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HISTORICAL RECORDS

OF

AUSTRALIA.

SERIES I.

DESPATCHES

TO AND FROM SIR THOMAS BRISBANE.

VOLUME XI.

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EDITORIAL NOTE.

A slight departure from previous practice has been made in the arrangement of the despatches in this volume. The despatches addressed to Governor Darling bearing dates prior to the 21st of November, 1825, have been omitted, and will be found in volume XII. This has been done in order to prevent the volume becoming too bulky, and to complete the publication of the despatches to and from Sir Thomas Brisbane in this volume.

F.W.

INTRODUCTION.

SIR THOMAS BRISBANE.

THE period of the administration of Sir Thomas Brisbane is probably one of the most momentous epochs in the history of the Australian colonies. During the four years of his government, the foundations of the modern fabric of civil life were laid and many important principles received consideration. The separation of Tasmania as an independent colony was partially accomplished; a council was formed, partly as an advisory body to the governor, partly to relieve him of the responsibility of enacting laws and ordinances for the good government of the colony; trial by jury was introduced in the law courts; the censorship of the press was removed; immigration of free settlers was encouraged; the sale of crown lands was commenced, and the pernicious system introduced of utilising the moneys derived from such sales for general revenue purposes; and a monopoly was first officially countenanced in the formation of the Australian agricultural company. Besides the consummation of these important changes, many large economic policies were under trial or consideration, such as the legitimate spheres for government as distinguished from individual enterprise; taxation by representation; the separation of the two branches of the legal profession; the reduction of licensed houses; the prohibition settlements at Newcastle and Port Macquarie; the abolition of the government monopoly in coal-mining; the cessation of transportation of convicts to the colonies; the open-air treatment of prisoners; wages for prisoners; the principles of task or piece work; commission to government superintendents on work performed; and the establishment of agricultural training colleges.

The material development of the colony continued. Knowledge of the country was gained by official and private exploring parties. A settlement was formed in the Wellington valley west of the town of Bathurst, and the colonization of the modern state of Queensland was commenced by the formation of a penal settlement at Moreton bay.

Many of these changes were due largely to the reports* made by John Thomas Bigge on the state of the colony under the government of Lachlan Macquarie. England at this time was recovering from the effects of the protracted Napoleonic wars. Attention was being devoted to the problems of empire and the development of trade, and these three reports attracted public opinion, both in and out of parliament, to the development of the Australian colonies. The principal result was the passing of the statute 4 Geo. IV, cap. xcvi, whereby the elements of the modern machinery of government were first enunciated. Sir Thomas Brisbane was entrusted with their initiation. The evidence of subsequent history indicates that they were well and truly established, but the personal influence of Brisbane was somewhat marred by the actions of his subordinates in the government, and by his delegation of many of his minor powers to these officers.

It is a remarkable fact that, although this period was one of the most important in the history of the colonies, the four years of his government appear as only an incident in the active life of Sir Thomas Brisbane; whereas their administrations of the colony were the most important events in the lives of his predecessors.

Sir Thomas Brisbane was born at Brisbane House, Largs, in Ayrshire, on the 23rd of July, 1773. His father was of ancient Scottish lineage. His mother, Eleanora, was a daughter of Sir W. Bruce, of Stenhouse, a direct descendant of Robert the Bruce, and whose pedigree included members of the royal families of England, France, Scotland, and Castile. Brisbane was educated at the university of Edinburgh, and subsequently at an English academy at Kensington, where his taste for mathematics and astronomy was first developed. In the year 1789 he was gazetted an ensign in the 38th regiment, and in the following year he joined this regiment, under major Trench, in Ireland. During his service there, he commenced his life-long friendship with the duke of Wellington, who at that time was lieutenant Wellesley, serving in a regiment of cavalry. Brisbane was promoted to the rank of lieutenant in 1792. When war broke out in the following year, he raised a company and joined the 53rd regiment with the rank of captain. This regiment was attached to the army of the Duke of York in Flanders. During the years 1793-5 Brisbane was wounded in the attack on the camp of Famars on the 18th of May, 1793, and

* See note 160, volume X, and note 29.

subsequently was present at the capture of Valenciennes, at the battles before Dunkirk, at Nieuport and Nimeguen, and in the winter retreat to Bremen. He returned to England in the year 1795, and was promoted major in the 53rd on the 5th of August. In October of the same year, he sailed with his regiment in the expedition under Sir Ralph Abercromby to the West Indies, and was present at the capture of Morne Chalot and the Morne Fortunée in St. Lucia, and saw service at St. Vincent, Trinidad, Porto Rico, and San Domingo. The climate of the West Indies affected his health, and, in consequence, he was compelled to return to England in the year 1799. During his absence his friends had purchased for him the commission of lieutenant-colonel in the 69th regiment, which had sailed for Jamaica before his return. After recuperating in England, he sailed for that island and took command of the regiment in the year 1800. The 69th regiment was recalled to England in 1802, and in 1804 was ordered to India. On account of his health, Brisbane was compelled to relinquish his command to avoid the service in India, and was placed on the half-pay list.

During this interval in his military service, Brisbane devoted himself to the study of astronomy, and in the year 1808 erected an observatory near Brisbane house, in Ayrshire. His natural love for the science had been stimulated by the fact that, owing to a mistake in longitude, he had narrowly escaped from shipwreck on his voyage to the West Indies in the year 1795. From that year he had devoted himself to a special study of astronomy and navigation, which became a ruling passion in a long life, and which gained him a large scientific reputation. His hobby was of practical value on his military campaigns, and, in the words of the duke of Wellington, Brisbane "kept the time of the army" during the Peninsular wars.

In the year 1810 Brisbane returned to military duties, and was appointed colonel and assistant adjutant-general on the staff at Canterbury, England. In the year 1812, at the request of the duke (then marquis) of Wellington, he was made a brigadier-general, and ordered to the Peninsula. On joining the army, he was given the command of the first brigade in the third division under general Sir T. Picton. He was present at the battle of Vittoria, where his brigade lost ninety officers and eighteen hundred men, and captured sufficient booty to enable Brisbane to give each of

his men five dollars. He commanded his brigade at the battles of the Pyrenees, Nivelle, Nive, and Orthes, and for his services in the last action he received the thanks of parliament on the 27th of February, 1814. He was present also at the battle of Toulouse, when he was wounded by a musket ball in the arm; for his services on this occasion he was mentioned in despatches.

In the year 1813 he was promoted to the rank of major-general; and in the following year, when the order of the Bath was extended, he was created a K.C.B. in common with other Peninsular generals.

In the year 1814 the duke of Wellington recommended him for a command in America, and Brisbane sailed for Canada with his Peninsular veterans, and commanded them at the battle of Plattsburg. Owing to his absence on this service, Brisbane was not present at the battle of Waterloo; but on his return to England, he was appointed to the command of a brigade, and for some time to the command of the second division in the army of occupation in France.

On the withdrawal of the army from France, Brisbane returned to England. This terminated his active military service, during which he had been present at fourteen battles, twenty-two minor actions, and six sieges. In the year 1817, he had received at the hands of the duke of Wellington the honorary title of knight of the cross of Hanover. In the meantime, he had found time to continue his scientific studies, and had been elected a member of the royal society, London, in 1810; of the royal society, Edinburgh, in 1811; and a corresponding member of the Paris institute in 1816.

In the month of November, 1819, Brisbane married Anna Maria, daughter and heiress of Sir Henry Hay Makdougall, of Makers-toun, Scotland, and in consequence of this alliance he assumed the additional name of Makdougall by letters patent, dated 14th August, 1826. He had two sons and two daughters, who predeceased him. The second daughter was born in the colony on the 7th of April, 1823, and was named Eleanor Australia Makdougall Brisbane; the elder son was also born in the colony, on the 24th of August, 1824, and was named Thomas Australius Makdougall. The younger son was born on the voyage from New South Wales to England.

After the conclusion of the European wars, many of the commanding officers were deprived of congenial employment. In July, 1820, Governor Macquarie's resignation was accepted by Earl Bathurst, and he was recalled from the government of New South Wales.* Bathurst thereupon wrote to the duke of Wellington asking him to nominate a successor, and, after consulting him, Wellington nominated Brisbane. Brisbane's scientific reputation was then well known, and it is said that Bathurst replied to Wellington that he "wanted a man to govern, not the heavens, but the earth." On the 5th of October, 1820, Brisbane wrote to Earl Bathurst from Cork, applying for the appointment, and stated, "I believe my wishes have been communicated to Your Lordship by His Grace the Duke of Wellington and by the late Sir Joseph Banks." On the 3rd of November following, Bathurst notified Brisbane that he had been appointed to the government. Brisbane himself attributed his appointment to the influence of the duke of Wellington. His commission† as governor was dated the 3rd of February, 1821.

It is not improbable that Brisbane's passion for astronomy induced him to become an applicant for the government of New South Wales. No observations of stars had been made in the southern hemisphere since the work of Lacaille at the Cape of Good Hope in the years 1751-2, and it was considered that two observatories were needed to undertake the work. When the government declined assistance, Brisbane purchased the necessary instruments for an observatory, and took two assistants, C. S. Rumker and J. Dunlop, with him to the colony at his own expense.

Brisbane arrived in Port Jackson on the ship *Royal George* on the 7th of November, 1821, but he did not assume the administration until the 1st of December following. A few days after his arrival, his instruments were unpacked and used to observe the solstice in December before there was an observatory to cover them. During the early part of his administration, and until his official duties absorbed his attention, Brisbane was one of the most active of the three workers in the observatory‡ established near the

* See page 314, volume X.

† See page 589, volume X. ‡ See note 137.

government house at Parramatta. Much good work was carried on there, which received world-wide recognition. In the year 1824 an honorary degree was conferred on Brisbane by Edinburgh university, and subsequently he received the degree of D.C.L. from both Oxford and Cambridge universities. On the 8th of February, 1828, the royal astronomical society awarded him its gold medal for the Parramatta catalogue of stars and general observations, and for his munificence in establishing and maintaining the observatory.

Brisbane was recalled by Earl Bathurst from the government of the colony in a despatch* dated 28th December, 1824, under circumstances which are discussed later, and he relinquished the administration on the 1st of December, 1825.

After his return to Scotland, he devoted most of his attention to science. In the year 1826 he erected a third astronomical observatory at Makerstoun, in Scotland. In the following year he was elected vice-president of the astronomical society. In 1832 he succeeded Sir Walter Scott as president of the royal society at Edinburgh, a position he held until his death. In 1834 he was president of the British association at its meeting in Edinburgh. In the year 1841 he established a magnetic observatory at Makers-toun, which was the first of its kind in Scotland; and on the 6th of March, 1848, he received the Keith medal of the royal society of Edinburgh for his magnetic observations. Besides articles in scientific publications, Brisbane contributed six papers to the royal society of London and five to the royal astronomical society.

After his return from the colony, Brisbane was promoted to the rank of lieutenant-general in 1829. In 1836 he was created a baronet, and in the following year he received the distinction of G.C.B. In 1836 he was offered, but refused, the command of the troops in Canada, Nova Scotia, and New Brunswick. In 1841 he was promoted to the rank of general, and some years later his appointment as field-marshal was under consideration.

Apart from his scientific pursuits, Brisbane devoted the closing years of a long life to the occupations of a country gentleman in addition to holding the appointment for some years of honorary colonel to the 34th regiment.

* See page 429.

Brisbane died on the 27th of January, 1860, in the same room in which he had been born eighty-seven years before. All his family had predeceased him, Lady Brisbane having died on the 26th of February, 1849.

Sir Thomas Brisbane was a man of many parts, and would have made an ideal constitutional governor. Prior to his arrival in the colony, he had won rank and fame on the field of battle, and had gained considerable scientific recognition for his labours in the field of astronomy. He belonged to a family of high standing in Scotland, and was possessed of sufficient private means to place him above the temptations to obtain personal pecuniary advantages from his government, temptations which had exposed some of his predecessors to grave criticism. He was highly intellectual, and fully realised the problems of his government. He was kind-hearted, honourable, and gentle, and ever ready to assist and advance the persons he had to govern, when such assistance was deserved. But his administration of a crown colony was marred by a curious anomaly of character. In his military career he had proved that he was undoubtedly a man of action and dauntless, even to heroism, on the field of battle. In his civil career he was somewhat a man of inaction, and, when thwarted, he was averse to maintaining his own authority. He gave evidence of a constitutional disinclination for the details of business and for the minor matters of administration. His ideas for the advancement of the colony and the colonists were rational and far-sighted. He gave orders which would have materially assisted the progress of the colony; but when these orders were thwarted, opposed, or ignored by the officials of his government, he neglected to enforce compliance. He was averse also to solving the problems caused by the opposition of contending factions in the colony. As the result, Brisbane left the general administration more and more in the hands of his officials, and exercised only a general direction of affairs.

In an academic sense, Brisbane was the best governor who had been sent to administer the colony; but undoubtedly he was more suited for the administration of a self-governing colony than that of a crown colony. In practical politics, his influence is not pronounced, as many of his good intentions were defeated by his officials. If he had been so fortunate as to possess the able and loyal support of his administrative officers, the striking reforms which

were commenced by his orders or under his directions, and which characterise his administration, would have stamped the four years of his government as some of the most successful in the history of the colony.

At the time of Brisbane's arrival, the inhabitants of the colony were still divided into two classes, the exclusives, and the emancipists with whom, by a community of interests, were associated the poorer free settlers. All the exertions of Governor Macquarie to break down the barriers between these two classes had failed. Macquarie had not only failed, but had increased the antagonism, and, in the opinion* of J. T. Bigge, had left his successor "the hopeless task" of reconciling the conflicting interests of the two classes. Prior to Macquarie's administration, the exclusives had been the dominant party. Macquarie had restricted their influence, and had encouraged the wishes and desires of the emancipists and their friends. In January, 1821, Frederick Goulburn had commenced his duties as colonial secretary. All Goulburn's opinions and desires were in favour of the exclusive party. When Brisbane became averse to interference in the minor details of administration, Goulburn, as the principal executive officer, acquired more and more power in the functions of the government. As the result, his natural inclinations, associated with similar feelings on the part of John Oxley, the surveyor-general, tended to restore the exclusive party to their former power and influence. This party was opposed to reform and to the increase or extension of the civil rights of the community at large; and to its opposition may be traced the partial failure of the various reforms introduced during Brisbane's administration, and even the actual recall of Brisbane.

In considering this period, the changes introduced fall into three main classes—firstly, those due more or less to Brisbane's initiative; secondly, those due to the reports of Mr. Commissioner J. T. Bigge; and thirdly, those due to the passing of the statute 4 Geo. IV, cap. xcvi.

One of the earliest changes introduced by Brisbane was in the reorganisation of the system of land grants. The power to make land grants was one of the chief sources of influence and of the popularity or unpopularity of his predecessors. It had been found

* See first report of J. T. Bigge, page 154.

that, when an applicant obtained the land he desired, he supported the governor; but when disappointed in his application, he was dissatisfied and discontented with the administration, and became "the implacable enemy" of the governor. The acquisition of a land grant was a sure stepping-stone to some wealth, for the government gave the land, supplied the labour for its cultivation by the assignment of convicts, and for many years purchased the produce at a fixed price. If the grantee was negligent and did not make the most use of his land, he was sure of obtaining an enhanced value by the progress of settlement in the surrounding district.

Brisbane was entirely dispassionate in his administration, and desired to show favour to no class of colonists. Unlike his predecessors, Macquarie and King, he made no attempt to court popularity by the lavish distribution of indulgences, especially, as they did, during the last few months of their government. Within five months of the commencement of his administration, he had introduced a new system,* whereby each grantee was compelled to relieve the government of the cost of maintenance of one convict for each one hundred acres granted. This change was a distinct advance in the political economy of the country. Apart from the direct saving to government caused by the relief from the maintenance of a certain number of convicts, it had a deterrent effect on mere speculators in land; it prevented the acquisition of land by settlers with fictitious capitals; and it promoted the settlement of the colony by settlers who were really desirous of improving the land. The change provoked considerable opposition; but, nevertheless, within two years one hundred and seven grantees had accepted land with all the obligations, whilst three hundred and five bonds had been executed for the maintenance of convicts as soon as the deeds could be delivered to the grantee. In a despatch† dated 24th July, 1824, Brisbane pointed out that, whilst all other articles were burdened to a certain extent for revenue purposes, land had been almost exempt. By imposing the condition of maintaining one convict (at a cost of probably £16 *per annum*) for every one hundred acres, that land was subjected indirectly to a tax of that annual value, less the value to the settler of the labour performed by the convict.

* See page 631, volume X. † See page 331.

Acting under the suggestion* of J. T. Bigge, in the year 1824 Brisbane commenced the practice of the sale of crown lands.† At the same time, Brisbane himself regarded it as “one of the most legitimate sources of Revenue for this Colony.” In this he was undoubtedly wrong, so long as such revenue was not used for productive works or works of permanent value to the general improvement of the colony. For, as the crown lands were gradually alienated, the colony was confronted with a diminishing revenue without a corresponding compensation to the public generally, apart from the individual holders of land.

In the convict system Brisbane introduced many reforms, some of which were first suggested by J. T. Bigge. Probably one of the earliest and most important was the organisation of gangs of convicts‡ for the purpose of clearing lands for settlers. These gangs, under a government overseer, were employed at the request of the settler, who lodged in the commissariat six bushels of wheat (valued at 8s. 6d. *per* bushel) for each acre cleared. By this system the country was developed, the government gained some return from the labour of the convicts employed, and the convicts were trained to a labour which would be of use to them after the expiration of their sentences. Each gang consisted of an overseer and twenty-two men, and the overseer was paid 3s. 6d., and the gang were allowed certain quantities of tea, sugar, and tobacco for each acre cleared. As the result of this system, 11,503 acres were cleared in two years, which was nearly one-fifth of the total area cleared in the colony since its foundation to that date, and the government was saved the cost of maintaining eleven hundred and fifty convicts.

Brisbane reintroduced order amongst the convicts by the impartiality with which he granted indulgences. He systematised the practice of granting tickets of leave, remissions of sentences and pardons, and it was soon realised that such indulgences could only be obtained as the reward of real merit and good conduct.

He abolished the system§ of assigning mechanics to magistrates and government officials, and adopted the practice of hiring them

* See note 28.

† See page 330 *et seq.*

‡ See page 323 *et seq.*

§ See page 471 *et seq.*

to settlers at 3s. 6d. *per* week and the cost of maintenance. By this means a revenue of £3,712 16s. was obtained in one year, apart from the saving in the maintenance of four hundred and eight convicts, which, at £16 *per annum* each, amounted to £6,528.

He developed the practice of agriculture on government account, which had been discouraged by Macquarie. The principal station for this purpose was at Emu plains. Here the convicts were trained to useful pursuits for their after life. The superintendents were granted a tithe on all crops and ten *per cent.* on the net profits. As a result, the convicts employed paid for their maintenance, and the establishment became a remunerative government enterprise.

As the result of reforms in the convict administration, there was a general improvement in the moral character of the convicts. Notwithstanding the great influx of convicts transported to the colony, the number of convictions recorded by the criminal court showed a marked and progressive diminution,* as follows:—in 1822, 208; in 1823, 175; and in 1824, 100.

In the commissariat department Brisbane introduced some striking reforms. In the year 1824 he appointed two boards of inquiry† to consider the question of the issue of rations. These boards recommended a complete change of system, which was adopted by Brisbane.

In the year 1822 Brisbane altered the system of payments made by the commissariat. In future, he directed‡ that these should be made in dollars at a fixed value of five shillings, which was about 16½ *per cent.* above their intrinsic value. The value of the dollar in circulation in the colony had been five shillings; but owing to large importations, the currency about that time became overloaded, and the value of the dollar to the merchant fell to its exportable value, viz., 4s. 2d. sterling. The change made by Brisbane caused much stir in the colony, but was approved by Earl Bathurst in a despatch§ dated 31st March, 1823. Bathurst, at the same time, recommended that all commissariat supplies should be obtained by tender.

* See page 478. † See page 498 *et seq.* and page 661 *et seq.*

‡ See page 729 *et seq.*, volume X. § See page 73.

In the year 1823 Brisbane introduced the practice of calling for supplies by tender. Shortly after the harvest he called for tenders for the supply of grain for the ensuing quarter, instead of filling the stores with a year's supply at a fixed price, as had been the previous custom. This sudden change caused consternation amongst the colonists. The long-established practice amongst storekeepers and dealers had been to receive from their customers grain at a slightly lower value than the price fixed by government, and then to lodge it in the public stores. The purchase by the government of three months' supply left a large amount of grain in the hands of dealers and settlers, which appeared to be un-realizable, and many anticipated ruin, as they thought there was a superabundance of grain in the colony. In consequence, grain was neglected or used to feed live stock. When the season advanced, however, it was found that there was an actual scarcity of grain, and the price increased to fifty shillings a bushel. Brisbane there-upon chartered the ship *Almorah* to proceed to Batavia and secure a cargo of grain. On the return of this ship to Port Jackson, the opponents of Brisbane's policy induced Charles Mitchell, commander of H.M.S. *Slaney*, to seize the vessel and cargo for alleged infraction of the charter of the East India company by the importation of some tea, sugar, and dollars, which had been done without Brisbane's knowledge.*

Brisbane at the same time was effecting many economies† in the commissariat, which decreased the amount of public money in circulation, and the opponents of his policy anticipated general bankruptcy. The reforms, however, were excellent, and the evil effects anticipated were adjusted by the more than equal expenditure of money which was the result of capital introduced by the great influx of free immigrants.

Brisbane granted the colonists a great boon in the liberation of the press from censorship on the 15th of October, 1824. This change was reported in a despatch‡ to Earl Bathurst, dated 12th January, 1825.

The progress of trade and commerce under Brisbane was extraordinary. This is indicated by the revenue collected, which was largely derived from customs duties. In the year 1821 it was

* See page 529 *et seq.*

† See page 622 *et seq.* ‡ See page 470 and note 112.

£36,231, and in the year 1825 £71,682. The export of wool, which was becoming the principal industry in New South Wales and Tasmania, apart from the whale and seal fishery, likewise increased; in 1822 it amounted to 138,498 lbs.; in 1823, 477,261 lbs.; in 1824, 382,907 lbs.; and in 1825, 323,995 lbs.

The reforms introduced in consequence of the reports of Mr. Commissioner J. T. Bigge were fully detailed by Brisbane in two despatches,* dated 28th April, 1823, and 14th May, 1825.

The control in church matters was removed from the governor's jurisdiction during Brisbane's administration. This change was made principally at the suggestion of J. T. Bigge, and was communicated by Earl Bathurst in a despatch† dated 21st December, 1824.

The changes introduced by the passing of the statute 4 Geo. IV, cap. xcvi, were the most important in the subsequent history of the colony. This statute provided for the appointment of a nominee council, whose constitution was in general conformity with that granted to Canada under the provisions of the Quebec act of 1774. The first council consisted of five members, viz., the lieutenant-governor, the chief justice, the colonial secretary, the principal surgeon, and the surveyor-general, who were appointed by warrant,‡ dated 1st December, 1823. By a second warrant,§ dated 16th November, 1824, the archdeacon of the colony was nominated in the place of the surveyor-general. The holders of these various offices at that time were nominated by name in the warrants; but, in the event of their death, the successor in office succeeded *ipso facto* to the vacancy in the council, except in the case of the archdeacon, who was to be succeeded by the surveyor-general. The council was appointed to act as an advisory body to the governor, and to relieve him of some of the responsibility of enacting laws and ordinances for the peace and good government of the colony. Prior to the appointment of the council, the governor of the colony had exercised sole control in enacting laws for local purposes under the system of general orders and proclamations. By the appointment of the council, the powers of the governor, however, were little restricted *if he so desired*. The council had no power

* See page 74 *et seq.* and page 572 *et seq.*

† See page 419 *et seq.* ‡ See page 195. § See page 424.

to initiate legislation. All proposed laws were submitted for consideration by the governor, who presided, and who had previously submitted them to the chief justice and had obtained his opinion that they were consistent with the laws of England. The governor's power was further maintained by his right to establish any law, if he obtained the support of one member of the council, notwithstanding the fact that the majority were against its enactment. At a time of rebellion or apprehended rebellion, the governor was granted the additional power to legislate against the will of the entire council. Further, all acts and ordinances were subject to the confirmation, revision, or veto of the British parliament.

It is clear that, in granting a council to the colony, consisting of nominee civil officers, the English government recognised that the time had arrived for a change from the former military administration to a civilian form of government. The council had no power of initiative, but had full freedom of criticism of proposed laws and taxes. The criticism, however, was secret; the members were bound by an oath never to divulge the proceedings, and this prevented any reference to them even in official correspondence with members of the English government.

The maintenance of the governor's authority and the limitations on the freedom of action of the members indicate that parliament was not prepared to make a revolutionary change in granting even a modified form of self-government, but merely to pave the way for such a change by a process of evolution.

The first meeting* of the council was held on the 25th of August, 1824, and the first act† was passed on the 28th of September following. During Brisbane's administration, twenty-three acts were passed. These provided for the regulation of the liquor traffic, of licensed houses, of shipping, of duties, tolls, and taxes, of the post office, and of the hulk in Sydney harbour; for the registration of deeds and conveyances, and of births, deaths, and marriages; for the relief of persons imprisoned for debt; for the appointment of an additional judge of the supreme court; for the prevention of malicious prosecutions; and for the naturalisation of certain persons.

* See page 407 and note 95. † See page 408.

The foundation of the council under Sir Thomas Brisbane was fortunate. Brisbane had no desire for autocratic powers, and he encouraged the development of the idea of civil responsibility by referring all possible subjects to the council for consideration and advice. The deliberations of the council under his fostering care were ideal in character; they were calm and thorough, and during his government the council was the one institution free from faction and party disputes. Its legislation in one instance, namely, the prevention of malicious prosecutions of magistrates,* was primarily for the purpose of avoiding all chance of such disputes. When an endeavour was made by the attorney-general, Saxe Bannister, to prevent the passing of the act of indemnity, Sir Thomas Brisbane quietly but firmly maintained the authority and independence of the council.† Brisbane, as has already been stated, was an ideal constitutional governor; and it is probable that with more opportunity he would have established the council as a body equal in weight and influence, if not actually in power, with the governor himself.

The statute, 4 Geo. IV, cap. xcvi, provided also for the reform of the administration of justice. It provided for the abolition of the judge-advocate's court, with its military constitution, and substituted in its place a criminal jurisdiction for the supreme court. The draft of the bill was prepared by Francis Forbes, who was appointed chief justice. He made full provision for trial by jury in all cases, as in England; but the bill, as passed, provided for a jury of seven commissioned officers of His Majesty's forces in criminal cases, and in civil suits for a civil jury only when both parties to the action agreed to submit the cause to trial by jury. The qualification for a juror was the possession of fifty acres of landed property or of a dwelling worth £300. The provision for trial by jury in the supreme court was, however, seldom exercised, as in practice it was found that, if one party desired a jury, the other party opposed it.

It is probable that the English parliament, in providing for trial by jury by mutual consent, was not prepared to make a drastic change, but desired, as in the constitution of the council, to again pave the way by process of evolution.

* See note 208. † See page 881 *et seq.*

In the reconstitution of the courts the last semblance of military rule disappeared, as the judges were civilian in rank. The great advance in the achievement of civil rights by the colonists was the granting of the right of challenge, as in criminal causes the commissioned officers and in civil causes the magistrates were subject to challenge. At the same time, the control which the governor had exercised through his power of summoning the courts and nominating some of its members was eliminated.

Under the same statute, courts of general and quarter sessions were established, which took the place of the governor's court. These were constituted by the magistrates and a jury. Their establishment provoked considerable opposition, especially amongst the exclusive party, who felt that their influence would be much reduced by the development of civil rights. An impression gained currency that some of the magistrates intended to hold sessions without a jury. Brisbane, however, ignored the opposition,* and issued a proclamation summoning the courts to be held in similar manner to those held in England; in this action he was subsequently supported by a decision† of the chief justice. The general opinion of the magistrates was in favour of the innovation,‡ and it was welcomed by the colonists in general.

Had the jury system as first established by Brisbane's proclamation been maintained and extended, it would probably have prevented the party feeling which reasserted itself in the colony a few years later.

Unfortunately, the privilege was grossly misused for private and improper purposes at an early date. This misuse was made at the instigation of members of the exclusive party. In the presentment of the grand jury at Parramatta in the year 1825, opportunity was taken to impeach H. G. Douglass§ for improper conduct as a magistrate. This was clearly a perversion of the privilege, as the conduct alleged to be improper was of a character for which the foreman of the jury, H. H. Macarthur, himself had set many precedents. The proceedings of this jury were aptly criticised by Brisbane in his despatch dated 25th October, 1825,|| and by chief justice Forbes¶ in a letter dated 30th October, 1825.

* See page 893. † See note 237. ‡ See page 894 *et seq.*

§ See page 859 *et seq.* || See page 894. ¶ See note 208.

By the 44th clause* of the statute, 4 Geo. IV, cap. xcvi, power was given to His Majesty in Council to establish a separate government for Tasmania. In 1823 it was not considered advisable to make the separation of the colony from New South Wales complete; but in a despatch† dated 28th August, 1823, Earl Bathurst gave orders to Sir Thomas Brisbane, which were tantamount to a partial separation of the colony. By these instructions the responsible executive powers and the control of the finances were vested entirely in the lieutenant-governor of Tasmania. He also could grant pardons and reprieves, remit sentences, appoint officers, and make land grants; but these were subject to the formal approval of the governor of New South Wales. It was also provided that laws relating to or affecting Tasmania were to be approved by the lieutenant-governor before submission to council, except in cases of emergency.

During Brisbane's administration, one important exploring expedition‡ was undertaken officially by John Oxley, the surveyor-general, in the year 1823. Port Curtis and Moreton bay were thoroughly examined, and the Brisbane river was discovered. The result of this discovery was the establishment of a penal settlement at Moreton bay, and thereby the colonisation of the great modern state of Queensland was commenced. A private expedition,§ organised by Hamilton Hume and W. H. Hovell, was also successful in making far-reaching discoveries towards the end of the year 1824. These two leaders discovered the overland route from Lake George to Port Phillip, and paved the way for the colonisation of the state of Victoria.

In addition to forming the settlement at Moreton bay, Brisbane established a government station in the Wellington valley, to the west of the town of Bathurst. In the year 1824 the English government despatched the expedition|| to form a settlement on Melville island, under captain Bremer; this was the first attempt made to colonise the northern territory of the commonwealth of Australia.

During his government, Brisbane gave every encouragement to the cause of science. Apart from the observatory which was conducted at his own expense at Parramatta, he had thermometers

* See note 33. † See page 109 *et seq.*

‡ See page 215 *et seq.* § See note 151. || See page 227.

and barometers placed at Sydney, Bathurst, and Newcastle, and gave orders for a systematic record of the readings. He encouraged the meetings of a scientific society, which had been formed under the name of the philosophical society of Australia. He promoted the experimental cultivation of various plants and seeds at Emu plains, Port Macquarie, and elsewhere.

In this period, free immigration, which had been discouraged by Governor Macquarie, commenced, and received the full approval of Sir Thomas Brisbane. The English government also approved the formation of the Australian agricultural company,* which subsequently obtained a monopoly of coal-mining.

Throughout his administration Brisbane was constantly thwarted by the actions of opposing parties in the colony. The bitterness which was engendered in these fights is well exemplified by the disputes which centred around the person of Henry Grattan Douglass. These commenced in the allegations made by James Hall of immorality on the part of Douglass with his assigned servant.† A few months after Douglass was exonerated from these charges on inquiry, the Revd. Samuel Marsden was convicted by Douglass for allowing his assigned servant to labour for his own benefit.‡ Marsden preferred charges against Douglass on this account to Earl Bathurst.§ An inquiry was ordered, and Douglass again exonerated. Douglass was further charged with drunkenness and flogging convicts to extort confessions; these charges were followed by a similar result as formerly.|| All these charges were trumped up for mere party purposes, and chief justice Forbes, in referring to the "Douglass cause," stated it was "the *cause* and not *the Douglass*, which has made so much noise and excited such a powerful interest in this Colony." The attack on Douglass was actually an attack on every public servant in the colony by a party who felt that their power was being reduced by the introduction of reforms.

When the fight became so bitter, it was unlikely that the governor himself would escape. Private letters were sent to England making the most vile charges against Brisbane. An open letter was published in the *Morning Chronicle* newspaper in London¶

* See page 563 *et seq.* † See page 750 *et seq.*, volume X.

‡ See page 717 *et seq.*

§ See page 307 *et seq.* || See page 783 *et seq.* ¶ See page 606 *et seq.*

alleging various acts of maladministration. But probably the most contemptible charge was that he had connived at the sending of female convicts to the government establishment at Emu plains for the purposes of prostitution.*

The disputes between parties penetrated into every sphere of life, probably with the single exception of the deliberations of the council. As has been noted already, it was evident in the report of the grand jury at Parramatta in August, 1825, and in the seizure of the ship *Almorah*. The departure of judge Field was made the opportunity for an attack on Brisbane at a meeting of the agricultural society. The discoveries of Hume and Hovell did not receive due recognition for fear of detracting from the merits of the discoveries of John Oxley, who was a member of the exclusive party. These are only a few of many examples which might be quoted.

Brisbane's greatest difficulties, however, were caused by lack of loyalty and support from his principal executive officer, Frederick Goulburn, the colonial secretary. Goulburn thought himself justified in withholding correspondence from the governor, in modifying instructions received from the governor, and in issuing orders on his own responsibility. Goulburn was actually the cause of the dispute between Brisbane and John Macarthur relating to his land grants. Owing to Goulburn's actions, it became recognised in the colony that, unless he approved, it was useless for anyone to seek a favour from the governor. Brisbane was aware of all this, and made a report on Goulburn's misconduct in a despatch to Earl Bathurst† dated 1st May, 1824. But Brisbane made no strong effort to counteract Goulburn's influence, and in that he marred his administration, which would otherwise have been the most successful in the colony. Principally in consequence of the disputes between the governor and the colonial secretary, Earl Bathurst, in December, 1824, wrote despatches‡ recalling them both from the colony.

In May, 1825, Brisbane acknowledged with satisfaction and relief the orders for his recall,§ and only continued to administer

* See page 814 *et seq.* † See page 253 *et seq.*
 ‡ See page 429. § See page 606.

the colony until the end of the month of November, because he considered that Colonel Stewart was incompetent to govern,* and Governor Darling's arrival was not expected until December.

Sir Thomas Brisbane's administration just missed being ideal from his failure to enforce the loyalty and obedience of his principal executive officers. A paragraph from an *ex parte* statement in a farewell address to the governor aptly summarised the main points in his favour.

“Your Excellency's Government, for *mildness*, has not been equalled since the foundation of the Colony. For *impartiality*, it has been pre-eminently distinguished. Its *firmness* has been exemplified by Your Excellency having never, in the distribution of the patronage of the Crown or in framing New Laws or Ordinances, allowed yourself to know the high from the low, the Emigrant from the Emancipist; all orders of the people have been equally protected and equally recognised by you; and no temptation has ever caused Your Excellency to swerve from the straight path of simple rectitude, or to give one class of His Majesty's free Subjects an undue preference above another.”

FREDK. WATSON.

August, 1917.

* See page 589.

DESPATCHES.

HISTORICAL RECORDS

OF

AUSTRALIA.

SERIES I.

RECOMMENDATIONS OF SETTLERS.*

1823.

DURING the year 1823, letters of recommendation from the under secretary were forwarded to Sir Thomas Brisbane on behalf of the following settlers:—

Letters in recommendation of settlers.

	Date of Letter.	Name.
1823.	22 February	Mr. Henry Jellicoe and Mr. Thomas Curry
	11 March ...	Mr. John Sturgeon
	20 March ...	Mr. John Sharland
	30 August ..	Mr. Robt. Waddell
	19 November	Mr. T. H. James

ASSIGNMENTS OF CONVICTS.*

DURING the year 1823, letters, which enclosed the assignments of convicts (not available) *per* the ships named, were sent to Sir Thomas Brisbane bearing dates as under:—

Assignments of convicts.

	Date of Letter.	Ship.	Number of Convicts.
1823.	22 April	Ocean	171 Male
	25 April	Henry	160 „
	5 June	Mary	126 Female
	30 July	Asia	150 Male
	23 August	Guildford	160 „
	21 November	Brothers	89 Female

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch per ship Competitor.)

Sir, Downing Street, 1st January, 1823.

1 Jan.

I have the Honor to acquaint you that I have appointed Mr. Frederick Augustus Hely to be Superintendent of Convicts in New South Wales at a Salary of £200 per Annum.

Appointment of F. Hely as superintendent of convicts.

I have, &c.,

BATHURST.

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SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 1 of 1823," duplicate per ship Surrey.)

Government House, Sydney, New South Wales,

My Lord,

27th January, 1823.

Trials of
Davidson, W.,
and Rotton, W.

I have the Honor to enclose from the Judge Advocate of New South Wales two reports of the proceedings on the Trials of John Davidson and Walter Rotton, The Court having in each case determined that the same should be transmitted through Your Lordship for the gracious signification thereupon of His Majesty's pleasure.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

THE INDICTMENT OF WILLIAM DAVIDSON.

Rex v.
Davidson, W.—
information.

New South Wales }
to wit } BE it remembered that John Wylde, Esquire,
the Judge Advocate of Our Sovereign Lord
the King for the Territory of New South
Wales and its Dependencies, who for our said Lord the King exhibits the Charge in this behalf comes into the Court of Criminal Jurisdiction, convened at Sydney in the said Territory by Precept under the Hand and Seal of His Excellency Sir Thomas Brisbane, K.C.B., dated the thirteenth day of September in the Year of our Lord One thousand eight hundred and Twenty two, And having power to enquire of, and to hear and determine and punish All Treasons, Murders, Felonies, Trespasses, and other Crimes whatsoever, committed within the said Territory or its Dependencies. And for our said Lord the King charges and gives the said Court to be informed that William Davison, otherwise John Davison, on the fifteenth day of June in the Year of Our Lord One Thousand eight hundred and twenty two, with Force and Arms at Sydney aforesaid, in the Territory aforesaid, in and upon one Robert Howe, in the peace of God and our said Lord the King, then and there being feloniously, wilfully, maliciously and unlawfully did make an assault, and with a certain sharp Instrument called a Bayonet then and there feloniously, wilfully, maliciously and unlawfully did strike and cut the said Robert Howe in and upon the left breast of him, the said Robert Howe, with intent, in so doing, wilfully and of his malice aforethought to kill and murder him, the said Robert Howe, to the great damage of the said Robert Howe against the form of the Statute in that case made and provided and against the Peace of Our Lord the King, his Crown and dignity.

Other Counts charging the assault with different Intents under the Statute.

[Enclosure No. 2.]

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REPORT BY JUDGE-ADVOCATE ON THE TRIAL OF WILLIAM DAVIDSON.

Report by
judge-advocate
on trial of
William
Davidson.

THE Report of the Judge Advocate of New South Wales as to the Trial of William alias John Davidson upon a charge, reduced into writing and exhibited to the Court of Criminal Jurisdiction on Monday, 30 September, 1822, against the Prisoner for maliciously assaulting and Stabbing with a bayonet Robert Howe at Sydney on 6 June, 1822, with intent to murder or to maim, disfigure or disable the said Robert Howe against the form of the Statute, &c. (43 Geo. 3, ch. 58, S. 1.)

(See Copy Information exhibited against the Prisoner.)

The Prisoner Pleaded
Not Guilty.

Norton, Solicitor for the Prosecution, stated to the Court the facts of the Case when the following Witnesses were called and examined:—

ROBERT HOWE.—I recollect the evening of 15 June last. I had been in the Chapel, Princes Street, Sydney. I had left the Chapel about $\frac{1}{4}$ past 9 o'Clock, was proceeding home from the Mission House. I was crossing the Street about 5 or 6 yards from Mr. Scott's House at the opposite side; it was very dark but I could perceive the figure of a Man before me; he was walking before me 8 or 10 Yards; there was a curve on the pathway; seeing some one before me I prepared my Stick and in approaching I saw the Man returning again towards me; I immediately made way for him and something crossed my mind at the moment; I went towards the Road in order that he might pass between me and the paling. I rattled my Stick, and before I could lift my Stick from the Ground he made a run at me and I felt something like a blow of an open hand very violently. He said something at the same time, but I did not distinguish what; Something like "There"; he was about four yards from me. I immediately found I was wounded; whether the Man drew the Instrument from me or I myself, I do not know, but when it was so I found the blood rushing out. I made an alarm of Murder and run back to Mr. Scott's; the person disappeared immediately I received the Wound; I went to Mr. Scott. I was confined a fortnight; it was not considered that I should live the whole night.

It was two inches from my left breast, parallel towards the shoulder. I knew the weapon was in the Street, and I told Mr. Scott so. I saw this Weapon on the Monday following (bayonet on a Stick produced).

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Cross examined by Mr. Rowe, Solicitor for Prisoner.—Dr. Bland* attended me. I remained at the Mission house about an hour or an hour and $\frac{1}{4}$; the Chapel ends at 8; it was $\frac{1}{4}$ past 9 when I left the Mission House, and two minutes after I received the blow.

I have thought it was Bullivant. I made sure of it at the moment. I never imagined the Prisoner at the Bar; it never entered my mind to put an end to all questions of that kind, not at the time nor till several days afterwards. I did charge Bullivant; but they brought another Man Johnson to me the same night, but they were so much alike that I could not charge either of them. I conjectured it was one of them at that time. No serious differences have ever arisen between Mr. Bullivant and I. I had innocently injured Mr. B., and I did not know but he might have resorted to that mode of Revenge. Johnson had done everything against me, but to take my life, and acted so that I could not but think with the Common opinion that he was Guilty. Scott is the third House in Princes Street. I only know from Report that Prisoner lodges with McKinley. I only know he lives at Cockle Bay; it would take 10 minutes to run from the Market Wharf from the place where I was stabbed.

I had not spoken to the Prisoner above three times in my life, and never perhaps three words at a time. I recollect three or four weeks before seeing a Man on the outside of the Macquarie Street Chapel. I was going towards the Chapel on a Wednesday night; a Man with a Stick was looking in at a Window. I walked round to see who it was; I found it was the Prisoner. I knew him perfectly well; he saw me. I saw him get down; he walked out from the Yard. I took no notice of it at the time.

I had been out in the Town, Morning, noon and night since that time. I can mention no other Circumstance connected with this assault. I have no doubt that I had been at Princes Street Chapel in the Interval of time on the two nights in each week that it assembles.

FRANCIS EWIN FORBES.—I lived in Princes Street, Sydney. I recollect the evening Mr. Howe was wounded. I was at Mr. Mansfield's House. I parted with Mr. Howe at Mr. Mansfield's Gate. I had not got many steps when I returned to Mr. Mansfield's, and hardly got into his Study when I heard the cry of "Murder." I had hardly got to Mr. Scott's door again, when I saw Mr. Howe returning to Mr. Scott, who I believe met him as he went towards him. I assisted Mr. Scott to take Mr. Howe into the House. After the wound was dressed by Dr. Stevenson, Accompanied by Mr. Mansfield and Mr. Scott I went to look for the Instrument that might have been used, and after looking about the Road I found Mr. Howe's hat with paper in it; a

* Note 2.

Servant of Mr. Scott saw the bayonet lying in the middle of the Road. To the best of my belief this (produced) is it; it was fixed in this way; it was covered with blood. I suppose an inch and $\frac{1}{2}$ towards the point, It was quite wet. We took it into Mr. Scott's House. I did not perceive any blood where it was found. I did not examine particularly. Mr. Howe was bleeding profusely and I thought the wound was fatal.

Cross-Examined.—It could not be many minutes after he left the Mission House that I heard the cry of Murder; it might be 5 minutes or less. I know Johnson. I was not present when he was examined before the Magistrates. At the time the Wound was given, when Mr. Howe was a little recovered, he said he could not suspect any body but Bullivant and Johnson for he had never injured anyone; it was a Starlight night, not a very dark night.

I can't be positive as to the time Mr. Howe left the Mission House. I do not know whether the Drum had beat or not. When I pulled out my Watch, thinking the man who went for the Doctor a long while, I looked at my Watch and it wanted then 20 minutes to 10 o'clock.

It is 15 Yards from Mr. Mansfield's door to where the Bayonet was found. Mr. Howe's hat was further still; the hat was lying at the edge of the Foot path. I think it would take a Man $\frac{1}{4}$ of an hour, unless he was a good runner, to run from Prince's Street to Mr. McKinley's.

JAMES BOWMAN.—I am Principal Surgeon of the Colonial Establishment; the Prosecutor was dressed before I came; I did think at first there might be some danger from the wound.

JAMES MITCHELL.*—I am Surgeon of the 48th Regt. I examined the wound inflicted on the Prosecutor; it was before 10 o'clock. I thought it was a ragged Instrument, a three cornered Instrument. I saw this Instrument at the time, and I considered it as an Instrument with which such a Wound might have been given; it was wet, it was so probably about an inch. I apprehended danger; there was a great difficulty of breathing. The cellular membranes were filled with air all round the wound. I don't think it could be a cutting Instrument.

JOSEPH MCKINLEY.—I live by the Market Wharf of Sydney; I remember the occasion of Howe's being wounded; the Prisoner lodged with me. I don't know whether he was at home or not. I had not been at home that evening. I returned soon after nine o'clock, it might be a $\frac{1}{4}$ of an hour of the outside. I heard the Drums beat as I was at Bacon's Salt pan; it would take me more than five minutes to get home; shortly after I came in, the Prisoner came forward in his Shirt and asked me after my purchase that I had been out about, out of his room, *he rapped at*

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Davidson.

the door, there was a door between his room and mine; he did not seem in a state of agitation, not in the smallest that I could perceive; he has often come to me and asked for a light when he said he could not sleep; it has happened ten times as near as I can tell; he has lodged 6 or 7 Years with me; I have not had bayonets in my House, but there has been one; it has been there longer than I can account for; it might have been 5 or 6 Years. I have not got that Bayonet in my possession now. I don't know what has become of it now; I could not say that this is it; it is like it; that had a point that was in my place. I could not justly say it is like it; I made no use of it; it lay among some Lumber. I don't recollect. I may not have seen it these 8 or 9 Months; it lay in the stable and I have seen on the Yard as I went through. I have looked for the Bayonet since. I have not found it. I am not very sure whether it is there or not; it might be there, but I looked for it; there was one or two Waddies in the House; the Prisoner made a practice to carry one of the waddies out with him sometimes. I never see this Stick in my house in my life fixed to a Bayonet; this (another produced) is like one that I had lost; it is broken. I did not take notice of the bayonet being notched; it was rusty. I can't think it is or not the same bayonet. I should not like to swear it is or is not. I could not say how often I had seen this bayonet; I have handled the bayonet in removing the old Iron lumber. I never considered it of any use; the best of my Knowledge it had a point.

I never saw this bayonet in the Prisoner's Hand. I never heard of his handling it till this happened. I never heard anything at all about it. I could not say he ever saw it; it was not concealed from any one in or about the House. I could not say that he must have seen it; he was not in the habit of going to such places to look over Lumber of that kind.

Cross Examined.—The best behaved Man he has been in the Country. I have never known so quiet a Man in the Colony. Many other men have been in the Habit of lodging with me, and often while the Prisoner has been with me; the bayonet may not have been in my possession these last *Nine Months* for what I know; there were three Men in the boat that night. My own Man (Thomas Lloyd) went with me; he saw the Prisoner as well as me; I can't say who lit the lamp. He lighted himself to the best of my belief. I could not say to that he was not agitated or embarrassed that I could speak to, more than usual. He was undressed and he came from his bedroom. I am confident he did not exceed 9 o'clock.

It was not very dark; it was Starlight; it was on a Saturday I know by making the appointment to buy the Cows of McDonnell. I think it was in June. I did not hear as to Mr. Howe's

assault till next day; to the best of my Knowledge it was the next day. I could not know whether the Prisoner was out or not. I was before the Police. I am not sure whether it was 3 weeks after. I don't know the day of the Month. I can't say it was the day of the accident to Mr. Howe. I can't recollect going before the Magistrate the 3d day afterwards. I think had been at Hawkesbury before I came there.

By the Court.—I am sure I heard, the next day after I had been with McDonnell, of Mr. Howe being stabbed. I left my House on the Saturday about 1 or 2 o'clock at Noon; the Prisoner was not then at home; he has but one Room. There was a waddy missing, Prisoner generally kept one in his room. I looked for it when I looked for the bayonet. I can't tell who took it away. I never heard him speak of Mr. Howe. To the best of my memory he never mentioned his name in respect or disrespect. I don't remember his saying any thing about Mr. Howe being stabbed. I don't recollect any conversation. I have not the smallest knowledge of this bayonet, but as one is like another.

HENRY DURBAN.—I am slightly acquainted with the Prisoner. I am acquainted with Mr. Bullivant. I have met the Prisoner at his lodgings. I never met the Prisoner but once there. I could not say whether it was the day before or a Week or after the assault on Mr. Howe; it was in the early part of June. Mr. Howe's name was mentioned in conversation between Bullivant and Prisoner; he examined no bayonets then; he saw no bayonet there. I listened not to the conversation I told to Mrs. Ikin of what had passed then. Bullivant mentioned to me the conversation that had passed after the Prisoner was gone; there was a Dagger or Dirk in Bullivant's room; it was there when the Prisoner was there. The Prisoner said in the course of conversation, to the best of my knowledge, "This would be of Service to Mr. Howe"; it was produced and exhibited by Mr. Bullivant as an Article of Curiosity; he said "have you seen this," pulling it out of a drawer and shewing it to him. I was reading the Gentleman's Magazine. I was not struck with the observation. In the Course of 4 days, I mentioned it to Mrs. Ikin. I cannot swear that the Prisoner said 3 inches of this, but the words I heard were to the best of my recollection this would be of Service to Mr. Howe; 3 inches were mentioned to me by Mr. Bullivant afterwards; to the best of my recollection it was before the assault.

Cross Examined.—I could not take upon myself to say that I heard the whole of the conversation between the Prisoner and Mr. Bullivant on the subject of Mr. Howe. I don't recollect there was any one else present. I was perfectly sober as I am now. I did not attend to the whole of the conversation, and that

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is the reason that I cannot repeat it. It might have been after the assault, but to the best of my Recollection it was before. I never saw bayonets in different houses. I never saw any left by the 46th Regt.

I went to Mr. Wentworth's, and he asked me if I knew any thing about the assault. I had mentioned it to Mrs. Ikin afterwards. I might have mentioned it before. I don't know what Howe the Prisoner meant; there was no observation that led me to know it was Howe the Printer. I have never seen the Prisoner since; he was never suspected till now.

CHARLES JAMES BULLIVANT.—I live in an old House, and he took it (the Dagger or Dirk) from between the Joists and the Ceiling; it was a dirk. I remember the time perfectly but not the date; it was before Mr. Howe was assaulted. I suppose a fortnight; he took it down and examined it; there was nothing particular in it; he made a remark; he *laughing* said "That Howe had injured me; had charged me with a pilfering concern of robbing him of a book"; and said he deserved some of it, or words to that kind. I wish to impress upon the Court he said it laughingly. I made no reply that I recollect. I might do so. I considered it a Joke at the time; it ended by his leaving me shortly afterwards. I saw him after his first hearing before the Magistrate. I don't recollect seeing him in the interval. Durban was very much intoxicated when the Prisoner made that observation; he had drank five glasses that morning.

Cross Examined.—It is frequent in the Town and Country to see Bayonets.

By the Court.—I am quite sure it was not the same Week that the assault was committed on Mr. Howe. I do think it was a full fortnight; the Matter between Mr. Howe and me had happened a fortnight; it had been mentioned frequently by Prisoner as a very offensive Matter to me. The Prisoner never had suggested any Matter of Offence on his own part. I felt very much grieved and spoke to the Prisoner.

I recollect the Prisoner asking me how I got the dirk. There was an Anchor on it; the Prisoner had been in the Service. I informed him of the particulars. I never heard any cause or suggestion of Offence to the Prisoner from Mr. Howe or from himself.

CHARLES GRAY.—I know the Prisoner; on the Friday evening, previous to the assault, I had a conversation with him at my own Gate, York Street, Sydney; he came up and said that he conceived that Mr. Howe had materially injured him by advertizing that he was going away in the Medway, which he conceived was to ridicule him as being a Prisoner. I dissuaded him from the Idea; that it was Mr. Davison the Supercargo of the Medway and

that he could not allude to him at all; he then said that he considered himself very much injured by Mr. Howe and that he would be revenged on him; he shewed me a waddy and asked me if I thought it would knock a man down. I took it in my Hand, but it was at such a time that I could not say this (produced) is it; but it is like it. I attempted to dissuade him from the impression; he never said but once that he would be revenged on him; he did not repeat it after I had talked to him; when he talked of the waddy it was before my explanation.

I saw him on Sunday morning. I met him in York Street. I had heard of Mr. Howe's Assault. I was going to his Lodgings. I said I hope you are not concerned in this last night's business of assassination; there did not seem any agitation in the Man; he said "no, Mr. Gray, I am not concerned in it; even if I had, he deserves it at my Hand."

Cross Examined.—I think he went away fully persuaded that Mr. Howe had done him an injury.

I never heard the Prisoner make any other expression of ill nature against Mr. Howe. I was going between 6 and 7 o'Clock in the morning to his House; he had no stick then. I can't tell that the advertizement had appeared only on that day; it might have been the week before, not above a Week; it was the first meeting after the Advertizement appeared.

JOHN FOSTER.—I am a Constable. I know the Prisoner and have for two Years. On the 13 June, between the hours of Six and Seven in George Street in the Evening, rather above the new Police Office, 2 Constables were with me. I met the Prisoner. I turned round upon him and he then had a Waddy and a bayonet turned down thus (as shewn) in his hand; I knew him. I asked him what he was carrying that for, he said it was for Dogs, that he had been bitten very often before; he mentioned Smithers dogs in particular. I told him I had a great mind to take it from him; he begged I would not as it was a great protection from the Dogs to him; he told me he was going to Church; it was on Thursday, the 13 June; I told him he had better not carry such a weapon at night as he might be taken up; he made no answer, and knowing the Man I let him go. I drew the Stick and Bayonet through my Hand. I cannot say this is the bayonet, but the one I drew through my Hands was rusty and ragged. I can't say as to the point. I should think it very like but I could not say it was the same bayonet; I could not.

On Friday morning, the next day, the Prisoner was met by me and Matthews and asked me if I had seen his bayonet, as he had hid it in a heap of Stones near the New Police Office; we said not; Matthews was present.

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William
Davidson.

I went to the Prisoner on Monday or Tuesday after the assault on Mr. Howe; he brought this 2d Waddy out and said that is the Waddy I had on the Thursday night; but this is not the same; this is not like it; it was not broken; if even it had been broken in the mean time it is not so thick as the one I drew through my Hand on the Thursday night. Matthews and the other Constable did not examine the Waddy or bayonet.

Cross Examined.—It was a Star-light night; we said the next day we had not got the bayonet; we were going after another business; I cannot swear to any positiveness as to this being the same the Prisoner had; he knew we were coming for him; he asked me if we were coming for him about Mr. Howe. Smithers' is about 100 Yards from the scite of the New Police Office.

JOHN MATTHEWS.—I am a Constable. I remember the assault on Mr. Howe. I was with Foster the Thursday night before; I did not observe what the Prisoner had in his hand before Foster took it out of it; it was a bayonet on a Stick; to swear what it was I cannot; it was dark looking rusty bayonet; he said he carried it for protection against the Dogs; he had been bitten some nights before; Foster said he had a great mind to take it from him; the Prisoner said he hoped not, it would be a protection to him; on the next morning he inquired if we had not got his bayonet; we said not; he said he thought we might as he had planted it under some Stones by the new Police Office.

He came to me on the Monday Morning at the Police Office, and he asked me if I had not got the bayonet; I said I had not, and had told him so before. The Prisoner was about opposite McArthur's Cottage, when we stopped him with the bayonet.

THOMAS WILLIAM PARR.—I live in George Street, Sydney. I heard of the assault on Mr. Howe. I saw the Prisoner Davidson afterwards; he was then in a room behind the Police Office; he asked me if I were inclined to serve him, as I had formerly promised to do; he had been before Mr. Wentworth several times under examination. I was not communicated with till that day. I said I were, as long as I considered him innocent; he then asked me as the bayonet could not be found (I would explain that as he had told me about the bayonet being hid by the New Court House, I had said that I would advise him to advertize it; if he had not the Money for it, that I would give it him); he said then that it could not be found there he supposed, and if I would produce another Bayonet, I can't remember the exact word, and put it in the place, it would do away with the business. I said no; I shook my Head and said No, I could not do it; he did not mention the place.

Cross Examined.—He had told me before that he had hid the bayonet on the Monday or Tuesday after the Assault; he talked about the assault and stated that he had not done it; he seemed to shudder with horror at being charged with it at all times. I did not think him at the time Guilty or I would not have assisted him.

I have known the Prisoner 9 Years; we boarded and lodged then in the same House.

I always considered his Character as diametrically opposite to that of an Assassin. I took him to be a brave Man.

I had frequent conversations with him after his being charged.

By the Court.—I made my deposition four or five days afterwards; he said at the same time Mr. Bullivant would do it if he could do it, or words to that effect; the Prisoner has been before Mr. Wentworth on suspicion and afterwards discharged; after he was discharged, he mentioned about hiding the bayonet under the Stones; he told us it was on account of the Dogs that he carried for defence against.

The Prisoner never expressed any feelings of ill will to me against Mr. Howe.

Sydney Gazette produced 7 and 14 June as to Mr. John Davidson leaving the Colony by the Medway, &c. No.

Sydney Gazette produced 14 June it was advertized as "Mr. John Davidson, Supercargo of the Ship Medway &c."

HOWE recalled.—The Sydney Gazette gets into Circulation before or about 2 o'clock on the Friday. I altered the advertizement at the suggestion of Mr. Davidson himself.

I am prevented from attending the Church on a Thursday evening on account of the publication of the Gazette. I have never attended since the Paper has been published on a Friday. I am out almost every night and have been so since I saw the Prisoner at Macquarie Street Chapel, very frequently after dark.

No other Witness being called in support of the Information,

ROWE, SOLICITOR, for the prisoner objected "that the Prisoner was intitled to his acquittal upon the three first counts in the Information, as founded upon the Statute of 43 G. 3, ch. 58, S. 1, making the Offence in question a capital Felony, when committed 'against any of His Majesty's subjects in *England or Ireland*'; that such an Offence committed in the *Territory* of New South Wales could not therefore be considered as a Capital Offence under that Statute, which does not extend even to Scotland, as was determined indeed upon the point taken in a case there; that the legislative provisions in question are confined wholly in operation to England and Ireland, and could not be extended to the West India or these or any of the British Colonies."

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NORTON, SOLICITOR, *on answer suggested*, "that the Statute in question might have held as not in operation in Scotland and yet to be in force here; that the Statute of the 27 G. 3, ch. 2, under which the Criminal Jurisdiction was introduced and exercised in the Colony, had at once and effectually put into operation and full force here all the Laws and Statutes of the realm, and given to the Court, erected by it, full authority and power to try and punish all Offenders against the Laws of the Realm according to the Form and provisions of the several enactments of the Particular Statute, on which the Charge against them was exhibited to the Court."

The Judge Advocate having advised, *the Court directed* the Prisoner to proceed with his defence, reserving so serious a point of Jurisdiction as to the functions of the Court, as well as to the Interests of the Territory, for more solemn argument and consideration.

On the part of the Prisoner was then called,

RICHARD WADE.—I am Sexton at St. Philip's Church. I heard of the attack on Mr. Howe. I had seen the Prisoner on the Thursday before at the Evening Service. I spoke to him and he to me. I don't recollect he had anything in his hand. I don't remember seeing anything in it; if he had a stick, it must have been a small one. I don't recollect whether he had one at all. I must have seen such as this or that (Bayonet or Waddy) in his hand.

Cross Examined.—I did not observe him after he left the Church; the Service is over some time at $\frac{1}{2}$ after 8 or $\frac{1}{4}$ to 9; it begins at 7. I had seen him several times before very regular there.

THOMAS LLOYD.—I live at McKinley's. I went with McKinley on a Saturday to McDonald's for some Bullocks; the attack on Mr. Howe was that day. I left the House between 1 and 2 o'clock; as we came past Mr. Bacon's Salt pans on our return they were beating; we were about $\frac{1}{4}$ of an hour to the best of my knowledge after hearing the Drums to when we got home. I went in with McKinley. I saw nobody, but heard somebody knocking at the Door, and then the Prisoner asking for a light in his Shirt; it was the back door. I gave him a light. The Prisoner said nothing to the best of my knowledge; it was not $\frac{1}{4}$ of an hour of the outside.

Cross Examined.—McDonnell's is in the Field of Mars. I did not hear the Drums strike up; we had the tide with us and we pulled well; they were beating at Goat Island. I don't think we were 20 Minutes from Goat Island.

I am not positive whether it was a warning Drum or the Troops beating.

THOMAS CATHRALL.—I went with McKinley on a Saturday about the middle of the Month of June. I heard on the next day of the assault on Mr. Howe. The Drums began to beat as we were between Bacon's Salt pans and the Military Barracks. I merely went up the hill with him; he (McKinley) went into his own house; we could not be more than 15 or 20 Minutes at the utmost before we got home after hearing the Drums; we were very anxious to get home.

Cross Examined.—It was the middle way between the pans and the Barracks; nothing was said about Goat Island when the Drums struck off. I think less than 25 minutes would include the whole interval of McKinley getting home and the Drums beating off.

I meant the Military Hospital not the Barracks.

For Character.

JOHN THOMAS CAMPBELL, *Esqr., Provost Marshal of the Territory.*—I have had an opportunity of observing his (Prisoner's) general demeanor since he came to the Country, perhaps 9 or 10 Years; during that time I always considered him a quiet inoffensive and well conducted Man. I have always looked upon him as quite the reverse of a malicious habit of mind; I never heard his Character called in question.

Judgment:—William, alias John, Davidson,—Guilty.

And the Prisoner was remanded on the judgment of the Court.

Monday, 21st October, 1822.

The King (v.) William als. John Davidson	}	Mr. ROWE, Solicitor in arrest of Judgment. 43 G. 3, ch. 58 not applicable to the Territory; not being specifically named in the Statute which passed subsequently to 27 G. 3, ch. 2, erecting the Court of Criminal Jurisdiction here to try Offenders in these Colonies according to the Laws of England.
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43 G. 3, ch. 58 strictly confined in operation locally to England and Ireland and extends only to Portland, Isle of Wight, &c. as being included in certain neighbouring English Counties.

Stat. 27 G., ch. 2 empowers the Court to try and punish, as a Court of Judicature "for the trial and punishment of all such outrages and Misbehaviours, as if committed within the realm of England would be deemed and taken, according to the Laws of the realm, to be Felony or Misdemeanor."

No Statute since passed can be intended to include these Colonies, unless specifically named in them and thus rendered

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only subject to their operation, because the 27 G. 3, ch. 2 applies at this time only as at the original enactment, never having been repealed or amended by any subsequent Statute.*

So if the Statute 4 G. 1, ch. 11, Sec. 19 had not directed all Piracies, felonies &c. on the High Seas by 11 and 12 W. 3, ch. 7 to be tried according to 28 H. 8, ch. 15,† and by 9 Sect. that it should extend to America, the British American Colonies could have proceeded only according to the Civil Law under 11 and 12 Wm. 3, ch. 7, and not in the manner directed by 4 G. 1, ch. 11 according to the Common Law as directed by 28 Hy. 8, ch. 15.

But 28 H. 8 was not extended to the British Colonies in Asia and Africa, and therefore no more in force here than 43 G. 3, ch. 58, because the Territory is not particularized in that act.

If 43 G. 3, ch. 58 had extended the Offence out of the Realm even, it would have been doubtful whether it could be construed to apply to the Colonies, for Chitty on Criminal Law 647 says *it seems to be considered* that acts *specialy* passed for the trial of certain Offences committed out of the Realm on the High Seas *May* extend to the Colonies; although they were established before the act was passed.

If doubtful therefore as to the Application of an act specialy providing for Offences committed out of the Realm, how much more so as to that of a Stat. referring only in operation to Offences within the Realm, this Territory not being within the Realm. By 20 G. 2, ch. 42, Berwick upon Tweed *declared* to be part of the Realm, but the Isle of Man is a distinct Territory and acts of Parliament do not extend to it, unless it be particularly named: so also Jersey, Sark, Guernsey, Alderney and their Appendages.

1 Bl. 99-55, 6 &c.

The Colony of New South Wales cannot be included under the Denomination of H.M. Dominions, unless so particularized in any Act of Parliament subsequently to the first period of Colonization.‡

Sentence.—After Argument, the Court determined that the case as to the point in question should be referred home to His Majesty in Council, but that the Capital Sentence should in the mean time be pronounced upon the Prisoner.

When the Court instanter proceeded to pass accordingly on the Prisoner

Sentence of Death.

A correct report:—JNO. WYLDE, Judge-Adv., N.S.W.

* *Marginal note.*—1 Bl. Com. 108; 2 P. Wms. 75; Stokes, 12; Chitty Com. Law 643, 7.

† *Marginal Note.*—Stokes, 232-3. ‡ *Marginal note.*—Stokes 11 and 12.

[Enclosure No. 3.]

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REPORT BY JUDGE-ADVOCATE ON THE TRIAL OF WALTER ROTTON.

Report by
judge-advocate
on trial of
Walter Rotton.

THE Report of the Judge Advocate of New South Wales as to the trial of *Walter Rotton* upon charges, reduced into writing and exhibited under the Stat. of 39 G. 3, ch. 85 to the Court of Criminal Jurisdiction on 17 day of October, 1822, against the Prisoner for *fraudulently embezzling and making away with certain Monies* and Goods of the value of £32, had in the Prisoner's possession on account of his Master, Vickers Jacobs, Merchant of Sydney, contrary to the form of the Statute, &c.

The Prisoner pleaded *not Guilty*, but upon *very clear* and *satisfactory proof* of the specific Acts of embezzlement set forth in the Information, and which it seems therefore unnecessary to detail at length, the Court pronounced Judgment of *Guilty*. When *Rowe, Solicitor for the Prisoner, objected, in arrest of Judgment*, that the Statute, under which the Prisoner was charged, and convicted could not be taken cognizance of by the Court, which as to such Offenders had no Jurisdiction so as to warrant a Judgment and the execution of a Sentence under that statute in respect of it.

That the Stat. 27 G. 3, ch. 2 erects the Jurisdiction of the Court in the Territory; and the Court, when convened by Governor from time to time, as occasion may require, is a Court of Judicature for the trial and punishment of all such Outrages and Misbehaviours as, if committed within the realm, would be deemed and taken *according to the laws of the Realm* to be Felony, Misdemeanor, &c.

By force of this Statute, the Court can proceed to try and punish all Offenders against and according to *the laws of the Realm* as then, that is at the date of the Act in the Year 1787, in force there; but no Jurisdiction is given as to Statutes, *subsequently* and *afterwards* becoming the laws of the Realm, and accordingly no conviction upon the Stat. of the 39 Geo. 3, ch. 85, passed 12 Years after the 27 G. 3 can take place before the Court as upon the Commission of an outrage and misbehaviour according to the laws of the Realm in 1787, in respect of which alone it seems clear that the Court has Authority to proceed "in a more summary way than is used within the realm according to the known and established laws thereof."

But again that the Stat. in question of the 39 of His late Majesty was intended to apply only and be in force throughout the united Kingdom, it being deemed expedient that the Offences in contemplation should be punished in the same manner "in

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Report by
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both parts of the united Kingdom”; that the Statute in question or any other Statute of like limitation therefore could not be intended to extend in operation to this Colony as not particularly mentioned, while it is certain the Islands of Gurnsey, Jersey, &c. would not be considered as included in the operation of Statutes applicable to and in force only within the united Kingdom.

The Solicitor referred in support of his Argument to Stokes on the Colonies p. 12, 2 Peere Wms 75, 1 Bl. Com. 108, Chitty’s Crim. law 638.

Mr. Garling for the prosecution, in answer to the objection, insisted that by force and virtue of the 27 G. 3, ch. 2 the whole body of British Statutes were at least so far in force throughout the Territory as for the Court, upon charges under any of them duly exhibited to the Court against any Offender, to proceed to try and pronounce such Judgment as to the Court shall seem meet; while the provisions of the particular Statute in question were essentially necessary for the due protection of His Majesty’s Subjects in the Colony and continually had been acted upon by the Court heretofore without Scruple or Objection.

Sentence.—The Court determined that the case as to the point of Jurisdiction should be referred home for due consideration, but that the Sentence should in the mean time be pronounced upon the Prisoner.

When the Court adjudged that the Prisoner on the Conviction recorded should be transported to such place, &c. for seven Years.

A Correct report:—JNO. WYLDE, Judge-Adv., N.S.W.

SIR THOMAS BRISBANE TO UNDER SECRETARY WILMOT.

(Despatch per ship Surrey.)

Government House, Sydney, New South Wales,

Sir,

27 January, 1823.

Having submitted to Mr. John Wylde, in conformity with the tenor of Your instructions conveyed in a communication of the 5th of last July, the necessity of his replying without delay to the letters received by his late Father from Mr. Hibbert, a Merchant in the City, relative to the payment of some Money, which Mr. Brooks of Sydney was indebted to him, and which is stated to have been paid by Mr. Brooks to Mr. Thomas Wylde in consequence of his having received a Power of Attorney for that purpose:—I have now the Honor to enclose, in reply to this allegation, a counterstatement from the Executor of the late Thomas Wylde.

I have, &c.,

THOS. BRISBANE.

Statement re
J. Hibbert’s
claim on
T. Wylde.

[Enclosure No. 1.]

STATEMENT, ETC., BY JOHN WYLDE.

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J. Wylde of
T. Wylde's
agency for
J. Hibbert.

By the private Ship David Shaw, arriving in Sydney Cove, New South Wales, on 5th November, 1819, was received and delivered to Myself a Packet addressed to "Mr. John Wylde, Solicitor at Sydney," covering a Power of Attorney and a Letter of Instructions as to recovering a Debt Stated to be due to Mr. Joseph Hibbert Junr. of London from Mr. Richard Brooks of this place.

On perusing the Power of Attorney itself, as also a Letter inclosed addressed by Mr. Hibbert to Mr. Brooks on the Subject, the said John Wylde was described "as a Solicitor"; and certainly considering therefore that a Mistake merely had arisen as to the Christian Name of the then Solicitor for the Crown in the Territory, the late Mr. Thomas Wylde, and especially as no Consideration, from regard to my public offices here, could have induced me to act under Mr. Hibbert's, or any such Appointment, I, on the very day of the Ship's Arrival and delivery of Mr. Hibbert's Papers to me, handed over the same, exactly as received, to Mr. Wylde, as will appear by the original receipt inclosed, taken of him at the time:—and in a short time afterwards, at his Suggestion, as a Matter of form for mere literal correctness almost as to the Proceedings, that seemed then as necessary to be adopted, under the power of attorney and under its Provision for that Purpose, I subscribed Mr. Wylde's Substitution as the Agent of Mr. Hibbert in the Business.

From that Day, until sometime after the Decease of the late Mr. Wylde in December, 1821, I had not the least knowledge, directly or indirectly, of what proceedings or arrangements had in any way obtained in the Matter. No Communication of any kind or in any way reached Me; and whether it may possibly sound strange perhaps or not, from the time of my arrival in the Colony, until that of my father's Death, there existed a perfect Understanding between us from due regard, in my Apprehension, to my judicial Functions in the Colony, and almost religiously kept between us, that no Communication whatever should ever take place between us upon professional Concerns in his hands, as a Solicitor of the Supreme Court.

The very first Intimation, in Truth, I had as to the state of the affair between Mr. Hibbert and Mr. Brooks was just before the payment by the latter, in January, 1822, after my father's Decease, to pay me, as the sole Executor under his Will, the Balance he stated to remain due upon the Warrant of Attorney, given upon the Action commenced against him for the recovery of Mr. Hibbert's Demand; and accordingly, in my Character as Executor, and desirous of preventing, as far as in my power, any

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Statement by
J. Wylde of
T. Wylde's
agency for
J. Hibbert.

Injury to Mr. Hibbert's Interests, as my father's Client, by my father's Decease, I received in Jany., 1822, the Sum of £660 10s. 6d.

Under the above Circumstances, it will appear that I could have had no reasonable cause for personally addressing any Communication from Myself to Mr. Hibbert on the Subject, with the Impression too I could not but entertain of there never having been any Intention on his part to address me personally on the occasion, while also I could not believe but that Mr. Bernard in the Colonial Office, referred to by Mr. Hibbert, would well know that a Barrister only would have had the Appointment in the Colony I was then holding, the party intended to act under Mr. Hibbert's Power of Attorney being designated and described as a Solicitor throughout the Letters and papers.

On the other hand, Mr. Hibbert acknowledges that he never afterwards addressed any one but Mr. Thomas Wylde, Solicitor, on the Business.

With regard to any Letters forwarded by the late Mr. Wylde upon the Business immediately to Mr. Hibbert in the Interval of time he speaks of, I have not any the least Knowledge: but amongst Mr. Wylde's papers I found, after his Decease, an original Letter, dated 21 March, 1821, signed by certain persons subscribing themselves Campbell Deacon and Hurry, Assignees &c. and addressed to Mr. Wylde (a Duplicate of which had been transmitted, I afterwards learned to Mr. Brooks here) giving Notice that, by an Instrument in writing, dated 28 Sept., 1820, made between the said Mr. Hibbert and themselves "That henceforth the said Debt and the said Bill of Exchange for the same and Warrant of Attorney for entering up Judgment thereon and the Money due, and what should become due from Mr. Brooks to Mr. Hibbert, upon the Warrant of attorney in question, should become and be and were declared thereby the property of the said Campbell and others, at Law and in Equity, in satisfaction of a certain Debt due to them from the said Joseph Hibbert &c. &c."

Of or as to this Instrument of Assignment, no mention or allusion whatever even has been made, it will be perceived, by Mr. Hibbert in the Statement laid by him before Lord Bathurst as transmitted from the Colonial Office, nor indeed, in point of fact in any Letter whatever, I am satisfied, addressed by Mr. Hibbert to the late Mr. Wylde.

I have no certain knowledge of the fact; but it is at least very possible certainly that the late Mr. Wylde, on the receipt of this Notice, upon his return from Van Diemen's Land, may have addressed himself, or made remittances even on Mr. Hibbert's

behalf to those Assignees, or to some other person as his own particular Agent in England, duly instructed by him on the Occasion.

No communication of any kind upon the affair to my personal Address has as yet reached me, since Mr. Wylde's decease; but upon the best Information I could in any way obtain from the resources then only open to me, I took upon Myself, as Executor under the will, to transmit by the first Ship from this port to England after my Testator's decease (the Ship Surry, in Feby., 1822) Treasury Bills to the amount of £1,122 19s. 9d., specially indorsed to the order of Mr. Hibbert, but under cover to my brother, Mr. Thomas Wilde,* Barrister at Law, with the original Letter of Notice, already referred to, as to the assignment by Mr. Hibbert of Mr. Brooks' Debt to Messrs. Campbell and others.

By the same Ship, I forwarded a Letter to Mr. Hibbert, dated 24 Jany., 1822, a copy of which is inclosed; and in which it was explained to Mr. Hibbert, that whatever Mr. Brooks might, or not, have written to his Agents in London, as to having paid the whole Sum of £2,200, that the same had not then in fact been paid; that on the contrary a Sum of £600 in part payment had been paid over to myself only since Mr. Wylde's decease; and that during his life-time the quarterly Bills taken upon the Adjustment of the Account under the Warrant of Attorney had not been duly and regularly honoured; For, in truth, in some of the Bills, when due, portions of the amount had been only paid, and from time to time other Bills, for Mr. Brooks' convenience, of different and less amounts and at protracted Periods, had been substituted for the original quarterly Bills:—as for instance:

19 Augt.	1820	for the	Sum of	£100
"	"	"	"	" £150
27 Sepr.	"	"	"	" £165
"	"	"	"	" £165
26 Decr.	"	"	"	" £163 10s. 6d. &c.

Hence it plainly appears that "delay and Interruption had taken place in the payments by Mr. Brooks" to the late Mr. Wylde, although I know not, whether Mr. Hibbert was, or if not, upon what Motives possibly of Consideration or Delicacy towards Mr. Brooks, or how otherwise, he was not duly informed of these Circumstances.

The cause of the late Mr. Wylde's unexpected Decease, for he was a Man of particularly hale and strong natural Constitution, arose not at all from the Infirmities of Age, which as yet seemed far from Approach even, but from the effect of a malady, which

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Statement by
J. Wylde of
T. Wylde's
agency for
J. Hibbert.

* Note 4.

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Statement by
J. Wylde of
T. Wylde's
agency for
J. Hibbert.

during his passage on official Duty in 1821 from this place to Van Diemen's Land and particularly, reduced him to a state, which terminated at length in premature Death: while the apprehension of Mr. Hibbert as to the Inefficacy of any Steps against him, merely from his holding his official Appointment in the Colony, if he had indeed any Cause of Action or complaint against him, as a Solicitor of the Supreme Court, where the proceedings against Mr. Brooks had been taken, is not immediately to be understood, or at least reasonably accounted for.

At any rate "the assistance of His Majesty's Colonial Department," if indeed, as Mr. Hibbert expresses himself "nothing was left but to solicit its Interference" on his part, will, I trust, appear not at all to have been required for enforcing upon the late Mr. Wylde's executor the performance of any and every Obligation, that may justly devolve upon his Appointment under the Testator's Will.

JNO. WYLDE,

Executor under the Will of the late
Thomas Wylde, deceased.

Sydney, New South Wales, 30 Decr., 1822.

[Enclosure No. 2.]

Papers received
by T. Wylde.

PAPERS handed over to Mr. Wylde, this 15 Novr., 1819, as rec'd
p'r Ship David Shaw.

Bill of Exch'ge for £1,608, dated 26 July, 1813, do. by Josh. Hibbert, Junr. & Cy. upon and acc'd by Richard Brooks, Esqr. and Protest.

Letters of Atty. under City Seal Affn. of Debt, &c.

Ls. to Rd. Brooks from Josh. Hibbert, 27 May 19.

to John Wylde, same Date.

to Richd. Brooks 10 Feby. 1817, and Answer thereto Decr. 12, 1817.

15th Novr., 1819:—Received these Papers:—THOS. WYLDE.

Also Bill of Charges by Notaries.

[Enclosure No. 3.]

JUDGE-ADVOCATE WYLDE TO MR. JOSEPH HIBBERT.

Sir, Sydney, New South Wales, 24 Jany., 1822.

Report in
matter of
T. Wylde's
agency for
J. Hibbert.

The unexpected and lamented Decease of my father, the late Thomas Wylde, in December last has placed in my hands your Letter of the 24th August last to his address, and calls upon me, as the sole Executor appointed under his Will, to make reply to your Enquiries as to the State of the arrangement made by him in respect of your Demand upon Mr. Brooks of this place.

As to the reports suggested to have been frequently made by Mr. Brooks to his Agents in England of having long since paid

your Acceptance the subject Matter of the Arrangement, I would only inform you that since my father's Decease only, he has at my Instance made a payment, as the last certainly due on that Account, of the sum of £660 10s. 6d., while from the Enquiry I have been able already to make, it appears that Mr. Brooks was unable from time to time to honour the quarterly Bills of £500 each, and that other Bills at prolonged Dates and Accommodation have been substituted and resorted to on those occasions to meet the Convenience of Mr. Brooks. Indeed I have reason to know that only one of the £500 Bills given was punctually and regularly paid when due.

The silence on the part of the late Mr. Wylde will be accounted for in some Degree, when you are apprised that he was under the Necessity, as Clerk of the Peace, of attending the Court of criminal Jurisdiction on its Circuit last Year in Van Diemen's Land, for which place I left in January last, whence I was able to make return only in the July following, though he returned some time before me. From that time to his Death, he proved very far from well; and in this respect I should think your Enquiries at the Colonial office were misunderstood, as I rather believe him to be totally unknown there. But at the same time I have reason to be impressed that the Expectation, you express yourself in your last, of indulging as to soon hearing from him has been realized, covering a remittance of the Sum then actually obtained from Mr. Brooks. At present my public Duties have so wholly engrossed my Time since his decease, as to have rendered it impossible to look into his Affairs, or fully to inform Myself of your or any business indeed, in which he was involved. I hesitate not however, upon the best Information I can at present obtain as to your Concern, to transmit inclosed the three first of three several Sets of Bills, more particularly described below, making together in Amount the Sum of £1,122 19s. 9¼d. which Sum I trust, with his former remittances, I have reason to presume upon having been made on your Account by my father, and having since August last come into your hands, wholly or at least very nearly satisfy the Claim on my father, as your Agent in this affair. In any Case you may rest assured, Sir, that although I was *perfectly* ignorant of the procedure in the Business under my father's Agency till since his Death, (for no Communication *ever* took place between us on such Subjects) it will be my Care that your and all other Interests committed to him shall not suffer in any way, as far as my personal Attention can satisfy any and all proper Demands upon the Estate.

I am, Sir, &c.,
JNO. WYLDE.

1823.
27 Jan.

Report in
matter of
T. Wylde's
agency for
J. Hibbert.

1823.
18 Feb.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 2 of 1823," duplicate per ship Surrey;
acknowledged by Earl Bathurst, 13th March, 1824.)

Government House, Sydney, New South Wales,

My Lord,

18th February, 1823.

Requisition for
medicines.

I have the Honor to transmit from the Principal Surgeon
of the Territory to Your Lordship, a Requisition for Medicines to
be supplied to the Hospitals in New South Wales.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

[A copy of this requisition will be found in a volume in series II.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 3 of 1823," duplicate per ship Surrey.)

Government House, Sydney, New South Wales,

My Lord,

18th February, 1823.

Voyage of
cutter Mermaid
to Sandwich
islands.

The Mermaid, a Colonial Cutter, sailed for the Sandwich
Islands on the 16th of October, 1821, for the purpose of delivering
into the possession of the King of Owhyhee a Schooner* that
accompanied her, called the Prince Regent, and built in this
Harbour by the express instructions of Your Lordship, bearing
date the 27th of July, 1815. I have now the Honor to acquaint
you that having fulfilled this duty, she re-entered the Heads of
Port Jackson, bearing in return, the enclosed Letter of thanks
from the Chief, and thus concluded on the 24th Ultimo her long
Navigation.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

THE KING OF THE SANDWICH ISLANDS TO H.M. THE KING.

Oaku, Sandwich Islands, 21 August, 1822.

May it please Your Majesty,

Gift of schooner
Prince Regent
to king of
Sandwich
islands.

In answer to Your Majesty's letter from Governor Mac-
quarie, I beg leave to return Your Majesty my most grateful
thanks for your very handsome present of the Schooner Prince
Regent, which I have received at the hand of Mr. J. R. Kent.

Tamehameha 1st
succeeded
by son.

I avail myself of this opportunity of acquainting Your Majesty
of the death of my late father Tamehameha, who departed this
life the 8th day of May, 1819, much lamented by his subjects; and
having appointed me his successor, I have enjoyed a happy reign
since that period, and assure Your Majesty it is my sincere wish
to be thought as worthy your attention as my father had the

happiness to be during the visit of Capt. Vancouver; the whole of these Islands having been conquered by my father, I have succeeded into the Government of them, and beg leave to place them all under the protection of Your most Excellent Majesty, wishing to observe peace with all Nations, and be thought worthy the confidence I place in Your Majesty's wisdom and Judgment.

The former idolatrous system has been abolished in these islands, as we wish the protestant religion of your Majesty's dominions to be practiced here. I hope Your Majesty may deem fit to answer this as soon as convenient, as Your Majesty's good council and advice will be most thankfully received by Your Majesty's Most devoted and obedient Servant,

TAMEHAMEHA, 2D,

King of the Sandwich Islands.

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Sandwich
islands under
protection of
England.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 1, per ship Commodore Hayes; acknowledged by Sir Thomas Brisbane, 10th November, 1823.)

Sir,

Downing Street, 20th Feby., 1823.

20 Feb.

I have the honor to transmit to you herewith the Copy of a letter from Mr. Hobhouse to Mr. Wilmot stating some favorable circumstances in the case of James Reilly, a Convict who was transported to New South Wales on board the Countess of Harcourt Convict Ship; and I am to desire that Your Excellency will comply with the instructions contained in that Letter.

Recommendation in favour of James Reilly.

I am, &c.,

BATHURST.

[Enclosure.]

UNDER SECRETARY HOBHOUSE TO UNDER SECRETARY WILMOT.

Sir,

Whitehall, 12th Decr., 1822.

The Lord Lieutenant of Ireland having communicated to Mr. Secretary Peel that some favorable circumstances have been represented to the Irish Government in the case of James Reilly, a Convict* who was transported to New South Wales on board the Countess Harcourt, Convict Ship, and that the Judge, before whom he was tried, has reported that it may be expedient to grant him His Majesty's Pardon, I am to desire that you will move The Earl Bathurst to instruct the Governor of New South Wales to permit the said James Reilly to return to Ireland by the first opportunity.

Free pardon proposed for J. Reilly.

I have, &c.,

H. HOBHOUSE.

* Numbered 13 in the Warrant sent to the Governor.

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EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 2, per ship Commodore Hayes; acknowledged by Sir Thomas Brisbane, 10th November, 1823.)

Sir, Downing Street, 21st Feby., 1823.

Recommendation in favour of W. S. Smith.

I have the honor to transmit to you the Copy of a letter from Mr. Hobhouse to Mr. Wilmot stating some favorable circumstances in the case of William Sidney Smith, who was transported for life in the ship Hindostan, which sailed for New South Wales in July, 1821, and I am to desire that your Excellency will comply with the instructions contained in the Letter referred to.

I am, &c.,
BATHURST.

[Enclosure.]

UNDER SECRETARY HOBHOUSE TO UNDER SECRETARY WILMOT.

Sir, Whitehall, 17th Decr., 1822.

Free pardon to be granted to W. S. Smith.

Mr. Secretary Peel has had under his reconsideration the case of Wm. Sidney Smith, who was Transported for Life in the Ship Hindostan, which sailed for New South Wales in July, 1821; and Mr. Peel, finding that the conviction of Smith proceeded in part upon the Evidence of a Man, who has subsequently been disgraced and discredited in a Prosecution of a similar kind, which, if it had occurred before Smith's Trial, might possibly have led to a different verdict in his case, deems it right that Smith should have the benefit of this possibility, and therefore desires that you will move Lord Bathurst to direct the Governor of New South Wales to Grant to William Sidney Smith a Free Pardon and to permit him, if he is so disposed, to return to this Country.

I am, &c.,
H. HOBHOUSE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 4 of 1823," duplicate per ship Surrey.)

Government House, Sydney, New South Wales,

My Lord, 21st February, 1823.

Free pardons granted to T. Brabazon and F. Levens.

In pursuance of the directions conveyed to me in your Letters of the 31st of December, 1821, and the 8th of last February, I have the Honor to acquaint you that Free Pardons have been granted to Thomas Brabazon and Frances Levens.

Report re E. Gibson.

Edward Gibson, another Convict recommended for indulgence in your Letter of the 2nd of last April, is at present a resident in Van Diemen's Land, and has been long in the enjoyment of a Ticket of Leave.

I have, &c.,
THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 5 of 1823." duplicate per ship Surrey.)

Government House, Sydney, New South Wales,

My Lord,

21st February, 1823.

Herewith I have the Honor to transmit to you a return of Convicts, who have petitioned that their Wives or Families might be sent to them at the Expence of the Crown; and these several applications I beg leave to recommend to your Lordship's favourable attention.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

[This return contained the names of forty-five applicants.]

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Convict applicants for passages for wives and families.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 6 of 1823," duplicate per ship Surrey; acknowledged by Earl Bathurst, 22nd November, 1823.)

Government House, Sydney, New South Wales,

My Lord,

21st February, 1823.

I have the Honor to transmit to You the proceedings that have lately taken place before a Bench of Magistrates with respect to the Ben Johnson, a Vessel from the Isle of France that arrived in this Harbour under the charge of a Mate and one of the Passengers, her Master having been forcibly deprived of his proper Command.

Magisterial inquiry *re* proceedings during voyage of brig Ben Johnson from Mauritius.

The imputed Offence having been perpetrated on the High Seas, the alledged Offenders have been required to enter into suitable securities answerable for their personal appearance when summonsed:—for the known incompetency of all the Courts in this Colony to bring it under their Judicial Cognizance obliges me to defer the whole for Your Lordship's decision.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

INQUIRY BY BENCH OF MAGISTRATES *re* CAPTAIN OF BRIG
BEN JOHNSON.

Police Office, 6th December, 1822.

Before a Special Bench of Magistrates Convened by order of His Excellency the Governor in a Communication from the Colonial Secretary.

Present:—D. Wentworth, Esq., Supt. of Police; John Thomas Campbell; Alexr. Berry; Thos. MacVitie; Wm. Wemyss; John Oxley; Jas. Bowman; Edwd. Wollstonecraft, Esquires, Magistrates at Sydney.

Mr. WILLIAM LINGARD, Chief Officer of the Brig Cumberland }
to wit } "Ben Johnson" now in this Port, being Sworn.
deposeth that on the Passage of the said Brig from the Isle of France to Sydney Cove, to wit, on the 20th of October last, the Master of the said Brig, Mr. Peter Camphor, was very

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much intoxicated with Spirits and Continued in that State from day to day until the 26th of the Same Month, during which period his Conduct was extremely extravagant, wild, inconsistent, and shewed evident Symptoms of being out of his Judgment in regard to the Navigation of the Vessel, and in every respect incapable of doing his Duty as the Master thereof. Saith that, on the 21st and 22d of October, the Master remained in his bed, which Deponent understood to have been the Consequence, Not only of Intoxication but of his having fallen out of his Cot on the Morning of the 21st of October. Saith that Mr. Camphor the Master Came on deck on the 23d of October two or three times, and about 7 o'Clock in the Evening of that day was intoxicated and went to bed; that, on the 24th, he was again on deck and took an Observation, and in the Evening of that day was also intoxicated, and about 9 in the Evening Came on Deck again and insisted on Deponent's Making Sail by Setting the fore-top Mast Studding Sail; that the Sail was accordingly Set and was immediately Split; that Mr. Camphor also made Deponent Set the Boom Main Sail; that the Carpenter, who was at the Helm, said he Could not Steer the Ship her Course with the last mentioned Sail Set, When the Master replied "damn the Course, don't Jibe the Sail"; that Deponent, who was on deck then, went aft and looked at the Compass, and found the Vessel was ranging very much to the Windward of her Course, and Deponent remonstrated with the Captain thereupon, who made no other Reply than to direct Deponent to get up another Stud-Sail; that there was None on deck fit to Set, and the Master still persevered in ordering Deponent to get one up; that the Master then went below, and the Helm was then relieved, and the fresh man had scarcely taken the Helm before the Sail Jibed; that Deponent then took in the Sail, secured the Boom, and rigged in the fore top Mast Studding Sail; that Mr. Camphor then Came up and made Deponent Set the Boom Main Sail, which had just been taken in, and rig out the Boom; that Deponent Observed to him that the Studding Sail was not fit to Set, and Mr. Camphor then said "Never Mind"; that the Carpenter then Came aft and remarked that, if Sail was Carried to that Excess, the Ship would go to pieces; that at about 12 at Night the Master went below, When Deponent immediately Shortened Sail, and Called Mr. Young, the 2d Officer, to Whom, after the Sails had been Shortened, he gave Charge, when the Ship Went at the rate of 8 Knots per hour, which is as much as she ever made; that about 2 O'Clock A.M., Mr. Young called to Deponent and told him there was a Gale of Wind blowing, and Deponent had better Come up; that he did so and found the Weather blowing; that he went below to Call the Captain, but did not succeed in getting him up; Came on deck and Close reefed the top Sails, and furled the fore top Sail; that Deponent then went below, and was Called again at 4 o'Clock; that at 7 A.M. the weather was more moderate and Deponent made Sail accordingly; that the Master Came up about 9 When Deponent reported the bad weather they had had; that the Master took no Notice, but after Deponent was gone below, he ordered the Top gallant Yards to be sent down; that before the Main top Gallant Yard was sent up, Deponent remonstrated with him on the State the Ship was in from the Press of Sail; that Deponent went below, and the Yard was Sent up by the Master's Orders.

Saith that, at dinner on the 25th of October, Mr. Young was going on deck, and Mr. Lloyd, who was a passenger in the Ship, requested Mr. Young to remain below whilst Mr. Lloyd put a few

Questions to the Captain; that Mr. Lloyd then asked the Captain, Why he had treated him with so much Contempt for the last few days, having told the Steward to tell Mr. Lloyd that he was "a Tale bearer" and Disturber, as he had Never Spoken to the people in the Manner he was accused with, excepting to the Man that was Struck at the Wheel on the Night of the 20th. which was done with a good Intention to make up Matters; that Mr. Camphor then said he did not thank him for that; that Words then took place between Mr. Lloyd and the Master, and Mr. Lloyd was hawled out of the Cabin by a Rope held by 5 or 6 of the Lascars on board; that this Evening the Master was again intoxicated, and was also intoxicated the next Morning by Eleven A.M.

Saith that, on the 26th (Saturday) after dinner was over, the Master insisted on Deponent and Mr. Young remaining below to drink some wine with him; that they Continued below, but Deponent did not drink any Wine; that the Master, who was then intoxicated, spoke about a paper that had been written the day before Concerning the Master and Mr. Lloyd, which Mr. Camphor said was Not Correct; that Deponent said it was Correct, to the best of his Memory, but if anything was omitted, that Mr. Camphor recollected, to Mention it, and if it was recollected that it would be inserted; that Mr. Camphor then said "Never Mind, three days will Settle All"; "that if all was not right in that time he would let them see what should be done as he would be desperate"; that they asked him in what way; that Mr. Camphor still repeated that 3 days would Settle All, for he would be desperate, for that he could but be Shot or hanged once; that he feared "neither Devil or God"; that Deponent at length got upon deck when the Master followed, and Called to Deponent to know if he had written the Ship's Log; that Deponent replied the Log for the day was written but what was to be written Concerning him and Mr. Lloyd was not entered; that the Master said Deponent had better go and do it; that Deponent went below to write it and his own Journal; that Mr. Young then Came below and told Deponent that the Captain had sent him to Insert Something in the Log Book; that Deponent said the Log book was in his possession and he would receive Directions for Inserting any thing further from the Captain; that Mr. Young went upon the deck and in a few Minutes returned; that Deponent asked what was the matter, and Mr. Young said that the Captain, he thought, was going out of his Judgment; that Mr. Young then returned to the Deck; that Deponent then heard the Captain quarrelling with a Man named James Greaves, a Seaman; that he heard the said Greaves endeavour to remonstrate with the Captain, but he said "Not a word, Sir, I'll seize you and give you 39 Lashes"; that Deponent then heard the Master Call to the Steward to bring him a Pistol; that the Steward asked him where the Pistol was; that the Captain said it was under his bed; that the Steward then Came below and asked Deponent if he was to let the Captain have his Pistol; that Deponent replied "Certainly, if the Captain wanted his Pistol, he Could not prevent him from having it"; that Deponent asked the Steward if the Pistol was Charged, and he said it was; that the Steward took the Pistol, and as he supposed delivered it to the Captain; that the Steward Shortly returned, and told this Deponent he had better go on deck as he was afraid the Captain would do some Mischief; that Deponent declined going; that in a Short time he heard Mr. Lloyd's Voice and went upon deck; that he found Mr. Lloyd walking the weather main Deck, the master Sitting

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on a Hen Coop on the Lee Side of the Quarter Deck, with the Pistol under his left arm which he held in his right hand; that the Captain told Deponent that Mr. Lloyd was not to Come further Aft than the After Hatch; that Mr. Lloyd went below, and as he was descending the Captain remarked "that Man is bad; I was going to have been desperate"; that the Master smiled and Shewed Deponent the Pistol, and shortly after observed that perhaps it was as well as it was; that Deponent then advised the Master to go below; that deponent, from the Master's Looks and from his muttering of Strange Words, thought it best to get out of his way, and went below; that he had not been below many Minutes before he heard the Report of a Pistol and a man Cry out "Oh"; that he run upon Deck and instantly saw John Thomas, who was at the Lee-Wheel, with his Arm hanging down and bleeding; that the Master was in the same place where he had left him; that he asked him "What have you done, Sir?" that he said "Nothing"; that Deponent then said he had Shot a man; that the Master said "No, he had only touched his Jacket"; that Deponent took hold of the Man (Thomas) and pulled off his Coat, and saw his Arm and the Shirt all Covered with blood; that the Captain desired Deponent to take him below; that he did so and, on examining his Arm, found that the Ball had entered his left Arm and had lodged under his left Shoulder Blade; that the Captain then went into his Cabin and brought from thence two bleeding Lancets in order to extract the Ball; that Deponent said it was better not to use them, and the Man would not Consent to the Operation; that Deponent then bound up the Wound, and the Man retired to his Hammock; believes that the Wounding of the Man was entirely Accidental.

Saith that he was then Called for on deck by the Crew; that he went, when all Hands asked him what he was going to do; that Deponent said he was at a loss to know; that the Crew said "Something must be done"; that Deponent left them and went below; that the Crew had previously expressed a desire that the Arms in the Captain's Cabin sho'd be taken away, and they were taken away; that the Captain asked for his Arms and Deponent told him they were in his possession by request of the Hands; that the Captain then made use of several threats to Deponent and Called him "a Robber"; that Deponent then tried to remonstrate with the Captain, and a Number of the White people on board Came below; that a Man Named Burnett began to speak to the Captain of the Safety of the Ship or of their Lives under his Command. Whereupon the Captain took hold of Burnett and had him on Deck, saying he would flog him with 39 Lashes, but he did not do so; that he Called for Deponent, who met him as he was Coming below; that the people had hold of the Master; that Mr. Lloyd, who was behind, put his hand upon the Master and said He arrested him in the King's Name as a Murderer; that Deponent desired the people to let go the Master; that they said they would not Until the Arms were secured, and on Deponent saying they were secured they let him go, and he Came down into the Cabin; that the people then Called to this Deponent to take Charge of the Vessel; that Deponent at first declined, but they all persevered and said it was necessary for the Safety of their Lives; that Deponent then Consulted with Mr. Young, the 2d Officer, who advised Deponent to take Charge under those Circumstances; that deponent then addressed the people on board and said he would take Charge of and do his best to Convey the Vessel safe to her destined Port; that Deponent reported what

had passed to the Captain, who said he had not many days to live and gave up the Chronometer and told him to take Charge of the Vessel, and Deponent took the Chronometer and asked the Captain for the Charts; that he gave him a general Chart; that Deponent asked for others, which the Master refused, alledging they were his own property, but at length he gave over the Charts.

Saith that from this time Deponent took charge of the Ship, and on examining the Charts found that they were 45 Miles distant from the Island of Amsterdam and was therefore under the Necessity of Altering their Course; that the Captain still continued in the same State of intoxication, and occasionally insisted on having the Carving Knife and Fork, and threatened the Carpenter and Others to take their Lives, and said that Deponent should be glad to Call him up when amongst the Rocks; that he went to bed about one o'Clock and the next Morning Continued to drink Brandy and water until the Steward said he was afraid he would drink himself to death. Whereupon Deponent interfered and prevented his having Spirits to such Excess; that the Master was for several days afterwards Confined to his Bed and frequently spoke as if he thought his end was approaching; that Deponent put a Sentry over the Master, who at his Request repeatedly walked the Deck, attended by the Sentry, and in that State the Ship Arrived at Port Jackson, where Deponent reported the Circumstances, first to the Naval Officer, and then to the Captain of the Brig Satellite.

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WM. LINGARD.

Sworn the 6th December, 1822, Before Us

D. WENTWORTH, Supt. of Police. ALEXR. BERRY, J.P.

J. T. CAMPBELL, J.P.

EDWD. WOLLSTONECRAFT, J.P.

THOS. MACVITIE, J.P.

J. OXLEY, J.P.

Questions By the Bench to Mr. Lingard.

1st. Whether previous to the 20th of October last the Master had Navigated the Vessel in a proper Manner. *Answer.* Yes, and the Course he was Steering was proper.

2d. Whether previous to that Period (the 20th of October) he had had any Conversation with Mr. Lloyd the passenger on board, respecting the Conduct of the Captain or of taking Charge of the Vessel. *Answer.* No, that the Master and Mr. Lloyd had been always on the most friendly terms.

3rd. When the Captain was informed that you had taken Charge of the Vessel, did he express any Surprise or disappointment or what did he say on that occasion? *Answer.* No, but gave up the Chronometer and desired me to take Charge of the Vessel; at this time the Captn. was in a State of Intoxication and observed that he had not many days to live.

Q. 4th. What Voyages, if any, have you made with Captain Camphor before you sailed under him last from the Isle of France, and had you ever any reason to suppose the Captain was in an insane State or incapable of Navigating his Vessel? *Answer.* Once before from the Isle of France to Bombay and back to the Isle of France; and always Considered him in a perfectly Sane State except when he was in a State of Intoxication.

5. On those occasions when you had sailed with him before, did Capt. Camphor shew any of those Appearances of Insanity at the times he was intoxicated which he exhibited on the last voyage? *Ans.* No, he never shewed any Violence to any person, or took up arms before.

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6. Was Mr. Lloyd, the passenger, after he had been turned out of the Cabin by the Captain into the aft Deck, admitted after you had taken Charge of the Vessel to the Cabin Table. *Answer.* He was not.
WM. LINGARD.

JOHN THOMAS, an African Negro and Seaman on Board the Brig Ben Johnson, saith that, on the Passage of the said Brig from the Isle of France to this Port, one Evening as he was at the wheel and the Captain of the Brig was sitting on a Hen Coop on the Deck, he heard the report of a Pistol and instantly afterwards he felt himself wounded on the Shoulder; that he thereupon left the wheel, when the Captain ordered him to resume the wheel saying he was only frighten'd not shot; saith that nothing had previously passed between the Captain and himself; that he thinks the Captain was sober and heard him say as he went down below that he had shot a man, and if the man died he should be hanged; Saith that the Captain had never spoken to him in any angry way since he left the Isle of France, and saith the wounding of this Declarant was in his mind entirely accidental.

his
JOHN X THOMAS.
mark

Taken before us, the 6th of December, 1822.

D. WENTWORTH, Supt. of Police. EDWD. WOLLSTONECRAFT, J.P.
J. T. CAMPBELL, J.P. ALEXR. BERRY, J.P.
THOS. MACVITIE, J.P. J. OXLEY, J.P.

Cumberland } THOMAS YOUNG, Second officer of the Brig Ben
To Wit } Johnson, being sworn, deposeth that the Brig sailed
from the Isle of France on the 4th of October last
under the Command of Captain Camphor, and that nothing particular occur'd on Board until the 20th of the month, from which day until the 26th, Deponent saith he cannot say he ever saw the Captain of the said Brig sober; that on the 21st he saw the Captain in the Cabin and spoke to him there; that Deponent understood the Captain had fallen from his Cot early that morning; that his nose was Cut and he appeared to be stupid from the effects of Liquor; saith that on the 24th he saw the Captain take an Observation on Deck; saith that he did not then appear sober; saith that about 12 at night Deponent came on Deck, when the Chief officer informed him that there had been too much Sail carried by the Captain, inso-much as to endanger the Ship, and when Deponent came on Deck the Chief Officer was faking in Sail; that the Captain was then below. Saith that during his Watch it came on to blow hard, and Deponent went down to the Chief officer, and said in his opinion it would be necessary to take in more Sail; that when the Chief officer came on Deck and desired All hands to be called, when more Sail was taken in; that nothing particular occurred during the remainder of the Deponent's Watch; saith that, when he went down to speak to the Chief officer respecting the taking in Sail, he informed this Deponent that he had endeavour'd to speak to the Captain, but that he could make nothing of him as he was drunk; saith that, when he took his Watch at the hour of 8 in the morning which continued until 12, he doth not recollect whether the Captain was on deck during that time or not.

Saith that after Dinner on the 25th Deponent was about to retire from the Cabin and to go on Deck, when Mr. Lloyd, a Passenger, called this Deponent back as he had something to Communicate to the Captain, and to put some questions to him; that then Mr. Lloyd

asked the Captain what was his reason for treating him with so much contempt for the last few days, or words to that effect; doth not recollect that the Captain made any reply; Saith that he had not observed that the Captain had treated Mr. Lloyd with any Contempt; saith that Mr. Lloyd mentioned his having received some message from the Captain by the Steward, but Deponent doth not recollect what that Message was; recollects that the Captain remarked to Mr. Lloyd that he had been a Tale Bearer, and had been talking to the men, and that the Captain said he had told the Steward to tell him so; Saith at this time Mr. Lloyd made use of threatening movements and attitudes towards the Captain, nor did he conduct himself on this occasion with the respect due to the Captain, and saith that, if he, this Deponent, had been the Captain, he would not have suffered Mr. Lloyd to remain in the Cabin after such Conduct; saith that the Captain ordered Mr. Lloyd to go on Deck, but Mr. Lloyd refused to go; that Deponent then went upon Deck; that the Captain soon after came on Deck and desired him, as soon as the Carpenter and Gunner had got their Dinner, to bring them down to him in the Cabin; that he did so; that at this time Mr. Lloyd was on Deck, but soon afterwards came down into the Cabin and took the key of his Cabin Door out of his Pocket; that he opened the Door of the Cabin and went in; that the Captain repeatedly desired Mr. Lloyd to go upon Deck; that Mr. Lloyd refused so to do, saying he had paid for his Passage in the Cabin and would remain there; that the Captain frequently desired the Carpenter (James Watson) and the Gunner (Robert Hughes) to put Mr. Lloyd on the Deck, but they both refused to obey the Captain's orders in this respect, Hughes the Gunner saying he was as much bound to obey the orders of Mr. Lloyd as of the Captain, and Saith that the Captain then told the Carpenter that, if he would not obey his orders to go upon Deck; that an altercation took place between the Captain and Mr. Lloyd, in the Course of which Mr. Lloyd said that he would neither go upon Deck nor would he be confined to his Cabin; that the Captain then said Mr. Lloyd should either be a Prisoner or go to the Steerage; that Mr. Lloyd said he had paid for his Cabin, and would do neither; that at this time Mr. Lloyd was in his own Bed Cabin, and insisted not only to remain there, but to have access to the Main Cabin, as it was a Mess Room for the Officers and Passengers; that the Captain then directed Deponent to put Mr. Lloyd on Deck, when Deponent asked if it was to be done by force; that the Captain replied "Yes"; that Deponent then went into Mr. Lloyd's Cabin and took hold of him by the Arm; that Mr. Lloyd resisted, when the Captain ordered the Gunner to assist this Deponent; that the Gunner went towards Mr. Lloyd and put his hand on him, but afterwards took it away and refused to give any further assistance; that the Captain then said he would Confine Mr. Lloyd in his Cabin, on which Mr. Lloyd forcibly opened the Door and came out into the Great Cabin; that the Captain resisted Mr. Lloyd, and Endeavoured to prevent him, in the Course of which a Struggle took place between them; that the Captain still persevered in ordering this Deponent to put Mr. Lloyd on Deck and, if force was necessary, to use it; that Deponent then went on Deck and called All Hands aft; that thereupon the Crew, White people and Lascars came aft, and Deponent went down below and Called for a Rope, which was handed down to him; that he made a Bowling Knot in the Rope, told the Captain it was ready, and the Captain desired him to use it; that after some resistance and the Rope had

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been thrown round Mr. Lloyd he was hauled upon Deck; that Deponent had given orders to the men on Deck to haul away, but to bear off in order to prevent Mr. Lloyd from being hurt or injured by the Stanchions; that Deponent then went on Deck, and the Captain came up, when the Captain said Mr. Lloyd should be Confined to the half Deck and only allowed to come upon Deck for an hour in the day if it was not for the sake of his health; that Mr. Lloyd at this time remarked that there was not a man in the Ship that would speak well of the Captain; that Mr. Lloyd then asked the Captain, if he would allow him his necessaries on Board the Ship, with which the Captain Complied and gave directions to the Steward accordingly; that the same night the Captain asked the Steward for the Key of Mr. Lloyd's Cabin, which was given to the Captain, who threw the Key overboard; that the Captain then gave orders to the Steward to remove everything belonging to Mr. Lloyd that he wanted from the Cabin, which was done, and afterwards to nail up the Cabin, which was done accordingly; Saith that, during the whole of this Transaction, the Captain was in Liquor; saith that nothing further occur'd during the remainder of this Night; Saith that, on the 26th of October about 5 A.M., Deponent was on watch, and Captain Camphor looked up on Deck and asked Deponent, if there had been any Shift of wind; that Deponent replied there had; when the Captain said, if the wind got freer, to keep a Point away as he intended to go to the Northward of St. Pauls; that Dept. then asked the Captain, if he intended to go between the Islands, and he said he meant to go to the Northward of them both; that the Captn. then retired, and Deponent kept his Watch until 8 o'Clock when he was relieved by Mr. Lingard; that nothing particular occur'd during Mr. Lingard's Watch; saith that about 12 at Noon, whilst Deponent was taking an Observation, he thinks the Captain Came on Deck, and asked Deponent what he had got on his Quadrant; saith that at two o'clock they went to Dinner, where the Captain and Mr. Lingard with this Dept. dined; that after Dinner Deponent was about to retire, when the Captain desired him to remain and take more wine; that Dept. remained and took his share of the wine; Mr. Lingard remained also but drank very little; it might be about twenty minutes that Deponent remained drinking wine below, and saith that the whole of the wine drank was two Bottles of Claret and one Bottle of Beer; saith that during this time the Captain expressed himself as desperate, said that he did not fear God or Devil, that he Could only be hung or shot once, and that in two or three days he would let them see what could be done; that about 3 o'clock Deponent went on Deck and soon afterwards the Captain came on Deck and desired him to go below and notice in the Log Book what had taken place between Mr. Lloyd and the Captain; that he did so, and Mr. Lingard who was below said the Log Book was in his possession and, if the Captain wished to have anything inserted therein, that he would take his Directions from the Captain and would do it; that he reported this to the Captain, who was on Deck, who said "*Never Mind*"; that Dept. then went forward on his duty; that the Captain soon afterwards called again to Dept., and pointing towards the Horizon and made use of the word "*Phenomenon*" several times, and asked if it was level; that he then pointed to a spare Tiller on Deck and asked him to look at that, and also pointed to a Callipers, and, from that and other questions he put to Deponent, he thought the Captain was in an Extraordinary state of mind; that the Captain told him again to

go below and write, and this Deponent thought it was something about Lloyd's Business; that he went down below and saw Mr. Lingard, who said that everything was entered, and, on Mr. Lingard's asking how things went on Deck, this Deponent said he thought the Captain was going out of his Judgment; that he remained below about ten minutes, and then returned to the Deck, and soon afterwards ordered the People to Knock off and to put the Sail away, and this was about 5 or 6 o'Clock P.M.; that he heard the Captain speak to Greaves, a white Seaman, respecting some Insolent language he had made use of; that Greaves said, if he would allow him, he would tell him what he had said; upon which he heard the Captain tell Greaves that he would tie him up and give him 39 Lashes, and directed Greaves to stop; and the Captain then Called to the Steward to bring him up his Pistol; that the Steward accordingly brought it and delivered it to the Captain, who put it under his Jacket holding the Pistol in his right hand; that the Captain then desired Deponent to tell *that man* not to come aft, and Deponent supposing that he meant Greaves (who by this time had gone below) Deponent went down to Greaves and told him not to Come aft; that seeing Mr. Lloyd on Deck he thought he had made a mistake in respect to Greaves, and went to the Captain to ask him, if it was not Lloyd that he meant, when the Captain said "Yes"; that he then went to Lloyd and told him not to come so far aft; that Mr. Lloyd expressed a wish to know how far he was to come, and Deponent went to the Captain and asked him, and the Captain told him, and he mentioned it to Lloyd accordingly.

Saith that, in about a quarter of an hour afterwards whilst Dept. was on Deck, he heard the Captain say something about Lloyd which Deponent did not understand; heard the Captain express the words *bad man*, and then drew nearer the Captain in order the better to understand him, when the Captain drew the Pistol from his Jacket and place it on his Thigh; that it was Cocked, and the Captain elevated and fired it off, and said "off she goes"; that the man at the wheel (John Thomas) immediately cried out "oh"; that Mr. Lingard immediately came on Deck together with all hands; that Mr. Lingard said to the Captain what have you done, you have shot a man; that the Captain replied "No," that the man was not hurt, and desired him to take the Wheel again; that at this time Deponent observed some Blood drop from the man's Arm; that the man was taken below by Mr. Lingard and some of the People, as Deponent thinks by the Captain's orders; that Deponent went below and saw the man, who was then stript, and the people below were arguing whether the Ball should be extracted or not; at length it was determined not to extract the Ball, and the man was drest and removed forwards; believes that the Wounding of the man was entirely accidental; that soon after Deponent saw the Captain come on Deck, followed by a number of white People, and the Captain was threatening to flog a man and was calling to the Serang to flog him; that the Serang did not come, and on the Captain attempting to go below he was seized by several of the white people, and saw Mr. Lloyd put his hand across the Companion on the Captain's shoulder, and heard Mr. Lloyd say to the Captain that he made a Prisoner of him in the King's name, as a Murderer; that at this moment Mr. Lingard was below and came immediately on Deck when the Captain addressing himself to his Officers called out "do you see this"; that Deponent and Mr. Lingard then both observed that they were unable to support him

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any longer, as the Ship was in such a state; that they desired the People to let go the Captain and that he should not be ill-used; that Deponent took hold of Greaves, who held the Captain, and desired him to let go; that Enquiry was then generally made amongst the People as to what had become of the arms, and whether they were out of the Captain's way, when Mr. Lingard replied the arms were secured and out of the Captain's way; that the Captain then went below, and that to the best of his recollection he saw Mr. Lloyd hand up the Arms thro' the sky Light to the Deck, which arms were afterwards taken to the half-Deck below, where some other arms were in charge of the Gunner; saith that it was generally agreed amongst all the white men on Board with the exceptions hereafter mentioned that for the safety of the Ship and for the Preservation of All their Lives that Mr. Lingard should take Charge of the Ship and Convey her to her destined Port, in which this Deponent Concurr'd as a matter of necessity; saith that Stone, the Steward who was below with the Captain, and Hughes, who was at the Wheel, did not take any Active Part on this occasion, but that the names of those who did seize the Captain and took an active part in this Business and express'd a Determination not to serve under him are as follows: (viz.)

Mr. Lloyd, the Passenger;
James Watson, the Carpenter;
James Greaves, Sea Cunnie, and
J. Burnett, Do.

Saith that Richard Roe consented to the measure, but was not so active as the last.

Saith that Mr. Lingard, the Chief Officer, then took Command of the Ship and the Captain was Confined to his Cabin below, with a Sentry placed over him; but was allowed occasionally to come upon Deck attended by the Guard, and was allowed every Comfort and Accommodation that he had before had with the Exception of Spirits, which were kept from him; and that the Captain experienced the same Treatment until the Brig arrived in this Port.

Saith that his motive, for agreeing in the Command of the vessel being given to Mr. Lingard, was in Consequence of the Captain having been so many days in a state of intoxication, from his general wild and extraordinary conduct, and with a view to the Preservation of the Ship and the lives of the Crew.

THOS. YOUNG.

Sworn the 7th Decr., 1822, Before

D. WENTWORTH, Supt. of Police.	J. OXLEY, J.P.
J. T. CAMPBELL, J.P.	ALEXR. BERRY, J.P.
THOS. MACVITIE, J.P.	EDWD. WOLLSTONECRAFT, J.P.

Cumberland } JAMES STONE, Steward of the Brig "Ben Johnson,"
To Wit } being sworn, deposeth, that on the 25th of October
he was present and heard the Captain in the Cabin
give directions to Mr. Young, Second Officer, Watson, the Carpenter,
and Hughes, the Gunner, to remove Mr. Lloyd, in Consequence
of an Altercation which had taken place between the Capt'n. and
Mr. Lloyd, from the Cabin he occupied below as a Passenger to the
Deck; that the Carpenter and Gunner refused to remove him, saying
that they did not think they had anything to do between the Cap-
tain and the Passengers, but that, if there was any Mutiny or Riot
on Board, that they would obey his orders; that the Captain gave
directions to the same Effect to Mr. Young, the 2nd Officer, and a

Rope was fasten'd round Mr. Lloyd, and he was hauled upon Deck, and when there he was ordered to the half Deck; saith that the Captain directed this Deponent to furnish Mr. Lloyd with what necessaries he might require, which he said he might have then but not afterwards; saith that a List was furnished by Mr. Lloyd, and the articles it contained were delivered to Mr. Lloyd and his Cabin nailed up; Saith that at this time the Captain was sober; saith that, on the 26th, the Captain and his officers dined together; that they drank two Bottles of Claret and One Bottle of Porter; that the Officers left the Cabin and soon after the Captain went on Deck, and, as he was ascending the Ladder, directed Deponent to make him some Coffee, which he did, and brought it to the Captain on Deck; that Dept. then went below and soon afterwards heard the Captain abuse some person (Burnett) on Deck; that at this time the Captain appeared to Deponent to be very Drunk; that, in about ten Minutes after the Captain had been abusing Burnett, he called to Dept. and Directed Deponent to bring Burnett a Glass of Grog, which he did and went below; that in about ten Minutes afterwards he heard the Captain and Greaves aft, and heard some words pass between them; that the Captain said "I am the Captain of the Ben Johnson, strike me"; that he then saw Greaves go forward and the Captain called to Greaves to stop; that the Captain then called to Dept. to bring him a Pistol, which Deponent mentioned to the Chief Officer who was below and asked him if Deponent was, from the state the Captain was in, to give him the Pistol or not; that Mr. Lingard said Yes; that he did not think any body would offend or interrupt the Captain; that he brought up the Pistol and delivered it to the Captain enclosed in a piece of white Cloth; that the Captain took off the wrapper and put the Pistol into his breast, and then, sitting down on the Hen Coop, said "I take all these things very deliberately"; that Deponent went below and told the Chief Officer he had better go up, as he was afraid the Captain would do some mischief with the Pistol; that Mr. Lingard said he would do no harm, but soon afterwards went on Deck, and came down again; that in about ten minutes after Deponent heard the Pistol go off, when Mr. Lingard, followed by Deponent, went upon Deck and Mr. Lingard asked the Captain what he had done; that he had shot a man; that the Captain said no, he had not; that he damn'd the man and order'd the man at the Wheel to take the wheel again; that at this time he observed the man's arm hanging down and bleeding; that Mr. Lingard persisted in saying the Capt. had shot him; that the man was taken below, examined and drest, and put to bed, when the Captain directed every Care should be taken of the man and expressed his sorrow for what had taken place; that the Captain repeatedly asked the wounded man if he thought he had shot him accidentally or intentionally but the man was in too faint a state to make any answer, at least he did not hear any; that the Captain advised with the mates as to extracting the Ball, but it was not extracted, and the man was unwilling it should be so; that after the man was put to bed the Captain went into his own Cabin, and all the Crew including Mr. Lingard and Mr. Young (with the exception of Mr. Lloyd) came into the Cabin and told him that from the manner he had behaved himself of late that he was not fit to Command the Ship, and that Mr. Lingard should take Charge of her and bring her to Port Jackson; that after this the Captain rose from the Locker and told Burnett that just for this he would give him 39 Lashes in the main Rigging; that the Captain then went on

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Deck and called out to the Serang; that the Captain was followed by the People on Deck; that soon after he heard a Scuffle on Deck, but, before this whilst the wounded man was in the Cabin, Mr. Lingard had directed this Deponent to remove the Arms from the Captain's Cabin to his own, which he had done whilst the Captain was present; that Deponent, previous to the Scuffle, had heard the Captain say he would be damn'd if he would not do it, yet that Deponent looked up and saw several white people had Hold of the Captain by the Collar, amongst whom were Greaves and Burnett, and heard the Captain repeatedly Cry out "What have I done, what have I done"; that by this time Mr. Lingard was on deck, and the Captain had called out to him; doth not know what the Captain said to Mr. Lingard, but he heard Mr. Lingard, who at this time appeared much agitated and had tears in his Eyes, say "Captain Camphor I have supported you as long as I am able; now I know not what to do."

Saith that he doth not know who removed the arms from Mr. Lingard's Cabin, although he was in the Cabin the whole of the time; nor did he see any person Come down the sky light or jump on the Table, nor did he see any Person enter the Chief mate's Cabin at this time; saith that the People above refused to let the Captain come below until the arms were secured; but, on Mr. Lingard's saying the arms had been secured, they let him go by Mr. Lingard's Desire, and he came down into his own Cabin, and Mr. Lingard remained on Deck and the Flap of the Companion was put down and the Sky light Closed, and deponent was directed to remain below; that soon after Mr. Lingard came below and told the Captain that the people had Compelled him to take the Command of the Ship; that they would do no more Duty under him and if the Captain came upon Deck no one would go to the wheel; that the Captain then laughed and addressed himself to Mr. Lingard, and "now I suppose I must call you Captain Lingard"; that Mr. Lingard replied, "No, hé was no captain; he had taken the Command by force and for the preservation of the Ship and Cargo"; that a Sentry was placed over the Captain and continued until the Brig arrived in this Port.

Saith that the next morning Mr. Lingard assembled the people on the Quarter Deck, and there inform'd them that the Captain had desired him to inquire of the People whether the Command should be given back again to the Captain, or whether he Mr. Lingard should keep the Command; when the People all said that they would do no more duty under the Captain, but that Mr. Lingard should keep the Command until the vessel reached her place of Destination.

Saith that he was once a Partner with Mr. Lloyd in a Hotel in the Isle of France, but hath no Connexion with him at present, nor was he ever a general Partner with Mr. Lloyd only in one concern.

J. B. STONE.

Sworn the 9th day of December, 1822, Before:—

D. WENTWORTH, Supt. of Police.	ALEXR. BERRY, J.P.
J. T. CAMPBELL, J.P.	EDWD. WOLLSTONECRAFT, J.P.
THOS. MACVITIE, J.P.	J. OXLEY, J.P.

Questions by Mr. Rowe to Mr. John Stone, Steward.

Q. What was the reason for the Mate giving directions for removing the arms from the Captain's Cabin to his own Cabin? A. Doth not know.

Q. Was the Captain in the habit of drinking to Excess before he was put under Arrest? A. Yes frequently, but I cannot mention the particular days or Dates; when in that state he frequently carried a Press of Sail which injured the Ship; never knew of any Remonstrance being made by the 1st or 2nd Mate of such Conduct or on such occasions; believes that a quarrel took place between Mr. Lloyd and the Captain in Consequence of Mr. Lloyd having remonstrated in a friendly way with him for having struck a man at the wheel; was standing with his back towards the sky light below looking up, when the Captain was arrested on Deck, and a person might have come down the sky light without his observing it; had been with the Captn. Twenty two days before he was put under arrest, and had once played at Drafts with Mr. Lloyd in the Cabin.

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Cumberland } ROBERT HUGHES, Seaman and Gunner on board the
to wit } Brig Ben Johnson. being Sworn deposeth that, on
the 25th of October last, he was Called down into
the Cabin by Captn. Camphor to Assist in putting Mr. Lloyd on
Deck, which he at first declined to do, supposing he had Nothing
to do with the passengers, but being afterwards Called on again he
did Assist in hawling Mr. Lloyd on deck by means of a Rope; that
Mr. Lloyd, after getting on deck, was ordered by the Captain to the
half Deck and there to remain, and not to return to the Cabin, but
to be upon Deck occasionally.

That, on the 26th between the hours of One and two, he was on
the Main Top and was Called down by the Captain, who asked him
if he would obey his orders, and Deponent replied "Yes, as soon as
any Man he had ever Served under"; that the Captain then
directed him to go below and Clean the Small Arms, which he did;
that he remained below until 6 o'Clock P.M. when he was Called to
relieve the Helm; that he remained at the Helm two hours; that
all Hands were upon Deck, black and white Men, and amongst the
rest, Mr. Lloyd, who in his hearing Said that the Captain must be
made a Prisoner of in His Majesty's Name; at which time the Arms
were lying on the Deck, but Saith he doth not know by Whom they
were handed up; that by the Consent of All persons then present
the Captain was Ordered in to his own Cabin and a Sentry was
placed over him; Saith that his Consent was never asked as to this
Measure; doth not recollect when he saw the Captain again after
this took place, but knows he was not released until the Vessel
arrived in this Port.

Saith that Neither on the next day or at any other time was he
asked for his Consent; but the next Morning After this transaction
took place, Mr. Lingard Called all Hands on deck, and asked them
if they were All willing to do their Duty (as heretofore under the
Captain's Command) under Mr. Lingard, or he would not take the
Command; that they all said they were willing, and Saith that they
all had asked him to take the Command for the Safety of the Ship
and the Preservation of the Lives of the people on board.

Saith that on the 26th after 2 o'clock, when he was sent down to
Clean the Arms, up to the time when the Captain was deprived
of his Command, he does not know of any Circumstances which
Could induce the Crew to put him under Arrest except the Circum-
stance of his having Shot the Man at the Wheel, if he had done so;
and Saith that he would as soon Sail with Captain Camphor again
as with any Captain he had ever Sailed with; and saith that

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neither on the 20th, the 21st, the 22d, the 23d, the 24th, the 25th, or 26th of October, or at any time did he ever see an Act Committed by Captain Camphor that had the least Appearance of his being Mad; and during Eleven Months that he has Sailed with Capt. Camphor he has always found him a kind and good man.

Saith that from the time the Captain was put under Arrest a Sentry was always over him; but he requested he might not be put to stand Sentry over him, and he was not; he took Care of that.

(In Answer to a Question put to Deponent whether Mr. Lloyd was kept under Restraint as well as the Captain, Deponent Saith *he* was prevented from Coming into the Cabin, but was permitted to Come on deck when he liked, and in every other respect was at liberty and allowed to walk the Quarter Deck; that Mr. Lloyd slept in a Hammock in the half Deck over the Water Casks from the 25th of October until the 27th of November, When the Brig Arrived in this Port; during which time Mr. Lloyd's Health was very indifferent and his Health was not good when he first Came on board in the Isle of France.)

Saith that, when Watson the Carpenter was Called on to assist to Secure Mr. Lloyd, that Watson said he did not like to interfere between the Captain and a Passenger, but that if any other Men on board made any Riot that he Watson would Stick to the Captain to the last Drop of his Blood.

Saith that the arms in the after deck had been partly Cleaned about a fortnight before the 26th of October, and that on that day the Captain directed this Deponent, as the Armourer, to finish Cleaning the arms.

Saith that he never saw Mr. Lloyd in the Steerage or in the fore Castle amongst the men playing at Back Gammon or Single Stick, or in any other way before the 25th of October, When Mr. Lloyd was removed from the Cabin into the after Deck; Nor at any time afterwards did he do so.

Saith that on the 26th, when the Captain Called this Deponent down from the Main Top between one and 2, the Captain appeared in a Collected and right State, and gave his orders to this Depont. in a regular and Connected Manner as usual.

Deponent Saith that, on the morning of the 27th of October, Mr. Lingard Called all Hands on the Quarter Deck and then asked them whether, as the Captain was then Sober, they wished him, Mr. Lingard, to give up the Command to the Captain and Saith that they all declared that Mr. Lingard should retain and Continue in the Command.

ROBT. HUGHES.

Sworn the 9th day of Decr., 1822, Before:—

D. WENTWORTH, Supt. of Police.	ALEXR. BERRY, J.P.
J. T. CAMPBELL, J.P.	EDWD. WOLLSTONECRAFT, J.P.
THOS. MACVITEE, J.P.	J. OXLEY, J.P.

Before the Bench of Magistrates at the Police Office,
assembled 9th Decr., 1822.

QUESTIONS to Captain Camphor on his Cross Examination by Mr. Rowe, Solicitor on behalf of Mr. Lloyd, after his Statement had been had in Captain Camphor's Hand Writing and Subscribed by him.

Q. *1st.* When was this Statement of yours written? *Ans.* Occasionally, as Circumstances Occurred.

2nd. To whom was the Brig Ben Johnson Consigned? *Ans.* To Messrs. McQueen & Co., New S. Wales.

3d. Was not the man going a right Course when You altered it? *Ans.* He was not.

4th. On what terms were you with Mr. Lloyd up to the 21st of October? *Ans.* Very fair Terms.

5th. Did Mr. Lloyd never remonstrate with you in a friendly way? *Ans.* Never.

(a Paper produced)

Q. 6. Is that Writing on the back in the hand Writing of the Owner? *Ans.* I believe it to be so.

Q. 7. How much did Mr. Lloyd pay for his passage? *Ans.* £25, and he was to find his own Provisions.

Q. 8. Do you know that Mr. Lloyd has the power to Load the Brig in this Port, if he Chooses? *Ans.* I do not.

Q. 9th. How was the Pistol brought up? *Ans.* By the Steward openly, but under a Piece of White Cloth.

10. Was it purposely to Shoot the Bird that hovered over the Deck? *Ans.* Yes, I have sworn so, and still say the Same.

11. Did Mr. Lloyd put his hand on you, or only touch you on the Shoulder? *Ans.* He took hold of me by the Collar of my Jacket, and Called me a Villainous Murderer.

12. Did not Mr. Lingard, the 1st Officer, say that there was no Mutiny or any thing like it on board; but the Circumstances made it Necessary for him to take the Command? *Ans.* No, he did not say so.

13. Were you not in a Continual State of Drunkenness at this time? *Ans.* That I deny positively, for I worked the Chronometer daily myself, &c. &c.

14. You have stated that the mate said "I have secured every thing." What did this mean? *Ans.* Certainly that he had Secured All my Arms, and to prevent me from defending myself. The Man at the Wheel, who was Shot, stood at about 3 Yards distance from me; I think from having afterwards Seen the Ball that it had Struck before it had wounded the man and hit him on recoiling.

