

THE VICTORIAN HISTORICAL MAGAZINE

Vol. I.]

APRIL, 1911.

[No. 2.

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(The Authors of Articles are responsible for the statements therein.)

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NOTICE TO MEMBERS.

*The Monthly Meeting of the Society will be held on
FRIDAY, 21st APRIL, 1911, when MR. ERNEST SCOTT
will read the second part of his Paper on*

“THE RESISTANCE TO CONVICT TRANSPORTATION
IN VICTORIA (1844-1853).”

*The following are the Papers arranged for the remainder
of the half-year:—*

1911

MAY 18 (Thursday).—“The Commemorative Medals of
Victoria.” Mr. ALFRED CHITTY.

JUNE 15 (Thursday).—“The Development of Gippsland.”
Mr. A. W. GREIG.

*Meetings are held at 8 p.m., in the Lecture Room, on the
7th Floor, Colonial Mutual Buildings, 421 COLLINS-STREET,
MELBOURNE.*

VISITORS ARE CORDIALLY INVITED.



John Barton

The Victorian Historical Magazine.

VOL. I.]

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Local Chronicles.

By CHARLES R. LONG, M.A.

THOSE who, nearly two years ago, founded the Historical Society of Victoria were prompted to do so by the feeling that, if the story of the State is ever to be set forth with fulness and accuracy, no time was to be lost before setting to work to collect, and to stimulate others to collect, historical material of a detailed nature.

The members of the Society are most desirous, therefore, that the reminiscences and anecdotes of the early settlers should be secured before it is too late; for, unless these are recorded, many details of the history of the State will be lost beyond recovery, and others of real importance to an adequate presentation of memorable episodes will lose their real significance.

They believe that the history of their own land has a prime value for the guidance of future generations, that it may serve to induce right conduct through emulation, and a love of country through appreciation of the sacrifices that others have made; and they urge that no trouble should be spared to replace error and mere conjecture by accurate and adequate statements—that the opportunity that presents itself now for obtaining an authentic record of our early history should not be missed.

Some good work has already been done in the direction indicated. A few places, among them Ballarat, Bendigo, Hawthorn, Stawell, Warrnambool, and Kew, have been favoured by industrious chroniclers, who have put into book form the results of their researches. To encourage others to enter upon the work, and to guide them, I can warmly commend Mr. F. G. A. Barnard's "Jubilee History of Kew: its Origin and Progress." Its contents are as follow:—"In the Beginning—The Early Land Sales—Founding of the Municipality—Parliamentary Representatives—Communication with the City—Beyond Kew—Strolling Round—Evolution of a Town—The Churches—The Schools and Colleges—Institutions and Societies—Sports and Pastimes."

The advice given by the Society in its "Instructions for the Formation and Guidance of Sub-Centres" is so valuable that it cannot be too widely disseminated, and I quote it here:—

"METHODS OF WORKING.

"Subjects upon which information should be sought—

- "(a) Origin and meaning of names of places—rivers, mountains, hills, creeks, roads, townships, &c., with the circumstances under which names were bestowed.
- "(b) Date of first occupation of district and circumstances thereof—*e.g.*, whether as (1) cattle or sheep run; (2) mining camp; (3) halting place on coach road, &c.
- "(c) Development of settlement, with comparative statistics.
- "(d) Names of the first settlers, with their portraits (where obtainable) and biographical particulars of themselves and their descendants.
- "(e) History of local government in district.
- "(f) Notable incidents in the history of the district; birth or residence therein of any persons who have achieved distinction in the annals of the State; particulars of any notable public movement originating in the district.
- "(g) Aborigines—names of tribes formerly occupying district and of individual members thereof—particulars regarding their habits and customs—history of their disappearance—particulars of any who may yet remain, with photographs.

"Sources of information—

- "(a) Reminiscences of old residents.
- "(b) Newspaper files.
- "(c) Municipal and court records.
- "(d) Cemetery head stones and other monuments.

"(NOTE.—The information obtained from these sources should be carefully revised, statements of individuals collated and compared, and, as far as possible, checked by documentary evidence, and a digest of the results included in the quarterly reports to the head society.)

To be collected—

- "(a) Old books, newspapers, letters, commercial and legal documents, drawings, engravings, photographs, maps, plans, stamps, coins, medals, &c., having relation to the history of any part of the State.
- "(b) Photographs of existing landmarks, old buildings, &c., with full particulars.
- "(c) Aboriginal weapons, utensils, ornaments, &c. (Victorian only).

"(With regard to material of the above descriptions collected by sub-centres, it is requested that all items obtained should be submitted in the first instance to the head society for examination. Those which bear a distinct relation to the district from whence they are received will then be returned to the sub-centre, in order that a local historical collection may be established. It is suggested that accommodation for such collections might be obtained in connection with mechanics' institutes, shire halls, State schools, or other institutions of a permanent character. In cases where a sub-centre is disbanded without a permanent home having been found for the collection made, the same should on no account be dispersed, but should be forwarded to the head society for preservation.)"

With the aim, not so much of making collections of material for the future historian of the settlement and development of Victoria, but rather with that of providing the child, before he begins the study of a history text-book, with ideas of an historical nature, and of giving him the feeling that history belongs not merely to distant countries and

a long-dead past, but has been and is being made on the very spot where he dwells, the Education Department has for some years past encouraged the study of the settlement of the place known to the child; and the promoters of the State Schools Exhibition, held in Melbourne in 1906, urged teachers to prepare and show local histories. The result was most gratifying, and, in his review of the history section of the exhibition, Mr. Inspector Burgess, M.A., was able to write in the following eulogistic terms concerning them:—

“The most remarkable of the history exhibits were, undoubtedly, the local histories sent in by the teachers and scholars. These were most interesting records of all kinds of places, from Cape Howe to the South Australian border, and from Mildura to Queenscliff. And, in nearly all these local histories might be found some interesting piece of information worthy to be preserved for all time. . . . It is certain that the perusal of these histories will act as an incentive to other teachers to take time by the forelock and hasten to record the stories of the experiences of the veteran pioneers who are so surely and steadily passing away. In another ten years it will be too late, for, even at present, the numbers of the survivors from the period before the gold discovery are very few, and the ranks of those who arrived in the early fifties are being thinned year by year.”

The recent decision of the Minister of Public Instruction that all State Schools are to observe annually a Discovery Day, with the object of increasing the knowledge of Australia's history and stimulating interest in it, affords a capital opportunity for continuing the work of compiling local histories, commenced so well in 1906; and the Department has notified teachers through the *Education Gazette and Teachers' Aid* to the following effect:—

“Teachers are requested to send to the Secretary, Education Department, any local historical information that they or their pupils may be able to gather from residents in the neighbourhood, or from local records.”

The collection of a large amount of historical material may therefore be expected soon, and it is to be hoped that not only will the Department secure the educational object it has in view, but the Historical Society will also be in a position to offer to make a profitable use of it. With such assistance the way is open for the Society to do memorable work in connection with the history of Victoria.

[There can be little doubt that the encouragement by the Education Department of the study of local history on the lines indicated by Mr. Long would go far to remove what ground may at present exist for such strictures as were passed at the recent conference of the Australian Natives' Association, where it was declared that no subject was so neglected in Victoria as history.—ED.]

John Walpole Willis, the First Resident Judge of Port Phillip.

BY G. B. VASEY, B.A., LL.B.

(*Read before the Society, 24th February, 1910.*)

My aim in this paper is to give a short sketch of the life of the first resident judge of the Port Phillip district of the colony of New South Wales, and to present a picture of the social conditions which existed here about 70 years ago. It may be that thus I shall be able to make some small contributions to the history of Victoria, for history has been said to be the essence of innumerable biographies.

The materials available for a biographical sketch of John Walpole Willis are meagre indeed, but a little research has produced sufficient, it may be, to enable us to obtain a general view of his life, and some details of the portion of it which was spent here.

Mr. M'Combie, in his "History of the Colony of Victoria," asserts that John Walpole Willis was the son of the well-known Dr. Willis, rector of Wapping, who attended George III. in his illness, and was celebrated for his skill in treating the insane. That statement is repeated in Mr. Henniker Heaton's "Australian Dictionary of Dates and Men of the Time," and also by Mr. Alex. Sutherland and "Garryowen." It would afford an interesting link with an attractive period of 18th century history if we could be sure that the father of our first judge was the doctor in attendance upon the royal patient when, one morning in February, 1789, His Majesty met Fanny Burney in Kew Gardens and gave her a paternal embrace. No authority, however, is given for Mr. M'Combie's genealogical statement, nor have I been able to discover any. The "Dictionary of National Biography" and Burke's "Landed Gentry" give John Walpole as the second son of Captain William Willis, of the 13th Light Dragoons, who married in 1789 and died in 1809. Indeed, if personal characteristics are influenced by heredity, it would be more easy to believe that the judge was the son of a soldier than that his father was the clergyman whom Hannah Moore described as "the very image of simplicity, quite a good old-fashioned country parson."

John Walpole Willis was born on 4th January, 1793, went to college, and was in due course called to the Bar. It has been said that for a young barrister there are at least two roads to success—either to marry an attorney's daughter, or to write a legal text-book. Mr. Willis chose the latter course, and, while waiting for briefs, wrote a book on "Equity Pleading," another on "Evidence," and a third

on "The Duties and Responsibilities of Trustees." In 1824 he married a daughter of the Earl of Strathmore, by whom he had one son. That marriage was dissolved by Act of Parliament in 1833, and in 1836 he married a daughter of Colonel Bund.

In 1828 the British Government was about to establish a Court of Chancery in Canada, and the position of judge of that court was conferred upon Willis, then in good practice at the Equity Bar. Canada was at that time in a condition of political and social turmoil. There was a democratic element in the community which chafed sorely against the influence of officialdom and the *soi-disant* aristocracy popularly known as the "Family Compact," at the head of which stood the Governor, Sir Peregrin Maitland. The new judge was not a *persona grata* with the dominant party, and it was not long before an opportunity was found of having him removed from office. It happened, in 1829, that the Chief Justice was absent in England, and Judge Willis declined to sit in the Appeal Court during the absence of the Chief, on the ground that the Court would thus be not legally constituted. For this he was at once removed from office by the Governor. On his return to England the judge presented an appeal to the Privy Council, who held that, though the Governor of the colony had power, under an Imperial Act of George III., to remove the judge from office, still the order of removal was improperly made, as the judge had not been given an opportunity of being heard in his defence. Mr. Willis then was appointed one of the judges in British Guiana, the three districts of which had recently been consolidated into one colony. He did not remain there long, however, for, his health being injured by the climate, he went on furlough to England, and, after recuperating, was about to return to the West, when he received an appointment as one of the judges of the Supreme Court of New South Wales. This was in 1837, and in February of the next year Judge Willis began his Australian career, which came to a dramatic conclusion about five years later.

