN. | WILLIAM DAVIS, × his mark. |
| WILLIAM DIPRO. | JAMES GUM. |
| J. SUTHERLAND. | WILLIAM BUCKLEY, × his mark. |
| JAMES SIMPSON, Chairman. | DAVID THOMAS. |
| ED. FERGUSON. | |

“Males, 34; females, 12; children, 13; total, 77.”

Mr. James Simpson, the arbitrator, was a much respected gentleman, who was afterwards, for some years, magistrate in Melbourne. Dr. Thomson was an energetic and useful colonist, who came over with Batman. He afterwards resided in Geelong, which he represented in the first legislature of Victoria, having also previously been member for Port Phillip in the Legislative Council in Sydney.

Nothing further could be done till the receipt of the permission, contained in Lord Glenelg's despatch of April 13th, 1836. On its arrival Governor Bourke was not slow to act upon it, as appears by the following communication addressed by him to Lord Glenelg¹ :—

“*Government House, Sydney,*

“*15th September, 1836.*”

“MY LORD,—In acknowledging the receipt of your Lordship's despatch of the 13th April last, No. 142, I have the honour to state that I lost no time in acting upon the permission it contains to open the country about Port Phillip to settlers, and to establish civil authority in the district for the protection of the Aborigines, and the due administration of the laws.

“His Majesty's ship *Rattlesnake* being in Port Jackson when your Lordship's despatch was received, I proposed to Captain Hobson to

¹ All the subsequent documents in this chapter are copied from those in the Record Office.

proceed to Port Phillip immediately, taking with him Captain Wm. Lonsdale, of the 4th Regiment of Infantry, whom I have appointed Police Magistrate of the District, and who is to command a small detachment of that corps which I have since ordered there. In the Government Notice of which I have the honour to transmit a copy, I intimated to the inhabitants of N. S. Wales and Van Dieman's Land the authorized occupation of the shores of Port Phillip Bay.

"I have despatched to that place a party of three surveyors with the necessary apparatus and attendants. I propose to have the land measured off into sections, and portions put up periodically for sale in conformity to His Majesty's instructions. By a previous measurement of this sort the selections by individuals, in which all sales originate in this part of the colony and the delay and inconvenience attendant on this process will be avoided.

"I have also appointed an Officer of Customs, and a Tide Waiter to reside at Port Phillip, the constant intercourse with Launceston rendering an immediate arrangement necessary.

"I have the honour to enclose a list of the appointments which have up to this time been made; and a copy of my instructions to Captain Lonsdale. I propose that the whole expense of the establishment and contingent charges at that place shall for the present be defrayed by the revenues of Crown Lands, the amount of which will I anticipate be much augmented by the sale of lands of that District.

"I have caused a communication to be made to Mr. Batman and his associates, informing them of His Majesty's command that the district should be opened for location, and requesting that some person on the part of the Company should attend at Sydney to arrange the terms on which the Association will be permitted to retain some part of the land they had taken possession of. I propose to take the benefit of the advice of the Executive Council in making the arrangement.

"I beg leave to observe that although I find by the Act of Parliament, that the Southern Australian Company have received authority to occupy a large portion of the territory placed by His Majesty under the government of New South Wales, I have had no intimation whatever of this circumstance, nor of the formation or proceedings of the Company from His Majesty's Government. I have been led to make this observation from remarking that the

part of Port Phillip called Geelong, which will probably be used as the Harbour, is not above one hundred miles distant from the 142nd degree of East Longitude, which forms the Eastern Boundary of the Company's grant. The flocks of the colonists will probably ere long be spread over the intermediate space,—and with them convict servants will be brought within the neighbourhood of the Company's possessions. If this should prove an inconvenience to either government, it must be remedied in the best ways it can. It would have been quite impossible to have restricted the settlers of New South Wales or Van Diemen's Land from the use of convict servants in the district of Port Phillip.

“ I have, &c.

“ RICHARD BOURKE.”

The following are the documents copies of which are enclosed with the preceding despatch :—

“ Extract from the New South Wales Government Gazette of 14th September, 1836.

“ Port Phillip.

*Colonial Secretary's Office,
9th September, 1836.*

“ His Majesty's Government having authorized the location of settlers on the vacant Crown Lands adjacent to the shores of Port Phillip under the same regulations as are now in force for the alienation of Crown Lands in other parts of New South Wales, and several persons having already passed over there from Van Diemen's Land, His Excellency the Governor has been pleased to appoint Captain William Lonsdale of the 4th or King's Own Regiment, to be Police Magistrate for that district, of which all persons concerned are hereby required to take notice. Arrangements are in progress for effecting the survey and measurement of such parts of the land near Port Phillip as it may be expedient to dispose of in the first instance; but until the same shall have been completed, of which due notice will be given, no applications for purchase can be entertained. In the meantime, it is distinctly to be understood by those persons who may be desirous of resorting to Port Phillip from other parts of New South Wales or Van Diemen's Land, that no advantage will be obtained by the occupation of any land at that

place previously to its conveyance by a legal instrument from the Government of New South Wales, as without such title the land (unless required for public purposes) will be subject to be put up for competition, at a public sale, and sold to the best bidder.

“By His Excellency’s Command.

“(Signed) ALEX. M’LEAY.

Captain Lonsdale’s instructions were as follows:—

“Copy.

“*Colonial Secretary’s Office, Sydney,*
14th September, 1836.

“SIR,—His Majesty’s Government having been pleased to authorize the occupation of the vacant Crown Lands on the shores of and adjacent to Port Phillip to which district several persons have already passed over from Van Diemen’s Land, it has been deemed expedient by His Excellency Sir Richard Bourke to appoint a Civil and Military force for the preservation of good order in those parts.

“I am in consequence commanded to inform you that his Excellency has been pleased to name you to be Police Magistrate for the district of Port Phillip, to which place you are to hold yourself in readiness to repair at your earliest convenience, a passage being provided for you in His Majesty’s ship *Rattlesnake*.

“The following are the general Instructions by which you are to be guided in the discharge of the duties confided to you.

“Under your Commission of the Peace, and in the capacity of Police Magistrate, you will exercise the ordinary jurisdiction of a Justice, the laws of England in force in this part of the colony, and the acts of the Governor and Council being equally applicable to the district in which you are to be placed as to any other part of New South Wales. In order to provide for the due administration of those laws in cases where the presence of two justices is required, it is intended to give a commission of the peace to the subaltern officer who proceeds with the detachment of His Majesty’s troops ordered to that station. To execute your warrants and orders one district and two ordinary constables, will be appointed and directed to accompany you, and you are authorized to select a clerk either from the military on the station, or to employ any competent person whom you may find on the spot. You will be required to forward to this government, and to the Attorney-General

and Principal Superintendent of Convicts, the same description of returns and reports, as are now furnished by Police Magistrates from other parts of the territory, excepting the Monthly Confidential report, the form of which is not applicable to the district in which you are to reside. I am, however, to desire that on the last day of every month you prepare a report, in which you are to narrate every important transaction occurring in that month, with which you may think it advisable this government should be made acquainted. This report is to be marked *Confidential* and addressed to the Governor himself. In addition to this monthly communication you are to understand that when any circumstance of importance arises requiring immediate report to Government, you are expected to take the readiest means of furnishing such information. I should add that for some time it will be proper for you to make your communications in duplicate and probably to use the Port of Launceston, in Van Diemen's Land, as the channel of intercourse with Sydney.

“ Having thus pointed out to you the general line of your duty, and the extent of your powers as Police Magistrate at Port Phillip, I am further commanded to inform you that Sir Richard Bourke placing entire confidence in your intelligence and discretion is desirous of giving to you the general superintendence in the new settlement of all such matters as require the immediate exercise of the authority of the government. For this purpose I have to acquaint you that His Excellency has directed a branch of the Surveyor General's Department to repair to Port Phillip for immediate measurement of a portion of the district. A copy of the Instructions given to the officer in charge upon his undertaking this duty and such as he may subsequently receive will be forwarded to you. He will be directed to communicate with you upon any subject requiring the interference of your authority, and to follow such directions as he may in any case receive from you. Without interfering with his professional duty you will attend to his proceedings and report to me for the Governor's information, whether in your opinion due diligence is used by himself and those under his immediate orders, and whether the instructions he has received are carefully followed. This officer will also be appointed a Commissioner of Crown Lands, and it will be his duty to bring before you the case of any intruder whom you may find it necessary for the public

service to remove from those lands under the provisions of the act of the Governor and Council 7 Gul. 4 No. 4.

“In like manner the instructions given to an officer of customs, whom it is proposed to station at Port Phillip, will be made known to you. He will be directed to apply to you in any case of doubt or difficulty requiring immediate decision and to act upon your instructions, and you will afford him every assistance in your power to facilitate the execution of his duty.

“A gentleman having been appointed surgeon and catechist by the residents now at Port Phillip, you are authorized to place the name of this individual, if you think him qualified, on the Abstract of the District at his present rate of pay from the date of your landing, and to inform him that he is thenceforward to consider himself in the employment of this Government and placed under your orders.

“You will report to me for Sir Richard Bourke’s information the conduct and proceedings of those, or any other officers in the civil service of this Government who may be placed within your district.

“Immediately after landing at Port Phillip you are to take an accurate census of every person then residing in the District, specially noting those who have occupied any portion of the land by erecting a hut or grazing cattle or sheep and distinguishing those who have done either or both. It will be convenient to take this census as nearly as possible in the form set forth in the late act. You may employ for this purpose such of the constables, or other persons as you find necessary, paying them at the authorized rates. You should be careful to engage trusty persons on this service lest unfair claims should hereafter be advanced upon the plea of an early occupation which never existed. You will also carefully note all subsequent arrivals or occupations.

“If before the arrival of the transport, which is to follow with the military detachment, you should require any aid to the Civil Power, you will apply to Captain Hobson of his Majesty’s ship *Rattlesnake*, who, I doubt not, will readily afford you very necessary assistance.

“It will be one of your most important duties to protect the aboriginal natives of the district from any manner of wrong and to endeavour to conciliate them by kind treatment and presents, assuring them that this Government is most anxious to maintain a friendly intercourse with them, and to improve by all practicable

means their moral and social condition. With a view to this improvement you will endeavour to establish them in a village, and to induce them to offer their labour in return for food and clothing. You will continue to employ as the medium of communication with them the European named "Buckley" who has so long resided amongst them, allowing him the same salary as he now receives from Mr. Batman and his associates. Should the conduct of the natives be violent or dishonest, you will endeavour to restrain them by the gentlest means, informing them that they must consider themselves subject to the laws of England, which being put in force for their protection, must equally operate for their restraint or punishment if they offend the whites. They must accordingly be sent to Sydney for trial if they commit a crime of such magnitude as to require it. You will take an early opportunity of reporting to me for the Governor's information the number of the Aborigines with whom you have been able to communicate, the steps you have taken for acquiring their confidence and good will, and the general result of your exertions for their advantage, suggesting at the same time any further measures which you would desire to see adopted in their favour.

"A Government notice of your appointment has been issued and printed, which you will cause to be posted and circulated at Port Phillip. You will draw the attention of any person who may desire to occupy land in the district to that part of the notice which treats of this subject. It is not intended that you should actually prevent free persons either with or without stock from passing into the district, nor that you should disturb the occupation of those already there as long as they conduct themselves honestly and peaceably, but you will discourage any person from occupying land before he acquires a title and particularly caution him from effecting improvements which will serve to augment competition when the land is put up for sale. It is the desire of this Government to expedite as much as possible the regular location of settlers in those parts, as a preliminary step to which a survey and measurement of the lands are ordered. The premature occupation by individuals will give them no advantage at the time of sale.

"If you should at any time desire to remove any person from the lands of the Crown whose conduct is such as to render his presence there injurious to the public service you will not scruple to use

all legal means to effect this object. If payment of the fine imposed on unauthorized occupation by the Act be not made, the offender must be committed to Sydney Gaol for the period specified by 5 Gul. IV. No. 22. It is to be hoped, however, that by the proper union of moderation and firmness, the necessity for so disagreeable a proceeding may be wholly avoided.

"It is proper to inform you that the application made to His Majesty's Government by Mr. Batman and those gentlemen connected with him for permission to occupy a large portion of the Crown Lands at Port Phillip has been referred to the Government of New South Wales for consideration. Measures will be immediately taken for conferring with Mr. Batman and his associates on this subject.

"You will please to correspond with me for Sir Richard Bourke's information upon any other matters connected with your civil employment which may not have been adverted to in these Instructions. I have the honour to be,

"Sir,

"Your most obedient humble servant,

"(Signed) ALEX. M'LEAY,

"Col. Secy."

Statement sent to Secretary of State of "Appointments for Port Phillip.

Police Magistrate,

CAPTAIN WM. LONSDALE,

£300 per annum, deducting £50 whilst on full pay.

Clerk 2/6 a day.

1 District Constable 3/- a day.

2 Ordinary do. 2/3 a day.

Assistant Surveyors,

ROBERT RUSSELL £220 per annum.

F. R. D'ARCY } £200 each.
W. DARKE }

(all with authorized allowances)

Officer of Customs.

R. S. WEBBE £200 per annum.

Tide Waiter,

J. MCNAMARA £100 do.

"The following sums have been allowed as *outfit money* in consi-

deration of the expense and difficulty of procuring many articles required in the occupation of a New Country:—

CAPTAIN LONSDALE £100.
Mr. ROBERT RUSSELL £50.
Mr. F. R. D'ARCY }
Mr. W. DARKE } £25.

“ A ration consisting of 1 lb. bread and 1 lb. meat daily is for the present allowed to the free civilians in Government employ at Port Phillip. The Constables receive the Military ration.”

In a reply to Sir Richard Bourke's letter of September 15th, 1836, the general approval of the course he had adopted was communicated from the Colonial Office.

“ *Downing Street,*
31st May 1837.

“ G.

“ SIR,—I have received your despatch No. 101 of the 15th of September last, reporting the measures which you had taken for opening the country in the vicinity of Port Phillip for colonization and for providing for the good order and government of that Settlement, and I have to convey to you my general approval of those measures.

“ Having conferred with the Lords Commissioners of the Treasury with regard to the establishment of officers whom you have sent down to Port Phillip, I see no reason to disapprove of the allowances which you have attached to those appointments. I should however, wish that the system of granting rations to the civil officers should be discontinued as soon as the Settlement shall have been sufficiently established.

“ I must also impress on you the importance of adhering rigidly to the principle of the existing regulations as to the disposal of land, and of fixing such a minimum price for its sale as in the possible absence of the same degree of competition which exists elsewhere will afford a security against improvident appropriation of Crown land at an inadequate price. As this settlement although within your Government is at a considerable distance from Sydney, I think it essential that separate accounts should be kept of the sale of the Crown lands in the District of Port Phillip, and that the proceeds of such sales should be applied to the improvement of this new settle-

ment and especially in the introduction of free emigrants, which would supply the demand for labour without the use of convicts. I am therefore anxious that you should take measures as soon as possible for directing immigration to this settlement, as well as to other parts of the Colony and that you should abstain to the utmost practicable extent from the assignment of convicts to the settlers in the Port Phillip District. The objections to the system which at present prevails in New South Wales with respect to the assignment of convicts would exist in a still greater degree in a new settlement, where there cannot be the same means of conferring order and imposing restraint which are available in an older settlement, while there must be greater facilities of escape, aided by the circumstance to which you have referred of the vicinity of a part of Port Phillip District to the Eastern boundary of South Australia. Nor at a moment when H. M. Government are preparing to put an end to the system of assignment in New South Wales should I consent without the greatest reluctance to its extension, even to a limited degree to any new settlement.

“ It is also of importance that the recent arrangements with regard to the means of religious instruction should be extended as soon as possible to the settlement of Port Phillip.

“ With regard to the Colony of Southern Australia, the publicity which from the peculiar circumstances under which it had originated has attended the various stages of its formation and particularly the fact of its having been constituted under the authority of an Act of Parliament appeared to render any formal announcement to you on that subject unnecessary. It is however important that in regulating the upset price of land at Port Phillip you should not exclude from your consideration the price below which land cannot be acquired within the Colony of South Australia. I have, &c.”

The following is a copy of the communication from the Colonial Office to the Treasury, referred to above, on the subject of the expenditure in opening up the new territory.

“ A. Y. Spearman, Esq.

“ D. S. 12th April, 1837.

“ G.

“ SIR,—I am directed by Lord Glenelg to request that you will

state to the Lords Commissioners of the Treasury that the country at Port Phillip, on the S. E. Coast of New South Wales has been thrown open to settlers under the following circumstances.

“ In the commencement of the year 1835, a large body of persons proceeded (from Van Diemen’s Land chiefly) to Port Phillip, and having formed themselves into an organized Association, took possession of considerable tracts of land under grants from the native chiefs. With this semblance of title they readily attracted new settlers and established a correspondence and agency with a wealthy society in this country from whom they made arrangements for obtaining pecuniary and other aids. The desire of joining the new settlement became so strong as to be described by Colonel Arthur as a ‘mania’ affecting all classes in Van Diemen’s Land. Within a very short space of time Port Phillip assumed the appearance of an established settlement, with extensive and valuable flocks and herds; and judging from the progress of the adventure, it seems not unreasonable to infer that before any instructions from this country could arrive at the place, the population would have become so numerous as to render hopeless any attempt to dislodge them by authority or by force.

“ When intelligence of these proceedings reached Lord Glenelg from the respective Governors of New South Wales and Van Diemen’s Land his Lordship felt the indispensable necessity of adopting the earliest and most effective measures for arresting the progress of these unauthorized settlements. He was peculiarly anxious to do all in his power for the protection of the settlers in South Australia, against the consequences to be apprehended from the facility of obtaining land gratuitously in a neighbouring settlement.

“ His Lordship was also desirous of preventing the calamities which might be anticipated from collisions amongst the settlers at Port Phillip as well as between them and the natives of that District.

“ On review of all the circumstances attending this spontaneous immigration to Port Phillip, it appeared to Lord Glenelg the preferable course for H. M. Government to authorize its settlement; and he accordingly instructed Sir R. Bourke to execute his own proposal to throw open the land for sale and to send down a small establishment of officers for the government of the place.

"I enclose for the information of the Lords Commissioners of the Treasury, an extract of a despatch from Sir Richard Bourke, reporting the appointments which he has considered it necessary to create for this purpose, and also the salaries and allowances which have been assigned to the respective functionaries. In addition to the officers enumerated in the enclosed schedules Sir R. Bourke has authorized Captain Lonsdale, the Chief Officer of the settlement, to take into the service of the Government, (on the pay they were receiving) a gentleman employed by the settlers as a surgeon and catechist, if he should be found qualified, and also an Englishman who had been domiciled for many years among the natives, and who had been used by the settlers as an Interpreter. The allowance to the surgeon, is understood to amount to £180 per annum; what the other receives is not known.

"I am to request that, in laying these papers before the Lords Commissioners of the Treasury, you will inform them that Lord Glenelg is of opinion that the scale of expenditure proposed by Sir R. Bourke on account of this settlement should be sanctioned.

"I am, &c.

"(Signed)

JAMES STEPHEN."

Mr. Spearman of the Treasury writes to Mr. Stephen, April 21st, 1837:—"I have it in command to request that you will state to Lord Glenelg, that My Lords see no reason to disapprove of the proceedings reported by Sir R. Bourke, in respect to the settlement at Port Phillip."

In a despatch of July 26th, 1837, Lord Glenelg remarks to Sir Richard Bourke:—"Your Commission as Governor of New South Wales asserts Her Majesty's Sovereignty over every part of the Continent of New Holland which is not embraced in the Colonies of Western or Southern Australia. Hence I conceive it follows that all the natives inhabiting those territories must be considered as subjects of the Queen, and as within H. M. allegiance."

The letter of Sir Richard Bourke to Lord Glenelg, reporting his visit to Melbourne, though not as descriptive

as could have been desired, must always be regarded as highly interesting and important. It runs thus:—

“ *Government House, Sydney,*
13th June, 1837.

“ MY LORD,—I have had occasion to mention incidentally in despatches addressed to your Lordship, that I had thought it necessary to go from hence to Port Phillip in the month of March last for the arrangement of various matters connected with the successful occupation of that remote portion of this Government. I delayed making any specific report of what I observed during my visit, or directed to be done in consequence of it until I could forward a map of the country over which I travelled. By the kind assistance of Captain King, of the Royal Navy, who accompanied me on the tour, I am now enabled to transmit a sketch of the grounds adjacent to the waters of Port Phillip, extending inland in a northerly direction to Mount Macedon, the nearest point of Major Mitchell's late survey, with which it is thus connected. To the country thus described, which, when more accurately defined hereafter, will probably form one country of a large size, I have, at the desire of the residents, permitted my name to be attached on the manuscript, awaiting His Majesty's gracious allowance before any publication takes place. If your Lordship thinks well of having this sketch added to the map of the Colony which I presume Major Mitchell is about to publish in London, I have to request he may be informed on the subject.

“ I have now to acquaint your Lordship that I found on my arrival on the spot selected for a settlement by Mr. Batman on the banks of the Yarra River, at the head of the inland sea called Port Phillip, an assembled population consisting of from sixty to seventy families. The situation appearing to be well chosen I directed a Town to be immediately laid out, which your Lordship will perceive by the map has received the name of Melbourne. Conceiving it to be an object of some importance to enable the families I have mentioned to place themselves with as little delay as possible on property of their own, I directed one hundred allotments to be measured and offered for sale at Melbourne on the first of this month. I also directed a few allotments to be put up in Williamstown, on the shore of Hobson's Bay, where stores and commercial

establishments are likely to be soon formed. I have not yet received an account of the sales, but I have no doubt the allotments were readily purchased at advanced prices.

“I found at the beginning of March last that the population in the whole district exceeded 500 souls, and before I left Melbourne at the end of that month, the flocks which had been sent from Van Diemen's Land numbered more than 100,000 sheep. The country which I traversed by the routes marked blue on the sketch is of a varied description, but generally the pasture may be described as superior in quality to the average of the districts of New South Wales, which have been earlier settled. It is not for the most part well watered, but the general character of the country is such as to render it a very desirable position for settlers, whether graziers or agriculturists. and there is, I think, little doubt of it soon becoming the resort of emigrants from Europe, as it is now of those inhabitants of Van Diemen's Land, who find it difficult to extend their possessions, or to establish their families to their liking on the land remaining for selection in that Colony.

“As there is thus little doubt that this settlement will increase rapidly in numbers and wealth, it becomes of some importance to consider what way its Government can be best administered, and the inhabitants obtain the benefit of the essential institutions of civil society.

“With respect to the Government, I apprehend that the great distance between Sydney and Melbourne, whether the communication be by land or water, will render it extremely difficult for some time at least to keep up those frequent references upon ordinary as well as important subjects which are required to be made to the seat of Government. The distance by land exceeds 550 miles, and the route passing for nearly 400 miles through a country as yet but little traversed or known, the time required to accomplish it on horseback can hardly be taken at less than ten days. A passage by water may be effected in steam vessels in about four days; but the steamers to encounter in winter the sea on the eastern and southern coast of New South Wales must be of considerable size and power, and the establishment of such will not, I imagine, be attractive to private speculation until the new settlement has made so considerable a progress as to create a commercial intercourse of some importance between the two places. But it may be further

observed that the vicinity of Launceston in Van Diemen's Land to Port Phillip seems to point the former as the mart to which the inhabitants of the latter will for some time resort. To keep up therefore a regular and frequent intercourse between the districts of Port Phillip and Sydney appears for the present impracticable, but a sure though limited communication might be established by means of a Government steam vessel. To diminish the necessity for more frequent intercourse, I would suggest the appointment of a military officer as Lieutenant-Governor or Commandant of the Southern Districts, with civil as well as military authority. To a functionary of this character, all the officers of the Government at Port Phillip and in the Southern Districts might be required to report and receive his orders, whilst periodical reports should be made on his part to the Government at Sydney.

“With respect to legislation, I do not consider that the appointment of a Lieutenant-Governor would render necessary a separate Council or Assembly for the Southern Districts of New South Wales. There would be no great inconvenience in requiring the attendance at Sydney for the Session of those who might be appointed or elected Members of the Colonial Legislature.

“With respect to the administration of the Law your Lordship will perceive by the annexed letter of the Attorney-General of this Colony, that he proposes the addition of a fourth Judge to the Bench of the Supreme Court of New South Wales, in order that one of the four may be available for holding Assizes twice a year at Port Phillip, and discharging the other duties both there and in Sydney, which he describes. The arrangement proposed by Mr. Plunket would probably be sufficient for some time, without the institution at Port Phillip of Quarter Sessions, or a Court of Requests. But to provide with regularity a passage between Sydney and Melbourne for the Judge and attendants on the Court, it would be necessary to establish the Government vessel to which I have referred in a former paragraph of this Despatch, and on which subject I have the honour to address your Lordship a separate Despatch by this opportunity under another cover.

“The expense which it may be necessary to incur under the proposed arrangement is detailed in an annexed schedule and submitted for consideration. I imagine the whole charge for Port Phillip may for some time be defrayed by the sale of land within the

District and the receipt of duties of customs. The latter for the Quarter ending the 5th January amounted to £329 0s. 0d.

“In my despatch of the 15th September last No. 101 I informed your Lordship of the measures I had adopted for opening to location the District in question, and of the appointments I had made from hence for the purpose. I found when at Port Phillip that the Police Magistrate Captain William Lonsdale, late of the 4th Foot, had conducted the varied duties of his station with great ability and zeal; and through his activity and discretion the comfort of the settlers, and the preservation of good order in the District had been fully provided for. I found also that great kindness and attention had been paid to the Aboriginal Natives both by him and the Missionary Langhorne. I have given to them both, every assistance in my power, and I indulge a hope notwithstanding some unfortunate circumstances that the intercourse between these Natives and the white population of Port Phillip will be carried on with greater benefit to the former than has hitherto been experienced in other parts of New South Wales.

“I have not had occasion to make any material addition to the Establishments for Port Phillip reported in my Despatch of the 15th September last. Additions both to the fixed and contingent charges will however be unavoidable as the settlement increases in numbers. The expenditure on account of the settlement from the occupation of this Government in October last to the close of the year, amounts to about £3000, and has been defrayed from the Revenue of Crown Lands, to which Revenue it is probable the sale of Crown Lands situated within the District will hereafter make a considerable addition. I propose to put such lands up to sale as soon as the necessary surveys are completed.

I have the honour to be,

“My Lord,

“Your Lordship’s most obedient

“Humble Servant,

“RICHARD BOURKE.”

It has already been mentioned, that Melbourne had previously been known as the “Settlement,” and by the singular designation—“Bearbrass.”

Mr. Arden complains, as early as 1840, of the area of the town, as originally planned, being already too cramped. It consisted of a frontage to the Yarra of only a mile, with a breadth of three quarters. He says, "It is evident that Sir Richard Bourke, in allowing so confined a portion, could have formed no accurate estimate of the unrivalled growth it has since manifested."

In the letter from Mr. Attorney-General Plunket to the Colonial Secretary, a copy of which accompanies Governor Bourke's despatch and bears the same date, June 13th, the difficulty of administering justice at Port Phillip without the appointment of a fourth Judge, is forcibly pointed out and illustrated. Mr. Plunket says,—

"In the case of *Rex v. Whitehead* for murder committed at Port Phillip (lately tried at the Supreme Court) the witnesses arrived the day after the regular Criminal sittings ended. I endeavoured to have a day *specialy* fixed for the trial after giving the necessary notice to the prisoner; but my doing so *out of course* was a cause of well-founded complaint, and although the trial came on as soon as possible, the expenses paid to witnesses not exceeding *two* in number (for a third though material neglected to come at all) amounted to £115 11s. 0d. and after a close examination of their actual expenses by the Crown Solicitor I am satisfied *that sum* barely covered them."

He also says, "At present I fear Port Phillip is not sufficiently populous to admit of the introduction of Grand Juries though it is for Petty Juries."

Along with Sir Richard Bourke's despatch is sent the following:—

"Schedule of proposed Expenditure.

| | |
|--|-------|
| Salary of a Puisne Judge at the same rate as the other Puisne Judges of the Supreme Court | £1500 |
| His Clerk | 150 |

| | |
|--|------|
| Clerk of the Crown at Port Phillip | £400 |
| Lieutenant-Governor or Commandant to cover charges of Lodging Money, Fuel, Light and Rations | 800 |
| Forage for two horses issued in kind may cost about | 73 |
| Allowance for a Clerk | 150 |

“Memorandum.

“It is proposed to continue the appointment of a Police Magistrate at Melbourne as indispensable.”

In a letter to A. Y. Spearman, Esq., the expenditure proposed by Sir Richard Bourke in his despatch of June 13th, is recommended to the Treasury, with the exception of that for a government steam vessel, which Lord Glenelg defers for the present to bring before the Treasury.

On September 10th, 1837, Sir Richard Bourke writes in the following high terms of Captain Hobson and his officers, several of whose names are borne on parts of Port Phillip Bay :—

“MY LORD,—His Majesty’s ship *Rattlesnake* having lately returned to the Indian Station after a year’s duty in these seas, I feel myself called upon to bring under your Lordship’s notice, the services which have been rendered to this Colony by her commander, Captain William Hobson and by several of the officers under his orders. Captain Hobson was here at the time I received your Lordship’s permission to occupy Port Phillip, and having proposed to him to take the naval charge of the expedition directed to proceed from hence, he most readily undertook the duty and remained in Port Phillip in constant and active employment, until the most necessary arrangements were made on shore, and he had laid down buoys to facilitate the navigation through some intricate channels, and made considerable progress in a survey of the waters of Port Phillip Bay. Upon a second visit he completed his charts, three in number,—a general one of the coast of Port Phillip;—one of the several navigable channels;—and a third of Hobson’s Bay. These have in the usual course of service been forwarded to the Admiralty

Hydrographer, but he has left duplicates with me with permission to have them engraved, and as many copies taken as the immediate exigencies of the service may require. He has thus rendered the trade of this colony, and of Van Diemen's Land very important benefit.

“Having brought this service under your Lordship's notice it is my duty, and I know it is Captain Hobson's wish, that I should mention the names of those officers of the *Rattlesnake*, who were principally engaged in making the survey. A large share of the fatiguing duty of the measurement, and the task of laying all the work down fell to Mr. Shortland, a mate of some standing, and much respected by his commander. Lieutenant Symonds took the next considerable part of the fatiguing duty in boats, and a part was performed by Lieutenant Henry. Observations were made on board by the first Lieutenant Richards, and the Master Pope. I trust your Lordship will do me the favour to lay the names of these meritorious officers before the Lords of the Admiralty, with this brief account of the services they rendered to the colony, in the hope that it may meet with encouragement and reward.

“To Captain Hobson I am further indebted for the very able report on the state of New Zealand, a copy of which I had the honour to transmit with my despatch of the 9th inst. I have every reason to believe that the recent pacification of the tribes which I have reported, is in great measure attributable to the exertions made by Captain Hobson when at New Zealand to effect so desirable an object.

“I have only to add that upon every occasion in which the services of the Naval force under his command were required, I obtained from Captain Hobson the most zealous and efficient assistance.

“I have the honour to be, &c.

“RICHARD BOURKE.”

In a letter of September 15th, 1837, to the Colonial Secretary at Sydney, Messrs. Gibbs, collector, and Cooper, controller, say,—

“We beg to report that having taken into consideration the state of trade now carrying on at Port Phillip;—its extraordinary

increase as compared with the shortness of time which has elapsed since the formation of the settlement and the rapid rise into importance which it has made; together with the circumstances, that from the distance at which it is situate from Port Jackson, the intercourse with Sydney is unfrequent—and the difficulty and risk in conveying the public money to the Treasury consequently great—we are of opinion that it must ere long, if not immediately, become a separate Port—for it is almost impossible to have that control which is necessary for the good of the service, over persons placed at a station five hundred miles distant, the passage to and from which is seldom made in less than a month and many weeks intervening between the departure of one vessel and another.

“Should the Governor take the same view of the case, which we are inclined to think from the several conversations we have had the honour to hold with his Excellency, he does—we beg to state that the Controller of this Port would be happy to go down as collector and take charge of the department there, on the same salary as he now holds, from which measure it is apparent many advantages must arise. . . .

“In accordance with the views of His Excellency the Governor, the Controller would be willing also to undertake the duties of Treasurer and Collector of Internal revenue, should no objection be made to it, and we do not deem the union of these offices with that of collector of customs incompatible.

“The additional establishment necessary in this case, will be a Collector, Collector's clerk and housekeeper at Melbourne, and in the event of its being separated from Sydney, we would recommend that it be made a free warehousing Port, and that its limits should extend from the 37 degree of South Latitude to the western limits of the colony.”

In a despatch of September 14th, 1837, enclosing this letter, Sir Richard Bourke, “coincides in opinion,” and recommends the appointment of Mr. Cooper, as collector, allowing him “to act as Under Treasurer, to receive monies and pay out on the Governor's warrant,” with “a salary of 200*l.* in addition to that of collector.”

In a letter of May 21st, 1838, from Mr. Spearman of

the Treasury to Mr. Stephen of the Colonial Office, Lord Glenelg is informed that "the arrangements relating to the Customs Establishment at Port Phillip, New South Wales, proposed in the despatch of Governor Sir Richard Bourke, of the 14th September last," cannot be sanctioned, on account of "so large an addition to the expense of the establishment, . . . more especially as the services of Mr. Cooper will continue to be required at the head office in Sydney." My lords remark,—

"That the very recent formation of the settlement at Port Phillip, and the limited information that has yet been obtained as to the trade likely to be carried on there, have prevented the Commissioners of Customs from offering an opinion as to the nature and extent of the Establishment it will eventually be proper to place there, and my Lords have therefore considered it sufficient and the most expedient course, to leave Mr. Webb the present Sub-Collector in charge of the Department at that station, and that he should carry on the duties of it with such assistance as the Governor on consulting with the principal officers at Sydney may think necessary for a period of two years, at the expiration of which time the requisite information for enabling the Commissioners to suggest a more permanent arrangement will doubtless be obtained. My Lords have, therefore, conveyed the proper directions . . . that the present Sub-Collector at Port Phillip should take charge of any sums that may be received on account of land sales and any other branches of Colonial Revenue at that station, and disburse or otherwise dispose of the same in such manner as the Governor of New South Wales may direct."

"My Lords will not object to sanction the issue of a moderate remuneration to the Sub-Collector, not exceeding £100 per annum, for the extra duty." *

With a despatch of January 16th, 1839, Sir G. Gipps encloses to the Secretary of State a correspondence between

* May 29th, 1838, Lord Glenelg communicates this decision to Sir George Gipps.

the Colonial Officers of Customs, and Mr. Deas Thomson, Colonial Secretary, on the subject of the appointment of a Landing and Tide Surveyor at Port Phillip.

Mr. W. Gibbes, collector, and Mr. Geo. Cooper, controller of customs, in a letter of December 6th, 1838, point out the necessity of appointing such an officer and recommend Mr. Le Souef at a salary of 200*l.*, and that Mr. Webb, the sub-collector at Port Phillip, where the revenue had lately so much increased, should be allowed a clerk at a salary of 100*l.* a year.

Mr. Deas Thomson writes in reply on December 21st, that the Governor considers the appointments would occasion a large extra expenditure, and desires further information as to the duties performed by Mr. Webb. Messrs. Gibbes and Cooper, reply on the 27th, that the duties of Mr. Webb are most multifarious, and that the revenue already amounts to 12,000*l.* per annum, adding that "they must also repeat their opinion that a boat with a crew of four men will be necessary to enable the duty to be correctly done."

In a despatch of August 13th, 1839, the Marquis of Normanby, Secretary for the Colonies, approves of the appointment which Sir G. Gipps had sanctioned.

Mr. Justice Willis, in a letter of December 15th, 1838, expresses his opinion to the Governor, that the additional Judge proposed to be appointed to the Supreme Court of the Colony should reside, not at Sydney, as Chief Justice Dowling recommended, but at Port Phillip.

A letter of December 26th, 1838, announces to Mr. Croke, his appointment as Clerk of the Crown at Port Phillip, at a salary of 400*l.* a year. In a despatch of February 15th, 1839, Sir Geo. Gipps announces his appointment of Mr. Hy. Nelson Carrington, as Clerk of the Crown

at Port Phillip, at the salary of 200*l.* a year ; but on July 18th, the Marquis of Normanby refers to the fact that Lord Glenelg had previously appointed Mr. Croke to that office. The arrival of Mr. Croke at Sydney on July 25th, 1839, and his re-embarkation for Port Phillip October 29th, are announced in a despatch from the Governor of October 30th. On October 3rd, 1839, Sir G. Gipps reports the establishment of Courts of Request at Melbourne and Port Macquarie, and in another despatch of the same date recommends the appointment of Mr. Ed. Brewster, of the Irish Bar, to the Chairmanship of the Quarter Sessions already established at the former, and also as Commissioner of the Court of Requests, with a salary of 350*l.*

By despatch of October 21st, 1839, to the Marquis of Normanby, Sir Geo. Gipps announces the appointment of Mr. C. M. Lewis to the situation of Harbour-Master at Port Phillip, at a salary of 200*l.* a year.

In a despatch of October 30th, 1839, Sir G. Gipps states that Mr. Croke will have no duties to perform as Clerk of the Crown till the establishment of Assize or Circuit Courts at Port Phillip, but that he is to act as Crown Prosecutor at Quarter Sessions and Legal Adviser to the Government at Port Phillip. The Governor also states that besides Mr. Brewster just mentioned, and Mr. Croke, there was a third law officer at Port Phillip, Mr. Carrington, Clerk of the Peace and to the Petty Sessions.

In writing on June 14th, 1837, Sir R. Bourke strongly recommends to Lord Glenelg the appointment of Col. Kenneth Snodgrass as Lieut.-Governor or Commandant at Port Phillip ; and in one of the 16th, Mr. Kinchela, who occupies temporarily a seat on the Bench, is recommended as fourth Judge, should it be decided to appoint one.

On January 20th, 1838, Mr. Spearman of the Treasury announces to the Colonial Office, the Lords Commissioners' approval of an allowance for the Commandant at Port Phillip at the rate of 800*l.*, and also of the appointment of an additional Puisne Judge recommended in the despatch of Sir Richard Bourke. A letter from the Treasury of March 9th, conveys the concurrence in the appointment of a Police Magistrate, &c., at Geelong. Other appointments recommended, except those relating to the customs, were subsequently confirmed.

A letter from the Treasury of January 29th, 1838, requests Lord Glenelg to direct that the sum of 5*l.* 4*s.* 0*d.* "incurred for victualling Captain Lonsdale and other persons on board H.M.S. *Rattlesnake*, on their passage between Sydney and Port Phillip," should be charged to the account of the Government of New South Wales.

In writing on April 3rd, 1838, to Sir George Gipps, Lord Glenelg says, with reference to some of the despatches of that governor's predecessor,—

"I have read with much satisfaction the report which those despatches contain of the rapid progress of the new settlement. . . The circumstances of the settlement fully justify the appointment of a permanent Commandant, and I shall take an early opportunity of signifying Her Majesty's selection of an officer qualified to fill that appointment. Adverting to the special authority which it is proposed to delegate to the Commandant, H.M. Government do not object to sanction the allowance of £800 per annum which your predecessor has recommended for the officer who may be selected for that command, in lieu of all allowances for lodging, fuel, light and rations. H.M. Government also approve of the appointment of an additional Puisne Judge to the Judicial Establishment of your Government, with a view to the holding Assizes at that remote district, as well as to provide for an increased efficiency on the Bench. The other

appointments recommended by Sir R. Bourke are also approved, including those in the District of Geelong. I have much satisfaction in conveying to you Her Majesty's compliance with the desire of the residents in that portion of the Colony that it should bear the name of your predecessor under whose Government the settlement was established."

