

WESTERN AUSTRALIAN
GOVERNMENT GAZETTE.

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[No. 159]

*Colonial Secretary's Office, Perth,
November 7, 1848.*

His Excellency the Governor has been pleased to direct the publication, for general information, of the following Order in Council, dated 9th March, 1847, for establishing Regulations relative to the Occupation of Waste Lands in New South Wales, under the powers for that purpose contained in an Act passed in the 9th and 10th year of Her Majesty's reign, c. 104.

By His Excellency's command,

R. R. MADDEN,

Colonial Secretary.

(No. 68.)

No. 1.

Copy of a Despatch from Earl GREY to Sir C. A. FITZROY.

Downing-street, Nov. 29, 1846.

SIR,—Upon entering on my present office, one of the first questions which appeared to me to require an endeavour to settle it on some satisfactory footing, was that as to the terms on which the inhabitants of New South Wales should be enabled to obtain land, either by purchase or by authorized occupation for pastoral purposes.

The conditions upon which the occupation of land without purchase should be permitted, and the rights which should be conceded to the occupiers, have for some years been the subject of much discussion; and I am well aware that, from the peculiar circumstances of the colony, this is the part of the general question as to the management of the crown lands which is of the most immediate practical importance. But as the rules to be enforced as to the temporary occupation of land are of necessity closely connected with those respecting its permanent alienation, and as I also observe many signs that the policy which has been adopted by Parliament, of prohibiting the sale of land below its present price, is still viewed with disapprobation by many of the colonists, I am anxious to recall to your recollection some of the grounds upon which that policy was originally adopted, and upon which I must still think that it ought to be strictly adhered to.

When public inconveniences have been removed by suitable measures, they are apt to be forgotten, and the value of the remedial measures by which this has been effected to be brought into question, in consequence of any partial inconvenience with which they may be attended. If the evils which necessarily arise from too liberal a distribution of waste lands should have been thus lost sight of in New South Wales, I would refer you, for a full exposition of their nature, to the despatches of the Earl of Ripon, which are referred to in the margin, and of which, though they may be found in the Parliamentary papers of the day, I think it may be of advantage that I should enclose you copies.

You will find it to be shown in these despatches that if in the settlement of colonies the waste lands are disposed of by grant instead of by sale, their allotment to individuals must of necessity be left to the discretion of the Executive Government, with great risk of abuse, and the certainty that, whether justly or not, abuse will at all events be suspected and complained of; that the Government must either suffer all desirable land to be appropriated long before it can be so with advantage to the public, or else establish regulations hardly possible to be enforced, and which, at the same time, greatly interfere with that free management of their own property by individuals which is so essential for its improvement; and that, on the other hand, by adopting the principle of selling land at somewhat a high price, all possibility of favoritism or abuse on the part of the

Government is effectually put an end to, the most complete security is afforded that land will be appropriated only by those who really intend to make use of it, and that none who have the will and the means of improving it shall be prevented from obtaining it. By this system of management, a check is also opposed to that tendency to an undue dispersion of the inhabitants which is found to be so strong in countries in the progress of settlement, and where the population is still very small in proportion to the extent of territory. Under such circumstances, if left to themselves, men are generally disposed all to become occupiers of land upon their own account: the consequence is, they become dispersed in single families over a large extent of country, deprived in a great measure of the advantages of mutual assistance and co-operation, and of the division of labor. Such a state of society is necessarily rude and little favorable to improvement. The education of the young, and the religious instruction of all, can only be provided very imperfectly and at a vast expense for a population so scattered; there is little or no labor to be obtained for hire, so that even those who may possess capital cannot apply it with advantage in improving the land: and thus, though all may enjoy an abundance of food, they will be scantily supplied with the comforts and luxuries of life, and be strangers to all the chief advantages of civilization. The system of disposing of land only by sale, at rather a high price, now established under the authority of Parliament in Australia, checks the tendency of society to fall into this condition, not only by restraining the undue facility of obtaining land, but also by creating a large fund, which may be applied to the increase of the population by emigration, and to the improvement of the territory which they are to occupy. When the benefits which New South Wales has derived from the employment in this manner of the money received from the sale of land are remembered, there can, I think, be little doubt of the advantages of this policy, especially if we contrast with its practical results those of acting upon the opposite policy, which is founded upon the opinion (still maintained by some) that it is better to leave as much of their funds as possible in the hands of settlers, instead of requiring from them a price for land. This last is the principle on which the settlement of Swan River began so unsuccessfully, under which New South Wales itself so long made a tardy and imperfect progress, and the British colonies in America suffered from so many abuses. The opposite system, as I see truly remarked in some of the discussions on the present subject, is the one under which New South Wales has in 10 or 12 years realised from land one million sterling, has increased its population by 50,000 souls, and has passed from the condition of a penal settlement into that of a great free colony. It has, I know, been often alleged, that many of those by whose purchase of land so large a sum of money has been brought into the public treasury and applied to emigration, have been heavy losers, and that however the colony may have gained in population and in wealth, much suffering and disappointment has been entailed upon individuals by their buying land at a price far exceeding its real value. That there have been heavy losses and much disappointment to individuals in consequence of the over-speculation in land, which a few years ago was carried to so great a height in the colony of New South Wales, it is impossible to deny; but I must observe, that such losses from injudicious speculation are by no means confined to colonies in which the policy of disposing of land by sale is acted upon. I doubt whether any British colony has, in proportion to its wealth and population, suffered so heavy a loss of capital from its mis-employment upon land as Western Australia; and in this instance the loss to individuals has in no degree been compensated by any advantage to

the community; whereas in New South Wales, though the losses of those who bought land injudiciously (so far as their own interests are concerned) are no doubt greatly to be lamented; still, against this evil there is to be set the great and permanent benefit to the community which has arisen from the expenditure of the money paid for land, in bringing into the colony a large free population. Again, when it is complained that the price demanded for land in New South Wales has been more than it is really worth, I must direct your attention to the fact, that land has in itself, and considered without reference to population, no value which is capable of being estimated. In this country, land by nature almost entirely unproductive; sterile moors, for instance, and swamps, which, until improved by a large employment of labor and capital, can yield little or nothing, sell for prices far higher than those which under the existing regulations are obtained for the best lands sold in New South Wales for the purpose of cultivation; while in many parts of the world, lands, by nature of the very highest fertility, are at this moment worth absolutely nothing. Hence it is clear, that the value of land depends far less upon its intrinsic qualities than upon its being so situated as to be useful to a considerable and industrious population. The fact, therefore, that those who have bought land in New South Wales at prices which, however high they may be there thought, are so very far below those which are habitually paid in more peopled countries, find these lands too dear with the present amount of population, and in the absence of a better supply of labor would almost seem to lead to the inference, that instead of the present upset price of land being too high, it might have been really better for the purchasers to have a still higher price, so that a greater number of emigrants of the laboring class might have been introduced.