In those days all cases arising in this part of the colony of New South Wales had to go for trial to Sydney, thus causing great expense and delay to litigants. It was while sitting at Sydney that Judge Willis had his first introduction to one side of the social conditions existing in Melbourne. In November, 1840, an action was tried before him, in which Mr. Carrington, a well-known Melbourne solicitor, sought to recover damages from a Mr. Hogue, described by his counsel as "one of the leading members of society at Port Phillip." Both parties were members of the Melbourne

Club, and Mr. Hogue, thinking that Mr. Carrington had behaved shabbily in a matter affecting certain members of the club, horsewhipped him in one of the public streets. The affair aroused much interest in social circles in the small community, but the Sydney jury was not sympathetic, and, possibly thinking the matter was one that should have been amicably settled, found a verdict for the defendant. One of the counsel in the case was Mr. A'Beckett, who subsequently became the first Chief Justice of Victoria. Another case tried by Judge Willis in Sydney about that time was an action by Major Mudie, the author of "The Felony of New South Wales," against Mr. Kinchela, the son of Dr. Kinchela. Young Kinchela had given the Major, who was much his senior, a severe horsewhipping in one of the principal streets of Sydney, by way of punishment for some of the evil things he had written of Dr. Kinchela in "The Felony of New South Wales." But the jury made the young man pay £50 for this exhibition of filial devotion.

The time had now arrived when it was considered necessary that the Port Phillip district should have a judge of its own—that is, a judge of the Supreme Court of New South Wales—who should reside in this district and administer justice locally. For the post Judge Willis was selected, and he arrived in Melbourne on 9th March, 1841. He appears to have been imbued with an old-fashioned regard for form and ceremony, and to have placed a high value upon those formalities which used to be considered appropriate, and even essential, for the maintenance of the dignity of the judicial office. Thus we find that on the first Sunday after his arrival he attended divine service at St. James's in an official manner, supported by the officers of his retinue. That he had an honest intention to faithfully discharge his duties, and anticipated that difficulties would attend them, is evident from the language he used in his first public utterance at the opening of the court on 12th April, 1841, for he then said:—"I candidly avow my knowledge of the dangers to which a resident judge is exposed, and I do so trusting that this knowledge will enable me to avoid them." The building which, during Judge Willis's term of office, did duty as his court was a single room situate at the south-west corner of Bourke and King streets, with a small lean-to at the back for the judge's chambers. There were no cases for trial at the opening of the Civil Sittings, a fact which called from His Honor the remark that he was glad to see that the inhabitants of the district were so well disposed towards each other. A journalistic wag noted that the Bar looked grim at these words. The Bar at that time could be numbered on the fingers of one hand,

and consisted of Messrs. Croke (Crown Prosecutor), Barry (afterwards Sir Redmond Barry), Pohlman (later judge in Insolvency), Brewster, and Cunninghame, all of whom were admitted on the first day of the sittings. It was consistent with the judge's regard for ceremony that he should insist upon the Criminal Sessions being opened with prayer by his chaplain, the Rev. Mr. Thomson. At all criminal trials the judge insisted upon the justices who had sat in the lower court taking a place by his side—not so much with a view of affording him assistance, but rather that they might have a practical lesson in the administration of justice. It was for a breach of this rule that Mr. D. C. Simpson, P.M., once got into hot water with His Honor. The judicial eye was keen to detect any infringement of the rules of forensic etiquette, and a barrister who ventured to appear in court wearing a moustache was severely taken to task for not being shaven, and was threatened with all sorts of pains and penalties if he repeated the indecency. It was, in the judge's view, an impropriety deserving the severest censure for a barrister to own a thoroughbred horse and advertise the fact in the papers, while the admission by one of the counsel appearing before him, that he had given a bill in part payment for a piece of land, sent the judge into a paroxysm of indignation.

A lack of courtesy too frequently characterized the conduct of the judge towards the gentlemen whose business it was to practise before him. It is to his credit, however, that in this respect he was impartial and made no distinctions among those whom he thus treated. When refusing an application made by Mr. Brewster, under Rules of Procedure which had just been adopted, His Honor said—"I am the judge and not the counsel or special pleader in any suit which may be instituted"; and when Mr. Brewster thanked him for what he had said, the judge replied—"You have only to thank me for a strong expression of what strikes me as ignorance on your part." Shortly after this he attempted to browbeat Mr. Barry, charging him with misleading the court, and threatening to punish him when Mr. Barry expressed his resentment at such an accusation.

A continuance of pin-pricks like these, though irritating enough to those attacked, and incompatible with judicial dignity, would, in themselves, perhaps, scarcely justify a charge of misbehaviour as a judge; but when Mr. Willis extended the scope of his criticism to matters and persons not officially before him, and failed to observe the injunction "*Ne sutor ultra crepidam*," he was treading on thin ice. He seems to have been lamentably unmindful of Lord Bacon's requirements in a judge, that "patience and gravity of bear-

ing is an essential part of justice, and an overspeaking judge is no well-timed cymbal," and to have forgotten that "judges ought to be more learned than witty, more reverend than plausible, and more advised than confident." The public press used very plain language in its criticisms of the judge's conduct, and there gradually grew up a strong body of public opinion opposed to his administration of the judicial office. At length representations were made by a number of influential citizens to the Executive at Sydney, setting forth statements upon which a request for his removal was based. The Governor, Sir George Gipps, who had not long before visited the district and been entertained by the judge at his villa at Heidelberg, acted upon the representations made to him, and an order of the 17th June, 1843, was passed for the removal of Mr. Willis from the office of judge of the Supreme Court of New South Wales. All this was done behind the back of the judge, for no notice of the proceedings had been given him. On the 24th June he took his seat on the bench, and was hearing arguments in the first case in the list when he was suddenly called out of court, and retired to his room. There a packet was put into his hand, containing a letter from Mr. La Trobe, conveying the order for his removal, which had just arrived by the overland mail from Sydney. On returning, after a few minutes, to the bench, he said:—"Circumstances have occurred, over which I have no control, which render me unable to proceed with this business, or to take any steps in criminal matters."

Thus ended the career of John Walpole Willis as a judge. Referring to the judge's removal, Mr. M'Combie, in his "History of the Colony of Victoria," says:—"The people appeared to think that in Mr. Willis they had a sincere friend, and when the intelligence spread that he had been dismissed upon a hole and corner petition, and that no opportunity had been afforded him of defending his conduct, public opinion turned in his favour and against the Governor." Mr. Willis took his departure on 13th July, 1843, in the *Glenbervie*, and was accompanied to the wharf by about 400 of the citizens, who, it is said, appeared much affected by the event.

The judge had a large number of sympathizers among the citizens of Melbourne, and the treatment he received from the Governor was not allowed by them to go unchallenged. The *Port Phillip Patriot*, owned by John Pascoe Fawkner and edited by Alderman Kerr, thus referred to the matter:—"It is not to be supposed that the colonists of Port Phillip will suffer Judge Willis to be sacrificed to gratify the despicable clique from whose tyranny His

Honor has rescued the community.” In compliance with a numerously signed petition, the newly-elected Mayor, Mr. Condell, called a public meeting, and at it, Mr. Kerr being chairman, resolutions were adopted condemning the action of the Executive, and proposing to petition the Crown on behalf of the judge. The *Port Phillip Herald*, on the other hand, was so delighted with the turn events had taken that it could not wait till its usual day for publication, but issued an extraordinary, “for the purpose,” so it said, “of announcing at the earliest possible period the gratifying fact that Mr. J. W. Willis has been suspended from his functions as a judge, and ordered to repair to Sydney to answer the many serious charges brought against him by the inhabitants of Port Phillip.” A day or so later the same paper said:—“When the intelligence of Judge Willis’s removal was received in Melbourne, the herd of sycophants and hangers-on who had built their fortunes on their intimacy and connection with the disgraced administrator of justice, as might be supposed, were sorely taken aback.” A more temperate attitude was assumed by the *Port Phillip Gazette*, of which Mr. Arden was proprietor, for it said:—“That the removal of His Honor is a matter of gratulation to some in this province we shall not even attempt to deny. Who can discharge the duties of a resident judge impartially and not give offence? It must be remembered that His Honor has even been sneered at and insulted, that schemes of villany have been unravelled in his court, that intrigues and even plans of glaring depravity and dishonesty have been exposed by him in his capacity of a judge. He may have expressed his disgust at the prevailing evils he witnessed around him in too strong terms for a judge—he may have spoken warmly when indignant at the conduct of bad and wordly-wise men. If this be misbehaviour, then Mr. Justice Willis has misbehaved. We like him the better that he has never administered one kind of justice to the rich and another kind to the poor. We have never heard a poor man speak of him except with respect, and we have never heard that His Honor refused to hear a poor man either in public or private.” Party feeling in the district was then running very high over the first election of both political and municipal representatives, and it may be that the attitude of the parties towards the judge was a reflex of that feeling.

On his arrival in England Mr. Willis presented a petition to the Privy Council against the order of Sir Geo. Gipps removing him from office. The case was for a long time in various phases before that tribunal, until at last, in July, 1846, a report to Her Majesty was made. Counsel for Sir

Geo. Gipps said that the conduct of the appellant was of such a nature that the Governor and Council thought it their bounden duty to the Crown and to the colony to remove him as the only means of restoring peace and tranquillity to the district over which he presided as a judge, and to infuse a just and proper confidence in the administration of justice and in Her Majesty's Government in the colony. His occupation of the judgment seat was, in the opinion of the Governor and Council, incompatible with the peace and good government of the colony.

Their Lordships reported that the Governor in Council had power to remove the judge, and that on the facts established there was sufficient ground for his removal; but he should have had some opportunity of being previously heard, and the order of 17th June, 1843, should be reversed. In the result, Mr. Willis was entitled to, and received, his salary for the three years since his removal.

No further appointment was given to the ex-judge, but he did not remain idle, for in 1850 he published a work on the government of the British colonies, in which he put forward the somewhat whimsical view that a colony should be dealt with as an English county, presided over by a lieutenant, and have certain powers of internal taxation, with the right of representation in the Imperial Parliament. The ex-judge died in the year 1877 at the age of 84.

To speak of Melbourne, as Mr. Willis is reported to have spoken, as "a miserable little town, where everyone knows everyone's affairs, and frequently states more than the truth respecting them," was surely an indiscretion, for it was certain to irritate and raise resentment. Such language seems to indicate an embittered feeling towards the community, whose rights it was his duty to protect and whose laws it was his duty to enforce. The judge was, no doubt, well aware that dissatisfaction with his administration existed, and he may have had some prevision of the calamity that was shortly to overtake him. Worry and anxiety may therefore have led him to speak so contemptuously and at the same time so indiscreetly. One cannot but feel sympathy for a man in his position. The social isolation which to a certain extent is always felt by the judges must, in his case, have been experienced in a great degree, the area of social intercourse available for a judge in such a small community being necessarily much limited; so that while condemning the errors into which Judge Willis fell, we shall do well to remember that there were extenuating circumstances, and that he is entitled to what weight they may have in our judgment.