The author has not found among any of the documents, the exact date of the appointment, made about this time, of Mr. Justice Willis, as first resident judge at Port Phillip of the Supreme Court of New South Wales, nor of his entry upon his duties. The subsequent removal of the learned judge, for want of temper on the Bench, was the subject of protracted discussion and inquiry. Mr. Willis only died within the last few months.

In the following letter, Mr. La Trobe thanks Lord Glenelg for his appointment as Superintendent of Port Phillip.

"MY LORD,—I beg leave to express my sense of the kindness which I have experienced at your Lordship's hands, and of the confidence with which I have been already honoured. I trust, my Lord, that in signifying my grateful acceptance of the appointment which your Lordship has now offered me, I am not acting presumptuously; and that your Lordship will never have to remark, that I have underrated the difficulties and responsibilities of the station in question, and have overrated my own capacity and talents for meeting them. I have the honour to be, my Lord,

"Your Lordship's humble and obedient servant,

"CHARLES JOSH LA TROBE.

"*Sackville Street,*
"19th December, 1838."

The letter officially notifying his appointment to Mr. La Trobe is dated February 4th, 1839. The Colonial Office, on January 7th, 1839, informs the Treasury, "that his Lordship has appointed Mr. C. J. La Trobe to the office of superintendent at that settlement," Port Phillip, "and

moves their Lordships to sanction the issue to Mr. La Trobe of a suitable rate of allowance for the passage of himself and family. Mr. La Trobe will have to proceed in the first instance to Sydney for the purpose of communicating with Governor Sir George Gipps; and Lord Glenelg considers that 400*l.* would not be more than adequate allowance, being half the amount granted under the existing regulations to the Governors of New South Wales and Van Diemen's Land, and recently granted to the Governor of Western Australia."

Sir Geo. Gipps in a letter to the Marquis of Normanby, dated Sydney, November 4th, 1839, acknowledges Lord Glenelg's despatch of January 29th, 1839, informing him of "the appointment of Mr. C. J. La Trobe as Superintendent of Port Phillip," and says, "I have the honour to report to your Lordship that Mr. La Trobe arrived at Sydney on the 26th July last; and that after remaining a sufficient time at the seat of this Government to make himself acquainted with our general method of conducting business, Mr. La Trobe embarked for Port Phillip, and by a report from him recently received, I learn that he arrived at Melbourne, and entered on his duties on the 1st of October last."

The despatch encloses printed copy of a commission dated September 9th, 1839, issued to Mr. La Trobe by the Governor, with the advice of the Executive Council. It states that the Queen through Lord Glenelg, Secretary of State for the Colonies, "had been pleased to command that you, Chas. Joseph La Trobe, Esq., shall be appointed superintendent of the said District"—which, both in the commission and letter of instructions, is defined as lying to the south of the thirty-sixth degree of south latitude,

and between the one hundred and forty-first and the one hundred and forty-sixth degrees of east longitude.

In a letter to the Secretary of State, also of November 4th, the Governor writes, "there is one point in these instructions to which I think it right to ask your Lordship's attention in a particular manner, namely, the limits which I have prescribed for the District of Port Phillip, as it is possible that circumstances may at some future period arise to make those limits of importance. The features of the country not being sufficiently known, to enable me to define the District by natural boundaries, I have directed it to be considered as consisting of that part of the Territory of New South Wales," described as above. "The Territory included within this boundary, will be easily ascertained by the inspection of any map of Australia."

The letter of instructions dated Sydney, September 10th, 1839, to "His Hon. Chas. Joseph La Trobe, Esq.," and signed by "E. Deas Thomson," Colonial Secretary, after defining the area of Port Phillip District, proceeds, "Within these limits you will exercise the powers of a Lieut.-Governor, and will stand in the same position in respect to the Governor of New South Wales, as the Governor himself stands in with respect to the Right Hon. the Secretary of State for the Colonies."

The instructions are very specific, regulations for the collection and expenditure of revenue at Port Phillip being also issued.

In consequence of the infant state of the settlement, Mr. La Trobe deemed it expedient to take out a wooden house with him from England.

In a despatch of July 14th, 1840, Sir Geo. Gipps informs Lord J. Russell of the appointment of Captain Lonsdale,

as Sub-Treasurer at Melbourne, where the Governor anticipated the revenue for the year would not be less than 200,000*l*. Sir George spoke of Captain Lonsdale having, as Police Magistrate, given great satisfaction to himself and his predecessor.

It is most desirable that the names of worthy men should be preserved, in connexion with the laying of the foundation of the Colony, in which they bore an honourable part. The particulars respecting the offices which they held, serve also to illustrate the early condition and requirements of the young community.

CHAPTER VII.

VARIOUS PARTICULARS OF THE EARLY GROWTH OF THE
COLONY.

Memorial from Settlers in Geelong District for protection against Natives—Captain Fyans appointed Police Magistrate—Overland Communication with Sydney—Massacre of “Overlanders” by blacks—List of outrages committed by them at Port Phillip—Land Sales—Occupation of the Territory—Sir George Gipps’s Commendation of the “Squatters”—Population in 1838—Revenue and Expenditure—Buildings—Postal Communication—Police—Statements of Progress in Memorial for making Melbourne a free warehousing Port—The privilege granted to Melbourne, Geelong, and Portland—Sir George Gipp’s description of Progress—Count Streleski’s exploration of Gippsland—Mr. Tyers’ Report on Western Victoria—Native names of places—Geographical Corrections—Last exploration in Victoria by Dr. Mueller—Visit of Sir George Gipps to Port Phillip.

NUMEROUS documents, on various subjects connected with the early growth of the settlements after they had been firmly established, are to be found in the Record Office. In this chapter a selection is made from these papers, which will be found useful and instructive, in illustrating the interesting progress of the colony in various particulars.

The following memorial was addressed by a number of the

earliest settlers of Port Phillip, to His Excellency Sir Richard Bourke, K.C.B.:—

“ June 8th, 1837.

“ SIR,—As proprietors of Stock depasturing in the Western District of Port Phillip we venture to address ourselves to your Excellency, relying upon the interest you have already taken in the welfare of this settlement.

“ Having yourself personally and on the spot ascertained the number and importance of the various stations in this direction we do not think it necessary to trouble you again with statistical returns, but we cannot refrain from informing your Excellency that since your visit progress has been made with a rapidity which even the History of Port Phillip singular as it is had not warranted us to expect.

“ But this increase has most unavoidably been accompanied by an evil which we deeply deplore, but are without assistance unable to check. Attracted by the expectations of receiving provisions and clothing which have hitherto been liberally supplied them an unusual number of natives have for some time past been collecting in this neighbourhood and these forsaking their usual modes of procuring food are depending upon the supplies they obtain either by begging or plunder.

“ Hitherto the forbearance of our overseers and servants has been deserving of all praise, to such an extent indeed, as evidently to have strengthened an impression which is from some cause unhappily entertained by the natives that they may act thus with impunity. We are enabled to adduce the testimony of numerous and disinterested visitors in proof of this forbearance; but we cannot reasonably hope that it will always be exercised under the increasing annoyances and inroads to which we are now daily subjected. Already actual aggressions of the most determined character have been made at some of our stations, the inevitable consequence of which we painfully anticipate but are powerless to prevent.

“ Under these circumstances we are constrained to appeal to you for protection both for the natives and ourselves, most earnestly entreating your Excellency to adopt such measures as may in your judgment seem best calculated to avert any painful collision.

“ We would most respectfully ask your Excellency to appoint a Police Magistrate to this district who may also act as Coroner; and to place under his control a small body of Mounted Police which traversing the district would by its presence we think prevent hostilities, or should they unhappily occur, at least control their violence.

“ We are however aware that an objection to this request, may under the present state of things be urged by your Excellency, on the ground of the expense a compliance with it would entail upon your Government. We beg therefore to assure you (so strongly do we feel the pressing necessity for such a precautionary measure) of our willingness most readily to defray in any manner you may propose the whole cost of such an establishment.

“ We bring this subject under your Excellency’s notice from a conviction that the enlightened policy which admits of the propriety of assisting and directing a Colony of the British Crown daily advancing and which must continue to advance in importance will not fail to be recognized and acted upon under your administration.

“ We may urge our request on the score of humanity and justice since we feel assured that some prompt and efficient measures now may save the lasting regret to which neglect must otherwise give rise.

“ In the confident expectation that our communication will receive your earliest convenient consideration we have the honour to subscribe ourselves

“ Your Excellency’s

“ Most obedient servants,

“ (Signed)

“ C. SWANSTON
JOHN BROWN
GEO. LEAKAD, Senr.
WM. LEARMONTH
R. E. A. FISHER
W. C. YUILE
JOSEPH SUTHERLAND
WM. SHARP
DAVID STEAD
J. ANTY. COWIE
JOHN STEIGLITZ
R. G. V. STEIGLITZ

THOMAS MANIFOLD
JOHN MANIFOLD
PETER MANIFOLD
CHARLES McLACHLAN
HENRY HOPKINS
JOHN BELL
T. B. NAYLOR
THOS. LEARMONTH
JOHN DOBSON
A. MORRIS
THOS. AUSTIN
G. LEARMONTH

JAMES CLARKE
 JOSEPH ALLPORT
 HUGH MURRAY
 J. H. PATTERSON
 W. F. A. RUCKER
 WM. CARTER
 HENRY ANDERSON
 GEO. RUSSELL
 JOHN GRAY
 JOHN KIPPEN
 J. S. POLLOCK

FREDK. DEWING
 WM. ROADKNIGHT
 JNO. MUSTON
 THOS. ROADKNIGHT
 WM. ROADKNIGHT, JUN.
 ARCHBD. BYNILLE
 HUGH MURRAY, JUN.
 WILLIAM CARTER, JUN.
 G. T. LLOYD
 ALEXANDER THOMSON
 JOHN CHAS. DARKE."

In a despatch of September 11th, 1837, transmitting the preceding document to the Secretary of State, Sir Richard Bourke describes these colonists as located "upon the Western shores of Port Phillip, and along the rivers which flow into that estuary, or into the sea adjacent," and says,—

"They evince a very laudable anxiety to prevent on their part any aggression upon the natives and seem willing to make considerable sacrifices to establish an amicable intercourse with them. . . .

"The District which these settlers occupy and which may be called by the native name of 'Geelong' is between 60 and 80 miles distant from Melbourne and thus too far removed from the Civil establishment at that place to derive any effective assistance from it.

"Under these circumstances I have thought it right to appoint a Police Magistrate for Geelong with a small constabulary. I have not directed any military to be stationed there, relying upon the good disposition of the settlers to provide the magistrate with such a force as shall enable him to execute the laws and to preserve peace between them and the Aborigines. To the latter object the protection and civilization of the Native blacks, I have most earnestly called the Magistrate's attention and have furnished him with instructions and with the necessary means as I hope of accomplishing my wishes. I have appointed Captain Fyans late of the 4th Regiment to this Magistracy, and place the greatest reliance on his activity, humanity, good temper, and considerate disposition.

"This appointment will, I trust, meet with your Lordship's approbation; at the same time I would beg leave to observe that it is not calculated to obviate the expediency of those proposed for adoption in my despatch before referred to. The necessity for appointing a Lieutenant-Governor or Commandant, to control the several subordinate functionaries placed at so great a distance from the principal seat of Government becomes more apparent as the number of these functionaries is enlarged. The increasing exigencies of the Southern Districts will speedily require further appointments, nor can they with reason be withheld as the Local revenue to be derived from Land sales and customs will no doubt furnish sufficient means for meeting the expense.

"A schedule of the appointments now reported is annexed, which I hope your Lordship will be pleased to confirm.

"I have the honour to be, &c."

"Schedule of Appointments made on the Establishment of a Police Station at Geelong, Port Phillip.

| <i>Names.</i> | <i>Offices.</i> | <i>Salaries.</i> |
|----------------------------------|-----------------------|------------------|
| Foster Fyans (Captain 4th Regt.) | Police Magistrate | £300 per an. |
| Charles Wentworth | Clerk to the Justices | 100 per an. |
| Patrick McKeever | District Constable | 3s. per day. |
| Owen Finnagan | Constable | 2s. 9d. per day. |
| Joshua Clarke | Constable | 2s. 9d. per day. |

"J. DEAS THOMSON.

"Colonial Secretary's Office, Sydney,
"20th September, 1837."

The following letter of Col. Snodgrass, Acting-Governor of New South Wales, written between the departure of Sir R. Bourke, and the arrival of Sir G. Gipps, gives some interesting particulars respecting the opening up of the Port Phillip territory.

"Government House, Sydney,
"23rd February, 1838.

"MY LORD,—I have the honour to report to your Lordship that in consequence of more than one murder being committed in the vicinity of Port Phillip under circumstances proving the serious deficiency of means for preventing such outrages, and for pursuing

the perpetrators,—I considered it necessary to order a sergeant and six rank and file of the Mounted Police to proceed to that Territory as a protection to the peaceable and well-disposed Inhabitants and to aid the Civil Power established at Melbourne and Geelong (the two principal Towns) in the execution of their duties. The late Governor Sir Richard Bourke brought under your Lordship's notice the establishment of a land communication with Port Phillip which commenced running from the beginning of the present year. To this it was also necessary to afford protection, and by having a party of Mounted Police at the extremities of the road for the interception of robbers or runaways this will be in a great measure accomplished. I am happy at being able to state that the mail has been run regularly by the contractor, and the road is now travelled upon daily without difficulty or danger by those who are removing with their sheep and cattle to this new country. I am, however, sorry to acquaint your Lordship that the surveying party has not made the progress that was anticipated in the laying out and measurement of the Lands for public sale at Port Phillip. This has been a great disappointment to many immigrants as well as to people who are desirous to proceed from this part of the country and Van Diemen's Land to settle there, and I therefore, to hasten so desirable an object, ordered two more surveyors and a clerk to proceed thither, and the surveyors have accordingly gone by land with a full surveying equipment. By this means the best line of road will be marked and places for fixing the few punts required across the rivers will be pointed out without much loss of time, as even in doing this they will arrive at their destination fully equipped nearly as soon and at much less expense than if forwarded by sea, taking into consideration the detention in waiting for a vessel, and the great uncertainty of the time the voyage might occupy. It did not appear to me advisable to withdraw any of the Mounted Police from their stations within the located boundaries of this Colony, and I was therefore obliged to add to the number of the men required for Port Phillip to the strength of that corps from the regiments of Infantry serving in the command. I do not, however, consider that it will be necessary to augment the present strength of the Surveyor-General's Department, in consequence of the numbers required for Port Phillip, by more than one assistant-surveyor and one clerk. The establishment at Port Phillip will consist, including the present

augmentation, of one Surveyor and four Assistant-Surveyors with one clerk,—but two of the Assistant-Surveyors (the number now added) may be brought back to head-quarters by the end of this year, and as the demand for land to be measured for sale in this part of the country is likely to be comparatively limited until at least that time, there is sufficient strength left here to meet the demand.

“I have the honour to be,” &c.

“(Signed) K. SNODGRASS.”

Early troubles with the natives have unfortunately to be recorded. On May 2nd, 1838, in a P.S. to a despatch of April 27th, Sir Geo. Gipps writes to Lord Glenelg,—

“From the South, we have accounts of a large convoy of sheep and cattle belonging to a gentleman of the name of Faithfull having been attacked on the 13th ult. on the way to Port Phillip, and eight men killed out of eighteen, who formed Mr. Faithfull’s party. The particulars of this last occurrence I have not yet received, but I have directed a civil stipendiary magistrate and a party of the mounted police to proceed with all possible haste to the spot, and have given them particular instructions for their guidance. The blacks who are supposed to have murdered the two men belonging to the surveying party have been taken, and will be tried before the Supreme Court.”

The following letter of Colonel White, of the 96th Regiment, dated Left Bank of the Ovens, April 15th, 1838, informs the Colonial Secretary, “of a most furious attack having been made on 18 men of Mr. Wm. Faithfull’s, at the Swampy River or Winding Swamp, by about 300 of the aboriginal natives. It appears that on the morning of the 10th inst., when they were putting their bullocks to, the dash was made, when eight of the white men were unfortunately slain, and property, I believe considerable, destroyed. Mr. George Faithfull was on his way to this party when he fell in with one of the mangled corpses of the white men; several were found and buried. Mr. Faithfull has fallen

back on my station with the escaped people, and one wounded man, who is so dreadfully lacerated, that I believe he cannot survive."

A memorial, signed by eighty-two colonists, landowners and proprietors of stock, dated Sydney, June 8th, 1838, calls the attention of Sir George Gipps to the state of "the new settlement at Port Phillip . . . arising from the hostility of the aborigines," and states that "many have been obliged to abandon their stations," and that "the intercourse by land between this part of the territory and Port Phillip, if it has not already ceased, has become one of imminent danger to life and property." The memorialists state, that "they are not aware of any aggression . . . which could have excited the blacks," but that they "have been stimulated by their natural cupidity and ferocity."

The Colonial Secretary, in a reply of June 23rd, states, "That in order to afford the settlers in those districts all the protection in His Excellency's power, he despatched a party, consisting of an officer and 12 men of the mounted police, to the River Ovens, as soon as he heard of the late massacre of Mr. Faithfull's men, and that this party has since been increased to 21; so that with the seven that were originally at Melbourne, there will be a party of one officer and 28 mounted policemen, independently of the military force, which by a recent addition of 12, now amounts to 44; and that a discretionary power has been given to the police magistrate at Melbourne to cause parties of infantry to advance, if necessary, into the interior . . . it is also the Governor's intention to establish posts at convenient distances along the road, from Yass to Port Phillip, in order to keep open the communi-

cation, and that a permanent addition will be made to the mounted police for this purpose." The reply further states, that as Sir Geo. Gipps, "has the most positive directions from Her Majesty's Government to treat the aboriginal natives as subjects of Her Majesty, it is entirely out of his power to authorize the levying of war against them, or to give sanction to any measures of indiscriminate retaliation."

In Sir George Gipps' despatch of July 21st, 1838—forwarding the memorial and his reply, to Lord Glenelg,—the Governor says, "It is necessary that I should explain to your Lordship that some of the gentlemen who signed the memorial had previously waited upon me and requested that I would either myself levy war against the blacks, or sanction the enrolment of a militia for the purpose and allow them to be supplied with arms and munitions of war from Her Majesty's stores." The despatch also encloses a "short abstract of the principal outrages between blacks and whites, which have been reported in the last three months," with the remark "that a great proportion of these acts of violence have occurred in the neighbourhood of Port Phillip, or on the road between the settled parts of this colony and that place." The statement mentions three outrages "to the north of Sydney," and describes the following, "On the Port Phillip or southern side of the Colony:—

"1. Between the rivers Owens and Goulburn, a large convoy of sheep and cattle, belonging to Mr. W. Pitt Faithfull, and under the charge of fifteen white men, was attacked by a party of blacks, said to have been 300 strong. Seven of the white men were killed and the rest, as well as the whole of the cattle, dispersed in all directions. This occurrence took place about 400 miles from Sydney, and 150 from Port Phillip.

"2. On the 15th April the cattle station of Mr. Samuel Jackson,

near Port Phillip, was attacked by about fifty blacks, some of whom had fire-arms; about fifty sheep were carried away, though some of them were afterwards recovered.

"3. On the 22nd April the station of Mr. John Gardiner, near Port Phillip, was attacked by a party of blacks; some of whom had fire-arms. They were, however, repulsed, and two of them who were subsequently taken were recognized as having been under the instruction of Mr. Langhorne, missionary at Port Phillip. No lives were lost, though shots were fired on both sides.

"4. On or about the same day a flock of 520 sheep, belonging to Mr. Kenneth Clark, was driven away from his station to a distance of seven or eight miles by the blacks. All were, however, recovered with the exception of forty-three.

"5. On the 6th May the flocks of Dr. Jonathan Clark were attacked by a party of blacks, who had dogs with them, and twenty sheep were carried off.

"6. On the 19th May, Thomas Jones, a servant in the employ of Mr. Bowman, was murdered by the blacks, about sixty miles from Port Phillip. On the preceding day a flock of sheep had been driven away from Mr. Bowman's station, though all were subsequently recovered, with the exception of four.

"7. On or about the 22nd May all the stations on the Burwan Creeks, extending to a distance of more than thirty miles from Geelong, (on the western side of Port Phillip,) were attacked, for the second time, by a party of about sixty blacks. Several huts were plundered; one flock of sheep was driven to a distance of seven or eight miles, three were killed and twenty-five wounded. From another station sixteen lambs were carried off, and from a third, six sheep and six lambs; and other mischief is reported to have been done to a considerable extent.

"June 1st, a black man, supposed to have been engaged in a murder committed some months ago, near Geelong, was drowned in an attempt to escape from the persons who were in pursuit of him.

"June 9th, seven or eight blacks were killed in defending a flock of sheep which they had carried away from the station of Mr. Yaldwyn, about eighty miles from Port Phillip. On this occasion the blacks are said to have defended themselves with great bravery.

“ N.B. A great number of less important outrages have come indirectly to the knowledge of the Government, or been reported in the newspapers. And it is said that a white woman, the wife of a soldier, has been murdered between Melbourne and Geelong, though no official account has been received of it.

“ *July, 1838.*”

Lord Glenelg in a long despatch of January 31st, 1838, already cited—in reference to the proposed removal of the Tasmanian blacks to Portland—announces his intention to appoint protectors. In a despatch of November 3rd, 1838, Sir G. Gipps expresses to Lord Glenelg, doubts whether the Legislative Council would vote the sum for the protectors ; but remarks that “ fortunately as the Protectors are all nominated for Port Phillip, the whole expenses of which are as yet paid out of the Crown Revenue, it was not necessary in the late session to bring the question before them. I may here be permitted to observe, that the simple fact of the expense of the settlement being defrayed out of the territorial Revenue (without any reference to the Council) would seem to imply that the right to appropriate this revenue had not passed away entirely from the Crown.”

Unhappily, during the first few years, too many collisions between the settlers and the natives have to be recorded—often provoked by the aggressions of the latter ; the former were, however, sometimes to blame for the severity of the punishments inflicted. One or two trials of white men for murders of aborigines took place ; but there can be no doubt that the great majority of the early settlers treated the blacks with humanity and kindness. There are a good many reports on the subject of these collisions, as well as respecting the aborigines generally, in the Record Office. The question of improving their condition is treated at great length, in a report of the proceedings of the Executive

Council of New South Wales of 1849. The abolition of the Protectors was recommended, Governor Fitzroy consenting; and no means seemed available to preserve the native race.

On September 6th, 1837, Governor Bourke replies to a despatch of Lord Glenelg, of February 15th, on the subject of the price of Crown Lands, making the following observations with respect to those at Port Phillip:—

“ My attention is there called to the discretionary power vested in me by recent instructions, of fixing the upset price of land at Port Phillip, at a lower rate than elsewhere, but ‘for the purpose only,’ as your Lordship observes, ‘of enabling me to determine such a minimum as would prevent the inevitable result of fixing it too high, namely, an unauthorized occupation without purchase, and a consequent dispersion of settlers throughout the territory.’

“ It will long before this have been made known to your Lordship, that I have not found it necessary to avail myself of this discretion, and I am happy to find that your Lordship’s further explanation so fully upholds the interpretation placed by the Legislative Council upon the previous instruction received upon this subject, and justifies the desire which I have uniformly felt to maintain the present regulations inviolate, both in respect to the upset price, and to competition, whenever land is offered for sale by this Government. The survey at Port Phillip has not yet proceeded so far as to allow of any land being disposed of out of the townships of Melbourne and William’s Town, but the half-acre allotments sold at these places having been put up at a minimum rate of £5 have realized an average price of £35 19s. each, and I have no apprehension of any difficulty in disposing of country sections in the neighbourhood of the port and rivers as fast as they can be measured for sale, at a price at least equal to that at which the waste lands are disposable in the more ancient settlements. Such being the case, the South Australian Commissioners will have no further cause for the alarm expressed in the letter of their Chairman, lest the land at Port Phillip should be sold at a lower rate than elsewhere in this colony.”

This despatch gives the—

“Average price of Crown Lands sold in the Colony of New South Wales, for the five years ending 31st December, 1836.

| Year. | Town Allotments. | | Other Land. | |
|------------|------------------|-----------|----------------|-----------|
| | Rate per Perch. | | Rate per Acre. | |
| | <i>s.</i> | <i>d.</i> | <i>s.</i> | <i>d.</i> |
| 1832 . . . | 2 | 10 | 6 | 0 |
| 1833 . . . | 2 | 4 | 9 | 6 |
| 1834 . . . | 6 | 2 | 6 | 8 |
| 1835 . . . | 5 | 2 | 5 | 10 |
| 1836 . . . | 4 | 2 | 6 | 2 |

(Signed) E. Deas Thomson.

“*Colonial Secretary's Office,
Sydney, New South Wales,
8th September, 1837.*”

A memorial, dated Glasgow, October 23rd, 1838—from Messrs. John Dennistoun, Patrick Wood, Frederick Adamson, John Cross Buchanan, and William Cross, “proprietors of stock and intending purchasers of land at Port Phillip”—prays that sales of land shall take place there, and the money be remitted to send out emigrants.

A reply is sent from the Colonial Office, dated November 10th, enclosing a copy of a letter of the same date, addressed to Governor Gipps, which runs thus:—“I think it obviously desirable that arrangements should be made for effecting the sales of land within the settlement at Port Phillip, and although it might be inconvenient to separate the accounts of receipt and expenditure of the revenue in different districts of the colony, it is but reasonable that a fair proportion of the revenue derived from the sale of land should be applied in facilitating emigration to Port Phillip. I have therefore to request that you will from time to time inform me of the amount derived from the sale of land at Port Phillip.”

By a proclamation in the New South Wales Government Gazette, of May 22nd, 1839, Governor Sir George Gipps, in accordance with the act of that year of Her Majesty's reign—"To restrain the unauthorized occupation of Crown Lands"—declares certain lands, "beyond the limits at present allotted for location," divided into nine districts, the boundaries of which are defined:—1. Port Macquarie District. 2. New England District. 3. Liverpool Plains District. 4. Blight District. 5. Wellington District. 6. Lachlan District. 7. Morumbidgee District. 8. Monaroo District; and "9. Port Phillip District. The whole of the Lands comprised in the District lying to the south of the main range, between the Rivers Owens and Goulburn, and adjacent to Port Phillip."

On October 1st, 1838, Sir George Gipps writes to Lord Glenelg:—"The settlement of Port Phillip is, I am happy to say, rapidly advancing; the first sale of land for agricultural purposes took place on the 12th inst., when the prices realized far exceeded my expectations. I enclose for your Lordship's information a return of all the land that has been sold since the settlement was first established. The number of inhabitants of all descriptions is supposed now to exceed 3000, of whom, however, a considerable number are convicts, as it has been found impossible to prevent prisoners from being taken there, notwithstanding the desire expressed by your Lordship to limit the number as much as possible; and I must respectfully express an opinion, that if it had been intended to prevent altogether the assignment of convicts in that part of the territory, it would have been better to have made it a separate government."

“ Abstract Return of Lands and Town Allotments at Port Phillip sold under the Regulations of 1st August, 1831, in the years 1837 and 1838.

| Country or Town. | No. of Lots. | Extent of Land. | | | Date of Sale. | Amount. | | | Total. | | |
|---------------------|--------------|-----------------|----|----|--------------------|---------|----|----|---------|----|----|
| | | a. | r. | p. | | £. | s. | d. | £. | s. | d. |
| Bourke . | 42 | 39,748 | 0 | 0 | 12th Sept., 1838 | 25,967 | 9 | 0 | 25,967 | 9 | 0 |
| Melbourne | 178 | 84 | 2 | 8 | { 1st June, 1837 } | 6,791 | 0 | 0 | | | |
| Ditto. | 73 | 34 | 2 | 28 | { 1st Nov., 1837 } | 8,542 | 8 | 0 | 16,521 | 0 | 0 |
| William's } Town | 7 | 3 | 1 | 12 | { 1st June, 1837 } | 325 | 0 | 0 | | | |
| Ditto. . | 20 | 9 | 2 | 0 | { 1st Nov., 1837 } | 862 | 12 | 0 | £42,478 | 9 | 0 |
| | | 39,880 | 0 | 8 | 13th Sept., 1838 | | | | | | |

“ C. D. RIDDELL.

“ *Colonial Treasury,*
“ 1st Oct. 1838.”

In a despatch of December 10th, 1839, Sir George Gipps sends the Marquis of Normanby the following “ Return of all land sold at Port Phillip, since the settlement was first opened in 1837,” remarking,—

“ Your Lordship will perceive by this Return that the gross quantity of land sold is 86,208 acres, and the total sum produced £117,477 4s. 3d., consequently that the land has realized on the whole, the average price of 27s. 3d. per acre, including both Town and Country.

“ If we deduct 117 acres within the Town of Melbourne, which sold at nearly £209 per acre, and nearly 2469 acres, within five miles of the Town, which produced about £10 9s. per acre we shall still find that the agricultural or pastoral land, sold in lots of 640 acres each realized 16s. 1d. per acre ; the upset price having been at the first sales only 5s., and at the latter 12s. per acre.

“ I would beg, however, your Lordship's attention to the fact, that this land has been sold continuously, according as the survey advanced, with such reserve only as it is prudent to make for the future advantage of the people ; and that consequently good land and bad has been sold together.”

“Return of all Port Phillip Town Allotments sold between the 1st June, 1837, and 14th February, 1839.

| Date of Sale. | Place where Auction was held. | No. of Allotments. | Total contents of Allotments. | Township. | Average Price per Perch. | Total Amount Received on Actual Sale. |
|------------------|-------------------------------|--------------------|-------------------------------|---------------------------------|--------------------------|---------------------------------------|
| 1st June, 1837 | Melbourne | 99 | a. r. p. 47 0 4 | Melbourne | £ s. d. 0 9 0½ | £ s. d. 3,400 0 0 |
| 1st June, 1837 | Melbourne | 7 | 3 1 13 | William | 0 13 2½ | 325 0 0 |
| 1st Nov., 1837 | Melbourne | 83 | 39 1 28 | Melbourne | 0 10 0 | 3,180 0 0 |
| 13th Sept., 1838 | Sydney | 67 | 31 3 14 | Melbourne | 1 11 1 | 7,919 0 0 |
| 14th Feb., 1839 | Sydney | 53 | 24 3 0 | {North and South Geelong} | 0 13 11 | 2,756 0 0 |
| 11th April, 1839 | Sydney | 24 | 5 1 24 | Melbourne | 2 2 3½ | 1,839 0 0 |
| 13th Sept., 1838 | Sydney | 20 | 9 2 0 | William | 0 11 5½ | 872 13 0 |
| 14th Feb., 1839 | Sydney | 34 | 16 0 24 | Melbourne | 1 13 0 | 4,265 0 0 |

“Return of all Port Phillip Lands sold between 12th September, 1838, and 3rd October, 1839.

| Extent of Portions Sold. | Date of Sale. | Place where Auction was held. | No. of Lots. | Extent actually sold. | Average Rate per Acre. | Total Amount received on Actual Sale. |
|---|------------------|-------------------------------|--------------|-----------------------|------------------------|---------------------------------------|
| Suburban Allotments from 5 to 30 acres in Jika Jika | 13th Feb., 1839 | Sydney | 42 | a. r. p. 1,025 0 2 | £ s. d. 8 0 2½ | £ s. d. 8,214 8 0 |
| | 1st Aug., 1839 | Melbourne | 13 | 316 0 0 | 20 12 6½ | 6,519 0 0 |
| | 3rd Oct., 1839 | Melbourne | 45 | 1,137 3 22 | 9 13 4½ | 10,904 12 6 |
| Portions ranging between 30 and 140 acres | 1st Aug., 1839 | Melbourne | 4 | 1,532 0 0 | 1 10 6 | 2,337 15 0 |
| | 3rd Oct., 1839 | Melbourne | 30 | 5,234 0 0 | 2 4 6½ | 11,655 15 3 |
| Portions ranging between 640 and 1280 acres each | 12th Sept., 1838 | Sydney | 41 | 38,658 0 0 | 0 13 2½ | 25,546 16 6 |
| | 13th Feb., 1839 | Sydney | 29 | 24,626 0 0 | 0 13 0½ | 16,080 8 0 |
| | 8th May, 1839 | Sydney | 11 | 9,060 0 0 | 0 12 9½ | 5,908 0 0 |
| | 1st Aug., 1839 | Melbourne | 6 | 4,467 0 0 | 1 6 4½ | 5,874 17 0 |

| | | | |
|---|----------------------|--------------------|------------------------|
| 396 Town Allotments containing | a. r. p. 177 1 26 | producing a sum of | £ s. d. 24,536 12 0 |
| 99 Suburban Allotments containing | 2,469 1 22 | producing a sum of | 25,637 0 6½ |
| 24 Portions from 30 to 640 acres containing | 6,766 0 0 | producing a sum of | 13,993 10 3 |
| 87 portions from 640 to 1280 containing | 76,796 0 0 | producing a sum of | 53,310 1 6 |

88,208 3 8

Total £117,477 4 3

“ (Signed) S. A. PERRY,
“ Dy. Sr. Gl.”

¹ Including Captain Lonsdale's remission of £150.

In another letter of the same date, the Governor says, "Our land sales at Port Phillip have exceeded my expectations."

A despatch to Lord John Russell, dated June 30th, 1840, from Sir George Gipps reports the exceedingly satisfactory state of the revenue, resulting from "£233,219 2s. 8d., having been realized by the sale of 125,554 acres, being at the average of £1 17s. 1d. per acre," and that "the average of Town allotments in Melbourne is £939 per acre; of Town allotments in Country Towns (or villages rather) £88 per acre; the average of Country Land at Port Phillip, £1 15s. 5d. per acre; the average of other Country Land, 13s. 3d. per acre." The Governor says, "I could not safely have made any report on the subject earlier, as the account of a great Land Sale on the 10th and 11th of the present month, at Port Phillip, which realized £104,000 reached me only a day or two ago."

In a despatch of December 19th, 1840, Sir George Gipps encloses to Lord John Russell, the report of a Board appointed to estimate the value of the unsold lands within five miles of Melbourne and Geelong, exclusive of the towns themselves, from which it appears that those of the former, amounting to 34,900 acres, were valued at £872,500 being £25 an acre, and those of the latter to 25,320 acres at £81,210, being £3 an acre. A "return of all land sold in the District of Port Phillip, from the opening of the Settlement (in June 1837) to the 10th December, 1840," gives 159,664 acres, yielding £223,058 7s. 11d., and 364 acres, Town allotments yielding £107,709 16s.

On August 20th, 1838, Mr. W. H. Dutton stated, before a committee of the Legislative Council at Sydney on

the subject of emigration, that he had stations "beyond the Grampian Hills at Portland Bay, more than 1000 miles from Sydney." Mr. S. K. Salting, "a merchant resident in Sydney, and having grazing establishments, in the district of Port Phillip, near Mount Macedon, between 400 and 500 miles from Sydney," stated that he had recently returned from Port Phillip, after being there nearly a month, where he found a great want of labour, wages being 15*s.* a week. Mr. Salting's opinion was that—"The establishments in Port Phillip are much in want of labour; in fact are decidedly distressed for it. I would have been equally so, but for the measures which I have taken to introduce labourers for myself. . . . I think that in a district comprised within a line drawn from Geelong on the west to Mount Macedon, thence to the River Goulburn, and along that river and the Yarra Yarra, so as to terminate at Western Port, from 1000 to 1500 shepherds and labourers might find employment immediately. I do not think there is at present any great want of domestic servants, except in the town of Melbourne."

The two next communications must have crossed each other; for Sir George Gipps writes to Lord Glenelg, October 1st, 1838, in the letter already referred to,—

"I beg leave to recommend to your Lordship, that a Government emigrant ship should, as soon as possible, be sent to Port Phillip, and that another should follow after a lapse of four or five months.

"A mixed company of emigrants, partly mechanics and partly farm-labourers, would be most acceptable; and the mechanics should consist principally of carpenters, bricklayers (not masons), and smiths.

In a letter of November 10th, 1838, Lord Glenelg expresses a wish "that if practicable arrangements shall be made for sending a ship with emigrants at an early period direct to that settlement."

In a memorandum of December 19th, 1840, "on the disposal of Lands in the Australian Provinces," Sir George Gipps, at considerable length, informs the Secretary of State on the subject, and states that,—

"A very large proportion of the land which is to form the new district of Port Phillip is already in the licensed occupation of the squatters of New South Wales, a class of persons whom it would be wrong to confound with those who bear the same name in America, and who are generally persons of mean repute and of small means, who have taken unauthorized possession of patches of land. Among the squatters of New South Wales are the wealthiest of the land, occupying with the permission of the Government, thousands and tens of thousands of acres. Young men of good families and connexions in England, officers of the army and navy, graduates of Oxford and Cambridge, are also in no small number amongst them."

In a despatch of April 3rd, 1844, Sir George again speaks in high terms of the squatters of New South Wales, among whom, he says, there were "a great number of young men, every way entitled to be called gentlemen—young men of education, and many of good family and connexions in Europe. The presence of young men of this description beyond the boundaries, has been highly advantageous, first in lessening the rudeness of society in what is called the 'Bush,' and secondly as affording the materials for a local magistracy. On a former occasion I remarked how unjust it would be to confound the squat-

ters of Australia with those who bear the same name in America."

In an abstract of the revenue of New South Wales for the year 1838, appears,—

| " Port Phillip. | | £ | s. | d. |
|---|--|--------|----|-----|
| Duties on Spirits imported | | 876 | 15 | 8 |
| Duties on Tobacco imported | | 801 | 2 | 0 |
| <i>Ad valorem</i> Duty of Five per cent. on Foreign | | | | |
| Goods imported | | 169 | 15 | 0 |
| Wharfage | | 265 | 11 | 8 |
| Fees on the Entry and Clearance of Vessels | | 135 | 13 | 6 |
| Collected at Port Phillip | | £2,239 | 17 | 10" |

A "Comparative Statement" of the estimates for 1838 and 1839, shows that in the former year the expenditure for Port Phillip was £15,000, and that for the latter it was estimated at £20,000. The expenditure for 1837, including the item of £123 for the passage of Sir R. Bourke and suite to Melbourne, was £5879 2s. 4½d.

In a minute "to the Legislative Council explanatory of the several heads of expenditure, and of ways and means, as estimated for the year 1840," dated July 23rd, 1839, Governor Sir George Gipps states that,—

"Having received no directions to the contrary from Her Majesty's Government, I propose still to charge the items for Port Phillip on the Revenue derived from Crown Lands.

Without some assistance of this sort, it would be almost impossible to open a new settlement; unless indeed recourse was had, as in South Australia, to the raising of money on loan, and the infant settlement thus burdened from its very cradle with a debt.

"The following account of monies expended on, and received from Port Phillip, will show how far the opening of the Settlement has, in a Financial point of view, been advantageous or otherwise to the people of New South Wales:—

| Expenditure. | | | | Revenue—exclusive of Crown Land. | | |
|--------------------------------|--------------|----|----|-------------------------------------|----|----|
| | £ | s. | d. | £ | s. | d. |
| In. the year 1836 ² | 2164 | 16 | 8 | 0 | 0 | 0 |
| " 1837 | 5879 | 2 | 5 | 2358 | 15 | 10 |
| " 1838 | 13,727 | 11 | 7 | 2239 | 0 | 0 |
| | £21,771 10 8 | | | £4597 15 10 | | |

"The difference between these sums, £17,173 14s. 10d., has been taken from the General Land Fund of the Colony.