Saith that the only Objection, made by the Man for not Obeying his Orders in respect to securing Mr. Lloyd, was, because he said Mr. Lloyd was a Passenger; that he declared he was ready in every other way to Obey his Orders.

P. CAMPHOR.

Cumberland }
to Wit } MR. PETER CAMPHOR, Master of the Brig "Ben Johnson" now in this Port, being Sworn, deposeth that he sailed in the Command of the said Brig from the Isle of France on the 4th day of October last bound to Port Jackson; and that he proceeded on his Said Voyage until the 20th of October without any thing particular Occurring; that on the 20th of October Deponent kept the Watch on deck from 8 till 12 P.M. James Burnett, Seaman, at the Helm, the Wind being S.E. and by S. the Course they were Steering being S.W.; that Burnett lost his Course and went off to N.; that Deponent said to him "You are running the Ship off before the Wind" to which Burnett replied he was Not, he was due Course; that Deponent persevered in Observing to the Contrary, when Burnett said he had Steered a larger Ship than this, and thought he Could Steer this too; that Deponent Still said he was out of his Course, When at length Burnett put down the

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Helm; that Deponent desired him not to tell him any Falshoods in future; that Shortly after Burnett had the Ship up to S.S. West, and All in the Wind; that Deponent then said "Hard up," and Burnett repeated that he was due Course; that deponent again said "hard up"; that Burnett then began to move the Helm, and Deponent gave him a Slap on the Cheek and Said "tell me no more Lies in future"; Saith that Nothing further Occurred, and Deponent went below at 12 o'Clk and went into his Cot, and, when asleep about 2 o'Clock, the Ship rolling very much, he fell out of his Cot and hurt his face severely; that the next Morning about 11 o'Clock, John Lloyd, a passenger on board. Who, Deponent was told had been forward amongst the Men, and Whom he had seen frequently before amongst the Men, Came to Deponent in the great Cabin and Said "You have Struck James Burnett last Night at the Helm; it was well that it was not James Greaves, for he would have knocked you down, for it is not the first time he has done so"; that Deponent made No Reply; that Mr. Lloyd then talked of Ship's Affairs generally, and said they should be short of Provisions and Necessaries; that Deponent replied he would look out for that himself; that Deponent felt much hurt at Mr. Lloyd's Conduct, as he had laid in his own provisions and not as a Gentleman who had taken his passage in the Cabin; that from this time Deponent thought it necessary, from being displeased at his Conduct, to be reserved towards Mr. Lloyd.

Saith that, on Thursday Morning the 24th of October, on Coming on deck Deponent saw Mr. Lloyd forward amongst the Seamen, and, as he had not spoken to him for some days before, he directed the Steward to tell Mr. Lloyd not to go forward any more amongst the Men as Deponent did not wish to hear any more Tales; that Nothing particular occurred until the following day (the 25th) at dinner. When the Second Mate, Thomas Young, was going on deck, Mr. Lloyd desired him to stop as he said he had Something to say to Deponent, which he wanted the 2d mate to be present at; that Mr. Lloyd then addressing himself to Mr. Lingard, the 1st Officer, and Mr. Young, the 2d Mate, said that Captain Camphor had sent him. Mr. Lloyd, a Message by the Steward to tell him that he was a Tale bearer, and asked them if he, Lloyd, had ever told them any tales; to which they replied "No"; that Mr. Lloyd then said to this Deponent, "Now, Sir, what have you to say for yourself"; to which Deponent replied to Mr. Lloyd, that he had brought him Tales of a most unpleasant Nature, which he did not wish to hear again, and Mr. Lloyd's interfering in Ship's affairs was very unbecoming of a Gentleman; that Mr. Lloyd replied he had conducted himself more like a Gentleman than Deponent had; that Deponent asked in What manner, When Mr. Lloyd said that Deponent had placed the back of his Chair close to his Mr. Lloyd's face, and, if he had been on *Terra firma*, he would have wrung the Deponent's Nose; to which Deponent replied if he had held any other Situation than Commander of the Ben Johnson he would instantly wring Mr. Lloyd's Nose and Strike it hard, and added that if Mr. Lloyd ever in future made Use of such Language that Deponent would Confine him to his Cabin; that Mr. Lloyd then said in a threatening Manner to Deponent, "You Confine me to my Cabin, I defy you"; that Deponent then addressed the Mates and Asked them if they heard Mr. Lloyd's Language towards him, that Mr. Lingard turned his head round and said "I hear all"; that the 2d Mate made no Reply, and Deponent, thinking that his mates were greater friends

to Mr. Lloyd than to him, said "All I have to say to you Mr. Lloyd, is that you shall not sit in future at my Table." When Mr. Lloyd, with a loud Laugh, said "Shall I not, but I will in Spite of you, and how Can you help Yourself?" Deponent then said, "Since you bid me Defiance to all I say to You, I will now take means to Confine you to Your Cabin"; that Mr. Lloyd then said he would not be Confined to his Cabin for Deponent, or for any Man in Existence, to injure his Health; that Deponent said he did not wish to Injure his Health, but that he sho'd have an hour on deck in the afternoon, and Come on deck as Nature might require; that Deponent then requested him to go to his Cabin, When Mr. Lloyd again refused, and Deponent said he might have his Choice to go into the half Deck, When he would be at liberty, or to remain in his Cabin Confined; that Mr. Lloyd replied he would not go into his Cabin, and into the half Deck; Deponent must take him by force; that Deponent said he should then be obliged to use force, as he wanted peace and Quiet in his Cabin; that this Deponent then desired the 2d Mate to bring down the Carpenter and Gunner to take Mr. Lloyd away; that the 2d Mate observed that the Carpenter and Gunner were at dinner, When Deponent desired that they might finish their dinner and then Come down; that shortly afterwards the 2d Mate, with the Carpenter and Gunner Came below, when Deponent told the Carpenter to lay hold of Mr. Lloyd, who before any thing was done rushed into his Cabin and said "take Me out of this if you dare"; that deponent then Shut the Cabin Door and said to Mr. Lloyd "you are very well where you are now"; that Deponent was in the Act of locking the Door when Mr. Lloyd burst it open and said "My God, you shall not Confine me to my Cabin"; that deponent then insisted on the Carpenter laying hold of Mr. Lloyd, who refused saying it was not Ship's Duty; that Deponent then ordered the Gunner to take hold of Mr. Lloyd; that the Gunner also refused, and said he would as soon obey Mr. Lloyd as he would this Deponent; that Deponent then said it was their Duty, and directed them to get Mr. Lloyd on deck in order to preserve Peace; that the Carpenter then said he would obey Deponent in every other respect but that he would have Nothing to do with the Passengers; that Deponent then directed the Carpenter to go on deck; that he did so; that Deponent then asked the 2d Mate if there were no Men on board that would obey his orders; that the 2d Mate then said "Is he to go by force," to Which Deponent said "Yes, as fair Means will not do"; that the 2d Mate then went on deck and Called All Hands, and a Rope was handed down, in which the 2d Mate made a bowling Knot and the Rope was thrown over Mr. Lloyd under his arms, which he extricated himself from and then said to deponent "I now see your Villainous Determination"; that Deponent then ordered the Rope to be thrown over Mr. Lloyd again, which was done; assisted by this Deponent and the 2d Mate and with the Aid of the Lascars on deck, Mr. Lloyd was hawled up by the Rope; that when Mr. Lloyd was on deck, he addressed himself to Deponent and said "You, Camphor, shall pay for this sooner than You expect, for there is not a Man on board but would speak against you if he dared"; that whilst Mr. Lloyd made use of this Expression, Deponent was below, not having followed him on deck; that Deponent then directed the Steward to let Mr. Lloyd have Whatever he wanted; that the Steward soon told Deponent that Mr. Lloyd wanted all his things, and deponent said that he might have them; but on a further Message from Mr. Lloyd that he did not want all his

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things, this deponent said that he might have them as he wanted them, and the Gunner and Greaves were sent down to hand such things as he wanted from the Store Room which was under Deponent's Cabin. Saith that James Greaves said it was a d—d shame to lay hands on a Man, for, had it been him, Deponent should have paid for it immed'y; that during the Whole of this Conversation the Chief officer, Mr. Lingard, was on deck; that Deponent then asked the Gunner, What fault he had to find with him; that the Gunner, who had sailed with Deponent for ten Months, said "None"; that Deponent was as good a Commander as he had ever sailed with; that deponent then said to Greaves "Do you hear this; You are a bad Man; you once sent me a Message to frighten me and now you Come yourself to do so, go on deck, and don't let me see You on the Quarter Deck. All I shall do to you is to stop your Grog"; that some time after on the Same day deponent went on deck and saw Greaves and Lloyd in deep Conversation on the Quarter Deck; that deponent ordered Greaves forward and he obeyed; that the threatening Language Mr. Lloyd had made Use of induced deponent to load a Pistol, knowing Mr. Lloyd was possessed of fire arms, and Nothing further occurred that day.

That on the 26th Deponent found himself unwell and desired the Chief Officer to take a good Observation, and that the 2d Mate Should also take one; that, in about 20 Minutes after, the Chief Officer Came down and Deponent asked him what his Latitude was; that he said he had not worked it; that he then asked him what he had on his Sextant, and he told him, and Deponent worked it and made the Latitude; that nothing further occurred until after dinner, when on deponent's going on deck he saw Mr. Lloyd and Greaves again talking together; that Depon't ordered Greaves forward, and he Obeyed; and, being some time after on the Starboard Side opposite the Companion, Mr. Lloyd Came aft and walked up against Deponent's arm; that Deponent did not notice this, but desired the 2d Mate to tell Mr. Lloyd not to Come aft the Capstan, as Deponent plainly saw he wanted to Quarrel; that, deponent having been on deck some time and all Quiet, a large Bird Came hovering over his Head on the larboard Quarter and, recollecting that he had a loaded Pistol below, he directed the Steward to hand it up to him; that the Steward did so, and the Bird then kept at a distance and depon't then said to the 2d mate being near him "that fellow (meaning the Bird) has smelled the powder, let him go"; that Deponent then Cocked the Pistol intending to fire it off over the Quarter, when the Pistol went off before Deponent Could raise his hand and unfortunately wounded a Man on the larboard Side of the Wheel; that the Chief Officer Called out to Deponent that he had Shot a Man, to which Deponent said "Certainly not"; Deponent thought the Mau had been frightened at the report of the Pistol, and desired the Man to take the Helm again; that Deponent saw him bleeding and gave directions for him to be taken below; that, on Examining the man, he found the Shot had lodged in the Flesh at the back of his left Shoulder; that, previous to the man's going below, Deponent had Called all Hands aft and in their presence asked the wounded man if he thought the Deponent had Shot him intentionally; that the man said "No, Sir, not by any means"; that this deponent, when the man was taken below, wished to extract the Ball; that the Man objected and it was at length determined amongst the Officers and others present that the Ball should not be extracted; that Deponent then told the man he was glad to hear that he did not think

he had Shot him intentionally, and the Man still answered "No, Sir, I am sure you did not"; that Deponent then directed the Man to be taken to his Hammock and to have more Blankets to keep him warm, and Deponent Saith he felt great Grief on the occasion more than he Can express; that, after sitting some little time in his Cabin, Deponent felt much oppressed at what had happened and went on deck, When James Greaves, Who was on the Starboard Side of the Quarter deck, with Mr. Lloyd at his left Hand and James Burnett on the left Side of Mr. Lloyd, that Greaves said "here he comes as sulky as —"; Deponent did not hear the last word; that Deponent took no Notice but walked the Deck and, at length having heard them talking aloud, he ordered Greaves to go forward; that Greaves replied to Deponent that *he* had better go aft; that Deponent then said to Greaves that he must be a great Villain for what he had done before and now proved himself; that Greaves said he was not so great a Villain as Deponent; that Deponent then observed it was impossible to stand this Language any longer, it was enough to make a Man desperate; that Deponent then wanted to go below to Consult with the Chief Officer about punishing Greaves, but in Attempting to go down into the Cabin, whilst Deponent's Head was level with the upper part of the Door, John Lloyd rushed upon Deponent, laid hold of the Collar of his Jacket, saying, "Seize him, Seize that Villainous Murderer"; that Greaves and Burnett, who were close to Lloyd, immediately laid hold of Deponent's Collar and his waistcoat and Shirt, which they tore, and endeavoured to force him upon deck, Lloyd saying to Deponent "Come up you — Come up, Sir, You are my Prisoner"; that at this time Mr. Lingard was in the Cabin, and Mr. Young was on duty on deck; that then Mr. Lingard Came forward, and said "Let him go I have secured everything"; that they then let Deponent go and he went into his Cabin; that he Called Mr. Lingard to speak to him, but he went on deck, and in about a Quarter of an hour Came down below and said that the Ship's Company wo'd No longer obey this Deponent's Commands or orders; and had requested him, Mr. Lingard, to take Charge of the Vessel, which he had done; that Mr. Lingard demanded the Chronometer, and Deponent said, as they had taken the Ship from him by force and the Chronometer belonged to the Vessel, they might have it; that he immediately after this demanded Deponent's Book of Directions and of Charts, which Deponent refused to let him have as they were private Property; When he insisted on having them, and Deponent was Obligated to Comply, having remarked that, as they had taken the Ship from him by force, they might take the Charts in the same way, and they did so; and having found a particular Chart of St. Pauls and Amsterdam, Mr. Lingard said to Deponent, in the presence of all who were below, "See here, we are Close to Amsterdam and are running right on for it"; that Deponent then remarked to Mr. Lingard, "Young Man, this is the first time I see your Malicious Villainous Disposition towards me. I have shaped a Course and given it, which is E.S.E. half East, and if the Weather is Clear You will see both Islands to-morrow Morning"; that then Deponent retired to his Cabin and found he had been robbed of his Sword, Pistols, a Dressing Case, Scissars, Lancets, and Several other Articles; that Deponent asked Mr. Lingard by What Authority he had taken away those things, and Mr. Lingard said it was for this Deponent's Safety; that Deponent said there was no Necessity for that, as he was not tired of his Life as he had a Wife and family,

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that he was anxious to see once more; and Mr. Lingard had Still left Several Articles in his possession, which he had pointed out to him saying that they would have been sufficient for his purpose, if he had been tired of his Life; and Saith that Mr. Lingard then Ordered those Articles to be taken away, together with a Razor, which had been overlooked and was taken away the Second day after Deponent was placed under Arrest; Saith that he was five days without being Shaved, when the Serang was sent down to Shave him which he did.

Saith that, by Mr. Lingard's orders, a Sentry was placed over Deponent after his Arrest had taken place, and Continued until the Vessel arrived in this Port.

Saith that the 2d Mate, Mr. Young did not take an Active part in the Transactions against Deponent, nor did he behave in any Manner disrespectful towards him, nor did Hughes take any Active part against him nor did he ever stand Sentry over him; but the rest of the White Men on board did Alternately stand Sentry over him until the Brig arrived at this Port.

Saith that on the 24th of November having an Opportunity of speaking to Mr. Young, the 2d Mate, Deponent asked him if he had also refused to Obey his Commands, to which he replied, "I cannot answer You that Question now, Sir, as it is an Agreement between All Hands" and Saith that Young's Manner to him was very respectful.

Saith that after his Arrest he was never allowed to go into the great Cabin, but his Meals were furnished to him in his own Cabin, and for the first five or Ten days he was deprived the Use of knives and Forks, but was Afterwards Allowed them. Saith that the general Conduct of All the Officers and Crew on board was Very respectful and proper from the time the Vessel left the Isle of France, until the Period when Mr. Lloyd was arrested.

P. CAMPHOR.

Sworn the 10th day of December, 1822, Before

D. WENTWORTH, Supt. of Police. ALEXR. BERRY, J.P.

J. T. CAMPBELL, J.P.

EDWD. WOLLSTONECRAFT, J.P.

THOS. MACVITIE, J.P.

J. OXLEY, J.P.

*Questions by Mr. Solicitor Garling for Mr. Lingard
To Captain Camphor.*

Qn. 1st. Were you not allowed to take Lunar Observations after your Arrest at your own request on board? *Answer.* Yes, I was allowed to take Observations and to examine the Charts in Bass's Straits. I have no doubt but the Ship's Course, as pursued by Mr. Lingard, was solely for the purpose of bringing the Vessel to her destined Port, and the Statement made by Stone, the Steward Yesterday, respecting the Closing of the Companion and Sky light at the time of my Arrest is entirely false.

Questions by Mr. Solicitor Rowe for Mr. Lloyd.

Q. On what Terms were you and Mr. Lloyd up to the 21st of October? *Answer.* On fair Terms, but not particularly friendly; I played a few nights with him at Back gammon, but Afterwards, from Mr. Lloyd's making use of Language during the Play that was not agreeable to me, I declined it. On the Night of the 20th of October, I did not send for Mr. Lloyd from his Cabin to Come and drink Grog with me on deck. When I retired to rest at $\frac{1}{2}$ past 12, I was not in a State of Intoxication. I never drank any Brandy of

Mr. Lloyd's. What I drank I paid for. I did not Consider Mr. Lloyd a Cabin Passenger; he had laid in his own Provisions and had paid £25 for his Passage.

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Statement of Mr. R. C. Pritchett, given in and deposed to on the 10th December, 1822.

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ON Wednesday, the 27th November, I went on Board the Brig Ben Johnson with Mr. Atkinson having learned that the Vessel was Consigned to us; she had just anchored. On the Quarter Deck we were received by Mr. Lloyd, who in reply to our questions informed us that the Captain was deranged; that he was in durance, having shot a man; I expressed a wish to see him, and received the Letters of Instruction from Mr. Sampson. Mr. Lloyd said that the Chief Officer had gone on Board the Satellite to report Circumstances, and that till his return nobody could have access to the Captain; in about an hour more Mr. Lingard Came on Board and accompanied us below, when I recognised in Captain Camphor an old acquaintance in India; after hearing his Account, I was clearly of opinion that his arrest was illegal and proposed his going on shore to swear to the manifest. The Captain called for a man to lash up one of his trunks, when the Chief mate immediately went on Board the man of war, and upon going upon Deck Mr. Lloyd informed me that the Captain of a Man of war was coming on Board and that in the interim the Captain Could not leave the Ship. I waited a little, and in about ten minutes four Marines from the Satellite came on Board, and immediately loading with Ball cartridge took their Stations, one keeping Sentry over the Commander. I spoke to Mr. Lingard, and told him that we ought to have been applied to in the first instance, and then the Civil power would have taken notice of the Case; he paid hardly any attention to what I said and observed that it did not belong to the Civil power being a Crime committed on the High Seas and Cognizable only by an Admiralty Court; I requested to see the man, who was wounded; he Came upon Deck and appeared nearly well; I questioned him as to his opinion of the affair; he said it was an accident. I began Conversing with the Serang, when James Greaves said "I know bloody well who the Captain meant to shoot, it was not this Man it was me, but I will do him if the wounded Man does not, or at any rate there are plenty on board who can do him; we will do him between us." I made a Remark that his Language was very improper. When he said "I suppose you are some bloody Convicted Lawyer Come from the Shore to Cross Question us; but never Mind, we will do him."

In a day or two after, I Conversed with Mr. Lingard, who Still professed to Consider himself as not amenable to Capt. Camphor, as he had been put in Charge by the Captain of the Satellite. I expressed my Hope that Matters might be adjusted; that they all might return together to the Owner and there adjust their Differences, but to this he replied that he would not remain in the Ship, if Captain Camphor retained Command, and that he should take All the Ship's Company with him, and that All the Crew, Native and Europeans, were of his mind.

R. C. PRITCHETT.

9th Decr., 1822.

Sworn the 10th day of December, 1822, Before:—

D. WENTWORTH, Supt. of Police. J. OXLEY, J.P.

J. T. CAMPBELL, J.P. ALEXR. BERRY, J.P.

THOS. MACVITIE, J.P. EDWD. WOLLSTONECRAFT, J.P.

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Paper delivered in by Mr. John Lloyd, 11th Decr., 1822.

IN the Hour of trying Solicitude, a Stranger to your Worships and to the Territory (except by a Letter of High recommendation to His Excellency Sir Thomas Brisbane from the Governor of the Mauritius, which I beg to hand in) I appear before you, with a Conscious Integrity of having acted Solely with a view to render Substantial Justice, in the matter which now occupies the attention of the Bench, To the owners, To the Captain, to the Ship and to those in the Ship. The Commander and myself were on such friendly terms at the Commencement of the Voyage that I, as a friend, imagined I could speak freely to him: I did so; I remonstrated with him in Amity on the 21st of October for having struck the man at the wheel; for having beat the Lascars, &c.; for having behaved in the manner he did on the night before; for being liable to Censure and approbrium from the Owners and Ship's Company from his Constant Inebriety, and while in such Inebriety Conducting himself in a manner totally unbecoming the responsible situation he held as Commander of the "Ben Johnson"; he liked not my advice, but actually (although a Cabin Passenger) forced me on with the men for a Month; altho' in a very precarious state of health, I was obliged to lodge over the Water Casks; the Mates know it; they know that I gave not the Captain Cause for such Malicious Maltreatment; they know that if I utter'd an Exclamation against the Captain on the unfortunate Occurrence of the 26th October, that I did so under the firm Conviction at the time that the man had been Shot at the wheel, if it should now appear, not from intention forthwith but at least thro' Carelessness or rather temporary madness arising from excessive drunkenness; I repel the insinuation nor is there the least shadow of Evidence that I instigated the Crew to Mutiny or Piracy in any way; did I ever follow the Commander to or was I seen in his Cabin before or after the first Mate had actually taken the Command? did I not remain a passive Prisoner as the Captain had forced me to be until I could appeal to the proper Authorities for redress of Injuries; did I ever behave otherwise to him than as a Passenger and as I was authorised under the existing Circumstances. I did say "You are arrested Captain Camphor in His Majesty's name," because I conceived a Felony had been Committed, and it is the duty of every man to stop the Course of a Felon; indeed in this Instance, had the Pistol been pointed maliciously (being loaded) and had I prevented the Arrest of the Commander, I should have been liable to be tried under the 43rd G. 3, C. 58, as a Counsellor and abettor of the Act of shooting the man at the wheel. I uttered the Exclamation moreover because I was fearful in his state that he would proceed below and procure the other Small arms in his Cabin, and use them violently and maliciously towards myself and the other Persons on Board, thereby subjecting himself to a Capital Felony endangering his own life, the lives of the Crew, the Safety of the Vessel, the property of the owners; and is it not clear what the general opinion of all on board was; why were the Scissars removed from his reach? Can it be pretended that a pair of Scissars Could by possibility be sufficiently formidable in Piracy or Mutiny; but a man may take his own life away with a much less Instrument of terror, "with a mere bodkin." But in Law Drunkenness is no excuse for a Felon, nor is Insanity, unless there be a total Insanity; will the Mate (the temporary Commander) for a moment lead the Bench to suppose that I ever

was impress'd with a Mutinous or Piratical Idea either by Word, Sign or Acting? on the Contrary, will he state that I was actuated from any other motive but a desire to prevent further Felony and breach of the peace, which it is the bounden duty of every Man in any Capacity of Life to put a stop to; 'tis the duty of a child or Servant, if the Father or Master commit Felony, to secure the Felon and hand him over to the Law; 'tis their duty also to prevent the intention, if they have good grounds for supposing such Felony is about to be Committed; the Commander of a Merchant Vessell has no more power or authority over Officers or Crew than a Father or Master over a Child or Servant; what Command then had he over me, not bound by agreement to serve under him in any way; and would not I be therefore particularly Considered to have Acted derogatory to my Situation, had I good grounds for supposing the Felony as in this Case for the time, and not have endeavoured as a good and loyal Subject to prevent further illegal Acts by assuming a right at the moment, and informing the Commander that he was to be arrested in his Majesty's Name, but not as would out of doors be insinuated that I arrested him in My name of Pirate and Mutineer. If I have erred, I have erred from the best of motives and I close my appeal, a Stranger relying upon each of the Magistrates for protection, impartiality and Justice.

LLOYD.

The Bench of Magistrates, in pursuance of being Specially Convened by the Order of His Excellency the Governor, transmitted to the Principal Superintendent of Police in a Communication from the Colonial Secretary under date the 3rd instant for the purpose of Investigating the turbulent Proceedings reported to have taken place on board the Brig Ben Johnson on her Passage hither from the Isle of France, and to Commit for Trial if the Case should so require, and to do such other Acts as were within its Power in order to the rendering Justice to All Parties Concerned, Has now to Report that it Commenced its Examinations on the 6th instant and has Continued them daily without Intermission Until the present time whereby it is now Enabled to Report:

First. That it has Examined the various Allegations in the order in which they have been Enumerated in the Communication from the Colonial Secretary, and has found on the Evidence of Various Persons that the Wounding of a Seaman, John Thomas, by a Ball from a Pistol, fired by Captain Camphor, was altogether accidental and unintentional, and that it has been freely admitted by the wounded Man himself to have been unintentional; the Bench therefore Sees no Ground for any Proceedings being instituted thereon, Captn. Camphor standing thus freely and evidently acquitted of any Criminal purpose therein by the Acknowledgment of the Man himself, by the first and Second Officers, and others of the Crew.

Second. It has not found that Captain Camphor labored under any Mental Derangement or Incapacity whatever, Altho' it may be Inferred from the general Complexion of the Testimony that he did occasionally drink freely. Yet it also appears Still more Clearly that he was attentive to and Correct in the Management of the Vessel under his Command.

Third. The Bench, having heard and Examined various persons touching the Charge of Piracy, does not find that Such Charge Can be at all established, the Vessel having been directly Conducted to her destined Port by the persons placed in Charge by those who had Usurped the Authority on board.

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Fourth. The Bench has however had most Clearly in proof that a dangerous Combination or Conspiracy, attended by a Mutinous Revolt, did take place on board, and that John Lloyd the Passenger, aided and Assisted by James Greaves and James Burnett, Sailors, did Violently and Unwarrantably, on the 26th of October last, Arrest and Confine the Person and Supersede the Authority of the Commander, and did Continue to keep him in Arrest and Confinement, under Strict Guard, until her Arrival in Sydney Cove on the 27th Ulto.

Fifth. That William Lingard, first Mate, and Thomas Young, Second Mate, do not appear to have fomented, or in the first instance partaken in the Mutinous Spirit of the Passenger, Lloyd, and the two Sailors, his Associates, before named; and that it does not appear that Lingard and Young, the Mates at the time the Arrest took place, had it in their power to prevent that Act or to reinstate the Commander. Whilst on the other hand it is in Evidence that Young Obeyed his Commander's Orders in every thing down to the Period at Which he was Arrested, and that Lingard had, on the day following the Arrest, desired Leave of the Ship's Company to restore the Commander, but was forbidden to do so; the Bench, duly weighing these Considerations, does not find Sufficient Ground for Committing those Officers for Trial, Whilst it Cannot but regret that they did not make more Strenuous Efforts to support the due authority of their Command'g Officer, which Dereliction of Duty may perhaps be Assigned to the Youth and Inexperience of those Officers; the Bench feels it incumbent, in Concluding these Observations, to express the most decided Reprobation of Mr. Lingard's Conduct, his Indifference to, and Apathy in the gross Mutiny and highly disrespectful Conduct Shewn towards Captain Camphor.

Sixth. The Bench, having found that the Passenger John Lloyd, and the two Seamen, James Greaves and James Burnett, have been Guilty of flagrant Mutiny in Arresting their Commander and depriving him of his Command, and by frequent disobedience of Orders previous to the Arrest, and gross Disrespect for the Authority of Captain Camphor on Several Occasions, Has determined that those three Persons shall be Committed to His Majesty's Goal in Sydney there to remain until discharged by due Course of Law.

The Bench Orders that all those Examinations, which were taken in the early Stage of these Proceedings, and which Might have a tendency to Criminate the Persons themselves who gave them, be forthwith destroyed, and they are Accordingly destroyed.

Given under our Hands at the Police Office, Sydney, this 12th day of December, in the Year of our Lord One thousand Eight Hundred and Twenty Two.

D. WENTWORTH, Supt. of Police.	ALEXR. BERRY, J.P.
J. T. CAMPBELL, J.P.	EDWD. WOLLSTONECRAFT, J.P.
THOS. MACVITIE, J.P.	J. OXLEY, J.P.

True Copy of the Original Depositions and Papers.

Police Office, Sydney, 24th February, 1823.

D. WENTWORTH, Supt. of Police.

24th Decr., 1822, Mr. John Lloyd admitted to Bail, himself in £500 and two Sureties in £250 each, Conditional to appear Whenever and Wherever Called on to answer &c. and not to depart from the Territory without the Permission of His Excellency the Governor.

29th Jany., 1823, Mr. John Lloyd entered into Recognizance himself in £500 and two Sureties in £250 each conditioned to appear within two Years Wherever Called on to answer &c. and in the Mean time at liberty to depart the Colony.

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D. WENTWORTH, Supt. of Police.

UNDER SECRETARY WILMOT TO SIR THOMAS BRISBANE.

(Despatch per ship Commodore Hayes.)

Sir, Downing Street, 1st March, 1823. 1 March.

I transmit to you herewith by the direction of Lord Bathurst an account, which has been forwarded to His Lordship by the Commissioners of Victualling, of Medical Comforts which have been supplied to the Hospitals at New South Wales and Van Diemen's Land from the different Convict Ships, after they have discharged their Convicts at Port Jackson and the Derwent, and I am to request that you will give such directions to the Principal Surgeon as may be deemed proper for causing such Medical Comforts to be duly accounted for.

Medical
comforts to be
accounted for.

I am, &c.,
R. WILMOT.

[Enclosure.]

[A copy of this account is not available.]

UNDER SECRETARY WILMOT TO SIR THOMAS BRISBANE.

(Despatch per ship Commodore Hayes; acknowledged by Sir Thomas Brisbane, 2nd October, 1823.)

Sir, Downing Street, 2d March, 1823. 2 March.

With reference to Mr. Goulburn's letter to Gen'l Macquarie of the 1st March, 1820, I am directed by Lord Bathurst to request that you ascertain whether Mr. Mell, formerly Paymaster of the 102 Regt., is in New South Wales, and under what circumstances, and acquaint me for Lord Bathurst's Information with as little delay as possible.

Report to be
made re
John Mell.

I am, &c.,
R. WILMOT.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 3, per ship Commodore Hayes; acknowledged by Sir Thomas Brisbane, 3rd September, 1823.)

Sir, Downing Street, 3d March, 1823. 3 March.

I herewith transmit to you the Copy of a letter from Mr. Jacob, complaining of being unable to obtain a Grant of Land in New South Wales and of the inattention with which his applications have been received. Mr. Jacob represents himself to be

Complaint of
V. Jacob re
refusal of
land grant.

1823.
3 March.

Complaint of
V. Jacob *re*
refusal of
land grant.

possessed of upwards of £10,000, and as it appears to me to be of the first importance to afford every countenance and support to settlers of Capital and respectability, I am at a loss to account for the want of encouragement on your part, which forms the subject of his representation. On a perusal of the correspondence transmitted by him, it appears that his first application remained altogether unanswered, and that a Month elapsed before any reply was returned to his letter of the 31st July. To settlers with limited means, delay in obtaining their Grants of Land must be attended with the worst effects, and to individuals to whom the expence of being detained in Sydney is not so great an object, it forms a subject of complaint and dissatisfaction, and ultimately entails considerable trouble on the local Government and embarrassment to this Department.

It is only necessary for me to add that, unless there are strong grounds for refusing Mr. Jacob's application, I am of opinion that his request should be viewed with indulgence and that he should receive that encouragement, which it has been the object of Government to extend to Settlers of his Class.

I have, &c.,
BATHURST.

[Enclosure.]

MR. V. JACOB TO EARL BATHURST.

My Lord, Sydney, New South Wales, 7 Sept., 1822.

Ere I intrude upon your Lordship's notice the accompanying letters addressed by me to the local Government of New South Wales, allow me to bring under your Lordship's consideration the views with which I entered this Colony, and to relate the steps which I have been permitted to take towards their attainment.

A Military Service of more than ten years in India having undermined my health, I sought in New South Wales its confirmed re-establishment. An attentive observation of the advantages, which this Colony promised, and the invitation held out in the instructions furnished by H.M. Ministers to His Excellency Governor Macquarie to afford encouragement to all persons now resident or coming from Great Britain or other parts of the King's dominions and desirous of becoming settlers, impressed me with a wish to fix in it my permanent residence. Revisiting India therefore, I procured a Furlough of three years, and returned hither with a capital of a Lac of Rupees or Twelve thousand Pounds, vested in property, and full assurances from some of the most powerful Establishments in Bengal that any prospect of success in my proposed undertaking should ensure their assistance and support to any requisite extent. I assuredly

Objects of
V. Jacob for
settling in
the colony.

calculated that, in an infant Colony like this, the command of means so great would of itself deserve the countenance of a liberal government, and, in a community of Exiles where unblemished reputation and purity of private life had been hitherto little known in any class of Society, I confidently anticipated that the addition of an irreproachable Character would command the warmest encouragement. It was my intention therefore to tender my resignation to the Honorable Company, and employ the funds thus placed at my disposal in the pursuits of commerce and Agriculture, which are here generally and successfully united.

Under these impressions, I waited on His Excellency Sir Thomas Brisbane, and on the Colonial Secretary Major Goulburn, and fully unfolded to each individually the plans which I have thus ventured to submit to your Lordship. Sir Thomas Brisbane was pleased to express himself inclined to promote their Success, but recommended my writing a letter on the subject. In obedience to this Command, I addressed his Excellency personally, requesting a Grant of Land for Agricultural purposes, and pledging myself on the moment of possession to commence its improvement and import the most esteemed breeds of cattle from England and India. From the latter Country, permit me to add, I had already brought a Stallion pronounced by many to be the finest yet introduced into the Colony and had ordered others. I also applied to Major Goulburn for the grant of a town allotment in Sydney by a letter, the copy of which I have the honor to annex.

After an interval of above a month, during which these applications received not the slightest notice, and concluding that some obstacle had arisen to the concession of my first request, I again addressed Major Goulburn on the 31st July, and asked permission to erect a warehouse and dwelling in the Township of Liverpool. This is a small Township, distant from Sydney twenty Miles, situated on the banks of a river Navigable for Small Craft of 20 Tons entering the Sea at Botany Bay, and on the main road leading to the principal grazing districts of Minto, Camden, Argyle, The Five Islands and the whole country in the vicinity of Bathurst* and Lakes George; but such is the present stagnation even in this central and commanding Spot that there was very lately, and I believe still is, scarcely one house of which the inmates are not fed by Government. Of the allotments, several bear the name (without a vestige of building or improvement) of Public Officers, The Surveyor General, Judge, Naval Officer, etc., etc., and no fewer than twenty one in the hands of one publican, obtained chiefly by the barter of Spirits. Receiving no answer during the lapse of three weeks, I at length pursued the only

1823.
3 March.

Objects of
V. Jacob for
settling in
the colony.

Application for
land grant ;

for town
allotment
at Sydney ;

and for
permission
to erect
warehouse at
Liverpool.

* Note 7.

1823.
3 March.

Attempted
purchase of
allotment.

course left open to carry into effect my design of establishing myself in this Country, and on the 23rd Augt. invited by public advertisement the transfer of a building allotment in any of the principal Stations; and the many have been offered, not one could shew any right or title to sell further than being in possession. At length on the 3rd Sept., I was Honor'd by a reply to my last letter (reply dated 31 Aug.), whereby your Lordship will perceive by the enclosed Copy all hope was extinguished of receiving any encouragement from the Local Governm't, and I was compelled thus personally to obtrude myself upon your Lordship's notice. Still however after a lapse of ten weeks, my first and most important communications remain unanswered, apparently deemed unworthy of aught but silent neglect.

It were needless to remind any, but particularly your Lordship, of the marked breach in this instance of the established maxim, which ensures attention to every letter addressed to a public Officer, tho' of a tenor far less weighty than my representation to Major Goulburn. Not more necessary is it to expatiate upon the expense, in which I have been involved, and the mental harrassment, to which my family has been subjected by this protracted state of uncertainty. But I shall be pardoned by the indulgence of the Head of the Colonial Department if, in addressing your Lordship, I dwell a little longer on the unnecessary evils which beset every new comer to this remote but highly important Colony.

Not least among the difficulties are the official impediments, which lie in the way of persons resorting hither, whether under your Lordship's protection or otherwise, by the impossibility which is experienced of obtaining at the Surveyor General's Office that correct information, without which no deliberate Choice can be made, and by the delay which occurs in communicating the intentions of Government (of which I have thus ventured to Submit to your Lordship one strong instance); persons, coming hither with the intention of settling, are detained for a length of time in these alembicks of iniquity, Sydney and Hobart Town. The Consequence is that the property, they bring with them, is dissipated, themselves are immersed in debt, the lands promised by the Crown are mortgaged for present subsistence, and the property itself eventually falls into the hands of the unprincipled Creditor. Thus Felons, Convicted and transported, reconvicted and retransported, Men who have received at the Triangles the due reward of their reiterated Crimes, have become the chief proprietors of the Soil, while their victims sink into infamy and obscurity and too often learn to copy the acts of those who have ruined them.

Alleged official
neglect in
replying to
letters.

Alleged
difficulties
experienced by
new settlers.

As internally connected with this Subject and materially affecting the interests of every individual throughout this territory, permit me further to solicit your Lordship's serious attention to the regulations* lately enacted here. By these, every person now receiving grants of Land is compelled to enter into penal Bonds for the maintenance during ten years of a Convict Servant for every 100 Acres which may be allotted him. The deleterious effect of such a measure will at one glance be manifest to a certain degree, but, to disclose them in their ultimate consequences, it will be necessary to enter into a more particular detail.

1823.
3 March.

Criticism of regulations for maintenance of convicts by recipients of land grants.

Your Lordship is doubtless aware that, almost the whole of the land within 50 Miles of the Capital is already located, and, as I have before stated, the chief portions in the hands of the most unprincipled part of the Community. The above mentioned Tax burthens not these lands, on the contrary acts as a bounty on the property of those, who have already attain'd (by whatever means) an overweening and dangerous degree of wealth and influence. Again Your Lordship needs not be informed that nature has peculiarly fitted this Colony for the production of an article, which is essentially necessary to the Staple Manufactures of the Mother Country, but for which she is at present nearly dependent on Foreign Nations, the finest Wool. Yet the tendency of the late regulations is to clog with unnecessary and superfluous expence those lands best suited to this purpose, and to leave free and unencumbered every part which can with the Smallest hope of profit be applied to the raising of grain or other vegetable products, thus diverting to the preparation of these articles, with which our markets are already occasionally glutted, those funds which would be otherwise appropriated to the increase of this Staple export, or the production of animal food, the price of which has been raised, by the premature slaughter of young cattle in Van Diemen's land, from 5d. to 9d. pr. lb., and in New South Wales we import for Government use alone above a million lbs. annually. It is barely necessary to touch upon the dreadful effects to be anticipated from the dispersion throughout the interior, and far removed from all discipline and legal authority (for proprietors *will* not reside at such a distance from the Capital), so many unreformed Criminals; and before this comes under your Lordship's review, your humanity will have shuddered at the numerous instances of most atrocious murder, which within the last few months have multiplied and alarmed a community, though otherwise most depraved, hitherto remarkably free from the perpetration of this most horrid Crime. The whole Subject may indeed be aptly illustrated by a short sketch of its bearings on my own case. If your Lordship shall see in the exertions,

* Note 8.

1823.

3 March.

Criticism of regulations for maintenance of convicts by recipients of land grants.

which I have already made, and the pledges, I have thus given, sufficient cause to extend to me the indulgence heretofore granted to others in somewhat similar Situations of 100 Acres for every £100 of Capital that they could substantiate, I might without exaggeration expect 12,000 Acres. To maintain a servant for every 100 Acres would at £30 p. Ann. each be in the first year a sinking of nearly one third of my Capital on them alone, in addition to the expences of buildings, fences, clearing or any other improvement. To add any thing to this simple statement would be to tax your Lordship's penetration, and I shall merely observe that the alarm with which these conditions have been viewed by the Colonists themselves cannot be mistaken. One person, and one only out of many, has been found to undertake the Completion or to accept the deeds accompanied by the bond; in the mean time such lands as had been promised and occupied (some five years ago) are held by the Surveyor General's "Ticket of occupation," a mode of tenure undefined and unknown in Law, which is elusive of the regulations, unprofitable to the Crown (for on the strength of it not even quit rents are demanded), and certainly insecure and unsatisfactory to the Subject. Under such circumstances, to expect that honest men, intending to fulfil whatever engagements they undertake, will risk their property or even fix their residence in this Colony is scarcely reasonable. What may be the result of the spirit of alienation from the Government hence engendered, I dare not contemplate. At one view, your Lordship's discrimination will enable you to perceive that though my representations have apparently originated in private motives, yet the considerations they involve are altogether of a public and most important nature. Reverting from the above general speculations to my own more immediate concerns, I may be permitted to observe that the acceptance of my request to be allowed to settle in Liverpool would have been attended with benefits not unworthy the consideration of a liberal and paternal Government. At present, the Settlers of that neighbourhood are compelled to carry the principal part of their produce to Sydney, where too many fall a prey to the temptations of contagious example of their own inflamed appetites, absenting themselves from their families for many days together, and consuming in drunkenness and every species of debauchery that pittance which must be replaced by many days starvation or the mortgaging their land. For a confirmation of my opinion that my projected establishment would materially have diminished these evils and contributed to the moralization of the country by enabling the settlers to exchange their produce for Merchandize so much nearer home, as indeed for an adequate idea of the importance of Liverpool itself, I am proud in being able to refer

Anticipated advantages of a warehouse at Liverpool.

your Lordship to Mr. Bigge, H.M. late Commissioner to these Colonies. But beyond this, I may be permitted to state that I am the *second* yet arrived of a class of individuals not altogether I trust unworthy of encouragement, attracted by the climate most superior but not dissimilar to the one they quit, many of the Servants of the Honorable East India Company, to whom I allude, will retire hither like myself for their health. If the facilities afforded to their predecessors have been such as meet their expectations, not a few will be inclined to become Settlers; and it may fairly be presumed that persons, so coming and retiring from such a service, will prove better Colonists than Convicted or Unconvicted Rogues, fugitives from the law or their Creditors, such as are too many already here.

In conclusion, permit me to express a hope that your Lordship will appreciate the purity of the motive, which has induced me thus personally to approach your Lordship with this respectful application, rejecting every suggestion, which many would have been too ready to adopt, of having recourse to anonymous upbraidings of the local government in opposition prints; and allow me, My Lord, once more to condense into one view the qualifications which I trust entitle me to your Lordship's favorable consideration. They are briefly these. I have command of a capital, about £10,000, with assurances of unbounded pecuniary support in the prospect of there being application for it; and I have been invited by a Merchant of Calcutta to join him in the increase of fine wool in the following terms:—"To enable us to get out from home or from Spain fine Merino Sheep, I shall immediately send £1,000 and such letters to my relations as I think will best secure success to our views; and it is my intention to devote a Similar annual Sum to be sent to you at Sydney in such way as you may point out, there to be invested in purchasing ordinary woolled Sheep, which I hope by that time will be met by some of our fine Merino importations from Europe, and if success attend us we can go on as largely as may be deemed right and proper. The whole to be on joint account, you to advance what you can in addition to my money; if you cannot make it convenient to advance any thing at present, you shall still have a half share in the experiment and pay me a fair rate of Interest for your share of the money I advance." I proved my resolution of attempting at improvement by introducing a valuable Stallion, but was compelled to part with him for want of means of accommodation; and notwithstanding the discouragement I have experienced, I have written for improved breeds of Horses, Cattle and Sheep, but fear their speedy arrival will cause me, from the same inconvenience, to lose much of the anticipated benefit.

1823.
3 March.

Settlers
expected to
arrive from
India.

Qualifications of
V. Jacob
as a settler.

1823.
3 March.

Request for
land grants
and assigned
servants.

Trusting that this simple statement will be deemed sufficient recommendation to your Lordship's Cordial patronage, I venture to solicit that, agreeably to the course hitherto pursued towards individuals possessed of Capital, I may be permitted to receive, 1st, The Grant of a building allotment in Some eligible situation in Sydney; 2nd, A Grant in the interior of land proportionate to my means, unencumbered with all regulations save the Customary Quit Rents and Stipulations, respecting alienation within five Years, and the Cultivation of a certain proportion; 3rd, The assignment of such labourers and Mechanics off the Stores as may be required for the erection of the necessary buildings and completion of my intended improvements.

In full assurance that these requests will meet your Lordship's full and indulgent attention,

I have, &c.,

V. JACOB.

References for
character.

P.S.—Conscious integrity has caused me to overlook that part of the official notification which requires testimonials of Character. If your Lordship still deems them necessary, I beg to refer you to Sir Ed. Colebrook, Bart. of the H.C. Civil Service, and to Messrs. Wilton and Edmonstone of the Same; Also to Generals Sir Rob. Blair, Charles Stewart and Dick, and to Colonels Nuthall, Morris, Littlejohn, Cumberlege and Hopper, all now in England.

[Sub-enclosure No. 1.]

MR. V. JACOB TO SECRETARY GOULBURN.

Sir, 2 George Street, Sydney, 27 June, 1822.

Application
for warehouse
site at Sydney.

Being Anxious to become a denizen of the Colony under the fostering auspices of His Excellency Governor Sir Thomas Brisbane, K.C.B., I have to beg you will submit my desire to his Excellency.

My views are directed towards Commerce, combined with farming eventually; and, for the Convenient transacting of business, I propose with his Excellency's Sanction to erect in Sydney a dwelling and commodious warehouses, but cannot find a suitable Central Situation, the tenants of which can identify a clear alienable title. I have therefore to solicit your kindness in bringing my wishes under his Excellency's review with a respectful request, which I prefer with diffidence, that he will be pleased to take my interest into consideration and extend his protection in granting me an allotment of ground whenever his wise arrangements for ascertaining the extent of Government patronage may be mature.

Should his Excellency intend to appropriate any situations occupied by temporary or other public buildings to the use of individuals, I shall be ready to meet his commands in requiting

the public for them; this you will perceive refers to rumours of the removal of various public institutions arising out of the rapid increase of population.

1823.
3 March.

Application
for warehouse
site at Sydney.

I trust I shall not become liable to the imputation of impotency in troubling you with a letter, after having had the honor of an interview on the subject, when I explain my intent to be that of securing such advantage in the result, as His Excellency may deem proper to attach to priority of application.

I have, &c.,

V. JACOB, Lieut., 3rd Bengal Nat. Inf'try.

[Sub-enclosure No. 2.]

MR. V. JACOB TO SECRETARY GOULBURN.

Sir,

[31st July, 1822.]

I have to beg that you will do me the honor to submit to His Excellency the Governor of the Territory my request for a Grant of Land in the Township of Liverpool, with permission to build a store and dwelling house thereon.

Application
for allotment
in town of
Liverpool.

It is my intention to ply a barge or barges on Georges River, and to receive Colonial produce at Liverpool and intermediate Stations in Exchange for my importations, a project which, if practicable, will obviate the necessity of the farmer coming to Sydney, at present so indispensable and pregnant with evil.

I have further to beg that you will favor me with his Excellency's decision, as soon as possible, as the early execution of my plan is highly important to me, and I must purchase, in the event of his Excellency's seeing any objection to the indulgence solicited; in which case it will be necessary for me to explain my views to His Majesty's Government at home, which I propose to do by the Shipley, memorializing for those indulgences (an allotment for building in Sydney and Land for the purposes of agriculture) already I trust before His Excellency, should any objection appear necessary on the part of H.M. Colonial Govt.; a transcript of which I am desirous of forwarding with the copies of my letters to His Excellency's personal address, and to him thro' you, if you will do me the favor to convey his Excellency's Commands on the subject of my applications.

There is a good situation unoccupied, opposite the jail and adjoining the Court House in Liverpool, bounded by the enclosure of the latter, Bigge Street, Moore Street, George Street, and a private tenement, for a grant, of which I should hold myself bound in gratitude to his Excellency; otherwise a Site on the river adjoining H.M. Store whereon to construct a private wharf, Store, etc.

I have, &c.,

V. JACOB, Commercial Agent.

1823.
3 March.

[Sub-enclosure No. 3.]

SECRETARY GOULBURN TO MR. V. JACOB.

Sir, Colonial Secretary's Office, 31 Aug., 1822.

Refusal of
application
for allotment
at Liverpool.

The particular Allotment, for which you apply in the Town of Liverpool, being required for the Conveniency of the Court House, I am directed by the Governor to acquaint you that it will be out of his power to accede to the request contained in your letter of 31st Ultó. I have, &c.,

F. GOULBURN, Col'l Secret'y.

True Copies:—V. JACOB.

SIR THOMAS BRISBANE TO SECRETARY LUSHINGTON.

(Despatch per ship Surrey; acknowledged by secretary Harrison, 13th December, 1823.)

Government House, Parramatta, New South Wales,

20 March.

Sir, 20 March, 1823.

Despatch
acknowledged.

I was honored with your original and duplicate Letters, under date 5th August, 1822, the former received by the Lord Sidmouth, which arrived 27 february and the latter by the Surry, which came the 6th March, transmitting the Treasury Circular, No. 46, by order of the Lords Commissioners of the Treasury, directing me to countersign all Bills drawn by the Commissariat; from the importance their Lordships attached to it, I beg leave to acquaint you with the grounds, for their information, upon which I had declined it, As forming no part of my instructions from His Majesty, Being unwilling to involve myself personally in the public expenditure of the Colony, and more particularly from the conviction arising out of the case of Mr. Commissary Drennan, whom I sent home on arrival as an extensive public Defaulter, that it only involved personal responsibility without protecting the public Interests; I trust I shall have evinced the most implicit obedience to their Lordships' most minute commands, and I hope I may be permitted to call their notice to the decreased expenditure of the Colony during the present quarter of the year, compared with former ones, to impress their Lordships how zealously I have felt disposed to co-operate in their wish of reducing the expences here. I therefore venture to hope from this consideration their Lordships will allow me to urge relief from the only part of my Government, that I feel irksome, namely that of being identified with the public money transactions, which may involve myself and family in ruin, altho' actuated by the purest intentions, and that they may be graciously pleased to send out a Public Accountant.

Brisbane's
desire to be
relieved from
financial
responsibility.

I trust ever to be able, through the admirable arrangements, the laboring pains, and the indefatigable exertions of the Colonial

Secretary, to bring the public accounts into that train of arrangement that it will be easy to check the expenditure; but I beg leave to say from their confused state hitherto, it has been quite impossible to ascertain whether the amount of bills presented for my signature was faithfully that required for the public service or not. I beg you will assure their Lordships that I can have no hesitation in countersigning the bills presented by Mr. Wemyss, who I consider a most honorable man; still I venture to entertain the hope that their Lordships in their wisdom may relieve me of the unpleasant responsibility, as well as the protracted suspense attendant on this measure, which the Public Accountant would at once remove.

I have, &c.,

THOS. BRISBANE.

1823.
20 March.

Brisbane's
desire to be
relieved from
financial
responsibility.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 4, per ship Ocean.)

Sir, Downing Street, 21st March, 1823.

21 March.

Having received the Memorial of Lieutenant Lawson for increase of Pay as Commandant at Bathurst, I cannot help remarking that his Military Duties at that place require but a very small portion of his time; and although I am willing to do justice to his merit in having checked a bad system of employing the Convicts at that place, yet I can only sanction your giving to him the increase of pay which he solicits, by putting him on the same Scale as Commandants at other places, on the condition of his continued residence there.

I have, &c.,

BATHURST.

Memorial of
W. Lawson for
increase of pay.

[Enclosure.]

[A copy of the memorial, which will be found on page 712 in volume X, was forwarded with this despatch.]

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 5, per ship Ocean.)

Sir, Downing Street, 22d March, 1823.

22 March.

Governor Macquarie has transmitted to me the Memorial of Mr. Hutchinson, the Principal Superintendent of Convicts at Sydney, soliciting that his Appointment as Wharfinger at Sydney should be confirmed; I must, however, hesitate to signify my assent to the confirmation of Mr. Hutchinson in this Appointment, until accounts are received from the Colony that he does not appear to be implicated in any of those abuses, the detection of which has taken place since the departure of Governor Macquarie.

I have, &c.,

BATHURST.

Confirmation of
appointment of
W. Hutchinson
as wharfinger
to be deferred.

1823.
23 March.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 6, per ship Ocean.)

Sir, Downning Street, 23d March, 1823.

Pension
granted to
James Meehan
conditionally.

The Memorial of Mr. James Meehan, soliciting a Pension for his Services as Deputy Surveyor of Land and Collector of Quit Rents, having been forwarded to me by Governor Macquarie, I have to desire that you will inform Mr. Meehan that he must furnish you, in the first place, with an account of all Quit Rents that are due, as well as a clear Statement of all purchases and exchanges of Land that have been made for and on behalf of the Crown, either for widening and improving the Streets or for any other purpose; and I am to acquaint you, that in the event of his compliance with these demands, you may consider yourself authorized to grant him a Pension not exceeding One hundred pounds per Annum; but I am to desire that no payment be made to him until he shall have rendered the accounts in question.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 7, per ship Ocean.)

24 March.

Sir, Downning Street, 24 March, 1823.

Remission of
duty on wool
from N.S.W.

I have the honor to acknowledge the receipt of your Despatch No. 21 of the 7th Sept. last, transmitting a Memorial from the Landholders and Proprietors of Live Stock, Members of the Agricultural Society of New South Wales, soliciting a Remission of the duty which was to have been levied from the commencement of the present year on Wool imported into this Country from the Colony, and I have great satisfaction in acquainting you in reply that the wishes of the Memorialists have been anticipated by an Act* of the last Session of Parliament, already transmitted to you, by which the duty, which would otherwise have attached to the Wool imported into this Country from New South Wales, has been remitted for the period of ten years.

I have, &c.,

BATHURST.

UNDER SECRETARY WILMOT TO SIR THOMAS BRISBANE.†

Sir, Downning Street, 24th March, 1823.

Recommendation of
John Hall.

This letter will be delivered to you by Mr. John Hall, who is proceeding to New South Wales to practice as a Surgeon, and as he has been strongly recommended to Lord Bathurst I am directed by his Lordship to introduce him to your protection and good offices.

I have, &c.,

R. WILMOT.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 8, per ship Ocean.)

1823.
25 March.

Sir, Downing Street, 25th March, 1823.

I have the honor to acknowledge the receipt of your despatch No. 10 of the 5 April, 1822, recommending that a married Clergyman should be appointed to superintend the Orphan Schools. Although at some future period it may be desirable to place these Establishments on a more extended scale so as to render the services of a Clergyman necessary, yet I am not prepared, at present, to recommend such an appointment to His Majesty. As I understand, from Mr. Bigge, that Mrs. Ward has been for some time desirous of giving up the Superintendance of the Female Orphan School at Parramatta, I have to acquaint you, that Mr. Edward Sweetman, and his wife, will proceed in one of the first Convict Ships sailing from this Country; and I am to desire that, upon their arrival in New South Wales, Mrs. Sweetman may be appointed to the situation of Matron of the Female Orphan School, with the Salary of £100 per Annum, as voted in the Estimate for the present year. As Mr. Sweetman will find constant employment in the management of the Household, Farm, and Garden, I am also to desire that you will issue to him a single ration from the date of his entering upon the duties of his situation, with a Salary of £50 per annum from the Police fund.

Appointment of Mrs. Sweetman as matron for female orphan school.

I am, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 9, per ship Ocean.)

Sir, Downing Street, 26th March, 1823.

26 March.

I have the honor to acknowledge the receipt of your despatch of the 27th Feby., 1822, on the subject of the representation made to you by the Judges respecting the Appointment of Mr. McArthur to the Magistracy in New South Wales. I cannot but regret that anything should have arisen to disturb that good understanding, which it is desirable to cultivate among all those who are calculated by their Character and respectability to fill the important situations of Magistrates in the Colony, and that the Judges should have felt themselves called upon to represent, in such strong terms, their objection to the Appointment in question; at the same time I must acquaint you, that, considering the decided opinion pronounced by His Majesty's Government on the Transactions which led to the Arrest of Governor Bligh, and the length of time that has since elapsed, I am desirous to discontinue the revival of any discussion upon that subject; and as the conduct of Mr. McArthur, since his return to the Colony, has been

Opposition to appointment of John Macarthur as magistrate.

1823.
26 March.
Opposition to
appointment
of John
Macarthur as
magistrate.

Appointment
to be offered to
James or W.
Macarthur.

uniformly correct, and the pursuits in which he and his family are engaged have been of great advantage to the Colony, I should not have been disposed to object to his appointment to the Magistracy. I am, however, relieved from the necessity of deciding this question, as I have been given to understand that Mr. McArthur is not anxious to undertake the duties of the Office. Under these circumstances, I am to desire that you will offer the Appointment to one of his sons now resident in the Colony.*

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 10, per ship Ocean.)

27 March.
Prohibition of
importation of
private
merchandise on
convict ships.

Sir, Downing Street, 27 March, 1823.

As the number of Private Vessels trading from this Country to New South Wales will secure the inhabitants from the danger, to which they have hitherto been exposed, of a monopoly of the Trade on the part of the Merchants in the Colony, I cannot but consider that the proper period is arrived for enforcing the order conveyed in my despatch to Govr. Macquarie of the 12 Decr., 1817, against all the Captains of Convict Ships, who may be found to have on board their Vessels any Goods or Merchandise for the purpose of private Trade; and I am therefore to desire that, upon the receipt of the despatch, you will take measures for levying the penalty inserted in the Charter party of each Vessel, in the event of any Captain having Goods or Spirits which shall not be regularly entered in the lists transmitted from the Commissioners of the Navy, Notice having been already sent to the Navy Board, that such penalties will be exacted upon any infringement of the order in question.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 11 or 12.†)

28 March.

Sir, Downing Street, 28 March, 1823.

I transmit to you the Copy of a letter from Mr. Hobhouse respecting the Trials of Sentences of James Dunleary and George Fendrick Jackson.

Pardon
granted to
J. Dunleary.

In Dunleary's Case, his Offence appears only to have amounted to Manslaughter, and His Majesty therefore has been graciously pleased to extend His Royal Mercy to the Convict, and the Warrant is herewith enclosed.

* Note 11. † Note 12.

In Jackson's Case, there is no ground to doubt the fact of the prisoner's guilt or the heinous Character of his Crime, and His Majesty has therefore approved of the Sentence; but, considering the delay which has taken place in the transmission of the proceedings (the Trial having taken place in 1819), His Majesty has been graciously pleased to extend his Royal Mercy to the Prisoner, on condition of his being kept to hard Labour and Imprisonment during the term of his natural life. Two Warrants are enclosed, one for approving the sentence and the other conveying the Royal Mercy.

I have, &c.,

BATHURST.

[Enclosure.]

UNDER SECRETARY HOBHOUSE TO UNDER SECRETARY WILMOT.

Sir, Whitehall, 10th March, 1823.

I laid before Mr. Secretary Peel your letter of the 20th August last, inclosing the Reports of two Trials before The Criminal Court in New South Wales of Geo. Frederick Jackson and James Dunleary for Murder, in both which cases the Sentence of the Law could not be executed according to the Charter of Justice for the Colony, because four Members of the Court did not concur.

On both Cases Mr. Peel has advised with the Attorney and Solicitor General before taking His Majesty's Commands thereon.

In Dunleary's case, the Offence appears only to have amounted to Manslaughter, and His Majesty has therefore been graciously pleased to Extend His Royal Mercy to the Convict.

In the Report of Jackson's case, neither Mr. Peel nor the Law Officers have been able to discover any ground, on which to doubt the fact of the Prisoner's Guilt or the Heinous Character of his Crime. Mr. Peel has therefore felt himself bound to advise His Majesty to approve of the Sentence and to order it to be carried into execution. But considering the delay which has occurred in the Transmission of these Proceedings (the Trial appearing to have taken place in the Year 1819), for which delay Mr. Peel considers the late Governor of the Colony deeply responsible, His Majesty has been graciously pleased to extend His Royal Mercy to the Prisoner on Condition of his being Imprisoned and kept to hard Labour during the Term of his Natural Life. To prevent all doubt of the Propriety of the Verdict, it has been deemed right that it should be confirmed by a separate Warrant from that by which Mercy is extended.

The Three Warrants are inclosed. I am, &c.,

H. HOBHOUSE.

[Sub-enclosures.]

[Copies of these three warrants are not available.]

1823.
28 March.

Approval and
commutation of
sentence on
G. F. Jackson.

Decisions of
secretary of
state in cases of
J. Dunleary and
G. F. Jackson.

1823.
29 March.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 13, per ship Ocean.)

Sir, Downing Street, 29 March, 1823.

Civil
estimates for
year 1823.

I have the honor to transmit to you a Copy of the Estimate for defraying the Civil Estab't of New South Wales, which it is intended to submit for the approbation of Parliament for the present year. I feel it necessary to call your attention to the following alterations, which have been made in it.

Increase
of salary for
governor.

Your own Salary has been increased £500 per Annum, in lieu of Meat from the Government Herds and other Colonial Allowances to you as Civil Governor, which are of course to be discontinued.

Salary of
lieut.-governor.

The Salary of the Lieut. Governor has been increased £150 Per Annum, in lieu of a similar sum formerly paid from the police Fund, and which will cease from the commencement of the present year.

Appointment
and salary
of judge.

A Judge has been appointed at a Salary of £2,000 per Annum, and the Fees formerly received by the Judge Advocate and Judge of the Supreme Court are to be paid to the Police fund. You will, however consider yourself authorized to reduce or modify them in such a manner as you may deem calculated to benefit the public Service.

Abolition of
offices of judge-
advocate and
judge of
supreme court.

The Offices of Judge Advocate and Judge of the Supreme Court have been abolished.*

Salary of
colonial
secretary to be
paid from
police fund.

An Attorney General has been appointed at a Salary of £600 per Annum.

The Salary of the Colonial Secretary has been withdrawn from the Estimate. You will consider yourself authorized to pay him from the Police fund at the rate of £1,200 per Annum. The Fees received by him on mustering Convicts, which are considered to be objectionable, are to be altogether abolished and those received in his Office are to be carried to the Police Fund.

Salary of
surveyor-
general.

An Addition of £91 5s. 0d. has been made to the Salary of the Surveyor General, in consideration of the increased duties he is called upon to perform.

Superintendents
and overseers
of convicts.

A Superintendent of Convicts has been appointed at £200 per An. Three Overseers at £60 per Annum, and 12 at £30 per Annum.

They are also to be provided with a House, one ration, and Coals.

The former is an Officer on half pay, and the Overseers are Pensioners from the Royal Engineers and Artillery, who have been strongly recommended to me by the Board of Ordnance. The Salaries, hitherto borne on the Estimate for the pay of Superintendents of Convicts, are of course to be discontinued.

* Note 13.

The Salary of the Lieut. Governor of Van Diemen's Land has been increased £700 per Annum in lieu of Rations and other allowances valued at that sum.

1823.
29 March.

Salaries of
officials in
Tasmania.

A Judge has been appointed at a Salary of £1,200 per Annum and an Attorney General at £300 a year, and the Office of Judge Advocate has been abolished.* The Fees received by him are in future to be paid to the Colonial Fund.

An Increase of £158 15s. has been made to the Salary of the Deputy Surveyor of Lands and an addition of £108 15s. to the Assistant Surveyor.

The whole of the Surgeons, both at New South Wales and Van Diemen's Land, have been transferred to the Police fund, and you will consider yourself authorized to pay them at the same rate, which they would have received if Bills for their respective Salaries had been drawn on the Agent.

Salaries of
surgeons to be
paid from
police fund.

There are also some other minor alterations which you will not fail to observe, and I do not, therefore, deem it necessary to particularize them. In the event of your having drawn for the Salaries, which will become due on the 30 June, previous to the receipt of this despatch, the new establishment must commence in the succeeding half year. In that case the Salaries will of course be paid on the old scale, and the deficiency, which will arise by the payment of the Chief Justice and other newly appointed Officers, must be remitted by you to the Agent from the Police fund.

Adjustments
to be made.

I have, &c.,

BATHURST.

[Enclosure.]

[A copy of the estimate is not available.]

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 14, per ship Ocean.)

Sir,

Downing Street, 30th March, 1823.

30 March.

I have the honor to acknowledge the receipt of your Despatch of the 2nd of May last, transmitting various documents on the subject of an action brought against Wm. Howe Esqre., one of the Magistrates of the Territory, for issuing, and against the Constable for executing, a Warrant of distress to enforce the payment of £3 16s. being a Balance due to the Plaintiff from one Thos. Dowse for labor, together with Costs; and £1 15s. for 7 days loss of time, suffered by Dowse in attending the Court to recover his Demand, which payments were awarded by Mr. Howe, conformably with the authority with which he considered himself invested, either under the Act of the 20 Geo. 2 Cap. 19, or the Government Proclamation of the 21 Novr., 1818; and the Questions, which the Court considered to be involved in the case, were

The case of
Burn v. Howe
and Fletcher
in governor's
court.

1823.
30 March.

Legal points
in dispute.

Statute
20 Geo. II
invalid in
N.S.W.

Decision of
W. Howe
untenable.

Approval of
indemnification
of Howe and
Fletcher.

Question of
validity of
proclamations
by governor.

Objections to
appointment
of officials as
members of
governor's
court.

1st, Whether the Act of Parliament, which empowered a Magistrate in England to decide a similar dispute between Master and Servant, applied to New South Wales; 2d, Whether the Governor could legally issue the Proclamation referred to; and 3d, Whether the nature of the labor performed by Dowse came at any rate within the meaning of the Act of Parliament. With reference to these points, which I have considered with every attention, I am of opinion that the Statute of the 20 Geo. 2 is not in force in the Colony of New South Wales:—That Act did not propose to make the Justices of the Peace in this Country the final Judges of the Questions, which it brought within their Jurisdiction. It gave to either party a right of appeal to the Quarter Sessions. In New South Wales, no Quarter Sessions are held; and, therefore, if the Act were considered to be in force there, it would arm the Magistrates with the power of deciding without Appeal, a power which the Legislature did not deem it expedient to confer in this Country.

It appears, however, that Mr. Howe awarded the party complaining a compensation for his loss of time, which neither the Proclamation, nor the Act of Parliament, authorizes the Justices to allow; and, therefore, on this ground only, without reference to the other points involved in the question, Mr. Howe's decision could not be maintained. I, however, entirely approve, under the particular circumstances of the case, of your having indemnified Mr. Howe, and the Constable, for the expences of their Trial and the Damages awarded against them.

The question regarding the validity of the Governor's Proclamation is still more important in proportion as the consequences involved in it will be more extensive; but as this part of the subject is I trust effectually provided for in the Bill,* which His Majesty's Government have determined to submit to Parliament during the present Session, it is only necessary for me to remark that the Ordinances and Proclamations, which have been issued by the Governors of New South Wales, must, in the intermediate time, remain on their present footing. I feel perfectly confident that the two Gentlemen,† appointed by you as Members of the Governor's Court, were well qualified to execute the duties required of them, and that they merited, from the respectability of their characters, that mark of your confidence. I am however bound to acknowledge, with reference to general principles, that there appears to me conclusive objections to appointing Gentlemen, however unexceptional in other respects, who may hold temporary Appointments in the Offices of the Secretary or Dy. Commissary General.

I have, &c.,

BATHURST.

* Note 14. † Note 15.

EARL BATHURST TO SIR THOMAS BRISBANE.

1823.
31 March.

(Despatch No. 15, per ship Ocean.)

Sir,

Downing Street, 31st March, 1823.

I have to acknowledge your despatch of the 2d of May, 1822, complaining of misconduct on the part of the Judge Advocate, and expressing your conviction of the necessity there exists for the removal of that Officer from his situation under the Crown; and, in answer thereto I have to inform you that I have taken the same, together with certain explanations of the Judge Advocate in reference thereto, into mature consideration. It appears that the primary cause of complaint arose from a decision of the Judge Advocate in the Govr.'s Court, in which he is stated to have held that the Statute 20th Geo. 2 Cap. 19 was not applicable to New South Wales, and the Governor's proclamation declaring it to be in force was null and void. Without entering into the question of law, whether the statute alluded to is applicable or not, I certainly think that, if the Judge Advocate was conscientiously and decidedly of opinion that it was not applicable, he was bound to govern his judgment according to his impression of the law, as no act of the Govr.'s could extend, or abridge, the operation of an Act of Parliament; and if the case had rested here, I should not have considered the judgment of the Judge Advocate, however in my opinion erroneous, sufficient in itself to found a complaint against his conduct. I agree, however, with you in thinking that the occasion of expressing this opinion on the part of the Judge Advocate was ill chosen, and the manner highly objectionable. Under the circumstances of the case, it would have been more correct in the Judge Advocate to have suspended his opinion upon a very important point of the Govr.'s authority, which, supposing it to be unfounded in strict principles of law, had grown out of the exigencies of a remote and infant Colony, and appears to have been closely interwoven with some of the essential interests; and this course of proceeding there was the greater reason to expect, as the Judge Advocate is reported by the Commissioner Mr. Bigge to have held, upon a former occasion,* that the proclamations of the Governor were of the same authority in New South Wales as Acts of Parliament, and he had therefore necessarily contributed to the diffusion of the principle which he afterwards attempted to overturn. The Judge Advocate states, in explanation, that he did not decide the case of Howe, upon the principle of the Govr.'s Proclamation being null and void, but because he considered it was not within the Jurisdiction of the Magistrates, either by the Act of Parliament or the Proclamation; and he further states that the communications, which he made to the Magistrates, were confidential

Proposal of
Brisbane for
removal of
judge-advocate
Wylde.

Cause of
complaint
against
judge-advocate.

Criticism
of judge-
advocate's
decision and
conduct.

* Note 16.

1823.
31 March.

Criticism
of judge-
advocate's
decision and
conduct.

and have been greatly misstated by them. Assuming his explanation to be correct, I am still of opinion that the proper course would have been for the Judge Advocate to have carefully avoided any intimation of his opinion under any circumstances, until the point could be referred to His Majesty's Law Officers; because it was one in which he was delicately situated, not only in reference to his former opinion, but as Judge of the Govr.'s Court, receiving fees for all business therein, and consequently interested, to a certain extent, in abridging the Jurisdiction of another and, as it would seem, a less expensive Court.

Contemplated
appointment
of new legal
officers.

As it is in the contemplation of His Majesty's Government to change the Constitution* of the Criminal and Civil Courts in New South Wales, and to appoint new Officers, it will not be necessary for me to recommend the removal of the Judge Advocate. With the view however to prevent the recurrence of any future causes of difference between the Governor and the Judicial Authorities of the Colony upon a point of great importance, I beg to inform you that it has been deemed expedient to frame the following institution, which it is hoped will answer the end proposed of establishing entire union between the executive and Judicial departments of the Govern't.

Practice to be
adopted by
governor in
framing new
ordinances.

It is intended to confer upon the Governor of New South Wales, by express sanction of Parliament, an authority to make local ordinances in certain cases which shall not be repugnant to the laws of England; and as the Courts, which will have to enforce such ordinances, must determine their validity, in reference to the laws, you will be required before you promulgate any Ordinance to call upon the Chief Justice (of the New Court) for his opinion in writing, whether such ordinance is or is not repugnant to the laws of England; or in other words whether he should feel it to be consistent with his duty to maintain and enforce such ordinance, if its validity should be called in question in the Supreme Court. And if the Chief Justice shall be of opinion that it is repugnant to law, its operation shall be suspended, until the ordinance, together with the opinion thereupon, shall be transmitted under the hands of the Governor and the Judge for the decision of His Majesty, except under such extraordinary unforeseen and special circumstances as would justify the Governor, on his own responsibility, for disobeying this instruction.

Former
ordinances to
be considered
by chief justice.

As respects the Ordinances now in operation, the Governor will be required, in like manner, to call upon the Chief Justice for his opinions in writing, and separately, upon their validity with reference to the Laws of England, as before explained. If the Chief Justice should thereupon find any such Ordinances

* Note 13.

repugnant to law, and the Governor should be unwilling to accede to the annulment or alteration of such Ordinances, the Govr. will in such case transmit the same, together with the several opinions of himself and the Chief Justice thereupon, to the Secretary of State for the Colonies; and, in the mean time, it is thought that the Judge will not be considered to deny right or Justice to any man, if he shall suspend his opinion upon any case involving the validity of such Ordinance, until the question of their lawfulness or unlawfulness shall be determined by His Majesty.

1823.
31 March.

Former ordinances to be considered by chief justice.

It is confidently hoped that this measure will prevent any collision of opinion between the Governor and the Chief Justice, and tend to establish a general harmony upon all points connected with the Administration of the different departments of the Colony.

Removal of causes of dispute between executive and judiciary.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 16, per ship Ocean.)

Sir, Downing Street, 31st March, 1823.

I have the honor to acknowledge the receipt of your despatch No. 17 of the 15th July, 1822, relative to a difference between the Judge Advocate and Major Goulburn, as to the construction of his Commission as Secretary and Registrar of New South Wales, by which it appears that he claims the custody of the Records of the criminal Court.

Despatch acknowledged.

This claim is resisted by the Judge Advocate, who asserts that the Court is entitled to the Custody of its own records.

To solve the question thus agitated between these two public Officers, it appears to me sufficient to refer to the language of the Royal Commission* of the 2nd April, 1787, under which the Criminal Court was constituted and, under the authority of which, its Jurisdiction is at present exercised. The language of that Commission is as follows, "We do hereby create, direct and constitute the said Court of Criminal Jurisdiction to be a Court of *Record*, and that our said Court of Criminal Jurisdiction shall have all such Powers as are incident to a Court of Record, by the laws of that part of Our Kingdom of Great Britain, called England"; Now among the powers incident to a Court of Record, the custody of its own Records is one of the most indisputable and essential. For this reason alone, I should consider the claim advanced by the Colonial Secretary as unfounded; but in support of the same conclusion, I have further to remark that the Colonial Secretary is not, so far as I am aware, the keeper of the Records of the Courts of Criminal Justice in any one of His

Records of criminal proceedings to remain in custody of the court.

* Note 17.

1823.
31 March.

Majesty's Colonies where the law of England is in force; and that great inconvenience would arise, if the Records were in any other Custody than that of the Courts where they originate.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 17, per ship Ocean.)

Sir, Downing Street, 31st March, 1823.

The appeal:—
E. Eagar,
appellant;
S. P. Henry,
respondent.

I have the honor to acknowledge the receipt of your letter of the 31st Aug. last relative to an Appeal from the decision of the Supreme Court in a case in which Mr. Edward Eagar was appellant and Mr. Henry respondent. In consequence of an application on behalf of Mr. Eagar, requesting the examination upon interrogatory of certain new evidence stated to be important to the favorable issue of his cause, and which from absence or other impediments, at the Trial in the Supreme Court, could not be produced, it appears that, with the concurrence of the Judge Advocate, you granted an order for the examination of the Witnesses, with which the Judge of the Supreme Court was dissatisfied, and officially requested to be furnished with a Copy of the Order which had been pronounced by the Court of Appeal respecting the examination of Witnesses. The Registrar accordingly, by your direction, transmitted to the Judge of the Supreme Court a Copy of the Order, which related exclusively to Eagar's case, and was not a general rule of Court. The Registrar also requested the Judge Advocate to furnish you with a written statement of the Arguments upon which his opinion, respecting the propriety of examining Witnesses in the Court of Appeals, had been founded. The Judge Advocate replied to this application by a letter, in which he expresses extreme dissatisfaction at being required to communicate to any person the grounds of his judicial opinions, and positively declines to make any such communication.

Difficulty in
expressing
definite opinion.

Such being the facts of the case, I have to observe, first, that it does not appear to me possible to express a definite opinion as to the course which ought to have been adopted by you on this occasion. Not only the Courts of Appeals, but the Supreme Court itself, derive their authority and constitution exclusively from the letters Patent of 1814. These Courts are not formed on the model of any Courts of Justice known to the law of England, therefore where (as in this particular case) the letters Patent are silent, the rules and practice of the Courts at Westminster Hall supply at best a loose and very imperfect analogy for the guidance of the Colonial Tribunals. This analogy, however, is the only guide to which it is possible to refer.

Subject to the preceding remark, my opinion is that you were ill advised in taking notice of the application made to you by the Judge of the Supreme Court. The Judge of the inferior Tribunal has no such concern, personal or official, in the course adopted by the Appellant Jurisdiction, as entitles him to call upon it for any explanation of its proceedings. It is therefore to be regretted that the present controversy was not extinguished, in its commencement, by a refusal on your part to enter into the official explanations which the Judge of the Supreme Court required. It further appears to me, that you were perfectly right in referring to the Judge Advocate for advice as to the course to be taken respecting the examination of Eagar's Witnesses, and in acting upon that advice when obtained. It is obviously the duty of the Judge Advocate, as Assessor of the Court of Appeals, to guide its decisions upon all questions of Law.

1823.
31 March.
Criticism of
Brisbane's
procedure;

I also apprehend that you were entitled to call upon the Judge Advocate for a written explanation of the reasons of this advice, and that the Judge Advocate was ill advised in refusing to give such an explanation. The Judge Advocate grounds his refusal on the circumstance of his being "a constituent member" of the Court. In this I conceive he is mistaken.* The letters Patent direct the appeal to be made to the Governor alone. The Judge Advocate is to "assist him," that is to act as his Assessor and Official legal adviser. I further incline to think that the Judge Advocate was in error in advising you to admit new evidence upon the Appeal. The proper function of a Court of Appeal is to review the decisions of the inferior Court, that is to say, to decide whether, the judgment of that Court was right or wrong upon the facts in evidence before it. To admit new Evidence is to institute a new Trial, not to review a Trial already concluded.

and of
judge-advocate
Wylde's
decisions.

Functions of
court of appeal.

The omission of evidence is generally to be imputed to the wilful negligence, erroneous judgment, or deliberate purpose of the party complaining of it. In many instances it would be a most unfair advantage to permit a party to introduce new Witnesses, after he had heard the whole of his opponent's case, and had learnt precisely to what point his new evidence could be most advantageously directed. There would be also, in such a practice, a great temptation to perjury. Moreover, the letters Patent, which give to the Supreme Court power to administer Oaths to Witnesses, give no such power to a Court of Appeal. Hence it may be inferred that it was not meant to entrust the Court of Appeal with any such power. In addition to these general reasons, the practice of all Courts of Appeal of Law or Equity, whether in England or in the Colonies, is opposed to the opinion of the Judge Advocate.

Admission of
new evidence
in courts of
appeal.

I have, &c.,

BATHURST.

* Note 18.

1823.
31 March.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 18, per ship Ocean.)

Sir,

Downing Street, 31 March, 1823.

Dispute between
Brisbane and
judge-advocate
Wylde *re* reports
of trials in cases
of capital
conviction.

I have to acknowledge the receipt of your despatch of the 25th Aug. last, No. 18, enclosing a correspondence between yourself and the Deputy Judge Advocate as to the Course, which ought to be pursued with respect to Offenders capitally convicted before the Court of Criminal Jurisdiction. I feel some doubt whether I distinctly understand what is the precise point in dispute between you. It appears to me however that you consider that the Judge Advocate is bound to draw up, and transmit to you, a written report of the proceedings in all cases of Capital conviction, in order that you may form your own decision as to the propriety of issuing a Warrant of execution. The Judge Advocate, on the contrary, contends that he is not bound to prepare any written report of the proceedings of his Court. He concedes, however, as I understand him, that it is his duty to wait upon you in person and to make an oral communication to you as to the proceedings which may have taken place on each Trial.

Responsibility
of governor in
execution of
death sentences.

By the commission* for establishing Courts of Judicature in New South Wales, dated the 2d April, 1787, it is required that the Governor shall grant his Warrant for the execution of every sentence of death pronounced by the Court, and that execution shall not be done in any Capital case without his consent. The Governor, therefore, has to sustain the whole responsibility of carrying into execution, or of suspending, every sentence of Death. In order to discharge this duty, it is essential that he should have the most exact information of every circumstance which occurred at the Trial. Such information can be given with precision in no other mode but that of a written report. The course, which is pursued in cases of Capital Convictions at the old Bailey, is perfectly analogous to this; the Recorder of London makes to His Majesty a written Report; and the Royal Warrant of Execution is never signed until this document has been carefully considered by the Official Advisers of the Crown.

Necessity for
written reports
of trials.

Under these circumstances, I have to express my decided disapprobation of the conduct of the Judge Advocate in refusing to furnish you with a written report of the proceedings of his Court in all cases of Capital conviction; and I cannot avoid remarking the indifference shewn by him on the unfortunate situation of the Prisoners on whose cases you were desirous of receiving information.

Disapproval
of action of
judge-advocate
Wylde.

Judge-advocate
to submit
reports.

I have to desire that you will immediately require from the Judge Advocate, a full report of the trial of Carroll, Redding,

* Note 17.

and Rogers, and transmit the same to me, in order that I may convey to you His Majesty's Pleasure with regard to the final disposal of these unfortunate individuals.

1823.
31 March.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 19, per ship Ocean.)

Sir, Downing Street, 31st March, 1823.

I have to acknowledge the receipt of your despatch No. 20 of the 2d Sept. last, reporting the change which you had deemed it necessary to introduce in the payments made by the Commissariat for supplies furnished to Government. Despatch acknowledged.

It appears that Dollars have for many years past been current in New South Wales at the nominal value of 5s. and that, from the variation of the price of the dollar in Europe, it has lately proved a good remittance to New South Wales. Payments by commissariat in dollars valued at five shillings.

It has heretofore been the practice for Govern. to fix the Maximum Price at which they would take Agricultural Produce from the Farmer, and they have hitherto paid for this produce in Store Receipts exchangeable for Bills upon the Lords Commissioners of the Treasury at Par. I am therefore of opinion that, on notifying to the Public that Supplies would in future be paid for in Dollars at 5s. each, the Commissary General ought to have been instructed to advertise for his supplies of all descriptions and to have accepted of the lowest offer; and with this modification, I do not think that any of the inhabitants of the Colony could have had reasonable ground of complaint, if the new system of paying in Dollars had been adopted upon notice and simultaneously with a system of procuring supplies by competition. Under all the circumstances of the case, I have recommended the Lords Commissioners of the Treasury to sanction the measure adopted by you, accompanied by instructions to the Commissary General in conformity with the suggestions before mentioned.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 20, per ship Ocean.)

Sir, Downing Street, 1st April, 1823. 1 April.

I have the honor to acknowledge the receipt of your despatch No. 22 of the 6th Sept. last, and as an action* has been commenced against Dr. Hall for bringing charges against Dr. Douglass, reflecting on his conduct to Ann Rumsby, I shall not Despatch acknowledged.

* Note 19.

1823.
1 April.
Criticism of
evidence in
the case of
Ann Rumsby.

feel it necessary to make any observations upon the details of the case; at the same time it is impossible not to be struck with the extreme discrepancy of the evidence, for in a memorandum* drawn up by Dr. Hall, and sworn to before the Judge Advocate, he states "At noon, July 31st, I accidentally called, in company with Sir J. Jamison, at the house of Dr. Douglass; he was not at home, we proceeded along the Road and accidentally looking behind us, we saw a young woman running from Dr. Douglass's house towards us. I recognised her to be Ann Rumsby." On the contrary, Ann Rumsby states,* on being asked when and where she communicated with Dr. Hall, "it was the same day down on the Sydney Road when he sent for me" and again, Dr. Hall told me the second time he had sent for me, because he thought I had something laying on my mind. This evidence is corroborated by four other Witnesses and is important, because it is left to be inferred, from Dr. Hall's statement, that the complaint of Ann Rumsby entirely originated from herself, and that the interview was unsolicited by him. I enclose you a report which I have received from the Gaoler of Norwich, relative to Ann Rumsby, and which is the only information I have been able to obtain respecting her.

Approval of
dismissal of
magistrates.

The conduct of the Magistrates appears to me to have been most injudicious as well as illegal. They possessed no power to declare Ann Rumsby guilty of perjury, nor is there any sort of proof in the proceedings that it was committed. I have therefore to approve of your dismissal of these gentlemen, as their conduct appears to have placed it out of your power to have continued them in Office, with advantage to the interests of the Colony, as involved in the due exercise of their judicial duties, uninfluenced by private resentment or party feeling.

I have, &c.,
BATHURST.

[Enclosure.]

[A copy of this report is not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 7 of 1823," duplicate per ship Surrey.)
Government House, Sydney, New South Wales,

28 April.

My Lord,

28th April, 1823.

First report of
J. T. Bigge
received by
Brisbane.

I have had the Honor of receiving your communication of the ninth of last September accompanied by the first part of the Report† of the Commissioner of Enquiry into the state of New South Wales, and calling my attention to the various points in the different subjects contained in it capable of immediate alteration.

* Note 20. † Note 21.

[13, 38] In obedience to the first recommendation every means shall be used, Your Lordship may rely, to prevent the inhabitants of the town communicating with the convicts newly arrived before their disembarkation. With this view I have already issued an order that the mooring chains, sunk at the early establishment of the colony in the very centre of the cove and long left there neglected, should be newly laid down for the express use of these late arrivals in clear view of both batteries and at a distance from the intercourse of the harbour.

1823.
28 April.

Prevention of
intercourse
with convicts
on first arrival.

[13, 53] The muster of the Convicts, taken in the time of Mr. Campbell on the quarter deck of the vessel in the presence of the Surgeon Superintendent, the Captain and the Ship's Company, is stated in the Report to have been very detailed. It is only necessary therefore to assure Your Lordship, to obtain upon this point your fullest approbation, that the same muster continues to be taken as heretofore.

Muster of
convicts on
arrival.

The Surgeons Superintendent to obtain their gratuities are obliged to produce the certificates that are given under my signature at the Navy board. These shall be scrupulously withheld whenever the case may require it; and on the accidental occurrence of any unpleasant event, a special report, as in the instance of Mr. Queade,* shall be always transmitted to Your Lordship.

Issue of
certificates
to transport
surgeons.

[15, 17, 26, 34,] In the suspicion I have ever entertained that an assurance, held out to the Convicts on their landing that no reference would be made to the past, might have the effect of putting all crimes on an equality, I have had the good fortune to anticipate Your Lordship's Apprehension. And while the minute enquiries, whether they have any complaints and the hope ever sincerely expressed that their new situation may lead to new behaviour, originating with the humane feelings of the late Governor, have been implicitly adopted: the latter part of His address, which crept in unawares among better topics, has been as studiously avoided.

Address by
governor to
convicts on
arrival.

[16, 29, 158, 6] The opportunity presented by the Savings bank, founded by Mr. Field under the patronage of Governor Macquarie for the safe deposit of the property of Convicts, too liable otherwise to become an object of early plunder, has not been neglected; and two instances have lately occurred of individuals entrusting to this institution no less than fifty one pounds.

Custody
of money
belonging
to convicts.

That the behaviour of the Convicts at Church would be more orderly than usual during my presence cannot be doubted. It is therefore only from report [36, 13] that I have been obliged to lament that the duties of the preacher have been sometimes interrupted for the purpose of checking irregularities in the

Behaviour
of convicts
in church.

* Note 22.

1823.
28 April.

conduct of the convict during divine service. But, by placing in the new church* the seat of the principal Superintendent in the gallery, this evil will be remedied.

Management
of female
convicts.

[15, 36, 167, 20] The female convicts, without being permitted to disembark in Sydney, have been hitherto sent by water to Parramatta under charge of the Surgeon Superintendent: which trust, by Your Lordship's command, will repose for the future with the Superintendent of the Factory. [167, 23] On the day of debarkation, they have always been dressed in their Navy board clothing: the petticoats of which are so short, however, as to oblige them for decency to wear their own clothes underneath. Their assignment into service is entirely entrusted to the magistrate resident at Parramatta: and the settler, who obtains a female Convict, is obliged in the first place to execute a bond, of which I enclose you a Copy. To this asylum, some women are sent for Colonial crime: and I propose to lodge these in a secluded apartment, and employ them on a tread-wheel.

Assignment
of convict
mechanics
to settlers.

The enquiries, which used to be instituted in the gaol-yard with the sole view of ascertaining the competence of the newly arrived convicts for employment in the works of government, ceased on my landing [17, 30, 19, 3]: and three weeks after my installation a general order was published throwing open the indulgence of mechanics off the store to all. By the spring which it already has given to buildings in both town and country, this measure is amply justified. The order, that accorded this boon, at the same time obliged the settler to pay for its enjoyment: [15, 57, 59, 11, 170, 31] and the weekly sum of three shillings and sixpence, thus obtained for every mechanic assigned into private service, has enabled me to establish a fund, from which the Convict Clerks and Overseers are remunerated without the appropriation to them of working convicts.

Selection of
convicts for
assignment.

[18, 39, 137, 26] The list of applicants for Convicts is kept in the Secretary's Office: and in their allotment into private families, he always bears reference to the degrees of their crimes. [17, 35, 156, 48] The surgeons of the ships are however allowed the highest latitude in their recommendations into the service of settlers: and the perfect freedom, with which these pick from the government gangs, ensures the alienation, that is desirable from private employ, of the worst men. [163, 24] Keeping this principle continually in view, that these persons are and ought to be the only characters in the employ of Government, and that their two great inducements for lingering here were the little work that was obtained from them and the great ration that they received, [63, 23] I considered it my duty, in obedience to Your Lordship's command, which I brought to the Colony in a dispatch bearing

* Note 23.

date the 8th of May, 1821, to issue, as soon as precedence would allow, an order, at the commencement of the maize sowing season, for a material alteration and reduction in the future ration of the Convicts. The consequence of its promulgation at that time has been an immense production of this valuable grain, which we are now in the act of gathering.

1823.
28 April.

Ration for
convicts.

[67, 3] But the subsistence of the Convicts, the principal item in the lavish expenditure of this settlement, will require to be checked by more registers than can at present be immediately arranged, before the extravagance of the Colony can be permanently destroyed. Time flies swiftly when engaged in so laborious a task: but the desire to effectuate it at a future day, which is all that I can now boast, will I hope plead some excuse for my delay in the transmission to Your Lordship of last year's muster books. When however they do arrive, You will find them, I believe, more complete than heretofore and affording perhaps an easy alphabetical reference. An exact transcript has now been finished of the Deeds roll for all the Convicts. The originals and their copies are kept in buildings not contiguous. At present, therefore, the insecurity of these Records is a matter of but little importance. [121, 59] Other documents also are in progress, by which I hope ultimately to be able to decide as to the effect on the conduct of convicts, arising from different terms of transportation. [48, 41, 98, 24, 48] Irregularities have ceased in the police records: and alphabetical references are compiling from the quarterly returns of fines and punishments, transmitted to the Secretary's Office, [122, 48] which, when accomplished, will be an index to the moral history of the Colony. Thus the defects, which are named by Your Lordship as hitherto existing in the registration of the Convicts, are in the course of remedy; and the system will speedily be complete, by which, means will be afforded of pursuing the history, conduct and condition of a convict in his various situations in the colony from his arrival to his emancipation or death. [53, 44] For all these purposes, as well as in order to maintain an effectual correspondence with the Magistrates in the interior, hitherto, as the Commissioner has justly observed, inefficiently performed by Mr. Hutchinson, I have found it already necessary to enlarge considerably the duties of the Colonial Secretary, and his Office also will require augmentation: for I propose to concentrate in Him, not only the primary distribution of all the Convicts, [166, 16] but the auxiliary part also, which regards the changes that take place in their assignments into private employ or returns to the labour of Government.

Preparation
of registers
of convicts;

and records
of fines and
punishments.

Convict
system to be
administered
by colonial
secretary.

[120, 41] The appropriation of one day in the year to the reception of applications for indulgences has been actually abolished. Although I feel anxious, in other respects, to adhere

1823.
28 April.
Granting of
pardons and
tickets of leave.

rigidly to the order* of the late Governor regarding Absolute and Conditional pardons, [119, 30, 122, 17] I have still thought it expedient, with reference to Tickets of Leave, to issue a new regulation, which I hope will receive Your Lordship's sanction. These indulgences when granted are now notified weekly in the gazette, with the names of the districts in which their holders are about to reside.

Use of medical
stores by
surgeons.

[85, 12] The supply of publick medicine to persons, who can afford to pay for it, was first allowed as a privilege to the Officers of the Medical department on their charging themselves fifty per cent. above the invoice price at the recommendation of the Commissioner. And the practice still continues.

Clothing
of convicts.

[61, 10, 60, 58] The spare clothes of the Convicts on their landing are not taken from them: and the room allotted for their deposit shall be arranged with as much regularity as its smallness will admit. [36, 21] Every means will be used to keep them well clad by establishing such a system as must ensure the detection and certain punishment of every sale of dress. [35, 42] On all practicable occasions, however, corporal punishment shall be avoided. In the discipline of the Convicts, [34, 60] I have never as yet considered myself called upon to interfere with the ordinary operation of the law. Their classing, feeding and lodging in the twelve rooms of Hyde park barrack, according to the criminality of their offences in England, has been partially attempted with the Store Gang, [33, 22] and shall be forthwith carried into more entire effect. [19, 33] Those, who are transported for a second or a third time, are uniformly detained in Gaol until an opportunity offers for forwarding them to a penal settlement, and it shall be my study to prevent the mistake, which has occurred upon Hunter's River, being repeated on the Hastings. [117, 44] No convict settler shall there be allowed to hold out his produce as a temptation to plunder, or as the means of procuring those gratifications which ought to be denied in a place of correction: and while spirituous liquors shall be excluded from Port Macquarie as vigilantly as even from Newcastle, no attempt shall be permitted to mingle the undeserved enjoyments of property with the bitterness of just punishment.

Discipline and
classification
of convicts.

Limitation of
number of
convicts in
Sydney.

So far as my power extends, I will endeavour to adopt the Commissioner's recommendation that Sydney should contain four hundred convicts only. [163, 35, 50, 23] It was with the view of discontinuing every ornamental work, and distributing the mechanics among the settlers as much as possible, that the progress of Bennelong's battery was discontinued immediately after my landing: and, to prevent the commencement of any new undertaking, I have now given orders for the occupation, by the sick of the Buffs, of the spare wing in the General Hospital. [30, 55,

* Note 24.

67, 45] So fully aware have I always been of the necessity of concentrating the working parties, when they are composed of Convicts, that the road gangs are abolished almost entirely, and the stations at Parramatta, Windsor and Liverpool reduced next to nothing. [29, 60, 31, 57, 39, 48, 11] I am perfectly convinced of the difficulty of task work and its danger, unless under the strictest superintendence. To ensure which my constant endeavours shall be strained to substract from the persons employed about buildings, and direct them to agricultural operations. [58, 22, 32, 46, 166, 33] The badness of the present overseers, and the impossibility of engaging others, is another great inducement for diminishing the Government works. Into a proper compass should these ever be reduced; the Colonial Architect will then be enabled to measure all the tasks that are performed; [31, 15] then will the Overseers be obliged to render without excuse an accurate account of the expenditure of stores to the Storekeeper, while the ledger, which he keeps for the entry of all the materials appropriated to each building, will not then be in arrear.

1823.
28 April.

Concentration of working parties in erection of convicts.

Difficulties of superintendence in erection of public buildings.

[36, 58, 158, 54] So happily did I anticipate the view of the Commissioner that it would be conferring a lasting benefit on the Colony, if parties of Convicts were allowed to be employed in the first operation of cutting down trees and clearing the land of their roots, that, by the annexed orders and under the accompanying regulations, I have established falling gangs all over the Country. The number of men so engaged amount already to Seven hundred. [38, 30] Much less prejudicial to good order than the old road parties, do I find their behaviour. [32, 35] To retain in the service of Government those convicts only whose character is the worst, and to employ them on a species of labour more irksome and more fatiguing than the labour of convicts in the service of settlers, is my sole desire: and it has been gratified not a little by the establishment of these gangs.

Establishment of gangs for clearing land.

[27, 41] It is with an entire conviction of the importance of Agricultural establishments in preference to the location of the better sort of Convicts in towns, until a more enlarged system of employment can be brought into operation, that I have given every possible growth to the station at Emu plains, have nourished Bathurst, and founded a new settlement on a small scale at Wellington Valley [39, 49]. To effectuate these intentions it became necessary to anticipate on the 11th of last April Your Lordship's instructions, [41, 12] by removing Mr. Fitzgerald from a situation the due performance of the duties of which was rendered incompatible with his services at Windsor. The veteran detachment at Emu plains I also relieved by an efficient guard of

Enlargement of government agricultural stations.

1823.
28 April.

Educated
convicts sent
to Bathurst.

the 48th Regt.; [40, 25] and the misfortune therefore, which once befel Springwood, is not likely to recur here. Bathurst I have hitherto made a depot for well educated convicts. [41, 59, 104, 3] Their habits of early life incapacitates them from living in the bush: and this seclusion from the intercourse of a stirring town is a grateful protection for all those, who retain any feelings of shame, and a well merited punishment on such as are wholly degraded. While the new settlement at Wellington Valley will afford future means for extending, along the banks of a navigable river far removed from the undue interference of settlers and all the comforts of civilized existence, penal establishments throughout an immense space for the moral reformation of those who are too ungovernable to be restrained by the mild laws of their home.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

Bond for settlers
on assignment
of female
convicts.

BOND FOR SETTLERS ON ASSIGNMENT OF FEMALE CONVICTS.

New South Wales.

KNOW all Men by these Presents that I.....am held and firmly bound to Frederick Goulburn, Esqre., Secretary to the Colony of New South Wales, his Executors and Administrators, in the Sum of Thirty Pounds of lawful Sterling Money for the due payment of which I bind my Executors firmly by these Presents. In Witness whereof I have hereunto set my Hand and Seal this.....day of.....in the year of our Lord, One thousand, Eight hundred and twenty.

The Condition of the above Obligation is such that, Whereas His Majesty's Government of New South Wales have permitted the above bounden.....to employ for h...own use and benefit.....Female Convict per Ship....., If the above bounden.....shall obey all the Regulations of His Majesty's Government of New South Wales, which now are or hereafter shall be in force touching the relation of Master and Mistress (as the case may be) and Female Convict Servant assigned by the Crown in this Colony:—and also if the said.....shall obey all the regulations of His Majesty's said Government, which now are or hereafter shall be in force touching the behaviour of Female Convicts transported to this Colony, and pay all pecuniary and other Fines, which she shall incur by reason of the breach of any of the said Regulations, Then this Obligation to be void and of none Effect, otherwise to be and remain in full force and virtue.

Signed, Sealed }
and Delivered }
in presence of }

[Enclosure No. 2.]

1823.
28 April.

GOVERNMENT AND GENERAL ORDERS.

Orders re

Colonial Secretary's Office, 22nd December, 1821.

Civil Department.

THE Government Men hitherto assigned to Overseers are to be immediately recalled to Government Labour, and instead of this Perquisite, those Overseers will be allowed, from the 24th Inst., an annual Salary of Twenty five Pounds payable Quarterly from the Police Fund: to indemnify which Fund a charge of Three shillings and six pence per week will be made against every Person allowed the Indulgence of a Mechanic off the Stores: which Indulgence, under this Condition, being now thrown open to every respectable Settler, Individuals, intending to avail themselves thereof, are desired to send in Applications to the Colonial Secretary's Office, specifying at the same time the Names of the Convicts they at present employ and the Ships that they came by.

Salaries of overseers and payments for assigned convict mechanics.

By Command of His Excellency The Governor,

F. GOULBURN, Colonial Secretary.

[Enclosure No. 3.]

GOVERNMENT AND GENERAL ORDERS.

Civil Department.

Colonial Secretary's Office, 12th December, 1822.

COMMENCING with the New Year, the Weekly Rations for each Convict in Government employ in the County of Cumberland will be—

Weekly rations of convicts.

7 lbs. of Beef or Mutton, or 4 lbs. of Pork
 5 lbs. of Wheaten flour and }
 2 lbs. Maize Flour } or { Its produce when Manufactured into Bread.
 3 lbs. Maize Flour
 ½ lb. Sugar

By Command of His Excellency,

F. GOULBURN, Colonial Secretary.

[Enclosure No. 4.]

GOVERNMENT AND GENERAL ORDERS.

Civil Department.

Colonial Secretary's Office, 7th November, 1822.

THE Government Order of the 9th January, 1813, except so far as it rescinded all former Orders and Public Notices on the

Applications from convicts for indulgences.

1823.
28 April.

Orders re
Applications
from convicts
for indulgences.

subject of Applications, "for Free Pardons, Emancipations, Conditional Pardons, and Tickets of Leave, and also for the obtaining of Lands and Cattle" is itself repealed.

To Convicts under Sentence of the Law,

For { Seven Years } who { Four } have { One } Masters
 { Fourteen " } during { Six } served { Two } faithfully,
 { Life } { Eight } { Three }

Tickets of Leave will be issued every Friday, on producing at this Office a Certificate to the following effect:—

"We hereby Certify that A.B., who came by the ship C., which arrived in the year D., has not been Convicted of any Crime or Misdemeanor in this Colony, but is to our own certain belief an honest, sober, and industrious character, having served faithfully E.F., residing in the district of G. from.....to....., H.I. in the District of K. from.....to....., and L.M. in the District of N. from.....to....."

O.P., Resident Magistrate. H.I., Second Master.

Q.R., Clergyman of the District. L.M., Third ditto.

E.F., First Master.

By Command of His Excellency,

F. GOULBURN, Colonial Secretary.

[Enclosure No. 5.]

GOVERNMENT PUBLIC NOTICE.

Colonial Secretary's Office, 21st March, 1822.

THE following Applications will be received at this Office: viz:

For totally clearing Brush Land, at Seven Bushels the Acre.

„ Stumping Forest Land at Three, ditto, and

„ Burning off ditto.

F. GOULBURN, Colonial Secretary.

[Enclosure No. 6.]

EXTRACT FROM THE REGULATIONS TRANSMITTED WITH EACH
CLEARING GANG.

UNTIL this Party of Twenty-two Convicts shall have completely hutted themselves on some central spot of the Estate (which His Excellency is of opinion cannot take longer than a Week) they are to draw their usual Rations, but from that date a System of New Regulations is to be adopted.

Continuing then to draw their 10½ lbs. Flour, and 4 lbs. Salt Pork, or 7 lbs. Fresh Meat, with a proportionate quantity of Salt. as usual, the luxuries they are to receive in addition are to depend entirely on themselves. At the end of every Week, before they send for their Rations, their Overseer is to receive from the Proprietor of the Estate a Certificate of the number of Acres,

Clearing
of land.

Regulations for
clearing gangs.

that have been properly cleared in the Course of that Week, and, on presenting such Certificate to the nearest Storekeeper, he will find directions ready given for issuing for every Acre so certified to have been cleared, three shillings and six pence in money as a reward to himself, and as Remuneration to be divided equally amongst himself and his Party 6 lbs. Sugar, 1½ lb. Tea, 1½ lbs. Soap and Two Thirds of a pound of Tobacco.

1823.
28 April.

Regulations for
clearing gangs.

UNDER SECRETARY HORTON* TO SIR THOMAS BRISBANE.

(Despatch per ship *Mary*; acknowledged by Sir Thomas Brisbane, 28th January, 1824.)

Sir, Downing Street, 19th May, 1823.

19 May.

You will perceive by the accompanying letter from Lord Bathurst that the enclosed form of return was generally transmitted to the Colonies last year, with a view to receive the information required by the opening of the Present Session of Parliament; I was however sorry to find that it was omitted in the instance of New South Wales, and I was thereby deprived of the assistance I expected to derive from the receipt of it; this mistake was the more unfortunate in consequence of the usual accounts of the Police Fund &c. not having been received from you: I have now however to request that you will *lose no time* in filling up the different heads of expenditure, &c., and return it with the least possible delay, in order that it may be received before the opening of the next Session of Parliament, and thereby enable me to give such information as will in all probability be required of me.

Financial
returns to
be made by
Brisbane.

I am, &c.,

R. WILMOT HORTON.

[Enclosures.]

[Copies of these papers are not available.]

MAJOR-GENERAL SIR HERBERT TAYLOR TO SIR THOMAS BRISBANE.

22nd May, 1823.

22 May.

[A copy of this despatch, which was acknowledged by Sir Thomas Brisbane on the 29th of December, 1823, is not available.]

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 21, per ship *Mary*; acknowledged by Sir Thomas Brisbane, 29th November, 1823.)

Sir, Downing Street, 30th May, 1823.

30 May.

With reference to the promise of Grants made by M. General Macquarie, upon which Subject I have addressed to you a separate despatch this day, you state that, from the nature of

* Note 25.

1823.
30 May.

Restrictions
proposed by
Brisbane on
land grants.

these Grants, their number, and the informality of the documents under which they were claimed, you have felt it to be your duty to restrict the confirmation of these grants to those applicants only who would undertake to maintain, free of expence to the Crown, one Convict labourer for every hundred acres so to be granted. You have also enclosed the form of a grant of land,* but it does not appear clearly whether that form is only applicable to the grants of 340,000 acres, made by General Macquarie, or whether you propose it as the general form of Grants to be adopted by you in all future Cases. If it is intended to have the more general operation, the objections, which attach to its more limited operation, will still more strongly apply to it, as a measure of universal adoption. Unquestionably if the Grantees were willing to take the land upon these terms, the result would be highly beneficial to the interests of His Majesty's Government in an economical point of view; for, taking the expence of maintaining and clothing a Convict at £20 per annum, which is at the rate of twenty per Cent. under the Estimate made by the Commissioner of Enquiry, the saving of expence, under the supposition of the whole of the land being taken, would amount to £68,000 per annum, from which it would only be necessary to deduct the value of the Work, which the Convicts would have executed had they remained in the Service of Government; and the acceptance of Grants upon these terms would unquestionably demonstrate the general prosperity of the Colony; but I am not sanguine enough to anticipate that many Grants will be accepted upon the terms proposed, for, considering it in the light of a tax, its operation must be most unequal, as the quality of the land will necessarily vary both as to its fertility and convenience of situation, and consequently the invariableness of the condition imposed must in many instances prevent its fulfilment. The system, recommended by the Commissioner in P. 161 of the Printed Report, proceeds altogether upon a principle of encouragement, and upon the belief, which appears to me a reasonable one, that in proportion as the means of a Proprietor are increased, his employment of Convicts will increase also. But if cultivation be made, as it must be, an invariable condition in every Grant, and provisions enacted for the resumption of Grants by the most summary process, if at the expiration of five years the degree of cultivation imposed by the Grant be not fulfilled, you will at once perceive that the inevitable result of the occupation of such Grants will be the employment of Convicts, as free labor does not exist within the Colony so as to supercede the necessity of an application for Convict labor.

Advantages
of proposed
terms of grants.

Disadvantages.

I do not consider therefore that there can be any necessity for coupling with the Grant a direct stipulation that a Convict

* Note 26.

must be employed by every Grantee holding a certain defined number of Acres; but that it would be much more desirable to regulate the conditions of Grants upon a different principle, to impose in the first instance in each grant a quit rent, proportioned to the quality and circumstances of the location, at the rate of one and a half per cent. upon the present estimated value, which quit rent should not begin to be payable until the commencement of the sixth year; this quit rent to be perpetual, but to be redeemed at the option of the Grantee at twenty years purchase: thus for example, if a Grantee, at the commencement of 1824, receives a Grant of 200 Acres, estimated in present value at ten shillings per acre and consequently worth £100, for which in the year 1829 he is to begin to pay £1 10s. per annum quit rent, being at the rate of thirty shillings per cent. on the estimated value, it will be in his power at any time to redeem that quit rent by the payment of £30. Care must be taken that, when the annual quit rents become due, they are levied by summary process. In any special case, when remission may be deemed advisable, application is to be made through the Governor to the Secretary of State for his decision. This present scale of granting lands should only continue in operation for five years, after which time it should be distinctly understood in the Colony that the terms of the grants and the rate of the quit rent should be altered with respect to future grants, if deemed necessary.

1823.
30 May.
Proposed
conditions for
land grants.

You will have understood from my despatch of * that His Majesty's Government will never lose sight of the important distinction between the punishment of the Convict for the offence which he has committed, and the employment of the labor of the Convict for the benefit of the Colonists. As the first is the primary object, the utmost care must be exerted that the situation of the Convict, when taken off the Store by the Colonists, must be one of laborious employment, tempered at the same time with every consideration of proper humanity, and with every corrective principle of reformation; and I need scarcely observe that this reformation is likely to be accomplished, in proportion to the distance which the Convict is removed from the Towns, where no precautionary measures can prevent the contagion arising from evil association and connections. The same principle must be applied to convicts of a higher Class, who are not calculated for agricultural labor, but whose services may be required for other duties within their competency, and which may be exercised with advantage to the Colony.

Regulation for
employment
of convicts.

You have been already informed that the worst Class of Convicts are to be sent to the New Settlements (where the legitimate terrors, which originally attached to a state of Transportation,

Treatment of
worst class
of convicts.

* Note 27.

1823.
30 May.

Treatment of
worst class
of convicts.

cannot fail to revive and to resume their power of checking the inroads of Crime by the certainty of effectual punishment) as soon as they shall be in a condition to receive them; others again may probably be selected for hard labor in other Colonies belonging to His Majesty, where there may be a demand for such employment. These circumstances will infallibly diminish the annual proportion of convicts as compared with the average of preceding years, though it is impossible to anticipate the rate of that diminution. It will therefore be your particular duty to ascertain whether the Proprietors and Settlers, whose numbers have been so increased, are likely to be inconvenienced by a want of labor, and in such case to apprise His Majesty's Government of the precise nature of the demand for labor, as well of Mechanics as of Agriculturists, so that His Majesty's Government may encourage an Emigration of free labor proportioned to the precise necessity of the case, should such a supply be called for; but under such circumstances I must expect that all Convicts, retained in the present inhabited districts of New South Wales, will have been previously taken off the Store as Convict labourers, except those whom you may retain for the absolute necessities of your Government.

Report to be
made *re* demand
for labour.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 22, per ship Mary; acknowledged by Sir Thomas Brisbane, 29th November, 1823.)

Sir,

Downing Street, 30th May, 1823.

You have informed me in your despatch of the 10th April, 1822, that Major General Macquarie to whom I have applied for information upon the subject, but whose answer I have not as yet received, had made promises of Grants of 340,000 acres previous to his leaving the Colony, and I have to desire that you will not hesitate to confirm any of these, provided the Grantees do not come under any exceptions mentioned in my despatch of the 9th of Septr., 1822, referring to the 1st printed Report, page 173, and that the terms which are directed to be enforced, in my despatch of this date, shall be strictly and implicitly adhered to in every instance. In all those cases, where you will feel it to be your duty to withhold the confirmation of the grants upon the principles which I have laid down, or in special cases where objections may in your opinion exist, you will not fail to report to me the number and situation in life of the Grantees, the extent of the Grants, and the nature of your objection to their confirmation. I was anxious to have received an explanation from M. General Macquarie, who is now abroad, previous to my having given you

Promises of
land grants
made by
Macquarie to
be confirmed,
except in
special cases.

these directions, and to this cause you will attribute the delay that has occurred in transmitting them, but as I do not deem it expedient to postpone such directions any longer, I have to request your particular and prompt attention in carrying them into effect.

I am, &c.,

BATHURST.

1823.
30 May.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 23, per ship *Mary*; acknowledged by Sir Thomas Brisbane, 29th November, 1823.)

Sir,

Downing Street, 31st May, 1823.

31 May.

With reference to my despatch of the 30th Inst., I have to direct that wherever ingenious Mechanics or skilful Agriculturalists, being Convicts, are allotted to any individuals, it may be arranged that Convicts of inferior value, with reference to their capacity in labour, should be allotted with them as a means of equalizing that disproportion which must otherwise belong to those allotments.

General principles for the assignment of convicts.

You will also understand that any Settler, who is enabled by the liberal and judicious employment of his capital to take a greater number of Convicts off the Store than the generality of other Settlers, thereby becomes entitled to the favorable consideration of Government; but at the same time efficient precautions must be taken to prevent any Settler from letting out for hire the Mechanic or laborer, who is specially allotted to him.

With respect to the principle of estimating the value of land for the purpose of imposing quit rents according to the directions conveyed in my despatch, it may be more convenient to establish three Classes of land, good, moderate, and inferior, rather than to have a separate valuation for each individual grant. Mr. Bigge estimates the value of the best land at 10s. per acre; it will be for you to decide whether that is a fair maximum, combining the just interests of Government with a liberal attention to those of the Settler; if you should deem it to be such, the moderate land would probably be estimated at 7s. 6d., and the inferior at 5s., but this assessment must be left to your discretion subject to the application of the general principles laid down. In the event of resident Settlers making application for new grants, you are authorized to refuse them altogether, if they have neglected to bring the Grants already in their occupation into a due state of cultivation, or in other Words, if it appears evident that their present grants require the application of fresh capital, in which case they can have no Claim for increasing the area of their property; but in cases where their present grants have been fully cultivated or occupied according to the nature of the land,

Lands to be classed in three grades.

Conditions imposed on resident settlers applying for new grants.

1823.
31 May.
Conditions imposed on resident settlers applying for new grants.
Fulfilment of clauses *re* cultivation.

whether in tillage or in pasture, you will not hesitate to make new grants to them precisely upon the same terms as to the new Settlers, with this single difference that they shall be called upon to pay a quit rent immediately instead of the commencement of the sixth year. With respect to the precise conditions of cultivation, a compliance with which is necessary to secure to the Grantee his complete title, it is impossible for me to do more than to lay down a principle; such conditions of cultivation ought to be imposed as will shew a real intention on the part of the occupier to effect a progressive improvement on his land without exhausting it, and, in the case where he has employed a certain number of Convicts free of expence to the Government, that test should be considered as complete with reference to any other.

Returns of assigned convicts to be made.

It will be necessary that you should transmit annually an account of the number of Convicts employed by Settlers, together with the returns of the Population, distinguishing the numbers supported by each individual free of expence, and divided into the following Classes:—

Good Mechanics;	Good Laborers;
Common Mechanics;	Common Laborers.

I am, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 24, per ship Mary.)

2 June.

Sir,

Downing Street, 2d June, 1823.

Pardon granted to M. A. Lyons.

I have the honor to transmit to you the enclosed Pardon, which His Majesty has been graciously pleased to extend to Mary Ann Lyons, who was tried and convicted of Murder at New South Wales on the 18th day of March, 1822, and I am to desire that His Majesty's gracious intentions respecting this Individual may be carried into effect.

I have, &c.,

BATHURST.

[Enclosure.]

[A copy of this pardon is not available.]

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 25, per ship Mary; acknowledged by Sir Thomas Brisbane, 10th November, 1823.)

3 June.

Sir,

Downing Street, 3d June, 1823.

Free pardon granted to Gilbert McLeod.

I have the honor to transmit to you the enclosed Free Pardon, which His Majesty has been graciously pleased to grant to Gilbert McLeod, who was convicted at Edinburgh in March, 1820, of Sedition and Transported in September, 1820, in the

Ship Asia for the Term of Five Years, in pursuance of the Sentence passed upon him, and I am to desire that the Prisoner may be allowed to return to this Country if he shall think fit.

1823.
3 June.

I have, &c.,
BATHURST.

[Enclosure.]

[A copy of this pardon is not available.]

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch per ship Mary.)

Sir, Downing Street, 4th June, 1823.

4 June.

I have the honor herewith to transmit to you the Copy of a letter from Mr. E. Barnard relative to an application which has been made to him to remit the Sum of £100 to Mr. Thos. Carne, of Belle Vue, Bringelly Road, New South Wales, and I am to request that you will direct £100 to be paid to Mr. Carne and deduct the same from any Salary which may be due to Mr. Barnard.

Remittance
of money to
Thomas Carne.

I am, &c.,
BATHURST.

[Enclosure.]

MR. EDWARD BARNARD TO UNDER SECRETARY WILMOT.

Sir, Downing Street, 28th April, 1823.

An Application having been made to me, as Colonial Agent for New South Wales, by Messrs. Curtis Roberts and Co. of Lombard to remit the Sum of £100 to Mr. Thomas Carne, Belle Vue, Bringelly Road in that Colony, I request to be informed whether, on the Money in question being paid to me, Lord Bathurst will approve of my drawing a Bill on Sir Thomas Brisbane in favor of Mr. Thomas Carne to that amount, which can be deducted from any Salary, which may be due to me as Agent from the Police Fund.

I am, &c.,

EDWARD BARNARD.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Mary.)

Sir, Downing Street, 5th June, 1823.

5 June.

I am directed by Lord Bathurst to transmit to you here- with the Copy of a letter from Sir H. Taylor, stating that the 40th Regt. is about to proceed to New South Wales to relieve the 48th Regt., which is to proceed to Madras as soon as 4 Companies of the 40th Regt. shall have arrived at New South Wales; and I am to desire that you will make the necessary arrangements for carrying the Instructions contained in that letter into effect.

Relief of
48th regiment
by 40th.

I have, &c.,

R. WILMOT HORTON.

1823.
5 June.
Relief of
48th regiment
by 40th.

[Enclosure.]

MAJOR-GENERAL SIR HERBERT TAYLOR TO UNDER SECRETARY
WILMOT.

Sir, Horse Guards, 24th April, 1823.

The 40th Regiment having been selected for the purpose of relieving the 48th Regiment in New South Wales, I am directed by the Commander in Chief to request You will inform Earl Bathurst that it will proceed by Detachments with Convicts, as the Buffs did during the preceding year; and His Royal Highness requests that His Lordship will sanction the necessary arrangements to be made for forwarding to Madras the 48 Regiment, so soon as 4 Companies of the 40th shall have arrived in New South Wales, the 48 Regiment being destined to relieve the 69 Regiment on the Madras Establishment.

Numbers of
two regiments.

The probable numbers of these Two Regiments may be as follows:—

	40th.	48th.
Officers	33	30
Non Com'd Officers and Drs.	41	56
Rank and File	576	922

I have, &c.,
H. TAYLOR.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Asia.)

31 June. (?)
Instructions re
Edward
Lambert.

Sir, Downing Street, 31st June, 1823.

I have the honor to transmit to you herewith by Lord Bathurst's direction the Copy of a letter from Mr. Hobhouse stating one Edward Lambert, who was transported for life, had received a free pardon and was expected to return to this Country, and I am to express Lord Bathurst's desire that the convict in question may not be allowed to return to this Country if he has not already embarked for that purpose.

I am, &c.,
R. WILMOT HORTON.

[Enclosure.]

UNDER SECRETARY HOBHOUSE TO UNDER SECRETARY HORTON.

Sir, Whitehall, 13 June, 1823.

Pardon reported
to be granted to
E. Lambert.

Mr. Secretary Peel having received a Letter from one of the Magistrates of the County of Hereford stating that accounts have reached his neighbourhood from New South Wales that one Edward Lambert (a man of notorious bad Character), who was Transported for Life in the Ship Hadlow, has thro' the interest of an Officer now in that Colony obtained his Liberty, and that

he intends soon to return Home, I am directed by Mr. Peel to desire that You will move Lord Bathurst to caution the Governor of New South Wales against being Imposed upon by any representation, which may be made to Him in favor of the Culprit in question, if He has not already granted Him a Free Pardon, which Mr. Peel does not think at all probable after the Injunction, which Lord Bathurst has laid upon the Governor of New South Wales with respect to the granting of Free Pardons.

I am, &c.,

H. HOBHOUSE.

1823.
31 June. (?)

Brisbane
to be cautioned
against mis-
representations.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 26, per ship Asia.)

Sir,

Downing Street, 29th July, 1823.

29 July.

In addition to the various subjects to which I have lately had occasion to call your attention, I must advert to the very delicate point of the manner and degree in which those persons who have been in the situation of Convicts should be received into Society, and called upon to exercise the various functions which attach to the possession of property; I allude to the Magistracy, and such other duties as they may be entitled to discharge by law, but which they can only be called upon to perform by the appointment of the Executive Government. Unquestionably the principle is a just and proper one, that men, who, either by satisfaction of the period of their transportation, or by the operation of a pardon, are restored to a state of freedom, should be encouraged to an amendment of their lives and a reformation of their principles, by finding that they could resume that situation from which their criminal conduct had dispossessed them; while the natural effect of their finding themselves rejected and proscribed must make them indifferent in their efforts to regain a character and estimation, from the advantages of which they were to be perpetually debarred. On the other hand, if no distinction be made by those who are in authority and who can consequently influence public opinion between free Convicts and others, who have in no degree forfeited their character and to whom no imputation of guilt has ever attached, the danger may be incurred of disgusting the better part of the community, by shewing them that persons just removed from a state of punishment can at once be placed upon a complete par with themselves. Such being the relative position of the two parties, and there being no legal disqualification within the Colony for those free Convicts exercising any civil functions or duties, it becomes necessary to apply the greatest discretion in the regulation of the principle that I have laid down, so as not to violate the

Instructions re
the treatment
of emancipists.

1823.
29 July.

Instructions *re*
the treatment
of emancipists.

feelings of either party; and there can be no doubt, that if a due selection be made on fit occasions and at proper intervals from the Class of free convicts to fill civil situations, the two parties may ultimately be blended together; but that if the prejudices of the free class are awakened by a precipitate or frequent exercise of such discretion, the collision, which must necessarily exist between parties so circumstanced, will probably be kept alive to an indefinite period. The only positive direction, that I feel disposed to give, would be that, in order to uphold the magistracy of the settlement, you will not appoint any person, who has been a Convict to that important situation, until he shall have acquired weight and consideration by the meritorious discharge of other civil employments. In making your selection of persons duly qualified to discharge the duties of civil stations generally, you will be governed, not only by the sense you might entertain of the abilities of the individual, but also by the consideration of the private character which he had obtained since his return to Society, and which naturally requires some interval of time to elapse before any fair estimate could be formed of it.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 27, per ship Asia; acknowledged by Sir Thomas Brisbane, 4th August, 1825.)

31 July.

Sir, Downing Street, 31st July, 1823.

Negotiations
with John
Macarthur
re additional
land grants.

I have been informed by Mr. McArthur, Jr., now resident in London, that no Grant of Land had been made to his father in the month of February last, in consequence of the letter which I addressed to you on the 10th July, 1822, and which I understood was received in the Colony on the 22d of Novr.; but Mr. McArthur has shewn me the Copy of a letter from Major Goulburn, addressed to his Father of the date of 11th February ultimo, offering to make him immediately a Grant of 5,000 acres of Land to the Westward of a Grant, originally made to his two Sons by Governor Macquarie; and he has also shewn me a Copy of an answer addressed by Mr. McArthur, Senr., to Major Goulburn stating that as the whole of the Land, which His Excellency the Governor proposed to grant, is without water, exceedingly mountainous and dangerously precipitous, not of good quality, but a great portion of it rocky and barren to such a degree as to be of little use to him, and still less to any other person, he begs leave respectfully to decline it; and expresses a disinclination to trouble the Governor with any fresh application until a further reference should have been made to me. If this Grant be of the nature described, it is perfectly evident that it does not fulfil

the purport of my letter of the 10th July, 1822, which was to give an advantageous addition of property to Mr. McArthur, adjoining to his original Grant, not with any personal reference to that gentleman, but as to a Settler who had satisfactorily fulfilled all the duties that had been imposed on him, and whose improvement of the breed of Sheep in the Colony had been attended with considerable benefit to the Colony itself and had entitled him to the favorable consideration of Government.

1823.
31 July.

Reasons
for making
additional
grant to
Macarthur.

It was with that view that I directed such a Grant of Land to be made to him, as might be suited to preserve from loss, or risk of mixture with other flocks of Sheep, that breed of Sheep which he has, after so much trouble and expence, succeeded in bringing to its present state of purity and perfection.

I herewith enclose a Copy of a letter which was lately addressed by Mr. McArthur Junior to my Under Secretary, together with a map which accompanied it, and I have directed that the proposal made by Mr. McArthur Junior be complied with either by actual purchase, on the terms* stated by the Commissioner, Page 48, Third part of the Report, or by the payment of a proportionate redeemable quit rent, according to the terms suggested in my late despatches.

Land to be sold
or granted to
Macarthur.

The effect of this arrangement will be to give immediately to Mr. McArthur Senior the Grant of 5,000 Acres to which he is entitled, not only on account of the promise made to him by Lord Camden, but on account of that benefit which his judicious employment of capital has produced to the Colony, and to secure to him the possession of an additional contiguous district, amounting to 5,700 Acres, for which he will have to pay a suitable consideration in the manner that I have already directed, and therefore the public interest will not be affected by the transaction.

Area to be
delivered to
Macarthur.

You will observe that as the Grants, that are colored brown in the enclosed map, have been already made to Individuals, notwithstanding the promise made to Mr. McArthur that they should be reserved, no alternative remains, but the arrangement which I have directed to be immediately carried into effect in this letter.

I have, &c.,

BATHURST.

[Enclosure.]

JOHN MACARTHUR, JR., TO UNDER SECRETARY HORTON.

Sir,

Inner Temple, 21st July, 1823.

I take the liberty of requesting you will be pleased to submit to Lord Bathurst, that having learned from the Reports of the Commissioner of Inquiry, and particularly from the Third on the "State of Agriculture and Trade in New South Wales"

* Note 28.

1823.
31 July.

Proposed
purchase of
crown lands by
John Macarthur.

that the sale of lands, contiguous to grants made upon real capital was recommended as a measure likely to prove "very beneficial to settlers, and also to be productive of Revenue to the Crown" (3 Rep. p. 48), I was induced to lay a proposal before his Lordship, on behalf of my father, for the purchase of such Crown lands, adjoining his property in the County of Camden, as might remain ungranted, after the location to him of the five thousand acres directed to be given in a despatch transmitted to the Colony in July 1822.

Opposition
experienced
in the colony.

Request for
Earl Bathurst's
directions.

The principal reasons, on which I solicited for him this indulgence, were the great facilities that would arise from the possession of an extensive and connected Tract of country for the further improvement and encrease of Merino Sheep, the establishment of vineyards and olive-grounds, and the introduction of various agricultural products, in which he was prepared to employ a large capital in a manner alike beneficial to his family and the public. But having since ascertained that unexpected obstacles have been raised in the Colony, and that Earl Bathurst's order has not been complied with, the particulars of which I have already submitted for your consideration, I am compelled to intrude again upon his Lordship's and your attention, by entreating that his Lordship will be pleased to direct that my Father may receive a Grant of five thousand acres, adjoining his present estate, and out of the District coloured Green on the accompanying map, and which may extend from the allotment called Brisbane to the river Nepean (see Map, marked A), or that his Lordship will permit him to take the whole of that District, consisting of 10,700 acres, bounded on the north by the river Nepean, on the west by Mount Hunter Creek, on the South by Brisbane, and on the east by West Camden, on his either agreeing to pay for the surplus of five thousand seven hundred acres, at the highest price named by the Commissioner, or to yield in return any annual quit rent Earl Bathurst may think it just to impose. Either of these plans will be acceptable to my father, since he will be thus relieved from the painful necessity of renewing discussions in the Colony with the local Government, and will be placed in early possession of a property which he has been anxiously expecting for many years, both as the reward of his past exertions and as the means of completing more extensive and important improvements. I must further remark that all the other good lands in the Cow Pastures were granted subsequently to my first application to Earl Bathurst, and after I was assured by Mr. Goulburn, in 1819, that the Governor would not be authorized to dispose of them until my father's claim was settled.

There appears, therefore, to be no other mode left of fulfilling the promises, and giving effect to the intentions of Government, than what I have here suggested, and respecting which, from its great importance to my family, and the unforeseen delays already experienced in the Colony, I hope you will excuse the anxiety I feel.

I have, &c.,

JOHN MACARTHUR, JR.

1823.
31 July.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 28, per ship Asia.)

Sir, Downing Street, 31st July, 1823.

With reference to my despatch of the 9th of Sept. last, transmitting the first part of the Report of Mr. Commissioner Bigge on New South Wales, I have now the honor to enclose the second,* in which the Judicial Establishments and the Police are brought under consideration, together with the Third* and concluding part of it, on the Agriculture and Trade of the Colony.

Transmission of second and third reports of J. T. Bigge.

In directing your attention to the statements and recommendations made in the two parts now forwarded, I have for the sake of convenience and perspicuity adopted a similar reference to the Pages, to that made in my despatch above alluded to; and I have to desire that a corresponding reference may be followed in your reply to each subject.

You will understand that the recommendations, to which I shall refer in the Commissioner's Report, have received my approbation and sanction; and that I draw your attention to them for the purpose of their being carried into effect. At the same time, if upon any point you feel a strong doubt as to the propriety of completing the alteration, I am disposed to entrust to you, on this as on a former occasion, a discretion of postponing that particular measure until you have heard again from me on the subject. You will observe, therefore, that in the second report it is recommended [page 13], that the Schedule of Fees of the Provost Marshal should be referred to the Judge for revival, for proportionate augmentation in certain cases there stated. Also that the Schedule of the fees [59], by which the Charges of the Solicitors are now regulated, should be reduced, as well as those now payable to the Registrar, which should be paid and accounted for upon oath to the Treasurer of the Police fund, from whence a competent and fixed annual Salary should be assigned to the Registrar not exceeding £400. That the Registrar [60] of the Ecclesiastical Courts should be required to transmit to the Agent for the Colony, a List of all persons dying intestate in the two

Recommendations to be adopted.

Discretion to be used in postponement.

Revision of schedules of fees.

Returns of persons dying intestate.

* Note 29.

1823.
31 July.

Colonies, together with an Inventory of their effects, and that to him shall be addressed all enquiries of relations concerning the same.

Salaries and allowances for district and petty constables.

It is here recommended [61-62] that the Remuneration of the district and petty Constables in New S. Wales and Vandiemen's Land should be reduced to a single ration of 7 lbs. of meat and 7 lbs. of flour weekly; and that no Ration should be issued to their families; that an annual allowance of £20, paid quarterly, should be made to the district constables; and £10 and certain clothing to the petty constables; that no other allowances should be continued; and that this expence at Vandiemen's Land should be borne by the Colonial funds there.

Regulations re removal of convicts.