That Mr. Willis was an able lawyer was admitted by those

of his contemporaries who were qualified to express an opinion, but his eccentricities of manner, his irascibility of temper, and his meddlesomeness in affairs which did not concern him as a judge, seem to have utterly disqualified him for the judicial office.

Having sketched the man, let us now try to get a view of the community with which he was associated, and the social conditions existing in and about the period of his residence here. In the first place, it is to be borne in mind that this State at, and for ten years after, his arrival in Melbourne was an outlying portion of the colony of New South Wales, and that it was governed by the Governor and his Council at Sydney. Mr. La Trobe, the Superintendent of the District of Port Phillip, under the executive at head-quarters, had been in command for only 18 months when the judge arrived. Indeed, not more than five years had passed since Batman and Fawkner and their pioneering associates had landed on these shores, so that the settlement was verily in its infancy. But during those five years its population had increased from 224 to 11,738, of whom about 4,500 were in Melbourne. In 1841 the wave of immigration appears to have reached a maximum, for during that year there was an influx of ten thousand, four-fifths of whom were assisted immigrants; but statistics show that for the next few years the number who arrived under Government assistance diminished to a very marked extent. Judge Willis's advent was almost synchronous with a severe financial crisis, which affected not only the district but the whole of the colony. In Melbourne the distress was very severe, for trade was bad, and most of the merchants and many of the stock-owners were passing through the Insolvency Court. The depression, Mr. M'Combie states, was occasioned by the cessation of immigration, over speculation, and extravagance. Real property became so reduced in value that only about one-tenth of its former price could be realized for it. Sheep and wool had fallen immensely in value. "Capital still poured into the colonies, but it failed to support prices at the extravagant height which they had attained. A great increase took place in the number of mercantile failures; and, as most parties were more or less connected with each other by the extensive system of credit that had prevailed, each successive insolvency dealt a blow on every side, and exploded a portion of the estimated means of the community. Property began to be forced into the market; and those who were still enabled to retain their possessions generally borrowed or mortgaged to the utmost extent, either to facilitate their commercial operations or to complete some series of improvements that had been

begun during more propitious times.”* But that the dark clouds of depression were lifting, and rays of returning prosperity were breaking through before Judge Willis’s term of office was so abruptly closed, appears from the following observations made by him, which I have transcribed from a manuscript found among his papers:—

“ When I made a few remarks, at the end of the last term, clouds of embarrassment and distress overshadowed the Australasian colonies, and even this province was in some measure darkened. I then ventured to predict that, by *mutual forbearance* and *perseverance*, here at least all the impending danger would be dispersed. The dayspring of reviving prosperity has, I rejoice to say, again dawned upon us; but had I closed this term in a state of general affairs as doubtful as when the last was terminated, I should not have hesitated now, as I did not hesitate then, to declare my decided and unalterable opinion that *forbearance* towards each other, and *perseverance* under whatever difficulties, under whatever privations, afforded the only chance for the return of better times. I should be ashamed now to speak in a tone of triumph had I not spoken formerly in a tone of exhortation, and recommended patience under previous difficulties. It is because I presumed to tender my advice in times of embarrassment and distrust, and because I then neither flattered nor deceived, that I now venture to offer my congratulations on the extinction, in a great measure, of the embarrassment that threatened, and on the approach of that sounder state of commercial, pastoral, and agricultural business in which the honour and happiness of this settlement is so deeply involved. It is not displeasing nor unprofitable to look back upon the dangers that are passed, and to compare them with the scene that presents itself. We now behold a province inferior, perhaps, in population to most of the neighbouring colonies, but multiplying her facilities and resources by her own activity and enterprise, by moderation and resolution, and by the good sense of the inhabitants. We behold this province, after a struggle with great mercantile and monetary pressure, without permanent aid from any company or from the parent Government, without the charlatantry of puffing or the vaunted mainspring of the self-supporting system, boldly weathering the storms, true to her engagements, free from insolvencies to any great extent, and increasing daily in wealth and felicity—in a word, like charity itself; ‘bearing all things, believing all things, hoping all things, enduring all things,’ at a time when surrounding colonies are said to be almost on the brink of ruin. This is

* Westgarth, “Australia Felix,” p. 185.

matter of proud congratulation, and I sincerely offer it to this community."

When the judge took leave of Melbourne he left behind him a score of manuscript volumes containing, in a neat legible hand, notes of the evidence given at the trials, both civil and criminal, which had been heard by him from the day when he began his judicial career in Sydney until its dramatic termination here. Those volumes were left with a firm of solicitors, and in due course found their way into the possession of Mr. Savage, who has courteously presented them to the Historical Society of Victoria. A perusal of these notes covering the two years of the judge's work in Melbourne shows that human nature in this part of the world was then pretty much the same as it is now. There were then, as now, people who would not, or could not, pay their debts, bills of exchange were dishonoured, bitter feeling led to evil speaking and thus to libel actions, and even in the early period of Melbourne's history juries were appealed to by broken-hearted maidens for the solatium which a verdict for damages might afford for blighted prospects and broken vows. As one reads the evidence given in cases arising out of the ordinary transactions of commercial life one naturally meets with the names of many who took leading parts in the building up of the colony. Thus we find, in an action for £80 passage money for a lady and child to England, that Mr. J. B. Were was the agent for the vessel, the *Edwin Bourne*, and in an action on a bill of exchange the same gentleman proves the defendant's signature, while Mr. Gurner (afterwards Crown Solicitor) produces the writ of summons. Mr. Fawkner sues for the use and occupation of a house, while Mr. Liardet, the first settler on the beach—later called Sandridge—is sued for the balance of an account for timber. Mr. Robert Russell, the well-known surveyor, gives evidence, in an action by an architect for his fees, that it is well to retain the English custom of charging 5 per cent. on the contract price to cover plans and specifications. There appears to have been considerable business done by auctioneers those days, and they received 5 per cent. commission on the sales and an additional 2½ per cent. for guaranteeing the purchasers' bills. Seventy years ago a well-appointed funeral was an expensive luxury, for if you wanted to be decently buried your executors would have to pay well for it. There was a case, presenting some rather gruesome details, in which an undertaker claimed £20 10s. for making a coffin and supplying hat-bands, gloves, and other essentials for the burial of a body found in the Merri Creek. The only breach of promise case recorded in the judge's notes disclosed

lamentable faithlessness on the part of the defendant—a young policeman—for the wedding breakfast had been prepared and the guests were anxiously waiting, but there was no appearance on the part of the bridegroom. A sympathetic jury promptly awarded the lady £100 wherewith to soothe her wounded affections.

In the administration of justice in the criminal jurisdiction the judge had material to gauge the state of morality among the settlers, and he had a clear appreciation of the deterrent effect of punishment. Transportation for periods varying from seven years to life one frequently finds as the punishment awarded for offences which would not now be considered very serious. The gentleman who had the honour of being the first to stand his trial before the Supreme Court in Melbourne was one Murphy, who had stolen a cash-box from the till in the bar of Thos. Halfpenny's public-house in Collins-street. The jury did its duty, and the judge his, for he awarded the larcenist seven years transportation. I am unable to state what part of the world was chosen as the dumping-ground for Port Phillip criminals. It could not have been Van Diemen's Land, for what authority had New South Wales to add to the already large number of convicts deported there? I am disposed, however, to think that a sentence of transportation was only another name for imprisonment in the local gaol. One notices that cases of petty larceny by domestic servants were of common occurrence. This, perhaps, is not to be wondered at, for the area of selection was necessarily limited, and many of those offering had doubtless already proved themselves to be light-fingered ere they came here. A young fellow in the service of Messrs. Arden and Strode, printers and publishers, received, at the first sittings of the court, a term of 14 years transportation for stealing a gold pencil-case and seal from his employers.

There were many conflicts between the settlers in distant parts of the country and the natives, and these led to killing and wounding on both sides. The natives were often aggressive, and caused annoyance and loss to the squatters by thefts of both sheep and cattle; on the other hand, there were instances of cold-blooded slaughter on the part of the white men in retaliation for such depredations. On the wisdom of providing stations for the natives where they might be kept by themselves, under Government protection, Judge Willis had very definite views, and he appears to have had a high opinion of Mr. G. A. Robinson, the Chief Protector of Aborigines. In addressing the jury on the trial of a number of natives of Van Diemen's Land, who had been brought over from Flinders Island, and had murdered some settlers,

the judge expressed his cordial assent to the importance which Mr. Robinson attached to the permanent location of the aborigines, and said that, whatever difficulty there might be in making reserves of land for the natives which should be really beneficial to them, he could not doubt the propriety of every effort being made for that purpose. "Had these unfortunate prisoners been permanently located according to Mr. Robinson's plan, in all probability they would not now have been arraigned as criminals at the bar of this court." His Honor then reiterated the opinion, which he had recently expressed, that the proprietor of a run may take all lawful means to prevent either natives or other persons entering or remaining upon it, and further said:—"I am convinced that until the natives become more civilized the tacit permission and frequently direct encouragement given to the wandering tribes to reside upon the stations of the settlers is, generally speaking, under all circumstances spurious humanity—it places temptation in their way and leads to aggressions which otherwise might never occur. . . . The liberality with which reserves have been granted by His Excellency the Governor for the different tribes of natives in this district has already been testified to by the Chief Protector, and that gentleman, I think, agrees with me that the confinement of the natives and the settlers to the limits assigned by Government to each, as well as every other effort for the civilization of the aborigines, will have the fairest hope of success if it be attended by the cordial co-operation of the settlers, which both feeling and interest must induce them to afford." The expression of this opinion on the part of the judge entitles him to be regarded as a man of liberal and humane sentiments towards the uncivilized native population. The question whether for acts of violence committed upon one another the natives were amenable to British law was considered by the judge on the trial of a native called Bonjon for having killed one of his own race. His opinion was that the aborigines were not, with regard to the prevalence of our law among themselves, in the unqualified condition of British subjects, and that in disputes among themselves they might be governed by their own ancient usages—that, in the words of Chancellor Kent in regard to the American Indians, they were "dependent allies (rather than subjects) under such constraint and qualified control, in their national capacity, as is considered by the whites to be indispensable to their own safety, and the requisite discharge of the duty of protection." As to the inability of the untutored savages to appreciate the criminal code applicable to the white man, the following statement regarding their ancient usages was made by Mr. Thomas,

