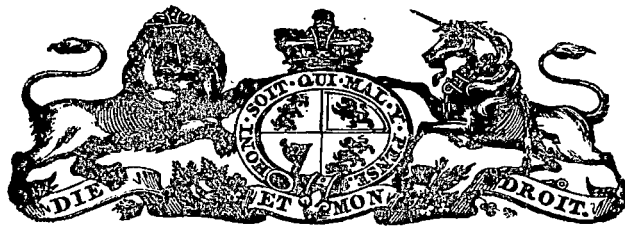


(No. 116.)



1882.

T A S M A N I A.

H O U S E O F A S S E M B L Y.

DOWDELL SCHOLARSHIP CASE :

PAPERS AND CORRESPONDENCE.

Return to an Order of the House of Assembly. (Mr. Dobson.)

Laid upon the Table by the Premier, September 26, 1882, and ordered by the House to be printed.

Approximate cost of preparation	<i>Nil.</i>
Approximate cost of printing	£8



To His Excellency SIR GEORGE CUMINE STRAHAN, Governor of the Colony of Tasmania, in Executive Council.

The humble Petition of Charles Dowdell, of Hobart, in Tasmania, Merchant.

SHOWETH :

1. That on the fifth day of November, one thousand eight hundred and fifty-eight, the Parliament of Tasmania passed "An Act to establish a Council of Education, with power to grant a certain Degree, and to endow Scholarships tenable in the United Kingdom by the Youth of Tasmania."

2. That in the preamble to the said Act, and in the sections of the Act itself, "the youth of this Colony," and "the youth of the Colony," and "the youth of Tasmania" are stated to be those in whose favour the said Scholarships are made.

3. That, by Sections 10 and 11 of the said Act, it is contemplated that there shall be two Scholarships awarded in each year.

4. That since the establishment of the said Scholarships a period of twenty years has elapsed, but there have only been twenty-seven Scholarships conferred.

5. That Section 15 of the Act provides as follows:—"Qualifications of Candidates. 15. All youths above the age of sixteen and under the age of twenty years, who have been resident in the Colony for the period of five years next before the time of the Examination, and who have taken the Degree of Associate of Arts, and none others, shall be qualified to be candidates for such Scholarships and entitled to be examined at such yearly examination for the same."

6. That at the examination for Scholarships which took place in the month of December, one thousand eight hundred and eighty, there were scholars, and three of them, namely, Messieurs Clemens, Warnock, and Lodge, qualified for the Scholarship; but as the Council of Education ruled that they have power only to confer two Scholarships yearly, they awarded the two Scholarships only to Messieurs Clemens and Warnock respectively.

7. That your Petitioner is advised and believes that Mr. Warnock did not reside in Tasmania "for the period of five years next before the time of the examination," and was not one of the youth of Tasmania as contemplated by the said Act, and was, consequently, ineligible to present himself for the said Scholarship, and that, therefore, the same has been illegally awarded to him, and the amount thereof (being public moneys of the Colony) is being applied in a manner contrary to law.

8. That your Petitioner submits that Mr. Lodge, who qualified for the Scholarship in December, one thousand eight hundred and eighty, was the person upon whom such Scholarship should have been conferred.

9. That at the Examination in December, one thousand eight hundred and eighty-one, there were three candidates for the Scholarships, namely, Messieurs Rock, Lodge, and Charles S. Dowdell, the latter being your Petitioner's son.

10. All the three candidates qualified; but as the two former obtained more marks than the said Charles S. Dowdell, the latter failed to have a Scholarship conferred upon him.

11. Your Petitioner respectfully submits that Mr. Warnock having been ineligible for such Scholarship, it should, in December, one thousand eight hundred and eighty, have been awarded to Mr. Lodge, who then qualified, and that thus your Petitioner's son would have received a Scholarship in December, one thousand eight hundred and eighty-one.

12. Your Petitioner, as soon as his said son qualified as aforesaid, took steps to bring the matter under the notice of the Council of Education, and has had a long correspondence with that body; but they have referred your Petitioner to your Excellency in Council.

13. Your Petitioner has taken the opinion of his solicitors and of the leading barristers in Hobart, and they advised that your Petitioner's son should have received a Scholarship as aforesaid.

14. A copy of the said correspondence and of the opinions are respectfully laid before Your Excellency with this Petition.

15. By Section 31 of the said Act it is enacted:—“*Governor empowered to remedy irregularities in proceedings of Council.* 31. In case of any error, omission, or irregularity in any of the proceedings or acts of the said Council, the Governor in Council shall have power and authority to take such measures as he may think fit for remedying any such error, omission, or irregularity, so far as the same can be remedied.”

Your Petitioner therefore humbly prays that Your Excellency will take the premises into consideration, and that you will be pleased to have a Tasmanian Scholarship conferred upon the said Charles S. Dowdell.

And your Petitioner will ever pray, &c.

CHARLES DOWDELL.

To Ministers.

G. C. S.
24. 7. 82.

FORWARDED to the Hon. Colonial Secretary. I think this Petition should be referred to the Council of Education for a report on the whole case.

W. R. GIBLIN.
24th July, 1882.

FORWARDED to the President of the Council of Education.

WM. MOORE.
26th July, 1882.

RETURNED to the Hon. the Colonial Secretary with report on subject, together with the whole of the correspondence which has taken place.

By order,

GEO. RICHARDSON, *Secretary*.
22. 8. 82.

WARNOCK'S SCHOLARSHIP.