"The revenue of Port Phillip has greatly increased in the present year, but still it is probable that the excess of expenditure over ordinary income will not be less than £10,000.⁴

"The sum therefore taken from the Land Fund to aid the opening of Port Phillip, will probably by the end of 1839, amount to about £27,000.

"Whilst the proceeds of the Land sold there up to the 30th June, 1839, amount to £67,558 14s. 9d.

"The estimates of Port Phillip for 1840, amount to £39,289 1s. 1d. The ordinary income cannot be calculated with any degree of certainty; but if the Settlement continue to thrive, it may perhaps not be reckoned too high at £20,000, or about one half the Expenditure, the rest being taken as before from the Land Fund.

"Two cargoes of Emigrants have been sent from Sydney to Melbourne, and I expect that two or three ships at least with Emigrants will be despatched thither from England direct, during the present year.

² "In a "General Summary of Heads of Expenditure," in the New South Wales Papers for 1840, in the Record Office, the year 1835 is included, the amount being £5 4s. 0d.

³ "This sum ought to be stated considerably higher, as when the accounts were made out, the receipts for the last quarter of 1838, amounting to above £2000, had not reached the Treasury."

⁴ "The income for the year is estimated at £12,000, exclusive of the sum mentioned in the preceding note as being credited in 1839 instead of 1838, making together something more than £14,000; and the expenditure will probably be £24,000."

“A large provision is made in the Estimates for Public Buildings, some of which are much wanted.

“From this statement of facts, I think I am warranted in saying that the opening of Port Phillip has proved on the whole a measure on the success of which there is the greatest reason to congratulate the Colony.”

In the estimates for Port Phillip for 1840, amounting to £39,974 7s. 1d. the sum put down for police at Melbourne—including magistrate at £300, and clerk at £150—was £1694 3s. 9d., at Geelong and Portland Bay £738 7s. 6d. each.

The Ecclesiastical Establishment amounted to £2150, being for Clergymen of the Church of England £200, for a Presbyterian Minister, a Wesleyan, and a Roman Catholic priest £150 each; and towards erecting churches and ministers' dwellings, on condition of sums to an equal amount being raised by private contributions, £1500. For schools the estimate was £500; medical establishment £347 5s. 0d. Public works £3292 16s. 0d.; for erecting a gaol at Melbourne £3000, a custom-house £1000, a court-house £2000; for three watch-houses, one at Melbourne, one at North and the other at South Geelong, £750 each; and for other police or public buildings in the district £5000.

In his despatch of December 2nd, 1839, enclosing the Marquis of Normanby the Financial papers for the year 1839-40, Sir George Gipps remarks,—

“The large sums of £94,823 15s. 9d. for Police and Gaols in the old parts of the Colony and of £10,043 7s. 1d. for the same at Port Phillip, were voted by the Council with the utmost possible reluctance . . . and nothing I am convinced induced the Council to vote them, but my declaration, that as I had no other funds to

which I could resort, I should reduce the Police exactly in proportion as their vote might be reduced."

In reply, a long despatch of June 28th, 1840, on the finances of New South Wales, is sent to Sir George Gipps.

Mr. James Raymond, Postmaster General of New South Wales, in a letter to the Governor dated April 27th, 1839, transmits a schedule exhibiting the progressive improvement in his department. He says, "The number of Post Offices has increased from *eight to forty-one*"—in the period embraced in the schedule from the establishment of the department on 1st of March, 1828—"extending the communication by post from Port Phillip to Morton Bay and from Sydney westward to Wellington, travelling overland at this date, at the rate of *two hundred and eighty thousand four hundred and sixty-four* miles for the year, exclusive of mails conveyed by steam and sailing vessels, with a despatch and regularity quite unexampled in a department of so recent a formation." The annual extensions are thus recorded,—

"1838.

"*January*—An overland mail laid on to run once a fortnight between Yass and Melbourne."

A petition from the Town Council of Melbourne, enclosed in a despatch of March 4th, 1845, praying that the mails from England should be dropped at the Heads by vessels on their way to Sydney, was not complied with. The people of Port Phillip were therefore obliged to remain content with having their English letters carried on to Sydney and conveyed overland by the mail carts.

In a printed report of the Committee of the Legislative Council on Police and Gaols appointed June 11th, 1839,

we find the following under the heading "Addition to the Police made since the report of 1835."

"Port Phillip.

| | Increase per an. | | |
|---|------------------|----|----|
| | £ | s. | d. |
| "Melbourne. | | | |
| Police Magistrate appointed 18th September, 1836 | 250 | 0 | 0 |
| Salary 1st May, 1837, having sold his Military Commission | 50 | 0 | 0 |
| District Constable appointed 18th September, 1836 | 54 | 15 | 0 |
| 2 Constables ditto at 2s. 3d. | 82 | 2 | 6 |
| Constable and Interpreter 10th October, 1836 | 60 | 0 | 0 |
| 1 Scourger in 1836 | 31 | 18 | 9 |
| Clerk appointed 2nd March, 1837, at 5s., raised to £100 per annum 1st September, 1837 | 100 | 0 | 0 |
| Chief Constable appointed 1st September, 1837 | 100 | 0 | 0 |
| 2 Constables in 1837 | 100 | 7 | 6 |
| 2 ditto, pay raised from 2s. 3d. to 2s. 9d. | 18 | 5 | 0 |
| 1 Constable in 1838 | 50 | 8 | 9 |
| 2 ditto in 1839 | 100 | 7 | 6 |
| Superintendent of Native Police appointed 22nd October, 1837 | 100 | 0 | 0 |
| Assistant ditto | 40 | 0 | 0 |
| "Geelong. | | | |
| Police Magistrate appointed 13th September, 1837 | 300 | 0 | 0 |
| Clerk ditto, ditto | 100 | 0 | 0 |
| 1 District Constable | 54 | 15 | 0 |
| 2 Constables at 2s. 9d. each | 100 | 7 | 6" |

The report also states that the Committee have not taken any evidence with respect to the necessary Police Establishments for the districts of Port Phillip, because they could not obtain sufficient data respecting "that important part of the colony, but recommend that His Honour the Superintendent should be requested to make investigations into the state of its Police Establishments."

A return of the Mounted Police reports that, "twenty in all are stationed in five parties in the district of Port

Phillip, and on the line of route from Port Phillip to the river Hume."

A despatch of June 25th, 1839, from Sir George Gipps informs the Secretary of State, that the Treasury having refused to sanction the removal to Port Phillip of Mr. Cooper the Comptroller, the contingent proposal to make Melbourne a free warehousing Port had fallen through, and therefore that the indulgence of allowing goods to be shipped in bond had been withdrawn. Sir George informs Lord Glenelg that he had again allowed it, and expresses the hope that his Lordship will "in consideration of the rising commerce of Port Phillip, and the daily increasing importance of the town of Melbourne, approve of what he has done;" and that on his "Lordship's representation to the Lords of the Treasury an Order in Council may be procured declaring Melbourne a free warehousing Port, similar to that which on the 20th November, 1835, was issued in favour of the Ports of Sydney, Hobart Town, and Launceston."

In a memorial of merchants, stockholders, &c., at Port Phillip, printed at the "Port Phillip Gazette" Office, Melbourne, and enclosed by Sir George Gipps in his despatch, the following facts are stated,—

"That so late only as the month of June, 1837, did the waste and uncultivated land of this now flourishing town become the legal property of individuals; that at the sale then and the three subsequently held for the town allotments and country sections in the district (total 371 town allotments and 56,326 acres of land), no less a sum than £69,099 16s. 6d. has been realized by the Colonial Government, being £21,858 11s. 1d. greater than the aggregate amount obtained by the sale of waste land in the whole territory of New South Wales, for the years 1832-3-4, that followed the promulgation of Lord Ripon's regulations, restricting the aliena-

tions of Crown Lands thenceforth to the system of sales by auction ; that in the short period of little more than one year-and-a-half, where all before was a forest, a town has arisen of well-constructed and substantial buildings, which in a short time bids fair to rival the metropolis itself, from the energy and enterprise everywhere apparent, and from the circumstance of its being the capital from whence all the interior stations must draw their supplies,—stations extending from the Murray northerly to the Glenelg westerly, embracing a territory almost unlimited in extent of soil, unequalled for its fertility, and no less admirably calculated for the pasturage of stock than for the maintenance of a dense population. . . .

“But above all, as connected with the growing prosperity of the town of Melbourne, your memorialists would entreat your Excellency’s serious attention to the large amount of capital invested in this district ; the quantity of stock alone depasturing in these fertile plains being estimated to exceed 500,000 sheep and 15,000 head of cattle ; whilst the export of wool for the present season, the second year of its existence, will amount to upwards of 750,000 pounds, being positively a greater quantity by 342,884 pounds, than was exported from the entire Colony of New South Wales in 1827. Next year, in consequence of the extraordinary immigration of settlers with their flocks and herds pouring in to this favoured district from New South Wales and Van Diemen’s Land, and of capitalists from South Australia, it is anticipated that our export will not be less than 1,500,000 pounds—a quantity equal to the export from the entire Colony of New South Wales, even so late as the year 1832, being sufficient to load fifteen ships direct to England. Independent of this extraordinary export, this district has directly and indirectly through the enterprising spirit of its Colonists, promoted the Colonization of its sister Colony of South Australia, by an export of no less than forty-five hundred head of cattle, and twenty-five thousand sheep, the importance of which importation at Adelaide has been most gratefully acknowledged. Melbourne, owing to the indomitable energy and enterprising spirit of its valued Colonist Mr. Joseph Hawdon, was the first that established the feasibility of supplying the Royal Province of South Australia with stock, by an overland route, and thus opened a communication from which invaluable benefits must flow. The cause of geographical knowledge in which the whole

civilized world is deeply interested, was thus also promoted at the expense of a private Port Phillipian, as Mr. Hawdon traversed a line of country not less than five hundred miles previously unexplored; and next year it is his intention to prosecute his researches still further into the interior of this vast continent, in order to open a market at Swan River in Western Australia."

The Memorial is signed

"P. W. WELSH, Chairman."

Mr. Deas Thomson, Colonial Secretary, in a letter of June 17th, 1839, informs some of the gentlemen who had waited on the Governor with this memorial, that on the day the letter was written directions had been given "for facilities to be afforded to the Commerce of the town of Melbourne, similar to those which in the latter part of the year 1837 were granted to it, but subsequently discontinued in consequence of the non-arrival of any definite orders on the subject from England;" and that "instructions had been given for the admission at Melbourne of goods on bond so soon as stores fit for the purpose" should be erected.

A despatch of December 26th, 1839, from the Colonial Office, conveys Lord John Russell's recommendation to the Treasury, that Sir George Gipps' proceedings in the matter should be sanctioned; and by letter of Feb. 6th, 1840, their Lordships convey to the Secretary for the Colonies, their consent to the "establishment of a Free Port and Free Warehousing Port at Melbourne." In a despatch of Nov. 27th, 1844, Sir George Gipps, enclosed a printed petition, dated Sept. 25th from the Legislative Council of New South Wales, presented by the Speaker, praying that the town of Geelong may "be declared either a Free Warehousing Port, or Port of Entry and Clearance." Geelong is described as "the only natural outlet available," of the

“district of Grant,” which is stated to have had an “export of wool, tallow, hides, wheat, and various other articles of merchandise, the value of which, during the present year, may be estimated at not less than £150,000.” Sir George dissents from the prayer of the petition, which was not granted.

A similar memorial from the inhabitants of the place was also refused; but the privilege was ultimately conferred on Geelong and Portland in 1848.

In a despatch dated September 28th, 1840, from Sir George Gipps to the Secretary of State, Lord John Russell—“transmitting a report of the discovery and occupation of that Colony during the period of his administration of the Government,”—his Excellency says,—

“Our flocks and herds already stray over a country 900 miles long by 300 wide.”

* * * * *

“The quantity of stock on which assessment was paid for the half-year ending the 31st December, 1839, was 7088 horses; 371,699 horned cattle; 1,334,593 sheep; and the number of licensed stations was 694. . . . Towards the north, stations already extend to the country behind Morton Bay, 300 miles beyond the limits of location; to the south and west, they extend beyond Port Phillip, to the boundaries of South Australia.”

Speaking of the Australian Alps or Snowy Mountains, Sir George says,—

“Although a cattle station has been pushed beyond these mountains by a gentleman of the name of MacAlister, the country between them and the sea was altogether unknown until the month of March last, when Count Streleski . . . attempted and achieved the exploration of it.”

The Governor encloses a copy of this worthy discoverer’s account of his expedition, remarking,—

"I cannot do so without making your Lordship aware of the feelings of respect and esteem which have been excited towards him amongst the people of this Colony. . . .

"The district of Port Phillip was opened, and the town of Melbourne founded, by Sir Richard Bourke in the year 1837; but, with the exception of a few town allotments, no land had been sold when I entered on the government of New South Wales in the month of February, 1838.

"Aided by the resources of this Colony, but without the assistance of borrowed money, and unaided by artifice or delusion, or by attempts in England to calumniate its elder sister, this new settlement has, I believe, in the judgment of all impartial persons, equalled, if not surpassed, its boastful rival in South Australia.

"The map which I transmit herewith will show the quantity of land surveyed, and also the quantity sold at Port Phillip; the number of acres sold up to the present time is 159,494; and the net amount realized, £312,700 10s. 7d., being an average rate £1 19s. 2d. per acre. The net amount of other revenues collected at Melbourne was in the year 1837, £2538 15s. 10d.; 1838, £2819 17s. 10d.; 1839, £14,708 5s. 10d., and in the first six months of 1840, £11,747 3s. 2d.

"To the westward of Port Phillip, and near upon the confines of South Australia, is Portland Bay, where an unauthorized settlement was formed in 1835 by some gentlemen from Van Diemen's Land, in the same manner that the first unauthorized settlement was formed at Melbourne and Geelong by the Port Phillip Association. The attention of the Government was drawn to Portland Bay in 1839; and the necessity of forming a settlement there manifested itself shortly afterwards, when the fact was ascertained that stations had been established in the fine country to the north of it on the River Glenelg, visited by Sir Thomas Mitchell in 1836, and by him called *Australia Felix*."

The despatch gives the result of the report—a printed copy of which it encloses—of Mr. Tyers' expedition, which ascertained that the mouth of the River Glenelg was to the east of the 141°, the boundary of New South Wales and South Australia. Sir George Gipps then proceeds,—

"In the immediate neighbourhood of Portland Bay, there is a

narrow slip of good land, between which and the fertile lands of the Australia Felix of Major Mitchell, there is an intervening tract of poor country of nearly forty miles in extent; as this latter is however easily traversed, there can be little doubt that the good lands will speedily be occupied,—and a Government Establishment at Portland Bay has become therefore indispensable.

“A Town indeed has been laid out by Mr. Tyers, and the first allotments will be sold on the 15th October next.

* * * * *

“Along the whole of the road from Sydney to Port Phillip, villages have been laid out, and Police Stations formed by the Government, according to the intention reported in my despatch of 21st July, 1838; this road is therefore now as safe, and as easily traversed, as any other in the Colony—indeed it may be mentioned as a proof of the open and accessible character of the country that this road, or at least the portion of it which lies between Yass and Melbourne, about 380 miles in extent, has been opened at no cost whatever to the Government, and very little to individuals; and that it is not only practicable, but easy throughout its whole length for carriages of any description.”

In the report of Count Streleski's exploration of Gippsland, enclosed with the despatch, the explorer among other interesting particulars describes his ascent of and view from Mount Kosciusko,—

“Once on the crest of the range, the remainder of the ascent to its highest pinnacle was accomplished with comparative ease. On the 15th February, about noon, I found myself on an elevation of 6510 feet above the level of the sea, seated on perpetual snow, a lucid sky above me, and below an uninterrupted view over more than 7000 square miles. . . . The particular configuration of this eminence struck me so forcibly, by the similarity it bears to the tumulus elevated at Krakow over the tomb of the patriot Kosciusko, that, although in a foreign country, on foreign ground, but amongst a free people, who appreciate freedom and its votaries, I could not refrain from giving it the name of Mount Kosciusko.”

Count Streleski thus gives his impression of the terri-

tory which he explored, and to which he gave the name of the then governor of New South Wales:—

“ Scarcely any spot I know, either within or without the boundaries of New South Wales, on a large or small scale, can boast more advantages than Gippsland. On an extent of 5600 square miles it has upwards of 250 miles of sea-coast; two already known harbours, that of Corner Inlet and Western Port, besides those for small craft, which more than probably exist where her rivers disembogue; eight rivers, in addition to a navigable lake and lagoons which bisect 100 miles of its length; 3600 square miles of forest, plains, valleys, which in richness of soil, pasturage and situation cannot be surpassed; 2000 square miles of coast range, with the most excellent quality of blue gum-tree and black butt, embracing valleys large and deep, and holding out high expectations for the cattle-breeder.”

The report of Mr. Tyers contains many interesting particulars respecting different places in Western Victoria. His expedition started from Melbourne on October 8th, 1839, and proceeding viâ Geelong to Portland and the Glenelg returned by “Boninyon,”—where the Mount was ascended—reaching Melbourne again March 5th. The list of “Native Names of several Hills, Rivers, &c., derived from the information of the native Blacks *Tommy* and *Billy*” is interesting.

“ Station Peak—Youángh or Villamanata.
Mount Gellibrand—Lookúrrung-oo-lah.
Mount Elephant or Clarke—Tírrinállum.
Mount S.E. of Carángamite—La Bāām.
Mount Shadwell—Dooroobdóorabul.
Mount Abrupt—Wirribcot.
Mount William—Tó-ol.
Mount Cole—Corrong-ah-jeering.
Range East of Mount Cole—Béerbarbáirey.
Eastern Range of Pyrenees—Bemgower.
Pyrenees—Péerick.

Hill S.E. of Pyrenees—Corrónyang.
 Mount Observation—Tuckerimbid.
 Volcanic Hill seven miles S.W. of Observation—Nanimé.
 Hill five miles S.S.E. of Nanimé—Widderim.
 Wooded Hill three miles E.N.E. of Nanimé—Moonmot.
 Hill seven miles S.S.E. of Observation—Mnánibadar.
 High range whence the Lea takes its rise—Bóninyon.
 Hill six miles N. by E. of Bóninyon—Wárranéep.
 Hill seven miles East of Wárranéep—Kirrit-barréet.
 River Lea—Núrriwillún.
 River N.E. of Carangamite—Wá-dy-állac.
 River S.E. of ditto—Párranyállac.
 River Taylor—Póoringh-y-jállá.
 Eastern branch of ditto—Caranbalác.
 Large Salt Lake—Carángamite.
 Large Fresh Lake—Cólac.
 Another Fresh Lake—Bolóke.
 Small Salt Lake—Wirring-wirring-duc.
 Fresh Lake N.E. of Observation—Bárrambeet.
 Plain between Station Peak and Wa-dy-allac—Wárrac-búrran-ah.
 Plain between Wa-dy-allac and Porring-y-jállá—Pollóc.”

Two small charts are contained in the printed report of the expedition.

In a report to Mr. La Trobe of December 30th, 1843, Mr. Robinson, Chief Protector of Aborigines, describes a journey of inspection, of upwards of 1000 miles, which he had made through the territory, and communicates some geographical corrections. He states that,—

“ Tongwillum is the original name of the Murray, at least both above and below the Goulburn to beyond the Loddon, as far as I visited it, was so. There is an error evidently in the map of this part of the country, for Mount Hope instead of being delineated near the Goulburn, is from twenty-five to thirty miles distant; the Campaspie is also a distinct river, uniting its waters with the Murray about five miles west of the junction of the Goulburn; the Yarragne, or, as called by the natives, ‘ Warren,’ on the outward

line, and the Loddon on the return line, is one and the same river. The Loddon, therefore, on the outward line is a misnomer, and were I privileged to name this river, it should be the La Trobe."

Only in the mountainous region of Gippsland was anything left, till a comparatively recent date, for explorers to accomplish. The last expedition of real discovery in the territory of Victoria, was that of Dr. Mueller among the Australian Alps—a printed report of which, in the form of a letter from the explorer dated December 16th, 1854, is enclosed in a despatch of Governor Sir Charles Hotham. Dr. Mueller ascended Mount Wellington on November 14th, and estimated its height at 5000 feet—"a snow storm lasting, here, even at so advanced a season, for a whole day." Crossing the Dividing Range between the waters of Gippsland and the Murray, he ascended, December 3rd, the two highest mountains of the Bogong Range. The explorer says, "Considering that mountains of such altitude, probably the two highest in the Australian Continent deserve distinctive names, I solicit His Excellency's permission to name the grandest of both Mount Hotham, and the second in height Mount La Trobe,—as I trust to be entitled to the great honour of being the first man who ever reached these commanding summits of the Australian highland. . . . After extending my journeys over several mountains in the neighbourhood, and an exploration of the Upper Milta Milta, I went over a generally fertile country to Omeo." Dr. Mueller remarks that he had passed over ranges never before traversed by civilized men. Thus, may be said to end the history of the exploration of Victoria.

In a short despatch of November 10th, 1841, Sir George

Gipps records his visit to Port Phillip. He says, "I am happy to be able to report to your Lordship that I found the progress made by the settlements of Melbourne and Geelong to be fully equal to my expectations. I was struck with the beauty of the country at both places, and with the quantity of land already brought into cultivation on the River Yarra Yarra."

The Governor was only absent from Sydney thirteen days—six of which he passed at Port Phillip. The one other fact stated in this brief account of the visit, is that the inhabitants were gratified to see His Excellency and showed "every demonstration of attachment" to the Crown.

CHAPTER VIII.

THE PORT PHILLIP ASSOCIATION AND ITS CLAIM.

Correspondence between Mr. Mercer and the Colonial Office—
Dr. Lushington's opinion as to the purchase from the natives—
Statements of progress of Settlement—Claims of other Colo-
nists besides those of the Association—Decision of Executive
Council at Sydney—Approved by Colonial Office—Opinion of
Mr. Burge as to acquisition of lands from Aborigines—Mr.
Swanston's unfortunate attempt to land sheep—Growth of the
New Settlement—Final adjustment of the claims of the Asso-
ciation.

THERE exist also in the Record Office¹ a most voluminous, and doubtless complete correspondence, and set of documents concerning the claims of Batman's "Port Phillip Association." Most of the letters to the Government on behalf of that body were written by Mr. Mercer, who represented it in the United Kingdom. It is only possible, and desirable, to give an abstract of the most important particulars contained in these documents, with extracts from them in which facts connected with the progress of the new settlement are set forth.

¹ All the documents in this chapter have been derived from this source—a large porportion of them having been printed in Parliamentary papers.

In a letter from Edinburgh of January 26th, 1836, Mr. George Mercer asks Lord Glenelg to recognize the treaty with the blacks, and forwards copies of Batman's narrative, "the originals of two treaties, executed in triplicate," with the natives, a map of the land and other documents. He suggests that, should the Government object to recognize and confirm the treaties with the natives, "a Crown grant of this Territory be issued in the names of John Batman and Charles Swanston, Esquires," on behalf of the Association; and intimates that, the natives will never be able to place reliance in white men, if the Association is "disturbed in the enjoyment of the lands ceded by the Tribes under Treaties, tabooed with the sacred symbols of their chiefs which cannot and will not on their parts be broken."

A reply of February 15th, 1836, from the Under-Secretary informs Mr. Mercer that the territory being within the Commission of Sir Richard Bourke, Lord Glenelg considers "it is impossible for H. M. Government to acknowledge any title to Lands acquired there except upon the terms prescribed in that Commission and the accompanying instructions."

Mr. Mercer, whose letters are marked by much ability, writes again, March 16th, suggesting that Sir Richard's Commission, &c., probably refers "alone to a penal Colony," and that Port Phillip "will not therefore under the slow and regular march of population be located as a Penal Colony until some very distant period." He proposes that Port Phillip should be dis severed from New South Wales, remarking that "these lands unless formed into a free Colony must I am humbly of opinion be dormant or be grazed by squatters only for a century to come." It is also suggested in the letter that the Association should be

treated as the Van Diemen's Land Company had been, and that the 750,000 acres should be granted them at a quit-rent of £1406 5s. for the benefit of the Colony. He states the value of the stock of the Association at Port Phillip to be from "20 to £30,000."

In a reply of March 30th, Mr. Mercer is informed that Lord Glenelg has sent instructions to the Governor of New South Wales to appoint magistrates, &c., at Port Phillip, and to put up land "at such a reduced upset price as upon full consideration of the state of the infant settlement, he may think reasonable," but that the "disposing of Public lands at a quit-rent has been generally abandoned on the most ample experience of the many and insuperable difficulties with which it is attended."

On April 6th, Mr. Mercer again writes to Lord Glenelg, that he had received communications from the members of the Association up to the 30th October, informing him that considerable progress had been made in forming the infant settlement. He submits on behalf of the Association, that "it would be inequitable to admit other parties to enter into competition with them at public auction, for property, the whole value of which has been created by their exertions and with their capital," and that they are entitled "to the special favour of the Government." He asks that they may be exempted from the rule, "prescribing sale by public auction," and His Lordship having declined the quit-rent proposal, that a purchase in fee simple should be allowed on terms he proceeds to submit. These are that the Association should be allowed to buy from the Crown not only the tract ceded by the natives to Mr. Batman, but an additional one to the eastward of it, and another of about equal extent to the westward—the whole comprising "about 3000 square

miles. For this," says Mr. Mercer, "I should propose a price of Twenty pounds (£20) per square mile over head of surface one half the amount to be paid by equal instalments in ten years,"—to be expended upon emigration from Great Britain or otherwise, as the Government may deem proper; the other moiety on roads and public buildings, &c., under the control of a board of four members, two to be appointed by the Government, and two by the Association; the superior government officer to have a casting voice; the money to be expended in the course of ten years, or extended by the Board over a greater period.

Mr. Mercer encloses the following opinion of Dr. Lushington, as to the rights of the Association. The facts and documents connected with the acquisition of the tract of land at Port Phillip having been laid before Dr. Lushington, he had been asked by the Association,—

"1. Whether the grants obtained by the Association are valid?

"2. Whether the right of soil is or is not vested in the Crown?

"3. Whether the Crown can legally oust the Association from their possessions?

"4. What line of conduct or stipulations would you advise the Association to pursue and make with the British Government; in particular ought they to offer Government any specific terms, and ought the whole of the documents now laid before you to be at once communicated to Government, or ought such communications to embrace only part of them; and if so what part?"

"Copy, Opinion of Dr. Lushington.

"1. I am of opinion that the grants obtained by the Association are not valid without the consent of the Crown.

"2 & 3. I do not think that the right to this territory is at present vested in the Crown, but I am of opinion that the Crown might oust the Association, for I deem it competent to the Crown to prevent such settlements being made by British subjects if it should think fit.

"4. I think the most advisable course the Association can pursue

is to give the Crown the fullest information on all points. I think it unwise and unsafe to hold back any document or information whatever. Indeed the so doing might invalidate the security the Association might derive from the grants or acts of the Crown,

“ I further think that it would not be expedient in the first instance to propose specific terms. The best course would be after giving free information to request the countenance, sanction, and aid of the Crown. Of course afterwards the security of the lands by confirmation or grant from the Crown should be obtained, under what conditions or restrictions must be matter for subsequent negotiation with Government.

“ This present plan is truly speaking the planting of a new colony, and nothing can be safely or effectually done but by the authority of the Crown.

“ (Signed). STEPHEN LUSHINGTON.

“ *Great George Street,
January 18th, 1836.*”

In a letter of April 14th, 1836, in reply to one from Mr. Mercer of the 6th, Sir George Grey says, with respect to the opinion of Dr. Lushington, that he—

“ ‘ Does not think that the right to the territory adjacent to Port Phillip is at present vested in the Crown,’ Lord Glenelg is sensible of the great weight which is due to the deliberate judgment of Dr. Lushington on a question of this nature. As, however, the grounds on which Dr. Lushington denies the title of the Crown to the territory in question are not explained, and as Lord Glenelg is not aware of any fact or principle which can be alleged in support of such conclusion, which would not apply with equal force to all the waste lands in every other part of the Colony of New South Wales, His Lordship must decline to acquiesce in this doctrine, and cannot but believe that it was advanced by Dr. Lushington under a misapprehension of some of the most material parts of the case.

“ Port Phillip and all the neighbouring territory, forming a portion of the Colony of New South Wales, the land in that vicinity cannot be disposed of, except according to the rules by which General Bourke is required by the King’s Commission and by His Majesty’s instructions, under the sign-manual to alienate such property. Interests of very great and constantly increasing import-

ance are involved in the steadfast adherence to those rules, and any departure from them at the present moment would involve a breach of faith to the numerous persons who have engaged their property in effecting settlements in other parts of the Colony of New South Wales and in the new Colony of Southern Australia.

“The suggestion that the new colony should be formed in the southern portion of New South Wales, of which the infant settlement at Port Phillip should be the future capital, raises a question of great importance and difficulty, on which it would be impossible that His Majesty’s Government should form a decision without much previous inquiry. They would probably think it right to postpone any such measure until after it should have been maturely considered by the respective Governors of the existing Australian Settlements. It is fit, however, that you should be distinctly apprised that a very considerable time must elapse before the establishment of such a new colony, even should it ultimately be thought right so to abridge the limits of the Colony of New South Wales.

“The proposal which, on behalf of the gentlemen with whom you are associated, you have made for effecting the purchase at Port Phillip, of a territory of 3000 square miles, at a sum of £60,000, of which one half will be paid by annual instalments, in the next ten years, and the remainder would be invested in local improvements, has received Lord Glenelg’s careful attention. His Lordship directs me to state, that the objections to the adoption of that proposal appear to him insuperable.

“He conceives that His Majesty’s Government could not enter into such an arrangement with a society of gentlemen possessing no corporate character, however undoubted may be their claims to respect and confidence as individuals. In the modern history of Colonization no incorporated body has ever received a grant, or has been permitted to make a purchase at all approaching in magnitude to that which it is the desire of yourself and your associates to effect. To place a territory so extensive under any other management than that of the responsible officers of the Crown would, in Lord Glenelg’s opinion, be to create an unconstitutional power, which, if not subversive of the authority of the local government, would unavoidably fetter its movements, and impair its influence even when most essential to the public welfare. Fur-

ther, His Lordship has no grounds on which he could be justified in entering into a contract of such magnitude. He has not before him any evidence of the value of the land which it is proposed to purchase, and thinks it indispensable not to act on such a subject except with the advantage of the previous advice of the Governor of the Colony.

“For these reasons Lord Glenelg must adhere to the decision announced to you in my letter of the 30th ultimo, of directing General Bourke to put up the land at Port Phillip for sale, at such a reduced upset price as, upon a full consideration of the state of the infant settlement, he may think reasonable. His Lordship, however, will instruct the Governor to have a careful and just regard to the various circumstances stated in your letter, and to make every arrangement which may appear to him to be reasonable for protecting the fair claims of the persons who have already resorted to Port Phillip, to a priority in the purchase, on moderate and easy terms, of any lands which they may have already occupied, or on which they may have actually effected any improvement.”

In a letter of April 23rd, Mr. Mercer states that “it was foreign to his wish to build upon Dr. Lushington’s legal opinion.” As to his “Lordship’s objections to the Association not possessing a Corporate character,” he suggests that these “may be removed by extending that character to the associated body and that with reference to the extent of the territory this may at your Lordship’s pleasure be limited.” He goes on to propose “that immediate instructions be given to locate a maximum grant of four square miles or 2560 acres in Geelong and Dutigalla (Anglice Port Phillip) to each member of the Association (17) selected by himself or agent either free or at any very reduced price your Lordship may determine upon—that permanent buildings may be forthwith erected, and the plough brought to bear upon lands held by a tenure more secure in your Lordship’s judgment than that under

which they are now occupied. These selections would I presume be dispersed over the ceded territory with a view to form nuclei for enlarged farms and holdings by purchase or otherwise when the government arrangement shall have been completed." He asks that squatters should be prevented from intruding on lands ceded to the Association, stating that "some reckless people" have attempted to do so, and that, "as the natives whose sacred symbols are attached to the treaties may fancy themselves in honour bound forcibly to expel such, the consequence may be unpleasant if not fatal."

The letter suggests that "if Port Phillip be constituted a subordinate colony Western Port might be considered a better location the proximity to Van Diemen's Land might be taken to render Hobart Town a more eligible station for control than Sydney," and that the members of the Association being connected with Tasmania, "intercourse with the chief authorities would be greatly facilitated by decreased distance."

On May 10th Mr. Mercer is informed that Lord Glenelg can only refer to Sir George Grey's "former letters," to carry out the principles of which he has instructed Sir Richard Bourke, and expresses the hope that the letters "will be found to embrace every provision which is required by a due regard to the interests and reasonable expectations of all parties by whom the settlement at Port Phillip has been made."

Mr. Mercer on June 29th again writes from Edinburgh, repeating the request, in his last letter, for "a copy or substance of the instructions" sent to the Governor of New South Wales. He says that his recent letters from the Association inform him that, "confident of obtaining ulti-

mate possession," they "are proceeding with cultivation and other improvements," supplying a larger number of natives than they anticipated with subsistence, and also preparing "to furnish them with mental food."

Sir George Grey, in a letter of July 9th, declines to furnish the copy of the instructions.

In a letter from C. Swanston, J. T. Gellibrand, and James Simpson,—“a committee of the Geelong and Dutigalla Association,”—to Governor Arthur, dated September 14th, 1836, it is stated, that “The territories of Dutigalla and Geelong were granted by the natives in June,—the first occupation with sheep was in November last, and the present population consists of 157 males, and 35 females and children, and the number of sheep grazing may be computed at 50,000; the number of horses at 65; and of horned cattle 160. The estimated value of the whole stock, together with other property, cannot fall short of £100,000, and during the past year the Colony has given employment to eleven vessels.”

Mention is made of the fact, that Mr. Stewart had been informed of the murder by the blacks, “for the purpose of obtaining flour,” of two white men, “Mr. Franks and his shepherd.” The writers of the letter say, “We have never relied upon any legal title to the land as *against* the Crown, but we have solicited a confirmation of the grants by the Crown, upon such terms as the King’s Government may consider just and equitable. And in order that we may not be misunderstood, we entreat the British Government to recognize the Colony, to appoint a government suitable to its infantine circumstances; and we pledge to pay such quit-rent as shall be sufficient to discharge all the expenses of such government.” After speaking of what

the Association had done, and the hardship that other people should be allowed to enter, upon equal terms, into the advantages to be derived from its having opened up the country, the letter states that, "the erection of a temporary place for the celebration of Divine worship has been commenced, and we are making arrangements with the Missionary Society in this Colony to procure the settlement there of two of its members."

The letter concludes with a reference to an observation in one of September 1st, 1836, in which Mr. Montagu, Colonial Secretary, states that "schemes for making settlements . . . in unlocated districts of Australia have of late years been discouraged by H. M.'s Government, as tending to fresh establishments involving the Mother Country in an indefinite expense;" and Governor Arthur is requested on his return to England, "to report his opinion upon the question of the probability of the settlement formed at Port Phillip ever 'involving the Mother Country in an indefinite expense,' or of its proving one of the most valuable Colonies under the dominion of Great Britain."

The same gentlemen, in a letter to Sir R. Bourke of September 26th, 1836, disclaim the idea suggested in the letter of the Under-Secretary to Mr. Mercer of April 14th, of desiring "the possession of power or of any authority which might be subversive of that to be exercised by the Crown," or "that it was in contemplation to establish a proprietary government at Port Phillip. . . . The sole object of the Association has been the occupation of territory upon the principle already defined, the powers of Government being wholly exercised by the Crown."

In a copy of a long letter to Governor Bourke—en-

closed with the minutes of the Executive Council hereafter cited—dated Hobart Town, September 26th, 1836, Messrs. C. Swanston, J. T. Gellibrand, and James Simpson state that, “The exports from the settlement to the Mother Country in the month of January next will be to the amount of at least *nine thousand pounds*.”

In another letter to Sir Richard Bourke, of October 15th, 1836—also enclosed with the minutes of the Executive Council—Mr. John Dobson transmits “a memorial from the proprietors of stock at Port Phillip (unconnected with those parties who style themselves the ‘Port Phillip Company’).” They say that,—

“Understanding that your Excellency intends to give indulgences in the shape of grants of lands or otherwise to other parties who have associated themselves in a company and have purchased land from the Aboriginal Natives there,” they “beg leave to express a hope that your Excellency will extend the same indulgences to us, as we have suffered all the privations and gone to all the expenses necessarily attendant upon the formation of a new and distant colony as much as the other parties have done.

“We also beg leave to state to your Excellency, that we had the same opportunity as the Company for purchasing lands from the natives, but we abstained from doing so, under the impression that it would have been interfering with the just prerogative of the Crown, and an infringement upon the rights and privileges of your Excellency’s Government.

“While we confess that in all we have done at Port Phillip, we have had in view the promotion of our own private interests, it must be evident to your Excellency (from the account Mr. Stewart has given you of that place) that by our exertions and those of the Company, one of the finest countries in these Colonies has been brought to the notice of the public, and will ere long, we have no doubt, be one of the most valuable appendages to your Excellency’s Government.

“Relying that your Excellency will see that there is no real difference between our case and that of the Company, and hoping

that you will extend to us whatever indulgences you may be pleased to grant to them, we have sent Mr. John Dobson, one of our number, to your Excellency with power to act for us and to give such explanation as may be required.

“ We have the honour to be,

“ Your Excellency's

“ Most obedient humble servants,

“ (Signed)

G. MACKILLOP for self and
 JAMES SMITH
 CHARLES MCLACHLAN
 RICHARD COOKE
 MICHAEL STEEL
 THOS. J. JONSON
 ALEX. FRASER
 JOHN CLARK
 DAVID FLECKSHERR
 ROBERT CALDWELL
 T. WINTER
 FRANCIS BRYANT
 JNO. AITKIN
 R. W. FRYETT
 PETER HARRISON
 JOHN FRANKS
 DONALD MACDONALD
 JOHN DOBSON
 ALEX. IRVINE
 GEORGE TURTON
 JOHN THOMAS
 THOMAS WOOD

(Signed)

WM. MORTIMER
 BUNTING JOHNSTON
 WILLIAM CLARK
 JOHN BELL
 GEO. CARTWRIGHT
 JOS. ALLPORT
 GEO. ARMETAGE
 JAMES BROWN
 WILLIAM HUTTON
 GEORGE FRED READ
 JAMES CLARKE
 GEORGE SINCLAR BRODIE
 JAMES S. BRODIE
 RICHARD BRODIE
 JAMES F. STRACHAN for self and
 ALEX. THOMSON
 T. L. SYMES
 ALEX. SYMES
 FREDK. TAYLOR and
 DANIEL BUCKLAY
 EDM. BRYANT.”

Enclosed with the minutes of the Council is another letter, from “the undersigned residents of Van Diemen's Land, having embarked certain capital in stock to send to Port Phillip.” They say,—

“ We beg to lay before your Excellency our claims to participate in any advantages in the disposal of land or otherwise as your

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Excellency may be pleased to afford others, as well as to show the causes which have prevented our having stock there at this moment.

“We had all of us made preparations by purchase of sheep and otherwise to send stock to Port Phillip long previous to receiving your Excellency’s intimation that your Excellency would favour those *only* who had up to that period actually established themselves there.

“That we shall be able to prove to your Excellency that the purchase of sheep had actually been made long previously, that we had so arranged our affairs, some by the sale of stock, one by the sale of his business, to carry the speculation into effect, and the principal causes which have prevented us doing so may be found in the following :—

1st. The time of the year (*viz.* the winter).

2nd. The Lambing season.

3rd. The scarcity of shipping calculated for the conveyance of stock.”