one of the assistant Protectors, at the trial of Bonjon, when evidence was taken on the issue whether the prisoner was capable of pleading to the jurisdiction of the Court. Mr. Thomas said:—"The natives cannot account for death unless they see the stroke. They are sulky, and mourn till they get the fat of the kidneys of some other black. They place the body of a deceased member of their tribe on the ground, and dig a trench round it. Then they look for, and locate, the largest hole of an insect, and the first man they see in the direction of that hole they consider to be guilty of killing their friend. They hold a service over the body, if that of a man, for the purpose, as they think, of informing him of their intention to avenge his death. They imagine the deceased answers, and directs them to the murderer, in the direction of the insect's hole already located. They have a complete system of punishment among themselves appropriate for every sort of offence committed. Thus killing a dog is punishable by two or three blows with a waddy by the owner of the dog upon the person of the party who killed it." He instanced a case where a young Goulburn black had been killed by a Barrabool black because the father of the deceased had killed the murderer's brother. The father was dead, so the son was killed in retaliation as being the nearest relative. The jury, in Bonjon's case, were not satisfied that the prisoner appreciated the nature of the offence with which he was charged, or was of sufficient intelligence to plead. Accordingly the Crown Prosecutor decided not to proceed further with the case. In this connection it may be pertinent to quote the language of the judge in addressing another native who stood before him a prisoner at the bar:—"For protection and for responsibility in his relations to the white man the black is regarded as a British subject. In theory this sounds just and reasonable, but in practice how incongruous becomes its application! As a British subject he is entitled to be tried by his peers. Who are the peers of the black man? Are those of whose laws, customs, language, and religion he is totally ignorant his peers? He is tried in his native land by a race new to him, and by laws of which he knows nothing. Had you, unhappy man, had the good fortune to be born a Frenchman, or been a native of any other country but your own, the law of England would have allowed you to demand a trial by half foreigners and half Englishmen. Without a jury of your own countrymen, without the power of making adequate defence, or speech, or witnesses, you are to stand the pressure of everything that can be alleged against you, and your only chance of escape is, not the strength of your own, but the weakness of your adversary's case." Though

such an harangue to an untutored savage evinced a deplorable lack of humour in the judge's constitution, it shows that he knew the law and had the courage to state his disapproval of it.

The trial, in December, 1841, of Mr. Bolden, a respectable settler, on a charge of shooting a native, excited considerable public interest. Mr. Sievright, the Assistant Protector in the Western District, had committed the accused for trial. In the judge's notes we find—"Mr. Barry addressed the jury in an able speech," and then the following memorandum:—"I strongly censured Mr. Sievright's conduct for bringing forward such a charge as this, which rested solely, as regards the identity of Tachier, on the hearsay evidence of a savage boy of 9 or 10 years of age. I told the Crown Prosecutor that there was no evidence that I could receive to show that an aborigine named Tachier had been shot at. I told the jury that the information could not on the ground be sustained, and that they must acquit the prisoner. Mr. Croke persisted that the evidence was sufficient, and that he would file a thousand informations on the same evidence. I said—Then, if so, I must represent your conduct in improperly wasting the time of the public and putting the Government to unnecessary expense. The jury immediately acquitted the prisoner."

From the foregoing extracts, and much more that is contained in the judge's notes, we are afforded a glimpse into the social condition of the young community for whom it was his duty to administer justice during the space of about two years. That his task was not a light one is clear, and that his position was surrounded with great difficulties is equally certain. If it be that Judge Willis fell short of complete success in the judicial office, yet the volumes of notes which he left behind him are evidence that, at any rate, he was a painstaking and conscientious worker.

NOTES AND QUERIES.

[Under this heading it is intended to publish short articles or paragraphs containing items of historical interest, as well as queries likely to elicit information of value. Contributions of either description are solicited from members of the Society and other readers of the magazine.]

EARLY ST. KILDA.—The ship *Glen Huntley* arrived in Hobson's Bay on 17th April, 1840, with fifty passengers fever-stricken. A young man dying on the 22nd was buried the next day. The *Port Phillip Herald* states that a quarantine

station was formed on the beach adjoining the Little Red Bluff, four miles from Melbourne, and that the sick were landed on the 24th and the healthy on the 26th April. Another death occurred in May, and an old man died on the 22nd of the same month. Some of the passengers were released on the 1st of June, the others to remain a month longer.

In December, 1841, it is remarked that the beautiful shores of our bay, in the vicinity of Red Bluff and Brighton, have become a resort of numerous parties from town, some of whom have pitched tents and others erected temporary wooden houses for present accommodation, in order to enjoy for their families sea-bathing, and for themselves a place far apart from the dust and bustle of the town. The original plan of St. Kilda, however, indicates only one habitation, "Messrs. Thomas, Enscoe, and James's house" (on the future Esplanade, west of the monument). It also shows the site of the grave at the Bluff. In a plan dated a few months later the land around the present Christ Church, Acland-street, is styled the Green Knoll.

The village of St. Kilda, bounded by Barkly-street, Fitzroy-street, and the bay, was surveyed by Thomas H. Nutt in January and February, 1842, and the plan was laid before the Executive Council in Sydney on the 15th July, approval of the proposed name being conveyed in the Colonial Secretary's letter of the 29th August. Previously to this the coast-line had been surveyed and soundings taken by Grimes's party in 1803. On the 4th November, 1842, the *Gazette* notified that a site had been fixed for the village of St. Kilda, and the first sale by auction of the allotments was held on the 7th December. The name is said to have been suggested by the presence in the bay of the schooner *Lady of St. Kilda*, 136 tons, Captain Lawrence, which arrived in Port Phillip on 6th July, 1841, and, after visiting the intercolonial ports, sailed for China on 29th July, 1842. Eight shares out of this vessel's proprietary of sixty-four were offered for private sale by Messrs. Brodie and Cruickshank in July, 1843.

The municipal district of St. Kilda, proclaimed in 1855, did not include the original village, which in 1843 appears to have been under the District Council of Bourke, and from 1844 to 1857 formed part of the city of Melbourne, notwithstanding the petition presented by Dr. Nicholson to the Legislative Council of New South Wales on 31st July, 1845 "from certain proprietors and occupiers of property at St. Kilda," praying that it might be excluded therefrom. The existence of the two "St. Kildas" is still indicated by the use of the terms East and West St. Kilda.—C. HARPER.

The History of Settlement in the Western District.

By C. STUART ROSS.

(Read before the Society, 17th March, 1910.)

THE exploration conducted by Hume and Hovell in the years 1824-25 was the immediate cause of the movement which led to the permanent settlement, ten years later, of the Port Phillip district. Those two enterprising and experienced bushmen of the mother colony, chiefly at their own charges, set out to explore this hitherto unknown country; and they did it in face of the objection taken to the project by Mr. Oxley, Surveyor-General of New South Wales, on the ground that the whole region to the southward was "utterly useless for every purpose of civilized man." They crossed the Murray near the present site of Albury, and skirting Mount Disappointment passed over the Dividing Range in the vicinity of Kilmore. Descending thence into the plains, they reached the Werribee, and shortly after pitched their tents on the shores of Corio Bay. The reports which the explorers published on their return awakened in New South Wales, and especially in Tasmania, a deep and wide-spread interest in the Port Phillip district.

John Batman received directly from his old friend and fellow-townsmen, Hamilton Hume, a glowing description of the rich pastures which he had passed through, and he, along with some others, applied to the Government for permission to occupy for pastoral purposes a tract of land at Western Port. But the policy of the Government was to discourage dispersion of the population and settlement in districts that were out of reach of police supervision. The application of Batman and his friends was therefore refused. At length an association was formed, variously known or spoken of as the Van Diemen's Land Association, the Fort Phillip Association, and the Geelong and Dutigalla Association. It consisted of fifteen members, who were "regarded as men of character as well as position, of benevolence as well as enterprise," and the objects which they proposed "were declared to be pastoral pursuits and the civilization of the native tribes." It was decided to endeavour by direct negotiation and treaty with the natives of Port Phillip to acquire possession of lands within that territory; and John Batman, who, along with J. T. Gellibrand, was one of the prime movers in the enterprise, was sent to Port Phillip with a small party early in June, 1835, to carry out the objects which they had in view.

There is no need to linger on the negotiations resulting in the famous treaty, which was formally concluded with the native chiefs, by which 600,000 acres of land, including the

sites now occupied by Melbourne and Geelong, were, for certain considerations, conveyed to Batman and his party—a transaction which the Government firmly disallowed. Other intending settlers soon followed with their flocks and herds, undeterred by a proclamation issued by Sir Richard Bourke, notifying the public that the occupation of lands in the Port Phillip district was illegal, and that those who were in possession would be treated as trespassers, who at any time might be dislodged by force.

To Tasmania, or I should say Van Diemen's Land, then, we were mainly indebted for our first pioneers, and if we inquire into the causes which operated to produce so great an exodus of brave and enterprising colonists from that country we shall find them partly in the political troubles that arose from the military constitution of the Government, under the shadow of which free institutions, which are a Briton's birthright, can hardly prosper, and partly in the land legislation, which seemed to be hostile in spirit to pastoral interests, and forced the owners of flocks and herds to look across the Strait for relief from the difficulties and embarrassments of their position. "The *Impounding Act* of 1834," Fawkner said, "was the main cause of the migration of people from Van Diemen's Land to Port Phillip." "The establishment of seventy pound-keepers," he said, "lowered the price of cows from £10 to 10s." The land was held on harassing conditions. The occupier had to clear a certain proportion of it, and to feed and clothe the convict servants assigned to him. The *Fencing Act* of October, 1835, was restrictive of pastoral pursuits; and no wonder that the wide, free pastures of the "New Land," as it was called, allured so many across the Strait.

Sir Richard Bourke, forced at last by the bold, aggressive action of Batman and others into a reversal of his obstructive policy, prudently decided to guide the spirit of enterprise which he had failed to subdue, and, in reply to a petition for protection, he appointed Captain Lonsdale Police Magistrate, to maintain order in the new settlement on the banks of the Yarra.

The flattering accounts of Port Phillip received from Batman and others led David Fisher to forward to the "New Land," at various times in 1835, flocks of sheep aggregating 2,350, with 18 freed-men as shepherds, under the charge of Robt. Mudie. The last trip, however, ended disastrously. The ship encountered a fierce gale, and ran into Western Port, where they had to land the sheep, and out of the whole flock of 1,100 which were on board they recovered only 75; the others became a prey to the natives and dingoes, and Mudie himself lost his life by the capsizing of a boat.

Fisher's men took up part of Werribee (which was partly occupied by others), and he also formed a station at Indented Head.