REPORT on the Petition of Mr. Charles Dowdell to His Excellency the Governor.

THE position of the Council in this matter is as follows:—

In December, 1880, Clemons, Warnock, Lodge, Baxter, Dowdell, and Waterhouse were candidates for the Tasmanian Scholarships. Of these the first four attained the necessary standard of marks; and the two Scholarships at the disposal of the Council were conferred upon Clemons and Warnock, who stood highest on the list.

Before any student can be admitted as a candidate at the examination for a Scholarship, the Council requires a certificate in writing that such candidate has complied with the conditions imposed by the Act (22 Vict. No. 21).

In the case of Warnock, the usual form of certificate was forwarded by him, under the hand of the Rev. G. B. Richards, of Horton College, stating that *he, Warnock, had constantly resided in the Colony for a period of five years.*

The Council accepted this certificate, and acted upon it. No question was raised, or protest made, at the time that the Scholarship was publicly conferred on Warnock, who has gone Home and is studying at Edinburgh as a Tasmanian Scholar.

It is now alleged that Warnock has not strictly complied with the requirements of the Act as to residence in Tasmania. Warnock's father resided for some years in Tasmania; and, on his going to another Colony, he left his son to pursue his studies here. The latter, however, went to his father during the holidays. So far as Dowdell is concerned, it is submitted that whether this was or was not a sufficient residence qualification is immaterial.

Lodge could have protested and raised the question in 1880 if he had considered it open to him and tenable; but he made no claim to a Scholarship in 1880. He was not bound to accept one even if it was clear that Warnock was disqualified. It was open for Lodge to wait for another year and compete for a Scholarship in 1881. If he had refrained from having a Scholarship awarded to him which he had won in 1880, it would not have disqualified him from legally competing for a Scholarship in 1881. He did compete in 1881; and the examination list stood thus:—Rock, Lodge, Dowdell,—Baxter having died in the meantime.

The Council had power to confer two Scholarships only in each year; and Rock and Lodge, being qualified to compete, and standing at the head of the list, were legally entitled to the two Scholarships for that year, and could have compelled the Council to confer the Scholarships upon them; and Dowdell has never had any legal right to a Scholarship.

Reference is made by Mr. Dowdell to Pope's case; and he contends that the action of the Council has been inconsistent.

In that case, Pope's parents live in Sydney: they had never resided in Tasmania, but had sent their son here to school; and he went home regularly for his holidays. Pope sent in a certificate, in the regular form, that he had duly resided in Tasmania; and the Council acted on that, as the sole official evidence before them, and conferred a Minor Scholarship upon him. The next qualified competitor (Macnamara), however, addressed the Council and called its attention to the fact that Pope had not *resided* in Tasmania as required by the Act, and claimed the Minor Scholarship.

The Council referred the question to the Law Officers, and received the opinion of one of those officers that the residence of Pope was sufficient. The Council, however, desired the opinion of the other Law Officer; and he differed from his colleague. Under these circumstances, the Council decided that Pope was not "a youth of the Colony" "resident" in the Colony, and conferred the Minor Scholarship on Macnamara.

No protest was made in Warnock's case, and no claim was ever made to the Scholarship conferred on him by Lodge or Baxter, who alone could have made such claim.

The Council submit, with reference to the examination in 1881, being the only one in which Dowdell qualified, that the two Scholarships of the year were legally conferred on, and accepted by, Rock and Lodge; and that it was impossible for the Council to have conferred a Scholarship on Dowdell.

The correspondence which has taken place on this subject is attached.

HENRY BUTLER, *President.*

*Tasmanian Council of Education,
Hobart, 22nd August, 1882.*

Tasmanian Council of Education, Hobart, 24th February, 1882.

SIR,

At a meeting of the Tasmanian Council of Education held on the 20th instant, the accompanying letter from Mr. Charles Dowdell, applying for a Scholarship for his son, Mr. Charles Seymour Dowdell, on the ground that a Scholarship awarded to Mr. John Warnock is illegally held by him, he not having complied with terms of the Tasmanian Council of Education and Scholarship Act, was taken into consideration.

With reference to the award of a Scholarship to Mr. Warnock, I am to forward you the following particulars, with a request that you will be pleased to obtain the opinion of the Crown Law Officers as to whether Mr. Warnock was eligible, under the Act above referred to, to compete for such Scholarship.

The Examination for the Tasmanian Scholarship in 1880 began on Monday, the 6th December, 1880, and Mr. Warnock, on the 25th of the preceding month, presented an application for admission to such Examination; and having, in the opinion of the Council of Education, fulfilled the conditions of the 15th Section of the Council of Education and Scholarship Act, was admitted to such Examination.

At the Annual Meeting of the Council of Education held on the 14th December, 1880, Mr. Warnock having reached the standard prescribed by the Council, was formally awarded a Tasmanian Scholarship tenable for four years from the 1st June, 1881, and he has since entered upon his University studies.

With regard to the point raised by Mr. Dowdell as to the residence of the parents of Mr. Warnock, it has been ascertained that his parents resided in Tasmania during the period from November, 1869, to the end of 1875.

I have, &c.

HENRY BUTLER, *President.*

The Hon. the Colonial Secretary.

FORWARDED to the Solicitor-General, with the request that he will advise on the point raised by the Council of Education.

WM. MOORE.
28 Feb., 1882.

The Solicitor-General.