In conclusion, they deem it unnecessary to depute any of their body to present the memorial, being,—

“Fully satisfied to trust” it “upon the broad basis of its own merits and your Excellency’s known justice and impartiality.

“We have the honour to remain, &c.

“ (Signed)

R. LEWIS

WM. J. T. CLARKE

GEORGE THOMAS LLOYD

ROBERT SUTHERLAND

J. SUTHERLAND

WM. CARTER

GEO. WHITE.”

The following document was also taken into consideration :—

“Memoranda of Statement made before the Executive Council of Charles Swanston, J. T. Gellibrand, and James Simpson, Esquires, on behalf of the Port Phillip Association on the 19th October, 1836.

“The grounds of our claim we conceive to be our treaty with the

that you will extend to us whatever indulgences you may be pleased to grant to them, we have sent Mr. John Dobson, one of our number, to your Excellency with power to act for us and to give such explanation as may be required.

“ We have the honour to be,

“ Your Excellency's

“ Most obedient humble servants,

(Signed)

GEO. MACKILLOP for self and

Mr. JAMES SMITH

and MCLACHLAN

“ The Dep. GOVERNOR

quantity of stock

about 20,700 sheep—

Stewart's arrival and the

tion of 3rd May, 1836. This

cludes the increase. About 13,000

previously to Mr. Stewart's publication before referred to. That includes

by all persons as well as the Association. A meeting

took place on account of the Association on the

October or the beginning of November, 1835.

the land was taken in June, 1835. The contract with

was entered into by Mr. Batman on the 6th of the same

Mr. John Faulkner took down a few horses to Port Phillip

month of August or September, 1835.

“ Considerable purchases of stock were made by individuals belonging to the Association for the purpose of being sent to Port Phillip previously to the publication in Van Diemen's Land of the Governor's Proclamation of the 26th of August, 1835, immediately upon Mr. Batman's return from Port Phillip. We have no hesitation in saying that three-fourths were actually purchased prior to the publication of that Proclamation. Mr. Batman sold his estate and Mr. Wedge relinquished his situation in the Survey Department, previously. Mr. Wedge did this having been refused leave by the Lieut.-Governor to proceed to Port Phillip. To every 1000 sheep may be added about 600*l.* or 700*l.* of expenses. Estimating the number of sheep at 13,000 the expenses attendant on their transmission and settlement may be taken at 6000*l.* or 7000*l.*

(Signed)

WM. MORTIMER

BUNTING JOHNSTON

WILLIAM CLARK

JOHN BELL

GEO. CARTWRIGHT

JOS. ALLPORT

GEO. ARMETAGE

JAMES BROWN

WILLIAM HUTTON

GEORGE FRED READ

CLARKE

SINCLAR BRODIE

and BRODIE

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“The whole expenses of the Association connected with the management of the settlement, and the civilization of the natives have amounted to about 2390*l.*, which includes two years’ supplies. This expense will not be diminished as regards the natives. We consider ourselves bound to continue it, whatever may be the determination of the Government. We consider that we are bound to expend about 800*l.* annually for the benefit of the natives. We have made no distinction in respect of the natives from whatever quarter they may have come. There are about 700 or 800 natives in the neighbourhood of Port Phillip. There have never been more than 200 or 300 supplied with bread at any one time. We would willingly receive any grant the Government may give us on condition of expending the amount we have mentioned for the benefit of the natives.

“The following is an approximate statement of the sheep belonging to the individuals specified :—

| | |
|------------------------|------|
| “ Mr. Swanston | 2500 |
| Gellibrand | 2500 |
| Simpson | 600 |
| Waite | 1000 |
| Connelly | 500 |
| Henry Arthur | 500 |
| Sams | 500 |
| Sinclair | 1300 |
| Batman | 2000 |
| Solomon | 1200 |
| Cotterell | 1000 |

“Of these all but 500 were shipped to Port Phillip prior to the publication of the Governor’s Proclamation of 3rd May, 1836. There were also about 4000 sheep belonging to four individuals which were previously purchased but not shipped. Besides the sheep there were about 100 horses and 57 head of cattle previously shipped to the settlement.

“The Association would enter into any agreement to pay to the extent of from 2000*l.* to 3000*l.* annually towards the expenses of Government if they were confirmed in the purchase of the tracts of land from the natives, which may be estimated at about one million acres, and also to expend the amount already mentioned for the

benefit of the natives. Of this tract of land about one-third is unprofitable. The Deputation then withdrew."

"Memoranda of Statement made before the Executive Council by John Dobson, Esq. on behalf of certain parties settled at Port Phillip on 19th October, 1836.

"In December, 1835, we chartered a ship to take stock to Port Phillip. There was no stock sent to Port Phillip by the parties whom I represent until after the receipt of the Governor's Proclamation of the 26th August, 1835. I have every reason to believe and in fact I know that no stock was sent there by any one previously. We throw ourselves entirely on the clemency of the Government. We merely prefer our claim as equal to that of any other persons. The parties I represent consist of about 44 individuals. They possess at Port Phillip about 14,000 sheep, 40 head of cattle, and at least 20 horses. We all sent ploughs, wheat, &c., and a year's supplies. We took every means to conciliate the natives by feeding them and otherwise. Mr. Dobson then withdrew."

In a letter of October 20th, 1836, to Governor Bourke, Messrs. Swanston, Gellibrand, and Simpson say with reference to the occupation of the territory by the Association subsequent to the Proclamation of August, 1835,—

"Had we withdrawn from the occupation of the territory of Port Phillip, and abandoned our Treaty with the Natives, the necessary consequence would have been, that at the present moment, instead of a settlement having been formed consisting of two hundred persons and stock of the value of one hundred thousand pounds, and the first steps laid towards civilization, that the plains of Port Phillip would have been exclusively occupied by the native tribes and this extensive field for British enterprise would have remained unproductive."

In this letter the opinions of Dr. Lushington, Mr. Burge, K.C., Sir Wm. Follet, and Mr. Pemberton are enclosed.

The decision of the Executive Council appears from the following documents. The Extract of Minute 25—dated October 21st, 1836, and transmitted in Governor Bourke's

despatch of November 12th, 1836, subsequently given—thus deals with the main question raised by the Association:—

“The Secretary of State for the Colonies in authorizing the sale of the vacant Crown Land in the neighbourhood of Port Phillip, having directed the Government of New South Wales to take into consideration ‘the fair claims of the persons who have already resorted to that place to a priority in the purchase, on easy and moderate terms, of any lands which they may have already occupied, or on which they may have effected any improvements,’² the Governor and Executive Council have given their best attention to this subject. They have carefully perused the documents transmitted to the Governor by Lord Glenelg and have had the advantage of a personal communication with a deputation from the Association preferring these claims. To comply literally with the Secretary of State’s Instructions which are to put the land at Port Phillip up to sale, and at the same time to allow any priority of purchase, seemed to the Council impracticable. They endeavoured therefore in the first place to ascertain in what the fair claims of these persons consisted, and in what way their case was distinguishable from that of numerous other unauthorized occupiers of Crown Lands in New South Wales, who have been hitherto regarded as having no title whatever to any advantage or priority in purchase of land. The Council are of opinion, that it is only in so far as the claim under investigation is distinguished by some peculiar feature, which entitles it to favour, that it can be considered as fair, and as such coming within the scope and meaning of the instructions of the Secretary of State.

“After mature deliberation, the Council are unable to perceive such distinction, unless it be in the belief, entertained by the Association, that their title to the land, under the purchase from the natives, could be sustained by law, or would be recognized by the Government, and that under this impression they incurred considerable expense in providing for the occupation of the land so obtained.

“As discovery and transfer of capital may probably be advanced as additional grounds of property, it may be proper to state why

² “Extract from Sir George Grey’s letter to Mr. Mercer, April 14th, 1836.”

the Council find it impossible to admit their validity. The former is wholly unsubstantiated. The existence of the tract of country resorted to by the Association was not unknown; and, even if it be shown that they have been the first to bring to light its peculiar advantages, this is no more than can be alleged by the remote stockholders on every side of the Colonial boundary with respect to the various portions of land which they severally explored and occupy. The transfer of capital from Van Diemen's Land to New South Wales can furnish no claim, inasmuch as no advantage is allowed in the purchase of land to settlers arriving with their capital from England, or any other part of the world. Limiting, therefore, the claims in question, to the steps taken and the expenses incurred by the Association under an erroneous opinion that their purchase from the blacks could be sustained, it is in the next place to be inquired, what claims of such a nature subsisted at the date of the receipt in Van Diemen's Land of the Proclamation of the Governor of New South Wales, dated the 26th August, 1835. From this date it is evidently impossible for the Government to recognize the origin of any claim to preference without encouraging by a positive bounty a disregard of its own authority. The Secretary of State's approval of the Proclamation referred to, clearly shows that it could not be His Lordship's intention thus to invalidate it, and thereby destroy the effect of any similar act of this Government upon similar occasions.

“For the foregoing reasons the Council are of opinion, that the expense incurred by the Association prior to the date referred to can alone be regarded as supporting any claim whatever to preference from the Government. Even with regard to this, the Council do not consider any positive right to be established, but that whatever advantage or compensation may be awarded will be wholly gratuitous, and only justifiable under the express authority received from His Majesty's Government. This concession is of itself a considerable boon; and in addition to which the administration of the law and the protection of a military force have been provided for the settlers at Port Phillip; and measures are in progress by which they may convert under the existing regulations an unauthorized occupation into a legal possession.

“With respect to the engagement entered into with the natives, by which certain articles are to be delivered to them by the Associa-

tion annually the Council are of opinion, that in consideration of the land being now offered for sale, the engagement should be upheld by, and at the expense of the local Government, and that all actual expenditure of the Association on this account should be allowed to them. The Council, therefore, advise, that the Association be called upon to furnish to this Government a detailed account of the expenses they incurred prior to the receipt in Van Diemen's Land of the Government Proclamation, of the 26th August, 1835, above referred to, in providing for the occupation of the land they obtained from the natives at Port Phillip. On the admission of this account, or such part thereof as may be approved, the Council further recommend, that the Association be allowed the amount, together with the expenses incurred on behalf of the natives, as a remission in the purchase of land at that place. They advise also, that the land be set up at the usual price of five shillings per acre, as it is represented to be not inferior in any respect and in fertility much superior to the general average of lands hitherto sold in New South Wales.

“ With respect to the other claimants whose memorials have been laid before the Council, or whose agent has been heard in their behalf, it does not appear that any other persons than the members of the Association before referred to, can advance any fair claim to remission upon the grounds above recognized. Independently of which the direction of the Secretary of State with regard to such claims must be considered as limited to the Association whose agent he was addressing in the correspondence laid before the Council, and by whom alone any pretensions had been advanced for His Lordship's consideration.

“ If it should appear to the Association that the remission now conceded to them in the purchase of land is a less considerable advantage than would seem to have been contemplated by the Secretary of State, when addressing Mr. Mercer on the 14th April last, it is to be recollected that the extent of the fair claim of the Association was left to the consideration of this Government, and the Council have availed themselves, in such consideration, of their local experience, their knowledge of the situation of other unauthorized occupiers of Crown Lands and of facts connected with the occupation of the Association which do not appear to have been known to the Secretary of State.

“The Council have also carefully considered the general effect which a more extended concession in favour of the applicants would have had upon the principles under which Crown Lands are alienated by sale in this Colony. For want of these means of information it appears from the whole tenor of the correspondence of the Secretary of State, both with the Government and the agent of the Association, that whilst his Lordship inculcates the necessity of adhering to the regulations for the sale of Crown Lands, he avoids expressing any definitive opinion upon the claims brought under consideration, and the Council, in applying their additional means of information to the case, conceive that they have best fulfilled the intentions of His Majesty’s Government, and the trust imposed in them, in coming to such a decision as that information appeared to them to prescribe.”

In a letter to Mr. Alexander M’Leay, Colonial Secretary, dated Sydney, October 29th, 1836, Messrs. Swanston, Gellibrand, and Simpson acknowledge the Minute of the Executive Council of the 21st inst., which they remark only allows “an abatement in the purchase-money for lands publicly sold, whereas it is clearly the intention of the Secretary of State, that we are to be allowed *priority of purchase at a moderate upset price*, and which can only be construed to mean a privilege of selecting such lands as we may reasonably require, and purchasing them at the upset price, and which the Council by the minute has fixed at *five shillings per acre*.” They contend that the Governor’s Proclamation of August, 1835, should not be applied to the Association on account of the obligations into which they had previously entered with the natives, &c., and that their continued occupation was in no disrespect to it. As to the portion of the Minute which requires an account of the expense incurred on behalf of the natives prior to the Proclamation—so that “a remission in the purchase of land” may be allowed in respect of it—they say that, up to the

time specified, they are not able to furnish an accurate account, but “beg to state, that the whole amount of the expenses incurred on that head by the Association, from June, 1835, to September, 1836, amounts to £2390, which has been paid from time to time by sundry calls upon the shareholders, amounting to 17 in number.” The expense prior to the Proclamation—“in providing for the occupation of the ‘land purchased from the natives’”—consisted of “the purchase and charter of vessels, for the transmission of stock, which cost £2600, *Norval* and *Adelaide*.”

“The sale by Mr. Batman of his estate in Van Diemen’s Land, and the breaking up of his establishment for the express purpose of proceeding to Port Phillip and where he and his family now reside, and the contracts entered into by him for the purchase of stock, £2300. Contracts and purchase of Captain Swanston for the sole purpose of being sent to Port Phillip to the extent of £3500. The like by Mr. Gellibrand £1100, Mr. Sinclair £500, Mr. Arthur £600, Mr. Conolly £600.” It is also stated that Mr. Wedge relinquished £400 a year as Assistant-Surveyor to go to Port Phillip.

The concluding paragraph of Sir Geo. Grey’s letter to Mr. Mercer of April 14th, 1836, is quoted, and also the passage from that of May 10th, which ends with the words “parties by whom the *settlement of Port Phillip has been made.*” These latter words are in italics. The request is made that each member of the Association shall be allowed to purchase 7000 acres at five shillings an acre—“the extent of land which will be requisite for the agistment of the present flocks and those which have been purchased since the receipt of Sir George Grey’s letter of the 14th April, 1836; the terms of which have induced several members of

the Association to make further extensive purchases, with the ultimate intention of permanent occupancy," or that they may "occupy such above portions of land until the further pleasure of the Secretary of State is ascertained."

Minute 26 of November 1st, 1836, advises with regard to the compensation to the Association—

"That the following items be allowed, viz.—

| | £. |
|--|---------|
| On account of the blacks | 2390 |
| Purchase and charter of vessel | 2600 |
| Expenses of Mr. Batman and Mr. Wedge; the former in treating with natives, the latter in surveying the country | 2010 |
| | <hr/> |
| | £7000 " |

By a letter to the Colonial Secretary, dated Sydney, November 1st, 1836, the three gentlemen acknowledge the receipt of the Minute of the Council "upon the letter of the 29th ult.," and ask "that, as the Council has now defined the upset price, and also the amount of compensation to which the members of the Association are fairly entitled, that each member of the Association may now be permitted to have priority of purchase to the extent of 1647, one thousand six hundred and forty-seven acres, which at the upset price will absorb the sum recommended and which will enable each member to secure a *homestead* for the protection and agistment of part of the flocks."

Minute 27, November 2nd, 1836, refuses the application "that each member of the Association may be permitted to have priority of purchase to the extent of 1647. acres each, which at the upset price will absorb the sum recommended." The reason assigned is, that "it is only in the way of remission that they can be granted the amount of

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expenses which have been allowed to them, it being indispensable that the land should be put up to sale." Mr. M'Leay, in a letter of November 10th, announces this decision, which was in accordance with the principle laid down in the Minute of the 21st ult.

The following copy of a despatch of Sir Richard Bourke to Lord Glenelg, clearly explains the preceding decision of the Executive Council respecting the claims of Batman's Association :—

Government House, Sydney,
"12th November, 1836.

"MY LORD,—With reference to your Lordship's despatch of the 13th April last No. 142 upon the occupation of Port Phillip, and to my communication upon the same subject of the 15th September last, in my despatch No. 101, I have now the honour to inform your Lordship that I have conferred with the deputies from the Association whose attendance I requested, and have received several applications from other bodies and individuals seeking land at Port Phillip. The claims of the Association made known to your Lordship by Mr. Mercer and those of other parties preferred to this Government have been severally considered by the Executive Council, and I transmit herewith the minutes of their proceedings and other papers upon these subjects.

"The Minute No. 25 contains so full an exposition of the grounds upon which the Council came to the decision therein recorded, as to leave little to be added in the way of explanation. I would briefly remark that in refusing to allow to the Association the acquisition of land at Port Phillip unless by the process of public sale under the existing regulations, the Council were influenced by a consideration of the actual state of a large portion of the Colony in which land is occupied in the same unauthorized manner as at Port Phillip. The occupiers might claim a conveyance from the Crown with as much reason and upon the same terms as the Association claim for their usurpation. In acceding to all these demands, the system under which the disposal by auction of vacant Crown Lands in New South Wales has hitherto been so success-

fully conducted, would be at once broken up; and some millions of acres I believe I may say without exaggeration, would be required to satisfy the claims of those who have driven their sheep and cattle into remote and fertile districts of which they may boast to be the first discoverers.

“In allowing to the Association without any rigid scrutiny of the account of the money they expended whilst under the erroneous impression that the land they proposed to occupy was not within the limits of this Government, and that their bargain with the blacks was valid, the Council have treated that body with great consideration. I believe the Association feel this to be the case, and would have been satisfied with the arrangement had the Council consented to their last proposition, and given land without a public sale, instead of allowing the value in a remission of the purchase-money at an auction held under the terms of the existing regulations. The Council however could not for the reasons already stated depart from the principle by which its decision was governed; and your Lordship will probably receive a renewed application from the Company. I would strongly recommend that the decision of the Council be fully confirmed. Any relaxation will establish a precedent of which the numerous occupants beyond the limits will not fail to avail themselves when the opportunity offers, as soon may be the case. Their claim to a similar indulgence would then be irresistible. At present they expect no preference when their land shall be put up to sale. The claim of the Association on the score of improvements is merely nominal. These have not exceeded the erection of a temporary bark hut, and the cultivation of a little wheat for their shepherds. It is probable that when the land is divided and put up to sale in sections, each will get that portion upon which his rude settlement has been formed.

“Upon the whole I think the decision of the Executive Council has not created any very bitter disappointment to the Company, and has been generally satisfactory to the rest of the community. As a precedent, if confirmed by your Lordship, it will materially facilitate the adjustment of future claims when the land to the westward of Twofold Bay is declared open to location. I have the honour,” &c.

“(Signed) RICHD. BOURKE.”

In reply to the preceding despatch, Lord Glenelg writes, July 10th, 1837, signifying his "approval and confirmation of the resolutions of the Council, and of the proceedings of the local Government."

The Secretary of State says that—

"The reasons assigned . . . for an inflexible adherence to the principle of sales by auction according to the present system are conclusive, and it is clearly shown that a departure from that principle in the present case would involve a sacrifice of the best interests of the Australian Colonies.³ Another motive for adhering to this principle might have been drawn from the contiguity of Port Phillip to South Australia. The granting of land without purchase in that part of New South Wales would of course have been wholly incompatible with the prosperity of the adjacent Colony, as a competition would thus be created for settlers and for the investment of capital, with which it would have been impossible for South Australia where the upset price of lands is fixed by Parliament at 12/- per acre, to contend."

Lord Glenelg states that he is "more strongly" confirmed, by the opinions of Sir Wm. Follet and Messrs. Burge and Pemberton, in his views as to the rights of the Crown and the invalidity of the title from the natives.

His Lordship further says,—

"I perceive that much stress is laid on the language of the letters which by my direction Sir Geo. Grey addressed to Mr. Mercer. It is argued, that those letters recognize a right on the part of the settlers, first to a priority of purchase of the lands which they had occupied or improved; and secondly, to a protection of all their claims and reasonable expectations. The Council observing that priority of purchase and a sale by auction being wholly incompatible and contradictory, understand Sir George Grey's letters as leaving it open to them to refuse the required priority.

³ The first time they appear to have been so called in any of the despatches.

This construction was completely in accordance with Sir George Grey's language, as it is with the reason of the case. Mr. Mercer was not informed that any priority of purchase would be accorded to the Association, or that any of their claims or expectations would be admitted excepting such as might be found fair and reasonable. On the contrary he was distinctly informed, that the local Government of New South Wales would be directed to put up the land at Port Phillip for sale at an upset price. It appeared to me however, that under the circumstances of the case there might possibly be some particular spots, for example the sites of buildings, gardens or other enclosures, which it might be reasonable to except from this general rule. But cautious of making even that concession without the advantage of the previous inquiries and advice of the local Government, I expressly declared that such arrangements only could be made for this purpose 'as might appear to the Governor to be reasonable.' Thus the general principle of sales by auction was distinctly affirmed, and the propriety of admitting the proposed exception from it was referred to the discretion of the local Government. That discretion having been maturely exercised, on a full consideration of all the facts of the case, and of all the principles bearing on them, I cannot admit that there is any inconsistency between the assurances conveyed to Mr. Mercer and the ultimate decision which in deference to the opinion of the local Government I now sanction and adopt. I am, &c."

The very learned opinion of Mr. Burge—referred to in the above despatch, and elsewhere in the discussion of the claim of the Association—has an interest beyond that question, as it ably treats of the law relating to the acquisition of territory from aboriginal inhabitants. The historical facts cited in the opinion relieve it from the dryness of an ordinary legal document. It is therefore given unabridged, and is as follows:—

"1 and 2. I am of opinion, that, as against the Crown, the grants obtained by the Association are not valid, and that, as between Great Britain and her own subjects, as well as the subjects of foreign states, the right to the soil is vested in the Crown. It has been a

principle adopted by Great Britain as well as by the other European States, in relation to their settlements on the Continent of America, that the title which discovery conferred on the Government, by whose authority or by whose subjects the discovery was made, was that of the ultimate dominion in and sovereignty over the soil, even whilst it continued in the possession of the Aborigines.—Vattel, B. 2. 18. This principle was reconciled with humanity and justice towards the Aborigines, because the dominion was qualified by allowing them to retain, not only the rights of occupancy, but also a restricted power of alienating those parts of the territory which they occupied. It was essential that the power of alienating should be restricted. To have allowed them to sell their lands to the subjects of a foreign State would have been inconsistent with the right of the State, by the title of discovery to exclude all other States from the discovered country. To have allowed them to sell to her own subjects would have been inconsistent with their relation of *subjects*.

“The restriction imposed on their power of alienation consisted in the right of pre-emption of these lands by that state, and in not permitting its own subjects or foreigners to acquire a title by purchase from them without its consent. Therein consists the sovereignty of a dominion or right to the soil asserted, and exercised by the European Government against the Aborigines, even whilst it continued in their possession. The Commission granted by England to Cabot, the charter to Sir Humphrey Gilbert in 1578, and which was afterwards renewed to Sir Walter Raleigh, the charter to Sir Thomas Gates and others in 1606, and to the Duke of Lennox and others in 1620, the grants to Lord Clarendon in 1663, and to the Duke of York in 1664, recognize the right to take possession on the part of the Crown, and to hold in absolute property, notwithstanding the occupancy of the natives.

“The cession of ‘all Nova Scotia or Acadia, with its ancient boundaries,’ made by France to Great Britain by the 12th Article of the Treaty of Utrecht in 1703, and the cession of other lands in America, made at the peace of 1763, comprised a great extent of territory which was in the actual occupation of the Indians. Great Britain on the latter occasion surrendered to France all her pretensions to the country west of the Mississippi, although she was not in possession of a foot of land in the district thus ceded. But that

which Great Britain really surrendered was her sovereignty, or the exclusive right of acquiring and of controlling the acquisition by others of lands in the occupation of the Indians.

“On the cession by Spain to France of Florida, and by France to Spain of Louisiana, and on the retrocession of Louisiana by Spain to France, and the subsequent purchase of it by the United States from France, these powers were transferring and receiving territories, the principal parts of which were occupied by the Indians.

“The history of American colonization furnishes instances of purchases of land from the native Indians by individuals. The most memorable is the purchase made by William Penn. It has, however, been observed by Chief-Justice Marshall, in the case of *Johnson v. M'Intosh*, 8 Wheaton's Rep. 570, that this purchase was not deemed to have added to the strength of his title. Previously to this purchase the lands called Pennsylvania, and which comprised those subsequently purchased by him, had been granted by the Crown to him and his heirs in absolute property, by a charter in 1681, and he held a title derived from James II. when Duke of York. He was, in fact, as a proprietary governor, invested with all the rights of the Crown, except those which were specially reserved. Another instance is the purchase from the Narraghansetts Indians of the lands which formed the Colonies of Rhode Island and Providence. They were made by persons whose religious dissensions had driven them from Massachusetts. The state of England at this period might account for this transaction having escaped the attention of the Government. It is evident, however, that the settlers were not satisfied with the title acquired by this purchase, for on the restoration of Charles II. they solicited and obtained from the Crown a charter, by which Providence was incorporated with Rhode Island. The grant is made to them ‘of our Island called Rhode Island,’ and of the soil as well as the powers of Government. The judgment of Lord Hardwicke in the case of *Penn v. Lord Poltimore*, 1 Ves. 454, is not inconsistent with, but in many respects supports, this view of the rights of the Crown and its grantees.

“In all the Colonies which now constitute the United States, the Crown either granted to individuals the right in the soil, although occupied by the Indians, as was the case in most of the proprietary Governments, or the right was retained by the Crown, or vested in the Colonial Government. The United States at the termination of

the Revolution acquired the right to the soil which had been previously vested in the Crown, for Great Britain by treaty relinquished all claim 'to the proprietary and territorial rights of the United States.' The validity of titles acquired by purchases from the Indians has been on several occasions the subject of decision in the Courts of the United States. The judgment of Chief-Justice Marshall in the case of *Johnson v. M'Intosh*, contains the elaborate opinion of the Supreme Court, that the Indian title was subordinate to the absolute ultimate title of the Government, and that the purchase made otherwise than with the authority of the Government, was not valid. A similar decision was given by the same Court in the case of *Worcester v. the State of Georgia*, in January, 1832. 3 Kent's Com. 382, and the case referred to in note, p. 385.

"3. I am of opinion that the Crown can legally oust the Association from their possession.

"The enterprise manifested by the expedition,—the respectability of the parties engaged in it,—and the equitable and judicious manner in which they conducted the intercourse with the native tribes, and made their purchase, afford a strong ground for anticipating that the Crown would, in conformity with its practice on other occasions, on a proper application, give its sanction to, and confirm the purchase which the Association has made. Lord Hardwicke, in the case which has been referred to, expressed a very strong opinion, that the possession of persons making these settlements ought to receive the fullest protection.

"There is no ground for considering that the lands comprised in this purchase are affected by the act erecting South Australia into a Province, 4 & 5 W. IV., c. 95. They are clearly not within the boundaries assigned to the territory which is the subject of the act, and therefore the Crown is not precluded from confirming the purchase.

"4. I am of opinion that the Association should make an application to the Government for a confirmation of the above purchase, and accompany it with a full communication, not only of all the documents now laid before me, but of every other circumstance connected with the acquisition.

"(Signed) WILLIAM BURGE.

Linc. Inn, 16th Jan. 1836."

"We have perused the extremely able and elaborate opinion of

Mr. Burge, and entirely concur in the conclusions at which he has arrived upon each of the queries submitted to him.

“ (Signed) THO. PEMBERTON.
W. W. FOLLETT.
“ Jan. 21, 1836.”

In a subsequent opinion dated December 11th, which Mr. Burge was asked to give, as to what the Association should do, the learned gentleman says,—“I confess it appears to me that neither the present nor any preceding Government has applied itself to the colonization and settlement of those immense territories to which Great Britain claims a right of sovereignty with the attention, and upon the principles, which this great and interesting subject demands. The principle upon which, in the earlier history of this country, colonization proceeded, and was encouraged by the Government, is abandoned, and no new principle substituted in which a just consideration is had for the enterprising exertions of individuals in making those settlements which the Government itself will not make.”

Mr. Mercer does not again address the Colonial Minister till December 14th, 1836, when he writes from Edinburgh enclosing a certificate from the “legally-appointed Inspector of Stock at George Town, Van Diemen’s Land,” stating that between November 1st, 1835, and May 7th, 1836, the date of the certificate, there had “been exported from George Town for Port Phillip on the Coast of New Holland” 19,246 ewes, 36 horses, and 41 head of horned cattle. Mr. Mercer says that subsequently, in the course of the month of May, 1100 more ewes were sent to Port Phillip, making above 20,000 sheep in seven months, and that the Association had expended about £50,000. He also forwards “a print of the ‘Hobart Town Gazette’ of

1st of April, 1836, containing Government Notice No. 75 of the 31st March following upon a letter from Port Phillip, 15th March, addressed by Mr. Wedge a member of the associated body to Mr. Colonial Secretary. Montagu, respecting the firing at and wounding of some blacks at Western Port by some men employed collecting mimosa bark." The Gazette also contains Sir Richard Bourke's Proclamation of August 26th, 1835, respecting the treaty with the natives. Mr. Mercer remarks:—"I may be permitted to observe that your Lordship's instructions to His Excellency General Bourke up to that period scarcely appear to me to convey such specific orders to grant special immunities to the discoverers and founders of that Colony as from the ultimate paragraph of Sir George Grey's letter of 14th in reply to my address of 6th April, I had flattered myself with the hope of finding;" and he trusts that subsequent instructions may have been more favourable. He also states that the late accounts inform him, that in consequence of the occupation by other settlers of the adjoining tracts, proposed for purchase in his letter of April 6th, "the Association had relinquished the intention of extending its territories by further treaties with the Native Chiefs;" and that the other Colonists respect "the boundaries marked out by the Treaties." He offers £30 a square mile "for the ceded tract in extent more or less one thousand square miles"—the money to be expended at the discretion of the Government for the benefit of such tract. He suggests as possible, but hopes improbable, that were part of it offered for sale, the natives might, "not unsupported by imprescriptible right and natural justice, principles to which they are fully alive, governed by their already pledged faith under treaties bearing their sacred symbols, object to what they

might consider an arbitrary disposal of their property, and might possibly deem themselves justified or even bound in honour to dispossess and eject, *vi et armis*, any settler or occupant not being one of the Association." He further suggests that the claim might be made the subject of legislation or inquiry by a Committee of the House of Commons. The letter also says that other persons besides those of the Association, have commenced to erect stores and to form stations at Port Phillip, and that "orders for goods have been received in Edinburgh to furnish these stores for the supply of the yet scanty but daily increasing population; and," he observes, "I may safely add that in a very few years duly fostered by the British Government and under the philanthropic conciliatory and civilizing system adopted by the body now located there this settlement will prove to be the most flourishing free Colony in the Hemisphere." He states that he is preparing to send a few "emigrants specially for Port Phillip by the first good and sufficient vessel that may sail from Leith."

In a reply of December 30th, Sir George Grey says "that after the instructions which his Lordship has already addressed to the Governor of New South Wales, he could not without producing extreme and irreparable confusion, take out of the hands of that officer the duty of superintending the formation of the settlements which are in progress at Port Phillip; nor could His Lordship without neglecting the just claims of the settlers in South Australia accede to the proposals which you have made."

Mr. Mercer replies, at some length, from Edinburgh, January 27th, 1837, asking that the question may be reconsidered by the Government, or that it would sanction a motion for a Committee in the House of Commons to take

into consideration "the state of this important and rapidly improving Colony."

In a reply from the Colonial Office, as long after as July 31st—Mr. Mercer having withheld the letter, not sending it till forwarding the following of June 23rd—he is informed "that the arrangements for selling lands in the vicinity of Port Phillip have been maturely considered by the Governor and Council of New South Wales . . . and that the lands there are now actually in the course of sale by public auction at a fixed upset price." "The Association are also informed, that they "may obtain at such auction any quantity of land which they may wish to purchase, but Lord Glenelg does not feel himself justified in entering on behalf of Her Majesty's Government into any arrangements with members of the Association for the acquisition of lands on any other principle."

Mr. Mercer, in writing on June 23rd, 1837, among other things, says, "Colonel Torrens in his evidence given on the 29th June, 1836, before the Select Committee of the House of Commons, is pleased to designate the Association 'Squatters'—this term as applied to them by this witness and others, I beg distinctly to repudiate; because according to the *lex loci*, such as it may be, they are legitimate occupants of the lands in question."

The Under-Secretary replies on July 31st, that "Lord Glenelg has found no reason to doubt either the lawfulness, the justice, or the prudence of the measures taken by Sir R. Bourke on the advice of the Executive Council of his Government in regard to the settlement at Port Phillip. His Lordship has, therefore, signified to that officer his approbation of those measures."

Mr. Mercer, in an answer of August 18th, comments

upon the reason assigned by the Executive Council at Sydney, of the impracticability of a literal compliance with Lord Glenelg's instructions—"to give those by whom the settlement at Port Phillip had been made, priority of purchase of the lands occupied or improved by them at a price under 5s." On the faith of this Mr. Mercer states that he had invested £15,000 "in stocking the territory at Port Phillip."

On November 18th, 1837, Mr. Mercer again addresses the Secretary of State, commending to him the petition of Mr. Swanston, next referred to, and says,—“Lest your Lordship should not have received despatches of June from Sydney, I have the honour to state that five squares, comprising one hundred allotments in the town of Melbourne (the plan consisting of Twenty-four Squares) had been sold on the 1st June, 1837, at an average of thirty eight pounds sterling per lot, each containing seventy-six perches. The site of this city was selected by Sir Richard Bourke, in the tract originally set apart for public purposes, by the Association, as shown by the map with your Lordship, about six or seven miles from the mouth of the Yarra Yarra River.”

The statement of Mr. Swanston, dated Hobart Town, January 16th, 1837, from which the following extract is taken, was addressed to the Colonial Secretary of New South Wales, and transmitted to Lord Glenelg. The writer alleges that, being, as one of the members of Association, pledged to take steps to occupy the country, he had made arrangements with that view prior to the Governor's Proclamation of August 25th, 1835. He says,—

“In the month of November, 1835, a shipment of part of the sheep which had been purchased in pursuance of the pledge given,

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was made by the undersigned from 'George Town,' per *Norval*, and were landed at the Indented Head, at the entrance of Port Phillip; but in consequence of the then insecure state of that part of the settlement, and the alarm entertained by the shepherds in proceeding through 'Geelong' to the River Exe, where the station was then fixed, 500 young ewes were lost; and notwithstanding every search was immediately made, and which was continued for some months, the missing sheep have never been recovered.

"The undersigned is induced to believe from subsequent representations made by some of the natives that the sheep were driven away by a party of natives towards the Lake Moodewarie, and there destroyed.

"In the month of December, 1835, the undersigned shipped on board the *Norval* the remainder of his stock, consisting of 1048 ewes, and 84 pure Saxon rams. The vessel most unfortunately encountered a severe gale of wind when distant from the entrance of Port Phillip about thirty miles. The gale lasted three days, during which time the vessel lay to, and for the ultimate preservation of the stock, the captain went to 'Western Port,' intending to land the stock on the main opposite Porpoise Head, but finding that that part of the country would not afford any water or sustenance, he then proceeded to Red Point, and landed the entire cargo near the place where the settlement had formerly been established by the Government of New South Wales, and had been abandoned in 1826. During the operation of landing the cargo at Western Port, the weather continued boisterous, and the boats being unfitted for the purpose, one was upset, when the undersigned had to deplore the loss of two men, and of Mr. Moodie, his overseer, who was in charge of the stock and cargo.

"The natives of Western Port are very numerous, and had been a few weeks before wounded and injured by a party of Barkers who were stationed a few miles off. These men represented to the shepherds the danger of their employment on shore, and the certainty of their being speared by the natives; and such was the intimidation produced that the property of the undersigned was wholly exposed—the sheep strayed through an unknown country covered with grass three feet high, so as effectually to conceal them; and although the undersigned procured a vessel to be despatched with other men, accompanied by several natives of New

South. Wales to Western Port within a fortnight after the landing, yet they were only able to collect out of the whole flock 78 sheep, and which were taken to Port Phillip.

* * * * *

“The result of these two unfortunate cases is as follows:—

| | |
|--|-------|
| The first freight and charges of the 500 sheep | |
| lost at Geelong | £875 |
| The like of the sheep landed at Western Port | 2159 |
| | <hr/> |
| | £9034 |

but the present value of that stock with their increase would be at the most moderate computation £5600.”

Mr. Swanston asks for “some compensation in allowance in the purchase of lands at the Colony which he has so materially assisted in establishing.”

The Colonial Secretary, Mr. Deas Thomson, in a letter of February 4th, 1837, declines to accede to Mr. Swanston’s request; and on its being referred to Sir R. Bourke, after his return to England, he writes on July 24th, 1838, that he cannot come to any decision different from that above communicated to Mr. Swanston. This reply was sent to Mr. Mercer in a letter of July 31st, 1838.

In writing from Edinburgh on May 24th, 1838, Mr. Mercer further urges upon Lord Glenelg the claims of his Association, alleging that the Sydney Government had wholly failed “in effectuating his Lordship’s intention.” Mr. Mercer encloses a printed pamphlet dated May, 1838, containing a statement of the “Case of the Association,” one or two extracts from which may more clearly show the progress of colonization.

“The first occupation of the country by the Association was in November, 1835, and so rapidly did the settlement increase, that in September 1836, a period of little more than ten months, the population consisted of 157 males, 35 females and children, 50,000

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sheep, 65 horses, and 160 horned cattle. The value of the whole stock was not less than £100,000, and in the course of the year eleven vessels had been employed for the transport of commodities to and from the settlement.

It goes on,—

“ That in June, 1837, the foundations of a town to be called Melbourne, were laid on the banks of the Yarroo, upon a part of the tract acquired by the Association from the natives and which they willingly gave up to the Government to the extent of 30,000 acres, for the purpose of being sold in small lots for the benefit of the lesser emigrants; and that 100 allotments of town land, the town comprising 480, were put up to sale, and were purchased at high rates, amounting in the whole to £3800,—the allotments being seventy-six perches (not half an acre) each; the sale averaging £80 per acre, while the town lots, lately sold at Adelaide, the new capital of South Australia, only brought £6 7s. 8d. per acre, the difference being caused by the small number of lots exposed to sale in the one case, and the greater extent exposed in the other.”

It is further stated that—

“ The European settlers occupy an extent of about 100 miles of country, but the furthest station from the township is not more than fifty miles distant. The whole country is under sheep, except about sixty acres in cultivation, producing wheat of excellent quality, and other grain for the use of the inhabitants.” “ The number ” of natives “ frequenting the country occupied by Europeans may be about 800.”

In a reply of June 18th Mr. Mercer is informed that the claims of the Association “ appear to his Lordship to have met with a full and fair consideration from the local Government of New South Wales. The reasons assigned by Sir R. Bourke and in the report of the Council for an adherence to the principle of sale by auction in this case appeared to Lord Glenelg to be conclusive, and his Lordship

feels that the utmost indulgence which could necessarily be claimed by the Association has been conceded to it by the allowance of the sum of £7000."

In a letter of July 30th, 1838, Mr. Swanston informs Sir Geo. Gipps that the Association, in order to show "the practicability of carrying through the instructions" is "prepared to select land to the extent of seven thousand pounds in one or more blocks at five shillings an acre, that being the upset price fixed upon land at Port Phillip."