Mr. Fisher waxed eloquent over the prospect in view as he stood on the present site of Geelong. "The splendour and magnitude of Corio Bay," he wrote, "the gentle rise from the bay to where we stood, about three-quarters of a mile, and the like gentle fall to the River Barwon, the You Yangs, Station Peak, the Barrabool Hills, with all the varied scenery of hill and vale around, clothed in the beautiful verdure of nature, seemed to proclaim the spot as the site of a great mercantile city." Mr. Fisher and his companion camped under a gum tree, on what is now known as La Trobe-terrace, tethered their horses in the valley, and walked to the top of Mount Moriac. Next morning they made the River Leigh at its junction with the Barwon, which Mr. Fisher selected as the site of his home station.

It fared ill with the Association which had led the way to these rich pastures. The whole matter of their claims was referred by Lord Glenelg to the Executive Council of New South Wales, and the only concession which they received was a sum of £7,000, which it was agreed to allow for expenses incurred antecedent to the publication of Sir Richard Bourke's proclamation prohibiting settlement in the Port Phillip district. Many of the members of the Association, dispirited at the prospect before them, had sold out their interest to those who were willing to buy. The few who clung to its fortunes for better or for worse purchased a block of 9,416 acres to the westward of Geelong, and received on the sale an allowance of £7,000. Mr. Fisher, who had entered into partnership with Messrs. Swanston, Mercer, and Learmonth, purchased the shares and interest of the Port Phillip Association and the new co-partnership took the style and title of "The Derwent Company."

After a brief stay in Van Diemen's Land, Mr. Fisher returned to Port Phillip for the purpose of forming the different stations afterwards occupied by his company, and pitched his tent at the south side of Geelong, on the north bank of the Barwon, near the present bridge on the highway to the Western District. Here he erected the first house in Geelong that was worthy of the name, using in its construction weatherboards of Van Diemen's Land timber. In September, 1837, he sailed to Van Diemen's Land in the *James Watt*, the first steam vessel that visited these shores. After he had settled his family in their new home at Barwon-terrace, he formed the Mount Mercer and Wardy Yalloak stations, and then, accompanied by Major Mercer, Geo. Mercer, and overseer Anderson, he went on an ex-

ploring expedition to the interior. The party travelled from Wardy Yalloak to Mount Elephant (which was sometimes called Mount Terinallum, but named Elephant by Mr. Fisher's party), through 22 miles of ti-tree scrub, and moving thence to Mount Shadwell they took up country there, which was their furthest out station from Geelong.

Mr. Fisher has left on record an amusing incident of this tour. While he and Major Mercer were shaving, the operation was eagerly watched by the natives, who seemed to be much amused, and one of them desiring to be trimmed, Mr. Fisher undertook the task, which he accomplished amid the yells, shouts, and laughter of some fifty aborigines, with their lubras, who enjoyed the affair very much. Mr. Fisher said he didn't "suppose that black was ever shaved again, for his beard was very hard and the razor none of the best."

In 1836 Mr. A. Thomson landed sheep from Van Diemen's Land at Point Henry, then known by the native name Maloppio, and occupied country as a sheep station near Geelong. He held also, for Captain Swanston, a cattle station at Indented Head. At this time Cowie, Stead, and Steiglitz had the whole Western District to themselves for upwards of a year, settlement being hindered by fear of the blacks. They were afterwards joined, among others, by Darke, Sutherland, and Captain Pollock, who gave his name to the ford.

Another company now entered the field, which contributed largely to the development of the pastoral industry in the colony. In March, 1836, Mr. Geo. Russell crossed the Strait, and was so charmed with the Leigh Valley that he decided to settle there. He accepted the appointment of local manager of the Clyde Company's business. That was a company formed in Scotland for the acquirement of pastoral properties in the Port Phillip district. He made his headquarters at the Leigh, and gradually assumed control of large tracts of country—Terinallum, Nerrin Nerrin, Leslie Manor, and other runs. The dissolution of this company was determined on about 1856. It began operations towards the close of 1836 with a capital of £10,000. In 1841 that was augmented by a sum of about £6,000, subscribed for the purchase of the land in the valley of the Leigh. For 21 years an ever-growing volume of prosperity marked its operations under the astute and efficient management of Mr. Geo. Russell, and the whole amount of property sold, including the profits divided during two or three years, reached a total value of upwards of £250,000.

Mr. James Thomson, the first physician and catechist in the service of the Port Phillip Association, took up country at Geelong, at Barwon Falls, his run bearing the name of Kardinia, the aboriginal word for "sunrise."

In September, 1837, Mr. Learmonth, with a party, explored the Cloven Hills and Lake Purrumbete country, and on his return he and his brother removed their flocks from Barwon, where they had first settled, and pitched their tents at Buninyong. The year following they leased from the Crown Burrumbeet and the Maiden Hills, and all the country around Mount Misery. Compelled to camp for a night on the mount, Mr. Learmonth and his party could find no water to allay their thirst, and they left in the name which they imposed upon it—Mount Misery—a memorial of the experience through which they had passed. The Learmonth's called their run Ercildoun, that having been the ancient home of Thomas Learmonth, better known as Thomas the Rhymer, Scotland's earliest poet and romancist, whose prophecies towards the close of the 13th century won him wide celebrity, and from whom the Learmonth family claimed descent.

At this time a fleet of from 15 to 20 small vessels, each carrying from 300 to 1,000 sheep, were employed in conveying stock from the Tamar to Port Phillip from January to the middle of May, during the prevalence of easterly winds in Bass Strait. Sheep cost from 20s. to 35s. per head, and expenses of freight 5s. or 6s. more. The first stations began with flocks of from 500 to 1,500, and one or two, such as the Clyde Company and the Derwent Company, had 3,500 ewes.

News of the loss of Gellibrand and Hesse, and the fact that the aborigines were committing depredations within 15 miles of Geelong, made settlers afraid to penetrate into the interior with their flocks, and for a considerable time they were grouped in the vicinity of the bay. In occupying country there was a tacit understanding that no new station was to be formed within three miles of another; and though, in spite of that, feuds and quarrels sometimes occurred, yet generally consideration was shown for the rights of others.

Geelong had no land sale till February, 1839. There were very few houses there before the survey. Mr. Strachan built the first store. He was followed by Rucker and Champion. Mack had the first hotel, and on a wide space in front travellers' horses were tethered at night. For a time Geelong ran Melbourne so closely that it was once thought likely to become the capital of the colony. The bar was the standing hindrance to the expansion of the town. Only small vessels of 300 tons could come to the jetty and unload. The larger vessels lay at Point Henry, four miles distant. Captain Fyans, like Westgarth, believed that Geelong missed its destiny through official blundering. "The great mistake," he said, "my good and

worthy friend Sir Richard Bourke made is not placing Melbourne where Geelong is." At the sale of Geelong lands held in Melbourne in January, 1845, the local press reported as follows:—"Bidding for Melbourne lots was languid, but when the Geelong suburbans were put up a spirited competition arose. Lots offered for £2 brought £13." And the proud comment was added—"This must have opened the eyes of the Melbournites not a little as to the respective estimation in which the two townships are held."

The impression now got abroad that the lands abutting on the coast would be the earliest submitted for sale, and, in spite of apprehensions of perils from blacks, settlement in the country now went rapidly forward. The Crown lands were occupied under the same regulations that were in force in New South Wales. On their application for runs, licences chargeable with an annual fee were issued to owners of stock, the extent of country allocated to each applicant being proportioned roughly to his actual requirements. No compensation was allowed for improvements, and the licence, which was only for one year, was renewable, provided that no objection were raised by the Commissioner, and that the land so occupied was not required for other than pastoral purposes.

Mr. J. N. M'Leod landed at Indented Head with sheep from Van Diemen's Land in July, 1837. With a party of seven he explored the country around Lakes Colac and Corangamite. He claimed to be the first who had gone round the latter lake. The furthest out station at that time was Ricketts's, on the Barwon, forty miles from Geelong. He had been there only a few weeks, during which the blacks had looted his camp, and were constantly driving the shepherds in with their flocks. In October M'Leod took up Borhoneyghurk, on the Moorabool, 35 miles from Geelong. James Austin and Geo. Armytage now settled on the Barwon, and the Messrs. Bolden were in possession of the Firron Yallock run.

THE COLAC COUNTRY.

This was first occupied in September, 1837, by Mr. Hugh Murray, who heard of it from a party of fourteen who had gone out in search of Gellibrand and Hesse a few weeks earlier. Mr. Murray was followed by others, who joined their flocks together for mutual protection. Briggs (for Captain Fyans) took up the unoccupied country around the lake, which he stocked with cattle brought from Sydney. The natives in this district were very troublesome, and conflicts with them were frequent, and all the original settlers here, with the exception of Mr. Murray and Captain Fyans, sold their interests in consequence of the heavy expense and the serious difficulties they had to contend with.

Mr. Wm. Robertson, who arrived from Van Diemen's Land in 1842, purchased from Captain Fyans 27,000 acres of rich volcanic soil lying along the slopes of the Warrions. It was put on record by Mr. Geo. Russell, of Golf Hill, that, earlier than 1842, Mr. Robertson had made a visit to Port Phillip, in company with Mr. Gellibrand, and had received in gift the whole of the Barrabool Hills from Buckley, the wild white man, who claimed that whole tract of country, alleging that it was his by gift from the native chiefs. On one occasion he acted as guide to a party from Hobart, who went on a walking excursion in search of pasture land around Geelong, and when Buckley saw Mr. Robertson, a tall man of powerful physique, take his knapsack from Mr. Gellibrand, who was showing signs of fatigue, and carry it, along with his own, he was so pleased with the kindness of the act, and with the lofty contempt of weariness which it embodied, that, with a sweeping gesture of the arm towards the hills, he presented him with all that country; and, according to the testimony of the late Geo. Russell, "many persons for some time respected Mr. Robertson's claim to it, and would not occupy it without his consent."

Before passing from this district I may mention here that Augustus Morris, who came from Van Diemen's Land, and passed through trying times at Colac, sold out his interests to Benjamin Boyd, round whose fate a veil of mystery hangs. He arrived in his yacht from London, arranged a hasty visit to Colac, bought Morris out, giving him 7s. a head for his sheep, and left him in charge. He made other investments in station property about Eumerella, and appointed as his Port Phillip manager Robert Fennell, who was married to a daughter of John Batman. But the fall in prices of stock which had now set in went on continuously till 1844, so that Boyd effected large purchases at low rates. But his great schemes for gathering wealth ended in disaster. He sailed in his yacht to the Pacific Islands, landed on one of them, and was never seen more.