The Commissioner here notices [63] the regulations respecting the removal of Convicts from the service of one master to another, or from one district to another, and suggests that they should be more exactly and carefully enforced; he also notices the superior practice in Vandiemen's Land.

Licenses to publicans.

I would particularly call your attention to the observations [65 to 71] here made on the system of granting licences to Publicans, and the necessity of every restraint on the immoderate use of Spirits, that can be effected either by means of positive regulation or exemplary punishment.

Restraint on use of spirits.

It is here suggested [71] that the names of the owner of Carts and Boats should be exhibited upon them, and the numbers of each house in the Towns; also that regulations should be enforced for the due observation of the Sabbath.

Regulations for carts, boats, and houses.

The practice [74] of allowing parties under prosecution to obtain Copies of the Informations, taken by the magistrates, from the offices of their Clerk is pointed out as improper, and that it should be altogether discontinued.

Muster of ships' crews before departure.

The muster of a Ship's Crew is in future recommended [79] to be taken by the Colonial Secretary on board the Vessel, as near as may be convenient before the period of its actual departure, and that the passengers should repair to his Office to have their names inserted in the Clearance before the vessel weighs anchor.

Crews of colonial vessels to be exempt from restrictions. Increase of magistrates.

The advertisements in the Gazette [Vide 3d Report Page 55] and Certificates of no detainers to be dispensed with as to Captains, Mates, and Sailors of the Colonial Vessels.

Records of bench of magistrates.

The necessity of encreasing the number of Magistrates is here stated [82], and it is recommended [83] that the Evidence upon which sentences are founded should be entered in the Record Book; With a return made quarterly of all punishments inflicted, Fines, and Penalties levied by order of one or more Magistrates in the form here prescribed [83].

The Commissioner suggests [83] that the Office of Assistant Superintendent of Police in Sydney might be discontinued; and states [84] the number of Clerks required in the Offices of the Superintendent of Police; he comments also upon the duty of the Police Clerks, and of the Clerks of the Magistrates, and on their remuneration both as to Salary and Fees; he points out the impropriety of allowing the Clerks to give any copies of informations, or proceedings without the order of the Magistrates; he recommends [84] that the Magistrates should be allowed to apply the funds arising from fines and penalties in the reward of Constables for activity in the pursuit and apprehension of Offenders; and that Copies of their Accounts should be annually laid before the Chief Justice, and then transmitted to the Governor; also that the allowances to all functionaries should be equalized with a view to the simplification of the Commissariat Accounts, and the transference of a portion of the Charges of the Police from the Treasury at home to the Colonial funds. The importance of great attention [85] in selecting Chief Constables is here adverted to as well as the necessity [14] of allowing a horse for each of these Officers at Parramatta [85] and at Windsor. The establishment of Patroles [Vide also 1st Report Page 107] on the Roads from Parramatta to Sydney, to Windsor, and from thence to Liverpool, is recommended, and I take this opportunity of enclosing to you a plan of an establishment of Horse Patrol in the Colony for your consideration and adoption, if you should think it likely to be productive of beneficial effects.

The duties of the Chief Constables are here specified [85], and the necessity of printed forms for the returns of the musters of convicts &c.

The commissioner here recommends [87-88] that New Gaols should be erected at Sydney and Parramatta; that the regulations [89] of the Gaol at Hobart Town should be introduced into the Gaols in New S. Wales; that the Magistrates should be enjoined to visit them in rotation, and to make a Report once in every month to the Chief Justice; that they should enter also in a Book, to be kept in the Gaols, Minutes of their observations.

The last point in the second part of the Report, to which I feel the necessity of directing your attention, is the recommendation [90 also P. 3] that the vigilance of the Police Officers, in the suppression and punishment of Drunkenness and in the control of Public-houses, should be stimulated by high rewards; that the number of licensed Houses should be gradually reduced to that granted in 1820; that good securities be taken for proper behaviour, and that no Magistrate, having an interest in the Sale of Spirits or who is the owner of any house, shall be continued in the Commission of the Peace.

1823.
31 July.

Administration
of police
department.

Fines to be
used for reward
of constables.

Simplification
of accounts.

Selection of
chief constables.

Establishment
of patrols on
main roads.

Management
of gaols.

Regulations re
public houses.

1823.
31 July.

Communication
with Bathurst.

Certain parts
of coast to be
examined.

Contracts for
government
supplies.

Administration
of survey
department.

Reservation
of timber.

Grants of
commons.

Regulations for
public roads.

Land to be
resumed at
Hobart.

Settlement at
Launceston.

In the *Third Part* of the Report the Commissioner suggests [17] the necessity of improvement in the communication between Bathurst and the Sea Coast, and other districts by Roads, and by the establishment of a Stock Yard, and a Military Station at the foot of Mount York. He also recommends [18] the examination of certain parts of the Coasts with the view of discovering the existence of Harbors and Rivers, and the nature of their communication with the interior; also a Land Survey in certain directions to ascertain the character of the Country and its capacity for colonization; and in Vandiemen's Land [31] the improvement of a communication between the Coast and the plains of York, and Westmoreland.

The regulations [32] by which the Contracts for the supply of Government may be kept free from Monopoly, or the influence of one, or more individuals, both in New S. Wales and Vandiemen's Land, are here recommended [33] as well as the necessity of building additional Granaries at Windsor, Paramatta, Liverpool, Hobart Town and Port Dalrymple.

I am induced to hope that the alteration in the Department of the Surveyor General, both at New South Wales and Vandiemen's Land here recommended [36] will prevent in future the arrear of business which has occurred in this Department. I have already communicated to you the plan that is to be permanently adopted with respect to Grants and Quit-Rents. You will at the same time take into consideration the observations [37] made by the Commissioner on the condition of cultivation, and on the danger of a literal or even sometimes partial enforcement of such conditions as have hitherto been prescribed, as well as the necessity of more positive proof of the amount of capital possessed by Emigrants.

He suggests [38] the expediency of withdrawing for the future, and also retrospectively, the reservation of timber fit for Govern't purposes, and recommends [39] that new Grants of Richmond and Nelson Commons should be made out with a reservation of Glebe for the Clergymen of Windsor and Richmond. He states [40] also the regulations to be adopted for the direction and formation of Public Roads and the plan [41] for keeping them in repair. Notices the necessity of paying attention [44] to the direction of Streets and the position of the houses; recommends that any equitable interest which Mr. Lord may have in a piece of Ground at Hobart Town fronting the harbor should be purchased for the improvement, or defence of the Town at the expiration of his lease [45]; and expresses an opinion [46] that the Settlement at Launceston should be continued there and not removed to George Town; mentions the expediency [47] of the

entire separation of the Offices of Surveyor General in New S. Wales and Vandiemens Land, and of the abolition of the Office of Surveyor of Roads and Bridges, and Collector of Quit rents, the latter to become part of the duty of the Colonial Treasurer. He also recommends that an allowance should be made to two Assistant Surveyors at £25 per annum each for a horse.

1823.
31 July.
Alterations
in surveyor's
department.

You will pay particular attention [48] to the Reservation of Lands for the Clergy and Schoolmasters in the several districts and take care that the same shall be cleared and fenced.

Reserves for
clergy and
schools.

It is strongly recommended [49] that a Survey Division and Subdivision of each County should be made with a view to facilitate the location of land to Settlers, and that access should be given to the Settlers to inspect the Chart of such Survey. Also that a Registry should be kept of all transfers of Land held of the Crown, and that no conveyance of any such land should be legal unless so registered.

Surveys of
counties.

Register of
transfers
of land.

It is here remarked [50] that it is no longer necessary to issue Cattle to Settlers from the Government herds, nor that the Convicts allotted them as Laborers should be subsisted by the Crown, both which I have therefore to desire may be discontinued except under the circumstances of Loans of Cattle to the Sons of persons who have been Convicts, and are alive and settled in the Colony.

Issue of
cattle from
public herds.

With regard to the account of quit rents [50] to be furnished by Mr. Meehan, and as already required by my despatch of the 23d March last, I have to desire that you will not fail, in your requisition of this account, to observe the course here pointed out by Mr. Bigge.

Account of
quit rents by
James Meehan.

In treating [50] of the Trade of the Settlements of New South Wales and Vandiemens Land, the Commissioner recommends that a Licence for Tanning should be required, and notices the measures necessary [51] for the protection of the Hides from Injury. He also states [52] that it does not appear expedient to continue the Convicts at the Pottery, except in the coarser branches of the Trade; he appears to speak [53] however very satisfactorily of the experiments that have been made of the New Zealand flax, and I have therefore to approve of your employment of some of the Convicts in planting the Phormium Tenax, wherever you may consider that the Soil is best qualified for its successful cultivation.

Licenses for
tanning.

Flax industry.

With respect to the Colonial duties here mentioned [60], you will be aware that I have already signified my approval [87] of the allowance of Drawback on the Reshipment of Articles from the South Seas by my letter to Governor Macquarie of the 4th

Colonial duties.

1823.
31 July.

August, 1819, and I have now to authorize you to repeal the Colonial duties alluded to on Sandal Wood, Seal Skins, Beche la mer, Pearl Shells, Olive Wood and Coals.

Water supply
for town of
Sydney.

The state of the water Tanks is here noticed [61], and the charge [102] to vessels alluded to is not justifiable. I hope however that the arrangement with Mr. Busby, and of which you will be informed will enable you to adopt measures for securing a better supply of water for the Town of Sydney.

Freedom
of trade.

It is also stated [61] that the fee for permission to Trade should be abolished, and that the Wharf at Sydney should either be enlarged or the Tax repealed. Also that attention should be paid to the state of Sydney Cove, and that an alteration [62] should take place in the mode of levying Wharfage fees.

My despatch of the 27th March last will have already instructed [63] you as to the Goods being landed from Convict Ships not specified in the Lists transmitted by the Commissioners of the Navy.

Bank of
N.S.W.

You will perceive [67] that it does not appear expedient to grant a Charter of Incorporation to the Sydney Bank in the year 1824, when their present Charter expires, but that the establishment should proceed subject to the ordinary risk of Commercial partnership.

Chaplain for
Tasmania.

It is stated [69] that a place of worship and interment is wanted in the district of Pitt water in Vandiemen's Land, and also another Chaplain. An additional Clergyman has been placed on the Parliamentary Estimate for the present year, and I will take care that no time is lost in supplying the vacancy.

Problems of
education.

In his remarks [74] on the state of the education in the Colony, Mr. Bigge remarks that the system in the Districts and Towns should be extended and that it would be desirable [75] that a Farm for instruction [76] in Agriculture should be established at Paramatta, also that two more schools [78] should be formed in Van Diemen's Land.

Musters.

Much alteration is proposed [79] in the manner of taking the musters, and it is expedient that returns [80] of them should be made on regular printed forms, according to the suggestions of the Commissioner.

Brewing
licenses.

Among the subjects treated [88] under the head of Revenue, a reduction on the licences to brew from £25 to £5 is proposed. You will also perceive an alteration suggested in the mode of levying the duty on tea and sugar, viz., that, whenever the alterations recommended at the wharf shall have taken place, the duty shall be levied according to the weight, and not according to the sworn value as at present.

Duty on tea
and sugar.

It does not appear [88] advisable that any augmentation should take place on the tolls at the different Turnpikes.

It is recommended [89] that the collection of the internal Revenue, whether for duties on Spirits, Tolls, Licences, or otherwise, should be entrusted to an Officer to be named the Colonial Treasurer, to whom also the postmaster shall be accountable for the receipts of his Office after deducting £100 for his annual Salary; also that a Post on horseback should be established from Sydney to Paramatta, and from thence to Windsor.

1823.
31 July.
Office of colonial
treasurer.
Post office.

It appears desirable that leases of the Coal Mines for a term of years should be granted, reserving an annual rent and a portion of the Coal raised, unless subsequent enquiry should induce you to consider that they could be more advantageously worked by the Govern't. Also that attention should be paid to the botanic Garden.

Coal mines
to be leased.

The arrangement for the augmentation [94] of the Salary of the Colonial Secretary has been already communicated to you in my Despatch of the 29th March last.

Increase of
salary of
colonial
secretary.

I fully approve of the recommendation [95] that young persons, who are natives of the Colony, should for the future be employed as Clerks, instead of those, who have been convicted. As well as of the suggestion [96] that all rations to that Class of functionaries at Sydney, denominated Superintendants, Pilots, Gaolers, Schoolmasters, &c. should be done away with, and that a proportionate money payment should be made to them out of the Police fund; and I have to desire that you will without delay take the necessary measures for making this alteration with respect to the rations specified.

Money
payments
in lieu of
allowances.

You will also attend to the reduction [97] of the Public Herds at the Cow Pastures, altho' the Herds at Rooty Hill and Bathurst may for the present be continued until the recommendation mentioned in the former report for the removal of these rations can be effected. It will be necessary also to resort to the practice of purchasing horses, instead of the exchange of them for Cattle, and of receiving Grain from the settlers into the Store by weight and not by measure.

Public herds.

Purchase
of horses.

After a detail [104] of the establishment of the different hospitals in the Colony, and the regulations by which they are conducted Mr. Bigge recommends [110] that a Store Keeper of Medicines, &c. and an apothecary should be provided; for both of which Situations I shall forward by the earliest opportunity Officers properly qualified for the discharge of these duties. You will observe also the regulations here stated as necessary to be followed respecting the patients at the hospitals, and the supply of Medicines to all the Officers of Government, with the exception of the Clergymen and their families.

Medical
department.

In closing [111] this branch of the Enquiry, which is the conclusion of the Third and last Report, Mr. Bigge recommends

1823.
31 July.
Pay and
allowances
for surgeons.

that allowances of Horses should be made to the principal Surgeon and his Assistants at Paramatta, Liverpool, Windsor, Hobart Town and Launceston, and that the pay of the Assistant Surgeons should be 7s. per diem, with the allowance of rations &c. The number of Assistants, that I have considered necessary for the Medical Establishment, will have been already notified to you in my letter, which forwards the Parliamentary Estimate for the present year.

Commendation
of James
Bowman.

In the Medical and domestic arrangements of the Colonial hospitals, you will of course require the opinion of Mr. Bowman the principal Surgeon [111] to whose zealous exertions in the discharge of duty I have had much satisfaction in receiving the testimony of the Commissioner as here recorded [111].

I have, &c.,
BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch marked "No. 8 of 1823," per ship Surrey.)
Government House, Sydney, New South Wales,

1 Aug.

My Lord,

1st Augt., 1823.

Transmission
of annual lists
of convicts.

By the present conveyance I have the Honor of transmitting a separate dispatch box addressed to Your Lordship, containing an Alphabetical List of the Names of all the Convicts, who have been transported to New South Wales and were alive in the Territory during the annual Muster for last year.

I have, &c.,
THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 29, per ship Guildford; acknowledged by Sir Thomas Brisbane, 21st February, 1824.)

4 Aug.

Sir,

Downing Street, 4th August, 1823.

Establishment of
supreme court.

Herewith I have the honor to enclose an Act* passed in the last Session of Parliament for instituting a Supreme Court of Judicature in New South Wales, and to acquaint you that Francis Forbes,† Esqre., has been appointed to the Office of Chief Justice in the new Court, and will immediately proceed to Sydney to enter upon the duties of his Office.

Appointment of
F. Forbes as
chief justice.

Recall of
J. Wylde and
B. Field.

Mr. Judge Advocate Wylde and Mr. Justice Field have been informed to the above effect, and I have to direct that you will provide a passage for themselves and families to England, in case they should be desirous of returning.

I have, &c.,
BATHURST.

[Enclosure.]

[This act was the statute 4 Geo. IV, cap. xcvi.]

SIR THOMAS BRISBANE TO EARL BATHURST.

1823.
4 Aug.

(Despatch per ship Surrey.)

Government House, Sydney, New South Wales,

My Lord, 4th August, 1823.

I have the honor to forward for the information of Your Lordship, the General Monthly Returns of the Troops serving in this Territory from 25th of May to 24th of July, 1823, inclusive.

Monthly returns
of troops.

I have, &c.,

THOS. BRISBANE.

[Enclosures.]

[Copies of these returns are not available.]

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Guildford.)

Sir, Downing Street, 5th August, 1823.

5 Aug.

I am directed by Lord Bathurst to transmit to you the copy of a letter from Mr. Hobhouse, enclosing a warrant for the discharge of John Holden, who was transported to New South Wales in April last in the Ship "Commodore Hayes," and to desire that the instructions contained in that letter may be carried into effect without delay.

Transmission
of warrant for
discharge of
John Holden.

I am, &c.,

R. WILMOT HORTON.

[Enclosure.]

UNDER SECRETARY HOBHOUSE TO UNDER SECRETARY HORTON.

Sir, Whitehall, 19th July, 1823.

I am directed by Mr. Secretary Peel to transmit to you the accompanying Warrant for the discharge of John Holden, who was transported to New South Wales in April last in the ship Commodore Hayes; and I am to desire that you will lay the said Warrant before Lord Bathurst, and move his Lordship to be pleased to forward the same to the Governor of New South Wales in order that the Prisoner may receive the benefit thereof.

I am, &c.,

H. HOBHOUSE.

[Sub-enclosure.]

[The usual warrant signed by R. Peel was inclosed.]

SIR THOMAS BRISBANE TO UNDER SECRETARY WILMOT.

(Despatch per ship Surrey.)

Government Ho., Sydney, New South Wales,

Sir, 7th August, 1823.

7 Aug.

With reference to the Letter I had the Honor of addressing to you on the 27th of last January, I feel now great pleasure in complying with the wish of Mr. John Wylde by transmitting

Remittance
received by
J. Hibbert.

1823.
7 Aug.
Remittance
received by
J. Hibbert.

for your information a written communication from Mr. Hibbert, acknowledging the receipt of no less a remittance than Eleven hundred and twenty two pounds nineteen shillings and ninepence three farthings.

I have, &c.,
THOS. BRISBANE.

[Enclosure.]

MR. JOSEPH HIBBERT TO JUDGE-ADVOCATE WYLDE.

Hylords Court, Crutched Friars, London,

Sir,

3 Septr., 1822.

I have been favored by your Brother, Mr. E. A. Wylde, with a remittance in Bills amtg. to £1,122 19s. 9 $\frac{1}{2}$ d. on account of Monies paid your late respected Father, Mr. Thomas Wylde, by Richard Brooks of your Colony on my account, having previously revoked the notice of Messrs. Campbell and Cy.; and your brother informs me that the Letter, covering the said Bills, mentions that the balance received from Mr. Brooks should be remitted so as to reach London this Month or last. I was in hopes the Grace's Letter bag would have brought me a Letter, but trust that the next arrival will, and have to acknowledge my Obligations to you for your kind and prompt Attention after my long Disappointment, and also to your Brother Mr. E. A. Wylde for his politeness on the occasion.

I remain, &c.,

JOSEPH HIBBERT.

Recd. at Hobart Town, 4 March, 1823, per Cockburn.

A true Copy:—JNO. WYLDE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 9 of 1823," per ship Surrey; acknowledged by Earl Bathurst, 28th February, 1824.)

Government Ho., Sydney, New South Wales,

9 Aug.

My Lord,

9th Augt., 1823.

Transmission
and
recommendation
of memorial of
William Evans.

Herewith I have the Honor to transmit for Your Lordship's indulgent consideration a Memorial from Mr. William Evans, lately an Assistant Surgeon on the Establishment of New South Wales, soliciting the half-pay or pension usually allowed to the same class of Officers in His Majesty's Sea and Land Forces.

Your Lordship will perceive from Mr. Evans' Statement that he has served in the Colony more than Seven years, has been wounded in his left hand by the explosion of a fowling piece, and from two successive attacks of palsy has suffered so much in his health as to be unable to execute the duty of his appointment in a manner satisfactory to his own feelings.

To accept his resignation when proffered, I therefore considered to be incumbent upon me; but I beg most respectfully to recommend to Your Lordship the long and tried Services of Mr. William Evans.

I have, &c.,

THOS. BRISBANE.

1823.
9 Aug.

[Enclosure.]

THE MEMORIAL OF WM. EVANS, LATE ASSISTANT SURGEON, ON THE MEDICAL ESTABLISHMENT OF NEW SOUTH WALES.

Memorial of
William Evans
soliciting a
pension.

To the Right Honourable Earl Bathurst, His Majesty's principal Secretary of State for the Colonies, &c., &c.

Sheweth,

That memorialist was appointed to his late situation by a General Order of L. Macquarie, Esqre. (the then Governor of the Colony), dated March 16th, 1811, and ordered to take charge of the Medical duties at Newcastle, Hunter's River, where he continued until August 1822.

That Memorialist was wounded in the left hand, by the accidental explosion of a Fowling Piece, on the 3rd of March, 1817, the contents of which passing through the limb deprived Memorialist of the use of that limb.

That on the 16th of October, 1820, Memorialist had a slight attack of Paralysis, and a very severe one on the 20th of the same month, which confined Memorialist to his house for nearly three months, but from which Memorialist recovered by the friendly attentions of Mr. Fenton (Assistant Surgeon of H.M. 48th Regiment) then on duty at Newcastle, with a detachment of the Regiment.

That Memorialist, finding his health continued so precarious, that he could not carry on his duty in a manner satisfactory to his own feelings, addressed, on the 18th of June, 1822, to His Excellency Major General Sir Thos. Brisbane, Governor of the Colony, a memorial, stating his inability to perform his duty, and praying His Excellency's permission to retire, which His Excellency was pleased to allow, and, on the 24th of the ensuing August, Memorialist gave up the charge of his station to Mr. Assistant Surgeon Brooks.

That, in addition to the Medical duties of his station, Memorialist, until the period of losing his Hand, had also to act as Chaplain to the Settlement so far as Reading Divine Service on Sundays, and such Holy days as are observed here; Baptizing Infants and Burying the Dead, which duty again devolved on Memorialist, on the removal of Lieut. Kenworthy of H.M. 48th Regt., and which Memorialist continued to perform until the arrival of the Revd. G. A. Middleton.

1823.

9 Aug.

Memorial of
William Evans
soliciting a
pension.

That, on the removal of Mr. Assistant Surgeon Fenton of the Military service, the duties of Military Assistant Surgeon devolved upon Memorialist, which he continued to perform until the period he retired from the service.

That for the above extra duties Memorialist never received any kind of emolument.

That from the precarious state of Memorialist's health, and the loss of his Hand, Memorialist is unable to follow his profession, and has a Wife, and two Children, entirely dependent on him for support.

Memorialist, having served His Majesty faithfully during a period of nearly Eleven years and half, prays your Lordship will take his case into consideration, and allow him the same half pay and pension usually allowed to the same class of Officers in His Majesty's Sea and land Forces, under similar circumstances.

And Memorialist, &c., &c.,

W. EVANS.

Patterson's Plains, Hunter River, New South Wales,
27th June, 1823.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Guildford.)

13 Aug.

Application
in favour of
Charles Nye.

Dear Sir, Downing Street, 13th August, 1823.

I herewith transmit to you the copy of a letter addressed to me by Mr. Holme Sumner in favor of a Convict named Charles Nye, and I should be much obliged to you for any indulgence which you can extend to him, in case he shall by his good conduct merit your favorable consideration.

I have, &c.,

R. WILMOT HORTON.

[Enclosure.]

MR. G. HOLME SUMNER TO UNDER SECRETARY HORTON.

Dear Sir, Hatchlands, 24th July, 1823.

The enclosed is from Mr. Goulburn to his Brother at New South Wales; it is written in favor of a Convict of the Name of Chas. Nye, the son of the Person who suckled my eldest Son and Nursed all the others. I requested it in Consequence of the good Report made by a Surgeon, who went out in the Ship in which he was transported, and who in a subsequent visit to the Settlement had occasion to see a good deal of him, and volunteered as a matter of Justice and Truth to see me and make this Report. He was to have gone out again immediately and had undertaken to deliver Mr. Goulburn's letter. I understand his destination is alter'd, and I trouble you with a Request that you will have the

goodness to forward the Letter to Mr. Goulburn by the earliest Conveyance, and if the Report in your Office corresponds with the private one I have received of this Young man's Conduct, and shall appear to you to justify such an Interference, I shall consider myself obliged by your accompanying it with such a recommendation as may be productive of an amelioration of his Condition during the unexpired term of his Sentence.

I am, &c.,

G. HOLME SUMNER.

1823.
13 Aug.

Application
in favour of
Charles Nye.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Guildford.)

Sir, Downing Street, 19th Aug., 1823.

19 Aug.

Engagement of
John Busby
as mineral
surveyor and
civil engineer.

I am directed by Lord Bathurst to direct to you herewith the copy of a letter which I have addressed to Mr. John Busby,* who has received His Lordship's permission at the recommendation of Mr. Bigge, to proceed to New South Wales, as Mineral Surveyor and Civil Engineer, and who it is conceived may be most advantageously employed in the management of the Coal Mines, in supplying the Town of Sydney with water, and in other objects of a similar nature. You will perceive, by the terms offered in the enclosed letter to which Mr. Busby has acceded, that the period, for which his services have been engaged, is for three years from the date of his first employment in the Colony; that for 200 days given up to the Service of Government in each year he shall receive two hundred pounds per annum from the Police fund, and in the event of his having a house provided for him, that his whole time shall be devoted to the Public. Lord Bathurst therefore directs me to desire that you will comply with the above terms, and to acquaint you that, if you shall consider it expedient, at the expiration of three years you will be at liberty to continue his Services for two years longer, as well as to make him a Grant of land as a remuneration provided the terms of his agreement shall have been satisfactorily complied with.

I am, &c.,

R. WILMOT HORTON.

[Enclosure.]

UNDER SECRETARY WILMOT TO MR. JOHN BUSBY.

Sir, Downing Street, 29 March, 1823.

I am directed by Lord Bathurst to acquaint you, in reply to your application to proceed to New South Wales as Mineral Surveyor and Civil Engineer, that his Lordship feels disposed to authorize the Governor of that Colony to issue to you the sum of £200 p. Ann'm, on the condition of your giving the Govt. the

Conditions of
J. Busby's
employment.

* Note 31.

1823.
19 Aug.
Conditions of
J. Busby's
employment.

benefit of your Services for 200 days in each year, such Salary to be continued to you for three years from the date of your employment in the service of Govt. after your arrival in New South Wales; at the end of which period the Governor will be instructed to allot to you a Grant of Land as a Remuneration for your Services, in case he shall feel satisfied with your Conduct during your residence in the Colony. I am moreover to point out to you that no house will be provided for you, unless your whole time throughout the year is devoted to the Public Service, and that you must not under any circumstances expect to receive rations for yourself and family. In the event of your acceding to these terms, a passage will be forthwith ordered for yourself and your family on board some Vessel sailing from the River for Port Jackson.

Land to be
granted to sons
of J. Busby.

I am also instructed to acquaint you that, if any of your sons, who may proceed with you, take with them Capital to the amount of £500, they will be considered as Settlers and have Grants of Land with the Usual Indulgence of Convict Labour.

I am, &c.,
R. WILMOT.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 30, per ship Guildford.)

21 Aug.
Letter of
introduction for
Francis Forbes.

Sir, Downing Street, 21st August, 1823.
Mr. Forbes, who has been appointed Chief Justice of New South Wales, will have the honor of delivering this letter to you, and altho' he cannot commence his Official Duties until the arrival of the Charter of Justice, yet it is conceived that he may be usefully employed in making the necessary arrangements preparatory to the opening of the Supreme Court.

You will therefore consider yourself authorized to confer confidentially with Mr. Forbes on any points, which you may be desirous of submitting to his consideration, and I beg leave to recommend him to your notice and attention.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 31, per ship Hibernia; acknowledged by Sir Thomas Brisbane, 31st January, 1825.)

26 Aug.
Complaints
made by
G. Druitt.

Sir, Downing Street, 26th August, 1823.
I have received several representations from Major Druitt, complaining of the proceedings which have been adopted against him in New South Wales, and stating his readiness to meet any impartial investigation into his Conduct.

I have delayed for a considerable time to make any communication to you on the subject, under the expectation of receiving from you the detailed proceedings, which are stated to have taken place. Under all the circumstances stated by Major Druitt, and of the testimony I have received of the respectability of his character from many persons, who have been acquainted with him for a long Series of Years, I conceive that an investigation of the Charges* may be conducted by Mr. Forbes, the Chief Justice of New South Wales, with advantage to the Public service and without being liable to the objections, which have been urged by Mr. Druitt, against the Enquiry by Dy. Commissary Wemyss and Mr. Douglas. I have therefore authorised Mr. Forbes to investigate, and report his opinion to me on the Charges which may be brought against Major Druitt, and I am to desire that he may receive every facility from you in conducting the enquiry.

1823.
26 Aug.

Investigation of charges against Druitt to be held by chief justice.

I am, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 32, per ship Guildford.)

Sir, Downning Street, 28th Augt., 1823.

28 Aug.

I am to inform you that His Majesty has been pleased to appoint Col. Arthur to the situation of Lt. Governor of Van Diemen's Land, and that Officer will accordingly proceed, in the present month, to take upon himself the duties of his Office.

Appointment of G. Arthur as lieut.-governor of Tasmania.

You will perceive that the clause of the act,† passed in the last Session of Parliament, for the better government of New South Wales, has committed to His Majesty in Council the power of erecting the Island of Van Diemen's Land into a separate and independent Government. It is not, at present, deemed expedient to effect this separation, altho' the growing Wealth and Population of the Settlement of Van Diemen's Land may hereafter induce H.M. to exercise the authority thus vested in him. In the interval, however, it becomes necessary to take measures for obviating those inconveniences, which the union of the two Settlements under one Government has in past times occasioned. I therefore avail myself of the present opportunity to communicate to you such Instructions as His Majesty deems it necessary to issue for your guidance in the Government of the Island of Van Diemen's Land; and to which you, and the heads of the different departments at New South Wales will strictly conform.

Statutory power to establish separate government in Tasmania.

The Legislative power, which, under the Act of Parliament, is vested in yourself and your Council, extends to Van Diemen's

* Note 32. † Note 33.

1823.
25 Aug.

Laws to be
drafted in
Tasmania and
passed by
N.S.W. council.

Land; but as persons resident in N.S.W. will be imperfectly informed of the exigencies of the neighbouring Island, the Lt. Governor has received His Majesty's Instructions to transmit to you the drafts of all such Laws as he may deem it necessary to have passed for the better Government of the settlement under his command. These Drafts will be prepared by the Attorney Gen'l of the Island, and will, in conformity with the Act of Parliament, be laid before the Chief Justice of N. S. Wales for his consideration. If that Officer should report them to be not repugnant to the Law of England, you will take the earliest opportunity of laying them before the Council, and of promoting their enactment. In cases where you may doubt the expediency of such Acts, you will communicate to me the grounds of your doubts, on transmitting them for H.M. confirmation.

Laws relating
to or affecting
Tasmania to
be approved by
lieut.-governor
before
submission
to council.

You will transmit to the Lt. Governor of V. Diemen's Land, for his consideration, the drafts of all Laws originating with yourself which may specially relate to or affect the Inhabitants of that Island; and you will not lay any such Laws before the Legislative Council if he should report to you that they would, in his opinion, be inexpedient; in cases however of extreme urgency and vital importance, the dissent of the Lt. Governor of V. Diemen's Land is not to induce you to suspend the enactment of the projected Law; but in such cases you will transmit to me, for H.M. consideration, a Copy of the Lt. Governor's report on the subject at the time when the Acts themselves are transmitted for the royal confirmation.

Responsible
executive
powers vested in
lieut.-governor.

With respect to the executive Government of the Island of V. Diemen's Land, the Lt. Governor alone will be held responsible to H.M. for every measure directly suggested by him, to which, in deference to his recommendation, your official sanction may be given; yet if in any instance his advice shall be plainly and unequivocally repugnant to sound policy, and calculated to endanger the peace or safety of the settlement, you will upon your own responsibility control his opinion.

System to be
adopted for
land grants
in Tasmania.

Among the particular cases to which this general principle will be applied, none is of greater importance than that of Grants of Lands to Settlers. As no valid and perfect title to such Lands can be created, except by instruments to be passed under the Seal of the Colony, the Settlers in V. Diemen's Land must ultimately apply to you for the formal confirmation of the Grants of Lands allotted to them. It will rest, however, exclusively with the Lt. Governor to receive and decide upon the claims of all persons who may propose to settle within the limits of his Government; and he will exercise this power under the same restrictions which have hitherto been imposed upon yourself. He will be

further instructed to deliver to all Settlers written Instruments, authorising them to take possession of the Lands allotted to them, and he will cause a registry to be kept at the Office of the Deputy Surveyor General, in which the names of the intended Grantees and the extent, situation and boundaries of their locations, and the conditions upon which they are to be held, will be carefully entered. An exact transcript of this Registry will be forwarded to you by the earliest opportunities, when it will be your duty, without further Investigation, to direct Grants to be issued in Official Form to the several persons whose names appear in the Returns thus made to you; and you will transmit such grants to V. Diemen's Land, to be there recorded in the Office of the Depy. Surveyor General. The Lt. Governor will be instructed to submit to your decision any questions of novelty or peculiar importance which may arise upon this subject. If in any case you should be of opinion, that he has made an improvident or unreasonable concession of the Waste Lands of the Crown, you will not fail to report fully to me upon the subject, and you will in such cases suspend the issuing any Grant until you shall receive His Majesty's commands. In order to give effect to these arrangements, it is to be understood that the Office of Deputy Surveyor General of V. Diemen's Land is to be entirely distinct from and independent of the Surveyor General of N. S. Wales, nor is the last mentioned Officer to exercise any control or to possess any authority in respect to the Crown Lands in Van Diemen's Land.

The rules, which are thus laid down for your guidance respecting the Grants of unoccupied Lands, are to be understood as applying to the case of Lands and Property of every other description, which H.M. may acquire in V. Diemen's Land by Escheat.

In the receipt and administration of the Revenues of the Crown in the Island of V. Diemen's Land, the Lt. Governor will be instructed to act upon his own discretion, and he therefore will alone be deemed responsible to H.M. He will be directed to apply the local Revenue towards the exigencies of the Public Service without waiting for your express authority for each particular payment, it may become his duty to make. To give effect to this regulation, it will be necessary that whatever duties may be imposed by Ordinances of the Governor and Council for the local purposes of V. Diemen's Land, be in such Ordinances expressly made payable to the person executing the duties of Public Treasurer of that Island; and that the Warrants of the Lt. Governor should in such ordinances be declared to be the only instruments, under the authority of which the produce of such duties can be issued for the public Expenditure of the Island.

1823.
28 Aug.

System to be adopted for land grants in Tasmania.

Surveyor-general of N.S.W. to exercise no control in Tasmania.

Lieut.-governor to control the finances in his government.

1823.
23 Aug.

The Lt. Governor will be instructed to transmit to you periodical Accounts of his Receipts, and application of these Revenues. He will also be required to lay before you for your decision any financial questions of a new or important nature which may arise within His Government.

Appointments
to be made by
Brisbane on
nomination by
lieut.-governor.

The Lt. Governor of V. Diemen's Land will further receive H.M. commands to recommend to you such persons as he may deem best qualified to act as Magistrate, or to fill the public Offices, in the various departments of that Island. It will be your duty to attend to these recommendations and to issue the necessary Instruments for confirming those Individuals in their Official Situations whom he may thus nominate; and in the event of any improper appointment of Public Officers in V. Diemen's Land, H.M. will not hold you responsible. In the removal of Officers already appointed, you will however act upon your own discretion and responsibility; and if you should see cause to disapprove of any recommendation of the Lt. Governor, as to the suspension or removal of any Public Officer, you will transmit to me, for H.M.'s information, a full statement of the grounds of such difference of opinion.

Reprieves and
pardons to be
granted on
recommendation
of lieut.-
governor.

In the exercise of the Royal Prerogative of reprieving or pardoning Persons convicted of Crimes in the Supreme Court of V. Diemen's Land, or of commuting their sentences, you will be guided by the suggestions you may receive on each particular case from the Lt. Governor, to whom the Chief Justice of Van Diemen's Land will make his official report. You will not therefore be called upon to perform the arduous duty of investigating the case of each particular Offender, but you will give your formal and official authority for carrying into effect the decisions which the Lt. Governor will form after communication with the Chief Justice of Van Diemen's Land, and for the propriety of which the Lt. Governor alone will be required to answer.

Remission of
sentences on
transported
convicts.

The power of shortening or remitting the term of Service, for which Convicts may have been transported to Van Diemen's Land, being vested by the Acts of Parliament exclusively in the Governor in Chief of the Colony, you must of course in obedience to those Statutes execute this duty according to your own judgment and discretion. Yet, in the exercise of that judgment, you will avail yourself of the advice and assistance of the Lt. Governor, and will give effect to his recommendations on this subject, whenever they may appear to you consistent with the intention and spirit of the Acts of Parliament.

Correspondence
of lieut.-
governor.

The Lt. Governor of Van Diemen's Land will receive instructions to correspond directly with this department upon all public questions which may arise within his Government. He will,

however be required to transmit to you, for your information, copies of all the Official communications he may address to H.M.'s Government, or receive from them.

1823.
28 Aug.

In addition to these more general instructions, there are some topics of a comparatively partial and temporary nature to which it is necessary to advert; among these I have to notice a practise which, from Mr. Commissioner Bigge's report, would appear to prevail at Sydney of collecting and appropriating to the Police Fund at that place the duties on Goods imported or intended for importation into Van Diemen's Land. It is His Majesty's pleasure that this practise should be discontinued, and that the duties on all such Goods should be received at the Port in V. Diemen's Land at which they may be landed; and that they should be exclusively appropriated and applied towards the Public Expenditure of that Island.

Payment of
duties on goods
intended for
Tasmania.

The various Public Works and Buildings at V. Diemen's Land, which are now in progress, or which have been recommended by Mr. Commissioner Bigge, or which may hereafter be expressly authorised by H.M. Government, will be carried on under the direction and superintendance of the Lt. Governor alone; and you will understand that it will not be within the sphere of your duty to issue orders respecting any Works or Buildings in the Island. The Surveyor General will also regard this subject as not falling within the duties of his department. If however the Lt. Governor should project any new undertakings of this nature, which Mr. Commr. Bigge has not specified as necessary, and which may not have been expressly sanctioned by H.M. Government, he will be instructed to lay before you an account of such intended Works, explaining the object and supposed necessity of them, with the Plans and estimates of the probable expence from the Office of the Depy. Surveyor General of V. Diemen's Land; and he will be directed to suspend such New public undertakings until he shall obtain your sanction and consent.

Public works
and buildings
to be under
control of
lieut.-governor.

Brisbane
to approve of
new buildings.

It is not improbable that, in your conducting the Government of Van Diemen's Land upon the principles thus explained, difficulties may arise which cannot clearly be anticipated, and against which therefore no specific provision can be made. Your Zeal for His Majesty's Service will however suggest to you the importance of preventing such difficulties by a cordial co-operation with the Lt. Governor in acting upon the spirit of the preceding instructions; and that Officer will on his part be instructed to take every opportunity of shewing respect and deference to your Supreme authority.

I have, &c.,

BATHURST.

1823.
30 Aug.

EARL BATHURST TO SIR THOMAS BRISBANE.*
(Despatch No. 33, per ship Guildford.)

Sir, Downning Street, 30th August, 1823.

Suggestions
for treatment
of female
convicts by
Mrs. Fry.

I transmit to you enclosed a communication with its enclosures which have been addressed to my Under Secretary of State by Mrs. Fry† stating her views with respect to the treatment of Female Convicts; and as these Papers appear to me to contain many valuable Suggestions, I cannot but recommend them to your attentive consideration with the view of carrying them into practical operation, as occasion may require.

I have, &c.,
BATHURST.

[Enclosure.]

MRS. ELIZABETH FRY TO UNDER SECRETARY HORTON.

Respected Friend, Plasket House, 8th month, '23.

Proposals for
treatment of
female convicts
in Tasmania.

In compliance with thy obliging proposal, I take the liberty to state in writing our views relative to the Female Convicts in Van Diemen's Land, in order that they may be submitted to the consideration of Lord Bathurst, as we cannot but feel anxious that the care we extend to this degraded class of the Community, not only in the different Prisons but also on the Voyage, should be rendered permanently beneficial through the co-operation of Government in the Colonies. In the first place, we deem it expedient that a Building be erected at Hobart Town for the reception of Female Convicts.¹ That a respectable and judicious matron be there stationed, to superintend the whole Establishment under the direction of the Governor or some magistrate appointed by him for that service. That part of the building be appropriated to the use of an adult and girls' school, and that School Mistresses be selected by the Matron from among the reformed Prisoners, provided they be sufficiently qualified for the office.

That immediately on the arrival of a ship, after it has been visited either by the Governor or by some person appointed by him for the purpose of inspecting into its general condition, the convicts shall be quietly (and as privately as possible) conducted from the ship to the said building, where the deportment of every prisoner shall be scrutinized with exactness²; that those, who merit a favourable report, be selected and allowed to be taken into service by the respectable inhabitants under such restraints and regulations as may be considered needful. The others to remain confined, receiving at the same time suitable instruction and employment until they evince sufficient amendment in habits

* A duplicate of the above letter was also addressed to Colonel Arthur, Despatch No. 2.

† Note 34.

and disposition to warrant the grant of similar indulgence; and we conceive that much benefit might result, if some of the regulations mentioned in the new act of Parliament relative to prisons were enforced in this Colony and in New South Wales. We would also propose that a sufficient supply of strong and decent clothing (not parti-coloured) be provided for them during the Voyage, to be put on when they enter the ship in exchange for their own, of which an Inventory shall be immediately taken by a female officer and given with the clothes to the Surgeon (in the presence of their respective owners), who shall carefully keep them in reserve and deliver them to the Matron of the prison, to which they are destined, who shall receive the same in presence of the prisoners, and shall at the same time see if they tally correctly with the inventories; and upon their discharge from prison but not before, she shall restore them to their proper owners; and we consider that it would be a great advantage, on the voyage and more especially whilst lying in the river, that the women should wear a simple uniform dress; and we think it *indispensable* for establishing of order and for enforcing the needful regulations on board the ship that a Matron be stationed constantly therein, while they remain in the river, to attend to their clothing and to search their female visitors, in order that no spirituous liquors or anything else that is improper be introduced; and, could a person in that capacity accompany them during the voyage, it would no doubt be highly useful.

1823.
30 Aug.

Clothing for
female convicts.

Matron
required on
female convict
ships.

We are pleased to understand that the Factory in Parramatta has more than cleared its expences during the last year, as the interest we feel in the welfare of the colonies induces us not only to desire the religious and moral improvement of the population at large, but in all our plans we wish to keep in view such a system as shall eventually prove the most economical to Government as well as the most beneficial to the Colonial States.

In consequence of thy friendly encouragement, I have ventured thus freely to offer with submission our sentiments; we are fully aware that much has been accomplished, that many of our requests have been granted with obliging readiness; and we shall feel our sense of gratitude much increased, if Lord Bathurst will condescend to peruse these remarks and to act in compliance as far as his judgment can approve and his authority enforce.

Believe me to remain with respect and regard,
thy obliged friend,

ELIZTH FRY.

¹See Plan, which Building, if raised by the Male convicts and composed of such materials as the country affords, would it is supposed be completed greatly within the present estimate.

1823.
30 Aug.

2If the Secretary of State for the home department were to direct that the Surgeon Superintendent should be furnished by the Magistrates with a written account of the general conduct and character of every individual, even previously to their commitment, together with the nature and extent of their offence, we think it would greatly aid the Governor in his decision with regard to the proper disposal of the prisoners.

[Sub-enclosures.]

[Copies of the plan of the prison for female convicts and a description of it will be found in the volume of charts and plans.]

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Guildford; acknowledged by Sir Thomas Brisbane, 9th February, 1825.)

Sir, Downing Street, 30th August, 1823.

I am directed by Lord Bathurst to transmit to you the Copy of a letter from Mr. Boddy, relative to some property left by his son in the hands of Mr. John Macqueen, a Merchant of Sydney; and I am to desire that you will call upon Mr. Macqueen for an explanation of the circumstances, which have prevented him from remitting the account to Mr. Boddy.

I have, &c.,

R. WILMOT HORTON.

[Enclosure.]

MR. G. BODDY TO UNDER SECRETARY WILMOT.

Sir, His Majesty's Yard, Woolwich, 3d April, 1823.

Having applied at your Department on the subject of the following case, I was advised by the gentleman, to whom I was referred, to bring it in this way before you; in consequence of which I have the honor to submit it as follows:—

My son Joseph Yatman Boddy, lately a Mate of the Magnet, an East India Country ship, died early in the year 1820 at the house of Mr. Andrew Barclay at Port Dalrymple. Mr. John McQueen of Sydney took possession of his Effects at that place amounting to £140, and when what was at Port Dalrymple could be collected, would make the whole about £200, as appears from enclosure No. 1, being a letter from Mr. McQueen, dated "Sydney, 1st March, 1820," in which he requests that the property may be applied for in a legal way. I accordingly took out Letters of Adm'n, and, on the 12th March, 1821, sent out an "Act of Court" empowering Mr. McQueen to pay the same over to me. This will appear from the enclosure No. 2 the receipt of which Mr. McQueen acknowledged by per of 11 Decemr., 1821, dated

Papers
relating to the
property of
J. Y. Boddy,
deceased.

from Launceston (No. 3) stating that the amount to be remitted would be as near as he could then see £175, and that he would remit it about the 1 July following (1822) with Interest, it not being convenient to do so before by reason of his having met with severe disappointments.

Not having received the promised remittance, nor any further advice from Mr. McQueen, and it being more than 3 years that the property has been in his possession, I am under some apprehension as to its security; and accordingly take the liberty of submitting the case to you in the hope that through your powerful interference I may be enabled to succeed in this long protracted affair.

I have, &c.,

GEORGE BODDY.

[Sub-enclosure No. 1.]

MR. J. McQUEEN TO MR. G. BODDY.

Sir,

Sydney, 1st March, 1820.

It is with extreme sorrow I have to announce to you the death of your son Joseph, with whom I had the pleasure of being particularly friendly.

Mr. Boddy arrived here in 1818, and sailed for China in the Magnet, Captn. G. Vine; his health was then very indifferent, and on his return it was so as to be advisable for his abandoning the sea till he could recover; he did so and remained with me for a short time, and as the Southern settlement of Port Dalrymple is reckoned far more healthy than here, and inhabited by a Friendly Kind of People, I advised him to go down there to a friend of mine, Captn. Andw. Barclay at Port Dalrymple, where he could have not only good company but have every inducement to health at no expence; at the house of Mr. Barclay, he Expired fairly worn out with the disease which was somehow in his *Lungs*. Mr. Barclay, in his letter which bro't the fatal news, says our friend Boddy departed this life without any notice; he went to bed after saying he thought he was getting better, and in the morning, his not coming to breakfast at the usual time, he was looked for and found cold.

I have enclosed two letters which he left when he was going down; I would have sent them before, was it not that the greatest part of the letters get lost going round to Calcutta.

I have also to inform you that I have funds in my hands, the effects of Mr. Boddy, which is at present £140; but when I am able to collect for what is at Port Dalrymple may make the Sum of £200 or thereabouts.

Not knowing who is entitled to it, I beg that it may be applied for in a legal way, and it shall be ready for such application.

1823.
30 Aug.

Papers
relating to the
property of
J. Y. Boddy,
deceased.

1823.
30 Aug.

Papers
relating to the
property of
J. Y. Boddy,
deceased.

The Vessel being under weigh, which conveys this to you, I am unable to say more at present, but to regret with you the death of a young Man who I much esteem.

I remain, &c.,

JOHN MCQUEEN.

[Sub-enclosure No. 2.]

MR. G. BODDY TO MR. J. MCQUEEN.

Dear Sir, H.M. Yard, Woolwich, 12th March, 1821.

I duly received in June last your letter, dated 1st March, 1820, communicating the melancholy information of the death of my dear Son Joseph Yatman Boddy at Port Dalrymple at the house of Mr. Barclay. Not long before the receipt of this, I had had similar melancholy intelligence of my youngest son Evan Nepean Boddy, who had gone to Calcutta, and not finding encouragement to remain there, had embarked on his return to England and died on his passage about a week after leaving Calcutta; the loss of two such promising sons has been an unspeakable grief and sorrow to my self, Mrs. Boddy, and all my family. I have now to express our great obligations to the kindness and humanity of yourself and Mr. Barclay for the friendly care and attention shewn to my lamented son Joseph, and shall esteem it a great favour conferred upon me, if I can render you or your friends any assistance or good office in England.

Having regularly taken out Letters of Administration of my son's effects, I beg to enclose you an "*Act of Court*," which I presume will be sufficient to satisfy you that you are fully authorized to deliver over to me the property you have been so good to collect. If however you have any doubt or difficulty, and will have the goodness to transmit the property to your own Agent in England, I will then produce the letters of Administration to such Agent, and give him discharge in any form that may be required. If there should be any article belonging to my son worth sending home I should be obliged by your putting it on board some ship belonging to London.

I am unwilling to obtrude any request that would occasion trouble, yet I should deem it a great additional kindness, if Mr. Barclay would give me any particulars, he may be so good to recollect, of my son's last illness and conversation. I trust he was conscious of the nearness of his end and was prepared to meet the stroke. Also to give me the exact day of his death, which is not mentioned in your letter. Trusting this further trouble will be obligingly excused, I beg to remain with a deep impression of yours and Mr. Barclay's disinterested kindness, Dear Sir,
Your very obedient Humble Servant,

GEORGE BODDY.

[Sub-enclosure No. 3.]

MR. J. McQUEEN TO MR. G. BODDY.

1823.
30 Aug.Papers
relating to the
property of
J. Y. Boddy,
deceased.

Dear Sir,

Launceston, 11th Decr., 1821.

I beg to acknowledge the receipt of yours of the 12th March, and shall reply thereto as fully as I shall be able by the next Conveyance.

I have come down here to obtain settlements of People of this place, and shall at the same time make the enquiries you desire from Captn. Barclay.

The amount I will have to remit you will be as near as I can see £175, which will be remitted about the first of July next w'th int. I am sorry that it is not convenient to do it now, I have met with very severe disappointments from this place. I beg you will excuse this short letter for I have not time to say more as the Messenger for Hobart Town is just departing; however in my next I hope to give you a fuller account, with my best wishes,

I remain, &c.,

JN. McQUEEN.

 UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Castle Forbes.)

Sir,

Downing Street, 30th August, 1823.

This letter will be presented to you by Mr. Anderson, who proceeds to New South Wales in Medical Charge of the Castle Forbes Convict Ship, and I beg to acquaint you that, in consequence of the favorable recommendations which Earl Bathurst has received of that Gentleman's Character and qualifications, he has given him permission to remain in that Colony with the hope that you would appoint him to some Medical Appointment.

Recommendation of
Anderson
for medical
appointment.

I have, &c.,

R. WILMOT HORTON.

 SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 10 of 1823," per ship John Bull.)

Government House, Sydney, New South Wales,

My Lord,

3rd September, 1823.

3 Sept.

I have the Honor to acknowledge the receipt of your dispatch No. 3, dated the third of March, 1823, and enclosing a complaint from Mr. Jacob "of being unable to obtain a grant of land, and of the inattention with which his applications have been received."

Despatch
acknowledged.

In this complaint he informs Your Lordship that "in a community of exiles, where unblemished reputation and purity of private life had been hitherto little known in any class of society,

1823.
3 Sept.

Statements by
V. Jacob.

he confidently anticipated that the addition of his irreproachable character would command the warmest encouragement." After which he adds that he had already imported into New South Wales "a stallion pronounced by many to be the finest yet introduced into the Colony; and had ordered others." And he continues "if Your Lordship shall see, in the exertions which he has already made, and the pledge he has thus given, sufficient cause to extend to him the indulgence heretofore granted to others—he might without exaggeration expect twelve thousand acres." He then proceeds to take for granted his command of great capital; and concludes by transcribing an invitation from an unnamed merchant of Calcutta to join him in the increase of fine wool; but who seems so unapprised of this lac of Rupees. which Mr. Jacob states to have imported into the Colony, as to offer to devote to him annually £1,000; and, if he cannot advance any thing himself, to allow him nevertheless a half share in the experiment on his paying a fair rate of interest for half the money so advanced.

Inconsistency
of statements.

Arrival of
V. Jacob
in Sydney.

Lieutenant Jacob, an officer of the East India Company, certainly did arrive in Sydney under the pretext of ill health, but in reality with a mercantile speculation. His brother officers, of whom there were many at the time convalescent in Sydney, shunned him and publicly upbraided his unnatural alliance of the soldier and the shopkeeper. The Head of his service disowned him, and caused letters to be written, the duplicates of which I forward herewith, requiring a particular report on his behaviour at Sydney. It had not been the practice of the late Governor to bestow indulgence on characters like his: and I did not think that the British Government would wish favours to be lavished on the East India Company's army, which, in a despatch of the 24th July, 1818, Your Lordship had pointedly refused to the service of His Majesty. In consequence of this belief, the necessity was imposed on me of postponing the consideration of Mr. Jacob's petition until he had quitted the army. When he waited on the Colonial Secretary, the opportunity was accordingly embraced of giving a refusal to his request with as much attention to his feelings as the most sensible delicacy could desire. He was advised to prefer his application immediately, which would ensure to it the benefit of priority; but he was acquainted that so much land in the country had been promised already, and the allotments in the towns were in so great confusion, that I was unwilling for the present to accede to his application until the towns had been reduced into order and former promises of grants fulfilled. Your Lordship will perceive Mr. Jacob's first letter to have been written under the impression made by this

Adverse
criticism of
his commercial
enterprises.

Consideration
of V. Jacob's
petition
postponed.

communication. He there solicits that the Governor will "extend his protection in granting him an allotment of ground *whenever his wise arrangements for ascertaining the extent of government patronage may be mature.*" And he concludes by avowing the single intention of his whole letter to be "the securing such advantage *in the result* as His Excellency may deem proper to attach to priority of application." Mr. Jacob's second letter was considered to have been written with the same view; and the mistake was not discovered until he had transmitted a third requiring an immediate answer; when the Secretary's reply was returned forthwith.

1823.
3 Sept.

Mistaken
impressions
formed by
V. Jacob.

Soon after I had reached the Colony, I perceived that the lands in the towns* were holden almost wholly by permissive occupants. Scarcely a crown grant or a crown lease in being; every tenanted allotment almost having been purchased from some obscure individual, who had exercised the right to sell, under an old verbal permission to occupy, given him by a magistrate or the surveyor. I did not then know, nor have I since been able to discover, any means of reducing this confusion into order, except by directing the Surveying department to draw a plan of each town with the divisions of prescriptive property actually subsisting; then, to frame a lease establishing a quit rent of such an amount that no more applications for allotments would be made than there were allotments to be let; and afterwards, to notify to these permissive occupants that they must take leases of the new form, or relinquish their claims. It was not until this had been all completed, which required a long time, that I could properly ascertain what allotments were disposable. This nevertheless has been accomplished for Parramatta and Newcastle; and I will venture to assert that applications for leases in these towns are answered now with every readiness. But neither Liverpool nor Sydney have been reduced into order as yet, which cannot be deemed surprising, if we couple the extreme irregularity of the boundaries of all their allotments with the various other duties of the Surveying department.

Confusion
in relation
to town
allotments.

Mr. Jacob, in the middle of his letter, proceeds to acquaint Your Lordship with "the impossibility which is experienced of obtaining at the Surveyor General's Office that correct information without which no deliberate choice can be made." If by "obtaining information," I am to understand Mr. Jacob to mean that the Surveyor ought to advise every emigrant settler *officially* as to the spot upon which he should settle, and save him thereby the trouble and expence of seeing the Colony with his own eyes, and selecting a spot for himself, I feel convinced that such a mode of proceeding would be productive of every inconvenience. Not

Criticism of
administration
of surveyor-
general's
department.

* Note 35.

1823.
3 Sept.

Methods
adopted in
selection of
sites for grants.

a settler would be thus fixed, but he would proclaim that the Surveyor had designedly recommended him to a bad situation; and memorial upon memorial would pour into the Secretary's Office demanding compensation in land for ruin alledged to be at hand in consequence of the imputed error or interestedness of Mr. Oxley. On obtaining the promise of a grant, the settler formerly went and located himself. Many, who had thus established themselves in the year 1811, have not to this hour had their boundaries so marked as to be able to fence; while some, bringing to the colony the commodity too often imported of a litigious disposition, have under this system purposely seated themselves on the same acre of ground; next quarrelled about boundaries, and then one of them has proposed to Government to forego his claim on receiving the compensation perhaps of two thousand acres in addition. Bathurst and Newcastle are the outlets for emigration at present. At both these places immense tracts have now been surveyed into square miles, which have been numbered. An individual, proposing to settle, proceeds accordingly under this system to one of these spots; rides over the country; reads marked on the trees the number of each square; returns to head quarters, and gets located immediately on the square which he has chosen.

Refutation of
statements by
V. Jacob.

Mr. Jacob then solicits "Your Lordship's serious attention to the regulations lately enacted, by which every person receiving a grant is compelled to enter into penal bonds for the maintenance during ten years of a convict servant for every hundred acres which may be allotted him." It will be unnecessary for me to dwell at present on the political effects of this arrangement, as I propose to render them the subject of a separate dispatch; but I cannot forbear forwarding herewith a list of Convictions for Murder from the year 1810 down to the present date; by which Your Lordship will be able to appreciate the accuracy of Mr. Jacob's statement "of the dreadful effects to be anticipated from the dispersion throughout the interior, and far removed from all discipline and legal authority (for proprietors will not reside at such a distance from the Capital) so many unreformed criminals; and (although 'the alarm,' as Mr. Jacob states in another part of his letter, 'with which these conditions have been viewed by the Colonists themselves cannot be mistaken, for one person and one person only has been found to undertake the completion, or to accept the deeds accompanied by the bond,' yet) before this comes under Your Lordship's review your humanity will have shuddered at the numerous instances of most atrocious murder, which within the last few months have multiplied and alarmed a community, though otherwise most depraved, hitherto remarkably free from the perpetration of this most horrid crime."

Mr. Jacob concludes by dwelling with apparent satisfaction on the purity of his own motives; and lauds his rejection "of every suggestion, which many would have been too ready to adopt, of having recourse to anonymous upbraidings of the local Government in the opposition prints." And it had been well if these motives, asserted to be too pure to yield to such suggestions, had proved themselves able also to withstand the feebler temptation of resorting to a convict in gaol for the purpose of executing low caricatures of the public officers of the Colony and myself.

1823.
3 Sept.

Criticism of
conduct of
V. Jacob.

In conclusion I have the Honor to acquaint Your Lordship that Mr. Jacob has been allowed to make choice of an allotment in the town of Newcastle; and he has been given the temporary occupation of two thousand acres of land. I did not see how I could do less after Your Lordship's letter of the third of last March; and, after the correspondence which had passed between this and the Indian Government, I did not know that I could do more. Should that correspondence terminate favorably, which I feel every inclination to hope, it will then give me additional pleasure to carry the wish of Your Lordship into entire effect, by converting Mr. Jacob's present license of occupation into a Grant, provided he remains in the Colony. But, having arrived as the Supercargo of an investment which he has almost sold, I am certain he will again quit New South Wales before the lapse of many weeks.

License of
occupation
given to
V. Jacob.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

LIEUT.-COLONEL CASEMENT TO THE SECRETARY TO HIS MAJESTY'S
GOVERNMENT, SYDNEY, NEW SOUTH WALES.

Sir,

Fort William, 18th October, 1822.

I am Commanded by the Most Noble the Governor General in Council to transmit to you, under a flying Seal, a Packet Addressed to Lieutenant Vickers Jacob, of the 3d Regiment Native Infantry on this Establishment, now on furlo' in New South Wales, with a request that you will Submit it to the Notice of His Excellency the Governor, and then, under His Excellency's Authority, cause it to be delivered to Lieutenant Jacob.

Papers
transmitted,
addressed to
V. Jacob.

2. As my Letter written by order of the Supreme Government to Messrs. Macintosh and Co., which is Annexed to that Addressed to Lieutenant Jacob himself, together fully explain the nature of the Confidential Reports received here of that Officer's occupations in New South Wales, it is not necessary to say more on that Subject. But, as the Most Noble the Governor General in Council understands that Lieutenant Jacob's trading pursuits

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3 Sept.

Report
requested on
V. Jacob's
conduct in
the colony.

can be no Secret at Sydney, having publickly engaged in business as a Shop Keeper or Slop Seller and Announced the same by a *Circular notice* in the Colony, His Lordship in Council requests you will, with His Excellency Sir Charles Brisbane's sanction, obtain and forward to me such Evidence or Authentic declaration of the fact, as it really Stands, respecting Lieutenant Jacob, as may enable the Most Noble the Governor General in Council to determine whether or not that Officer, in Justice to himself and others, Should be Struck off the Strength of his Regiment and the Bengal Army List.

3. I have further to request, by Command of His Lordship in Council, that you will have the goodness, with His Excellency the Governor's permission, to Call upon Lieutenant Jacob for his Official reply to my Letter within the time Specified therein; and finally to transmit the same to this Office, with the results of your Official Enquiries, by the earliest opportunity.

I am, &c.,

WM. CASEMENT, Lt.-Col., Secy. to Govt. Mily. Dept.

[Sub-enclosure No. 1.]

LIEUT.-COLONEL CASEMENT TO LIEUTENANT VICKERS JACOB, 3D
REGIMENT BENGAL NATIVE INFANTRY, ON FURLOUGH, NEW
SOUTH WALES.

Sir,

Fort William, 18th October, 1822.

The Most Noble the Governor General in Council having received private information that the furlough, specially granted You to New South Wales on your earnest representation of the ill health of a part of Your Family and Your inability to meet the Expences of a Furlough to Europe, had been taken Advantage of merely to Cover and enable you to Commence Certain Mercantile Speculations into which you are reported to have publickly entered at Sydney, His Lordship in Council directed me to address your Agents in Calcutta on the Subject: Copies of my Letter with their reply are Annexed for your information.

2. The Most Noble the Governor General in Council Can not refrain from observing that the reply of Your Agents tends greatly to Confirm the prevailing Rumour of your Mercantile Engagements in New South Wales; and as such pursuits form a departure from the duties of your profession, not less Subversive of Military feeling and Character, than they are in Opposition to the Authorized practice of the Service to which you belong, His Lordship in Council has Commanded me to Acquaint you, that he Considers it due to your Corps and the Service at large that you should furnish the Most Satisfactory Evidence in reasonable time, that you have not engaged in any Species of Trade, or at Once Admit the fact.

Reports re
V. Jacob's
mercantile
transactions.

V. Jacob
called on for an
explanation.

3. As the Most Noble the Governor General in Council has taken other Measures to Ascertain the precise nature of your Connexions and Pursuits at New South Wales, I am instructed to Observe, without Contemplating it as possible, that any Concealment on your part would be useless; and His Lordship in Council therefore directs that Your Answer to this Communication be furnished, within 5 Days after its receipt, to the Secretary of His Majesty's Government at New South Wales, under a flying Seal, for the information of His Excellency the Governor of that Colony and for eventual transmission to this Office; and finally that unless You Can offer full Proof of your not having entered into trading Concerns, You do Consider Your furlo' as Cancelled by Government from the receipt hereof, return to your duty forthwith, or tender your resignation of the Service; in failure of which the Supreme Government will direct You to be Struck off the List of the Bengal Army from the date of Your furlough, and the necessary promotion made in your room.

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V. Jacob to
reply within
five days;

and to be
cashiered,
if reply is
unsatisfactory.

I am, Sir, &c.,

WM. CASEMENT, Lt.-Col., Secy. to Govt. Mily. Dept.

[Sub-enclosure No. 2.]

LIEUT.-COLONEL CASEMENT TO MESSRS. MACINTOSH AND Co.

Gentlemen,

Council Chambers, 4th October, 1822.

I am directed by the most Noble the Governor General in Council to Acquaint you that it has Come to the knowledge of Government through private Communication, that Lieutenant Jacob of the 3d Regiment Native Infantry on the Bengal Establishment has Commenced Mercantile or rather Shopkeeping Speculations at Sydney, New South Wales, although that Officer procured leave of Absence, on Furlough, to proceed to that Colony in Consequence of his having represented the bad state of health of some part of his family, and his want of Ability to meet the Expences which a Furlough to Europe would entail on them with a Wife and Child.

Inquiry made
from V. Jacob's
agents in India.

2. Under the Circumstance Stated by Lieutenant Jacob when he Solicited Furlough, the Governor General in Council was pleased to make a Special Case in his favor, and represented the Matter to the favorable Consideration of the Honble. the Court of Directors, not having the least idea that he intended to embark in pursuits which are forbidden by the Regulations of the Service, as well as by the Nature and Character of the Military Profession.

3. The Governor General in Council is unwilling to adopt any immediate Steps with regard to the Lieutenant, although, if what has come to the knowledge of Government be Correct, such would

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Inquiry made
from V. Jacob's
agents in India.

be perfectly justifiable, Considering that Lieutenant Jacob in that Event has Actually availed himself of a *pretence* to procure a Furlough to New South Wales, Vizt. the recovery of his Family's health, and his own inability to take the regular Furlough to Europe on account of the Expence.

4. Understanding that Lieutenant Jacob has some Connexion with your House, His Lordship in Council is desirous of being informed whether there is any thing of a Mercantile Nature in it; and if so, that you will be so good as to State it explicitly for the information of Government, in Order that the Situation, in which that Officer has placed himself, may be fully and Clearly understood.

I am, &c.,

WM. CASEMENT, Lt.-Colonel,
Secy. to Governm't Mily. Departmt.

[Sub-enclosure No. 3.]

MESSRS. MACINTOSH AND CO. TO LIEUT.-COLONEL CASEMENT.

Sir,

Calcutta, 7th October, 1822.

Refusal of
V. Jacob's
agents to make
any statement.

We have the honor to acknowledge your Letter dated the 4th Instant to our Address, intimating to us, by Command of the Governor General in Council, His Lordship's desire to be informed whether there is anything of a Mercantile nature in our Connection with Lieutenant Jacob lately permitted to proceed on Furlough to New South Wales.

Our inclination would prompt us to meet every wish of His Lordship with which it was in our power to Comply; and in no Case should we have more pleasure in testifying our zeal for the Public Service, than in One like the present, where our Compliance might tend to remove an impression on His Lordship's Mind, injurious to the Character of an Officer of the Army under this Government. His Lordship in Council will, however, we are persuaded, perceive the impossibility of reconciling the practice of making public the private Concerns of our Constituents, however Advantageous it might be for an individual to Make an exception in his Case, with the general rule to which we are bound, by every tie of honor and good faith to abide, of Considering our Connection with those who make use of our professional Services as perfectly private and Confidential.

Were this principle departed from in any One instance, it Could not be Adhered to in another without giving just rise to a Suspicion, that there were Other Motives for our Withholding information, than Such as are now Avowed, and thus we might feel ourselves Compelled in some instances to disclose family and Other private Concerns of our Constituents, from the Exposure of which, however innocent in themselves, the Most Serious

embarrassment or distress might Arise to those individuals. We therefore feel ourselves forced, however reluctantly, to abstain from Anticipating what, we have no doubt, Lieutenant Jacob himself will, when Called upon, freely State, as to his Connection with us as Agents.

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Refusal of
V. Jacob's
agents to make
any statement.

As private Acquaintances, it is within the personal knowledge of some of the Members of our Firm that it was not in Lieutenant Jacob's power to proceed with his Family to England, and that it was the intimate Conviction of his mind, when he applied for Furlough, that it would be at the imminent peril of the life of an Only Surviving Child, if he did not remove it from this Climate to One more favorable to its Constitution, as experience had proved New South Wales to be.

We have, &c.,

MACINTOSH AND Co.

True Copies:—WM. CASEMENT, Lt.-Col., Secy. to Govt. Mly. Dept.

[Enclosure No. 2.]

SECRETARY GOULBURN TO LIEUTENANT-COLONEL CASEMENT.

Colonial Secretary's Office, Sydney,

23rd May, 1823.

Sir,

In consequence of your Letter No. 302 of the 18th of last October, received only the beginning of the present Month, I transmitted its Enclosure under flying Seal to Lieut. Jacob, and have now the honor of returning, in compliance with your request, the Official reply of this Officer. I have, &c..

Transmission
of V. Jacob's
reply.

F. GOULBURN.

[Sub-enclosure.]

MR. V. JACOB TO SECRETARY GOULBURN.

Sir,

Sydney, 9th May, 1823.

In reply to your Letter of yesterday covering a Packet from the Secretary to the Indian Government in their Military Department to the address of "Lieutenant Jacob," I beg to state that, Colonel Casement having subsequently to the transmission thereof been the channel through which my resignation of that most honorable title was tendered to that venerated Government, and their acceptance of it published for the information of the Bengal Army, I am apprehensive that my now addressing him, with whom I have not the very distinguished honor of the slightest connexion, must appear superfluous and intrusive. I shall not therefore trouble the India Secretary with an explanation thus become unnecessary.

V. Jacob's
letter of
explanation to
secretary
Goulburn.

For the Consideration of this Government, under which it has lately been my object to become liege, I beg permission to submit

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letter of
explanation to
secretary
Goulburn.

that no predeliction for pursuits different from those of my former profession prompted my retirement to this Colony, but Sir the most trying reiterated strokes of Affliction, which impressed on my mind a deep conviction that the climate of India would have bereft me of my only surviving child and of my Wife, the critical sufferings of the former in this genial Clime and the anguish of her mentally bereaved parents are known to Doctors Allan, Bowman and Bland and to the Revd. Mr. Cowper, who endeavoured to administer Spiritual Consolation. Our griefs did not fail to excite the generous sympathy of His Excellency's amiable Consort, who commiserated them and shewed a feeling disposition towards Consolation by the most humane attention. My precautions were happily crowned with success, and the Climate restored to us the object of our almost extinguished hope, who in India must have sunk into the same Grave with her Brother and Sister.

Your humanity, Sir, will pardon me the trespass of here transcribing a private Letter from a Brother Officer and Friend of date 3d July, 1819.

"It would, my dear Vickers, be unbecoming in me, who have never known the happiness of being a parent, and who consequently cannot adequately feel the misery of losing that endearing Appellation, to attempt to offer you Consolation. In soothing a Grief to which even Religion itself cannot bring an immediate balm, how doubtful must be the efficacy of the Consolations of human Friendship. Had your sorrow been the Consequence of some common Calamity, had it arisen from a circumstance, the occurrence of which you had expected, and for which you would have prepared yourself, had Heaven taken from you one Lamb among a number still left to you, it might not perhaps have been useless to have called your mind to reflection, and to have bid you exercise the fortitude of your Sex, but the sorrow of a Father, who has lost his first fond hope, is to me too sacred even for Consolation. Much as I admire nay reverence that Philosophy which enables us to bear like Men the afflictions to which the flesh is Heir, yet I cannot but smile when I see the Philosophic Cicero, boasting of his having found Consolation for the death of his daughter Tullia, in a survey of the ruins of Cities and of Empires. What is it to you or to me that Troy was, and that Palmyra is no more; the Common sympathy of our nature indeed teaches to feel a regret that the race of Priam should have fallen victims to Treachery, and that the Queen of the Desert should have been cruelly destroyed; but our regret is that of a moment, it passes away with that which gave birth to it, it is of too general a nature to make a particular impression on us, it comes not

home to our bosoms. But there is a little World, which we all form to ourselves, over the ruins of which we cannot weep, for even the Mantle of Hope cannot hide from us the desolation."

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V. Jacob's
letter of
explanation to
Secretary
Goulburn.

Further I have to crave your indulgence in quoting a Letter from a Friend, received on my return from this Country to India, 20th September, 1821: "It falls to my lot to communicate to you the heart rending intelligence that your little Girl is now no more. She passed from this World after a most painful struggle caused by teething; neither care or experience were spared by Brice or his Wife, whose attention was every thing that kind hearts and Affection Could give. I never witnessed a more tender care than they evinced for the child from the moment you left her to the time of her death; it must be some consolation to you and her poor Mother to know this. McWerter and Browne were both in attendance, but no human skill could avail; a finer or sweeter babe I never saw a few weeks before she took ill. This is a sad greeting to you, but it is impossible to help such causes of sorrow, and equally so to offer Consolation on such a subject."

If His Excellency have had patience to peruse such testimony of the cause of my sorrow, he will I trust have been persuaded that Colonel Casement has written his vehement strictures and imputations of "pretence" prematurely; they are I think characterized by excessive precipitation, well described in the allegory of two Knights, who arriving different ways at a statue holding a shield faced with Gold and lined with Silver, each determined that the Target must be wholly Composed of the Metal which his local circumstances placed in view, fought until being unhorsed in the encounter they mutually had opportunities of seeing both sides of the Question.

The insinuation of an intention of Concealment you, Sir, can decidedly rebut, as I pointedly put the Military Gentlemen of the place in possession of my views, dictated by that aversion from evasion, pretence and Concealment, which in truth will not more quietly enter any bosom, than molten lead into Water Contained in an Iron Vessel. I had another object to secure in directly announcing to Military men, His Excellency, yourself, Col. Erskine, Major Ovens, and Mr. Terence Murray, my intention, which was this, vizt. in the event of any of those Gentlemen, feeling disposed to honor me with his acquaintance and perhaps eventual Friendship, he might not be led to such a Condescension under the supposition of my being an Officer in the Army, when in fact I was in progress of regeneration and almost divested of my former Character as to professional pursuits, which the acceptance by the Bengal Government of my resignation should put the fiat upon. Previously to my arriving at Van Diemen's

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V. Jacob's
letter of
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Goulburn.

Land and Commencement of Mercantile transactions (for which however through the agency of my Friend Mr. Drummond I was prepared) I formally announced to my fellow Servants of The Honorable Company (my fellow Passengers) my intention to embark into a different line of Life. Mr. Hyde a senior Merchant in the service replied, 8th April, 1822:

“My dear Jacobs, I have received yours mentioning the determination to which you have come of quitting the Army and becoming a Merchant on your arrival at Sydney, at the same time offering me your best services. I need hardly assure you that my best wishes attend your entire success, and that I trust your most sanguine hopes will be realized to their fullest extent, in the new sphere of life in which you are about to embark. If I can be of any service in promoting your views believe me it will afford me much pleasure &c. &c. &c. and remain, my dear Jacobs, Yours &c. C. C. Hyde.”

Major Rodber, on that occasion, wrote:—

“My dear Jacob, I wish to be believed when I say, I do in perfect sincerity wish you may realize all you hope in this new situation you have chosen &c. &c. I beg your assurance of my most hearty wishes to do all, that my humble state will admit of, for the furtherance of your views. Yours faithfully, J. Rodber.”

My communication to Captain Campbell was Oral, and he fully sympathized in the teeming necessity of my purpose, applauded and unequivocally promised to cherish it. Simultaneous with the *printing* of my Circular Letter, I wrote a tender of my resignation, both which I sent by the *first* ship which sailed from the Colony entrusted to Mr. Drummond, who did not arrive in India until the 20th of October, whereas the Chief Secretary was evidently in possession of “private information” on the 4th of that Month, on which he so precipitously *acted*, without giving time for the development of facts which would have rendered his injunctions superogatory.

I must trouble you with a few words on the subject of the Chief Secretary's irascible bathos for “Shopkeeping,” and explain, for the indulgent Consideration of His Excellency the Governor of this Territory, that the necessity of disposing of a quantity of Merchandize on which there was an outlay exceeding Ten Thousand pounds otherwise than by wholesale was a most harrowing humiliation to me; that necessity rested on the following Grounds—first, a raging epidemic of hostility which I found existing against an interloper so magnificently supported, and who it was not likely should join in Combinations which are locally characteristic. My Invoices were displayed in vain, but fortunately my knowledge of localities enabled me to apply an

antidote against the atmospheric venom, which I resolved to put immediately to the test, and announced my intention of accommodating families &c. with such supplies as they might require at wholesale prices; and, as these were from fifty to several hundreds per Cent. under the common rate of the place, the hasty purchase of my heaviest invoices in self-defence was the immediate consequence, and I made Sales in Hobart Town exceeding Seven thousand pounds Sterling when, had I been more Supine or irresolute, I should not have realized £70.

At Sydney I found Colonial Opulence (dependant on British exuberance) on the ebb and considerably undermined by an Exchange of the Sterling Money, which otherwise would have been in Circulation for a Twenty five per Cent. depreciated Currency, skilfully (for their individual Interest) introduced by Invalids from India, Settlers from England and Scotland, Speculators from England, India and China. The Mercantile body, as far as I had an opportunity of judging, was in the utmost Consternation, aptly illustrated by His Excellency, by an allusion to an Earthquake at Lima. I thought I perceived here too a jealousy against my entering the lists of Competition, and there being only one Commission Establishment conducted with any System, which, as Contemporary with having the interests of Constituents in competition with its own similar speculations, could not be trusted with a delegation, which if duly acted upon must injure the sale of their own Stock, I could not employ. I thus situated was Compelled to employ my Clerk to sell in such manner as circumstances confined me to, and this "*private information,*" if I am not greatly mistaken, was immediately transmitted hence by a notorious felon who I may say descended from the Gibbet at Calcutta to thrive here in mercantile pursuits and Jesuitical hypocrisy.

Since then many strangers have been obliged to act similarly and to my certain knowledge Messrs. Aspinall, Brown and Co. broke their Invoices and apportioned them in quantities suited to the wants of their Customers; and their dignity and respectability cannot be questioned, while Mr. Brown appears publicly honored by the Condescending intimacy of the Colonial Secretary, who by walking Arm in Arm with him necessarily imparts a lustre emanating from the familiarity of high professional and Official Rank.

As to the Circumstance of my inability to proceed to England, while able to repair hither with every advantage, I beg leave only to assure His Excellency that, though it may be irreconcilable, it is an incontestible fact, with an explanation of which I shall not trouble His Excellency.

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V. Jacob's
letter of
explanation to
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Goulburn.

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letter of
explanation to
secretary
Goulburn.

On His Excellency's time and Indulgence I have made a most unwarrantable trespass, to which I shall not presume to add more than an assurance of my Conviction that I shall experience as much kindness in his consideration of it as my case is entitled to.

I have, &c.,

V. JACOB.

P.S.—Malevolence may enquire “why did he not resign instead of proceeding on Furlough”; to which I straightly answer that, desiring of forming connexions and securing Confidence in Quarters where I am unknown, and well aware that the most insuperable prejudices have been created in all parts of the World against this Community, the Individuals of which are generally believed to be void of integrity, I Considered the fact of my arriving here bona fide a Lieutenant in the service of the Honorable Company could not fail to guard my announcement of my Intention to accept Agency against the anathema, which every Idea connected with New South Wales would otherwise call forth; for in my Mind no collateral inference whatsoever in life could secure so much Confidence and prejudged title to it as the united fact of a Man having resided long in the East Indies, and particularly of a Servant of that Most Honorable Company whose authority is there recognized paramount.

V. JACOB.

[Enclosure No. 3.]

LIEUT.-COLONEL CASEMENT TO THE SECRETARY TO HIS MAJESTY'S
GOVERNMENT AT NEW SOUTH WALES.

Sir,

Fort William, 14th Novr., 1822.

Resignation of
V. Jacob.

1. Since the dispatch of my Letter No. 302 of the 18th of October last to your address respecting Lieutenant Jacob of this Establishment, a Communication has been received from that Officer, Containing his request to be permitted to resign the Honble. Company's Service, which has been complied with.

Governor
requested to
report re
E.I. Company's
officers.

2. In continuation however to that Letter, I am directed by the Most Noble the Governor General in Council to request that His Excellency Sir Thomas Brisbane, K.C.B., will have the goodness to bring to the notice of the Supreme Government of India the Name of any Officer of the Indian Army who may at any time be engaged in Commercial, Agricultural or other Speculations at the Colony of New South Wales or its Dependencies, such Speculations being contrary to the existing Regulations of this Service and not considered compatible with Military Rank or usage.

I am, Sir, &c.,

WM. CASEMENT, Lt.-Col., Secy. to Govt. Mily. Dept.

[Enclosure No. 4.]

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3 Sept.

SECRETARY GOULBURN TO LIEUTENANT-COLONEL CASEMENT.

Sir,
Colonial Secretary's Office, Sydney,
New South Wales, 26th May, 1823.

In acknowledgment of the receipt of your Letter No. 545 of the 14th of last November, I am directed to have the Honor to acquaint you that His Excellency the Governor will not fail to bring to the notice of the Supreme Government of India the Name of any Officer of the Indian Army, who may at any time be engaged in Commercial, Agricultural, or other Speculations at the Colony of New South Wales or its Dependencies.

Despatch
acknowledged.

Sir Thomas Brisbane feeling so fully convinced that such Speculations are contrary to the existing Rules of the Indian Service, that He has expressly refused a Grant of Land to Mr. Jacob until his reply to the Dispatch conveyed to me in your Communication of the 18th of last October shall have been deemed satisfactory by the Indian Government.

Grant of land
to V. Jacob
withheld.

I have, &c.,
F. GOULBURN.

[Enclosure No. 5.]

A LIST of Criminals Convicted of Murder in the Territory of New South Wales between the first day of January, 1810, and the present time.

Return of
criminals
convicted
of murder.

1810 and 1811.

Terence Flynn	John Shea
Martin Eagan	John Dunn
Thomas Clough	John Gould

1812 and 1813.

Thomas Mahony	John Kearns, Senr.
Pierce Condin	John Kearns, Junr.
Matthew Kearns	

1814 and 1815.

Michael Hallighan	John White
Alexander Sutter	John Shepherd
Thomas Turner	Patrick Collins
Dennis Donovan	

1816.

Philip Magee	Colin Hunter
Henry Laycock	Thomas Dooley
Patrick Dawson	Michael Ryan

1817.

John Walker	Richard Collin
Ralph Pearson	

1818.

George Gray	Hugh Duffy
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[Enclosure No. 5]—*continued.*A LIST of Criminals Convicted of Murder in the Territory of
New South Wales, &c.—*continued.*1823.
3 Sept.
Return of
criminals
convicted
of murder.

1819.	
Timothy Buckley	Michael Read
Timothy Ford	George Fenwick Jackson
David Brown	William Smith
John Morris	John Pagan
1820.	
John Kirby	James Dunleary
1821.	
James Robinson	William Swift
1822.	
Mary Ann Lyons	Thomas Barry

RECAPITULATION.

In 1810 and 1811	.....	6 No.
1812 „ 1813	.....	5
1814 „ 1815	.....	7
	1816	6
	1817	3
	1818	2
	1819	8
	1820	2
	1821	2
	1822	2
		43 No.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 34, per ship *Hibernia.*)

5 Sept.

Sir,

Downing Street, 5th Sept., 1823.

Reply to
memorial from
A. Villemont.

I beg to acquaint you that I have received a memorial from A. Villemont, a convict Felon, who was sentenced to transportation for the crime of Slave Dealing; and altho' I deem it objectionable in principle to encourage Persons of this Description to address memorials to His Majesty's Government otherwise than with your direct Sanction, yet, in consideration of the Memorialist's good conduct, which has been attested by four Magistrates, I have to desire that you will acquaint him that, due attention having been given to his case, it has not been deemed possible to comply with his prayer, and that the Allegation upon which that prayer is founded is not correct, his Accomplice Alexander Carrol not having received His Majesty's Pardon.

I have, &c..

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 35, per ship Hibernia.)

1823.
5 Sept.

Sir, Downing Street, 5 Septr., 1823.

I have recently had some communication with the Lords Commissioners of H.M. Treasury, respecting the principle which should be observed in fixing the Rations to be granted to Convicts in New South Wales; and I now transmit to you enclosed, for your information and guidance, Copies of the letters which have passed between my Under Secretary of State, and the Secretary to the Treasury upon that Question.

Convicts to be graded into three classes and to be rationed accordingly.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

UNDER SECRETARY HORTON TO SECRETARY HARRISON.

Sir, Downing Street, 13th June, 1823.

In reply to your letter of the 22d of May requesting me to ascertain Earl Bathurst's opinion upon the propriety of reducing the quantity of salt-meat issued to the Convicts in New South Wales, and upon the other Subjects adverted to in Deputy Commissary General Wemyss's letter of the 2d Septr., 1822, I have to acquaint you that his Lordship is of opinion that the rations should be fixed upon an average, and that, although hard working men cannot be supported unless they receive 7 lbs. of meat, &c. per week, there seems no reason for establishing that maximum in all cases. The Convicts may be divided into 3 Classes.

1st. Hard working men in the Service of Govt.

2d. Men who from age or infirmity are incapable of work.

3d. And men who have been returned on the hands of Govt. by the Settlers, because they would not work.

It becomes therefore a question whether it may not be convenient to establish three distinct rates of Rations. By this arrangement, a selection will be practicable and an incitement to good conduct established, as there will no longer be any temptation to quit the service of Individuals for the chance of remaining idle with the full Govt. allowance; but, if this plan be not adopted, it will be advisable to strike an average and to give an extra allowance to hard working men.

The Observation of Mr. Wemyss is perfectly correct that the substitution of Corn, whether of Indian Maize, which appears peculiarly adapted to the Climate of New S. Wales and to be of an excellent quality, or of wheat which is better suited to the Climate of Van Diemen's land, would inevitably give a stimulus to the cultivation of Land, and create a greater demand for the labor of Convicts, and on these grounds the recommended substitution appears highly desirable, altho' it may be expedient

1823.
5 Sept.

Convicts to be
graded into
three classes
and to be
rationed
accordingly.

to introduce the Change in a gradual manner. Mr. Commissioner Bigge, after commenting upon former and on the present rations allowed to Convicts, at pages 63, 64, 66 and 67 of his first Report, recommends expressly the introduction of Maize flour into rations allowed by Govt., stating that it is generally used by Settlers and found very nutritious, and he then adds:—"until the introduction of the flour of this grain for the breakfast of the Convicts can be generally adopted, the present ration is not larger than the labor of a Convict requires." I am also desired by Lord Bathurst to suggest that Tea and Sugar be forthwith discontinued as a regular part of the Government allowance, altho' it may still be afforded in sickness or as an indulgence and reward to individuals, who conduct themselves with particular propriety.

I am, &c.,

R. WILMOT HORTON.

[Enclosure No. 2.]

SECRETARY HARRISON TO UNDER SECRETARY HORTON.

Sir, Treasury Chambers, 2nd Sept., 1823.

The Lords Commissioners of His Majesty's Treasury having had under their consideration your letter of the 13th June last, respecting Rations issued to the Convicts at New South Wales, I have it in Command to acquaint you for the information of Earl Bathurst that my Lords entirely concur with his Lordship that it will be a proper and expedient measure to divide the convicts receiving Rations from the Public in New South Wales into three Classes.

1st. Hard Working Men in the Service of Government. That this Class should receive the full Ration at present established but without tea or Sugar, which articles do not appear to their Lordships to form a Species of Provisions to which Persons of this class should be entitled, neither does it appear that Articles of this Sort are necessary for their proper Subsistence.

2nd. Men who from Age or Infirmity are incapable of work. That the Governor of the Colony should be directed to communicate with the principal Medical Officers upon the spot and assign to this Class such a Ration as may be necessary for their Support, but that a much less allowance of Animal food than is allowed to the Hard working Men would be Sufficient for the Men of this Class.

3d. Men who misconduct themselves, or who have been returned on the hands of Government by the Settlers because they would not work. That the Governor should also be directed to communicate with the Medical Officers upon the Spot with a view of fixing the Ration to be assigned to these Men, and that Such

Ration should be limited both in quantity and quality to the Smallest Ration that can be allowed consistently with the Support of the Individuals. In fixing the Ration, it will be exceedingly important that it operates as a punishment to the Men without permanently endangering their Health. And my Lords will give directions to the Governor of New South Wales accordingly.

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5 Sept.

Convicts to be graded into three classes and to be rationed accordingly.

I am, &c.,

GEO. HARRISON.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.*

(Despatch per ship Hibernia.)

Sir, Downing Street, 11th Sepr., 1823.

11 Sept.

I am directed by the Earl Bathurst to transmit to you a Copy of the Rules and Regulations of the General Penitentiary for Convicts at Milbank, in order that you may be in possession of materials which may possibly enable you to improve the System of managing the Convicts under your Government.

Transmission of rules of Milbank penitentiary.

I have, &c.,

R. WILMOT HORTON.

[Enclosure.]

[A copy of these regulations is not available.]

EARL BATHURST TO SIR THOMAS BRISBANE.

(A circular despatch per ship Hibernia.)

Sir, Downing Street, 18th Sept., 1823.

18 Sept.

I have authorised the Secretary of the Society for the encouragement of Arts, Manufactures and Commerce, to transmit to you in future, through this Office, a copy of the Premiums offered annually by that body, amongst which are many that have been expressly proposed for the benefit of British Settlements abroad; and I have to desire that you will cause those which refer to New South Wales to be published in the Gazette of the Colony, with a view of exciting the attention of the Inhabitants to the advantage that may accrue to them from the production of various articles of Export, apparently adapted to their Climate and Soil, and for a supply of which this Kingdom is now chiefly, if not altogether, dependent upon Foreign States. It is also my wish that every reasonable facility should be afforded for the transmission to England of communications and Specimens of the Colonial productions.

Premiums offered for colonial products.

I have, &c.,

BATHURST.

* A duplicate of the above letter was also addressed to lieutenant-governor Arthur.

EARL BATHURST TO SIR THOMAS BRISBANE.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

30th September, 1823.

[Copies of these two despatches, which were acknowledged by Sir Thomas Brisbane on the 30th of July, 1824, are not available.]

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 36, per ship Hibernia.)

1 Oct.

Sir,

Downing Street, 1st October, 1823.

Appointment of
J. B. Richards
as assistant
surveyor.

As I deem it expedient that the establishment of Colonial Surveyors of Land should be maintained in a state of complete efficiency, I have to instruct you to appoint Mr. James Byrn Richards to be Fourth Assistant Surveyor of Lands with an annual Salary of £100 to be provided for out of the Revenues of the Colony.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 37, per ship Hibernia; acknowledged by Sir Thomas Brisbane, 8th June, 1824.)

2 Oct.

Sir,

Downing Street, 2nd October, 1823.

Appointment of
W. Balcombe
as colonial
treasurer.

I have to acquaint you that, in pursuance of the arrangements which have been for some time under consideration for the purpose of establishing your Government upon a system of more immediate efficiency, I have appointed Mr. W. Balcombe* to proceed to New S. Wales as Colonial Treasurer.

Salary to be
fixed by
Brisbane.

I have thought it preferable however not to assign any particular Salary to Mr. Balcombe, but to leave it to you to submit a proposition to me, upon the subject, founded upon the view of the duties which the Colonial Treasurer will have to perform, and the degree of pecuniary responsibility which will necessarily be imposed upon him; and you will in the mean time consider yourself authorised to issue such a moderate Salary as under all the circumstances you may consider it reasonable that he should receive.

Bonds to be
given by
W. Balcombe.

I have further to desire that you will favor me with your opinion as to the amount of the sum for which Mr. Balcombe and his Securities should give Bonds for the due execution of his Office, and for duly accounting for all monies which may come into his hands. His personal bond may be taken in the Colony, and that of his Securities will be entered into hereafter with the Board of Treasury.

I am, &c.,

BATHURST.

* Note 36.

SIR THOMAS BRISBANE TO UNDER SECRETARY WILMOT.

1823.
2 Oct.

(Despatch per ship John Bull.)

Government House, Sydney, New South Wales,

Sir,

2nd October, 1823.

Having made every Enquiry, in consequence of your letter of the 2nd of last March, respecting Mr. Mell formerly Paymaster of the 102 Regiment, I am induced to believe that this Gentleman is in America.

Report re
John Mell.

I have, &c.,

THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 38, per ship Hibernia.)

Sir,

Downing Street, 3d October, 1823.

3 Oct.

Having, in my despatches of the 30th and 31st of May, explained to you the principle on which Quit Rents should be established with respect to every future Grant of Land, subject to a facility of Redemption at the option of the Grantee, I am now anxious to point out to you the necessity of making sufficient Reserves in every district, which may in future be granted out for the maintenance of both a Clerical and a School Establishment. The land so reserved should be let in the same manner as other lands; but as there can be no power of redemption of the Rents imposed on them as it is intended to preserve them for specific uses, a certain deduction must be made from the amount of that Rent, so that Parties may have a beneficial interest in taking a lease of them, altho' their ultimate conversion into fee Simple property may not be possible. I should feel considerable difficulty in directing the minute details which must regulate the proposed reservation; but having correctly pointed out to you the principle which it is desirable to execute, I must request you to report to me forthwith as to the manner in which that principle can be most beneficially enforced. It is perfectly clear that, in the first instance, the proceeds from the rent of these Lands will not be sufficient to remove the expence of Clergymen, or of Schools, from the general Colonial funds; but, in proportion as the Country becomes civilized and populous, these lands will increase in value and ultimately prove adequate, or more than adequate, to the purpose. It must, however, be distinctly understood that the annual rent, which is to be derived from these lands, is not to be exclusively employed of necessity in the maintenance of the Clergy, or indeed of the Scholastic Establishments; but such sums, as may be deemed necessary by the Executive Government for the maintenance of those two establishments, are

Instructions re
reservations
of land for
church and
school
purposes.

1823.
3 Oct.

Instructions re
reservations of land for
church and
school
purposes.

to be subtracted from the General Proceeds of these Reserves; and the Overplus, if any, paid into a Fund where it may be applicable for the purposes generally of supplying any deficit in the expense of maintaining these Establishments throughout the Colony; and, as I am afraid that this principle of setting apart Reserves has not hitherto been acted upon with any regularity, the disposal of such a Surplus, should it ever exist, would be of very easy application.

Reservation
of commons.

The Commissioner, in his Report, recommends the Reservation of Commons; and a strong reason for the policy of such reservation, in particular instances, is founded on the necessity, which the Colonists would find of driving their Herds to a place of pasturage, in the event of a flood having made their own low Lands too foul to feed on. But this necessity must of course be limited to particular Districts; and I consider that great doubts may be entertained of the Policy of maintaining these Reserves of Common Land as a general measure, especially if the spirit of the Instructions, which I have given you with respect to the granting of Land, be fully acted upon. I have therefore to desire that you will forthwith report to me on this subject.

Reserves for
maintenance
of educational
establishments.

The nature and character of the Schools to be instituted must necessarily be regulated by the nature of the population for which they are intended. The first point will be to secure to every Child the means of acquiring a good practical English Education; and on that basis it will be easy to establish, progressively, such improvements and refinements as the progressive State of Society may render necessary. But the extent of the School Reserves must be calculated, not merely with reference to the Institution of Primary Schools of a simple Nature, but of Schools of a higher Order and ultimately of an Establishment of the nature of an University.*

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 39, per ship *Hibernia*; acknowledged by Sir Thomas Brisbane, 30th September, 1824.)

20 Oct.

Sir,

Downing Street, 20th Oct., 1823.

Appointment of
S. Bannister
as attorney-
general.

Mr. Saxe Bannister, who has been appointed Attorney General of New S. Wales, will have the honor of delivering this letter to you, and altho' he cannot commence his Official Duties until the arrival of the Charter of Justice, yet he may possibly be of service in assisting Mr. Forbes in making the necessary arrangements preparatory to the opening of the Supreme Court.

Salary voted
for attorney-
general.

You will perceive by the Estimate that the Sum of £600 has been voted by Parliament as a Salary to the Attorney General;

* Note 37.

but as that Sum will not be a sufficient remuneration for the Services of Mr. Bannister, you will direct the Chief Justice to draw out a Docket of Fees payable to the Attorney General, to be calculated at such a rate as to produce on an average £600 a year, making the total of Mr. Bannister's Emoluments from Government amount to £1,200 per annum. If however the Fees should exceed that sum, Mr. Bannister will be required to pay the Surplus into the Police Fund; and in the event of their not amounting to £600 per annum you will cause the deficiency to be made good to the Attorney General from the Colonial Revenue.

1823.
20 Oct.

Fees to be attached to the office.

With respect to the Private Practice, which Mr. Bannister will be allowed to perform, I think it necessary to inform you that I have no objection to his acting as Advocate under the same restrictions as are observed in this Country; but I am of opinion that it would be improper to permit him to practice as a Solicitor; you will therefore take care that the instructions contained in this letter are in every respect strictly observed.

S. Bannister to be allowed to practise privately as an advocate.

I have, &c.,
BATHURST.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Hibernia.)

Sir, Downing Street, 20th October, 1823.

I have the honor to transmit to you, by Lord Bathurst's direction, the Copy of a letter from Mr. Macqueen requesting an extensive Grant of Land in the Interior of New S. Wales, on which he proposes to employ a number of Convicts, and to fulfil the usual conditions thro' the medium of Resident Agents and Overseers.

Request of J. P. Macqueen for land grant.

You will perceive by my answer to Mr. Macqueen (a copy of which is enclosed) that Lord Bathurst has acceded to his request, and as Captain McArthur,* who will deliver this letter to you is proceeding to the Colony, and is commissioned to appoint resident Overseers, I am to signify to you Lord Bathurst's desire that a Grant of 10,000 Acres may be made to Mr. Macqueen, in such part of the interior of the Colony as may be considered favorable by Captain McArthur with a reservation of 10,000 adjoining Acres, to be granted to Mr. Macqueen, when the original Grant shall be brought into full and successful Cultivation; and I am to request that you will cause every facility to be afforded to Captn. McArthur in the undertaking which he is about to commence on the part of Mr. Macqueen.

Land to be granted to J. P. Macqueen.

I have, &c.,
R. WILMOT HORTON.

* Note 38.

1823.
20 Oct.

[Enclosure No. 1.]

MR. J. P. MACQUEEN TO UNDER SECRETARY HORTON.

My dear Sir,

Park Lane, 21st July, 1823.

Application of
J. P. Macqueen
for a land
grant.

The New South Wales Bill having now received the royal assent, I am desirous to ascertain how far Lord Bathurst may be disposed to favor the Investment of Capital by Persons not actually resident in the Colony.

From the returns recently laid before Parliament, it appears that the Expenses of the Colony for the Year 1822 have exceeded £450,000 Sterling.

It is evident that the only mode of diminishing this enormous burthen is by holding forth encouragement to Settlers, possessing sufficient Capital to employ Convicts on their own account, to Emigrate.

I am inclined to believe that an English Landed Proprietor, purchasing land in the Colony, might readily cause a portion of his dependents, for whom a sufficiency of remunerative labour cannot be provided at home, to emigrate, and an honest and wholesome Population be consequently imported.

Under these Impressions, I take the Liberty of applying to you to ascertain, if a Grant of Land in the *Interior of the Country* might be allotted to me on the same terms, on my undertaking to send out resident Agents and Overseers, and to invest Capital *to any extent* that may be required; and further to employ Convicts either with regard to proportional extent, or discharge of Quit Rents, as may be deemed more advantageous.

I beg however to state that, to Carry fairly into effect the experiments I am anxious to undertake, I should wish to treat for the possession of 20,000 acres, Or, should that quantity appear too large in the first Instance, then to obtain 10,000, with an understanding that on the accomplishment of the terms required, the additional allotment of 10,000 *adjacent* acres be subsequently granted.

I beg leave to observe in conclusion that I conceive the successful result of the Experiment, I propose to establish, must occasion the importation of a large and valuable body of British Subjects now actually in the Situation of Parish Paupers, and who may be placed in a condition where their honest Industry may provide them with every necessary and Comfort, and materially add to the Commerce and Mercantile Interests of the Mother Country.

I have, &c.,

J. POTTER MACQUEEN.

[Enclosure No. 2.]

1823.
20 Oct.

UNDER SECRETARY HORTON TO MR. J. P. MACQUEEN.

My dear Sir, Downing Street, 18th Aug., 1823.

I have in obedience to your request laid before Lord Bathurst your application for a Grant of land in the interior of New South Wales on the usual terms, subject to your sending out at your own expence resident Agents and Overseers, and employing Capital to the extent that may be required by the regulations in force in that Colony, and to your employment of Convicts as proposed; and I have to inform you that Lord Bathurst will consent to your having a grant made to you of 10,000 Acres, which is as large a Grant as his Lordship thinks it proper to make to any individual; but he will take care to direct that 10,000 adjoining Acres may be kept in reserve, with the view of your obtaining that addition, when the first Grant is brought into full and successful cultivation.

I have, &c.,

R. WILMOT HORTON.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Hibernia.)

Sir, Downing Street, 20th Octr., 1823.

As a Commentary on an official letter addressed to you respecting a Grant of Land to Mr. Macqueen, it is as well to explain that, in this case and probably in others in which similar Grants may be made, the Grantees will send out to the Colony bona fide Representatives, who have the disposal of their employer's Capital, and who therefore are competent to fulfil completely those conditions of cultivation, which, by late regulations sent to you from Lord Bathurst, are to be employed in every future instance.

I have, &c.,

R. WILMOT HORTON.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.*

Sir, Downing Street, 24th Octr., 1823.

24 Oct.

This letter will be delivered to you by Mr. James Stirling Harrison, who is proceeding as Tutor to Mr. Balcombe's Family, and as he has been recommended to Lord Bathurst as a Gentleman of great respectability, I am directed by his Lordship to introduce him to your notice and protection.

I have, &c.,

R. WILMOT HORTON.

* Note 10.

1823.
24 Oct.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship *Hibernia*; acknowledged by Sir Thomas Brisbane, 6th November, 1824.)

Sir, Downing Street, 24th Octr., 1823.

Report required
re Wm. Gore.

I have the honor to enclose to you the extract of a letter addressed to me by Viscount Palmerston, respecting the death of a Mr. William Gore, and I request that you will afford me such information on the subject, as you may be enabled to collect.

I have, &c.,

R. WILMOT HORTON.

[Enclosure.]

VISCOUNT PALMERSTON TO UNDER SECRETARY WILMOT.

My Dear Wilmot, Star St., 26 Sept., 1823.

Inquiries re
Wm. Gore.

It would be very agreeable to me if you could with Truth assure me that William Gore, Esqr., Provost Marshal at Sidney in the Colony of New South Wales, has paid the Debt of Nature; But if He is still alive, it would be at least Some Consolation to me to hear that Melancholy Fact from the best authority; and if the Documents in your Office do not happen to enable you to answer my Inquiry, I should really be obliged to you if you would add to your next Letter to Sidney a little Postscript to inquire about my dear Friend Mr. Gore. You may perhaps Suspect that this interesting Individual is a last Life in an old Irish Lease, and hence these Inquiries.

I have had a most amusing Tour through Holland and by the Rhine as far as Baden, with Scarcely a Drop of Rain the ——
(signed as) LORD PALMERSTON.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship *Hibernia*.)

Sir, Downing Street, 24th Octr., 1823.

Particulars of
sentence of
P. Marigan.

Having referred to Mr. Peel the Petition of Patrick Marigan, a Convict at New South Wales, representing some inaccuracy in the term of his Sentence, I am directed by Lord Bathurst to transmit to you herewith the copy of a letter from Mr. Dawson, together with its enclosures, by which you will perceive that Marigan was capitally convicted of Burglary, which Sentence was commuted to Transportation for Life, consequently there can be no ground for the allegation, contained in his Petition, respecting the inaccuracy of the time for which he was transported.

I have, &c.,

R. WILMOT HORTON.

[Enclosure.]

1823.
24 Oct.Papers relating
to sentence on
Patrick
Marigan.

MR. GEORGE DAWSON TO UNDER SECRETARY HORTON.

Sir, Whitehall, 25 Sept., 1823.

Having referred to the Lord Lieutenant of Ireland the Petition transmitted in your Letter of the Ultimo, which was presented to Mr. Commissioner Bigge when at New South Wales by Patrick Marigan, a Convict there, representing some inaccuracy in the term of his Sentence, I am directed to transmit to you a Copy of the Letter with its Inclosures which has been received from Mr. Goulburn upon the subject, and I am to desire that you will lay these Papers before Lord Bathurst, and move His Lordship to communicate the same to the Governor of New South Wales.

I am, &c.,

GEO. R. DAWSON.

[Sub-enclosure No. 1.]

SECRETARY GOULBURN TO UNDER SECRETARY HOBHOUSE.

Sir, Dublin Castle, 12th Sept., 1823.

I have to acknowledge the receipt of your Letter of the 21st Ult., enclosing the Petition of Patrick Marigan, and having caused the necessary enquiries to be made relative to his assertion of the term of his Sentence of Transportation being Seven Years, and not for Life, I enclose for Mr. Secretary Peel's information the certificate of his Conviction, signed by the Clerk of the Crown for the County of Cork, by which Mr. Peel will observe that Marigan was Capitally Convicted of Burglary, and which Sentence, upon reference to the Entry made of the decision upon the Prisoner's case, appears to have been commuted to Transportation for Life, and that therefore there is no ground for the allegation made by Marigan in his Petition which is herewith returned.

I am, &c.,

HENRY GOULBURN.

[Sub-enclosure No. 2.]

CERTIFICATE OF SENTENCE ON PATRICK MARIGAN.

County of } I CERTIFY that at a General Assizes and General
Cork. } Gaol Delivery, holden at the King's Old Castle,
Cork, in and for said County on Friday the 7th
day of Aug. 1812, Patrick Marigan was at said Assizes Indicted
tried and in due form of Law found Guilty for that he being an
evil disposed person, and not regarding the Laws and Statutes
of this Realm, or the Pains and Penalties thereof, together with
divers other Ill disposed persons on the 1st day of June in the
52d Year of the King at Clonnell, after Sun Set of the same day
and before the Sun Rise of the next day following, being unlaw-
fully assembled, did feloniously, forcibly and maliciously break

1823.
24 Oct.

Papers relating
to sentence on
Patrick
Marigan.

into the Dwelling House of John Gibbons there situate against the King's Peace and against the form of the Statute. Whereupon Judgment was given by the Court that the said Patrick Managan should be hanged by the Neck until he be dead on Saturday the 22d day of Aug., 1812, at Dungorney in the County of Cork aforesaid: All which I certify this 30th day of August, 1823.

JAMES CHATTERTON, Clerk of the Crown.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Hibernia.)

Sir, Downning Street, 24th Octr., 1823.

Medical
comforts to be
accounted for.

I am directed by Lord Bathurst to transmit to you here-with an account shewing the quantities of Medical Comforts &c. supplied by the Masters of Transports and Convict Ships to the Military Hospitals at New South Wales and Van D. Land, and to desire that you will cause the same to be duly accounted for.

I have, &c.,

R. W. HORTON.

[Enclosure.]

[A copy of this account is not available.]

SIR THOMAS BRISBANE TO UNDER SECRETARY WILMOT.

(Despatch per ship John Bull.)

Government House, Sydney, New South Wales,
4th November, 1823.

4 Nov.

Sir,

Decision against
purchase of the
brig Urania.

I have the honor to acknowledge the receipt of your letter of the 11th June, 1822, brought by the Master of the Urania, and recommending his brig to my attention in the event of a vessel of Her description being wanted for the Service of Government; and in reply I have the honor to acquaint you that, altho' Mr. Oxley is expected to return shortly from the voyage ordered in the dispatch from Lord Bathurst bearing date the ninth of last September, yet considering the improbability of his making at this late day, after the Eastern Coast of New South Wales has been already Surveyed so minutely, a discovery of any harbor fit for the reception of a Vessel of her class, I did not deem it expedient, on the chance of being able to employ her upon the only service in which she could be useful to the Colony, to close with the high terms of the Master of the Urania.

I have, &c.,

THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.*

(Despatch No. 40, per ship Brothers.)

1823.
5 Nov.

Sir, Downing Street, 5th Novr., 1823.

I have the honor to transmit to you the Copy of a letter, addressed to my Under Secretary by the Secretary to the Board of Trade, enclosing one from His Majesty's Consul General at Rio Janeiro representing that two British Vessels having arrived there from New South Wales and Van Diemen's Land, with Cargoes of Wheat and Coals, were subjected to the Foreign Duties of 24 per cent., because they were not furnished with Custom House Cockets and Consular Certificates, and I have to desire that you will direct every British Vessel proceeding with a Cargo from New South Wales for the Brazils to be furnished with a Custom House Cocket and Certificate, in order that upon her arrival she may be allowed to enter upon payment of the duties of 15 per cent.

Papers
required by
ships trading
from N.S.W.
to Brazil.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

MR. THOMAS LACK TO UNDER SECRETARY HORTON.

Office of Committee of Privy Council for Trade,

Sir, 23 October, 1823.

The Lords of the Committee of Privy Council for Trade, having had under their consideration the Copy of a Dispatch from His Majesty's Consul at Rio Janeiro, Stating the recent arrival at that Port of two British Vessels from New South Wales and Van Diemen's Land, with Cargoes of Wheat and Coals, which have been subjected to the foreign Duties of 24 per Cent., because they were not furnished with Custom House Cockets and Consular Certificates, I am directed to transmit to you a Copy of the same for Earl Bathurst's Information; and as it is Stated that the Trade in question may, if properly protected, prove to be of considerable advantage to those Settlements, I am further directed to request that you will submit to His Lordship the Expediency of directing the Governors, or other Authorities at New South Wales and Van Diemen's Land, to furnish the necessary Certificates to British Vessels trading from these Settlements to the Brazils.

I am, Sir, &c.,

THOMAS LACK.

[Enclosure No. 2.]

MR. H. CHAMBERLAIN TO LORDS OF COMMITTEE OF PRIVY COUNCIL
FOR TRADE.

Sir, Rio de Janeiro, 28th July, 1823.

Two British Vessels have lately arrived from New South Wales and Van Diemen's Land with Cargoes of Wheat and

* A duplicate of this letter was forwarded to lieutenant-governor Arthur.

1823.
5 Nov.

Papers
required by
ships trading
from N.S.W.
to Brazil.

Coals, which have been subjected to the Foreign Duties of 24 pr. Cent., because they were not furnished with Custom House Cockets and Consular Certificates, and the Government in answer to my application for their being allowed Entry upon Payment of Duties of 15 pr. Cent., according to Treaty, have replied that this cannot be complied with because the terms of the Convention of London between the English and Portuguese Commissioners, subsequent to the Treaty, have not been observed, nor the usual legal Certificates produced according to the practice followed by British Vessels from Guernsey, Jersey and the Cape.

Thus in this case, the Convention, as made to supersede the Treaty to which it was merely an auxiliary and explanatory Measure and the non-existence of a Custom House and a Consul in the British Colony, renders null the Stipulation in favor of its Produce when imported into this Country.

However not being aware of the Intentions of His Majesty's Government respecting a Trade between New South Wales and Brazil, I do not feel inclined to press the subject further for the present; and I shall wait until I may be honored with those Instructions to regulate my Conduct in this regard, which I beg leave most respectfully to request may be sent to me.

It is proper to add that the two Cargoes before mentioned, being found of superior qualities to similar Articles from other Countries, have found Prices which will probably encourage more to come this way, and that the Trade may eventually, if fostered, be of considerable advantage to the Colony and to British Shipping, for which latter it will find Employment on the return Voyage towards Great Britain.

I have, &c.,
H. CHAMBERLAIN, Consul General.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Brothers.)

Sir, Downing Street, 5th Novr., 1823.

I am directed by Lord Bathurst to acquaint you that he has appointed Mrs. Fulloon to be Superintendant of the Female Factory at Parramatta with a Salary of £100 per annum, and, as her husband will be required to superintend a different branch of the Factory, he will receive a Salary of £50 per annum both to be paid from the Police Fund; Lord Bathurst is also of opinion that they should occupy Apartments in the Factory, and should receive two single Rations and Coals. If however Mr. and Mrs. Fulloon should conduct themselves perfectly to your satisfaction, his Lordship would be disposed to approve of a further allowance of

Appointment of
Mr. and Mrs.
Fulloon to
female factory
at Parramatta.

two single Rations which must however depend upon your experience of their good behaviour, and you will be at liberty to discontinue that indulgence if you should see any cause for so doing.

I have, &c.,

R. WILMOT HORTON.

1823.
5 Nov.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 11 of 1823," per ship John Bull.)

Government House, Sydney, New South Wales,

My Lord,

6th November, 1823.

6 Nov.

On the arrival of the Woodman with female Convicts the Surgeon Superintendent Mr. Fairfowl pressed the necessity of an enquiry into some unpleasant circumstances, which had occurred on board that Vessel during her passage to this port. Accordingly I directed a board to be assembled composed of three Gentlemen who had themselves severally filled the situations of Surgeon Superintendent, Officer of the Guard and Chief Mate of a Convict Vessel. Their proceedings having ended on the first day of their assembly in consequence of the Master of the Woodman quitting the room abruptly, the duties left for me to perform were only two, to refuse to insert into his certificate the clause expressing my approbation of his conduct, and to forward herewith to Your Lordship the only documents relating to this difference which have come into possession.

Inquiry into
conduct of
master of
female convict
ship Woodman.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

SURGEON FAIRFOWL TO SIR THOMAS BRISBANE.

Convict Transport the Woodman,

Sir,

Sydney, 25th June, 1823.

I have the honor to report the Arrival of the Ship Woodman, 419 tons, with Ninety four female Convicts and thirty eight Women and Children free passengers.

Arrival of
ship Woodman.

The Woodman received her Convicts and Passengers at Cork on the 22nd day of December last, but did not sail until the 26th of January.

Departure
from Cork.

Many of the Convicts were sickly at the time of Embarkation, several came direct from Hospitals, and before they had been a week on board the sick list exceeded thirty, consisting principally of female complaints. A very limited selection only was allowed me there being no Convicts in the jails to replace those whom I might reject; as it was, we sailed three short of our complement which was 100.

Health of
the convicts.

1823.
6 Nov.

Anxiety of
surgeon re
health of
convicts.

At Sea the Sick list did not for some time decrease in number, and we lost one Woman within the first fortnight by abortion caused by Sea Sickness. As we approached the Equator, the heat of the Prison, which by a register thermometer ranged during the night from 83 to 91½, reduced many to a very dangerous state, and for a long time I was seriously apprehensive of a great mortality, aware also that even the healthy female system could not long with safety be exposed to so high a temperature in a close atmosphere; I became anxious to get through the tropics as quickly as possible, and therefore wrote several pressing letters to the Master of the Ship, stating my reasons in the strongest manner for desiring him to proceed for Water to the Cape of Good Hope, and not to Rio de Janeiro. My representations were treated with contempt and defiance of them, in utter disregard of the health, the comforts, even the lives of the Women under his charge, which I had represented as in danger; he, without condescending to give one efficient reason for so doing, put into the latter port, where we were detained three weeks by the slow mode of watering and by an embargo laid on all shipping, in consequence of Lord Cochrane having taken the Command of a Brazilian Squadron which sailed to attack Bahia de todos as Santor.

Refusal of
master to
comply with
surgeon's
request.

Health of
convicts after
leaving Rio.

We sailed from Rio on the 8th of April, since which we have buried two Women. The sick list decreased after we got to the Southward of the tropic, and we continued healthy until within the last three Weeks when we had some serious cases of Dysentery caused by the cold damp state of the prison from numerous leaks, &c. I have however the pleasure to report that they are all in a fair way of doing well though some are much reduced.

Complaint
against conduct
of master.

In compliance with my Instructions, I have done every thing in my power to prevent illicit intercourse between the Sailors and the Women. I regret to have to add that I have not met with that support and assistance from the Master, which I had a right to expect, and that he has given me many reasons to be dissatisfied with his conduct.

I have, &c.,

GEO. FAIRFOWL, Surgeon and Superintendent.

[Enclosure No. 2.]

MR. HENRY FORD TO SIR THOMAS BRISBANE.

Sir,

The inclosed is from Mr. George Naylor of Rio de Janeiro; the contents I believe are to recommend me to Your Excellency's protection in case Mr. Fairfowl, Surgeon and Superintendent of this Ship, should (as he has threaten'd) take measures to injure me and stop the Ship's Freight.

Evidence
tendered by
master.

I beg Your Excellency will be kind enough to suspend your opinion (when Mr. Fairfowl may think proper to bring his charges against me) until Your Excellency has heard both sides of the Question.

I have, &c.,

HENRY FORD,

Master of the Female Convict Ship Woodman.

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Evidence
tendered by
master.

[Enclosure No. 3.]

MR. GEORGE NAYLOR TO SIR THOMAS BRISBANE.

Sir,

Rio de Janeiro, 5th April, 1823.

Having had the honor of some acquaintance with Your Excellency when you touched at this port in 1821, I take the liberty of addressing you on the present occasion.

The Woodman female Convict Ship, Commanded by Mr. Henry Ford, having come in here, and being consigned to the House in which I am associated, the Master informed me that the Surgeon and Superintendent, Mr. George Fairfowl, had threatened to complain of him to the Navy Board for putting into this port instead of into the Cape of Good Hope, and to make other charges against him, partly arising from a private quarrel between them. Mr. Ford wished very much to have their dispute accommodated and I took some pains to effect this, but found Mr. Fairfowl deaf to any arrangement short of a public apology before the Officers and Crew of the Ship and the whole of the free Passengers and *Convicts*; and feeling persuaded that the circumstances did not warrant such concession, but that, on the contrary, much of Mr. Fairfowl's hostility was without just motives, and that he had been on bad terms with the Masters of other Vessels, in which he had filled the same capacity as he does in the Woodman, I advised Mr. Ford to make application to Mr. Chamberlain, the British Consul General, for an enquiry into his (the Master's) conduct, which was done by Mr. Heatherly, the Vice-Consul, going on board and taking the Depositions of several of the Officers and of the free passengers, all tending to invalidate the charges of Mr. Fairfowl; the Vice-Consul was directed by the Consul General to ask Mr. Fairfowl if he wished any person on board to be examined respecting the Master's conduct, and received for answer that he (Mr. Fairfowl) considered "himself both Judge and Jury," and therefore should not call any one.

Attempt to
settle dispute
between surgeon
and master at
Rio de Janeiro.

I have troubled Your Excellency with this detail, because I have known Mr. Ford for some years, as a good Officer on board different Vessels, and as he has, from his meritorious conduct, just got this Ship, I am anxious that he should have fair play, which I insure to him by placing the real state of the business before Your Excellency, as he informs me that the Surgeons can

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6 Nov.

refuse to sign the Certificates for the recovery of the Freight, which of course would injure him in the opinion of his owners, and might cause him to lose his Command.

Brazilian war
of liberation.

We continue in the same state of Warfare that has existed for the last fourteen Months, and as we have now the assistance of Lord Cochrane, who sailed a few days ago as High Admiral of the Brazilian Navy, to act against the Portugueze Squadron in Bahia in which place some Portugueze Troops still maintain themselves, we expect that Brazil will soon be free from European Soldiers.

I request that Your Excellency will give my respectful compliments to the Ladies, and that you will pardon this intrusion on your time and patience.

I have, &c.,

GEORGE NAYLOR.

[Enclosure No. 4.]

BOARD OF INQUIRY TO SECRETARY GOULBURN.

Sir, General Hospital, Sydney, 14th August, 1823.

Report of the
board of
inquiry.

Having assembled, in obedience to the orders of His Excellency the Governor dated 8th Instant, for the purpose of inquiring into the circumstances which occur'd between Mr. Fairfowl, late Surgeon and Superintendent of the Woodman Convict Ship, and Mr. Ford, Master of the said Ship, on the passage to this Colony,

The Board proceeded to hear Mr. Fairfowl's statement of the occurrences which took place from Ireland to Rio de Janeiro, when Mr. Ford, from motives which he declined to explain, protested against the proceedings of the Board and abruptly left the room.

Waiting the further instructions of His Excellency,

We have, &c.,

J. BOWMAN

JNO. NICHOLSON

WM. WILSON

} Members.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 12 of 1823," per ship John Bull.)

Government House, Sydney, New South Wales,

10 Nov.

My Lord,

10th November, 1823.

Free pardons
granted to
Reilly, Smith,
and McLeod.

In pursuance of the directions conveyed to me in your Letters of the 20th and 21st February, and the 3rd of June, 1823, I have the honor to acquaint you that Free Pardons have been granted to James Reilly, William Sydney Smith and Gilbert McLeod.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO SECRETARY LUSHINGTON.

1823.
11 Nov.

(Despatch per ship John Bull.)

Government House, Sydney, New South Wales,

Sir,

11th Novr., 1823.

Previously to the arrival of your dispatch of the 31st of last December, I had received from Deputy Commissary General Wemyss an explanation why his accounts of Sums, advanced by him for the ordinary Service of the Army from the 25th November, 1821, to the 24th April, 1822, had not been furnished at an earlier date to the Lords Commissioners of His Majesty's Treasury. I am fully aware that Mr. Wemyss, as he states in the accompanying enclosure, labored under great inconvenience on his succession to Mr. Drennan; but from the improved system in which the duties of his department are now conducted, I am convinced that I can safely promise, with the concluding period of his letter, that "their Lordships may rest assured they shall not have occasion to convey a second censure."

Dep. com.-gen.
Wemyss' explanation
of delay in
transmission
of accounts.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

DEPUTY COMMISSARY-GENERAL WEMYSS TO SIR THOMAS BRISBANE.

Sir, Commissariat Office, Sydney, 4th July, 1823.

I was yesterday favored with a Communication from the Treasury, of which, for Your Excellency's information, I take leave to submit a copy.

As will be seen from the Copies of my Letters to the Treasury Board, which I use the freedom also to enclose, all the accounts I could get prepared were sent by the Shipley and Venerable; and I have now to report to Your Excellency that by the first Vessel, which leaves this Port, my Accounts From 25th March To 24th June, From 25th June To 24th Septr., 1822, will be sent, being now in readiness. I need not here repeat, what Your Excellency knows so well, the inconveniences I labored under in consequence of the protracted stay of my Predecessor, by which were entailed on me other than my own proper duties; these however removed and my office better arranged, Their Lordships may rest assured they shall not have occasion to convey a second censure of the kind.

I have, &c.,

W. WEMYSS, D.C.G.

1823.
15 Nov.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 13 of 1823," per ship John Bull; acknowledged by Earl Bathurst, 12th July, 1824.)

Government House, Parramatta, New So. Wales,

My Lord,

15 Novr., 1823.

On my appointment to the Government of this Colony, I felt anxious to promote Science, and particularly that of Astronomy; with which intention I engaged Mr. Rumker,* a Prussian by Birth, and who was well known by reputation to the learned from various observations and valuable matter he had set forth to the World, and who came strongly recommended to me, and I was glad to avail myself of his Services; and in order to shew Your Lordship, that I had not been deceived as to his qualifications, the Board of Longitude have lately voted him One hundred pounds for his valuable communications. I was induced on his pressing solicitations to make him a Grant of One thousand Acres of Land, on his assuring me he should continue to devote himself to scientific Pursuits; but the perfect reverse has been the case, for, as soon as he obtained the grant which he pressed for with most anxious solicitude, he withdrew to his Farm, where he has continued for the last five months without complying in the smallest degree with his faithful promises. My object therefore in troubling Your Lordship is to request you to withhold Your sanction to the confirmation of Mr. Rumker's Grant beyond the 2 or 300 Acres he may have occasion for his Stock, as I was only induced to make him a Grant to that extent under the pledge of a faithful promise, which he has completely broken, and has not only deceived me but frustrated the hopes that had been excited amongst men of Science from his labors.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 14 of 1823," per ship John Bull.)

Government House, Sydney, New South Wales,

My Lord,

17th November, 1823.

The Report, which I have the honor of enclosing, has been received from the Principal Surgeon of the Territory in consequence of the Ship Ocean having arrived in this harbour with her Convicts afflicted so considerably with the Scurvy that Forty were obliged to be disembarked and taken into the Hospital immediately, when I deemed it to be my duty to cause an enquiry to be made, whether Sickness so unusual was attributable to deficiency of attention or professional skill on the part of Doctor McTiernan, her Surgeon Superintendent.

I have, &c.,

THOS. BRISBANE.

Engagement of
C. S. Rumker
for astronomical
work.

Land granted to
C. S. Rumker
conditionally.

Proposal
for non-
confirmation
of grant.

17 Nov.

Arrival of ship
Ocean with
convicts
afflicted with
scurvy.

* Note 39.

[Enclosure.]

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17 Nov.

PRINCIPAL SURGEON BOWMAN TO SECRETARY GOULBURN.

Sir, General Hospital, Sydney, 29th Sept., 1823.

I have the honor to acknowledge the receipt of your letter of the 18th Inst. communicating the Governor's instructions to me to undertake a minute examination of the Medical Journal of the Surgeon Superintendent of the Ocean Convict Ship, and report for His Excellency's information whether sickness so unusual is to be attributed to deficiency of attention or professional skill on the part of Doctor McTiernan.

Report by
J. Bowman on
examination
of journal of
surgeon of
ship Ocean.

In reply I have to acquaint you for the information of The Governor, that having perused the Medical Journal of that officer, I do not find any statement of the cause of the disease, which prevailed among the Convicts during their voyage to this Colony, is attributable.

Dr. McTernan has given with considerable care a lengthened detail of the treatment of various patients under his charge, and the daily occurrences which took place, without reference to the manner the diseases originated; he has stated the facts as they came before him and not attempted any theoretical hypothesis. This you will perceive completely prevents me carrying His Excellency's wishes into effect, as no cause of disease is assigned in the Journal.

Referring to the latter part of your letter respecting the professional skill of Doctor McTernan, I beg to be excused giving any opinion, that gentleman having by a public examination proved himself qualified for the situation he holds in His Majesty's service; as he is now serving under the immediate control of the Medical Board of the Navy, and is obliged to produce his Journal to that Board on his return to England, he is held responsible by them for the treatment of the sick under his care, consequently any opinion I could offer is rendered unnecessary.

I have, &c.,

J. BOWMAN, Principal Surgeon.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 41, per ship Brothers.)

Sir, Downing Street, 22d Novr., 1823.

22 Nov.

I have the Honor to acknowledge the receipt of your Dispatch of the 21st February, 1823, enclosing the proceedings which have taken place before a Bench of Magistrates in New South Wales, with respect to the "Ben Johnson," a Vessel from the Isle of France which arrived under charge of the Mate, her

Legal opinion
re transactions
on brig
Ben Johnson.

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Legal opinion
re transactions
on brig
Ben Johnson.

master having been forcibly deprived of his proper Command, and to acquaint you that, having referred the same for the opinion of His Majesty's Advocate General, he reports that the substance of the Affidavits and the Statement made by the Master himself do not appear to support a charge of mutiny or conspiracy against the parties Loyd, Greaves or Burnet, and is of opinion they ought not to be detained unless the Master or Owners have preferred any charges against them on their own responsibility.

I have, &c.,
BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship John Bull.)

Government House, Sydney, New South Wales,

23 Nov.

My Lord,

23d November, 1823.

Transmission of
monthly returns
of troops.

I do myself the honor to forward, for the information of Your Lordship, the General Monthly Returns of the Troops Serving in this Territory from 25th of July to 24th of October, 1823, inclusive.

I have, &c.,
THOS. BRISBANE, M.-Gen'l.

[Enclosure.]

[Copies of these returns are not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 15 of 1823," per ship John Bull.)

Government House, Sydney, New South Wales,

24 Nov.

My Lord,

24th November, 1823.

Report on the
trial of
E. Gorman,
I. Ward, and
W. Rowd.

The enclosed is the report of the Judge Advocate of New South Wales as to the Trial, in the Court of Criminal Jurisdiction on the 10th day of October, 1823, of Edward Gorman, Isaac Ward and William Rowd. These three Convicts, for the sake of obtaining the booty of a few dollars, plotted the robbery of a neighbour's hut. The death of one of its tenants ensued from the cruelty of the first named prisoner; although his companions, very young men, were constant and earnest in their entreaties to him to use no violence. Edward Gorman has been executed, but the sentences are respited of the other two; I deemed it to be unfit to visit the same punishment on crimes so unequal in their moral guilt; and, both their cases having excited considerable sympathy in the public breast, I held it to be due, to this merciful feeling and to the whole territory's remarkable tranquillity, to exert the authority with which my commission has

invested me of granting a reprieve on the present extraordinary occasion to the two criminals, Ward and Rowd, "until and to the intent the Royal Pleasure of His Majesty may be known therein."

I have, &c.,

THOS. BRISBANE.

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[Enclosure No. 1.]

THE REPORT of the Judge Advocate of the Territory of New South Wales as to the Trial, in the Court of Criminal Jurisdiction on the 10th Day of October, 1823, of Edward Gorman, Isaac Ward, William Rowd, and James Norton,

Report by
judge-advocate
on the trial of
E. Gorman,
I. Ward,
W. Rowd, and
J. Norton.

Charged with the wilful Murder of William Wells at Minto in the said Territory on the 18th Day of September last, the said Edward Gorman having with a certain Stick then in his hand given several mortal wounds and bruises, of which the said William Wells, afterwards on the 22d Day of September following, died, and Isaac Ward, William Rowd and James Norton were charged with being present and with aiding and assisting the said Edward Gorman the Said Murder and Felony to do and commit.

In a Second Count, the Prisoner Isaac Ward was charged as striking and giving the mortal wounds, the other Prisoners with being present, aiding and assisting him, Isaac Ward, the said Murder and felony to do and commit. (See Information.)

Isaac Ward, William Rowd and James Norton severally pleaded "*Not Guilty*"; Edward Gorman on arraignment said "*I am Guilty of the Robbery, and I struck the Man; but I am not guilty of the Murder.*"

PATRICK HILL:—I am a Surgeon in His Majesty's Navy. I am also on the Colonial Establishment. I saw a Man of the name of William Wells now dead. I saw him on Friday morning 19th September last; he was brought to the Hospital; he was in a state of furious Delirium; we were obliged to restrain him; he died on the Monday morning following; the deceased had a number of wounds on the different parts of the head; on each side above the Right ear there were two wounds particularly severe; on Examination I found his Skull fractured; he continued in the State of Delirium till the 22d. I found the brain was in a state of Inflammation; the Scull was extensively fractured on the Right side; there were several contusions on other parts of the body as also other wounds on his head; they must have been made with an obtuse Instrument; it might have been a thick stick, the wounds very violent; the Inflammation of the brain was the Cause of Death created by the wounds.

He never gave any account of what had happened.

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Report by
judge-advocate
on the trial of
E. Gorman,
I. Ward,
W. Rowd, and
J. Norton.