Such are some of the reasons (to which it would not be difficult to add many more of hardly inferior weight) which lead me to the conclusion, that the policy sanctioned by Parliament, with reference to the alienation of the public lands in Australia, is one to which, for the welfare of these colonies, it is most important to adhere; but while I entertain this opinion, I am also perfectly well aware, that in order to encourage the great staple produce of New South Wales, it is necessary that the occupation of lands for pastoral purposes should be allowed on terms much easier than those of purchase at the minimum price now established by law. There is a universal concurrence of opinion as to its being indispensable that the sheep and cattle farmers of Australia should have the range over far wider tracts of land than they could possibly afford to purchase, not merely at the present price, but at any which could possibly be named for the fee-simple. I assume, therefore, that it is necessary to provide for the temporary occupation of land for pasturage on much easier terms than those upon which its permanent alienation is permitted. Nor is this in any degree inconsistent with what I have already said as to the importance of maintaining the present minimum price of land sold in fee-simple; on the contrary, I entirely agree in the opinion I find to have been expressed by Sir G. Gipps, that the two systems of permanently alienating land only at a high minimum price, and that of permitting it to be occupied for pasturage (or what is termed the "squatting system"), will mutually sustain and support each other. By the combined operation of allowing a temporary right of occupying land to be obtained on easy terms, and of demanding a considerable price for that in which a permanent property is acquired, the sheep and cattle farmers are enabled to carry on the important branches of industry in which they are engaged to an extent and with advantages which they would not otherwise enjoy; while at the same time this does not occasion the loss to the colony of the important source of revenue which will hereafter be afforded by the sale of land, or any risk of depriving future settlers of the means of obtaining land by purchase at a reasonable price. This last consideration is, I think of extreme importance; it is obvious, that if those who now occupy the large runs which are required for the support of considerable flocks and herds, while the country remains in a state of nature, were allowed to acquire a permanent property in these vast tracts of land, there would very soon indeed be no land of moderately easy access available for new settlers. I am aware, indeed, that even under the existing regulations complaints have been made, and not without much apparent foundation, that a difficulty is experienced by persons who have accumulated small capitals in finding the means of purchasing allotments of land of

a size suited to their circumstances, owing to the manner in which extensive tracts have been appropriated by the larger capitalists. In justice, therefore, to the poorer class of settlers, I consider it of vital importance, that in allowing wild lands to be occupied for pasturage, the property of the Crown in these lands should be effectually protected, so that as they are wanted for settlement, they may be sold at a price which, while it is too high to admit of large tracts being obtained possession of by grasping speculators, is yet sufficiently moderate to throw no difficulty in the way of the industrious settler who desires to purchase and to improve a farm of moderate extent.

But while I for these reasons consider it to be necessary that those who occupy wild lands for pasturage should not be permitted to acquire a permanent property in their runs until they can afford to purchase them at the price now established by law, I am by no means insensible to the force of the arguments which have been urged against the existing practice of allowing the occupation of these runs to be secured only for a single year at a time, by which the holders are discouraged from attempting improvements of which they have no assurance of reaping the benefit. I admit that both the interest of the public and of the individual occupiers of wild lands would be promoted by permitting such lands, when not wanted for settlement, to be held for longer periods than has hitherto been the practice, and by securing to the occupiers, at the end of their tenancy, the value of any improvements they may have effected. In this manner, I believe, various improvements, and particularly those having for their object to secure a larger and more permanent supply of water, will be encouraged, by which a given extent of land will be rendered capable of supporting a very much larger amount of stock than it now does, thereby checking, at least in some degree, the present tendency of those engaged in pastoral pursuits, to scatter themselves over an enormous extent of country. It is upon these views that the Act passed in the last session of Parliament, of which a copy is enclosed in this despatch, is founded; that Act, as you will perceive, proceeds upon the principle of at once effectually asserting the property of the Crown to the vast tracts of land now occupied by the stockholders of Australia, and at the same time enabling Her Majesty to make regulations, having the force of law, by which the holders of wild lands will be rendered secure in their occupation for terms of not more than 14 years, and will, at the end of their tenure, be assured the value of any improvements which they may have effected. I have not, as yet, been enabled to advise Her Majesty, under the authority of this Act, finally to establish, by Order in Council, the rules under which such lands are in future to be held. I have been compelled to postpone doing so by the necessity of obtaining much information, and communicating with various persons before I could venture to propose for adoption regulations which must so deeply affect the future prospects of Australia. But though I cannot as yet transmit to you regulations confirmed by Her Majesty in Council, I think it right to forward to you a printed copy of the draft which has been prepared, of the regulations which it is in contemplation to establish. You will, however, understand that these regulations have by no means been as yet finally determined upon; they are to be regarded, as they purport to be, merely as a draft for further consideration, liable to be altered, in consequence of the further information I may receive. With the view of obtaining such information, they have already been communicated to some of the stockholders of New South Wales, at present residing in this country, and will also be communicated, upon his arrival, to Sir G. Gipps, whose advice upon this subject I consider it to be so important to obtain, that I shall certainly defer submitting these regulations to Her Majesty until I can have that advantage.

In order, however, to obviate all unnecessary delay in bringing these regulations into operation, in case they should hereafter be sanctioned by Her Majesty, it is desirable that you should at once consider in what manner it will be best to proceed in performing the duty it is in contemplation to impose upon you, of classifying the lands of the colony, and defining the boundaries of the different districts which will require to be determined; there is, as you will observe, a very material difference between the conditions on which it is proposed that land should be held in the three different classes of districts which it is intended to establish, and the nature of this difference is such as would make it necessary that you should act

with extreme caution in classing the lands of the colony in one or the other of these districts. Lands in the unsettled districts, according to these regulations, would be put absolutely out of the power of the Crown, and be rendered unavailable for settlement for the long period of 14 years; it would, therefore, be absolutely necessary that no lands should be so classed except those which from the remoteness of their situation you have reason to feel assured will not be required for sale to the public, for the purpose of permanent occupation during the term for which the leases will be granted. I have to instruct you to be most careful upon this point, since it would be a source of very serious injury, both to the colony and to the mother country, if at the end of eight or ten years it should be found that the progress of emigration were checked by the inability of the Crown to find lands to sell to intending emigrants. You will recollect, also, that as the proposed regulations with regard to intermediate lands will secure to the actual holder a right of occupation for eight years, unless they are previously required for purchase, and will also assure to him, on giving up possession, a right to the value of his improvements, there would be the less occasion for placing in the class of unsettled districts any lands as to which even a doubt can be entertained.

I am, &c.,
(Signed) GREY.

Enclosure in No. 1.
Proposed Rules on the Occupation of Crown Lands in New South Wales.

CAP. I.
CLASSIFICATION OF LANDS.

Sect. 1.—The lands in the colony of New South Wales shall, for the purposes of the present Order, be dealt with in three classes, accordingly as they may be situated in districts to be denominated respectively as the Unsettled, Intermediate and Settled Districts, and the Governor is hereby authorized and required to establish in the colony, or in the different parts of the colony, so many districts of each kind as he may judge necessary for the purpose of duly distinguishing lands which ought to come respectively under one or other of the classes aforesaid; and he is further authorized and required to determine according to the best of his judgment, and to declare by proclamation the boundaries of such districts, designating them respectively as being for the purposes of the present Order, Unsettled, Intermediate or Settled Districts, as the case may be.

Sect. 2.—In declaring the boundaries, the Governor will not be confined to any divisions already existing in the colony, but will adopt either the boundary lines of counties, or parts of the same, or a certain fixed distance from seaports and inland towns or villages, or a certain breadth from the banks of rivers along particular parts of their course, or a certain breadth from ranges of hills, or such other boundaries as circumstances may, in the opinion of the Governor, render most convenient.