IT is not for me to divine what was the intention of the Legislature as to the residence in Tasmania of the parents of a candidate for a Tasmanian Scholarship, but I find no direct reference in Section 15 of "The Tasmanian Council of Education and Scholarship Act" (22 Vict. No. 21) to the residence in Tasmania of the parents of the candidate. The Section above-mentioned provides as a qualification that the candidate shall be above the age of 16 years and under the age of 20 years, and that he shall have been resident in the Colony for the period of five years next before the time of examination; and it appears to me that if the candidate has in fact spent his five years in Tasmania, although his parents reside out of the Colony, he has fulfilled the conditions required by the Act. The question is by no means free from doubt, and in my opinion Parliament should be asked to make it clear by a Declaratory Act. I recommend that the Attorney-General's opinion hereon be requested.

ROBT. P. ADAMS.
15. 4. 1882.

True copy.—GEO. RICHARDSON, *Secretary.*

TASMANIAN COUNCIL OF EDUCATION.

EXAMINATION FOR TASMANIAN SCHOLARSHIPS.

APPLICATION for Admission to Examination.

Horton College, 16th November, 1880.

SIR,

I HAVE the honor to notify to you, for the information of the Council of Education, that I intend to offer myself as a Candidate for Examination for the Tasmanian Scholarship, and to request that my application may be recorded accordingly.

I annex replies to the Council's printed Queries.

I remain,

Sir,

Your obedient Servant,

(Signed) JOHN WARNOCK.

To the Secretary Council of Education, Hobart Town.

QUERIES TO BE ANSWERED BY CANDIDATE.

1. Christian Name (in full) and Surname—John Warnock.
2. Age, and Date of Birth*—16 years and 5 months—May 23rd, 1864.
3. Place of Birth—Maldon, Victoria.
4. Name of School—Horton College.
5. Name of Tutor—William W. Fox.
6. Present Address—Horton College, Ross.
7. Certificate of Residence —

I hereby certify that John Warnock has constantly resided in the Colony for a period over five years.

(Signature of Parent or Guardian)—GEO. B. RICHARDS.
Dated this 23rd day of November, 1880.

* If the Birth of the Candidate was not registered, a Certificate of Baptism or other satisfactory evidence must be furnished.

Tasmanian Council of Education, Hobart, 9th March, 1882.

SIR,

ADVERTING to my letter of the 24th ultimo, requesting, on behalf of the Tasmanian Council of Education, the Opinion of the Law Officers of the Crown as to whether Mr. Warnock is eligible under the terms of the Council of Education and Scholarship Act to hold a Tasmanian Scholarship, I have the honor to inform you that the Council meet on Wednesday next, 15th instant, to consider this matter, and to request that you will be kind enough to cause me to be furnished with the Opinion asked, if possible, by that date.

I have, &c.

HENRY BUTLER, *President.*

The Hon. the Colonial Secretary.

Immediate.

FORWARDED to the Solicitor-General, who is requested to favour the Colonial Secretary with his Opinion upon the question submitted by the Council of Education in time for the meeting on the 15th instant.

B. TRAVERS SOLLY.
13th March, 1882.

The Solicitor-General.

I SHOULD have forwarded my Opinion, but think it well to defer doing so until the Attorney-General returns to town, as I understand he has given an opinion hereon. The death of Mr. Warnock (of which I am informed to-day,) renders the delay of less moment.

ROBT. P. ADAMS.
13. 3. 82.

The Colonial Secretary.

RETURNED to the President of the Council of Education with Memo. by the Solicitor-General.

B. TRAVERS SOLLY.
14th March, 82.

MEMO.

THE President hopes to be favoured with the Law Officer's Opinion on this matter at an early date, as the question is shortly to be brought before the Council. The President is unable to learn that there is any foundation for the report of Mr. Warnock's death.

By Order,

GEO. RICHARDSON, *Secretary.*
3rd April, 1882.

The Hon. the Colonial Secretary.

RETURNED to the Solicitor-General, with reference to the Memo. of the Secretary of the Council of Education dated the 3rd instant.

B. TRAVERS SOLLY.
4th April, '82.

Attorney-General's Office, Hobart, 24th April, 1882.

COUNCIL OF EDUCATION ACT.

I CONCUR with the Solicitor-General in thinking that the question as to the legal construction of the words "who have been resident in the Colony," contained in Section 15 of "The Tasmanian Council of Education and Scholarship Act," is by no means free from doubt. The legal interpretation of the word "residence" as it occurs in different Acts of Parliament has been repeatedly the subject of discussion in the English Courts, and has sometimes been held to mean the place where a man sleeps, and sometimes the place at which a man is to be found in business hours, according to what the Judges deemed the object of the clause under consideration. 22 Vict. No. 21.

My own opinion is, that the true construction of the words under consideration is such as would, on the facts stated, exclude both Warnock and Pope from the beneficial operation of the Act. The object of the Act is declared to be to encourage liberal education "among the youth of this Colony," and Scholarships are to be bestowed upon "such of the youth of the Colony as manifested sufficient degree of proficiency," &c.—*Vide* Preamble. Section 10 states the Scholarships shall be open to "the youth of Tasmania," and Section 11, that there shall always be "eight of the most proficient of the youth of Tasmania" receiving the advantage of a liberal education, &c. The Legislature seems to have contemplated that Tasmania would in the long run be benefited by the infusion among her people of those who had obtained these great scholastic prizes and subsequently returned to their native or adopted country. Section 15 shows that it was not intended to confine these Scholarships to native-born Tasmanians, but to extend the boon to those who, coming to the Colony at an early age to reside in Tasmania, had become a part of the youth of Tasmania.