In 1839 Captain Fyans spoke of the "magnificent and splendid country" between Timboon and the Hopkins River, "which can't be surpassed for agricultural purposes, lying waste and idle, with only an odd flock of sheep here and there, and fine bullocks with hundreds of square miles to range in." But that fine country was not left long unoccupied. In 1839 G. D. Mercer held Timboon temporarily for the Manifolds, who settled at Purrumbete and Mount Leura. Taylor took up Mount Noorat on account of M'Killop and Smith, who sold to Finlay, Gladstone, and Black, and the Mount Shadwell country passed from the Derwent Company into the hands of Captain Webster. The Derwent Com-

pany was dissolved in June, 1842, when Warrambeen was allotted to G. D. Mercer's father. Dr. Curdie, the genial and much travelled botanist, took up Tandarook. J. L. Currie, in 1843, along with Thos. Anderson, purchased Larra from Jas. Kinross; Timboon and Wooriwyrite were included in Geo. Ware's pastoral lease of Koort-Koort-Nong; Messrs. M'Arthur and Cole had Meningoort and the Cloven Hills, and John Thomson had Keilambete. When the surveyor was surveying the town, he asked Dr. Curdie who was the oldest settler in the district? "Duncan M'Nicol," he was told. "Duncan—Admiral Duncan—won the battle of Camperdown," he said; "we'll call it Camperdown."

PORTLAND DISTRICT AND PORT FAIRY.

Sealers were established on different parts of the coast and on the adjacent islands at a very early date. They had permanent dwellings, and to some extent cultivated the soil. The first settler there known to history was Wm. Dutton, who, after visiting the bay as a whaler, established his quarters there so early as July, 1829. The Messrs. Henty had come from England to Swan River, and, dissatisfied with the state of things there, had passed on to Launceston, but, finding the door of free grants in that colony just closed, they sailed to Portland in November, 1834, and received hospitality on their arrival from Mr. Dutton. Mr. Thos. Henty, finding the country to his mind, applied for a block of 2,500 acres for himself and for each of his sons, on terms of purchase which he proposed. As he received no reply to his communication, he and his family quietly settled down in occupation of the land.

About the time of the arrival of the Van Diemen's Land settlers at Fort Phillip, an expedition was fitted out by the Government at Sydney, under Major Mitchell, Surveyor-General of the colony, to explore the Port Phillip district. On his arrival at Portland Bay, in August, 1836, he was surprised to find a large whaling establishment there, the property of the Messrs. Henty. From them the Major and his party received much-needed supplies, and reported so favourably on the grazing capabilities of the country to the northward of the port that Edward Henty took immediate steps to form sheep stations at Merino Downs, Muntham, and Sandford.

A stream of immigration now (1837) set in from New South Wales, set in motion not by political causes, as we found to be the case in Tasmania, but by three successive years of wasting drought, which desolated vast areas of the pastoral lands of the mother colony. Major Mitchell's report of the fat pastures which he had traversed in the official tour which

he made through Australia Felix, published about the time that flocks were pining in rainless regions of the north, determined a large number of the more enterprising of the stock-holders on the outskirts of settlement in New South Wales to move down to this more favoured country, and the "overlanders," as they were called, now spread out over richly grassed downs and green vale and river bank, and occupied extensive tracts of waste lands as tenants of the Crown.

But reports of the journey of Major Mitchell over Western Victoria arrested the attention of people across the seas also, and were the occasion of the emigration of some of our best and most intrepid pioneers from the United Kingdom to the region described in glowing terms as Australia Felix, and stock-owners began now to push back from the sea-board, the earlier settlers having largely confined themselves to the coast-line. Wedge Brothers removed to the Grange, M'Culloch took up the Retreat station on the Glenelg, Whyte Bros. occupied Koonongwootong, and Mr. J. G. Robertson Wando Vale and Latimer.

The revenue from licences in the Portland district in 1840 did not exceed £150. But when it came to be known in Van Diemen's Land that the Hentys had opened up a road into the interior, many others followed, until all the country round about was taken possession of. In October, 1840, the first land sales were held, some of the blocks here realizing at the rate of £1,600 per acre. During 1845-6 there were 400 licences granted in a district which had hardly a dozen Europeans in it in 1839. The prosperity of the Portland district may be gauged by the fact that in 1845 Bells and Buchanan, of Melbourne, had £30,000 deposited in their hands by different settlers, whose wool they had purchased, or upon which they had made advances for the purpose of buying sheep for stations in the district.

Captain Jas. Wishart, in his sealing cutter *The Fairy*, anchored at and named Port Fairy in 1827. Roby and Penny had a whaling station here before 1834. Captain John Griffiths's old whaling company imported stock from Van Diemen's Land, and maintained extensive stations on the coast between this and Portland Bay, and had their headquarters here. Captain John Mills and his brother Charles, and Captain Alex. Campbell, were important factors in promoting the material prosperity of the district. P. D. Rose, of Rosebrook, occupied country here in 1843.

Enterprising settlers from North Britain took up sheep or cattle stations a few miles distant from the port, and introduced into the bush homes which they built for themselves in the wilderness glimpses of the scholarship, courtesy, and

refinement of the old world. Prominent among these were Campbell, M'Knight and Irvine, the proprietors of Dunmore. Irvine had come from the old historic tower of Drum, which yielded in point of antiquity to no other stronghold on all Deeside; "his family," the chroniclers say, "being one of the most ancient, brave, and honourable that could be found," who, to the serious "loss and curtailment of their once large estate," were always taking up a valorous part and standing up boldly for their King.

In 1840 stock continued to pass down from New South Wales by the Major's Line, which was said to be furrowed by dray tracks, but the plains to the south-west of Mount Cole remained unoccupied, the prevailing feeling among settlers at that time (1841) being that the plains were not suited for flocks. It was believed that the want of shelter both from the rays of the sun in summer and the fierce, keen blasts of winter would seriously affect the condition of stock. Many consequently had passed over the Fiery Creek district and gone further west in quest of better country. In 1841 the Fiery Creek was dry, and for 20 miles there rose from its bed a smoke as if it were on fire, hence, according to the late Mr. Thos. Chirnside, its name. In 1842 the plains were poorly grassed, and for want of water between Mount William and the Fiery Creek a large tract remained unoccupied till some years later. The same year Lake Bolac was dry and stock grazing on its weedy bed.

Flock-owners, then, passing through these plains, went further afield in quest of permanent water, and entered the Wannon country, which seemed to fulfil all the conditions of successful pastoral life. Its rolling hills, clothed with pastures which waved in the breeze, greatly attracted and charmed them. "No country like it for sheep," the owner of Koonongwootong said to me one day as we sat on the hillside behind his homestead, gazing on the beauty of the scene. Niel Black had brought him out from Scotland to take charge of his flocks at Noorat, and, in a few years, by keen, shrewd Scottish frugality, he had saved money, which he invested in stock, and had just paid down, he informed me, £30,000 cash for another station adjoining his own. Thos. Chirnside and others took up country here. Duncan M'Rae arrived from Van Diemen's Land with 800 sheep and other stock, implements, and station supplies for a year, all of which were safely landed at Portland Bay in March, 1840. Hearing of the Wannon country, he went thither and took up the Glenorchy and Glenlivet runs. His first season's clip of wool was sent to Launceston, but the following year he took it on a bullock-dray overland to Geelong, whence he went on to Melbourne, where he was married to Miss Janet

M'Rae, at Scots' Church, by the Rev. James Forbes, M.A. The bridegroom and his bride then rode from Geelong to their home on the Wannon, a distance of some 200 miles. Mr. John G. Robertson, who came from Van Diemen's Land in 1840, carried letters of recommendation to the Messrs. Henty, and took a run adjoining theirs.

It has been left on record by early settlers that on 11th November, 1844, there was a severe frost, which killed all the blackwood trees and the shrubs known as *Acacia glutinosa*.

Savage and Dana, in March, 1840, took up Nangeela, on the Glenelg, and the remaining country was soon all occupied. Although there seem to have been wide spaces of land available, yet some of the established settlers resented the intrusion of strangers, which led to quarrels about boundaries that required the intervention of the Crown Lands Commissioner, who had sometimes duties of a peculiarly arduous kind to perform.

1842-45.

About the year 1840 a number of young men came to the colony with small capital—a few hundred pounds each. They took up runs with 300, 400, or 500 sheep, and clubbed together for mutual protection as well as profit. But they made poor colonists. They spoke of the success they would achieve, and the wealth they would win, but they "wanted the palm without the dust," as Lord Rosebery's tutor is reported to have said of him in his youth. They put no energy into their work, and soon lost taste and capacity for it, and when the great crucial years came—1842-45—most of them, with all their possessions, were swept off their runs. "About twenty men of that sort in the Portland Bay district," Mr. J. G. Robertson said, "who were all fast men, were sold off." Only one of the original settlers in a wide area, who had courage and force to weather the storm, survived the financial disasters of that period. The depreciation in the value of property in that time of sore depression is indicated by the fact that in 1843 Mr. Robertson bought for his cousin the Warrock station, with 2,500 sheep, a team of bullocks, and all improvements, for the sum of £300—a property which had cost the original owner £5,700.

In other parts of the colony the same thing happened. Wool maintained its value in the English market, and the returns derived from that source alone enabled many to meet their obligations and the business people to tide over the evil days. The flock-owners at that time, Mr. Colin Campbell said, "who could not provide cash got credit only through a merchant, for the banks gave no facilities otherwise." Many of the original squatters in the Fiery Creek district

went down at that time, and others took their places, buying stations in some cases for little more than a year's income. In 1842 Dr. Imlay's station, Decameron, was sold to J. A. Cameron for £1,500, and in about ten years it was sold to Charles Williamson for £30,000.

An outlet for surplus stock was sought by shipping cattle to New Zealand, and a market was opened in India for horses, a number of which were exported in the early forties, the owner clearing £80 on each after paying all expenses. Somewhat later on, owing to the paucity of population, there seemed to be no prospect open to the graziers of disposing, at remunerative prices, of their vast surplus stocks. But their prospects brightened on the publication of an experiment made by Mr. Hume, a pastoralist of Maneroo, New South Wales. He proved that it was far and away more profitable to boil the sheep down for tallow than to sell them for meat. Boiling-down houses were consequently established, and for some years absorbed the surplus stock of the colony, to the great advantage of tenants of the Crown.

That period of depression, however, though calamitous to many, was yet fruitful of advantage to some. Those who came with some capital from the home-land were able to buy stock at low prices, and lay sure foundations of future wealth. Mr. Philip Russell arrived from Van Diemen's Land in 1843. In company with his relative, Mr. George Russell, of Golf Hill, and guided by his kinsman's counsel and enlarged experience, he, in partnership with Mr. Robert Simson, purchased the Carngham station from the Messrs. Baillie, sons of Sir Wm. Baillie, of Polkemet, Scotland, Mr. Russell's capital enabling him to make a good investment owing to the scarcity of money and depreciation in the value of stock. All the country around Ballarat was now occupied by Messrs. Winter, Scott, and Yuille. Mr. Smythe had a cattle station at what is now Smythesdale. Wright and Montgomery had Langi Willi, Mr. Alex. Anderson was at Baangal, and John Simson at Langi Kal Kal. The Messrs. Campbell's run was at the base of Mount Cole.