Sect. 3.—After the lapse of one year from the date of such proclamation as aforesaid, the boundaries shall not be altered by any subsequent proclamation of the Governor, but it shall at any time be competent to the Colonial Legislature, by Act passed for that purpose, to alter the boundaries of the Settled Districts, or of the Intermediate Districts, so as to include in either one of them such larger extent of country as the progress of settlement may require.

CAP. II.
RULES TO BE IN FORCE WITHIN THE UNSETTLED DISTRICTS.

Sect. 1.—Within the Unsettled Districts the Governor shall grant leases of runs for terms of 14 years' duration.

Sect. 2.—The rent shall be £10 for every 4,000 sheep (or equivalent number of cattle, according to such scale as may be established for the purpose by authority of the Governor) which the run shall be estimated capable of carrying, and £2 10s. more for every additional 1,000 sheep (or equivalent number of cattle).

Sect. 3.—In order to estimate the number of sheep or cattle which the run will carry, the occupier and the Commissioner of Crown Lands shall each name an arbitrator, with power to choose, if necessary, an umpire; but if they cannot agree in the choice of an umpire, he shall be appointed by the Governor.

Sect. 4.—The above amount of rent is to be exclusive of the existing assessment on sheep and cattle; and in no way to interfere with the right of the Colonial Legislature to impose from time to time such assessments as may be considered advisable.

Sect. 5.—The rent shall be payable yearly in advance, at some time and place specified in the lease. If not so paid, the leaseholder may be permitted to make good the default within 30 days, provided that he pays an additional sum equal to one-fourth of the rent due from him; but unless the whole amount so ascertained be paid within 30 days from the original rent-day, the lease shall be forfeited, and the holder liable to summary ejection; and it shall be competent to any individual to demand of the Governor or any Officer or Officers acting by his authority for the present purpose, that a fresh lease of the run be offered to sale under the general rule, hereinafter provided for that purpose in Section 9; and if any individual who duly acquires the fresh lease at such sale be obstructed by the previous leaseholder in obtaining the full possession and enjoyment of the rights conveyed under the said lease, he shall be entitled to his action at law against the previous leaseholder to recover possession, and all damages which he may suffer by such obstruction.

Sect. 6.—During the continuance of the lease the lands occupied as a run will not be open to purchase by the public; but it will be competent for the Governor to sell to the leaseholder any of these lands, comprising not less than 160 acres, at a price not lower than the general minimum of £1 per acre.

Sect. 7.—The Governor, however, is not to be prevented from excepting from any such sale any lands which it may appear to him necessary to reserve for any of the public uses for which it is enacted by the 3rd clause of the Land Sales Act, 5 & 6 Vict. c. 36, that lands may be excepted

from sales made under that statute; and if there be reason to suppose that any of the lands applied for under the present section possess peculiar advantages, whether of water-frontage or otherwise, which would render it fit that a higher price should be paid for them, the Governor, or any Officer authorized by him for the purpose, may require them to be assessed by persons appointed as provided in Section 3, in order that if estimated by them at more than £1 per acre, the higher amount shall be paid for such lands accordingly.

Sect. 8.—All licensed occupants of Crown lands at the time when this Order in Council shall come into effect, shall be entitled to demand leases of their runs under the present Regulations.

Sect. 9.—Individuals who may be desirous of acquiring any runs, which after being occupied, may either be forfeited, or fall vacant without the previous occupant's exercising the right of renewal hereinafter reserved to him, shall be at liberty to send in sealed tenders at such times and places, and in such form as shall be appointed for the purpose by the Governor, and the individuals so applying shall state in the tenders whether in addition to the rent to be paid, as hereinbefore provided in Sections 2 and 3, they offer to pay any and what amount of premium for the lease; and the tenders so made shall be opened simultaneously, in the presence of two or more persons authorized by the Governor for the purpose, and the lease of the run shall be given to that person who tenders the highest amount of premium for the same. Should two or more tenders however be made for the same run, and no one of them be higher than all the rest, a future day shall be announced by the persons who open the tenders, on which day it shall again be competent to all persons to offer fresh tenders.

Sect. 10.—In the case of any entirely new run which has never been occupied before, but which any individual is desirous to acquire, he shall be at liberty to send in a sealed tender at such time and place, or such times and places, as may be appointed by the Governor for receiving tenders for new runs, and shall set forth in his tender a clear description of the run for which he applies, and of the boundaries of the same, and shall state whether, beyond the amount of rent to be ascertained as hereinbefore provided, he offers any, and what amount of premium, for the lease; and such tenders shall be in all respects dealt with as hereinbefore provided in Section 9, for tenders for runs which have fallen vacant, save and except that if it shall occur that two or more individuals have thus applied for different runs, of which part of one would coincide with part or the whole of another, the Governor or persons authorized by him to act in this behalf, shall declare what shall be the several runs for which it shall be competent to parties to tender, and another day shall then be named at which all persons shall be at liberty to offer fresh tenders for the runs so determined.

Sect. 11.—A lease will be liable to forfeiture in three modes. It will be forfeited as provided in Section 5, for non-payment of rent. It will be forfeited absolutely upon any conviction of a felony. And a conviction by a Justice of the district for any offence against the law may be inquired into within three months, by two or more Justices, who if they think fit may declare the license forfeited, with or without compensation for the value of the improvements, according to the gravity of the offence.

Sect. 12.—Upon the expiration of a lease, it shall be competent to the Governor to put up any or all the lands included in a run to sale, subject to the following conditions:—

He shall have the option of purchasing the land for its fair value in an unimproved state, which shall never be estimated at less than the general minimum price of £1 per acre.

If declined by the leaseholder, the value of any improvements on the land offered to sale shall be ascertained by valuers named, as in Section 3, provided that the sum so to be estimated and allowed for is in no case to exceed the amount of the actual outlay made by the leaseholder.

The upset price shall then consist of the joint value of the land and the improvements; and if the land be sold, the latter amount shall be paid over to the leaseholder, and only the balance be retained by the Government.

Sect. 13.—If, however, no part of the run be sold, the previous occupant shall be entitled to a renewal of his lease; or if any portions of the run, not amounting in all to one-fourth, be sold, he shall still be entitled to a renewal of his lease for the remaining parts of his run, subject to an increased rent described in the following section of these Rules, and provided always that the boundaries of the different classes of land have not in the meanwhile been so far extended by the Legislature as to bring this run within the class of Settled Lands, or that if brought within the class of Intermediate Lands, the occupant can only obtain a renewed lease under the rules presently to be laid for that class of lands.

Sect. 14.—The rent of every lease of a run after the first lease is to be paid by any new tenant on the number of sheep and cattle which the run can carry in its improved instead of unimproved state, this number to be estimated in the same manner as provided in Section 3; but as an encouragement to improve, the former tenant, if he renew, shall be exempt from any increase beyond 50 per cent. upon the amount of his previous rent.

CAP. III.
RULES WITHIN INTERMEDIATE LANDS.

Sect. 1.—Within lands coming under this description, runs shall be acquired, held and terminated exactly upon the same terms as above laid down for Pastoral Lands, excepting that the leases shall not be made for more than eight years in duration; and that at the end of each successive year, during the continuance of the lease itself, it shall be competent to the Governor, with notice as above provided, to offer any part or all the lands within any run to sale, subject to the same conditions in favor of the leaseholder as are above laid down in case of a sale at the expiration of the whole term of a lease for Pastoral Lands.

CAP. IV.
RULES WITHIN SETTLED LANDS.