I am inclined to think that "resident in the Colony," in this Act, is equivalent to domiciled in the Colony. If so, the domicile of Pope, for instance, was, and is, New South Wales; and in a true sense he may be said to "reside" in New South Wales. He goes "home" to his parents for his holidays, though keeping his school terms in Tasmania. He is one of the "youth of New South Wales," not of the "youth of Tasmania;" and if a Scholarship were awarded to him, and he received the boon of a liberal education, would probably carry his degree back to his home in New South Wales, and thus deprive the inhabitants of Tasmania of the opportunity "to participate in the benefits resulting from the advanced state of mental culture in Great Britain."—*Vide* Preamble of Act.

That my opinion of the true construction of the Act differs from that of the Solicitor-General shows that the question is an arguable one. I think, with Mr. Adams, that Parliament should be asked to declare more explicitly its intention; and in the meantime, and in the absence of a judicial decision, the point cannot be treated as so clear as to justify the withdrawal from Messieurs Warnock and Pope of those Scholarships which the Council, acting upon the more liberal construction of the Act, have conferred upon them.

W. R. GIBLIN.

Sandy Bay, 10th June, 1882.

DEAR SIR,

REFERRING to the conversation you had with me to-day in reference to the Tasmanian Scholarship, I beg to assure you that if my attention had been directed to the Act at the time when a Scholarship was awarded to Warnock I should have protested against it, on the ground that he was neither a youth of Tasmania nor a resident of the Colony, and that to award him a Scholarship under such circumstances would be an injustice to my son, who had attained the required standard. As it is, if my construction of the Act be correct, I have been put to the expense of another year's tuition, &c. for my son.

I presume the Council of Education will refer the matter to the Attorney-General, as the Chief Law Officer of the Crown, for his opinion.

Yours, &c.

C. DOWDELL, *Esq.*, *New Wharf.*

L. LODGE.

Tasmanian Council of Education, Hobart, 4th July, 1882.

SIR,

WITH reference to your communication regarding your son's claim for a Tasmanian Scholarship, I have the honor, by direction of the Council, to inform you that in December last, when your son, Mr. C. S. Dowdell, attained the standard of marks for a Tasmanian Scholarship, the two Scholarships at the disposal of the Council were legally conferred on Messrs. Rock and Lodge, whose positions in the Examination were higher than your son's. The Council are, therefore, unable to take any action in the matter of your letters; and any appeal you desire to make should be addressed to the Executive Government.

I have, &c.

CHAS. DOWDELL, *Esq.*, *Hobart.*

GEO. RICHARDSON, *Secretary.*

MINUTE PAPER FOR THE EXECUTIVE COUNCIL.

Colonial Secretary's Office, Hobart, 28th August, 1882.

SUBMITTED.

THAT the petition of Mr. Charles Dowdell, praying that a Tasmanian Scholarship may be conferred upon his son, Charles S. Dowdell, having been referred to and reported upon by the Council of Education, the petitioner be informed that the Government are not in a position to comply with his prayer.

WM. MOORE.

I AM of opinion that before deciding upon this reply steps should be taken to obtain such information as to the circumstances under which Warnock's family took up their residence in Tasmania, and subsequently left the Colony, as will enable Ministers to form an opinion as to the legality or illegality of Warnock's claim to the Scholarship.

If decided in Warnock's favour, then Dowdell's claim at once falls to the ground. If, on the other hand, it is decided against him, then I think that Dowdell's case is worthy of being at least again discussed.

G. C. S.
30. 8. 82.

Chief Secretary's Office, Hobart, 1st September, 1882.

SIR,

I HAVE the honor to request that you will be good enough to favour me, at your earliest convenience, for the information of the Government, with the circumstances under which yourself and family took up their residence in Tasmania and subsequently left the Colony.

This information is desired with the object of ascertaining your son's legal position with reference to the Tasmanian Scholarship awarded to him in the year 1880 by the Council of Education.

I have, &c.

SAMUEL WARNOCK, Esq., 125, Victoria Parade, F.,
Melbourne, Victoria.

WM. MOORE.

125, Victoria Parade, Fitzroy, 6th September, 1882.

SIR,

IN reply to your favour of the 1st instant, asking for information as to the circumstances under which I took up residence in Tasmania, I beg to state that my health having been greatly impaired, and having made two visits to England with hopes of improving it, I resolved, from what information I had received and the statistics I could gather of the climate and the educational advantages for my children, that I would sell off in Victoria and settle permanently in Tasmania, which I did, arriving in Hobart in November, 1869, and bringing my wife, my sister, and my two sons with me; my two daughters following me in a few months afterwards.

I remained in Tasmania, with all my family, until March, 1877, a period of 7½ years, leaving three of my children at school there for a considerable time after I came away. I would state that I not only went to Tasmania in 1869 to reside permanently, but during the above-named period of 7½ years I had no home other than Tasmania, which was my home until I took up house again in Victoria in October, 1877, my household furniture, piano, and general effects being in Tasmania till that time.

My son John, who was presented with the Tasmanian Scholarship in 1880, reached Tasmania at the age of 5½ years, and resided permanently there for a period of 11 years and one month, until he received the Scholarship, having first gone to a primary school in Davey-street, Hobart, nearly opposite which I resided for a period of five years in the one house.

I have, &c.

The Hon. the Chief Secretary, Hobart.