REBECCA WELLS:—I live at the Cowpasture, about a $\frac{1}{4}$ of a Mile from Mannix; my house had been burnt down about a month before. On the 18th September last about 10 o'Clock we heard the Dogs give an alarm; my husband William Wells, James Howard, were with me and my three children; my husband immediately went out. Howard followed immediately; I then heard a violent noise and scuffle; I heard violent blows struck. I shut the Door, when a man came and Rushed the Door, and threw me down behind the Door; he bid me make a light for him; the room was dark; I light some straw; he then asked me for my money; he said he would knock my brains out if I did not give him the Money that minute. I then gave him the Money £6 10s. in Dollars, but they had been burnt in the fire, out of a box in my bed Room; wherever I went he went with me; immediately afterwards he demanded some Tea and Sugar of me, I then gave him the Tea and Sugar; he then immediately asked me for pork; he asked for flour; I gave him two pieces of pork about 3 lb. pieces; he took a bushel of wheat in a two bushel bag; he said that if I spoke that minute he would knock my brains out and held a great stick over my head. I fed the light of straw as it went out; I think he might Remain 15 Minutes; I had the full opportunity of seeing this man, more than once or twice; he had a black face; I could discern features so as to know them again. I have seen him since, it was on a Thursday night. I saw that man again on the Sunday morning at John Hall's; within three minutes I Recognized him. I knew him by his remarkable tooth his lip being very high, and his voice struck me more than anything; my children were at Hall's; he was there when I went with Jackson.

I never saw but the glimpses of any other men while he was in the house. I could not speak to the other three; I had the Door on the jar, and looked out and saw 3 of them outside; that was 15 minutes after he had come into the House; I could not go out, he kept holding the Door of me, some one I can't tell who; I saw three outside, besides the Man in the House.

I heard them say outside "take care of her"; he said with the Stick over me "I'll take care of her."

Gorman the Prisoner is the Man that held the Stick over me; his face was very black.

They all four went away together; I had no knowledge, how many were outside, till Gorman opened the Door and I saw the 3 outside; when they went away, I saw them, they left the Door open ajar. I went down on my knees and begged for mercy for myself and my children; he threatened me very violently if I did not hold my tongue. To the best of my belief there were 4 Men; I saw them as they were Running away, only for one moment; I

would not take upon myself to swear that there were more than three. I am impressed that there were 4. I saw the glimpse of 4 Men; they were about the distance of this Court.

I heard hard hitting outside as if they were knocking down a beast; they had done the Deed before Gorman came into the House. I heard no noise but of my husband groaning.

I went to my husband; he was in a deranged state, full of blood and very badly treated; he had no knowledge of me.

I saw Howard 20 Yards from the Door lying on his Belly; Howard knew me, but could not get up.

That instant I went to Campbell about 50 Rods off; he came.

My husband was taken to the Hospital.

The Man in the house had grey Eyes, Gorman is the Man.

I had seen Norton; he belongs to Mr. Oxley's clearing party and he worked for us when the Overseer gave him liberty; when at the fire of the Hut that took place he gave his assistance; the huts that were burnt are about a Mile off; where the other Prisoner lives about 3 miles from these huts.

Norton was there when I took the money out of a cask of Wheat which had been burnt; I saw Norton the night before the Robbery, he came for a peck of wheat; Gorman had a handkerchief Round his head.

I should know the pieces of pork taken that night. I had them from Fletcher. I have seen them since, in the Court Room at Minto. I have seen the bag since; my husband never spoke afterwards.

Howard was perfectly in his Senses; he was not able to get up before I took my Husband to the Hospital.

This is the piece of pork I am sure. I can swear to all the three pieces when it was got, afterwards it had been cut. This is the bag I am perfectly sure; I know this sugar bag. I am sure they are the same, as also Tea bag. I made the bag myself.

I saw his tooth (Gorman's) in the house, a snaggle crooked Tooth, when he opened his mouth.

Cross Examined:—I only go by the form of the lip.

JAMES HOWARD:—I lived at Wells' before his Death; we heard the Dogs make alarm on Thursday 18th September about 10 o'Clock; there was very little light. Wells and I went out; we made round the Chimney where the Dogs made the alarm and saw these Men at the back of the Chimney; the Moon was then under a cloud; there appeared to be 4 Men. I can't say positive from being in a fright. I could not say there were 3, I could say there were two; there appeared to be 4 by the glimpse we only got, for they knocked us both down with big sticks; this stick was found alongside the House. I had a sight of the Man who

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I. Ward,
W. Rowd, and
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on the trial of
E. Gorman,
I. Ward,
W. Rowd, and
J. Norton.

knocked me down; not a word was said. I saw his face, it was blacked the whole of it. I know the Man again by his features and by his Speech; he has double teeth in front. I saw them when he came up to strike me down, the same Man knocked me and poor Wells down. I scrambled up to the side of the Chimney; when I got hold of one of the other Men's sticks, of *Isaac Ward*. I would not let it go. Isaac Ward said "loose my Stick, I won't hurt you." Gorman was beating poor Wells all the time; he came up and said to Ward "What humbugging are you about, why don't you knock him down?" As soon as he said so, he knocked me down; he beat me, while I was down. Ward kept me down and Gorman rushed into the house. I saw Ward while I had hold of his stick; he had a handkerchief over the face as high as his nose; nothing else was over his face. I am sure I should know him again. I never saw him before; *he had hold of the stick 5 minutes*, and I was taking notice of his face. I can only swear to two certainly not 4, nor even 3; the Moon was under a cloud.

I lost my Recollection while the Men were there. I heard Gorman ask for the Money, or that he would knock her brains out. Ward who was over me made answer not to ill use the woman. I had no blow but what I got from Gorman.

Ward is the Man, the Prisoner before the Court. I swear he is the Man.

Norton was at Wells's the night before the Robbery for a peck of wheat.

I know this bag with Sugar, I am sure it belonged to Wells.

I know this Cloth, containing the Tea, to be Mrs. Wells's. I saw it the same Day. I will swear to Ward being the Man.

Cross Examined by Ward.

I swear to Ward by his sandy hair and his being pock-marked; the Moon gave a little light. I saw his sandy hair under his straw hat. I mean the Prisoner's hair, which I call sandy. I was not a yard off, quite close to him. I can swear to the Prisoner by his Speech, he spoke through his handkerchief, it seems like to day.

Gorman's voice is like the Man who knocked me down.

THOMAS CAMPBELL:—I lived near Wells 60 Rods off; I went up on that night about 10 or 11 o'clock. Wells was senseless, his head and face were covered with blood.

I saw Howard on his face alongside of him; he could answer me slightly. I asked him where the Men were gone, he said "he could not tell me"; he got up with Difficulty.

WILLIAM MANNIX:—I live at Upper Minto. I know the Prisoners; 3 of them are my Men; I don't know Norton. I heard of the Robbery on the very night. Gorman, Rowd and Ward live in

the same hut; there is a fourth Government man living with them who drives my bullocks; the hut of Wells is about 100 Rod from where I heard the cry of Murder.

On the Sunday following, I heard Gorman had been accused. I heard of his being taken and took my Horse to go to the Upper Farm 3 Miles and a half; the Prisoners lived at this place. I searched the hut, where the 4 Men kept.

In a quantity of felled Timber in a hollow Tree I found 3 pieces of pork about 20 Rod from the hut; these are the pieces now produced.

We found a bag also containing half a bushel of wheat, 10 Rod off in a hollow tree. I saw Ward and Rowd. I found nothing else.

PETER STUCKEY:—I live with Mr. Mannix. I was with him when he found the 3 pieces of Pork in a hollow Tree about 10 Rods from the hut. I found also a bag with some Wheat.

The next morning I found Tea and Sugar about 100 Rod from the hut; these Articles now produced are the same. I live at the same farm with the prisoners. Jackson had been gone two hours, when he was called up. I know that Swift went down; it was about 9 o'clock when he did so. I am sure that was the Thursday night when the Robbery took place. Gorman told me of the Robbery himself in the Morning. I am sure it was Thursday.

JOSEPH JACKSON:—I am Government Servant of Mannix. I was in the same hut with Gorman, Rowd and Ward. I Remember the night of Wells' Robbery. I had been that Day at the River farm. I had been in the hut only a fortnight. I got home about 7 or a little after. I went down to the hut in half an hour afterwards.

I went down to the Hut and found the 3 Prisoners there, they were sitting by the fire. I cooked my supper and went to my bed. I was very fatigued. I left them all in the hut sitting down. I was in $\frac{3}{4}$ of an hour and then I left them all up. I slept by myself. I was called up some time afterwards; Swift called me to tell my Bullocks were left in the Yard; the 3 Prisoners messed together. I messed alone.

None of the Prisoners were then in the Hut; nobody else slept there then; they could not have been there without my seeing them. I went to the fire to put it together. I saw the bed places; I am a Middlesex man; the Prisoners are Irishmen. Swift did not come to the Hut. I was not absent two minutes, and then went to sleep again.

After I went to sleep Isaac Ward came in and woke me. He asked me to give him a piece of Tobacco; he went and sat on a Stool. I kept awake; in about 20 minutes or $\frac{1}{4}$ of an hour Gorman and Rowd came home and sat down in the Hut; the whole 3 went

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out of the hut; they seemed to be very silent. I had no Discourse with Ward; they were out only 2 or 3 Minutes and then they went to bed.

I heard of Wells' Robbery next Morning; these Prisoners came back in the middle of the night.

EDWARD FLETCHER:—I am Chief Constable at Minto. I produce 18 Dollars, 9 I got from Edward Gorman the Prisoner when I had him up on the 22d September; he said that if a Constable were to go with him he would give up 7 Dollars, his part that were by a Tree at the Spring-hill farm of Mannix's. I was sent with him; he had them planted in a log in a little hole under a Tree, about 20 or 30 Yards off the Hut. I took him to Liverpool and searching him I found 2 more Dollars; he had told us that 7 Dollars were his share.

I apprehended Rowd and Ward; Gorman and Jackson were at my house and I asked them to take the Sydney Gazette to Mannix. I took them up at 10 o'clock the Sunday night.

On the 24th I went to Springhill farm and found Wm. Rowd's name upon a Tree and 6 yards from it found 8 Dollars under a bunch of grass by the side of a like tree; that was in consequence of Information I got from Tristram the Gaoler.

I apprehended Norton from Information that Howard told me.
Cross Examined.

I did not keep the Dollars apart, which were by the Tree, upon Tristram's Information.

Prisoner Rowd asked: "Did he keep my Dollars by themselves?" *Answer.* "No, not afterwards."

WILLIAM TRISTRAM:—I am Gaoler at Liverpool. Gorman, Rowd and Ward came to the Gaol on 22d September last.

I have seen a man of the name of Matthews; he came to the Gaol; he saw Rowd; he (Rowd) was not with the other Prisoners; they were kept separate. I heard privately what passed between Rowd and Matthews, who (the latter) knew that I did so.

Matthews told Rowd that he had been, where he told him the Dollars were; that he could not find them; says he that he had not told him the Right place. Rowd then began to describe the place, where the Dollars were; did he know a creek going to Mr. Mannix's ground, where some Rails were across, one standing up, that he was then to go on, till he found a stump with his Rowd's name on it; a few yards from that he would see a Tree, about the size of his body, where he would find some dried dead grass at the foot of this Tree; under that dried Grass he would find the Dollars; that Conversation closed. I informed Mr. Fletcher.

I swear that every word took place. Rowd the Prisoner is the Man I allude to.

On the following Day, I and Mr. Ikin went to Ward's Cell. Gorman made a voluntary Confession to me, Mr. Throsby and Dr. Hill, but that was after the examination by Mr. Howe.

WILLIAM HOWE, ESQR.:—I am Justice of the Peace of the Territory. I committed the Prisoners, after he Gorman had been identified by Mrs. Wells and Howard as one of those who had done the Robbery. I said to Gorman, thinking the Case so clear against him, "The only extenuation he could make was to give such Information as would lead to a discovery of the others concerned; whatever passed was after this observation." He made the confession now produced.

Without the least inducement from me, Ward and Rowd came into Court and said they had been at the Robbery, but used no violence, and Ward in particular called to Gorman and said "did I not call out to you to do no harm to the Woman."

Rowd said to the best of my Recollection "I was there but used no violence."

This was the first time they were brought up. Gorman had been under examination.

Rowd and Ward were both anxious to confess more than I wished to hear.

Norton, after Wells had been carried to the Hospital, came to me and said he wanted to go and take care of the poor children and to look after some Money bills that he knew of in a Tin box.

The Tin-box was brought back with the two bills; they are for 270 Dollars, a Promissory Note, so was the other, payable on demand.

FREDERICK MEREDITH:—I am a Constable. I had in charge Ward, Rowd and Norton; I was taking them from Liverpool to Sydney.

Ward was complaining of his wrists being swelled, and he made answer that he did not care about his wrists being swelled if they did not swell his neck; I said perhaps there is no fear of that. Norton then said the man that had sworn to him the Day before had sworn to him falsely; he was innocent of the charge. Rowd and Ward both then answered yes he was; that Gorman had never seen the Prisoner he was hand-cuffed to him; they then began to Relate that Gorman had drawn them into it. Ward did tell me that he had been a fortnight at them to bring them into it; when they Consented on the Road, they begged Gorman to use no violence.

That when they got to the House, two men came out of the Door; as soon as Gorman saw him, he rushed and knocked Wells

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down. Ward went after the Man that ran away and gave him the end of the Stick to hold; that Gorman hit the Man he was guarding and struck him several times; that Gorman rushed into the House; that the woman light some straw and when they had got what they wanted they parted and went away.

McNamara was the other Constable with me and heard it.

Murphy was the 4th prisoner in charge.

The Prisoners on being called for their Defence said:—
Gorman: “I own that I am guilty of the Robbery, and that enticed Rowd and Ward to join me. I had struck some blows on both Men; I saw none other struck but by me. Ward is innocent of the Murder. Norton is innocent, he knows neither act nor had part nor deed in it.

“Ward did call out to use no violence.”

The Court adjudged

James Norton	Not Guilty
Edward Gorman	} Guilty
William Rowd	
Isaac Ward	

Sentence:—DEATH

and the bodies afterwards to be dissected and anatomized.

The Prisoners generally, after Sentence pronounced, made confession of their Guilt, but prayed for a longer Interval, previous to the Execution of their Sentences.

On the Day following the Trial and conviction of the Prisoners, I attended upon the Governor at Parramatta with the report, when the Case was fully gone into and considered, the material Evidence taken on the Trial being read to the Governor from my notes. The only point of particular Consideration with the Governor seemed to be whether any Distinction could be drawn between the Cases of Gorman and of the other two Prisoners, Ward and Rowd, who had not used actual Violence in any such Degree as Gorman. I suggested that this circumstance had been particularly in Observation with the Court on the Trial, when, in summing up the Case, I had to lay down the legal Principle that all, who have been present, aiding and abetting when a felony shall have been Committed, are equally Principals in legal Guilt; and that the mortal Stroke or Wound given by any one of such offenders is constructively given by all, who consent and are present at its Infliction, with a felonious Intention, in common, to commit the felony in Question:—But again that the Members of the Court, not only perforce of the legal Principle, but upon the proof adduced of general Co-operation by Ward and Rowd in the perpetration of the Murder and robbery, had

unanimously concurred in the Conviction of and capital Sentence denounced upon them, as well as Gorman having on my own part also previously communicated to the Members of the Court my Opinion, that the Governor I conceived would have no power under his Commission to grant any reprieve in the Case, as on an extraordinary Occasion. In my conference with the Governor, I particularly made mention of the latter Circumstance, as of my *still* remaining confidently under the same Impression. I had no occasion however, at the time, to urge this point on the Governor, as he declared his Mind to be made up, as to carrying into Effect the Sentence of the Court upon all the three prisoners, and that the Warrants would be signed, as soon as received from the Colonial Secretary (whom I had advised of the Sentence the evening before) observing that the prisoners Rowd and Ward deserved to suffer their Sentences for the robbery of the House, without at all taking into Consideration the Murder done, as against them.

Warrants for the execution of the three Prisoners on the Monday following (13 Instant) were accordingly delivered to the Provost Marshal:—and on that Day, about 10.30 o’Clock before Noon, I found that, a little before or about that time, the prisoners Rowd and Ward, when their fetters were just about to be knocked off, had been respited upon a Letter to the Provost Marshal by the Colonial Secretary, and in the Manner, which the Correspondence hereto annexed will perhaps most satisfactorily develop as well as the general Circumstances and Communications, that subsequently took place on the Occasion between myself and the colonial Government, in respect of the respite and commutation of Sentence upon the prisoners, Rowd and Ward, to Transportation for Life.

The sittings of the Criminal Court were continued on the Monday, and I certainly found that the Issue of the Case, as to the prisoners Rowd and Ward, had immediately made a very strong Impression upon the Members, and, that Influence appearing to remain with them, I felt it due to my judicial Office as to the Court to explain that there was no Disposition, on my part, to render abortive, in any degree, the Jurisdiction of the Court:—an effect, which not only the present but antecedent Courts had in strong Apprehension, as likely to arise from the Capital Sentences of the Court being so very rarely carried into execution:—While the just remark did not escape, that under the peculiar and extraordinary Powers of the Court, not necessarily and without any Discretion, as in the English Courts, to pronounce capital Sentences upon capital Convictions legally, Sentence of Death was only passed, in truth, upon those capital Convicts before the

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Court, whose Cases were considered of such public Atrocity as to require, upon consideration of the public Ends of all legal Punishment, the Infliction of the utmost rigour of the Law.

JNO. WYLDE, Judge-Adv., N.S.W.

Sydney, New South Wales, 21 Novr., 1823.

Rex v. Gorman
and ors.:
information.

REX V. GORMAN AND ORS.—INFORMATION.

New South Wales To Wit	}	BE it Remembered that John Wylde, Esquire, the Judge Advocate of our Sovereign Lord the King for the Territory of New South Wales and its Dependencies, who for our said Lord the King exhibits the charge in this behalf, comes into the Court of Criminal Jurisdiction convened at Sydney in the said Territory by Precept under the Hand and Seal of His Excellency Sir Thomas Brisbane K.C.B., dated the nineteenth day of September One thousand eight hundred and twenty three, and having power to enquire of and to hear and determine and punish all Treasons, Murders, Felonies, Trespasses and other crimes, whatsoever committed within the said Territory or its dependencies, and for our said Lord the King charges and gives the said Court to be informed, That Edward Gorman, late of Minto in the Territory of New South Wales Laborer, Isaac Ward, late of the same place Laborer, William Rowd, late of the same place Laborer, and James Norton, late of the same place Laborer, not having the fear of God before their Eyes but being moved and seduced by the instigation of the devil, On the eighteenth day of September in the Year of our Lord One thousand eight hundred and twenty three, with force and arms, at Minto aforesaid, in the Territory aforesaid, in and upon one William Wells, in the peace of God and our said Lord the King, then and there being, feloniously, wilfully and of their malice aforethought did make an assault, and that the said Edward Gorman with a certain Stick in his right hand then and there had and held in and upon the head of him the said William Wells a little above the right ear, then and there feloniously, wilfully and of his malice aforethought did hit and strike, and that the said Edward Gorman did then and there give unto him the said William Wells by such striking of him with the Stick aforesaid several mortal wounds and bruises in and upon the head of him the said William Wells, of which said several mortal wounds and bruises he the said William Wells, from the eighteenth day of September aforesaid until the twenty second Day of the same month of September, at Minto aforesaid did languish and languishing did live; on which said twenty second day of September the said William Wells, at Minto aforesaid in the Territory aforesaid, of the several mortal wounds and bruises died; and that the said Isaac Ward, William
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Rowd and James Norton, at the time of the committing the Felony and Murder aforesaid by the said Edward Gorman in manner and form aforesaid, were present, aiding, helping, abetting, assisting, comforting and maintaining the said Edward Gorman the felony and Murder aforesaid in manner and form aforesaid to do, commit and perpetrate. And so the said Judge Advocate gives the said Court to be informed that the said Edward Gorman, Isaac Ward, William Rowd and James Norton him, the said William Wells, then and there in manner and form aforesaid, feloniously, wilfully and of their malice aforethought, did kill and murder against the peace of our Lord the King, his Crown and Dignity. And the said Judge Advocate further gives the said Court to be informed that the said Isaac Ward, Edward Gorman, William Rowd and James Norton, not having the fear of God before their eyes, but being moved and seduced by the instigation of the devil on the said eighteenth day of September in the Year aforesaid, with force and arms at Minto aforesaid in the Territory aforesaid, in and upon the said William Wells in the peace of God and our said Lord the King, then and there being feloniously, wilfully and of their malice aforethought, did make an assault, and that the said Isaac Ward with a certain Stick, which he, the said Isaac Ward in his right hand then and there had and held in and upon the Head of him, the said William Wells, a little above the Right ear then and there, feloniously, wilfully and of their malice aforethought, did hit and strike, and that the said Isaac Ward did then and there give unto him, the said William Wells, by such striking of him with the Stick aforesaid several mortal wounds and bruises in and upon the Head of him the said William Wells, of which said several mortal wounds and bruises he, the said William Wells, from the said eighteenth day of September until the twenty second day of the same month of September, did languish and languishing did live; on which said twenty second day of September the said William Wells of the said several mortal wounds and bruises died; And that the said Edward Gorman, William Rowd and James Norton at the time of the committing the said Felony and Murder by the said Isaac Ward, in manner and form aforesaid, were present, aiding, helping, abetting, assisting and maintaining the said Isaac Ward the Felony and Murder aforesaid in manner and form aforesaid to do, commit and perpetrate. And so the said Judge Advocate further gives the said Court to be informed that the said Isaac Ward, George Gorman, William Rowd and James Norton him, the said William Wells, then and there in manner and form aforesaid, feloniously, wilfully and of their malice aforethought, did kill and murder against the Peace of our Lord the King, his Crown and Dignity.

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[Enclosure No. 2.]

REX V. GORMAN AND ORS.—CORRESPONDENCE.

[1] *Judge-Advocate Wylde to Secretary Goulburn.*

Judge-Advocate's Office, 13th October, 1824,

Sir,

12 o'Clock at noon.

The Police Constables having at the moment reported to me that the body of the Prisoner named in the Margin,* who this morning suffered the utmost Rigor of the law for the wilful Murder of the late William Wells, and whose body was afterwards to be dissected and anatomized, has been refused to be Received into the General Hospital for that purpose by orders, as suggested, of the Principal Surgeon, I deem it my Duty to submit the Matter to your attention, as well as that of the Provost Marshal, in order that Directions may be given, with as little delay as possible, to have the body Removed from the public Street where it at present Remains, I am informed, opposite the Hospital Gates.

I beg further to suggest that in England, upon such Occasions, the body generally lies exposed, for some time at any convenient place, to the public view.

Having made my Report personally on Saturday last to His Excellency The Governor upon this Case, in which the two other prisoners, also named in the Margin,† were capitally convicted of the same Murder and having left His Excellency, upon consideration of the same, fully impressed that there seemed to arise (as in general Tenor The Governor expressed himself) no such extraordinary Occasion upon this part of the Sentence of the Court as would warrant a Reprieve of these Offenders, I beg leave further to enquire whether His Excellency issued Warrant carrying the Sentence of the Court into Execution only as against the Prisoner also named in the Margin.*

I have, &c.,

JN. WYLDE, J.-A.

[2] *Secretary Goulburn to Judge-Advocate Wylde.*

Sir,

Colonial Secretary's Office, 13 October, 1823.

I beg leave to return you my thanks for the information with which you have been so kind as to favor me on the subject of the course that would be followed in England, in the case of the body of Edward Gorman.

At the moment of Receiving your letter, I was in the act of writing to acquaint you, by command of Sir Thomas Brisbane, that, since His interview with your honor on the subject of the

* Edwd. Gorman. † Isaac Ward, William Rowd.

three Malefactors convicted of Murder, His Excellency had deemed it advisable to Respite Rowd and Ward until he had communicated more fully with yourself on the construction of His Commission* as Governor.

I have, &c.,

F. GOULBURN.

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[3] *Judge-Advocate Wylde to Secretary Goulburn.*

Sir,

Judge-Adv. Office, 15th October, 1823.

I beg leave to acknowledge the Receipt of your letter, dated the 13th Instant, with respect to the Reprieve of the Prisoners named in the Margin,† from the Tenor of which I was impressed that, as the Governor was in Town all day yesterday, I might possibly receive a Summons to attend his Excellency, in order thus more satisfactorily to communicate with his Excellency (as you suggested he had deemed advisable) on the Construction of His Excellency's Commission as Governor, with relation to the exercise of the Power in Question.

But as the Governor has left, I find, for Parramatta, I delay not thus to communicate for the information of His Excellency that it appears clearly competent to the Governor, in the Terms of his Commission, to Reprieve in Cases of Murder upon extraordinary Occasions, until and to the intent His Majesty's Royal pleasure be known therein.

That on the Sentence, however, of the Court of Criminal Jurisdiction upon the above Prisoners, I cannot but adhere to the opinion of his Excellency, on which, at the time of my personal report upon the case, he felt himself *upon the merits* (of which he fully informed himself) without any doubt whatever as to the Justice and painful necessity of, as even if *otherwise, without the power* but of issuing warrants, for carrying the same into execution:—

And that the respite in question therefore would seem to me, *no new circumstances of any kind having intervened*, to have taken place wholly without any extraordinary Occasion authorizing or even involving the Exercise of the Power, thus given to the Governor in such Cases under the Commission of His Excellency's appointment.

The Provost Marshal having forborne to execute the Death Warrants, upon a Communication from yourself conveying the Governor's command that the execution of the same, as to the above prisoners, should be Respited until &c., I beg to suggest that Reprieves correctly should be signified by Warrants under the hand and seal of the Governor, and that the Provost Marshal, in strictness perhaps, would thus only be justifiable in carrying them into effect.

I have, &c.,

JNO. WYLDE, J.-A.

* Note 40.

† William Rowd, Isaac Ward for Murder.

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[4] *Judge-Advocate Wylde to Provost-Marshal Campbell.*

Sir, Judge-Adv. Office, 13th October, 1823.

With respect to the Conviction and Capital Sentence instanter passed on Friday last in the Court of Criminal Jurisdiction upon the three Prisoners, named in the Margin,* for the wilful Murder of the late William Wells, I beg leave to enquire whether Warrants as to *one* or *more* of those Prisoners have been since delivered to you for due Execution of the fatal Sentence, as further also, whether any particular circumstances have subsequently occurred with regard to your Duty under such Warrant or Warrants of His Excellency The Governor.

I have, &c.,

JNO. WYLDE, Judge-Adv., N.S.W.

[5] *Provost-Marshal Campbell to Judge-Advocate Wylde.*

Sir, Prov.-Mars. Office, 13th Oct., 1823.

I have been honored by your two letters of the present date, One of which was handed to me at the Police Office on my way to attend on the Criminal Court and the other reached me at that Court.

In answer to the Queries contained in the former, I beg leave to state that I received Warrants yesterday Morning for the execution on this day of the three Criminals, Edward Gorman, Isaac Ward and William Rowd, on whom your Honor had pronounced Sentence of Death on Friday last.

This Morning, at about $\frac{1}{2}$ past 8 o'Clock, I was honored with a written communication from the Colonial Secretary conveying to me "The Governor's commands that the execution of the Sentence of Death ordered to be made and done upon Isaac Ward and William Rowd now in the Gaol of Sydney on Monday the thirteenth Inst." (letter of Col'l Secy., dated 13th Oct., 1823) "be Respited until further Signification of His Excellency's pleasure."

At 10 this morning I proceeded to the Gaol, and at 24 minutes afterwards I caused the Sentence of Death to be carried into effect on Edward Gorman, and subsequently instructed the Gaoler to have the body after One hour's suspension conveyed to the General Hospital as usual on such occasions "and delivered to the Surgeons to be dissected and anatomized."

I have only to add further on this painful subject that the body was so Removed, and I have learned that admission has been refused for it at the General Hospital; conceiving my duty to be at an end by the Removal to the Hospital, I have not felt it necessary to take any ulterior proceeding. This last passage will I trust answer the second of your Honor's communications of this date.

I have, &c.,

J. T. CAMPBELL, Prov.-Mar.

* Gorman, Rowd, Ward.

[6] *Judge-Advocate Wylde to Provost-Marshal Campbell.*

Sir,

Judge-Adv. Office, 14 Oct., 1823.

In acknowledging your letter of yesterday's Date with Respect to the execution of the capital Sentence denounced by the Criminal Court on Edward Gorman for the Murder of the late Wm. Wells, I feel myself called on to suggest to you, that it would seem to me, that unless the Warrant from the Governor expressly directed that after Death the Body should be delivered to the General Hospital for Dissection, it would Remain in strictness with you under the Charter to see the Sentence of the Court otherwise carried into full Effect; although I am perfectly aware that the practice has hitherto obtained of the Provost Marshal being Relieved, on such occasions, from all further Duty by the Reception of the body for Dissection at the General Hospital.

I take the opportunity also of observing that in England the Body in such Cases generally lies exposed in a partial state of Dissection at any convenient place for some time to the view of the public. Any expence hence arising would of course be chargeable to the Police.

Adverting to the letter stated to have been addressed to you yesterday Morning by the Colonial Secretary, that execution of the Warrants against Isaac Ward and William Rowd should be Respited until &c., I beg to advise you that in this Respect a Warrant under the Hand and Seal of the Governor should have been transmitted in order strictly to justify you in delaying to carry the original Warrants of the Governor into Effect.

Having Received a communication this Morning from the Chief Constable as to the Circumstances that took place with regard to the body of Edward Gorman, in which he states that certain Depositions have been taken on the subject, I have to Request the favor that you will allow me to see, or have copies of the same, in order thus to put me in full possession of those particular Circumstances.

I have, &c.,

JNO. WYLDE, J.-A.

[7] *Provost-Marshal Campbell to Judge-Advocate Wylde.*

Sir,

Provost-Marshal's Office, 14 Oct., 1823, 2 P.M.

I have the honor to acknowledge the Receipt of your letter of this date, which has now reached me; and I beg to make the acknowledgment of my best thanks for the information you have been pleased to give me, in Regard to the legal Discharge of my Duty as Prov. Mar. under Circumstances similar to those of the Culprits Gorman, Ward and Rowd.

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Altho' admission was not promptly given at the Hospital to the body of the executed Culprit, Gorman, yet I have some reason to believe that it was eventually admitted. I beg further to state also, in regard to the instructions I received to suspend the Sentence of Execution against Ward and Rowd, altho' I most fully agree in opinion with you that those Respites would have come more satisfactorily to me in the form of Warrants under the Hand and Seal of the Governor as suggested by you, Yet as the Command in the Shape, it Reached me, was on the side of Mercy, I could only feel and act on the occasion in strict Co-operation with the less formal notification from His Excellency thro' the Colonial Secretary.

In both these cases as they Refer to the deceased and the surviving Criminals, I have acted under the Authority of His Excellency the Governor, and do not apprehend that His Excellency will call in question the conduct I have pursued therein; I must of course feel myself devoid of any apprehension of having incurred any serious responsibility.

The Affidavits ("for Copies of which the Judge Advocate made application") of the Constables were made on my suggestion, at a time when I was doubtful about the body being received into the Hospital, and being merely (in the event of non-admission being persevered in) for the purpose of marking distinctly my conduct, I conceive that I should not give any publicity to them, now when the business has been settled by the Reception of the body. Under these circumstances I trust you will not only excuse but approve my not parting with them.

I have, &c.,

J. T. CAMPBELL, Prov.-Mar.

[8] *Thomas Dunn to Judge-Advocate Wylde.*

Sir, Police Office, Sydney, 14th Octr., 1823.

In answer to your letter of the 13th instant, I have the Honor to inform you that, after Edward Gorman had been Executed yesterday morning, I ordered James Lane, William Thorne, and other Constables to convey the Body to the General Hospital for dissection pursuant to the Sentence. I was afterwards informed by Thorn that William Mattingly, the Overseer of the General Hospital, had refused to admit the Body, that he had orders to that Effect, having no room for it there. I sent Patrick Field *between three and four o'clock* in the afternoon to see if the Body was interred; that Field informed me the Body *then laid* near the General Hospital. I then thought it prudent to communicate the Circumstance to the Provost Marshal, who said, he had concluded his duty when the man had been executed, and

requested me to send the Constables to the Police Office to depose to the Fact of the Body having been refused admittance into the General Hospital. I have also to inform you that I went to the General Hospital this Morning between 5 and 6 o'clock to ask Mr. Mattingly if the dead body had been interred, when he told me it was buried last night; took me into the General Hospital, shewed me the head of the Malefactor Edward Gorman, which had been severed from the Body previous to the Interment.

I have, &c.,

THOMAS DUNN, Chief Constable.

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[9] *Judge-Advocate Wylde to Secretary Goulburn.*

Sir, Judge-Adv. Office, 13 October, 1823, 7 P.M.

On my return from the Criminal Court just now, I found an application from Surgeon Bland* for the Body of the Malefactor named in the Margin,† and the Provost Marshal being unable to inform me how the same has been disposed of since deposited at the Hospital Gates, I beg to enquire where the body may be found, so as thus to carry the Sentence of the Criminal Court into due Effect.

I have, &c.,

JNO. WYLDE, J.-A.

[10] *Secretary Goulburn to Judge-Advocate Wylde.*

Sir, Colonial Secretary's Office, 13th October, 1823.

In reply to your letter of this date I have the Honor to acquaint you that, I believe, the Sentence of the Criminal Court upon Edward Gorman has been carried into due effect partly by the Provost Marshal, and the other part in the General Hospital; and that his Remains were afterwards buried in the unconsecrated ground appropriated to Malefactors.

I have, &c.,

F. GOULBURN.

[11] *Secretary Goulburn to Judge-Advocate Wylde.*

Sir, Colonial Secretary's Office, 6th November, 1823.

I am directed by the Governor to have the honor to request a Report of the Proceedings of the Court of Criminal Jurisdiction in the case of Isaac Ward and William Rowd, found guilty of murder and sentenced to death, The Governor having deemed it expedient on this extraordinary occasion to grant them a Reprieve, in terms of His Excellency's Commission "until and to the intent His Majesty's Royal Pleasure may be known therein."

I have, &c.,

F. GOULBURN.

* Note 2. † Gorman.

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SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 16 of 1823," per ship John Bull; acknowledged by Earl Bathurst, 14th March, 1825.)

Government House, Sydney, New South Wales,

My Lord, 27th November, 1823.

Conviction of
John Cahill.

John Cahill, sent from Ireland in the Guildford Convict Ship, a transport for Seven Years, and who obtained shortly after his arrival in this country a free pardon ordered in a dispatch from Your Lordship bearing date the 17th December, 1817, having been tried before the Criminal Court convened at Sydney on the 23rd day of September, 1822, charged with assaulting and putting in bodily fear Thomas Colloghan in his dwelling house at Liverpool and Stealing therefrom divers goods, was adjudged guilty, four only of the members of the Court concurring. He received consequently the sentence of Death; but his name was afterwards included along with twenty two other capital Convicts in a general warrant respiting the execution of their respective sentences, on condition that they should be transported to Port Macquarie for the terms of their natural lives, and there kept at hard labour in double irons; but with the stipulation that, if any one of them during the said term be found without lawful cause at large in any other place, then without further delay execution should be done upon him.

Commutation
of sentence.

Escape of Cahill
from Port
Macquarie.

To that penal settlement, he was accordingly forwarded, but, having contrived to escape overland, was apprehended in Sydney; and would have been executed, had I, under the Charter, possessed the power. But five members at his trial did not agree in their verdict of his Guilt: I have been obliged therefore to order him to be transmitted to Macquarie Harbour, but have cautioned him nevertheless against attempting to escape from that transportation lest death might be the result. To render this warning valid, I have the honor to enclose the accompanying report of the proceedings of the Criminal Court on the trial of John Cahill, humbly requesting of His Majesty their modified confirmation, so that my original intention of keeping him at a penal settlement with the sentence of death impending on his escape may be effected.

Transportation
of Cahill to
Macquarie
harbour.

Request for
approval of
system adopted
for
commutations.

The present is a fit opportunity for soliciting the attention of your Lordship to the commutation I generally extend to prisoners sentenced to death for crimes, in the committal of which violence has not been exerted. In consequence of this system twenty six executions have taken place during the last two years, whilst in an equal period previous to my arrival the number of felons, who had suffered, were sixty eight. If then by this arrangement, while crime so little abounds that the regular quarter Session of

the Criminal Court for last June was dispensed with, in consequence of the few prisoners committed for trial, at the express solicitation of the Judge Advocate, and while the Session just terminated has with the exception of one case of murder exhibited no feature of violence, the lives of twenty one fellow creatures be spared yearly to expiate their crimes by perpetual hard labour, and to serve as living monuments of the inflexible justice of the law, I feel convinced that I shall not be refused (what I solicit earnestly) Your Lordship's approbation of these commutations.

I have, &c.,

THOS. BRISBANE.

1823.
27 Nov.

Request for approval of system adopted for commutations.

[Enclosure.]

16th Octr., 1822.

REPORT of the Judge Advocate of the Territory on the trial of JOHN CHAEL, charged with others with assaulting and putting in bodily fear Thomas Colloghan in the Dwelling House at Liverpool in the said Territory, and Stealing therefrom divers Goods to the value of £80.

Report by judge-advocate on trial of John Cahill.

In the Court of Criminal Jurisdiction, New South Wales.

Plea:—Not Guilty.

THOMAS COLLOGHAN:—I live just beyond the Gate on the Liverpool road. My House was entered on a Friday morning about 2 o'Clock on 10th or 12th July last. I was in bed at the time. I heard people come in at the Gate I thought they were Settlers. I told the woman to open the Door. They called out "Colloghan, rise and give us a pint of rum." I went to light the lamp at the fire and one of the Men gave me a blow on the head with a pistol; when I looked round, all the men's faces were black; there were five or six; I could not count them, but to the best of my knowledge; they beat me backwards and forwards about the kitchen; the Man that had the pistol kept hold of me. I got hold of the pistol; one of the Men told him to blow my Brains out and not be fighting any more with me; a Man presented a piece at me, and then another of the Men came between me and him, and said there should be no violence used, no murder, and if they did he would have a difference with them. I had no sight of him till he caught me in his arms and put me in the back Room; his face was disguised with dirt; the Rest of the Men went into my Room and Rummaged everything and took away money and property; my loss I calculated at £80. Cullen's man was in the Room before me, beat in, a Man stood over me as far as I am from that person (about 4 Yards) with a pistol; he kept cocking the pistol backwards and forwards; he had his neck and the lower part of his face muffled with a handkerchief; he

1823.
27 Nov.

Report by
judge-advocate
on trial of
John Cahill.

had a straw Hat on, and a Parramatta frock made at the factory, Woollen trowsers of the same kind; he told me to be easy, nothing would hurt me, after I got into the Room. The Man had the gun at the Door. I saw the prisoner at the bar, when he came to Court the other day to swear in Brothers' favor.* I never took notice of him before. I might have seen him. *I will swear to the prisoner as the Man who stood near me with the pistol; I really think I should have been killed but for this man; the Musquet was presented twice and he stood twice between me and the piece; he was $\frac{3}{4}$ of an hour over me, the whole time, there was nothing but the Moon shining in the Room; he told them to use no violence; I always could have sworn to the Man who had the pistol; he fetched a blanket to put over Cullen's Man.*

I can swear to the Prisoner, but *I hope the Court will shew Mercy to him as he shewed to my family; he saved me and my family from being ill used, and I hope he will have mercy.*

I will swear that he is the man that stood over me.

I could not swear to any one of the Men else, the prisoner is the only one.

On Cross Examination.

I never saw the prisoner before; I have not been acquainted with him three years.

THOMAS DUNN. I am Chief constable, the prisoner was a Witness on the trial of Brothers. I pursued the Prisoner when he was alone, having left the Court. I took him in Custody. I had no communication with him. I apprehended him at the instance of Colloghan.

ANN BOWLER. It was two or three o'clock as near as I can guess; it was Thursday night, I think the 12th. I had no opportunity of seeing the face of *any one* of the Six Men in the house. I have heard Colloghan say of the very night that he could tell the Man who saved his life, if he saw him; he described him as a tall Man with very Round Shoulders; said he was an Irishman by his Voice as the Man who stood over him with a Pistol; they were between an hour and $\frac{3}{4}$ of an hour.

JOHN THORNE. I am Chief Constable at Parramatta; the Prisoner was never brought before the Bench on the hearing at Parramatta. Colloghan told me that he should know the man who stood over him with a pistol; We were all over prospect.

A written Defence read.

JAMES CULLEN. I am Government man to Cullen in Sydney. I was in the House when the Men entered Colloghan's house. Six

* *Marginal note.*—At the previous Sittings of the Court, Brothers and two others were acquitted of the felony, there being no sufficient proof of Identity.—J.W.

or Seven entered that I could observe; One of the Men struck me as they came to the Door; they were there an hour; they dragged me back to a back place. Colloghan was put there, one man stood Sentry over me. I don't know whether he was tall or short; there is no other Man I should know. I saw the Man with a Pistol. I think he had a handkerchief over his face. I could not see his face; you could only see it partially. I cannot tell any one. I was further than Colloghan was. I could not tell whether his face was blackened or not.

1823.
27 Nov.

Report by
judge-advocate
on trial of
John Cahill.

Judgment and Sentence—JOHN CHAEL

By the Court, GUILTY, DEATH.

Memorandum.

By the Charter of Justice establishing the Court, it is ordained "that execution of any Judgment of Death should not be had or done on any Offender unless *five* Persons present sitting in Judgment should concur in adjudging such Offender, so accused and tried, to be Guilty, *until* the proceedings in the Trial of such Offender shall have been transmitted to His Majesty and his pleasure shall have been expressed thereon."

In respect of the above Judgment *four* members only of the Court concurred; and further the Court Recommended the Prisoner to Mercy, at least, so far as to Commutation of Capital Sentence.

JNO. WYLDE, Judge-Adv., N.S.W.

Sydney, New South Wales, 16 August, 1823.

PRISONER'S DEFENCE.

The King on the Prosecution of Thomas Colloghan vs.
John Cahill.

Written
defence of
J. Cahill
at his trial.

May it please Your Honor and Gentlemen,

The strangeness of this Prosecution must excite, within the Breasts of those before whom I now stand, surprize, mingled with doubt. If your Honor looks over the Minutes of Evidence given by Prosecutor, when Brothers and others were arraigned for the Robbery, I humbly think that you will find that, on the question being put to him, as to the Identity of any of the Persons, who entered his House, on the Night of the Robbery, He says that, owing to their faces being disguised, he could not swear to any of them. On which the Prisoners were all acquit. How strange then, Your Honor and Gentlemen, must it appear, before the Impartial Seat of Justice, to hear this Man Swear positive to me, A Man, your Honor and Gentlemen, whom he has been acquainted with nearly 3 Years, and who has been in his

1823.
27 Nov.

Written
defence of
J. Cahill
at his trial.

House and conversed with him several times Before the Com-
mittal of the Robbery, and frequently passes and repasses Pros'r
House, on his going from and returning to his own residence.

If I was Guilty of the offence, why not take me into Custody
before this. He knew my place of residence and knew my person
well.

I have, Your Honor and Gentlemen, 3 or 4 Witnesses to prove
that on the Night of the Robbery, I was never from the place
where I was at work, but being destitute of Money Could not
Subpoena them. I have another witness to prove that he was in
company with me at Collogan's Before the Robbery. A List
of the Names of Such Witnesses I forwarded to your Honor, a
few Days ago, Stating my forlorn distress and Situation. Their
Evidence were Material and Necessary to prove my Innocence.

It was almost a Similar circumstance that Sent me into this
Country and, after my embarkation, proofs were adduced satis-
factorily of my not being Guilty; And my Free Pardon was for-
warded after Me.

It is by the Sweat of my brow and honest Industry that I obtain
my living, not by cohabiting with nightly Depredators to destroy
the Property of my Neighbours or other Individuals.

For I solemnly protest before this Court that, since my arrival
in this Colony, I never wrong'd Man or Mortal and little did I
think any one would attempt So materialy to injure Me (without
Cause) as the Prosecutor has this Day.

To the judicious and penetrating Judge, before whom I now
stand, and the Honorable Members of this Tribunal, I rest my
hopes, and to my God who knows my Innocence, My whole trust,
looking forward with firmness for that Verdict which will restore
me to liberty.

JOHN CAHILL.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 17 of 1823," per ship John Bull.)

Government House, Sydney, New South Wales,

My Lord,

28th November, 1823.

I derive great satisfaction from being able to assist in
carrying into effect the benevolent intentions of His Majesty's
Government by transmitting herewith the accompanying list of
Convicts capable of maintaining their families on arrival in this
Colony.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

[This return contained the names of eighty-nine applicants.]

28 Nov.

Return of
convict
applicants for
passages for
their wives
and families.

SIR THOMAS BRISBANE TO EARL BATHURST.

1823.
29 Nov.

(Despatch marked "No. 18 of 1823," per ship John Bull; acknowledged by Earl Bathurst, 17th August, 1824.)

Government House, Sydney, New South Wales,

My Lord, 29th November, 1823.

I have had the Honor of receiving your two dispatches, Nos. 21 and 22 of the same date, also No. 23 written the day after, on the subject of the alteration which I had deemed it expedient to introduce into the terms, upon which Land had hitherto been bestowed by the Crown, whereby I restricted the confirmation of future grants to those applicants only, who would undertake to maintain free of expence to the Crown "one convict labourer for every hundred acres so to be granted." Your Lordship observes that "Unquestionably, if the Grantees were willing to take the land upon these terms, the result would be highly beneficial to the interests of His Majesty's Government";—but You are "not sanguine enough to anticipate that many grants will be accepted upon the terms proposed," and Your Lordship therefore considers that it would be much more desirable "to impose in the first instance on each grant a quit rent to commence at the sixth year," redeemable in so liberal a manner that the grantee by payment for thirty acres will always be able to purchase rent free his farm of one hundred. Yet in the last of these dispatches, Your Lordship states it to be impossible for You "to do more than to lay down as a principle that Such conditions of cultivation ought to be imposed as will shew a real intention on the part of the occupier to effect a progressive improvement in his land without exhausting it; and in the case where he has employed a certain number of Convicts free of expence to the Crown, that test should be considered as complete without reference to any other."

I beg to express my regret in the first place that any ambiguity in my dispatch of the 21st of April, 1822, should have prevented it from appearing clearly, whether the form of a grant of land therein enclosed was applicable only to the promises of land made by General Macquarie, or whether I proposed it as a general form to be adopted by myself in all future cases. This latter is my meaning. I consider the new regulation to be a measure of general utility, and would be sorry to see it restricted to the promises of General Macquarie. Before the receipt of your dispatches a great many grants had already been completed under this regulation. One hundred and seven grantees had willingly taken them with all their obligations; while three hundred and five bonds had been executed for the maintenance of convicts upon properties, the deeds of which will not be ready to be

Despatches
acknowledged.

Conditions
proposed by
Brisbane to
be adopted in
all land grants.

Grants accepted
under new
conditions.

1823.
29 Nov.

Settlers' reasons
for accepting
new conditions.

delivered for some time. The desire, thus manifested to comply prematurely with a condition which has been represented as so exceedingly burdensome, has arisen from my having deemed it expedient, when I became acquainted with the superabundance of animal food in the territory and foresaw as its consequence the present low price of meat, to reduce the overgrown establishment of Crown Stock and lessen thereby the greatest temptation to the plunder of Government, by lending a Cow to every settler during the continuance in force of the Bond that he might execute for the maintenance of a convict. Thus these three hundred and five bonds are three hundred and five arguments to prove that the profit of a Cow during ten years, to be replaced at the end of this term by an animal of the same value, is greater than the expence of the maintenance and clothing of a Convict during an equal period. The Commissioner of Inquiry estimated justly the annual cost of every Convict in the employment of Government, at the time of his visit to the Colony, at £24 14s. Now, however, in consequence of the low prices of grain and meat, and the reduction that has taken place in the quantity of the Government Ration, this charge is considerably lessened. At an expence still less must the annual cost of the Convict be rated when placed on the estate of a Settler. The Six months provisions for seven persons that are allowed to a proprietor, promised, for instance, two thousand acres of land, if expended with good husbandry, would soon enable him to raise a sufficiency of grain for the twenty he will be obliged to support ultimately; and a very small sum of ready money, laid out in swine, would ensure him a Stock of meat more than adequate to the wants of his men in a climate favorable to the multiplication of this most prolific animal. The mimosa would manufacture the leather required for the shoes of his servants with a facility unknown in the northern hemisphere; the straw of his wheat would be plaited into hats for light coverings to their heads; while the european flax, growing with luxuriance in a latitude requiring clothes of linen only, would readily supply every other want. Therefore, notwithstanding that the master might advance subsistence and clothing to a certain degree, exactly in proportion to this anxiety to take his quota of convicts at an early date, yet they would soon cost him nothing besides the trouble of Superintendence; and his outlay at the Beginning would be ultimately restored. The Superintendence of these convicts, which would be requisite to ensure their subsisting and clothing themselves, would not interfere with a proprietor's attention to the growth of fine wool, the staple of the Colony, but would rather promote it by fixing his residence on his estate;

Cost of
maintenance of
a convict to
the crown and
to settlers.

every grant of two thousand acres under the new regulation containing twenty strong arguments to encourage such residence instead of living in a dissipated Capital and thereby giving the reins to that course of stock plunder which from this very cause has run to such lengths in Van Diemen's Land.

1823.
29 Nov.

The Convict-barracks of New South Wales remind me of the Monasteries of Spain. They contain a population of consumers who reproduce nothing. If however the capital of any country can only encrease in proportion to the number of its productive Labourers, the suppression of monasteries throughout a roman catholic people would not act more efficiently in producing the revival of industry *there*, than the regulation *here* which obliges every emigrant settler, who obtains a grant of two thousand acres of land, to take out of Sydney barrack twenty convicts. The many criminals annually convicted in England may be fairly attributed to the multitude of her manufactures, for the vices inseparable from a crowded population are well known to be many. It is the recommendation of the Commissioner of Inquiry to remove the mass of convicts out of the County of Cumberland. For the County of Cumberland no arrangement can be better. But he proposes still to cluster them only a little nearer the line. "Ubi Papa, ubi Roma"; and I much fear congregated any where, there will be laid the foundation of a Second Sydney.

Disadvantages
of centralising
convicts in
one place.

But the principle of all others, upon which I attempt the defence of the measure which is the Subject of this dispatch, is its efficaciousness as a check by which persons are stopped from asking for Land, who do not intend to make a proper use of it: And my only complaint arises from having found that even this check is not sufficient. Your Lordship, having seen the picture which Mr. Bigge has drawn* of the great confusion and violence which took place upon one occasion, when he was present at the Government House, from "the number of the applicants consisting of every rank and condition and their eagerness to offer their petitions," must be already apprised of the keenness of this appetite for land. By its cravings, Governor Macquarie had been so interrupted as to be obliged to limit the reception of these applications to one day in the year; and I would have been compelled to continue this regulation had not the rule of a convict for every hundred acres come to my relief. Even as it is, a large portion of my time, diverted from subjects of much greater importance, is engaged in refusing land. Already had I promised one hundred and sixty three thousand acres to persons pressing forward and stating their eagerness to obtain land under all its conditions, and I had nevertheless been obliged to refuse more applications than even the ones I had granted, when I received

Advantages of
new conditions
in land grants
as a restriction
on undesirable
settlers.

* Note 41.

1823.
29 Nov.

Avidity of
settlers for
land grants.

with inexpressible satisfaction Your Lordship's late dispatch ordering me to augment the Quit rents. Not a Cow calves in the colony but her owner applies for an additional grant in consequence of the encrease of his stock. Every person to whom a grant is made receives it as the payment of a debt; every one to whom one is refused turns my implacable enemy. Seated in this situation, I cannot but call to mind the french King, who exclaimed from a similar feeling "by every gift that I bestow, I create one ungrateful person and ten enemies!" From being deeply impressed with these sentiments, it is that I principally entreat the continuation of the present rule, or the commencement of some more efficacious regulation, by which I shall be enabled to comply with a majority of the applications for Grants of Land.

Negotiations
with
John Macarthur
re land grants.

The case of Mr. Macarthur* will give Your Lordship an insight into the feelings, which attend the refusal of every request concerning Land. On the receipt of Your dispatch of the 10th July, 1822, I immediately embraced the opportunity of an interview with that Gentleman to express to him the pleasure I would derive from carrying the instructions of Your Lordship into full effect. He addressed to me in consequence the accompanying enclosure; to the proposals contained in which I did not consider I ought to yield. In the first place, I thought it probable that Your Lordship had not been apprized, at the date of your dispatch, of the two grants amounting together to two thousand three hundred acres of Land, which had been taken from the Cow pastures by Governor Macquarie for the two sons of Mr. Macarthur. And in the next place, I was certain that Your Lordship could not have been informed of the 4,568 acres of Land, which I had already given to him in the Cow pastures, before the arrival of your Commands, in payment for the Merino rams whose purchase had been Sanctioned by your despatch of the 24th July, 1820, but which land, it was expressly stipulated in the agreement made with Mr. Macarthur, he was not to be permitted to receive adjoining his old property. Notwithstanding that by these gifts Mr. Macarthur and his two sons possess an area in the Cow pastures of 15,498 acres of land, I nevertheless thought that Your Lordship would not object to allow the five thousand additional acres (You had ordered him) to be measured to the South of the grant which he has named Brisbane. Nothing would satisfy Mr. Macarthur however except the Cancellation of this deed, and two former ones, and the surrender in their stead into his hands of the Government establishment at Cawder, and the grounds which had been always reserved for a Church, a School, and a Town. As I considered it impossible to Yield to this demand, Mr. Macarthur is in consequence daily displaying

* Note 42.

irritation; and the enclosed reply to a letter addressed to Mr. James Macarthur, in obedience to your desire conveyed to me in a dispatch bearing date the 26th of last March, to offer the appointment of a Magistrate to this gentleman or to his Brother, seems to have been dictated by the same spirit.

1823.
29 Nov.

The measure of a convict for every hundred acres was certainly received on its introduction with every mark of dissatisfaction; and I make no doubt that many representations have been exhibited to Your Lordship setting forth the ruin to the Colony, which should be the effect of its adoption. Clamour however is nowhere a long liver; and its day is past here already. Loud as the objections were at its first operations, I have nevertheless the satisfaction to know also that the cry was equally noisy against the clause of clearing, &c., cultivation introduced at the Commencement of the Administration of the late Governor. There are few now, however, who do not acknowledge that the effects of the new regulation have been beneficial; and with delight I witness the progress made already by late settlers under its auspices, and the contentment and plenty which reign at Bathurst and Newcastle. It was a measure which could not have been popular; and yet I am convinced that the measure was necessary. It could not have been popular with those to whom grants had been promised, because the love of liberty is too deeply implanted in our breasts to be pleased with any restriction. It could not have been popular with the old Settlers, because the prosperity of the colony is so closely allied in their habits of thinking with ten Shillings a bushel for their wheat that any measure tending evidently, by destroying the market of three thousand unproductive consumers in Sydney, to reduce the price of this grain to what it brings in France or America, must in their notion annihilate the Colony. And yet I do think that if, from the present low price of wheat, we are able, as we must be, to enter into competition with the grain of Bengal, in the market of the Isle of France, and pay for the sugars we consume with this produce instead of Treasury Bills, I ought to be considered as the Colony's Friend, and not as her Enemy.

Opposition to alteration in tenures of land grants.

Recognition of advantages of new regulations.

Popular dislike for the measure.

Having thus humbly submitted to Your Lordship the grounds upon which I am induced to request a continuation of the existing rule of a convict for every hundred acres, I shall await your final decision with every desire to carry into the fullest effect whatever you may ultimately resolve. But I do trust, that Your Lordship will take under your most serious consideration the weight of odium, which must overwhelm every Governor without the establishment of Some efficacious check to the applications which are hourly crowding for land. If Your Lordship

Request for approval of new regulations.

1823.
29 Nov.

Necessity
for definite
regulations.

determine on the permanence of the old clearing and cultivating clauses, perhaps You would not think it unadvisable to fix an invariable proportion of land to be cultivated in every grant. At present the proprietor of thirty acres engages to cultivate a third, but of two thousand a twentieth:—to render the Species of cultivation demanded definite; at present it may be grain, or it may be grass; to make the condition of clearing less unequal; Newcastle is a thick forest; Argyle a British nobleman's park; at Bathurst there is scarcely a tree:—But above all, to appoint a Commission of Escheat, because since the judgment, which Mr. Field felt himself bound to pronounce in open Court, that without Office found the Crown could not enter the land under forfeiture, the clearing and cultivating clauses have become a dead letter. And so fully convinced of their inefficacy was Governor Macquarie, that I introduced the late Change only after consultation with Him; when he expressed himself satisfied that it was the measure of all others calculated to effect that permanent improvement of the land which he had been long endeavouring ineffectually.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

MR. JOHN MACARTHUR TO SIR THOMAS BRISBANE.

Sir,

Parramatta, 29th November, 1822.

I beg to return Your Excellency my respectful and grateful thanks for the obliging and ready manner in which you have been pleased to express your desire of carrying into effect the instructions of Lord Bathurst, with respect to the additional grant of Five Thousand Acres of Land directed to be given me, adjoining my former Grant in the Cowpastures.

In obedience to your Excellency I have now the honor to submit a plan for the measurement of the additional 5,000 Acres, and for the consolidation of the whole of my Lands in the Cowpastures; which will, I humbly conceive, ensure, as far as is now practicable, the fulfilment of his Lordship's wishes, "that a tract of Land should be secured to me for preserving my flocks in their present state of purity and perfection, without incurring the risk of loss or interruption from the establishment of neighbouring Settlers."

I will not dwell upon this topic, being well aware that Your Excellency has always considered the increase, purity and progressive improvement of my flocks, objects of great public importance, and has long been aware that the vigilant Superintendence of my Sons (which has been rendered much more difficult by the situation of the estates of other Gentlemen) and the interposition of fences, against the trespasses and contamination

John
Macarthur's
proposal for the
consolidation of
his grants.

of adjoining diseased or unimproved Sheep, will be the best security against a recurrence of evils that have more than once alarmed us for the safety of the whole establishment.

The Grants of 1,150 Acres each given to my Sons James and William by Your Excellency's Predecessor, and a considerable part of Brisbane, are from the want of Water and difficulty of access nearly useless, except during a very small portion of the Year. I would therefore beg permission to resign these three Grants, which with the 5,000 Acres, ordered by Lord Bathurst, make a total of 11,868 Acres.

By a reference to the accompanying Chart, Your Excellency will observe a red line running from the termination of Hunter's Rivulet, to the West boundary of West Camden; including the whole of the Government reserved land, and a part of Brisbane:— and containing about 12,500 Acres. This tract of Land may be fenced at a moderate expence; it abounds in excellent Sheep pasture, and, from its consolidated form and contiguity to Camden, would enable us to place all our flocks within limits less difficult, to be daily inspected. The Estate being completely separated by good boundaries from other proprietors, we should look forward with more confidence, under Your Excellency's liberal auspices, to the completion of the object that I have so many years laboured to attain.

Should Your Excellency be pleased to sanction the proposed arrangement, I would cheerfully allow for the expence of the fences and Buildings that have been erected; and as the quantity of Land somewhat exceeds what I may be strictly entitled to, perhaps Your Excellency would not object to accept payment for the surplus in Stock for the improvement of the Public Herds and Flocks.

I have, &c.,

JOHN MACARTHUR.

[Sub-enclosure.]

[A copy of the chart will be found in the volume of charts and plans.]

[Enclosure No. 2.]

MR. JAMES MACARTHUR TO SECRETARY GOULBURN.

Sir,

Parramatta, 17th October, 1823.

I have the honour to acknowledge the receipt of your Letter of the 7th Instant, wherein you inform me that My Lord Bathurst having desired the Governor to offer the Commission of a Magistrate to my Brother or myself, a notification of my appointment will take place on an early occasion, "should I feel anxious to undertake the duties of this Office."

We are both deeply impressed with gratitude for the highly flattering mark of distinction, conferred upon us by My Lord Bathurst, but many painful local considerations make us the

1823.
29 Nov.

John Macarthur's proposal for the consolidation of his grants.

James Macarthur's refusal of appointment to the magistracy.

1823.
29 Nov.

James
Macarthur's
refusal of
appointment to
the magistracy.

reverse of anxious, at present, to undertake the responsibility of any public Office. Whenever these may cease, nothing will more gratify my brother and myself than zealously to devote our humble Services to the support of His Majesty's Government, and the promotion of the peace and happiness of our Native Land.

Having had the Honor to explain myself very fully, in a personal interview with His Excellency the Governor this morning, I feel it unnecessary on the present occasion to trespass longer upon your attention.

I have, &c.,

JAS. MACARTHUR.

SECRETARY HARRISON TO SIR THOMAS BRISBANE.
(Despatch per H.M.S. Tamar.)

13 Dec.

Sir, Treasury Chambers, 13th December, 1823.

Brisbane
relieved of
personal
responsibility in
countersigning
bills.

In reply to Your letter of the 20th March last, I am commanded by The Lords Commissioners of His Majesty's Treasury to acquaint You that it was by no means their Lordships' intention to render you in any respect personally liable for the application of the Money, raised by the negotiation of Commissariat Bills, because they requested you to countersign all such Bills; their Lordships' reason for so doing was an additional Security that the Commissariat Officer should not draw Bills upon this Board, without your knowledge and approbation, and for sums exceeding those which may be warranted by the Estimates submitted for Your Approval. Upon the Establishment however of a Branch of the account department of the Commissariat at New South Wales, for which directions have been given, The Officer in charge of that department will Countersign all Bills drawn by the Commissariat, and it will be his Duty to take care that no greater amount of Bills are drawn for than are authorized by Your Warrant.

I am, &c.,

GEO. HARRISON.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.
(Despatch per ship Alfred.)

22 Dec.

Sir, Downing Street, 22d Decr., 1823.

Appointment
of sheriff for
the colony.

I have the honor to acquaint you, by direction of Lord Bathurst, that Mr. Mackaness has been appointed Sheriff* of the Colony of New S. Wales, and as an opportunity offers of taking his Passage in a Private Ship, he has determined to proceed to the Colony without waiting for his official appointment from Lord Bathurst which will be despatched with as little delay as possible.

I therefore take the liberty of introducing him to you, and beg to recommend him to your attention and good Offices.

I have, &c.,

R. WILMOT HORTON.

* Note 43.

EARL BATHURST TO SIR THOMAS BRISBANE.

1823.
24 Dec.

(Despatch per H.M.S. Tamar.)

Sir, Downing Street, 24th Decr., 1823.

In consequence of some favorable circumstances which have been represented to the Lord Lieutenant of Ireland with respect to William Fitzgerald, a Convict who was tried under the Insurrection Act in the County of Clare and Sentenced to be Transported, His Excellency has been pleased to Grant him a free Pardon; and the said William Fitzgerald having been embarked on board the Medina, which Sailed from Cork on the 5th Sepr. last for New South Wales, I am to desire that you will give the necessary directions in order that William Fitzgerald may be sent back to this Country by the first opportunity.

Free pardon
granted to Wm.
Fitzgerald.

I have, &c.,

BATHURST.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per H.M.S. Tamar; acknowledged by Sir Thomas Brisbane, 8th November, 1824.)

Sir, Downing Street, 24th Decr., 1823.

With reference to my letter of the 5th June last, respecting the embarkation of the 48th Regt. for Madras on the arrival of four companies of the 40th Regt. at New South Wales, I am directed by Earl Bathurst to acquaint you that as arrangements have been made by the Navy Office for providing Transports for the purpose, you will only be required to have the 48th Regiment in readiness to embark on the arrival of a sufficient number of the 40th Regt., which will sail for the Colony early in the ensuing Spring.

Instructions for
embarkation of
48th regiment.

I have, &c.,

R. WILMOT HORTON.

SIR THOMAS BRISBANE TO MAJOR-GENERAL SIR HERBERT TAYLOR.

(Despatch per ship Competitor.)

Government House, Parramatta, New South Wales,

Sir, 29 Decr., 1823.

29 Dec.

In reply to your letter of the 22nd May with its enclosures, which I have just had the honor to receive, I have to regret that H.R.H. The Commander in Chief should consider my recommendation of a Staff Surgeon in this Colony as unnecessary or inexpedient, and I beg to offer, for the reconsideration of H.R.H., my reasons for urging the necessity of such an appointment.

Reasons in
advocacy of
appointment of
staff surgeon
for the colony.

The population of New South Wales and Van Dieman's Land, which is constantly and rapidly increasing, being scattered over more than a thousand miles of territory, requires that the Troops

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29 Dec.

Reasons in
advocacy of
appointment of
staff surgeon
for the colony.

should occupy very distant stations, and the number of these stations, necessarily increasing in proportion to the increase in colonization renders it impossible to separate the sick soldiers from the convicts, an evil which I conceive to have the most pernicious tendency in a Colony such as this, and for which I am not aware of any other remedy than the one I have proposed, namely, a sufficient number of Army Medical Officers under a proper superintendence to attend to the Troops only.

It is true, as stated in Mr. Merry's letter, that, with the two Regiments now here, there is an accession of two Medical Officers to the number we lately had, but only one more than had been for years as the 48th till the late reduction had two assistants. But if it be considered that in the whole of Van Dieman's Land there is no Army Surgeon, and that only one can be spared for detachment in this Colony, the accession will at once appear to fall far short of our real wants; for in all the out stations the sick soldiers, if they have any medical attendance at all, are unavoidably mixed with the convicts; and even with this disadvantage, although we uniformly endeavour to place the Troops where they are most likely in case of need to procure assistance from the civil Staff, this assistance is rendered exceedingly precarious from the distance between stations and from the frequent necessity the Medical Officers are under of visiting the widely scattered population of their respective country districts, a circumstance which renders them inadequate to attend to the wants of the convict population alone.

For these reasons, together with the growing importance and rapidly extending population of the two Settlements of Hobart town and Port Dalrymple in Van Dieman's Land, both of which will require the present number of Troops to be increased, an Army Surgeon must be sent to each, leaving but one of each corps for all the duties of this extensive Colony.

I would beg to observe that, in the Deputy Secretary at War's letter, there is more importance given to the number and efficiency of the Civil Medical Staff than their real state warrants, and only arises from his not taking into consideration the variety of duties they have to perform, and the great extent of the country they are employed in.

In the two Colonies, the numbers doing every sort of duty connected with the Medical Establishment consists of twelve, four of whom are in Van Dieman's Land, and one at each of the distant penal settlements of Newcastle and Port Macquarie.

The principal Surgeon, who acts as Inspector, attends when not on his tours in the country at the General Hospital at Sydney with two assistants, one of whom has sufficient employment in

the charge of the Apothecary and other Stores belonging to the Establishment; so that for the whole of the other towns and the settled country districts extending over a range at least ten thousand square miles, with a considerable population of both free people and convicts in the public employ, there are but three Medical Officers. Indeed so far are the Civil Staff at present from being sufficient for the duties its members are called on to perform, that it has long been in contemplation to solicit an augmentation of its numbers with the addition of such advantages as would induce men properly qualified to settle in the country.

I have also to remark that no part whatever of the medicines and stores, sent out by Government for the use of the Troops, are, or ever were, in charge of the Principal Surgeon of the Civil Staff as stated in Mr. Merry's letter. These Medicines and Stores are sent for the use of the Troops by the Army Medical Department, and are totally distinct from those for the Civil Establishment. They have hitherto been under the care of whoever happened to be the Senior Military Surgeon at the Station; but there is no particular person responsible for the care of them or for their proper distribution.

I beg leave in conclusion to say that I recommend this appointment from my own knowledge of the wants of the Colony over which I have the honor to be placed, from considering the state of it in all its bearings, and from a thorough conviction that much benefit will arise from it, both to the Soldier and to His Majesty's Service generally.

I have, &c.,

THOS. BRISBANE, M.-Gen'l.

EARL BATHURST TO SIR THOMAS BRISBANE.

(A circular despatch per H.M.S. Tamar.)

Sir,

Downing Street, 31st December, 1823.

In consequence of the great inconvenience, which has arisen from the omission to report to me regularly for His Majesty's information such vacancies, as occur from time to time in the Civil Offices on the Establishment of the Governments of His Majesty's Foreign Possessions, I have received His Majesty's Commands to desire that in future you will not fail to notify to me such vacancies, immediately as they occur, and you will at the same time take care to report the names of the persons, whom you may think it necessary to appoint to such vacant Offices, until they shall either be superseded by other individuals appointed by His Majesty, or eventually confirmed; and I have further to acquaint you that I shall not feel myself at liberty to sanction

1823.
29 Dec.

Reasons in
advocacy of
appointment of
staff surgeon
for the colony.

31 Dec.

Instructions
to transmit
returns of
vacancies in
civil offices.

1823.
31 Dec.

the issue of any Salary, which may have been issued to Officers provisionally appointed by you for any period antecedent to your notification of their Appointment.

Quarterly returns to be made of appointments in the colony.

With respect to those Offices, to which it has been usual for you or your Predecessors to appoint Individuals residing in the Colony, I have to request that you will send me a list of the Dates of those several appointments, and report to me quarterly such changes as may in future occur in them.

I have directed that a copy of this Instruction may be transmitted to the Lords Commissioners of His Majesty's Treasury for the information and guidance of the respective Boards of Audit.

I have, &c.,
BATHURST.

1824.

RECOMMENDATIONS OF SETTLERS.*

Letters in recommendation of settlers.

DURING the year 1824, letters of recommendation from the under secretary were forwarded to Sir Thomas Brisbane on behalf of the following settlers:—

Date of Letter. 1824.	Name of Settler.
9 Feb.	Mr. W. Bucknell
23 Feb.	Mr. W. M. Stewart
17 March	Mr. G. Galbraith
7 April	Mr. Alex. Hood
24 April	Mr. Wm. Wise
3 May	Mr. F. Benson
30 June	Mr. J. Gandell
10 July	Mr. R. N. Parker
16 Aug.	Mr. A. Still, Jr.
4 Oct.	Mr. Duguid
29 Oct.	Mr. R. Jones
— Novr.	Mr. J. S. Speering
20 Dec.	Mr. W. Wilkinson

Letters containing orders for land grants.

ORDERS FOR LAND GRANTS.*

DURING the year 1824, the following persons received orders from Earl Bathurst for land grants, and advice of the same was given in letters as under:—

Dates of Letters. 1824.	Names of Persons.	Place of Grant.
21 February ...	Mr. W. Nichol	N.S.W.
21 February ...	Mr. G. Cavenagh .....	..
21 February ...	Mr. John Evans .....	..

* Note 1.

ORDERS FOR LAND GRANTS—*continued.*

1824.

Letters
containing
orders for
land grants.

Dates of Letters. 1824.	Names of Persons.	Place of Grant.
1 March	Mr. Wm. Urquhart	N.S.W.
5 March	Lt. C. Pannaek	"
22 March	Mr. G. Burn	"
3 April	Mr. David Carfrae	"
17 April	Mr. McIntyre	"
17 April	Mr. H. Batten	"
19 April	Mr. Francis Benson	"
26 April	Mr. Wm. Wise	"
3 May	Mr. James Orr	"
5 May	Mr. Francis Benson	"
14 May	Mr. D. Anderson	"
17 May	Mr. W. Williams	"
21 May	Mr. W. Dean	"
21 May	Mr. J. Pike	"
6 July	W. G. Walker	"
6 July	T. Gourlay	"
6 July	W. Dangar	"
18 July	Benjn. Boyes	"
28 July	R. Redfern	"
28 July	F. Dixon	"
26 August	Peter Cunningham	"
6 September ..	Thomas Lyon	"
13 September ..	E. Cox	"
17 September ..	W. Ascough	"
23 September ..	W. Forsyth	"
11 October	S. Moore	"
28 October	J. Olding	"
28 October	R. Jones	"
11 November ..	E. Jones	"
11 November ..	W. Phillips	"
11 November ..	J. Roberts	"
12 November ..	J. Inches	"
17 November ..	J. Carmichael	"
17 November ..	T. W. M. Winder	"
19 November ..	T. Holmes	"
26 November ..	C. De la Hunt	"
26 November ..	W. Connell	"
26 November ..	D. Peach	"
10 December ..	P. Gardner	"
20 December ..	G. Adair	"

1824.
5 Jan.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 1, per H.M.S. Tamar.)

Sir, Downing Street, 5th Jany., 1824.

Appointment of
registrar of
supreme court.

His Majesty having been pleased to appoint Mr. Mills to be Registrar* of the Supreme Court in New S. Wales, I am to desire that you will put him in possession of his Office and afford him every support and assistance in your power.

Duties of the
registrar.

The following are some of the duties which will devolve upon him:

First.—In his Office all Writs will be sued out and prepared for the Signature of the Judge. He will receive and record all Declarations, Pleas, and other written Pleadings, both at Law and Equity. He will be charged with the Custody of these Records. He will prepare and issue Official copies of them.

Secondly.—He will always be present in Court at all Civil Proceedings. He will take a Procès Verbal of all that passes. He will draw up from the Notes thus taken all Judgments, Decrees, Orders and Sentences, that is to say the adjudication of the Court in its different Jurisdictions, as a Court of Law and of equity, as a criminal and as an Ecclesiastical Tribunal. He will of course be assisted by Clerks, who with leave of the Court may sit for him occasionally, but he will not be allowed to act by Deputy.

You will not understand these directions as an accurate specification of the duties to be executed by the individual, but merely as a general summary for your guidance.

Salary of the
registrar.

With reference to the above duties, I think it necessary to inform you that Mr. Mills should receive a Nett Salary of £800 per annum, which should arise from the fees payable to him as Registrar, and the Chief Justice should be directed to draw out a Docket of Fees, which will on an average afford him the above sum. If however they should exceed £800 per annum, Mr. Mills will be directed to pay the Surplus into the Police Fund; and in the event of their not amounting to that sum, the deficiency should be made good from the Colonial Revenue.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 2, per H.M.S. Tamar.)

Sir, Downing Street, 5th Jany., 1824.

Appointment
of master of
supreme court.

His Majesty having been pleased to appoint Mr. Wm. Carter to be Master* of the Supreme Court in New South Wales, I am to desire that you will put him in possession of his Office

* Note 43.

1824.
5 Jan.Duties of
master of
supreme court.

and afford him every support and assistance in your power. The following are some of the principal duties which will devolve upon him:

First.—He will have to tax the Costs of all proceedings in Actions at Law, in Suits in Equity, in Ecclesiastical Suits, and upon Criminal Informations.

Secondly.—He will be the Officer to whom the Court will entrust the duty of investigating all accounts. In Suits in Equity, he will further be required to investigate and report to the Court upon all disputed questions of fact with the exception of those which may be proved by depositions in the cause, or those which the Court may see fit to refer to a Jury.

Thirdly.—He will be required to prepare for the approbation of the Court all Conveyances, Leases, and other Instruments of a legal nature, which the Court may require any of the parties to a Suit to execute.

Fourthly.—All the details as to the management of the Estates of Minors, Lunatics, and other Persons, whose property is under the control of the Court, will be committed to him, subject to an Appeal to the Court itself.

Fifthly.—He will act as Examiner, that is he will take the Depositions of all Witnesses who by Law are to be examined, not *viva voce* in open Court, but upon written interrogatories.

Finally.—He will be bound to attend, as often as may be required, in Court in order to assist the Judge, with information as to the practice and proceedings of the Department of the Court over which he is to preside.

You will not understand these directions as an accurate specification of the duties to be executed by the Individual, but merely as a general summary for your guidance.

With reference to the above duties, I think it necessary to inform you that Mr. Carter should receive a Nett Salary of £600 per annum, which should arise from the fees payable to him as Master, and the Chief Justice should be directed to draw out a Docket of Fees which will on an average afford him the above Sum. If however that should exceed £600 per annum, Mr. Carter will be directed to pay the Surplus into the Police Fund; and in the event of their not amounting to that Sum, the deficiency should be made good from the Colonial Revenue.

I have, &c.,
BATHURST.

1824.
15 Jan.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch per H.M.S. Tamar.)

Sir, Downing Street, 15th Jany., 1824.

Pardon granted
to William
Davidson.

I have the honor to transmit to you herewith the copy of a letter addressed to my Under Secretary by Mr. Hobhouse, dated 22d ulto., enclosing a Pardon for William Davison, otherwise John Davison, who was convicted of cutting and maiming in September, 1822, and had Sentence of Death passed upon him; and I am to desire that the Instructions contained in Mr. Hobhouse's letter may be carried into effect.

I have, &c.,
BATHURST.

[Enclosure.]

UNDER SECRETARY HOBHOUSE TO UNDER SECRETARY HORTON.

Sir, Whitehall, 22 Decr., 1823.

Legal opinion
on trials of
W. Davidson
and
W. Rotton.

I am directed by Mr. Secretary Peel to acquaint you, for the information of Lord Bathurst, that He has deemed it right to consult the Attorney and Solicitor General, respecting the Cases of Wm. Davison and Walter Rotton, which were transmitted in your Letter of the 31st July last.

Interpretation
of statutes.

The Law Officers think that both the Cases (tho' relating to Offences created by different Acts of Parliament, viz. 39th Geo. 3d, Cap. 85, and 43 Geo. 3d, Cap. 58), turn entirely upon the true construction of the Act, 27th Geo. 3d, Cap. 2, by which the Criminal Judicature for New South Wales was established. And they are of Opinion, from the Words of the latter Act, that it was the Intention of the Legislature to put the Criminal Law of that Settlement on the same footing as that of England, not merely with reference to the Period at which the Act was passed, but also with respect to the future. It will be seen that this construction of the Act is strongly confirmed by the 34th Geo. 3d, C. 34 establishing a Criminal Court in Norfolk Island.

Sentence on
W. Rotton
unaltered.

In pursuance of this Opinion, Mr. Peel has not deemed it right to recommend to His Majesty's Mercy the case of Walter Rotton, who is under Sentence of Transportation. But, as William Davison is under Sentence of Death, His Majesty has, in consideration of the doubt existing in the Colony as to the nature of the Crime, been graciously pleased to Grant to him a Conditional Pardon, but in order that the construction of the 27th Geo. 3d may be clearly understood in future, it has not been thought fit to reduce the commuted punishment below that of Transportation for Life.

Commutation
of sentence on
W. Davidson.

The Warrant for that purpose is enclosed, and Mr. Peel requests that the Grounds upon which it proceeded may be communicated to the Governor.

I am, &c.,
H. HOBHOUSE.

EARL BATHURST TO SIR THOMAS BRISBANE.

1824.
19 Jan.

(Despatch No. 3, per H.M.S. Tamar; acknowledged by Sir Thomas Brisbane, 1st November, 1824.)

Sir, Downing Street, 19th Jany., 1824.

It being provided by the Act of 4th George 4th Cap. 96 that His Majesty may, by Warrant under His Royal Sign Manual, constitute and appoint a Council* for the Colony of New South Wales, and that the Governor with the advice of such Council shall have Power and authority to make Laws and Ordinances for the Peace, Welfare, and Good Government of the said Colony, I have the honor herewith to transmit to you His Majesty's Mandamus nominating the Five principal Officers of the Colony to Seats in the Council.

Statute constituting council.

Mandamus appointing members of council.

I am to desire that you will particularly explain to the Gentlemen selected that the nomination of the present Council is only intended to be *Pro Tempore*, and that the Warrant will be revoked as soon as I shall have received from you the Names of Ten of the Principal Merchants and Land holders, whom you may consider eligible to form the Council, from which His Majesty will select as many as may be deemed proper. I however reserve to myself the Power of submitting the names of any of the Members of the present Council for reappointment, should I consider it to be advisable.

Temporary appointment of members.

I have, &c.,

BATHURST.

[Enclosure.]

WARRANT APPOINTING A COUNCIL IN THE COLONY OF
NEW SOUTH WALES.

George R.

Warrant appointing members of council for the colony.

TRUSTY and Wellbeloved, We Greet you Well. Whereas by an Act of Parliament passed in the Fourth Year of Our Reign, entitled an Act to provide until the first day of July, 1827, and until the end of the next Session of Parliament, for the better Administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof and for other purposes, It is amongst other things enacted that it shall and may be lawful for Us, Our Heirs and Successors, by Warrant under Our or their Sign Manual, to constitute and appoint a Council to consist of such persons resident in the said Colony not exceeding Seven nor less than Five, as We, Our Heirs and Successors, shall be pleased to appoint, and, upon the Death, Removal or absence of any of the Members of the said Council,

* Note 44.

1824.
19 Jan.

Warrant
appointing
members of
council for
the colony.

in like manner to constitute such and so many other person or persons as shall be necessary to supply the vacancy or vacancies. Now We do hereby, in pursuance of the said Act of Parliament and in execution of the power and authority thereby vested in Us as aforesaid, nominate, constitute and appoint Our Trusty and Wellbeloved William Stewart, Esquire, Our Lieutenant Governor of Our Settlement in New South Wales, and Our Trusty and Wellbeloved Francis Forbes, Our Chief Justice of Our said Settlements, and Our Trusty and Wellbeloved Frederick Goulburn, Esquire, Our Colonial Secretary of Our said Settlements, and Our Trusty and Wellbeloved James Bowman, Esquire, the principal Surgeon of our said Settlements, and Our Trusty and Wellbeloved John Oxley, Esquire, the Surveyor General of Our said Settlements, to be the Members of Our Council of Our said Colony of New South Wales for and during Our Will and Pleasure. And We do hereby authorise, require and command them to do all such Acts and Deeds, Matters and Things, as under and by virtue of the said Act of Parliament may lawfully be done and performed by the members of our said Council; and in case at the time of the execution of these presents all, or any, or either of the persons before named, should be dead, then and in that case We do hereby constitute and appoint such other person or persons as shall have lawfully succeeded to Our said Lieutenant Governor of Our said Settlement, Our said Chief Justice of Our said Settlement, The said Colonial Secretary of Our said Settlement, The said principal Surgeon of Our said Settlement, and the said Surveyor General of Our said Settlement, in their or any of their said Offices, to act as, and be, for and during Our Will and Pleasure, a Member or Members of Our said Council in the place and stead of the person or Persons to whose Office or Offices he or they may have so lawfully succeeded as aforesaid. Given at Our Court at Carlton House, the First day of December, One thousand Eight hundred and Twenty three. In the Fourth year of Our Reign.

By His Majesty's Command,

(Countersigned) BATHURST.

To our Trusty and Wellbeloved Sir Thomas Brisbane, Knight, Commander of the most Honorable Military Order of the Bath, Major General of Our Forces, Captain General and Governor in Chief in and over Our Territory of New South Wales and its dependencies, or to the Lieutenant Governor or Commander in Chief of the said Territory for the time being.

EARL BATHURST TO SIR THOMAS BRISBANE.

1824.
20 Jan.

(Despatch No. 4, per H.M.S. Tamar.)

Sir,

Downing Street, 20th Jany., 1824.

In reference to the 20th Clause of the New South Wales act* (4 Geo. 4th, Cap. 96), I have it in command from His Majesty to issue the following Instructions for your guidance with respect to the erection of Courts of Requests in the Colony under your Government.

Instructions for
erection of
courts of
requests.

Considering the great and increasing number of small Settlers in New S. Wales and the importance of providing the means of adjusting at a small expence and with the least possible delay the causes of a civil nature and of a small amount, in which they may be interested, it has been thought right that you should forthwith carry into execution the power of constituting Courts of Requests, with which you are invested by the Act of Parliament.

You will therefore, with all convenient expedition after the receipt of this Despatch, cause a Commission to be issued, in His Majesty's Name, under the Seal of your Government, erecting five distinct Courts of Requests, one of which is to be held in each of the Towns of Sydney, Parramatta, Liverpool, Windsor and Newcastle, and you will by that Commission appoint such times for the holding of each of those Courts as may best suit the convenience of the Public at large. Upon this point you will exercise your own discretion, observing only that the Courts should be held in each Town at such short intervals as may prevent any improper accumulation or arrear of business.

As it is considered of great importance that the Commissioner, who may preside in these Courts, should be a person of adequate legal attainments and of unexceptionable character, and as it would not be easy to obtain a sufficient number of competent Commissioners, if each district Court were to be held by a separate Commissioner, it has further been decided that the same individual should preside in each of the Courts of Requests in the five Towns above mentioned, and the times for holding the Courts must therefore be so arranged as to allow the Commissioner to attend successively in each. If it should appear that the amount of business is too considerable to be properly discharged by one person, or if the increase of the Colony should hereafter render necessary any addition to the number of such Courts, you will not fail to transmit to me the necessary information in order that the expediency of appointing one or more additional Commissioners may be considered. At present it does not appear that more than one person can be required for performing the whole

One
commissioner
to be appointed
for courts of
requests.

* Note 33.

1824.
20 Jan.

of this duty throughout the Colony, and therefore His Majesty would not deem it right to approve the granting a Salary to more than one Officer of this description.

Appointment of
John Stephen as
commissioner
of courts of
requests.

I am further to acquaint you that His Majesty has been pleased to nominate John Stephen,* Esqre., Barrister at Law, the late Solicitor General of the St. Christopher's Government, as the Commissioner of the several Courts of Requests which are to be at present established in New South Wales. You will therefore cause five separate Commissions to be issued in His Majesty's Name, under the Seal of your Government, appointing this Gentleman to act as Commissioner in each of His Majesty's Courts of Requests at Sydney, Parramatta, Liverpool, Windsor and Newcastle.

Reasons
for issuing
separate
commissions.

The convenience of issuing separate Commissions for holding each distinct Court will be felt, if it should hereafter be necessary to increase the number of Commissions, since in that event the present Commissioner might retain such of his Commissions as it might be deemed right upon a future arrangement to entrust to him, and such only of those Commissions would be recalled as upon such an arrangement it might be thought proper to commit to some other person.

Salary of
commissioner.

In pursuance of the Act of Parliament, you will consider what salary might be allowed to the Gentleman at present to be entrusted, having regard to the Salaries of the other Legal Officers in the Colony, and to the amount of Labor and the responsibility attached to the Office. It does not appear that a smaller Salary than £600 per annum could be properly given as a remuneration for his Services, and you are therefore authorised to pay to the Commissioner of the Courts of Requests out of the Colonial Revenue a Salary amounting at least to £600 per annum, until you have had an opportunity of reporting to me your Judgment upon this point, and of receiving His Majesty's Commands in relation to it.

Mr. Stephen proceeds to New South Wales by the earliest conveyance to assume the duties of his Office.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 5, per H.M.S. Tamar.)

21 Jan.

Sir,

Downing Street, 21st Jany., 1824.

Appointment of
John Stephen as
solicitor-
general.

I am to acquaint you that His Majesty has been pleased to appoint John Stephen, Esqre., Barrister at Law, the late Solicitor General of the St. Christopher's Government, to be His Majesty's Solicitor General of New South Wales.

* Note 45.

It is not proposed to attach any Salary or Allowance to this Office. The Solicitor General will by virtue of his appointment be considered as the legal Adviser of His Majesty's Government in the Colony, either in cases where the sickness or absence of the Attorney General or any other unavoidable cause may render it necessary to employ a substitute for that Office, or in cases which for their peculiar difficulty or importance may require that the Attorney General should have the professional assistance of another Counsel. But it is to be distinctly understood that the Solicitor General of New South Wales is not to be officially consulted or employed in any case in which the Attorney General may be able properly to conduct the Public Business without such assistance.

1824.
21 Jan.

Solicitor-general to act as assistant to or substitute for the attorney-general.

I have, &c.,
BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 1 of 1824," per ship Competitor.)

Government House, Parramatta, New South Wales.

My Lord, 21 January, 1824.

I consider it my bounden duty to bring the name of Judge Field before your Lordship, under circumstances of no ordinary considerations. I should have thought but little that during the two years I have been in the Colony that he had never once entered Government House, but I cannot allow the notorious fact to pass unnoticed that he has embraced every opportunity of falsely and foully slandering me and my Government as Contemptible to various Individuals. I can ascribe no cause for His unwarrantable Conduct, as I had uniformly treated Him with the utmost consideration; and never once used an expression to offend Him; I must therefore impute it to His having allowed Himself to become the head of a faction, with which He had been identified during the whole of this period, who seemed guided by no moral restraints in order to accomplish their ends. I wish I could allow myself to believe that the Court, over which he presided, had been free from this Spirit of Party.

Report on misconduct of B. Field.

Your Lordship is no Stranger to the Opposition which He evinced also to my Predecessor, and I must have brought His proceedings to your Notice long ere this, had I not been guided by expediency, and buoyed up by the hope of His Speedy recall.

I have, &c.,
THOS. BRISBANE.

1824.
22 Jan.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 6, per H.M.S. Tamar.)

Sir, Downing Street, 22d Jany., 1824.

His Majesty having been pleased to appoint Mr. Mackaness to be Sheriff of New South Wales, I am to desire that you will put him in possession of his Office and afford him every support and assistance in your power. The following are some of the principal duties which will devolve upon him.

He will have to execute by himself or his Deputies all the Judgments, Decrees and Orders of the Court. In Criminal Proceedings he will by himself or his Deputy receive the Bodies of Offenders for safe custody till Trial. He will make Returns of all Prisoners to the Court on the first day of every term. He will be present at all Sittings for the Trial of Offenders. He will carry into execution by himself or his Deputies the Sentence of Death or any minor sentence which may be pronounced.

In Civil Proceedings he will serve upon the Defendants the process of the Court to compel an appearance; he will arrest those who are to be held to bail; in default of Bail he will keep them in Custody till Judgment is had on the Action. He will seize and put up to Sale the Goods and Estates of Defendants against whom Judgment may be given. He will on the first day of every term make a Return to the Court of all the Writs and Orders he has received and of the manner in which he has executed and obeyed them.

In Revenue matters, he will superintend all enquiries as to the property of the Crown by executing Extents &c. He will seize all escheated property and will preside at Inquests as to damages done to the Lands of the Crown, the banks of Rivers &ca.

He will discharge the duties of Coroner and those of Marshal of the Admiralty, that is, he will enquire into the causes of any sudden Deaths, and will seize and hold subject to the Court all Ships and Maritime Property which may be the subject of Litigation.

You will not understand these directions as an accurate specification of the duties to be executed by the individual, but merely as a general summary for your guidance.

With reference to the above duties, I think it necessary to inform you that Mr. Mackaness should receive a Net Salary of £1,000 per annum which should arise from the Fees payable to him as Sheriff; and the Chief Justice should be directed to draw out a Docket of Fees which will on an average afford him the above Sum; if however they should exceed £1,000 per annum,

Appointment of
J. Mackaness
as sheriff.

Duties
of sheriff.

Salary
of sheriff.

Mr. Mackaness will be directed to pay the Surplus into the Police Fund, and in the event of their not amounting to that sum the deficiency will be made good from the Colonial Revenue.

1824.
22 Jan.

As it would not be easy for Mr. Mackaness on his arrival, as a stranger in the Colony, to procure Securities to any considerable amount for the punctual payments of such Monies as he may receive in the execution of the Duties of his Office, you will, within Six months at latest after he shall have entered upon them, require him to enter into such a recognizance to His Majesty in the Supreme Court of Judicature of New South Wales in the sum of £1,000 with at least one sufficient Surety for securing the due and regular execution of his Official Duties.

Securities to
be given by
sheriff.

To prevent the improper accumulation of the money of Suitors in the hands of the Sheriff, he will be required to file on the second Monday in every month in the Office of the Registrar of the Supreme Court, first, an affidavit stating the particulars and amount of his Receipts as Sheriff during the preceding Month, and the mode in which they have been applied, and stating what was the exact balance of such receipts and payments remaining in his possession on the last day of that month; and Secondly, a Certificate from the Colonial Treasurer stating that he has received and holds in his possession, subject to the order of the Court, the exact balance mentioned in the affidavit. In default of filing this Affidavit and Certificate by the second Monday of each month (unless a reasonable cause to be allowed by the Chief Justice), the Sheriff will *ipso facto* be superseded from his Office.

Monthly
affidavit of
accounts to
be made by
sheriff.

You will understand that this communication contains the outline of those provisions on the subject of the Sheriff's Office, which it is proposed to embody in the Order in Council which will shortly be passed in pursuance of the New S. Wales Act of the last Session.

As the duties of Sheriff in England expire at the end of a year, and as the situation of Sheriff in New S. Wales is exactly analogous, you will consider that Mr. Mackaness's Office expires annually, and will therefore take care to reappoint him without any further instructions from me.

Annual tenure
of office.

I have, &c.,

BATHURST.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per H.M.S. Tamar.)

Sir,

Downing Street, 23d Jany., 1824.

23 Jan.

I am directed by Lord Bathurst to transmit to you the copy of a letter from the President of the Royal Society stating that an Admeasurement* of an Arc of the Meridian of New South

Proposed
admeasurement
of arc of
meridian.

* Note 46.

1824.
23 Jan.

Wales would prove of importance to the interests of Science, and as his Lordship concurs in Sir Humphry Davy's recommendation you will consider yourself authorised to employ competent persons, and to defray the expence from the Colonial Revenue.

I have, &c.,

R. WILMOT HORTON.

[Enclosure.]

SIR HUMPHRY DAVY TO EARL BATHURST.

My Lord, Royal Society, 21st Novr., 1823.

Request from
council of royal
society for
admeasurement
of arc of
meridian.

The Right Honble. His Majesty's Secretary of State for the Home Department having done me the honor to inform me that your Lordship was favorably disposed to an undertaking, which the Council of the Royal Society consider as important to the interests of Science, Viz. the Admeasurement of an Arc of the Meridian of N. S. Wales, I take the liberty of transmitting at their request this letter to your Lordship.

Several Arcs have been measured in the Northern Hemisphere, but one only, and that at a time when Instruments were very imperfect, in the Southern.

The present moment appears peculiarly favorable for such a work to the Council, as there are persons at Parramatta, who are able Astronomers and who are in possession of the necessary Instruments with the exception only of a Zenith Sector.

The measure of an Arc in N. S. Wales would not only be of importance to Astronomy in affording data for determining correctly the figure of the Earth, a matter of great interest to Navigation, but would likewise be useful in laying a foundation for a correct Survey of our Colonies in that great and unexplored Country.

Your Lordship's liberal and enlightened mind will I am sure require no apology for this communication, which, as President of the Royal Society, the interests of Science call upon me to make.

I have, &c.,

HUMPHRY DAVY.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per H.M.S. Tamar.)

Sir, Downing Street, 23d Jany., 1824.

Transmission
of memorial of
Sarah Redfern.

I am directed by Lord Bathurst to transmit to you the copy of a Memorial from Mrs. Redfern, dated 13th inst., requesting that an additional Grant of Land may be made to her husband

on his arrival in New South Wales, and to acquaint you that his Lordship has no objection to Mr. Redfern's receiving a Grant of Land proportioned to his Capital under the usual conditions of cultivation and improvement within a limited period.

I have, &c.,

R. WILMOT HORTON.

[Enclosure.]

THE MEMORIAL OF MRS. SARAH REDFERN ON BEHALF OF HER
HUSBAND MR. WILLIAM REDFERN.

1824.
23 Jan.
Memorial of
Sarah Redfern
soliciting land
grant for
W. Redfern.

To the Right Honorable Earl Bathurst, K.G., His Majesty's
Principal Secretary of State for the Colonies &c. &c. &c.

Sheweth,

That your Memorialist's husband, Mr. William Redfern, late of New South Wales, and now temporarily residing at the Island of Madeira for the benefit of his health, is about to return to that Colony per the Ship Alfred now under immediate dispatch, there permanently to reside.

That Mr. Redfern possesses in New South Wales upwards of Fourteen hundred head of Horned Cattle, Four thousand Sheep, and several Horses. But the quantity of Land he possesses (the greater part obtained by purchase) is not nearly sufficient to subsist his Herds and Flocks.

That Mr. Redfern has gone to very considerable expence in the purchase of *Merino* Sheep, which he is about to convey to New South Wales for the purpose of improving and increasing the production of fine wool in that Colony. And he has also engaged Vine Dressers and procured Vines at the Island of Madeira, at considerable expence, to proceed to New South Wales for the purpose of cultivating the Vine there.

That it is now impossible to procure Land by purchase in New South Wales; as the quantity Mr. Redfern holds is entirely insufficient for the subsistence of his Stock of Horned Cattle and Sheep, and in consideration of the expence Mr. Redfern has gone to in procuring and conveying Vine Dressers, Vines, and *Merino* Sheep to that Colony, Your Memorialist most respectfully solicits your Lordship to direct that a Grant of Land may be made to Mr. Redfern in New South Wales.

As Your Memorialist, Mr. Redfern, &c., are to proceed in the Ship Alfred to sail in a very few days for New South Wales, the favour of an early communication of your Lordship's pleasure is respectfully requested.

S. REDFERN.

33 Rockingham Row, Kent Road, London,
13th January, 1824.

1824.
24 Jan.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.
(Despatch per ship Prince Regent.)

Sir, Downing Street, 24th Jany., 1824.

Letter of
introduction for
William Carter.

His Majesty having appointed Mr. Wm. Carter to be Master of the Supreme Court of New South Wales, I am directed by Lord Bathurst to introduce him to your notice and to request that you will afford him every facility in the execution of his Office.

I am, &c.,

R. W. HORTON.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 2 of 1824," per ship Elizabeth.)

Government House, Sydney, New South Wales,

27 Jan.

My Lord, 27th January, 1824.

Transmission
and
recommendation
of memorial of
traders in
timber.

In favor of the enclosed Memorial addressed to the Lords Commissioners of His Majesty's Treasury by the Merchants, Traders and Settlers of this Country, engaged in the interesting experiment of trying to Supply the Market of Great Britain with the Cedars and Gums of New Holland, I respectfully entreat your Lordship's powerful intercession. The Elizabeth, the bearer of this dispatch, being fraught also with a Cargo of wood, her owner will acknowledge an early, as gratefully as a favourable, decision upon the important question of the duty of £3 16s. the ton, said to be levying in England upon Timber, the produce of the Colony.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

Memorial from
merchants and
others *re* duty
on timber.

THE MEMORIAL OF THE UNDERSIGNED MERCHANTS, TRADERS AND
SETTLERS OF THE COLONY OF NEW SOUTH WALES.

To the Right Honorable The Lords Commissioners of His
Majesty's Treasury.

YOUR Memorialists beg leave most respectfully to represent to their Lordships that they learn a Duty of £3 16s. Pr. Ton is levied upon that description of wood called Cedar of the growth of the Colonies on its arrival at home. That your Memorialists, from the Act 3 Geo. III, Chap. 96, were under the impression of the woods of the growth of these Colonies being admitted to Entry Duty Free, have made Several Shipments to the Mother Country, having in fact no other export, with the exception of wool; that procuring this wood on the coast is a tedious operation, and attended with much risk to the Shipping so employed; that the expence of falling and preparing it for Shipment is considerable; that such Expence forms the means of existence for a considerable number of the lower Classes of Society; that, Should your

Lordship think proper to enforce this duty, it will be attended with ruinous consequences to all the Parties concerned, and put a stop to the rising efforts of the Colonists to find an Export in this Article.

1824.
27 Jan.

Memorial from
merchants and
others *re* duty
on timber.

That your Memorialists beg to call the attention of their Lordships to the quantity of Tonnage entered at this Port from Great Britain between the 1st Jany., 1823, and 20 Jany., 1824, amounting to 15,994 Tons, out of which 7,235 Tons have and are returning to Great Britain with Cargoes consisting of Wood of different descriptions and Wool (both of the growth and Produce of this Country) and the remaining part of their Cargoes consists of Oil, taken by Vessels at Sea; that the annual export of Wool does not exceed 100 Tons in weight, and taking the Annual Shipments of Oil, which is at all times uncertain, but which never exceeds 600 Tons, leaves 6,535 Tons to be provided for with Cargoes, which your Memorialists have no other means of doing than by the purchase and Shipment of Wood.

That your Memorialists humbly hope that their Lordships will take into their consideration the relative value of the Cedar of this Colony and that of the Mahogany of Honduras, when they will at once see the former cannot possibly be brought into competition with the latter, should the heavy duty now paid be still enforced.

Your Memorialists beg to State that the prices of Cedar in Logs, in the London Markets during the last year, have been 5½d. to 5¾d. pr. Superficial Foot, when Mahogany from Honduras at the same time realized 10½d. and 11d. pr. Superficial Foot and both pay the Same Duty; that these duties are not only ascertained from Private resources, but from Public Sales at Greenway's Coffee House.

Their Lordships will also be pleased to have in mind the great length of the Voyage compared to that from the Bay of Honduras, consequently the increased freightage the former are Subject to.

That your Memorialists, residing and prosecuting their Several Callings under the care and protection of the Representative of their Sovereign, have every confidence in the Representation of His Excellency the Governor, whose attention is called forth and bestowed upon every measure calculated to aid and assist in producing an export to the Mother Country, tending thereby to better the condition of the free labouring Classes, to improve in a variety of ways the resources of these interesting Colonies, and above all to encourage that exertion in the Merchants, Traders and Settlers so essentially necessary to the lessening the burden of the Colony upon the Mother Country.

Your Memorialists conclude by praying their Lordships will be pleased to take this Statement into their favorable consideration.

1824.
27 Jan.
Memorial from
merchants and
others *re* duty
on timber.

ROB. CAMPBELL.	H. MACARTHUR.
For the Australian Co.,	J. BLAXLAND.
A. WARREN.	For Jno. MacArthur,
BERRY AND WOLLSTONECRAFT.	JAS. MACARTHUR.
RAINE AND RAMSAY.	A. K. MACKENZIE.
T. W. M. WINDER.	ASPINAL, BROWNE & Co.
JNO. AND HENRY OWEN.	JOHN STREET.
RILEY AND WALKER.	J. B. L. DE ARRIETTA.
DAVID MAGUIRE.	ADOL. JAS. ROSS.
THO. MACVITIE.	ROB. TOWNSON.
ALEXR. MACLEOD.	V. JACOB.
THOMAS ICELY.	P. DE MESTRE.

Sydney, 24th January, 1824.

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.
(Despatch per ship Elizabeth.)

Government House, Sydney, New South Wales,

28 Jan.

Sir,

28th January, 1824.

Inability to
submit returns
as required.

I had entertained the hope of being able by the present opportunity to return the form transmitted with your letter of the 19th of last May filled up in the manner pointed out in Lord Bathurst's Circular of the 31st March, 1822. This detailed information respecting the financial resources of His Majesty's Colony of New South Wales and the several branches of its Expenditure being required however to be furnished in a form altogether new, is attended with so much labor that my hopes have not been realized. I solicit therefore that you will do me the favor to request His Lordship to accept the enclosed Summary of the Colonial resources and Expenditure for the year 1822 as a temporary Substitute for this Omission.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

THE REVENUE AND EXPENDITURE OF THE COLONY OF NEW SOUTH WALES FOR THE YEAR 1822.

Statement of
the revenue and
expenditure of
the colony for
the year 1822.

<i>Colonial Customs.</i>		£	s.	d.
Duty on £25,073 12s.	Goods Sold by Auction	376	2	1
Entry of 15 Vessels	in Government Service	11	5	0
Ditto „	55 Vessels <i>not</i> in Government Service	82	10	0
Clearances of 68 Vessels	to foreign Countries	17	0	0
Entry of 30 Colonial Vessels	from the Hawkesbury	3	0	0
Clearances of 46 ditto	to ditto	4	12	0
Entry of 58 Vessels	from Newcastle or the South Settls.	14	10	0
Clearances of 64 ditto	from ditto	16	0	0

Colonial Customs—continued.

	£	s.	d.	1824. 28 Jan.
Duty on £101,334 0s. 9d. Imports not British	5,223	3	2½	Statement of the revenue and expenditure of the colony for the year 1822.
Ditto 15,077 Gallons of Wine	572	17	9	
Wharfage on 60,943 Packages	1,523	11	6	
Wharfage Commutation upon 314½ ton of Iron	94	7	0	
Ditto upon 290 ton of Salt	38	13	4	
Duty on 119 Solid feet of Rose Wood	5	19	0	
Ditto on 90,205½ lbs. of Tobacco	2,255	2	9	
Two Vessels use of Govern't Heaving down place	8	8	0	
On ditto Mooring Chains	5	2	0	
Wood and Water for 70 Vessels 22,378 tons burden	241	15	0	
Duty on 39,068 Gallons of Spirits	29,880	10	9½	
Price and Metage of 942 tons of Coal sold at New Castle	504	6	0	
Price of 178,140 Superficial feet of Wood ditto	742	5	0	
	<hr/>			
	41,621	0	4½	
Deduct Naval Officer's Commission 5 per Cent.	2,081	0	11½	
	<hr/>			
Net produce of the Customs for the Year 1822	39,539	19	5	

1822.

*The Colonial Fund.**Sydney.*

Public Works—	£	s.	d.	£	s.	d.
Chief Engineer	182	10	0			
Assistant ditto	137	2	6			
Civil Architect	40	19	0			
Overseers of Town Gangs	1,022	17	11¾			
Road Parties	548	16	11			
Hyde Park Barracks	180	16	0			
Carters' Barracks	338	1	6			
Grose Farm	195	4	4			
Longbottom	128	6	0			
Lumber Yard, Clerks, Constables and Watchmen	211	8	3			
Yeast for Hyde Park Bks. and Longbottom	102	13	2½			
2,408 lbs. of White Lead	84	16	0			
24 Dozen of Spades	63	12	0			
3 Cwt. of Steel	17	10	0			
Leather	87	5	11			
Cordage	35	0	11			
31 Cross Cut Saws	79	0	0			
12½ Dozen Shaved Bazils	14	0	0			
Thermometers and Barometers	9	19	0			
Burning Lime	27	10	1½			
Convict Clothing	174	18	3			
48 Reams of Foolscap paper	86	8	0			
2,000 Quills	6	10	0			
Sundries for the Public Market	13	16	7½			
Ditto for the Public Works	74	1	5			
Rewards to Active Overseers	20	0	0			
House for Supdt. of Police	230	7	9			
	<hr/>			4,113	11	8½

1824.
28 Jan.
Statement of
the revenue and
expenditure of
the colony for
the year 1822.

The Colonial Fund (Sydney)—continued.

	£	s.	d.	£	s.	d.
Judicial—						
Two Crown Solicitors	600	0	0			
Clerk to the Supreme Court	80	0	0			
Arrears to the late Clerk of the Peace	729	11	6			
Cryer to the Criminal Court	25	0	0			
Stationary for ditto	44	1	0			
767 Evidences on Crown Prose- cutions	833	2	0			
Rewards on prosecuting to Con- viction	143	0	0			
Copying Government Orders	13	12	7			
Howe's Indemnity	43	17	2			
	<hr/>			2,512	4	3
Police—						
Superintendent and Treasurer ...	200	0	0			
Expences of a Muster	4	15	0			
Coroner	112	18	4			
Constables	1,238	16	10			
Fuel for the Gaol and Watch houses	194	4	0			
Provost Marshal Lodging money ..	75	0	0			
Stationary and Sundries for ditto	44	12	7			
Services to the Police	83	6	5			
Apprehending 148 Runaways	170	10	0			
	<hr/>			2,124	3	2
Surveyors—						
Assistant Surveyors	335	2	0			
Clerk to the Surveyor General ..	25	0	0			
Inspector of Roads	31	7	6			
	<hr/>			391	9	6
Secretary's—						
Colonial Secretary	82	10	0			
Chief Clerk	45	0	0			
Clerk to the Governor	74	10	0			
Two Junior Clerks	60	0	0			
Clerk to His Late Excellency	13	10	0			
Muster Clerks	30	10	0			
Government Printer	60	0	0			
Colonial Botanist	91	5	0			
Fees on 600 Certificates of Freedom	91	10	4			
Bookbinding	1	10	0			
Copying Clerks	34	17	0			
	<hr/>			585	2	4
Dock Yard—						
Master Attendant	100	0	0			
Boatswain of the Yard	88	17	6			
Overseers of ditto	373	2	8			
Light-House Superintendent	48	7	7			
Governor's Crew	40	0	0			
Naval Stores	375	1	0½			
Two Telegraph Masters	24	0	0			
	<hr/>			1,049	8	9½

The Colonial Fund (Sydney)—continued.1824.
28 Jan.Statement of
the revenue and
expenditure of
the colony for
the year 1822.

	£	s.	d.	£	s.	d.
Medical—						
Assistant Surgeons	237	17	6			
Stationary Servants	95	0	0			
House Rent for prin'l Surgeon ...	31	6	4½			
	<hr/>			364	3	10½
Commissariat—						
Loan for the Public Service	19,000	0	0			
Rent of the Bonded Store	200	0	0			
Sup't of Government Mill	24	5	4			
Sup't of Govt. Slaughter House ..	63	0	0			
Store Gang Overseer	15	0	0			
Supplies for Ditto	5	12	2			
	<hr/>			19,307	17	6
Clerical—						
Clerk & Steeple Keeper of St. Phillips	25	0	0			
Candles for Ditto.	6	10	10			
Music and Musicians for ditto ..	14	10	0			
Master of the Male O. School	100	0	0			
Master & Matron of the Poor house	50	0	0			
Donation to Ditto	400	0	0			
Roman Catholic Clergyman	75	0	0			
Roman Catholic Schoolmaster	7	15	7			
Clerk to the Catholic Chapel	3	10	0			
Rent of a Parsonage	100	0	0			
	<hr/>			782	6	5
Parramatta—						
Coroner	30	0	0			
Constables	448	8	10½			
Overseers	450	9	7			
Hospital Attendants	39	15	0			
Native Institution Expences	539	1	0½			
Ditto. Feast	13	2	1½			
Lime	53	7	9			
Yeast for the Barracks	16	11	1			
36 Bushels of Hair	2	5	0			
Sup'd't of the Lunatic Assylum ..	50	0	0			
Supplies for Ditto	74	4	5			
Pennant Hill Overseers	99	2	0			
Sup'd't of the Factory	15	5	0			
Overseers at Ditto	107	9	3			
Supplies for Ditto	180	19	10¼			
Supplies for Govern't House	18	17	0			
Overseer of Govern't Garden	21	0	0			
Fencing Glebe	152	8	0			
Salary to Watch house Keeper ..	6	0	0			
	<hr/>			2,318	5	11¼
Crown Stock—						
Superintendent	75	0	0			
Overseers of Ditto	150	0	0			
Castrator	25	0	0			
Three Bulls	94	10	0			
Stock Yard and Paddocks	122	2	8			
	<hr/>			466	12	8

1824.
28 Jan.
Statement of
the revenue and
expenditure of
the colony for
the year 1822.

The Colonial Fund (Sydney)—continued.

	£	s.	d.	£	s.	d.
Windsor—						
Coroner	64	5	8			
Constables	441	5	0			
Overseers	32	10	0			
Lime	97	14	8			
New Court House	1,800	0	0			
Sundries for Public Works	57	11	5			
Government House Keeper	10	0	0			
Expences of the Muster	15	7	6			
Schoolmaster	6	5	0			
Carriage of Convict Baggage	4	0	0			
Remaking the Richmond Road	100	0	0			
				2,630	19	3
Liverpool—						
Coroner	58	10	7½			
Constables	218	16	3			
Overseers	78	6	8			
Lime	19	10	0			
Sundries for the Public Works	418	19	11½			
Carriage of Convict Baggage	2	15	0			
				796	18	6
Campbell Town—						
Constables	80	14	0			
Clearing Glebe	131	14	7			
Fencing ditto	39	9	6			
Lime	27	17	2½			
Carriage of Convict Baggage	3	0	0			
Building Church	414	11	1			
Rent of Parsonage	100	0	0			
Temporary Goal hire	8	12	6			
				805	18	10½
Evan—						
Coroner	37	16	0			
Constables	118	13	3			
Fencing Glebe	54	12	0			
Clearing Ditto	46	10	2			
Ditching & fencing Burial ground	24	4	3			
Emu Plains Superintendent	75	0	0			
Deputy	66	8	3			
Overseers	225	18	4½			
Sundries for Ditto	212	3	4			
Carriage of Convict Baggage	6	0	0			
				867	5	7½
Miscellaneous—						
Melville and Bathurst	52	11	2			
Police—						
Bringelly and Cook	78	10	6			
Minto and Camden	150	6	4			
Appin and Illawarra	16	13	4			
Argyle	51	5	0			
				349	6	4
Bathurst—						
Commandant	69	0	0			
Barometor	4	16	6			
				73	16	6

The Colonial Fund (Sydney)—continued.

	£	s.	d.	£	s.	d.
Newcastle—						
Commandant	273	7	6			
Engineer	94	15	0			
Superintendents and Overseers ...	85	2	11			
Barometor	4	16	6			
Port Macquarie—				458	1	11
Commandant	171	5	0			
Pilot Har. Master & Superintendent	125	0	0			
Sundries	25	8	8			
Allman Loss of Baggage	115	0	0			
Engineer	99	0	0			
Pensions—				535	13	8
Late Super't of Convicts	45	12	6			
Late Beachmaster	45	12	6			
Late Lumber Yard Storekeeper ..	20	0	0			
Widow of Overseer Woodcock killed on duty	5	0	0			
Constable Kenny severely wounded on ditto	9	8	10			
Van Diemens Land—				125	13	10
Passage of Prisoners	132	0	0			
30 Evidences on Crim' Prosecutions	143	4	0			
Bedford Salary in advance	125	0	0			
Military—				400	4	0
The Lieutenant Governor	150	0	0			
Barrack Master	100	0	0			
Barrack and Ordnance Serj'ts	54	13	6			
Candles for the Military	123	8	8			
				428	2	2
Total expenditure for the Year 1822	£41,487	6	9 $\frac{3}{4}$			
Balance in Hand, 31st December, 1822 ...	8,733	17	8			
	£50,221	4	5 $\frac{3}{4}$			

1824.
23 Jan.
Statement of
the revenue and
expenditure of
the colony for
the year 1822.

The Colonial Revenue.

	£	s.	d.
Seven eighths of the Net produce of the Customs ..	34,597	9	6 $\frac{1}{4}$
Tax upon 21,125 Tons of Shipping in Support of the Light House	176	0	11
Duty upon 2,043 Head of Cattle Slaughtered for Govt. use in Sydney	600	12	6
105 Spirit Licenses	3,032	10	0
14 Beer Ditto	70	0	0
8 Brewing Ditto	200	0	0
1 Hawker's Ditto	20	0	0
Tolls and Market Dues	1,571	14	6
Net produce of the Customs and Excise for the Year 1822	£40,268	7	5 $\frac{1}{4}$
Balance in Hand, 31st December, 1821	9,952	17	0 $\frac{1}{2}$
	£50,221	4	5 $\frac{3}{4}$

1824.
30 Jan.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Elizabeth.)

Government House, Sydney, New South Wales,
My Lord, 30th January, 1824.

Transmission
of monthly
returns of
troops.

I do myself the honor to forward for your Lordship's information the General Monthly Returns of the Troops Serving in this Territory from 25th October to 24th December, 1823, inclusive.

I have, &c.,

THOS. BRISBANE.

[Enclosures.]

[Copies of these returns are not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Elizabeth; acknowledged by Earl Bathurst, 21st July, 1824.)

Government House, Sydney, New South Wales,
My Lord, 30th January, 1824.

Military
status of
J. Dunleary,
pardoned
convict.

I have the honor to request your Lordship's instructions as to whether James Dunleary, who was a private Soldier in the 84th Regiment, and who was convicted before a Criminal Court in this Colony in 1820 and Sentenced to Suffer death, but, his case having been submitted home, His Majesty was pleased graciously to extend His Royal Mercy to the Convict, is now to be considered as belonging to the 84th, or a free man.

I have, &c.,

THOS. BRISBANE, M.-Gen'l.

[Enclosure.]

EXTRACT of a letter from the Right Honble. Earl Bathurst to Major-General Sir Thomas Brisbane, K.C.B.

“Downing Street, 28th March, 1823.

“I TRANSMIT to you a Copy of a letter from Mr. Hobhouse respecting the Trials and Sentences of James Dunleary and George Frederick Jackson.

Pardon
granted to
J. Dunleary.

“In Dunleary's Case the Offence appears only to have amounted to Manslaughter, and His Majesty has therefore been graciously pleased to extend His Royal Mercy to the Convict, and the warrant is herewith enclosed.

“BATHURST.”

SIR THOMAS BRISBANE TO EARL BATHURST.

1824.
31 Jan.

(Despatch marked "No. 3 of 1824," per ship Elizabeth.)

Government House, Sydney, New South Wales,

My Lord,

31st January, 1824.

The progress of a Committee, consisting in the first place of the two Judges and the Deputy Commissary General, assembled to investigate into the conduct of the Engineer Department while under the superintendence of Major Druitt, having been delayed upon many occasions (altho' most important in itself) by the pressure of other business more important even than it, has been brought to its close lately. I have therefore the honor to transmit to Your Lordship by the present opportunity the result of this board of enquiry condensed into a folio of 372 pages; at the 332nd of which the decision* will be found, whereupon I have deemed it my duty to rest, detailed in a letter from the Colonial Secretary written to Major Druitt, which concludes by delivering it as my opinion that "the Justice of the Case would only be met by ordering him to give back the possession of the Crown Land upon which he has been suffered to reside hitherto. But, willing to allow every due weight to the length of time during which the enquiry has been unavoidably protracted, His Excellency determines not to act upon this decision until the whole Case shall have been referred to His Majesty's Ministers. Therefore he will be allowed a prolonged possession of the Land he at present occupies, but its Grant will not be confirmed without orders from England."

Inquiry re
administration
of engineer
department by
G. Druitt.Land to be held
by Druitt
without grant.

In addition to this, I have only to observe that Major Druitt had been ordered by Major General Macquarie, in a letter addressed to the Surveyor General, from which I forward an extract, Six thousand Acres of land, and has been in actual possession during the progress of this enquiry of the first thousand of these acres, and brought into improved culture a very large proportion.

Land ordered
for Druitt by
L. Macquarie.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

[*This voluminous enclosure has been transferred to a volume in series II.*]

[Enclosure No. 2.]

EXTRACT of a Letter,† dated Government House, Sydney, 31st October, 1821, from Major-General Macquarie to John Oxley, Esqre., Surveyor-General of Lands.

Instructions
from
L. Macquarie
re land to be
reserved to
G. Druitt.

"To Major George Druitt, 48th Regt., One Thousand (1,000) Acres of Land out of the Rooty Hill Government Allotment on Ross's Creek, in remuneration for his extra services for Four

* Note 47. † Note 48.

1824.
31 Jan.

Instructions
from
L. Macquarie
re land to be
reserved to
G. Druiitt.

years as Chief Engineer, with a Clause in said Grant making the same subject to the approval of His Majesty's Principal Secretary of State for the Colonies, and which Grant is to be surrendered again to Government if not approved of at Home.

"To reserve One Thousand Acres of Land for the said Major George Druiitt as Compensation for his extra duties as Chief Engineer, in case of such compensation being sanctioned and approved of at Home; but no Grant to be made out or given thereof until such sanction and approval is notified from home.

"To reserve Two Thousand (2,000) Acres of Land for the said Major George Druiitt as a *Free Settler*, but no Grant to be given thereof, till notice of his resignation being accepted is received from Home."

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 4 of 1824," per ship Ocean.)

Government House, Sydney, New South Wales,

2 Feb.

My Lord,

2nd February, 1824.

Along with this letter I have the honor to transmit the returns required in your despatch of No. 9 of the year 1822, which has been made as correct as the deficiency of many public records and the indigestion of those that are extant would allow; and I am of opinion it will be found *tolerably* accurate, although, in order that it might reach England before the close of this year's Session of Parliament, the completion has been hurried, for Mr. Bigge's estimate was not too high, when he stated in the 144th Page of his first report, referred to in your Lordship's letter, that a "perfectly accurate investigation of those Cases of Individuals convicted in the Colony for felony, Subsequent to the periods of their emancipation, required more time and a more tedious reference than he was enabled to bestow or to make," even during a residence in the Territory of two years and upwards.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

RETURN of 153 Individuals (out of 1,605 the total Number tried) who after receiving Remissions of their Sentences from His Majesty or from any of the Governors of New South Wales or Lieutenant Governors of Van Diemen's Land, as well as of those who, after the expirations of their Sentences, have been Convicted of Felony in the Colonial Courts between the 12th March, 1810, and 22nd February, 1823, both Days inclusive.

[*This return detailed the place and date of the original conviction, and the sentence passed, the ship by which the convict*

Return of
convictions of
emancipists and
time-expired
convicts.

arrived in the colony, the form and date of the remission of sentence, and the crime, date of trial, and sentence passed on the colonial conviction.]

1824.
2 Feb.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 5 of 1824," per ship Elizabeth; acknowledged by Earl Bathurst, 22nd July, 1824.)

Government House, Sydney, New South Wales,

My Lord,

3rd February, 1824.

3 Feb.

In compliance with the instructions conveyed to me in your letter of the 9th September, 1822, the Surveyor General was despatched on the 22nd of last October in His Majesty's Cutter Mermaid to examine* Port Bowen, Port Curtis and Moreton Bay, with the Country immediately adjoining; and his report upon the Capacity of the two latter for the purposes of Convict Settlements I have now the *pleasure* to enclose, as it commences a new era in the History of the Continent of New Holland by the discovery of a large and important river.

Exploration of
Port Curtis and
Moreton bay.

The first part of your Lordship's Commands having been thus carried into its fullest effect by the zeal and Intelligence of Mr. Oxley, the Second will be proceeded upon the moment that the rainy Season concludes, by the Establishment in Moreton Bay of a few, not exceeding fifty Souls for the purpose of providing accommodation for themselves, and for the reception of any number of Convicts it may be deemed expedient to send hereafter.

Settlement to
be established
at Moreton bay.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

SURVEYOR-GENERAL OXLEY TO SECRETARY GOULBURN.

Sir, Surveyor-General's Office, 10th Jany., 1824.

I have the honour to report to you, for the information of His Excellency Sir Thos. Brisbane, my proceedings in the execution of the instructions contained in your letter of 19th September last.

Report by
J. Oxley on his
explorations.

I sailed from this Port in H.M. Cutter Mermaid on the 23rd Oct. last, and on the 5th November following I anchored in Port Curtis after a tedious passage occasioned by adverse N.E. Winds and strong Southerly currents.

Arrival of
cutter Mermaid
at Port Curtis.

From the description of the Islands forming the N.E. Side of this Port by Captn. Flinders, I considered that the purpose of my Mission would be best effected by commencing the examination of the Country on the South West Side or Mainland, and I now respectively Submit, for His Excellency's Consideration, the

Examination
and description
of Port Curtis.

* Note 49.

1824.
3 Feb.

Examination
and description
of Port Curtis.

result of a Minute examination of the Southwest coast of this Port, extending from the North Head of Bustard Bay to Mt. Lacom, and in which I was occupied Sixteen days.

Port Curtis is a very difficult Harbour for Shipping to enter, numerous land Shoals extend off from the Main land nearly to Facing Island: these Shoals are not distinguishable until nearly low water, the rapidity of the Tides causing the water to assume the same turbid appearance in the deep Channels as on the Banks. The best and most marked Channel for large Ships is the one close to Facing Island, which must not be approached nearer than 5 fms.; from that depth the water Shoals Suddenly to the Bank or Reef which Surrounds the Island, and which does not Shew itself except at low water. When Gatcomb Head on Facing Island bears North, the Channel widens considerably and Ships may anchor in security under the guidance of the Lead. A S.E. wind and Ebb tide cause a considerable Sea, and there being no Coves in which Small Vessels might lay out of the Set of the Tides, it cannot be considered as a good Harbour for Vessels of small burden.

The Coast of the Mainland is covered with Mangroves intruding in some places more than half a mile back, and the Shore at low water is rendered almost inaccessible by extensive Mud Flats. *South Shore Head* is the only point on the Main where a good landing could be effected at any time of Tide. The Country between *South Trees Point* and Mt. Lacom is broken into low Stony ridges; in the Valleys, the Soil is a poor Sand, and, in a Space of eight Miles by Four in that, I did not see 200 acres of even tolerable ground.

The Hills all terminate in Mangrove Swamps on the Harbour, and the whole of the Tract is bounded in by steep rocky Hills covered with quartz and coarse Sandstone. Near to *South Trees Point*, the Hills appear Somewhat better, as they are thinly timbered and better covered with grass. The principal rocks are of Slate, and the whole Surface of the Country is thickly covered with small pieces of quartz, granite and a species of Shale.

On the west side of *South Shore Head*, a small rill discharges itself into a Salt Water Creek; nearly four miles from this is another Smaller one, but it is lost among the Mangroves.

On the banks of the first Stream, a few acres of the best land, I saw, is to be found; a low range of Grassy Hills bounding this Flat terminates at *South Shore Head*.

Both the Streams, I have mentioned, derive their Source in the rocky mountainous country to the S.W., their course is very short; and, insignificant as they are, they appear from the Flood marks to be in the rainy Season the channels of considerable

torrents. With the exception of these rivulets, I saw no other fresh water, and as the Country was Strictly examined between the head of the Inlet round South Trees Point (which proved to be an island, half covered at high water) and Mt. Lacom, I feel satisfied no other waters exist in that tract except during the rainy Season, when a few Ponds (dry when I saw them) in some of the vallies will of course be filled.

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3 Feb.
—
Examination
and description
of Port Curtis.

The Timber in the Tract of Country above described consists entirely of a diminutive Species of Eucalyptus, quite useless for domestic purposes and fit only for fire wood; neither did the view obtained of the more distant Country warrant the probability of any timber of a better description being found, as I saw nothing but rocky hills on which it was impossible for anything like Timber to grow.

South from Gatcomb Head on the Shore of the mainland, we discovered a rapid mountain Stream, which received the name of the "Boyne"; the entrance is nearly blocked up by sand banks, but at high water there may be from 10 to 12 feet in the Channel; about 3 miles above the entrance the rapids commence. It is however navigable at high water about 4 miles further, where, the River becoming Fresh, the depth is diminished to a few inches. Between this Point and the entrance, I did not see any fresh water. The Country on both Shores rose with low forest Hills of a better description than those about South Shore Head, but so stony as to be almost incapable of cultivation. There were also several small Flats, composed of a good light Sandy Soil, apparently much flooded, as between this Point and the entrance marks were observed 25 feet above the usual level. From the Hills marked A,* the Anchorage under Facing Island was seen and Signals from Gatcomb Head might be distinguished. A plain of good land extends a short distance to the N.W. from the Hill, and was bounded by open thinly wooded Hills affording very good pasturage. To the South, the country rose into lofty rocky ranges, but to the South west the Country though Considerably elevated and broken appeared grassy and open.

The River was examined 12 or 14 miles further, the boat being dragged over a succession of rapids separating deep and picturesque Reaches of the River; much rich alluvial land was seen, and the Hills though rocky were covered with grass. The floods appear to rise between 40 and 50 feet, and all the Flats bore marks of being deeply flooded. No fresh water was found except in the River, the natural banks of which, though in some places half a mile wide, are insufficient to afford a Channel for the great accumulation of waters, which seems to be periodically discharged from the mountainous and rocky region in which the Sources of

* Note 50.

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 3 Feb.
 Examination
 and description
 of Port Curtis.

this River are to be found. The Hills rest on a base of Granite, though in two or three places where the soil has been washed away by the Torrents, large masses of blue slate rock of good quality were discovered. The Timber was generally small and useless, a few large trees growing on the flooded land can Scarcely be called an exception, as they consisted of an inferior description of Eucalyptus; a few acres of Brushland in the recesses between the Hills produces the light timber trees common to Port Hunter and the Five Islands. The flooded lands on the banks of the River are of no great extent. The Soil is of a deep rich sand capable of producing any crops Suitable to the Climate. Many of the Hills, though very Stony, might possibly be applied to the cultivation of the Coffee tree, while the general openness and grassy nature of the Country seem not ill adapted for grazing, if the apparent Scarcity of water, except in the River, did not greatly diminish the chance of its profitable application to that purpose.

Facing Island, which protects Port Curtis from the Sea, is so scantily Supplied with good water, at least in this Season (November), that (independent of its being generally unfertile and destitute of useful timber) it does not appear to be capable of affording subsistence to half a dozen families; there were many indications of mineral substances existing on the Island, and some trifling specimens were procured which appeared to contain Copper and Tin.

Having Viewed and examined with the most anxious attention every point that appeared in any degree eligible for the Site of a Settlement, I respectfully submit it as my opinion that Port Curtis and its vicinity does not afford Such a Site; and I do not think that any Convict Establishment could be formed there that would return, either from the natural productions of the Country, or as arising from the produce of agricultural labour, any portion of the great expence which would necessarily attend its first formation; in short, it did not appear to me that the Country, taking it in an extended sense, could either afford subsistence to, or supply the means of profitable labour for a large Establishment; and even for one on the Smallest Scale, the greatest difficulty would arise from the Scarcity of timber for building and Bark and Shingles for covering. The Station the best watered and of easiest access is the Inlet to the west of South Shore Head, and for Agricultural purposes the Station marked A. on the Map of the River Boyne.

The coast between the Boyne River and the North Head of Bustard Bay afford two other Inlets, the easternmost of which is of considerable extent with good anchorage and Shelter for

Vessels of all descriptions. The country was examined in the Vicinity of this last Inlet, but no permanent fresh water being found or any timber fit for building and the general character of the country being precisely Similar to that Surrounding Port Curtis, it will be needless to enter into a detailed description of it, it being generally destitute of those natural advantages which might act as inducements to form a Settlement on its shores.

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3 Feb.

Examination
and description
of Port Curtis.

At this period of the year, this country Seems forsaken by the Natives; we saw no recent marks of its having been Visited by them. I think indeed that their Visits are confined to the Rainy Season, when, the Swamps and ponds being filled, an easy Subsistence might be obtained in the Fish which abounded in every Inlet.

The winds during our stay in Port Curtis had prevailed almost constantly from the N.E. and still continuing from that Quarter, together with the length of time consumed in the examination of the Country, the approaching Rainy Season and the excessive heat of the weather, induced me to defer the examination of Port Bowen to a more favourable Season, when greater time could be devoted to it. I therefore returned to the Southward and, entering Moreton Bay on the 29th November, anchored the cutter close to Point Skirmish at the entrance of Pumice Stone River.