The correspondence between Mr. C. Swanston and the Colonial and Imperial Governments, is of some length. In his letter to Lord Glenelg of October, 1838, from Hobart Town, Mr. Swanston urges the claim of the Association, and states that, whilst relying upon their interpretation of Sir Geo. Grey's letter of April 14th, 1836, being carried out,—

"Some of their lands have been sold by the Crown to others at an enormous price which they never would have attained but for the improvements effected by the Association, that they have been deprived of their homesteads, and their stations, and that they have actually sustained the precise inconvenience (I would venture to substitute the word injury) which Mr. Stephen has stated it was the object of your Lordship's instructions to prevent.

"The sale of lands to which I allude took place on the 12th ultimo, and in the full expectation that some sufficient instructions must have been received by his Excellency Sir George Gipps, to carry out your Lordship's promises to the Association, I addressed a letter to His Excellency, recapitulating the circumstances, connected with the claims of the Association and at the same time an agent was sent from Van Diemen's Land by the Association at a very considerable expense to confer with Sir George Gipps. His Excellency, however, declined affording them the protection they required, as he had not received any communication from your Lordship upon the subject, and considered that he was

therefore bound to abide by the instruction in your Lordship's despatch No 341 dated 10th July, 1837, upon the subject addressed to his predecessor.

* * * * *

“The agent accomplished all that under such circumstances he was enabled to do by leaving a protest with the Governor against the sale of the lands which the Company had occupied and upon which they had effected improvements. And your Lordship will perceive that he was deterred from adopting the course usually resorted to, viz. making open protest at the sale, by the intimation made to him in the Colonial Secretary's letter of the 8th September, 1838, ‘that any interference on his part to affect the biddings at the sale, would be held to annul the agreement under which seven thousand pounds have been allowed to the Association.’

“But the Association had not the opportunity to purchase even if so disposed, inasmuch as, as has been shown in Mr. Under-Secretary Stephen's correspondence, the remission of seven thousand pounds in the price of lands so purchased would have been to the Association in fact no remission at all.”

Mr. Swanston says further, “that Port Phillip is now a flourishing settlement already yielding a considerable revenue to the Crown, and bidding fair at no distant day to rival if not surpass its most advanced neighbours, and that in bringing about these results the Association have been mainly instrumental.”

In a despatch of April 8th, 1839, the Marquis of Normanby, who had succeeded Lord Glenelg, informs Sir Geo. Gipps that he approved of his “having referred the Association to Lord Glenelg's despatch of 10th July, 1837, as the rule by which your proceedings in the case would be guided;” and that there is no ground for Mr. Swanston alleging that the absence of instructions from the Secretary of State to the Governor had placed the Association in an unfavourable situation.

In a despatch from Sir G. Gipps of November 24th,

1841, we have the last official record of the claim of the Port Phillip Association. The Governor says,—“ Referring to the long correspondence which has taken place on the subject of the compensation granted, to the extent of £7000, to the persons who formed the ‘ Port Phillip Association,’ and particularly to Lord Normanby’s despatch of the 8th April, 1839, I have the honour to report to your Lordship, that this business has been brought to a final settlement on the principle laid down in Lord Glenelg’s despatch of the 10th July, 1837, and that the lands (being 10,416 acres) purchased by the members of the Association, at Port Phillip, to the amount of £7000, have been granted in trust to Mr. S. A. Donaldson, a merchant of Sydney—he having been duly authorized to receive the same, as Trustee, by the parties interested.”

CHAPTER IX.

OTHER CLAIMS AND APPLICATIONS FOR LAND.

Claims of colonists not belonging to the Association—Mackillop's memorial—Application for land at Western Port—Project for working coal there and running steamer between Port Phillip, Tasmania and Adelaide—Batman's application for grant of land—Correspondence respecting it—Batman's death.

SOME further claims made upon the Government by early settlers in Victoria, and projects suggested for developing the newly occupied territory cannot well be omitted from notice. It is clear that the Government had good reason to be cautious in not departing from its rules with respect to the disposal of lands, though in some few very exceptional instances, it might with perfect safety have, to a limited extent, relaxed their stringent application in favour of the very first founders of valuable new settlements.

We have already referred to Mr. Mackillop's letter to Lord Glenelg of December 6th, 1836, enclosing two memorials adopted at public meetings at Hobart Town on October 6th and November 22nd. The first of these has already been given, and the second, which ably urges the claim of other early settlers to the consideration shown

for the members of the Port Phillip Association, is as follows:¹—

“To His Excellency Genl. Sir Richard Bourke, Governor-in-Chief of New South Wales, &c., &c., &c.

“MAY IT PLEASE YOUR EXCELLENCY,—We have had the honour to receive by Mr. Dobson, Mr. Secy. McLeay's letter of the 24th ult. and a copy of the Minute of the Executive Council of New South Wales of the 21st ult. which accompanied it; and crave permission respectfully to make the following observations in reference thereto.

“In the Minute of the Council it is stated—‘It does not appear that any other persons than the members of the Association before referred to can advance any fair claims to remission upon the ground above recognized.’

“In opposition to this, we would refer to the clear and explicit explanation of the Right Hon. the Sec. of State for the Colonies, quoted in the Minute of the Council. It states the Sydney Government are to take into consideration the ‘fair claims of the persons who have already resorted to that place (Port Phillip) to a priority in the purchase, on easy and moderate terms, of any lands they may have already occupied, or on which they may have actually effected improvements.’²

“We beg respectfully to observe, that it is impossible for us to suppose, that in writing as above, the Secretary of State meant to refer more particularly to the members of the Association than to the other settlers at Port Phillip.

“The Executive Council are pleased to state, in substance, that they can see no difference between the case of settlers at Port Phillip, and that of other persons holding unauthorized possession of Crown Lands in the other parts of the New South Wales territory. There is, however, in our humble opinion, a wide difference, and which we doubt not Lord Glenelg had in view at the time he wrote the despatch above quoted. This difference we beg respectfully to bring to the notice of your Excellency.

“Settlers occupying Crown Lands in the other parts of New

¹ In the Record Office.

² Letter of Sir Geo. Grey to Mr. Mercer of April 14th, 1836.

South Wales are protected in their persons and properties by your Excellency's Government; for though there be no magistrates residing in the territories which have not yet been advertised for sale, the nearest magistrate we understand always affords assistance to those settlers, when he is required to do so. At Port Phillip the case was widely different before the arrival there of Captain Lonsdale. We were subjected to constant annoyances and losses by the unruly conduct of our servants. We do not however trouble you with a recapitulation of the particulars of these matters, as the many entreaties transmitted to your Government praying you to send a magistrate to Port Phillip must have convinced your Excellency that these evils were grievously felt by all the settlers.

"It must be known to your Excellency too that though Convicts are only assigned at Sydney to persons actually possessed of land in New South Wales, assigned servants are not restrained from proceeding out of the territories which have yet been advertised for sale. Hence we have been informed, that almost three-fourths of the whole of the inhabitants of the extensive district of country called Monera are convicts. This is a great advantage allowed to occupiers of Government land in other parts of the New South Wales territory, but which could not have been granted to us at Port Phillip, because even though we had qualified ourselves to hold assigned servants, they would not certainly have been allowed to go to a distant place like Port Phillip, where there was no civil power to control them.

"In New South Wales the settlers have always the means of communicating with the natives of any new country into which they may penetrate, through the blacks they may take with them from the settled country. At Port Phillip we had to treat with blacks who had never before seen an European, except Mr. Buckley, and in this way were subjected to much anxiety and no little danger.

"We beg further to remark that in point of fact, Port Phillip is an entirely new and distinct Colony, and is in no wise connected with the other parts of New South Wales, except by being placed under your Excellency's control. In illustration of this remark, we would observe, that up to the time Captain Lonsdale came there, though 70 or 80 vessels had arrived from Van Diemen's Land, not

one had come to it from any port in New South Wales, with either stock or merchandize. In a new Colony like Port Phillip too it must be known to your Excellency that the immigrant meets with many difficulties, which he would not have to encounter on his arrival in the other parts of New South Wales. In the latter he readily finds a temporary residence for his family and all sorts of provisions and stock procurable on the spot. At the former he has to impart, not only his flocks, but his servants, provisions, house, &c., in fact everything.

“Our case as compared with that of the Association, we believe stands thus. It was known or ought to have been known, to all the parties who invested capital at Port Phillip, that that place had long ago been declared by the English Government to be part of the New South Wales Territory. Notwithstanding this state of things, the Association purchased large tracts of the country from the natives. We could have done the same, but were restrained by the consideration that such proceedings would be considered disrespectful to your Excellency and the British Government. We do not think, however, that for this forbearance we are the less entitled to consideration either from your Excellency or the British Government.

“It appears to us, that Lord Glenelg has taken an enlightened and comprehensive view of the compensation or indulgence, that should be granted to the settlers, when he bases it on the *bona-fide* occupancy of the land in pasture, and other agricultural purposes. We have, we believe, imported as large a number of sheep (the other stock is of comparatively little value) into Port Phillip as the members of the Association, and are therefore, we conceive, entitled to an equal amount of compensation. Such certainly was the intention of the Right Hon. the Secretary of State for the Colonies at the time he wrote the despatch already referred to.

“We respectfully submit, the Association are either legally entitled to the land they claim (and if that be your Excellency’s opinion, it must be conceded to them, however inexpedient it may be to the interests of the new Colony that so fair a portion of its territories should fall into the hands of a few individuals), or they are not legally entitled to it. If they be not entitled to it, they can be considered as unauthorized occupiers of the land like ourselves and deemed deserving of consideration in the same ratio as

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the other settlers; and that ratio, in our humble opinion, can only be determined in the manner clearly pointed out by the Right Hon. the Secretary of State for the Colonies, viz.—the quantity of land occupied by the depasturage of sheep, or other agricultural purposes up to the time of the arrival of Captain Lonsdale in the Colony.

“The Association we freely admit may have made more presents to the natives of Port Phillip than we did, but as our flocks were in detached situations in the country, and we knew the Association were in the habit of giving the blacks flour, we were induced, that we might not excite their enmity against us, to do the same thing; and in this way incurred very considerable expense.

“In conclusion we would respectfully observe that the quantity of compensation to the occupiers of land at Port Phillip previous to the arrival of any constituted authority, will not operate prejudicially as a precedent in the other territories under your Excellency’s control, as no other Colony is likely to be established within the bounds of these territories, where the first settlers will be entirely beyond the protection of the New South Wales Police, will be entirely without the assistance of Convict labour, and will have to incur the risk and expense of a sea voyage for every individual person, animal or thing they bring into the new Colony. No one, who has not actually experienced the difficulties attending the formation of a new and totally distinct Colony, where everything has to be imported by sea, can be fully aware of the trouble and expense attending such a proceeding. We doubt not however that these circumstances, have been fully stated to Lord Glenelg, and that it is in consideration of them, that he has determined we are entitled to consideration in the purchase of land in the new Colony.

This memorial which bears the same date as that previously referred to, is also certified as “a true copy,” by “G. Mackillop, Chairman of the Meeting,” and is signed by all the same subscribers, except Messrs. T. and W. Robertson, Steal, Brown and Caldwell.

In a reply to it, dated Sydney, January 2nd, 1837, Mr. Deas Thomson informs Mr. Mackillop that the Govern-

ment could not entertain the request, it having been "only in pursuance of the instructions of the Secretary of State that the claims of the Association were entertained here, and as the Council were of opinion that the Instructions had reference to that Body only, it would have been inconsistent with the view which the Council took of the unauthorized occupation generally to have extended to the memorialists the advantages which the instructions confined to the Association."

By letter of June 14th, 1838, to Sir Geo. Gipps, Lord Glenelg "fully concurs in the decision of Sir Richard Bourke conveyed to the parties interested by the Colonial Secretary's letter of the 2nd January, 1837."

In a memorial to the Secretary of State, dated Hobart Town, January 31st, 1838, Messrs. Chas. McLachlan, Geo. Fred. Read, and G. Mackillop ask for remission of purchase-money of land, to persons "not connected with the Association who had shipped sheep to Port Phillip previous to the arrival there of the first Police Magistrate," on the same terms as the 7000*l.* remission was conceded to the Association. The memorialists ably contend that they are as well if not better entitled to such a concession than the Association, which in respect of its purchase from the natives had set itself up "in opposition to the Government."

It is urged that the Secretary of State's instructions were intended to apply to all persons who had resorted to the settlement up to the period specified. The memorial states, and founds an argument in favour of its object upon the fact, that—

"Mr. G. Mackillop wishing, in the beginning of 1835, to establish a communication between the South West extremity of Monera

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(the province in New South Wales behind Twofold Bay) and Port Phillip or Western Port—proceeded from Monera, by the Southern end of the Australian Alps, for about 100 miles in the direction of these ports. In this journey he came to Omio, which will at some future period be found to be one of the finest sheep districts in New South Wales. No European had ever before been within 50 or 60 miles of that place, and he may therefore be said to have discovered it.”

Sir George Gipps in a despatch of April, 17th, 1838, enclosing the above, deprecates the reopening of the question of compensation, which he says appears “to have been set at rest by your Lordship’s despatch of July 10th, 1837,” approving of the proceedings of the Executive Council; and Lord Glenelg, in a reply of November 9th, 1838, endorses that view.

In a letter of January 3rd, 1839, Sir Geo. Grey informs Mr. Mackillop, that—

“On a review of the case Sir George Gipps was informed, that he was right in the conclusion at which he had arrived, that the whole question of compensation to the original settlers at Port Phillip was set at rest by the instruction of the Secretary of State addressed to the Governor of New South Wales in July, 1837;—and that Sir George Gipps was directed to return an answer to the applicants to that effect.”

In a despatch of January 14th, 1836, from Governor Arthur to Lord Glenelg, information is given of the refusal of the Executive Council to accede to the application of the Van Diemen’s Land Company, to be allowed to exchange a large tract of their land for some in another district, and His Excellency goes on to suggest that—

“Should your Lordship, however, be disposed without such consideration” (as had been previously mentioned in the despatch), “to take a more favourable view of their claims, I would submit that

these might possibly be satisfied by conceding a portion of the territory of Dutergalla or Iraumoo, on the coast of New Holland; and it is perhaps proper I should add that whilst I concur with the Council in the opinion that the Government has redeemed every promise made to the Directors I have the honour to submit the copy of a letter received by the Colonial Secretary from Mr. Curr, suggesting the course I have now thrown out for the consideration of His Majesty's Government, although I clearly perceive the same difficulty will present itself at Dutergalla, which has so obviously existed here, in the jealousy of the Colonists generally that lands have been alienated on more favourable terms to the Company than to private settlers."

The suggestion made by Mr. Curr, Secretary of the Company, on December 4th, 1835, to the Colonial Secretary of Van Diemen's Land, was as follows:—

"I have not had the honour to receive any communication from His Excellency on the subject of the Van Diemen's Land Company's claim for an exchange of land. If His Excellency admits that they have claims, but feels also a difficulty in satisfying them out of the land remaining unlocated in this island, he may perhaps think it right to advise that land should be granted to them adjacent to Port Phillip.

"I venture to suggest this with the view to remove what may appear to His Excellency a real difficulty, but at the same time I must remind him that the Company by their present Charter can only hold lands in Van Diemen's Land and its dependencies."

It need scarcely be added that this idea was not carried out.

With a despatch of April 5th, 1836, Sir Richard Bourke, in forwarding the annexed application to Viscount Glenelg, says,—

"Amongst the many speculations in land which are afloat in this and the neighbouring Colony, I have the honour to submit, in a letter from Van Diemen's Land, one of the most plausible. I have therefore consented to place the project before your Lordship,

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though I cannot recommend that the regulations under which land is now sold should be varied, either on behalf of this or any other application which has yet been brought under my notice.

“Western Port is immediately adjoining Port Phillip, and if your Lordship should consent to the sale of land at the latter place, as recommended in my despatch of the 10th October last, No. 99, the sale at Western Port will soon follow in extension of the occupations at the former; as it is probable the line of sea coast, when affording good pasture, will be preferred to the interior of the country.”

The letter in question of March 10th, 1836, was addressed to Mr. McLeay, Colonial Secretary of New South Wales, by Mr. R. L. Murray, of Dyrryrne, Van Diemen's Land, on behalf “of a party of gentlemen here and myself.” They desired “to be permitted to purchase from the Crown fifty thousand acres of land at Western Port, to be selected fairly as respects water and every other frontage, taking good and bad together. For this,” he says, “we beg to offer five shillings an acre, and to pay to the Government a quit rent of ten shillings for one hundred acres towards defraying the expense of a Government establishment for our protection.”

A letter of application, dated Hobart Town, May 18th, 1838, is addressed to Mr. Deas Thomson, Colonial Secretary of New South Wales, for permission to work the coal-mines of Western Port. It bears the signatures of Messrs. C. Swanston, Charles McLachlan, Thos. Learmonth, John Dobson, G. Mackillop, Geo. Cartwright, Jas. Allport, and Hugh Murray. It states that—

* There are at present about 200,000 sheep in the New Colony of Port Phillip, chiefly ewes imported from this Island in the last three years, and their produce, and that there are also about 50,000 sheep now on their way to the same place from Yass. You probably

also know that the whole population of Port Phillip does not at present exceed 1500 persons.

“It must be evident to you therefore there is not the least probability there will be a market in Port Phillip for many years for one-tenth part of the fat wethers that must be produced by these flocks. Under these circumstances, we the undersigned, proprietors of sheep and cattle at Port Phillip, have for some time contemplated establishing in conjunction with other persons residing there a large and efficient steamer to run between Port Phillip, Adelaide and this Island; but in order that we may be able to do this, it is indispensable that we have the use of the coal which has long been known to exist at Western Port.” “It would be impossible,” they point out, “for a steamer to carry a sufficient quantity to take her from this to Port Phillip, from thence to Adelaide and back here.”

* * * * *

“If the farmers at Port Phillip be not able to dispose of their stock in this Island for want of a steamer it must be evident to His Excellency from the fact we have already referred to, that the New Colony will be ere long brought into a state of extreme pecuniary embarrassment, and that hence it will be impossible for the New South Wales Government to sell land there or to make the place pay for the Civil and Military Establishment now in it.”

This application gave rise to a question—respecting which there are many letters and documents—as to whether the monopoly of coal granted to the Australian Agricultural Company for thirty-one years from 1830, would prevent other persons from working the Western Port seams.

On December 7th, 1838, Lord Glenelg acquaints the Australian Company, that the Law Officers of the Crown have given it as their opinion that “the arrangement in question does not appear to them to impose any restriction whatever on Her M. right of working any coal-mines in the Colony. That it does prevent Her M. from granting coal-mines to other persons to be worked by them without the previous sanction of the Secretary of State; but that with such sanction Her M. may, without at all infringing

the terms of the arrangement, make a grant of land including the coal mines, or authorize any person to work coal-mines reserved to H. M." The opinion is also given, that the Government might allow convict labour to be employed in working such mines.

In an opinion signed J. Campbell and R. W. Rolfe, it is stated that "although the only circumstance particularly mentioned in the letter and despatch of the 31st July, 1828," addressed to the Company, "as likely to induce the Home Government to interfere with the monopoly of the Company is the sale of coal *at an exorbitant price*, yet the power reserved is quite general and might be exercised whenever any circumstances should render it necessary. And in truth unless the Company mean to say that they will supply coal in abundance *at Port Phillip* from their mines at Newcastle, at the same price at which coal might be raised and sold from the mines supposed to exist in the neighbourhood of Port Phillip, we think the very case contemplated by the despatch of July 31st, 1828, will have arisen. The excess of cost occasioned by the carriage of the coal 700 miles will make the price at Port Phillip. *an exorbitant price* within the fair meaning of the parties when they were settling the terms of the agreement in July, 1828."

In a despatch of June, 1839, Sir G. Gipps is informed of this opinion, and that it will rest with him "to take such measures as may appear most advisable for ensuring to the settlers at Port Phillip the benefit of those mines."

The claims of one of the founders of Port Phillip, and of his family, cannot but be regarded with interest. The following letter is from the original document in the Record Office, bearing Batman's own signature.

*“Melbourne, Port Phillip,
21st March, 1837.*

“To The Right Hon. Lord Glenelg

“His Majesty’s Secretary of State for the Colonies
&c. &c. &c.

“The Memorial of John Batman

“Most respectfully sheweth

“That your Memorialist is a native of this Colony and has resided in Van Diemen’s Land Fifteen years and begs to refer your Lordship to the late Lieut.-Governor Colonel Arthur for the services he rendered to that Government at different periods. That your Memorialist was an extensive Farmer and grazier in that Colony and from his frequent excursions through the island when employed by that Government to suppress the outrages of the aborigines upon the settlers, and also at other times on private business enabled him to form a perfect knowledge of its capabilities for grazing—some of the most extensive graziers agreed with him in opinion that it would be highly desirable that some outlet should be obtained for the surplus stock, and therefore calculated, that the southern parts of New South Wales afforded the greatest facilities for that purpose. That your Memorialist in May 1835 chartered a small vessel and proceeded to this place and after exploring it for some time found the country to be well adapted for all purposes but more particularly for sheep. That your Lordship’s Memorialist during his perambulation into the interior opened a friendly intercourse with the aborigines which feeling exists to this present period. On your Memorialist’s return to Van Diemen’s Land he left the three white servants who accompanied him in his expedition to keep up the friendly feeling then existing between him and the natives with supplies and sundry clothing to distribute among any other tribe who might come down and of whom he had not met with. From the favourable report he gave of the country he passed over and the treaty he entered into with the natives induced a number of gentlemen to form themselves into a Company with a view of sending sheep to Port Phillip. Nearly thirty thousand were exported the first year besides horses, cattle, &c. and your Lordship’s Memorialist is convinced that fully forty thousand sheep besides other stock will be imported this season. Feeling the necessity of keeping up the good understanding, so happily commenced and

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already established, the vessel was sent back with further supplies with your Memorialist's brother wife and four children to take charge of the establishment and to use all means in his power to protect and conciliate the aborigines, which he fully carried into effect up to your Lordship's Memorialist's arrival with his family, consisting of his wife, seven daughters, son, and thirty servants. It then became necessary for your Memorialist to incur considerable expense in erecting suitable dwellings, stores, garden, &c. for their reception; he likewise further begs leave to state he has imported stock and other property to the amount of ten thousand pounds sterling and consequently trusts your Lordship will take all the above circumstances into your most favourable consideration and grant him the land he has improved upon extending to about twenty acres not being in the township now laid out.

“ He remains with all due respect

“ Your Lordship's most humble and obedient servant,

“ JOHN BATMAN.”

In a despatch of April 28th, 1837, Sir Richard Bourke transmits to Lord Glenelg the preceding memorial, in which Mr. Batman “ applies for a grant of land adjoining the Township of Melbourne”—the local government having refused to accede to a similar application, which they could not have granted consistently with their views expressed in a despatch of the previous 12th November. “ For the present Mr. Batman has been informed that although no title can be conferred upon him, and he is to abstain from erecting any additional buildings or enclosures, he is at liberty to continue his occupation of the house and garden until further notice.”

Lord Glenelg, in reply to Sir R. Bourke, writes on 29th September, 1837,—“ My despatch of the 10th July last will have removed the doubts which you entertained on this case. I entirely approve your decision on Mr. Batman's claim, and of your having permitted him to

occupy the house and garden until further notice. I have to request that you will inform Mr. Batman that I regret my inability to comply with the prayer of his memorial."

Batman writes again to the Secretary of State,—

*"Melbourne, Port Phillip,
"30th March, 1838.*

"MY LORD,—I have had the honour of perusing a letter addressed by the Acting Governor of New South Wales, to Mr. Henry Batman of Melbourne, Port Phillip, dated the 23rd February, 1838, stating that the Right Honourable the Secretary of State 'regrets his inability to comply with your prayer for a grant of land at Melbourne.'

"Upon inquiry I find my brother, Mr. Henry Batman, to whom the letter was addressed, did not memorialize your Lordship upon this subject. I therefore conclude that the letter was intended for me, having forwarded a memorial to your Lordship dated March, 1837. Sir Richard Bourke in transmitting this memorial, was pleased to recommend it, and to express a wish that Her Majesty's Government would accede to its prayer.

"I now take the liberty of re-stating my case to the consideration of your Lordship, in the full hope that Her Majesty's Government will be induced to grant me the land, upon which the house and premises in which I now reside, with my family—not exceeding twenty acres—I have already expended upwards of £1500 in improvements on the land, and if the instructions issued to the authorities in New South Wales for the sale of land are carried into effect, I need not inform your Lordship how ruinous the result would be to my large family.

"I am induced still further to press upon your Lordship's consideration this circumstance in consequence of a letter received by John Spottiswoode, Esq. Solicitor, in London, to the Port Phillip Association, from James Stephen, Esq., dated 27th July, 1837, in which your Lordship is pleased to express it to have been your intention to have afforded to the Association similar advantages to those now claimed by me, had there been sufficient grounds for such consideration. I take the liberty of quoting a paragraph from Mr. Stephens' letter in support of this impression. 'If for example, a house and garden occupying together an acre of land had been

formed at the expense of the Association it appeared to His Lordship unreasonable that any such improved spot should be the object of general competition.' 'Supposing for the sake of illustration, the general upset price to have been fixed not at the usual rate of 5s., but at the reduced rate of 4s., then it was His Lordship's design that the acre of ground, with the house and all the other improvements upon it, should be offered to the Association at 4s.'

"As my improvements were made prior to the Government Resident's occupation of the settlement, I respectfully submit that my case is clearly one that your Lordship anticipated. As the first occupant of the country, and one through whose means a friendly intercourse has been established with the natives, I humbly hope that your Lordship will allow me to purchase the land in question at a moderate price and not subject it to public competition.

I have the honour to be my Lord,

"Your Lordship's most obedient humble servant,

"(Signed)

JOHN BATMAN."

On August 25th, 1838, Lord Glenelg writes to Sir George Gipps,—

"I have received an application from Mr. John Batman of Port Phillip for permission to purchase at a moderate price and not subject to public competition a portion of land in that settlement not exceeding twenty acres, on which he states that the house and premises inhabited by himself and his family are situated, having already expended upwards of £1500 in improvements on the land. You will be so good as to call on Mr. Batman for a copy of his letter.

"If on the receipt of his application the result should be to show to the conviction of yourself and your Council that the facts are accurately stated by Mr. Batman, the case would appear plainly to fall within the principle laid down in the letter which was addressed by my directions to the Port Phillip Association on the 27th July, 1837—the scope and meaning of which was correctly interpreted in the Minute of the Executive Council of your Government No. 25, dated 21st October, 1836. Under these circumstances I am of opinion that in the purchase of the land on which his house was built with any adjacent land actually cultivated by him as a garden

or improved by any material outlay previously to the arrival at Port Phillip of the general Instructions on the subject of the disposal of the Crown Land in that settlement Mr. Batman should be allowed the fair value of such improvements."

Sir G. Gipps, on July 30th, 1839, writes to the Marquis of Normanby, Secretary of State for the Colonies, with respect to Batman's claim, which, the despatch states, had only resulted in the Government having "as an indulgence, consented to allow the materials of the houses, and everything else that is moveable to be taken away for the benefit of Mr. Batman's family."

The following copy of a letter from Batman is enclosed with the despatch:—

"Melbourne, Port Phillip,
"12th March, 1839.

"To the Hon. the Colonial Secretary,
&c. &c. &c.

"Sydney,
New South Wales.

"SIR,—I have the honour to acknowledge receipt of your letter of the 24th January last, respecting my letter to the Right Honourable the Secretary of State, applying to him to purchase the land at the minimum price, that I have made improvements upon, and where I now reside and have done so upwards of three years.

"I herewith forward according to your request, copy of the letter addressed by me to the Right Honourable the Secretary of State, also copy of memorial forwarded through General Bourke applying for a grant of the above mentioned land, but which I found could not be acceded to, but that in all probability I might be allowed to purchase it without competition, and therefore applied accordingly.

"I also have the honour of transmitting for His Excellency's further information, a plan of the land and the improvements thereupon, as it was on the arrival of the Government here and as it is now.

I beg further to remark that I have imported at very consider-

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able expense and trouble from Van Diemen's Land and Sydney, upwards of one thousand fruit-trees of every description, which are now in a highly flourishing state and from which I anticipate much benefit to the Colony."

"His Excellency will I trust perceive my case at the present moment to be one of greater hardship than it was prior to the present date, in consequence of the increase in the value of land at the settlement, thereby rendering me incapable of purchasing if such land is placed up to Public competition and from the various documents produced explanatory of my situation, I may perhaps venture to hope that His Excellency will take all the circumstances of my case into his most favourable consideration.

"I have the honour to be, sir,

"Your obedient humble servant,

"(Signed) JOHN BATMAN."

A copy of Captain Lonsdale's letter to the Governor, dated Melbourne, 6th May, 1839, is also given, in which nine queries respecting Batman's land are answered.

In reply to the first it is stated that "in 1835 or the beginning of 1836, he," Batman, "put up the wooden house he brought from Van Diemen's Land upon the ground he now wishes to obtain;" to the second, that it was "included in the boundary described by the Association as the limit of their intended possession," and that Batman had "received his share of the 7000*l.* equally with the other members;" to the third, that Batman has no actual right to have his case considered separately from that of the Association; he had, however, some sanction from Sir Richard Bourke, on his visit to Melbourne, for occupying the land, pending the consideration of his application for higher compensation, on the score of the extra exertion he had undergone and the improvements he had effected in establishing the settlement; to the fourth, that the value of the improvements was about 400*l.*; to the

fifth, that "the house and about half of the stores were put up in 1835, or beginning of 1836, the men's hut and barn in the end of 1836, and the remainder within two years, the gardens were formed in 1835 and 1836. The house is made of wood as also the kitchen, and are, therefore moveable;" to the sixth, it is answered that the land "is quite close to the South West extremity of the Town, in fact the end street runs through the original garden;" to the seventh and eighth,—“Some of the Town allotments which are in the immediate neighbourhood of this land have been sold at various and high prices, the upset price being 150*l.* per acre. From the position of this land I expect it would fetch as high a price as any of the Town allotments if it was laid out in the same manner;" to ninth, an answer is given explaining the plans sent; it is stated that Batman had occupied in the quarter indicated more than he could claim, "as part of it forms a portion of the Town of Melbourne;" and that the land "which would come within the meaning of the correspondence is the land on which the houses stand, the two portions marked on the plan No. 1, 'Garden,' except that part which is in Spencer Street, and the portion marked in the same plan 'Under Cultivation Fenced in.'"

Captain Lonsdale concludes, "I beg to return your Excellency's letter as you desire and the two plans, and to add that after a protracted illness Mr. Batman died last night."

A copy of the minute of the Executive Council, dated June 7th, 1839, is also enclosed. After reciting the documents laid before the Council, including the preceding letter from Captain Lonsdale, the minute runs,—

"The Council, after perusing and attentively considering the

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various papers submitted to them by the Governor, are of opinion that Mr. Batman has not established any sufficient grounds for disturbing the question of compensation, to himself and the other primary settlers at Port Phillip, which appears to the Council to have been set at rest by Lord Glenelg's despatch addressed to Sir Richard Bourke, dated 10th July, 1837. Under which circumstances they recommend that a communication be made to Mr. Batman's representatives that his application cannot be complied with."

A despatch to Sir Geo. Gipps, of December 16th, 1839, from the Colonial Office, then presided over by Lord John Russell, thus speaks,—

"I approve of your adoption of the advice of the Executive Council on Mr. Batman's claims and of your having allowed the materials of the house and other moveables to be taken away for the benefit of the family of Mr. Batman . . . before the land is given up to the Colonial Government."

In a petition to the Queen, dated Melbourne, July 25th, 1843, and enclosed to Lord Stanley by Sir Charles Fitzroy in a despatch of September 6th, 1843, Batman's widow, son, and seven daughters unsuccessfully applied for a grant of land at Port Phillip. They state that—

"John Batman in consequence of the exposure of his person, under all changes of weather and from sleeping many months in the open air, while engaged in traversing and exploring this country, contracted a disease which having confined him to his house and bed for two years, terminated his existence in May, 1839, at the age of thirty-nine years, leaving behind him a family of eight children, seven of whom are females of from eight to sixteen years of age and one boy seven years old."

Batman and his family were certainly not generously treated. The Government—even after becoming convinced

that the first founders of the new settlements had done good instead of pernicious work—seemed afraid of making even the most trifling concessions to them, lest these should be taken as precedents for other claims, which, from the exceptional positions of the founders, could not have been made out by any other persons.

CHAPTER X.

PORT PHILLIP FROM ITS COLONIZATION TO ITS SEPARATION
FROM NEW SOUTH WALES.

First municipal corporation and mayor of Melbourne—Representation of Port Phillip in first elective legislature of New South Wales—Complete list of its members—First appearance of Mr. Robert Lowe—Summary of first ten years' progress of Port Phillip—Separation movement—Speech of Mr. Lowe—His belief in a "Mighty Confederacy" of England and her colonies—Electors of Port Phillip abstain from nominating candidates—Earl Grey heads the poll for Melbourne—Contested election for the district—English statesmen *versus* colonial candidates—State of the poll.

THE purpose of this work is now accomplished. The history of Victoria, from the earliest discovery of the territory of the colony to its permanent occupation by British inhabitants, has been related *in extenso* from the most authentic and original sources of information. It would not, however, be desirable that we should stop short at this point. It is therefore intended, in this and the two next chapters, to note, on a much more abbreviated scale, the leading landmarks in the history of the colony from the time of its settlement, as the Port Phillip District of New South Wales, to its erection into the separate colony of Victoria, and subsequent investment with all the rights

of constitutional self-government. With this important event, in the year 1856, the early history of Victoria may be considered to have completely closed.

Only the most leading incidents of the period of which we are about to treat can be given—many others of interest being omitted, so that the remaining portion of this work may not run to the length of that which precedes.

Municipal institutions were conferred on Melbourne by Act of the Government and Legislative Council of New South Wales, 6 Vict. No. 7—"An Act to incorporate the inhabitants of the town of Melbourne." It contained 115 sections, and was similar to the measure preceding it, No. 3, for incorporating Sydney. It divided the town into four wards, Gipps, Bourke, La Trobe, and Lonsdale.¹

In a despatch of November 27th, 1842, Sir George Gipps states that he had decided that the style of the Mayor of Sydney should be "Right Worshipful," and that of the Mayor of Melbourne "Worshipful." This was approved of by Lord Stanley in a despatch of July 3rd, 1843.

The order of precedence of the Superintendents of Port Phillip, communicated by Sir George Gipps, December 23rd, 1842, and approved by the Secretary of State, was arranged as follows:—

- "The Governor.
- The Chief Justice.
- The Commander of the Forces.
- The Bishop.
- The Superintendent of Port Phillip.

This was done to avoid the possibility of a question

¹ The extracts in this chapter, with scarcely an exception, are taken from despatches, Parliamentary Papers, and Colonial Government Gazettes in the Record Office.

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being raised whether, under the Act establishing the corporation, the Mayor of Melbourne might not have claimed precedence of the Superintendent.

In writing, December 26th, 1842, to Lord Stanley, Sir George Gipps enclosed a copy of a despatch from Mr. La Trobe, dated Melbourne, December 14th, informing him of the first municipal elections for that place, and that Mr. Henry Condell had, on the previous day, been sworn in first Mayor, before the Resident Judge of the Supreme Court. A return, enclosed in Mr. La Trobe's despatch, gives the particulars of the election as follows:—

“ MELBOURNE MUNICIPAL CORPORATION :—

| | Gipps Ward | Bourke Ward | La Trobe Ward | Lonsdale Ward | Total. |
|--|--|---|--|---|--------|
| 1 Number returned by the Collectors as Burgesses entitled to vote handed to the Town Clerk 5th October | 140 | 145 | 234 | 246 | 774 |
| 2 Number of persons claiming to be inserted in said List | 18 | 18 | 12 | 20 | 68 |
| 3 Number objected to | 50 | 32 | 61 | 36 | 179 |
| 4 Number in the revised List | 121 | 151 | 208 | 226 | 706 |
| 5 Number of Burgesses voting at election of Councillors 1st December | 104 | 117 | 172 | 180 | 573 |
| 6 Councillors elected 1st December | Henry Condell John Dixon George Beaver | J. T. Smith John Patterson William Kerr | Andrew Russell George James D. S. Campbell | John Orr Wm. H. Mortimer J. P. Faulkner | 12 |
| 7 Aldermen elected 9th December | Henry Condell | William Kerr | Andrew Russell | Wm. H. Mortimer | 4 |
| 8 Mayor — 9th December | ... | Henry Condell, Esquire | ... | ... | 1 |

The electoral body consisted of £25 householders.

The Parliamentary representation at first prescribed for Port Phillip was on the strictest homœopathic system. In a despatch, dated Sydney, January 1st, 1839, Sir George Gipps communicates to the Secretary of State his views on the subject of the creation of a legislature for New South Wales, which he thought should contain not less than one half, or more than two thirds of members elected by the people; and that "a power should be reserved of adding one member for the District of Port Phillip whenever its population shall amount to seven thousand souls, and a second when it shall amount to fifteen thousand."

An act of a special session of the Legislative Council of New South Wales, 6 Vict. No. 16, to provide for the division of the colony into electoral districts, was passed, February 23rd, 1843, to carry out the Imperial statute 5 & 6 Vict. c. 76, of 1842—"An Act for the Government of New South Wales and Van Diemen's Land"—which conferred upon the former a Legislative Council of thirty-six members—twenty-four of whom were to be elected, and twelve nominated by the Crown. It was provided by the Imperial Act, that Sydney and Melbourne should be electoral districts—the former returning two members, and the latter one, and the District of Port Phillip at least five; and that the electoral qualification should be the possession of a freehold estate of the clear value of £200, or as a householder occupying a dwelling of the clear annual value of £20. Members were required to have freehold property worth £2000, or of the clear annual value of £200.

The Legislative Council which preceded that which was thus constituted, consisted of fifteen members nominated by the Crown—some of them being official, and some non-

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official. This body was established by the Imperial Act 9 Geo. IV. c. 83.²

In a despatch of July 18th, 1843, Governor Gipps informs Lord Stanley of the first Parliamentary election which ever took place in Australia. The list of constituencies and members which he encloses, being of such historical interest, is appended unabridged, though only the last six names belong to Port Phillip.

| Electoral District. | Members returned. | Remarks. |
|------------------------------------|--------------------------|--|
| Sydney (City) | { W. C. Wentworth . . . | Barrister. |
| | { Wm. Bland . . . | Surgeon. |
| Paramatta (Town) | . H. H. Macarthur . . . | Member of the Old Council. |
| Cumberland Burghs | . Wm. Bowman . . . | Settler. |
| Northumberland (do.) | D'Arcy Wentworth. | A retired Major in the Army, Brother of the Member for Sydney. |
| Cumberland (County) | { Charles Cowper . . . | Settler, formerly in the Commissariat and afterwards Clerk to the Church and School Corporation. |
| | { William Lawson . . . | Settler, once an Officer in the New South Wales Corps. |
| Northumberland (do.) | Wm. Foster . . . | Barrister. |
| Argyle (do.) | Wm. Bradley . . . | Settler and Brewer. |
| St. Vincent & Auckland . . . (do.) | { John Coghill . . . | { Settler, formerly a master of a Merchant Vessel. |
| Murray King and Georgiana (do.) | Terrance A. Murray . . . | Settler. |

² See the author's paper on "The Constitutions of the Australian Colonies." Proceedings of the Royal Colonial Institute, Session 1869-70.

| Electoral District. | Members returned. | Remarks. |
|---|---------------------------------|---|
| Roxburgh, Phillip & Wollington (do.) | Wm. Henry Suttor | Settler. |
| Bathurst (do.) | Francis Lord | Settler. |
| Brisbane, Bligh and Hunter } | Wm. Dumaresq . | { Settler, formerly a Captain in the Staff Corps. |
| Durham (do.) | Richard Windeyer | { Barrister, Son of the Police Magistrate at Sydney. |
| Gloucester Macquaire & Stanley Counties . } | Alex. Macleay . | { Formerly Colonial Secretary. |
| Cook and Westmoreland . . (do.) | John Panton . . . | Settler. |
| Camden (do.) . . | Roger Therry . . | Commissioner of Court of Request and Acting Attorney General. |
| Melbourne (Town) | Henry Condell . . | Mayor of Melbourne, a Brewer. |
| Port Phillip . . . | (Charles Hotson Ebdon | Settler, Port Phillip. |
| | Thomas Walker . . | Merchant, Sydney. |
| | Charles Nicholson . | Physician, Sydney. |
| | Alexr. Thomson . . | Settler, Port Phillip, formerly a Surgeon. |
| | John Dunmore Long | A Presbyterian Minister. |

The despatch continues, going into details respecting the elections, which the Governor states, "in general went off very well, and the Act of the last session, 6th Vict. No. 16, for the purpose of regulating them, was found to work in a satisfactory manner. Some rioting, however, took place both in Sydney and Melbourne." The rejection of the Surveyor-General, Major Mitchell, at Port Phillip, is also mentioned.