SAM. WARNOCK.

Hobart, September, 1882.

SIR,

I AM in receipt of your letter of the 11th instant, in which you say that a communication has been addressed to Mr. Warnock with reference to his residence in this colony, and that, pending his reply, His Excellency the Governor in Council is not prepared to deal with the matter in dispute between myself and the Council of Education.

I must again refer you to my letter of the 18th August to the Council of Education in order to verify the statements therein contained, and to prove beyond all doubt that Mr. Warnock, senior, ceased to be a *permanent* resident of this colony in May, 1875, and that he and his wife left Launceston for Victoria on the 16th of that month, 1875.

That he returned to this colony, as a *visitor*, on the 13th December, 1876, and took lodgings with Mrs. Beecroft, and left the Colony again with his wife and daughter on the 16th March, 1877; and I contend that as he, Mr. Warnock, gave up his house in 1875 and ceased to be a ratepayer, and left the colony, his *final* leaving as a resident was in 1875. The above facts can be verified by the following persons:—

1. Roberts & Allport, agents for the house in which he lived.
2. Miss Lucy Garrett, where his daughter was left at school.
3. Mrs. Beecroft, with whom he lodged, now residing in Murray-street.
4. T. S. N. Co., passenger list; also *Mercury* files of 18th May, 1875; 14th December, 1876; 20th March, 1877 (see list of passengers left and arrived at Launceston on those dates.)

I must therefore request that you will again write Mr. Warnock, and ask him the following questions:—

1. Did Mr. Warnock give up his house in Davey-street and cease to pay rates, and leave the Colony for Victoria, in May, 1875?

2. Did he return as a visitor 18 months afterwards, in December, 1876, and lodge in Hobart and leave again for Victoria in March, 1877, with his wife and daughter?

Although I am anxious to verify my statements as to Warnock leaving in 1875, it cannot affect my son's claim. To make Mr. Warnock's son legal, according to the Act he must have lived here with his father for the five years next before the examination of 1880 (*see* Mr. M'Intyre's and Mr. A. Dobson's legal opinion in pamphlet). Had I not called the attention of the Council of Education to the errors committed by them in Warnock's, Pope's, and M'Namara's cases, it is quite certain that Pope, an illegal boy, would have been allowed to compete in 1883, and M'Namara would have been deprived of his just rights—the Minor scholarship of 1881, already conferred in error on Pope; the Law Officers deciding that Pope, whose parents reside in Sydney and not in this Colony, for the five years next before the examination, could not compete for the Tasmanian Scholarship in 1882, and must hand over the Minor Scholarship to M'Namara, the legal candidate for 1881.

Now the above clearly shows that if Pope is illegal Warnock must be the same, as neither of their parents resided here for the prescribed period as required by Clause 15 of the Act of Council.

If the case is decided on the facts as they have occurred, and not on what might have occurred, then my son is justly entitled to the Scholarship of 1881.

In conclusion, I may say that my action in this matter is not to prevent Warnock from keeping his Scholarship, as, I think, it would be unjust, but if the Council of Education have committed the error of admitting boys who were not qualified, I think, then, fairly Parliament should do justice to both Dowdell and Warnock.

Trusting this letter will place the matter clearly before the Government,

The Hon. W. MOORE, Chief Secretary.

I have, &c.

CHARLES DOWDELL.

MINUTE PAPER FOR THE EXECUTIVE COUNCIL.

Chief Secretary's Office, Hobart, 18th September, 1882.

SUBMITTED,

THAT the Petition of Mr. Charles Dowdell praying that a Tasmanian Scholarship may be conferred upon his son, Charles S. Dowdell, having been referred to and reported upon by the Council of Education, the petitioner be informed that the Government are not in a position to comply with his prayer.

WM. MOORE.

THE Governor in Council approves.

E. C. NOWELL.
18. 9. 82.

Chief Secretary's Office, Hobart, 19th September, 1882.

SIR,

I HAVE the honor to inform you that your Petition, praying that a Tasmanian Scholarship may be conferred upon your son, Mr. Charles S. Dowdell, having been duly considered by His Excellency in Council, the Governor directs me to acquaint you that he is not prepared to comply with the prayer of your Petition.

I have, &c.

(Signed) WM. MOORE.

CHARLES DOWDELL, *Esq.*,
Hobart.

Chief Secretary's Office, Hobart, 19th September, 1882.

SIR,

I HAVE the honor to inform you that Mr. Charles Dowdell's Petition, praying that a Tasmanian Scholarship may be conferred upon his son, Charles S. Dowdell, having been duly considered by His Excellency in Council, the Governor has directed me to acquaint Mr. Dowdell that he is not prepared to comply with the prayer of his Petition.

I have, &c.

(Signed) WM. MOORE.

The President of the Council of Education.

CORRESPONDENCE *re* MACNAMARA AND POPE.*Cascade Road, Hobart, 27th February, 1882.*

SIR,

I RESPECTFULLY protest against Roland James Pope getting the Minor Scholarship for the Degree, 1881, on the ground that he is not a native of Tasmania and his parents have not resided in Tasmania for the last five years. In referring to the Education Act passed November 5th, 1858, 22 Victoria, No. 21, I think it is an injustice to my son to allow Pope to go on for the Tasmanian Scholarship.

I am, &c.

MICHL. MACNAMARA.

*The President and Gentlemen of the Council of Education, Hobart.*True Copy—GEO. RICHARDSON, *Secretary.*

TASMANIAN COUNCIL OF EDUCATION.