Sect. 1.—Within the boundaries of the Settled Lands, it shall be open to the Governor to grant leases of unsold lands exclusively for pastoral purposes, for terms not exceeding one year; and it shall further be competent to the Governor, if he deems it expedient, to declare certain general rules under which the holders of purchased lands within these districts may be permitted to depasture, free of charge, any adjacent Crown lands which are neither sold or leased, provided that the depasture of such lands, free of charge, shall in no way interfere with the right of the Government at any time to dispose of the same, either by sale or by lease for one year, as above mentioned.

(No. 120.)

No. 2.

Extract from a copy of a despatch from Earl GREY
to Governor C. A. FITZROY.

Downing-street, March 30, 1857.

SIR,—The most material of the changes which have been made in the regulations at first proposed, is that by which, instead of leaving the classification of the lands of the colony to be settled by yourself, it has been made by Her Majesty's direct authority, and is embodied in the Order in Council. Great objection was made by some of the gentlemen connected with the colony to the proposed delegation of authority upon this subject to the Governor; and in urging that objection, arguments were used which convinced me, that if such a delegation of authority were made, you would have to encounter very strenuous efforts on the part of a numerous and powerful class of the inhabitants of New South Wales, to induce you to include amongst the "Unsettled Lands" much of the territory which ought more properly to be classed with the "Intermediate Lands." I have, in my former despatch, explained to you the great importance which I attach to avoiding an error of this kind, with a view to the interests of future settlers, and how great was my anxiety that no undue extension should be given to the lands to be defined as "Unsettled," and which would thus be put out of the power of the Crown, and rendered unavailable to the public for purchase for the long period of 14 years. Entertaining this view of the subject, the letters which I have received convinced me that I should relieve you from a painful and invidious duty, and from a very serious responsibility, if I could succeed in defining, by provisions to be introduced into the Order in Council, the lands to be classified as "Unsettled" and as "Intermediate;" and finding that by Sir G. Gipps' assistance this could be done in a manner which I considered satisfactory, I gladly availed myself of his aid to effect this improvement in the regulations.

You will perceive that the Intermediate Lands have been so described as to provide for the probable course of settlement along the banks of navigable rivers, and also for the improvements which may hereafter arise on each side of any railways constructed in the colony.

It was once proposed that the squatter should have the right of buying any block of not less than 320 acres within his run; it was intended that he should have this privilege even as to blocks of half that extent. But, in the Order as passed by Her Majesty, this has been modified by introducing the same regulations as to the shape of the blocks, and the proportion of water-frontage which experience has already dictated in similar rules framed in the colony.

All the gentlemen from whom I heard on the regulations, concurred in representing, that thirty days was too short a time within which to allow persons to make good a default in the payment of rent. I think their representations on this point were quite reasonable, and the term has accordingly been extended to sixty days.

To the rule that a lease may be declared forfeited by two Justices, it has been thought proper to add a proviso in favor of the squatter, that such forfeiture should not take effect unless submitted to and confirmed by the Governor.

With regard to Intermediate Lands, I may take this opportunity of correcting a misapprehension, which, I have reason to think, has materially influenced the remarks made by Mr. Boyd, as well as, probably, by Mr. Scott, on that class of lands. Although liable at the end of each year to be put up to sale, the squatter on these lands will be perfectly secure for eight years against any one who merely requires a lease. The actual occupier can only be deprived of his holding if his run or any part of it should be demanded for purchase, and even in that case he will have a right of pre-emption; and if he should not avail himself of this right, and thus allow some other person to purchase the land, he will still have a claim for the value of any improvements he may have made. I have mentioned this, because I think that at first sight it was not understood how the proposed leases for eight years would be reconcilable with the contingency of a demand for part of the lands at the end of every year.

I have, &c.,
(Signed) GREY.

At the Court at Osborne House, Isle of Wight,
the 9th day of March, 1847.

Present—The Queen's Most Excellent Majesty in Council.

Whereas by an Act passed in the present year of Her Majesty, intituled "An Act to amend an Act for regulating the Sale of Waste Lands belonging to the Crown in the Australian Colonies, and to make further provision for the

management thereof," after reciting that it might be expedient that various Rules and Regulations should be made respecting the more effectually making Demises or Licenses for any term of years not exceeding 14, of any such Waste Lands as therein mentioned, and respecting the reservation on such Demises or Licenses of any such rents or other pecuniary services, and respecting the insertion therein of such conditions and clauses of forfeiture as are therein mentioned, and respecting the division of the said Colonies into Districts within which alone such Demises or Licenses might be made to take effect, and respecting the renewal of any such Demises or Licenses, and respecting the conflicting claims of different persons to obtain any such Demise or License, and respecting any right of pre-emption which it might be proper to give to the holders of any such Demise or License, and respecting the forfeiture of any such Demise or License on the conviction of any holders thereof of certain offences in any such Colony, and respecting any other matters and things which might be requisite either for carrying into more complete effect the occupation in manner therein mentioned of such Waste Lands as aforesaid, or for preventing the abuses incident thereto: It was enacted, that it should be lawful for Her Majesty, by any Order in Council, to make and establish all such Rules and Regulations as to Her Majesty should seem meet for the purposes aforesaid, or for any of them; and any such Rules and Regulations again to repeal, renew, alter and amend; and that all such Orders in Council should have the force and effect of law in the Colonies aforesaid:

And whereas it is expedient that the Rules and Regulations hereinafter contained, should now be made and established for regulating the occupation of the Waste Lands of the Crown in the Colony of New South Wales: It is hereby ordered, by the Queen's most Excellent Majesty, by and with the advice of the Privy Council, that within the said Colony of New South Wales the Rules and Regulations comprised in the following Chapters shall henceforth be observed, and have the force and effect of law.

CAP. I.

As to the Division of the Lands in New South Wales.

Sect. 1.—The Lands in the Colony of New South Wales shall, for the purposes of the present Order, be considered as divided into three classes, and be dealt with accordingly as they may be situated in districts, to be denominated respectively as the Settled, the Intermediate and the Unsettled Districts.

Sect. 2.—The Settled Districts of the Colony shall comprehend—

I. The 19 contiguous Counties, the boundaries of which were settled and proclaimed before the 1st January 1838.

II. The Counties or reputed Counties of Macquarie and Stanley.

III. The Lands which may be within a distance of 25 miles, to be measured or reckoned from any point of the corporate limits of the town of Melbourne, in the county of Bourke.

IV. The Lands which may lie within the distance of 15 miles from any point of the outward limits of the town of Geelong, in the county of Grant.

V. The Lands which may lie within the distance of 10 miles from any point of the outward limits of each of the following Towns or Townships; viz.

Portland, in the county of Normanby;

Alberon, in the District of Gipp's Land;

Eden, in the county of Auckland;

Bathurst, in the county of Roxburgh;

Wellington, in the county of the same name;

The Town which has been established at the head of the navigation of the River Clarence;

The Town of Macquarie, in the county of Macquarie;

The Town of Ipswich, in the county of Stanley.

VI. The Lands which may lie within the distance of three miles from any part of the Sea, throughout the extent of the Colony, measured in a straight line.

VII. The Lands which may lie within the distance of two miles from either of the two opposite banks of any of the following Rivers; viz.