Another despatch of the same date from Sir George, gives the following list of nominees to whom he had given seats in the council.

Official,—

“The Lieut.-General Commanding Her Majesty’s Troops.
The Colonial Secretary.
The Colonial Treasurer.
The Auditor-General.
The Collector of Customs.
The Colonial Engineer.”

The unofficial nominees were,—

| | |
|---|--------------------------------|
| “ Richard Jones, Alexander Berry, John Baxland, Thomas Icely, Edward Hamilton, Hastings Elwin, | } Members of the Old Council.” |
|---|--------------------------------|

The Governor, in a despatch of August 9th, 1843, reports that the Council met on 1st of that month, and had elected Mr. Alexander McLeay speaker, who was presented next day to his Excellency, by whom his election was approved. Sir George also states that he opened the session on the 3rd, with a speech, in person.

Lord Stanley, in acknowledging the letter reporting the meeting of this legislature says, “I have been much gratified to observe the good feeling which appears to have pervaded that Body at a moment of acknowledged difficulty.”

The *Sydney Morning Herald* of August 2nd states, “that all the members were present at the first meeting of the council except Dr. Thomson, who has not arrived from Port Phillip, in consequence of the detention of the steamer, and Mr. Jones, who it is said will not take his seat.” The *Herald* of the same date gives a long debate on the election of the Speaker—Mr. Edward Hamilton having been nominated in opposition to Mr. McLeay.

The first vacancy in this first Australian representative legislature was caused by the resignation of Mr. Richard Jones, a non-official nominee. Sir George Gipps informs Lord Stanley of the fact in a despatch of November 10th, 1843, and states that, subject to Her Majesty's approval, he had filled the seat by the appointment of Mr. Robert Lowe—"a Barrister of England, and of New South Wales. . . . Mr. Lowe has been but a short time in the colony, but he was for many years a distinguished member of the University of Oxford, where he was a Fellow of Magdalen College, and for some time one of the Examining Masters. He is a man of first-rate abilities, and a fluent speaker." Thus began the public life of one who is now, and has for some years; been among the most prominent figures in the House of Commons.

On September 13th, 1844, the Governor informs the Secretary of State of the resignation of Mr. Lowe, "on the 28th ultimo"—a week and a day after a famous speech, presently to be noticed—and of the appointment of Mr. John Lamb to the vacant seat. Mr. Lowe retired in consequence of not being able to agree sufficiently with the policy of the Government to continue a nominee. He was afterwards for some years a very leading representative member of the Council.

A despatch of Sir George Gipps of July 26th, 1844, announces the election of Sir Thomas Mitchell and Mr. Adolphus Young, now M.P. for Helston, in the room of Messrs. Condell and Thomson, resigned. The resignation of Sir Thomas is, however, reported in a despatch of August 18th.

Sir George Gipps, on May 23rd, 1846, informs the Secretary of State, Right Hon. W. E. Gladstone, of the resignation

of the Speaker, Mr. Alexander McLeay, and the election in his stead of Dr. Nicholson—"one of the members representing the District of Port Phillip."

No briefer or more emphatic summary of the first ten years' progress of our new colony could be given, than that in the Governor's speech closing the session of the Legislative Council, November 13th, 1845—just eleven years after the Hentys had founded the first settlement in the Port Phillip territory. Sir George Gipps says,—"Lastly, gentlemen, I may assert with confidence and with some degree, I trust, of honest exultation, that in no part of the wide dominions of the British Crown, at no period within England's history, was a Colony planted and brought to maturity, without expense of any sort to the Parent State, surpassing in energy, wealth, and character, that which has silently grown up in the course of the last ten years, within your Southern Boundary, the Settlement of Port Phillip."

The desire for separation from New South Wales, and for the formation of their district into a distinct Colony, was early displayed by the people of Port Phillip, and was strongly intensified by their having to send representatives to the Legislative Council in Sydney.

The printed papers on the question, laid before the Imperial Parliament, were very voluminous, comprising petitions, particulars of the protracted inquiry before the Executive Council of New South Wales, which preceded its decision of April, 1846, and the views of various persons competent to express opinions on the subject.

Among the most remarkable papers is a printed report—also in the *Morning Herald* of the 21st—of a debate in the Legislative Council in Sydney on August 20th, 1844, when Dr. Lang moved,—“That a humble address be

presented to her Majesty the Queen, praying that her Majesty will graciously be pleased to direct that the requisite steps be taken for the speedy and entire separation of the district of Port Phillip from the territory of New South Wales, and its erection into a separate and independent Colony." The speech of the mover was long and able; the seconder was Mr. Robinson. On a division the Ayes were six, namely, "Dr. Nicholson, Mr. Walker, Mr. Young, Mr. Lowe, Dr. Lang, Mr. Robinson (teller). Noes nineteen—Mr. Murray, the Attorney-General, the Auditor-General, the Colonial Secretary, the Collector of Customs, Mr. Macarthur, Mr. Lord, Mr. Therry, the Commander of the Forces, Mr. Cowper, Mr. Bland, Mr. Panton, Mr. Foster, Captain Dumaresq, Mr. Lawson, Mr. Coghill, Mr. Bradley, Mr. Icely, the Colonial Treasurer (teller)."

All the members who voted for the resolution spoke upon it. One speech is especially remarkable as a first display of the parliamentary powers of a man who has since commanded the ear of the House of Commons, and held high office in the English Cabinet. It also eloquently expresses very laudable aspirations after the permanent unity and confederation of the British Empire. Mr. Robert Lowe began by saying that, "As a general rule, he thought that their interests"—those of the Colonies—"were not consulted by frittering them away into minute particles, but by combining as large a territory into a single state as could be effectually controlled by a single government. He cordially agreed in the abstract truth of the motto prefixed to the article in the newspaper of that morning, that 'union is strength,' and he would extend that principle to the whole Colonial Empire of Great Britain. He hoped and believed that the time was not remote, when Great Britain would give up the idea of

treating the dependencies of the Crown as children, who were to be cast adrift by their parent as soon as they arrived at manhood, and substitute for it the far wiser and nobler policy of knitting herself and her Colonies into one mighty confederacy, girdling the earth in its whole circumference, and confident against the world in arts and arms. Neither could he agree that the separation would be otherwise than injurious, in some extent at least, to New South Wales. It implied the loss of a fertile and wealthy province, already paying much more into the treasury than it drew out of it; and he was also fearful that a separation might be attended with that animosity and ill-feeling which are so apt to prevail between neighbouring states, and that the result might be a war of tariffs and restrictive duties, which he held in utter horror and aversion; but still, compelled by the force of truth and justice, he was bound to say that these considerations came too late;” because, he contended, the administration of the district had been from the first conducted upon a system distinct from the rest of New South Wales.

We have seen that a week after this speech Mr. Lowe resigned his nominee membership. We again hear of him—in a report in these papers,¹ from the *Sydney Morning Herald*, of January 21st, 1848—making a very eloquent and powerful speech at a public meeting in Sydney, in opposition to the proposal of Earl Grey, in view of the separation of Port Phillip, to alter the existing Constitution of New South Wales in an anti-popular direction. The mover of one of the resolutions on this occasion was Mr. Michie, the present Agent-General for Victoria, who made one of his able, eloquent, and amusing speeches. Mr. Lowe is again

¹ Printed Parliamentary Paper, New South Wales, 1849, laid before the Imperial Parliament.

found at a public meeting in Sydney, eloquently denouncing the evil system of transportation.

According to a return moved for by Dr. Lang, in the Legislative Council July 26th, 1844, and laid on the table and ordered to be printed August 27th, 1844, the total number of electors for the whole of New South Wales was in 1843-44, 9315; in 1844-45, 8477; for the Port Phillip District, 470 and 475 respectively, and for the town of Melbourne 859 and 591 respectively.

A report, dated September 27th, 1844, of a Committee of the Legislative Council, of which Rev. Dr. Lang was chairman, recommends an extension of the suffrage, and "that the town of Melbourne, which bears a somewhat similar relation to Port Phillip, to that which the City of Sydney bears to this part of the Colony, and which has a constituency of 591 electors, should return two members to the Legislature instead of one as at present; for it seems preposterous that the 591 electors of that large sea-port town should only return one member, while the 475 electors of the district, who are probably by no means superior individually, either in property or intelligence to the electors of Melbourne, should return so many as five."

Among the earliest documents on the question of separation is a petition² to the Legislative Council from 2194 inhabitants of Port Phillip, praying for separation, which was ordered to be printed August 21st, 1844.

With a despatch of January 12th, 1845, in which he expresses no opinion on the subject, Sir George Gipps forwarded to the Secretary of State a memorial from the six members for Port Phillip, advocating the separation. It is signed "B. Boyd, Thos. Walker, Adolphus Wm.

² Printed Parliamentary Paper, Port Phillip, 1850.

Young, Chas. Nicholson, John Dunmore Lang, and Jno. Phelps Robinson (M.C. for Melbourne).” Among other statements the population of the District for 1843 is given at 25,000; revenue, £61,343 14s. 8d.; expenditure, £54,352; imports, £183,321; exports, £277,672; sheep, 2,000,000; cattle, 140,000; horses, 5000.

A similar petition from the Town Council of Melbourne to the Queen, signed by the Mayor, Mr. Henry Moor, is enclosed in a subsequent despatch to Lord Stanley, also without comment of the Governor.

The petition of the members for Port Phillip was referred by Lord Stanley to Sir G. Gipps, in a despatch³ of June 12th, 1845, and the Governor states the decision of the Executive Council upon it in one of April 29th, 1846. He gives an extract from the minutes of the proceedings of that body of April 1st, when separation was approved, Sir G. Gipps states, by his casting vote—the Colonial Secretary and Commander of the Forces voting for it, and the Bishop of Australia and the Colonial Treasurer against. The form of Legislature recommended was that of a Nominee Council.

The documents laid before the Executive Council contain a very able despatch, of March 3rd, 1846, from Mr. La Trobe, in which the advantages and disadvantages of separation are exhaustively examined and weighed with judicial fairness, the Superintendent’s judgment, however, decidedly inclining in favour of the measure. Mr. Ed. Curr, chairman of the “Separation Committee,” took an active and

³ This and following are printed with the Papers on the separation of Port Phillip, laid before the Imperial Parliament in 1850, and are contained in a volume among the New South Wales Papers in the Record Office.

able part in promoting the cause, and his name is attached to a number of letters and documents on the subject contained in the Parliamentary papers.

The electors of Port Phillip took most effective means of demonstrating to the Home Government, that they regarded representation in the Legislature of New South Wales as of no value to them. At the general election of 1848 they abstained from making any nomination for the five seats for the District ; and Earl Grey was elected for Melbourne by a large majority over a candidate who could have served. In a despatch of September 23rd, 1848, Sir Chas. FitzRoy communicates this fact—of which he had been informed by Mr. La Trobe, in a letter to the Colonial Secretary of July 21st. The Returning Officer for the district, Mr. Pohlman, describes what took place at the nomination, in a letter to the Superintendent dated the previous day. He says,—

“ I have the honour to request that your Honour will be pleased to forward to His Excellency the Governor the enclosed Writ of Election, which was transmitted to me, as Returning Officer, to return five members to serve in the Legislative Council of New South Wales for the electoral district of Port Phillip, and to state to your Honour that, at the meeting held by me this day for such election, there were no persons elected to serve as members of the Legislative Council of this district.

“ The only candidate placed in nomination was Mr. Foster, who was in the first instance proposed by Messrs. Wills and Williams, electors of the district ; but this gentleman, after several electors had addressed the meeting without proposing any other candidates, declined, on the suggestion of his friends, the nomination made in his favour ; and the electors who had moved and seconded his nomination, withdrew the resolution which they had proposed to that effect, and before any other candidate had been named.

“ There being no time fixed for keeping open the meeting for nomination, at the expiration of one hour from the commencement

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thereof, I called upon the electors in due form a second time to propose members to be returned under the writ, and no candidate having been named, I closed the meeting.

“ I beg to add that there was no obstruction or interruption by any riot or open violence which would have justified me in adjourning the meeting under the 21st section of the act.”

Mr. Andrew Russell, Returning Officer for Melbourne, writes to Mr. La Trobe July 27th :—

“ I have the honour to enclose the writ addressed to me by his Excellency the Governor, for the election of a member to serve in the Legislative Council for the city of Melbourne whereupon I have certified the return of ‘ The Right Hon. Henry Grey ’ ” (Earl Grey in the Peerage of Great Britain).

“ I beg leave to request that your Honour will transmit the writ, together with the accompanying voting papers, to his Excellency the Governor, by to-morrow’s overland mail.”

Mr. La Trobe, in forwarding the writs on July 28th, expresses his regret to the Governor at the course taken by the electors ; and Sir Chas. FitzRoy, in his despatch of September 22nd to the Secretary of State, says,—

“ With respect to your Lordship’s election for the city of Melbourne, as the Crown Law Officers (as your Lordship will perceive from the copy of their opinion annexed) have pronounced it to be valid, I have not considered it advisable to interfere further than by abstaining to notify it in the usual manner in the Gazette, to show that the Government would in no way make itself a party to a proceeding which it could not but consider to be improper and unbecoming, if not actually intended to be insulting.”

The opinion of Messrs. Plunkett and Foster, Attorney-General and Solicitor-General of New South Wales was :—
“ That there is no enactment or provision in the Constitutional Act (5 & 6 Vic., c. 76) which prevents a British peer from being elected, and sitting as a member of the Legislative Council of this Colony ; neither can it be taken

for granted that Earl Grey has not sufficient landed property within the Colony to qualify him to take his seat. It appears to us, therefore, that whatever may have been the intention of the electors of Melbourne in returning Lord Grey, there is nothing illegal on the face of that return, and that for the present, at least, he must be considered in law as their representative."

With other papers forwarded by Sir C. FitzRoy in a despatch of September 23rd, 1848, is a memorial to Earl Grey, signed "A. Russell, Mayor of Melbourne," and adopted at a public meeting over which he presided. This document presses the arguments in favour of separation, and explains the circumstances connected with the abortive elections. It is stated that the—

"Six seats during five years have been occupied by no fewer than seventeen members. . . . One representative went to England, retaining his seat during his absence for nearly three sessions, without producing even a remonstrance from his constituents. Two elected resident members never sat at all, and but one resident member ever sat out more than a single session. Elections came at last to be attended by not more than a dozen or twenty persons, few of whom were electors. . . . At the last election, prior to the dissolution, when a nomination was called for by the returning officer, there was actually no candidate at all, and two electors present put in the name of Charles Hotson Ebdon, Esq., without pre-concert between themselves, or privity with the gentleman so elected. . . .

"It was in this state of the question that a general election was appointed to take place in the present month of July, 1848, and the nominations at the hustings were to be made in Melbourne on the 20th July of five members for the district of Port Phillip, and on the 25th, of one member for the City of Melbourne. When about four hundred persons, forming a fair average of the district, assembled on the first day mentioned, the candidates were found to be as follows:—

“John Fitzgerald Leslie Foster, Esq., an inhabitant of Port Phillip, having represented the district for a period of two years, and of whose re-election there was no doubt.

“William Sprott Boyd, Esq., of Sydney, who had published an address to the electors.

“Archibald Boyd, Esq., of Sydney, who without his knowledge, had been put forward by a body of electors.

“Robert Lowe, Esq. of Sydney, who without his knowledge, and known to be a candidate with two other constituencies in New South Wales Proper, would certainly have been put in nomination.

“There were two other candidates, named Adam Bogue, Esq. of Sydney, who had addressed the electors, but who had failed, as far as the public knows, to find any person to put him in nomination, and a C. Campbell, Esq., also of Sydney, a person whose very identity is still disputed amongst the electors, and who also had failed to find any person to put him in nomination. There were, therefore, it is believed only four candidates for five seats. Such were the facts, when after the gentleman first named had been duly nominated and seconded, two electors without pre-concert between themselves, connected with parties differing most widely from each other, and on grounds equally distinct, addressed the electors. . . . Their arguments were successful; the candidate consented with reluctance certainly and we believe with very honest reluctance to retire; his nomination was cancelled, no election of the five representatives took place, and the writ of election was duly returned. It was perfectly understood at the hustings, that a single elector determined to fill the vacancies could have caused five members to be returned, but nearly absolute unanimity prevailed, and at all events not a single voice expressed a valid dissent. . . .

“On the 25th July, the election of one member for the City of Melbourne was to take place, when the unanimity which had characterized the meeting of the 20th was at an end. . . .

“The result was that those who were in favour of a *bond fide* election put Mr. John Fitzgerald Leslie Foster again in nomination, which obliged those who were in favour of non-election to nominate a candidate who could not possibly take his seat, and the name of your Lordship, as one known to, and held in respect by the people, was the one used.

“The result of the poll on the following day was, for non-election, 295 ; for Mr. Foster, 102 ; majority for non-election, 193.”

Mr. Foster, now Mr. Fitzgerald, recently told the author that he was not aware of his nomination till the poll had begun.

It must in all fairness be admitted, that the memorialists make out a very good vindication of the course which was taken.

Mr. La Trobe, however, in a letter of August 10th, forwarding the memorial to the Colonial Secretary at Sydney, speaks of the non-election of members for the district as—

“Both injudicious in itself, and unjust towards the large body of electors. . . .

“As to the results of the city election, although, on the day of nomination, the great body of the electors may have been unprepared for the step taken at the meeting, the election in question has become the deliberate act of the majority by the result of the subsequent poll.

“I cannot bring myself under any course of reasoning, however much disposed otherwise to respect individuals who have assisted in bringing about this result, or have yielded, under one impulse or other, to the movement, to consider this so-called ‘election’ in any other light than improper, impolitic and absurd.

“With reference to the document now forwarded, and the statements it contains, I may be allowed to observe, that the longer that act of separation from New South Wales, which has been so long an object of desire of the inhabitants of Port Phillip, and the hope which has now been for some time officially held out, is delayed, the more difficult will the task of governing become, and that in the present state of the public mind, in as far as it can be supposed to be represented and influenced by those who are forward in every political movement, the less disposed will the people be found to do justice to themselves or the Government placed over them. Every subject and every matter of interest, past and present, will continue to be received through a partial, if not through a false and distorted, medium.”

Mr. La Trobe concludes by expressing the opinion that the proceedings to which he refers, as well as other considerations, demonstrate that "for some years to come at least," the only form of government suitable for the proposed new Colony will be "a Governor, Executive and Nominee Council."

Governor FitzRoy—in forwarding, on September 23rd, to Earl Grey Mr. La Trobe's despatch and the memorial says, "Mr. La Trobe's remarks respecting this memorial, and the extraordinary course pursued by the electors on the occasion referred to, appear to me to be so clear and judicious, that I feel it unnecessary to do more than express my entire concurrence with them, and particularly with the concluding portion, which throws a doubt on the expedience in uniting Port Phillip [into a separate Colony, of granting it a representative Legislature."

On December 4th, 1848, Governor FitzRoy informs Lord Grey of the result of the new elections for Port Phillip, which had taken place in the consequence of the non-return of members at the general election. Geelong, instead of Melbourne, had been made the head polling-place. The Governor expresses satisfaction that the second attempt to elect candidates, who could not take their seats, had failed, and strongly censures those who had made it. In a letter to Mr. La Trobe from Mr. Pohlman, the Returning Officer, a copy of which is forwarded, that gentleman says,—

"I enclose for your Honour's information an abstract showing the mode in which the electors voted."

"Abstract of the general state of the Poll at the close of the election, for the return of Five members to serve in the Legislative Council of New South Wales for the electoral district of Port

Phillip, as made up from the voting papers kept at the several Polling Places within the said District:—

| | Lauchlan MacKinnon. | James Williamson. | John Dickson. | James F. Palmer. | Edward Curr. | William Macarthur. | Duke of Wellington. | Viscount Palmerston. | Lord Brougham. | Lord John Russell. | Sir Robert Peel. |
|---------------------------|---------------------|-------------------|---------------|------------------|--------------|--------------------|---------------------|----------------------|----------------|--------------------|------------------|
| | Votes | Votes. | Votes. | Votes. | Votes. | Votes. | Votes | Votes. | Votes. | Votes | Votes. |
| Geelong . | 121 | 121 | 121 | 118 | 114 | 0 | 35 | 35 | 35 | 35 | 35 |
| Melbourne | 51 | 53 | 48 | 52 | 51 | 2 | 23 | 23 | 23 | 23 | 23 |
| Portland . | 40 | 33 | 36 | 30 | 18 | 3 | 0 | 0 | 0 | 0 | 0 |
| Port Fairy | 27 | 27 | 27 | 26 | 6 | 20 | 0 | 0 | 0 | 0 | 0 |
| General State of the Poll | 239 | 234 | 232 | 226 | 189 | 25 | 58 | 58 | 58 | 58 | 58 |

“(Signed)

ROBERT WILLIAMS POHLMAN.

“Returning Officer.”

It appears from another abstract by Mr. Pohlman, that the total number of electors on the roll was 605, of whom 302 voted and 303 did not vote.

Since the completion of this work intelligence has arrived of the death, at the beginning of December, of Judge Pohlman, who was undoubtedly one of the most universally esteemed of the early colonists of Victoria.

The constituency of Port Phillip could, at all events, boast of having had the most distinguished list of candidates ever polled for, at any single contest in the history of Parliamentary elections.

CHAPTER XI.

PORT PHILLIP FROM ITS COLONIZATION TO ITS SEPARATION
FROM NEW SOUTH WALES (*continued*).

The boundary with South Australia.—Mr. La Trobe's views respecting it—He gives some account of the settlement of that part of the country—The land question—the Orders in Council out of which it arose—The squatters and the franchise—Defences of Melbourne—Dr. Perry, first Bishop of Melbourne—Census before separation—The district of Port Phillip becomes the colony of Victoria—Mr. La Trobe first governor.

SOME particulars respecting the Colony during this transition period of its history, must be noticed, before we speak of the success of the separation movement. A question of no less importance than the curtailment of the territory, which is the smallest on the Australian mainland, was at one time a subject of serious consideration. The proposal was made in the interest of South Australia.

The Governor of that Colony, now Sir George Grey, Premier of New Zealand, in a despatch of Sept. 30th, 1844, submitted to Lord Stanley that the boundary of South Australia and New South Wales should be rectified, so as to correspond more nearly with the natural features of the country.

The Secretary of State¹ on May 28th, 1845, remitted the

¹ This and the documents relating to the consideration of the ques-

consideration of the question to the government in Sydney, and Sir George Gipps communicated the result to the Secretary of State in a despatch of April 29th, 1846. Governor Grey's proposal was, to make the Glenelg and Wimmera, with a line drawn from Lake Hindmarsh to the junction of the Darling with the Murray, the new boundary. Copies of two letters accompany the despatch of Governor Gipps,—both advocating rectification in the opposite direction to that proposed, namely, the extension of the western boundary of New South Wales to the Murray—the one from Sir Thomas Mitchell, Surveyor-General, and the other from Mr. La Trobe. Both are able, that of the Superintendent of Port Phillip is particularly so, and contains some interesting facts respecting the colonization of the territory. Its date is December 22nd, 1845. Mr. La Trobe says that Governor Grey's proposal "does not remedy existing difficulties and only partially substitutes clear natural boundaries for that which is so manifestly objectionable." He points out that this is particularly so to the north of Lake Hindmarsh, remarking that,—

"The geographical position of this Lake like the correct course of the river just named, is merely conjectural; but it is considered to lie about seventy miles north west by north from Mount Zero, and consequently that it is well to the East of the 141° Meridian.

"Stations have now been established to within thirty and forty miles of its southern shore. It is supposed to be about sixteen miles across."

"A stream which may be considered the continuation of the Wimmera, emerges from the northern shore, taking a course due north towards the Murray, which is conjectured to be still about 170 or 200 miles distant."

tion by the Sydney Government are in the printed Parliamentary Papers of 1850, in the Record Office, already referred to.

Mr. La Trobe further contends that,—

“The examination that the tract of country lying within the 141 and 142 degrees of east longitude and to the south of the Murray has been subjected to since Governor Grey’s despatch to the Secretary of State was written, has shown that although the strip of country in that parallel which he would take from the Port Phillip District and add to South Australia may not be of very great value when compared with the abundant and wide-extended pastures to the eastward, yet it is worth something, and admits of occupation for pastoral purposes to a certain extent. The fact is, that it has not only long been fully occupied by the settlers of my district and along the course of the streams, with great advantage, but the Mount Gambier country beyond, within the province of South Australia, and much of the available country to the north, has been gradually explored and occupied by the settlers from the Port Phillip district—with which the lines of communication are tolerably clear and open, while those to the westward which connect it with the settled districts of South Australia have been, until recently, held almost impassable, from the character of the intervening desert country which separates them from the river Murray to the north-west, or from the impenetrable scrub which occupies the great bend of the same river to the northward. In fact, from my personal knowledge of the country, and the information I receive, even up to this date it would appear that two-thirds of the stations in that quarter, whether on the one side or the other of the 141° of east longitude, are offsets from stations in the Port Phillip District; and as the proposed plan would go to take from the southern or Port Phillip District a portion of useful territory, without any just equivalent, I at least must dispute the justice of His Excellency’s scheme, in that view, if in no other.

“Still, considering, that it is advisable to adopt a natural boundary, if possible between South Australia and the Southern district, I beg to express my full concurrence with the view taken by the Surveyor General of New South Wales. If such natural boundary or boundaries are to be determined upon it will surely be held advisable to fix upon one which from its decided and continued character would be what it pretends to be—will admit of no dispute, require no immediate survey, strike every eye as the natural and

proper division between the two colonies; and give to the Port Phillip District the tract of country which falls more naturally to it—as the manner in which it has been principally occupied, proves than to the adjacent colony—such a boundary would be the river Murray from its junction with the Darling to its mouth.”

Though there can be no question as to the most natural boundary, the decision of the New South Wales Executive Council, as given in an extract from the Minutes of April 1st, 1846, seems strictly equitable and the only one which could well have been arrived at, considering the circumstances of the respective colonies. The conclusion of the Council was that,—

“The natural boundaries recommended by Governor Grey were not distinct or perfect enough to justify so large a concession of country on the part of New South Wales as their adoption would require.

“The course of the Murray suggested by the Surveyor-General of New South Wales, and the Superintendent of Port Phillip as an amendment on Governor Grey’s proposal was not open to any objection on the score of indistinctness; but seeing that the adoption of that boundary would not only deprive South Australia of a very large tract of seaboard country, but would also leave the capital of that colony within the distance of forty miles from its border, the Council could not in justice support that suggestion.

“Being unable to recommend either of the boundaries proposed, the Council advised an adherence to the 141st degree of east longitude.”

It was also recommended that the respective limits should be clearly ascertained by a commission to be appointed by the Crown.

Governor Sir Charles FitzRoy writes to the Secretary of State, January 8th, 1848, that the measurement of the boundary had been successfully conducted by Mr. Surveyor Wade, “as far as the 36th degree of latitude,

being a total distance from the sea of upwards of 123 miles.

“ Here he was unfortunately compelled to abandon the further marking of the line until another opportunity, in consequence of the impossibility of obtaining supplies for his party ;” but the object had “ for all practical purposes been effected, as there is reason to suppose that the scrub in which the survey has for the present terminated extends to the Murray.”

A proclamation of the Governor of South Australia, published in the Government Gazette of that colony, adopting this boundary accompanies the despatch.

It is impossible in these pages to enter into the discussion of political questions, but the importance of some of them requires that they should not altogether be omitted from mention. One of the most prominent of these has undoubtedly been the Land Question. It will, therefore, be desirable briefly to relate how the protracted controversy upon that question had its origin in Victoria. It arose from the fact that, at a time when the squatters were the only great producing class, upon whom the Australian colonies depended, it was deemed expedient to give them some fixed tenure, and greater facilities for purchasing the Crown lands which they held and for which no extensive demand seemed likely to arise.

The New South Wales Government Gazette, of Oct 5th, 1847, contains the famous Orders of the Queen in Council of March 9th, for regulating the sale and occupation of Crown lands in New South Wales. These orders have probably given rise to a greater amount of political discussion than any other measure connected with the Australian colonies. They provided that for the purposes contemplated, New

South Wales should be divided into three districts—"the settled, the intermediate, and the unsettled districts."

The first-named was, in Port Phillip, to comprehend all lands within twenty-five miles of Melbourne, fifteen of Geelong, ten of Portland and Alberton, three of any point of the sea, and two from the banks of the Glenelg as far as a point, to be fixed by the Governor, not lower than the junction of the Crawford nor higher than the Wannon.

The intermediate district was to include the whole of the counties Bourke, Grant, and Normanby and of the Gippsland district not included in the settled district.

The unsettled district was to consist of all lands of the colony not within either of the others. The Governor was empowered to grant leases in it, for pastoral purposes, "for any term of years not exceeding fourteen." During that tenure the land on any run was only to be saleable to the occupant, and at its expiration it might be put up at a price to be fixed by valuation, at which the occupier should be entitled to purchase it; but on his declining to do so, it should be offered to the public at that price plus the value of any improvements he might have made upon the land. If none of the run or less than one-fourth, were thus sold, the squatter should be entitled to a renewal of his lease.

In the intermediate district the regulations were the same, except that the leases were to be only for eight years and the Governor might on the expiration of each year, by giving sixty days' notice, put up any of the land—the lessee having the same right of pre-emption provided for on the sale of lands in the unsettled district at the expiration of the leases. Extensive powers were, however, reserved to the Governor, notwithstanding the leases, of entering upon the runs for purposes of selling, granting, or otherwise dis-

posing of any lands for numerous public purposes specified, "or for otherwise facilitating the improvement and settlement of the colony."

In the settled district leases were to be granted only for one year at a time, and provision was made for owners of purchased land being allowed free pasturage over adjacent Crown lands.

It was provided that the lessees should only be permitted to cultivate land for their own use, and provision was made for estimating the amount of rent to be paid; and the Colonial Legislature was empowered to put assessment upon stock.

The New South Wales Government Gazette of Dec. 30th, 1848, contains the proclamation—in accordance with Her Majesty's Letters Patent of Feb. 20th, 1846—of thirty-one new counties, with a description of their areas and limits; of these the following are in Victoria,—Follet, Dundas, Villiers, Ripon, Hampden, Heytesbury, Polwarth, Grenville, Talbot, Dalhouse, Anglesey, Evelyn, and Mornington. The object of this step was to facilitate the carrying out of the Orders in Council.

But these not having been put in force at the time of the gold discovery, were set aside—the Government in response to the cry "Unlock the lands" putting them up to public auction in all parts of Victoria. The squatters were only allowed the right of pre-emption, at £1 an acre, over 640 acres on which their homesteads were situated. This policy respecting the land received the sanction of the Duke of Newcastle. Had the Orders in Council been in force—and their terms would imply that it was optional with the Governor to proclaim them—a nice legal question might have arisen whether the proviso for "facilitating the improvement and settlement of the colony" was sufficient

to have authorized the Governor in throwing open the lands to sale by public auction. By this system alone were all lands sold for some years after the gold discovery.

The squatters' tenure—though they were the wealthiest class in New South Wales—did not entitle them to vote for the Legislative Council ; but on Feb. 23rd, 1849, we find Mr. La Trobe forwarding a petition from “ the lessees of land in Port Phillip,” adopted at a public meeting at Geelong, on the 26th of the same month, praying that the elective franchise might be conferred upon them. It was stated, among other things, that the existing suffrage, being “ restricted to householders of £20 per annum, and to freeholders to the value of £200 . . . has excluded a large body of the tenant farmers, and the whole of the pastoral interest.”

It was pointed out that “ the principal wealth of Port Phillip consists in its flocks and herds, comprising respectively about 5,000,000 of sheep, and 500,000 head of cattle ; that nearly all the exports of the colony are produced by the graziers ; the total amount of colonial produce exported in 1847 (the last official return) being £652,122, of which £647,579 was produced by the pastoral population.”

The writer may perhaps mention the distinct recollection, impressed on his juvenile memory, of his father starting, on a very hot summer morning, to attend the meeting in question.

Attention appears to have been first called to the defences of Melbourne by a despatch from Governor Gipps to Mr. Gladstone of June 20th, 1846—enclosing a copy of a memorial, forwarded by Mr. La Trobe, from the Mayor and Town Council of Melbourne, pointing out the defenceless condition of the Port. It is signed “ J. F. Palmer, Mayor,” and states that Melbourne contains 2333 houses, 10,954 in-

habitants; exports £400,000 of produce; imports £100,000 of British merchandise; and that the military stationed in the town did not exceed fifty-four persons.

It is now time to give the official particulars respecting the creation of the Bishopric of Melbourne, and the appointment and entry upon the sphere of his labours of the excellent Prelate, who, for more than a quarter of a century laboured with so much zeal, energy, and faithfulness in planting the Gospel in the new land. Nothing but pure devotion could, in those days, have induced a Senior Wrangler to go to such an insignificant place as our colony then was. Melbourne may always be proud of her first bishop. It will be well for the colony if the pure and simple Christianity which he taught take deep root in it. On his arrival, he found but three Church of England clergymen in the whole diocese.

On March 28th, 1848, Sir Charles FitzRoy informs Earl Grey, that he had received his Lordship's despatch² of August 27th, 1847, containing a copy of letters patent, "reconstituting the Bishopric of Australia by reducing the same to a See to be styled the Bishopric of Sydney," and also "erecting three distinct Bishop's Sees, styled the Bishoprics of Newcastle, Adelaide, and Melbourne;" and the letters patent of Dr. Tyrrell of Newcastle, "and the Rev. Charles Perry, D.D., to be ordained and consecrated Bishops." The Governor also states "that the Lord Bishop of Melbourne arrived at Melbourne on the 23rd January, and was installed in the Cathedral Church of St. James on 13th February last."

About the same time Dr. Goold became first Roman Catholic bishop.

² The despatches here referred to are in the Record Office.

It has been the endeavour of the author not to give more statistics than are absolutely necessary; but to exclude them altogether would impair the historical value of any work on the progress of the colony. A few figures showing its position shortly before separation, will not be found uninteresting.

From the printed abstract of the Census of New South Wales, taken March 2nd, 1846, and forwarded to the Secretary of State, it appears that the total population of the whole colony was 189,609—that of the Port Phillip district being 32,879; Melbourne numbered 10,954 inhabitants; Geelong with its suburbs 1911; Portland 510; Brighton 509; Richmond 402; Williamstown 322; Belfast 269; Brunswick 164. These are the only towns in Port Phillip mentioned in the returns. Geelong is divided into North Geelong 982; South Geelong 388; Newtown 256; Ashby 150; Irishtown 135.

The total population of Victoria, according to the census taken on March 2nd, 1851—just before the separation from New South Wales, and published in the Victorian Government Gazette, of Aug. 6th—was 77,345, of whom 23,143 were in the police district of Melbourne; 8291 of Geelong; 2342 of Portland; 3846 of Belfast; 2064 of Kilmore; 1673 of Colac; 904 of Alberton.

The following figures are taken from a memorial of members for the Port Phillip district, sent by Mr. La Trobe in a despatch³ of February 11th, 1850, and forwarded by Governor FitzRoy on the 22nd, to the Secretary of State. The returns are dated Audit Office, New South Wales, August 15th, 1849, and signed "Wm. Lithgow, Auditor-General."

³ In the printed Parliamentary Papers already referred to.

Port Phillip from Colonization to Separation. 295

| Years. | Total Revenue. | | | Total Expenditure. | | |
|--------|-----------------------|----|----|--------------------|----|-----|
| | £. | s. | d. | £ | s. | d. |
| 1836 | (No revenue is given) | | | 2,164 | 16 | 8 |
| 1837 | 6,071 | 9 | 10 | 5,872 | 0 | 6 |
| 1838 | 40,020 | 9 | 11 | 16,874 | 4 | 8½ |
| 1839 | 74,698 | 0 | 5 | 35,848 | 12 | 5¼ |
| 1840 | 255,983 | 18 | 0 | 70,128 | 15 | 7 |
| 1841 | 152,825 | 11 | 7 | 201,363 | 0 | 3¼ |
| 1842 | 87,296 | 1 | 11 | 124,630 | 14 | 11½ |
| 1843 | 73,564 | 14 | 11 | 57,165 | 2 | 3¾ |
| 1844 | 69,913 | 6 | 2 | 63,048 | 4 | 10 |
| 1845 | 98,539 | 5 | 7 | 43,241 | 1 | 2 |
| 1846 | 96,346 | 13 | 1 | 51,094 | 15 | 10 |
| 1847 | 138,293 | 0 | 2 | 73,460 | 7 | 4½ |
| 1848 | 144,761 | 3 | 4 | 140,259 | 15 | 8 |
| | <hr/> | | | <hr/> | | |
| | £1,238,313 | 14 | 11 | £885,151 | 12 | 4½ |

The memorial points out that, allowing for its share in general expenses, common to the whole of New South Wales, a considerable amount of the revenue of Port Phillip had not been expended in that district.

Sir G. Gipps sailed for England, July 11th, 1846, and his successor, Sir Charles FitzRoy, arrived in Sydney, August 2nd.

In a despatch⁴ to the new Governor, of July 1st, 1847, Earl Grey announces the intention of the Government to introduce a Bill, in the next Session of Parliament, for the separation of Port Phillip from New South Wales, and that the new colony was to receive the name of Victoria; and Sir Charles FitzRoy, in one of March 27th, 1848, encloses an address from the inhabitants of Port Phillip, expressing "the liveliest emotions of joy and gratitude, that it is the determination of your Majesty's Government to take immediate measures to erect Port Phillip into a separate colony, to be named

after your Most Gracious Majesty, the Colony of Victoria." Some other name must have been chosen, had the proposal of a Major Sullivan⁵—made in 1842, to form a British settlement in New Caledonia, to be called the "Colony of Victoria"—been carried out.

At length the long-desired separation was conceded, by the passing through the Imperial Parliament of "An Act for the better Government of Her Majesty's Australian Colonies," August 5th, 1850. It provided, in Sect. 1, that "the territories now comprised within the said District of *Port Phillip*, including the *Town of Melbourne*, and bounded on the North and North-east by a straight line drawn from *Cape How* to the nearest source or the River *Murray*, and thence by the course of that river to the Eastern Boundary of the Colony of *South Australia*, shall be separated from the Colony of *New South Wales*, and shall cease to return members to the Legislative Council of such colony, and shall be erected into and thenceforth form a separate colony, to be known and designated the Colony of *Victoria*."