Arrival at
Moreton bay.

Pumice Stone River had been so thoroughly examined and well described by Captain Flinders that, conceiving it would answer no useful purpose to go over the same ground, and aware that the West Shore of Moreton Bay had been but cursorily examined, I determined to trace it round in the hope to find in Such an extensive Inlet Some opening which would render an apparently fine surrounding country of more utility and value than it would otherwise be, if the accounts of the scarcity of fresh water in the Bay were correct.

Examination of
western shore of
Moreton bay.

Our first day's Survey terminated a little above *Red Cliff Point*. The Shores were in general low and covered with Mangroves, off which extend considerable Mud Flats at low water; but to this remark the Shores in the Vicinity of Red Cliff Point are an exception. The channel is here deep within a short distance of the Shore, and boats can land at any time of tide. The Country is open forest land of inferior quality; a few miles to the west the country again becomes low and is apparently wet, but it Soon rises into open forest hills of good appearance. There was no want of permanent fresh water, but not in Streams, and in one Inlet marked B. navigable for Boats, is abundance of good timber of the Eucalyptus Species, and also great quantities of Pine.

Early on the Second day (Decr. 2nd) in pursuing our examination, we had the Satisfaction to find the tide Sweeping us up a considerable Inlet, opening between the first Mangrove Island

1824.

3 Feb.

Discovery and
examination of
Brisbane river.

and the Mainland. The muddiness and taste of the water, together with the abundance of fresh water Mollusca, assured us we were entering a large River, and a few hours ended our anxiety on that point by the water becoming perfectly fresh, while no diminution had taken place in the Size of the River, after passing what I called "*Sea Reach*."

Our progress up the river was necessarily retarded by the Necessity we were under of making a running Survey during our passage. At Sunset we had proceeded about 20 miles by the River; the Scenery was peculiarly beautiful; the country on the Banks alternately hilly and level, but not flooded; the Soil of the finest description of Brush woodland, on which grew Timber of great magnitude, and of various Species, some of which were unknown to us, among others a magnificent Species of Pine was in great abundance. The Timber on the hills was also good, and to the S.E. a little distance from the River were Several Brushes of the *Cupressus Australis* of very large size.

Up to the Point, the River was navigable for vessels not drawing more than 16 feet water; the Tide rose about five feet being the Same as at the entrance. The next day, the examination was resumed and with increased Satisfaction we proceeded about 30 miles further, no diminution having taken place either in the breadth or depth of the River, except in one place, for the extent of about 30 yards, a ridge of detached rocks extending across, having no more than 12 feet on them at high water. From this point to Termination Hill, the River continued of nearly uniform size, the country on either Side of a Very Superior description and equally well adapted for cultivation or grazing, the timber abundant and fit for all the purposes of domestic use or exportation. The Pine trees, if they should prove of good quality, were of a Scantling Sufficient for the topmasts of large Ships, some measured upwards of 30 inches in diameter, and from 50 to 80 feet without a branch.

The Boat's Crew were so exhausted by their continued exertions under a vertical sun, that I was reluctantly compelled to relinquish my intention to proceed to the termination of Tide-water at this time. At this place, the tide rose about 4 feet 6 inches, the force of the Ebb tide and current united being little greater than the Flood tide, a proof of its flowing through a very level country. Having concluded upon terminating at this Point the examination of the River (being 70 miles from the Vessel and our Stock of provisions expended, not having anticipated Such a discovery), I landed on the South Shore for the purpose of examining the surrounding Country. On ascending a low hill rising about 25 feet above the level of the River, we saw

a distinct Mountain (which I conjectured to be the *High Peak* of Captain Flinders) bearing S. $1\frac{1}{2}$ E., dist't from 25 to 30 miles round from the Point; to the N.W. the Country declined considerably in elevation, and had much the appearance of immense extended *Plains*, of low and undulating hills and Vales, well but not heavily wooded, the only elevations of magnitude were some Hills 700 or 800 feet high, which we had passed to the Northward. The appearance and formation of the Country, the slowness of the Current even at Ebb tide and depth of water, induced me to conclude that the River will be found navigable for vessels of Burden to a much greater distance, probably not less than 50 miles. There was no appearance of the River being even occasionally flooded, no mark being found more than 7 feet above the level which is little more than would be caused by the Flood Tide at High Water forcing back any unusual accumulation of waters in Rainy Seasons.

A consideration of all the Circumstances, connected with the Appearance of the River, justify me in entertaining a Strong belief that the Sources of this River will not be found in any mountainous country, most probably from some large collection of Interior Waters the reservoir of those Streams crossed by me during an expedition of discovery in 1818, and which had a northerly Course; whatever may be its origin, it is by far the largest fresh water River on the Eastern Coast of New South Wales, and promises to be of the utmost importance to the Colony, as, besides affording a water Communication with the Southern Countries bordering upon the Liverpool Plains, it waters a Vast extent of Country, a great portion of which appeared to me Capable of Supporting the Cultivation of the richest production of the Tropics. I afterwards proceeded a few miles to the S.E. from the River through a gently broken Country of good Soil, declining in elevation towards the South, the *South Peak* before mentioned being the only remarkable eminence from N.E. to South.

As the position of the entrance of the River was still to be fixed and the channel examined, I lost no time returning down the River with the Ebb Tide, and I stopped for the Night at the base of Green Hills, the highest of which was ascended the next morning and the View from it more extensive than I anticipated. The high coast range, of which Mt. Warning is the nucleus, appeared gradually to lose itself to the westward and with the exception of the Peak before mentioned, and which appears to be the termination of the North entrance of Mt. Warning Range, there was Scarcely an elevation above the ordinary level of the Country to be Seen; if any such range of Hills had place within 50 or 60 miles, it could not have escaped observation.

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Discovery and
examination of
Brisbane river.

1824.
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Discovery and
examination of
Brisbane river.

So much time was spent in the examination of the Country about Sea Reach that it was quite dark when we got to the entrance of the River, which, out of respect to His Excellency the Governor under whose orders this Bay was examined, was now honoured with the name of *Brisbane River*. The whole of the next day was spent in Sounding the entrance and traversing the Country in the Vicinity of Red Cliff Point; and we did not reach the Vessel until late in the night of the 5th Decr. amply gratified in the discovery of this important River, as we sanguinely anticipated the most beneficial consequences as likely to result to the Colony by the formation of a Settlement on its Banks.

Description of
Moreton bay.

I feel it impossible to enter into a nautical description of so extensive an Inlet as *Moreton Bay*. The draft given of it by Captn. Flinders is, so far as it comprehends the Tract passed over by him, extremely correct; it does not profess to be a Survey of the whole Bay, and there are so many Sand banks separated by deep water channels of various depths and magnitudes that it would require many months to make a complete Marine Survey of it, and which after all would prove of little Service unless the different channels were buoyed. I do not think however that there would be any great difficulty in taking a Ship, whose draft of water does not exceed 18 feet, as high as Red Cliff Point. Above this point to the entrance into Brisbane River, the Channels would require to be well ascertained before Ships of large burthen could proceed. There is, however, no great danger, as the Shoals are of soft mud and the water quite smooth. A narrow Bank of land appeared to me to extend across from Cape Moreton at the entrance of the Bay to the Main land. On this Bank, I did not find more than 3 fms. at low water; but, as the distance across is full 12 miles, many deeper channels may have escaped my observation.

Pumice Stone River affords good anchorage for Vessels not drawing more than 12 feet water, and the best Channel to enter by will be found closer to the main land. There is plenty of fresh water in the Vicinity of Point Skirmish close to the beach; and, although the Soil is poor and Sandy, the Country is covered with good timber. Among other Species, the *Cupressus Australis* is the most abundant. It may be procured of considerable size, readily shipped, and appears well adapted to most of the purposes connected with buildings.

Should it be deemed expedient to establish a Settlement in Moreton Bay, the Country in the vicinity of Red Cliff Point offers the best Site for an Establishment in the first instance; it is central in the Bay, and there is no difficulty in effecting a

landing at all times of Tide, though the Soil immediately on the Sea Shore is but indifferent. Communication can easily be opened with the Interior; it is about 10 miles to the north of the Entrance into the Brisbane River, and must be passed by all Vessels intending to enter. Red Cliff Point must however be viewed as being better adapted for a Military Post and Stores than as the Site of a Principal Settlement; the Brisbane River presents so many superior situations that, although a Post here may be indispensable, I think a permanent Settlement would be more advantageously formed on the West Side of the River at the termination of Sea Reach. The River here is not fresh, but there is plenty of fresh water, the Country open, and no obstacles exist from Swamps or hills to prevent a ready communication with the Interior either by the River itself or at a distance from it. From a hill near this last Station the entrance of the Bay can be seen; and by clearing away a few trees, a communication by Signal may be held with Red Cliff Point. The ground is dry, the Soil good, and it receives the full force of the Sea breezes.

The Bay abounds with fish of all descriptions common to this part of the Coast. The Natives, in the intercourse we had with them, appeared to possess a most friendly disposition. They are very numerous, and are to a certain extent Superior in their domestic habits to the Savages inhabiting the more Southern coast. For a more detailed description of these people, I beg to refer you to my Journal.*

There are Several Islands in the upper part of Moreton Bay, to the Southward of the Entrance into the Brisbane River, two of which are formed of good dry Soil with water on them; the others are mere mangrove Swamps. We had little opportunity of making any nautical additions to the Charts of Captain Flinders. We however discovered that the land of Point Lookout is an Island, and that Moreton Bay extends as far South as Lat. 28 S., where it communicates with the Sea by a Shoal Channel through a Sandy beach navigable for Boats. We had also the Satisfaction to ascertain that the waters, having their Source in the high land of Mt. Warning, formed a considerable Stream, the entrance into which is closed to Point Danger; Across there is a Bar having 12 feet on it at half tide, there may be probably 14 feet at high water. I had not time to proceed up this River beyond a few miles, Sufficiently far however to perceive that the River has its source to the westward of Mt. Warning. The Country on the Banks appeared to be good and abounded with useful timber. I considered the Knowledge of this River useful in establishing the point that the Brisbane River does not receive its waters from the lofty ranges of the Sea coast, and as

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3 Feb.

Description of
Moreton bay.

* Note 51.

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the course of that River had been already traced beyond the N.W. entrance of the Coast ranges, it appeared still more probable that it derived its supply from some part of the S.W. Interior.

Observations
on prevailing
winds and
currents on
the coast.

From the observations of others, joined to my own limited experience of the winds and weathers on this Point, I think that considerable difficulty will be experienced by vessels bound to the northward from the month of October to February. To the North of Break Sea Spit, the N.E. Wind (varying occasionally to the S.E.) prevails during those months blowing in Strong Gales; to the Southward of Break Sea Spit the winds are more variable, being much influenced by the direction of the Coast which to that Point heads nearly North and South. The currents to the South of Break Sea Spit, at a distance of 15 or 20 miles from the Shore, Set Strong to the South; near the Shore there is little current, and I have then found it occasionally setting to the North. In order to make a good passage to the Northward during the Summer Season, I would recommend Vessels to keep the land close on board. There are no hidden dangers, and besides being out of the Strength of the Current, considerable advantage is obtained by being within the influence of the Land Winds, which commonly blow off it during the night during the Winter and Spring months. The winds will be found variable, but blowing more frequently from the West and N.W. than any other quarter. As an example of the general tendency and Set of the Currents, the following facts may be adduced. A log of Cedar with a Staple in it was found on the Sea Shore of Moreton Island, which must have floated either from Newcastle or Port Macquarie; and on the same Island a cask and part of a New Zealand Canoe were recognized as having belonged to the Echo Whaler, which ship was cast away on Wreck Reef* about three years ago. These Articles must have come from an opposite direction to the log of Cedar. On my return from Moreton Bay, keeping a distance of 12 or 14 miles from the Coast, the Vessel was set 58 miles to the South in 22 hours, and a current of nearly equal strength accelerated our return from Port Macquarie to Sydney. The existence of a strong Southerly current at this Season of the year, and the situation of its greatest strength with respect to the Coast, are points tolerably well known to the Masters of Vessels sailing out of this Port.

I have the honor to transmit herewith a daily journal† of my proceedings, together with a correct map‡ of Moreton Bay including Brisbane River, and also some alterations in the Coast line about Point Danger; the alterations and additions are coloured Red; detached drafts of the Inlets in the Vicinity of Port Curtis also accompany this Report.

* Note 52. † Note 51. ‡ Note 50.

From Lieut. Stirling of the *Buffs*, who accompanied me by direction of His Excellency, I derived the greatest assistance, and it is principally owing to his skill in the rapid and accurate delineation of the surface of the positions of Country we examined, that we were enabled to complete the Service described in this Report in so short a space of time.

I have, &c.,

J. OXLEY, Surveyor-General.

1824.
3 Feb.

Acknowledgment of services of Lieut. Stirling.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.*

Sir, Downing Street, 9th Feby., 1824.

9 Feb.

The Bearer, Mr. W. Bucknell, having been strongly recommended to me by Mr. Lushington, I am directed by Lord Bathurst to desire that he may receive a Grant of land proportioned to his means of Cultivation, and I beg leave to introduce him to your protection and good Offices.

Recommendation of W. Bucknell for land grant.

I am, &c.,

R. W. HORTON.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per H.M.S. Tamar.)

Sir, Downing Street, 9th Feby., 1824.

I am directed by Lord Bathurst to transmit to you the enclosed account of Medical Comforts, which have been supplied to the Hospitals at New South Wales and Van Diemen's Land, and to desire that you will cause the same to be duly accounted for.

Medical stores to be accounted for.

I have, &c.,

R. W. HORTON.

[Enclosure.]

[A copy of this account is not available.]

SIR THOMAS BRISBANE TO MAJOR-GENERAL SIR HERBERT TAYLOR.

(Despatch marked "Private," per ship Ocean.)

My dear Sir, G't House, N. S. Wales, 9th Feby., 1824.

This Letter will be delivered by Mrs. Mackay, Widow of the late Capt. Mackay of the 48th Regt., who died here lately, and I have sent in the Papers through the regular official channel for Lt. Vandemeulin to succeed by purchase to the Vacancy, as they had gone home previous to the event. As it is perhaps her all that she will have to depend upon, I should feel much indebted by your being so kind as to use your influence in her behalf. Also as it is a novel case, and no precedent, I have directed the Amount of her Passage Home, viz., £92, to be paid out of the Colonial Revenue here, which she is to repay out of the sale of

Sale of commission of G. Mackay.

Passage money advanced to widow.

1824.

9 Feb.

Passage money
advanced to
widow.

the Commission; but I trust H.R.H. The Commander in Chief will sanction it after a Husband's faithful Service to the Crown of upwards of 20 Years, and in which Service he terminated his Career. Trusting you will forgive me for the trouble I am giving you,

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 6 of 1824," per ship Ocean; acknowledged by Earl Bathurst, 18th August, 1824.)

Government House, New South Wales,

11 Feby., 1824.

11 Feb.

My Lord,

Necessity for
private
secretary to
governor;

I had the honor, previous to quitting England, to press on your Lordship the necessity of a Private Secretary; upwards of two years' experience here has tended strongly to confirm that opinion, and I shall only urge in support of it, that many arrangements of considerable benefit to the Colony are obliged to be relinquished from the encrease in the detail that must accompany them.

and for
under secretary
in colonial
office.

I should also entreat of your Lordship to allow an Under Secretary* in the Colonial Office; and I trust that this request will not appear unreasonable, when I state no change has taken place in it for the last fourteen years, notwithstanding the vast encrease in the Population, and variety of detail consequent upon it, and the System now acting upon.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 7 of 1824," per ship Ocean; acknowledged by Earl Bathurst, 19th August, 1824.)

Government House, N. S. Wales,

14 February, 1824.

14 Feb.

My Lord,

Proposed
annual shipment
of presents
for natives.

As I am of opinion it would be productive of extensive benefit to His Majesty's interest, not only in this Colony but amongst various of the Islands Scattered throughout these Seas, I should beg leave to recommend that your Lordship would be pleased to direct the sending out annually a few gaudy Articles, such as those presented to the Chiefs of the North American Tribes, with a few fowling Pieces and Tomahawks, as I feel confident it would be the means of greatly attaching these Chiefs to His Majesty's Government, and become an inducement for them to render service generally to any British Subject.

The amount of the presents I should propose not to exceed £20, and to accompany the other requisitions.

I have, &c.,

THOS. BRISBANE.

* Note 53.

SIR THOMAS BRISBANE TO EARL BATHURST.

1824.
14 Feb.

(Despatch marked "No. 8 of 1824," per ship Ocean.)

Government House, New South Wales,

My Lord,

14 Feb., 1824.

A Custom has prevailed here many years which I am not aware is sanctioned by any authority viz.—that of Saluting a Judge. However as Judge Bent refused to land unless Saluted, and as I have acted upon that precedent, I should be glad to learn your Lordship's pleasure thereon.

I have, &c.,

THOS. BRISBANE.

Instructions
required re
salute for judge.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 7, per H.M.S. Tamar; acknowledged by Sir Thomas Brisbane, 12th August, 1824).

Sir,

Downing Street, 17 February, 1824.

17 Feb.

A proposition* having been submitted to His Majesty's Government for establishing a British settlement on the North West Coast of New Holland, and the result of my Enquiries on the Subject convincing me of the importance of forming the proposed Settlement, both in a Commercial and Military point of view, I have considered it my duty to adopt a measure which appears to hold out such extensive advantages, and have accordingly recommended to His Majesty the expediency of dispatching a Ship of War without loss of time to the North West Coast of New Holland for the purpose of taking formal possession in the name of His Majesty of that part of the said Coast, contained between the Western Coast of Bathurst Island and the Eastern side of Cobourg Peninsula, including the whole of Bathurst and Melville Islands and the said Peninsula.

Settlement
to be formed
in north
Australia.

Captain Bremer of His Majesty's Ship Tamar has been selected for this Service. He has been directed in the first instance to make the best of his way to Sydney Cove, and, after delivering to you this dispatch, he will proceed in the further execution of the duties with which he is entrusted.

Selection of
J. Bremer to
command
expedition.

You will furnish to him, if they can be spared, a small Detachment of Troops and such stores and necessaries as may be deemed proper to occupy and form an Establishment on such part or parts of the Island or Peninsula above mentioned, as, after a due examination of the respective advantages they may be found to hold forth, shall be considered as most expedient and best calculated for the Good of His Majesty's Service, and the objects which, in taking possession of this part of New Holland, His Majesty's Government have in View.

Troops and
supplies to be
provided at
Sydney.

It now becomes necessary that I should explain to you what those objects are.

* Note 54.

1824.
17 Feb.

Objects in
forming
settlement
in north
Australia.

1st. As it regards the Commerce of the United Kingdom and its Indian Dependencies, it is considered that, by the Establishment of a British Settlement on that part of the Coast above mentioned, a market would be opened to the British Merchant for the direct disposal of articles of British Manufacture with which he can now only supply the demands of the several Islands in the Eastern Archipelago by first Exporting the Articles to some of the Dutch Settlements, where they are subjected to a high duty with other vexatious Restrictions and impediments, before they can be re-shipped to the other Islands with a View to their ultimate disposal.

2ndly. As a Military Station involving the security of our important possessions and valuable Trade in that part of the World. The Establishment of the British in the Proposed Situation would, in the opinion of the best informed Persons who have been consulted, not only furnish the necessary Protection to our Trade in that Quarter, but would give security to the East India Company's and the Indian Private Trade to China by the Eastern Route.

Selection
of site for
settlement.

Apsley's Channel between Melville and Bathurst's Islands and Port Essington on Coburg Peninsula appear from the recent survey of Captain King to be well adapted to planting Settlements on some part of their Shores in the first instance, and in either of which His Majesty's Ship employed upon this Service may lie in perfect security until the locality of the surrounding Coast shall have been examined and the important point ascertained whether water of good quality and in sufficient quantity is to be procured. In case of disappointment however in that respect, Captain Bremer is instructed to explore the neighbouring Country and particularly the Liverpool River, which is understood to be fresh at no great distance from its mouth. But wherever the first settlement may be established, it is highly important that formal possession should be taken of, and His Majesty's Colours hoisted upon each of the three points mentioned herein, namely Bathurst Island, Melville Island, and Cobourg Peninsula, the Naval Commander's attention therefore has been particularly drawn to this point.

Formal
possession to
be taken of
Bathurst and
Melville islands
and Cobourg
peninsula.

Instructions
given to
J. Bremer.

He will be further instructed to remain in the neighbourhood of the New Settlement until the Officer commanding the Troops, whom you may be able to spare for this purpose, shall have made his arrangements and feels himself secure from any hostile attacks on the part of the Natives, who are understood to be of a ferocious disposition; and for the better protection of the Settlers, I have to direct that you will furnish a Colonial Schooner or some other description of Vessel either to attend His Majesty's

Ship or to follow her as speedily as possible. In the event of a King's Ship being already on the station, Captain Bremer has been authorised to take her along with him.

1824.
17 Feb.

The Bays, Creeks, and Harbours of the Northern Coast of New Holland being stated to His Majesty's Government to be very much frequented by Malays for the purpose of carrying on the Fishery of Trepanng, the Naval Commander has been instructed not to molest them in this pursuit but on the contrary to give them the strongest assurances of friendship and protection, holding out encouragement for visiting and trading with the Settlement about to be established, a line of conduct which you will not fail equally to impress upon the Officer whom you may detach in command of the Troops, as being of not less consequence to the Security of the Infant Colony than to the accomplishment of the views which have led to its formation.

Intercourse
with Malay
fishers.

The Commander of His Majesty's Ship Tamar has been further directed in the event of any other power having anticipated His Majesty's intention with regard to this part of New Holland, and having actually taken possession of either of the Islands or the Peninsula herein mentioned, to abstain from any Act of hostility and to proceed forthwith and plant a Settlement on some part of the Country adjacent to Liverpool River.

No action to be
taken against
foreign powers.

As it is probable that some persons may be desirous of following the Expedition from Sydney with the view of becoming Settlers in the New Colony, you will consider yourself at liberty to give any person, upon whose character you can depend, permission to that effect, and you will allow any Merchant of respectability the privilege of supplying the Settlers and the Troops, detached for their protection, with those Articles with which they will necessarily require at an early period to be provided.

Settlers to be
permitted to
join expedition.

I have, &c.,

BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 9 of 1824," per ship Ocean; acknowledged by Earl Bathurst, 16th August, 1824.)

Government House, New South Wales,

My Lord,

19th February, 1824.

19 Feb.

Lieut. Colonel Cimetiere having applied to me for a proportion of the Lieut. Governor's allowance, in consequence of leaving this for India, and having done the Duty of Lieut. Governor Erskine for the last 12 months, I was not prepared to state until a reference should be made to Your Lordship what proportion should be decided upon in the present, or in future Similar occasions, to be appropriated for that purpose.

Application of
G. Cimetiere
for allowance
as acting
lieut. governor.

I have, &c.,

THOS. BRISBANE.

1824.
21 Feb.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 10 of 1824," per ship Ocean.)

Government House, Sydney, New South Wales,

My Lord,

21 Feb., 1824.

Statutory power
to institute
courts of
requests.

By the Act for instituting a Supreme Court of Judicature in New South Wales, enclosed in your despatch No. 29 of the year 1823, the receipt of which is hereby acknowledged, I find myself authorized from time to time to institute Courts of Civil Jurisdiction to be called "Courts of Requests," each of the said Courts respectively being to be holden by a Commissioner to be appointed by me, with such Salary as I, with the approbation of His Majesty, shall think proper to appoint.

Nomination of
H. G. Douglass
to office of
commissioner.

Viewing the Appointment as yielding in importance to no other in the whole Act, I feel pleased at having been able to find in the Colony an individual possessing moral and intellectual qualities meet to adorn it. This is Dr. Douglass, whom I have nominated to the new Office; but have felt it nevertheless necessary to enjoin him to proceed immediately to England; for I am very anxious to be made intimately acquainted with the opinion of your Lordship with respect to this Court determining Appeals from decisions of Magistrates, exercising their jurisdiction under the authority of Governor Macquarie's Proclamation of 21st November, 1818, as recommended at the 58th page of the second part of the Report of Mr. Commissioner Bigge*; and I consider it also to be of great importance to press upon your Lordship's consideration my recommendation that the Court, in order to preserve uniformity in its practice, should be holden by one ambulatory Commissioner rather than (as seems to have been contemplated by the Act) by Commissioners in different parts of the Colony.

Jurisdiction of
the court.

Reference
suggested to
H. G. Douglass.

To Dr. Douglass I can properly refer your Lordship as to a gentleman well qualified in every way to afford His Majesty's Ministers correct information on these, as well as on all other questions connected with the welfare of the Colony, or its administration during the last two years. In compliance with the Act of Parliament authorizing his appointment, I submit that his Salary should be fixed at £500 each year, exclusive of the charges incidental to his travelling expences, which I hope may meet with His Majesty's approbation; and, if your Lordship should view the utility of his visit to England in the light in which I behold it, I jointly anticipate that the expences will be defrayed by Government of both his Voyages, as well as of his Sojourning in the Capital which I trust will be short, for I can but ill spare, in executing the duties of his new office, his immediate Service.

Salary and
travelling
expences of
H. G. Douglass.

I have, &c.,

THOS. BRISBANE.

* Note 55.

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.

1824.
21 Feb.

21 Feby., 1824 (?).

[It is probable that the letter of introduction for H. G. Douglass, dated 21 Feby., 1822 (see page 624, volume X), was intended to bear the above date.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 11 of 1824," per ship Ocean.)

Government House, Sydney, New South Wales,

My Lord,

23rd February, 1824.

23 Feb.

While enclosing the accompanying application from Mr. Thomas Cudbert Harrington, soliciting the Grant of Six thousand Acres of Land, I deem it to be my duty to observe Simply that the Applicant is a gentleman of considerable talent, and of praiseworthy purity of private life.

I have, &c.,

Character of
T. C. Haring-
ton.

THOS. BRISBANE.

[Enclosure.]

MR. T. C. HARRINGTON TO EARL BATHURST.

Elderslee in New South Wales,

My Lord,

30th December, 1823.

Having proceeded to this Country from India, and being therefore unable to bring with me the proper sanction of the British Government to my receiving lands, I now beg leave with the approbation of His Excellency the Governor to address You personally on the subject.

In June, 1820, I arrived in the Colony possessed of such small actual funds as induced His Excellency Governor Macquarie to assign me 600 Acres of land. But the sale of a considerable property in India has since put me in possession of a Sum amounting to Sicca Rupees 65,790 or something more than £6,500 Sterling, of which I have already had the honor to submit to His Excellency the original documents and now enclose an authenticated Copy. Ere I proceed to state any final request, founded on the amount of Capital, permit me first in few words to lay before Your Lordship the principles on which Grants appear heretofore to have been apportioned.

Land granted
to T. C.
Harrington.Capital in
possession of
T. C. Haring-
ton.

In compliance as I believe with instructions from Your Lordship in 1821, Governor Macquarie limited future Grants to "2,000 Acres as the Maximum except upon special circumstances." And by a letter from the Surveyor General, from which the above passage is extracted and of which a Copy is also enclosed, the Scale was graduated in the following manner, viz.:

Methods adopted
in making
land grants.

"To persons proposing to employ a Capital of
£500 . . 500 Acres £1,500 . . 1,000 Acres £2,500 . . 1,760 Acres
1,000 . . 800 ,, 2,000 . . 1,500 ,, 3,000 . . 2,000 ,,

1824.
23 Feb.

Methods adopted
in making
land grants.

and in explanation of "the particular circumstances" contemplated above, an observation is added "It is not probable that a greater sum than £3,000 will be often employed in the Cultivation and stocking of a Farm in this Country, more especially if the Capital so employed was required to be principally in money and not in goods which at present is often the case. If a greater Capital is intended to be bona fide invested, such a circumstance would certainly be taken into consideration by Your Excellency." This Scale is still adhered to, so far that I believe Grants of an extent greater than 2,000 Acres are never given without the special permission of the British Government. But the qualification demanded is so modified that a Capital of £1,500 is no longer indispensable for the acquisition of 1,000 acres, or of £3,000 for 2,000 Acres, provided the Applicant undertake to relieve Government during ten Years of the whole expense of one Convict for every hundred Acres allotted him.

Your Lordship is no doubt already acquainted with these particulars; but as they are all relevant to my present request I trust it will not appear impertinent to have brought them thus connectedly under review.

The Capital introduced by me into this country amounts as already stated to £6,500 Sterling, or more than double the Maximum contemplated in the writing of the above letter. It is exclusively my own, that is, it is not contingent on Credit or burthened with any Claims whatsoever; consists solely of actual money without the addition of a single article of merchandise; if not the first, it is among the very first and largest yet introduced under these circumstances into this Colony; and finally a considerable portion of it is bona fide already vested in Agricultural Speculations in this place, and the remainder will be similarly employed so soon as the extent of Your Lordship's assistance shall be ascertained and fitting opportunities present themselves.

Upon a comparison of the several parts of this representation, the large grants heretofore assigned to smaller capitals, the still lower qualifications subsequently demanded, the special prospective reservation (in the Governor's instructions to the Surveyor General) in favor of cases like my own; the extent and nature of my Capital; and the value of the pledge I have already given that it shall in truth be employed in improving the lands now to be bestowed; upon this review, I confidently hope Your Lordship will not deem presumptuous a request founded thereon for a Grant of Six Thousand Acres. If any additional argument were necessary, I would beg leave further to remark that the physical character of the country has a tendency (principally from its

Capital
possessed by
T. C. Haring-
ton.

Application for
a grant of
6,000 acres.

being so decidedly favorable to the cheap subsistence of livestock on the natural herbage) to create and uphold an Opulent Gentry, an effect with which the policy of the British Government appears to have been wisely in unison; that by the extensive discoveries recently made, all apprehensions of a scarcity of fertile lands are removed; that Individuals have heretofore received similar indulgences to a yet greater extent; and that the amount now solicited does not exceed the proportion of one Acre for every Pound Sterling, a proportion which is usually deemed moderate and which I trust will so appear to Your Lordship.

1824.
23 Feb.

Application for
a grant of
6,000 acres.

Of myself, personally, if Your Lordship shall require any more particular account, I beg to add that my Father is at present a Member of the Supreme Council of Calcutta; that, after my arrival in this Colony, I was for twelve months engaged in the place, whence this is dated; that, during the last two years, I have had the honor to be employed in H.M. Commissariat Department, and at the recommendation of my Superior Officer, Deputy Commissary General Wemyss, have in that time received from His Excellency Sir Thomas Brisbane a regular appointment, afterwards confirmed by the Lords Commissioners of H.M. Treasury. Since this change in my private circumstances, Depy. Commy. Gen'l Wemyss has been pleased to accept my resignation, but at the same time has had the goodness to express himself in such terms that I should not have hesitated to request his signature to this paper, had I not reason to hope that the affixture of His Excellency's recommendation would supersede the necessity of other testimonials.

Employment in
commissariat
department.

Resignation of
appointment.

In conclusion allow me to express a hope that Your Lordship will be pleased by an early opportunity to convey to the Local Government an express permission to grant to myself 6,000 Acres of land (exclusive of 600 already bestowed by Governor Macquarie) in any part of the Colony which is not already appropriated.

I have, &c.,

THOMAS CUBBERT HARINGTON.

[Sub-enclosure.]

EXTRACT of a letter addressed to T. C. Harington, Esq., Sydney, New South Wales.

“Calcutta, 31 Jany., 1823.

“I WROTE you a short letter on the 11th informing You of the Sum I had received for You from W. Hawes, fifty seven thousand six hundred and ninety three rupees (57,693) and deposited in the hands of Alexander & Co., who I find have an Acct. with You. Wm. Hawes also wrote to you, and I now enclose another

Cash received
by agents of
T. C. Haring-
ton in India.

1824.
23 Feb.

Letter from him relative to a Bond for 8,000 Rs.,* which he has sent to me in your name, payable a Year after date and bearing Interest at 8 per Cent. "J. H. Harington."

a Copy:—W. WEMYSS, J.P.

Certified to be correct: F. GOULBURN, Col. Secty.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 8, per ship Mangles.)

28 Feb.

Sir,

Downing St., 28 Feby., 1824.

Despatch
acknowledged.

I have received your despatch No. 9 transmitting for my consideration a memorial from Mr. William Evans, lately an Assistant Surgeon on the Establishment of New South Wales, soliciting the Half-Pay or Pension usually allowed to the same Class of Officers in His Majesty's Sea and Land Forces.

Refusal of
petition from
W. Evans for
a pension.

As I am not aware of any instance in which Half-pay has been awarded to Persons in Mr. Evans' situation, I am the more unwilling to establish a Precedent, which may lead to the burthening the Establishment of New South Wales with a provision for Officers employed in the Service of the Colony who have not hitherto been considered entitled to this indulgence; and upon an examination into the circumstances on which Mr. Evans has grounded his claim, I am sorry that I do not observe them to be of that special or public nature to justify my authorizing a compliance with the object of his Petition.

Land to be
granted to
W. Evans.

The accident by which that Gentleman's left hand has been disabled, how much soever to be regretted, does not afford a claim for public consideration, unless it can be shewn that the circumstance arose in the actual performance of a public duty; and the other reasons which he has urged in support of his application do not appear to me to be sufficiently strong to entitle him to a pension. At the same time I see no objection to your making a Grant of Land to Mr. Evans in proportion to what you may consider to be the value of his Services and according to the means which he may possess of bringing the same into Cultivation.

I am, &c.,

BATHURST.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Mangles.)

My dear Sir,

Downing St., 28 Feb., '24.

Petition
from Gray.

Lord Bathurst has desired me to transmit to you the enclosed petition which has been presented to him on behalf of Mr. Gray, Superintendent of the Orphan's Farm at New South

* *Marginal note.*—57,693 + 8,000 = 65,693.

Wales. Lord Bathurst has not thought it advisable to authorize at once a compliance with the Petitioner's request, not knowing how far it might be objectionable on public grounds to make a grant of Land to Mr. Gray immediately contiguous to the Farm of which he has the management, but he has desired me to state that, if you consider the measure unobjectionable, there is every disposition on his part to comply with the request. At all events, his Lordship is anxious that a Grant of Land should be made to Mr. Gray in proportion to his Capital, and that every reasonable facility should be afforded to him in the selection of the spot.

1824.
28 Feb.

Brisbane to
grant land
to Gray.

I remain, &c.,

R. W. HORTON.

[Enclosure.]

[A copy of this petition is not available.]

SIR THOMAS BRISBANE TO MAJOR-GENERAL SIR HERBERT TAYLOR.

February, 1824.

— Feb.

The following extract of this letter alone is available:—

I BEG to be permitted to take the present Opportunity of suggesting the propriety of furnishing Me with the means of encamping at least One Wing of a Regiment; it would be most desirable, and indeed necessary on occasions like the present, the relief of Corps.

Requisition
for camp
equipment
for military.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Mangles.)

Sir, Downing St., 4 Mar., 1824.

4 March.

I am directed by Lord Bathurst to enclose to you a copy of a letter conveyed to his Lordship by Sir John Owen, the Brother in law of Mr. Edward Lord. I am desired by His Lordship to inform you, with reference to Mr. Lord's application, that provided that no blame should permanently attach to Mr. Lord with respect to the charge* preferred against him by Mr. Moody, his Lordship would have no objection to allow him an additional Grant bearing proportion not to the Capital already vested by him in the Colony, but to the Capital which he has now the means of employing in this new Grant for which he applies.

Proposed
grant of land
to E. Lord.

You will easily understand that this direction is given according to the spirit of the general instructions,† which Lord Bathurst sent to you last year on the subject of Grants of Land.

I have, &c.,

R. W. HORTON.

* Note 56. † Note 57.

1824.
4 March.

[Enclosure.]

MR. EDWARD LORD TO SIR JOHN OWEN.

My dear Sir John,

London, 23 February, 1824.

Application of
E. Lord for
land grant.

As you are aware, I am now on the point of returning to Van Diemen's Land, and as it must be well known in Downing Street that I am one of the earliest* (being one of the first that settled there) and I hope not one of the least useful Settlers; then it has occurred to me that the noble and enlightened Secretary for the Colonies will on the following statement of facts (which let me entreat you to submit to him, and which you can also prove to his Lordship) see it right to grant me those Indulgencies, which have so readily and so largely been given to others, who have neither previously resided in the Settlement or had to contend with the many and great difficulties and privations of the early residents, and who have not taken out and vested any thing like in amount the Capital embarked by me in that Colony.

Previous
negotiations for
land grants.

You will remember making personal application to the late Lord Castlereagh for a Grant of Land for me at Van Diemen's Land, as far back as the year 1807, when his Lordship was Colonial Secretary of State, and that his Lordship then assured you that he would give directions for my receiving, as an Officer in the Royal Marines stationed at the Colony, Three thousand Acres of Land, which circumstance was acknowledged by him in an answer to your Letter, as far back as 1812, when his Lordship (to use his own expressions) says he imagined "I had long enjoyed," which Letter was at that time laid before Earl Bathurst. I may be allowed to remark that in this way many Grants to *Officers* have been made, who never resided in the Colony after their period of service. It will be readily admitted that the grant above alluded to, which I received by the kind interposition of my Lord Bathurst, was not made to me in the Character of a Settler or in consideration of any Capital embarked, as I continued a Military Officer in the Colony for many years after Lord Castlereagh had directed the Governor to grant the Land to me. In the adoption of these views, which induced me to relinquish my profession and become a Settler in that Colony, I did, as you are also aware, obtain Letters from my Lord Bathurst to the Governor of New South Wales to grant me lands proportionate to the Capital embarked by me as a Settler in Van Diemen's Land. I am still sensible and grateful for the kind intentions of his Lordship, and for the handsome manner in which he expressed his concern for my interests and prosperity; but a grant of three thousand acres was only allotted to me, and which

* Note 58.

I am convinced his Lordship will consider as greatly disproportioned to the large extent of Capital vested by me, so far back as 1812, and still remaining in that Colony.

1824.
4 March.

This extent of Capital, you can most readily prove to the Colonial Office, exceeded Thirty Thousand Pounds, as yourself furnished me with £20,000, besides my own fortune at that time of £10,000, every shilling of which was embarked by me, which, together with my exertions ever since, the Colony has derived great benefit from.

Capital invested by E. Lord in the colony.

I am very sensible of his Lordship's intentions that my Grant of Land should have been commensurate with this Capital, and that, as my Capital was infinitely beyond all others who have settled either in New South Wales or Van Diemen's Land, I should at least have received a Grant of the first Extent. I therefore beg leave to state to his Lordship that there are many others (of comparatively inconsiderable Capital) who have received much larger Grants from Governor Sir Thomas Brisbane than myself, Vizt. Berry and Wolstoncroft, Acres 10,000, Mr. Lawrence, Acres 8,000, and Mr. Nowland, 7,000 Acres; there are many others, but I mention these as his Lordship may from their being recent have an easy reference.

Large areas granted by Sir T. Brisbane.

With these facts, I hope and trust you will wait on my Lord Bathurst and Mr. Wilmot Horton, and obtain from the Colonial Office an adequate and specific Grant, of which I trust his Lordship will allow me to be the bearer.

I am, &c.,

EDWARD LORD.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch marked "Private," per ship Countess of Harcourt.)

My dear Sir, Downing Street, London, 10 March, 1824.

10 March.

I do myself the honor of transmitting to you the accompanying copies of Papers which have been forwarded to me by Mr. Bootle Wilbraham, Member for Dover, connected with the case of a Prisoner of the name of Matthew Gregson, who pleaded Guilty to an indictment charging him with feloniously embezzling certain Bills of Exchange and other money, the property of Messrs. Taylor, Potter and Livingston of Liverpool, with whom he lived as Clerk, and for which Offence he was sentenced to be transported for seven years.

Papers relating to M. Gregson, transported for embezzlement.

As the connexions of the prisoner are represented to be persons of the highest respectability, and the Prisoner himself appears to be sincerely penitent, as well as anxious to do everything in his power to atone for the crime of which he has been convicted, Lord Bathurst finds it to be impossible not to feel an interest in the fate of the person in the unfortunate situation of the Prisoner, whose abilities and education, if rightly employed, may yet

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10 March.
Recommendation of M. Gregson for special treatment.

render him a useful Member of Society. As the regulations forbid a Ticket of leave to be granted to a Prisoner until he has resided in the Colony for a period of three years, Lord Bathurst is precluded from specially directing a deviation from that Rule in the present instance; but his Lordship authorizes me to state that he will most willingly acquiesce in any indulgence that can be shewn to the Prisoner on his arrival in the Colony, which may afford to him an opportunity for the exertion of his industry and for redeeming his Character from the Stigma which at present attaches to it.

I have, &c.,

R. W. HORTON.

Since writing the above I have received a letter from Mr. Gladstone M.P. with an enclosure, copies of which I have the honor to transmit to you.

[Enclosure No. 1.]

[Copies of the papers transmitted by Mr. Wilbraham are not available.]

[Enclosure No. 2.]

MR. JOHN GLADSTONE TO UNDER SECRETARY HORTON.

My Dear Sir, Grafton St., 10 March, 1824.

Allow me to state to you that there is an Unfortunate Man, named Mathew Gregson, Jr., now on board the Countess of Harcourt, Convict Ship about to sail for New South Wales; he is the Writer of the enclosed Letter, which I hope you will take the trouble to read, and his case is a very peculiar one; he entered Life with very different prospects; he is a Native of L'pool, where his connections are respectable; he rec'd a good education and possesses considerable abilities, such as, had they been properly directed, would have made him a useful Member of Society. He was in the situation of Clerk and Cash Keeper to a respectable Mercantile House in L'pool, and, whilst in that situation, being fond of Society and the pleasures of the Table, to meet his expenditure he applied the money of his principals to his own purposes to a considerable amount; but in this his employers were not wholly free from blame, as they partook of his entertainments, whilst they must have known his own funds were inadequate to the expence.

Unequal to the repayment, he left their Service, whilst they were ignorant of his Conduct, and went to South America in the hope of getting into Business there and procuring means to repay the money he had purloined; but the stigma, which followed him, thwarted all his endeavours; when in despair (and I believe penitence) he returned and made a *Voluntary* surrender of himself to Justice at L'pool, where he was in consequence tried, pled guilty, and sentenced to seven years transportation.

Details re life of M. Gregson.

Escape of M. Gregson to S. America.

Voluntary surrender and trial of M. Gregson.

As a County Magistrate, I sat on the Bench; we were all so impressed with a belief of his repentance that the usual sentence was thus mitigated, and, from all I have learned of his conduct since, I would hope, if the opportunity is afforded him, he may yet become a Useful Member of Society; this leads to the object I have in thus troubling you. I would not and did not venture to do so as connected with Sir Thomas Brisbane, to whom I have ventured to address a few lines myself in this unhappy man's favor, but I learn it will be of the *greatest importance* to him, circumstanced as he is and the hopes he is led to entertain, that he should be landed at *Sidney* and *not at Van Dieman's Land*, and it is to beg that, if not inconsistent with other duties, that you would give directions for this purpose to the person, who accompanies and has the charge of the Prisoners; if anything further can *consistently* be conceded concerning him, I am satisfied your own feelings will induce you to do so.

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10 March.

Request for
transportation
to N.S.W.

Believe me, My dear Sir,

JOHN GLADSTONE.

If you should think it proper to write to the Gent'n having charge of the Prisoners and will give or send it to me, I can forward it.

J.G.

[Sub-enclosure.]

MATTHEW GREGSON, JR., TO MR. JOHN GLADSTONE.

County Prison, Kirkdale, near Liverpool,

Sir, Saturday Evening, 28th February, 1824.

Previous to your departure from Seaforth House, you very compassionately and obligingly forwarded to me by the hands of Mr. Gladstone, your Son, a second Letter from yourself on my account to Sir Thos. Brisbane, Governor of New South Wales, and for which I take leave to offer my humble but sincere acknowledgements; at the same time I also received, from under your own hand, a few lines to myself, wherein you desired to be informed of the name of the ship on which it is intended I should be embarked for the land of my exile.

Letter to
J. Gladstone.

In obedience to this desire, I now use the freedom of acquainting you that information has reached one of my friends that I am to embark in the Convict ship "Countess of Harcourt," now equipping I believe at Woolwich, and the Governor of this prison has intimated to me that I am to be removed from hence on Tuesday next, the 2nd March, and may afterwards be heard of from Mr. Capper, Superintendent of Convicts at that place.

You have, Sir, with a feeling of compassion towards me for which I can never express myself sufficiently grateful, held out the expectation that your interposition with Sir Byam Martin, Comptroller of the Navy, shall be used to obtain for me some

1824.
10 March.

Inquiries into
the wool
industry.

alleviation on Shipboard. I trust I shall know how to alleviate and to convert to the purposes of my duty the indulgences your goodness may obtain for me under such high authority.

I believe that, 'ere you quitted your Seat in this vicinity, a very humble specimen of my prison labours, in the Shape of "Observations on the Foreign Wool Trade and on the State of the Colony of New South Wales in respect to the production of Clothing Wool," was shewn to you. I trust that at all events I may there have collected and set forth a few useful facts at the expence of some research and investigation; but I beg to be permitted to state that I have collected Materials for a "Work illustrative of the best system of management for the production of fine Wool." I believe I have collected every thing that is extant on this important subject in this Country. I have also been at pains to get enquiries made for foreign sources of information, and though, from the restraint incident to my situation, I have not succeeded to my wishes in the latter respect, and altho' to me the subject is novel, I have sanguine expectations that, if on ship board I may be allowed the means of accommodation such as a small detached space where I may read, write and study, unmolested, with protection from that description of persons with whom it is my unhappiness to be classed, if my situation be thus ameliorated, I shall be able before the end of the voyage to produce such a Manual of information on this subject, as I trust will supply (until something better may supersede my attempt) that want of intelligence, which upon the high authority of the late Commissioner of Inquiry is alleged to exist as to "Management" for the production of fine Wool in the Country of my banishment.

It is needless for me to suggest to your well stored and vigilant mind that this is a subject, which many eminent men in this country have held to be of paramount importance, and have formerly written upon, in particular the late Dr. Parry of Bath, whose Prize Essay appears in the Communications to the Board of Agriculture. Nearly twenty years have elapsed since any material elucidation of this important branch of rural industry, involving so many commercial interests, has taken place; And what was then written has in many instances been refuted; thus what Mr. Bakewell, one of the best informed and most ingenious Writers, then advanced, and which was received as a feasible theory, vizt. as to the external application of certain substances to the fleeces of sheep with a view to the amelioration of the Wool, is even rendered questionable by the later investigations and the unerring Science of Sir Humphrey Davy.

It is from such a combination of intelligence, thrown into an easy yet comprehensive form, that I see my way, Sir, to what may

supply an alleged want and even be of early benefit to the community, in which I am about to reside, with whom Wool must be the great and almost only source of wealth and certainly the most valuable export with reference to the wants of the Mother Country.

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wool industry.

I humbly beg your pardon, if this unintended extension of my letter should prove tedious; but I trust what I have adduced may operate to shew you, Sir, that I have views to the conversion of any favour, your compassionate interference may obtain for me, to useful purposes.

I crave leave yet to add, for your piteous consideration, that a compulsory association with those persons, with whom my unhappy condition brings me in contact (and which the humanity of the Magistrates has here relieved me from), to me will come with increased severity; for, altho' I have been led by fatal passions and false allurements, I have *never* associated with disreputable persons; within the last eighteen months, I trust I have made sincere tho' unsuccessful efforts at reparation; and, if my situation during that period has been one of much embarrassment, I think that no one will charge me with a mean or dishonourable action, and I am persuaded that no one can say that during this period I have led an immoral life or associated with abandoned persons. I venture on these remarks with all humility, but with horror of the Society of murderers and their accomplices.

I beg to conclude with stating that this day, in the presence of the Revd. Wm. Horner, Chaplain of this prison, I voluntarily subscribed a Note of Hand, payable in London at the distant period of my emancipation from the Sentence of the Law, in favour of my late employers for the Sum Total of my defalcations with Interest, etc., of which Obligation, and of the Letter with which it was accompanied, the enclosed Paper contains attested Copies; and after you, Sir, have found inclination and leisure to peruse the same, I respectfully request you will be pleased to forward it under cover to Robert Brutton, Esqr., Solicitor, No. 55, Old Broad Street, London, who will hold it at my disposal, and who I venture to hope will take charge of any communications which you may yet favour me with (under a separate Cover) as the conclusion of your extraordinary kindness towards one, who will ever bless God that sent him such a benefactor at such a time, and who now subscribes himself with the greatest respect and gratitude,

Promissory
note given
for amount of
defalcations.

Sir, &c.,

MATTHEW GREGSON, JUNIOR.

P.S.—Since the foregoing was written Mr. Horner has informed he himself delivered my Letter and Note of Hand to my late employers.

1824.
12 March.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.
(Despatch per ship Countess of Harcourt.)

My dear Sir, Downing Street, 12th March, 1824.

M. Gregson
to serve
sentence in
N.S.W.

I beg to trouble you with a few lines in addition to the letter which I addressed to you on the 10th Inst., to express Lord Bathurst's wish that the Prisoner Gregson, who is very apprehensive of being removed to Van Diemen's Land, should if possible be permitted to continue during the term of his sentence in New South Wales.

I have, &c.,
R. W. HORTON.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 9, per ship Mangles; acknowledged by Sir Thomas Brisbane, 18th March, 1825.)

13 March.

Despatch
acknowledged.

Sir, Downing Street, 13th March, 1824.

Returns to be
made by
principal
surgeon.

Having transmitted to the Treasury a Copy of your Dispatch No. 2 of the 18th of February in last Year, covering a requisition for Medicines for the use of the Colonial Hospitals in New South Wales, I now transmit to you Copies of a Letter and of its enclosures which have been received from the Secretary to the Treasury in reply; and I have to request that Returns of the descriptions of those suggested by the Secretary at War and the Army Medical Board may be furnished annually by the principal Colonial Surgeon having charge of the Sick Convicts, and that you take particular Care to accompany any future requisitions for Medicines by Copies of the Returns in question.

I have, &c.,
BATHURST.

[Enclosure.]

SECRETARY HARRISON TO UNDER SECRETARY HORTON.

Sir, Treasury Chambers, 27 Feby., 1824.

Returns to be
made of sick
treated and
expenditure of
medicines.

Having laid before the Lords Commissioners of H.M. Treasury a letter from the Secretary at War of the 31 December last, covering one from the Principal Officers of the Army Medical Department, suggesting that Annual Returns should be furnished of the number of Sick treated, and of the Expenditure of Medicines in the Colonial Hospitals at N. S. Wales, I have it in command to transmit to you the Returns, together with copy of the said letter and its enclosure; and with reference to your letter on this subject of the 8 Novr. last to request that you will move Earl Bathurst to entreat the Governor of N. S. Wales to direct the Principal Officers in the Colony to transmit the Returns suggested by the Army Medical Board.

I am, &c.,
GEO. HARRISON.

[Sub-enclosure No. 1.]

VISCOUNT PALMERSTON TO SECRETARY LUSHINGTON.

Sir, War Office, 31 Decr., 1823.

With reference to my letter of the 24 Inst., I have to transmit a copy of one from the Principal Officers of the Army Medical Depart't suggesting that Annual Returns of the number of Sick treated, commencing from the 1 January last, and of the expenditure of Medicines for the same period in the Colonial Hospitals at New South Wales, should be furnished agreeably to the enclosed Forms in order to enable them to form a more accurate estimate of the propriety and reasonableness of future Requisitions for Medicines for the use of the said Hospitals.

I am, &c.,

PALMERSTON.

1824.
13 March.

Returns to be made of sick treated and expenditure of medicines.

[Sub-enclosure No. 2.]

MESSRS. MCGREGOR AND FRANKLIN TO ———.*

Sir, Army Medical Dept., 17 December, 1823.

We have the honor to acknowledge the receipt of your letter of the 3 Instant enclosing one from Mr. Lushington with Requisition for Medicines for the use of the Colonial Hospitals, New S. Wales, into which the Convicts are received. In reply, we beg leave to state, for the Secretary at War's information, that we have carefully inspected the requisition, and have made the few alterations and deductions in the accompanying return; but having no information whatever to guide us as to the probable number of Sick Convicts, for whose use the Medicines are intended, we are unable to form any opinion as to the reasonableness of the quantities demanded; we therefore suggest that the Principal Colonial Surgeon, having charge of the Sick Convicts, should be directed to furnish us with annual returns of the number of Sick treated commencing from the 1 January last, also with a return of the expenditure of Medicines for the same period; Blank forms of returns, herewith enclosed, are used for these purposes, and, if furnished with such documents, we shall be enabled to form a more accurate estimate of the propriety and reasonableness of future requisitions.

We have, &c.,

S. MCGREGOR.

WM. FRANKLIN.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Mangles.)

Sir, Downing Street, 13 Mar., 1824.

I am directed by Lord Bathurst to request that no time whatever may be lost in sending back the prepared tables† which were bound together and sent to you for recording the whole

Returns required of revenue and expenditure.

* Not addressed in original enclosure.

† Note 59.

1824.
13 March.

expences generally of New South Wales, together with all the other information which you were desired to furnish. Those tables, unfortunately, in consequence of accident, were not sent to you so soon as to the other Colonies.

Returns of
civil officials,
their salaries
and duties.

It is of extreme importance that this information should be received as soon as possible, as the Government are pledged to make out the Estimate next year on an entirely new System. For this purpose, it will be necessary to know most minutely the number of persons borne on the Civil Establishment within the Colony, with their emoluments, specifying whether such emoluments are received in fees or otherwise, and if in fees, the annual average of the amount of those fees, and the duties of their several situations, in the manner required in the book alluded to.

New system of
preparing
estimates.

The object of this new formation of the Estimates is to shew on one side the whole expenditure of the Colony, and on the other, the amount, nature, and application of the Colonial Revenue, and the Sum which the Mother Country is obliged to pay to make up the deficiency, and to balance expenditure with Revenue.

I have, &c.,

R. W. HORTON.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.*

17 March.

Dear Sir,

Downing Street, 17 Mar., '24.

Recommend-
ation of
G. Galbraith for
land grant.

This note will be delivered to you by Mr. George Galbraith, who is the bearer of the usual letter authorizing you to make to him a Grant of land proportioned to the means which he may possess of bringing it into Cultivation.

As Mr. Galbraith has been particularly recommended to Lord Bathurst by Mr. H. H. Drummond, Member for Stirlingshire, and by Mr. R. Downie, Member for Stirling, I am desired to introduce him to your good Offices and Protection, and to request that you will show to him such a reasonable degree of favor in the selection of his land, as may not be inconsistent with the claims of other Individuals.

I remain, &c.,

R. W. HORTON.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 11, per ship Mangles.)

8 April.

Sir,

Downing Street, 8 April, 1824.

Documents
required by
vessels trading
from the colony
to the Brazils.

With reference to my Dispatch of the 5th of November last on the subject of the extra duties to which the Cargoes of Vessels arriving at the Brazils from New South Wales and Van Diemen's Land have been subjected in consequence of an informality in the Certificates with which those Vessels have been provided,

* Note 10.

I do myself the honor to transmit to you Copies of a letter from the Agent of the Colony, and of the correspondence which has taken place thereon between this Department and the Board of Trade, in order that you may be aware of the nature of the Documents, with which it will be necessary that all Vessels proceeding with Cargoes to the Brazils should be furnished to entitle them to the Privileges of British Vessels on their arrival in that Country.

1824.
8 April.

Documents
required by
vessels trading
from the colony
to the Brazils.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

MR. BARNARD TO UNDER SECRETARY HORTON.

Sir, 16 Parliament Street, 9th March, 1824.

I have the honor to transmit the Copy of a letter, which has been addressed to me as Colonial Agent for Van Diemen's Land by Mr. James Dixon, representing the increased rate of Duty which has been charged in the Brazils on Imports from the Colony of Van Diemen's Land, and also suggesting the propriety of notifying through the British Consul at Rio de Janeiro that the Certificate and Seal of Office of the Naval Officer in that Colony has the same Effect in certifying a Cargo as Cockets from Custom Houses in this Country.

As there is great probability that an extensive Trade in Wheat and Flour will be carried on between Van Diemen's Land and the Brazils, I beg leave to request that you will submit, for the consideration of Lord Bathurst, the great advantage that would accrue to the Trade of Van Diemen's Land and New South Wales, if a representation on this subject was made through the British Consul at the Brazils, who might at the same time be instructed to make the requisite notification relative to the power of the Naval Officer to certify Cargoes from those Colonies.

I have, &c.,

EDWARD BARNARD.

[Enclosure No. 2.]

MR. JAMES DIXON, JUNR., TO MR. EDWARD BARNARD.

Sir, London, 19 February, 1824.

Being engaged in Commerce with Van Diemen's Land and Brazil, I beg to state that the Government of that Country have charged on Imports from the Colony 24 pr. Cent. ad valorem, contrary to the usual Duty of 15 pr. Cent. on the manufactures and produce of Great Britain and her Colonies, chargeable according to the existing Treaty between Great Britain and Portugal. The Regular Duty has always in other respects been charged since Brazil has declared itself independent. I therefore hope you will lay, before the proper person in His Majesty's Government, this

Duties charged
at Brazil on
cargoes from
the colony.

1824.
8 April.

circumstance in order that a representation may be made to His Majesty's Consul in the Brazils. Several Cargoes of Grain being on their way from Van Diemen's Land, it would be desirable that this representation be prompt to prevent further continuance of the higher rate.

The probability of an extensive Trade between Van Diemen's Land and the Brazils in Wheat and Flour makes the difference of Duty an object of considerable Importance to the Colonies.

Certificates
from the
naval officer.

There being no Custom House in the Colony, it would be prudent to suggest through the British Consul in Rio de Janeiro that the Naval Officer's Certificate and the Seal of Office has the same effect in certifying a Cargo as Cockets from Custom Houses in England.

I have, &c.,

JAMES DIXON, JUNR.

[Enclosure No. 3.]

UNDER SECRETARY HORTON TO MR. THOMAS LACK.

Sir,

Downing Street, 15 March, 1824.

Reference to
the committee
of privy council
for trade.

With reference to your letter of the 23rd October last relative to the increased rate of duty to which British Vessels arriving at Rio de Janeiro from New South Wales and Van Diemen's Land are subjected in consequence of not being furnished with Custom Cockets and Consular Certificates, I am directed by Earl Bathurst to transmit to you, to be laid before the Lords of the Committee for trade, the accompanying copies of a letter and its enclosure from the Agent of the Colony of New South Wales; and I am further desired to request that you will favor me with their Lordships' opinion whether, there being no Custom house in the Colony, "the Certificate and Seal of Office of the Naval Officer in that Colony has the same effect in Certifying a Cargo as Cockets for Custom Houses in this Country," and if they consider that this circumstance affords a ground for representation to the Government of Brazil.

I am, &c.,

R. W. HORTON.

[Enclosure No. 4.]

MR. THOMAS LACK TO UNDER SECRETARY HORTON.

Office of Committee of Privy Council for Trade,

Sir,

27th March, 1824.

Issue of
certificates
in lieu of
custom house
cockets.

Having laid before the Lords of the Committee of Privy Council for Trade your Letter of the 15th Instant, with its Inclosures, wherein you request to be informed whether the Certificate and Seal of Office of the Naval Officer in the Colony of New South Wales has the same effect in certifying a Cargo, as Cockets from Custom Houses in this Country, I am directed to acquaint

you for the Information of Earl Bathurst that it is the usual Practice, in reference to British Possessions where there no Custom House Officers, to authorize the Governors, Lieutenant Governors, or Naval Officers to sign Certificates or other Documents, Annually required from the Officers of Customs; and that their Lordships conceive that Documents, bearing the Signature of either of the first mentioned Officers, are under such circumstances of equal Authority with those signed by Officers in the Department of the Customs; and I am to add that the Lords of this Committee will submit to Mr. Secretary Canning the Expediency of instructing the British Consuls at Rio to make the necessary Representations to the Brazilian Government on this subject.

I am, &c.,

THOMAS LACK.

1824.
8 April.

Issue of certificates in lieu of custom house cockets.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 12, per ship Mangles; acknowledged by Sir Thomas Brisbane, 6th November, 1824.)

Sir,

Downing Street, 13 April, 1824.

13 April.

I transmit to you herewith copy of a letter from Messrs. Buckles, Bagster and Buchanan, Merchants, relative to a duty of Twenty Shillings pr. Gallon, which appears to have been levied on seven gallons of Wine, shipped on board the English Brig "Woodlark" on her clearing out at Sydney in New South Wales for the Port of St. Stephens.

Duty levied on spirits shipped to Port Stephens.

It would be superfluous to refer to the general principle of Law on this subject, since the several Acts of Parliament, indemnifying Governor Macquarie for having levied duties by his own authority, sufficiently shew that the Governor of New S. Wales has no power to impose any Tax of the description here alluded to.

Illegality of the duty.

I am therefore to desire that you will take immediate measures for the repayment to Messrs. Buckles, Bagster and Buchanan of the amount of the duty, which has been so charged in the case of the Brig "Woodlark," and that care be taken to prevent similar illegal practices from being resorted to in future.

Amount of duty to be refunded.

I have, &c.,

BATHURST.

[Enclosure.]

MESSRS. BUCKLES, BAGSTER AND BUCHANAN TO UNDER SECRETARY HORTON.

Sir,

Mark Lane, 18th March, 1824.

We beg that you will be pleased to submit to Lord Bathurst the enclosed copy of a Bond, which our Agent Mr. Thomas Icely was obliged to enter into, jointly with Mr. Thomas Brown, master

1824.
13 April.

Duty levied on
spirits shipped
to Port
Stephens.

of our brig Woodlark, before that vessel was allowed to be cleared out at Sydney in New South Wales for Port Stephens, and in virtue of which a Duty of twenty shillings p. gallon was levied on Seven gallons of Spirits and four gallons of Wine shipped for the use of the Crew.

This brig was chartered for the purpose of bringing a Cargo of Cedar Wood to Sydney, from whence it is to be shipped to England; and as, in the present state of the currency of Australia, the difficulty of finding the means of remittance of funds to England is great and most severely felt, we are sure that his Lordship will consider that every encouragement should be given to the export of the Produce of the Colony, and that consequently the Shipping should be as little fettered as possible. In this point of view, we consider the restrictions imposed on the master of the Woodlark as most prejudicial and severe. We also beg leave respectfully to submit that the imposition of the duty is illegal, as we are not aware that any other Duties can be properly levied than those described in the Act 3 Geo. 4, Cap. 96. We shall therefore feel obliged if you will propose to his Lordship that directions may be given to the Governor of New South Wales for the repayment to us of these Duties out of the Colonial fund, and that such practices as are now complained of shall not again be resorted to, or under any circumstances shall be modified.

We have, &c.,

BUCKLES, BAGSTER AND BUCHANAN.

[Sub-enclosure.]

BOND OF THOMAS BROWN AND THOMAS ICELY.

Bond given by
T. Brown and
T. Icely prior
to voyage of
brig Woodlark
to Port
Stephens.

KNOW ALL MEN by these Presents that we, Thomas Brown, Master of the Brig Woodlark now lying at anchor in Sydney Cove, Port Jackson in the Territory of New South Wales, and Thomas Icely of Sydney in the Territory aforesaid, Merchant, are held and firmly bound unto his most Excellent Majesty King George the Fourth of the United Kingdom of Great Britain and Ireland in the sum of five hundred pounds of good and lawful money of Great Britain to be paid to his said Majesty, as aforesaid, his heirs or successors; for which payment to be well and faithfully made, we bind ourselves, and each and every one of us severally, our and each and every of our Heirs, Executors and Administrators, firmly by these presents, Sealed with our Seals, dated this eighteenth day of August in the year of our Lord One thousand Eight hundred and twenty three.

Whereas the above bounden Thomas Brown hath obtained permission from his Majesty's Government for this Territory to dispatch the Brig Woodlark to Port Stevens for the purpose of procuring Cedar and other articles of Merchandize, and in order

to prevent certain irregularities which have lately been committed by the Crews of Vessels which have proceeded to that place, contrary to the rules and regulations of his said Majesty's Government for this Territory, the above bounden Thomas Brown and Thomas Icely has consented and agreed to enter into the above written obligation to observe and perform the several conditions hereinafter contained. NOW THEREFORE the Condition of the above written obligation is such that, if the above bounden Thos. Browne do and shall cause the Commander and Crew of the said Vessel, and all and every other person or persons about to proceed in the said Vessel either to Newcastle or Port Stevens, as aforesaid, to appear in their own proper persons at the Colonial Secretary's Office previous to their departure from Sydney Cove, and to clear out from that Office in such manner as shall be then and there required; and also if the said Thomas Browne do and shall make a just and true entry at the office of the Naval Officer of this Territory for the export of all such spirituous Liquors and wines, which shall be on board the said Vessel at the time of her clearing out from Sydney aforesaid; And also if the said Thomas Brown do and shall well and truly pay or cause to be paid to his said Majesty's Government the duty of twenty shillings p. Gallon upon all such Spirituous Liquors and Wines, embarked and laden on board the said vessel and entered for export at the Office of the Naval Officer as aforesaid, in addition to and independent of the duties payable on the importation thereof into this Colony; and also if the said Thomas Brown do and shall pay a fine or penalty of Two hundred pounds in case any Spirituous Liquors or Wines are shipped on board the said Vessel, which shall not have been previously entered for export at the office of the Naval Officer as aforesaid, and which shall not have paid the aforesaid additional duty of twenty shillings p. Gallon; and also if the said Thomas Brown do and shall pay a like fine or penalty of Two hundred pounds in case any, the smallest quantity of Spirits shall have been disembarked from the said Vessel at any time after the same shall have been put on board; And also if the said Thomas Browne do and shall pay a fine or penalty of ten pounds for each and every person proceeding in the said Vessel, who shall go to or be found at a greater distance from the Sea shore, where the said Vessel is lying, than five miles inland unless on the bank or the banks of some navigable river or stream, and then who shall go to or be found at a greater distance from the bank or banks of such navigable river or stream than one mile without the licence and consent of the Governor of the said Territory or Commandant at Newcastle or Port Stephens, or either of them as aforesaid. Then this obligation to be null and void otherwise to be and remain in full force, virtue and effect.

1824.
13 April.

Bond given by
T. Brown and
T. Icely prior
to voyage of
brig Woodlark
to Port
Stephens.

1824.
17 April.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Grenada.)

Sir, Downing Street, 17 April, 1824.

McIntyre to act
as agent for
J. P. Macqueen.

With reference to the Letters which I addressed to you on the 20th of October last respecting a Grant of Land to Mr. McQueen, I now do myself the honor to acquaint you that Mr. McIntyre, the bearer of this Letter, has been appointed by Mr. McQueen to act as his representative. On Mr. McIntyre's arrival in the Colony, you will therefore be pleased to put him in possession of the Land which, in consequence of my Communication above alluded to, you may have apportioned to Mr. McQueen.

I have also to acquaint you that Mr. McIntyre will be accompanied by five persons, whom Lord Bathurst has given permission to Mr. McQueen to send out to the Colony to be employed in his Service on the Estate.

I have, &c.,

R. W. HORTON.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Grenada.)

Sir, Downing Street, 17 April, 1824.

Parliamentary
vote for civil
establishment.

The House of Commons having voted the Sum of Fifteen thousand, two hundred and ninety four Pounds for defraying the charge of the Civil Establishment of the Settlement of New South Wales for the year 1824, I am directed by Lord Bathurst to transmit to you herewith a copy of the Estimate upon which the Grant is founded.

I have, &c.,

R. W. HORTON.

[Enclosure.]

Civil estimates
for the year
1824.

ESTIMATE of the Charge of defraying the Civil Establishment of New South Wales from the 1st day of January to the 31st day of December 1824—

£15,294 0s. 0d.

Proposed distribution of the above Sum of £15,294 on account of the Civil Establishment of New South Wales for 1824.

	£	s.	d.
Governor	2,500	0	0
Lieutenant Governor	450	0	0
Judge	2,000	0	0
Attorney General	600	0	0
Provost Marshall	91	5	0
Surveyor of Lands	365	0	0
Assistant do.	250	0	0
2nd do. do.	200	0	0
3rd do. do.	150	0	0
Chaplain	350	0	0

Proposed distribution of the above Sum of £15,294, &c.— <i>contd.</i>			1824. 17 April.
	£	s.	d.
1st Assistant Chaplain	260	0	0
2nd do. do.	240	0	0
3rd do. do.	182	10	0
4th do. do.	250	0	0
5th do. do.	250	0	0
6th do. do.	250	0	0
7th do. do.	250	0	0
Master of the Male Orphan School	100	0	0
Matron of the Female do. do.	100	0	0
Two Schoolmasters at £60 pr. Annum each	120	0	0
Superintendent of Convicts	200	0	0
One Assistant Overseer	60	0	0
2nd do. do.	60	0	0
Eight Assistant Overseers at £30 pr. annum each	240	0	0
Allowance to Mr. White, late Surgeon	91	5	0
do. to Mrs. Thompson, Widow of Surgeon Thompson	30	0	0
do. to Mrs. King, Widow of Governor King ...	200	0	0
do. to Mrs. Collins, Widow of Colonel Collins ..	120	0	0
do. to Mrs. Jamison, Widow of Sir Jno. Jami- son*	40	0	0
do. to Mrs. Bent, Widow of Judge Advocate Bent	200	0	0
<i>Hobart Town.</i>			
Lieutenant Governor	1,500	0	0
Judge	1,200	0	0
Attorney General	300	0	0
Chaplain	260	0	0
2nd do.	250	0	0
Surveyor of Lands	200	0	0
Assistant	150	0	0
Overseer of Convicts	60	0	0
Four do. at £30 pr. Annum each	120	0	0
Schoolmaster	60	0	0
<i>Port Dalrymple.</i>			
Officer in Command	182	10	0
Chaplain	250	0	0
Agent	150	0	0
	<hr/>		
	14,882	10	0
On account of Fees for Receipt and Audit	411	10	0
	<hr/>		
	£15,294	0	0

Colonial Department, 1st January, 1824.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Courier; acknowledged by Earl Bathurst,
25th October, 1824.)

My Lord, Government House, Sydney, 18th April, 1824.

18 April.

I request to be instructed as to the accommodation to be afforded by me to Officers, who arrive in this Colony with appointments from the Colonial Office; they consider that they

Claim of
officials to
quarters.

1824.
18 April.
Houses rented
for treasurer
and attorney-
general.

Accommodation
for colonial
secretary.

are to be found by the Executive Government in houses. Having no instruction on this Head, I have in the instances of the Colonial Treasurer and Attorney General rented accommodation for them, but giving them to understand that, if on a reference to your Lordship on the subject it was decided such provision was not intended for them, they will be subject to such rents as the Buildings have been hired for. As relates to the Colonial Secretary, for whom a house has hitherto been rented by Government at the suggestion of the Commissioner of Enquiry, I would beg to recommend that the same be given up, and that the Government House, now occupied by the Judge Advocate but so soon to be vacated by him, may be appropriated to that Officer, as from its contiguity to the Colonial Office, a small building by no means affording the accommodation required, it ought properly to be attached to that Office; and convinced of the necessity of it, I will direct his occupancy of that Building till Your Lordship's decision is communicated thereon.

I have, &c.,
THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Courier.)

Government House, Sydney, New South Wales,

My Lord,

18th April, 1824.

Transmission of
monthly returns
of troops.

I do myself the honor to forward for the information of your Lordship the General Monthly Returns of the Troops serving in this Territory from 25th of December, 1823, to 24th of March, 1824, inclusive.

I have, &c.,
THOS. BRISBANE.

[Enclosures.]

[Copies of these returns are not available.]

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 13, per ship Mangles.)

30 April.
Returns to
be made of
revenue and
expenditure.

Sir,

Downing Street, 30th April, 1824.

I am commanded by His Majesty to direct your attention to the Instruction which I addressed to you, dated 19th May, 1823, and, in order to enable you the more readily to transmit to me the Returns of Revenue and Expenditure and of the Civil Establishment for the last year, I take this opportunity of forwarding to you a Book containing the various Returns, which are required, and which you will take care to return to this Office at the earliest possible period.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

1824.
30 April.

(Despatch No. 14, per ship Mangles.)

Sir, Downing Street, 30th April, 1824.

With reference to Mr. Commiss'r Bigge's third Report, Appointment of S. Bate as surveyor of distilleries.
 Page 89, wherein he suggests that a person experienced in the Department of the Excise in this Country should be appointed to the situation of Surveyor of the Distilleries in New South Wales, to act under the orders of the Colonial Treasurer and to account to him for the Monthly receipts of duty, I do myself the honor to acquaint you that I have appointed to that situation Mr. Samuel Bate, who, having been placed under the proper Officers of Excise for the purpose of acquiring their method of surveying Distilleries and trying the strength of Spirits by the Hydrometer, has been reported to be competent to the performance of such Business.

You will be pleased to issue a Salary to Mr. Bate at the rate Salary of surveyor.
 of £400 per annum to be provided for out of the Revenues of the Colony and to commence from the 30th of last Month.

I have, &c.,

BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Countess Dalhousie.)

Government House, Parramatta, New South Wales,

My Lord, 1st May, 1824.

1 May.

It is with extreme reluctance that I feel myself called upon Correspondence between Brisbane and F. Goulburn.
 to transmit to Your Lordship the Copy of a Letter Major Goulburn, Colonial Secretary, has thought proper to address me; That Letter together with my reply will save You the trouble of the detail which otherwise would have been necessary to elucidate it. I consider therefore it will only become requisite in me to adduce instances, in which The Colonial Secretary has thought proper to exercise that discretion with which He seems to consider Himself vested in the Official situations He holds.

However I must beg distinctly to be understood as bringing Discretionary powers assumed by F. Goulburn.
 these forward from no vindictive feeling, or with any malevolent views, but merely some instances out of many, in which He has taken upon Himself to use such discretion; I shall therefore previously premise that, upon my arrival in the Colony, I found Major Goulburn perfectly conversant in all details of its administration, and was glad to avail myself of His local information as well as general knowledge; many points of which were new to me, and as I became better acquainted with Him, I felt

1824.
1 May.

the more disposed to extend that confidence, but certainly never so far as to allow of his exercising a discretion, without informing me of what was done in consequence of that privilege, and far less to the prejudice of my own prerogative.

Interference of
F. Goulburn in
fulfilling
instructions re
land grants to
J. Macarthur.

I now beg leave to commence with Mr. MacArthur's case, in which the Secretary had, during a period of nearly Fifteen Months, repeatedly disobeyed my instructions to give effect to Your Lordship's Orders, and which are not executed to the satisfaction of the former to this day, although repeatedly urged by me; and finding it necessary for My own vindication in Your Lordship's eyes, I wrote the Colonial Secretary under date 10th March that the Instructions from Home were so positive, There was no alternative left me to pursue, but to put Mr. MacArthur into immediate possession of that Land, directed by the Dispatch,* containing the Chart received about Six Weeks ago, when, in reply to my Letter, He states in His of the day after as follows:—

“Although the Letter from Lord Bathurst is very positive, Yet Your Excellency will not fail to remark, on referring to the Chart enclosed, that this all arises from the act of Young Mr. Macarthur in making Lord Bathurst believe that the whole of the Land for which He was applying was a Government reserve, merely because Government Cattle were in the habit of depasturing upon it, and not (as is the fact) that a part of it has, from time immemorial been reserved under *The King's especial Instructions*, which by Your Commission Your Excellency is expressly forbidden to break, except in obedience to a fresh order from His Majesty. Now the order lately received is an Order in the Name of Lord Bathurst, but it would have been in the King's name, had it, when written, been intended to convey away either Church or School Land.”

The above passage requires no comment, and I must here observe that, if any delay has originated in the execution of Your Lordship's Order, or in the reply to the public Dispatches, it has arisen from this assumed discretion combined with the want I have experienced in a private Secretary; as the excuse, The Colonial Secretary pleaded during upwards of Eight Months, was press of business, which delayed the reply to Your Lordship's first order* for the Grant of 5,000 Acres of land to Mr. MacArthur; and, were I permitted to hazard an opinion, I should most explicitly state that it was not the accompanying orders to The Surveyor General, which caused the rankling and produced that Letter from the Colonial Secretary to me. I must consider that a mere sophism, and the irritation which really occasioned it,

* Note 61.

must be sought for in a deeper source; and is I believe to be found in my ordering Mr. MacArthur's Land, contrary to the opinion of the Secretary.

1824.
1 May.

Mr. Blaxland, a respectable Settler, sought in vain replies to His different Letters addressed to that Office which had received my assent.

F. Goulburn's neglect to reply to letters of Blaxland;

On Mr. Hutchinson, late Superintendent of Convicts, being relieved by Mr. Hely, I requested The Colonial Secretary to write the former expressive of my entire satisfaction at His conduct since my Arrival; and although I have repeated that order to this day, a period of near five Months, and the letter is not written.

to acknowledge services of W. Hutchinson :

About a Month ago, I requested The Colonial Secretary to favor me by preparing Mr. Campbell's Grant for my Signature, the Land for which he had occupied for near Two Years and a half, but the Grant, which He required for a particular purpose, has never been forthcoming.

and to prepare land grant for Campbell.

I could cite Hundreds of instances, if it were necessary to adduce further proof, in which The Colonial Secretary had thought proper to exercise that power of withholding the communications made by Individuals for my consideration; or in staying the execution of my orders at pleasure.

Correspondence withheld and orders delayed by F. Goulburn.

Had I not been amongst the number of those who sought redress out of the ordinary Course, I should never have thought of applying to The Surveyor General, and only adopted it in the hope of having my orders more speedily executed; and I cannot for a moment allow myself to believe that Your Lordship will attach the slightest imputation of a sinister motive in that proceeding; when so far from wishing to keep The Colonial Secretary in the dark respecting what I have done, I myself transmitted Him Copies of the order which Mr. Oxley had received, and I personally assured the Secretary, they were given with no view to interfere with him, but to save Him trouble, which expression I had modified not to hurt His feelings; Whereas the real cause was that, as there was such delay in His Office, I was forced to apply elsewhere. I must here be allowed to express my regret that the Colonial Secretary's memory should have failed him in the recollection of that explanation, more particularly as it had not been the first instance in which I had occasion to use it, in the case of a letter written by My Aide de Camp to Mr. Blaxland, as also in one wherein Mr. O'Halloren had addressed Him. But I can readily account for the failure of memory in the Secretary from His state of mind at the time.

Orders given direct to J. Oxley by Sir T. Brisbane.

The discontent, which such proceedings has occasioned, is I am sorry to admit very extensive, as the People were always willing to receive a refusal of any favor from myself, but They

Public discontent at actions of F. Goulburn.

1824.
1 May.

Proposals by
Sir T. Brisbane
to prevent
a crisis.

have expressed themselves most freely after having obtained a favorable assurance from me, that it should be entirely counteracted by the Colonial Secretary afterwards.

Foreseeing that a crisis must arise out of such proceedings, I had so far anticipated it as, above Two Months ago, to have represented to Your Lordship* the necessity I felt of a Private Secretary, As also of an Assistant in the Colonial Office, which would have enabled me to Communicate with Downing Street without passing through The Colonial Office here, and would diminish the great Mass of Arrears which exists in it, from the impression that the Head of it entertains that He is Secretary of State for the Colony, and embracing His powers, without, I am fully aware, sharing in the smallest degree His responsibility. This will also account for such delays from the utter impossibility of any one Individual discharging such extensive duties as He had assigned to Himself.

Popular
estimation of
F. Goulburn's
influence.

I consider it my duty not to conceal from Your Lordship that the Channel of direct application to The Secretary has long been considered the only sure means of obtaining the favor sought: Whereas a previous sanction even from me was as certain to defeat it, and this impression is very general through the Colony. For the purpose of enabling Him the more effectually to accomplish His object, He obtained my leave about Twelve Months ago to insert a notice in The Sydney Gazette directing all Letters, applications, &c. intended for me to be addressed to Him, with the view as he then stated of saving me trouble, and in order to enable Him to prepare Himself with the information relating to them, when they were submitted to me; By so doing He has been enabled to withhold or exercise a discretion in every case, but to what length I am not prepared to pronounce. However I feel fully justified in stating to Your Lordship that it has been exercised on many different occasions which have reached me.

Concentration
by F. Goulburn
of powers in
himself.

In conclusion I have to apologize for having thus at length obtruded this plain unvarnished statement of facts upon Your Lordship's time; and without venturing to hazard any opinion in this case, I shall content myself by remarking that a life time, passed in the Service of the Crown, has forcibly impressed upon my mind that private feeling ought ever to yield to public expediency, and considering this my paramount duty alone reconciles me to Personal communication with Major Goulburn, after His outrageous conduct towards me on the late occasion, coupled with that of an offensive nature on others.

In His own Office, at the time of putting His Letter into my hand, all previously written before the conversation to which it

* Note 62.

referred had actually taken place, He behaved in the most offensive manner by telling me that I, by giving Mr. Macarthur an interview after the Letter I had directed Him The Colonial Secretary to write Mr. Macarthur (which happened above Six Months ago, then declining an interview, and which related to quite a different subject), but by so doing, I had enabled Mr. Macarthur to give the lie to Him, The Colonial Secretary. That He would readily find redress were it not for the Official Situation He held.

Mr. Macarthur requested an interview to fix the boundary of His first order for 5,000 Acres of Land near a Year ago; I, then, fearful it might lead to a misunderstanding unless His proposal were committed to paper, declined it. Whereas the conversation, I had with Mr. Macarthur and objected to by The Secretary, referred merely to the terms of payment for the 5,700 Acres of Land, as proposed in His Letter of the 17th of last Month, a Copy of which is herewith transmitted*; Consequently I felt quite released from any former restraint relating to a subject which had been relinquished and had no connection with it. In Major Goulburn's second Letter (which I did not receive until I had nearly finished mine), However, as He states a circumstance at variance with my representation, I think it incumbent on me to advert to, Namely withholding communications. Now I must still most strongly persist in His having done so, and I feel confident that the representation Mr. Macarthur will have made to Your Lordship of the delay He has experienced in obtaining possession of the Land as order'd, The quotation from His own Letter, relating to it, combined with that in the reply to the Dispatch connected with it, will fully confirm my assertion:— However should Your Lordship have the least hesitation in deciding, I should request You to cause enquiry to be made with a report thereon.

Your Lordship will not fail to remark that, in the conclusion of the Colonial Secretary's Second Letter, He therein states His determination to retire into the strictest limits of the duties of His Commission,† which leads me to infer that henceforth He would wish to decline officiating as Private Secretary; That consideration, joined to the incompatibility I have ever considered of these Two situations being blended in one Individual, will I trust enable me to urge an additional motive with Your Lordship in the appointment of Brigade Major Ovens.

Having experienced some difficulty in determining the precedence of The Gentlemen composing The Heads of the new Departments, which I trust will be provided for on the arrival of the Order in Council; But if not, I should be much indebted to Your

1824.
1 May.

Offensive
conduct of
F. Goulburn.

The
negotiations
with
J. Macarthur.

F. Goulburn's
decision *re* his
future actions.

Necessity for
appointment
of private
secretary.

Precedency
of heads of
departments.

1824.
1 May.

Lordship to cause me to be made acquainted with those Duties, which are considered strictly within the province of The Colonial Secretary.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

SECRETARY GOULBURN TO SIR THOMAS BRISBANE.

Colonial Secretary's Office, Sydney,

19th April, 1824.

Sir,

F. Goulburn's
interpretation
of his
commission.

Having this Morning ventured to express an opinion that, by virtue of the Two-fold Commission* I have the Honor to hold as Secretary and Registrar, Orders issued to the Civil Departments of the Colony without passing through this Office, and Warrants bearing Your Signature published before they have been registered here, are Documents alike informal, I was sorry to ascertain from Your Excellency that Your opinion on the contrary led You to believe that even the Two enclosures, accompanying this Letter are records strictly official.

Proposed
reference to
secretary of
state.

Labouring thus under the misfortune of differing from Your Excellency on a principle, which I consider to be of vital importance, I beg leave respectfully to request You to embrace the opportunity of the immediate departure of the Courier, to submit this communication to His Majesty's Government, in order that as Speedily as possible my opinion if right may be fortified, or if wrong I may be corrected of my error.

Proposal to
place surveyor-
general under
direction of
governor's
aide-de-camp.

Until the arrival of an answer to this Letter, as the embarrassment of the Surveyor General will be great, if He continue to act under the Orders of Two distinct Offices, I take the liberty of further intruding on the attention of Your Excellency, by humbly suggesting the expediency of publishing a short Government Order, placing His Department solely under the direction of Your Aid de Camp.

An arrangement that I feel inclined to recommend the more earnestly, as it will lessen considerably the Sphere of my duties, and thereby enable me to bestow more time, together with additional zeal, in the faithful discharge of other important points connected with the credit of Your Excellency's Administration.

I have, &c.,

F. GOULBURN, Col. Secy.

[Enclosure No. 2.]

CAPTAIN FENNELL TO SURVEYOR-GENERAL OXLEY.

Sir, Government House, Parramatta, 15th March, 1824.

I am directed by His Excellency The Governor to desire that You will place Mr. James Dunlop† in possession of No. 49

* Note 64.

† Note 39.

in Your Chart, containing about 325 Acres of Land, surrendered to the Crown by Mr. Macarthur, situated in the district of Pen-nant Hills in the Field of Mars.

1824.
1 May.

Instructions to
J. Oxley re
land grants to
J. Dunlop;

And I am at the same time directed to say that You will note him for the remainder of Two Thousand Acres of Land, in that situation which He may think proper to select at Bathurst, provided it is not reserved for the Crown.

I have, &c.,

J. FENNEL, Aide de Camp.

[Enclosure No. 3.]

SIR THOMAS BRISBANE TO SURVEYOR-GENERAL OXLEY.

Sir, Sydney, 6 March, 1824.

You are hereby required and Ordered to reserve Sections 7, 6, 5 and such portion of 4, as will complete 2,000 Acres in Township 11, County of Northumberland, for the use of G. A. Stephenson, Surgeon 48th Regt., until He returns to this Country, when the same is to be made over to Him as a Grant.

and land to
be held in
reserve for G. A.
Stephenson.

T.B.

[Enclosure No. 4.]

SIR THOMAS BRISBANE TO SECRETARY GOULBURN.

Sir, Government House, Parramatta, 26th April, 1824.

I have hitherto refrained from replying to the letter, which You placed in My hands at Your Office on Tuesday last, not from any difficulty I experienced upon the subject it relates to, but that I might not expose myself to the influence of feelings, which the intemperate and highly offensive style and deportment, You thought proper to assume towards me on that occasion, were naturally and, as I firmly believe, designedly calculated to excite.

Reasons for
delay in
replying to
letter.

I have been also desirous to afford You time to reflect on what passed, and to explain at least a line of conduct no less unmerited on my part than unbecoming on yours.

Before I enter on the subject of Your Communication, I must first correct a misstatement, which it contains and for which I am quite at a loss to account. You assert that You are sorry to ascertain from me, that I consider the two enclosures accompanying Your Letter to be strictly official documents. I certainly never entertained any such opinion. And I am the more surprised at your attributing it to me, as I am not conscious of having held any communication with You upon the subject until the very Morning we met in Your Office, when you delivered me the letter which contains the charge, and which bears date the day before. I had but a few days before transmitted the two documents alluded to in Your letter, with a verbal explanation on

Mis-statement
made by
F. Goulburn.

1824.
1 May.

the day of our meeting, that the course, I had pursued, had been done with no view, either on my part or that of My Aide de Camp, to interfere with the regular routine but merely in Order to Save You trouble. And You must have known Also, for the purpose of their being reduced to a more regular and Official Shape, my having placed them into Your hands.

Reference to
be made to
secretary of
state.

I certainly cannot feel the least objection to submit Your proposition to His Majesty's Government, how far Orders, or communications with the different Civil departments, become informal unless they are made through Your Office as Colonial Secretary.

Instructions
required *re*
duties of
civil officers.

And I am the more anxious to obtain the Instructions of Earl Bathurst on this point, because, from the recent arrival of Civil Officers in the Colony, whose Departments are of equal Station and apparently independent of Your own, it becomes extremely necessary to be informed how I am in future to regulate the Official intercourse, I may find it necessary to hold with those Officers, and how far such intercourse, in order to be formal, must be conducted through You.

I shall at the same time avail myself of the opportunity afforded me of addressing His Lordship to ascertain whether it may be in the power of any Civil Officer, under my administration, to exercise a discretion over the Orders which He may have received; and what course I should pursue in the event of a pertinacious opposition or protracted execution of my repeated Commands.

Proposal *re*
department of
surveyor-
general.

I cannot agree with You on the expediency of the course, You have suggested, of placing the Surveyor General's Department under My Aide de Camp until the pleasure of His Majesty's Government shall be known; And I am the more surprized at Your recommending such a measure, as it appears to be decidedly in opposition to Your own opinion of what is regular and correct.

I am, &c.,

THOS. BRISBANE.

[Enclosure No. 5.]

SECRETARY GOULBURN TO SIR THOMAS BRISBANE.*

The Colonial Secretary's Office, Sydney,

Sir,

1st May, 1824.

I have the Honor to acknowledge the receipt of Your letter of the 26th April on the day of its date; and if, in the style and department I assumed towards Your Excellency, there was any thing naturally calculated, as You state, to produce feelings of offence in Your breast, I take the opportunity of the very commencement of this communication to disclaim its having been designed.

Disclaimer by
F. Goulburn.

* This letter was marked "Private—Official."

If the letter that I had the honor of delivering into Your hand bears the date of the day before its delivery, it is certainly an error, An error however which, when it is considered that with reference to the point in question it makes no difference whether the conversation to which it alludes took place on a Monday or a Tuesday, will perhaps be admitted to have been unintentional.

1824.
1 May.

Error in dating
of letter.

The verbal explanation that You are of opinion You gave to me on the day of our meeting that the course You had pursued had been done with no view, either on Your part, or that of Your Aid de Camp, to interfere with the regular routine, but merely in order to save me trouble or indeed any qualification of the perfect correctness of that line of proceeding, my memory fails to record.

Verbal
explanation by
Sir T. Brisbane.

I am much obliged to you for expressing that You feel no objection to submit my proposition to His Majesty's Government, as their decision will determine a question that I consider to be of importance to the Colony.

If the allusion that Your letter contains to some Civil Officer under Your Administration exercising a discretion over the orders which he has received, and evincing a pertinacious opposition or protracted execution of Your Commands, be intended to apply to myself, I feel sorry that the charge had not been urged at an earlier hour, when I would have been able, I think, to have removed so unfavorable an impression. Slow, however, as the censure has been in its approach, I am thankful for its appearance at last, as it will incite me to wipe away, by an attention to my duties more assiduous (if possible) than heretofore, a reproach which if rightly imputed I would ever consider a stain on my character.

Charges
made by
Sir T. Brisbane.

The surprise that You state to have been excited by my recommendation to place the Surveyor General's Department under Your Aid-de-Camp, when You reconsider the reason that is offered in my letter, "the embarrassment it must experience from continuing to act under the orders of two distinct Officers," will I trust be allayed.

Proposal re
surveyor-
general's
department.

Your letter having required me thus to trespass on Your attention with these few remarks, I now retire into the strictest limits of the duties of my Commission, leaving behind me, as I withdraw, the last expression of my sincere desire for the credit of Your Excellency's administration, and my hope that, when occasion of future emergency shall arise, You may find at Your call a more approved (I cannot wish you a more laborious) servant than the one who has the Honor to subscribe himself, &c.,

F. GOULBURN, Col. Secty.

1824.
1 May.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Courier; acknowledged by Earl Bathurst,
28th January, 1825.)

Government House, Parramatta, New South Wales,

My Lord,

1st May, 1824.

Use of
government
horses by
Sir T. Brisbane.

On the receipt of your Lordship's Dispatch four months ago directing that £500 a year should be made me in lieu of all allowances, and as I considered that this extended to the use of Government Horses for my Carriage, etc., I directed that the set I had in use should be valued, until a reference could be made to your Lordship; and I have only to state that the use of them will be no obstacle in the way of the Public Service; as they have almost all been bred by Government, there has been but little outlay, and as I consider it will be of much consequence to me continuing the privilege of using them until your Lordship's pleasure is made known thereon, I shall not fail in the event of any Horse falling incurably lame or dying in my service to replace him; but that I cannot hereafter claim a Horse to be purchased for my use, I am induced to submit this request for your Lordship's favorable consideration, under the conviction that the salary is so low as to require me to continue here for eighteen Months longer before I can receive back the amount of the advance for my Equipment, in Consequence of my appointment to this Colony, and shall only add that the new arrangement, without the liberty of using the Government Horses, will prove rather a reduction than an increase to the Salary which it could but ill afford.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Countess Dalhousie.)

Government House, Parramatta, New South Wales,

My Lord,

12th May, 1824.

12 May.
Appointment of
Ovens as private
secretary to
governor.

I had the honor to acquaint Your Lordship in My Dispatch of the first Inst. of the appointment of Brigade Major Ovens to be My private Secretary, a Measure I adopted alone from necessity without Your Lordship's previous sanction, and must assure You One I should scarcely have ventured to resort to on My own responsibility; but I feel in some degree relieved by the decided concurrence of the Chief Justice, who joined with me in considering it One of absolute necessity. I have therefore directed it to be notified accordingly, with the understanding that it is merely until Your Lordship's concurrence is obtained, or until You may think proper to send out a Person of Your own

selection. I have named £200 as the Yearly Salary, which I trust You will not deem unreasonable, and shall only add that Twelve Years experience of Major Ovens, greatest part of which He has been on My own personal Staff, will fully justify Me in reporting His having zeal, talent and activity to qualify Him for the situation.

1824.
12 May.

Salary and
commendation
of Ovens.

I have, &c.,

THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 15, per ship Mangles.)

Sir,

Downing Street, 14 May, 1824.

14 May.

As much inconvenience has arisen in consequence of the necessary funds not having been remitted to Mr. Barnard, as Colonial Agent, to enable him to make those Advances on account of the Salaries of various public officers belonging to the Civil Establishment of New South Wales and Van Diemen's Land, which he is frequently called upon to issue, as well as to enable him to meet other demands which are necessarily made upon him for the general Services of those Colonies, I do myself the honor to acquaint you that it is very important that Funds should be regularly provided out of the Revenues and be remitted to the Agent for such purposes; And you will be particularly careful that such funds be so placed at his disposal as to supersede the necessity of any advances being made to him from the Treasury of the Country.

Funds from
colonial revenue
to be made
available
for use of
colonial agent.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 16, per ship Mangles.)

Sir,

Downing Street, 16 May, 1824.

16 May.

I do myself the honor to acquaint you that His Majesty has graciously directed that a Pension at the rate of £1,000 pr. Annum should be paid to M. General Macquarie, chargeable on the Revenues of New S. Wales, in consideration of the claims of that Officer, and with reference to the retiring Allowances which have been made to former Governors,* who have remained in the Colony for periods of much shorter extent and of less responsibility; and you will therefore be pleased to furnish the Agent with the necessary Sum to enable him to pay the above pension half yearly, in addition to the other funds with which you may deem it expedient to provide him in consequence of my Dispatch of the 14 Instant.

Pension for
L. Macquarie.

Funds to be paid
half-yearly to
colonial agent.

I have, &c.,

BATHURST.

* Note 65.

1824.
31 May.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 17, per ship *Mangles*.)

Sir, Downing Street, 31st May, 1824.

Copies of
Sydney Gazette
to be
transmitted.

Great inconvenience having been experienced in consequence of the *Sydney Gazette*s not having been regularly received at my Office during the last two years, and that inconvenience being more seriously felt owing to my not having been furnished with my late accounts from the Colony, I do myself the honor to request that you will forward by the first opportunity a Series of these *Gazettes* from the 1st January, 1822, and also that you will in future continue to transmit them by every conveyance that may offer. You will also give directions that at the end of each year a complete set of the *Gazettes* for the preceding twelve months be forwarded to this Country, in order that, if any of the "Numbers" should have miscarried, the deficiency may thus be supplied.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.*

Sir, Downing Street, 31st May, 1824.

Vessel to be
sent to open
trade with
natives.

The East India Trade Committee, in furtherance of the objects connected with the New Settlement which is about to be formed on the Northern Coast of New Holland, having come to the determination of dispatching a Vessel for the purpose of opening a Trade with the Natives and with other people frequenting that part of the Coast, near to which the proposed Settlement is to be situated, I do myself the honor of recommending to your favor and protection the Gentleman (Captain Barnes), under whose superintendance this vessel has been placed, and I have also to request that you will afford to Captain Barnes any facilities which he may require in furtherance of his Ulterior object of fixing himself at the New Settlement.

I am, &c.,

BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship *Countess Dalhousie*; acknowledged by Earl Bathurst, 27th January, 1825.)

My Lord, Government House, Sydney, 31st May, 1824.

Reasons for
removal of
C. McIntosh
from office as
barrack-master.

In forwarding the enclosed at the request of Mr. McIntosh, I do myself the honor to state my reasons for removing that Individual from the situation of Barrack Master which he held since 1814.

* Note 10.

On my assuming the Government of this Colony, my Predecessor Major General Macquarie took an opportunity, when speaking of the different Officers holding appointments, to mention Mr. McIntosh, and in doing so told me of his unfitness for the situation he held, but expressed a wish that I would give him a trial, as under a new Governor, and a Stranger to him, an alteration in his conduct might probably take place, and proposed sending for Mr. McIntosh and stating in his presence what He had been led to say to me in his behalf in consequence of his large helpless family. Mr. McIntosh was sent for and lectured in my presence for his hitherto irregular and unbecoming conduct, and an alteration from it recommended as the only chance of his being permitted to enjoy a continuance of his appointment. He promised accordingly. Notwithstanding the introduction I had of him, I suffered, from motives of humanity and being aware that the duties attached to his appointment were attended to by the Major of Brigade, this Individual to continue in Office upwards of two Years, and until, from the Detachments becoming more extended on the arrival of the 40th Regt., the Public Service demanded a more efficient Officer for the situation. I consequently saw the necessity of naming a successor to him, but not without making a Provision for Mr. McIntosh's helpless family as follows,—£50 per annum from the Barrack fund, which I created myself by the establishing of a Canteen, rations for himself and family as hitherto from the Public stores, and a grant of land of 800 acres; this I considered a handsome recompence, and on stating it to the Individual in question he appeared well satisfied; from evil Counsel however he has since refused to surrender the Books of Office, and not holding a Commission for the appointment I could not bring him to a General Court Martial.

I now beg to assure Your Lordship that Mr. McIntosh is totally disqualified and unfitted for the situation having become a complete drunkard, and associating himself with the lowest description of persons, in which condition he is to be seen at *all* hours, and which is well known to Major General Macquarie and Colonel Erskine of the 48th, now in England, to the Officers in Command of Corps as well as the Public at large in this Colony.

I appointed Ensign King on the H. Pay of the 48th Regt. on the 24th of March last to succeed him in Office, till the pleasure of His Majesty was communicated, and I now beg to recommend Mr. King to Your Lordship as a person well calculated for the faithful discharge of the duties attached to it.

I have, &c.,

THOS. BRISBANE.

1824.
31 May.

Reasons for
removal of
C. McIntosh
from office as
barrack-master.

Pension, rations,
and land
granted to
C. McIntosh.

Character and
conduct of
C. McIntosh.

Appointment of
E. King as
barrack-master.

1824.

31 May.

The memorial of
C. McIntosh.

[Enclosure.]

THE MEMORIAL OF CHARLES MCINTOSH, BARRACK MASTER OF
NEW SOUTH WALES.

The Rt. Honble. Lord Colchester, Secretary for the Colonies, &c.
Most respectfully sheweth,

Colonial
service.

That Your Lordship's Memorialist arrived in this Colony with His Majesty's 73rd Regt. in the year 1810, as Quarter Master; that he was appointed an Ensign in the Royal Veteran Company here in 1814, and that he was appointed Barrack Master of New South Wales by the Right Honorable Earl Bathurst in the course of the Same year with a salary of one hundred pounds.

Purchase of
appointment
proposed by
E. King.

That your Mem'st, about two years ago, had made to him by Ensign King of His Majesty's 48th Regt. a private offer for the purchase of the appointment, but which, altho' Mem'st was at that time in a state of precarious health, on his ascertaining the illegality of Such purchase or Sale, he declined; that in January last, a Similar proposal was again made to him by Ensign King, which he had at once declined, refering Ensign King to the Act provided on this head.

Proposals
made by
major Ovens.

That Brigade Major Ovens now applied to Mem'st, representing that the duties of the Barrack Master were to be considerably increased and urging him in consideration of that circumstance and of his Age to send in to His Excellency a letter of unqualified resignation or retirement, under the assurance, which the Brigade Major gave him, that His Excellency would make Mem'st a full equivalent in value to that of the Salary and other advantages of the Appointment.

That Memorialist conceiving the proposed transaction, not only in consideration of the person who proposed and advised it, and from its openness, but further from its involving, if acceded to, the consent of the Government, as well as that of the proposal itself originating (for so it was expressed to Mem'st by the Brigade Major) with the Government, to be not illegal and to be in every respect fair and honorable, altho' he declined to write the proposed paper of unqualified retirement or resignation, he was induced to transmit through the Brigade Major a written conditional proposal (No. A.1) of date 27 January to that effect; that a few days afterwards a report from a respectable quarter having reached Mem'st that he was considered to have actually resigned, impressed under his present circumstances with the possibly dangerous tendency of Such a report, he wrote to the Brigade Major on the 2nd Feby. Stating this circumstance and requesting a reply, and under presumption, from no answer to the letter of the 27th having been yet made, that the proposed condition would not be acceded to, the return of that letter.

That Mem'st having failed in these objects, and being of opinion now, from various unpleasant Suspicions which had become excited, that further delay would be hazardous, sent a full written Statement (No. b1) of the transaction, thro' the Colonial Secretary Major Goulburn, to His Excellency Sir Thomas Brisbane; that, in consequence of this, the matter seemed to be here closed, until the 17th of the following month (Feby.) when Mem'st received a Communication (No. 3) from Brigade Major Ovens, desiring Mem'st's Attendance at the Government House, and enclosing Copy of a Communication, dated the 16th of that month from the Brigade Major to His Excellency Sir Thomas Brisbane, on the Subject of his (Memorialist's) being retired from the Situation of Barrack Master &c.; that Mem'st waited in consequence upon His Excellency, when His Excellency, after having honoured him with some preliminary expressions purporting the continuance of His Excellency's protection and Support, adverted to Mem'st's contemplated retirement and to an intended remuneration or consideration that was to be made to Mem'st, but to which observation, from the general and indefinite terms in which such remuneration or consideration was Spoken of by His Excellency, Mem'st, having expressed his grateful Sense of the favorable, Kind expressions used by His Excellency, replied merely as follows, "that, even in event of Mem'st's retiring, he could not do so till the expiration of the Quarter in the ensuing March."

1824.
31 May.

The memorial of
C. McIntosh.

Interview with
Sir T. Brisbane.

That a Short time previously to that period, a report having reached Mem'st that he was actually to appear Gazetted as retired, &c., he waited on the Colonial Secretary to prevent the possibility of error, and repeated to him what he had so often expressed both Verbally and in writing, that he could not, in justice to his family or to himself, give his assent to his retirement, unless a full equivalent could and should be made to him; that notwithstanding this explicit declaration which was in due time conveyed to His Excellency, Mem'st to his utmost concern and Surprise was actually Gazetted, on the 25th of last Month, retired, and the Ensign King, of His Majesty's 48th Regt. (of whom mention is made in the opening of this Memorial) as his Successor, until the pleasure of His Majesty should be known. That however, from an apparent irregularity connected with the above notification, that it had not affixed to it in due form, as is usual in Such cases, any official Signature, Mem'st yet entertained the hope that its appearance in the Gazette was erroneous, or at least premature; that Mem'st therefore addressed to His Excellency the Communication (No. 5) of date the 27th March, but which, from the desire of obtaining further information on the subject previously to its transmission, was not sent till the 31st of that month. That in this communication Mem'st respectfully

Interview with
F. Goulburn.

Gazette notice
of retirement of
C. McIntosh.

Petition to
Sir T. Brisbane.

1824.
31 May.

The memorial of
C. McIntosh.
Pension, rations,
and land grant
promised to
C. McIntosh.

expresses his dissent to his retirement, and entreats that he may be re-instated in his appointment; that on the following day 1st April (No. 6) he received a Communication of the Same date (1st April) stating the nature of a consideration to be made to Mem'st for his age and long Services, but no part of which, he begs here to state, has been received by Mem'st, and further that even the Rations therein mentioned, altho' in consequence of the difficulties to which Mem'st is now reduced, applied for (No. 7), have been refused, Depy. Cy. Gl. Wemyss having returned the Verbal answer, that no instructions had been received from the Colonial Secretary on the Subject.

That Memorialist, having now, he trusts, fully explained the most important points of his case, begs most respectfully to entreat of Your Lordship the attention to the remaining portion of the correspondence (Nos. 8, 9, 10, 11, 13) which, exclusively of explaining the subsequent steps in this transaction, contains, he trusts, strong internal evidence to the correctness of Mem'st's foregoing statement, as well as to the real motives of his constrained retirement or removal.

That the difficulties of Mem'st's case are almost incalculably increased from his age, fifty nine years (No. 1), out of which time, upwards of forty Seven years have been spent in the Military Service of His Majesty; namely, seven years in North America, twenty one in the East Indies, fifteen (including his passage) in this Country, and little more than four in Europe. And that from this circumstance as well as what he deems the intrinsic merits of his case, he most respectfully expresses the hope, that your Lordship will be pleased to take his case into your most favorable consideration, and to cause that Memorialist may be re-instated in his Appointment, that of Barrack Master of New South Wales, with a compensation for the losses of pay, &c., which he may sustain from his present suspension from that appointm't by the Local Government, and your Lordship's Memorialist, as in Duty bound, will ever pray &c.,

Military
services.

Request for
reinstatement to
appointment.

CHAS. MCINTOSH.

[Sub-enclosures Nos. 1a and 1b.]

CHARLES MCINTOSH TO SECRETARY GOULBURN.

Sir,

Sydney, 4th February, 1824.

I have to beg that you will be pleased to submit to His Excellency Sir Thomas Brisbane that, at the earnest and repeated persuasions of Brigade Major Ovens, I wrote to that officer on Tuesday last the following letter:—

Qualified
resignation
made by
C. McIntosh.

Sir,

No. 1a.

In consequence of my Age and long Services (upwards of forty Seven years) and the misfortunes generally attending a

Military life has much reduced me, and understanding that the duties of Barrack Master are to be extended, I would willingly resign the situation, if Government would make me a remuneration according to my length of Service, as well for the loss I and my family are likely to sustain on account of the House I built on Government ground; at the same time being a little involved in debt, I have no resource left to pay these obligations but the £100 a year I receive as Barrack Master, which I hope His Excellency Sir Thomas Brisbane will take into consideration.

I have, &c.,

CHAS. McINTOSH, Barrack Master.

To Brigade Major Ovens.

A report having reached me on Saturday Morning that it was generally understood that I had resigned, I yesterday sent to that gentleman the Subjoined communication:—

No. 1b.

Dear Ovens,

Sydney, 2nd February, 1824.

A report this moment reaches me that I have resigned; on what it is grounded I know not, unless it be a letter which, at your own suggestion and at your pressing instance, as a friend (for it was professedly under that title that you advised me) I wrote you a few days ago, stating that in event of the Government making me indemnity of equal value to the Barrack Mastership (an indemnity which you then and repeatedly have informed me you had it from the Government it was their intention to make me) I should have no objection to vacate that Situation.

That no misunderstanding could exist as to my letter, the circumstance of your proposition to me the following day to Sign a Paper of resignation which you yourself laid before me and most Strongly urged me to sign, and which I at once and absolutely declined, is undeniable proof. I have to request your reply to this note, that I may be enabled immediately to contradict a report so likely to be prejudicial to me. I have also to beg (and to which, in reliance on your good intentions for my welfare, I trust you will see no objection) the return of the letter in question, a letter written solely by your advice and at your urgent persuasion, but which has already to my infinite Surprise, I have every reason to believe (tho' I know not how) been the origin (for I know of no other so likely, however improbable this may itself appear) of this most unfounded but unpleasant report.

I remain, &c.,

CHAS. McINTOSH.

P.S.—The *Competitor* sails to-morrow I this moment hear, therefore I have to beg that no time may be lost in letting me have your reply for which I have directed the bearer to

1824.
31 May.

Qualified
resignation
made by
C. McIntosh.

Reported
resignation of
C. McIntosh.

Request for
return of letter.

1824.
31 May.

wait, and I need not urge the propriety of my request (under the existing most extraordinary circumstances) that the letter to which I have just alluded may be immediately returned to me.

To Brigade Major Ovens.

That Gentleman has declined favouring me with any reply altho' twice personally Solicited to do so. I am therefore induced to entreat the attention of His Excellency Sir Thomas Brisbane to the explanation of the various matters contained in, as connected with the above communication.

Explanation by
C. McIntosh of
his letter of
resignation.

1st. That the first communication was written Solely at the request and repeated persuasion of Major Ovens, and under a positive and unqualified assurance, which that gentleman gave me, that I should receive full remuneration for the value of my present appointment, the details of which remuneration were particularly explained by that Gentleman.

2nd. That this letter was never meant in the light of an unqualified resignation, resting solely as it was on the proviso that the particulars of the resignation should be fully guaranteed to me previously to my vacating.

3rd. That the expression as to my age does not in any way imply an inability to execute the Duties of my office (which I am not only capable but most ready to perform), but had respect Solely to the probability of my not having to expect the continuance of the same degree of fitness, and my consequent willingness, if it was the wish of Government that I should retire, to do so, but under the full expectation that my retirement after my best years had been spent in the Service of my Country, would not be allowed to be synonymous to misery and the extremer poverty.

4th. That I had the additional reason to believe so from the circumstance of my conduct having never met with the slightest apparent dissatisfaction, or called upon me either reproach, reproof, or remark of any kind.

5th. That under the above explanation, I trust that I may be allowed virtually to withdraw my first letter to the Major of Brigade, or that it may be considered as it was solely intended as a proposal (the particulars of which, if required, I am ready to state as they were enumerated by that Officer) which, if it should not be deemed proper to accede to, will be held as utterly null and void.

I have, &c.,
CHAS. MCINTOSH, Barrack Master.

[Sub-enclosure No. 3.]

1824.
31 May.

MAJOR OVENS TO MR. CHARLES MCINTOSH.

Sir, Engineer's Office, 17th Feby., 1824.

I beg to furnish you with a copy of a communication I saw the necessity of making to His Excellency the Governor, and to acquaint you that His Excellency desires to see you at Government House this day at half past One o'Clock.

C. McIntosh to
wait on the
governor.

I have, &c.,
J. OVENS, A. Engineer.

[Sub-enclosure No. 4.]

MAJOR OVENS TO SIR THOMAS BRISBANE.

Sir, Engineer's Office, 16th Feby., 1824.

In consequence of the increase of the Military force in this Country and consequently the duties attached to the situation of Barrack Master, and it being absolutely necessary that the Barracks at the out Stations should be occasionally visited, and attention given to them, which has not hitherto been the case, I beg to be permitted to suggest the propriety of Your Excellency's naming to that appointment a person from whom could be expected a strict attention to the discharge of the duties attached to it; the individual just now in Office is from age and other infirmities unfitted for it.

Proposal for
appointment
of new barrack-
master.

Should this meet Your Excellency's approbation, I feel confident the long and faithful services of Mr. McIntosh will be duly considered, and that Your Excellency will cause such provision to be made for him for his remaining years as will compensate him for the loss he will sustain, should Your Excellency deem it expedient to nominate to the appointment a more efficient Officer.

I have, &c.,
J. OVENS, A. Engineer.

[Sub-enclosure No. 5.]

[A] MR. CHARLES MCINTOSH TO SECRETARY GOULBURN.

Sir, Sydney, 31st March, 1824.

The enclosed communication to His Excellency Sir Thomas Brisbane would have been transmitted to you agreeable to its date, but from the circumstance of your being, as it was found on enquiry at the time of its being written, from home, and the desire subsequently, on more mature reflection, that some explanation should be obtained as to the precise intentions of the Government towards myself and family, previously to its being sent. I now do myself the honor to request that you will be pleased to lay it before His Excellency.

Transmission
of letter to
Sir T. Brisbane.

I have, &c.,
CHAS. MCINTOSH.

1824.

31 May.

[B] MR. CHARLES MCINTOSH TO SIR THOMAS BRISBANE.

Sir,

Sydney, 27th March, 1824.

Surprise of
C. McIntosh at
Gazette notice
of his
retirement.

The order in the Gazette of the 25th instant, which notifies my retirement, I deem it incumbent on me to state to Your Excellency excited both my concern and surprise; concern at a circumstance which involves the unmerited and most unexpected and consequently unprepared for ruin of my family and of myself; Surprise inexpressible that such a circumstance should have occurred, not merely after the letter which I did myself the honor to address to Your Excellency of the 4th Feby. through Major Goulburn the Colonial Secretary, but after the interview with which you honored me at Government House of the 10th of that month, and a subsequent personal communication from myself to the Colonial Secretary as late as the 22nd instant, in consequence of an unpleasant rumour (which was attended to only in consideration of the highly respectable channel through which it reached me) on that subject.

Request for
reasons of
retirement.

On what ground I am retired, I am at present uninformed. Is it, I beg most respectfully to enquire, in consequence of a letter written by me some time since to Major Ovens at his incessant and most pressing persuasion (as a friend, a brother Officer, once in the same Regiment with myself) and on his representation to me that it was the wish of the Government that I should take that step? If so I am compelled in justice to my family and to myself to observe that the most extraordinary use has been made of that letter by Major Ovens, after his having expressed himself to a Gentleman whom I commissioned to wait on him for that purpose "Surprised and offended that a doubt could be entertained that he was capable of using that letter in a manner injurious to me." Whatever use however has been made of the letter, I deem it only necessary to observe that the letter as will at once appear on the face of it was mere conditional, that the condition which it contained is not fulfilled and consequently that the letter is, in fact, a nullity and utterly void of effect.

Protest of
C. McIntosh
against his
retirement;

Therefore against the retirement of myself from the situation of Barrack Master, I beg, with due deference to Your Excellency, most decidedly to protest, it being an act not of my own but purely compulsory, and though without any just grounds, no instance of bad conduct having been adduced against me, and my state of health enabling me fully to execute the duties of Barrack Master and even should those duties be considerably increased.

and against
appointment of
E. King.

Against the appointment of Ensign King of the 48th Regt. I also beg to protest, decidedly and absolutely, on the ground that that Officer, in the course of this transaction, has been guilty

of the most gross, wilful and corrupt misrepresentations with the view to deceive and to induce me to resign my situation, and of attempts at the basest fraud (I know of no other term by which the act can be designated, however painful it may be to apply one so strong to any individual in the character of a Gentleman), in making to me repeated private offers for the purchase of the appointment in direct violation of the Act provided in those cases, and under a positive knowledge that he did not possess the means of making the purchase, and that any agreement entered into with him in this matter (as it was repeatedly pointed out to Ensign King) could not in law be valid or binding, matters of direct and ready proof.

1824.
31 May.

Protest against
appointment of
E. King.

If any trouble has arisen from this transaction, allow me to observe to Your Excellency that the transaction itself did not originate with me. If it is urged that I am too advanced in years for active life, I trust at least that I may be allowed the advantage of the trial. If any error is attachable to past conduct, I beg to observe that I have proceeded thus far in my public duty without either animadversion or reproof; allow me, therefore, to remind Your Excellency of the condescending promise of your protection both in first and the last interview with which you honored me.

Permit me to observe that the situation of Barrack Master was given to me not merely as some mark of favor for long, arduous and approved services, but as means of support for a wife and family, who without its assistance must be reduced to the utmost pauperism and distress. I speak to Your Excellency in agony of mind, not for any personal suffering that I may myself sustain; far better had I fallen (and willingly would I have fallen if for the honor of my Country) in the burning plains of India than have witnessed an hour that threatens to be so calamitous, so ruinous to the respectability, the existence (I speak not of the interest or advancement) of my family. But, Your Excellency, I never retired, and I cannot imagine that Your Excellency will exert the might of your powerful interest against an unoffending individual, who in his full confidence on the justice and benevolence of his country has spent the best Years of his existence in its most arduous service.

Necessity of
appointment
to family of
C. McIntosh.

I venture to claim Your Excellency's protection in this juncture and in reliance both on the justice and necessity of the claim, trust that it will not be denied to me, and that Your Excellency will be pleased to withdraw the order of the 18th instant notifying my retirement, but which has never received either my sanction or even tacit concurrence.

Claim for
protection of
Sir T. Brisbane.

I have, &c.,

CHAS. MCINTOSH.

1824.
31 May.

[Sub-enclosure No. 6.]

MAJOR OVENS TO MR. CHARLES MCINTOSH.

Sir, Brigade Major's Office, 1st Apl., 1824.

With reference to my letter to you of date 17th Feby., as also to my communication to His Excellency the Governor of date the 16th of the same month, a copy of which I forwarded to you, I have now the honor to acquaint you that His Excellency has been pleased to appoint Ensign King of the 48th Regt. to succeed you in the situation of Barrack Master until His Majesty's pleasure is known. Ensign King is to commence upon the duties of his Office from this date.

Appointment of
E. King as
barrack-master.

Pension, rations,
and land
granted to
C. McIntosh.

His Excellency having taken into consideration your long service, your advanced age and infirmities occasioned by both, has been pleased to direct that a pension of Fifty Pounds per Annum, during your life be paid you half yearly from the Barrack fund in Dollars at five Shillings each; that you and your family, as heretofore, be continued to be rationed for the same period from the Government Stores; that a Grant of land of Eight hundred acres be made you; and that the Civil Architect may be sent to value any addition made by you to the Government House you now occupy, and upon that valuation you are to receive such remuneration from the Colonial fund for the same, he may consider adequate; and finally His Excellency has been pleased to sanction your retaining possession of that building till the 1st day of June next, when you are to be prepared to give over the same with such fixtures and furniture as may belong thereto.

Compensation
offered for
improvements
to house.

I have, &c.,

J. OVENS, A. Engineer.

[Sub-enclosure No. 7.]

[A] MR. CHARLES MCINTOSH TO SECRETARY GOULBURN.

Sir, Sydney, 3rd April, 1824.

I do myself the honor (under the opinion that the situation of Barrack Master is a civil appointment, and consequently that it is incumbent on me to take this step) to submit to you copy of a communication from Brigade Major Ovens of the 1st instant relative to my retirement from, and the appointment of Ensign King to that department; as also of my reply of this day's date; and to solicit that you will be pleased to lay them before His Excellency Sir Thomas Brisbane. I have, &c.,

Submission of
correspondence
to Sir T.
Brisbane.

CHAS. MCINTOSH.

[B] MR. CHARLES MCINTOSH TO MAJOR OVENS.

Sir, Sydney, 2nd April, 1824.

I do myself the honor to acknowledge the Receipt of your communication of yesterday relative to the appointment of Ensign King to the situation of Barrack Master. In reply, I beg

that you will be pleased to submit to His Excellency Sir Thomas Brisbane that, altho' the consideration which His Excellency is pleased to make, with respect to my long services and advanced period of life, would be gratefully received as merely such, that it cannot be viewed as an equivalent for a respectable and valuable appointment; that it is not in fact that return which was clearly and repeatedly promised to me on the part of the Government by yourself and Ensign King. That my retirement therefore has not and never had my assent, and that I am yet induced to hope that His Excellency, more particularly on consideration of the explanation and reasons in my communication to His Excellency of the 31st Ulto., will be good enough to cancel the stated retirement of myself and to countermand the appointment of that Officer. I beg to repeat that I have never retired; that my projected retirement, if acceded to on my part, would have been so, only, in deference to what appeared to be the wishes of His Excellency; and on the actual fulfilment of the condition that a full equivalent should be given to me; and I am now induced to add that I had good reason to expect, at my time of life and after my great length of service, rather an addition to, than a reduction from, those comforts and that respectability which I possessed. The stated grounds of my retirement I beg leave to be permitted once more to explain are utterly erroneous and must have arisen in the circumstance of His Excellency having been misinformed. I am perfectly competent to the Duties of the Barrack Department, and I may add, as I have observed in my communication of the 31st Ulto. before referred to, even should those duties be considerably increased.

1824.
31 May.

Compensation inadequate.

Resignation denied.

Competency for duty.

I beg to submit the above with due deference to the consideration of His Excellency. I have, &c.,

CHAS. MCINTOSH.

MR. CHARLES MCINTOSH'S MEMORANDUM.

THE Amount of the consideration is as follows:—

Salary	\$200	Value of pension and indulgences;
Two rations as heretofore issued to me, supposed value	160	
Eight hundred Acres of Land if permitted to be sold \$800		
the above Sum at 10s. pr. Ct. Colonial Interest	80	
	<hr/>	
Total	\$440	

Value of the situation of Barrack Master is as follows:—

A Barrack or House at the lowest estimate annually	\$200	and of position as barrack-master.
Salary	500	
Coals and Candles at the lowest estimate if purchased	160	
Two Rations	160	
	<hr/>	

Total amount of income \$1,020

1824.
31 May.

Compensation
offered for
improvements
to house.

Exclusive of the respectability of the situation, the payment of the expences to which I was subjected in the rebuilding of the House in which I live (every part of it with the exception of one Room) cannot be added to the consideration, it being no more than the payment of an equitable claim which the Government had long since been good enough to take into consideration and to satisfy me that it would be discharged.

A House equally as good could not be obtained in town under 60 or 70£; or taking the Dollar at five shillings \$240 or \$280.

C.McI.

[Sub-enclosure No. 8.]

[A] MR. CHARLES MCINTOSH TO DEP. COM.-GEN. WEMYSS.

Sir, Sydney, 6th April, 1824.

Rations for
C. McIntosh
and family.

I do myself the honor to submit to you the following extract of a communication of date the 1st Inst., addressed to me by Brigade Major Ovens, viz. "His Excellency having taken into consideration your long services &c. &c. has been pleased to direct that from this date a pension during your life be paid you &c. &c.," and further "that you and your family as heretofore be continued for the same period to be rationed from the Government stores &c."

I have respectfully to request that you will be pleased to inform me whether any notification relative to my being so rationed has been made to you, and whether I am to receive rations from His Majesty's Stores as heretofore.

I have, &c.,

CHARLES MCINTOSH.

[B] MR. CHARLES MCINTOSH TO SECRETARY GOULBURN.

Sir, 7th April, 1824.

I do myself the honor to enclose you copy of a communication from myself to Depy. Comy. Gen'l Wemyss, relative to my being rationed as heretofore from His Maj'ty's Stores; to which I beg that you will be pleased to submit to His Excellency Sir Thomas Brisbane that I have received no other than the verbal reply that "The Depy. Comy. Gen'l had received no notification from the Secretary's Office on the subject; and that I cannot therefore receive rations from His Majesty's Stores as heretofore."

I have, &c.,

CHARLES MCINTOSH.

[Sub-enclosure No. 9.]

MAJOR OVENS TO MR. CHARLES MCINTOSH.

Sir, Brigade Major's Office, 11th April, 1824.

I have not failed to submit to the consideration of His Excellency Major General Sir Thomas Brisbane Your letter of date the 3rd Ulto., relative to the appointment of Ensign King

of the 48th Regt. to the situation of Barrack Master vacant by your removal therefrom, and His Excellency has commanded me to reply to the same, and to acquaint you as follows. That it was His Excellency's wish to have named a successor to you in terms least likely to hurt your feelings, and consequently Ensign King appear'd in the Gazette as your successor, on your retirement, but losing, as you appear to do, such sense of feeling as ought to have been observed by you on the occasion, His Excellency considers now it should appear in its true meaning, He will therefore direct that it may be inserted in the next Gazette thus: His Excellency has been pleased to appoint Ensign Edward King of the 48th Regt. to the situation of Barrack Master in the room of Mr. Charles McIntosh removed therefrom, until the pleasure of His Majesty is known.

1824.
31 May.

Appointment of
E. King *vice*
C. McIntosh.

His Excellency is of opinion that the provision he has made for you, in consequence of your advanced age and long services, is very ample, and the more so as the character, He received of you from the late Governor, coupled with your conduct since He administered the Government, gives you no claim to such consideration.

Indulgences
granted to
C. McIntosh.

As to the respectability of the appointment of Barrack Master and to which you allude in your communication to me, He desires you may be informed that it is only so, like any other, while in respectable hands.

I have, &c.,

J. OVENS, Major of Brigade.

[Sub-enclosure No. 10.]

MR. CHARLES MCINTOSH TO MAJOR OVENS.

Sir,

Sydney, 17th April, 1824.

I beg you will be pleased to submit to His Excellency Sir Thomas Brisbane that I had the honor to receive your communication of date the 11th, in reply to my communication of the 3rd Inst., on Monday last: from which, that I may be enabled to reply to it with necessary precision, I beg to be permitted to make the following extracts, viz., "That it was His Excellency's wish to have named a successor to you in terms least likely to hurt your feelings, and consequently Ensign King appeared in the Gazette as your successor, on your retirement, but losing, as you appear to do, such sense of feeling as ought to have been observed by you on the occasion, His Excellency considers now it should appear in its true meaning. He will therefore direct that it may be inserted in the next Gazette thus, His Excellency has been pleased to appoint Ensign Edward King of the 48th Regt. to the situation of Barrack Master in the room of Mr. Charles McIntosh removed therefrom until the pleasure of His

Letter
acknowledged.

1824.
31 May.
Previous
conduct of
C. McIntosh.

Majesty is known." From the whole of which, I beg respectfully to observe, it appears my retirement or removal is now made to rest on the ground of imputed misconduct. If so, I trust I shall be pardoned in observing that, on retrospection to my conduct during the long and varied period of my career in the Military service of His Majesty (from boyhood up to age), I feel conscious that no one act of mine derogatory either to the service to which I have had the honor to belong or to the Character of a Gentleman or an Officer, my promotion from the ranks to the respectable situation I 'till this moment held, without the advantage of any interest beyond what I had the good fortune to acquire to myself by my steady attention to my duty, and to the views and wishes of my superiors, is in support of this assertion, and the fact (although my Military life closed only six Months since by the disbanding of the Veteran Company to which I was attached) of not having once been put under arrest, or ever been subjected to a reprimand carries with it yet stronger, I had almost said incontestable, proof of its correctness. But that life is now closed, and if its errors have not yet been noticed or deemed worthy of enquiry, I trust (for they must have been most truly venial to have passed thus long unnoticed) that they will not now be revived.

The six months which have intervened between the last date and the present hour, I have also submitted to a yet more rigid examination, its occurrences being more fresh in my recollection; and in conclusion I feel it but justice to myself to observe here also that I am conscious of no impropriety, not to mention any act which ought to deprive me, not merely of a respectable and valuable appointment, but of the almost only means of subsistence for myself and family, and in fact to remove me from comparative ease and comfort to hopeless pauperism and distress. During this period also, as in the former, if I have erred, I have received no reprimand, no caution, a circumstance which, super-added to the condescending promise of His Excellency Sir Thomas Brisbane during the last interview with which His Excellency honored me of the continuance of his protection and support, had induced me to hope that my conduct during this period also had had the good fortune to meet the satisfaction of His Excellency. I therefore trust that I shall be pardoned in observing that the reflection on my conduct, apparently implied in the paragraph above cited, is to me utterly unexpected, that I yet venture to hope that it will appear to His Excellency on further reflection as equally unmerited.

On the following paragraph, viz. "His Excellency is of opinion that the provision made for you, in consequence of your advanced

Imputations of
misconduct
unmerited.

age and long services, is very ample and the more so as the character he received of you from the late Governor, coupled with your Conduct since He administered the Government, gives you no claim to such consideration." I beg to be permitted to observe, 1st, that the income of Barrack Master (inclusive of my mere pay as a Veteran Officer, all that I can now claim as such, the Company being disbanded) is no more than barely sufficient for the mere present support of myself, a wife and four children, and consequently any smaller stipend is utterly inadequate to that purpose, and that although I am not too advanced in years for the performance of duties, to which for the last ten years I have been daily accustomed, and into which from earliest youth I have gradually become initiated, that I am far too old (at the age of fifty-nine years) for the undertaking of any employment for the support of them and myself, beyond the pale of my profession, to which I should be an entire stranger. That therefore His Excellency's intentions, however generous, are not adequate to these presumed objects, in as much as they are not an equivalent to that which itself was no more than a mere sufficiency for our support. Relative to any casual observation of His Excellency's predecessor, I beg, in addition to the general observations in the early part of this letter, to remind His Excellency that it was thought fully replied to, and explained by me at the time, and that it was itself more than amply counterbalanced by the extremely kind recommendation that either accompanied or followed it.

On the concluding remark, viz. "As to the respectability of the appointment of Barrack Master, and to which you allude in your communication to me, He desires you may be informed, that it is only so, like any other, while in respectable hands"; it is perhaps unnecessary for me to offer any observation, it being fully replied to, if they are not erroneous, in the general tenor of the preceding observations.

I have now only to add that I yet hope that on further consideration of my case, and more particularly of the observations and explanations upon it, which I now do myself the honor to submit with due deference to His Excellency, that His Excellency will be pleased not only to cancel the contemplated order for my removal, but be induced to reinstate me in my situation of Barrack Master. My feelings as a husband and a parent, exclusive of the necessities and, I trust, the justice of my case, do not permit me to say less; and on the due appreciation of which by His Excellency I rely for my excuse for having trespassed upon so much of His Excellency's valuable time.

I have, &c.,

CHAS. MCINTOSH.

1824.
31 May.

Criticism of
proposed
pension and
allowances.

Status of
appointment as
barrack-master.

Request for
reinstatement as
barrack-master.

1824.
31 May.

[Sub-enclosure No. 11.]

[A] MR. CHARLES MCINTOSH TO SECRETARY GOULBURN.