WARRNAMBOOL DISTRICT.

A boat's crew of the whaling schooner *Adelaide*, when in pursuit of a whale, discovered the Warrnambool bay in August, 1844. It was then called Lady Bay. The islands lying to the south and west were occasionally visited by Port Fairy sealers. Julia Percy Island was named after the daughter of the Duke of Northumberland, by Captain James, of the *Lady Nelson*, who was engaged on a survey of the coast. Among the first settlers were the Messrs. Watson, who discovered the Hopkins, and took up the Merrang

country, on the western side, that on the opposite bank being occupied by the Messrs. Bolden, who, in 1843, sold the run between the Hopkins and Merri Rivers, fenced off to the north, near Lake Wangoom, to Strong and Foster, who used it as a cattle paddock. It was here that the town of Warrnambool was subsequently built, having a background of forest land and dense undergrowth, the haunt of a numerous native tribe. The mails, delivered once a fortnight, were carried by "Flash Jack," on what was known as his "waltzing" horse.

One is apt to wonder how that picturesque and beautiful river came to be called the Hopkins. "Why," Westgarth asked, "give such starchy, hard names, when there are Eumerella, Wannon, Doutagalla, Modewarre, Yarra Yarra, and countless other such natural and genial modulations to be had of the natives for the asking?"

The Messrs. Bolden formed a great many out-stations, covering an immense tract of country, which was subsequently subdivided among various stock-owners. In 1840 Murray and Dunne formed a station at Koroit. The same year Mark Nicholson occupied the country now known as Panmure, Cudgee, and Garvoc, extending as far as Craighieburn, and, early in 1849, he bought the Lake Wangoom run from the Messrs. Manning. The brothers Allan, founders of Allandale and Allansford, came down, in 1842, from Ellerslie (then known as Letts's Ford), owing to drought, and took up a large tract of country on the banks of the Hopkins River. Two years later we find them exporting fat cattle to Hobart by the schooner *Osprey*. Connelly and Griffiths had a licence to depasture stock from the Merri to Port Fairy, in days when there were no fences, prior to the granting of the Farnham special survey.* The Messrs. Rutledge occupied part of this in 1844, and Mr. Roderick Urquhart settled here later on.

LABOUR.

A large proportion of the shepherds and servants, brought both from Van Diemen's Land and by the "overlanders" from New South Wales, were emancipists and ticket-of-leave men who had been assigned to them in accordance with the Government regulations, and an undesirable element was thus introduced which, it was feared by some, would stir up strife with the native race. Men of this class continued to accompany their masters into the pastoral districts of Port Phillip till 1845-46, when the influx of "overlanders"

* "Special surveys" were blocks of land containing 8 square miles, or rather more than 5,000 acres, which were sold in the early forties at £1 per acre to any person who paid the amount into the Colonial Office in London.

practically ceased. Their wages ranged from £30 to £40 per annum. Special restrictions on the use of such labour were, however, imposed, and applications for it strongly discouraged.

There was throughout the Port Phillip district a clamant demand for servants of every kind. Many of the station holders were greatly straitened for want of men to tend their flocks, keep their huts, shear their sheep, and do other descriptions of work which it would be ruinous to their interests to leave undone. The proceeds of sales of Crown lands were therefore applied to promote immigration, and in the year 1841 8,000 passengers were landed from 44 vessels which dropped anchor in our port.

The Clyde Company, Mr. Niel Black, and probably other employers of labour, introduced into the country a class of men, some of whom by their frugality, industry, and fidelity to duty pressed their way to the front rank as successful colonists.

Owing to the unceasing demand for labour, and the high rate of wages paid in the Western District, a committee was formed at Geelong to deal with the whole subject, and, as considerable depression existed at this time among the working classes in Van Diemen's Land, it was agreed that "a board be formed there for the selection of such suitable labourers as may be willing to emigrate to Geelong." The wages offered were from £15 to £18. A large sum of money was subscribed to defray the expenses of transport. A petition was also forwarded, asking for the introduction of Pentonville exiles, the first of whom arrived in the province by the *Royal George* in January, 1845. Of these, 170 arrived in March, and were quickly absorbed at the rate of £15 per annum.

The owners of runs, in some cases, lived in town, leaving on the land overseers, whose wages were paid not in cash but in kind, and when their possessions multiplied they took up land on their own account, and some of the finest estates in the West to-day grew from such a humble beginning as that.

Three memorable events occurred in 1851—First, Black Thursday, on 6th February; second, separation from New South Wales, on 1st July; third, the discovery of gold, in September.

Black Thursday was a day memorable enough in the experience of all who were exposed to its blazing and suffocating heat. Separation, too, was a day that deeply impressed us. The excitement ran high, and the joy of the populace was boundless. No one who saw them can forget the illuminations, the blazing tar-barrel in Elizabeth-street, the

roasted ox in Latrobe-street, the beer that flowed to slake the public's thirst. The issues of separation were far-reaching and important from a political point of view. But it was the third notable event of that year—namely, the discovery of gold—which, with its irruption of population of many nationalities, and its production and wider distribution of wealth, disturbed our social and economic relations and wrought marvellous changes in the land.

Towns and stations were now deserted for the gold-fields. Stock-owners felt the pinch of the situation, and some of them imported Chinese labour, but things adjusted themselves in the course of a few years, and settlement on the land proceeded rapidly. Mr. Glasgow and a body of sturdy farmers took up land about Lake Wangoom, and set themselves bravely to subdue the wilderness, which taxed all their courage and fortitude, for the expense of clearing, fencing, and erecting buildings was a very heavy one, the cost of clearing alone being not much short of £40 per acre.

Important factors in the development of the pastoral and agricultural capabilities of the country were the Associations that were formed and the shows that were periodically held in many of the leading centres of the Western District. The Skipton show was an annual event of great importance, and contributed in no small measure to the expansion and success of the pastoral industry. It created a spirit of keen competition in the great flock-masters of the West. The late Mr. Thomas Shaw, of Wooriwyrite, was the capable and energetic secretary of the Skipton show. The National Society gave a stimulus to the manufacture of cheese, which became an important industry in the West. It offered a prize of £20 for five hundredweight of the best colonial cheese, which carried with it a gold cup of equal value, presented by the president, Mr. M'Caw. These were won by Mr. Orlebar, who placed in the market the famous "Tooram" cheese.

During the fifties and sixties Warrnambool and Port Fairy comprised the chief grain-growing districts of Victoria. It was calculated in 1862 that 300,000 bushels of wheat were annually produced in the district. But when the wheat of the Wimmera and Goulburn Valley came into notice, grain-growing here was not so extensively or exclusively followed, and those on the land devoted their energies to more general farming. In the following years bacon, cheese, and butter production bulked into an ever-growing importance in the West.

The Cape Otway Ranges in the early sixties were frequently and diligently prospected for mineral wealth. Repeated attempts were made to find gold and coal, and, though these

were unsuccessful, yet the country came to be known, and settlement there is now proceeding apace.

LAND TENURE.

In the early days flock-owners claimed large areas under a pastoral licence without being subjected to much authoritative interference with their boundaries. With the progress of settlement regulations were framed which limited the area that a man might hold under licence from the Crown, making it in fact commensurate with the requirements of his stock. This new departure awakened a good deal of discontent, which took expression at a public meeting held in May, 1844, and led to legislation which affected favourably the pastoral interests of the colony—legislation which gave security of tenure and pre-emption of the homestead block. The primitive slab hut, with its severely plain appointments, now gave place on many stations to more comfortable and commodious homes.

Previous to the year 1853 there had been no very extensive alienation of Crown lands, but during September and October, 1855, and in subsequent years, large fertile tracts were sold by auction at the upset price, or little more than that, and it was thus that many of the large estates in the Western District passed into private hands. Crown land sales were now haunted by a class of men known as "land sharks," who exacted heavy toll from the squatter for refraining from bidding against him. The small farmer, with his limited means, had not much chance of securing land at these sales by auction, for the terms were 10 per cent. on the fall of the hammer and the balance payable in one month.

The Land Act carried through Parliament by Mr. Nicholson encouraged settlement on small farms, which was taken advantage of by many who had a limited capital at their command. The Duffy Act, which followed, threw open large areas for free selection. The names of applicants, written on cards, were put into a box, shuffled, and then drawn by an official in public on a day appointed. But it was in the power of the selector immediately to sell his selection of 640 acres at a large advance to any capitalist who desired to buy. The "dummy" was now much in evidence, and a large portion of the lands selected by "dummies" passed into the possession of existing landholders. Large sales by auction of Crown lands now ceased.

To remedy the evils of the Duffy Land Act, the Grant Land Act came into force in 1865. It gave the same power of selection, but prevented the selector, under a heavy

penalty, from alienating the land thus acquired—for a considerable time, at least. At the first selections under this Act, held in Warrnambool in June, 1865, 60,220 acres were selected by 182 applicants.

THE PIONEERS.

Captain Fyans, whose official duties as Commissioner of Crown Lands brought him into close touch with all the early settlers, was rather severe on some of them. He divided the squatters of his day into three classes—first, gentlemen; second, a kind of shop-boys; third, shepherds. The second class he spoke of as being men of untidy habits, living in comfortless huts, and noted for their grumbling and discontent, and he put on record an experience he had which, he held, clearly demonstrated the truth of his charge. One night, when on an official visit to one of these, he could not sleep, and tossed about for some hours. Chafed by some irritant in the mattress, “he took his knife, cut the sacking, and pulled out the leg of a sheep, with a long piece of hide, as crisp as toast.” The third class, he said, “became wealthy, but most of them were out of their places, and it would have been better for the community had they remained shepherds rather than become masters.”