EXAMINATION FOR THE DEGREE OF ASSOCIATE OF ARTS.

*APPLICATION for Admission to Examination.**Hutchins School, Hobart, 27th July, 1881.*

I, ROLAND James Pope, hereby give notice that I intend to present myself at the forthcoming Examination for the Degree of Associate of Arts, to be held at Hobart, for examination in the following subjects; viz.—

Instruction.
Candidates must cross out and initial the subjects they do not wish to present.

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. English. 2. Latin. 3. Greek. 4. French. 5. German. R. J. P. 6. Italian. 7. Pure Mathematics. | <ol style="list-style-type: none"> 8. The Elementary Principles of Hydrostatics and Mechanics. 9. The Elements of Chemistry. R. J. P. 10. Zoology and Botany. R. J. P. 11. Geology. R. J. P. 12. Drawing. R. J. P. 13. Music. R. J. P. |
|---|--|

and I hereby supply the information required of me; viz.—

1. Name in full length—Roland James Pope.
2. Date of Birth*—February 18th, 1864.
3. Place of Birth—Macquarie-street, Sydney.
4. Period of Residence in the Colony—5 years.
5. Profession or Occupation of Father—Warehouseman.
6. Name and Residence of Parent or Guardian—John V. Buckland, Hutchins School, Hobart.
7. Signature of ditto—John V. Buckland.
8. Last place of Education—Hutchins School.
9. Name of Teacher—John V. Buckland.
10. Present Address of Candidate—Hutchins School, Hobart.

Certificate of age satisfactory.—G. R.

(Signed) ROLAND JAMES POPE.

The Secretary Council of Education, Hobart.

* If the Birth of the Candidate was not registered in the Colony, a Certificate of Baptism or other satisfactory evidence must be furnished.

NOTE.—This application should be forwarded in time to reach the Education Office not later than the 31st July in the year of application.

POPE'S SCHOLARSHIP (MINOR).

Tasmanian Council of Education, Hobart, 27th February, 1882.

SIR,

I HAVE the honor to request you will be pleased to submit for the opinion of the Crown Law Officers, whether the Council were empowered to grant to Mr. Roland James Pope a "Minor Scholarship" under the terms of "The Tasmanian Council of Education and Scholarship Act."—*Vide* Sect. 28 of 22 Victoria, No. 21, and the Regulations of the Council, annexed, governing the award of such "Minor Scholarship."

Mr. Pope, who describes himself in his application for admission to the A. A. Degree Examination as a native of Sydney, was five years in the Colony prior to the examination for the A. A. Degree in December last, in which he stood second on the list of Associates, and having announced his intention of continuing his studies with a view to competing for the Tasmanian Scholarship, the Minor Scholarship of Forty Pounds for two years from the 1st January last was conferred on him by the Council at their Annual Meeting held in December last.

A protest by the parent of the Associate next on the list has been entered; and the Council now desire to learn whether (1) Mr. Pope is eligible to compete for the Tasmanian Scholarship, his parents not being domiciled in Tasmania? and (2) if not, whether he can, under the Act and Regulations above quoted, claim the Minor Scholarship, or have it legally conferred upon him?

I have, &c.

HENRY BUTLER, *President.*

The Hon. the Colonial Secretary.

FORWARDED to the Solicitor-General, with the request that he will favour the Colonial Secretary with an Opinion upon the questions submitted by the Council of Education.

B. TRAVERS SOLLY.
28 Feb. 1882.

ALTHOUGH it appears that Mr. Pope's parents are resident in another colony, while the parents of Mr. Warnock, a Tasmanian scholar, resided in Tasmania for some time before they went to live in Victoria, yet, on the whole, I think my Opinion of this day in the case of Mr. Warnock applies to Mr. Pope's case as well, and therefore I refer the Board of Education to that Opinion and my remarks therein.

ROBT. P. ADAMS.
15. 4. 82.

The Hon. the Colonial Secretary.

Cascade Road, 1st June, 1882.

SIR,

I FIND in your answer, dated 31st May, 1882, to my letter of the 30th ultimo, that the Council of Education have only treated on the first part of my letter protesting against Mr. Roland James Pope getting the Minor Scholarship.

Since, it seems, the second part was not, as I intended it should, entertained as part of the protest, I herein protest against his being allowed to go on for the Tasmanian Scholarship, on the ground that he is not a native of Tasmania and his parents have not resided in Tasmania for the last five years.

I am, &c.

The President and Gentlemen Council of Education, Hobart.

M. MACNAMARA.

High School, Hobart, 8th June, 1882.

DEAR DR. BUTLER.

MAY I request you to call a special meeting of the Council of Education to consider the question of Pope's Minor Scholarship. If the matter is left in abeyance till our next regular meeting, the boy will have left school for the holidays before he knows whether he is to enjoy the benefit of the Scholarship which was publicly and formally awarded to him by the Council.

Trusting that you will see your way to a compliance with this request,

I have, &c.

R. D. POULETT-HARRIS.

The Hon. Dr. BUTLER, President Council of Education.

Tasmanian Council of Education, Hobart, 15th June, 1882.

SIR,

WITH reference to your communication regarding the Minor Scholarship awarded to R. J. Pope, I am now requested to enquire whether your son has been pursuing his studies with a view of competing for the Tasmanian Scholarship? and if so, a certificate should be furnished the Council before 3 o'clock on Monday next, stating the date from when he began his studies this year.