It was provided that the number of members of the Victorian Legislature and the electoral districts, should be determined by the Governor and Council of New South Wales, also that one-third of the members should be nominated by the Crown. The voting qualification required was the possession for six months of a freehold estate of the clear annual value of £100, or of a house or leasehold in possession, of the clear annual value of £10, or a licence to depasture on Crown lands. The authority of the Governor of New South Wales over Victoria was to cease from the issue of the writs for the election of the first Legislative

⁵ In the New South Wales Correspondence, Record Office.

Council of the new Colony. Power was also given to the Governors and Legislative Councils of New South Wales and Victoria, to alter the electoral districts and increase the number of members of the Councils of their respective colonies—the number of nominee members to be always in proportion. The Act provided for the establishment of a Supreme Court in Victoria, and also empowered the existing non-elective Legislative Councils in South Australia and Tasmania, to establish similar Legislatures to those of New South Wales and Victoria.

In a long despatch, of August 30th, 1850, Earl Grey informs Sir Charles FitzRoy that this act had become law. His lordship concludes in these eloquent terms:—"Her Majesty's Government have had no other object in view but that of establishing in the Australian Colonies a system of government founded on the same principles of well-regulated freedom, under which the inhabitants of this country have enjoyed so large a measure of security and prosperity, and under which the British Empire has risen to so high a pitch of greatness and power. It is my earnest and confident hope that by this Act of Parliament, the foundation is laid upon which institutions may gradually be raised, worthy of the great nation of British origin which seems destined rapidly to rise up in the Southern hemisphere, and to spread our race and our language, and carry the power of the British Crown over the whole of the vast territory of Australia."

The appointment of the first Governor of Victoria is communicated to Governor FitzRoy by Earl Grey, who writes, September 14th, 1850, "I have now to inform you, that having every reason to be satisfied with the manner in which Mr. La Trobe has hitherto administered the affairs

of the district of Port Phillip, under the existing arrangement, I have advised Her Majesty to appoint him the first Lieut.-Governor of the new Colony of Victoria."

The first despatch,⁶ doubtless, ever written to a Governor of Victoria, was that in the Parliamentary Papers, headed "January, 1851," without a date, addressed by Earl Grey, to Lieut.-Governor La Trobe, in which he is told, "You will receive your own commission as Lieut.-Governor through Sir C. FitzRoy; and in conferring it on you, Her Majesty's Government have great pleasure in acknowledging the services which you have rendered to the community of Victoria, during your long and careful superintendency of its affairs, while constituting a district of New South Wales."

Mr. La Trobe had been Superintendent of Port Phillip during the long period since 1839. His services had been highly appreciated by his superiors. He had only been absent from his post a few months, when—as Sir Charles FitzRoy informs Mr. Gladstone, in a despatch of October 24th, 1846—he had, in accordance with the Secretary of State's instructions, proceeded on the 9th of that month, to assume the temporary administration of the Government of Van Diemen's Land. This was on the death of the Governor of that colony, Sir Eardley Wilmot. Captain Lonsdale acted as Superintendent in his absence. Sir Charles takes this opportunity of speaking in the following high terms of Mr. La Trobe. "In conclusion, I trust that I may not be considered presumptuous in saying, that, having obtained a pretty accurate acquaintance with Mr.

⁶ This and the two preceding despatches are in the volume of the New South Wales Correspondence, Record Office, on the separation of Port Phillip.

La Trobe's character and sterling good qualities, during a month that he passed in this house soon after my arrival here, I do not believe that you could have selected a person more worthy of your confidence or one better adapted to perform the difficult task which you have assigned to him."

This high testimony no doubt influenced, if it did not determine, the subsequent selection of a Governor for the new colony. It would certainly have been a matter of regret, if Mr. La Trobe—who had so conscientiously and assiduously discharged his duties, who had acquired so much experience of Port Phillip from its early existence, and who was also a man of no small capacity, as well as of the highest character and of an estimable disposition—had not been made first Governor of Victoria.

CHAPTER XII.

VICTORIA, FROM BECOMING A CROWN COLONY TO OBTAINING
SELF-GOVERNMENT.

Steps taken to carry out separation—First despatch of first governor—Mr. La Trobe installed and officials appointed—First Legislative Council of Victoria—Its meeting—Entry of Mr. Childers into public life—Gold discovered—Governor La Trobe's despatch announcing it—His subsequent accounts of opening up of gold-fields—Sir Charles Hotham succeeds Mr. La Trobe—The Ballarat riots—Mr. Foster resigns, and Mr. Haines becomes Colonial Secretary—The University of Melbourne—Exclusion of convicts from Victoria—Restrictions upon the Chinese—The new Constitution—Its proclamation in the colony—First responsible ministry—First ministerial crisis—Death of Sir Charles Hotham—First Parliament of Victoria.

THE Port Phillip District of New South Wales had now become the Crown Colony of Victoria. It was impossible that its local affairs could any longer have been conducted from a distance of so many hundred miles, even had the means of communication not been very defective. It was fortunate that the new Government had been so far constituted—though its arrangements were anything but complete—when required to meet the unexpected and momentous events with which it had to grapple, within a few weeks after coming into existence. We shall now proceed to

notice some of the particulars connected with the organization of the new colony, and with the contemporaneous discovery of gold.

The first despatch of the first Governor of Victoria is that of Mr. La Trobe, No. 1, dated July 22nd, 1851,¹ in which he informs Earl Grey, among other things, of the receipt of his commission as Lieutenant-Governor. In another despatch, of the same date, Mr. La Trobe describes the steps taken to carry out the separation of the two colonies, which the Imperial Act provided should date from the issue of the writs for the election of the Legislature. These, Mr. La Trobe states, were sent out on July 1st. He was himself sworn in as Lieut.-Governor on the 15th, as next day were the three members of his Executive Council, namely, the Principal Law Officer, the Treasurer, and the Collector of Customs. A supplement to the *Victoria Government Gazette*, July 15th, announces the appointments of the chief officers of the Government, subject to Her Majesty's approval.

The principal of these, taken from the complete list given, were:—Colonial Secretary, William Lonsdale; Colonial Treasurer, Alastair Mackenzie; Auditor-General, Chas. Hotson Ebdon; Postmaster-General, Alex. McCrae; Attorney-General, William Foster Stawell; Solicitor-General, Redmond Barry; Master in Equity, Robert Williams Pohlman; Surveyor-General, Robert Hoddle; Sheriff, James Simpson; Crown Solicitor, Henry Field Gurner. In this list also appears, among non-political officials, the name of a future English Cabinet Minister, "Hugh Culling Eardley Childers."

¹ In the Record Office, as are the other despatches, and *Victoria Government Gazettes*, quoted in this chapter.

Captain Lonsdale—who was the earliest ruler of the Port Phillip settlement on its legal establishment, and had in the interval worthily discharged the office of Treasurer—became Colonial Secretary, accepting the office only provisionally after some hesitation.

The particulars of the installation of the Governor and the names of the gentlemen attending his first levee, are given in the *Argus* of July 16th.

On August 2nd Mr. La Trobe writes, that steps are being taken for the election of the twenty members of the Legislative Council, for which the writs would be returnable October 1st.

Numerous loyal addresses, on the occasion, appear in the *Victoria Government Gazette*—that of the Mayor and Corporation of Melbourne leading off, with expressions of “attachment to the institutions of the British Empire.”

The following return to the writs for the election of the representative members of the first Legislative Council of the colony, were published in the *Government Gazette* of October 29th :—

| | |
|--|---|
| “ North Bourke | { Charles Hilton Dight. John Thomas Smith. |
| South Bourke, Evelyn, and Mornington | } Henry Miller. |
| Grant | John Henry Mercer. |
| Normanby, Dundas, and Follet. | James Frederick Palmer. |
| Villers and Heytesbury . . | William Rutledge. |
| Ripon, Hampden, Grenville, and Polwarth | } Adolphus Goldsmith. |
| Talbot, Dalhouse, and Anglesey | John Pascoe Fawkner. |
| Gipps Land | Robert Turnbull. |
| The Murray | Francis Murphy. |
| The Loddon | William Campbell. |

| | |
|------------------------------|---|
| The Wimmera | William Francis Splatt. |
| Melbourne | { William Westgarth. John O'Shanassy. James Stewart Johnston. |
| Geelong | { Robert Robinson. James Ford Strachan. |
| Portland | Thomas Wilkinson. |
| Belfast and Warrnambool . . | Thomas Hamilton Osborne. |
| Kilmore, Kyneton and Seymour | Peter Snodgrass." |

Governor La Trobe writes to the Secretary of State, November 3rd, that he had appointed, subject to Her Majesty's confirmation, the following non-elective members to the Legislative Council, "being one-third of the total number :"—

" Official.

William Foster Stawell, Esq.—Attorney-General.

William Lonsdale, Esq.—Colonial Secretary.

Charles Hotson Ebdon, Esq.—Auditor-General.

Redmond Barry, Esq.—Solicitor-General.

Robert Williams Pohlman, Esq.—Master in Equity.

" Non-official.

Alexander Cunningham Wallace Dunlop, Esq.

Charles James Griffith, Esq.

William Clarke Haines, Esq.

James Hunter Ross, Esq.

Andrew Russell, Esq."

These names also appear in a supplement to the Government *Gazette* of 6th.

On December 3rd, Mr. La Trobe informs Earl Grey of the meeting of the Legislative Council, November 11th, and in a second despatch of the same date, of his consent to the selection of " James Frederick Palmer, Esq., as Speaker of the House."

The Governor, also under the same date, encloses a finan-

cial statement which he had laid before the Council, showing that the revenue of Victoria (exclusive of territorial revenue) had been for 1850, £122,781; for 1851 to October 31st, £118,268 5s. 5d.; and it was anticipated that it would reach £143,268 5s. 5d. for that year; and for 1852, £175,350, to meet an expenditure of £173,063 18s. 6d.

The Legislature was prorogued from January 6th to February 10th, 1852.

We have already noted the entry into public life of a gentleman who was to become a member of the English Cabinet; that of one who was to be his colleague, in the same Cabinet, has now to be recorded.

In a despatch of October 22nd, 1852, Mr. La Trobe announces that he has nominated—and asks that the appointment may be confirmed—“Hugh Culling Eardley Childers to be Auditor-General of this Colony, in the room of Charles Hotson Ebdon, Esq., resigned.” On December 14th, 1853, Mr. La Trobe notifies the appointment of Mr. Childers as Collector of Customs, in the place of Mr. Cassells, deceased.

Sir William A'Beckett, who had been some years resident-judge in Port Phillip of the Supreme Court of New South Wales, was first judge of Victoria; and on the appointment, shortly after separation, of the Solicitor-General, Mr. Barry, as a puisne judge, Sir William became Chief Justice.

Mr. La Trobe acknowledges, on July 20th, 1853, the Duke of Newcastle's despatch of March 19th, informing him of the appointment of Mr. John F. Leslie Foster as Colonial Secretary of Victoria, and reports that that gentleman had arrived and entered upon the duties of his office. Mr. Foster, as we have seen, had represented the Port

Phillip District in the Legislative Council of New South Wales, and it was he who contested Melbourne with Earl Grey when that nobleman was elected. Captain Lonsdale resumed his position as Colonial Treasurer on Mr. Foster becoming Colonial Secretary.

In a despatch of July 27th, 1853, Mr. La Trobe, in compliance with the request of the Secretary of State, gives the following list of the elective members of the Legislative Council at that date. Their number had been increased since the general election—the new seats having been filled up just before the despatch was written :—

| Name. | Place represented. | Date of Election. |
|---------------------------------------|------------------------|-------------------|
| The Hon. James Fredk. Palmer, Speaker | Normanby, &c. . . . | 4th Sept. 1851. |
| William Francis Splatt . | Wimmera | 5th Do. ,, |
| William Campbell . | Loddon | 5th Do. ,, |
| Adolphus Goldsmith . | Ripon, &c. . . . | 6th Do. ,, |
| Thomas Wilkinson . | Portland | 10th Do. ,, |
| John O'Shanasey . | Melbourne | 11th Do. ,, |
| James Ford Strachan . | Geelong | 13th Do. ,, |
| Peter Snodgrass . | Kilmore, &c. . . . | „ Do. ,, |
| Henry Miller . | South Bourke | 15th Do. ,, |
| William Rutledge . | Villiers, &c. . . . | „ Do. ,, |
| John Pascoe Fawkner . | Talbot, &c. . . . | 18th Do. ,, |
| Alexander Thomson . | Geelong | 11th June, 1852 |
| William Nicholson . | North Bourke | 27th Oct. ,, |
| John Myles . | Grant | 6th Dec. ,, |
| Augustus Fred. Adolphus Greeves. } | Melbourne | 11th Jan. 1853. |
| Francis Murphy . | Murray | 6th April, ,, |
| John Thomas Smith . | Melbourne | 26th May, ,, |
| George Ward Cole . | Gipp's Land | 31st Do. ,, |
| Frederick Perkins Stevens | Belfast and Warrumbool | 31st Do. ,, |
| Charles James Griffith . | Normanby, &c. . . . | 1st June, ,, |
| George Winter . | Villiers, &c. . . . | 2nd Do. ,, |
| Matthew Hervey . | Murray | 3rd Do. ,, |
| William Clarke Haines . | Grant | 6th Do. ,, |

| Name. | Place represented. | Date of Election. |
|-------------------------------------|------------------------------|-------------------|
| George Annand . . . | North Bourke . . . | 6th Do. 1853 |
| Mark Nicholson . . . | Belfast and Warrumbool . . . | 7th Do. ,, |
| James Murphy . . . | Melbourne . . . | 8th Do. ,, |
| John Hodgson . . . | Do. | ,, Do. ,, |
| Henry Langlands ²¹ . . . | Do. | ,, Do. ,, |
| James Cowie . . . | Geelong | 9th Do. ,, |
| Patrick O'Brien . . . | Kilmore, &c. | ,, Do. ,, |
| John Dane | South Bourke | 10th Do. ,, |
| John Goodman | Loddon | 14th Do. ,, |
| William Thomas Mollison | Talbot, &c. | ,, Do. ,, |
| James Thompson . . . | Ripon, &c. | ,, Do. ,, |
| William Bust Burnley . | North Bourke. | 28th Do. ,, |
| James Henty | Portland | 5th July ,, |

Melbourne,

15th July, 1853.

The following list of non-elective members is given in a despatch of September 14th. These had been increased in due proportion to the representative members:—

| Members' Names. | Official. Office. | Date of Appointment. |
|--|--|----------------------|
| The Honourable William Foster Stawell | } Attorney-Gen. | } 31st Oct. 1851. |
| Robert Williams Pohlman. | | |
| James Croke | Solicitor-Gen. | 21st July, 1852. |
| Hugh Culling E. Childers. | Auditor-Gen. | 26th Oct. 1852. |
| The Hon. John Leslie Fitzgerald Foster | } Col. Secretary | } 29th Aug. 1853. |
| The Hon. James Horatio Nelson Cassell | | |
| Andrew Clarke | Surveyor-Gen. | 29th Aug. 1853. |
| William H. F. Mitchell | Ch. Com. of Police | 29th Aug. 1853. |
| William Henry Wright | } Ch. Com. of Gold Fields | } 29th Aug. 1853. |

² Mr. Fredk. James Sargood was upon petition declared to have been duly elected instead of Mr. Langlands.

| Members' Names. | Non-official. | Dates of Appointment. |
|---------------------------------|---------------|-----------------------|
| Andrew Russell | | 31st August, 1851. |
| John Carr Riddell | | 21st June, 1852. |
| Joseph Anderson | | 14th July, 1852. |
| Thomas Turner A'Beckett | | 14th July, 1852. |
| James Graham | | 29th August, 1853. |
| William Highett | | 29th August, 1853. |
| Andrew Aldcorn, M.D. . . . | | 29th August, 1853. |
| Edward Stone Parker | | 29th August, 1853. |
| Andrew Halley Knight | | 6th September, 1853. |

The first official announcement of the great fact of the discovery of gold in Victoria is thus communicated to Earl Grey by Mr. La Trobe :—

“ *Melbourne, 25th August, 1851.*”

“ MY LORD,—It is my duty, however briefly, to report to Her Majesty's Government that the discovery of large deposits of gold within the Colony of N. S. Wales, in May last, has been followed, within the last six weeks, by undoubted proof being adduced of the extension of the gold-field to this Colony.

“ At this time, I am officially made aware of three distinct localities, where considerable numbers of persons have congregated for the purpose of obtaining the precious metal.³

“ 2. It is true the result has been, as far as I can ascertain, but moderate ; but quite of sufficient importance to justify the issue, with the concurrence of my Executive Council of a Proclamation, declaring the rights of the Crown, in respect of the gold found in its natural place of deposit, within the Colony of Victoria ; and further the promulgation of Regulations to ensure order and legalize the search, under similar conditions as those prescribed by Sir Chas. FitzRoy in New South Wales, previous to the separation of the Colonies. They will commence to take effect on the 1st of September.

“ 3. The gold at ‘ Clunes Diggings ’ is found in an alluvial composed in a great measure of the decomposed quartz rock, which constituted the original matrix. The specimens I have seen from the workings at Buninyong are all embedded in compact quartz. Those

³ In margin, “ Clunes, Upper Loddon, Buninyong, Deep Creek, a tributary of the Yarra Yarra River.”

from the Deep Creek, which is only 16 miles from Melbourne, show themselves in grains in contact with a slaty rock.

"4. I have little doubt, viewing the similarity of the geological structure of a great portion of Victoria to that of the portion of New South Wales in which the gold deposits are shown to exist, but that it will be found very widely extended in Victoria also.

"It is certain that, between two and three years ago, specimens of far greater richness than any latterly produced, were exhibited as found in the District of the Pyrenees, and were most undoubtedly from that part of the country. Circumstances, however, prevented the discovery from being followed up.

"5. It will be my duty to take the earliest opportunity of reporting further to your Lordship upon the subject. I have, &c."

The Proclamation, dated August 15th, in the *Gazette* of the 16th, declared that all persons taking gold from the soil or digging for it should be prosecuted, unless authorized to do so, but that regulations for the issue of licences for the purpose would be speedily published.

In his next despatch on the subject of the gold discoveries, dated October 10th, 1851, which is of considerable length, Mr. La Trobe thus first mentions the opening of Ballarat. The Governor, among other things, says,—

"However, early in September I obtained conclusive information that a very considerable amount of gold began to find its way into the towns from the vicinity of Buninyong. It was ascertained, that the original workings near the township had been abandoned, on the discovery of another locality producing the precious metal in far greater abundance in the valley of the River Leigh, about seven miles to the Northward and that a very large conflux of adventurers was pouring into the District

"On Monday last the 6th inst. 1300 licences had been issued for the current month

"A personal visit and inspection of the ground, from which I returned a few days ago, has been of great use to me, in forming a judgment of the real state of the case.

"The locality now known by the name of the 'Ballarat Diggings'

lies about six miles in a direct line from the remarkable volcanic hill still known by the native name of 'Buninyong.'

Mr. La Trobe enters into a description of the locality, mining operations, and yield, speaks of "Golden Point," and states that at the time of his visit "there were between 400 and 500 cradles on the stream irrespective of other expedients for washing the ore, and probably no less than 2500 persons, either working or making their preparatory arrangements, while the arrivals were computed at 100 daily; and one or two thousand were known to be on the roads from Melbourne and Geelong."

In another despatch, of October 30th, Mr. La Trobe continues his able and graphic description of the development of the gold discoveries—which, at Ballarat, had already reached the first pitch of success, and were losing their early attractiveness. 2246 licences had been issued during the month. The conduct of the miners is thus commended: "The official reports I have received show that as great a degree of good order continues to prevail amongst the large number congregated at Ballarat as could possibly be looked for, under the extraordinary circumstances which have brought the adventurers together."

This despatch goes on to describe the opening of the second great Victorian gold-field. The Governor says,— "The workings, which I stated in my previous despatch had commenced near Mount Alexander. . . have, within the past fortnight unexpectedly been attended by results which have drawn aside for the moment the public attention which had been almost solely absorbed by Ballarat, and directed a strong current of adventurers in that direction, both from Melbourne and its vicinity and from the Buninyong District itself."

Mr. La Trobe—who thoroughly acquainted himself with all parts of the territory under his government by personal visits, and who had a keen appreciation of its best scenery—soon made his appearance at Mount Alexander, as he had done at Ballarat. He says,—“Having received timely and correct information of the state of matters at the new ground, I have made it a point to pay an early visit to it.” He states that the search for gold in this quarter “originated in a small piece combined with quartz being picked up by a shepherd on his folding ground;” and that “although the certain intelligence could only have been spread a few days previous, I found on my arrival on the ground that there were upwards of 250 men on the spot.” Mr. La Trobe mentions that on his return to Melbourne he “found the whole population again under renewed excitement in consequence of the reports from these workings.”

In a despatch of December 3rd, 1851, we have a further account, from the descriptive pen of Mr. La Trobe, of the progress of the gold-fields. He thus estimates the results up to that time,—“Great as the excitement was in the case of Ballarat workings, there can be no doubt but that which now pervades the community is far more general, and threatens to be far more lasting in its character and serious in its results. I have no reason to believe that at any time there may have been more than 6000 people congregated in the country about Ballarat. There can be no doubt, I think, that in the area of fifteen miles square, in the neighbourhood of Mount Alexander, there are at this time above double that number.” It is also stated that the miners at Ballarat are “now reduced to about 1600 steady workers.”

In the three despatches referred to and also in one of January 12th, 1852, Mr. La Trobe describes the extraordinary effects upon all classes of the community, upon all interests, industries, and callings, of the excitement of the gold fever; people were abandoning every position to seek their fortunes at the diggings—the civil service losing its officers, “the resignation of by far the greater majority of the constabulary turnkeys, &c.,” having been received. The author and many of his readers can never forget the period in question. Mr. La Trobe also points out the difficulties of carrying on his new government, which had not been fully set in operation when this immense revolution arose, to put it to the severest of tests. A magic spell seemed upon the young colony, in the interval between the issuing of the writs for the election and the meeting of its first Legislature; for when that Assembly was opened the whole aspect of affairs was completely changed. Few men ever occupied a more trying position than that of Mr. La Trobe, when suddenly placed in such unprecedented circumstances; and whilst we cannot enter into the merits of political questions or approve of some of his measures, justice to the memory of that worthy man requires that it should be said, that he acquitted himself well, that he displayed much ability, and perhaps made as few mistakes as any tried statesman might have committed if occupying his position.

On July 21st, 1853, Mr. La Trobe acknowledges the acceptance of his resignation, and thanks the Duke of Newcastle for the terms in which he had received it. In a despatch of May 5th, 1854, Mr. La Trobe informs the Secretary of State of his approaching departure for England, and on the 8th Mr. Foster, the Colonial Secretary, announces that he had entered upon the position of Acting Governor

in the place of Mr. La Trobe, who had left on the 5th, in the *Golden Age*.

Thus terminated Mr. La Trobe's long official connexion with Victoria, which had existed since October, 1839. Many rulers have seen vast political changes affect the countries over which they have presided, but few have witnessed such a transformation as that which developed the little settlement of which Mr. La Trobe became chief in 1839, into the great Colony, the governorship of which he gave up in 1854. He did not again enter public life. His sight failed him some years before his death, which took place in this country, December 4th, 1875, at the age of seventy-four.

In a despatch, of June 26th, 1854, Sir Charles Hotham informs the Duke of Newcastle of his arrival on the 21st. Next day the new Governor landed and was sworn in. He describes the cordial reception he received, and the warm-hearted loyalty of the people.

The Legislative Council had raised the salary of the Governor to fifteen thousand a year. This was done in the hope that the Governor of Victoria might be made Governor-General of Australia; for it would have been anomalous that a Provincial Governor should have a much higher income. The Colonial Office, however, got over the difficulty by abolishing the title of Governor-General of Australia on the first vacancy in the governorship of New South Wales. Melbourne was, however, made head-quarters of the troops in Australia.

In a despatch to Sir George Grey, Secretary of State, dated November 18th, 1854, Sir Charles Hotham reports the burning by the populace of the Eureka Hotel at Ballarat, in consequence of a murder in which the landlord was

supposed to have been implicated. This was the commencement of the disturbances, which—having for their chief irritating cause the obnoxious licence regulations—at length culminated in the collision of December 3rd, between the authorities and the diggers—the one solitary exception to the peaceful tenor of Victorian history. The details of the riots and of their suppression—by the taking of the Eureka Stockade, in which the rioters had entrenched themselves—are given in a despatch, with enclosures of Sir Charles Hotham, dated December 20th. The stockade was attacked by Captain Thomas of the 40th Regiment, early on the morning of December 3rd, and taken, some of the insurgents having been killed and wounded and more than a hundred made prisoners. There was a loss on the part of the military of three privates; and subsequently Captain Wise, of the 40th, and Lieut. Paull, of the 12th, died from the effects of wounds received in the encounter.

A commission was appointed to report upon the government of the gold-fields. The grievance of which the diggers complained, the licence, was removed, and the revenue made up for the loss by an export duty on gold. It was not so much the fee for the licence, thirty shillings a month, which was the source of objection—although it pressed unfairly upon the unsuccessful gold digger—as the interference with the liberty of the subject, which was involved in every man on the gold-fields being always liable to be called upon by the police, whose duty it was to inquire for licences. Whoever did not happen to have one in his pocket might, at any time, have been taken away from his work to produce his licence or to answer before the gold Commissioner for not having one.

Under date December 14th, 1854, Sir Charles Hotham

advises Sir Geo. Grey, of the resignation, on the 5th—two days after the encounter at Ballarat—of Mr. Foster, Colonial Secretary, and of the nomination in his place of Mr. William Clarke Haines, member of the Legislative Council for the County Grant. The resignation of Mr. Foster was undoubtedly a concession to the popular feeling at the moment; but it would be unfair to infer from it that that gentleman was mainly responsible for the administration of the gold-fields which led up to the disturbances. The question how far he and his colleagues, as well as Governor Hotham, should share that responsibility, has been the subject of a very extensive controversy, upon which it would be impossible to enter and improper to pronounce a judgment in these pages. In 1867, a committee of the Victorian Assembly reported upon the question in Mr. Fitzgerald's favour.

It would be impossible to describe, or even to name, the numerous works and institutions which had their origin in Victoria before the period at which this work terminates. It may be safely said, however, that in no part of the world has more been done for the instruction and education of the inhabitants. The provincial newspapers, libraries, and literary institutions, appear in far greater proportion to those of the mother country, and probably of any other community. It need scarcely be said that Melbourne and its suburbs are as amply provided with a press and institutions. The old Crown Colony Legislative Council of Victoria, as well as the Parliament established by the new constitution, have been always most liberal in providing for the literary wants of the colony.

In a few months after separation from New South Wales, the Melbourne University was incorporated by Act of the

Legislative Council, which became law on January 22nd, 1853; its Council was appointed in the following April; the foundation of the buildings laid in August 1854; and they were opened October 1855, although the University had already begun operations. Royal Letters Patent recognizing the degrees of the University were granted in 1859, and the Senate appointed in 1867. The Act of the Legislature incorporating the University, conferred upon it an endowment of 9000*l.* a year. The first Chancellor was Sir Redmond Barry, who still holds the office. The Legislative Council also provided for the formation of the Melbourne Public Library, at the same time that it determined upon the establishment of the University.

It would be neither possible nor desirable, to do more than mention some of the leading political questions which have arisen in Victoria. The rise of the land question has already been referred to, so have the measures connected with the organization of the territory, upon its first settlement, and also upon its separation from New South Wales. The introduction of Constitutional Government has yet to be spoken of. But before coming to it, something must be said about the question of transportation, which for some time caused considerable excitement in all the Australian colonies. This has been the only question which ever caused any serious difference between those colonies and the mother country; and there is no reason why it should not continue as the solitary exception to the rule of harmony which distinguishes their relations.

Neither before nor after separation was there transportation to any part of Victoria; but the attractions of gold drew to her territory, from New South Wales and Tasmania, many convicts on the expiration of their terms of punish-

ment. The question of continuing transportation, therefore, affected Victoria as much as any of the other colonies. Convicts had not been sent to New South Wales for some years before separation; but they continued to be received in Tasmania till 1853, after the gold discovery. Victoria, being so much interested in the question, took a leading part in the agitation which resulted in transportation to the neighbouring colony being finally stopped in that year. In order also to prevent our colony from being infested, as it must otherwise have been for some years, with prisoners as they came out of the penal establishments of Tasmania, the Legislative Council passed the "Convicts Prevention Act" of 1852. This measure was directed against the conditional pardons granted by the Governor of Tasmania, which rendered convicts free to go wherever they pleased, except back to England. Numbers of them availed themselves of the privilege to cross over to the gold-fields of Victoria, where they contributed largely to augment the amount of crime, which, but for their presence, would have been remarkably small. It was provided that any convict who should arrive in Victoria until three years had elapsed from the date of his pardon or the expiration of his sentence, should be liable to imprisonment for two years, or to be sent back to Tasmania; and the onus of proving themselves free rested on all persons coming from that colony. The Governor having reserved the Act for sanction in England—it continuing in the mean time in force in Victoria—the Royal Assent was refused, on the ground that the Act was an interference with the prerogative of mercy. On the news of its rejection reaching the colony, the Council immediately passed it a second time, and on being again sent to England it

was allowed. By the united action of all the other Australian colonies, transportation to Western Australia was also subsequently abolished by the Imperial Government.

The Legislative Council of Victoria, was also obliged to adopt stringent measures to protect the colony against another inundation of objectionable intruders. The Chinese were at one time arriving in such numbers, as to afford serious ground for alarm lest they should either outnumber the British population, or form an undesirably large minority of the inhabitants of the colony. An Act was, therefore, passed imposing a capitation tax of 10*l.* a head on every Chinaman coming into the colony, and a fine of 100*l.* on the captain of any ship bringing more than one Celestial to every ten tons of cargo. The Act having served its purpose, was subsequently repealed.

It now remains for us to see our colony completely freed from the leading strings of irresponsible, Crown-Colony rule, and invested with the full powers of Constitutional self-government. The Secretary of State for the Colonies in the first Ministry of the late Earl Derby, Sir John Pakington, now Lord Hampton—in a circular despatch of December 15th, 1852, to the Governors of New South Wales, Victoria, South Australia, and Tasmania—invited the Legislative Councils of these colonies to exercise the powers, with which they were invested by Imperial Statute 13 & 14 Vict. c. 59, and frame new Constitutions for their respective colonies. After considerable discussion the Victorian Act passed the Legislative Council March 24th, 1854, and was transmitted to England on the following day along with a despatch from Governor La Trobe.

The Constitution Act of Victoria, the 18 & 19 Vict. c. 55 in the Imperial Statute Book, received the Royal

Assent July 16th, 1855—no substantial change having been made in the measure as passed by the Legislative Council. It established two Houses of Parliament—the Upper retaining the name of the Old Legislature and the Lower to be called the Legislative Assembly. The Legislative Council is to consist of thirty members, five to be elected by each of the six Provinces, into which, for the purpose, the colony was divided. The House cannot be dissolved; but by one member for each Province retiring every two years, its complete renovation is effected in ten years. Its members must be thirty years of age and possess freehold estate worth 5000*l.* or 500*l.* a year. The electoral qualification requires that a man shall have resided a year in the colony and possess a freehold worth 1000*l.* or 100*l.*, or a leasehold with a reserved rent of 100*l.*, or of 100*l.* clear annual value for a term of five years. The franchise for the Upper House is also conferred upon graduates of any University in the British Empire, barristers, solicitors, qualified medical practitioners, officiating ministers of all denominations, and retired military and naval officers.

The Act provided that the Legislative Assembly should consist of sixty members, each with a property qualification of freehold estate worth 2000*l.* or 200*l.* a year. The electoral qualification was the possession for six months, of freehold property worth 50*l.* or 5*l.* a year, of 10*l.* leasehold, or premises of that yearly value, of a licence of Crown lands for a year or of a salary of 100*l.* per annum. The educated classes upon whom the suffrage for the Council is conferred are also entitled to vote for the Assembly. The duration of the Assembly was fixed at five years.

It was also provided that no responsible ministry can

meet the Assembly unless four of its members are returned to it.⁴

The alterations in the new Constitution, though made after the period beyond which this work is not intended to go, may with advantage be briefly mentioned. In the first Session of the first Parliament under this Constitution, the liberal franchise for the Assembly—which was within the reach of every one with the least industry to acquire and steadiness to save—was extended to all men of twenty-one years of age, who shall be registered in the electoral districts in which they reside; and the property qualification of members was abolished. Subsequently the number of members and electoral districts have been more than once increased and altered; and the qualifications for both members and electors of the Council have been reduced one half. Payment of members has also been in force for some time, and has been the cause of the recent dead-lock between the two Houses. The Assembly is now elected for only three years.

In a special issue of the *Government Gazette*, of November 23rd, 1855, Sir Chas. Hotham proclaimed the New Constitution, which the Act provided should be proclaimed by the Governor within a month of the receipt by him of a copy of the statute. The operative part of the proclamation runs as follows:—"And whereas I, Sir Charles Hotham, Captain-General and Governor-in-Chief of the said colony of Victoria, did at ten of the clock, post meridian, on the twenty-third day of October, in the present year, receive from Her Majesty's Principal Secretary of State for the

⁴ See the author's paper on the Constitutions of the Australian Colonies, Proceedings of the Royal Colonial Institute, Session 1869-70.

Colonies a copy of the said Act and Order in Council appended hereto, declaring Her Majesty's Assent to the said reserved Bill so amended as aforesaid. Now, therefore, I, Sir Charles Hotham, Captain-General and Commander-in-Chief of the said Colony of Victoria, do by this Proclamation proclaim the said Act of Parliament,⁵ and the said reserved Bill so assented to as aforesaid, and do hereby notify and declare the said Act of Parliament, and the said Bill so assented to, to be proclaimed accordingly."

The Proclamation is countersigned "William C. Haines."

The *Gazette* of November 28th, 1855, announces the appointment of the first responsible ministry of Victoria, all the gentlemen nominated having, as appears, with two exceptions, previously held the same offices. Mr. Molesworth had been acting Solicitor-General. By the Constitution Act they became entitled to pensions of 800*l.* on being deprived, on political grounds, of their offices, the tenure of which had previously been permanent. The names and offices specified were,—“ William Clarke Haines, Esquire, Chief Secretary of Victoria; William Foster Stawell, Esquire, Attorney-General of the said Colony; Charles Sladen, Esquire, Treasurer of the said Colony, *vice* William Lonsdale, Esquire, released from office on political grounds; Charles Pasley, Esquire, Commissioner of Public Works of the said Colony; Hugh Culling Eardley Childers, Esquire, Commissioner of Trade and Customs of the said Colony; Andrew Clarke, Esquire, Surveyor-General of the said Colony; Robert Molesworth, Esquire, Solicitor-General

⁵ The Constitution Act passed by the Legislative Council, and the Act of the Imperial Parliament enabling her Majesty to assent to it.

of the said Colony, *vice* James Croke, Esquire, released from office on political grounds.”

The Government *Gazette* Extraordinary of December 10th, 1855, contains a proclamation constituting these gentlemen and General Macarthur, the Commander of the Forces, the Executive Council of Victoria, and also one announcing that, on the same day, Sir Chas. Hotham had taken the oaths as Captain-General and Governor-in-Chief of the Colony.

The principle of ministerial responsibility had now been established, though the Parliament under the New Constitution had not been elected; so that Ministers were bound to resign, on sustaining a defeat, upon any important question of policy or vote of confidence in the old Legislative Council. This body had to continue its sittings some time longer, in order to prepare the way for the new Parliament which was to succeed it. It was not long before the first ministerial crisis was brought about. An amendment to the Act, introduced by the Government, for the regulation of the elections of the new Parliament, was adopted, declaring that votes should be recorded by Ballot. It was moved by Mr. Wm. Nicholson, and, after two nights' discussion, carried against the Ministry, on December 19th, 1855, by 33 votes to 25. Whereupon Mr. Haines and his colleagues resigned; but, after an ineffectual attempt on the part of Mr. Nicholson to form a Government, they remained in office, which they held for upwards of a year—till some time after the meeting of the new Parliament.

Sir Charles Hotham died, after a short illness, on the last day of 1855.

The Government *Gazette* of January 4th, 1856, contains a proclamation of the same date, of Major-General

Macarthur, Commander of the Forces in Australia, announcing that in consequence of the death of Sir Chas. Hotham, he had assumed the office of Governor, which he held for nearly a year, till succeeded by Sir Henry Barkly on December 26th.

All the arrangements having been completed, the elections for the first Parliament of Victoria duly took place, and the full list of the members of both Houses appeared in the *Government Gazette* of November 6th, 1856. The names certainly should be recorded before closing the early history of the colony. Those of the Legislative Council or Upper House were:—

| | | |
|------------------------------|---|---|
| Central Province . . . | { | John Hodgson. John Pascoe Fawkner. Henry Miller. John Hood. Nehemiah Guthridge. |
| South Province . . . | { | Donald Kennedy. Thomas Herbert Power. William John Turner Clarke. Thomas McCombie. John Barter Bennett. |
| South-Western Province . . . | { | James Ford Strachan. Robert Cuthbertson Hope. James Henty. William Roope. James Cowie. |
| Western Province . . . | { | Stephen George Henty. Andrew Rose Cruikshank. Daniel Joseph Tierney. James Frederick Palmer. Charles Vaughan. |
| North-Western Province . . . | { | John Allan. Dennis Patrick Keogh. George Urquart. John Hunter Patterson. Wm. Henry Fancourt Mitchell. |

| | | |
|----------------------------|---|--------------------|
| Eastern Province | { | Matthew Hervey. |
| | | James Stewart. |
| | | Robert Thompson. |
| | | William Kaye. |
| | | Benjamin Williams. |

The Legislative Assembly or Lower House was gazetted as follows :—

| | | |
|--------------------------------|---|--------------------------------|
| Melbourne | { | David Moore. |
| | | Archibald Michie. |
| | | William Foster Stawell. |
| | | John Thomas Smith. |
| | | John O'Shanessy. |
| St. Kilda | { | Frederick James Sargood. |
| | | Thomas Howard Fellows. |
| Collingwood | { | George Harker. |
| | | Thomas Embling. |
| South Melbourne | | Andrew Clarke. |
| Richmond | { | George Samuel Evans. |
| | | Daniel Stodhart Campbell. |
| Williamstown | { | John Leslie Vesey Fitzgerald |
| | | Foster. |
| Brighton | | Jonathan Binns Were. |
| Geelong | { | Alexander Fyfe. |
| | | Charles Sladen. |
| | | Charles Read. |
| | | John Henry Brooke. |
| Portland | { | Hugh Culling Eardley Childers. |
| | | Daniel Abraham Hughes. |
| Belfast | | Francis Edis Beavor. |
| Warrnambool | | George Samuel Wegge Horne. |
| Colac | | Andrew Rutherford. |
| Kilmore | | John O'Shanassy. |
| Kyneton Boroughs | | George Walter Johnson. |
| Murray Boroughs | | Francis Murphy. |
| Alberton | | James Davis. |
| Castlemaine Boroughs | { | Alexander Stenson Palmer. |
| | | Vincent Pyke. |

| | |
|--|-------------------------------|
| Sandhurst Boroughs | James Macpherson Grant. |
| North Grant | John Basson Humffray. |
| North Grenville | Peter Lalor. |
| Ovens | Daniel Cameron. |
| Rodney | John Dunstan Baragwanath. |
| Loddon | { John Downes Owens. |
| | { Ebenezer Syme. |
| Talbot | { Butler Cole Aspinall. |
| | { David Blair. |
| | Robert Bennett. |
| East Bourke | { Augustus Frederick Adolphus |
| | { Greeves. |
| West Bourke | { Patrick Phelan. |
| | { Robert McDougall. |
| South Bourke | { Charles Pasley. |
| | { Patrick O'Brien. |
| South Grant | { William Clark Haines. |
| | { Horatio Spencer Wills. |
| | { John Myles. |
| Evelyn and Mornington | Wm. Acland Douglas Anderson. |
| Anglesey | Peter Snodgrass. |
| Dundas and Follett | Charles James Griffith. |
| Normanby | Edward Henty. |
| Villiers and Heytesbury | { Charles Gavan Duffey. |
| | { William Rutledge. |
| Polwarth, Ripon, Hampden, and South Grenville | { Jeremiah George Ware. |
| | { Colin Campbell. |
| The Murray | { John Goodman. |
| | { Travers Adamson. |
| Gipps Land | John King. |

This first Parliament of Victoria met November 21st, 1856. Sir James Palmer, who had been Speaker of the old Legislative Council, was chosen first President of the new Upper House. In the Legislative Assembly there was a contest for the chair between two excellent early colonists—with respect to whom the only feeling could have been that of regret that both could not have been made Speaker

—Dr., now Sir Francis, Murphy, and the late Mr. Charles James Griffith. The former was the successful candidate. Parliament was opened by the Acting Governor, General Macarthur.