The Glenelg, from a point to be fixed by the Governor, not lower than where the Glenelg receives the waters of the Crawford, nor higher than where it receives the waters of the Wannon;

The Clarence, at a point to be fixed by the Governor, at a distance of not less than 10 miles above the Government Township at the head of the navigation, and not less than 50 miles from the sea (measured in a straight line);

The River, now known by the name of the Richmond, from a point to be fixed by the Governor, at a distance not less than 20 miles from the Sea, measured along the course of the River.

Sect. 3.—*As to the Intermediate Districts.*

The Intermediate Districts shall comprehend the lands lying within the Counties or reputed counties of Bourke, Grant, and Normanby, in the District of Port Phillip, which are not hereinbefore directed to be included in the Settled Lands; also all the lands in the County or reputed County of Auckland, which are not included in the Settled Lands as hereinbefore mentioned; also the entire District of Gipp's Land, except the parts included in the Settled Lands as hereinbefore mentioned; also the Counties either already formed or intended to be formed between the County of Auckland and the County of St. Vincent; also any County or Counties of which the boundaries may be fixed and proclaimed on or before the 31st December 1843.

Sect. 4.—*As to the Unsettled Districts.*

The Unsettled Districts shall comprehend all the lands of New South Wales excepting such lands as are now, or hereafter lawfully may be, comprehended within the limits of the Settled and Intermediate lands within the said colony.

CAP. II.

Rules to be enforced within the Unsettled Districts.

Sect. 1.—It shall be lawful for the Governor for the time being of the said Colony, or the Officer for the time being administering the Government of the said Colony, and he is hereby empowered to grant leases of rigs of land within the Unsettled Districts to such person or persons as he shall think fit, for any term or terms of years, not exceeding 14 years in duration, for pastoral purposes, with permission, nevertheless, for the lessee to cultivate so much of the lands respectively comprised in the said runs as may be necessary to provide such grain, hay, vegetables or fruit, for the use and supply of the family and establishment of such lessee, but not for the purposes of sale or barter; and so, nevertheless, that such leases shall in no case prejudice, interrupt or interfere with the right of the Governor or other Officer for the time being administering the Government of the said Colony, to enter upon any of the lands comprised in the said leases for any purpose of public defence, safety, improvement, convenience, utility or enjoyment, agreeably to the provisions for those purposes contained in the 9th section of the 2nd Chapter of this Order in Council, or otherwise.

Sect. 2.—The rent to be paid for each several run of land shall be proportioned to the number of sheep, or equivalent number of cattle which the run shall be estimated as capable of carrying, according to a scale to be established for the purpose by authority of the Governor. Each run shall be capable of carrying at least 4,000 sheep, or equivalent number of cattle, according to the scale aforesaid, and not in any case be let at a lower rent than £10 per annum, to which £2 10s. per annum shall be added for every additional 1,000 sheep, or equivalent number of cattle which the run shall be estimated as capable of carrying.

Sect. 3.—In order to estimate the number of sheep or cattle which each run will carry, before the granting of the said lease as hereinbefore mentioned, the intended lessee or occupier shall name a valuer, and the Commissioner of Crown Lands shall either act as valuer or name one to act for him, and these two valuers shall have power to choose, if necessary, an umpire, but if they cannot agree in the choice of an umpire, he shall be appointed by the Governor or the Officer for the time being administering the Government of the said Colony.

Sect. 4.—The rents to be paid according to the scale above-mentioned, are to be reserved exclusively of any existing assessments of taxes or rates on sheep and cattle, and are to be paid without abatement on account of the existing or any future assessments of taxes or rates on sheep and cattle, and in no way to interfere with the right of the Colonial Legislature to impose from time to time such assessments as may be deemed advisable.

Sect. 5.—The rent for each run shall be payable yearly in advance, at such time and place as shall be respectively specified in the lease of the said run of land. In the event of default being made in payment of the rent, the lease shall be forfeited, but the lessee shall be permitted to defeat the forfeiture, and prevent its becoming absolute and indefeasible, by payment, within 60 days from the date of the original rent-day, of the full annual rent, with the addition of a sum equal to one equal fourth part of the yearly rent so due from him by way of penalty; but unless the whole of the said yearly rent, with such penalty as aforesaid, shall be duly paid within the term of 60 days, counting from the original rent-day inclusive, the lease shall be absolutely and indefeasibly forfeited; and it shall be competent to any individual to demand of the Governor or of the Officer for the time being administering the Government of the Colony, or of any Officer or Officers acting by his authority for the present purpose, that a fresh lease of the run so forfeited be offered to sale under the general rule hereinafter provided for that purpose, in section 12 of this Chapter.

Sect. 6.—During the continuance of any lease of lands occupied as a run, the same shall not be open to purchase by any other person or persons except the lessee thereof; but it shall be lawful for the Governor, or of the Officer for the time being administering the Government of the said Colony, to sell to such lessee any of the lands comprised in the lease granted to such lessee, provided that the quantity of the lands sold to such lessee shall not be less than 160 acres, and that the price to be paid for the same shall not be below the general minimum price of £1 for each acre; Provided also, that if the portion or lot of any such run sold to such lessee be less in extent than 320 acres, the expenses of the survey of the portion so sold shall be paid by the purchaser.

Sect. 7.—Every lot to be sold under the provisions before-mentioned, shall be subject to the following conditions:

I. Each lot must be rectangular, unless the features of the country, or the course of any river or stream render a deviation from the rectangular form necessary; and in every case two sides at least of the lot must be directed to the cardinal points of the compass.

II. The two opposite sides of any stream or watercourse which, according to the practice of the department of the Surveyor-general ought to form a boundary between different sections or lots, shall in no case be included in the same lot.

III. No single lot shall have more than 440 yards of water-frontage for 160 acres, or more than a like proportion of water-frontage for any quantity greater than 160 acres; but the water-frontage shall be reckoned according to the distance from one extreme point thereof to the other, in a right line, and not according to the bendings of the watercourse or river; and the Governor or Officer for the time being administering the Government of the said Colony, shall have the right of refusing to sell any lot or lots in every case where it may appear to him that the sale of such lot or lots respectively might give an undue command over water required for the beneficial occupation and cultivation of the lands adjoining either side of any stream or watercourse.

Sect. 8.—It shall be lawful for the Governor or Officer for the time being administering the Government of the said Colony, to except out of any such sale or sales as aforesaid, all such lands as it may appear to him expedient to reserve for any of the public uses for which it is enacted by the 3rd clause of the Act passed in the 5th & 6th years of Her Majesty, c. 36, intitled, "An Act for regulating the Sale of Waste Lands belonging to the Crown in the Australian Colonies," that lands required for public uses, may be excepted from sales authorized by that Act; and if there be reason to suppose that any of the lands applied for under the regulations hereby expressed, possess peculiar advantages, whether of water-frontage or otherwise, which would render it fit that a higher price should be paid for such lands, the Governor or the Officer for the time being administering the government of the said Colony, or any Officer authorized by him for the purpose, may require the said lands to be assessed by valuers appointed in manner provided in section 3, of the 2nd chapter of this Order in Council, in order that the value, if estimated by them or their umpire at more than £1 per acre, the higher amount may be paid for such lands accordingly.