I have, &c.

Mr. MACNAMARA, Cascades Road.

GEO. RICHARDSON, *Secretary.*

Cascade Road, Hobart, June 17th, 1882.

SIR,

I BEG most respectfully to inform the Council of Education that my son, John Joseph Macnamara, has been pursuing his studies at the High School since the Christmas vacation with a view of competing for the Tasmanian Scholarship.

I have, &c.

M. MACNAMARA.

The President and Members Council of Education, Hobart.

I CERTIFY that Mr. Macnamara's statement is correct, and that his son's conduct has merited the approval of the masters.

R. D. POULETT-HARRIS, *M.A., Rector.*

Hobart, 20th June, 1882.

MEMO.

I HEREBY declare that it is my intention of continuing my studies with a view of competing for Tasmanian Scholarship, and I respectfully make application for a Minor Scholarship to enable me to do so.

J. J. MACNAMARA,
Associate of Arts, 1881.

Tasmanian Council of Education, Hobart, 20th June, 1882.

MEMO.

It having been decided by the Council of Education that Mr. Roland James Pope, Associate of Arts, 1881, is not eligible, under the provisions of "The Tasmanian Council of Education and Scholarship Act," to compete for a Tasmanian Scholarship, he is consequently unable to hold a Minor Scholarship awarded him in December last: but, inasmuch as he has been attending school during the past six months under the belief that he was in enjoyment of a Scholarship, it is proposed to grant him a sum of twenty pounds in lieu of Scholarship money for that period, which sum should be provided upon a Supplementary Estimate.

This decision of the Council renders a second Minor Scholarship vacant, and under the regulations should be conferred on John Joseph Macnamara, who stood next to Pope on the list of Associates of the year 1881. It is therefore proposed to award the Scholarship to him from the 1st January last, he having sent in a declaration that he has been studying with a view of competing for a Tasmanian Scholarship since that date.

The approval of the Government is now sought to the above arrangement.

(Signed) HENRY BUTLER, *President.*

The Hon. the Colonial Secretary.

(*In continuation of Paper No. 116, House of Assembly.*)

Chief Secretary's Office, Hobart, 23rd September, 1882.

SIR,

WITH reference to the Tasmanian Scholarship held by your son, the title to which is disputed by Mr. Charles Dowdell on behalf of his son, I have the honor to inform you that the subject has been brought before the House of Assembly; and as the question of "domicile" forms a prominent feature in the case, I am induced to forward copy of a statement furnished by Mr. Dowdell purporting to set forth the details of your several residences in Tasmania.

Should you desire to offer any observations upon Mr. Dowdell's statement, I must request that you will favour me with a reply at the earliest possible date, as the consideration of the whole case by Parliament will, no doubt, take place in a few days.

I have, &c.

WM. MOORE.

SAMUEL WARNOCK, Esq., 125, Victoria Parade, F.,
Melbourne, Victoria.

FACTS concerning WARNOCK's movements since 1869.

ARRIVED in Colony in 1869; was a householder in 1871. Gave up his house 1st April, 1875, and left the Colony in May, and ceased to pay rates in 1875.—See Allport and Roberts, and Rate Collector. Left Tasmania with his wife, 16th May, 1875. Returned on a visit on the 21st December, 1875, and left again on the 22nd April, 1876. Returned to the Colony on the 14th December, 1876, and left the Colony with wife and daughter in 1877, 20th March. Since he gave up his house in 1875 he has never occupied a house in Tasmania, but simply came here on a summer visit and lived in lodgings. Now it is quite certain from the above facts that Mr. Warnock's final residence was in 1875,—and all these can be proved before a Select Committee.

CHARLES DOWDELL.

125, Victoria Parade, Fitzroy, 26th September, 1882.

SIR,

I HAVE the honor to acknowledge your communication of the 23rd instant, and in reply would say:—That I resided in Tasmania for a period of 7½ years—from 1869 to 1877. That in going to reside there I had no other intention but to remain there all my life; but my health improving, I left in March, 1877, and took up house where I now reside. That Tasmania was my home, and that up to 1877 my four children, my wife, and chattels and furniture were there.

That I usually made one trip or more out of Tasmania every year during my residence there. That I gave up occupation of a certain house on the 1st April, 1875, but as to paying rates I could not say whether I did so or not.

That I was more of my time in Tasmania than any other place, or than all other places, from the time I gave up the house referred to until I finally left in March, 1877.

That Mr. Dowdell is drawing conclusions to suit his purpose in saying that I was only a visitor to Tasmania after I left a certain house, for I affirm that Tasmania was my home up to 1877, from the time I landed in the country, and that I had no other. That Mr. Dowdell makes me, according to his statement, to be away from Tasmania from 22nd April to 14th December, 1876, while in reality I returned again on the 1st June (my wife and family being still in Tasmania while I was away), making *one month's visit* from the 22nd April, instead of *eight months*, as Mr. Dowdell has it.

That I spent the entire winter of 1876 in Hobart, as well as the following summer, finally leaving in March, 1877.

I have, &c.

SAML. WARNOCK.

The Hon. the Chief Secretary, Tasmania.

Hobart, 4th October, 1882.