Sir, Sydney, 20th April, 1824.

Transference of
books belonging
to barrack-
master to
E. King.

I do myself the honor, on the grounds stated in my communication of date the 3rd inst., to forward you the enclosed, with my respectful request that you will be pleased to lay it before His Excellency Sir Thomas Brisbane.

I have, &c.,

CHAS. MCINTOSH.

[B] MAJOR OVENS TO MR. CHARLES MCINTOSH.

Sir, Engineer's Office, 26th April, 1824.

I request to know for the information of His Excellency the Governor if you incline handing over to Ensign King, the Acting Barrack Master, the Books belonging to that department.

I am, Sir, &c.,

J. OVENS, A. Engineer.

[Sub-enclosure No. 12.]

[A] MR. CHARLES MCINTOSH TO MAJOR OVENS.

Sir, Sydney, 27th April, 1824.

I do myself the honor to acknowledge the receipt of your communication to me of yesterday, in which you request to be informed if "I am inclined to hand over to Ensign King, the acting Barrack-master, the books belonging to that department," and in reply beg that you will be pleased to submit to His Excellency Sir Thomas Brisbane that, although I cannot part with the books voluntarily or of my own accord, yet as I must continue to consider myself at present as virtually Barrack-master, I am ready to obey any order of His Excellency's, and on receiving an order from His Excellency to such effect shall hand over the books in question, it being clearly understood that my so doing is no way to prejudice me in my present rights or claims.

I have, &c.,

CHARLES MCINTOSH.

[B] MR. CHARLES MCINTOSH TO SECRETARY GOULBURN.

Sir, 28th April, 1824.

I do myself the honor to enclose herewith the copy of two letters (not only of the same tenor, and in the same hand, but word for word the same, and both received within the period of two hours) addressed to me yesterday by Brigade Major Ovens, in which the Brigade Major requests to be informed "if I am inclined to hand over to Ensign King, the acting Barrack-Master, the books belonging to that department." I beg to premise in

replying to the above that I have not received any order to hand over the books above mentioned; but that viewing myself still as a public functionary under Govt., I feel it my duty, and I am ready to evince my immediate obedience to such an order, should I receive an order to that effect from His Excellency, it being clearly understood that the doing so will in no way prejudice me in any present right or claim.

I cannot, however, on this occasion avoid expressing my hope that His Excellency, more particularly on consideration of the reasons advanced in my communication of the 19th Inst., will be induced at least to suspend his final decision as to my contemplated retirement or removal, which originated solely in a misunderstanding on the part of His Excellency, and has not, and never had, and cannot have, under existing circumstances, my assent; and that, as I most earnestly solicit, His Excellency will be pleased to authorise my resuming the performance of the duties of that appointment.

I have, &c.,

CHARLES McINTOSH.

1824.
31 May.

Transference of
books belonging
to barrack-
master to
E. King.

[Sub-enclosure No. 13.]

[A] MR. CHARLES McINTOSH TO SECRETARY GOULBURN.

Sir,

6th May, 1824.

I do myself the honor to request that you will be pleased to lay before His Excellency Sir Thomas Brisbane the enclosed communication.

I have, &c.,

CHARLES McINTOSH.

[B] MR. CHARLES McINTOSH TO SIR THOMAS BRISBANE.

Sir,

6th May, 1824.

Twenty-five years ago on tuesday last I had the honor to be engaged in the capture of Seringapatam, and had not only the honor, but the high gratification of saving the lives, by my own personal exertions, of two of my commanding Officers; the one Colonel Money Penny, who commanded the corps in which I served, the other the late Major Maclean, who fell in the ever memorable field of Waterloo. I arrogate nothing to myself for either of these acts. They had indeed almost become erased from my memory, nor would they have now become revived but for the self scrutiny, which the present blankness of my existence forces upon me, not to mention the painful feeling which has been excited in my mind by the communication from Your Excellency, with which I was honored, of date the 11th of last month.

Services of
C. McIntosh
at capture of
Seringapatam.

I look back with the pride of a soldier, even in the present winter of my days, to those scenes of honorable and arduous enterprize, scenes to which, however, I would not venture to

1824.
31 May.
Services of
C. McIntosh
at capture of
Seringatam.

trouble Your Excellency with the reference, if I did not feel assured that much of my present distressing embarrassment has arisen from the circumstance of my Story being but too little known to Your Excellency, while every better trait of character may have become lost by representations of an overcharged and imaginary mass of error.

May I, on the occasion of the anniversary of a proud and not less important day in England, venture to remind Your Excellency not merely of myself, but of my family, and again most respectfully to entreat Your Excellency's reconsideration of my case.

I have, &c.,

CHARLES MCINTOSH.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 12 of 1824," per ship Countess Dalhousie; acknowledged by Earl Bathurst, 6th February, 1825.)

Government House, Sydney, New South Wales,

8 June.

My Lord,

8th June, 1824.

Salary granted
to colonial
treasurer.

In reference to your dispatch No. 37 of last Year notifying your appointment of Mr. William Balcombe to proceed to New South Wales as Colonial Treasurer, and leaving it to me to submit a proposition to Your Lordship on the subject of his Salary, I have the honor to acquaint you that, having considered the relative station of Treasurer compared with other public Officers who have more trouble but less responsibility, I have been induced to fix One thousand two hundred pounds annually (or the amount of a Treasury Bill for that Sum) without further advantage, until the pleasure of His Majesty shall be obtained.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO MAJOR-GENERAL SIR HERBERT TAYLOR.
(Despatch per ship Countess Dalhousie.)

Government House, New South Wales,

10 June.

Sir,

10th June, 1824.

Proposed
formation
of troop of
cavalry.

Accompanying I have the honor to transmit you, for the purpose of being laid before His Royal Highness The Commander in Chief, the copy of a letter, with a return, which I have considered it expedient to write Earl Bathurst for his sanction to raise a Colonial Troop of Cavalry, in consequence of the reasons therein Stated, and which I deem it my duty to acquaint His Royal Highness The Commander in Chief with, in order that he may be graciously pleased to authorize me to proceed in it, which I consider will become daily more essential for the best interests of the Colony.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

1824.
18 June.(Despatch marked "No. 13 of 1824," per ship Countess Dalhousie ;
acknowledged by Earl Bathurst, 22nd December, 1824.)

Government House, New South Wales,

My Lord,

18th June, 1824.

In consequence of some violent outrages committed by the
Aborigines against the Stock keepers in the neighbourhood of
Bathurst, in which no less than Seven of the latter have been
murdered in the most cruel and barbarous manner, I consider it
most indispensably requisite to obtain Your Lordship's sanction
to raise a Troop of Colonial Cavalry of the proposed strength of
the accompanying Return, not only with the view of keeping the
Aborigines in check, against whom Infantry have no chance of
success, but also for the general Police of the Country, which I
consider will derive the most essential benefit from it; and under
the impression of Your Lordship's sanction to a measure so essen-
tially connected with the vital interests of the Colony, I trust
Your Lordship will be pleased to order the necessary equipment
for such a Corps to be sent out, and that you will also be pleased
to direct me as to their rates of Pay and allowances.

Proposed
formation
of troop of
cavalry.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

RETURN of the proposed Strength of a Troop of Colonial Cavalry
to be raised in New South Wales.Return of
proposed troop
of cavalry.1 Captain; 1 Lieutenant; 1 Troop Serj. Major; 1 Serjeant; 2
Corporals; 1 Trumpeter; 25 Privates.

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 14 of 1824," per ship Countess Dalhousie.)

Government House, Sydney, New South Wales,

My Lord,

24th June, 1824.

24 June.

Understanding from Mr. Hall, late Surgeon Superinten-
dent on board "The Brothers" Convict Ship, that it was his
intention to proceed to England in order to make arrangements
to return and Settle here with his Family, I trust I may be
excused by Your Lordship in remarking that Dr. Hall's name
was so completely identified with the case of the Magistrates, in
the affair of Anne Rumsby, that it becomes unnecessary in me to
recall it to Your Lordship's recollection.

Protest against
J. Hall as
a settler.

A further strenuous reason why he should not be allowed to
settle here, and which I have to express my regret at its not
having been before brought under His Majesty's Government,

1824.
24 June.

Protest against
J. Hall as
a settler.

the fact of his having thought proper at that time to send a challenge* to the Colonial Secretary while acting in execution of his Official Duty.

These considerations will, I trust, induce Your Lordship to retract any favors he may expect, to the condition of his settling in Van Dieman's Land, as, should he be permitted to revisit these Colonies, in order to fix himself in New South Wales, I am persuaded it would only revive many of those feuds I could anxiously desire to be forgotten.

Accompanying, I have the honor to transmit a Copy of the proceedings taken lately before the Bench of Magistrates, by which Your Lordship will not fail to remark that, in this instance, he has again attempted to render his name conspicuous, and with equal success; but, in the course of which, circumstances appear to have transpired, which do not reflect highly on his moral Character.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

Police Office, Sydney, 27th May, 1824.

BEFORE a Bench of Magistrates, viz:

D. Wentworth, Esqr., Supt. of Police, &c.; Thos. MacVitie, Esqr.; Edwd. Woolstonecraft, Esqr.; James Bowman, Esqr.; Edwd. Riley, Esqr.; J. T. Campbell, Esqr., J.P.

Hall, Esqr., Surgeon Superintendent	} On a Charge of Mutiny, Conspiracy and Assault, &c., &c.
<i>v.</i> Mr. J. T. Meach	

The Deposition of James Hall, Esqr., Surgeon Supt. of female Convicts (hereto annexed) read, and MR. HALL, being Cross Examined by Mr. Rowe, Solicitor for the Defendant,

Saith: That the Prison on the Night alluded to was perfectly dark. That he was Struck from behind. That Mr. Meach was behind him. That he Could not distinguish the persons of the women. That he caught hold of Cath'ne MacManus's Arm as well as the Captain, and Mr. Meach had also hold of her. That Mr. Meach was not obliged, as Chief Mate to obey him, but the Captain was, in respect to the Women Convicts, and from him the Orders were given. That he Conceived Mr. Meach excited the Women to knock him down.

Conspiring, &c. &c.

That Ellen Meadows is now a Servant at Mrs. Waples's, where he lodges, but he did not recommend her there. That Mr. Meach boasted of what he had done to the Mates, but not in his presence. That he gave Mr. Meach great Commendation the next day for his Conduct on the preceding Night of the Disturbance. Supposed the Mates of Mr. Meach were Friends, as he had observed no Quarrel between them. Saith it was some time (several weeks) after the Disturbance that he heard of Mr. Meach being privy to it. That a Pistol was handed over to Mr. Meach in order to Intimidate the women, and that Mr. Meach took Care that they in general went

* Note 66.

Magisterial
inquiry into
charges
preferred by
James Hall
against
J. T. Meach.

to their respective Berths. Thought Mr. Meach did his Duty that Night with Propriety. That a woman named Anne Russel gave Information as to the Threats made use of by Mr. Meach towards him.

Also, Mr. Rundle, Mate.

But Mr. Meach never in his Presence made any Threats. Doth not know that Anne Russel hath ever expressed any Sorrow for having Sworn falsely against Mr. Meach. Would not believe Anne Russel on her Oath unless Confirmed by Credible Testimony. Saith that the Woman Convict *Hately* was not placed in the *free Birth* for the Sake of giving Information or Evidence. Never gave out any Spirits to the Women for this purpose. Placed *Hately* in the free Berth as more Consonant to her feelings and former Habits of Life.

Reads Extracts from the Instructions to him as Surgn. Super't.

Saith that the Master of the Ship is bound to Obey All his orders in regard to the Convict Women, and his orders of Course descend to the Officer under him; that he hath supreme Power over the female Convicts.

THE INFORMATION OF JAMES HALL, ESQUIRE.

"I am Surgeon Superintendent of the female Convict Ship Brothers; we sailed from England on the 5th of December and arrived at Hobart Town on the 15th of April; on the Evening of the 13th of December. Ann Mullin, Convict, Informed me that the Women were going to beat me. She whispered this to me as the Prisoners were passing down to the Prison; about two hours after that Ann Wilson, Convict, Came to my Cabin, greatly agitated, and told me there was a Plot laid and that the women were going to Murder me. Immediately after this, it was between 7 and 8 o'clock in the Eveng., I went down to the Prison Gate; the Ship was at Sea at this time, somewhere in the Neighbourhood of Madeira. On Entering the Prison, I found it in darkness and great Uproar prevailing; several voices exclaiming that Russel had put out the Light, others saying, 'for God's sake, Mr. Hall, don't go forward for they will Murder you.' I immediately Called for Lights to be brought, some were brought, but instantly put out again by the Women in the Prison; but, by Aid of the Lights before they were put out, I was enabled to proceed to half the length of the Prison in Search of Russel, the woman who was said to have put out the Light. I found her Seated, having on the Dress of a Woman of another County. I desired her immediately to go on deck; a Convict named 'Ray' was standing near her; Russel refused to Obey my orders. I then went on deck to procure the Assistance of the first mate, Mr. Meach. I returned to the Prison with him, and laying hold of Russel's Arm to force her from the Seat, Mr. Meach had laid hold of her other arm, and advised her to go on deck. I failed in my Endeavours to force her out of the Prison. I desired Mr. Meach to take Charge of her, whilst I went on deck to procure more Assistance, the Prison being Still in darkness. Immediately on turning round to quit Russel, a Scream was set up and I heard a Rushing behind me, and Some one Cried out 'give it the B——r.' I received a blow on the back of my Neck which made me reel forward and fall; I then received Several Blows and Some Kicks; having recovered myself, I got out of the Prison Gate close to which I had fallen, Mr. Meach being still in the Prison. Captn. Motley, the Master of the Ship, and Mr. Gale, the second Mate, and

1824.
24 June.

Magisterial
inquiry into
charges
preferred by
James Hall
against
J. T. Meach.

1824.
24 June.
Magisterial
inquiry into
charges
preferred by
James Hall
against
J. T. Meach.

Some of the Seamen had already arrived at the Prison Gate; we seized the Arm of a woman, and endeavoured to pull her out of the Gate. She exclaimed to the Convicts within 'Hawl away B——rs, if you hawl my Arm off.' She succeeded in getting clear of us. Lights being now brought, we entered the Prison, and received Information that Six Women had Created the Disturbance; their Names were Anne Russel, Catherine McManus, Ellen Meadows, Lydia Gardner, Catherine Ryan and Elizabeth Rae; these Women were taken out of the Prison and Secured; these Women have since Confessed that they were Concerned in this affray, and that it had been proposed to them by Mr. Meach on the Afternoon of the same day to put out the Prison light in the Evening, When I went down to Prayers, to give me a good Beating and Jump my b——dy Guts out; and he further told them, no doubt he would be the first person I should Call down to Assist me, but he would Assist them, and told them he would give them a Bottle of Rum. I am also able to prove that the said Mr. Meach did assist in rescuing one of the Convicts from me and Captain Motley, and that he has himself Confessed he was engaged in the Mutiny; that he had false keys, by which he had Caused the Gate to be opened, and had taken a Prisoner to his Cabin for the purpose of Prostitution; and that he gave Permission to three of the Crew to go to the Women, who were Confined in the Coal Hole in the Middle of the Night, and that he frequently expressed his Determination to throw me overboard during the first Gale of wind or blow my Brains out. I am also able to prove that he struck me on the back of the Neck during the Mutiny in the Prison. I can also prove that Mr. Meach was seen preparing his Pistols, on or about the time he said he would blow my Brains out, and therefore pray that Justice may be done.

"JAMES HALL, R.N., Surgeon Supt."

Sworn Before me at Hobart Town, this 17th April, 1824.

A. W. H. HUMPHREY, Supt. of Police.
E. F. BROMLEY, J.P.

JAMES HALL, R.N., Surgeon Supt.

Re-sworn at the Police Office, Sydney, the 22d May, 1824, Before:—

D. WENTWORTH, Supt. of Police. ALEXN. BERRY, J.P.
EDWD. RILEY, J.P. J. BOWMAN, J.P.
THOS. MACVITIE, J.P.

Police Office, 27 May, 1824.

Hall, Esqr.. Surg. Supt. }
v. } EDWARD RUNDLE, Called
Mr. J. T. Meach }

EDWARD RUNDLE, now Second Mate on board the Ship Cumberland } Brothers, being Sworn, deposeth, that, on the Even-
to wit. } ing when the Disturbance took place amongst the
Women on board, he was on his Duty, and heard Mr. Meach's voice in the Prison and heard Sarah Twithridge, one of the female Convicts, say to Mr. Meach that it was All his fault, and heard a Blow Struck and Sarah Twithridge Scream out; that he then saw a Light brought into the Prison from the fore part of the Ship and the Light was immediately put out. Saith that the same Evening Mr. Meach Came to him on the Quarter Deck, after Deponent had Served out the Provisions, and told Depon't that Mr. Hall had Cut off Catharine Ryan's Hair and said it was a d——d rascally Shame.

Saith that, about 5 or 6 o'clock that Evening, Mr. Meach said that there would be a disturbance in the Prison amongst the Women; that Deponent then went forward and heard one of the Women say to Mr. Meach "We have five or Six," but this was spoken in a Jocular Manner and Deponent did not know what it meant. Saith that, after the Disturbance was over and the Women quiet, Mr. Meach asked him if he had been securing the Women or not, that Deponent replied "No," that Mr. Gale had, and said it was a d—d Shame to Confine any Women in that manner. Saith that, on reference to what had taken place in the prison, Mr. Meach said that he had hold of Cath'ne McManus's Arm and had dragged her from Capt'n. Motley's arms, and Meach said that Mr. Gale had tried to stop her, when Meach said to Mr. Gale "let her go." and that Mr. Gale said, what had he Come down there for; that Mr. Meach after this Conversation went further forward, and Mr. Meach said that one of the Girls had got him by the arm and Mr. Meach said it was *him* and the woman let him go; that Anne Wilson then brought a light from the Hospital, and Mr. Meach said to Cath'ne McManus "do you see that," and immediately Cath'ne McManus knocked the Light out of Anne Wilson's Hand, and Called her names; that Mr. Meach said to Deponent. "Do you suppose that I went down to Quell the Mutiny; No, I told them I was only Come down to bustle amongst them and not to hurt them"; that Mr. Meach then said, "I have given the old B—r a Pett on the neck," meaning, as Deponent Supposed, Mr. Hall, and repeated the words "Old B—r," and that he would feel it in the Morning. Saith that he, Deponent, Came on deck at 12 o'Clock the same Night, and Mr. Meach Came to him and Said that Mr. Fell, Thos. Robinson and Charles Ward were down in the Hold with the Women, and that Mr. Gale was a d—d Rascal and could not be trusted; that Deponent reported this to Mr. Gale, and about 2 o'Clock in the Morning Deponent Saith he saw the three Men Come out of the Hold; the same three men that he had been told were in the Hold; that he spoke to them and is Certain that they were the Same. Saith that he heard Mr. Meach, in Conversation with Mrs. Hares, say that he would Shoot Mr. Hall and would Call him out as a Gentleman when he Came to Port Jackson; and further heard Mr. Meach say that if it Came on a dark Night and a Gale of Wind that he would throw the old B—r (meaning Mr. Hall) overboard.

EDWD. RUNDLE.

Sworn at the Police Office, Sydney, the 27 of May, 1824, Before:—

D. WENTWORTH, Supt. of Police. J. BOWMAN, J.P.

J. T. CAMPBELL, J.P.

EDWARD RUNDLE, being Cross Examined by Mr. Rowe as Solicitor for the Defendant, Saith:—That he did not say that the paper he had handed in Contained All that he knew in this matter. Saith that the greater part of his Testimony is to be found in that Letter addressed to Mr. Hall; was at that time Boatswain and Steward, but is now *a little promoted*; gives his Evidence for the Sake of Justice; bears no Enmity towards the Defendant; and is indifferent whether he is Convicted or not. Saith that in a Conversation with a Person named Wilson this Morning he said he was determined to bring things forward as Mr. Meach had tried to Injure him.

Denies having said he would Convict Mr. Meach of Mutiny, but that he said Mr. Hall was trying him for Mutiny. Saith that Mr. Meach would be tried, as he understood, by the Admiralty

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Court, and said if he was Cleared that he would try him for what he had said about him. Saith that immediately after the Conversation took place respect'g what he had deposed to as having passed from Mr. Meach, alluding to the words "What do you think I went down for, &c. &c." he was standing on the Larboard Gangway; that Mrs. Emmerson was not present, only himself and Mr. Meach; denies having asked Mr. Meach why he had interfered preventing Mr. Hall from getting a Thrashing, or in any words to that Effect. Never heard Mr. Meach say that he would rather lose his Life than see Mr. Hall hurt. Saith that there was no person present when these Conversations took place between him and Mr. Meach. Saith that the Disturbance below lasted for a little more than half an hour.

EDWD. RUNDLE.

Sworn as before:—

D. WENTWORTH, Supt. of Police. J. BOWMAN, J.P.
J. T. CAMPBELL, J.P.

Cumberland } MATTHEW GALE, Chief Officer of the Ship Brothers,
to wit. } being Sworn, depose, that on the Night the Disturbance took place amongst the Women on board, he heard the Cry of "Murder" and that they were murdering the Doctor; that Deponent went below to do his best to quell the Disturbance in the place where the Women were Confined; that Mr. Meach was down there before him; that all was dark and there was a great Bustle and Disturbance amongst the Women, and the Cries of Murder in a woman's Voice still Continued, but doth not know who the woman was; that during the Bustle they got one Woman, named Cath'ne McManus, to the Prison Door; that Capt. Motley had hold of her Arm on the outside, and Deponent, who was in the Inside, had also hold of her Arm to get her out of the Prison as she was one of the refractory Women; that Mr. Meach was standing Close by Deponent and said to Deponent, "Gale, why don't you let the woman go"; that Deponent said he would not, and asked Mr. Meach what he supposed he came down there for; that Cath'ne McManus Called out, "Clap on behind and hawl away"; that Mr. Meach then put his foot against the Prison Door to prevent the Woman from being hawled out, and the Woman pulling very strong behind Capt. Motley let go his hold of Cath'ne McManus; that Deponent was then in the Inside of the Prison and kept his hold of her until he was dragged by the Woman to the forepart of the Main Hatchway; that he then let go his hold of her. Saith that he heard a Blow struck, but the Woman offered no kind of Violence towards him. Saith that the Cry of Murder was in a female voice and not from Mr. Hall. Saith he thinks he was told that Night that the Cry of Murder was from a Woman named Russel.

MATTHEW GALE.

Sworn the 27th day of May, 1824, Before:—

D. WENTWORTH, Supt. of Police; J. BOWMAN, J.P.

MR. MATTHEW GALE, Examined by the Bench.

Saith that on the day after the Disturbance he heard Mr. Meach threaten to blow Mr. Hall's Brains out, and to Challenge him when he got to Sydney, and such like Expressions.

Saith that, when Mr. Meach was put under arrest, it was not for any thing relating to the Mutiny but for having Struck a woman; that the Disturbance took place about the 26 of Decr. last, and he

was appointed Chief Officer in January, but doth not know in what part of that Month; thinks it was early in January; saith that the Expressions made Use of by Mr. Meach as applied to Mr. Hall was in the Presence of Mr. Hall.

Cross examined by Mr. Rowe. Saith: He was appointed Chief Officer on the very instant that Mr. Meach was Superseded in that Capacity, and expects his Pay as Chief Officer from that very day. Saith that he did not see Mr. Meach endeavour to get out of the Prison on the Night. Saith he saw no person strike Mr. Meach either before or after the Disturbance. Saith that the Captain was obliged to let Cath'ne McManus go; that he did not do it voluntarily; that when he went below Mr. Hall was in the Prison; did not hear Mr. Hall Cry out; Saith that there was no Light in the Prison whilst he was there; saw no Disorder on Mr. Meach's Shirt nor any Violence on his person; Saith that the Disturbance amongst the Women below lasted from ten Minutes to a Quarter of an hour. Saith that the women were not attempting to force their way out of the Prison, but they were all in Confusion together. Saith that he heard the Blow struck but doth not know by whom, but thinks it was Struck at Mr. Hall; but he did not hear Mr. Hall complain of having been Struck; did not see him afterwards that Evening.

Saith that he doth not know of any Spirits having been Issued that day to the women, only the Usual Allowance of wine which they had daily.

Saith that Mr. Hall had the Key of the Prison and it was never in Mr. Meach's Possession or of any other person but Mr. Hall; that he did not see any Light brought from the free women's Apartments nor did he hear Mr. Meach Call out for a Light.

MATTHEW GALE.

Sworn as before:—

D. WENTWORTH, Supt. of Police; J. BOWMAN, J.P.

Cumberland }
to wit } MR. CHARLES MOTLEY, Master of the Ship Brothers, being SWORN, deposeth, that, on or about the 13th day of December last, there was a great deal of Noise and Disturbance amongst the Women in the Prison below; that he went down and found Mr. Hall in the Act of dragging a woman through the Prison Gate; that the Lights were out; that Deponent Endeavoured to get the woman out, but she was rescued from him, but who rescued her or aided so to do, he doth not know; that at this time Mr. Meach was in the Prison and Mr. Hall was on the Outside; that Lights were brought and Deponent Called for more assistance and proceeded into the Prison; that Mr. Hall pointed out the Ringleaders and they were Secured; that Cath'ne McManus and Anne Russel, Lydia Gardner, Ellen Meadows, Cath'ne Ryan and another woman were Secured as the Ringleaders and they were put down into the Coal Hole by orders of Mr. Hall. Saith that Mr. Hall Complained that he had been very ill used in the Prison and had been kicked and knocked down; thinks he saw a Scratch on Mr. Hall's face the next morning, but will not say positively so; that the Noise below Continued for about 15 Minutes; Saith he was under no Alarm for his Own personal Safety, but what it might have led to, if they had got the Doctor under their feet, or what the women might have done to him, they might have killed him. Saith that the Gate of the Prison opened on the Outside, and no person inside Could push against it without forcing it open. Saith

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that the Reason he superseded Mr. Meach in December was in Consequence of his having Struck a Woman Prisoner on board, and not in reference to anything that took place on the Night of the Mutiny; that nothing had reached Deponent Suspicious of his Conduct on that Occasion. Saith that Mr. Meach always denied having anything to do with the women. Saith he heard Mr. Meach say he would Shoot Mr. Hall when he got to Sydney. and went to his Cabin and took out his Pistols and examined the Locks; saith he always had the highest opinion of him before. Saith that it was in the Month of January and not in December that he Superseded Mr. Meach. Saith that he was under no Apprehensions for the Safety of his Ship on the Voyage, as he had several respectable Young Men on board and his Crew were to be Confided in; Saith that he brought a Light with him into the Prison and it was there when he left the Prison. Saith that Mr. Meach the next Morning told Deponent at breakfast that he had been throttled by the Women, but no Marks of Violence appeared. Saith that the Light was in the Prison and Mr. Gale was there, and Mr. Gale must have Seen what occurred in the Prison by that Light. Saith he was there about ten or twelve Minutes and left the Light there. Saith that Mr. Meach never refused his Duty on board until he was superseded; believes. altho' Mr. Meach admitted he had taken Mary Smith out of the Prison by means of false Keys, that he denied having had anything to do with the Disturbance in the Prison. Saith Mr. Meach had Sailed with him before on a Voyage to Jamaica, and behaved himself pretty well as Chief Mate. Saith on Reference to his Log Book, it appears that Mr. Meach was Suspended on the 15th of January and the Disturbance took place on the 14th of December. Saith that he Called for Lights but they did not Come until after the Women had been Secured. CHAS. MOTLEY.

Sworn the 27th day of May, 1824, Before:—

D. WENTWORTH, Supt. of Police; J. BOWMAN, J.P.

Adjourned until Saturday, the 29th, at 11 A.M. Mr. Meach to find Sureties to appear then and there.

Recognizance entered into accordingly.

Police Office, } Before a Bench of Magistrates,
29th May, 1824 } By adjournment from the 27th inst.

Present:—D. Wentworth, Esqr., Supt. Police; Edwd. Wollstonecroft, Esqr.; Thomas MacVitie, Esqr.; James Bowman, J.P.

Hall Esqr. v. }
Mr. Meach }

Cumberland } LYDIA GARDNER, who Came out a Convict in the Ship
to wit. } Brothers, being Sworn, deposeth, that, whilst the
Ship was at Sea and the Morning after Catherine
Ryan had her Hair Cut off, She was on deck with Catherine
McManus, Ellen Meadows, Elizabeth Rae and Ann Russel, Standing
near the Windlas, when Mr. Meach Came up to them and said that
the Boatswain had not behaved like a Man in letting Cath'ne
Ryan's Hair being Cut off and herself hand-cuffed, and that, if he
Mr. Meach had had Connexions with her, he would have lost his
Life sooner than her hair should have been Cut off; and that it
would serve the Doctor right to give him a d—d good Milling;
and that he Mr. Meach would give them a Bottle of Rum if they

would do it, after it was over; and that he would Come into the Prison in a great Hurry and appear to take Mr. Hall's part, but would take part with the women; that in the Evening, when they were all locked down, there was a light in the Prison which was instantly put out by Ann Russel, one of the Convicts; that some of the women then Called out for Mr. Hall to bring another Light; that Mr. Hall Came down without a light and asked what was the matter; that no Reply was made to him; that Mr. Hall Called several times for Anne Russel to Come out, but She would not go out; that Mr. Hall then Came into the Prison with a pair of Hand-Cuffs with which he struck Anne Russel several times; that a Light was then brought from the Hospital which was immediately knocked out; that they then made a great Noise in the Prison and Mr. Hall Called for Assistance and Mr. Meach Came down, followed by Captain Motley; that Mr. Meach Came into the Prison, Capt. Motley remained in the Hatchway; that Mr. Hall and Capt. Motley had hold of Cath'ne McManus's Arm, trying to pull her out, When Deponent and Anne Russel and Elizabeth Rae and Mr. Meach got hold of McManus, trying to keep her in; that Mr. Meach had hold of her left Arm and told the Women not to let her go out; that they Succeeded in getting her away, and afterwards Mr. Meach desired Cath'ne McManus to go to her bed and then Mr. Hall would not know who it was; that deponent then sat down by her Berth to go to bed, and Mr. Hall took her out by force into the Hatchway; did not see Mr. Gale in the Inside of the Prison during the time, nor did she hear Mr. Gale have any Conversation with Mr. Meach at this time; Saith that the same Evening, whilst on deck, Mr. Meach Came to deponent and said he would sooner lose his Life than Mr. Hall should be hurt, and said this in the Captain's Presence; and after the Captain was gone to his Cabin Mr. Meach told this Deponent and some other women not to say anything that he was in it; Saith that She did not see Mr. Meach strike Mr. Hall, and Saith that, on the following Sunday Morning, Mr. Meach again desired the women not to let Mr. Hall get any thing out of them, as it would be settled in a few days. And Saith that Deponent with four other women were on a Chain some days afterwards, having been Confined by order of Mr. Hall in Consequence of the Disturbance that had taken place, when Mr. Meach Came up and expressed his Sorrow that he Could not do any thing for them but hoped they would not bring his name into Question. Saith that Deponent and the other Women were Confined in a Dungeon for about Six Weeks by order of Mr. Hall, and for Nine days had no Bed to lie on, and three Weeks on bread and Water; that they were Chained together only one day for about two hours on the Deck. Saith that Mr. Meach said he had heard that, if Mr. Hall had a Pistol that Night, he would have blown some of their Brains out, but did not say whose Brains, and Mr. Meach said that two could play at that. Saith that some time after, Thos. Robinson, a Seaman on board, brought a Message from Mr. Meach to desire that when the Women were brought to Court to deny All they had Said, and to say it was false; Saith that she cannot say that anything was done to Mr. Hall during the Disturbance. Saith that from Mr. Hall's hav'g struck Anne Russel with the Handcuffs the Blood followed, and the Marks are now to be seen on her Arm. Saith that the Dungeon they were Confined in was about 6 feet in length and 6 feet in breadth, Whilst the Weather was very hot, and they were nearly stifled for want of Air; that this was before they had Crossed the Line. Saith that for the first

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four days they were Closely Confined in the Dungeon, but afterwards some of them were allowed to be on deck for a few hours for four or five days. Saith that Sarah Twithridge, in Deponent's Presence, told Mr. Hall that She had heard Mr. Meach say he would give the Women a Bottle of Rum; and Saith that she saw Mr. Meach strike Sarah Twithridge two or three times in the Prison near her Birth for having told Mr. Hall this.

her
LYDIA X GARDNER.
mark

Sworn the 29th May, 1824, before:—

D. WENTWORTH, Supt. of Police; J. BOWMAN, J.P.

Cross Examined by Mr. Rowe, Solicitor.

Saith she was not called on to give Evidence at the Derwent, and only told Mr. Hall of what She has now deposed to about three Weeks before they arrived at the Derwent, at which time Mr. Meach had lost his place for striking a woman Convict on board. Saith that, when they were pulling Cath'ne McManus from the Captain's grasp, Mr. Gale was not in the Prison. Saith that by the Light of the Moon she saw Mr. Meach having hold of McManus's Arm; that the Candle was out and the light of the Moon Came thro' the Hatchway sufficient to distinguish as she did and has said; and Saith that any person in her Position might have Seen the same as she did; that Elizabeth Rae and Anne Russel were on the same Spot and Saw what Occurred; that Cath'ne McManus's Arm, of which Capt'n. Motley and Mr. Hall had hold, was not on the Outside of the Prison but Close up to the Gate; Saith that a Light was brought during the scuffle, but it was immediately knocked out. Denies that she heard Mr. Meach Call for a Light. Mr. Meach's Brother, William, was present at some part of the Conversation, She has deposed to, and was about to say Something but was prevented by Mr. Meach from speaking.

her
LYDIA X GARDNER.
mark

Sworn as before:—

D. WENTWORTH, Supt. of Police.

Cumberland } ELLEN MEADOWS, who came out a Convict in the
to Wit } Ship Brothers, being Sworn, Deposeth, that She remembers the Disturbance that took place amongst the Women on board the Ship on the 13th of December last, and remembers Cath'ne Ryan being punished for improper Conduct and Mr. Meach came up to her who was Catherine MacManus, Lydia Gardner and Anne Russell and Eliz'h Rae; Deponent having been called on by McManus, when Mr. Meach having proposed to the Women to knock Mr. Hall down in the Prison and to Jump his Guts out, before which they were to knock out the Lights; that they all agreed to do it; it was between 4 and 5 o'Clock in the Afternoon of the 13th of Decr. And Mr. Meach said he wd. give them a bottle of Rum before they had done, and one afterwards. That the Women were in the Prison, and Anne Russell took the Light down and said she had lost an Ivory box and a Ring in the room, and looked for them with the Light, and afterwards returned it to its Place; and Deponent said if it was to be *done to do it quickly*; and then Ann Russel took the Light down and put it out. That Mr. Hall then came down and asked for the Lanthorn in order to have a Light, but no one would give it to him. That Mr. Hall enquired who had

put the Light out, and some of the Women said it was Ann Russel. That Mr. Hall then came into the Prison with a pair of Hand Cuffs in his hands and ordered Russell to come out, but she would not. That Mr. Hall laid hold of her and afterwards struck her on the arm with the Hand Cuffs. That she still refused to come out, and Mr. Hall called for the Watch on Deck to come to his assistance and to bring a Light, but none was then brought. That Mr. Meach was then in the Prison having come down to the assistance of Mr. Hall. That Mr. Meach pinched Ann Russell's Arm and told her to *stick true*, to say Nothing, and not to be afraid. That a light was then brought from the Hospital, and Cath'e McManus kicked the light out; that Mr. Hall turned his back to go to the Gate, when Catherine McManus with her foot kicked him; that Mr. Hall got to the outside and called out, and Captn. Mottley came down; that there was then no light; that at this time Mr. Hall had hold of Cath'e McManus by the Arm, and what assistance Captn. Mottley rendered was of little use. That Dept. with Cath'e Ryan, Elizh. Rae, Lydia Gardner, and Ann Russell with Mr. Meach, all assisted in rescuing McManus from Mr. Hall. Saith at this time Mr. Meach and Mr. Gale was the only two Men in the Prison; that Mr. Gale rendered no assistance either way; that Mr. Meach said to Deponent "pull on my Girls, She'll soon be cleared"; at this time Deponent had hold of McManus by the Petticoat, and they succeeded in releasing her, and when she was cleared, Mr. Meach said "go to bed, Kit." Saith that Mr. Hall gave Mr. Meach a Pistol, who walked up and down the Prison with it for about 10 Minutes and until all the Women were in their Births. That Mr. Hall came into the Prison with Captn. Mottley and took this Deponent with three other Women and sent them into the Coal-Hole, where they remained until about 10 o'Clock the next Morning, when they were brought on Deck hand-Cuffed, two by two; a Place was then got ready and they were all put into a Dungeon, where they remained about 4 Days upon bread and Water and without any Bedding.

That Mr. Hall allowed them their Provisions and Bedding. Saith that, having been taken ill on Christmas Day, she was removed into the Hospital from whence she was some days after removed into the Prison. That this was on *New Year's Day*, and, being again taken ill, was removed back to the Hospital. Saith that, whilst she was in the Hospital, Mr. Hall told her to prepare for Trial, and, whilst she was ill, she got a Clergyman on board to write out what she had to say; that the Clergyman did write it and gave it to Mr. Hall. Never saw Mr. Hall *struck*, only *kicked* by Cath'e McManus. Saith that at one period Mr. Meach had shewed Depon't two Keys, and said he intended to have some one out of the Prison.

ELLEN MEADOWS.

Sworn the 29th Day of May, 1824, before:—

D. WENTWORTH, Supt. of Police; J. BOWMAN, J.P.

ELLEN MEADOWS, *Cross-exam'd by Mr. Rowe;*

Saith that it was dark in the Prison only by a Light from the outside from the free Women's Birth, and Saith that other Women Might have seen Cath'e McManus give Mr. Hall the kick, if they chose to discover it. Mr. Meach was left in charge of Russell during Mr. Hall's absence. Saith she did not see any of the Women touch Mr. Meach. Saith that it was Mr. Gale that called for a Light, not Mr. Meach; he never did; denies that she ever made use of the Words "*don't eat your Words,*" "*Stick to what you have*

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said," at Nettleton's House this Morning before brought into Court. Saith that, when Mr. Meach said he would get some of the Women out of the Prison, it was for his own use only.

ELLEN MEADOWS.

Sworn as before:—

D. WENTWORTH, Supt. of Police; J. BOWMAN, J.P.

ELIZABETH RAE, also a Convict Per Ship Brothers, being sworn. Deposeth, that, on the Night the Disturbance took place on board the Ship, Ellen Meadows came to Depon't and asked her if she would be in it, Meaning to lick the Doctor; that she agreed to do it. Saith She heard a Secret from Cath'e McManus, who was in the Inside of the Prison; that Mr. Hall and Capt. Mottley had hold of her on the outside of the Prison and Deponent and others had hold of her within to keep her in; that Mr. Meach was then in the Inside of the Prison, and called for a Light, which was brought by Mary Smith from the free Place, and it was knocked out by Lydia Gardner. That Mary Smith received a blow on her Arm, given by Lydia Gardner, and Mr. Meach also rec'd a blow in preventing Lydia Gardner from Striking Mary Smith. That then Mr. Meach Called to his Brother to fetch his Pistols as he had nothing to defend himself with. That no Pistols were brought by Mr. Meach's Brother, but Mr. Hall gave Mr. Meach a Pistol in his hand, and Mr. Meach with the Pistol in his hand ordered the Women to their Births and they went. And then Mr. Hall, Capt'n. Mottley came down and ordered the Women, who had been concerned in the Disturbance, on Deck calling them by their Names, vizt. Cath'e McManus, Lydia Gardner, Ellen Meadows, Ann Russell, Catherine Ryan and this Deponent. Saith that they went upon Deck and were confined. And Saith that, during the Disturbance below, the said Ellen Meadows struck Mr. Hall a blow on the back part of his neck. Saith that, whilst they were pulling to get Cath'e McManus clear, some one of the Women took hold of Mr. Meach by the Collar. Saith that no proposal of the kind was ever made to Deponent on Deck, and that Ellen Meadows was the first that Mentioned it to her, and that it never came to her from Mr. Meach. Saith that She did not see Mr. Gale in the Prison that Evening, and, if he had been there, She must have Seen him; Saith that Mr. Meach did not assist in pulling McManus from the Capt'n. and Mr. Hall, but it was afterwards they had rescued her that Mr. Meach took hold of her and told her to go to bed. Saith that Ann Russell, when on Deck on the Passage from Hobart Town to Sydney, said to her that she was very sorry for what she had said; heard Mr. Meach called for a Light both in the Prison and in the Hatchway; Saith that Ellen Meadows told her in the Presence of Mrs. Harman that there was enough Sworn false against Mr. Meach as would hang him. Saith that, whilst in the Coal Hole, the Women were all handcuffed and linked together by one Chain. Saith that she hath heard what Bridget Harman has said in her Deposition, in respect to what had passed between Mr. Hall, herself and Cath'e McManus, as to clearing Mr. Meach, and fully confirms it, and further that she heard Mr. Hall say that if he saw Mr. Meach speaking to any of the Women for them to go boldly in to him.

her
ELIZ. X RAE.
mark

Sworn as before:—

D. WENTWORTH, Supt. of Police; J. BOWMAN, J.P.

BRIDGET HARMAN, being sworn, Deposeth, that She came as a Prisoner in the Ship *Brothers*, and saith that Ellen Meadows said to Deponent that there was as much sworn wrongfully against Mr. Meach as would hang three Men. That it was some time after this Disturbance on board, and before they came to Van Diemen's Land, that Ellen Meadows used this expression, and said it was a Sin to have the Man's Life sworn away falsely, and She mentioned Mr. Meach's Name as the Person alluded to.

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Saith that she was in the Hospital and received much attention from Mr. Hall in his Medical Capacity, heard Mr. Hall say to Cath'e McManus in the Hospital, "go up on Deck and see if Mr. Meach is there to chaise or abuse him wherever he is"; when McManus said she was afraid Mr. Meach would strike her, and Mr. Hall said "No, no, don't be in Dread of that, that's all I want"; that he said the same to Elizh. Rae, but Depon't heard no answer. Saith that she advized Rae not to go, as she had a Father and Brothers of her own, as Mr. Meach appeared more like a Shadow and it is a pity to do any thing to him, as he looked very ill to what he did when he came on board. Saith she hath heard different accounts of the Business, and, from what she hath heard, thinks that more people were concerned in it than Mr. Meach. Saith that the Locks of the Prison were several times opened, but doth not know by whom excepting one Night by the Cook. Never saw Mr. Meach at Night in the Prison. Saith that Mr. Hall had sent for Rae and McManus, and, when they came, the Conversation above stated took place in her hearing.

her
BRIDGET X HARMAN.
mark

Sworn as before:—

D. WENTWORTH, Supt. of Police; J. BOWMAN, J.P.

Cumberland } CAPTN. CHAS. MOTTLEY of the Ship *Brothers*, being
to Wit } Sworn, Saith that after he had suspended Mr.
Meach, he received information from Mr. Rundle (as
he believes) and from Eliz'h Rae, Ellen Meadows, and Lydia Gardner
that Meach had been Implicated in the Disturbance that had
taken place on board his Ship on the Night of the 13th of Decr.
last, and which said Women accused Mr. Meach in Deponent's
Presence, and that of Mr. Davis, Missionary, and Mr. Hall, Surgeon,
of being the original Projector of the Disturbance that had taken
place on board amongst the Women. Saith that, some Days subse-
quent to his having rec'd that Information, he gave Orders to his
Officers and to Mr. Meach not to have any conversation with the
Women on board, and Such Orders were given before their arrival
at Hobart Town and after. Saith he will not positively swear that
Mr. Davis was present when Eliz'h Rae, with the other Women,
accused Mr. Meach, but to the best of his recollection and belief
Mr. Davis was present.

CHS. MOTTLEY.

Sworn as before:—

D. WENTWORTH, Supt. of Police; J. BOWMAN, J.P.

Police Office, }
1st June, 1824 } Before a Bench of Magistrates

Present:—D. Wentworth, Esqr.; J. Bowman, Esqr.; Wm. Wemyss,
Esqr.; Thos. MacVitie, Esqr.; Jno. Oxley, Esqr.; J. T. Campbell,
Esqr.

1824.
24 June.

Magisterial
inquiry into
charges
preferred by
James Hall
against
J. T. Meach.

Mr. Garling appeared as Solicitor for Mr. Hall the Complainant and Calls:—

CATHERINE McMANUS who, being Sworn, Deposeth, that she came out a Prisoner in the Ship Brothers, and Saith that, on the Day Catherine Ryan's Hair was cut off, Mr. Meach came to Depon't, Ann Russell and Ellen Meadows and said it was a d—d Shame for any Woman to be served in the way Ryan had been served, and if they would give the Doctor a damned good Milling he, Mr. Meach, would give them a bottle of Rum after they had done it; that they all agreed to do it, and went down into the Prison; that Ann Russell brought a Light down, which was put out by Lydia Gardner at the Hospital Door; that the Women in the Prison then called for a Light and none came; that they then called for Mr. Hall, who came down and a light bro't into the Prison from the Hospital. That, when Mr. Hall came down, he asked who put the Light out and the Women told him it was Ann Russell. That Mr. Hall went over to her and wanted her to come out, but she would not, and Mr. Hall Struck her on the Arm with the handcuffs and still she would not come out. That Mr. Hall then went out of the Prison and was followed by Six Women to the Gate, where they abused and struck him. That Mary Riley Shouted Murder and Mr. Hall called out for assistance. That Mr. Meach came down into the Prison, after Mr. Hall had been struck, followed by Captn. Mottley; that Mr. Meach was in the Prison when Mr. Hall and Capt. Motley had got hold of Deponent; they were on the outside of the Prison and Dep't was within; that they were pulling at Dep't to get her outside, and Mr. Meach with some of the Girls were pulling her away. Mr. Meach had hold of her round the waist, and at length Dep't got away from Mr. Hall and the Captain; that, after she had got away, Mr. Meach came to Deponent and told her to go to bed and that there w'd be no more about it. That Mr. Hall and the Captain then came into the Prison and bro't 6 of them out and Secured them in the Coal Hole; that the next Morning, Sunday, they were handcuffed and brought on Deck and Mr. Meach came to Dep't and said he hoped she w'd not say anything about it for the Sake of his Wife and Children for, if he was found guilty, he sh'd be taken and hung for it, and, if he saw Mr. Hall in the River and had a Rope, he w'd not give it to him to save his Life. Saith that on Sunday Night they were all put again into the Coal-hole, handcuffed, which handcuffs they broke, and the next Morning were all bro't upon Deck and put into a Dungeon, which had been prepared; were kept there on Bread and Water and without Bedding for five Days and five Nights, and had Leg Irons on, which fastened them all together in one Chain for about 2 Hours. That after the 5 Days they were bro't upon Deck and remained there for some times the whole Day and at others for a few Hours; that the Legs were taken off the same Day they were put on; had not been on more than two Hours; that, when they returned into the Dungeon, had no Irons or Chains on. Saith that Ann Russell was present when Mr. Meach desired them to give the Doctor a D—d good Milling. Saith that, in a subsequent Conversation Mr. Meach had with her, he said he did not care a d—n for the Doctor or the Captain, for he had that in his Pocket which w'd open any Prison, but she never knew him open any Locks or Place or make use of any Keys for any purpose. That what had led to this Conversation was the Circumstance of the Men having got to the Women in the

Prison. Saith, if the Prison Locks were opened, there must have been a Key to open them as they no broken. Saith that Mr. Meach told her and the other Women, when they got the Doctor down, to jump his b——y Guts out and to have no Mercy on him. Saith she did not see Mr. Gale in the Prison nor hear him; heard him call for a Light, but where he was at the time she doth not know; he might be on Deck. Saith that Lydia Gardner said that Mr. Meach had struck Mr. Hall; this was while they were in the Coal-Hole together after they were confined. Saith that Mr. Meach had her round the waist whilst they were pulling her, And that all the Girls had hold of her at the time; that there was no other Man in the Prison but Mr. Meach at this time to the Best of her knowledge; repeats that she did not see Mr. Gale; that there were five Women pulling at her with Mr. Meach. Saith that she never saw Mr. Meach taken hold of by any of the Women that Night, or receive any blows on the face. Saith that she did not put the Light out. Saith that she did not kick Mr. Hall but gave him a blow, but doth not know where she hit him. Did not see Ellen Meadows give the Doctor a blow. Saith she did not hear *Connolly* call out to his Mother to come to Mr. Meach's assistance, and, if he had called out, she must have heard him. Saith that she was in the Dungeon when she gave Information to Mr. Davis against Mr. Meach, and at the time they had their Provisions and Bedding.

1824.
24 June.

Magisterial
inquiry into
charges
preferred by
James Hall
against
J. T. Meach.

her
CATH'E X McMANUS.
mark

Sworn as before:—

D. WENTWORTH, Supt. of Police.

MARY RILEY (a free Woman), being Sworn, Deposeth, that she came with her Mother who is a Prisoner in the Ship Brothers, and that, on the Night the Disturbance took place on board, she saw Mr. Hall coming into the Prison, laid hold of his Arm and cautioned him not to go into the Prison, as she thought something wrong was going on, as the Lights were put out and heard a whispering which was unusual. Saith that Mr. Hall did proceed on to the Prison. That the Girls made up to him, who received some Blows which they gave with their hands, And that Mr. Hall fell; that she saw this from the Glimmering that came from the Free Birth and a Light from the Hatchway. That Mr. Hall Called out and Mr. Meach came down and went into the Prison, and was behind the Girls, near enough to Strike him; might have done so; but did not him strike Mr. Hall; that the Captn. and Mr. Hall were pulling Cath'e McManus out. That Mr. Meach had hold of her by the Waste, the other Women pulling, to keep her back in the Prison; that they succeeded in keeping her in; that Mr. Gale at the time was in the Prison standing by her Birth at the time; that he did endeavour to get McManus out, but saith that he did not assist at the time they were pulling her out but afterwards at the Gate, after Captn. Mottley and Mr. Hall had come down. Saith that hath heard Mr. Meach say that he would knock Mr. Hall's Bl——y brains out; that this took place some time afterwards. Saith it is impossible, from the free Birth, to see what was going on in the Dark in the Prison. That she was with her Mother in her Birth in the Prison; that she was with her Mother in the Prison in her Birth. Saith that She Came down with McManus to Mr. Hall's Lodgings since, but Hath had no Conversation with her on the Evidence she was to give this Day. Saith that she never said to Mr. Meach, "Good

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God, Mr. Meach, I hope you are not hurt," or had any Conversation with or heard his voice that night; that she heard Mr. Gale Calling for Lights, Not Mr. Meach; Saith she hath remained at Mr. Hall's Lodging since she came down.

MARY RILEY.

Sworn as before:—

D. WENTWORTH, Supt. of Police.

THOMAS ROBINSON, Able Seaman on board the Ship *Brothers*, being Sworn, Deposeth, that he knows Mr. Meach, late Chief Officer of the *Brothers*, and hath had no particular Conversation with him since the Night of the Disturbance on board amongst the Women, other than occasionally speaking to him as he passed him. Saith that, since the Ship came to this Port, Mr. Meach came to him on the Main Deck of the *Brothers*, and asked him if he would go down to Cath'e McManus and the rest of the Girls to desire them to deny all that they had said and written down against Mr. Meach, and say that it was all false, and that it was done to lay the blame on Mr. Meach's Shoulders and only to clear themselves. That Depon't went down to the Women and persuaded them to Tell the Truth, which they Said they would. Saith that the Women were not hand-cuffed the first Night they were put into the Coal-Hole, from whence they escaped into the Hold of the Ship. Saith that Deponent and some other Men went down into the Hold of the Ship the Night the Women got out at the Cole Hole.

THOMAS ROBINSON.

Sworn as before:—

D. WENTWORTH, Supt. of Police.

HENRY BLACKSTONE FELL, third Officer of the Ship *Brothers*, being Sworn, Deposeth, that, one Night at the latter End of Decr. last from 6 till 8, there was a Disturbance on board among the Women and a Cry of Murder and a Call for Lights; was not present during the Disturbance between 6 and 8. Saith that 6 Women, whose Names he mentioned, were selected from the Women in the Prison and taken down into the Coal Hole, which was secured by a Chest over it, and some other means. Saith that, after the Women were in the Coal-Hole, Mr. Meach said "if he were in the Women's Places, he w'd give Mr. Hall a Damned good Thrashing and Jump his bl—y Guts out"; That Mr. Meach said, if his Girl was down in the Coal-Hole, he would go to her and that Depon't might go down, for he would keep it Dark. That Dep't went down and found the Girls in the Hold, not in the Coal-hold. That the Hold was not locked, and he might have gone down without Mr. Meach's knowing it or missing him from his Duty. Saith he offered to heave the Log for Depon't. Saith that Mr. Meach had Several Keys in charge, two of which could open the Prison. Saith that, after the Disturbance, he had the Keys from Mr. Meach to let two of the Girls out of the Prison, namely Mary Smith and Hannah Hutchins. Saith that the Night after the Disturbance, in a Conversation he had with Mr. Meach in allusion thereto, Mr. Meach said he was in the Prison and had hold of Cath'e McManus and that Mr. Gale had hold of her also and had tried to get her clear, and desired Gale to let go of her; but that Mr. Gale said "No, what did he come down for"; that Mr. Meach further remarked that Mr. Gale was no Man for not taking her part. Saith that in January he heard Mr. Meach say that when he got to Sydney he would call Mr. Hall out, and, if he did not come out, he would blow his brains out and that for a few Shillings he get some Irishmen at Sydney to throw him over the Rocks; Saith that it was on the 25th of January he gave the

Information first to Mr. Hall, and that his reason for keeping it so long a period was from the Confidence that then subsisted between him and Mr. Meach.

Has sailed with Mr. Meach in the Brothers since the 18th of Novr. and was upon Friendly Terms with him; never sailed with him before; conducted himself as a good Seaman up to the time he was Suspended. Saith that the only time he opened the Prison Gate was when Mr. Meach gave him the Key for that purpose, and with which he opened it in order to bring out from the Prison a female to go into Mr. Meach's Birth. That Mary Smith and Ann Hutchins were the two Women he brought out from the Prison; that Smith was in Meach's Cabin and Hutchins in this Deponent's Birth. That they remained there from about 12 at Night till between 3 and 4 o'Clock in the Morning when Depon't took the two Women into the Prison again and locked them in. Saith that, when he found himself implicated, he gave Information against Mr. Meach as well as against himself.

HENRY B. FELL.

Sworn as before:—

D. WENTWORTH, Supt. of Police.

MR. RICHD. DAVIS, being Sworn, Deposeth, that he came out a Passenger in the Ship Brothers, and saith that, whilst the 6 Women were in the Dungeon in a State of Confinement below at Night, they gave him some Statements to write in reference to the Disturbance that had taken place on board amongst the Women. That the Women gave their Statements in the Hospital, and he and them read them in the Cabin, and, when Eliz'h Rae had nearly finished her account, she was asked by Mr. Hall if she any thing more to say, and then she said that Mr. Meach had assisted her with others in rescuing Cath'e McManus from the Captain and Mr. Hall; and this she said in the presence of this Depon't, Capt. Mottley and Mr. Hall. Saith that Mr. Hall, after the women had been confined in Dungeon for about 4 Days, said to Depon't that he wished him to interfere to prevail with the other women on board to make intercession for the 6 Women in the Dungeon to be released or their Situation made more comfortable. Saith that Mr. Hall suggested this as a kind hearted Man; and saith that the Six Women remained in the Dungeon about a Week without their Bedding and on bread and Water, during which they were brought out every Day on Deck. That Mr. Hall conducted himself more like a Father to the female Prisoners than otherwise; and Saith that this restraint upon the Women was necessarily put on in order to enforce due subordination and Submission on board. Saith he never saw the Women chained together, but heard that they were once. That Ellen Meadows had on the Iron Collar for part of two Days. Saith that the Morning after the Disturbance a Conversation took place with Depon't and Mr. Meach in reference to the Disturbance, and Mr. Meach said he had been nearly Throttled by one of the Women, but doth not know that such a Thing had happened.

That Eliz'h Rae's Statement was made in writing, which had been written by Mr. Hall in her Presence and the words taken down from her Mouth; is not certain how long the Women were in the Dungeon, it be 9, 10, 11, or 12 Days. Some remained a longer time, and others, who were released, got in again for Misconduct afterwards.

RICHD. DAVIS.

Sworn as before:—

D. WENTWORTH, Supt. of Police.

1824.
24 June.

Magisterial
inquiry into
charges
preferred by
James Hall
against
J. T. Meach.

1824.
24 June.

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inquiry into
charges
preferred by
James Hall
against
J. T. Meach.

Cumberland }
to Wit } MRS. MARGARET EMMERSON, a free Woman, now lying
dangerously ill at the Residence of Mr. Abner Brown
at Dawes' Battery, Sydney, Maketh oath and Saith,
that, on the evening the Disturbance took place amongst the Women
Prisoners on board the Ship Brothers, and after such Disturbance was
over, She this Deponent was standing on the Quarter Deck near to the
Steward's Pantry, when Rundell, the then Boatswain, Came to Mr.
Meach, the Chief Mate, and said "Why did you not let the old
d——d b——dy b——gger get a d——d good hiding; he is not fond of
a Woman himself and he won't let us have one"; and this Deponent
Saith Mr. Meach thereupon replied to the said Boatswain that he,
said Meach, would sooner lose his Life before either Captn. Motley
or Doctor Hall should be hurt; and this Deponent further Saith
she verily believes that neither Mr. Meach or Rundell saw her at the
time said Rundell and said Mr. Meach held the aforesaid Con-
versation.

her
MARGARET X EMMERSON.
mark

Sworn at Dawes Battery aforesaid this 28th day of May, 1824,
Before:— THOS. MACVITIE, J.P.

Certificate.

"I hereby certify that Margaret Emmerson, Dawes Battery, is
Seriously ill, and unable to leave her Bed, but in my Opinion in a
perfectly sane state of Mind."

WILLIAM BLAND, Surgeon.

28 May, 1824.

JOHN CONNELLY, a youth aged 17 years, being Sworn, deposeth,
that he remembers the Night of the Disturbance, and during it he
saw Mr. Meach at the Gate of the Prison, at which time he (De-
ponent) was sitting on a Form near his Mother's Birth; he saw
Mr. Meach pulled back into the Prison and Came out afterwards
adjusting his Frill; that he is sure it was Mr. Meach, as he saw
him Afterwards standing on the outside; that he Called out to his
Mother and said "Mother, Come, they are killing Mr. Meach";
Saith that some one had hold of Mr. Meach's Neck Handkerchief
and was in the Act of pulling Mr. Meach backwards; that Anne
Russel told Deponent and his Mother that she knew who had hold
of Mr. Meach by the Collar; did not hear Mr. Meach Call out for
light; Saith that what light there was, was from the Moon and from
a light on the outside.

JOHN CONNELLY.

Sworn the 1st June, 1824, Before:—

D. WENTWORTH, Supt. of Police.

MRS. MARY CONNELLY, being sworn, deposeth that she Came out
free to this Colony in the Ship Brothers, and remembers the Night
of the Disturbance; that She was in her Berth and, when her Son
heard it, he got on the Table, and Saith her Son Called out that
they were killing Mr. Meach; that she got on the table and looked
into the Prison, and saw Mr. Meach Coming out; that he Called for
a Light and put his hand up and, as She thinks, put his Hand to the
frill of his Shirt. Did not see any Woman pulled out or thro' the
gate that Night by the Captain or Mr. Hall; remained in bed being

unwell and heard no more; confirms what her son stated in respect to what Anne Russel said to her about her knowledge of the Woman who had hold of Mr. Meach by the Collar.

1824.
24 June.

her
MARY X CONNELL.
mark

Magisterial inquiry into charges preferred by James Hall against J. T. Meach.

Sworn the 1st June, 1824, Before:—

D. WENTWORTH, Supt. of Police. WM. WEMYSS, J.P.
J. T. CAMPBELL, J.P. EDWD. RILEY, J.P.
J. BOWMAN, J.P.

The Court do not find either of the Charges of Mutiny or Conspiracy or Assault established by Evidence, and therefore Order this Matter to be dismissed. And Do adjudge that the Defendant is entitled to his Costs.

D. WENTWORTH, Supt. of Police. WM. WEMYSS, J.P.
J. T. CAMPBELL, J.P. EDWD. RILEY, J.P.
J. BOWMAN, J.P.

True Copies Compared with the Originals:—

D. WENTWORTH, Supt. of Police.

Exd.:—M. ROBINSON, P. Clk.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 18, per ship Mangles; acknowledged by Sir Thomas Brisbane, 27th January, 1825.)

Sir, Downing Street, 25th June, 1824.

25 June.

In consequence of some favorable circumstances, which have been represented to His Majesty on behalf of Mathew Exley, who was convicted of felony at the Salford Sessions in the County of Lancashire in the month of January, 1818, received sentence of Transportation for life, and was sent to New South Wales in the Ship Glory, I am to desire that, on the receipt of this Letter, you will grant to the Prisoner a Free Pardon.

Free pardon to be granted to M. Exley.

I have, &c.,
BATHURST.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch marked "Private," per ship Mangles.)

My dear Sir, Downing Street, 26th June, 1824.

26 June.

The exceeding great inconvenience, to which we are daily put by being obliged to have recourse to private Individuals for any information connected with the Colony of New South Wales contained in the Sydney Gazettes, induces me to press upon you, in addition to Lord Bathurst's Official Dispatch, dated the 31st May, the necessity of your transmitting to us by every opportunity a regular series of that paper. The Colonial Office is in possession of them down to the end of the year 1821, since which period, owing to some oversight or neglect, they have not been transmitted to us. It will therefore be incumbent upon you to procure if possible all the numbers that will be wanting to make the set complete from the beginning of the year 1822 down to the

Necessity for transmitting copies of Sydney Gazette.

1824.
26 June.

Copies of
orders and
proclamations
to be
transmitted.

period, at which you may commence to forward them regularly in compliance with Lord Bathurst's Instructions above alluded to.

You will also excuse my mentioning that you should communicate Officially to Lord Bathurst every public notice, Regulation, or order, which may be put forth as Government Ordinances, and that the fullest Information should be furnished at the same time as to the Grounds of their adoption. I have, &c.,

R. W. HORTON.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch marked "No. 15 of 1824." per ship Countess Dalhousie.)

Government House, New South Wales,

1 July.

My Lord,

1st July, 1824.

Promulgation
of new charter
of justice.

I do myself the honor to acquaint Your Lordship that the new Charter of Justice* having arrived in the Colony its due promulgation took place on the Seventeenth of last May.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.

(Despatch marked "Private," per ship Countess Dalhousie.)

Dear Sir,

G. H'se, N. S. Wales, 1 July, 1824.

Proposed
reference to
Brown.

I have ventured to take the liberty of giving the Bearer Mr. Brown, who has fixed himself here as a Merchant within these last 2 Years, this introduction, in case you might wish to obtain any local information for yourself or Lord Bathurst, as Mr. Brown is a Gentleman of the first respectability, some of whose Family I have known myself, possessing every necessary qualification to afford you elucidation in any points connected with the efforts, resulting from measures adopted by the local Government here, touching their probable consequences as being beneficial to the Colony ultimately or the reverse. I have considered it could not be unacceptable to you to learn them from Individuals competent to afford them, as I shall be most happy to receive such instruction, founded on such grounds, as will enable me to modify my arrangements here so as to render them in the highest degree beneficial to the State.

Improvement
in social
conditions.

I think I may venture to assert, without the fear of contradiction, that three great objects are now in progress viz. the diminution of Crime and advance of Morality; the improvement of the Country; and the decrease in the expenditure; but I shall soon be enabled to speak more confidently as to the first as I have directed a return to be prepared for me of all the Trials, Condemnations and Executions which have taken place since 1820, and the current year, both inclusive.

* Note 67.

I am not satisfied in my own mind that considerable deceptions are not employed in obtaining orders for large Grants of Land in consequence of fictitious representations of Capital. I should therefore take the liberty of suggesting, in order to frustrate this, that the Individual should be required to purchase a quantity of Land, equal to what He solicits the grant of, at one Dollar per Acre payable in 3 Years; that no grant should be made to Him until the last instalment should be paid, which would operate as a pledge of his real object in cultivating and improving the Land, and certainly will never bear hard on the Individual. Perhaps I shall feel myself called upon to bring the matter officially before Lord Bathurst. I think the sale of Lands by the Crown under certain regulations, which I shall hereafter submit, would not only yield a large revenue but put down the traffic in land, as few Persons would choose to purchase it with a questionable title who could obtain it with a good one. I am of opinion that 100,000 Acres of Land might annually be sold at one Dollar per Acre, which would materially aid in the reduction of the expenditure.

1824.
1 July.Proposed
restrictions on
land grants to
free settlers.

I am happy on this occasion to have it in my power to express that I consider the arrival of the Chief Justice, Mr. Forbes, as a real blessing to the Colony, and Society at large begins to recover its long lost tone already. The Attorney General also gives me the utmost satisfaction.

Arrival of
F. Forbes and
S. Bannister.

I trust you will pardon the freedom of these intrusions.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Lang; acknowledged by Earl Bathurst, 7th January, 1825.)

Government House, New South Wales,

My Lord,

8th July, 1824.

8 July.

In consequence of the very great inconvenience, which is felt here, for the want of communication by water with the different settlements of this Colony, and the great injury which results to the public Service, by which our exertions are almost paralyzed, I am induced to urge Your Lordship strongly to send out two Vessels, one of about 150 tons and the other of 100 tons burthen, Cutter or Schooner rigged, of as light draft of water as possible. I should conceive the small class of Berwick Smacks a very desirable Vessel, or some of the Revenue Cutters, not of too sharp a build, would answer very well, to be each commanded by a Lieutenant or Naval Officer and the Men on King's pay, furnished with not less than four guns each; and I should

Shipping
required for
the colonial
service.

1824.
8 July.

Prevention of
smuggling.

imagine that many of these might be found which may have run a few years, and then, undergoing a thorough repair, would be perfectly suitable for the purpose as the object being to combine stowage with a fair rate of sailing. These Vessels might be loaded out with Iron and other stores as might be required here. I am quite confident that these Vessels would very soon pay their own expence from the prevention of smuggling, exclusive of the advantage of transport to the Crown; and the Lieut. Governor of Van Dieman's Land reports the total failure of the Revenue from this cause, I should therefore request that a third Vessel of the smallest class might be sent also for that Settlement.

Difficulties
experienced
from want
of shipping.

I have to report for Your Lordship's information my being unable to prosecute the farther exploring the River, lately discovered in Moreton Bay, from the want of conveyance for the Surveyor General; although I have given public notice for tenders for this purpose, none have offered, and the Settlement of Port Macquarie has now above 1,500 prisoners many of whom it becomes absolutely requisite to remove further North. I am unable at this moment to give effect to the Sentences of the Criminal Court from the want of means to convey these culprits from the goal agreeable to their Sentences. These circumstances, joined to the impossibility of finding a Vessel to purchase here, induces me to press the favourable consideration of this important subject.

My Lord, I have, &c.,

THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 19, per ship Grenada; acknowledged by Sir Thomas Brisbane, 28th January, 1825.)

12 July.

Sir,

Downing Street, 12th July, 1824.

Land granted to
C. S. Rumker.

I have had the honor to receive your Dispatch, dated the 15th November, stating the circumstances under which you had made a Grant of one thousand Acres to Mr. Rumker,* whom you had employed to assist you in your scientific Pursuits, which Grant you are now desirous of revoking in consequence of his having withdrawn his assistance the moment he obtained possession of the Land, to the improvement of which he has since given up the whole of his attention. I have on several occasions had to impress upon your Predecessor, and the same instructions have been renewed in the Dispatches which I have had the honor of addressing to you, that no grant should be made to any Individual by way of Reward, independent of the consideration whether he was possessed of Capital and the means of employing it usefully in the Improvement of Land.

No lands
to be granted
as rewards.

* Note 39.

In the case of Mr. Rumker, you appear to have given him a Grant to the amount of a Thousand Acres, in consideration of the Services and Assistance which he had rendered to you personally in the prosecution of scientific objects, and in the expectation that he would continue to attend to those pursuits. Although these services are not strictly of a public nature, except so far as the promotion of the science of Astronomy deserves to be so considered, yet if Mr. Rumker had sufficient Capital to bring the Land into Cultivation, either by himself or another person, there would be no objection to his receiving this Grant; but the Land having been once granted to Mr. Rumker, I regret that I cannot comply with your Request of Resumption, merely on account of his having, contrary to the promise which he made to you previously to receiving the land, given up every other pursuit to that of attending to the improvement of his Farm.

I have, &c.,
BATHURST.

1824.
12 July.

Refusal of
request for
resumption of
C. S. Rumker's
land grant.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 20, per ship Grenada.)

Sir, Downing Street, 13th July, 1824.

13 July.

I do myself the honor to acquaint you that a Company* has been formed with a view to purposes of Agriculture generally in the Colony of New South Wales, but more particularly to the rearing of flocks of Sheep of the purest and finest Breed. His Majesty has been pleased to approve the formation of this Company from the Impression that it afforded every reasonable prospect of securing to that part of His Majesty's Dominions the essential advantage of the immediate Introduction of a large Capital and of Agricultural Skill, as well as the ultimate benefit of the increase of fine wool as a valuable Commodity for Exportation, to the production of which the soil and Climate of New South Wales appears so peculiarly adapted.

Formation of
Australian
Agricultural
Company.

Approval
of company.

You will perceive by the Act of Parliament, which I herewith have the honor to enclose, the terms on which the legislature has thought it expedient to provide for the Interests of this Establishment, under the title of the "Australian Agricultural Company," and which is to be incorporated by a Charter already in preparation; but, although this Document will not be ready to forward by the present opportunity, I am unwilling to delay communicating to you the favorable disposition with which His Majesty's Government have entertained the proposals of the Company, which appear so exactly to correspond with the recommendation† which Commissioner Bigge gives in his Report for the future advancement of the Agriculture of the Colony.

English
statute for
formation of
company.

1824.
13 July.

Facilities to be
given to agents
in selection of
land for grant.

I shall communicate to you more fully on the subject, when the Copy of the Charter is transmitted, and when I shall have the honor of conveying to you His Majesty's Commands for the Allotment of the Grant. But it is of the utmost importance that no time should be lost to enable the Company to commence those enquiries and that Examination, which will be indispensable before the selection of a Tract of Land can be made suited to the various and important objects of their undertaking. I have therefore to desire that you will afford every facility to those Gentlemen, who may be authorized to make the necessary Arrangements in the Colony and to collect information, previous to the arrival of their Agent and the Commencement of more active operations.

Proposed
location
of grant.

I informed the Deputation of Gentlemen,* who first applied to me on this subject, that, from the Accounts I had received, it appeared to me that there was a tract of Land situated between the Blue Mountains and the River Hastings, which would be very eligible from the goodness of the soil and the convenience of water Carriage for the particular objects of the Company.

It will of course be necessary, previous to the allotment of the Grant, that the Surveyor General should complete a Survey of the Country; and as it is probable that the Tract to which I have alluded may prove particularly suited for Agricultural purposes, I am to desire that no delay may occur in the Commencement of the Survey in question, as it is desirable that the Agent should be put in possession of the Grant as soon as possible after the situation has been decided upon.

Assignment
of convicts to
the company.

As the number of Convicts, that will be required by the Company, will tend to decrease most materially the great Expenditure which their maintenance annually causes to the public, if retained on the hands of the Government, I have to desire that you will pay attention to those applications for Convicts that you may receive from the persons, who are authorized to act on the part of the Company; at the same time you will not consider yourself as called upon to part with those Convicts, whose Services may be absolutely necessary for the exigent purposes of Government, or to deny to private Settlers that average accommodation of Convict labour, which they have been in the habit of receiving; and if you should ever have reason to believe that all the Convicts will be so disposed of, you will take Care to apprise H.M. Government at the earliest period of the probability of that contingency.

I have, &c.,

BATHURST.

[Enclosure.]

[This was a copy of the English act of parliament, 5 Geo. IV, cap. lxxxvi.]

* Note 68.

EARL BATHURST TO SIR THOMAS BRISBANE.

1824.
18 July.

(Despatch No. 21, per ship Henry; acknowledged by Sir Thomas Brisbane, 7th March, 1825.)

Sir, Downing Street, 18th July, 1824.

I enclose you the Copy of a Letter, which has been transmitted to my Under Secretary from the Home Department at the desire of Mr. Secretary Peel with its Enclosures. The postscript of the Enclosure states that it had been transmitted "with your perfect sanction and approbation." Under these circumstances I must consider that you acknowledge the substance of it to be correct, and I have no other alternative under this impression than to direct the immediate dismissal of Dr. Douglass from the Magistracy. At the same time I must express my regret and surprise that you should have suffered a Letter of that nature to be addressed to the Secretary of State for the Home Department without making any sort of Communication to me on the subject, or enabling me, through your means, to form any opinion of the merits of the Case.

Transmission
of letter re
H. G. Douglass.H. G. Douglass
to be removed
from
magistracy.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

UNDER SECRETARY HOBHOUSE TO UNDER SECRETARY HORTON.

Sir, Whitehall, 29th June, 1824.

I am directed by Mr. Secretary Peel to transmit to you, to be laid before Earl Bathurst, the inclosed Copy of a Letter from the Revd. Samuel Marsden relative to a dispute, in which he has been involved with a Magistrate of Paramatta, called Dr. Douglass.

Dispute
between
H. G. Douglass
and
Rev. S. Marsden.

If Ring, the Convict named in it, should be found at large in England, Mr. Peel will bear this representation in mind. He merely communicates the letter to Lord Bathurst, because he deems it right that His Lordship should be apprized of the Relation, in which two persons of some importance in the Colony stand to each other.

I am, &c.,

H. HOBHOUSE.

[Enclosure No. 2.]

REV. SAMUEL MARSDEN TO THE RIGHT HONBLE. ROBERT PEEL.

Sir, Parramatta, 28th January, 1824.

It is with much diffidence I address the following lines to you. As I am a perfect stranger, nothing but a painful Sense of duty would have induced me to have taken this liberty, a duty which I owe to an unfortunate young man named James Ring, whose case I shall now state. James Ring is a native of Middlesex, by Trade a Painter and Glazier. He was tried at Newgate

Statement of
Rev. S. Marsden
in the case of
James Ring.

1824.
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Statement of
Rev. S. Marsden
in the case of
James Ring.

in April, 1815, and sentenced to be transported to New South Wales for life, where he arrived in 1816 by the Ship *Mariner*. His conduct, from his arrival to a late period, was exceeding good; upwards of two years ago, he was assigned to me by the Colonial Government, and lived in my family as a confidential and trustworthy Servant; on the 12th of last May, I was in the interior on duty; when I returned home, I found James Ring was in Gaol under a charge of being at large contrary to the Colonial Regulations. In consequence of the good conduct of Ring, I had given him permission to do small jobs in his own trade in the Town of Parramatta, when his Services were not immediately required in my house. As he was at home every day, I knew there could be no just grounds for this charge, and that James Ring had not committed the smallest Offence. I therefore applied to the Magistrate for his release, not doubting but my application would be immediately complied with; but this was unexpectedly refused, altho' no other offence was alleged or attempted to be alledged against him. I therefore waited upon His Excellency Sir Thomas Brisbane and requested his interference. His Excellency promised he would speak to the Magistrate Dr. Douglass on his behalf, and I believe he did; but my Servant was still detained in Gaol, and I was summoned to attend the Bench of Magistrates on Saturday, the 17th of May, on the same business. When James Ring was brought before the Bench, I informed the Magistrate that he was my assigned Servant, nor did I know that he had ever been one day out of my Service; He lived in my family; I had, as an indulgence for his good conduct, allowed him to do small jobs in the Town of Parramatta as a Painter for his own Emolument, and that he had my permission, when he was absent from the house any part of the day, and, since he had done no wrong, I begged he might be returned to my Service. Dr. Douglass replied he would send him to Gaol again. As I knew he would be punished innocently, I offered my security for his release rather than he should return to prison. The Magistrate said he would take no security, but to the Gaol he should go, and further asserted that I had been guilty of a breach of the Colonial Regulations by granting the above indulgence to Ring. As I had acted as a Magistrate for more than Twenty years in the Colony, I knew there were no Colonial Regulations prohibiting any Master from granting the above indulgence to his Servant.

The Magistrate further observed that the Bench would fine me 2s. 6d. for every day James Ring had been absent from my service. I contended if I had done wrong in granting this indulgence to Ring, yet he had done no wrong having acted under

my Sanction; but I denied that he had been absent even one day; no attention was paid to my Statement, and the Bench fined me 2s. 6d. for every day as stated above, without proving that he had ever been absent one day or specifying the number of days, and James Ring was sent to Gaol again. I considered myself treated with great Indignity in being brought before the Bench, in the presence of the Convicts and others to whom I had to preach the following day; my rank as Senior Chaplain of these Settlements, and long residence of more than thirty years in the Colony, ought to have secured me from this insult, unless I had offended against the Colonial Laws; and I felt much hurt for my Servant that he should be punished for my kindness to him, which his good conduct merited for the last seven years. Ring was afterwards moved from Prison to the Convict Barrack, and prohibited from Coming to Church on the Sabbath-day, tho' he had been one of the Singers, and ordered to work in the Gaol Gang, the most degrading of all Situations in the Colony, until he was removed to Sydney Convict Barrack. From one persecution and another, and from constant fear of future punishment, he was driven to despair, and at length in July he made his escape out of the Colony, and will probably be hung, if found at large in England, having been previously transported for life. I consider his case extremely hard, for he had not offended; he was useful and happy in my Service and much esteemed for his correct moral conduct; and now he may be for ever ruined. On the 28th May, I was convicted a second time in the additional penalty of £10, on the same plea of having granted permission to James Ring to do jobs for his own emolument in Parramatta. At this Conviction, there was no Information or Evidence brought before the Bench, nor had I any notice of the new charge in the Conviction before I received the order of the Magistrates, dated as above, to appear before them on the following Saturday and to pay the Sum of £10 2s. 6d. awarded against me by the Bench. I attended agreeably to the Summons, protested against the justice of their decision, and refused to pay the fine, as I had done no wrong nor violated any Colonial Regulation. Dr. Douglass gave me a warm lecture for presuming to question the legality of the award, and refusing to obey the Order of the Bench. This lecture was very insulting and galling to my feelings from a young man merely to Shew his Magisterial authority and to degrade me in the eyes of the surrounding multitude. This took place on the 30th of May. On the 7th of June, a Convict Constable entered my house with a Warrant of Execution and levied the Fine by distress and Sale of my property. As I knew I had not offended in the smallest degree against any

1824.
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Statement of
Rev. S. Marsden
in the case of
James Ring.

1824.
18 July.
Statement of
Rev. S. Marsden
in the case of
James Ring.

Colonial Law, I appealed by an Action at Law to the Supreme Court for redress and recovered the amount of the Fine with full Costs of Suit. The Principal Magistrates of the Colony attended the Trial, and proved unanimously that I had not, in the indulgence granted to Ring, violated any Colonial Regulation.

The Magistrates could not punish me personally farther than by fining me and depriving me of the Services of a faithful Servant; but, James Ring being a Convict, he was in their power. I feel exceedingly for Ring. Should he return to England and fall a Sacrifice to the Law, I should never forgive myself, unless I used every means in my power to Save him; my anxiety for him suggests that the above Statement of facts might have some influence with the executive authority to save his life, if the circumstances of his case could reach the throne of mercy, which, I am anxious to solicit in anticipation for him, may never be wanted; but, if it ever should, I did not know any medium thro' which it might more easily flow than thro' the channel of your Office, where all reports of Convict Felons are made. I rely upon your goodness to pardon the liberty I have taken in addressing you on the above subject, and hope I shall not plead in vain, if Ring should ever want a Friend to save his Life.

I have, &c.,

SAM'L MARSDEN.

N.B.—I presented this Letter to His Excellency The Governor, read it to him, and it is with his perfect Sanction and approbation I forward it to you.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Henry; acknowledged by Sir Thomas Brisbane, 13th May, 1825.)

Sir,

Colonial Office, 18th July, 1824.

Application
in favour of
G. Wesson.

I am directed by Earl Bathurst to transmit to you the enclosed Application in favor of a person named George Wesson, whose period of punishment appears to have expired, but who is destitute of the means of returning home. His Lordship requests that you will cause Enquiry to be made into the Circumstances of this Man's Case, and, if you find his Character to be as represented, you will afford him any reasonable facilities to enable him to join his friends.

I have, &c.,

R. W. HORTON.

[Enclosure.]

[A copy of this paper is not available.]

MR. ADAM GORDON TO SIR THOMAS BRISBANE.

1824.
19 July.

(Despatch per ship Henry.)

Sir, Downing Street, 19th July, 1824.

Application having been made to Earl Bathurst on behalf of Mr. George Frederick Charles Roberts, who has been in possession of a certain portion of Land under the authority of the late Governor Macquarie, but which land was never formally assigned to Mr. Roberts, I am directed by his Lordship, in the absence of the Under Secretary, to request that you will duly confirm the land in question to Mr. Roberts, should it not appear objectionable and in the event of its not having been already done.

I am, &c.,

ADAM GORDON.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 22, per ship Henry; acknowledged by Sir Thomas Brisbane, 13th March, 1825.)

Sir, Downing Street, 20th July, 1824.

20 July.

I have received from Captain King of the Royal Navy, lately occupied in making an Admiralty Survey of the North and Western Coasts of New South Wales, a Letter of which I now transmit to you a Copy.

In this Letter, he transmits to me a Series of Correspondence between you and himself, and a Letter from the Colonial Secretary upon the Subject of a Grant of Land* contiguous to the property he now possesses, which it appears from your Letter to him, dated the 26th July, 1822, you not only granted, but in that Letter expressed yourself in very strong terms as to his Claims both as a Settler and on account of his Services. Although of the latter point I do not approve unless such persons have a sufficient Capital or Stock to promote the general Interests of the Colony, yet, in the instance before me, that objection cannot apply since it does not only appear that Captain King has expended a Considerable sum in Improvements, on what he already possesses, but, from the encrease of his Stock, he must either dispose of a Portion of that Stock or extend his property.

I cannot doubt, from the respectability of Captain King's character, that his circumstances fully justify an Extension of his Grant, and encouragement to such individuals is one of the main points which I have already upon many occasions impressed upon your attention.

If, as Capt. King asserts in the concluding paragraph of his Correspondence, you have refused to fulfil the promise made in your Letter of the 26th July, and subsequently confirmed by an

* Note 70.

1824.
20 July.
Alleged reasons
for refusal of
land grant.

Official Communication from the Colonial Secretary on the 23rd September following, because he had given a Passage to Mr. Hall, a Surgeon of the Royal Navy, who had communications to make connected with certain occurrences in the Colony and was supposed to have taken part in the disputes that existed on that subject,

I have to request that you will supply me with the fullest information of the detailed reasons, which induced you to withhold a Grant upon such terms. Of such interference on the part of Captain King, this Department is entirely ignorant. I have therefore to signify to you His Majesty's pleasure that, unless there are reasons gravely affecting Capt. King's Character, you forthwith confirm to him or to his Agent in the Colony the Grant of 1,500 Acres of Land, which was promised by you to him and described in Major Goulburn's letter of the 23d September, 1822, subject however to the terms of the new System with regard to Quit Rents.

I have, &c.,
BATHURST.

Land grant to
be confirmed.

[Enclosure.]

CAPTAIN P. P. KING TO EARL BATHURST.

My Lord, Admiralty Office, 22nd June, 1824.

I trust your Lordship will pardon the liberty I take in troubling you with the following communication, to which I respectfully beg the favor of your attention and of your consideration of the documents, which I do myself the honor to enclose.

Application of
P. P. King for
permission to
purchase land.

At the termination of the long and arduous Survey of the Northern Coast of Australia, in which I was employed for nearly five years under Your Lordship's auspices, and upon my preparing to quit the Colony of Port Jackson for Europe, I made an application to His Excellency Sir Thomas Brisbane to be allowed to encrease the land I possessed by the purchase of some Crown Lands contiguous to my Estate, or to have them reserved for me in the event of my being absent from the Colony when they were given up by Government.

The only Grants, I have in New So. Wales, are two of Six hundred Acres each, but that quantity, being wholly insufficient for the Stock which I possessed, I found it absolutely necessary to Sacrifice a part in order to purchase land to depasture the remainder. May I beg the favor of Your Lordship to refer to the accompanying document No. 1, and Sir Thos. Brisbane's Reply No. 2, in which he so liberally assents to my proposal, handsomely alludes to the services I have performed, and

concludes by offering me a Grant of Land to the amount which I proposed to purchase, Vizt. 3,000 Acres from any unlocated part of the Colony. These documents will put Your Lordship more immediately in possession of my Case.

1824.
20 July.

Proposed
land grant for
P. P. King.

No. 4 is an Extract from a Note, which Sir Thos. Brisbane addressed to me upon the application of a Mr. McHenry for a piece of the land, which I had previously selected as a part of the Grant above mentioned, and which upon my application the Governor confirmed to me on account of my prior claim, but advised my taking only a Ticket of Occupation for the present, in consequence as I understood of the Bonds that were attached to the Grants that were then issued, assuring me at the same time that he would preserve it for me and that I might at any future time take up the Grant.

No. 5 is a Copy of a letter, which I received from Mr. Hall applying for a passage to England, which I communicated to the Governor and Major Goulburn, and, as both expressed pleasure at the opportunity thus afforded him, I assented.

Application
from J. Hall
for passage
to England.

No. 6 is the Ticket of Occupation given to me, and if Your Lordship will do me the favor to read the last paragraph of a Memorandum, which I have annexed to the Correspondence, you will see that the land above alluded to has been again taken away in consequence of some enemies of mine having persuaded the Governor that I had deceived him with respect to my return to England, for that, instead of going by the way of the Cape of Good Hope as I had reported it to be my intention, I was going by Cape Horn in order to facilitate the arrival of Mr. Hall in England on purpose "to let him have an opportunity of telling his story first."

Resumption
by governor of
land occupied
by P. P. King.

I was informed of this circumstance more than ten months ago, but waited until I should hear whether Sir Thos. Brisbane would not revise his decision, upon finding that I had not acted with that duplicity, which by false reports he was so easily persuaded to think me capable of. The arrival of the Competitor, however, brings an acknowledgment of the receipt of my letter from the Cape of Good Hope, by which my route was made known; but, as the letter addressed by the Colonial Secretary on the 12th of October to the Superintendent of my Estate, resuming to the Crown the land granted to me by the Ticket of Occupation, *still remains in force*, I am immediately obliged to submit my Case to Your Lordship's Consideration.

Without wishing Your Lordship to interfere in any way with Sir Thomas Brisbane's resumption of the land, which he gave me, I merely throw myself upon Your Lordship's consideration of my

1824.
20 July.
Appeal to
Earl Bathurst.

Services, and respectfully pray either for the indulgence of a Grant, or being allowed to purchase three thousand acres of that part of the Rooty Hill establishment, which is contiguous to my land, to be paid for by instalments in the Colony in Beef, as it is my intention, after having Completed my present occupation at the Admiralty, to return to the Colony of New So. Wales, my property there being the only resource I have to maintain a large family entirely dependent upon me.

I have, &c.,
PHILIP KING, Comm'r, R.N.

[No. 1] To HIS EXCELLENCY SIR THOMAS BRISBANE, K.C.B.,
ETC., ETC.

Sir, Parramatta, 22nd July, 1822.

Application of
P. P. King for
additional land.

I beg leave respectfully to address Your Excellency upon a Subject that materially concerns me as a Stock holder in this Country, and which will not I trust be considered as premature on my part or trespassing too much upon the uniformly polite and kind attention with which Your Exc'y has honored me on every occasion.

At the termination of an anxious and laborious service, which has occupied the greater part of the last five Years, and which has been performed, as Your Exc'y is aware, under the Orders both of the Secretary of State for the Colonies and the Board of Admiralty, I am about to proceed to England; but in the present State of Europe and my health having been much affected by the fatigues of my late employment, as well as from other motives, I promise myself the satisfaction of retiring from a public life to devote myself entirely to the cultivation and improvement of my Estates in this Country, to the particulars of which I now beg to request Your Exc'y's attention.

In 1806, my father granted me a farm* of Six hundred and Sixty Acres on the South Creek, adjoining the Rooty Hill river; and about two years since, the late Governor gave me Six hundred more, which is all the assistance that I have had from Government. These lands, from the circumstance of my Stock concern being united with those of my Mother and Sisters, together with the advantage of a large Government run being open to us, in common with our neighbours, have enabled me hitherto to keep up the Stock, and bring forward a considerable increase which now amounts to the following number; *Horned Cattle*, 850, *Horses*, 40, *Sheep*, 1,800, *Swine*, 100. I have also three hundred Acres cleared of timber, One hundred Acres in cultivation, and twenty Acres laid down in artificial grasses. I employ, free of

* Note 70.

any expence to the Government, from thirty five to forty men and have supplied the Government Stores for the last four Years in the following proportions:—

In 1818	48,000 lbs. of Beef.
1819	51,000 „
1820	35,000 „
1821	89,000 „

1824.
20 July.

Application of
P. P. King for
additional land.

Upon the improvement of these Estates I have laid out upwards of £2,000, and last year I purchased fine-wooled Sheep from Mr. McArthur's flock to the amount of £700.

Being now, from the extension of Grants in my neighbourhood, excluded from the depasturage of those Crown Lands, I am compelled either to decrease my Stock or increase my lands by purchase, and from Your Exc'y's well-known desire to promote the agricultural interests of those Settlers, who are making permanent improvements, I am induced to request Your Exc'y's consideration of the following proposal.

The future possession of the land at the back of my farm (colored yellow on the plan) situated at the West extremity of Rooty Hill run, and bounded on the north and south by Doctor Harris and Major Druitt's farms, is of the greatest consequence to me, as it involves the welfare of my future exertions and is absolutely requisite for the increase of my Sheep. Your Exc'y will therefore do me a great favor by securing to me the reservation for purchase of this land, in the event of Government giving up or diminishing the Rooty Hill establishment.

As this tract may possibly be given up during my absence, and the lands located to some other individual before my return, I should trust Your Exc'y will excuse this application, which I am apprehensive may be premature, and attribute it solely to a consideration of a duty I owe my family and an earnest desire to improve the best means I have of providing for them.

I beg leave most respectfully to subscribe myself, &c.,

PHILIP P. KING.

[No. 2] To CAPT. P. P. KING, R.N.

Government House, Parramatta, New So. Wales,

My dear Sir,

26th July, 1822.

I have only this morning been favored by Your letter of the 22nd Inst., together with the enclosed Sketch of yours and neighbouring property, and I beg to assure you it will afford me real pleasure, whenever I may have it in my power, to comply with your request, because I consider your claim more legitimate than any other individual in this Colony, arising not only from your laudable exertions as a Settler, which claim alone would

Compliance
with
P. P. King's
request.

1824.
20 July.
Compliance
with
P. P. King's
request.

in my opinion justly entitle you to the indulgence you solicit, independent of the strong claim you must ever have of the utmost consideration as a Public Officer, who has rendered distinguished Service to the Colony, as well as permanent benefit to the Mother Country, by Your valuable Surveys; from either of which services, I consider you are fully entitled to the request you now make, and which I shall order to be reserved for You, in the event of Your absence and of the Government establishment being done away with at Rooty Hill; or should that not take place you are at full liberty now to fix on any unlocated land to the extent you propose, which I will confirm to you by Grant at pleasure, and wishing you every success in the continued improvement of the Soil.

I remain, &c.,

THOS. BRISBANE.

A true Copy.

[No. 3] TO HIS EXCELLENCY SIR THOS. BRISBANE, ETC., ETC., ETC.

Sir,

Parramatta, 27th July, 1822.

I cannot wait for a personal interview with Your Exc'y without immediately returning to you my sincere and best thanks for your very kind answer to my letter, respecting the reservation of the land, and for the handsome manner in which you have mentioned my exertions and my services.

The approbation of my Superiors is a sufficient remuneration to me for any services I have rendered, or ever may have to perform. I therefore find myself inadequate sufficiently to express to Your Exc'y my gratitude for your flattering approbation of my humble exertions, accompanying Your Exc'y's liberal grant of lands, as well as for having acceded to my request relative to the reservation of that part of the Rooty Hill run at the back of my farm; believe me, Sir, I feel truly obliged.

I am, Sir, &c.,

PHILIP P. KING.

[No. 4] TO CAPTN. KING, R.N., 30TH AUGUST, 1822.

"Extract."

Application of
J. MacHenry for
land reserved
for P. P. King.

I SEND you an application, made by Mr. McHenry respecting some lands he solicited from me; but, previous to giving him any reply, I am desirous of learning your wishes whether you are desirous of them or not, because of course you have a prior claim. Pray return me the enclosure and believe me Yours most faithfully,

A true Copy.

THOS. BRISBANE.

To the above letter, I replied by explaining to the Governor that I had pointed out the land to Mr. Oxley, the Surveyor General, nearly a fortnight previous to Mr. McHenry's application,

which was dated the 7th of August, and my application was made two days after the Governor's offer of a Grant in his letter of the 26th of July.

Immediately after this Sir Thomas Brisbane took an opportunity of advising me not to take up the Grant of land at present (evidently alluding to the Bonds attached to them), that he would give me a Ticket of Occupation, and that I might depend upon its being preserved for me. That, having the Ticket, no person could occupy the lands to my disadvantage, and that they would be perfectly safe and secure to me.

[No. 5] TO CAPTAIN KING,

H.M.S. Bathurst, and Senior Officer in New So. Wales.

Sir, Sydney, 19th Sept., 1822.

The peculiar circumstances, which prevented my departure in the Ship Shipley, being now removed, I conceive it my duty to represent to you that my further delay in the Colony would be in disobedience to my orders, as long as any opportunity exists of enabling me to return to England and completing the service in which I have been employed.

I have therefore to request, Sir, you will be pleased to allow me to take a passage to England in His Majesty's Ship Bathurst under your Command, if such an indulgence be not disagreeable to you nor prejudicial to the good of His Majesty's Service.

I have, &c.,

JAMES HALL, Surgeon, R^l Navy.

The contents of this letter were immediately communicated by me to Sir Thomas Brisbane, who expressed both pleasure and satisfaction that Mr. Hall should have an opportunity of going to England with me, and several letters, as I understood, passed between the Governor and Mr. Hall in which the subject was directly alluded to.

The day previous to my Sailing, I received the following Ticket of Occupation from the Colonial Secretary for the 1,500 acres marked red upon the plan.

[No. 6] TO CAPTAIN P. P. KING, ETC., ETC.

Sir, Colonial Secretary's Office, 23rd Sept., 1822.

I am commanded by His Exc^y Sir Thomas Brisbane to convey to you his sanction for your occupation of all the land hereinafter described for the use of your flocks and herds as a grazing run, until such times as Government may chuse (six months notice being previously given) to revoke this indulgence and resume the possession to itself.

1824.
20 July.

Application of
J. MacHenry for
land reserved
for P. P. King.

Application by
J. Hall for
passage in
H.M. brig
Bathurst.

"Ticket of
occupation"
given to
P. P. King.

1824.
20 July.

"Ticket of
occupation"
given to
P. P. King.

One thousand five hundred Acres* in the district of Evan, bounded on the North by Russell's and Rope's farms, commencing at the North West corner of Elizabeth King's farm, and a West line from the North-west corner of Rope's farm to Chapman's farm; bearing south to Woodriff's farm; by that Farm to McHenry's North-west corner; along McHenry's farm, bearing East twenty one chains and South thirty nine Chains, sixty links to the Western road; On the South by the Western Road to Foster's farm, Quin's, Mary King's, and Elizabeth King's farms to the North west corner of the latter farm.

I have, &c.,

F. GOULBURN, Colonial Secretary.

A true Copy:—PHILIP P. KING.

Before Major Goulburn gave me the above letter, I told him of my intention to give Mr. Hall a passage to England, and Major G. appeared to me to be pleased at the opportunity thus afforded him.

Voyage of
H.M. brig
Bathurst.

On the 25th of September, the Bathurst received the Governor's dispatches and Sailed; but, as it was my intention to call upon the Coast in reference to my Survey and to touch either at the Isle of France or the Cape of Good Hope, the probable delay, which would arise by my so doing, was communicated to the Governor.

Misrepresenta-
tions made
against
P. P. King.

I now understand that, after the Bathurst sailed, great pains were taken to persuade the Governor "that I had deceived him on the subject of any probable delays in my voyage, and, in order to let Mr. Hall arrive in England and tell his own Story first, I intended to proceed by way of Cape Horn to get home before the Shipley," which Vessel left Sydney two months prior to the Bathurst. It is only necessary, however, to state that the route of my voyage was taken *precisely as I had communicated it to the Governor*, and that the Shipley arrived in England more than three months before the Bathurst. But the effect, which this false report was intended to produce upon His Excellency's mind, appears to have succeeded; since, from the communications which I have recently received from the Colony, I find that five days subsequent to the departure of the Bathurst, Mr. McHenry again applied to the Governor for a Grant of the land, which had been previously refused to him; in consequence thereof, a letter, dated the 12th of October, was addressed to the Superintendent of my Estate by the Colonial Secretary resuming to the Crown the fifteen hundred Acres, in order to give Mr. McHenry three hundred out of them, thus cancelling at a moment, without any communication to myself, which I conceive justice and courtesy demanded, all the prior claim the Governor assured me I

Resumption of
land reserved
for P. P. King.

possessed, and depriving me of the reward, which his Excellency thought due to me for the exertions I have made and the expence which I have incurred as a Colonist, as well as the services rendered to the Colony by my Official labors during the last six years, and which were acknowledged by him on all occasions up to the moment of the departure of His Majesty's Ship under my Command for England.

PHILIP P. KING, Comm'r, R.N.

1824.
20 July.

Resumption of
land reserved
for P. P. King.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 23, per ship Henry.)

Sir,

Downing Street, 21st July, 1824.

21 July.

I have the honor to acknowledge the receipt of your Dispatch, dated the 30th of January last, relative to James Dunleary, a Private Soldier in the 84th Foot, who was convicted before a Criminal Court in New South Wales in 1820 and sentenced to Suffer Death, and afterwards received His Majesty's Pardon, and requesting to be informed whether, under these circumstances, the man in question is to be considered as belonging to the 84th Regt. or a Free Man. In reply, I have to inform you that it appears, by the Mutiny Act 3rd Geo. 4th C. 18, S. 18, that a Soldier convicted of a Capital Crime does not in consequence of that Conviction cease to be a Soldier; for this Section expressly authorizes Courts Martial after the Conviction to Cashier the Criminal. Now if he ceased to be a Soldier, ipso facto the subsequent sentence cashiering him would of course be superfluous. Under these circumstances, therefore, the Man in question is to be considered as a Soldier belonging to the 84th Regiment.

Military status
of James
Dunleary.

I have, &c.,

BATHURST.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Henry.)

Sir,

Downing Street, 21st July, 1824.

I herewith transmit to you by the direction of Earl Bathurst an account, which has been forwarded to his Lordship by the Commissioners of Victualling, of Medical Comforts which have been supplied to the Hospitals at New South Wales and Van Diemen's Land from the different Convict Ships, after they have discharged their Convicts at Sydney and Hobart Town; and I am to request that you will give such directions to the Principal Surgeon as may be deemed proper for causing such Medical Comforts to be duly accounted for.

Medical
comforts to be
accounted for.

I have, &c.,

R. W. HORTON.

1824.
21 July.
Medical
comforts to be
accounted for.

[Enclosure.]

THE VICTUALLING BOARD TO UNDER SECRETARY HORTON.

Sir, We herewith transmit to you for the information of the Right Honorable the Secretary of State for the Colonial Department, Victualling Office, 9th July, 1824.

An Account of Medical Comforts, etc., supplied by the Master of Transports and Convict Ships to the Military Hospitals at New South Wales and Van Diemen's Land, as appear by Vouchers delivered into this Office since the 10th of January, 1824.

And we have to request that his Lordship will be pleased to give such directions as may be deemed proper for causing the said Medical Comforts etc., to be duly accounted for.

We are, &c.,
J^s. WOLLEY. W. BURNETT.
NICH^s. BROWN.

[Sub-enclosure.]

AN ACCOUNT shewing the quantities of Medical Comforts, etc., supplied by the Masters of Transports and Convict Ships to the Military Hospitals at New South Wales and Van Diemen's Land, as appear by Vouchers delivered into this Office since the 10th of January, 1824, the date of the last Account transmitted.

Date.	Place.	Transport or Convict Ship.	Master.	By whom the Certificate or Receipt is signed.	Wine, in Bottles.	Tea, pounds.	Sugar, pounds.	Barley. Pearl. Scotch.	Sago, pounds.	Preserved Meat, pounds.	Ginger, pounds.	Chests, Cases, No.	Canisters, No.
22 July, 1823	New South Wales	Woodman ..	Henry Ford	J. Bowman, principal Surgeon.	16	18½	..	..	..	..	..	1	2
20 August, 1823	Hobart Town...	Competitor...	Wm. Ascough ..	J. Scott, R.N., Col ^l Surgeon.	..	8	102	106	6	{ 8	0½	2	8
													Canisters, contents not mentioned.

Victualling Office, 8th July, 1824.

CHAS. HEUSCH.

EARL BATHURST TO SIR THOMAS BRISBANE.

1824.
22 July.

(Despatch No. 24, per ship Grenada; acknowledged by Sir Thomas Brisbane, 14th May, 1825.)

Sir, Downing Street, 22nd July, 1824.

As in the Discussions on the New South Wales Bill in the year 1823, a communication was made that Instructions had been sent to the Colony directing the adoption of a Considerable number of the suggestions made by Mr. Commissioner Bigge, I have to desire that you will supply me with a full detail of the practical Measures which have been taken in pursuance of the Instructions contained in my Letters of the 9th of September, 1822, that in the event of Parliament applying for Information on the subject your Letter may be laid before them.

Report required on reforms adopted as suggested by J. T. Bigge.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 25, per ship Grenada; acknowledged by Sir Thomas Brisbane, 21st May, 1825.)

Sir, Downing Street, 22nd July, 1824.

I have had the honor to receive your Dispatch No. 5 of the 3rd February last accompanied by a Report from the Surveyor General, detailing his proceedings in execution of the Service, on which he was employed in consequence of my Instructions to you dated the 9th September, 1822. The information which Mr. Oxley has obtained, respecting Port Bowen, Port Curteis, Moreton Bay, as well as of the adjoining Country, is of a very satisfactory nature, and I have to request that you will convey to him my approbation of the zeal and intelligence with which he appears to have performed the important duties confided to him.

Despatch acknowledged.

Commendation of services of J. Oxley.

In consequence of the discovery made by Mr. Oxley of a New River opening between the first Mangroon Islands and the main Land in Moreton Bay, that part of the Country, by reason of its fitness for general Colonization, no longer appears to His Majesty to be calculated to fulfil the objects in view, when I directed your attention* to the formation of a Convict Establishment at that Station for the worst Class of Offenders.

Disapproval of Moreton bay as site for penal settlement.

From information which I have received from General Foveau, Captain King and other Quarters, I am disposed to believe that the re-occupation of Norfolk Island, for the purpose of employing there the worst description of Convicts, would be a measure far preferable to the occupation of any of those Places,* pointed out by Commissioner Bigge on the Coast of New South Wales, and where, by my dispatch of the 9th September, 1822, I specially recommended that the experiment should be made. I herewith communicate to you the substance of the information that I have

Proposal for re-occupation of Norfolk island as a penitentiary.

1824.
22 July.
Proposal for
re-occupation of
Norfolk island
as a
penitentiary.

received, and, unless you are satisfied from the strongest reasons that that Information be not correct, I have to desire that you will immediately carry into effect the occupation of Norfolk Island upon the principle of a great Hulk or Penitentiary according to the enclosed plan. If the representations of the extraordinary fertility of that Island be correct, there can be little doubt that the Convicts may be made to produce a great part, if not the whole of their food, and even perhaps to supply exports especially of Coffee, the proceeds of which may be applied in diminution of the general expence of the Establishment. To this Island, the worst description of Convicts in New South Wales and Van Diemen's Land must progressively be sent, thereby relieving the Settlement from many of the inconveniences so forcibly represented in the Report of the Commissioner, and at once establishing a secondary punishment, which will not admit of Mitigation as has been the Case where the Convict has been placed in the midst of a thriving and prosperous Colony. You will not fail to exert your utmost zeal in carrying the wishes of His Majesty into Effect, and I am satisfied that no measure of reformation, which has been recommended will be attended with advantage equal to that of the satisfactory result of this Experiment.

I am, &c,

BATHURST.

[Enclosure.]

[A copy of this paper is not available.]

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 26, per ship Grenada.)

23 July.

Sir,

Downing Street, 23 July, 1824.

Appointments of
superintendent
of police and
two assistants.

With a view to the more perfect efficiency of the Police Department at New South Wales, I have, in conformity with the recommendation of Mr. Commissioner Bigge contained in Page 83 of his 2nd Report, determined upon the appointment of a Superintendent with two Assistants. The latter at Salaries of £100 each, to increase £10 every year until they reach the maximum of £200 pr. Annum, with the further advantage of a Residence with the usual allowance of Rations and Coals; and you will consider yourself authorized to provide each of them with a Horse and forage for the same, should it be deemed expedient to employ them as Mounted Patrole. I have not yet been able to select a proper person to fill the situation of Superintendent; it will not therefore be necessary that I should convey to you any Instructions on the subject of this Officer's duties, until I am able to announce to you the name of the Person who may be appointed to execute them.

For the present it will be sufficient to state that the Person, who will be the Bearer of this letter, George Cornick, and his Companion Thomas Armaden have been appointed Assistants to the Superintendent; and, as they have been chosen from the Police Establishment of the Metropolis with reference as much to their personal Characters as to their knowledge and experience in their business, I have only to hope that they will be found useful Servants of the Colonial Government.

1824.
23 July.
Assistants to
superintendent
of police.

The Selection of these Persons to fill their present Appointments having taken place in August last, and their Continuance in this Country since that time being no fault on their part, I consider them to be entitled to their pay from the above mentioned date. An advance of £180 has been made to each of them in anticipation of their Salaries, which Sums it therefore becomes necessary that you should take immediate measures for remitting to the Agent in this Country, by whom the advances have been made.

Salaries of
assistants.

I have, &c.,

BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 2, per ship Lang.)

My Lord,

23 July, 1824.

Under circumstances of no ordinary consideration, I have the honor to bring the Name of Brigade Major Ovens before Your Lordship; Yet under the solemn impression that no public Officer here has rendered me the same essential Service, The Colony such general benefit, or imposed upon the Mother Country such a heavy debt of gratitude.

Commendation
of services of
J. Ovens.

Early after my arrival, the idea occurred to Me of clearing the Country for the Settlers by Convict Labor, not more from the immediate consideration of rendering that Labor most productive, but, viewing its effects prospectively, the beneficial consequences which would ultimately result to the Colony in bringing extensive tracts of Lands into a State for Cultivation by the Settler, without requiring from Him any Money payment, yet combining the obvious tendency it must have of furnishing large and regular supplies of Grain for Market, thereby materially diminishing the price of that important article, and remove the necessity of importation.

Clearing of
land for
settlers by
convict labour.

To Brigade Major Ovens, I am entirely indebted for maturing, superintending and giving effect to the System, which I may be allowed to add affords universal satisfaction, as these clearing Gangs have solely been under His guidance from their Commencement. In order to give Your Lordship a clear understanding of the progress of these Gangs, it is only necessary to compare the quantity of Land cleared in two Years by this Measure with what the Commissioner of Enquiry states to be the

Supervision of
clearing gangs
by J. Ovens.

1824.
23 July.
Advantages of
new system.

quantity of cleared Land in the Colony in the Year 1820, Page 10 of His third Report, wherein He gives 54,898 Acres as the total amount. It is therefore quite unnecessary to draw Your Lordship's attention to the proportion which these two Years bear to the Thirty which preceed them as exhibited in the accompanying Return.* There is another essential effect resulting from the System, which to the Philanthropist is perhaps not less gratifying than the former, Viz. that, whilst all these desirable Objects are achieving, the Moral condition of the unhappy Convict is improving, and He is daily training to the valuable acquirements of a rural life and fitting to the Settler, as also advantageously for Himself whenever he may become released from the Sentence of the Law; it will give Him a just sense of the value of liberty which will I trust permanently confirm His habits of industry, when He reflects on the severity of the ordeal He has undergone from the weight of His Crimes, and affords the fairest prospect of reclaiming Him as a useful Citizen.

Proposed
promotion or
land grant for
J. Ovens.

I am aware I have trespassed already too long on Your Lordship's time with this Statement, which nothing but the importance of the Subject would justify, Yet will I trust be a motive to induce You to bring the name of Brigade Major Ovens under the most favorable consideration of His Royal Highness the Commander in Chief for a Majority, which I regret to state has frequently but ineffectually been done by Myself for other not less legitimate claims, He had to urge professionally; or that Your Lordship will be pleased to allow an exception to be made in His favor to hold a Grant of Land and will either name the extent of it or refer it to Me to make it proportionate to My conception of the Service He has rendered the Crown by His exertion.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

INSTRUCTIONS FOR ROAD AND CLEARING GANGS.

Instructions
for road and
clearing gangs.

1. That all the Clearing and Road Gangs, now Employed by Government, shall be put into two divisions; These to be the Southward of Sydney and Parramatta forming one, and Those to the Northward and Westward forming the other.

2. That two Subinspectors be appointed; and that they be selected from the best conducted Prisoners, who are employed as Constables to the Government Establishments, or as Overseers of Clearing or Road Gangs, Men at the same time qualified for the Duties that they may be called upon to perform.

3. That they be appointed Constables.

4. That a Salary of £40, Forty Pounds, Per Annum shall be given to each of them, payable quarterly from the Colonial Revenue, the Dollars at Five Shillings each.

* Acres Cleared: 11,503.

5. That they shall receive the Rations of Overseers from the Government Stores.

6. That they be furnished with a Horse each, and that a Lodging be found them.

7. That the one in charge of the Gangs to the Southward be stationed at Liverpool, the other in charge of those to the Northward and Westward be Stationed at Rooty Hill.

8. That it is the duty of the Individual, who receives such appointment, to visit all the Clearing and Road Gangs under his charge at least once a Week to see that they are present at their Station, regular in their Conduct, and that the Work performed by them is Sufficient for the time and satisfactorily executed.

9. That in case of any Misconduct on the part of the Prisoners in the Gangs as reported by the Overseers, that they are to enquire into the same, and if necessary the parties be directed to attend at the nearest Court on the day of Sitting; on which day they are to be present and the sentence of the Magistrate thereon is to be communicated to the Acting Engineer, in order that, if by such Sentences Men be removed from their Gangs, that the Vacancies may be filled up and the causes of removal, together with the sentence of the Magistrate, be recorded in a Book kept for that purpose in this Office.

10. That the Prisoners in the Gangs thus employed be not permitted to quit their respective Camps, unless on the most urgent business when they are to be furnished with a pass from the said Sub-inspector.

11. That they do call for, from the Overseers of Gangs in their respective districts, weekly reports of work performed, and, when so furnished with them, to be careful in observing that they are strictly correct; any Overseer reporting falsely to be named to the Acting Engineer in order that his Salary be Mulcted for the same, and in case of its happening a Second time by the same Individual that he be removed from his Situation.

12. That they do report weekly to the Acting Engineer any irregularities of moment on the part of the Overseers or Men composing the Gangs in their respective districts.

13. That they do forward to this Office, on the first Week in each Month, a General Monthly Return of Work performed by the Gangs under their charge with such remarks as they may consider necessary, a form of which will be provided them.

14. That a Nominal list do accompany the Return, stating the Casualties in the Gang during the preceding Month; that, in order to ensure their being made out more correctly, they be permitted to have the assistance of the Clerk at their respective Stations.

1824.
23 July.

Instructions
for road and
clearing gangs.

1824.
23 July.
Instructions
for road and
clearing gangs.

15. That the said Subinspectors be placed under the immediate direction of the Acting Engineer, and do act upon such Instructions as from time to time he may consider it necessary to give them.

16. That they be responsible to him (the Acting Engineer) for the good order and strict discipline of the Gangs under charge, and they be no longer eligible for their respective Situations than whilst they discharge the duties attached to them faithfully and zealously.

Account of
clearing gangs.

Memorandum of Account of Government Clearing Gangs.

	£	s.	d.
To the Amount of Rations issued to 1,150 Men, the Number in 50 Clearing Parties at present employed, allowing each Gang to be complete of 23 Men including the Overseer, at the Annual rate of £12 8s. 2d. each Man	14,269	11	8
To Amount of Clothing allowed to each Man, say 2 Suits in the Year valued to £2 0s. 0d.	2,300	0	0
To do. of Indulgences according to a Scale given, lb. 6 Sugar at 4d., lb. 1½ Tea at 3s., and 10½ oz. Tobacco, amounting to £76 10s. Annually to each Gang	3,825	0	0
To Amount of Gratuity to the Overseers at 3s. 6d. each Acre, say 9,000 Acres Cleared annually when the Gangs are complete	1,575	0	0
To Amount of Wear and Tear of Implements to the different parties valued at £20 each Gang Annually	1,000	0	0
	<hr/>		
	£22,969	11	8

Govr. Cr.

By 9,000 Acres Cleared in one Year by the above mentioned Clearing Parties, allowing Six Bushels of Wheat to be received for each Acre, each Bushel Valued to 8s. 6d.	£22,950	0	0
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Balance to the Debit of Govt. on this Acct. £19 11 8

J. OVENS, A. Engineer.

MEMORANDUM OF CLEARING PARTIES.

Memorandum of
clearing gangs.

1. The Clearing Parties employed by Government at the present date are 50 in Number.

2. Each Gang including its Overseer consists of Twenty three persons.

3. Total Number of Men employed in the Clearing parties amount to Eleven hundred and fifty.

4. Each Gang is permitted to draw the following in addition to their ordinary Rations; for every Acre of Land cleared by them, they are entitled to lb. ½ of Tea, lb. 6 of Sugar, 10½ oz. of Tobacco.

5. Each overseer is allowed the gratuity of Three shillings and sixpence for every Acre Cleared by the Gang under his Superintendence.

1824.
23 July.

Memorandum of clearing gangs.

6. The average amount of Land cleared by each party is 15 Acres Monthly, or 180 Acres Annually. Aggregate amount of land cleared by all the Parties Yearly will therefore be equal to 9,000 Acres.

7. The quantity of Land cleared throughout the Territory, since the commencement of the System to the 24th September, 1824, Amounts to 13,765 Acres.

8. The charging of the Land is paid for on the following conditions, which varies according to the Nature of such Land.

9. The proprietors are entitled to a Credit of twelve Months to pay for the land from the time of Clearing it.

Memorandum of Account of Clearing Parties for One Year.

	£	s.	d.	Annual account of clearing parties.
By 9,000 Acres cleared in one year by the different Gangs, allowing 6 Bushels of Wheat to be received for each Acre cleared, each Bushel valued at 8s. 6d.	22,950	0	0	
To Amount of Rations issued to 1,150 Men, the Number in 50 Clearing parties, allowing 23 Men to be in each Gang including the Overseer, at the rate of £12 8s. 2d. each Man Annually	14,269	11	8	
To Amount of Indulgences, say 6 lb. Sugar at 4d., 1½ lb. Tea at 3s., and 10½ oz. of Tobacco, amounting for each Gang annually to £76 10s. ...	3,825	0	0	
To Amount of gratuity to the Overseers at 3s. 6d. p. acre, Say 9,000 Acres	1,575	0	0	
To Wear and Tear of Implements of the different Clearing Parties	900	0	0	
To Amount of Clothing allowed, say 2 Suits in the Year to each Man at the rate of £2 p. Annum	2,300	0	0	
	<hr/>			
	22,869	11	8	
To Balance to the Credit of Government on this Account	£80	8	4	

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Lang.)

Government House, New South Wales,

My Lord,

23rd July, 1824.

I do myself the honor to transmit, for Your Lordship's consideration, the copies of some Private Official Letters, which the Colonial Secretary has thought proper to write me since I had the honor of addressing Your Lordship regarding him, together

Correspondence between Sir T. Brisbane and F. Goulburn.

1824.
23 July.
Difficulties
created by
F. Goulburn's
conduct.

with my replies. I am induced therefore to trouble Your Lordship with these Letters, not with any view of complaining of the conduct of the Colonial Secretary writing them, but to shew Your Lordship the embarrassing situation in which I have been placed, and the practical inconvenience which has arisen, and will at all times hereafter be likely to arise, in the event of any occurrence, which might disturb the harmony of opinion between the Governor and the Colonial Secretary, and how essential a Private Secretary may become, Not only for the personal accommodation of the Governor, but to the Public at large. Duties, which the Governor of this Colony is called upon by His Commission and instructions to perform, are numerous and important, requiring the ready aid of all the Departments under Him; and Your Lordship will be pleased to decide whether any Officer is at liberty to demand formal authorities and explanations from the Governor himself, before He will consent to act under His orders.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

SECRETARY GOULBURN TO SIR THOMAS BRISBANE.

(Marked "Private—Official.")

Colonial Secretary's Office, Sydney,

5th June, 1824.

Sir,

I do myself the Honor to enquire whether the enclosed communication just received from Brigade Major Ovens is written under the Sanction of Your Excellency?

I have, &c.,

F. GOULBURN.

[Sub-enclosure.]

MAJOR OVENS TO SECRETARY GOULBURN.

Sir,

Government House, Sydney, 5th June, 1824.

I am instructed to acquaint You that the subject of the enclosed letter from Captain Rolland is to be acted upon, as is customary on similar occasions.

I have, &c.,

J. OVENS.

[Enclosure No. 2.]

SIR THOMAS BRISBANE TO SECRETARY GOULBURN.

Sir,

Government House, Sydney, 8th June, 1824.

In reply to Your Private Official letter of the 5th Inst. with its different enclosures, I have to acquaint You that the Depositions therein enclosed were delivered to Brigade Major Ovens with my instructions to transmit them to You, in order to be acted upon in the usual manner.

The delay in acknowledging the receipt of Your communication has arisen from my having felt it necessary to consult The Attorney General, how far it became requisite that such

Request for
personal
sanction of
governor.

Endorsement
of action of
J. Ovens.

proceedings should in future pass through Your Office; On which The Attorney General is of opinion that the Commandants at the distant Settlements ought to send Criminal and Revenue Cases to Him, as the Magistrates will also do, until some permanent arrangement can be made for such business, either by the appointment of a Clerk of the Peace or otherwise, as on consideration of the English Statutes may be found proper. You will in consequence be pleased to instruct them to that effect.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 3.]

SECRETARY GOULBURN TO SIR THOMAS BRISBANE.

(Marked "Private—Official.")

Sir, York Street, Sydney, 14th June, 1824.

Brigade Major Ovens having this afternoon expressed it to be Your wish that the Principal Surgeon should be instructed to relieve Dr. Moran from his Station at Port Macquarie, I do myself the enquire whether this verbal intimation was intended to be Official?

I have, &c.,

F. GOULBURN, Col'l Secret'y.

[Enclosure No. 4.]

SIR THOMAS BRISBANE TO SECRETARY GOULBURN.

Sir, Government House, Sydney, 15th June, 1824.

In reply to Your letter of yesterday, and which I received at a late hour, I have to state that the verbal instruction made to you through my Private Secretary was by My direction; it was in a case which required dispatch. You must be sensible of the inconvenience and delay, which must attend my first writing to You on all occasions when I desire to communicate with the other Departments, and, as You appear to think the form of putting pen to paper essential to make any communications official, I shall in future direct all such orders, as do not in my opinion strictly require to be forwarded through You immediately, to be addressed to the different Departments. I have, &c.,

THOS. BRISBANE.

[Enclosure No. 5.]

SECRETARY GOULBURN TO SIR THOMAS BRISBANE.

(Marked "Private—Official.")

Colonial Secretary's Office, Sydney,

Sir, 16th June, 1824.

A communication, of which the enclosed is a Copy, professing to have been written under Your Sanction and bearing the Signature "J. Ovens," having been left at my House yesterday afternoon, should it be the mature intention of Your Excellency to carry on the duty of the Colony in this Course for the

1824.
23 July.

Transmission of
future reports.

Request for
official approval.

Transmission
of orders by
Sir T. Brisbane.

Request for
governor's
approval of
letters signed
by J. Ovens.

1824.
23 July.
Request for
governor's
approval of
letters signed
by J. Ovens.

future, I trust that You will take into Your favorable consideration that the above name affords me no justification for My acts in cases involving responsibility; and therefore that You will agree to the justice of guarantying my indemnity by obliging me with express commands under Your Own hand that Your orders, when conveyed to me through the Channel of Your private Secretary, are to be acted upon. I have, &c.,

F. GOULBURN.

[Sub-enclosure.]

MAJOR OVENS TO SECRETARY GOULBURN.

Sir, Government House, Sydney, 15th June, 1824.

Charters for
courts of
requests.

I am instructed by His Excellency to request of You that You will be pleased to prepare for His approval Two Charters for Instituting the Courts of requests in New South Wales and Van Dieman's Land. I have, &c.,

J. OVENS, Private Secret'y.

[Enclosure No. 6.]

SIR THOMAS BRISBANE TO SECRETARY GOULBURN.

Sir, Government House, Parramatta, 19th June, 1824.

Endorsement of
letters signed
by private
secretary.

In reply to Your Private Official Letter of the 16th Inst., I have to inform You that every intimation of my Commands through my Private Secretary, which require no other form than a verbal communication or note from me, must be considered as proceeding from Myself, and I feel the less difficulty in acceding to Your request to indemnify You against any responsibility arising from such mode of conveying my Commands, as I am not aware of any act of my Government requiring a mere formal manner of proceeding thro' Your Office, which must not in the Course of business receive my Official Signature and Seal, before it can finally be carried into effect. I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 3, per ship Lang.)

Government House, Parramatta, New South Wales,

My Lord,

24th July, 1824.

24 July.
Regulations
for sale of
crown lands.

I do myself the honor to transmit for Your Lordship's approbation certain rules and regulations for the sale of Lands in this Colony, agreeably to the suggestion* of The Commissioner in His 3rd Report, page 48, and upon which He had founded that recommendation, as they had been submitted to Him nearly in their present form by Mr. Oxley, when he was here, and had received His assent.

As I am of opinion that the Colony has now arrived at that state as to bear it, I trust Your Lordship will approve of its being

carried into execution, and that You will also allow it to be one of the most legitimate sources of Revenue for this Colony, as all other Articles are burdened to a certain extent, whilst the Land is almost exempt; and whilst the system of free Grants exist, there is but little chance of extensive improvement taking place generally in the Colony, as the improver of Land can never enter the Market in competition with the Individual who gets His Land for nothing.

1824.
24 July.

Improvements
expected from
sale of lands.

In the present state of the Colony, Two thousand Acres of Land is not equal to graze throughout the Year a greater quantity of Cattle than 200 Head, or Two flocks of Sheep of 300 each; And, as Stock is generally admitted to double every Three Years, it is quite impossible to suppose that the liberality of the Crown can keep pace in extending Grants with the increase of Stock.

Grazing
capacity of land.

The principal, on which I have been hitherto guided in regard to extensions of Grants, has been if the Individual applying for the indulgence had kept, during the Three Years preceding His request, equal to One Convict for every Hundred Acres, The surplus beyond that Number I considered entitled Him to a claim for any augmentation equal to One hundred Acres for the excess of each Individual beyond that Number, which System I trust Your Lordship will approve of; as I am of opinion that One hundred Thousand Acres can now be sold at One Dollar per Acre or 5s. under the Regulations I have the honor to propose, and to which extent I shall confine myself until I have Your Lordship's further orders.

System for
granting
additional lands.

I shall also take care to guard Purchasers that they must consider themselves subjected to any additional conditions You may think proper to introduce.

I have also been much diffculted in deciding how far it would accord with Your Lordship's views in giving Grants of Land to the Sons of Settlers, whose Fathers had received Munificently of the Royal Bounty, as in the case of the Sons of Mr. Macarthur and Mr. John Blaxland, who have applied to me for 2,000 Acres of Land; but I have paused in my reply until guided by Your Lordship's instructions. I cite these as instances merely, but my object is as to the principle of the Offspring of Settlers generally having claims.

Problem of
land grants to
sons of settlers.

Another considerable advantage to be derived from the sale of Land would be the distruction of the System of trafficking in it, which I believe exists to a great extent, altho' it is almost impossible to bring it Home to conviction, as no person would then be inclined to Purchase as at present the Land with a disputed title when He could obtain it with a good one and at so moderate a price; and there need be no restraint imposed upon Your

Destruction of
traffic in lands.

1824.
24 July.

Lordship, on Individuals coming to this Country, directing that their Grants should be free or that They were permitted to purchase so much Land in New South Wales.

Proposal to
grant lands as
rewards.

And it might be further extended to The Governor for the time being to have the power of giving free Grants as rewards for zealous and faithful Services to Officers or to Individuals who had rendered a service to the Colony. I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

Instructions
to surveyor-
general
re sale of
crown lands.

INSTRUCTIONS FOR THE GUIDANCE OF THE SURVEYOR-GENERAL AS TO
THE SALE OF CROWN LANDS.

HAVING considered it advisable for the interests of the Crown and Individuals to permit certain portions of the Crown lands to be Sold at a fixed rate and under certain conditions, and considering that the price of 5s. Sterling per Acre, as fixed by the Commissioner of Enquiry in his 3rd Report, is the full value of all distant Lands, you are, having reference to that value, to conform to the following instructions.

Whenever any Settler shall have obtained my permission to purchase any land, the Individual so obtaining it will produce to you my Warrant, specifying the number of Acres he is permitted to purchase, and such Warrant shall be sufficient Authority to you to measure the same; but you are on no pretence whatever to put the intended purchaser in possession thereof, until the deposit of 10 per Cent. on the whole Purchase shall be actually paid, and notes agreeable to the enclosed form for the payment of the balance at intervals of Six Months, until a period of three Years from the payment of the deposit is completed, deposited with you; but, on the above preliminary conditions being fulfilled, you will then give the purchaser a Certificate of possession acknowledging the receipt of the deposit of 10 pr. Cent. as part payment for the land.

At the expiration of the period when the ultimate payment shall become due, you will call upon the purchaser to complete his purchase; and in case of his failing or declining so to do, you are without delay to report to me in order that possession of the land intended to be Sold be forthwith resumed and the deposit money forfeited.

The regulation with respect to deposit money applies to the present established Settlers in the Country; but in order to Encourage free Settlers from England, who may be desirous of adding to the Lands they may receive as Settlers, you will on the production of an Order from me to that effect cause to be measured, adjoining to the lands given them (if desirable to the Settler), such further number of Acres, as the circumstances of the case may seem to me to require; and you will therefore notify

to the Settler that he will be required to enter into an obligation to pay, as rent for the said land, the sum of 15s. Stg. for every Hundred Acres reserved to him; and that it is expected, at the end of three Years from the date of his taking possession of the land, he regularly notifies his intention to become the purchaser of the said land, agreeable to the conditions and terms directed to be observed by established Settlers; and the absence of such notification will be considered as a proof that such Settler has waved his Claim to the privilege of purchase, and the lands so held will be disposed of in like manner as other lands.

It is not my intention to permit any Individual to purchase more than 4,000 Acres, or any family more than 5,000 Acres in the whole; and, as it may not be possible for such intended purchasers to find a sufficiency of eligible land immediately adjoining their Grants, you are at liberty to measure the permitted number of Acres in any other District or place, but you are not to divide such lands into separate portions; but whatever quantity of land, I may permit an individual to purchase, must be taken in one place and comprised within One Grant, unless some special cause shall arise to render this latter part of the arrangement peculiarly detrimental to the Individual.

In case any Individual should obtain my sanction to purchase portions of the unlocated Crown lands in the County of Cumberland, or any of the lands situated on the West side of the Nepean River and bordering thereon, the price will in conformity to instructions* from Lord Bathurst vary from 7s. 6d. to 10s. per Acre; and, in Case of application being made for the purchase of particular portions of lands particularly circumstanced and situated, you will report the same to me, when you will receive such instructions relative to the price and value thereof, as may be considered requisite; but you will strictly adhere to the orders you have already received respecting the reservation of four Square Miles in each Township for the use of the Crown.

All Monies, which you may receive on account of the Sale of Crown lands, or which may be received by you on account of Rent thereof, and also for the purchase of the Fee simple of Town Grants, are to be paid over by you every quarter to the Colonial Treasurer, taking his receipt for the same; and you will on the first day of January in each Year submit to me a detailed statement of all such Sale of Crown Lands, the payment received thereon, together with the several Sums remaining due, specifying under distinct heads the particular receipts on account of the several branches of land Revenue above named; and you will produce to me the Colonial Treasurer's receipts and my several Warrants, as your vouchers for the accuracy of the annual Accounts you are hereby required to furnish.

1824.
24 July.

Instructions
to surveyor-
general
re sale of
crown lands.

* Note 73.

1824.
24 July.

Instructions
to surveyor-
general
re sale of
crown lands.

In order to prevent any misunderstanding with Parties as to the terms and conditions on which land is Sold, you will explicitly state to each Individual the nature and meaning of the regulations, which I have thought proper to adopt, and you are on no account to deviate from the instructions herein given without previously obtaining my Sanction in writing.

£..... Sydney,
..... Months after date, I promise to pay to John Oxley, Esqre., His Majesty's Surveyor General of New South Wales, the Sum of being the instalment due from me on Account of a purchase by me of Acres of Crown land in the District of in the County of in the said Colony.

[Enclosure No. 2.]

SURVEYOR-GENERAL OXLEY TO SIR THOMAS BRISBANE.

Sir, Surveyor-General's Office, 18th June, 1824.

Suggestions
by J. Oxley
for the sale
of crown lands.