Sect. 9.—That nothing in these regulations, or in any lease to be granted under the powers hereby vested in the Governor, shall prevent the said Governor or Officer for the time being administering the government of the said colony, from making grants or sales of any lands within the limits of the run or lands comprised in such lease, for public purposes, or disposing of in such other manner as for the public interest may seem best, such lands as may be required for the sites of churches, schools or parsonages, or for the construction of high roads or railways, and railway stations or other internal communications, whether by land or water, or for the use or benefit of the aboriginal inhabitants of the country, or for public buildings, or as places for the interment of the dead, or places for the recreation and amusement of the inhabitants of any town or village, or as the sites of public quays or landing-places on the sea-coast or shores of navigable streams, or for the purpose of sinking shafts and digging for coal, iron, copper, lead or other minerals, and effectually working coal or iron, copper, lead, or other minerals; or for any other purpose of public defence, safety, utility, convenience or enjoyment, or for otherwise facilitating the improvement and settlement of the colony;

but so that the quantity of land which may be granted or sold any Railway Company shall not exceed in all the rate of 100 acres for every mile thereof in length.

Sect. 10.—That if at any future period, a railroad be made through or near to the districts comprising unsettled lands, all lands within the distance of two miles from that railroad shall, notwithstanding any lease of the run within which such lands shall be situated, be liable to be sold at the end of each successive year from the date of the said lease, provided that at least 60 days previous notice shall have been given to the lessee, and so that such lessee shall be entitled to all the same conditions, reserving to the previous lessee the right of pre-emption, and the value of improvements, as are hereinafter mentioned with reference to the case of a sale at the expiration of the full term of such lease.

Sect. 11.—All occupants of Crown lands who shall have been in licensed occupation of the same for at least one year at the time when this Order in Council shall come into effect, are to be entitled to demand leases of their respective runs under the present regulations, within six months from the date of the publication of this Order in Council by the Governor or other Officer administering the government of the said Colony, but not afterwards, and all occupants who have been in licensed occupation of their lands for a shorter period than the term of one year, shall be entitled, upon the expiration of the said term of one year, without having forfeited their respective licenses, to demand leases of their respective runs, under the regulations herein contained, provided such lease shall be lawfully demanded within six months after the expiration of the said term of one year but not afterward.

Sect. 12.—When any run of lands after being occupied shall be forfeited or become vacant, without the previous occupant's having exercised his right of renewal hereinafter reserved, it shall be competent for any person desirous of acquiring a lease of such run of lands to give notice to the Governor or Officer for the time being administering the government of the said colony, of his, her or their desire to purchase anew the lease of such run of lands; and immediately after such notice, the Governor or Officer administering the government of the said colony shall direct sealed tenders to be sent in, at such time and place, and in such form as he shall think fit, by the person giving such notice as aforesaid, and also by such other person (if any) as may be disposed to enter into competition for the said lease; and every tender so to be made shall state the term of years for which it is proposed to take the said run, and whether in addition to the minimum rents required agreeably to the provisions contained in sections 2 and 3 of the 2nd chapter of this Order in Council, it is proposed to offer any, and if any what amount of premium for the lease; and the said tender or tenders shall be opened in the presence of two or more persons authorized by the Governor or Officer for the time being administering the government of the said colony for that purpose; and if there shall be more than one tender, the tenders shall be opened at the same time; and if there shall be only one tender, the lease of the run shall be given to the person making such tender, provided the rent offered shall be admissible under the provisions contained in sections 2 and 3 of this chapter of this Order in Council; but if there shall be more competitors than one, the lease of the run shall be given to such person or persons as shall tender the highest amount of premium for the same; but if two or more tenders shall be made for the same run, and no one of them be higher than all the rest, a future day shall be announced by the persons who open the tenders, on which day it shall again be competent to all persons to offer fresh tenders, in the same manner as hereinbefore provided in regard to the first tenders.

Sect. 13.—If any individual be desirous to acquire a new run of land which has never been occupied before, he shall be at liberty to send in a sealed tender at such time and place, and in such form as may be appointed by the Governor or Officer administering the government of the said colony, for receiving tenders for new runs, and shall set forth in his tender a clear description of the run for which he applies, and of the boundaries of the same, and shall state whether, beyond the amount of rent to be ascertained as hereinbefore provided, he is willing to offer any, and if any what amount of premium for the lease, and such tenders shall be in all respects dealt with as hereinbefore provided in section 12 of this chapter of this Order in Council for tenders for runs which have been forfeited or fallen vacant, save and except that if it shall occur that two or more persons have thus applied for different runs, of which part of one run would include part or the whole of another run, the Governor or Officer for the time being administering the government of the said colony, or the person or persons authorized by him to act in this behalf, shall declare what shall be the several runs for which it shall be competent to parties to tender, and another day shall then be named, at which the previous applicants and all other persons shall be at liberty to offer fresh tenders for the runs so declared.

Sect. 14.—A lease shall be liable to forfeiture in three modes:—

I. It shall be forfeited for non-payment of rent, as provided in section 5 of the 2nd chapter of this Order in Council;

II. It shall be forfeited absolutely immediately upon any conviction of felony against the lessee; and

III. In the event of his conviction by a Justice of the district for any offence against the law, the case may be inquired into within three months after the conviction by two or more Justices, who, if they think fit, may adjudge the lease to be forfeited, with or without compensation for the value of the improvements, according to the nature of the offence.

Provided always, that no such adjudication of forfeiture pronounced by the Justices shall take effect until confirmed by the Governor or Officer administering the government of the said colony.

Sect. 15.—Upon the expiration of a lease, it shall be competent for the Governor, or Officer for the time being administering the government of the said colony, to put up all or any part of the lands included in a run for sale, subject to the following conditions:—

I. The previous lessee shall have the option of purchasing the land for its fair value in an unimproved state, which shall never be estimated at less than £1 per acre;

II. If declined by the previous lessee, the value of any improvements on the land offered for sale shall be ascertained by valuers appointed under the provisions contained in section 3 of the 2nd chapter of this Order in Council: provided nevertheless, that the sum so to be estimated and allowed for is in no case to exceed the amount of the actual outlay made by the lessee;

III. The upset price shall then consist of the joint value of the land, and the improvements, and if the land be sold, the amount of the improvement shall be paid over to the previous lessee, and only the balance be retained by the Government.

Sect. 16.—If no part of the run be sold, the previous lessee

shall be entitled to a renewal of the lease of the whole, or if any part of the run, not amounting in all to one equal fourth thereof, be sold, such lessee shall be entitled to a renewal of the lease for the remaining parts of the lands comprised in his run, subject to the reservation of an increased rent, described in the next hereinafter following section of these rules and regulations; and provided nevertheless, that the boundaries of the different classes of land in the colony shall not, in the meanwhile, have been so far extended as to bring the said run within the class of Settled Lands; and provided also, that if brought within the class of Intermediate Lands the lessee shall only obtain a renewed lease of the said run, under the rules hereinafter laid down as applicable to that class of lands.

Sect. 18.—The rent of every lease of a run of lands, after the expiration of the first lease granted under this Order in Council, is to be paid by any new lessee on the number of sheep and cattle which the run shall be estimated to carry in its improved instead of its unimproved state, in the same manner as provided for in section 3 of the 2nd chapter of this Order in Council; but as an encouragement to improve, the lessee whose lease shall be renewed, is to be exempt from paying any increase beyond 50 per cent. upon the amount of rent reserved under the expired lease.

CAP. III.
RULES APPLICABLE TO INTERMEDIATE LANDS.