SIR,

I HAVE perused Mr. Warnock's letter of the 26th September, to yourself, and now beg to reply to the same as follows:—

1. That Mr. Warnock came to the Colony in November, 1869, with his wife, leaving his children in Victoria, and that they followed in 1870 with his sister. That he took a house in Davey-street about the middle of 1870 and became a ratepayer there is no doubt. That he never intended to remain here all his life is shown from his own letter, where he states that he left Tasmania as soon as his health improved. That when he left the Colony in 1875, his sister married here, and his children were placed at boarding-schools—Horton College and Miss Garrett's. That being on terms of personal friendship with Mr. Warnock since 1875, I can vouch for the above facts.

2. That he visited Victoria once or twice a year, for the purpose of seeing after his business place in Victoria, is also true.

3. That he gave up his house in April, 1875, and paid no city rates here after the 30th June, 1875, is correct, although he says he does not recollect paying rates.

4. That he resided in Victoria for seven months in 1875, and that he returned here in June, 1876, is quite true; but he must have left with his wife during the winter of 1876, as the Tasmanian Steam Navigation Company certifies his return from Melbourne in December, 1876, and he does not deny it.

5. That I am drawing conclusions to suit my own purpose I deny, as the certificates of his arrival and departure speak for themselves. That it does not affect my son's claim if he resided here from 1875 to 1877, as legal opinions declare that he must reside here with his son for the five years *next* before the examination of 1880, which means that he must have been a permanent resident from 1875 to 1880. I am compelled to answer this letter fully, as Mr. Warnock does not seem satisfied with being allowed to retain a scholarship for his son which he has obtained illegally, but wishes to deprive my son, a native of the Colony, and a legal candidate, from obtaining his just rights. As this case comes before Parliament to-morrow, will you please have this printed with Mr. Warnock's letter and the last letter you wrote Mr. Warnock.

I also enclose certificates, and Mr. John M'Intyre's letter, written on my behalf, in answer to Mr. Warnock's letter to yourself of the 6th September.

I am, &c.

Hon. W. MOORE, *Chief Secretary.*

CHARLES DOWDELL.

THE following will show that Mr. Warnock, senior, ceased to be a permanent resident in 1875:—

"Town Hall, 23rd September, 1882.

"DEAR SIR,

In answer to your enquiry *re* the last payment of City rates paid by Mr. Warnock, I find that after the 30th June, 1875, Mrs. Johnson Boe paid rates for the house formerly occupied by Mr. Warnock—meaning this, that Mr. Warnock ceased paying rates on 30th June, 1875.

"Yours truly,

"CHARLES DOWDELL, *Esq.*

(Signed) "W. T. BIRCH."

(Copy.)

"Town Hall, 26th September, 1882.

"This to certify that Mr. Samuel Warnock first commenced to pay City rates for the house occupied by him in Davey-street in the year 1870.

(Signed) "W. T. BIRCH, *Municipal Clerk for City of Hobart.*"

"Stone Buildings, 23rd September, 1882.

"DEAR SIR,

(*Re* Warnock).—In reply to your enquiry we beg to inform you that Mr. S. Warnock gave up possession of the house in Davey-street on 1st April, 1875, and paid up rent for the same to that date.

"We are, dear Sir, yours faithfully,

"C. DOWDELL, *Esq., New Wharf.*"

"ROBERTS, ALLPORT, & ALLPORT.

"Tasmanian Steam Navigation Company, Hobart, 25th September, 1882.

"This is to certify that the following passengers' names appear in the Company's books as having travelled by the steamers *Tamar* and *Derwent* during the years 1875, 1876, and 1877, viz.:—

"Mr. and Mrs. Warnock, from Launceston to Melbourne, per *Tamar*, 16th May, 1875;"Mr. and Mrs. Warnock, from Melbourne to Launceston, per *Tamar*, 20th December, 1875;"Mr. Warnock, from Launceston to Melbourne, per *Tamar*, 22nd April, 1876;"Mr. and Mrs. Warnock, from Melbourne to Launceston, per *Tamar*, 12th December, 1876;"Mr., Mrs., and Miss Warnock, from Launceston to Melbourne, per *Derwent*, 16th March, 1877.(Signed) "EDWARD J. FREEMAN, *Manager.*"

Ex parte C. S. DOWDELL *Re* TASMANIAN SCHOLARSHIP—FURTHER OPINION.

I HAVE perused Mr. Warnock's letter of 6th instant to the Chief Secretary; two letters of 23rd and 26th instant from the Municipal Clerk, Hobart, to Mr. Dowdell; letter of 23rd instant from Roberts, Allport, and Allport to Mr. Dowdell; and Certificate by the Manager of the Tasmanian Steam Navigation Company.

It appears that Mr. Warnock gave up possession of his house in Hobart on 1st April, 1875, and that he left Tasmania in the following May, and that between that date and March, 1877, he returned twice to the Colony, remaining here four months on the first occasion, and three months on the second. I do not think it necessary, however, to consider whether Mr. Warnock can be said to have resided in Tasmania between May, 1875, and March, 1877, seeing that he had given up his house, and that he only spent seven months of that time in the Colony.

Upon his own showing, he left Tasmania for good in March, 1877, that is to say, three years and nine months next before the time of his son's examination for the Scholarship.

For three years and nine months at the least, therefore, next before the examination, young Warnock's home was in another Colony, and he was merely a boarder at a Tasmanian School.

Accordingly, I am of opinion that even admitting Mr. Warnock, senior, to have resided in Tasmania until March, 1877, young Warnock was not resident in the Colony for a period of five years next before the time of the examination within the meaning of 22 Victoria, No. 21, and that in consequence he was not qualified to compete for the Scholarship.

JOHN M'INTYRE.

28th September, 1882.