Your Excellency having been pleased to inform me that it was your intention to dispose of, upon certain terms, a portion of the Crown lands to such individuals as might be considered eligible to become purchasers, and directed me to submit for Your Excellency's consideration a draft of such regulations as might seem best adapted to carry the proposed measure into practical execution, Keeping in view the interests of the Crown without diminishing those advantages which it is expected the Settler will derive by its adoption;

I would respectfully submit to your Excellency that the price of all Crown lands intended to be Sold should be fixed at 5s. Sterling per Acre (with the exception of the remaining Crown lands in the County of Cumberland and immediately bordering thereon), and that all such persons as Your Excellency may permit to purchase should pay on the measurement, and previously to being put in possession of such lands, a Deposit of 10 per Cent. on the whole purchase Money, and the residue by equal payments every Six Months, until the whole is paid; and as an encouragement to the regular payments of the said Notes on their becoming due, a Discount of 10 p. Ct. might be allowed on the Amount of each Note; of course no discount to be allowed when the purchaser protracts the payment to the end of the Credit term of three Years; and after the complete and final payment is made, a Grant of the lands should be made to the purchaser, containing no restrictive clauses as to future sale or cultivation, but retaining the old Quit Rent of 2s. per Hundred Acres and the right of making public roads as at present.

A failure on the part of the purchaser in the payment of any of the instalments should not deprive him of the ultimate right

1824.
24 July.Suggestions
by J. Oxley
for the sale
of crown lands.

to the land, provided on the last instalment becoming due the whole arrears shall be paid up; otherwise the deposit Money to become forfeited and the land disposable to any purpose Your Excellency may deem proper.

Your Excellency will perceive that the proposed terms of payment will give a Credit to the Settler, beyond the deposit, of three Years; and it would promote very much the facility and regularity of payment, if such Agricultural produce, as the Commissariat may require, be taken into the Stores at the average prices then paying by the Commissary for similar produce to other individuals; in the case of failure in paying up the arrears, the deposit previously received will amount to more than a double Quit Rent on the Hundred Acres, the present increased Quit Rent being 15s. per Hundred Acres; thus while the individual has the use of the land, the Crown will have the benefit of the rent.

In order to enable free Settlers from England to participate in the benefit of the proposed measure without an immediate Sacrifice of Capital, which might in the first instance be more advantageously employed in Stocking their lands, I believe it would accord with Your Excellency's views on this point if the land, which such Settlers might be permitted ultimately to purchase, was leased to them for three Years at a Quit Rent of 15s. per Hundred Acres; at the expiration of which period, on signifying a desire to complete the purchase and on paying the deposit of 10 per Cent., such free Settlers should be placed in the same situation with respect to their future payments and ultimate Grant, as is suggested in the first part of this communication, and which has more immediate reference to persons already Settled and established in the Country.

In the above suggestions, I have not in any material degree deviated from the report I had the honor to submit to the Commissioner of Enquiry on this subject, and the price of lands together with mode of payment, now submitted to Your Excellency's consideration, are in unison with the recommendations* contained in the 3rd Report of the Commissioner under the head of Crown lands.

I have, &c.,

J. OXLEY, Surveyor-Gen'l.

[Enclosure No. 3.]

SIR THOMAS BRISBANE TO SURVEYOR-GENERAL OXLEY.

Sir, Government House, Parramatta, 12th August, 1824.

I have examined The Regulations, under which it is proposed to dispose of a certain proportion of Land in the Colony, which I shall approve of until The pleasure of His Majesty's Ministers shall be obtained on the subject.

Approval of
regulations by
Sir T. Brisbane.

* Note 72.

1824.
24 July.

You may therefore consider Yourself at liberty to act in conformity to these Regulations, taking care that they are strictly complied with.

Additional
instructions
re sale of
crown lands.

You will also take care that no Individual shall for the present be permitted to become the Purchaser of more than Four Thousand Acres of Land, or a Family more than five Thousand; And You will not permit under the present Regulations of a greater quantity being sold than One hundred Thousand Acres. You will particularly attend that none of the Reserved Crown Lands shall be sold, and that the usual reservations for The Crown be adhered to during the operation of this measure. At the same time, You will accomodate the Settler in His purchase in regard to convenience of situation as far as The general Regulations will admit.

As the reduced state of Your Department would not admit of Carrying into effect this important principle of the sale of Land in a gradation of value, You will in consequence observe that no Lands are to be sold nearer than forty Miles to Sydney, And the price to continue fixed at one Spanish dollar per Acre, agreeably to the Regulations which I have approved of for the payment of Land until further orders, or until You shall have disposed of the said Hundred Thousand Acres, which You will not fail to notify to me accordingly and to apply for further Instructions.

You will also guard Settlers in these purchases that they must consider themselves subjected to any additional conditions Earl Bathurst may think proper to introduce.

I have, &c.,
THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 1, per ship Lang.)

Government House, New South Wales,

30 July.

My Lord,

30 July, 1824.

Official
correspondence
of governor.

I have the honor to acknowledge the receipt of Your Lordship's Dispatch of the 30th of last September on the subjects of the correspondence* with this Colony, and directing that not more than one subject should be treated of in the same dispatch, but to be classed under Six general heads, written upon uniform Sized paper and to be numbered, which arrangement I shall particularly attend to see carried into execution for the future; but, in consequence of the recent arrival only of Your Lordship's orders, it has been impossible to carry it into execution so early as last January as therein directed.

I have, &c.,
THOS. BRISBANE.

* Note 74.

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.

1824.
30 July.

(Despatch per ship Lang.)

Government House, New South Wales,

30th July, 1824.

Sir,

I have the honor to acknowledge the receipt of your communication of last September on the Subject of the distinction to be made in regard to the Public and Private Correspondence with you (as Under Secretary), which I shall not fail implicitly to comply with in future, both as it regards Lord Bathurst and Yourself.

I have, &c.,

THOS. BRISBANE.

Official
and private
correspondence
of governor.

EARL BATHURST TO SIR THOMAS BRISBANE.*

Sir,

Downing Street, August, 1824.

— Aug.

I do myself the honor to transmit to you, for your information, a printed copy of the Regulations, which His Majesty has been pleased to direct should be observed in salutes fired in compliment to Civil and Military Officers in the Colonial Possessions of the Crown.

Regulations
for military
salutes.

I have, &c.,

BATHURST.

[Enclosure.]

[*A copy of these regulations is not available.*]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Lang.)

Government House, Sydney, New South Wales,

My Lord,

August, 1824.

I do myself the honor to forward, for the information of Your Lordship, the General Monthly Returns of the Troops serving in this Territory from 25th of May to 24th of July, 1824, inclusive.

Monthly returns
of troops.

I beg to take the present opportunity of stating that the Private of the 48th Regt., returned Dead in the June return, died at Hobart Town in March last, and have been borne on the strength of the returns since that period, in consequence of its not having been notified to the Detachment at Sydney.

I have, &c.,

THOS. BRISBANE, M.-Gen'l.

[Enclosures.]

[*Copies of these returns are not available.*]

1824.
12 Aug.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 4, per ship Lang.)

Government House, Parramatta, New South Wales,
My Lord, 12th August, 1824.

Despatch
acknowledged.

Preparations
for settlement
in northern
territory.

Ship chartered
to convey
troops and
stores.

Ship of war for
service under
J. Bremer.

Anticipated
departure of
expedition.

Commendation
of J. Bremer.

I avail Myself of a Vessel, just about to proceed to England, to have the honor to acknowledge the receipt of Your Lordship's Dispatch of the 17th February, transmitted by Captain Bremer of His Majesty's Ship "Tamar," directing a Settlement to be formed on the North West Coast, which arrived here on the 27th Ultimo; and, Although time will not allow me to give Your Lordship any detailed account, still I consider it My Duty not to lose the opportunity of writing to acquaint You that every thing is in progress to give effect to Your Lordship's instructions in regard to the formation of the Settlement on the North West Coast, in Bathurst Island, and the Eastern side of Cobourg Peninsula, including the whole of the Bathurst and Melville Islands and the said Peninsula.

I have been rather fortunate in obtaining on moderate terms the "Countess of Harcourt," which lately arrived with Prisoners and subsequently bound to the Mauritius, to carry the Troops which I could spare, Vizt. 1 Captain, 1 Subaltern, and Sergeant, and 27 Rank and File, which, with the Mariners to be landed, will give near 50 Men. She will also carry all the Stores, etc., requisite for the foundation of such an Establishment.

I regret that the part of Your Lordship's instructions, in regard to the Ship of War* here placing Herself under Captain Bremer's orders, cannot be complied with, as there is none here at present; but I have arranged with him that, as soon after as she shall have refitted and conveyed Me to the new penal Settlement I am about to form in Moreton Bay, that the Officer in Command of Her shall repair to the North West Coast and place Himself under the orders of Captain Bremer.

I have been enabled to send a small Colonial Schooner, the "Lady Nelson" of 60 Tons, to accompany the expedition, and I entertain the most sanguine hopes that the whole will be ready to sail during next week under the most favorable circumstances.

I trust I may be permitted to remark that His Majesty's Government could not have selected an Officer, who could have co-operated more cordially with Me upon this occasion than Captain Bremer, who would have engaged with more zeal in it, or could have viewed the situation, in which He was about to be placed, in a more comprehensive light.

I have, &c.,
THOS. BRISBANE.

* Note 75.

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.
(Despatch marked "Private" per ship Lang.)

1824.
12 Aug.

Government House, New South Wales,

My dear Sir, 12 August, 1824.

There are various effects arising from a system, which I have introduced into the Colony, which must require so much of the first person of the verb that, from this consideration, I have felt a delicacy in bringing them under Lord Bathurst's consideration or Yours; and, altho' I have written His Lordship a long Dispatch on the subject of the Clearing Gangs, I could not venture to transmit Him the accompanying short address of the Vice President of the Agricultural Society, lately promulgated, to shew His Lordship the general impression amongst the Colonists of the value of this system, which I have introduced, and which I trust you will pardon me in conveying to You. I might say a great deal with justice as connected with the measure, did not this impression operate in my mind to deter me.

Public appreciation of system of clearing gangs.

In order however to shew that the effects are well founded, I have requested the Chief Justice to prepare from the Records of His Office the state of Crime* in the Colony for the last five Years, viz. the Trials, Condemnations, and Executions, which have happened during that period; this Document I shall have the honor to transmit Officially to confirm the effects produced on the Moral character of the Convict, and that it is far from an utopian theory. It will however require some Months before it can be accomplished, as I am anxious it should include the current Year.

Improvement of moral character of convicts.

The whole state of the Colony has assumed a new tone since the arrival of the Chief Justice, I am happy to say; and there is a general spirit of honest laudable zeal in improvements of all discriptions most highly creditable. It would be a matter of infinite importance to the Colony if its woods, particularly the Blue Gum *Eucalyptis Capitillatis*, could be brought into public notice according to their merits; and I understand from good judges that this Wood has all the properties of the Teak Wood, and that there is a Vessel† in the Colony, built for these 20 Years with Iron Bolts, fastenings etc., and, altho' coppered, the iron work is as perfect as when first introduced. Could this happily succeed, no Vessel need want a return Cargo, as experts are all we require now. I regret to say, from a most unusual drought, Wheat has risen to near 12s. per Bushel, and, should this severe visitation endure a great deal longer, it may blast our prospects for the ensuing Crop.

Encouragement of timber trade.

Increase in price of wheat.

Emu Plains, which is an admirable Government Agricultural Establishment under Mr. Murdock, has raised 7,000 Bushels of Wheat nearly last Year; at this and other similar stations, the

Wheat raised at Emu plains.

* Note 76. † Note 77.

1824.
12 Aug.
Commission
given to
superintendents.

Superintendents have not above £100 a year merely Salary, but I allow them a tithe upon all Crops raised and 10 per Cent. on any balance, which may acerue after deducting the whole of the charges for the Prisoners employed for food, Clothing, etc.; this has produced great emulation, and, independent of the value in training Prisoners to Agricultural pursuits, the Moral consequences are most highly gratifying. I fear I have trespassed too much on your time already.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

[A copy of this address is not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Lang.)

Government House, New South Wales,

13 Aug.

My Lord,

13th Augt., 1824.

Requisition for
mathematical
instruments.

I do myself the honor to forward a requisition for Mathematical instruments for the use of the Surveyor General's Department in this Colony, and, as they are much wanted, I beg to be permitted to request that they may be forwarded by the earliest opportunity.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

LIST of Mathematical Instruments required for the use of the Surveyor General's Department in New South Wales.

- 12 Common Circumferentors with reversed Compasses and Spared Needles.
- 3 Improved plain Tables with Index Sights.
- 1 Pentagraph (3 feet) with improved steel Centres for reducing or enlarging Maps.
- 1 Do. (2 feet) for do.
- 3 Improved 10 mile Perambulators.
- 24 Cases fine Drawing Instruments, including 3 legged Compasses, Ivory protractors and parallel rulers.
- 12 Portable Pocket Cases of Instruments, Containing Compasses, with hollow legs for Ink and Pencil points, which Slide into them by Spring Sockets.
- 2 Pair 6 Inch proportional Compasses.
- 2 Do. Do. Do. with adjusting Screws.
- 1 Do. 12 Inch Do. with Do.
- 6 4 Inch Steel dividers with adjusting Screws.
- 4 Measuring Chains of 100 feet each.
- 24 Surveying Do. of 100 links each.
- 12 Measuring Tape lines of feet and links.
- 4 Staffs with Sliding vanes for levelling.
- 2 Improved Canal Spirit levels on rack and pinion.
- 3 Flat Straight edged Rulers, 7 feet long with Brass edges.
- 4 Do. Do. Do. 4 feet long with Brass edges.

LIST of Mathematical Instruments, &c.—*continued.*

- 6 8 Inch Parallel Rulers with Brass edges.
 4 12 Inch Do. with Brass edges.
 3 18 Inch Do. with Brass edges.
 2 24 Inch Do. with Brass edges.
 4 12 Inch brass diagonal plotting Scales, divided to the 10th of an Inch.
 4 Do. Do. divided to the 20th of an Inch.
 4 6 inch Do. divided to the 40th of an Inch.
 6 Do. Do. divided to the 60th of an Inch.
 6 Do. Do. divided to the 80th of an Inch.
 24 fine Steel drawing Pens.
 6 Protracting Pens with Ivory handles.
 4 Tracing Do. Do.
 12 Pair fine Plotting Compasses with Steel points, exclusive of those in the Cases of drawing Instruments.
 12 Kater Pocket Compasses.
 12 Thermometers.
 12 Barometers (Jones improved Mountain).
 12 Boxes finest Water Colours.
 12 Dozen Pencil Brushes of Sizes.
 An assortment of Stationary, including Pen Knives, and Brookman and Langdon's Pencils of Sorts from H. to HH.

1824.
13 Aug.Requisition for
mathematical
instruments.

J. OXLEY, Surveyor Gen'l.

Surveyor General's Office, Jany., 1822.

Approved:—THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 5, per ship Lang.)

Government House, Sydney,

My Lord,

14th August, 1824.

14 Aug.

I do myself the honor to transmit to Your Lordship a Memorial, Signed in behalf of all the most respectable Persons of the Presbyterian persuasion of this Colony, which I beg strongly to recommend to Your Lordship's most favorable consideration;

Memorial from members of Scots Presbyterian church.

And I trust for Your forgiveness in urging it upon three important grounds, independent of the moral considerations resulting from it.

In the first place, by the Record of the Church Session herewith transmitted Your Lordship will perceive that their doctrines will be the pure orthodox ordinances of that Church Establishment.

Reasons for approving of request.

In the next place, I should not have ventured to recommend that the Colony should be further burdened with expence, had not my dispatch by this conveyance enabled me to have met this contingency by the means therein recommended to be acted upon.

And lastly from my Personal knowledge of the high respectability of the Revd. John D. Lang,* and from the impression of

* Note 78.

1824.
14 Aug.

Your Lordship's liberal consideration for The Roman Catholic Priests, emboldens me to solicit a little more for the Presbyterian Church Establishment of this Colony.

Benefice
proposed for
clergyman of
Scots church.

I therefore hope Your Lordship will not consider £200 a Year, with a Glebe of Three hundred Acres to be attached to it, as an unreasonable request for the benefice of The Clergyman of the Scots Church of the Colony.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

THE MEMORIAL FROM MEMBERS OF THE PRESBYTERIAN CHURCH.

Memorial
from members
of Scots
Presbyterian
church.

To The Right Honourable The Earl Bathurst, His Majesty's Principal Secretary of State for the Colonies, etc., etc., etc.

YOUR Lordship's Memorialists entreat most respectfully to Submit to Your Lordship that, in consequence of representations transmitted from Hence to Great Britain, the Reverend John Dunmore Lang, A.M., a regularly ordained clergyman of the Church of Scotland, was induced to emigrate to this remote Colony, and has continued during twelve months to dispense the Ordinances of Religion in Conformity to the established customs of the Scottish Church to His countrymen in Sydney and at different Settlements in the Territory.

Since the arrival of that Clergyman, a Congregation of Scots Presbyterians has regularly attended Public Worship in Sydney, and many persons, who, in the absence of a Minister of their own communion, had not been accustomed to attend the Public Ministrations of Religion, have thus been again induced to walk in the hallowed Footsteps of their Forefathers. To promote an object so much to be desired and so Conducive to the temporal and Eternal welfare of no inconsiderable portion of the Community, a subscription has been obtained for the erection of a Scots Church in Sydney, and the building* has been commenced within these few days.

The attachment of Scotchmen to the Religious institutions of their native Land, and the influence these have always had in making them reputable and useful members of Society, must be familiar to Your Lordship's mind. Impressed with this belief, and deeply Solicitous that the benefit of Religious Instruction by a Clergyman of their own Church may be continued, and that he may be respectably and permanently settled in the Colony, but yet conscious of the inadequacy and uncertainty of such a provision, as could be created by voluntary subscriptions in a Community so recently formed, Your Lordship's Memorialists most respectfully entreat to submit to Your Lordship's consideration the great difficulty of carrying their intentions into effect, unless aided by the fostering and paternal hand of Government.

* Note 79.

From a consideration of the important results which the attainment of such objects would produce in this Society, and when they reflect on the liberal support given to different Christian Churches in this and other British Colonies, Your Memorialists are emboldened to hope that Your Lordship will be pleased to extend the indulgence of a Salary to The Minister of The Scots Church at Sydney.

1824.
14 Aug.

Memorial
from members
of Scots
Presbyterian
church.

And Your Lordship's Memorialists will ever pray,

JOHN JAMISON.	JOHN MACARTHUR.
THOMAS MOORE, J.P.	JOHN PIPER, J.P.
H. C. ANTILL, J.P.	WILLIAM WALKER.
PAT ^R K HILL.	A. B. SPARK.
CHARLES THROSBY, J.P.	JAMES ROBERTSON.
THOS. CANE, Lieut. 58 Foot.	GEORGE LANG.
JOHN CAMPBELL, J.P.	THOS. MACVITIE, J.P.
H. H. MACARTHUR.	WILLIAM COX, J.P.
CHARLES MACARTHUR.	WM. BALCOMB.
ALEXANDER BERRY, J.P.	JNO. OXLEY, J.P.
EDW'D RILEY, J.P.	DAVID RAMSAY.
CH'S FRASER.	ANDREW JOHNSTON.
THOMAS MCDUGALL.	WM. LAWSON, J.P.
THOMAS RAINE.	CHAS. THROSBY, JR.
GEORGE HARPER.	DON. MACLEOD, J.P.
ALEXANDER DICK, Captain,	A. K. MACKENZIE.
Hon'ble E.I. Comp'y's	
M'y Service.	

[Enclosure No. 2.]

RECORD OF KIRK-SESSION BELONGING TO THE SCOTS CHURCH,
SYDNEY, NEW SOUTH WALES, 1824.

Record of
kirk-session
of the Scots
church.

Lux in terrebis!
Spes in adversis!
Gloria Deo.

At a general Meeting of the Subscribers for the Erection of a Scots Presbyterian Church in Sydney, New South Wales, held in the Reading Room, George Street, Sydney, on Monday the 19th April, 1824, at the hour of twelve o'Clock Noon, John Piper, Esqr., Naval Officer, in the Chair, it was resolved after prayer for divine assistance by the Revd. John Dunmore Lang, A.M., Minister,

1st. That the prosperity of Good Church on Earth and the purity of its worship ought to be the Chief desire of every christian Man.

1824.
14 Aug.

Record of
kirk-session
of the Scots
church.

2nd. That such was evidently the desire of those christian Men, who laboured in the midst of much tribulation but with ultimate success for the Establishment of the Presbyterian form of Church Government in the ancient kingdom of Scotland.

3rd. That the simple institutions of the Presbyterian Church, of which they were the founders in that kingdom, are admirably adapted for the ultimate attainment of the high ends which every christian man should propose to himself and others.

4th. That consequently it is an object, well worthy of the zealous endeavour and the active pursuit of every Scotchman in these Colonies, to secure and perpetuate to himself and his posterity the enjoyment of the ordinances of Religion according to the custom of his forefathers.

5th. That the proposed erection of a Scots Church in Sydney, in which these ordinances shall be dispensed by a Minister of the Scottish Church, is therefore hailed with sincere pleasure and with a fervent prayer that God may bless the undertaking and render it subservient to the welfare of his Church and the prevalence of pure and undefiled religion in these lands.

6th. Finally that, in order as far as possible to prevent all disputes in time coming respecting the appointment of a Minister to that Church, the disposal of its funds or the Standard of appeal in matters of doctrine, discipline and Worship, the following be received as the Constitution of the Scots Presbyterian Church in Sydney, New South Wales, and be Subscribed, previous to his entering upon office, by every Minister thereof, and every Member of Kirk-Session, and every Manager or Trustee.

JOHN DUNMORE LANG, Minister.

Sydney, 5th August, 1824.

Constitution
of Scots
Presbyterian
church.

*The Constitution of the Scots Presbyterian Church in Sydney,
New South Wales.*

1. The Westminster Confession of Faith and the other Standards of the Church of Scotland, viz. the Larger and Shorter Catechism, The Directory for the Public Worship of God, and the form of Presbyterial Church Government, shall in all time coming be the only Standard of Appeal in all matters whatsoever relative to doctrine, discipline or worship.

2. The Minister of this Church shall be a regularly ordained Minister of the Church of Scotland.

3. Whenever circumstances may permit, a Kirk-Session shall be instituted for the management of the Affairs of this Church in manner, used and wont in the Church of Scotland, the Minister to have the sole power of nominating to the Eldership, subject always to the approval or disapproval of the congregation.

4. In the event of the demise or resignation of an incumbent, the right of appointing a Successor shall be vested in the members of the Congregation who are heads of Families and have seats in the Church.

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Constitution
of Scots
Presbyterian
church.

5. If, on the death or resignation of any incumbent, a Minister should be found in the Colony duly qualified to undertake the office of Pastor, the members of Kirk-Session for the time being shall be empowered, by virtue of their Office and without being subject to any Controul, to take such Steps, in the name and on behalf of the congregation, as may be requisite for the Speedy appointment and Settlement of a Minister. For this purpose, they shall (duly apprising the congregation of the Steps they take) be empowered by virtue of their Office to delegate for the time being the right of nominating a Minister to such Minister or Ministers of the Church of Scotland, as they shall think likely to discharge that high and Sacred trust in the fear of God.

6. The Kirk-Session shall have the sole management of all the funds arising from the Seats, from the regular or occasional collections for charitable purposes, and from such legacies or donations, as the Church may receive from time to time; These funds to be appropriated for the support of the Minister, for the payment of precentors' and doorkeepers' salaries, for the repairs of the Church and manse, for the education of the poor, and the assistance of Presbyterians in both Colonies in procuring religious instruction for themselves and their posterity.

7. Although the Minister of this Church must always be a regularly ordained Minister of the Church of Scotland, yet all persons, who have previously to their arrival in this Colony lived in Communion with any body of Presbyterians, holding the Westminster Confession of Faith as their Standard, shall be received forewith into full Communion with this Church on their expressing a desire to that Effect.

8. If any member of the Kirk-Session shall endeavour, on the ground of the Standard of the Church of Scotland being unscriptural or inefficient, to set aside the first of these Articles, or, on the ground of some alleged necessity, to set aside the Second, that person shall ipso facto cease thereforward to be a Member of the Kirk-Session, and forfeit all right and title to vote at its meetings, and any individual of the congregation so endeavouring shall ipso facto cease thenceforward to have a Vote in the Election of a Minister or in any other matter relative to the Church.

9. Lastly, it shall not be in the power of the Minister, or Kirk-Session, or congregation of this Church, or of any two of these

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of Scots
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church.

parties, or of all combined, to dispose with the present constitution at any future period or to substitute another in its stead. And should such an attempt be made and a division ensue in the Kirk-Session and Congregation, those Members of the Kirk-Session and of the Congregation who adhere to the present Constitution, altho' out-numbered by those who wish to change or to Subvert it, shall be held as the Kirk-Session and as the Congregation, and shall, to the exclusion of all interference on the part of the other party, exercise all the rights and enjoy all the privileges which the present Constitution rests in the Kirk-Session and Congregation.

JOHN DUNMORE LANG, Minister.

Sydney, 5th Augt., 1824.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 27, per ship Grenada; acknowledged by Sir Thomas Brisbane, 24th March, 1825.)

Sir,

Downing Street, 16th August, 1824.

16 Aug.
Funds to be
provided for
erection of
Presbyterian
church.

I have received His Majesty's Commands to direct that your Excellency will assign, out of the Police Fund, a Sum equal to one third of what, upon an estimate of a plan first approved by you, may appear to be requisite for the erection of a Church at Sydney, in which the Ordinances of Religion shall be dispensed according to the Institutions of the Church of Scotland, it being understood that, in the event of the expence exceeding the Estimate, the Individuals, who may undertake the Building and not the Public, are to be responsible for its Completion.

Criticism
of qualified
refusal of
assistance by
Sir T. Brisbane.

In communicating His Majesty's Gracious Determination, I cannot but express my regret that your answer to the Memorial,* presented to you on the 4th of August, 1823, on this subject, should have been so little calculated to reconcile the Memorialists to the refusal which you thought it your duty to give to their application.

Had you simply declined engaging on the part of the Public "to grant such assistance, as would enable the Memorialists to erect a Presbyterian Chapel," because you had no security that a sufficient sum would be subscribed by Individuals to warrant you making the Public responsible for the Completion of the Undertaking, you would have shewn an attention to the Public Interests, which could not have been objected to even by the Memorialists. But to require that they, on whose behalf this assistance was to be given, must prove, by their Conduct, their Loyal and peaceable disposition, was proclaiming a condition so approaching to a charge that it ought in prudence to have been spared to whatever body of Men it had been addressed; and to

* Note 80.

put to this probation the Members of the Church of Scotland, the Established Church of one of the most loyal and intelligent Portions of Great Britain, is I am sure what your Excellency will on reflection consider to have been an ill advised and extraordinary Demand.

I have, &c.,

BATHURST.

1824.
16 Aug.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 28, per ship Grenada; acknowledged by Sir Thomas Brisbane, 10th October, 1825.)

Sir, Downing Street, 16th Augt., 1824.

I have received your Dispatch dated the 19th of February, in which you request to be furnished with Instructions as to what proportion of the Lieutenant Governor's allowance should be paid to the Officer who has been in the execution of that duty; and I have the honor to state, in reply, that as the Salary of the Lieut. Governor is only a temporary allowance, which it was always intended should be received by the Senior Military Officer in command in the Colony, next to yourself, the person who performs the duty is clearly entitled to receive the whole amount of such allowance, although he may not be the Officer named in the Lt. Governor's Commission.

Instructions
re salary of
lieut.-governor.

I have, &c.,

BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 6, per ship Lang; acknowledged by Earl Bathurst, 14th June, 1825.)

Government House, Parramatta, New South Wales,

My Lord, 16 August, 1824.

I have the honor to transmit to Your Lordship, the Copy of a Letter from the Reverend Samuel Marsden, Principal Chaplain, calling My attention to the necessity of appointing, until Your Lordship's pleasure shall be known, the Reverend Thomas Hassal to be an assistant Chaplain on the Establishment; I have, in consequence of the deep conviction impressed upon My Mind of the necessity of such a Measure, nominated Him for the present to the Spiritual Charge at Port Macquarie, until the pleasure of His Majesty's Ministers shall be known, on a Salary of £250 Annually, which I shall be most happy, should Your Lordship be pleased to approve and confirm. I shall only add that I have attentively observed the Reverend Thomas Hassal, since my arrival here, and I consider Him in every respect highly qualified for the Sacred Charge to which I have provisionally nominated Him. I have in consequence directed that a plain

Appointment of
Rev. T. Hassall
as chaplain at
Port Macquarie.

1824.
16 Aug.

Church to be
erected at Port
Macquarie.

building without any Spire, of 14 feet Wall only, should be constructed for the purpose, to hold six or seven hundred sitters, which, with different Church Services, will enable the whole to attend, and should this building be no longer required for Sacred Offices, can be usefully converted to others.

I have, &c.,
THOS. BRISBANE.

[Enclosure.]

REVEREND SAMUEL MARSDEN TO SIR THOMAS BRISBANE.

Sir, Parsonage, Parramatta, 22nd June, 1824.

Proposed
appointment
of chaplain at
Port Macquarie.

About twelve months ago, I wrote to the Right Reverend The Lord Bishop of London, stating to His Lordship the distressed situation of several of the Settlements in the Colony for want of Clergymen. Among others, I mentioned the Penal Settlement at Port Macquarie. At this Settlement I need not tell Your Excellency that there are more than fifteen hundred Souls, the greatest part of whom are Felons banished to that Station for recent offences committed in the Colony. These immoral characters can have no religious instruction under their present circumstances. There is no clergyman to instruct the ignorant, to reclaim the wanderer, or to console the Sick and dying; notwithstanding the great crimes of these men, yet they claim our Christian compassion, as we cannot hope for any reformation without the proper means, and without a reformation they are neither fit for this world nor that which is to come. I trust Your Excellency will take their situation into your favourable consideration and will afford them some relief. The Reverend Mr. Hassall has now been two years in the Colony, and has by his Christian conduct proved that he could be equal as a Christian minister to that situation. I therefore beg to recommend him for that appointment at the present time. Mr. Hassall is known to the Bishop of London, His Lordship ordained him, and, having written to His Lordship about him about a year ago, I can have no doubt but Your Excellency's appointment will be confirmed by His Majesty's Government.

I have, &c.,
SAM'L MARSDEN.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 29, per ship Grenada.)

Sir, Downing Street, 17th August, 1824.

17 Aug.
Regulations for
assignment
of convicts.

I have to direct you to publish, in the Gazette of the Colony, the directions* which have been issued by me for the distribution of Convicts, and the regulation of Convict labour;

* Note 81.

so that no Settler can be in a Situation to plead ignorance with respect to the regulations imposed by His Majesty's Government on those points.

I have, &c.,
BATHURST.

1824.
17 Aug.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 30, per ship Grenada; acknowledged by Sir Thomas Brisbane, 3rd August, 1825.)

Sir, Downing Street, 17th August, 1824.

As I find, on reference to your Dispatch of the 29th Novr., 1823, that the terms, on which an offer has been made by you to Mr. McArthur respecting his Grant, differ most essentially from those which were directed in my letter of the 31st July, 1823, I have to direct you that Mr. McArthur be put into immediate possession of the lands described in that Letter, amounting to 10,700 acres, on the payment of £2,850 (being at the rate of 10s. per Acre, for 5,700 acres) or on the payment of an annual Quit-rent of £142 10s., redeemable at 20 years' purchase, which is equivalent to a ready money payment of £2,850. I have also to direct you that Mr. McArthur be required to enter into a Bond to the Treasurer of the Colony, under a Penalty of £10,000 Sterling, upon condition,

Instructions
re land grants to
J. Macarthur.

Bond to be
given by
J. Macarthur.

First, that he will, within three months from the date of any notice to that effect, resign to the Government 600 acres, part of the 10,700, for the erection of a Church or School-house, or for Glebe, provided that Mr. Archdeacon Scott shall represent, within six-months from his arrival in the Colony, that such land is desirable for those purposes and that the situation is preferable to that on the opposite land of Nepean River, and

Secondly, that, if there be any fences or buildings upon the lands in question belonging to Government, for which an allowance should be paid, the value thereof shall be ascertained and certified in writing by the Surveyor General of the Colony, and the amount of such valuation paid by Mr. McArthur into the Treasury of the Colony within twelve months from the date of the notification thereof to Mr. McArthur, provided however that Mr. McArthur shall be permitted to appeal against such valuation to your Excellency and to me, if he shall think fit to do so, Mr. McArthur paying five per Cent. on the valuation from the day of the appeal having been made, of which he must give notice two months after it has been adjudged, if the valuation should be confirmed.

I have, &c.,
BATHURST.

1824.
18 Aug.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 31, per ship Grenada.)

Sir, Downing Street, 18th August, 1824.

Approval of
appointment of
private
secretary to
governor ;

The Considerations, which you have urged in your Dispatch No. 6 of the 11th February, in support of your application for the assistance of a Private Secretary, have appeared to me of sufficient weight to justify my sanctioning such an appointment, to which you will consider yourself authorized to attach a Salary not exceeding £300 per annum. I am further disposed to admit that an additional Clerk may be necessary in consequence of the encrease of business in the Colonial Secretary's Office; but I see no sufficient grounds for the appointment of an Assistant Secretary, which I must decline sanctioning.

and of assistant
clerk in
secretary's
office.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 32, per ship Grenada.)

19 Aug.

Sir, Downing Street, 19th August, 1824.

Annual
shipment of
presents for
natives.

In pursuance of the recommendation contained in your Dispatch No. 7 of the 14th February last, I have given directions that a few of the articles therein mentioned should be forwarded annually to the Colony, with a view to their being given by you as presents to any of the Chiefs of the neighbouring Islands whom you may wish to conciliate, or to reward for any Services rendered to the British Govern., or any of its Subjects.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 33, per ship Grenada.)

21 Aug.

Sir, Downing Street, 21 Aug., 1824.

Necessity for
increased staff
of surveyors.

As the persons,* whom I have recently sent out to the Colony of New South Wales with a view to employment in the Capacity of Land Surveyors, although possessing the qualifications requisite for the Minor and more laborious parts of the business, have not had the advantage of that liberal Education, which is so essential in the higher duties of the Department, I have deemed it necessary, in consequence of the extensive and increasing Emigration to the Colony, as well as on Account of the Establishment of the new Australian Company (the objects in the formation of which You have been already apprized by my Dispatch of the 13th July last) to appoint two Assistants to the

* Note 82.

Surveyor General, whose Education and Rank in Life will not only add to the respectability of the Department but tend to place it upon that footing, with respect to its efficiency, which Mr. Commissioner Bigge in his Report* so strongly recommended to be done, as well as afford at the same time those additional facilities in the location of the Settlers, in the which so many inconvenient delays have been represented to His Majesty's Government to have taken place.

1824.
21 Aug.
Necessity for increased staff of surveyors.

The Gentlemen, whom I have nominated to the above mentioned Situations, are Mr. Hencage Finch and Mr. Rodd; the former has taken a very high degree in Mathematics at the University of Oxford, and has been for some time past studying under an eminent Surveyor, from whom I have received the Most satisfactory assurances of his Competency to the Business in all its various branches; the latter has been strongly recommended to me by Lord Harrowby as a Young Man of considerable talent and equally qualified for the Situation.

Appointment of Finch and Rodd as assistant surveyors.

It is my intention to fix the Salaries of these two Gentlemen at £250 per Annum, with such advantages in respect to a Residence as it may be customary to grant to persons holding similar Civil Situations in the Colony; and You will therefore be pleased to issue their Salaries to them from the date of their Embarkation.

Salaries of Finch and Rodd.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR OF NEW SOUTH WALES.

(Despatch No. 34, per ship Grenada; acknowledged by Sir Thomas Brisbane, Chief Justice Forbes, and Archdeacon Scott, 10th August, 1825.)

Sir, Downing Street, 2nd Septr., 1824.

2 Sept.

In consequence of Mr. Marsden's Representations in a Letter,† addressed by him to Mr. Secretary Peel, I thought it my Duty to direct the dismissal of Doctor Douglas, subject however to any Explanation of his Conduct which he might be enabled to offer.

Tentative dismissal of H. G. Douglass.

Between the interval of my sending these Orders and your receiving them, Dr. Douglas has arrived in this Country, and he has been called upon for that Explanation, which your Excellency was required to demand of him.

Explanation demanded from H. G. Douglass.

I have the honor of enclosing his Statement, which you will perceive is in Contradiction to many of those contained in Mr. Marsden's letter. It is impossible for me to decide on the truth of these Contradictory Reports, and, as you are referred to by each of the Individuals for the truth of what they respectively

Statement made by H. G. Douglass.

* Note 83. † Note 84.

1824.
2 Sept.

state, I should have been inclined to have left the result to depend upon Your Excellency's Report, as I had in my Original Instruction, if I did not think that it would be desirable on your Account to give you some assistance in the Investigation of a Case, which, from the manner in which Mr. Marsden and Dr. Douglas have represented it, becomes one in which the personal honor of both is deeply compromised.

Inquiry to
be held by
governor, chief
justice, and
archdeacon
in case of
J. Ring.

You will therefore desire the Chief Justice and the Archdeacon to proceed, jointly with you, in the Examination of the Case of James Ring, and make a Report to me, with as little delay as possible, specially directing your attention and your Report to those points contained either in Mr. Marsden's or Dr. Douglas's Statements, in respect of which I deem it necessary to put the following Questions:—

Special
points to be
considered
at inquiry.

1st. What application did Mr. Marsden make to the Magistrate on behalf of James Ring on his first hearing that he had been sent to Gaol; and who was that Magistrate?

2nd. What application did he make to you for the release of James Ring, previous to Mr. Marsden's appearance before the Magistrates?

3d. What did Mr. Marsden acknowledge before the Magistrates with respect to the employment of James Ring on his own account, and was that acknowledgment or Confession taken down in writing?

4th. Were there two Convictions, one at the Rate of two Shillings and Sixpence for every day James Ring had been so employed, and the second Conviction for Ten pounds, two Shillings and Sixpence?

5th. On Mr. Marsden's refusing to pay the Fine or Fines, was the Fine levied by a Sale of the Property, or only in the usual manner in which Fines are levied, when the person called upon to pay them thinks proper to resist the demand?

6th. What are the instances of any Individuals having been so fined under this alleged breach of the Colonial Regulations, since the time of Your Excellency having assumed the Government?

7th. Was James Ring obliged to work in the Gang and prohibited attending the Church on the Sabbath? If so, by whose Authority? How soon was he sent to the Sydney Barracks after Mr. Marsden had acknowledged that what James Ring had done had been by his Permission?

8th. In Cases, where by the Authority of the Justices a Convict is taken from his Master without fault being imputed to the Convict, is the Convict remanded to the Convict Barracks, or is he assigned, either by their Authority or on their recommendation, to some other Master?

9th. Did Mr. Marsden apply, after the Conviction, either to the Magistrate or to the Governor for the Convict to be restored to him?

1824.
2 Sept.

Special
points to be
considered
at inquiry.

10th. When James Ring was placed in Sydney Barracks in the employ of Government was he employed as a Common Labouring Convict or in his own particular Trade?

11th. Was Mr. Marsden's Letter addressed to Mr. Secretary Peel read to you or submitted to you by Mr. Marsden, and was it transmitted to Mr. Secretary Peel with your Sanction and Approbation?

12th. If you did give this Sanction and approbation, did you communicate that fact to Dr. Douglas?

You will further Report all the Circumstances, which may have transpired with respect to the escape of James Ring; on board of what Vessel he is supposed to have gone, and to what place that Vessel was bound; and you will also transmit to me the proceedings at the Trial on the Suit of Mr. Marsden against the Magistrates who had fined him.

I have, &c.,

BATHURST.

[Enclosure.]

DR. DOUGLASS TO UNDER SECRETARY HORTON.

Sir, Salopian Coffee House, 21st August, 1824.

In obedience to the Commands of Lord Bathurst, which you have done me the honor to convey to me, I shall proceed to reply to the letter* addressed To The Right Honble. Peel by the Revd. Samuel Marsden bearing date Parramatta, January 23rd, 1824.

Statement by
H. G. Douglass
in reply to
letter of
Rev. S. Marsden
about J. Ring.

In the beginning of May, 1823, I was informed by Mr. Thorn, the Chief Constable at Parramatta, that a Man named James Ring, who, from his having a large Painted board on different houses, which he from time to time had occupied in the Town, setting forth his Trade and occupation, had been considered a free Person, was in fact a Government Man to Mr. Marsden and improperly at large. I replied to my Informant that I would take no notice of it, if not regularly brought before the Bench. Upon the Monday following, a Complaint was exhibited at the Court House, by desire of Mr. Marsden, against the said James Ring and another Government Servant for a Riot at the Parsonage House. Upon taking the Names of the Prisoners, Ring described himself as the Assigned Servant of Mr. Marsden and, being asked if he was the Person who had a board exhibited over a door in Parramatta, answered in the affirmative, adding that his Master had allowed him to sleep out of his house and employ himself about the Town and Neighbourhood for his own benefit.

1824.
2 Sept.
Statement by
H. G. Douglass
in reply to
letter of
Rev. S. Marsden
about J. Ring.

This appeared to my Brother Magistrate (Dr. Macleod) and Myself to be contrary to the Government orders; and, immediately after the Complaint of the Riot was disposed of, a letter was transmitted to Mr. Marsden (and not a Summons as he states) a Copy of which I have the honor to forward to You, requesting his attendance on the following Saturday and Ring was ordered to be detained until his Master appeared. The Reverend Gentleman did attend at the time appointed, and was treated with every possible respect, I myself standing upon his entrance and inviting him to a Chair inside the Bench; he demanded the case to be proceeded in immediately, which I declined, as Mr. Macleod had written to the several Magistrates of the District to attend; and I was determined not to investigate the case without the assistance of some one or more of my Brother Magistrates. Upon Mr. Lawson's arriving, Mr. Marsden repeated his desire that the case should be called, alleging he had particular business at Sydney on Monday, a delay to which day I had proposed as the other Magistrates had not as yet come. Ring was accordingly brought forward; when the Rev. Gentleman demanded to know what his Servant was there for, he was answered that Ring had stated that he (Mr. Marsden) had permitted him to lodge about the Town and employ himself for his own benefit; that he had resided at various houses in the Town for the last fourteen Months, had exposed a Board on those Houses, and was always ready to be employed by any person who wanted his Services. That the Bench, conceiving such Permission (if granted) a direct violation of the Government Orders, had desired Ring to be detained, until the truth of his statement, which involved his Master, could be ascertained. Mr. Marsden at once acknowledged that he had given such permission to Ring, adding that, as his Servant had acted with his leave, he hoped he would not be punished. If the Magistrates considered it a breach of the Government Order, he was willing to pay whatever fine was imposed; but, as Ring had dined in his House, he did not think he ought to be fined. The Bench replied there could not be the slightest idea of Punishing Ring; that his Master's acknowledgment had completely cleared him; but they did not consider Mr. Marsden at all justified by his defence, and were afraid they would be obliged to fine him two Shillings and Sixpence for every day Ring had been living in the Manner described; that however, before doing so, they would refer the matter to His Excellency; in the meantime Ring should be returned to Government employ, or in other words placed at the disposal of the Governor. The Revd. Gentleman then bowed and withdrew; just as he had left the Court, Dr. Macleod came in and enquired what had been

done in Ring's case; he was made acquainted with the whole of what passed, which he decidedly approved of, observing that Mr. Marsden's explanation or defence was not at all a justification. A letter was thereupon written to the Governor stating our opinion that it was a breach of the Government Orders, but referring the Matter to his Consideration. I have not a Copy of this Letter, but it was signed by Mr. Lawson, Dr. Macleod and Myself; and here, Sir, permit me to remark that never conceiving for one minute that I would be called upon in this Country to answer for my Conduct in a matter, which had received the approbation of the Local Authorities when that matter took place, I cannot be expected to come prepared with all the documentary support, I could otherwise have availed myself of. As soon as the Opinion of the Governor was made known to Us through the regular Channel of the Colonial Secretary, a letter, a Copy of which I have the honor to transmit to You, was addressed to Mr. Marsden (enclosing the communication of the Colonial Secy.) requiring him to pay into Court the sum of Ten Pounds and 2s. 6d., the fine for one day, being the Penalty attached to the breach of the Government Order for a Single Day.

I beg your particular attention to this Circumstance. The View, which was taken of the case, was quite different to what would have presented itself, if it had been a mere *lending* of a Convict Mechanic or Laborer by one Gentleman to another; in such nothing could have appeared more than an Act of Courtesy and good Neighbourship, which lending is recognized and specially alluded to in the General Orders, promulgated by the same Governor, who issued the Penal Order under which the Bench acted in this case; the Cases have been attempted to be mixed up, but they are totally different; here there was a constant sleeping out of his Master's house for upwards of Twelve Months, not at a particular lodging provided by the Master for his Servant, but wherever that Servant pleased; but the publicly exhibiting a Board over the Doors of the Houses, which he from time to time resided in, was quite in our judgment conclusive, for surely such could not be construed into a Neighbourly lending of a Servant. If then we were right in our view of the Case, and we were borne out in it both by the Crown Lawyers and the Executive Government, and granting that Ring had so lodged for only 12 Months, we could have enforced the penalty for 365 Days, together with the Ten Pounds; for, where a general permission is confessed, it is idle to talk of a particular day; but we did not do so; we merely required the Ten Pounds and 2s. 6d. for one day. However the Revd. Gentleman attended on the following Saturday, delivered in a written protest against the legality

1824.
2 Sept.

Statement by
H. G. Douglass
in reply to
letter of
Rev. S. Marsden
about J. Ring.

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Statement by
H. G. Douglass
in reply to
letter of
Rev. S. Marsden
about J. Ring.

of the Conviction, and declared he would not pay the fine, altho' on the first day he expressed his readiness to do so; as the question now seemd to rest on a legal point, it was deemed expedient to request the Opinion of the Crown Solicitor, a Copy of which, Marked No. 4, I have the honor to forward to you. The Government directed this Opinion to be acted upon, and the fine enforced, if Mr. Marsden still persisted in refusing to pay it. The Matter was then left with the Crown Solicitor, who drew up both the Information and Conviction; upon his bringing the Conviction to me to sign, I remarked to him that there had been no information upon Oath before the Magistrates; that Mr. Marsden had confessed upon the mere statement of Ring; and that, altho' Thorn had given the information originally, that was not what was acted upon, but the Confession of Mr. Marsden, which Confession was made to bear out the statement of Ring; and you will please to observe, Sir, that, in the Opinion which Mr. Moore gives, he speaks of the *Confession* of Mr. Marsden, whereas, in the drawing up of the Conviction, he speaks of the *Information*, given by Thorn; to my remark upon this discrepancy, he observed "it was a *mere* but necessary form." Mr. Lawson and myself then both signed it. I felt myself wholly exonerated from all question of Legal form, as the Matter was by the Authority of the Government placed in the hands of their legal Adviser.

I cannot pass over the expression made use of by the Revd. Gentleman in his Letter to Mr. Peel, "that a Sale of his Property took place," without expressing my regret that, under his anxiety for the safety of his Servant, he should be led to make use of language calculated to convey a Meaning beyond the fact; the distress was made as a matter of form in as respectful a manner as possible, without a single Article being removed from its place.

Mr. Marsden brought his action in the Supreme Court against Mr. Lawson and myself; the question turned upon the Government Orders. The Judge, in charging the Members, said, "If you think it an honest and Bona fide mistake of the Law, Government will merely give the Ten Pounds 2s. 6d. and Costs; but, if you conceive it an Act of wilful oppression under the Colour of the Laws, you will give exemplary damages," or words to that effect. The Court awarded Ten Pounds two shillings and sixpence with Costs.

Mr. Marsden asserts he believes Sir Thos. Brisbane spoke to me before the matter was investigated respecting Ring. I am not aware of it. The Revd. Gentleman also assigns language to me respecting Ring's going to Jail, which I deny having used; and, to prove the fact of Ring's not being sent to Jail on that day, I refer you to a letter, No. 5 signed by Mr. Lawson and Myself.

Mr. Marsden states that Ring was prevented from attending Church on the Sabbath day. I most solemnly protest that this is not the fact, as far as I am concerned; nor do I believe there is any Officer connected with the Government, who would have dared to have done such a thing; neither is there the least truth in his being ordered by the Magistrates to work in the Jail Gang. Mr. Marsden says I gave him a lecture, which was insulting to his feelings. If I had so far forgotten Myself as to make use of either improper language or gestures to the Revd. Gentleman, I am quite sure he would have availed himself of proving by Witnesses on the Spot what he has *asserted* in this Country without the expectation of an opportunity for Contradiction being afforded to me.

I have, since Sir Thos. Brisbane's Arrival in the Colony, been treated with much attention and kindness by him and his Family; latterly he has taught me to consider myself as his Confidential; he has told me that he represented me most favorably to Earl Bathurst, and, upon my departure from the Colony, he gave me letters to his intimate friends and relations in this Country, couched in most flattering terms; when a late Act of Parliament placed a respectable situation* at his disposal, he conferred it on me in a truly gratifying manner. I submit to you, Sir, if such would have been the case, had he conceived me to have acted in the disgraceful manner, detailed in Mr. Marsden's letter to Mr. Peel; and I trust Sir Thos. Brisbane's Character is quite refutation enough, as to his ever having sanctioned a Statement which he must have known to be incorrect against an Individual whom he knew to be innocent.

With the consciousness of the integrity of my Motives, and with a firm reliance on the Justice of Lord Bathurst,

I have, &c.,

HENRY G. DOUGLASS.

[No. 1] MESSRS. DOUGLASS AND MACLEOD TO REV. SAMUEL
MARSDEN.

Sir, Court of Magistracy, Parramatta, 14th May, 1823.

It having transpired before the Board of Monday last that your Assigned Servant, James Ring, was employing himself with your permission for his own profit and emolument in the Town of Parramatta,

The Bench request your attendance on Saturday next at 11 O'Clock that you may explain such a breach of Government Orders.

We have, &c.,

HENRY G. DOUGLASS, J.P.

DONALD MACLEOD, J.P.

1824.
2 Sept.

Statement by
H. G. Douglass
in reply to
letter of
Rev. S. Marsden
about J. Ring.

Request for Rev.
S. Marsden's
attendance
before
magistrates.

* Note 85.

1824.
2 Sept.

[No. 2] MESSRS. DOUGLASS AND LAWSON TO REV. SAMUEL
MARSDEN.

Sir, Court of Magistracy, Parramatta, 28th May, 1823.

Notification to
Rev. S. Marsden
of fine imposed.

In accordance with the intimation, which you received from the Bench on the 17th Inst., the Opinion of the Magistrates, together with what you offered in your defence, was transmitted to his Excellency the Governor for his pleasure thereon; in reply to which, the Board have had the honor of receiving a letter from the Colonial Secretary, a Copy of which we have the honor of forwarding to you, and have now merely to request you will pay into this Court on Saturday next the Sum of Ten Pounds, being the Penalty awarded for the breach of the Government and General Orders of which you have been adjudged Guilty.

We have, &c.,

H. G. DOUGLASS, J.P.

WM. LAWSON, J.P.

[No. 3] SECRETARY GOULBURN TO THE BENCH OF MAGISTRATES.

Gentlemen, Colonial Secretary's Office, 21st May, 1823.

Governor's
refusal to
interfere with
decision of
magistrates.

The Governor, having perused with considerable attention the Copy, conveyed to me in Your Letter of the 17th Instant, of the Proceedings taken in the Court House, Parramatta, in the Case of The King v. The Revd. Samuel Marsden, finds however no reason for his interference with the due administration of Colonial Law.

I have, &c.,

F. GOULBURN, Col'l Secr'y.

[No. 4] MR. W. H. MOORE TO DR. DOUGLASS.

Sir, George Street, Sydney, 3d June, 1823.

Crown
solicitor's
opinion on
validity of
conviction of
Rev. S. Marsden.

I have no doubt that the permission, given by the Reverend Samuel Marsden to his Government assigned Servant (by Trade a Painter and Glazier) to employ himself by exercising his trade in the Town of Parramatta on his own account, comes within the meaning of the General Order of the 12th January, 1802; and I am of opinion the voluntary Confession, made by him before the Bench of Magistrates at Parramatta, is a sufficient confession to warrant a Conviction without the examination of any Witnesses; And I am also of opinion that, by the Gen'l Order of the 21st Novr., 1818, the Magistrates are empowered to levy any fine or penalty that may have been incurred by the breach of any of the Colonial Government Orders.

I have, &c.,

W. H. MOORE.

[No. 5] MESSRS. LAWSON AND DOUGLASS TO REVD. SAMUEL
MARSDEN.

1824.
2 Sept.

Sir, Parramatta, 5th June, 1823.

We have the honour to acknowledge the receipt of your Letter of the 3d instant, and in reply to state that James Ring was returned to Government employ on Saturday, the 17th Ult.,

Return of
J. Ring to
government
employment.

The Bench not feeling themselves justified in sending him back to the Service of an Individual who had permitted him to be improperly at large.

We have, &c.,

WM. LAWSON, J.P.

HENRY G. DOUGLASS, J.P.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 35, per ship Hugh Crawford; acknowledged by Sir Thomas Brisbane, 21st May, 1825.)

Sir, Downing Street, 20th Sept., 1824.

20 Sept.

I think it my duty to call your attention to three Affidavits, which have been lately lodged in the Privy Council in the Case of Campbell versus MacArthur.

Affidavits
in appeal of
Campbell v.
Macarthur.

I transmit to you Copies of the Affidavits, and their Contents will bring so fully the question under your consideration that it will not be necessary for me to communicate the points, on which it will be desirable for me to receive some Explanation.

I have, &c.,

BATHURST.

[Enclosure.]

AFFIDAVIT OF JOHN MACARTHUR, JR.

Before the King's Most Excellent Majesty in Council.

William Campbell, Appellant,
and

John McArthur, Respondent.

Affidavit of
J. Macarthur,
jr., in appeal of
Campbell v.
Macarthur to
privy council.

IN the Petition of John McArthur of His Majesty's Colony of New South Wales, Esquire.

JOHN MCARTHUR, of Lincoln's Inn in the County of Middlesex, Esquire, Son and Agent in England of the said Petitioner, maketh Oath and saith that he is informed and believes that the said William Campbell of the Colony of New South Wales, aforesaid, Master Mariner, commenced a Suit against the said Petitioner on the Equity side of the supreme Court of the Colony of New South Wales; and that the said Cause,* being duly at issue, came on to be heard before the said Court on the twenty eighth day of November, One thousand eight hundred and twenty, when the said Court was pleased to make a Decree whereby the Bill of Complaint of the said William Campbell was dismissed with

* Note 86.

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20 Sept.

Affidavit of
J. Macarthur,
jr., in appeal of
Campbell v.
Macarthur to
privy council.

Costs. That the said William Campbell appealed to the High Court of Appeals* of the said Colony against the said Decree, and that the said High Court of Appeals, on the sixteenth day of August One thousand eight hundred and twenty two, made and pronounced a Decree in the said Cause, bearing date on the day and year last aforesaid, a Copy whereof is hereunto annexed, marked A, whereby the said Decree of the said supreme Court was affirmed and the said Appeal was dismissed with Costs. That this Deponent hath been informed and believes that the said William Campbell did not interpose any Appeal against the said Decree of the Said High Court of Appeals to His Majesty in Council or lodge or present any Petition for that purpose within the time limited* for that purpose in and by the Charter or Letters Patent of his late Majesty King George the third for constituting the Courts of Civil Jurisdiction in the said Colony, bearing date the fourth day of February, One thousand eight hundred and fourteen, as appears by the Affidavit hereunto annexed, marked B; nor did the said William Campbell ever obtain leave to appeal to his Majesty in Council against the said Decree of the said High Court of Appeals. That the said Petitioner subsequently learnt, as this deponent hath been informed and believes, that the Solicitor of the said William Campbell contemplated appealing to his Majesty in Council against the said Decree of the said High Court of appeals of the sixteenth day of August, One thousand eight hundred and twenty two; and that he proposed for that purpose to procure the Governor's Approval of the Security of two persons, who afterwards entered into the Bond before the Provost Marshall, hereinafter mentioned; and the said Petitioner in consequence, as this Deponent has been informed and believes, caused a Protest or written Notice to be delivered by his Solicitor to the Registrar of the said High Court of Appeals, a Copy whereof is hereunto annexed marked C. And this deponent further saith that he has been informed and believes that the said Petitioner, besides protesting against any appeal being received, the time for interposing the same having long elapsed, gave the said Appellant's solicitor Notice of his objection to the Security proposed, as being incompetent and as not complying with the terms of the said Charter or Letters Patent. That this Deponent has been informed and believes that the said Petitioner did not receive any reply to his said objections or the said Protest, nor any further communication or notice respecting an appeal from the said William Campbell until the Proceedings hereinafter mentioned. That, on or about the thirtieth day of June, One thousand eight hundred and twenty three, being more than ten months from the date of the said Decree of the said High Court of Appeals, the said Petitioner

* Note 87.

received information for the first time, as this Deponent hath been informed and believes, that the said William Campbell had, without notice to or the knowledge of the said Petitioner, delivered to and procured the Registrar of the said High Court of Appeals to admit a Petition of Appeal from him, the said William Campbell, long after the time limited by the said Charter or Letters Patent, and after the delivery of the said Petitioner's said Protest; and that the said William Campbell had also, without any notice being given or any hearing allowed to the said Petitioner, procured the said Registrar to deliver to him, the said William Campbell, in or about the month of April preceding, Copies of the Proceedings or Record of the said Suit, for the purpose of enabling the said William Campbell to prosecute an Appeal to his Majesty in Council against the said Decree of the said High Court of Appeal. That, the said Petitioner having applied to the said Registrar of the said High Court of Appeals for a Copy of any Bail Bond or Toll Security given by the said William Campbell, the said Registrar thereupon, as this Deponent has been informed and believes, transmitted to the said Petitioner a Certificate of the Provost Marshall of the said Colony, a Copy whereof is hereto annexed, marked D. That this Deponent hath been informed and believes that the said William Campbell procured such security to be executed, in manner aforesaid, without any notice to, and without the knowledge, privity or consent of the said Petitioner; and that such security appears to be to the same purport and effect for the same amount and from the same parties to which the said Petitioner had objected as hereinbefore mentioned. That this Deponent hath been informed and believes that the said William Campbell did not procure the Approval of the Governor or Lieutenant Governor of the said Colony to the said Security; and that the same was not in fact authorized or approved of by the said Governor or Lieutenant Governor, and appears, by the said Provost Marshall's Certificate, not to have been taken for the Amount, or in the terms, or for the purposes required and directed by the said Charter or Letters Patent. That this Deponent hath been informed and believes that no Approval of such Security or Admission of any Appeal, and no Certificate of the Governor or Lieutenant Governor's reception or approval, or of the regularity, or fact of interposition of any appeal have been ever given or delivered to the said William Campbell. And that no such appear on the papers procured from the said Registrar by the said William Campbell, and now in the custody of his Agent in London. That this Deponent hath been informed and believes that the aforesaid proceedings of the said William Campbell and of the said Registrar were unknown to and unauthorised by Sir Thomas Brisbane, the

1824.
20 Sept.

Affidavit of
J. Macarthur,
jr., in appeal of
Campbell v.
Macarthur to
privy council.

1824.
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Affidavit of
J. Macarthur,
jr., in appeal of
Campbell v.
Macarthur to
privy council.

Governor of the said Colony and Judge of the said High Court of Appeals; and in particular that the said William Campbell had lodged his Petition of Appeal, and the said Registrar had admitted the same, and that the said Security had been put in and Copies of the Proceedings or Record of the said Suit obtained and annexed to the said Petition of Appeal, without the knowledge, privity or consent of the said Governor. That this Deponent hath been informed and believes that the said Petitioner, having applied for a Copy of the said William Campbell's Petition of Appeal, received the same from the Office of the said Registrar, a Copy whereof is hereto annexed marked E; but that the same was without any date or any Certificate or Memorandum of such date, or of the time of its reception; and that the said Petitioner therefore immediately prepared and submitted to the said Governor a Memorial stating the circumstances, hereinbefore mentioned or to the same effect, and protesting against the conduct of the said Registrar and of the said William Campbell, and praying that the said Petitioner might be allowed to inspect the Records of the said Suit in the Registrar's Office, in order that the said Petitioner might ascertain the regularity or irregularity thereof. That this Deponent hath been informed and believes that the said Governor, after perusing such Memorial, stated to James McArthur, the son of the said Petitioner, in the manner set forth in the annexed Affidavit or Deposition of the said James Macarthur, sworn on the Eighth day of August, One thousand eight hundred and twenty three, marked F. That this Deponent hath been informed and believes that the said Governor hath repeated the same or similar observations to various other persons; but that the Copies of the Proceedings or Record in the said Suit, annexed to the said William Campbell's Petition of Appeal, having been delivered out as aforesaid and transmitted by him to England before the said Petitioner had information thereof, and even before the said Petitioner had notice that any petition of appeal had been received by the said Registrar, the said Petitioner has had no opportunity or means of obtaining any redress from the said Governor or Judge of the said High Court of Appeals for the above mentioned Proceedings. That this deponent hath been informed and believes that the said Registrar has refused to allow the said Petitioner the inspection of the Original Record of the said Suit and proceedings, sought by the said Petitioner for the purpose of ascertaining the regularity thereof, and the precise date on which the alledged Petition of Appeal was received. And this deponent further Saith that he hath received from the said Petitioner the two Affidavits or Depositions by the said James McArthur, hereinbefore referred to and hereunto annexed, respectively marked B

and F, the contents whereof this Deponent believes to be true, And also the four other Documents, hereunto annexed and hereinbefore referred to, respectively marked A, C, D, and E, and which he this Deponent believes to be true and faithful Copies of the Documents, of which they purport to be Copies.

1824.
20 Sept.

Affidavit of
J. Macarthur,
jr., in appeal of
Campbell v.
Macarthur to
privy council.

JOHN MACARTHUR.

Sworn at the Public Office in Southampton Buildings, Chancery Lane, this twenty Second day of April, 1824, Before me:—

J. S. HARVEY.

[Sub-enclosure marked A.]

THIS is the paper marked A referred to in the annexed affidavit of John Macarthur, Sworn before me the 22d day of April, 1824.

J. S. HARVEY.

DECREE.

New South Wales.

By His Excellency Sir Thomas Brisbane, K.C.B., Captain General and Governor in Chief in and over His Majesty's Territory of New South Wales and its Dependencies, &c., &c., &c.

Decree of
Sir T. Brisbane
in court of
appeal in
Campbell v.
Macarthur.

WHEREAS, by Letters Constituting the Courts of Civil Jurisdiction in this Colony, bearing date the fourth day of February, one Thousand Eight hundred and fourteen, and in the fifty fourth year of the Reign of His Majesty King George the third, It is provided that, if either of the Parties engaged in a Suit at Law shall find him, her or themselves aggrieved by any Judgment or Decree to be given or pronounced by the Supreme Court in any Case whatsoever, where the Debt or thing in demand shall exceed the Value of Three Hundred Pounds Ster'g, He, She, or they may appeal to His Excellency the Governor, or in Case of his death or Absence to the Lieutenant Governor for the time being, whose Decision shall be final in every case where the Debt or thing in demand shall Amount to the Sum of Three Hundred Pounds Sterling and not to the Sum of Three Thousand Pounds Sterling, in which case a further appeal lies to His Majesty, His Heirs and Successors in Council.

An Appeal, having been brought before me from the Supreme Court, holden at Sydney on the Twenty eight day of November, One Thousand eight hundred and Twenty,

Between { William Campbell, Esqr., Appellant,
and
John McArthur, Esqr., Respondent,

And having duly and impartially considered the Documents exhibited before me, and heard Arguments, as well on the part of

1824.
20 Sept.
Decree of
Sir T. Brisbane
in court of
appeal in
Campbell v.
Macarthur.

Appellant as of the Respondent, I do Confirm the Verdict of the said Supreme Court, Made and pronounced in this Cause on the Twenty eighth day of November, One Thousand Eight hundred and twenty, and Same is Confirmed accordingly with Costs.

Given under my Hand at Government House, this Sixteenth day of August in the year of our Lord, one thousand Eight hundred and Twenty two.

THOS. BRISBANE.

By His Excellency's Command,
F. GOULBURN, Col. Registrar.

To the Honorable The Judge Advocate;
To the Provost Marshal; and
To all Persons Interested or Concerned.

True Copy:—F. GOULBURN, Col'l Registrar.

Sworn before me at Sydney, this 16th Augt., 1823:—

J. BOWMAN, J.P.

I John Macarthur do make oath that this is a true copy of the Copy received from the Colonial Secretary.

JOHN MACARTHUR.

[Sub-enclosure marked B.]

THIS is the paper marked B referred to in the annexed affidavit of John Macarthur, Sworn before me the 22d April, 1824.

J. S. HARVEY.

Affidavit of
James
Macarthur
re date of notice
of appeal.

JAMES MACARTHUR, of Parramatta, maketh oath and sayeth, that, on a certain day between the ninth and thirteenth of September, One thousand Eight Hundred and twenty two, He went, by order of the Respondent in a Cause in the High Court of Appeals (Campbell versus Macarthur), to enquire at the Colonial Secretary's Office whether the Appellant had interposed any Appeal against the Judgment of His Excellency the Governor given in the above Cause. That Mr. Atkinson, the Chief Clerk in the Office, answered to the following effect:—"that a Notice of Appeal, dated the twenty Seventh day of August had been delivered by the Appellant's Attorney on the Twenty Ninth day of August, on which he also gave notice that he would produce the usual Bail and attend for that purpose on the ensuing day; but that such Bail had not been given and that no appeal to His Majesty in Council had been received at that Office."

JAS. MACARTHUR.

Sworn before me at Sydney this 28th day of July, 1823:—

J. BOWMAN, J.P.

[Sub-enclosure marked C.]

IN the High Court of Appeals,

Between { William Campbell, Appellant.
 { John Macarthur, Respondent.

1824.
20 Sept.

Protest
on behalf of
J. Macarthur
against appeal
of Campbell to
privy council.

Having received notice from the Appellant's Solicitor that the Appellant intended to interpose an Appeal to the King in Council against the Judgment, Sentence or Decree of this Honorable Court, given and pronounced in the Cause in the High Court of Appeals in this Territory on the Sixteenth day of August, 1822, but the Appeal not having been interposed in due time, as is required by the Rules of the said Court of Appeals, I hereby require you to take notice that I now do protest against the same being received into your Office. Dated this thirteenth day of December, 1822.

THOS. D. ROWE, Respondent's Solicitor.

This is the paper marked C referred to in the annexed affidavit of John Macarthur, Sworn the 22d day of April, 1824, before me.

J. S. HARVEY.

[Sub-enclosure marked D.]

IN the Case of an Appeal to the King in Council.

William Campbell, Appellant,
John Macarthur, Respondent.

Certificate
re security
given on behalf
of W. Campbell.

I certify that John Dickson and James Chisholm both of Sydney, having sworn themselves to be each of them worth Six Thousand Pounds over and above his just Debts, have this day passed a Bond to me in the Penal Sum of Six Thousand Pounds Sterling for the due prosecution of the above mentioned Appeal on the part of William Campbell, the Appellant therein.

Sydney, 1st March, 1823. J. T. CAMPBELL, Pro. Mar.

I John Macarthur do make oath that the above is a true Copy of the Copy transmitted me by the Colonial Secretary.

JOHN MACARTHUR.

Sworn before me at Sydney, the 20 Augt., 1824:—

J. BOWMAN, J.P.

This is the paper marked D, referred to in the affidavit of John Macarthur, sworn before me the 22d day of April, 1824.

J. S. HARVEY.

[Sub-enclosure marked E.]

THIS is the paper marked E referred to in the annexed affidavit of John Macarthur, sworn before me the 22d day of April, 1824.

J. S. HARVEY.

IN APPEAL

To The King's Most Excellent Majesty in Council.

THE Memorial of William Campbell of Sydney, in Your Majesty's Territory of New South Wales, Master Mariner, appealing from

Memorial of
W. Campbell
in appeal to
privy council.

1824.
20 Sept.

Memorial of
W. Campbell
in appeal to
privy council.

a Decree of the High Court of Appeals in the said Territory made and pronounced on the 16th day of August, 1822, from an appeal interposed from the Sentence or verdict of the Supreme Court, therein made and declared on the 28th day of November, 1820, in a Certain Cause wherein Your Memorialist was Plaintiff and John McArthur, Esquire, Defendant,

Most Humbly Sets forth,

That Appellant Commenced a Suit on the Equity side of the said Supreme Court to recover from the said John McArthur, Esquire, the Sum of £20,226 5s. 2d. due to Appellant, which Cause Came on to be heard on the 28th day of November, 1820, when Judgment was given and pronounced against Your Majesty's Appellant; from which Judgment Appellant interposed an Appeal to the High Court of Appeals in this Territory.

That the said Appeal was heard by His Excellency the Governor, as Judge of the said High Court of Appeals in this Territory, and the Judgment of the Supreme Court was affirmed. By which affirmation of the said Judgment of the said High Court of Appeal, Appellant finds himself aggrieved, and therefore appeals therefrom to your Majesty in Council in terms of the Patent.

That, on a reference to the said Appeal and to the Documents therein referred to (which appellant presumes are duly forwarded under the great Seal of this Territory to Your Majesty in Council, in Consequence of Notification having been made by Appellant to interpose a further Appeal to your Majesty in Council), Appellant humbly submits it will appear, upon what great and equitable grounds, Memorialist feels himself aggrieved by the affirmation of the said verdict of the Said Supreme Court, and conceives himself entitled to be relieved.

May it therefore please Your Majesty in Council to be pleased, on a review of all the Circumstances of his Case, as set forth in the appeal interposed to His Excellency the Governor as Judge of the High Court of appeals in this Territory, and hearing Council learned in the Law in Support of Appellant's Claim, to reverse the Decree or affirmation of the Judgment of the said Supreme Court and to grant to appellant such relief in the Premises as he humbly submits he is entitled unto in Equity.

And Memorialist will ever Pray, &c., &c., &c.,

WM. CAMPBELL.

True Copy:—F. GOULBURN, Col. Secretary.

Sworn before me at Sydney this 16th Augt., 1823:—

J. BOWMAN, J.P.

I, John MacArthur, do make Oath that this is a true Copy of the Copy I received from the Colonial Secretary.

JOHN MACARTHUR.

[Sub-enclosure marked F.]

JAMES MACARTHUR of Parramatta maketh Oath and sayeth that, on the morning of the twenty Eighth Ultimo, he waited upon His Excellency Sir Thomas Brisbane for the purpose of shewing him a certain Memorial, dated the twenty Eighth of July, One thousand Eight Hundred and twenty three, relative to an Appeal to His Majesty in Council in the Cause "Campbell against Macarthur."

That His Excellency, after reading the Paper which was presented to him, remarked that the proceedings had been most irregular throughout; that he was convinced the Appeal could not be legally admitted because the proper time had elapsed before it had been interposed. That he had several times spoken to Major Goulburn on the subject, and had upon those occasions certainly understood from him that no Appeal had been received. That he had never approved of any security offered by the Appellant, nor would have done so, unless it had been for at least double the amount sued for, and that in fact, if he had done so, it must have been illegal.* That he was greatly surprised on being informed by Dr. Macleod, about a month ago, that the Appeal had actually been sent to England attested by Major Goulburn, as no such circumstance had been reported to him. That he afterwards spoke to Major Goulburn on the subject, who answered that the papers had been given out of the Office at the desire of the Appellant's Solicitor.

JAS. MACARTHUR.

Sworn before me this 8th day of August, 1823:—

JAMES BOWMAN, J.P.

I do certify that the above deposition was made before me, Sydney, 16th Augt., 1823:—

J. BOWMAN, J.P.

This is the paper marked F referred to in the annexed affidavit of John Macarthur, Sworn before me the 22nd day of April, 1824.

J. S. HARVEY.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 36, per ship Hugh Crawford; acknowledged by Sir Thomas Brisbane, 5th April, 1825.)

Sir, Downing Street, 21st Sept., 1824.

21 Sept.

I herewith enclose you Copies† of declarations, which have been transmitted to me by the Individuals whose names are respectively attached to them, on which I must request to be furnished with the earliest explanation.

Declarations re
dismissal of
magistrates by
Sir T. Brisbane.

These declarations have reference to the circumstances, which attended your dismissal of the Magistrates in the case of the charges brought by Ann Rumsby against Dr. Douglass.

* Note 87. † Note 88.

1824.
20 Sept.Affidavit
by James
Macarthur.Sir T.
Brisbane's
statements
re appeal.

1824.
21 Sept.

Declarations re
dismissal of
magistrates by
Sir T. Brisbane.

It appears, from these declarations and the Documents that accompany them, that a resolution was passed by the Magistrates on the 17th August in which they pledged themselves not to sit on the same Bench of Magistrates with Dr. Douglass, in consequence of the Conduct of that Gentleman with respect to the legal proceedings in the Case of Ann Rumsby. It appears that, on the 21st of August, the Colonial Secretary wrote by your direction to give them their choice of abandoning their purpose and rescinding that Resolution, or of sending in their Resignations.

It appears also that, on the 22nd of August, they sent an answer to that letter, professing every desire to avoid any demonstration of hostile conduct towards yourself or your Government, but persisting in their refusal to sit on the Bench with Dr. Douglass.

It appears that, on the _____, * the Magistrates of the Colony sent in a statement highly approving the conduct of the Magistrates, who had drawn up the resolution respecting Dr. Douglass. It is then stated that, on the 24th of August, Mr. Hannibal McArthur waited on you and, after repeating verbally the expressions of personal respect which had been employed in their Letter of the 23rd of August, assured you, on the part of the Magistrates, that they would make any concessions which you could wish or desire, and that, in answer to this declaration, you expressed your perfect satisfaction with the conduct of the Magistrates in the whole affair.

Explanations
to be made by
Sir T. Brisbane.

It is therefore necessary for me to inquire, after so extraordinary a communication,

1st. Whether Mr. Hannibal McArthur did, at his interview with you on the 24th August, offer, on his own part and on that of the two other Justices, to rescind the resolution pledging themselves not to sit on the same Bench of Magistrates with Dr. Douglass.

2nd. Whether, in answer to this offer, you expressed your satisfaction with the conduct of the Magistrates in the whole affair.

3rdly. Whether, in so expressing yourself, you intended to convey to Mr. McArthur, in contradiction to the Letter written by the Colonial Secretary by your direction, that you approved of the Resolution and did not wish to rescind it.

4thly. If it shall appear that you approved of the resolution, and gave Mr. H. McArthur to understand that you did not therefore wish them to rescind it, I am bound to say that however objectionable such a Resolution is, yet that the Magistrates, having offered to rescind it, have made the necessary atonement to the Government and that they ought to be restored. But, in

restoring them, you will at the same time signify to them that His Majesty has given these directions in consequence of its having come to His Knowledge that it was owing to your own Act that the Resolution was not rescinded. It is however almost impossible to believe that such is the true state of the Case; but, if it unfortunately should prove to be so, it will be incumbent on you to explain upon what possible grounds of Justice or fair dealing you afterwards dismissed them from the Magistracy for a Resolution, which they would have rescinded if you had not expressed your Approbation of it.

I have, &c.,

BATHURST.

[Enclosure.]

DEPOSITION OF MR. HANNIBAL McARTHUR.

I, HANNIBAL McARTHUR of Parramatta, New South Wales, do solemnly declare upon my honor That, on Saturday, 24th August, 1822, in an Interview with His Excellency Sir Thomas Brisbane at the Government House, Parramatta, the conduct of Doctor Douglass towards the Bench of Magistrates was made the subject of discussion; and that, during a long conversation on the Evidence relative to Dr. Douglass' treatment of his Female Servant, Ann Rumsby, and the Insult he had offered the Magistrates, I assured His Excellency That the Magistrates were solely actuated by a desire to do their Duty conscientiously; and that, if any part of their conduct could be construed to militate against his Authority, It was so foreign to their Intentions that they could never cease to regret it; and that they would make any Concession he could wish or desire; on which His Excellency expressed his perfect satisfaction with the conduct of the Magistrates in the whole Affair.

I do further solemnly declare upon my honor that I transmitted, by the hands of Capt. Fennell, Aide du Camp, a Copy of the Resolution, passed in this Affair by the Judges and Magistrates to His Excellency; and that I again satisfied on him, when he gave me repeated Assurances of his satisfaction with the conduct of the Magistrates.

H. H. McARTHUR.

Parramatta, N. S. Wales, 22nd January, 1824.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 37, per ship Hugh Crawford.)

Sir, Downing Street, 22nd Sept., 1824.

In consequence of some favorable circumstances, which have been represented to His Majesty on behalf of John Smith, who was convicted and received Sentence of Transportation for

1824.
21 Sept.

Explanations
to be made by
Sir T. Brisbane.

Deposition of
H. Macarthur *re*
his interviews
with
Sir T. Brisbane.

22 Sept.

Free pardon
granted to
J. Smith.

1824.
22 Sept.
Free pardon
granted to
J. Smith.

Life at the High Court of Justiciary in Edinburgh on the 21st of July, 1807, and who sailed for New South Wales in May, 1808, on board the Ship "Admiral Gambier," I am to desire that on the Receipt of this Letter you will grant to the Prisoner a Free Pardon in order that he may (if he shall feel so disposed) return to this Country.

I have, &c.,
BATHURST.

[Enclosure.]

UNDER SECRETARY HOBHOUSE TO UNDER SECRETARY HORTON.

Sir, Whitehall, 14th Sept., 1824.

Application having been made to Mr. Secretary Peel in favor of John Smith, who was convicted and received Sentence of Transportation for Life at the High Court of Justiciary at Edinburgh on the 21st July, 1807, and who Sailed for New South Wales in May, 1808, on board the Ship "Admiral Gambier," I am to desire that you will move Lord Bathurst to issue His Instructions to the Governor of New South Wales to grant the said John Smith a Free Pardon, in order that he may (if he shall feel so disposed) return to this Country.

I am, &c.,
H. HOBHOUSE.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 38, per ship Hercules.)

23 Sept.
Conditional
pardons for
A. Green and
J. Moore.

Sir, Downing Street, 23rd Sept., 1824.

His Majesty having been pleased to extend his Gracious favor to Alexr. Green and James Moore, who were transported to New South Wales in the Ship Countess of Harcourt, I do myself the honor of enclosing The King's Conditional Pardon in order that the Prisoners may receive the benefit thereof.

I have, &c.,
BATHURST.

[Enclosure.]

[A copy of this warrant is not available.]

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 39, per ship Hugh Crawford.)

24 Sept.
Increased
stipends
for clergy.

Sir, Downing Street, 24th Sept., 1824.

Having taken into consideration the long and useful Services in the Colony of New South Wales of the Revd. Samuel Marsden, the Revd. William Cowper, the Revd. Robt. Cartwright,

and the Revd. Henry Fulton, I do myself the honor of acquainting you that I have determined upon increasing the annual Stipends of those Gentlemen* in the following manner,

1824.
24 Sept.
Increased stipends for clergy.

	Pounds Sterling.
The Revd. S. Marsden	400 p. Annum.
The Revd. W. Cowper	300
The Revd. R. Cartwright	300
The Revd. H. Fulton	250

and I beg further to observe that the difference, which may appear between the Sum voted by Parliament and the present increased rate of their Salary, must be paid from the Colonial Fund.

In conclusion I have to desire that you will take an early opportunity of acquainting these Gentlemen with this arrangement, and which I have been induced to make in Consideration of their long, laborious and praiseworthy exertions in behalf of religion and morality.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 40, per ship Hugh Crawford.)

Sir, Downing Street, 25th Sept., 1824. 25 Sept.

I have received a Memorial from the Revd. Robert Cartwright, the second Chaplain in the Colony of New South Wales, of which I enclose you a Copy, and, having conferred with Mr. Archdeacon Scott upon the subject, I am to desire that you will cause a Sum at the Rate of £10 Sterling p. Annum to be paid to Mr. Cartwright from the Colonial Fund from the 1st January, 1818 (the period when Chaplains, who were then appointed, received the Stipend of £250), to the 1st of January, 1825, at which time this Gentleman's Salary will be augmented to £300 p. Annum, agreeably to my Dispatch No. 39 dated the 24th Inst.

Monetary compensation for Rev. R. Cartwright.

As it appears that the residence of Mr. Cartwright, at the time of his appointment to the duties at Windsor, was too small for his accommodation, I am further to direct that the Sum of twelve Shillings Sterling p. week be paid to him from the Colonial Fund, from the time of his quitting the Glebe House at Windsor until his removal to Liverpool, and which period he will state to you in writing.

With reference to that part of Mr. Cartwright's Memorial respecting his being provided with a Horse, As that indulgence has not been allowed to any of the other Chaplains, I cannot in this instance accede to his request of remuneration; but, under the circumstances which Mr. Cartwright has adduced, I have

Refusal of allowance for a horse.

* Note 89.

1824.
25 Sept.

Allowance
to be made
for expenses.

directed Mr. Archdeacon Scott to obtain from him a quarterly account of the actual expences he incurred in the discharge of his Official Duties, and to confer with you upon the propriety of making such an allowance, as, in the judgement of you both, he may appear entitled to. In communicating my intentions to Mr. Cartwright, you will not fail to impress upon him the high estimation I entertain for his long and faithful Services.

I have, &c.,

BATHURST.

[Enclosure.]

Memorial of
Rev. R.
Cartwright
soliciting
financial relief.

THE MEMORIAL OF ROBT. CARTWRIGHT, ONE OF HIS MAJESTY'S
ASS'T CHAPLAINS IN THE COLONY OF NEW SOUTH WALES,

To The Right Honble. Earl Bathurst His Majesty's Principal
Secretary of State for the Colonies,

Humbly Sheweth,

That Your Lordship's Memorialist was, a few years previous to his engaging in this service, Curate in the Parish Church of Bradford in the West Riding of York, where he and his family resided in a very comfortable manner, and was much respected by the principal Inhabitants of that populous Town and neighbourhood. That, towards the close of 1808, the principal Chaplain of this Colony the Reverend Samuel Marsden waited upon him at Bradford, and, after representing the state of this Colony, the great want of Clergymen in it, the encouragement and support, which they and their families would receive from His Majesty's Government, by whom he said he was authorized to treat with any Gentleman whom he might think proper to engage for this service, earnestly solicited Your Lordship's Memorialist and his Family to accompany him to New South Wales.

Mr. Marsden stated that, besides the salary of two hundred and forty pounds sterling per annum, which Your Lordship's Memorialist should receive, his family would on their arrival in this Colony be victualled from His Majesty's store, which had been the custom from the origin of the Colony, be provided with a good House and Glebe, Fuel and other Indulgences.

That, in consequence of such representation, Your Lordship's Memorialist relinquished his situation, and, notwithstanding several advantageous offers were made to him by his Vicar and other friends in order to induce him to remain in England, having obtained His Majesty's Commission, dated January 5th, 1809, embarked with his family for this Colony, where he arrived in the beginning of 1810.

Your Lordship's Memorialist begs leave to state that, immediately on his arrival here, he was appointed to the duties of the

Hawkesbury Districts, which for extent required three Clergymen to perform, That his residence was fixed at Windsor, where there was a large brick building, the upper part of which had been used as a Government Granary, and the lower part as a public school and Place of Worship. The one end of this Building was fitted up for Your Lordship's Memorialist and his family, where they resided about two years. But, finding the part that was appropriated for Divine Worship much too small for his increased congregation, and the place very inconvenient for his family, Your Memorialist was unable to remain there any longer, and removed to a Small Farm of ninety acres in the neighbourhood of Windsor, which he was obliged to purchase.

1824.
25 Sept.

Memorial of
Rev. R.
Cartwright
soliciting
financial relief.

Your Lordship's Memorialist begs leave to state that, if there had been a suitable Glebe attached to his residence, such an expence, as your Memorialist at that time necessarily incurred, would have been avoided. Nevertheless it being the voluntary act of Your Memorialist in quitting the House, which had been provided for him by Government, His Excellency Governor Macquarie doubted of the propriety of his having any claim for House Rent, and thought he should not be justified in allowing Your Lordship's Memorialist more than Eight shillings per Week as Lodging Money, during the three last years he resided at that station, And the sum of £62 8s. 0d. Your Lordship's Memorialist acknowledges to have received on this account.

Your Lordship's Memorialist however hopes that as a part of the House, which was allotted to him as the Chaplain's residence, was really added to the Church, and what remained, being extremely inconvenient and totally unequal to the accommodation of his numerous family, was immediately occupied by the Master of the Public School; and, as there was not any other House provided for Your Lordship's Memorialist during the ten years he officiated at the Hawkesbury, Your Lordship will consider Your Memorialist justly entitled to reasonable House Rent for the Eight Years during which he resided on his own premises, More especially when Your Lordship learns that the other Clergymen have been furnished with suitable residences at an expence to Government of one hundred pounds and upwards per annum.

Your Lordship's Memorialist further states that the Duties of the Hawkesbury Station have been such, during the ten years he resided there, that it was impossible he could perform more than a very small part of them without a Horse. That, on his first arrival there after incurring an expence of about seventeen pounds for horse hire, he was obliged to pay one hundred pounds sterling for the purchase of a Horse, to build a stable, provide food, and every other thing belonging to it at his own expence, which was

1824.
25 Sept.

Memorial of
Rev. R.
Cartwright
soliciting
financial relief.

more than Your Memorialist could do, without embarrassing his pecuniary concerns. At the same time, the necessity of the Colonists in the remote Settlements compelled him to take this measure in order that they might not be left wholly destitute of the administration of the ordinances of religion.

That, on his arrival in this Colony, he and his family enjoyed the indulgences which had been held out to them as an inducement to them to leave their Native Country for some time; but have since been deprived of the whole of them by an order from His Majesty's Government at Home, which at once disabled Your Memorialist from supporting that rank and character which he had always hoped to have maintained. Memorialist begs leave to assure Your Lordship that, had the Indulgences been continued, they would not have been more than barely sufficient to have met the necessary expenditure of Your Lordship's Memorialist in a Country, where every imported article has always been sold at a most extravagant advance, and where his property is subject to constant depreddations.

Your Lordship's Memorialist has however in this place to acknowledge the goodness of His Excellency Governor Macquarie in relieving in part his necessities. Soon after his arrival in the Colony, Your Memorialist received, in common with other officers of his rank, a Grant of six hundred Acres of Land: But which he was afterwards obliged to sell for two hundred pounds, which sum was considered its full value. He was likewise at the same time favored with the loan of a few Cows from the Government Herds on a credit of three years, The produce of which he was also obliged to sell for the support of his family. His Excellency lamenting the pecuniary embarrassments of your Lordship's Memorialist, in reply to a subsequent application for Land and Cattle, was pleased to write in the following terms:—"In consideration of your very great merit and useful zealous services in the Colony, I shall be very happy to give you a Grant of Six Hundred Acres of Land, and also Six Head of Cattle from the Government Herds on a credit of three Years, to be paid in Kind. But it must be clearly understood that this Grant is not to be sold as your former one was, nor alienated from your family. And that it is expressly to be retained, together with the produce of the Cattle, for their support." His Excellency was also pleased to victual four men from His Majesty's Store for Eighteen Months, as Your Memorialist had not before enjoyed that part of a Settler's indulgence.

Your Lordship's Memorialist cannot but feel grateful to His Excellency Governor Macquarie for these acts of kindness to his family. But, as Your Memorialist has yet derived no advantage

whatever from his last Grant, not possessing adequate means to bring it into a state of cultivation, his embarrassments still remain.

It is with the most painful feelings that Your Lordship's Memorialist further states that four years have nearly elapsed since he joined with his Colleagues in a Memorial* to their Superiors, stating their distress, and praying for relief. Also expressing their great anxiety to have some assurance from His Majesty's Government that a suitable provision would be made for their families, in case of their death, in order that they might not be left destitute in this inhospitable land, without the means of returning to their Native Country and their friends. To which they have received no answer.

And further the Wife of Your Lordship's Memorialist was compelled by such distress to return to England in the year 1818, and was absent from her family between two and three years, incurring an expence of between five and six hundred pounds; and suffering the most painful deprivations and distresses.

That after his Wife's departure for England, Your Lordship's Memorialist, finding his difficulties and distresses increase, determined to return with his family to his Native Country, and earnestly petitioned His Excellency Governor Macquarie to grant him such permission. But to which desire His Excellency did not find himself at liberty to accede. In a letter, dated December 23rd, 1818, His Excellency, after pointing out what he conceived to be the duty of Your Lordship's Memorialist, replied in the following words:—"Permit me therefore to entreat of you to abandon every thought of returning to England at present, or for a couple of years to come, when it is reasonable to hope and expect the number of Chaplains in this colony will be considerably increased. At present it is impossible to dispense with your services, or for me to give you leave to quit the Colony."

Your Memorialist cannot help noticing this circumstance as particularly unfortunate to him and his family, since he has every reason to believe that he should have succeeded in getting a comfortable Living if he had been allowed to embark for England at that time. But that which has greatly increased the distress of Your Lordship's Memorialist is that he no longer possesses the means of defraying such an enormous expence, as would necessarily be incurred in removing his family from hence to their Native Country. He is compelled to declare that, owing to the unexpected difficulties which naturally and unavoidably spring up in this community, together with the dishonesty of his Agents in England, he is at the present time so much involved in debt, that it will require his utmost exertion to satisfy his Creditors, and preserve his reputation pure.

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25 Sept.

Memorial of
Rev. R.
Cartwright
soliciting
financial relief.

* Note 90.

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25 Sept.
Memorial of
Rev. R.
Cartwright
soliciting
financial relief.

From the above simple Statement, Your Lordship's Memorialist feels a degree of confidence that Your Lordship will take the situation of your Memorialist into your kind consideration, and afford him such relief as may appear to Your Lordship just and reasonable.

And Your Memorialist shall as in duty bound, ever pray, &c.,
ROBT. CARTWRIGHT.
Liverpool, New South Wales, 30th January, 1821.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Hugh Crawford.)

Sir, Downing Street, 25th Septr., 1824.

Intended relief
of 3rd regiment
by 57th.

I am directed by Earl Bathurst to transmit to you here with the Copy of a Letter from Sir Herbert Taylor, stating that the 57th Regt. is about to proceed to New South Wales to relieve the 3rd Regiment, which is to proceed to the East Indies so soon as 4 Companies of the 57th Foot shall have arrived at New South Wales; and I am to desire that you will make the necessary arrangements for carrying the Instructions contained in that Letter into effect.

I have, &c.,
R. W. HORTON.

[Enclosure.]

MAJOR-GENERAL SIR HERBERT TAYLOR TO UNDER SECRETARY HORTON.

Sir, Horse Guards, 20th September, 1824.

I am directed by The Commander in Chief to acquaint you, for the Information of Earl Bathurst, that the 57th Regiment is under Orders to proceed to New South Wales by Detachments as Escorts to Convicts, and, as it is intended that it shall replace the 3d Foot, which Corps is to go on to India, His Royal Highness requests that you will move His Lordship to sanction the arrangements to be made by Sir Thomas Brisbane for forwarding to India the Buffs, as soon as 4 Companies of the 57th Regiment shall have arrived in New South Wales.

I have, &c.,
H. TAYLOR.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Hercules.)

Sir, Downing Street, 25th Septr., 1824.

Rev. F.
Wilkinson to
be stationed
in N.S.W.

The Revd. F. Wilkinson having received His Majesty's Warrant appointing him Assistant Chaplain at Van Diemen's Land and being desirous of residing at New South Wales, I am

directed by Earl Bathurst to desire that Mr. Wilkinson may be allowed the indulgence which he solicits. I have further to acquaint you that Mr. Wilkinson has received an advance of £60 in anticipation of his Salary.

I have, &c.,

R. W. HORTON.

1824.
25 Sept.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 41, per ship Hercules.)

Sir, Downning Street, 26 Septmb., 1824.

26 Sept.

I enclose you a copy of a letter, which I have received from Mr. Secretary Peel; and I have to request that you will pay attention to the suggestion conveyed in that letter, as you must be aware of the practical inconvenience, which has occurred in the instance to which Mr. Peel's observation more particularly applies.

Transmission
of papers.

I have, &c.,

BATHURST.

[Enclosure.]

UNDER SECRETARY HOBHOUSE TO UNDER SECRETARY HORTON.

Sir, Whitehall, 31 Augt., 1824.

Mr. Secretary Peel having had under consideration the case, forwarded in your letter of the 7 Ultimo, of Isaac Ward and William Rowd convicted at New South Wales of Murder, he has under all the circumstances recommended the Prisoners for a Pardon on Condition of Transportation for Life.

Conditional
pardons granted
to I. Ward and
W. Rowd.

In transmitting to you this Pardon, I am directed by Mr. Peel to acquaint you that he greatly doubts the propriety of the Reprieve, granted to the Convicts by the Governor Contrary to the opinion of the Judge Advocate; and it is only because Mr. Peel does not think it advisable to direct the Execution of the Original Sentence, after so long an interval as must necessarily elapse before a Dispatch can reach New S. Wales, that he has advised His Majesty to Grant this Pardon.

I am further to request that you will call Lord Bathurst's serious attention to the great inconvenience, resulting from a reference in Criminal Cases from the Colonies to this Country, which practice has of late much increased, and submit to his Lordship the expediency of cautioning the several Governors against a recurrence of this practice except in cases of the most serious doubt.

Restriction on
criminal cases
submitted to
England.

I am, &c.,

H. HOBHOUSE.

[Sub-enclosure.]

[A copy of the warrant for pardon is not available.]

1824.
30 Sept.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 7, per ship Prince Regent; acknowledged by Earl Bathurst, 2nd June, 1825.)

Government House, New South Wales,

My Lord,

30th Sept., 1824.

Claim of
S. Bannister
and others
for salaries
from date of
embarkation
in England.

I do myself the honor to transmit to Your Lordship the Copy of a Letter Mr. Bannister, Attorney General, has addressed to me, in order that Your Lordship may be pleased to decide upon it, as I have received no instructions to guide me respecting it. Mr. Bannister having raised the question has induced the other Gentlemen, who have recently arrived to fill their appointments in the Colony, to solicit to be placed on the same footing, and to which I have assented on their giving their written acknowledgments to abide Your Lordship's decision.

And that, should these Gentlemen not be entitled to claim Salary from the date of their embarkation, in that case they are to repay back the Amount of the Sums advanced them here, beyond what they were entitled to claim.

S. Bannister's
further demands
for clerk and
house.

Mr. Bannister having also thought proper to apply to me for £80 a Year for a Clerk, which I found it incumbent on me to refuse from adverting to that passage in Your Lordship's Dispatch No. 39 of the 20th of last October, wherein it is expressed "makeing the Total of Mr. Bannister's emolument from Government amount to £1,200." I cannot therefore conceal my surprise that, under this express limitation, He should have been led to make such a demand either for a House or Clerk, the former of which He has been induced to submit to Your Lordship under the same limitation that, if not allowed, the amount to be returned, Altho' my own opinion, as I expressed to Him, is opposed to His receiving any indulgence beyond his Salary and private practice as conveyed in Your Lordship's Dispatch respecting Him.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

MR. SAXE BANNISTER TO SIR THOMAS BRISBANE.

Sir,

Sydney, 29th September, 1824.

Claim of
S. Bannister to
salary from date
of embarkation
in England.

Understanding that One of the Public Officers lately arrived is authorized to receive His Salary, payable from the Colonial fund, from the day of his embarkation, I take the liberty of requesting that so much of mine, as arises from the same fund, may be calculated for the same time.

I left the Thames on the 28th day of October last, and, if the rule be as recently apprehended, I am entitled to above £260, the proportion of £600 per Ann'm accruing from that day to the 5th of April last, the day of my Arrival.

As some difference may exist in my Case, in consequence of One half of my Salary being paid by The English Treasury, and in consequence of its having been calculated from the 1st of August, 1822, I have to request that Your Excellency will be pleased to direct the Warrant for the Sum, which I now ask for, to be made out, and the Money to be remitted to the Colonial Agent in London to await the determination of Lord Bathurst on the subject.

1824.
30 Sept.

Claim of
S. Bannister to
salary from date
of embarkation
in England.

If the rule be general, it can be paid to my Agent Mr. Bonnor, 14 Angel Court, Throgmorton Street; if not Mr. Barnard can return it to the credit of the Colony. I have, &c.,

S. BANNISTER.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 8, per ship Prince Regent; acknowledged by Earl Bathurst, 14th June, 1825.)

Government House, Parramatta, New South Wales,

My Lord,

2d October, 1824.

2 Oct.

In consequence of the appointment of a branch of the Accomptant department in this Colony, which has afforded me the most genuine gratification, I have the honor to solicit Your Lordship, in order to render that appointment complete and effectual in its operation, to entreat of You to allow me to appoint Mr. Lithgow Auditor of the whole Colonial Revenue, in order that He may have the entire financial state of the Colony under His eye.

Proposed
appointment of
W. Lithgow as
government
auditor.

As this important measure will entail upon Mr. Lithgow considerable additional labour, which I could not reasonably impose upon Him gratuitously, I have the honor to solicit Your Lordship to allow Me to pay Him out of the Colonial Revenue £100 a Year; And, as Your Lordship must be impressed with the importance of this measure extending to Van Diemen's Land, I have the honor to solicit Your Lordship to allow me Half of the above sum to be paid from the Colonial Revenue of that Settlement to the Officer of that department, stationed there, for the fulfilment of that Extra official duty.

Salary for
proposed office.

Auditing of
accounts in
Tasmania.

I am happy to bear testimony to the Value I attach to Mr. Lithgow's services, since His arrival in the Colony; as I am of opinion that his appointment will be productive of incalculable benefit to me in regard to the reduction in the amount of the expenditure, as in the systematical arrangements and simplification of the disbursements connected with the whole Commissariat Department.

Commendation
of W. Lithgow.

I have, &c.,

THOS. BRISBANE.

1824.
4 Oct.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.*

Sir, Downing Street, 4th Oct., 1824.

Recommendation of Duguid for additional land grant.

It appears that the bearer of this letter, Mr. Duguid, has already obtained a Grant of Land in New South Wales; he states that he has left this Land in a state of Cultivation, and that he is now returning to the Colony with an increased Capital. I am directed by Earl Bathurst to request that in that event you will make him an additional Grant proportioned to his Capital, subject however to those General Regulations which will be established.

I am, &c.,
R. W. HORTON.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 9, per ship Prince Regent; acknowledged by Earl Bathurst, 20th June, 1825.)

Government House, Sydney, New South Wales,

My Lord, 4th October, 1824.

Appointment of Rev. T. Reddall as director-general of government schools.

Having taken into my most serious consideration the languishing state of education in this Colony, I have been induced to appoint the Revd. Thomas Reddall† Director General of all the Government Public Schools of New South Wales, until the pleasure of His Majesty shall be made known to me. It is needless to represent to Your Lordship the qualifications of that Revd. Gentleman for such an Office, as, in consequence of Your due appreciation of these in the year 1820, he received at Your hands, on his proceeding to this Country as Assistant Chaplain, the temporary appointment of Schoolmaster. I beg leave therefore to urge upon Your Lordship this nomination in the strongest terms, and to recommend the annual salary of three hundred pounds to be attached to it to enable the nominee to bear up against the heavy expence of making continual tours of inspection to all the straggling schools of this extended territory.

Salary proposed.

I have, &c.,
THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 42, per ship Hugh Crawford.)

25 Oct.

Sir, Downing Street, 25th October, 1824.

Despatch acknowledged.

I have had the honor to receive your Dispatch dated the 18th April, requesting instructions respecting the manner in which Civil Officers proceeding from this Country are to be provided with houses on their Arrival in New South Wales, and further stating that you had rented Houses for the Colonial Treasurer and Attorney General, until you had received such Information.

With reference to the former part of your Dispatch, I have to acquaint you that those Persons only are to be provided with Houses, who are distinctly authorized to receive that Indulgence by my Dispatch announcing to you the situation in which I have placed them, unless it should appear to you that, either from the special nature of the duties they may have to perform, or from other local circumstances connected with their situations, it would be advisable to grant this indulgence, in which cases you will consider yourself authorized to provide them with such accommodation, as in your opinion the nature of their situation requires; but you are most particularly instructed not to grant any house, where you have not been authorized to do so by my orders, without stating the special circumstances of the Case, and having recorded them in the Council Book, notifying the same to me, with the opinion of the Majority of the Council thereupon.

1824.
25 Oct.

Instructions
re houses for
civil officials.

With reference to the Colonial Treasurer, I deem it expedient in consideration of the Funds, which he must necessarily have in his Custody, and the public Documents, which will be wholly under his charge, to authorize you to provide him with a suitable residence, which I think may be accomplished in allotting for his use the House occupied by the Colonial Secretary, previously to your assigning to that Officer the Residence of the late Judge Advocate; but with respect to the Attorney General, the Salary of that Gentleman having been fixed in lieu of every advantage and emolument whatsoever, and the nature of his employment differing so materially from that of the Colonial Treasurer, I see no reason for incurring any additional charge in providing that Officer with a House at the Government Expence.

Residence to be
provided for
colonial
treasurer ;

but not for
attorney-
general.

I have, &c.,
BATHURST.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Hugh Crawford.)

Sir, Downing Street, 25th October, 1824.

Mr. J. P. Macqueen having made application for some location in the neighbourhood of Sydney to enable his Agent, Mr. McIntyre, on his arrival there to land his Stores, and to erect some temporary Storehouse for the reception of them, I am directed by Earl Bathurst to transmit to you a Copy of the Letter addressed to Mr. McQueen in reply, by which you will observe that it is his Lordship's wish that you should afford Mr. McIntyre every facility in your power.

Application by
J. P. Macqueen
for storehouse
site near
Sydney.

I have, &c.,
R. W. HORTON.

1824.
25 Oct.

[Enclosure.]

UNDER SECRETARY HORTON TO MR. J. P. MACQUEEN.

My dear Sir, Downing Street, 22nd Oct., 1824.

Application by
J. P. Macqueen
for storehouse
site near
Sydney.

I have received your Letter of the 2nd Inst., and in reply I am directed by Earl Bathurst to inform you that, as the Land appears to be wholly occupied in the vicinity of Port Jackson, and as the Assignment of Grants to Settlers is left entirely to the Discretion of the Governor, it will not be in his Lordship's power to order you any definite Location.

With regard to accommodation for the Grazing of your Sheep, it is probable that you might be able to make some arrangement of a private nature with Individuals occupying Pastures in the neighbourhood of Sydney; and with reference to your application for a portion of land for the erection of Storehouses, it will not be in Lord Bathurst's power to give any precise directions; but, as the North Shore is difficult of access except by water and may therefore be easily protected, I have to inform you that in the event of your availing yourself of it for the above mentioned purpose, directions will be given to the Governor to render you every possible assistance.

I am, &c.,

R. W. HORTON.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 10, per ship Prince Regent; acknowledged by Earl Bathurst, 20th June, 1825.)

28 Oct.

My Lord, Government House, Sydney, 28th October, 1824.

Necessity for
additional
Roman
Catholic
priests.

Altho' I am no advocate for the tenets or doctrines of the Church of Rome, still I consider that, in proportion as Roman Catholics increase, Priests should be sent for their spiritual instruction, as it is a remarkable fact, of which perhaps Your Lordship cannot be aware, that every Murder or diabolical Crime, which has been committed in the Colony since my arrival, has been perpetrated by Roman Catholics.

And this I ascribe entirely to their barbarous ignorance and total want of education, the invariable companions of bigotry and Cruelty, as well as the parent of Crime.

Had there never been a Priest here, perhaps the Roman Catholic Worship might have dwindled away or become ingrafted with the Protestant.

Whereas one Priest only instills into the minds of His flocks that they must not attend the service of Hereticks, and it is morally impossible that one Individual can dispense the Religious rites and Ceremonies to far the greater proportion of the population of these Colonies, dispersed over hundreds of square Miles.

Thus these unfortunate People are left destitute of every blessing resulting from education, or its application to the Culture of devotion, or capable of receiving it even at the hands of a Priest; thus benighted and bereft of every advantage that can adorn the mind of Man, or characterize the European from the Aborigine, there will soon remain nothing but the shade to distinguish them.

Under this forcible appeal, I feel persuaded I shall not have had the honor of representing their situation in vain, or have to urge more to induce Your Lordship to authorize me to devote a certain sum out of the Public Revenue to assist in completing the Chapel* at Sydney, on which they have already expended nearly £3,000, and towards which the local Government has given £452 as appears by the accompanying statement.

But as the tinsel and show of the Roman Catholic of N. S. Wales seems to be as inherent a part of his Worship as it is in all Roman Catholic Countries, they have sacrificed to show what, with prudence and proper management, might have completed a Building which will still require £3,000 to furnish it; and be much more calculated for a place of Worship, in a rich populous City, than in Sydney, where there are to be found few, if any Individuals of Wealth, who are Roman Catholics. And as the Walls only are finished, I should beg to suggest that Government should assist in roofing it in, putting floors and windows, and then leave the remainder to themselves.

I beg leave to refer Your Lordship to the accompanying documents connected with the subject. And I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

SECRETARY GOULBURN TO REV. JOSEPH TERRY.

Colonial Secretary's Office,

Rev. Sir,

4th December, 1822.

I am Commanded to acquaint You, in reply to Your letter of the 3rd Instant, that the Governor feels sorry You find Yourself unable to perfect the Roman Catholic Chapel in this Town in the Grand scale on which You have commenced it. His Excellency experiences no small gratification, however, at the interest which seems to have been excited respecting its completion in the breasts of one of the Judges and Twenty six Magistrates of the Territory, as manifested by their written recommendation of Assistance, a Copy of which You have done me the honor to enclose.

After the anxiety so generally felt, the propriety of opening a fresh Subscription for the consummation of that religious, political, and elegant undertaking, naturally suggests itself: and in

1824.
28 Oct.

Necessity for additional Roman Catholic priests.

Proposal for government assistance in erection of Roman Catholic chapel.

Difficulty experienced in completion of chapel.

Subsidy offered by government.

1824.
28 Oct.

any List that may be opened, I am directed by the Governor to enter the Name of this Government for a Sum equal to the Sum total of all such additional donations. I have, &c.,

F. GOULBURN, Colonial Secrety.

[Enclosure No. 2.]

REVD. JOSEPH THERRY TO SECRETARY GOULBURN.

Sir, Sydney, 9th September, 1824.

Inability
to rapidly
complete chapel.

After the most mature consideration, I am compelled for the information of His Excellency The Governor to acknowledge that I cannot reasonably indulge a hope of being enabled, by any exertions compatible with my other various, urgent, and daily increasing duties, to complete the Catholic Chapel before the expiration of, at least, five Years from this period, unless His Excellency be graciously pleased to allow the regulation adopted by Him and notified to me, by Your letter of the 4th of December, 1822, to have Also a retrospective effect, which should entitle the Chapel to a sum equal in amount to the Subscriptions received towards its erection prior to that date, as well as those which should be obtained subsequently to it. But as His Excellency may not feel himself justified in extending that indulgence without the express Sanction of the British Government, and as the speedy completion of the structure is rendered the most desirable and necessary in consequence of the rapid increase of Population in the Colony, and the probability that crime, if not prevented or restrained by the salutary influence of Religion, as well as by the strong arm of the Law, will become proportionably and alarmingly prevalent;

Request for
subsidy to be
retrospective.

I presume with great confidence to solicit His Excellency to apply for that sanction thro' the interposition of My Lord Bathurst; convinced as I am that a recommendation, from such a Quarter and thro' such a Medium, would insure a most gracious reception, and in its result secure and if possible augment the attachment and affection of a grateful people for our venerated and highly revered Sovereign. The liberal contributions already made to the building by a population far from being wealthy, the large sum required to complete it in an appropriate style being not less than Three Thousand pounds Sterling, the great number of Appeals now making to public benevolence in behalf of numerous useful and charitable institutions, the necessity of providing places of Worship in other parts of the Colony, and my multifarious and often oppressive duties (to the performance of which I am, unassisted, utterly inadequate) whilst conspiring to deter me from hoping, by private subscriptions alone, to be enabled to consummate that work, which has been commenced and

continued under such favorable auspices, will combine to induce His Excellency to attend, with the humane consideration for which he is distinguished, to my humble but earnest solicitation.

1824.
28 Oct.

I have, &c.,

JOHN JOSEPH THERRY, R.C.C.

[Enclosure No. 3.]

SECRETARY GOULBURN TO SIR THOMAS BRISBANE.

Sir, Colonial Secretary's Office, 12th October, 1824.

I have the honor to subjoin the statement required by Your late Memorandum.

Mechanics lent by Government	£234	12	0	Expenditure by government on Roman Catholic chapel.
Timber Sold by Ditto	18	0	0	
Order on the Coln. Treasury	200	0	0	

Value of the assistance in Work, Money and Timber given to the Roman Catholic Chapel by Government exclusive of Nineteen full suits of Slops	452	12	0
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I have, &c.,

F. GOULBURN.

[Enclosure No. 4.]

SECRETARY GOULBURN TO SIR THOMAS BRISBANE.

Sir, Colonial Secretary's Office, 18th October, 1824.

The enclosed contained in your letter of last Tuesday is herewith returned, together with a Copy of the communication made to The Revd. Mr. Therry, which You therein require; to whom the only sum of Money ever paid on Account of the Roman Catholic Chapel is the Two hundred pounds mentioned in the letter I had the honor of addressing to Your Excellency on the 12th Instant.

Cash paid
on account of
Roman
Catholic
chapel.

I have, &c.,

F. GOULBURN.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Prince Regent.)

My Lord, Government House, Sydney, 29th October, 1824.

29 Oct.

In compliance with Your Lordship's instructions,* calling upon me to state for Your information the number of Convicts that would be required for the ensuing Year, and expressing Your disposition to give encouragement to free Labourers and Mechanics.

Proposed
encouragement
of mechanics
and free
labourers.

I have now the honor to transmit for Your Lordship's guidance the requisite returns, and I cannot but view it as the best measure which could be adopted towards the prosperity of the Colony in giving every reasonable encouragement to Mechanics.

I also beg leave to forward, for Your Lordship's information, the current prices paid at present to these Individuals; and, from

Wages of
labourers.

1824.
29 Oct.
Character of
labourers.

the great demand compared with their disposable Numbers, they have regulated their demands accordingly. They are generally of the most dissolute habits and, being principally employed in the Towns, have more ready access to indulge in these propensities and of making away with the Articles entrusted to them, which increases the means of their gratifying them more extensively, and which our limited number of Overseers cannot prevent.

Advantages of
free mechanics.

The arrival of free Mechanics would not only completely reduce their demands to a reasonable amount, but would operate as a great moral restraint, as Gentlemen would not feel disposed to employ a Convict, who could obtain a free Person.

Convict
mechanics under
punishment.

In proof of the general misconduct of Convict Mechanics, there is not less than Two hundred under secondary punishment at Port Macquarie. Another most useful advantage, resulting from free Mechanics, would be the reasonable prospect that the Government public Works might be executed by Tender, when the Person obtaining it might engage in it under the condition that He was to have Convict Mechanics at His disposal, which would enable him to moderate his estimate, and by which means he would become their Overseer, and thereby require Him to attend to his own interest in seeing that they did their proper proportion of Work, and would entirely relieve Government of that most important duty.

Public works to
be undertaken
by tender.

Employment of
staff corps
in the colony.

It was under this impression that I had the honor of representing* to His Royal Highness the Commander in Chief the advantage, that would accrue to the Colony, by sending a Company of the Staff Corps, which would have saved the Crown their expences treble every Year, provided they did their duty, by compelling the Convict to do his work; and the more I see of this Country, the more I am confirmed in this opinion.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

Return of
convicts landed
at Port Jackson.

CONVICTS disembarked at Port Jackson since the Year 1821.

Date of Arrival.	Ship.	Number Disembarked.
1822, January 8th	Providence (2)	50 F.
" 23	Mary (2)	176
March 9	Isabella (2)	200
" 9	Southworth	100
" 12	Shipley (4)	149
May 20	Mary Ann (2)	62 F.
July 15	Guildford (5)	189
" 24	Asia (2)	189
Novr. 9	Mangles (2)	188
" 22	Eliza (2)	160
Deer. 21	Countess Harcourt (2)	171

* Note 94.

CONVICTS disembarked at Port Jackson, &c.—*continued.*

Date of Arrival.	Ship.	Number Disembarked.	1824. 29 Oct. Return of convicts landed at Port Jackson.
1823, February 27	Lord Sidmouth (3)	46 F.	
March 6	Surrey (4)	156	
" 11	Princess Royal	154	
April 22	Brampton	181	
May 25	Richmond	2	
June 25	Woodman	94 F.	
July 31	Recovery (2)	180	
August 26	Henry	160	
" 27	Ocean (3)	165	
Sept. 9	Earl St. Vincent (3)	156	
October 18th	Mary (3)	59 F.	
December 16th	Isabella (3)	195	
" 29	Medina	176	
1824, January 15th	Castle Forbes	139	
March 5	Guildford (6)	159	
May 7	Brothers	39 F.	
July 12	Countess Harcourt (3)	171	
" 15	Prince Regent (3)	177	
August 20	Almorah (3)	108 F.	

Total 4,151

F. GOULBURN, Col'l Secret'ry.

Colonial Secretary's Office, 6th Sept., 1824.

[Enclosure No. 2.]

PRESENT DEMAND OF CONVICT LABOUR.

		Return of demand for convict labour.
Sawyers	35	10
Carpenters	70	3
Painters	2	3
Joiners	5	3
Turners	1	2
Wheelwrights	15	1
Cabinetmakers	5	1
Blacksmiths	8	2
Shoemakers	8	2
Tanners	1	1
Bricklayers	13	13
Plasters	3	1
Masons	7	16
Stone Cutters	4	10
Tailors	6	2
Watchmakers	1	1
Bakers	—	3
Millers	4	1
Butchers	2	1
Gardeners	28	5
Ploughmen	44	
Farming Men	151	23
Laborers	98	10
Dairymen	11	1
Shepherds		10
House Servants		3
Cooks		3
Grooms		3
Thatchers and Stackers		2
Millwrights		1
Blockmakers		1
Coachmakers		2
Coopers		2
Woolsorters		1
Drivers		13
Tobacco Man'fry		1
Storemen		16
Brickmakers		10
Farriers		2
Nailors		1
Musicians		3
Sadlers		1
Tinmen		1
Bootmakers		5
Shingle Splitters, Fencers, Stockmen, &c.		23
Fencers		10
Upholsterer		1

F. GOULBURN, Col'l Secretary.

Colonial Secretary's Office, 6th October, 1824.

[Enclosure No. 3.]

1824.
29 Oct.
Wages paid to
mechanics and
tradesmen.

PRICES paid to good Mechanics and Tradesmen of the following
Description in the Town of Sydney, New South Wales.

October, 1824.

Boat Builders generally	7/- per Day
Book Binders	5/6 to 6/-
Brass Founders	10/-
Bricklayers	8/-
Blacksmiths	6/- to 7/6
Carpenters, Ship	7/6
Do. House including Joiners and Cabinet Makers	7/6
Coopers	7/-
Gardeners	5/-
Harness Makers	5/- to 7/-
Iron Founders	10/-
Locksmiths	6/- to 7/6
Laborers	2/6 to 5/-
Millwrights	7/6
Pump Borers	10/-
Plasterers	7/6
Painters and Glaziers	7/- to 7/6
Plumbers	7/- to 7/6
Shipwrights	7/-
Sawyers	6/-
Shinglers	8/-
Stone Masons (either Cutters or Setters)	7/- to 7/6
Shoemakers	4/- to 6/-
Tinmen	7/- to 8/-
Tailors	4/6
Wheelwrights	5/-

These Prices are generally paid throughout the Country, unless any specific arrangement is made between the parties. If property or goods be paid in part for labor, then about Twenty five per Cent. is charged in addition to the prices before named, for instance, if 7s. 6d. in Money, 10s. in property and in proportion.

Payments in
specie and
property.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 46, per ship Hercules; acknowledged by Sir Thomas Brisbane, 2nd June, 1825.)

30 Oct.
Permission
for female
convicts to
have their
children
baptized in
church.

Sir,

Downing Street, 30 Octr., 1824.

I have received from the Bishop of London a Letter to His Lordship from the Revd. Samuel Marsden, Senior Chaplain of New S. Wales, dated the 5th June, 1823, complaining of the Conduct of Dr. Douglass, the Magistrate of Parramatta, for refusing to suffer such Women, as are confined in the factory, bringing their Children to the Church to be baptized; and this

Letter is also accompanied with a correspondence between yourself and Mr. Marsden on the subject, in which I observe you state to that Gentleman, "that you are favorable to his opinion, and that of the different Gentlemen, who attended the Meeting to take that point into Consideration; that you had lately given your opinion to Dr. Douglass, that it ought to be complied with, but, having given over the charge and consequent responsibility of that Establishment to him, you feel a delicacy in giving him the order to comply with it."

1824.
30 Oct.

Permission
for female
convicts to
have their
children
baptized in
church.

The rite of Baptism is particularly enjoined by the Rubric to be *Public* except under very peculiar circumstances, for which the Minister is alone responsible; and as I cannot see any reasonable grounds of objection to these Women taking their Infants to the Church under proper Regulations, and as you have expressed the same opinion yourself, I have to desire that you will make such immediate arrangements so that no interruption may take place to such Women as are confined in the Factory bringing their Children to the Church to be baptised.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(A circular despatch per ship Hercules; acknowledged by Sir Thomas Brisbane, 18th November, 1825.)

Sir,

Downing Street, 30th Octr., 1824.

In consequence of a Communication, which I have received from the Secretary of State for the Home Department, complaining of the great practical inconvenience which has been found to result from the frequent reference of late years in Criminal Cases from the Colonies to this Country, with regard to the confirmation of Sentences pronounced by the Colonial Courts, I have to give you the most particular directions to avoid any recurrence of this practice, except in cases of most Serious doubt wherein, in your judgment, no alternative remains; but to appeal to the Government at home, except on a doubt with respect to the construction of Law, must necessarily so raise the hopes of the unfortunate Convict that it becomes hardly possible to direct the execution of the sentence of death after the long interval, which must elapse between the time when the reference is made and that at which the answer will arrive, and thereby does in effect leave His Majesty's Government no other alternative than what under other circumstances would be considered a lax execution of the Law.

Instructions *re*
reference of
sentences in
criminal cases.
to England.

I have, &c.,

BATHURST.

1824.
30 Oct.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Hugh Crawford; acknowledged by Sir Thomas Brisbane, 15th April, 1825.)

Sir, Downing Street, 30th Octr., 1824.

Proposals for
the cultivation
of flax in
N.S.W.

I am directed by Earl Bathurst to transmit to you the accompanying letters, received from Mr. Curtis, recommending an experiment to be made in New South Wales of sowing a quantity of Linseed for the purpose of encouraging the Growth of Flax in that Colony.

With respect to the plan proposed by Mr. Curtis in his first letter, Lord Bathurst considers it to be upon too extensive a scale to authorize the experiment to be made; but his Lordship is of opinion that it is expedient that the modified proposal, made in Mr. Curtis's communication of the 2nd Instant, should be carried into effect. With this view, Messrs. Garry and Curtis have, by Lord Bathurst's directions, shipped on board the Ann and Amelia 369 Barrels of the best Riga Sowing Linseed, the invoice of which is herewith enclosed, amounting to £856 16s. 5d., which Sum his Lordship desires you will remit to the Agent from the Colonial Funds; and also that you will take the necessary steps for carrying into effect the limited scheme proposed by Mr. Curtis, with the view of giving his experiment the fairest trial.

I have, &c.,

R. W. HORTON.

[Enclosure.]

MR. T. A. CURTIS TO EARL BATHURST.

My Lord, 33 Old Broad Street, London, 1 Decr., 1823.

Capability of
colony for
production
of flax.

In presuming to call your Lordship's attention to the Subject of the Cultivation of Flax in the Colony of New South Wales, I feel that I labour under the disadvantage of not possessing further local knowledge of the Capability of its production, with respect to Soil and Climate, than what in a short Space of time I have been able to collect from the very full and able Reports of Mr. Bigge, and some Conversations which I have sought with Gentlemen connected with, and many Years resident in that Colony and Van Diemen's Land. With the aid of these Authorities, I can foresee not only the practicability of the plan, but that it would, under every View of the case, be a most desirable, efficient, and profitable mode of employment of the Convict labour; desirable, inasmuch as it would bring an Article into Cultivation by the hands of Government, which would not interfere with the Settlers; efficient, as a powerful Assistant to the System of Police regulations, which in a Convict Colony necessarily and naturally require such close attention; and profitable, from its not only yielding its own expences in return, but

Advantages to
be derived.

offering a prospect of abundant advantage by extension, as shewn by a short practical calculation (No. 4 & 5) at the end of this address.

1824.
30 Oct.

In considering the case in these three points of View, I may assume it as an admitted fact that, where Settlers are encouraged to establish themselves, and arrive at a State to produce the necessaries of life or a profitable result to their Agricultural pursuits, interference on the part of Government is both inexpedient and impolitic, as any Competition in the means or expence of production between the individual and the Government must necessarily end in the ruin of the former, and eventually destroy the economy of the appropriated and paid labour of the Convict. In any prospective View, therefore, which the Government may have, it is essential that this feature in the case be not lost Sight of, and that the production of such Articles only be contemplated, as are either too slow of return, or of too expensive Cultivation for individuals to undertake. Flax has both these disadvantages to contend against for individuals; whereas they are, comparatively, neither of them of any moment to a Government. The great desideratum in Convict Colonization is, I conceive, the productive Application of Surplus Convict labour, that is, of the labour which can be supplied beyond the ordinary call for it by the Settlers (Vide Mr. Bigge's 1st report, p. 155, 2nd Paragr., Sect. viii); but whether the return for that labour be forthcoming in 6, 12, or 18 months, provided it be forthcoming at last, is of small importance to a Government; to an individual, on the contrary, it is everything. In the ordinary Cultivation of land by the growth of Corn and Maize, or by grazing Herds and flocks, the Government would, it appears, now do harm by interfering. The Settlers are already arrived at a State to pursue those objects with advantage, and should therefore be left to the full enjoyment of the produce of their industry and enterprize without the fear of interruption. But as I apprehend the Supply of Convict labour far exceeds the demand for it by the Settlers, the profitable application of it in the growth of any Article not yet in Cultivation would be indeed most desirable. Such an Article is Flax; and it has an additional claim to attention from the employment it would afford to the youthful and female Convicts in dressing and preparing it, with the means also of Separation from the older and more depraved Classes (Vide No. 1 of statements at the end). Thus as part of the System of Colonial policy the Cultivation of Flax is desirable, as employing the Convicts, concentrating their labour, removing them from the towns, producing a profitable return, and unattended with any interruption to the objects of the Settlers.

Limitations on
government
enterprise.

Different
spheres for
government
and private
enterprise.

Flax
cultivation as
an object for
convict labour.

1824.
30 Oct.
Flax cultivation
in Ireland.

Importation
of flax to
Great Britain.

Importance of
flax industry ;

and of
independence
from foreign
supplies.

Value of flax
cultivation
in the colony.

As a matter of national importance to this Country, I may also bring the Subject under your Lordship's Consideration. It is well known how important a feature the production of flax and the industry, it gives rise to, form in the prosperity of Ireland. The quantity of Acres of flax now cultivated in the North of Ireland is, I believe, about One Hundred Thousand, Yielding about from Twenty five to Twenty Seven Thousand Tons of flax annually. Great Britain draws large Supplies of flax from the Countries on the Baltic, Archangel, Holland, France and Flanders. In the last Year (1822), Thirty thousand Tons of foreign flax were imported, of which Twenty one Thousand Tons were from Russia; and if the present Year's import falls short of that quantity, it will arise from the failure of the Crops of last Year. As an essential and indispensable article in relation to the Shipping Interests, in the manufacture of Canvas, and as a most valuable ingredient in the Scale of trade to the Brazils, Spanish America, North America, the Havannah, our own West India Colonies, Spain, and Portugal, by the export of the different linen manufactures for consumption in those Countries, it appears to me not irrelevant to the present question to suggest how great an object would be attained, if by an increased Supply of flax, and a consequent reduction of price, our manufacturers might be enabled to compete successfully with foreigners; and how still greater an object if, by the production of an article of such vital importance to our national interests in our own Colonies, we could render ourselves eventually wholly independent of foreign Supply, which might be denied us at a moment when we most needed it. (See the illustration of this position in the high prices of flax in the Years 1812 and 1813 stated in No. 6 at the End.)

In a general View as a valuable Export from a rising Colony, it is of no small importance as affording Employment to British Shipping, British Capital and Industry, and adding to the means of raising efficient Seamen for our Navy. I am aware that the Cultivation of Hemp may be urged as more important in a national point of View, and this Subject will certainly not escape Your Lordship's notice in the information you may require from the Colony as to its Capability. I understand Mr. Horton (with whom I had the honor of a short interview) to say that the attention of Government was already called to that Subject in the District of Upper Canada. Whether in the scale of national importance, however, flax will bear a comparison with Hemp is not the question at present; but an object of deep interest would be most certainly attained, if, by the application of the labour of the Convicts, so valuable an Article as flax could be produced, affording at the same time a profitable return for the labour.

There are three essential points, which I take the liberty of submitting to Your Lordship's consideration, and which ought to be well weighed before any Steps be decidedly taken. These points are Soil, Climate, and the ready means of transport. The first, of great moment in all cultivation, is more particularly so in that of flax. That in the vast tracts of unappropriated lands in New South Wales all kinds of Soils are to be met with, it is natural to suppose. In reading Mr. Bigge's 1st report, p. 140, we learn that he considers the soil as not generally fertile; and in his 3rd report, p. 12, he estimates the average Crops as yielding only 10 Bushels of corn per acre; and in the account of his Survey, 3rd report, pp. 6 and following, he speaks frequently of the Soil being poor and swampy. In other parts, however, of his Reports, he mentions several districts where the soil is rich and alluvial. In Bathurst Plains for example, which are watered by the Macquarie River, "the Soil is fertile and not subject to inundation, tho' the grain produced there has been greatly affected by Smut." As I consider the want of attention to Soil might prove fatal to the success of the Undertaking, I cannot too strongly recommend that, in any Instructions which may be given in respect to the appropriation of land for the cultivation of flax, selection of Soil should be a primary consideration. I may here take occasion to observe that it is not a little fortunate that the Gentleman, Mr. Henry Wilson, lately appointed by Your Lordship to the responsible and difficult Situation of Head of the Police Establishment of the Colony of New South Wales, possesses, in addition to his other eminent qualifications for that office, a thorough practical knowledge of the Cultivation and preparation of flax, having, during a long residence in Holland, made it his particular study and pleasure. I should, therefore, suggest the expediency of his having permission either forthwith to proceed to Holland himself, or to endeavour, through the able agency of Mr. Ferrier, His Majesty's Consul at Rotterdam, to procure two or three experienced Dutchmen to accompany him to New South Wales, and to act there as Superintendants. By the aid of these practical persons, there could be no difficulty in selecting a proper Soil, which I cannot too often repeat is a most essential point. The opportunity of watering and steeping the flax, after it is pulled, is a great desideratum; and the quality of the water is not unimportant. One great defect in the Dutch flax is that, from being watered and steeped with stagnant water, it is more difficult to bleach; whereas the flax from Riga, Petersberg and the ports in the Baltic, being steeped and watered with stream water, or in pools of rain Water, discharges its colourable matter readily. This, at least, is the only way I can account for the fact as it exists. In Mr. Bigge's reports, he frequently adverts to the

1824.
30 Oct.

Selection
of soil for
cultivation
of flax.

Experts in
flax industry.

Watering
and steeping
of flax.

1824.
30 Oct.

Situations to
be selected
subject to
climatic
conditions.

want of Water and its bad qualities in certain districts. As a part therefore of the Character of the Soil, I should include the quality of the Water.

The climate of New South Wales appears to be generally good, altho' occasionally subject to great drought and consequent failure of the Crops. In the Countries in Europe where flax is generally cultivated, the more genial temperature of the Climate seldom affects the Crop; altho', in some instances, Poland, Lithuania and the southern provinces of Russia have suffered from excessive heat and drought. There is nothing more fatal to the Crops of flax than a want of moisture at particular periods of its growth. If an unusually dry Season sets in at an early period, the plant becomes stunted and yields bad flax; if it follows immediately after heavy rains and continues, the plant will make unnatural Shoots, and the harle or fibre becomes weak and poor. The only means we possess of adapting such an Article to the disadvantages of such a Climate are by the selection of Soil and Situation, which are best calculated to protect it against the effect of them. In addition therefore to the necessary attention to Soil, Situation becomes not less important. We know in our own Country that the Climate varies in different Situations, as will plainly appear by consulting any Meteorological tables, or regulated Pluviometers. I therefore humbly but earnestly recommend that strict attention may be paid to the Situation of any flax farms the Government may think fit to establish, so as to protect the flax plant as much as possible from too great heat and drought.

Consideration
of means of
transport.

The next point, altho' of less comparative importance in a Colony of Convicts where the Employment of labour is more to be considered than the Economy of it, is yet of some moment; it is that of the means of transport from the place of growth and preparation to the port of shipment. Mr. Bigge particularly adverts "to the only obstacles which prevent the progress of the growth of Wool, viz., the difficulty and expence of transporting it from the interior to the Coast" (vide P. 17, 3rd Report), and subsequently calls the attention of the Government to the improvement of the roads, canals &c. In Holland, with the facilities of the innumerable Canals which intersect that Country; in Flanders where the same convenience exists, altho' to a less extent; in Poland, Russia and Prussia where, in addition to navigable rivers for Summer conveyance, they possess the easy and cheap accommodation of Sledges during the Winter; the means of transport at a moderate expence are evident. If, therefore, in the Selection of Soil and Situation, the proximity of a navigable river or a Canal could be fixed upon, it would afford a surer means of profit by diminishing the expence of labour.