And now that the little settlement on the banks of the Yarra of 1835 had grown into the metropolis of the self-governing Province of Victoria of 1856—with two Houses of Parliament and responsible ministers—the colony had clearly passed from the early and obscure era of its history to times when every event in its career would be amply recorded.

CHAPTER XIII.

SOME PERSONAL REMINISCENCES.

Recollections of early colonists—Early crisis in the Port Phillip Settlement—Its effects—"Boiling-down" sheep—Irrigation with Soup—The Aborigines—Kangaroos, emu, dingoes—"Black Thursday"—Description of that terrible day—The author's earliest recollections of his native city—Visit to Melbourne in overcrowded days of gold excitement—Canvas Town—High prices—Ballarat and its neighbourhood—Early recollections of the place—Importance of preserving early colonial history.

HAVING recorded, so extensively, the information of others respecting Victoria, the author may now be permitted to give a few of his own early personal recollections of the colony, as well as some which he has heard from those whose memories go back to more remote periods.

His parents arrived in Hobson's Bay in December, 1839, by the *Westminster*, the second or third ship which had sailed direct to Port Phillip from this country. The passage occupied over a hundred days. From the imperfect sailing directions which then existed, Cape Otway was mistaken for one of Port Phillip Heads, and the ship had some difficulty in clearing the shore, upon which, had the wind been less favourable, she must have run. The captain had

only some directions printed in an early colonial newspaper, to guide him in entering Port Phillip. The author's father has told him that when he first landed at The Beach, now Sandridge, there was but one small habitation; and how he and some of his fellow-passengers, in walking from that place to Melbourne, got in among the bush-wood on the south side of the Yarra, and had some difficulty in finding their way. They were ferried across the river in a boat.

The infant city was at this time in a very primitive state, being just four years and four months old. Its buildings were few, and the accommodation for its population quite insufficient, so that many people were living in tents. The author's father, however, was favourably impressed with the young settlement, and determined to remain at Port Phillip, though he had taken his passage from London to Sydney. Accordingly, before leaving the ship, which remained some time in Hobson's Bay, he, with the captain's permission, had a large tent of four or five rooms, made by the sailors, and it was pitched among a number of others on the Eastern Hill, not far from where the Melbourne Club now stands. On moving, in a few weeks, to the station which he had bought, he sold the tent for as much as, if not more than, it had cost. Some two or three years afterwards he bought, for three or four hundred pounds, one of the best sites, of about an acre, in this very best part of Melbourne, but unfortunately was induced to sell it, not many months after, for what was considered at the time a good profit, of fifty or a hundred pounds.¹

The station, Yallock Vale, about forty-five miles from Melbourne and ten from Bacchus' Marsh and Ballan, had,

¹ £700 a foot has, as we have seen, been recently asked for land in the immediate neighbourhood.

in the short interval since the territory had been occupied, belonged to three proprietors, before it was purchased by the author's father. These gentlemen were Messrs. James Simpson, Blackney, and Hawkey. It was at the time, perhaps, about half way from Melbourne to the confines of the country which had been taken up by settlers in the direction in which it lay. The writer has often heard his father say how that for some years, in riding to Melbourne he has struck across the plains, without seeing a track, fence, habitation, or human being—except sometimes a solitary shepherd with his flock—until reaching the immediate neighbourhood of Melbourne.

The author has also had the advantage of hearing, from the lips of some of the earliest colonists, accounts of what they themselves had seen. From the late Mr. J. A. Cowie, whose station adjoined his father's, he has heard that when he first went up the Yarra, he saw Fawkner ploughing a piece of ground where the Melbourne wharves now are; and Mr. David Stead, Mr. Cowie's partner—who is probably the only survivor of those who went to Port Phillip about the same time as Batman—told the author only two years ago, that when he first saw Melbourne it consisted of two huts built of sods, one inhabited by Batman's party and the other by Fawkner's. Messrs. Cowie and Stead at first had a station near Geelong, at the creek which bears the name of the former.

The progress of the newly occupied territory was early retarded by the occurrence of one of those crises which are common in the history of young communities; but that which so seriously affected Port Phillip, as well as New South Wales generally, about 1842-3, was of unusual severity—thoroughly proving the stability of the founda-

tions of the new settlement. The author has often heard it spoken of by his father and other early colonists. It was occasioned by the great fall in the price of sheep, which, having increased out of all proportion to the demand for meat of the limited population, became of no value except for their wool. In a few months they fell from thirty shillings a-head, at which the writer's father had purchased his on taking the station, to eighteen pence.

The prospect was for a time so gloomy that many people with energies only adapted for smooth and prosperous circumstances, and some even of a hopeful and persevering temperament, gave up the settlement as lost. Many sold out when things were lowest, in the belief that ruin was inevitable. Mercantile houses in Sydney and Melbourne gave way, and in their fall dragged down numerous squatters throughout the country, who were ruined by being suddenly called upon to repay advances which the merchants had made them.

It was the custom for houses to ship wool to be sold in England, for the squatters, giving them in the meantime credit upon it. Those who had not taken advances to the full value, in many instances, lost by the failure of their merchants in the crisis, whatever they were entitled to receive upon the sale of their wool; and those who had taken more than their wool realized, being unexpectedly called upon to refund, were unable to do so. The banks too often pressed squatters, who were in their hands, with unnecessary severity. Many who eventually were able to weather the storm, were frequently unable to pay their servants, and were obliged to give them horses and other stock for wages.

Numbers, however, determined to bear up, if possible,

against the depression—believing that the elasticity of a country evidently possessed of such natural resources would be sufficient to enable it not only to right itself, but to obtain a speed of progress not previously reached. These expectations proved incorrect, only in so far as the most favourable anticipations fell short of what was realized.

The crisis sifted the ranks of the settlers, weeding out those who were idle, unsteady, and without perseverance. Some were able to pay their passages from the colony; others required to be assisted; and all who returned to England gave Australia a bad name. At no time was it more excusable to do so; but colonists whose want of success is due to themselves, invariably blame the colony.

During the depression the foundations of many fortunes were laid. Believers in better times to come, took the opportunity to invest when stock, stations, and town lands were at the lowest. Capital could not have been laid out to greater advantage even when Port Phillip was first colonized; thousands of pounds invested during the crisis were soon multiplied by tens. Squatters who were able to struggle through it were making progress; their flocks were increasing; and it was not for years after it had passed, that their stations became fully stocked.

The great panic is remembered by old colonists as the darkest period in their colonial history; and it was not for some years that Australia recovered from the shock.

The first step which turned the tide of ill-fortune was the introduction of the system of boiling down sheep. When stock became almost worthless, it occurred to many people that, when a fleece of wool was worth from half-a-crown

to three shillings in England, and a sheep's tallow three or four more, the value of the animal in Australia ought to exceed eighteen pence or two shillings. Accordingly thousands of fat sheep were annually boiled down after shearing, and thus the average price rose to about six shillings ahead, until the demand for mutton created by the influx of people attracted by the gold discovery, increased it more than three-fold ; and then "boiling down," which had saved the country, had to be given up—only to be partially revived, a few years ago, when the supply of meat in Australia had again largely outgrown the demand, and the system of meat-preserving for exportation had not yet finally displaced the more primitive system. During the boiling-down period, mutton was almost valueless in Melbourne—legs being sold for five shillings a dozen, and a single one for sixpence ; and even then the poorer classes rejected them.

The Messrs. Learmonth at Buninyong, seven miles from Ballarat, annually "boiled down" so many of their sheep, that they found it answered their purpose to have a place of their own, instead of sending their fat stock, as was generally done, to a public "boiling-down" establishment. The author well remembers visiting it a year or two before the gold discovery, and seeing numbers of sheep prepared for the process. No finer mutton could have existed. The working-men came in, and helped themselves to whatever joints or slices they liked to take out of the sheep, as they hung skinned and ready to be cut up, before being thrown into the melting vat. This was of large size, and in it the meat was left till all the tallow was extracted from it. The offal remaining consisted of flesh, so much overdone as to drop from the bone, and of rich liquid which would have made fine soup or jelly. This was applied to

the strangest purpose for which such a thing was ever used. Major, now Sir Arthur Cotton—being on furlough from India, on a visit to his brothers-in-law, the Messrs. Learmonth—tried an irrigation experiment at their place on a limited scale. He had a dam thrown across a small creek, and with some sluices and trenches to convey the water, was able to carry the soup or gravy and other offal from the boiling-down establishment over some of the adjoining land. Magnificent crops were thus produced in some of the fields, and splendid vegetables and fruits in the garden. This incident will certainly stand unique in the history of soup, jelly, and irrigation. The greater part of the refuse meat had to be carted away some distance from the place.

The aborigines were in the early days comparatively numerous in the neighbourhood in which the writer lived, but fortunately not troublesome, as they were in other parts of the country; they, however, rapidly decreased in numbers, though they were well treated by the settlers. The author's father has told him of some two or three hundred having assembled to hold a *corroberie*, or native dance, on his station, not long after he went to it; and he himself can remember their coming round in considerable numbers—perhaps at times as many as fifty or a hundred; but latterly never more than about half a dozen. For the last few years, however, before 1859, when he left the colony, they were never to be seen, and had become all but extinct in the neighbourhood.

They were the most primitive of people, with no recollections of the past, nor ideas of the future; they lived for the day on what they could find. Whatever notion they possessed of an after-state was probably derived as recently as their contact with the whites; for the author has often

heard them thus express themselves—"Blackfellow die, jump up whitefellow; whitefellow die, jump up blackfellow."

Kangaroo and emu were also numerous in the neighbourhood in the early days, but had almost completely disappeared before the time to which the writer's recollection reaches back. Dingoes, or native dogs continued for some years to be destructive, but were finally exterminated by means of strychnine, although Kangaroo dogs were of great service in destroying them; so much so that no station was without a few of these fine animals. The writer well remembers when, in order to protect sheep from being attacked by dingoes, it was indispensable to have them folded at night, and for the shepherd to sleep beside his flock, in a movable wooden structure, called a watch-box, built on wheels, so that it might be moved when the hurdles of the fold were changed to fresh ground, as they were every day or two.

In the early days, and for the first few years, all the habitations in the Bush were mere wooden huts, of a very primitive description; but the settlers soon made these dwellings more comfortable, and in a few years substituted for them substantial houses of brick and stone, which, for the most part, would have been no discredit as country residences in England—especially as attached to them were usually beautiful gardens producing flowers at all seasons and abounding in fruits of numerous varieties.

Thursday, February 6th, 1851, can never be forgotten by those who were then in Victoria. It will always with them bear the appropriate name, given at the time, of "Black Thursday." The author, as a child, certainly, never had anything so vividly impressed upon his recollection. Every summer bush-fires were more or less common in the country;

but never before or after was there such a day of universal fire in almost every part of Victoria. It had been preceded by an unusually long period of excessive heat, with strong hot winds from the north; and the pastures, which at the time of year are always dry, were thus rendered extremely inflammable. The result was that in all parts of the country, wherever it caught fire, by accident or otherwise, the flames swept everything before them. All attempts to stop them, by the ordinary means of beating them out with branches of trees, were fruitless. Men were obliged to fly from them as best they could, and in some instances were unable to escape, and lost their lives; homesteads, huts, wool-sheds, bridges, stacks, and crops were demolished; flocks of sheep destroyed as well as cattle, horses, and other animals; birds were seen to fall from the trees, and numbers of them were afterwards found dead. The flames ran along the ground at an incredible speed, and, where the grass was long, in a perfect wall. As they advanced they were frequently preceded by various patches of fire, which were kindled by pieces of loose bark, blown by the gale from the gum-trees, often for a considerable distance—wide beaten roads and broad streams, which would have stopped most bush-fires, affording no check to this terrible one.

The writer's experience will convey some idea of what Black Thursday really was. When the fire was first observed upon his father's station, all the men were sent to do what could be done to check it; but as soon as they got near the flames, they were obliged to fly from them, and, escaping back, concentrated their efforts on saving the house. As the fire came bounding up to it, the writer's father was about to mount his horse, and he himself his

pony ; but they had only time to turn both animals adrift and rush in at the gate of the enclosure in which the kitchen stood. The horse was so badly burnt that it was a question next day whether he would not have to be shot, but with care he ultimately recovered ; the pony only had her flowing tail considerably singed.

The house and kitchen were built of brick, but roofed with wooden shingles. The former stood in a garden, of upwards of an acre, and the latter in an enclosure—both being surrounded with wooden paling, which, catching fire in many places, had to be broken down. A quantity of wood for fuel, piled close to the kitchen, was soon in flames, which threatened to catch the roof of the building, from whence they would certainly have spread to that of the house. By applying wet blankets, for several hours, to the side of the kitchen roof which was in danger, it was with difficulty prevented from igniting.

Before evening, three bridges, haystacks, crops, fences, huts, and the building in which a year's supplies for the station had just been laid in, were reduced to ashes. The two large gardens, in which fruits, flowers, vegetables, and various plants had been flourishing with Australian luxuriance, appeared to be utterly destroyed ; only a few of the trees, however, died. The gardener, after walking about a day or two, thinking of giving up his place in despair, set to work and, digging about the roots of the trees, saturated them with water, which he carried up the steep banks of the creek running between the two gardens. The fruit trees, which were mostly of the kinds common in England, cast their leaves, but soon came out with fresh foliage, and in some instances with blossoms, which even produced a small quantity of fruit. At a neighbouring station, a

large new wool-shed—in which was a carriage recently obtained from England—was burned, so were a horse and cart and a number of sheep; and, worst of all, a human life was lost. One small farmer in another part of the country, who was prosperous in the morning, had before night lost his crops, his habitation, and his wife.

At the station of the author's father, all but a very few of the sheep were saved, and so was the wool-shed—from which all the wool of the year's shearing had not been carted away. On the very morning of Black Thursday a flock of several hundred sheep had been sent off to a neighbour to whom they had been sold. When the fire came down, the author's father despatched a trustworthy young man after them, who, riding at great speed, overtook them about five miles away, just as the fire was upon them. The shepherd, in great terror, was crying like a child. There being no time to lose, the young man dismounted, set fire to the grass in advance of the sheep, from which the flames ran with great velocity. He and the shepherd immediately put out a few yards of the grass—which was burning back against the high wind towards the sheep—and safely drove them in upon the burnt ground before the fire in the rear had time to come up.

On many stations the pastures were completely swept away, or the grass left was quite insufficient for the stock. The latter was the case at the station of the writer's father, who had to send away several thousand sheep until the grass grew again. This did not take place for some time, as but little rain fell for two months after Black Thursday.

It was from the darkness of the day in Melbourne and Geelong, rather than from the charring effects of the fire, that the name was derived. In Melbourne the heat was

excessive, and the atmosphere thick and smoky. It was known that great fires were raging in the country. Much uneasiness was felt lest one should break out in the city; for with the high, hot wind, it was impossible to say how far it might have carried destruction. Burnt leaves were falling everywhere—some being carried on board vessels many miles out at sea, and even across to Tasmania, where the atmosphere was so much affected, as to inform the inhabitants of the great fires on the mainland. The night following this awful, fiery day presented a grand but terrible spectacle. Vast tracts of country, over which the fire had swept, exhibited a brilliant illumination of burning trees and logs, sending forth showers of sparks; but then for weeks after there was nothing to be seen but burnt grass, charred trees, and withered leaves. The neighbouring colonies did not experience the horrors of Black Thursday.

The author's earliest recollections of his native city are, of course, of a very indistinct nature. He can just remember being brought down from the Bush, to Melbourne and Geelong, when he could not have been more than five years of age. Of the latter place, as well as of Williamstown, where he was about the same time, he has only a confused idea of having seen a few houses. Of Melbourne, which he must have visited a few months before or after, he retains a more distinct remembrance—some incidents calculated to impress themselves on the mind of a child having struck him. One of these serves strongly to contrast the Melbourne of the past and of the present. The street boys had an amusement, which he much envied them; they were in the habit of chasing, catching, and riding the goats, which browsed about the principal streets of the infant city. Either on this visit, or the one of which he is

about to speak, he was driven along a mere bush road, to the Beach, now Sandridge—where there was only one habitation—and for the first time bathed in the sea.

The writer does not distinctly remember Melbourne before the year 1847, when he was staying with his parents at Brighton for about three months—from March to May—during which time he occasionally went into town. In fact he believes he attended St. James's Church every Sunday, except one unfavourable day, when he was present at the service at Brighton, where an estimable early colonist, the late Dr. Wilmot, used to read prayers in a schoolroom.

St. James's was then the only Church of England in Melbourne, or its vicinity—one at Geelong being probably the only other in the colony. St. Peter's, on the Eastern Hill, was at the time in course of erection. The other leading denominations were also represented by about one church each. As far as the author remembers their names, the clergymen of the different churches were the Rev. A. C. Thomson, Church of England; Rev. Irvine Hetherington, Church of Scotland; Rev. James Forbes, Free Church; Rev. Alex. Morrison, Independent; either the Rev. Mr. Waterfield or Butters, Wesleyan; and Rev. Father Geoghegan, Roman Catholic. The Rev. Mr. Collins was the Church of England, and the Rev. A. Love, Church of Scotland, Minister at Geelong.

The country and the road between Brighton and Melbourne were nothing but "bush." There was no habitation between the former and the Yarra, except about midway, where some half-dozen houses were to be seen peeping out among the gum-trees at the side of the "bush" road. This was embryo St. Kilda. The Yarra was then crossed

by a wooden toll bridge, which has long since disappeared. It stood close to Prince's Bridge, which the author well remembers observing at the time, in course of construction.

He also recollects walking up to St. Peter's Church, which was unfinished. It stood out alone as the extreme limit of the town, no buildings being seen beyond it—Collingwood and Melbourne not having then grown out to meet each other, and the district by Carlton Gardens having no existence. Down towards the Richmond Paddock, as it was called, were the houses of Mr. La Trobe and Captain Lonsdale, and perhaps one or two others. What existed of Richmond and Collingwood were quite isolated suburbs, which the author has no recollection of having seen.

He has a clear remembrance of the limits of the city at this time in another direction. Only one side of Lonsdale Street was in existence, the other being quite unbuilt, with the exception of St. Francis' Roman Catholic Church, which was the farthest edifice on the outer side, in the direction of the country. It was quite a walk in those days, out beyond the houses, to the Old Cemetery—a fact which is impressed on the author's mind by a visit to the grave of his grandfather, who had recently been interred there. Near the Cemetery was the Flag-staff Hill, where vessels coming up the Bay were signaled. At this time the arrival or departure of a ship was an event in the history of the little community. Perhaps, besides the *Shamrock* steamer, which ran to Sydney and Tasmania, and one or two which plied in the Bay, there were not as many as four or five coasting crafts at once in the river; and at times Hobson's Bay probably could not always boast of the presence of even a single ship.

When staying at Brighton, the author was much im-

pressed by seeing a vessel sailing down the Bay for England—so much so that he still remembers her name, which he gave to a toy ship which was shortly afterwards made for him—the *Achilles*; but, in these primitive days of Melbourne a boy's brass cannon was not to be had to put on board her.

At this time also great quantities of melons were to be seen growing in the gardens and fields about Brighton; in fact generally throughout the country more attention seemed then to be given to their cultivation than afterwards—when, the colony being older, the various kinds of fruit-trees for which the climate is so well adapted, had had time to come into full bearing.

The author thinks it must have been about two years after his visit of 1847 when he was again in Melbourne; but after that he was there regularly about once a year—sometimes going to or from Geelong in one of the three steamers which were then the means of communication between the two places. The improvement in both towns was observable; but not so very striking till subsequently to the gold discovery, when after an absence of a few months, much had to be noted, especially in the development of Melbourne and its suburbs.

The writer was an eye-witness of the immense change in the colony, its capital and some of its other towns, effected by the rush to the gold fields. A book might easily be devoted to this period of Victorian history—about which much more has been written than of any other. He well remembers going in to Melbourne by the Keilor Road, when that road was being made—men of all ranks and conditions being employed upon it, at ten shillings a day wages. He can never forget reaching Melbourne one

evening, when the city was in its most overcrowded condition. His father had driven him in from the station; and they had to go the round of a number of hotels and boarding establishments before they could get any accommodation. At one place the landlady put on an expression of amusement and surprise at the simplicity of any one inquiring if she had a room to let. "Oh, no," was the reply, "I have people sleeping on tables and chairs, already." At last they were informed at Hockin's Hotel, Lonsdale Street, that perhaps they might have a bed on the floor of the coffee-room; but that as to anything like dinner or tea—the regular time for these being past—that was out of the question. They had to go the round of several livery stables before they could get their horses taken in. At last they succeeded, paying either 1*l.* or 1*l.* 10*s.* a day for each horse, the latter price being at one time reached; but the people, though promising to give them plenty of food and water, said they could not groom them. Having so far arranged for themselves and their horses, the writer went with his father to the house of a friend to beg for something to eat, which was soon kindly provided by the lady and her daughter, though they were without servants. On going back to Hockin's Hotel, they were, however, agreeably surprised to find that, instead of being obliged to sleep on the floor of the coffee-room, a good bedroom was ready for them, which they occupied for the few nights they were in town.

Had they not succeeded here, their only remaining hope of getting housed for the night was, that the author should be left in charge of the friends who had given them tea, and that his father should avail himself of whatever sleeping accommodation he might have been able to obtain in the

Melbourne Club. But even there also members often could not find a bed.

It was about this time that an eminent member of the Sydney Bar, Mr. Darvell, came down to accept a seat on the Bench of the Supreme Court of Victoria; but on arriving in Melbourne, he in vain went the round of hotels and boarding-houses, in search of a room for the night, and had at last to content himself with sleeping in an arm-chair in the Melbourne Club. He determined to decline the judgeship and returned by the first steamer to Sydney.

At this time the boilers of a steamer which were lying on the wharf, were gladly resorted to as a sleeping place, by people who could have well paid for beds, if they were to have been had for money. To supply the deficiency of accommodation—but the provision proved inadequate—a town of tents was formed a short distance across Princes' Bridge, on the St. Kilda Road, and was called by the appropriate name of Canvas Town. It existed for some months, was regularly laid out in streets, and contained several thousand inhabitants. The author visited it when it had about attained its greatest dimensions.

These were the days too of fabulous prices, when provisions and all the other necessaries of life were at a famine value in Melbourne and Geelong; but at the gold-fields the cost of the carriage, about 1*l.* a ton per mile, or 120*l.* to Bendigo, had at one time to be added to the price of everything. There was then no cultivation near the diggings, to supply the sudden demand. The squatters had only been allowed to grow on the Crown lands what they required for the use of their stations, and there were no other inland consumers of farm produce. Everything, therefore, had to be brought from a distance by carriers,

over unmade roads; and in the few places where agriculture had been carried on, numbers of farmers for a year or two left their land uncultivated, in order to seek less certain fortune in the pursuit of gold-digging.

The infatuation of this pursuit had also induced people to abandon all kinds of regular professions, callings, and positions. The Government service became inadequately supplied with officials; the police force was quite below the required strength, Melbourne for a time having only a very few men on duty. To make up for the deficiency, a distinct body of gentlemen was enrolled as a mounted force, styled Cadets. Many young men, unaccustomed to labour, who soon found gold-digging did not suit them, were glad to join this body, which existed for a year or two.

Notwithstanding all the disorganization occasioned by the rush to the gold-fields, order was on the whole remarkably well maintained. It is true that there was for a time bushranging, or "sticking up," as it was called, along the roads to the diggings; a gold-escort was on one occasion robbed; and the *Nelson*, a ship lying in Hobson's Bay, was boarded at night, and a large quantity of the gold, with which she was about to sail for England, was carried off. This state of things, however, was of short duration. It existed, more or less in 1852-3-4, but passed away with the excitement of those years; and Victoria speedily settled down into one of the most orderly communities in the world. Its peace was never interrupted by any serious disturbance, except the Ballarat riots.

The author well remembers the neighbourhood of Ballarat for two or three years before gold was thought of. In fact some months before the discovery, he passed near the field, if not over it, on the occasion of a day's excursion

which, as a boy he made to Lake Burrumbut, with some friends from Buninyong. The whole country then, about 1849 or 1850, was devoted to sheep pasture. There were no farms, and not a fence to be seen along the bush road, or rather track, between the Lake and Buninyong; and at the former the only habitation was an out-station of the Messrs. Learmonth—nothing but the “bush” pure and simple!

When the country was first colonized, Lake Burrumbut was quite dry. A lady still living in Victoria, a friend of the author, informed him that in the early days she once drove across the bed of the lake. A hill close to it was called Mount Misery, from the circumstance that some of the first explorers of the neighbourhood were much distressed at failing to find any water. The story was told of them—and the author gives it as repeated to him from a colonist who heard it from one of the party, the late Dr. Thomson—that they reached the neighbourhood of Buninyong, being still in great want of water. They camped after dark, and one of the explorers having got up in the night, to gather some wood to put on the fire, unexpectedly discovered what they so much needed, by suddenly walking or falling into a creek or pond.

The fact that in many places, where water was not to be found when the country was first settled, and that, even in ponds which were dry within the author's recollection, it is now permanent, is proof that the depasturing of stock on the land has made the soil firm and no longer porous, and that its cultivation has attracted moisture.

But to return to Ballarat. A few weeks after the gold was discovered, when the first rush to the place was at its greatest height, the author's father, with his neighbour, Mr.

Griffith, spent a day there, and saw quantities of gold being procured. One man was observed sitting with a lump of earth picking out the nuggets with a knife, as if they were plums in a pudding. The writer's father, in looking about, in the most casual way, found one or two little pieces. A good many people were of course quite unsuccessful.

The visitors were told of a Melbourne doctor who, as was said of some of his profession, had taken to "opening veins with the pickaxe instead of with the lancet." He with some other gentlemen had been up at Ballarat. They had left their horses at a grazing paddock, some miles away, and had walked to the diggings. The first day was spent in excavating earth from the side of the hill—loads of which the doctor carried on his back to the creek, where it was to be washed. When this process took place, towards evening, scarcely a speck of gold was to be seen. The doctor, in disgust started off, carrying his saddle, to where he had left his horse, and, mounting him, set out to return to Melbourne that very night.

The author himself visited Ballarat, three or four months later, in January or February, 1852, after the great rush was over, and most of the people had gone off to the Mount Alexander diggings. He was driven over from Buninyong, with one or two other boys. They spent the afternoon, and had a sort of picnic dinner on the flat by the river. The town of Ballarat had at that time no existence whatever; no habitations were to be seen, except a few tents, chiefly about the Government camp at Golden Point. This hill was one heap of excavated earth, among which a few people were still at work. The writer washed out a little of the soil, in a small tin dish or vessel, at the bottom of which he found a few specks of gold.

Mr. Withers, in his *History of Ballarat*, published in 1870, speaks of the site as one on which the emu and kangaroo were often hunted by the early colonists; and the Rev. Thomas Hastie, of Buninyong, in a statement contributed to Mr. Withers' book, says, "I often passed the spot on which Ballarat is built . . . and there could not be a prettier spot imagined. It was the very picture of repose. There was, in general, plenty of grass and water, and often I have seen the cattle in considerable numbers lying in quiet enjoyment after being satisfied with the pasture. There was a beautiful clump of wattles where Lydiard Street now stands, and on one occasion, when Mrs. Hastie was with me, she remarked, 'What a nice place for a house, with the flat in front and the wattles behind.'" Mr. Hastie describes how the hut-keeper of a shepherd's hut near Ballarat, complained that, "the solitude was so painful that he could not endure it, for he saw no one from the time the shepherds went out in the morning till they returned at night. I was the only person he had ever seen there who was not connected with the station."

The first discovery of gold in Victoria was made within a mile or two of Buninyong, by a wheelwright named Hiscock, who on grubbing up a tree by the roots, observed something bright in the earth attached to them. It proved to be gold. The author has visited the place and seen the tree in question, which should certainly be preserved and the spot marked. Though this was undoubtedly the first practical discovery of gold ever followed up, it is pretty certain that the mineral had more than once before been found in different parts of the colony. Mr. La Trobe, as we have seen, states that some had been previously obtained

in the Pyrenees; and the author has heard on undoubted authority of a shepherd at Mount Alexander, who one evening brought home a piece of something, which most probably was gold; but on being laughed at by his fellow-servants, he threw it away. The writer also remembers a shepherd in his father's employment a few years before the great discovery, who talked so much about gold and of knowing parts of the country where it was to be found, that he was set down as under a delusion, if not insane upon the subject.

The author has now given a few early colonial reminiscences. It is most desirable that as many as possible of such facts of the early history of all the colonies, should be preserved. It is the duty of those who possess them to put them on record; and it is to be feared that not a few of much interest have already perished. The author hopes that what little he has done, may induce some of the remaining early colonists to commit their personal recollections to writing. If, wherever there is a literary institution or library in Australia, the information respecting the neighbourhood or district in which it exists, were collected from the oldest inhabitants, a vast amount of very valuable and interesting facts would be preserved.

The writer cannot do better than close this chapter with the words of a letter he received not long since, from Dr. Garran, of Sydney. "There is a great deal of early history in all these colonies still to be gathered from oral sources, and which will be lost, except as tradition, when the present generation is gone."

CONCLUSION.

A FRIEND, to whom the author mentioned that he was engaged upon this work, remarked, that he was not aware that Victoria had any history. But, like all colonies, she has had much. What a variety of discoveries, adventures, enterprises and incidents, have had to be noted, since the day when Cook first saw the land at Point Hicks, till the colony was fully explored, and finally inhabited!—and even in the much briefer sketch, of the development of the sparsely peopled district of Port Phillip, into a separate and subsequently self-governing province, much had to be mentioned; but how much more to be omitted!

The events and incidents, therefore, which demand notice in any history of our colony, are numerous and various; the men who took part in them a goodly number; not a few of them heroes. Victoria will ever treasure their memories, as those of her own children, though they were born before she had any existence. But they are as truly hers, as though generations of their forefathers had lived upon and laid their ashes in her soil; for theirs was the same flesh and blood which will be possessed by all her future sons, whom no length of time can sever from the great Imperial race to which they belong. The traditions, heroes

and heritages of that race in this its ancient seat, are the property of its newest offshoots, whose achievements likewise belong to the people of the parent land. We have only been speaking of the large amount of history, and the many heroes, which Victoria alone has produced; these, plus those of so many other colonies, make up a large array, which forms no inconsiderable portion of the great aggregate of British fame.

“Peace hath her victories no less renowned than war.”

Some of the most brilliant of these have been achieved amidst the most tranquil scenes of colonization, in those new Australian lands, which bear not a single stain of battlefield. That flag, so renowned for “braving the battle and the breeze,” has never attained such real fame, as when leading to those peaceful triumphs of exploration and colonization, whereby British civilization, our just laws, our free institutions, and our Scriptural Christianity have been so widely extended, and a grander Empire established than any which, in the whole annals of the world, was ever won by the sword of the mightiest conqueror.

Victoria has had a history, but without a single dark page to mark a contrast. Had there been such pages in it, had there been wars, bloodshed, and battles to record—distress and disturbance, instead of progressive prosperity and tranquillity—then no one would have doubted that our Colony had had a history. Happy would it have been for most lands, if they had had no history in this sense in which Victoria, and all Australia, may be said to have had none. The tragic and the horrible are surely too much regarded as the necessary ingredients of history.

Besides the heroes of exploration—many of whom, we have seen, accomplished deeds of the greatest magnitude

and daring—Victoria possessed amongst her founders, numbers of colonists of whom any young community might be justly proud. There were amongst them men of all ranks and conditions; British officers, who had previously done good service to the Empire, in the army and navy; men of high character and education, of capacity, industry, and perseverance—in fact of all those qualities which have made the name of Great Britain famous in the arts of peace and war, and which have extended her commerce and her Empire far and wide over the face of the globe.

It would be difficult to make out a perfect list—though most desirable if such a thing could be done—of those worthy men, the early settlers of Victoria, who came from various quarters; some across from Tasmania; others “overlanders” from New South Wales; and many direct from the old country. It would be invidious to mention names when some of the most deserving might be left out. Though there were doubtless exceptions to the rule, Victoria was fortunate in her early pioneers; and later in her career she has had many sterling public and private men to whom she is indebted, more than may be supposed, for her progress, and the safe conduct of her affairs, through the many difficulties of her unprecedented growth. Those who have taken their places, will not do badly if they act as well and as faithfully in her best interests. As one by one the pioneers drop off, they leave blanks which cannot be filled; for Victoria can have no more founders, those who first began the work and early joined in carrying it on, having performed their parts so well.

One of these, who not very many weeks ago expressed a kind wish to see these pages, is already gone; and in Mr. Edward Wilson we have an illustration of how, in one of

many ways, energy, public spirit, and large-hearted sympathies, in individual colonists, have promoted the early development of the new land, and secured well merited, but hard earned, success and fortune to the possessors of these virtues.

Providence has so richly endowed our fair land with one of the best of climates, with a large extent of fertile soil, with vast mineral wealth, and other great natural resources, that Victoria can produce from beneath her soil great richness, and, better still, from her fields, gardens, and pastures, the various plants, birds, and animals of every clime, except those which can only exist at the Poles or in the Tropics.

Her past, when once her infant struggles for existence were over, has been one continuous, forward march of unprecedented development. When we look at the colony now, and think what it was but a few years ago—within the memory of so many living men—it seems as if generations must have intervened whilst all that we contemplate has grown up. It seems impossible that some should still be living who set foot upon her land, as its first permanent inhabitants.

And, having so far exclusively treated of the past, shall we close without a word about the future? With such a progress, with such a past, with such resources, we cannot fear for the future of Victoria. Men of our Anglo-Saxon race will never, as other peoples have done, mar some of God's most highly gifted lands. It would require the weight of much bad government to retard the progress of any of our Australian colonies. However wise or unwise Free trade or Protection may be, neither can make or mar Victoria.

The colony probably possesses all the essentials of a self-contained State, to an extent exceeded or equalled by few other territories of its size; so that it might with less risk act upon the Chinese principle of exclusion. Victoria may, therefore, look forward to be great within herself, and feel the utmost confidence in energetically developing her vast resources. But, though she might be great in isolation, how much more so must she be as one of a splendid group of Australian States, working out in harmony their wide, common interests, either with or without inter-colonial federal union. How much greater still must she and each and all of them appear, as members of a grand future Confederation of Great Britain! In the strength and security of such a union Victoria—as well as every other colony, in or out of Australia, and even the mother country herself—may pursue her own individual career, with a safety and confidence with respect to external relations and Foreign Powers, which alone can be enjoyed, in the light, but most effective bond of Imperial Confederacy.

The prosperity of Victoria is essential to the attainment of full perfection by her noble sister colonies, as theirs is to her; and they will all realize the fact, the more they grow out of the infant stages, which are always the most jealous stages of colonial existence.

The true light in which to view every colony or division of the Empire, whether it be important or unimportant, is as a unit of a great whole. It is for those who belong to that unit to think and do their very best of and for it. It is desirable that every man should consider his colony or division of the Empire the very best, so long as he entertains no unworthy feelings toward any of the others. Thus we shall have all our people making the best of the

units; and these by such a process of energetic development, of healthy competition and friendly rivalry, will be brought to the highest condition of efficiency, and make up the grand total,—the Empire. Complete provincial self-government, in some instances with inter-colonial confederation, will be essential to perfect the organization of our British fellow-countrymen in all our dominions—the keystone of the system being Imperial Federation.

The future of Victoria, as of her sister colonies, lies in retaining a perfect individuality in the brilliant constellation of States, which will revolve round the great centre of Imperial unity. She is destined to shine brightly among these. The highest perfection, the most complete greatness, strength, and fame of which she or any of them, or even the mother country herself, is capable, are not to be found in the isolation of single communities, or even of great groups of states, but in the unity of a common Empire—whose magnificent territories stretch into every clime and quarter of the globe, and whose combined strength will, with the blessing of God, be a sure guarantee of security and peace to the weakest as well as the strongest member of that Empire.

Its extended commerce, the marvellous improvements in communication, the practical annihilation of distance, the growth of so many common interests—all tend to facilitate the creation of an organization for the management of the joint affairs of that Empire; and unless the constructive genius whereby the British people have always adapted themselves to the circumstances of the past fail them, in those of the future,—unless statesmen become extinct among us, a practical Federal organization will be forthcoming as soon as it is needed. The rise in so few years

of the Australian Colonies, and most conspicuously of Victoria, shows how soon they may be expected to take their place, and enter into their full privileges, as members of an Empire—the wisdom and patriotism of whose united people may make the grandest the world has ever seen, or can see.

If the past history of British Colonization has been full of interest, the future is full of hope—of great and noble expectations. We have watched the growth of one infant state, from the embryo stage of its existence. We now see it passing through a period of transition, and cannot but look forward with more intense interest to a grand transformation, in which Victoria, and her sister colonies, in Australia, America, and Africa, shall cease to be the infants—though always proud to be the children—of Old England, and will become her partners in that great heritage of Empire, which she has so nobly won for them all, as well as for herself.

APPENDIX.

ARBITRATION appears to have been resorted to by the early colonists even before the resolutions of the meeting on June 1st, 1836, as will be seen by the award, a copy of which has, at the last moment, been kindly placed in the author's hands by Mr. J. Vesey Fitzgerald.

“ FAC-SIMILE COPY OF FIRST JUDICIAL DECISION GIVEN
IN VICTORIA.

Photolithographed by John Noone.

We award in the dispute between Mr. Henry Batman and Mr. John Pascal Fawkener—on the first Claim—thirty Shillings. On the second claim nothing, altho' a strong presumption is on our minds that some hasty expressions of Mr. Batman may have led Bullett to destroy the Rabbits,—On the third Claim damage Five Shillings; and a fine of Twenty Shillings in consideration of its being an act of unauthorized aggression; and in the fourth Claim nothing, as it does not appear that Mr. Batman set the dogs on the calf.—We cannot

omit remarking that there has been a degree of forbearance on the part of Mr. Fawkener highly gratifying to us and if generally practised very conducive to the general good.

(Signed) A. THOMSON.
JOHN AITKEN.
JAMES SIMPSON.

May 2nd, 1836.

MEM. The fines to be appropriated to some general purpose."

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the 1990s, the number of people in the world who are illiterate has increased from 400 million to 600 million.

It is not only the illiterate who are at risk of being left behind. The world's population is growing rapidly, and the number of people who are poor is increasing. In 1990, there were 1.2 billion people living on less than \$2 a day. By 2000, there were 1.5 billion, and by 2010, there will be 2 billion.

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