But there is no doubt that most of our pioneers were in the main men of energy and ability—“men,” as I have said elsewhere, “of a fearless and adventurous spirit, to whom this new land of blue skies and boundless pastures offered attractions such as nowhere presented themselves in the crowded walks and keen competitions of the old world communities. Some came with the hope that they might be permitted to assist in laying the foundations of a new nation in faith and righteousness; others came because they were restless in the home-land, and longed for more favourable conditions and larger scope to work out their own ambitious plans. But the large majority pressed their way to our shores simply from the very common-place motive to improve their circumstances and win for themselves a home and competency under these Southern skies. They were not, indeed, all without fault or able to show antecedents that were absolutely irreproachable, but in the main they were steady, industrious, and singularly brave, and, in most qualities which contribute to all true manliness of character, above the average of many of those whom they left behind.”*

Let me ask you to note some of them:—George Russell, of Golf Hill, Philip Russell, of Carngham, and their kinsman, Wm. Lewis, of Stoneleigh, all claiming descent from

* “Colonization and Church Work in Victoria,” page 71.

the sturdy yeomanry of Scotland—men of grit and force, of high tone and sterling character, who exercised a commanding influence in the colony and stood high in the respect of all who knew them. Alex. Wilson, of Mount Emu, Alex. Anderson, of Baangal, Francis Ormond, of Mopiamnum and Borriyalloak—men whom it was a privilege to know, strong and true men, of large hearts and wide sympathies, the best type of colonists I have known. Wm. Mitchell, who bought Langi Willi from Wright and Montgomery in 1852, was a man of liberal education and refinement, whose large and well-selected library attested his broad culture and wide range of scholarship. Mr. Alex. Anderson told me that on one occasion when Mr. Mitchell was exchanging social courtesies with him at Baangal, he was sometimes accompanied by a friend, who was his guest for a considerable period, and he used to say to Mr. Anderson—"I am sure my friend is writing a book, for he usually disappears immediately after breakfast and does not show face again till dinner-time." Mr. Mitchell's friend was Henry Kingsley, and it was quite true that he was writing a book, for there at Langi Willi may still be seen the room in which Henry Kingsley wrote "*Geoffrey Hamlyn*," which easily holds front rank in Australian literature. Then we have Thos. Shaw, of Wooriwyrite, a marvellously sympathetic and helpful man, whose prosperity only made him more powerful for good; and Dr. Curdie, of Tandarook, enterprising pastoralist, enthusiastic botanist, friend of Von Mueller and correspondent of the great Robert Brown and Sir Joseph Hooker. He was a charming host and one of the brightest reminiscences of my youth is a few days spent in sauntering with the Doctor along the banks of Curdie's Creek, and in social chat with him at Tandarook. Then there was Chas. Macknight, of Dunmore, son of the Scottish ecclesiastical historian, who was greatly esteemed by his neighbours, and who died at an early age from the effects of a burning tree falling upon him. Mark Nicholson and Niel Black, who both left their mark on our colonial statute book. Mr. Tozer, who died only recently, left a fragrant memory among the farmers, whose way he smoothed for them in the early days of their struggles and privations. The list of brave, heroic men who contributed so largely to lay good foundations of a great Australian nation might be almost indefinitely prolonged.

Our early pioneers had to front hardships of no ordinary kind. They required to be constantly on the alert against marauding, if not hostile, blacks, and to guard their flocks against the ravages of dingoes. They were constantly exposed to losses. Their sheep and cattle were stolen or speared by

natives or affected with scab; their horses occasionally perished in flooded rivers; bush fires at times consumed their substance. They lived in tents or in huts constructed of reeds or slabs, and under a tarpaulin shelter or under the shade of a wide-spreading eucalypt their sheep were shorn. But, in spite of all that, as a rule they were happy. True to the traditions of the old land, they had, so far back as 1842, their race meetings and coursing clubs, and if they hadn't the fox or the hare to hunt they had the marsupial and the dingo, against both of which they owed a grudge, for the one wasted their pastures and the other their flocks. As many as thirty neighbours sometimes assembled at a station and followed the hounds two or three times a week in the season, and the good cheer and loud mirth of those meetings made them very memorable in after days. And, later on, great kangaroo hunts were held periodically on some of the larger stations in the West. On Joseph Ware's station, Minjah, on Glenormiston, and others it was calculated that over 5,000 kangaroos were slaughtered in the course of a few months.

THE ABORIGINES.

The hostility of the blacks in the early days, it was believed, was largely due to the ill-treatment which they received from the convict servants who were brought over from the neighbouring colonies to keep the huts and tend the flocks. There were frequent feuds between the two races, which led to fatalities on both sides. In the Wannon district the native aggressions were very bold and marked by great ferocity. In consequence of the serious frays that sometimes occurred between them, Commissioners were appointed, with mounted troops under their command, to protect the interests of both settlers and natives. The cost of the maintenance of these was defrayed by a tax levied on stock, the assessment being one penny for each sheep (afterwards reduced to one-half), and a penny halfpenny on every head of cattle.

The raising of a police force from among the aboriginal tribes was early contemplated after the new settlement was formally recognized and taken under control by the Government in 1836. Two objects were kept in view—namely, the civilization of the younger natives and the creation of a force to check, if not prevent, the aggressions of the tribes on the lives and property of the scattered European population. In 1841 a corps of native police was gradually embodied and disciplined, and for some years maintained under the sole management of Mr. Dana. It formed a link between Europeans and natives, and was employed with success in quelling disturbances. It was disbanded in the year 1851.

There is no doubt that the blacks were wonderfully

responsive to humane and kindly treatment. When some of his neighbours on the Wannon found them intractable and troublesome, Thomas Chirnside had twenty of them assisting at sheep-washing. In 1852 the high wages demanded by white men caused the services of the natives to be regularly enlisted. About 40,000 sheep were washed by them alone at Mount Cole, their wages being at the rate of 12s. per week, and they continued steadily at work till the end of shearing. Two or three of them received one pound a week as bullock-drivers.

It is recorded in the early Western District press that in the early forties a settler on the Weimira (Wimmera?) stated that a party exploring the country beyond the Weimira station discovered the name of a female cut in legible characters on several trees, and, coming upon a tribe of aborigines, they found among them three half-caste children. It seemed to be in evidence that the blacks had a European captive, who was believed to be the young lady wrecked about 1840 near Portland Bay. A large reward was offered for information that would lead to her recovery, but the mystery, so far as I know, has never been cleared.

The rapid decrease of the aborigines early attracted the notice of the Government, and measures were taken to gather them into reservations, in order to their instruction and preservation. For a time Protectors were appointed, and during the forties there was an aboriginal station at Mount Rouse, which was presided over by Dr. Wotton. That was subsequently abolished by the Government. When the protectorate system was abandoned, an Aboriginal Board was formed in Melbourne, and gentlemen in various parts of the country who took a personal interest in the welfare of the native race were appointed correspondents. Their duties, which were entirely honorary, were to distribute annually blankets and other bounties, and furnish reports to the central Board. I don't know whether that was the late Mr. Colin Campbell's scheme, but it was on the lines of a suggestion made by him to Lieut.-Governor La Trobe. In 1864 the Framlingham station, comprising 3,500 acres, was formed, under the superintendence of Mr. D. Clarke, as a Church of England mission. In 1866 he resigned. Mr. Francis held the office for one year, and on 1st June, 1869, Wm. Goodall was appointed manager. Beginning with only 17, the number in a few years increased to 80, who greatly improved in habits under his care. His testimony triumphantly proved that those children of nature can be reclaimed, and that money and time spent on their education and advancement are by no means utterly lost.

The mental processes by which they reached conclusions were sometimes very amusing. Johnnie Hide, a Port Fairy native, was supplied by the local telegraph operator with gun and ammunition to shoot wild fowl and other game, of which he was to receive a stipulated portion for his own use. When close to Port Fairy, laden with duck, he met a well-known leading man of the district, who wished to purchase the game. "You can easily go and shoot more, and the telegraph man will not know." They were standing at the time alongside a telegraph post. "No fear," Johnnie said, and, pointing to the telegraph wire overhead, "him tell Mr. ——— all about it." And he refused to part with any of the game.

The late Mr. Cole, of Cloven Hills, borrowed from his neighbour at Stony Point some tobacco until his own stores arrived from town. When he had got his supplies he sent over by a black-boy the quantity borrowed, also a letter which he was to deliver. The owner of Stony Point read the letter, counted the figs of tobacco, and charged the black-boy with having taken some of them. "How you know?" he asked. "The letter says so many were sent, and there are only so many here." "Ugh," the black said, "when me took 'bacca me put letter under stone, and think it not able tell you." On another occasion, when sent to a paddock to bring in a bull, he said to his master—"You write letter tell him come home."

It has been sometimes remarked that the blacks would not eat pork in any form, salt or fresh, believing it caused sores. Mrs. Cole gave a lubra some pea-soup. "Some more?" she asked. "Help yourself" she was told. As she ladled it out she came on the tail of a pig which had been put in. The lubra, with an anguished cry, put it from her, saying, "Oh, pig!" went out, and became deadly sick.

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Portrait of John Batman.

By WILLIAM MOORE.

(See frontispiece.)

IN reply to the query which appeared in the January issue as to whether there is an authentic portrait of Batman, the following is the result of some inquiries I made on the subject a few years ago:—

In "The Settlers' First Meeting with Buckley," a work painted by the late Frederick Woodhouse, John Batman is represented as the central figure of the scene. In this portrayal of the founder of Victoria we are indebted to the artist for handing down to us a picture of the pioneer which, according to the evidence I was able to gather, is supposed to be the only authentic portrait of Batman extant. The figure of Batman was painted from an authentic drawing supplied by a son-in-law of the pioneer, Mr. William Weire; and from his son, Mr. Austin Batman Weire, an officer in the Treasury, we have the interesting evidence that his mother (Elizabeth Mary, the fourth daughter of Batman) remarked on more than one occasion that the portrait of Batman, as he appears in this picture, was "a remarkable likeness" of her father. As Mrs. Weire was Batman's favourite daughter, we may take it that she ought to have been a good judge on the subject.

As a matter of history, Batman was not present at the settlers' first meeting with Buckley. Further, the artist placed the scene of the occurrence on the summit of Batman's Hill, his excuse being that it made a more picturesque setting than Indented Head, where the incident really occurred. The painting, with all its historical inaccuracy, received the first prize offered by the Government, about 50 years ago, for the best picture on a subject of local historic interest. The original was bought by the late Hon. William Hull, M.L.C., and I believe it is still in the possession of his family. A certain number of copies of the picture were sold for a guinea in what was known as "The Art Union of Victoria."

The portrait reproduced is a drawing by Nuttall, the black and white artist, of the head of Batman, which he sketched from Woodhouse's picture. If this chain of evidence is considered satisfactory, this may be regarded as the only authentic portrait of Batman.

["The Settlers' First Meeting with Buckley" was catalogued as No. 74 in an exhibition of paintings opened at Mr. Charles Summers' studio, Collins-street, Melbourne, on 2nd October, 1861. We reproduce Mr. Nuttall's drawing as a separate plate, to be used as a frontispiece when the first volume of the magazine is bound. The autograph is from a deed of conveyance in the society's collection. This document, which is dated 14th July, 1838, relates to the sale by Batman of a piece of land in Melbourne to one James Kelly, a wheelwright, for the sum of £6 10s.—ED.]