Sect. 1.—Within lands coming under the description of Intermediate Lands, the interest in runs shall be acquired, held and determined, upon the same terms and conditions as above laid down for Unsettled Lands, excepting that the leases shall not be made for more than eight years in duration; and that at the end of each successive year from the date of the lease, it shall be competent for the Governor or Officer for the time being administering the Government of the said Colony, provided he shall have given 60 days previous notice, to offer for sale all or any part of the lands within any such run, subject to the same conditions in favour of the lessee as are above laid down in case of a sale at the expiration of the full term of a lease of Unsettled Lands.

CAP. IV.
RULES APPLICABLE TO SETTLED LANDS.

Sect. 1.—Within the boundaries of the Settled Lands, it shall be competent for the Governor or Officer for the time being administering the Government of the said Colony, to grant leases of lands exclusively for pastoral purposes, for terms not exceeding one year, and it shall further be competent for the Governor or Officer for the time being administering the Government of the said Colony, if he deem it expedient, to make general rules under which the holders of purchased lands within such districts of Settled Lands may be permitted to depasture, free of charge, any adjacent Crown Lands, provided that the depasturage of such unsettled lands, free of charge, shall in no way interfere with the right of the Government at any time to dispose of the same either by sale or by lease for one year, as above mentioned.

And the Right honorable Earl Grey, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

(Signed) WM. L. BATHURST.

*Colonial Secretary's Office Perth,
November 11, 1848.*

The Queen having been graciously pleased to erect into a separate See and Diocese so much of the Bishopric of Australia as is included within the limits of the Provinces of South Australia and Western Australia, and to appoint thereto the Reverend Augustus Short, D.D., under the style and title of "The Lord Bishop of Adelaide"—His Excellency the Governor has directed the publication of Her Majesty's Letters Patent to that effect, together with the Notarial Attestation of His Lordship's Consecration, for general information.

By His Excellency's command,

R. R. MADDEN,
Colonial Secretary.

Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith. To all to whom these presents shall come, Greeting. Whereas His late Majesty our Royal Uncle, King William the Fourth, did, by Letters Patent under the Great Seal of our United Kingdom of Great Britain and Ireland, bearing date at Westminster the eighteenth day of January, one thousand eight hundred and thirty-six, in the sixth year of his reign, erect, found, ordain, and constitute all the territories and islands comprised within or dependent upon our Colonies of New South Wales, Van Diemen's Land and Western Australia, to be a Bishop's See or Diocese, and did declare and ordain that the same should be styled The Bishopric of Australia, and that the first and other Bishops thereof should be subject to the Archbishop of Canterbury for the time being as their Metropolitan; and did, in and by the said Letters Patent, name and appoint William Grant Broughton, Clerk, theretofore Archdeacon of New South Wales, to be Bishop and Ordinary Pastor of the said See of Australia, and the said William Grant Broughton was thereupon ordained and consecrated to be the Bishop and Ordinary Pastor of the said See. And whereas, in and by the said Letters Patent, our said Royal Uncle did declare that, if he, his heirs, or successors should think fit to recall or revoke the

appointment of the said Bishop of Australia or his successors, and declare such his pleasure by Letters Patent under the Great Seal of Our said United Kingdom, then every such Bishop should, from and after the notification thereof, in such manner as in the said Letters Patent should be directed to the said Bishop of Australia, to all intents and purposes cease to be Bishop of Australia: And whereas, by virtue of the powers of revocation mentioned in the said Letters Patent, we did, with the concurrence of the said Bishop of Australia, by Letters Patent bearing date the eighteenth day of August, in the year of our Lord one thousand eight hundred and forty-two, wholly separate, divide, and exempt the City of Hobart Town and all that our Island of Van Diemen's Land, and all islands and territories lying to the southward of Wilson's Promontory in thirty nine degrees twelve minutes south latitude, and to the northward by the forty-fifth degree of south latitude, and between the one hundred and fortieth and one hundred and fiftieth degrees of longitude east from Greenwich, and also Macquarie Islands, lying to the south eastward of the said Island of Van Diemen's Land, and all other the dependencies of our said Colony of Van Diemen's Land; and did declare that the said City and Colony should thenceforth be wholly separated and exempted from the jurisdiction, authority, and Diocese of the said Bishop of Australia and his successors; and did ordain, make, constitute, and declare the same to be the Diocese of the Bishop of Tasmania, as by reference to the said Letters Patent will more fully appear: And whereas it has been represented to us by the Most Reverend Father in God, William, by Divine Providence, Lord Archbishop of Canterbury, Primate of all England and Metropolitan, that, considering the present great extent of the said Diocese of Australia, notwithstanding the severance thereof from the said Diocese of Tasmania as hereinbefore mentioned, and also the inconvenience and detriment arising therefrom, as well to the Bishop of the said See, as to the members of the United Church of England and Ireland resident within the same, he is desirous, with the concurrence of the said Bishop of Australia, that the extent of the said Diocese should be still further reduced, and that the same should be divided into four several and distinct Dioceses, to be styled The Bishopric of Sydney, The Bishopric of Newcastle, The Bishopric of Adelaide, and The Bishopric of Melbourne: the Bishops of the said several Sees of Newcastle, Adelaide, and Melbourne, and their successors, and also the Bishop of Tasmania and his successors, and the Bishop of New Zealand and his successors, to be subject and subordinate to the See of Sydney, and to the Bishop thereof and his successors, in the same manner as any Bishop of any See within the Province of Canterbury is under the authority of the Archbishop of the same: And whereas we, having taken the premises into our Royal consideration, and having been satisfied of the concurrence therein of the said Bishop of Australia, are persuaded that by complying with such the request of the said Archbishop, we shall, under the blessing of Almighty God, greatly advance the well-being of the said United Church of England and Ireland within the said Colonies and settlements, we have resolved to grant the same accordingly: Now know ye that, in pursuance of such our Royal intention, it is our will and pleasure, and we do by these presents revoke and determine the said Letters Patent made and passed in the sixth year of the reign of his said late Majesty King William the Fourth, to all intents and purposes, save and except as to all acts, matters, or things which may have been done under the authority of the same, which we will and ordain shall be and remain of the same force and effect as if the said Letters Patent were not revoked and determined. And we do further by these presents erect, found, ordain, and constitute all those parts or portions of the said Bishopric of Australia now called or known by the names of South Australia and Western Australia, the former with boundaries as set forth in Letters Patent of our late Royal Uncle William the Fourth, bearing date at Westminster the nineteenth day of February, in the year of our Lord one thousand eight hundred and thirty-six, and the latter, with boundaries as set forth in our Letters Patent bearing date at Westminster the eighteenth day of August, one thousand eight hundred and forty-five, in the ninth year of our reign, to be a Bishop's See and Diocese, and do declare and ordain that the same shall be called The Bishopric of Adelaide, saving nevertheless unto us, our heirs and successors, the powers of altering from time to time, with the consent of the Archbishop of Canterbury for the time

being, if the said See be vacant, or otherwise, of the said Archbishop, and of the Bishop of the said See for the time being, the limits of the said Diocese, or of the jurisdiction of the Bishop thereof. And to the end that this our intention may be carried into due effect, we, having great confidence in the learning, morals, probity, and prudence of our well-beloved Augustus Short, Doctor in Divinity, do name and appoint him to be ordained and consecrated Bishop of the said See of Adelaide; and we do hereby signify to the Most Reverend Father in God, William, by Divine Providence, Lord Archbishop of Canterbury, Primate of all England and Metropolitan, the erection and constitution of the said See and Diocese, and our nomination of the said Augustus Short; requiring, and by the faith and love whereby he is bound unto us, commanding the said Most Reverend Father in God to ordain and consecrate the said Augustus Short to be Bishop of the said See and Diocese, in manner accustomed, and diligently to do and perform all other things appertaining to his office in this behalf with effect. And we do ordain and declare that the said Augustus Short, &c., &c., so by us nominated and appointed, after having been ordained and consecrated thereunto, as aforesaid, may, by virtue of such appointment and consecration, enter into and possess the said Bishop's See, as Bishop thereof, without let or impediment from us, our heirs and successors, for the term of his natural life, subject nevertheless to the alterations of the limits of the said See, as hereinbefore mentioned, and also to the right of resignation hereinafter more particularly expressed. Moreover we will and grant by these presents, that the said Bishop of Adelaide shall be a Body Corporate, and do ordain, make, and constitute him to be a perpetual Corporation, and to have perpetual succession; and that he and his successors be for ever hereafter called or known by the name or title of the Lord Bishop of Adelaide, and that he and his successors, by the name and title aforesaid, shall be able and capable in the law, and have full power to purchase, have, take, hold, and enjoy manors, messuages, lands, rents, tenements, annuities, and hereditaments, of what nature or kind soever, in fee or in perpetuity, or for a term of life or years, and also all manner of goods, chattels, and things personal whatsoever, of what nature or value soever; and that he and his successors, by and under the said name or title, may prosecute, claim, plead, and be impleaded, defend and be defended, answer and be answered, in all manner of Courts of us, our heirs and successors, and elsewhere. in and upon all and singular causes, actions, suits, writs, and demands, real and personal, and mixed, as well spiritual as temporal, and in all other things, causes, and matters whatsoever; and that the said Bishop of Adelaide and his successors shall and may for ever hereafter have and use a Corporate Seal, and the said Seal from time to time, at his and their will and pleasure, create, change, alter, or make anew, as he or they shall deem expedient. And we do further by these presents ordain and constitute the Town of Adelaide to be a Bishop's See, and the seat of the said Bishop. And we do ordain that the said Town of Adelaide shall henceforth be a City, and be called the City of Adelaide. And we do further ordain and declare that the Church called Trinity Church, in the said City of Adelaide, shall henceforth be the Cathedral Church of the said Augustus Short and of his successors, Bishop's of Adelaide. But nevertheless that it shall and may be lawful for the said Bishop and his successors, by any writing or writings under his or their hand and Episcopal Seal, to make and constitute any other Church now erected or hereafter to be erected within the said City or the liberties thereof, to be the Cathedral Church and See of the said Bishop and his successors, in the place and stead of the Church of Trinity aforesaid. And we further ordain and declare that the said Bishop of Adelaide and his successors shall be subject and subordinate to the Bishop of Sydney as Metropolitan, in the same manner as any Bishop of any See within the Province of Canterbury in our Kingdom of England is under the Metropolitan See of Canterbury and the Archbishop thereof. And we do further will and ordain that every Bishop of Adelaide shall take an oath of our obedience to the Bishop of Sydney for the time being, as his Metropolitan, which oath shall and may be ministered by the said Archbishop, or by any person by him duly appointed or authorised for that purpose. And we do further by these presents expressly declare that the said Bishop of Adelaide, and also his successors, having been respectively by us, our heirs and successors, named and appointed, and by the said Archbishop of Canterbury canonically ordained and consecrated, according to the form of the

United Church of England and Ireland, may perform all the functions peculiar and appropriate to the office of Bishop, within the said Diocese of Adelaide. And we do by these presents further declare that the aforesaid Bishop of Adelaide and his successors may exercise and enjoy full power and authority, by himself or themselves, or by the Archdeacon or Archdeacons or the Vicar-General, or other officer or officers hereinafter mentioned, to give institution to benefices, to grant licenses to officiate to all Rectors, Curates, Ministers, and Chaplains of all the Churches and Chapels or other places, within the said Diocese, wherein Divine Service shall be celebrated according to the rites and Liturgy of the Church of England, and to visit all Rectors, Curates, Ministers, and Chaplains, and all Priests and Deacons in Holy Orders of the United Church of England and Ireland resident within the said Diocese, as also to call before him or them, or before the said Archdeacon or Archdeacons, or the Vicar-General, or other officer or officers hereinafter mentioned, at such competent days, hours, and places, where and so often as to him or them shall seem meet and convenient, the aforesaid Rectors, Curates, Ministers, Chaplains, Priests, and Deacons, or any of them, and to inquire as well concerning their morals or their behaviour in their said offices and stations respectively, subject nevertheless to such rights of review and appeal as are hereinafter given and reserved; and for the better accomplishment of the purposes aforesaid, we do hereby grant and declare that the said Bishop of Adelaide and his successors may found and constitute one or more dignities in his Cathedral Church, and also one or more Archdeacons within the said Diocese, and may collate fit and proper persons to be Dignitaries of the said Cathedral Church, and one or more fit and proper persons to be the Archdeacons of the said Archdeaconry respectively, provided always that such dignitaries or Archdeacons shall exercise such jurisdiction only as shall be committed to them by the said Bishop or his successors; and the said Bishop and his successors may also from time to time nominate and appoint fit and proper persons to be respectively the officers hereinafter mentioned that is to say, to be Vicar-General, Official Principal Chancellor, Rural Deans, and Commissaries, either general or special, and may also appoint one or more fit and proper persons to be Registrars and Actuaries. Provided always that the Dignitaries and Archdeacons aforesaid shall be subject and subordinate to the said Bishop of Adelaide and his successors, and shall be assisting to him and them in the exercise of his and their Episcopal jurisdiction and functions. And we will and declare that during a vacancy of the said See of Adelaide by the demise of the Bishop thereof, or otherwise, the said Dignitaries and Archdeacons and Vicar-General and other officers respectively appointed as aforesaid, shall continue to exercise, so far as by law they may or can, the jurisdiction and functions delegated to them, and that the said Registrar and Actuaries shall respectively continue to discharge the duties whereunto they have been appointed, until a new Bishop of the See of Adelaide shall have been nominated and consecrated, and his arrival within the limits of the said Diocese shall have been notified to the said parties respectively. And we further will and do by these presents declare and ordain that it shall be lawful for any party against whom any judgment, decree, or sentence shall be pronounced by any of the said Archdeacons, or by the Vicar-General, or other Officer or Officers of the said Bishop or his successors, to demand a re-examination of such judgment, decree, or sentence before the Bishop or his successors in person, who upon such demand made shall take cognizance thereof, and shall have full power and authority to affirm, reverse, or alter the said judgment, sentence, or decree; and if any party shall consider himself aggrieved by any judgment, decree, or sentence pronounced by the said Bishop of Adelaide or his successors, either in case of such review, or in any cause originally instituted before the said Bishop or his successors, it shall be lawful for the said party to appeal to the said Bishop of Sydney or his successors, who shall finally decide and determine the said appeals. Provided always that in any such case of appeal or review, notice of the intention of the party to make such appeal, or demand such review, shall be given to the Bishop or subordinate Judge by whom the sentence appealed from, or to be reviewed, shall have been pronounced, within fifteen days from the promulgation thereof. And we do further will, and by these presents ordain, that in all cases in which an appeal shall be made, or review demanded, as aforesaid, a copy of the judgment or sentence in such case promulgated or given, setting forth the causes thereof, together with a copy of the cri-