Having thus entered a good deal into detail, which, considering the great importance of the Subject and the necessity of a proper System to set out with, I trust your Lordship will not think impertinent, I now proceed to the practical part of it, in which I shall endeavour to point out, first, the means by which I should recommend that the plan should be carried into Effect; secondly, the expences of cultivation; thirdly, the ready demand which would at all times exist for the produce on its arrival in this Country; and lastly, the practical result of the Sale of the produce.

1824.
30 Oct.

Problems for
consideration.

I have already adverted to the expediency of sending to Holland to procure persons capable of undertaking the Cultivation of the Flax, as Superintendents; a System would be thus immediately established founded on the firm basis of practical knowledge and experience, giving greater certainty of Success, and the immediate Opportunity of efficiently, advantageously, and economically applying the labour of the Convicts. Under this Management, one or two thousand acres might be brought into cultivation, and would afford means of effectually trying the Experiment. In so great an Object, it would not be worth while, in my humble judgment, to risk its failure from the want of proper proof, which from the varying nature of flax may be the case in a confined Sphere of action. The means, which Government possesses, are besides ample; and I should point out that such is the nature of flax, that two neighbouring fields will produce two different qualities. A trial upon an extended Scale I therefore consider essential to its Success. The usual calculation is that a Statute acre of land will yield from 4 to 5 Cwts. p. acre. By the annexed statement, from Ireland (No. 1, 2, 3), the quantity is put at 600 lbs., or Cwt. 5. 1. 12 lb.; from Lincolnshire at 35 Stone or Cwt. 4. 1. 14 lb.; and from the West of Scotland 28 Stone or 22½ lbs. or Cwt. 5. 2. 14 lb. Much however depends upon the Seed Sown. In new Ground, the first production may be expected to be greater than by subsequent Cultivation, except by very high dressing of the land; it is therefore probable that in taking the Estimate of Seed sown per acre, afforded by the Report of the 17 July, 1822, on the Linen trade of Ireland, for the first year the average quantity produced p. acre may exceed the usual average. It appears from that report that the average of the 4 years of 1818, 1819, 1820, and 1821, 83,395 acres were sown with 47,464 Hogsheads of Seed, or nearly 4 Bushels per acre. This upon the usual average of Crops in Ireland would produce 20,849 Tons of flax; but it is probable that the proportion of produce from new Ground of rich Soil would prove greater at first; it is therefore necessary not to be too sanguine from first results. To secure the chances of Success

Proposed plan
for cultivation
of flax.

1824.
30 Oct.
Proposed plan
for cultivation
of flax.

as much as possible, I should recommend that one third Riga, one third Dutch, and one third American Seed be sown; thus, if the experiment be tried on only 1,000 acres, it would require 570 Hhds. of Seed, of which 190 Hhds. Dutch, 190 Hhds. American and 380 Barrels Riga, and which could be easily procured in time sufficient for sowing in New South Wales. The sowing Season for flax in Europe is in all March and April, and even sometimes in May; and the Crop is taken off the ground in July and August. If, therefore, the Seed were to arrive in New South Wales in any time to admit of its being sown in September, which corresponds with our April, I should think it would be the right time of sowing. In the meantime the Government should lose no time in sending out instructions to the Governor of New South Wales to prepare the way for this important experiment, by having such spots selected as may correspond with the Suggestions I have presumed to offer, and the ground properly cleared and prepared. The arrivals of flax seed from the Dutch ports and from Riga into Ireland for Sowing will now be taking place, that from America will come in about the month of January. The quality of this Year's Riga Seed is remarkably fine; that from Holland is fair Seed; from America the reports are favorable. It would therefore be desirable that, when the principal arrivals of Seed shall have taken place, a selection of a sufficient quantity should be made, and dispatched so as to arrive in New South Wales in August. Amongst the annexed Statements your Lordship will find No. 8 to contain the probable cost of 600 Hhds. Seed delivered at Port Jackson, which is the quantity I should recommend to be sent, as the trifling excess may serve to make up for any damage or waste which may take place in so long a Voyage.

Expenses of
cultivation.

The expences of Cultivation are calculated at nearly £13 p. acre, exclusive of Seed (No. 2) in this Country; in Scotland (return not yet sent to me) I estimate it at about £11 p. acre; and in Ireland (No. 1) including a rent of £6 p. acre, nearly £10 p. acre. Thus it would require an average price of £52 p. ton in England, £44 p. Ton in Scotland and £40 p. Ton in Ireland to repay the expences of production, exclusive of profit to the farmer. This great amount of expence is the reason that, when corn is at a remunerating price, the farmers in England and Scotland will not cultivate flax. The same causes prevail in Flanders and France, where rents are high, to keep the cultivation of flax in check. The cheapness of labour, provisions, carriage and every article connected with Agriculture renders the fluctuation of prices of less moment in Russia and Prussia; the Supply is therefore steadily kept up. In New South Wales, where the great expence would be the first establishment of the System,

where Convict labour is constantly under the Control and at the immediate Call of the Government, where Land is comparatively of no Value, and where every advantageous circumstance of locality may be brought into action, the only expences, which can fairly be considered as attaching to the Cultivation of flax by the Government in that Colony, are the maintenance and clothing of the number of Convicts employed, the Salaries &c. of the Superintendants, the cost of the Seed, the transport to the place of shipment and the charge of a per centage for wear and tear of Utensils and Implements used. A fair prospect is thus afforded of a successful competition with Russia, which supplies so large a proportion of flax imported. I humbly conceive that the Colonial policy of this great Country would not admit of a moment's hesitation in granting the means for the promotion of a plan, which has for its object the ultimate certain productive application of convict labour, and the regulation of a convict population. The necessary Utensils, Implements, labour of clearing and preparing the Ground, and other preliminary expences must therefore be paid for by the Government, and the amount considered as an invested Capital, which would be taken amongst the expences of Cultivation at a percentage, in the same way as the valuation of improved leases, or of sunk Capital by the manufacturers, are added to the charge of rent or expences. It appears (p. 23, 3rd Report of Mr. Bigge) by the statement of Mr. Cox, that the expence of converting into tillage an Acre of forest land, or land of an ordinary quality, is estimated at £6 10s., thus 1,000 Acres would cost £6,500; but the charge to be attached to the rent can only be estimated at 5 per cent. upon that Sum, as the property in the land is perpetual; and therefore supposing all the difficulties and obstacles of clearing forest land are to be contended against, which if my earlier suggestions respecting Soil and Situation are attended to, will not be the case, £325 p. annum is in fact the rent of the land, or 6s. 6d. p. acre. The preparation, however, of land really suited to the growth of flax will not require I should think one fourth that Sum. In this charge also of £6,500, are included the labour and clothing of the Convicts by a person having to engage labourers, whom he would not otherwise have to maintain. The case with the Government is different, and it must maintain these Convicts whether their labour is applied or not. Therefore in assuming a Rent charge of £325 p. ann., I place the Government Establishment on the same footing as any individual Settler. The aggregate estimated amount of labour and expences p. acre will be found by the table No. 5 to be £6 12s., or at the average rate of produce of 5 Cwt. per acre, £26 8s. 4d. per Ton.

1824.
30 Oct.
Expenses of
cultivation.

1824.
 30 Oct.
 Demand for
 flax.

Intimately acquainted as your Lordship must be with the Subject of the Linen trade, and possessed of all the Documents relative to the extent of it, the Employment it affords to so many hundred thousands of the labouring classes in its various branches, and the Struggles which our Manufacturers are constantly making to contend against the cheapness of foreign markets, it would be a waste of your Lordship's valuable time to attempt to recapitulate even the Outlines of those interesting Circumstances. But in all these documents, in all these anxious applications of the manufacturers for assistance and protection, and in this immense Employment of Capital in Machinery and labour, the ready and advantageous Sale of a Commodity like flax is most evident. The success of a manufactured Article depends greatly upon the cheapness of the raw material, which again depends upon the want of demand, or the increase of production. Thus the high price of flax abroad in the beginning of this year (1823) stopped nearly half the spinning and weaving concerns. The large Supplies and consequent low price of Cotton caused a decrease in the demand for linens, and a substitution of Cotton goods in their Stead. Whereas a regularly moderate price of flax would have maintained the relative value of the two Articles, and secured the linen Manufacturer against the encroachments of the Cotton manufacturer. The present great reduction in price (nearly 40 p. Cent. in three months) has infused new life and energy into the linen trade, as is very evident from the letters and extensive Orders for flax which my commercial house at Riga is daily receiving. Any new means of production or Channel of Supply, therefore, would be hailed by the manufacturers as affording the prospect of future regularity in price, and enable them steadily to pursue their business without the fear of interruption from sudden fluctuations, which ruin them and throw the manufacturing population out of employ. These few practical remarks will serve to prove that flax is an Article, which would meet a ready Sale. To secure this promptness of demand it is indispensable to attend to the proper separation and distinction of the qualities. This Separation of qualities or Braack, as it is called abroad, being regularly kept up, and affording a security to the buyer that the quality under any particular denomination will be (making allowance for variation in Seasons) what it has been before, tends greatly to the facility of the flax trade. As an illustration of the force of this regulation, Riga is divided into 4 qualities, Crown flax, commonly known as P.T.R. or P.D.R., Cut flax or D.C., 3 Band or R.T., and H.D. and Codilla or Tow. St. Petersburg flax has also 4 qualities, viz: 12 Head, 9 Head, 6 Head and Codilla; Minel flax 3 qualities 4 Brand, 3 Brand and Codilla. In Holland,

Classification
 of qualities
 of flax.

the sorts are very various, as also in Flanders. But the distinction being always regularly kept up, the orders which the manufacturers send out are specified for the particular qualities they require under the usual denominations or marks, and they can depend on receiving them. In Ireland on the other hand, this Separation of quality is not attended to, and it is consequently very difficult, if not impossible, to effect a Sale of the Article until seen by the Purchaser. According to the Sample of flax from New South Wales, which has been shewn to me, but which was certainly badly treated in the heckling, I should rate it as equal to the D.C. or Second quality of Riga, and to the 12 head or first quality of St. Petersburg flax. I should recommend that a System should immediately be adopted of separating the inferior qualities by a fixed Standard, which can easily be arranged by Mr. Wilson and his Dutchmen, and of dividing the flax into 3 Shipping Marks viz: $\frac{1}{2}$ /B.P., 2/B.P., 3/B.P., the upper denomination describing the quality, and the under the district from whence it comes as for example B.P. for Bathurst Plains, H.R. for Hunter's River, W.V. Wellington Valley, W.P. Wallis's Plains, and so forth. I cannot too strongly impress upon Your Lordship the necessity of the most rigid attention to these particulars, they suggest themselves from experience and an intimate and practical acquaintance with the flax trade, and will be the means of facilitating the accomplishment of the Object in View. I humbly submit also the expediency of a Bill being brought into Parliament admitting all Hemp and Flax being the growth of any of the British Colonies to entry free of all duty.

By a reference to the annexed table of prices (No. 7), it will appear that the general average price of flax since July, 1812, would be £77½ p. Ton for P.T.R. or 1st quality Riga, and £63½ p. Ton for D.C. or second quality Riga, and 12 Head or 1st quality St. Petersburg and equal to the Sample from New South Wales. But as in this average would be included all those inflated periods, which the extraordinary Circumstances of the times produced, I would rather begin to calculate the Average from the Year 1817, when the Effects of the War had subsided, and when trade had resumed its usual course, and prices regulated themselves to supply and demand. The average will then appear to be £65½ p. Ton for 1st quality Riga, and £55½ for 2nd quality Riga. The lowest price in the list of averages for D.C. (equal to the Sample from New South Wales) is £48 p. Ton, at which I might therefore fairly make my Calculation of the practical result of the Sale: but as, from the abundant Crops in every part of Russia and Prussia, and indeed Europe in general this year (1823), and the excellent quality of the flax, it is probable prices will rule at a low rate, I have assumed the moderate price

1821.
30 Oct.

Classification
of qualities
of flax.

Prices obtained
for flax.

1824.
30 Oct.

of £45 to shew the practical result of the Sale of the flax, but your Lordship will be aware that at this low rate, any Chance may raise, but few can reduce that price.

Full
explanations
submitted.

I have thus endeavoured to shew Your Lordship the practicability of the plan, and the means whereby it may be carried into complete effect. If I have entered into more detail, or if I have loaded this address with more matter than might have been absolutely necessary to have introduced, it has been because I considered it would bring all the bearings of the Subject more completely before Your Lordship's mind, if I set down everything as it arose to my own conception. I thus apologize for the length, to which unexpectedly I have drawn my Subject.

In conclusion I beg freely to offer my Services in assisting to carry this important Object into Effect and shall consider it no trouble to wait upon Your Lordship, or to attend at the Colonial Office whenever my presence can be serviceable. With the most profound respect, I have the honor to be, &c.,

T. A. CURTIS.

[Sub-enclosure No. 1.]

Labour
employed on one
acre of flax
in Ireland.

ONE ACRE Plantation of Flax will employ in cultivation and preparing for Market as follows:—

- 1 Man and 2 horses .. 5 days ploughing and harrowing
- 6 Women 1 day weeding
- 8 Men 1 day pulling
- 1½ Men 1 day stooking and tying
- 6 Men 1 day Rippling
- 3 Men and 1 horse ... 1 day Steeping
- 1½ Men and 1 horse taking out of the Water.
- 7 Women spreading
- 1½ Men turning
- 2 Men and 3 Women lifting
- 1 Man Storing
- *10 Men breaking
- *25 Men Scutching

*If done by Mill Work it will cost 6s. p. Cwt.

The average Weight p. acre is taken at 600 lbs.

The average price of labour in this part of the Country is at present 1s. per diem.

Londonderry, 13 Novr., 1823.

[Sub-enclosure No. 2.]

EXPENCE of growing an Acre of flax.

Expense of
cultivating one
acre of flax
in England.

Rent of land and taxes	£6	0	0
Ploughing	0	8	0
Seed	1	5	0
Harrowing	0	8	0
Sowing 4d. gripping 1s. Weeding 10s. and pulling 10s. ...	1	1	4
Leading to the rating pit 5s. sinking in do. 1s.	0	6	0
Covering in the pit 1s. taking out 2s.	0	3	0
Leading on the grass 6s. spreading 4s. turning twice 2s. ...	0	12	0

EXPENCE of growing an Acre of flax—*continued.*

1824.
30 Oct.

Taking up from Grass 2s. leading home 6s.	£0	8	0
Dressing for the Market on the Average quantity of 35 Stone p. Acre at 2s. 3d.	3	18	9
Porterage to place of Sale	0	2	3
	<hr/>		
	14	12	4

35 Stone at 14 lb. equal to Cwt 4. 1. 14 p. Acre.
Gainsboro', 25 Novr., 1823.

[Sub-enclosure No. 3.]

FLAX CULTURE IN SCOTLAND.

Details of
flax culture
in Scotland.

1. What is the rent of the best quality of land fit for the growth of flax, and what quantity of scutched flax will such land yield on an Average P. Acre?

A. About £6 10s. p. acre including ploughing and Harrowing; at average produce 20 Stone Trou, or 28 avoirdupois per Acre for years 1815 to 1820, both inclusive. The two last Crops (1821, 1822) having failed are not included.

2. What waste is supposed to be sustained in the process of Milling?

A. Five stone dry fit for the rollers produce one stone of scutched flax at average.

3. What is paid at the Mill per Stone and is the Stone 16 lb.?

A. The present price 2s., the Stone of 22½ lbs. for rolling and Scutching.

4. What is the best Scottish flax worth when it comes from the Mill?

A. Best flax, Cross 1822, is worth 14s. per Stone of 22½ lbs. avoirdupois.

5. What price is paid p. lb. for heckling?

A. From 2s. 6d. to 3s. p. Stone of 22½ lb. Avdp., according to the fineness of the flax and the purpose for which it is wanted.

The above answers are from an experienced flax grower in the West of Scotland.

[Sub-enclosure No. 4.]

ESTIMATE of produce of the Sale of One Ton of New South Wales Flax. One Ton of N.S.W. Flax £45 0s. 0d.

Estimated value
of one ton of flax
from N.S.W.

Charges.

Freight	£5	5	0
Insurance on £25 @ 4 p. Ct.	1	0	0
Landing Cha's	1	0	0
Commission 2 p. Ct.	0	18	0
Delcredere or Guarantee if required 2 p. Ct.	0	18	0
Brokerage ½ p. Ct.	0	4	6
Interest of Money 1 Yr. on £25 and 6 Mos. on £10	1	10	0
	<hr/>		
	10	15	6

Net produce £34 4s. 6d.

[Sub-enclosure No. 5.]

1824.
30 Oct.
Estimated cost
of cultivating
one acre of flax
in N.S.W.

ESTIMATED COST of one Acre of flax grown in New South Wales.

Maintenance of Convicts at the rate of £24 12s. (pr. Mr. Bigge's Report, p. 163) and of 100 Men to 1,000 Acres	£2 9 5
Rent charge to repay the expences of first preparation of land (£1,625) at 5 p. Ct. £81 5s. 0d. for 1,000 Acres or p. acre	0 1 8
Wear and tear of Implements and Utensils estimated at £500 value and allowing 25 p. Ct. as a Charge for 1,000 Acres £125 or per acre	0 2 6
Seed including freight	3 3 0
Carriage to place of Shipment @ 2s. 6d. p. Cwt. on supposed quantity of 5 Cwt.	0 12 6
Proportion of 1 Acre to 1,000 for the Salaries of 2 Superintendants at £100 p. ann. each	0 4 0
	£6 12 1

Anticipated
profit to
government.

or £26 8s. 4d. p. Ton, which deducted from the Net produce of Sale, as per No. 4, will leave a clear profit to the Government of £7 16s. 2d. p. Ton, and will afford the maintenance of 80 Convicts, besides the 100 included in the above Estimate. This Calculation makes no allowance for the Linseed, which may be saved from the flax, and which is proper for the purposes of crushing for Oil for painters and affording food for Cattle when in Cake from the Mill. The quantity from an Acre of flax may be fairly stated at 10 Bushels p. Acre, which in this Country would be worth 5s. p. Bushel; but as the demand for Oil and Cake may not probably be so great in N.S.W. as to command such a price, I take it at 2s. 6d. p. bushel, which will reduce the cost of production 25s. p. Acre, making it £5 7s. 1d. or £21 8s. 4d. p. Ton, and leaving a clear gain to the Government of £12 6s. 2d. per Ton, affording maintenance for 130 additional Convicts.

[Sub-enclosure No. 6.]

[This return detailed the monthly prices of flax from July, 1812, to November, 1823, and formed the basis of sub-enclosure No. 7. It has been omitted.]

[Sub-enclosure No. 7.]

AVERAGES OF FLAX PRICES.

Average prices
of flax.

	P.T.R.	D.C. or 12 Hd.
1812	120½	99½
1813	104	87
1814	90½	70½
1815	90¾	67
1816	66	50
1817	67¾	57
1818	83	69
1819	76	61
1820	61¼	51

AVERAGES of Flax Prices—*continued.*

	P.T.R.	D.C. or 12 Hd.	1824. 30 Oct. Average prices of flax.
1821	55	49	
1822	53	48	
1823	63	54 $\frac{3}{4}$	
	<hr/>	<hr/>	
	77 $\frac{1}{2}$	63 $\frac{1}{2}$	
1817	67 $\frac{3}{4}$	57	
1818	83	69	
1819	76	61	
1820	61 $\frac{1}{4}$	51	
1821	55	49	
1822	53	48	
1823	63	54 $\frac{1}{4}$	
	<hr/>	<hr/>	
	65 $\frac{1}{2}$	55 $\frac{1}{2}$	

[Sub-enclosure No. 8.]

PROBABLE COST of 600 Hhds. or 1,200 Barrels Sowing Linseed.		Estimated
1,200 Barrels Sowing Seed at 40s.	£2,400 0 0	cost of sowing linseed.
Freight to Port Jackson @ £4 p. 12 Barrels	400 0 0	
Insurance at 4 p. Cent.	96 0 0	
Charges 1s. p. Barrel	60 0 0	
Commission 2 p. Cent.	48 0 0	
	<hr/>	
	£3,004 0 0	

or about £2 10s., say Two pounds ten Shillings p. Barrel. In the Calculation of Expenditure of Cultivation, it is called £3 3s. 0d. to cover the Charges of Carriage to the place of Sowing.

[Sub-enclosure No. 9.]

GENERAL RESULT of the Produce of 1,000 Acres of flax, by which it will appear that the first cost of clearing the Ground for Cultivation, and Supply of Implements will be repaid in the first Year and a Surplus amount remain for the maintenance of 44 Convicts in addition to the 100 employed.

Expenditure of production as p. Table No. 5 p. Acre	£6 12 1	General account for cultivation of 1,000 acres of flax.
Deduct for Value of Linseed saved p. Acre	1 5 0	
	<hr/>	
	£5 7 1	
	or p. Ton	
	21 8 4	
Net produce of Sale p. Ton as p. No. 4	34 4 6	
	<hr/>	
	£12 16 2	
Produce of 1,000 Acres Tons	250 £3,202 1 8	
Estimate of clearing	£1,625	
Do. Implements	500	
	<hr/>	
	£2,125 0 0	
	<hr/>	
	£1,077 1 8	
44 Convicts at £24 12s. each	£1,082 8 0	

1824.
30 Oct.

[Sub-enclosure No. 10.]

EXTRACT of a letter from flanders of the 4 Decr., received since this address was prepared.

Methods adopted
in flax culture
in Flanders.

“It is the Custom amongst the farmers here to divide their land into different parcels, and to sow each with a different Article in such a way that they sow the same ground with flax only every 6th or 7th year. The Soil is naturally poor, and it has been made so extremely fertile as it now is by dint merely of the utmost cultivation. The order of rotation is usually this: After the Soil has been very richly prepared they sow Rape-seed, or rather they transplant the Rape plant in about October, or Keep waiting till Spring to sow flax seed; the next crop is Wheat, then Rye, then Oats, then Potatoes, &c. The flax grown about Courtray is of a very fine and excellent quality, and, being steeped in running water, obtains also particularly a very fair white Colour.”

In a conversation, held on the 18th Decr. with Mr. Ellermann, of Antwerp, a Gentleman of great observation and considerable experience, he attributes the increased production of flax in flanders to the simple and intelligible fact of the low price of Corn, which, not yielding a fair profit above a Rent, has driven the Flemings, not naturally fond of changing their System and habits, to the Cultivation of flax. The high prices in Russia in the early part of this Year and the consequent ready Sale, which their flax found, together with so favorable an Opportunity of disposing of a Stock, which had been accumulating for three Years, added also greatly to this impetus.

[Enclosure No. 2.]

MR. T. A. CURTIS TO UNDER SECRETARY HORTON.

Sir,

33 Old Broad St., 2 Oct., 1824.

Proposed
experimental
cultivation
of flax on
small scale in
N.S.W.

Understanding from you that Earl Bathurst would not be disposed to try the plan proposed of growing flax in New South Wales to the extent recommended in the paper, which I had the honor of addressing to His Lordship upon the Subject, I beg leave to suggest the expediency of making the Experiment to the extent of from three or four Hundred Acres in different Situations in the Colony, and in parcels of land of not less than from Eighty to one Hundred Acres, so as to give every possible Opportunity of ascertaining the probability of Success. For this purpose, I have prepared Three Hundred and Sixty Nine Barrels of Superior Riga Sowing Linseed to be sent out to New South Wales, and request the favor of a confirmation from the Colonial Office of this transaction.

I have, &c.,

T. A. CURTIS.

[Enclosure No. 3.]

1824.
30 Oct.

INVOICE of 369 Barrels of Riga Flaxseed, purchased at Leith on Account of His Majesty's Government, repacked into 79 Puncheons and 31 Hogsheads, and shipped on board the Ann and Amelia, W. Ascough Master, for New South Wales.

Invoice of
flax-seed shipped
to N.S.W.

	£	s.	d.
268 Barrels of Flaxseed @ 36s. p. Barrel	482	8	0
101 „ ditto 35s. „	176	15	0
369 Barrels	£659	3	0

Charges at Leith.

Porterage and shipping 101 Barrels	£1	9	5
Stamp for draft	0	13	0
Commission, 2½ p. Ct.	16	10	7
		18	13
		0	
	£677	16	0

Charges in London.

Freight on 369 Barrels @ 2s. 3d. p. B'l	£41	10	3
Insurance on £700 from Leith to London @ 10s. 6d. % £3 13s. 6d.; Policy 9s.	4	2	6
Wharfage on 369 B'ls @ 8d.	12	6	0
Rent and shooting into other Casks	25	14	6
Shipping 79 Puncheons and 31 Hhds.	5	10	0
Metage	4	0	0
Small Charges to labourers, Coopers, Bills of Lading, boat hire and Postage	2	1	0
Insurance against fire	1	8	0
Lighterage and watching	5	9	6
	£102	1	9

79 new Puncheons @ 24s. p. pn. .	£94	16	0
31 „ Hogsheads @ 18s. p. hhd.	27	18	0
Heading up Casks and Coopering	2	15	0
	£125	9	0

Cr.			
By 369 old Barrels @ 3s. p. b'l ..	55	7	0
	70	2	0
Discount on balance 5%	3	10	0
	£66	12	0

		168	13	9
		£846	9	9
	Commission 2 p. Ct.	16	18	4
Insurance from London to New South Wales £900 at 50s. p.c. £22 10s. 0d.; Policy £2 5s. 0d.	24	15	0	
Interest on Advances	12	7	1	
		£900	10	2

Cr.				
By 369 Bags at 9d. p. Bag	£13	16	9	
„ Duty to be recovered on 1,433 Bushels at 5d. due the 8 Sept., 1824	29	17	0	
		43	13	
		£856	16	5

GARRY AND CURTIS.

London the 7th Sept., 1824. E. & O.E.

1824.
1 Nov.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 11, per ship Prince Regent.)

Government House, New South Wales,

My Lord, 1st November, 1824.

Landholders
and merchants
suggested as
members of
council.

In conforming to Your Lordship's Despatch No. 3 of the 19th January, 1824, received by H. Majesty's Ship Tamer on the 27th July, I do myself the honor to embrace the earliest direct opportunity to submit the Names of Ten Landholders and Merchants to form a Council, in which list the proportions are nearly equal; and I have arranged them in the order I should consider them eligible to be selected as belonging to it, as far as my opinion of their fitness may be allowed to operate, although I have every reason to believe they will all prove efficient Members.

I have also fully explained to the Members of the present Council that it was merely a *pro temporary* arrangement until the present could be brought into operation.

I have, &c.,
THOS. BRISBANE.

[Enclosure.]

LIST of Ten Landholders and Merchants of New South Wales,
submitted for a Colonial Council.

1. John MacArthur, Esqr., Landholder.
2. Warham Jemmett Browne, Esqr., Merchant.
3. Robert Campbell, Esqr., Senior, Merchant.
4. John Thomas Campbell, Esqr., Landholder, late Provost Marshal.
5. William Cox, Esqr., Landholder.
6. Edward Riley, Esqr., Merchant.
7. Charles Throsby, Esqr., Landholder.
8. Sir John Jamison, Kt., Landholder.
9. William Walker, Esqr., Merchant.
10. John Campbell, Esqr., Landholder at Prospect.

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 12, per ship Prince Regent.)

Government House, N. S. Wales,

3 Nov.

My Lord, 3rd Nov., 1824.

Assembling
of council.

By His Majesty's Ship Tamar, which arrived here the end of July, I had the honor to receive Your Lordship's Despatch of the 19th of January, 1824, transmitting His Majesty's Royal Warrant for the assembling a Colonial Council,* which met as soon thereafter as the necessary forms would admit; and the accompanying enclosure will acquaint Your Lordship of the

* Note 95.

business, which has been transacted, upon which Mr. Bannister entertains some doubt in consequence of the absence of the Lt. Governor Colonel Stewart, in which there was no alternative but that of Paralyzing the intentions of the Legislature in the Operations of the Council, or waiting an indefinite Period the arrival of the Lt. Governor and trust Your Lordship will approve of our decision.

I have appointed Mr. Francis Stephen, Son of the Solicitor General, Clerk of the Council, until Your Lordship's pleasure shall be known, on a Salary of £70 a year, which I trust Your Lordship will Confirm.

I have, &c.,

THOS. BRISBANE.

1824.
3 Nov.
Absence of
lieut.-governor.

Appointment of
F. Stephen as
clerk of council.

[Enclosure.]

MINUTES OF COUNCIL MEETING.

Council Chamber, 25th August, 1824.

Minutes
of council.

Present:—His Excellency Sir Thomas Brisbane, Governor, etc., etc., etc.

The Chief Justice	} of New South Wales
The Colonial Secretary	
The Principal Surgeon	
The Surveyor General	

HIS EXCELLENCY the Governor read His Majesty's Royal Warrant, dated at Carlton House the First day of December, 1823, appointing William Stewart, Esquire, the Lieutenant Governor of New South Wales, together with the above named Gentlemen, to be Members of Council for New South Wales and its Dependencies, and also a letter from Earl Bathurst, His Majesty's Principal Secretary of State, dated Downing Street, 19th of January, 1824, relating to the said Council.

His Excellency then administered to each of the above named Members the Oath, prescribed by the Act of Parliament, 4th Geo. 4, Cap. 96, Sect. 32.

His Excellency then stated to the Council that William Stewart, Esquire, the Lieutenant Governor of New South Wales, was absent from the Colony, and desired their opinion whether, from that circumstance, the Council would by the terms of the said Act be prevented from proceeding to the discharge of the duties imposed upon the Council by the Act. The above named Members were unanimously of opinion that the circumstance of the Lieutenant Governor's absence would not preclude the Council from proceeding to business.

The Governor then was pleased to say that he had nothing further to lay before the Council.

A true Copy:—FRANCIS STEPHEN, Clerk of the Council.

1824.
3 Nov.

Minutes
of council.

Council Chamber, 28th September, 1824.

THE Council being this day assembled in pursuance of His Excellency's Summons,

Present:—The Chief Justice
The Colonial Secretary } of New South Wales.
The Principal Surgeon }

His Excellency the Governor was pleased to lay before the Council a Bill, entitled "An Act to make Promissory Notes and Bills of Exchange, payable in Spanish Dollars, available as if such Notes and Bills had been made payable in Sterling Money of the Realm."

The Council, having taken the said proposed Bill into Consideration, suggested some alterations and amendments to be made in the same; upon which it was resolved that James Bowman, Esquire, the Principal Surgeon, be requested to carry and lay, before His Excellency the Governor, the Bill with the said proposed alterations and amendments for his approval.

His Excellency was therefore pleased to sanction and approve of the said alterations and amendments, and the above named Members then unanimously assented to the Law, which is as follows:—

Statute
5 Geo. IV, No. 1.

"By His Excellency Sir Thomas Brisbane, K.C.B., Governor of the Colony of New South Wales and its Dependencies, etc., etc., etc.

"By the advice of the Major Part of the Council.

"WHEREAS the ordinary business of buying and selling, in the said Colony and in the Dependencies thereof, is and has long been transacted in a foreign Silver Coin, commonly called Spanish Dollars, and by Bills of Exchange and Promissory Notes payable in such Dollars; and whereas to improve the Security of the said Bills and Notes will promote Trade and just dealing; NOW THEREFORE IT IS HEREBY ENACTED that all Bills of Exchange and Promissory Notes, payable in such Dollars as aforesaid, shall be holden, in the Courts of Law of the said Colony and of the Dependencies thereof, to be valid, negotiable and transferable Instruments, and the Holders of the same, and all other persons interested therein, shall have and be allowed in the said Courts all such Remedies in respect of their Claims upon such Bills and Notes as aforesaid, as if the said Bills and Notes had been drawn payable in Money of the Realm."

A true Copy:—FRANCIS STEPHEN, Clerk of the Council.

SIR THOMAS BRISBANE TO EARL BATHURST.

1824.
3 Nov.

(Despatch No. 13, per ship Prince Regent.)

Government House, New South Wales,

My Lord,

3d November, 1824.

I have the honor to enclose Your Lordship a copy of the Proclamation, which I found it necessary to issue in consequence of the aggressions committed by the Native Blacks upon the habitations, Persons and property of the European Settlers in the neighbourhood of Bathurst. It was not until every other means of convincing the ill-judging Natives of the wrongs, they were committing, and our ample means of punishing them, had failed, that I was induced to resort to so strong a measure as placing the Country beyond the blue Mountains, or West of Mount York, under a state of Martial Law. I am happy in being able now to assure Your Lordship that the measures, which have been adopted, have had the desired effect; as, by the latest accounts, the hostile Natives were hourly coming in to tender their submission and sue for peace and protection.

Proclamation of martial law in country to west of Mount York.

Restoration of tranquillity.

I am not yet in possession of the official details of Major Morisset, the Commandant at Bathurst; but, from private sources of information, I can state with some confidence that only seven Europeans have lost their lives in the conflict, which has taken place at Bathurst between the Natives and the Settlers. The number of the former, who have been killed, can only be gathered from conjecture, but in all probability they do not much exceed double the number of Europeans. I am only waiting for the Report of Major Morisset to lay before Your Lordship a full and circumstantial account of the whole affair at Bathurst. But feeling apprehensive that the placing of a distant part of the Colony under Martial Law might be misrepresented and improperly understood, I was anxious to put Your Lordship in possession of a general view of the measure and of the consequences, by which it has been attended, so far as they have reached my knowledge.

Loss of life in conflicts with natives.

I propose going to visit the newly discovered River and Country at Morton Bay, with a view of determining by personal observation the comparative benefits, which may result to the Mother Country from its being converted into a penal Settlement, or left open to the purposes of Colonization and Commerce. In my way, I shall visit Port Macquarie; and as soon as I return to Sydney, I shall be prepared, from the materials which I hope to collect, to submit to Your Lordship a detailed report upon the subject of the penal Settlements and the expediency of either re-opening Norfolk Island or forming an establishment at some other part

Proposed visit to Moreton bay.

Report on penal settlements.

1824.

3 Nov.

General report
to be made on
Moreton bay.

of the Territory in the vicinity of these Colonies, as a place of punishment for encreased Criminality. At the same time, I hope to be able to furnish Your Lordship with a more particular account of the Climate, Soil, Natural Productions, and Commercial capacities of Morton Bay and of the recently discovered River Brisbane.

I shall avail myself of the same occasion to enter into a full report upon the operations of the new Courts and of the Legislative Council, which have been introduced into the Colony by the New South Wales Act. At present, I beg to assure Your Lordship that, so far as they have been put into action, they fully answer the highest expectations, which have been formed of them, and in nothing could their efficacy be more apparent than in putting an end to that party feeling, which formerly prevailed in this Colony to a considerable extent and disturbed alike the measures of Government and the relations of Private Society. Judging from mere appearances, I might almost say that no feeling of this sort now exists in the Colony, and I trust, by perseverance and temperance, that the conflicting feelings of persons, who have hitherto acted with hostility towards each other, will be entirely subjected to a sense of common Duty and common interest in promoting and preserving the Peace and welfare of the Colony.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

PROCLAMATION OF MARTIAL LAW.

NEW SOUTH WALES.

PROCLAMATION.

BY His Excellency Sir Thomas Brisbane, Knight Commander of the Most Honorable Military Order of the Bath, Captain General and Governor in Chief in and over His Majesty's Territory of New South Wales and its Dependencies, etc., etc., etc.

WHEREAS the ABORIGINAL NATIVES of the Districts near Bathurst have for many Weeks past carried on a Series of indiscriminate Attacks on the Stock Stations there, putting some of the Keepers to cruel Deaths, wounding others, and dispersing and plundering the Flocks and Herds; themselves not escaping sanguinary Retaliation;

AND WHEREAS the ordinary Powers of the CIVIL MAGISTRATES (although most anxiously exerted) have failed to protect the Lives of HIS MAJESTY'S Subjects; and every conciliatory Measure has been pursued in vain; and the Slaughter of Black Women

Proclamation of
martial law
in country to
westward of
Mount York.

Benefits
derived from
establishment
of new courts
and council.

and Children and unoffending White Men, as well as of the lawless Objects of Terror, continue to threaten the before mentioned Districts;

1824.
3 Nov.

Proclamation of martial law in country to westward of Mount York.

AND WHEREAS, by Experience, it hath been found that mutual Bloodshed may be stopped by the Use of Arms against the Natives beyond the ordinary Rule of Law in Time of Peace, and for this End Resort to summary Justice has become necessary :

NOW THEREFORE, by Virtue of the Authority in me vested by His Majesty's Royal Commission, I do declare, in Order to restore Tranquillity, MARTIAL LAW TO BE IN FORCE IN ALL THE COUNTRY WESTWARD OF MOUNT YORK; And all Soldiers are hereby ordered to assist and obey their lawful Superiors in suppressing the Violences aforesaid; and all His Majesty's Subjects are also called upon to assist the MAGISTRATES in executing such Measures, as any one or more of the said Magistrates shall direct to be taken for the same purpose, by such Ways and Means as are expedient, so long as Martial Law shall last; being always mindful that the Shedding of Blood is only just, where all other Means of Defence or of Peace are exhausted; that Cruelty is never Lawful; and that, when personal Attacks become necessary, the helpless Women and Children are to be spared.

IN WITNESS whereof I, the Governor aforesaid, have hereunto set my Hand and caused the Seal of my Office, as Governor of the Colony of New South Wales and its Dependencies, to be affixed, this Fourteenth Day of August, in the Year of Our Lord, One thousand, eight hundred and twenty four.

THOMAS BRISBANE.

By His Excellency's Command,

F. GOULBURN, Colonial Secretary.

GOD SAVE THE KING.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 43, per ship Hercules; acknowledged by Sir Thomas Brisbane, 29th June, 1825.)

Sir, Downning Street, 5th Novr., 1824.

5 Nov.

I do myself the honor of transmitting to you a Letter, which I have received from the Revd. Archdeacon Scott upon the subject of the Police Establishment of New South Wales, and offering several suggestions for the improvement of that important branch of the Colonial Government, and I have to desire that you will submit the same to the consideration of the Colonial Council.

Suggestions by T. H. Scott re police establishment to be submitted to council.

I have, &c.,

BATHURST.

1824.
5 Nov.

[Enclosure.]

ARCHDEACON SCOTT TO UNDER SECRETARY HORTON.

Sir, 23 Downing Street, 10 Sept., 1824.

Suggestions by
T. H. Scott
re police
establishment
to be submitted
to council.

I beg leave to bring under your notice, for Lord Bathurst's consideration, the State of the Police in the Colony of New South Wales.

The quantity and variety of business in the several districts of that Colony may be ascertained from the documents and evidence collected under the late Commission of Enquiry. From these, I am persuaded his Lordship will be satisfied that it requires a more constant attention and sacrifice of time than can be expected from the Gentlemen, who fill the office of a Magistrate and who have their own important occupations to which they must attend.

I beg respectfully to recommend that, in each of the following populous districts, a Police Magistrate, with an adequate Salary and House, should be appointed, who should *sit daily* and hear all causes of dispute in which a *Convict* is concerned, and that such as may arise between free or emancipated persons be left for the decision of the Bench of Magistrates, who should be required to assemble in petty Sessions weekly.

A Principal Superintendent at Sydney with a Clerk and Assistants should reside at Sydney, and who should be appointed from England.

A Superintendent at Parramatta, where, the population being chiefly Agricultural, the complaints are generally between Master and Servant.

At Windsor a third, to whom the above remarks will equally apply.

At Liverpool a fourth.

To these should be attached a certain number of free Constables and horse patrols, and joined with, and under their orders, an occasional assistance, if necessary, of some chosen emancipated Convicts; but on no account ought a Convict or a Ticket of Leave Man to be employed.

The duties of these Stations being unequal, the Salaries should be regulated in proportion.

It would not be a difficult matter to draw up a System for Lord Bathurst's approval, but I submit that it would be more perfect and efficient, if left to be done in the Colony and submitted to the Council for consideration and adoption.

With the exception of the Principal Superintendent at Sydney, I think very active and intelligent persons might be found in the Colony at a moderate Salary whose local Knowledge would render the plan more efficient than sending persons from England.

I have, &c.,
T. H. SCOTT.

EARL BATHURST TO SIR THOMAS BRISBANE.

1824.
6 Nov.

(Despatch No. 44, per ship Hercules.)

Sir, Downing Street, 6th Novr., 1824.

With reference to my late Dispatches upon the subject of Quit-rents, and to the Instructions, which I have had occasion to convey to you from His Majesty, relating to the encouragement held out to persons proceeding to New South Wales as Free Settlers, I have been informed that in many instances the practice of allowing six Months Rations to Emigrants, upon their first arrival in the Colony, is still continued; should this prove to be the case, I have to desire that, on the receipt of this Despatch, you will immediately issue a Proclamation stating that this indulgence will be discontinued at the expiration of Four Months.

I have, &c.,

BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 14, per ship Prince Regent; acknowledged by Earl Bathurst, 4th June, 1825.)

Government House, Sydney, New South Wales,

My Lord, 6th November, 1824.

I had the honor of receiving by the Mangles your communication No. 12 of the present Year, enclosing a complaint from the House of Buckles, Bagster and Buchanan against a bond to His Majesty, which the Sydney agent of their firm and the Master of the Brig Woodlark had jointly consented to enter into, binding themselves, in consideration of their being permitted to load that Vessel with timber the produce of the Crown Lands at Port Stephens, to the payment of twenty shillings the Gallon upon such Spirituous Liquors or wines as she might require to take with her from Sydney.

The Country around Port Stephens is inhabited by a manly but very hostile race of Natives. When we compare their athletic forms with the debilitated constitutions of the blacks of the County of Cumberland, it is lamentable for civilized man to be obliged to confess that the deterioration of the latter Natives is owing solely to *himself*; that it dates its origin from *his* debarkation on their shores; and is the effect of one only cause, too close an imitation of *his* fondness for Spirits.

The timber, which the Woodlark was chartered to carry to Sydney, had been felled and brought to the beach of Port Stephens from a distance of a hundred miles in the interior by gangs of Convicts, under the direction of Overseers of the lower order and at the charge of Merchants in this town, speculating in the Wood trade. So long as Spirits could be kept from the

Instructions re
discontinuance
of rations to
immigrants.Complaint re
duty charged
on spirits on
brig Woodlark.Effect of spirits
on natives.Timber
procured at
Port Stephens.

1824.
6 Nov.

Effect of spirits
on convicts.

mouths of these prisoners of the Crown, their hands might be usefully employed. Introduce but for once that baneful drink, and their strength would no longer be available either to resist the attack of the natives, or to win by their industry a profit to their employers.

Discipline
maintained at
Newcastle by
prohibition
of spirits.

Port Stephens is a fine harbour situated only eight miles from the bank of a navigable settled branch of Hunter's River, flowing through New Castle. This Town, at the period to which Your Lordship's dispatch refers, was the Gaol for a thousand Convicts of the worst description. The small body of troops, whom the Mother Country has been enabled to spare in all times past for the preservation of peace in our heterogeneous community, has never allowed any other than a very weak detachment to be posted at Newcastle. This weakness of military force has been compensated, however, by the strictness of its discipline; and the beauty of the regularity, then established among the Convicts, excited the admiration of the Commissioner, whose encomium upon it may be read at the 114th and four subsequent pages of his first report, where it may also be seen that the grand means of preserving that order among the Soldiers, no less than the Convicts, was the total absence of Spirits.

Reasons for
demanding bond
from vessels
trading to
Port Stephens.

To protect then the property of Merchants, who had embarked their capital in an interesting enterprise; to defend the lives of Convicts, who were rendering themselves useful to their Country; to save the black Natives from the moral and physical degeneracy, consequent upon drunkenness; to prevent confusion and wild uproar from spreading among the prisoners of the crown, employed by farmers settled on a branch of Hunter's River, flowing in the immediate vicinity of Port Stephens; and to preserve the very existence of Newcastle, I felt myself called upon to require from Vessels, trading to that Port, the bond, which is now questioned. And I trusted, with no small share of confidence, that this measure would have been considered as legitimate in point of law, as it has been found expedient in practice, when I not only reflected on its conformity to the spirit of the eighth article of the instructions,* with which I had been honored by the King, but took also the precaution of having the very bond, now complained against, framed on the advice of one of the Crown Solicitors.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.
(Despatch per ship Prince Regent.)

Sir, Government House, N. S. Wales, 6th Novr., 1824.

Letter
acknowledged.

In reply to the Letter, which I had the honor to receive on the subject of Mr. Willm. Gore, in whom Lord Palmerston

* Note 96.

takes an interest, I regret I have it not in my power to convey more satisfactory information than the enclosed, and I regret to add that Mr. Gore is so totally abandoned to drinking that I fear He is for ever lost to Society. I have, &c.,

1824.
6 Nov.
Character of
W. Gore.

THOS. BRISBANE.

[Enclosure.]

EXTRACT from Report of Prisoners Tried at a Court of Criminal Jurisdiction convened at Sydney, New South Wales, on the 19th day of January, 1824.

Record of
conviction of
W. Gore.

WILLIAM GORE.

Charge:—Charged with wilfully and maliciously shooting at and wounding on twenty-first November last Andrew Beattie of His Majesty's 48th Regiment at Lean Cove, against the Statute in that Case made and provided.

Judgment:—Guilty.

Sentence:—To be transported to New Castle for the term of his natural Life.

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.

(Despatch per ship Prince Regent.)

Government House, N. S. Wales,

Dear Sir,

6th Novr., 1824.

I was duly honored with Your Letter on the subject of Thomas Wogmach, a Soldier of H. Maj'ty in the 91st Regt., and agreeably to your wish I offered Him a free Passage to England, which He has declined on account of ill-health. I beg to add that His conduct has always been good since his arrival with the exception of a disposition to drinking.

Passage
offered to
T. Wogmach.

Report on
conduct.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.

(Despatch No. 15, per ship Prince Regent.)

Government House, N. S. Wales,

Sir,

6th Novr., 1824.

I trust the accompanying explanation will prove satisfactory, in reply to the Letter which I had the honor to receive, on the subject to which it relates, from you.

I have, &c.,

THOS. BRISBANE.

1824.
6 Nov.

[Enclosure.]

SECRETARY GOULBURN TO SIR THOMAS BRISBANE.

Sir, Colonial Secretary's Office, 3rd November, 1824.

Explanation of
apparent error
in statement of
colonial fund.

The mistake, to which the dispatch from the under Secretary of State of November, 1823, enclosed in your letter of the 30th Ultimo, refers, arose from the items, "Balance in Hand" and "Securities in the hands of the Solicitor," placed near the bottom of the account of the Revenue for the last quarter of the year 1821, having been each printed a line too high through a slip of the type. By this accident £2,654 12s. 3¼d. appears as the Balance in Hand, instead of standing for (what it was really) the Expenditure in that Quarter. The error thus introduced of £7,298 4s. 8¼d. affects the three subsequent Statements of the Colonial Fund, but is rectified in the abstract, published in the *Sydney Gazette* of December 18, 1823, by a second error in the balance then brought forward that compensates exactly the previous mistake.

I have, &c.,

F. GOULBURN.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Prince Regent.)

Government House, Sydney, New South Wales,

8 Nov.

My Lord,

8th November, 1824.

Despatch
acknowledged.

I do myself the honor to acknowledge the receipt of Your Lordship's letter of date 24th December, 1823, on the subject of the embarkation of the 48th Regt. for Madras.

I have, &c.,

THOS. BRISBANE, M.-Genl.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Prince Regent.)

Government House, Sydney, New South Wales,

My Lord,

8th November, 1824.

Monthly returns
of troops.

I do myself the honor to forward for Your Lordship's information the General Monthly Returns of the Troops Serving in this Territory from the 25th July to 24th October, 1824, inclusive.

I have, &c.,

THOS. BRISBANE, M.-Genl.

[Enclosure.]

[Copies of these returns are not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 16, per ship Prince Regent.)

1824.
9 Nov.

Government House, New South Wales,

My Lord, 9th Novr., 1824.

I do myself the honor to request that Your Lordship will be pleased to cause to be ordered out to this Colony the best Iron Machinery for Six Tread Mills to grind Eight Bushels per hour, as already the two, we have erected here, have operated in a two fold beneficial way, both on the Morals and upon the Finance.

Request for
machinery for
tread-mills.

In support of this I have to adduce there is less crime; and as last Year the Commissariat paid £2,301 for Grinding, which in my opinion may be saved to the Public by the introduction of these Mills, as nothing has been paid in Sydney for grinding for many Months.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch per ship Prince Regent.)

Government House, Sydney, New South Wales,

My Lord, November, 1824.

I have the honor to transmit in this letter a List of Applicants for their Wives and families to be sent out to this Colony at the expence of the Crown, whose several cases I beg leave to recommend to Your Lordship's favorable attention.

Applications
from convicts
for passages
for wives and
families.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

[A copy of this list is not available.]

EARL BATHURST TO SIR THOMAS BRISBANE.
(A circular despatch per ship Hercules.)

Sir, Downing Street, 20 Novr., 1824.

20 Nov.

I have the honor of enclosing an Order, which the King has been graciously pleased to direct should be transmitted to Governors and Acting Lieut. Governors, for a Uniform, which they are permitted to wear. By this Order, you will observe that there is also a Uniform, which the Superior Officers of each Colonial Government will be permitted to wear; you will therefore notify to me the names of those Superior Officers within your Government, who may appear to you most deserving of this distinction, and it must be understood that none but those whose names you shall have transmitted to me for His Majesty's approval shall be at liberty to wear the Uniform.

Uniform to
be worn by
colonial
governors and
officials.

I have, &c.,

BATHURST.

1824.
20 Nov.

Uniform to
be worn by
colonial
governors and
officials.

[Enclosure.]

ORDER REGULATING UNIFORMS.

G.R. *The Uniform for Colonial Governors.*

The same Uniform, as that worn by the Lords Lieutenants of the English Counties, only the body of the Uniform to be Blue with red Lapelles. The epauletts and embroidery to be also the same as the Lords Lieutenants of the Counties.

Superior Civil Officers, Blue Coats, but no epauletts nor lapelles. Button holes upon the Cuff and Collar only, but the same pattern as the Lord Lieutenants.

9th Novr., 1824.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 45, per ship Hercules; acknowledged by Sir Thomas Brisbane, 10th September, 1825.)

21 Nov.

Female factory
and convict boys
to be under
protection of
council.

Sir,

Downing Street, 21st Novr., 1824.

As I consider it a matter of great importance that the Factory at Parramatta should be under the strictest observation of those, who may have an opportunity of entering into the detail of the Establishment, I have to direct that this Institution, as well as the Convict Boys, should for the future be placed under the immediate protection of yourself and the Council, and subject to such Regulations as may be determined upon in the Council; and I have further to desire that this intention may be carried into execution on the arrival of the Archdeacon.

I have, &c.,

BATHURST.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Hercules; acknowledged by Sir Thomas Brisbane, 15th April, 1825.)

26 Nov.

Flax culture to
be supervised
by governor.

Sir,

Downing Street, 26 Novr., 1824.

With reference to my Letter of the 30th October, communicating to you the encouragement Earl Bathurst has thought proper to give to Mr. Curtis's plan of sowing a quantity of Linseed to facilitate the growth of Flax in New South Wales, I am directed by His Lordship to acquaint you that in consideration of the limited plan, etc., suggested by Mr. Curtis, which Earl Bathurst has deemed it expedient to sanction, his Lordship is disposed to waive the necessity of sending out Dutchmen and to leave the superintendence of the plan solely to yourself, not doubting that the result will fully answer his Lordship's expectations.

I have, &c.,

R. W. HORTON.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

1824.
20 Dec.

(Despatch per ship Hercules.)

Sir, Downing Street, 20 December, 1824.

Mr. Walter Wilkinson will have the honor of presenting this letter to you; and, being the Person alluded to in my letter of the * November as having been recommended by Lord Rivers to Earl Bathurst, I am directed by his Lordship to request that Mr. Wilkinson may receive a Grant of Land, contiguous to that assigned to Mr. Speering, in proportion to his means of cultivating the same.

Recommendation of
W. Wilkinson
for land grant.

I have, &c.,

R. W. HORTON.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 47, per ship Hercules.)

Sir, Downing Street, 21 Decr., 1824.

21 Dec.

His Majesty, having been pleased to erect an Archdeaconry in the Colony of New South Wales by Letters Patent, bearing date the second day of Octr., 1824, has been pleased to nominate the Revd. Thomas Hobbes Scott to be the first Archdeacon.† Mr. Scott will proceed by my direction to take upon himself the duties of his Office.

Appointment of
T. H. Scott as
archdeacon.

2nd. The Duties of an Archdeacon are in a great measure defined by the Letters Patent under which he has been appointed, and, where they are silent, the Canons and Ecclesiastical Law of the Church of England will furnish the rules by which his conduct will be guided.

Duties of the
archdeacon.

But in order to promote, as far as possible, the effectual accomplishment of those important purposes, with a view to which this appointment has been made, I take this opportunity of communicating to you His Majesty's pleasure upon some of the more material questions, which may be expected to arise, respecting the duties of the Archdeacon.

3rd. Mr. Scott will report his arrival to you as soon as possible after he has reached the Colony; and you will cause a Proclamation to be issued in His Majesty's name for making known to all His Majesty's Subjects in the Colony the erection of the New Archdeaconry, and the appointment of the Revd. Mr. Scott as the first Archdeacon, and requiring all the Clergy of the Established Church and other his Majesty's Subjects to yield all due Canonical obedience to the Archdeacon.

Proclamation
of erection of
archdeaconry.

4th. It will be one of the earliest duties of the Archdeacon to exercise, in His Majesty's behalf, the power of Visitor of all Schools maintained throughout the Colony by His Majesty's

Archdeacon
to be visitor
of all schools.

* Blank in original. † Note 97.

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Revenue; and he will transmit to you his Report of such circumstances connected with those Establishments as he may think necessary to bring under your Consideration, or to transmit through you to this Department.

Visitation of
all churches
by archdeacon.

5th. The Archdeacon will also enter, with all convenient dispatch, upon the performance of the important Office of making a public visitation of all the churches throughout the Colony, including the Settlement of Van Diemen's Land. The various Chaplains in the Colony, and all Church Wardens, Officiating Clerks, and other persons connected with the celebration of Divine Worship or with the service and care of Ecclesiastical Edifices, will understand that they are bound to attend the Archdeacon's Visitation, and to render to him such information as he may require from them connected with the Spiritual or Secular concerns of the Church.

This Visitation will be annually repeated. The periods for making it will be fixed by the Archdeacon, who will, however, communicate with you before he notifies to the Clergy his intention of holding such visitations. You will of course afford him every degree of assistance and co-operation, which it may be in your power to render.

Rural dean to
be appointed in
Tasmania.

6th. The distance of Van Diemen's Land from Sydney rendering it impossible that the Archdeacon should, in his own person, maintain an habitual inspection of the concerns of the Church throughout the whole of his Archdeaconry, he will appoint a proper person to officiate as rural Dean in Van Diemen's Land during his absence from that Settlement; and you will make that appointment known to the Lieut. Governor of the Island.

Legal opinions
required by
archdeacon.

7th. In the execution of his Office, and especially of the Ecclesiastical Jurisdiction vested in him by his Patent, questions of a legal nature may arise, upon which it may be desirable that the Archdeacon should receive the opinion and advice of one or both of His Majesty's Law Officers in the Colony. You will therefore transmit Officially to the Attorney General, or in cases of special importance both to the Attorney and Solicitor General, for their opinion and advice on any questions of a legal nature, which the Archdeacon may desire you to propose to them in reference to his Official Duties.

Assessor for
archdeacon's
court.

8th. In the event of its becoming necessary that the Archdeacon should exercise the Ecclesiastical Jurisdiction with which he is invested, you will signify to the Attorney General of the Colony, or, if for any reason he should be unable to act, then to the Solicitor General, that it is His Majesty's pleasure that he should act as Assessor of the Archdeacon's Court, for the purpose

of assisting the Archdeacon's Judgment upon any questions of Law which may arise in the course of any judicial process depending before him.

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9th. Upon the arrival of any Chaplains in the Colony, by virtue of any Appointment made subsequent to the date of the Archdeacon's patent, such Chaplain will in the first instance report his arrival to you; it will then become your duty to refer him to the Archdeacon who, with all convenient expedition, will signify to you in writing his opinion on what particular station such Chaplain may be most advantageously placed; and you will accordingly, in deference to the judgment of the Archdeacon, appoint such Chaplain to officiate in the place which may be so recommended to you.

Arrival and appointments of chaplains.

10th. It will further be the duty of the Archdeacon to regulate, in reference to the Canons of the Church of England, the times at which Divine Service shall be performed in each of the Churches, Chapels and Public Establishments of the Colony; and he will be authorized to admonish the Clergy respecting the particular seasons at which they are to perform the various Ordinances contained in the Book of Common Prayer.

Regulation of church services.

11th. All the inferior Officers, connected with the Ecclesiastical Establishment throughout the Colony, such as Vergers, Clerks, Sextons and Bell Ringers, will be nominated by the Officiating Minister of the Church or Chapel, to which they may be attached. Every such nomination will be reported by such Minister to the Archdeacon for his approbation, and, unless the Archdeacon should see good cause to disallow any such appointment, he will approve and confirm it; and thereupon the Person so appointed will be considered as invested with his Office, though subject to be removed by the Archdeacon for any reasonable and sufficient cause to be adjudged by him.

Church servants to be approved by archdeacon.

12th. In the event of any Clergyman conducting himself in such a manner as to create a Public and notorious scandal, or being guilty of any gross neglect or abuse of his Clerical duties, if the Archdeacon should be of opinion that the case is such as that the interests of Religion require the suspension of any such Person from his Clerical functions, and should certify that opinion to you in writing under his hand, you will be authorized to act upon the Archdeacon's recommendation and responsibility and to suspend any such Clergyman accordingly; And it will be the duty of the Archdeacon immediately to transmit through you to his Diocesan a full statement of the case. If the restitution, or the further suspension, or the permanent removal of any such Clergyman should be ultimately directed by the Bishop of the Diocese, you will act in that Case in conformity with such

Clergy to be suspended on recommendation of archdeacon.

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decision as you may receive from him. It is, however, to be distinctly borne in mind that, as the Archdeacon will not interfere in recommending the suspension of any Clergyman, except on the ground of Offences committed against the order and discipline of the Church of England, or of immoral and licentious conduct, you will exclusively retain in your own hands the power of animadverting upon the Conduct of any Clergyman whose Offences or misconduct may be merely of a political nature.

Misconduct
of clergy of
political nature.

Proclamation
for observance
of ecclesiastical
ceremonies.

13th. If any special occasion should arise (such for example as the celebration of Public Fasts and Thanksgivings) in which it may be necessary to observe special and peculiar Ecclesiastical Ceremonies, you will in His Majesty's Name issue such a Proclamation for that purpose, as may be prepared and recommended by the Archdeacon under your immediate sanction and direction.

Stipends for
inferior clergy.

All questions, which may arise for your decision relative to the Stipends and Allowances of the inferior Clergy, will be submitted by you to the Archdeacon for his opinion and advice before you finally adopt any measures respecting them.

Rank and
precedence of
archdeacon.

14th. I have to communicate to you His Majesty's Pleasure that the Archdeacon is to take rank and precedence in the Colony next after the Lieutenant Governor; and you will, on all Public occasions, be careful to confer on him such marks of attention as may most effectually recommend his person and his Sacred Office to the respect of the Lower and less educated Classes of Society.

Disputes
between
governor and
archdeacon.

15th. In the event of any difference of opinion, arising between the Archdeacon and yourself, respecting your relative duties and authority, you will transmit to me such explanations as the case may require, in order that I may be enabled to furnish you with instructions for your guidance.

Salary and
allowances for
archdeacon.

16th. His Majesty having been pleased to grant a Salary of Two Thousand pounds Sterling English Money for the support of the Archdeacon, you will observe that this Salary commenced from the 5th April last, the date of Mr. Scott's appointment, and that it will be payable by half-yearly Instalments on the usual half-yearly days, and that each half-yearly payment is to be effected in the same manner, in the same currency, and at the same rate of Exchange, in which the corresponding instalment of your own Official Income may have been paid. You will further defray, out of that part of the Public Revenues which is subject to your approbation, such moderate Expences as the Archdeacon may unavoidably incur in making his visitations, the charge for such expences being previously laid by you before your Council and allowed by them.

I have, &c.,

BATHURST.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

1824.
21 Dec.

(Despatch per ship Hercules.)

Sir,

Downing Street, 21 Decr., 1824.

Application having been made at this Department respecting a Convict named William Russell, who was transported to New South Wales in the "Tottenham" in 1818, I have the honor to request, by Earl Bathurst's direction, that you will cause enquiry to be made, as to the existence of the man in question, and favor his Lordship with the result for the information of the Applicant.

Report
required re
William Russell.

I am, &c.,

R. W. HORTON.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 48, per ship Hercules.)

Sir,

Downing Street, 22 Decr., 1824.

22 Dec.

I have the honor to acknowledge the receipt of your Dispatch, under date the 18th of June last, in which you express your hope that I would authorize you to raise a Troop of Colonial Cavalry for the purpose of keeping in check the Aborigines in the neighbourhood of Bathurst.

Proposed troop
of colonial
cavalry.

Before I could take any proposal of this nature into consideration, it would be necessary that I should be aware of the amount of the Expenditure, which the raising and maintaining of an armed force of this description would occasion; nor should I feel justified in sanctioning the measure without being fully satisfied as to the grounds, upon which it has suggested itself to you as necessary.

Further
information
required.

Of the strength of the Detachment stationed at Bathurst, of your means of re-inforcing them, and of their inability to resist the Attacks of the Aborigines, you have also omitted to furnish me with any information; and I am therefore unable to appreciate the urgency of any application, which might have been made to you by the Commandant of that station for reinforcements, unless that Officer had already stated that no other force but Cavalry was competent to provide for the security of the Settlement. You will therefore call upon the Commandant of Bathurst to furnish you, for my information, with a detailed statement of the Circumstances, which led to this disaster, and the measures if any which he took to prevent it; you will further inform me whether he apprized you previously of his entertaining any apprehensions, and, in the event of his not having given any such intimation, and was aware of it, you will not fail to convey to him His Majesty's Displeasure at such neglect of Duty.

Military
protection at
Bathurst.Report
required from
commandant.

I am, &c.,

BATHURST.

1824.
23 Dec.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 49, per ship Hercules.)

Sir,

Downing Street, 23 Decr., 1824.

Appointment
of members
of council.

I herewith transmit to you a Warrant under the Royal Signet and Sign Manual, revoking His Majesty's Warrant* bearing date the 1st day of December, 1823, and in pursuance of the provisions of the Act passed in the 4th Year of His Majesty's Reign, Entitled "An Act to provide until the 1st day of July, 1827, and until the End of the next Session of Parliament, for the better Administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes," Appointing the persons named in the said Warrant to be Members of the Council within the Colony under your Government.

I have, &c.,

BATHURST.

[Enclosure.]

WARRANT FOR COUNCIL MEMBERS.

Warrant
appointing
members of
council.

TRUSTY and well beloved, We Greet you well. Whereas by an Act of Parliament passed in the Fourth Year of Our Reign, entitled "An Act to provide, until the first day of July, 1827, and until the end of the next Session of Parliament for the better administration of Justice in New South Wales and Van Diemen's Land and for the more effectual Government thereof and for other purposes," It is amongst other things enacted that it shall and may be lawful for Us, Our Heirs and Successors, by Warrant under Our or Their Sign Manual to constitute and appoint a Council to consist of such persons resident in the Said Colony not exceeding Seven nor less than five, as We, Our Heirs and Successors, shall be pleased to appoint, and upon the death, removal or absence of any of the Members of the Said Council, in like manner to constitute such and so many other person or persons as shall be necessary to supply the vacancy or vacancies. AND WHEREAS in pursuance of the said Act and in execution of the powers thereby vested in Us, in that behalf, We did, on or about the first day of December in the fourth year of Our Reign, by a Warrant under Our Royal Sign Manual constitute Our trusty and well beloved William Stewart, Esquire, Our Lieutenant Governor of Our Settlements in New South Wales, and Our Trusty and Well beloved Francis Forbes, Esquire, Our Chief Justice of Our said Settlements, and Our Trusty and Well beloved Frederick Goulburn, Esquire, Our Colonial Secretary of Our said Settlements, and Our Trusty and Well beloved James Bowman, Esquire, the Principal Surgeon of Our said Settlements, and Our Trusty and Well beloved John Oxley, Esquire, the Surveyor General of Our Said Settlements,

* Note 98.

to be the Members of the Council of Our Colony of New South Wales during Our pleasure. And Whereas we have thought fit to revoke Our said Warrant and the appointment of the Several persons aforesaid as Members of the Said Council, Now We do hereby, in pursuance of the said Act of Parliament and in execution of the power and authority thereby vested in Us as aforesaid, revoke the Said Warrant bearing date the First day of December as aforesaid and the appointment of the Several persons therein named as Members of Our Said Council. And we do hereby nominate constitute and appoint Our Trusty and well beloved William Stewart, Esquire, Our Lieutenant Governor of Our Settlement in New South Wales, and Our trusty and well beloved Francis Forbes, Esquire, Our Chief Justice of Our Said Settlements, and Our Trusty and well beloved The Reverend Thomas Hobbes Scott, Archdeacon of the Archdeaconry of Our Said Settlements, and Our Trusty and well beloved Frederick Goulburn, Esquire, Our Colonial Secretary of Our said Settlements, and Our Trusty and well beloved James Bowman, Esquire, the principal Surgeon of Our Said Settlements, to be the Members of Our Said Council of Our Said Colony of New South Wales for and during Our Will and pleasure. And we do hereby Authorise, require and Command them to do all Such Acts and Deeds, Matters and Things, as under and by virtue of the said Act of Parliament may lawfully be done and performed by the Members of Our Said Council; and in Case, at the time when these presents are to take effect as herein afterwards mentioned, the Said William Stewart, Francis Forbes, Frederick Goulburn, and James Bowman or either of them shall be dead, We do hereby Constitute and Appoint Such other person or persons as shall have lawfully Succeeded to Our Said Lieutenant Governor of Our Said Settlements, Our said Chief Justice of Our Said Settlements, The Said Colonial Secretary of Our said Settlements, and the Said principal Surgeon of Our Said Settlements, in their or any of their Said Offices to act as and be for and during Our will and pleasure a Member or Members of Our Said Council in the place and stead of the person or persons to whose Office or Offices he or they may have so lawfully succeeded as aforesaid. And if, at the time when these presents are to take effect as after mentioned, the Said Thomas Hobbes Scott should be dead, then and in that case We do hereby constitute and appoint the Surveyor General for the time being of Our Said Colony to act as and be, for and during Our will and pleasure, a Member of the Said Council in the place and stead of the Said Thomas Hobbes Scott. And We do hereby declare, and it is Our Will and Pleasure that these presents shall take effect at and from the

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23 Dec.

Warrant
appointing
members of
council.

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Warrant
appointing
members of
council.

time when the same shall be actually received in Our said Colony of New South Wales by Our Governor or Acting Governor thereof for the time being and not before; and that until these presents shall be so received by him, Our Said former Warrant and the Several Appointments thereby made shall be and continue in force and effect as fully as if these presents had not been made, anything herein before to the contrary contained in any wise notwithstanding.

Given at Our Court at Carlton House the sixteenth day of November, One thousand eight hundred and Twenty four in the Fifth year of Our Reign.

By His Majesty's Command,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 50, per ship Hercules.)

24 Dec.

Judges in
N.S.W. and
Tasmania to
prescribe rules
and orders of
court.

Sir,

Downing Street, 24 Decr., 1824.

His Majesty having been pleased, by and with the advice of His Privy Council, to order that the Judges of the Supreme Courts of New South Wales and Van Diemen's Land be authorized and empowered to prescribe Rules and Orders, as they may think fit, under certain limitations, touching their respective Courts, I have the honor to transmit to you herewith the Copy of the Order in question, for the purpose of the direction therein contained being carried into effect accordingly.

I am, &c.,

BATHURST.

[Enclosure.]

ORDER OF THE PRIVY COUNCIL.

At the Court at Windsor, 19th October, 1824.

Present:—The King's Most Excellent Majesty in Council.

WHEREAS, by a certain Act of Parliament, passed in the Fourth Year of the Reign of His Present Majesty, entitled "An Act to provide, until the 1st day of July, 1827, and until the end of the next Session of Parliament, for the better Administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof, and for other purposes relating thereto," It is enacted that it shall be lawful for His Majesty, His Heirs and Successors, by such Charters or Letters Patent as therein mentioned, or by any Order in Council, to make and prescribe, or to authorize and empower the Judges of the Supreme Courts of New South Wales and Van Diemen's Land respectively, under such limitations as His Majesty shall deem

Order of
privy council
authorizing
judges in
N.S.W. and
Tasmania to
prescribe rules
and orders of
court.

proper, to make and prescribe such Rules and Orders, touching and concerning the time and place of holding the said Courts respectively, the forms and manner of proceeding, and the practice and pleadings upon all Indictments, Informations, Actions, Suits, and other matters to be therein brought, the appointing of Commissioners to take Bail and examine Witnesses, the taking Examinations of Witnesses de bene esse, and allowing the same as Evidence, the Granting of Probates of Wills and Letters of Administration, the proceeding of the Sheriff, Provost Marshall and other Ministerial Officers, the process of the said Courts and the mode of executing the same, the empanelling of Juries, the admission of Attornies, Solicitors and Barristers, the Fees, poundage or perquisites to be lawfully demanded by any Officers, Attorney or Solicitors, in the said Courts respectively, and all other matters and things whatsoever, as to His Majesty, His Heirs and Successors, shall seem meet for the Conduct of business in the said Courts respectively, and as may be adapted to the circumstances and Condition of the said Colony; and such Rules and Orders from time to time to alter, amend or revoke, as to His Majesty, His Heirs and Successors, shall seem requisite. And Whereas, in pursuance of the said Act of Parliament, certain Charters or Letters Patent under the Great Seal were duly issued, bearing date respectively the 13th day of October, 1823, for constituting and erecting the Supreme Court of New South Wales and the Supreme Court of Van Diemen's Land respectively, Courts of Record; and, by the said Charter or Letters Patent respectively, provision is made for the admission of Barristers, Attornies and Solicitors of the said Courts, but no provision is therein made for the several other matters aforesaid, or any of them; And Whereas the Rules and Orders, in the said Act of Parliament mentioned, cannot be conveniently or effectually framed except in the said Colony, His Majesty, in pursuance and execution of the powers and Authorities vested in Him by the said Act of Parliament, is therefore pleased, by and with the advice of His Privy Council, to Order, and it is hereby ordered that the Judge of the said Supreme Court of New South Wales and the Judge of the said Supreme Court of Van Diemen's Land shall be and they are hereby respectively authorized and empowered, under the limitations hereinafter mentioned, to make and prescribe such Rules and Orders, as to them respectively shall seem proper and necessary, touching and concerning the several matters and things in the said Act of Parliament and hereinbefore mentioned, or any of them; and such Rules and Orders, or any of them, from time to time to alter, amend or revoke, as occasion may require. Provided nevertheless, and it is

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24 Dec.

Order of
privy council
authorizing
judges in
N.S.W. and
Tasmania to
prescribe rules
and orders of
court.

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Order of
privy council
authorizing
judges in
N.S.W. and
Tasmania to
prescribe rules
and orders of
court.

further ordered that no such Rules and Orders, as aforesaid, shall be in any manner repugnant to or inconsistent with any of the provisions of the said Act of Parliament, or of the Said Charters or Letters Patent, or of the present Order. Provided also, and it is further Ordered that such Rules and Orders, as aforesaid, shall be consistent with and similar to the Law and practice of His Majesty's Supreme Courts at Westminster, so far as the condition and circumstances of the said Colony will admit. And that, as far as conveniently may be, the appropriate Language and technical terms of the Law of England shall be adopted and observed in framing such Rules and Orders. And it is further Ordered That the said Rules and Orders shall be so framed as to promote, as far as possible, œconomy and Expedition in the Dispatch of the business of the said Court. And that, as far as conveniently may be, the same shall be plain, simple and compendious, avoiding all unnecessary, dilatory or vexatious forms of proceeding in the said Courts, or in the Executions of the Judgments, Decrees, Rules and Orders thereof. And it is further ordered That the Judge of the Supreme Court of New South Wales shall alone frame such Rules and Orders, as aforesaid, as apply to the Supreme Court of New South Wales or the proceedings, practice, pleadings or process thereof; and that the Judge of the Supreme Court of Van Diemen's Land shall alone frame such rules and orders, as aforesaid, as apply to the Supreme Court of Van Diemen's Land or the proceedings, practice, pleadings or process thereof. But that, in Order to maintain as far as may be uniformity between the Rules and Orders of the said Courts, no Rules and Orders relative to the said Supreme Court of Van Diemen's Land shall be promulgated or take effect in that Island, until and unless the same shall have been first transmitted through the Governor or Acting Governor of New South Wales for his approbation, and shall have been actually approved by him. And it is further ordered that all such Rules and Orders, as aforesaid, shall be published and made known in New South Wales and Van Diemen's Land, respectively as the case may be, in the most effectual manner; and that the same shall be transmitted by the Governor or Acting Governor of New South Wales to His Majesty, His Heirs and Successors, through His or their Principal Secretary of State having the Department of the Colonies; and that His Majesty's Allowance or disallowance of any such Rules and Orders shall in like manner be signified through His said Principal Secretary of State to the said Governor, or Acting Governor. And it is further ordered that the said Governor or Acting Governor of New South Wales shall, by a notice to be by him inserted in the Public Gazette or in some other Public Newspaper of New South

Wales (or Van Diemen's Land as the case may be), announce and make known that he hath actually transmitted any such Rules and Orders, as aforesaid, to His Majesty, His Heirs and Successors, for His or their confirmation and allowance; and from and after the Publication of any such notice, and not before, the said Rules and Orders shall take effect in New South Wales and Van Diemen's Land, respectively as the case may be, and be and become binding upon all His Majesty's Subjects within the same, until His Majesty's disallowance thereof, or of any of them, shall in like manner be made known by a notice to be in manner aforesaid published in New South Wales or Van Diemen's Land, as the case may be, by the Governor or Acting Governor of New South Wales. And the Right Honorable Earl Bathurst, one of His Majesty's Principal Secretaries of State is to give the necessary directions herein accordingly.

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24 Dec.

Order of privy council authorizing judges in N.S.W. and Tasmania to prescribe rules and orders of court.

JAS. BULLER.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 51, per ship Hercules; acknowledged by Sir Thomas Brisbane, 21st May, 1825.)

Sir, Downing Street, 28th Decr., 1824.

28 Dec.

I am commanded by the King to signify to you that His Majesty is pleased to relieve you from the exercise of the Government of New South Wales.*

Recall of Sir T. Brisbane.

If, upon receiving this intimation of His Majesty's Pleasure, you should feel desirous of coming home, you will consider that you have His Majesty's gracious permission for taking your Departure from the Colony without waiting for the arrival of your Successor, who is not enabled to leave England for the present; but His Majesty confidently trusts that, in your decision, you will be guided by a due consideration of what is owing to the peace and well being of the Settlement.

Arrangements for departure of Sir T. Brisbane from colony.

I have, however, to desire that you will under no circumstances take any steps for leaving the Colony until the arrival of Lieut. Col. Stewart, who is about to sail from Portsmouth in the "Asia," invested with His Majesty's Commission of Lieut. Governor.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 52, per ship Hercules.)

Sir, Downing Street, 29 Decr., 1824.

29 Dec.

I am commanded by The King to desire that you will signify to Major Goulburn that His Majesty is pleased to relieve him from the exercise of the duties of Colonial Secretary to the Government of New South Wales, and that it is His Majesty's

Recall of F. Goulburn.

* Note 99.

1824.
29 Dec.

F. Goulburn to
await arrival
of successor.

Pleasure that, unless he should specially apply for leave to return home immediately, he continue in the discharge of the duties of that Office until the arrival of his Successor in the Colony.

I am, &c.,

BATHURST.

[A copy of a "private" despatch, dated 29th December, 1824, and acknowledged by Sir Thomas Brisbane, 15th May, 1825, relating to his recall, is not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 17, per ship Mangles.)

Government House, N. South Wales,

31st December, 1824.

31 Dec.

My Lord,

Reports re
trials of
O. Reardon,
W. Tidy, and
J. Clayton.

I have the honor to transmit to Your Lordship by the earliest opportunity copies of a Letter from Lieut. Governor Arthur, together with abstracts of information and Chief Justice Pedder's notes on the trial in Van Diemen's Land, as also his recommendation to mercy of the Prisoners Owen Reardon, Willm. Tidy, and John Clayton, who have been convicted of Murder at the Sessions held lately in that Settlement; and, as the whole circumstances are so fully detailed in these Documents, it becomes unnecessary for me to intrude any further matter on the subject.

I have, &c.,

THOS. BRISBANE.

[Enclosures.]

[Lieutenant-governor Arthur's despatch to Sir Thomas Brisbane was dated 1st October, 1824; chief justice Pedder's letter to lieutenant-governor Arthur, 30th September, 1824. Copies of the despatch and letter, together with the proceedings at the trials, will be found in a volume in series III.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 18, per ship Mangles.)

Government House, N. S. Wales,

31st December, 1824.

My Lord,

In my Despatch No. 13,* I had the honor to acquaint Your Lordship, with feelings of deep regret, the necessity with which I felt myself called upon to place that part of this Country, West of Mount York, under Martial Law, a copy of which Proclamation was transmitted. This necessity arose more from the want of legal intermediate powers to repress the aggressions of the Aborigines, than that of having recourse to all the powers conveyed by so strong a measure, which was sanctioned by the Attorney General and strongly recommended by all the Proprietors in that District of Country.

Necessity for
proclaiming
martial law.

* Note 100.

It now becomes a very pleasing part of my Duty to lay before Your Lordship the copy of my Proclamation repealing that of Martial Law, and I am persuaded it will be equally gratifying to the feelings of Your Lordship, as it is for me, to become the medium of communication that, during the four Months that Martial Law prevailed, not one outrage was committed under it, neither was a life sacrificed or even Blood spilt.

1824.
31 Dec.

Repeal of
proclamation of
martial law.

This happy termination to the state of warfare may be mainly ascribed to the judgement, prudence and moderation of Major Morisset, Commandant at Bathurst, together with the other Magistrates of that District, who themselves accompanied the Troops in their pursuit of the Aborigines.

Moderation of
commandant
and magistrates
at Bathurst.

I found it necessary to augment the Detachment at Bathurst to 75 Men; these were divided into various small parties, each headed by a Magistrate, and proceeded in different directions in towards the interior of the Country, and by previous arrangement were to form junctions at certain given points. This system of keeping these unfortunate People in a constant state of alarm soon brought them to a sense of their Duty, and I am most happy to have it in my power to report to Your Lordship that Saturday their great and most warlike Chieftain has been with me to receive his pardon, and that He, with most of His Tribe, attended the annual conference held here on the 28th Novr., which was more numerous than upon any former occasion.

Expeditions
against natives.

I hope on a future occasion to be able to give Your Lordship a pretty accurate return of all Individuals, who lost their lives during these disturbances, but hitherto we have not been able to ascertain it.

Submission
of natives.

I am digesting some plan for the bettering of the condition of the Aborigines, which I shall have the honor to submit for Your Lordship's consideration, and I trust it may meet Your sanction and approbation.

Plan for
treatment of
natives.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

NEW SOUTH WALES.

PROCLAMATION.

BY His Excellency Sir Thomas Brisbane, Knight Commander of the Most Honourable Military Order of the Bath, Captain General and Governor in Chief in and over His Majesty's Territory of New South Wales and its Dependencies, etc., etc.

Proclamation
for repeal of
martial law.

WHEREAS by a Proclamation* under my Hand and Seal, dated the 14th Day of August, 1824, stating, amongst other things, that

* Note 100.

1824.
31 Dec.

Proclamation
for repeal of
martial law.

the Aboriginal Natives of the Districts near Bathurst had for many Weeks past carried on a series of indiscriminate Attacks on the Stock Stations there, I did, by Virtue of the Authority in me vested by His Majesty's Commission, declare that, in order to repress the same, Martial Law should be in force in all the Country Westward of Mount York. AND WHEREAS the judicious and humane Measure, pursued by the Magistrates assembled at Bathurst aforesaid, have restored Tranquility without BLOOD SHED. Now therefore, by Virtue of the Authority aforesaid, I do direct that Martial Law shall cease to be any longer in force in the aforesaid Districts.

In witness whereof, I, the Governor aforesaid, have hereunto set my Hand and caused the seal of my office, as Governor of the Colony of New South Wales and its Dependencies, to be affixed, this Eleventh Day of December, in the Year of Our Lord, One thousand, eight hundred and twenty four.

By His Excellency's Command.
God Save the King.

ASSIGNMENTS OF CONVICTS.*

1825.
Letters
transmitting
assignments
of convicts.

DURING the year 1825, letters, which enclosed the assignments of convicts (not available) *per* the ships named, were sent to the Governor bearing dates as under:—

Date of Letter. 1825.	Ship.	Number of Convicts.
5th April	Minstrel	120 Male
16th „	Norfolk	180 „
22nd July	Midas	109 Female
22nd Augt. . . .	Marquis of Hastings	152 Male
24th Novr. . . .	Sesostris	150 „

Orders for
land grants.

ORDERS FOR LAND GRANTS.*

DURING the year 1825, the following persons were recommended for land grants by Earl Bathurst, of which advice was sent in letters dated as under:—

Date of Letter. 1825.	To whom given.	Place of Grant.
10th January . . .	T. R. Williams	N.S.W.
17th „ . . .	Jno. Boyes	„
17th „ . . .	W. Thurlow	„
2nd February . .	P. Hay	„
14th „ . .	Sam'l Drew	„
17th „ . .	T. L. Brickford	„

* Note 1.

ORDERS FOR LAND GRANTS—*continued.*

1825.

Date of Letter. 1825.	To whom given.	Place of Grant.	Orders for land grants.
5th March	W. Merrett	N.S.W.	
5th April	Ed. Joseph Keith	"	
20th May	Arch. Little	"	
20th "	P. Dudgeon	"	
21st "	John Liscombe	"	
8th June	Mich. Mahony	"	
10th "	Percival Witherby	"	
15th "	C. Rose	"	
15th "	Jo'h Thompson	"	
20th "	Andrew Lang	"	
20th "	John Hosking	"	
25th "	Ed. Sandwell	"	
4th July	Geo. Bunn	"	
6th "	John Crisp	"	
14th "	Alex. Riley	"	
18th "	Margaret Campbell	"	
27th "	Wm. Bucknell	"	
29th "	H. H. Harrington	"	
29th "	Jos'h Clymer	"	
1st August	Samuel Orpen	"	
16th "	G. Townshend	"	
22nd "	H. Howey	Unspecified	
1st September	— Simons	"	
9th "	G. Weller	"	
6th October	Chas. Boydell	"	
13th "	Henry Kiernan	"	
31st "	R. B. Buckland	"	
7th November	John Dobie	"	
14th "	Dixon Baker	"	
15th "	C. Ranken	"	
21st "	J. E. H. Knapp	"	
22nd "	Mich. Browse	"	
22nd "	Thos. Browse	"	
26th "	John Carten	"	
8th December	W. Murrell	"	
8th "	W. Perks	"	
8th "	Robt. Espie	"	
8th "	John Miles	"	
12th "	Wm. Barnett	"	
12th "	Joseph Williams	"	
14th "	— Bucknell	"	
27th "	Stephen Coxen	"	

EARL BATHURST TO SIR THOMAS BRISBANE.

1825.
1 Jan.

(Despatch No. 1, per ship Hercules; acknowledged by Sir Thomas Brisbane, 30th June, 1825.)

Sir, Downing Street, London, 1st Jany., 1825.

Problem of
settlement of
crown lands.

In consequence of the discussions which have recently taken place between yourself and this department, respecting the granting and settlement of the waste Lands of the Crown in New South Wales, and more particularly in consequence of your dispatch of the 29th day of Novr., 1823, that subject has undergone the most mature deliberations, and it is my intention, in the present dispatch, to communicate to you the decisions* which His Majesty's Government have formed on the questions thus brought under their notice, and to give you such instructions as are necessary for your immediate guidance.

Instructions to
be followed.

2. Although it will not be possible, before the closing of my present dispatch, to expedite through the necessary forms of office such instruments as are necessary for giving effect to the resolutions, which I am about to communicate, I have thought it right to avail myself of the present opportunity of apprizing you of the course which it is intended to pursue. Before the more formal instruments have arrived in the Colony, certain preliminary measures may advantageously be taken there, and it seems fit you should receive the earliest intimation of the arrangements about to be made, in order that you may as closely as possible conform to the views of His Majesty's Government in every intermediate grant of Land, which it may be necessary to make.

Colony to be
divided into
counties,
hundreds, and
parishes.

3. A General Division of the whole territory of New South Wales and Van Dieman's Land in Counties, Hundreds and Parishes, is a measure of the highest importance, and which must accompany or precede every other plan of General Improvements. Mr. Commissioner Bigge has indeed recommended such distribution of the Territory in his Agricultural report†; nor can it be necessary to point out to you the many and obvious advantages to be anticipated from such a plan, if judiciously executed.

Patent to be
granted for
subdivision
of colony.

4. The erection of Counties and their subordinate Divisions being an undoubted branch of His Majesty's prerogative, which has been repeatedly exercised both in this country and in its various Colonial dependencies, it is proposed to adopt the same course on the present occasion; and for that purpose, the necessary powers will be granted under the great seal; you will therefore understand that the Legislative Council of New South Wales erected under the statute 4th Geo. 4th, Cap. 96, will not be required to enact any law for the purpose.

5. To give the greater solemnity to this measure and to carry it into effect with the utmost possible accuracy, it has been deemed right that a Commission should issue under the Great Seal of New South Wales, empowering three competent persons, of whom the Surveyor General is to be the First or Chief Commissioner, to make a survey of the whole Colony:* you will therefore, immediately upon receiving the present dispatch, issue such a commission in His Majesty's name, and you will select, as colleagues to the Surveyor General, such persons as may appear to you best qualified for performing a duty thus arduous and important.

1825.
1 Jan.

Commission to be appointed for survey of colony.

6. In this commission, you will cause directions to be given to the Commissioners to apportion the whole of the Colony into Counties, each of which shall contain as nearly as may be 40 Miles Square; and to apportionate each county into Hundreds, of which each hundred shall as nearly as may be comprize an area of 100 Square miles; and again to subdivide each hundred into Parishes of which each Parish shall as nearly as may be comprize an area of 25 Square Miles.

Approximate areas of counties, hundreds, and parishes.

7. In the proposed division of the country into Counties, Hundreds and Parishes, you will instruct the commissioners to have regard to all the great natural divisions of the territory, which may be formed by rivers, Streams, High lands or otherwise, preferring in all cases a clear and well defined boundary line even at the sacrifice of regularity in the dimensions of a County, Hundred or Parish; subject to this qualification you will in General instruct them to adhere as closely as possible to the exact dimensions already prescribed.

Natural boundaries to be adopted.

8. That part of the territory,* which has already been divided into Counties, will be comprized in the new Survey. Upon this subject, however, you will exercise your own discretion, understanding that, if any serious difficulty which has not been anticipated in this Country should oppose such an extension of the plan, you will be at liberty to suspend the execution of it until you can communicate to me the nature of those objections, and receive His Majesty's further commands respecting them.

Established counties to be included in survey.

9. As the Survey proceeds, the Commissioners will be required to make to you from time to time regular reports in writing of the progress of the undertaking; every such report must specify, with all possible precision, the limits of each County, Hundred, and Parish, which the Commissioners may have surveyed and apportioned; to these written reports must also be subjoined Charts or Maps, and every care must be taken to avoid doubt and uncertainty respecting the precise boundaries of each County, Hundred, and Parish.

Progress reports by commissioners.

* Note 103.

1825.
1 Jan.

Differences of
opinion among
commissioners
and governor.

10. If the Commissioners should differ in opinion respecting the Division of any part of the Territory, and should not make an unanimous report, you will direct them to communicate to you in writing the grounds of the opinion which they may respectively maintain. Whenever you see reason to be dissatisfied with any Report you may receive, you will refer the subject to the Commissioners for reconsideration; in the event of an ultimate difference of opinion between yourself and the Commissioners, it will be your duty to transmit a full statement of the case to this Department, with transcripts of all Documents relating to it for His Majesty's decision.

Custody
of reports.

11. Whenever any report shall be finally approved by you, or by His Majesty upon a reference to him, you will cause it to be carefully transcribed, depositing the original for safe custody among the records of the Supreme Court, transmitting one copy to this Department, and causing a third copy to be registered in the office of the Surveyor General.

Instructions to
commissioners.

12. For the better Guidance of the Commissioners in the execution of their duties, you will from time to time communicate to them such instructions as any particular exigency may require; and you will supply by a new Commission all such vacancies as may arise by deaths, resignations, absence or removal of any Commissioner.

Provision
for vacancies.

13. So soon as the necessary powers for that purpose under the Great Seal of the United Kingdom shall reach the Colony, you will be authorized to issue in His Majesty's name, under the Great Seal of New South Wales, Letters patent for the erection into counties, Hundreds, and Parishes of such Districts as may finally be selected for that purpose by the Commissioners, and approved by you. It may here be proper to remind you of the necessity of availing yourself of the assistance of the Attorney General of the Colony, in preparing the forms of all legal instruments which, in pursuance of these instructions or of such powers as you may hereafter receive, it may become necessary for you to issue.

Letters patent
for erection of
counties,
hundreds, and
parishes.

Lands to be
valued by
commissioners.

14. Having thus distributed the Territory of New South Wales into the necessary political Divisions, the next object of attention is that of making a general Valuation of the Land throughout the Colony. For this purpose, the Commissioners appointed to make the General Survey of the Country may be advantageously employed, and the two operations of Survey and Valuation may be effected contemporaneously. But neither the Survey or the Valuation of the Lands will extend at present into those Districts, which lie entirely beyond the range of any actual settlements. As populations and Culture advance, these opera-

tions will be extended over those Districts, so that it may in all future times be practicable for settlers to know in what County, Hundred and Parish any particular lands are included, and at what rate they have been valued.

1825.
1 Jan.

15. For the purpose of making the Valuations of Lands in New South Wales, the commissioners will strike an average value of the lands in each Parish, taking into their consideration the fertility and other accidental or local Advantages or disadvantages of the lands in each, as a basis for the calculation of Value. They will assume that the price would be paid in ready money at the time of the conveyance, and that the lands would be conveyed to the purchaser in fee simple, to hold in free and common soccage, without the payment of any Quit Rent or duty; and finally they will assume that the lands would be purchased in Tracts containing Three square miles or 1,920 acres each. Upon these assumptions, they will consider how much money a purchaser might reasonably be expected to pay for the Lands in each Parish upon the average Valuation.

Instructions
for valuation
of lands.

16. The Commissioners will make reports of the progress of this Valuation in the same manner and subject to the same rules and conditions as the Reports, which are to be made of the Survey and Division of the Territory into Counties, Hundreds, and Parishes; and the same proceeding will take place with respect to the Report, which will be made Respecting the Value of the Lands as are before directed, respecting the Reports of the Survey and Division of the Territory.

Progress reports
on valuations.

17. Having thus provided for the general distribution of the Colony into Political Divisions, and for the Valuation of all the waste and uncultivated Land, the next subject for consideration is the making the necessary reservations for public purposes. Of these the first, in order and importance, is the reservation, which must be made throughout every county, of Lands to be used for Public Roads and internal communications; of lands to be set apart as the scites of towns and Villages; of Lands to be appropriated for the erection of Churches, school-houses, Parsonage houses and burying grounds; of lands which may be proper to reserve in the neighbourhood of populous places as vacant grounds, either for the future extension of Towns and Villages, or for the purposes of health and recreation; and of lands in the neighbourhood of navigable streams or the sea Coast, which it may be convenient at some future time to appropriate as Quays and Landing Places; more generally every object of public convenience, health or gratification, for the furtherance of which specific appropriations of Land will probably be necessary, should, as far as possible, be anticipated and provided for

Instructions for
reservation
of lands for
public purposes.

1825.
1 Jan.

Instructions for
reservation
of lands for
public purposes.

before the waste lands of the Colony are finally appropriated to the use of private persons; you will therefore cause the Commissioners of Survey and Valuation to have regard to all these objects, and you will require them to specify in their Reports, and to distinguish in their charts subjoined to those reports, such tracts of Land in each county as shall appear to them best adapted to answer the various purposes already noticed.

Corporation to
be established
for maintenance
of churches
and schools.

18. The making of an adequate provision for the support of the Clergy of the Established Church of England throughout the Colony, and for the Education of Youth in the principles of the Church, is a subject which has engaged the peculiar and anxious attention of His Majesty's Government; to answer these great ends, it has been thought necessary to establish a corporation, to consist of the Governor as President, the Lieutenant-Governor, the Chief Justice and the members of the Legislative Council for the time being, the Archdeacon of New South Wales, the Colonial Secretary, the Attorney and Solicitor General.

Draft of
charter of
incorporation.

19. By an early opportunity I hope to transmit to you the necessary authority for issuing a Charter of Incorporation in His Majesty's name under the great Seal of the Colony to these several persons, investing them with power to manage the Lands to be appropriated to the maintenance of the Church and the education of Youth in New South Wales; the Draft of such a Charter has been prepared under my directions, and, altho' I am not prepared to state that authority will ultimately be given to promulgate it, without some material alterations, yet for your information I enclose a copy of the draft as it stands, which will put you in possession of the General intentions which His Majesty's Government entertain in reference to this particular object.

Proposals for
clergy and
school estates.

20. It is proposed to invest the corporation with an estate in each County into which the Colony is to be divided. That Estate will, as nearly as may be, lie in one continuous and unbroken tract; when this shall prove impracticable without serious injury or inconvenience to private Settlers in the County, the Clergy and school estate may be allotted in separate Tracts, bearing, however, in mind the necessity of breaking this Property into the smallest possible number of divisions. These lands to be called the Clergy and School Estates will comprize one seventh part in extent and value of all the lands in each County. It will therefore be a peculiar and important part of the duty of the Commissioners of Survey and Valuation to mark out in each County the Clergy and School Estate. The lands thus to be set apart must be of an average quality and Value in reference to the general value of the lands comprized in the County, in which

each particular allotment may be made; and they must select such situations as may afford a reasonable and equal share of all those natural advantages of water carriage, or other internal communication, which may be possessed by the lands in general throughout the County; you will accordingly issue very particular directions to the Commissioners for their guidance in making these allotments, and you will require them to make a special and distinct report in reference to the Survey and valuation of each County, pointing out with all possible precision the particular Tracts appropriated for the Clergy and School estates of the County.

1825.
1 Jan.

Proposals for
clergy and
school estates.

21. In case any of the Counties, which may be erected in Districts already settled, shall not afford a sufficient quantity of vacant and unoccupied Land to make up the Clergy and School estate of that County, the deficiency must be made up by an allotment of Land out of the nearest adjacent County in which a sufficient quantity of ungranted Land may be found.

22. When the Corporation has been erected, grants must be made to it, under the Great Seal of New South Wales, of the whole of each Clergy and School estates as they may be successively allotted by the Commissioners of Survey and Valuation.

23. When all the reservations above mentioned shall have been made for the Public Service, for the Support of Clergy and the education of Youth, the remaining lands will be granted to private Settlers upon the principle, and Subject to the several rules which I am about to state.

Unreserved
lands to be
granted to
settlers.

24. A great obstacle to the extension of Agriculture in New South Wales, and perhaps in most other unsettled countries, appears to arise from the circumstance of considerable Tracts of land coming into the possession of persons, who do not possess capital sufficient to cultivate and improve them, or who retain the soil in its uncleared and unproductive state in the hope of selling to advantage at some future period, when it shall have acquired an increased value from the improvements effected by others upon adjoining Lands. The injury to Society is the same whether the land remains in a barren state from the want of Capital or from a disinclination to employ it. The settlements of the richer or more enterprising Colonists become separated from each other by intervening tracts of the Original Wilderness. Hence the difficulties of internal communication are greatly augmented, and a new territory is subdued to the use of man rather by the unassisted efforts of Individuals than the co-operation of neighbours engaged in similar undertakings. The growth of Towns and Villages also is retarded, and a Population of necessitous persons, living at mere sufferance upon the unimproved

Obstacles
experienced by
non-improvement
of lands
granted.

1825.
1 Jan.

Characteristics
of population
in N.S.W.

Tracts, become not only unprofitable but mischievous neighbours of the more industrious settlers. Under such circumstances, a few scattered Inhabitants are barely supported in indigence with all its attendant evils upon lands which, under a different system, might be made not only to maintain the cultivator in comfort and respectability, but to yield a surplus produce for some Market or for Exportation. In applying to the case of New South Wales these principles, it became necessary to advert to the anomalous state of the Population in that Colony, of which so large a proportion consists of Convicts. Of this Class of persons, a very considerable number must, from their previous habits of life in Europe, be very ill qualified for Agricultural labour of any description. So far, however, as it is possible to employ them in such pursuits, compatibly with the great primary objects of punishment and correction, every consideration of policy and humanity requires that they should be so employed. The abundant supply of Labourers of an inferior description, which is thus created, powerfully tends to engender the mischief of considerable tracts of Land falling into the possession of persons incompetent to lay out any adequate Capital on the cultivation of them. When a person proposing to settle Lands finds that a certain description of Labourers, however unfit for the purpose, can be procured to assist him in the execution of his project, the want of capital no longer appears to him an insuperable objection to his scheme. The sanguine anticipations, with which most men enter upon such undertakings, induce him to suppose that he can convert the wild and uncleared Country into profitable Pastures and Arable Land, without any other resources than his own exertions and the labour of such convicts as may be allotted to him. It is however, sufficiently obvious that such expectations must in general be disappointed and that the Agricultural projects, undertaken upon no better basis than this, must rather retard than advance the general prosperity of the Country.

Expectations
of settlers
without capital.

Capital required
by agricultural
settlers.

Classes of
settlers.

26. It is therefore to be constantly borne in mind that the possession, or at least the command of Capital, are essential qualifications of every Agricultural Settler in New South Wales. Now among those persons, who propose to become resident proprietors and Cultivators of the Soil, there are two distinct classes between whose condition a fundamental distinction exists. The first class is composed of persons capable of purchasing extensive tracts of Waste Land for Agricultural purposes at the fair average Market price. The second class is composed of those whose settlements cannot be made unless they are placed in possession of the land by the bounty of the Crown without purchase. Now with respect to the first of the classes, there will not

exist any practical difficulty in ascertaining that they possess the requisite amount of capital. A Man proposing to reside in the Colony and there to cultivate his own Estate, who begins his operations by paying to the Crown the full value of it, is presumably a person of sufficient capital to carry on his agricultural operations with effect whatever occasional exceptions may occur. This rule will be found sufficiently accurate for all ordinary purposes. The investment of the purchase money may in general be regarded as a sufficient pledge that the party really proposes to proceed with the improvement of the Land and that he has the means of improving it.

1825.
1 Jan.

Settlers
obtaining land
by purchase.

27. So soon therefore as the Commissioners of Survey and Valuation have, with your final approbation, ascertained the value of the Lands in any of the Parishes into which the Territory is to be divided, that Valuation must be made publicly known, in order that all persons may understand the price at which waste lands in that particular Parish will be offered for sale. The price thus fixed must be regarded as the upset price. If offers should be received exceeding the Valuation of the Commissioners, it will of course be the general rule to accept the highest offer. The Local Government will be authorized and required to accept the upset price, if offered, unless, within one Calendar month afterwards, a higher and better offer shall be made; if on the contrary, after the waste lands in any Parish have been put to public sale for three years, no offer is received equal to the commissioners' Valuation, it will be left to the discretion of the local Government to sell such lands at the best price which can be obtained of two competitors for the same land, the person offering the highest price will as a general rule be preferred; if however, in some very special cases, sufficient reasons of a Public nature may exist for rejecting the offer of particular Individuals, it is not proposed absolutely to fetter your discretion upon this point. But no offer to purchase is to be rejected except on clear and weighty reasons, since the interest of the Colony will be generally promoted in proportion as men of real Capital become the purchasers and proprietors of the soil.

Upset prices
of land to be
published.

Instructions re
sale of lands
by local
government.

28. As an inducement to Capitalists to invest their property in the purchase of Lands in the Colony, it has further been resolved to authorise a deduction of £10 per cent. on the price, as a discount for prompt payment, and it has further been determined that the purchaser should receive back again the whole of the purchase money, if, within ten years after the purchase, he should make it appear that he has relieved the public from an expense equal to ten times its amount by the employment of convict Labourers. This repayment the purchaser will not receive back

Concessions
and rebates to
be offered to
purchasers
of land.

1825.
1 Jan.

Concessions
and rebates to
be offered to
purchasers
of land.

the discount allowed to him, but only the cash which he may have paid into the Colonial Treasury. In stating this account, the purchaser will have credit to the amount of £1 12s. for every convict, he may have employed and wholly sustained at his own expense for 12 months; this sum has been stated for the following reasons; the loss sustained by His Majesty's Government upon the maintenance and employment of convicts being estimated at an average of £16 each, it has been thought right as an encouragement to settlers to employ convicts to allow the Settlers to deduct in account one tenth part of what he may thus save to the Public.

Delineation of
lands for sale.

29. The Land will be put up to sale in lots of 1,920 Acres, subject only to such variations as local or accidental circumstances may render necessary. To prevent uncertainty and confusion respecting the Lots of Land thus offered for sale, you will require the Commissioners of Survey and Valuation to prepare Charts of each Parish, with division lines, by which the whole Territory will be divided into lots of 640 Acres each. To the Charts will be attached schedules, in which the natural or artificial Land Marks, corresponding with the Division lines of the Chart, will be pointed out; each Lot of 640 Acres will be described in the Chart of the Parish by a numerical mark. All biddings for land will therefore be made, and all sales of land effected, in reference to the Public chart of the Parish in which such lands are situate. No person will be permitted to purchase, either by one contract or by successive Contracts, more than 9,600 Acres of Land in the whole, except under a special order from this department.

Area available
for one
purchaser.

Regulations
for settlers
obtaining land
grants subject
to quit rent.

30. With respect to settlers of the second class, those who are unable to purchase lands for settlement, and who therefore propose to receive a Grant of it from the Crown, subject to a certain and moderate quit-rent, the following are the regulations which it has been decided to adopt.

31. In the case of persons applying for grants of land without purchase, it will be necessary that you should be satisfied of the ability and intention of the applicant to expend in the cultivation of it a sum equal to one fourth part of the price at which the lands applied for may have been valued by the commissioners. I am aware that there may be considerable difficulty in obtaining any precise and positive proof of a fact of this nature; you will however understand that the evidence is not to be such as would be required, if the question were in dispute before a court of Justice. The intention is only that you should receive such proof as may induce a reasonable conviction that the applicant possesses such property and is disposed so to employ it. As a further criterion of his real resources and intentions, every Grantee of

this class will be required, at the expiration of 7 years from the date of his grant, to prove that he has actually expended a capital equal to one fourth of the estimated Value in the cultivation or improvement of the Land, under pain of forfeiting the Grant if he fails to establish that fact.

1825.
1 Jan.

32. Upon Lands granted without purchase it will be further required that a quit rent should be reserved. The amount of this quit rent will be settled in reference to the average Valuation of Lands throughout each Parish; it will be £5 per cent. upon that average Value; it is however intended that this quit rent should be made redeemable at any time within 25 Years, upon payment into the Colonial Treasury of a sum equal to 20 times the amount of it, or in other words at 20 years purchase; in effecting this payment the Grantee will have credit for the sum of 32s. for every convict, whom he may appear to have employed and maintained at his own expense for one whole year in the cultivation of his lands; during the first 7 years immediately following the date of any Grant without purchase, the lands will be held by the Grantee free of all Quit rents; this indulgence, which is intended to enable him to devote during that period the whole of his resources to the improvement of the land, will not be extended to the case of Grantees who, having been previously settled in the Colony, may receive, without purchase, augmentations of their former grants; in such cases the quit rent will become payable immediately.

Quit rents.

Payment in
composition of
future quit
rents.

33. The Execution of this Plan of settling the waste Lands in New South Wales must necessarily be preceded by the general survey and Valuation, which it will be the duty of the Commissioners to make. The only practical measure, therefore, which I can on the present occasion direct you to take, is that of issuing the commission with all convenient dispatch. You will especially require them to set apart in the several Counties, comprized in their Survey, all such Tracts of land as will be necessary for the Various Public purposes already mentioned, and especially for the clergy and school Estate in each County. Before this service can be completed, I hope to have it in my power to transmit to you the formal Instruments, under which you will be authorized to issue Letters Patent under the seal of the Colony for the incorporation of trustees for the management of the Church and school property. At the same time, I expect to be able to transmit instructions from His Majesty laying down in detail the whole course of proceeding, hereafter to be pursued, in conformity with the Principles already stated in the settling waste lands in New South Wales; in the Interval which must elapse before the Survey and Valuation of the waste Lands in

General
instructions.

1825.
1 Jan.
General
instructions.

the Colony has been actually made, you will, as far as under such circumstances may be possible, conform to those principles, in the granting and settling such lands; and during that period you will understand it to be His Majesty's pleasure that you should not issue any grant, except in cases where delay would be attended with very injurious consequences to the Settler.

Rules issued
to intending
immigrants.

34. For your better guidance and government on this subject, I enclose a copy of a Document, which is now delivered to all persons in this Country, emigrating to New South Wales and applying at this office for grants of Land. It will be of the utmost importance that you should rigidly adhere to the principles laid down in that Document, since the most distressing disappointments of well founded expectations and the most embarrassing claims for indemnity would be the consequence of any Violation of the Engagements, into which His Majesty's Government are thus entering with Settlers.

I have, &c.,
BATHURST.

[Enclosure No. 1.]

Draft charter of
incorporation
for management
of church and
school estates.

DRAFT OF CHARTER OF INCORPORATION* FOR MANAGEMENT OF
CHURCH AND SCHOOL ESTATES.

Constitution of
corporation.

GEORGE the fourth, by the grace of God, of the United Kingdom of Great Britain and Ireland, King, defender of the faith, and so forth. To all to whom these presents shall come greeting. Whereas we have taken into our Royal consideration the necessity of making provision for the maintenance of Religion, and the education of Youth in our Colony of New South Wales, And for that purpose have thought proper to erect into one body, Politic and Corporate, such persons as are aftermentioned, and to vest in them and their successors such lands and tenements as will be sufficient to make a provision for the purposes aforesaid. Now know ye that we have, of our especial Grace, mere motion and certain knowledge, granted and do hereby declare and grant that our trusty and well beloved Lt. Gen'l Ralph Darling,† our commander in chief in and over our said Colony of New South Wales and its dependencies, or our Governor or acting Governor for the time being of our said Colony, Our trusty and well beloved Francis Forbes, Esquire, our chief justice of our supreme court of New South Wales or our chief justice of our said court for the time being, the several members of our said Legislative council in and for our said Colony for the time being, The Reverend and Venerable Thomas Hobbes Scott, the Archdeacon of New South Wales, or the Archdeacon of New South Wales for the time being, Alexander McLeay,† Esquire, the Secretary of our

* Note 104. † Note 99.

said Colony, or the secretary for the time being of the said Colony, Saxe Bannister, Esquire, our Attorney General in and for our said Colony, or our Attorney General thereof for the time being, John Stephen, Esquire, our Solicitor General in and for our said colony, or our Solicitor General thereof for the time being, and the nine senior Chaplains appointed or to be appointed by us, our heirs and Successors, to officiate and perform Divine service according to the rites and ceremonies of the Church of England in the said Colony, and their successors, shall be and they are hereby united into a Company, and declared to be a Body politic and Corporate, with perpetual succession, by the name of the Trustees of the Clergy and school Lands in the Colony of New South Wales; and by that name shall and may be sued, plead, and be impleaded; And shall by that name be authorised and empowered to purchase, take, acquire, hold and alienate Lands and Hereditaments within the said Colony; and we do hereby give and grant to the said Company power to have a common seal, and such seal from time to time to break, change and alter as there may be occasion. And we do further declare and ordain that the Governor, or acting Governor for the time being, of the said Colony shall at all times, by virtue of such his Office, be the president of the said Corporation; And that the Archdeacon for the time being of New South Wales, or in his absence the senior Chaplain of the said Colony shall, by virtue of such their respective offices, be the Vice President of the said Corporation; provided also and we do further declare that the several Members of the said Corporation shall hold such their Appointments during our Pleasure, And shall be liable to be suspended therefrom by the Governor, or acting Governor, for the time being of the said Colony, until our Pleasure be known or to be permanently removed and displaced from being members of such corporation by us as the case may require. And we do further will and declare that the said corporation shall on the first Tuesday, which shall be in each of the several months of March, June, September, and December, in each and every year, hold a General Court or meeting of the Members of the said Corporation at such place within the said Colony, as the Governor or Acting Governor for the time being of the said Colony shall for that purpose direct. Of which general Court or Meeting, notice shall be given by public Advertisement to be published in two successive Gazettes or Newspapers printed and circulated in the said Colony. And we do further will and declare that it shall be lawful for the Governor, or Acting Governor, for the time being of the said Colony to convene special General Courts of the said Corporation, so often and at such

1825.
1 Jan.

Draft charter of
incorporation
for management
of church and
school estates.

Governor or
acting governor
to be president.

Archdeacon to
be vice-
president.

Tenure of office
by members.

General courts
to be held
quarterly.

Convening
of special
general courts.

1825.
1 Jan.

Draft charter of incorporation for management of church and school estates.

Power to make rules, by-laws, and regulations.

Power of veto reserved to governor and secretary of state.

Adjournments of courts.

Committees to be appointed.

Number required for quorum in courts and committees.

times and places as occasion may require. Provided that no such special General court be held, unless notice thereof be first publickly given in two Public Gazettes or Newspapers published in two successive weeks as aforesaid. And we do further will and direct that, at any of such General or Special General Courts of such Corporation as aforesaid, the said Corporation shall and they are hereby authorized and empowered to make such rules, orders, Bye Laws and regulations, from time to time, as to them shall seem meet and Proper for the good Government of the said Corporation, and for regulating the proceedings thereof, and for the proper conduct and management of the affairs and business thereof in all respects whatsoever; such Rules, Orders, Bye-Laws and regulations, or any of them, from time to time to alter or repeal, and to make new or other bye laws; and all rules, orders, bye laws and regulations, so made as aforesaid, shall be laid before the Governor or acting Governor of the said Colony for his approbation and, being by him approved, shall be binding upon all the members of the said corporation, their Servants, Workmen and Agents. Provided nevertheless that such Rules, Orders, and Bye Laws be not repugnant to the laws of the said colony or to any thing herein contained, and reserving always to us, Our Heirs and successors, the power at all times to allow any such rules, Orders or Bye Laws, Although the same may have been disallowed by the said Governor or Acting Governor, or to disallow the same or any of them, notwithstanding the approbation or allowance thereof by him. And we do further will and declare That it shall and may be lawful for the said corporation to adjourn any such General or Special Court as aforesaid to some future day, and nevertheless that no such adjourned court be held more than (three) days after the time of such adjournment, and that no such general or special General court be continued by adjournment for more than (two) days in the whole. And we do further will and Ordain That it shall be lawful for the said corporation, at any such General or Special General Court as aforesaid, to appoint one or more committee or committees of their number for the dispatch of such business, as may be Specially referred to any such Committee. Provided that no such committee shall be appointed for more than three Calendar months, nor consist of less than five nor more than nine Members of the said Corporation. And we further will and declare That no General or Special General Court of the said corporation shall be competent to proceed to the dispatch of Business, unless seven Members at the least be present during the whole of such Meeting. And that no such Committee as aforesaid shall be competent to proceed to the dispatch of business, unless three members

at the least of such committee be present during the whole of the meeting thereof, nor untill such Committee shall have made choice of a Chairman to preside at the said meeting. And we do further will and declare that all Questions, Matters and Things, which shall be discussed or considered at any General or Special General court of the said Corporation, or of any Meeting of any such Committee as aforesaid, shall be decided and determined by the majority in number of Members present. And the president of the said Corporation, being present at any such general or Special General Court, shall be entitled to vote thereat, and, in case of an equal number of Votes, shall have an additional or casting Vote, which casting Vote shall, in the absence of the president in any such case as aforesaid, be given by the Vice president of the said Corporation. But no resolution shall be passed or adopted at any meeting of any such committee as aforesaid, without the concurrence and approbation of an actual Majority in number of the persons then and there present. And we do further declare That it shall be lawful for the said Corporation, at any General or Special General Court to be held in pursuance hereof, to nominate and appoint, under the Common Seal of the said Corporation, such Clerks and Agents as may be necessary for conducting the affairs of the said Company, and such appointments from time to time to revoke and renew as occasion may require. And we do further Declare that the Public treasurer, for the time being of New South Wales, shall be and he is hereby appointed to be the sole Treasurer of the said Corporation; and that it shall not be lawful for the said Corporation to Appoint any other Person to act as their treasurer. And we do further declare and direct That all Bye Laws, Rules and regulations, Orders and proceedings of the said Corporation shall be entered in a Book to be kept for that purpose, and shall be signed by the President or Vice President for the time being, and that such Book or Books shall be carefully preserved and kept at the Office of the said Company. And We do further direct that the said Corporation shall keep a Public Office in some convenient place within the said Colony; and that such Office shall not be removed from the place, in which it may be originally established, except by virtue of an order to be made for that purpose at some General Court of the said Corporation. And we do hereby ordain and direct That the said Corporation shall, by all such lawful ways and means, as may appear best adapted for that purpose, provide for the management, cultivation and improvement of all such Lands as shall be granted to them by us, Our Heirs and Successors, within the said Colony; and shall for that purpose hire and employ Farmers, Bailifs, Stewards, Agents,

1825.
1 Jan.

Draft charter of incorporation for management of church and school estates.

Questions to be decided by majority.

Casting vote for president or vice-president.

Appointment of clerks and agents.

Colonial treasurer to be treasurer for corporation.

Minute books to be preserved.

Public office of corporation.

Management of lands held by corporation.

1825.

1 Jan.

Draft charter of incorporation for management of church and school estates.

Power to sell lands.

Colonial treasurer to give receipts and receive payments.

Power to grant leases.

Rents to be paid to colonial treasurer or his agent.

Separate accounts to be kept.

Servants and Workmen, as occasion may require; and shall take order for the erection of all necessary farm houses and other buildings for the purposes of Husbandry upon the said Lands.

And we do hereby declare that it shall and may be lawful for the said corporation to sell, in pursuance of any resolution entered into for that purpose at any General Court, any part of the Lands, which may be granted to them as aforesaid within the said Colony; provided that, in each and every county erected, or to be erected within the said Colony, the said Corporation shall retain two equal third parts at least in Quantity and Value of the whole of the Lands granted, or to be granted to them in every such County. Provided also, and we do further declare and direct That the receipts of the Public Treasurer of the said Colony shall be the only good and effectual discharge to any purchaser of any Lands, sold by the said Corporation, for the purchase Money by contracted or agreed to be given or paid for, or in consideration of any such Lands. And that the whole amount of all such purchase Monies shall be actually paid into the hands of such Public Treasurer, to be by him applied to the use of the said corporation and accounted for to us, our heirs and successors, in such manner as we or they shall appoint. And We do further Ordain and direct that it shall and may be lawful for the said Corporation to grant Leases of any of the Lands so granted, or to be granted to them as aforesaid, for any term of Years not exceeding thirty two Years or the duration of two lives in being at the time of any such demise in the whole. Provided always, and we do hereby direct That the said Corporation shall not, in and by any such leases or otherwise, covenant for the extension or renewal of any term of Years thereby granted, and shall not take or receive any fine for or in consideration of any such demise; but all and every the Lands included in any such demise, and let in consideration of the rent reserved and of the covenants entered into by the Lessees or Lessee, to whom any such demise may be so made. And We do further direct and Ordain That the rent reserved, in and by any such leases as aforesaid, or which may be rendered and paid by any person or persons for or in respect of any lands to be holden of the said corporation, shall be paid and made payable to the Public Treasurer for the time being of the said Colony as the Treasurer of the said corporation, or to persons to be by him lawfully appointed for that purpose. And we do further Ordain That the said Public treasurer shall open and keep a distinct and separate account with the said Corporation; and shall carry to their Credit all and every the sums and sum of money, which may by him be received as and for the proceeds of the sale of any part of

the lands so to be sold and disposed of as aforesaid, or arising from the rents of any of the lands which may be demised or let by the said Corporation. And the said public Treasurer shall issue the money to be received by him in pursuance of such orders in writing, as may be made for that purpose by the said corporation, such orders being always signed by three members at least of the said Corporation and by the President or Vice President thereof for the time being. And we do further give and grant to the said corporation power to borrow and take up at Interest by way of Mortgage such sums of Money as may be necessary for the cultivation and improvements of any lands to be granted to them by us, our Heirs and Successors; provided that not more than one third in the whole of the Lands, actually granted to the said Corporation at the time of executing any such Mortgage, be included or comprized therein; it being our will and intention that two equal third parts at the least of the whole of the Lands, comprized in any such grant, shall at all times be free and exempt from any Mortgage, charge or incumbrance created by the said corporation. Provided also and we do further declare that the said corporation shall not be competent to effect any such mortgage as aforesaid, except for a term of years not exceeding fifty years in the whole, without any covenant or condition for the renewal or further extension of any such term. And we do further will, Ordain and declare That the said Corporation shall not contract any Debt, whereby, or by means or reason whereof, the lands by Us, our heirs and Successors, granted to them, or any part of such lands, shall or may be seized, levied upon, sold or taken in execution; but that, if the Corporation shall ever contract any Debts as aforesaid, which shall remain in arrear and unpaid six Calendar months next after the same shall become due and payable, and if such debts shall at any one time amount to the sum of one thousand pounds Sterling British Money in the whole, and if any suit or suits, Action or Actions, shall be commenced for the recovery thereof, then and from and immediately after the time of such Actions being brought, this Present Charter of Incorporation shall be and become forfeited to us, Our Heirs and Successors, and shall be resumed and resumable by us and them. And we do further Ordain and declare That the said Corporation shall in the first place Apply the monies by them received, whether the same shall arise from the sale of any such Lands as aforesaid, or from the rents and profits of any such land or otherwise from use and occupation of such lands, in and towards the payment of the expenses of and attendant upon the execution of the several trusts hereby in them reposed, and especially in paying the rent

1825.
1 Jan.

Draft charter of incorporation for management of church and school estates.

Method for payments.

Power to borrow money on mortgage.

Charter to be forfeit in event of default by corporation.

Expenditure of funds.

1825.
1 Jan.

Draft charter of incorporation for management of church and school estates.

Annual accounts to be submitted by colonial treasurer.

Committee to audit accounts.

Net balance to be credited to "Improvement and Building Account" and "Clergy and School Account."

Expenditure authorised from "Improvement and Building Account."

and hire of their Public Office, and such moderate and reasonable Salaries and allowances, as may by the said corporation be granted to any Agents, Bailiffs, Clerks, servants or Workmen, employed by them, and in defraying all other the necessary costs, Charges and expenses, which may be incurred in and about the management of the said Estate. And We do further direct and Ordain That the Treasurer of the said Corporation shall at the General Court of the said Corporation, on the first Tuesday in the month of Feby. in each year, lay before the said Corporation an account in writing of all the sums of money received, paid, laid out and expended by him, or by his order, or such Treasurer as aforesaid, such account being made out from the first day of January up to the thirty first Day of December both inclusive in the year next preceding. And the said corporation shall therefore appoint a Committee for auditing the said Account, before which Committee the said Treasurer shall produce all his Books, papers, Receipts and Vouchers relating to the said Account. And the said committee shall report to the next General Court of the said Corporation upon the said Treasurer's accounts when the same shall either be approved, or otherwise, as the case may require. And We do further Will and Ordain That the nett Balance, which may appear by any such account, as aforesaid, to be remaining in the hands of the said Treasurer on the Thirty first Day of December in each year, after defraying such several salaries, Allowances, Costs, Charges and expences as aforesaid, shall by the said Treasurer be divided and apportioned into two equal parts, for which purpose the said Treasurer shall open and keep two seperate and distinct accounts with the said Corporation: One of which accounts shall be called and known by the name of "*The Improvement and Building Account*," and the other of which accounts shall be called and known by the name of "*the Clergy and School Account*". And one of the two equal parts, into which such nett Balance as aforesaid is in each year to be divided as aforesaid, shall by the said Treasurer be carried to the credit of each of the two Accounts before Mentioned. And we do further will and Ordain That the money, from time to time remaining to the credit of the said corporation upon the said account called the Improvement and Building Account, shall by the said Corporation be applied and expended in and towards the Making of Roads, Drains or Fences, The erection and repairs of Churches, Parsonages and School Houses, in the erection and repair of farm houses or other buildings for the purpose of Agriculture, or otherwise in and towards the permanent clearing, settling and improvement of the said Estates, in such manner as may be deemed most expedient in that behalf. And We do

further will, ordain and direct That the money, from time to time remaining to the credit of the said Corporation upon the said Account to be called "*The Clergy and school account*," shall by the said Corporation be applied and expended in and towards the maintenance and support of the Clergy of the Established Church of England in the said Colony, and the maintenance and support of schools and school masters according to the rules and subject to the conditions hereinafter in that behalf prescribed. And we do further ordain that that part of the monies, which herein before as directed to be applied to the maintenance and support of the Clergy of the said Colony, shall be so applied in manner following, that is to say; First, In the payment of such Stipend or Stipends as may by us, our Heirs and Successors, be granted for the support of any Bishop or Bishops, Archdeacon or Archdeacons within the said Colony, such Bishops or Archdeacons being between themselves entitled to receive such their Stipends from and out of the said Fund according to their precedence in rank, so that no person of Inferior rank shall receive any part of his stipend out of such fund until the whole of the Stipend or Stipends of his Superior or Superiors in rank shall have been paid in full. Secondly, the said fund shall be applied in payment of such Stipends as may by us, Our heirs and Successors, be granted to the chaplains or Clergy of the said Colony, The seniors of such Chaplains or Clergy being always entitled to receive such their Stipends out of the said fund in full, before any part thereof is applied in and towards the payment of the Stipends of any other of the said Chaplains or Clergy, who may have been subsequently nominated or appointed to any such Office. And we do further will and Ordain that that part of the monies aforesaid, which herein before is directed to be applied in and towards the support and maintenance of Schools and School Masters shall be so applied in manner following: that is to say, in and toward the Maintenance and support of Schools and School Masters in any Parish in the said Colony, in connection with the Established church, and under and subject to the Visitation and Controul of the Bishop, or in his Absence the Archdeacon for the time being of the said Colony; it being our Will that, until Provision shall be effectually made for the support of schools and the Education of Youth in our said Colony, the Balance of the Funds, standing in to the Credit of the said account called the "*Clergy and school Account*," shall be applied as to two equal seventh parts for the support of schools and schoolmasters, and as to the remaining five equal seventh parts to the support and maintenance of the Clergy in manner aforesaid. And We do further Will and direct That, if either of the

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Draft charter of incorporation for management of church and school estates.

Expenditure authorised from "*Clergy and School Account*."

Application of funds to support of clergy.

Application of funds to support of schools and schoolmasters.

1825.
1 Jan.

Draft charter of
incorporation
for management
of church and
school estates.

Funds to be
kept distinct.

Control of
schools.

Schoolmasters
to be appointed
or removed
by bishop or
archdeacon.

Lands granted
and revenues
appropriated
to orphans to
be vested in
corporation.

Glebe lands to
be vested in
corporation.

two distinct and separate Funds, aforesaid, shall at any time be more than sufficient to answer the purposes to which the same are respectively herein before appropriated, the said Corporation shall and may apply the excess at their discretion to any of the other purposes before mentioned. Provided always that the said two distinct Funds be as far as may be kept distinct and apart, and be severally applied to the several and particular uses and purposes aforesaid. And We do further direct and Ordain That the schools, so to be established as aforesaid, shall be subject to the order, direction, and superintendance and control of the clergyman or minister of the Church of England for the time being officiating in the Church of and belonging to the parish, in which any such school may be so established; and the Bishop, or in his Absence the Archdeacon for the time being of the said Colony, shall be, and he is hereby constituted and appointed the Visitor of all the said schools throughout the said Colony. And we do further declare and Ordain That the Bishop, or in his Absence the Archdeacon for the time being of the said Colony, shall nominate and appoint the school masters, who are to teach and instruct the Children in the schools, so to be established as aforesaid; and such School Masters shall, for Misconduct or other reasonable and sufficient cause, be liable to be removed from their offices by such Bishop or Archdeacon as aforesaid, saving nevertheless and reserving to Us, our Heirs and Successors, the right of confirming or disallowing any such appointment or removal from Office as aforesaid. And It is our Will, and We do further declare That all and every the lands and tenements within our said Colony, heretofore appropriated and set apart by the former Governors of our said Colony, or any of them, for the maintenance and Education of Male and female Orphans, and all such parts of our Revenues arising within Our said Colony, as hath by any such Governor been appropriated and set apart for the Education of Youth therein, shall be and the same are hereby vested in and placed under the Management, care and superintendance of the said Corporation, to be by them applied and disposed of in aid of the Funds aforesaid in and towards the Education of Youth in the said Colony in the principles of the Established Church. And we do further grant and declare that all the lands, heretofore set apart within the said Colony for the support of the Clergy of the Established Church, and known by the name of Glebe lands, or by whatever other name the same may be known, shall, from and immediately after the death, resignation, removal or other avoidance of the Chaplain or Clergymen, now in the occupation and employment thereof, respectively to pass to and become vested in the said Corporation upon, under and

subject to the trusts, and to and for the interests and purposes hereinbefore declared respecting the other Estates of the said Corporation. And We do hereby give and grant to the said Corporation full power and authority to appropriate any pieces or parcels of Land for the Erection of any Church or Building, or for a Burying Ground, or as the scite of any School house or Parsonage, or for the personal use or occupation of any School Master or Clergyman of the Church of England, so as that no such piece or Parcel of Land as aforesaid shall exceed Twenty Acres. And We do further Ordain and Direct that the said Corporation shall once at the least in every two years transmit to us, Our Heirs and Successors, through the Governor or Acting Governor for the time being of the said Colony, under their Common Seal, a written report stating and exhibiting a full true and perfect Account of the state and condition of the Lands, which may up to that time have been granted to them by Us, our heirs and successors; and especially setting forth an account of the number of Acres of Land in each County brought by them into Cultivation, with the mode and nature of such cultivation; and specifying what sums of money have been laid out and expended in the clearing or other improvements of such Lands during the period to which every such Report may Refer, and the number and description of Buildings erected thereupon, together with an exact account of the Churches, Parsonage houses, school-houses, and other Edifices of a Public nature, erected or in the course of erection by the said Corporation, with a full and particular statement of the Income of the said Corporation during the period aforesaid, and of the manner in which, and of the purposes for or towards which, such income and every part thereof hath been applied. And we do further Will and Ordain that it shall be lawful for Us, our heirs and Successors, by any order to be issued by us for that purpose with the advice of our or their Privy Council to dissolve and put an end to the said Corporation, in case it shall appear to us, Our Heirs and Successors, with the advice aforesaid, expedient so to do; and thereupon all the Lands, which may by us, Our Heirs and Successors, be granted to the said Corporation shall revert and become absolutely vested in us or them, subject to all Mortgages and Contracts for the sale thereof, lawfully made by the said Corporation, to be held, applied and disposed of in such manner as to us, Our Heirs and successors, shall appear most conducive to the maintenance and promotion of Religion and the Education of Youth in the said Colony. And We do further will and ordain that it shall be lawful for Us, Our heirs and Successors, from time to time, as occasion may require, to revoke, alter or vary any of the provisions, declarations and conditions, or regulations herein

1825.
1 Jan.

Draft charter of incorporation for management of church and school estates.

Appropriation of lands for church or school purposes.

Bi-annual report and accounts to be submitted to secretary of state.

Power to revoke charter in entirety :

or in part.

1825.
1 Jan.
Draft charter of
incorporation
for management
of church and
school estates.
Method of
revocation.

contained, and, in their place and stead, to establish institute and ordain such other further rules, Orders and Provisions for the better conduct of the Affairs of the said Corporation, or for the better regulating the constitution thereof or otherwise, in respect to the matters aforesaid, or any of them as to us, Our heirs and Successors, may seem meet; Provided nevertheless that no such revocation, alteration or variation as aforesaid, and no such new rules, orders or provisions as aforesaid, shall be made or established except by letters Patent to be issued under the Public seal of our said colony by the Governor or Acting Governor thereof for the time being, in pursuance of an Instrument to be issued by Us, our heirs and Successors, under our or their Royal Sign Manual. And We do further Will and ordain That, when and so soon as the several purposes and objects aforesaid shall have been fully and effectually performed and carried into execution, and when provision shall have been made for the religious Instruction and Education in the Principles of the Church of England of the whole of the Inhabitants of the said Colony, It shall and may be lawful for Us, Our heirs and successors, to direct and provide for the manner in which the several uses and purposes, upon or towards which such part of the Lands, so to be granted to the said Corporation as aforesaid, shall be held and applied, as may not be wanting to carry into effect the several purposes before mentioned.

Witness Sir Thomas Brisbane, Knight &c. &c. this
Day of in the Year of the Reign of
His Majesty King George the fourth, and in the Year
of our Lord

[Enclosure No. 2.]

Regulations re
land grants
supplied to
immigrants
proceeding to
N.S.W. and
Tasmania.

SUMMARY OF RULES FOR EMIGRANTS GOING TO NEW SOUTH WALES.
FOR the information of persons proceeding to New South Wales and Van Diemen's Land as Settlers, it has been deemed expedient to prepare the following Summary of the rules His Majesty's Government have thought fit to lay down for regulating the Grants of Land in that Colony.

1. A division of the whole Territory into Counties, Hundreds, and Parishes is in progress. When that division shall be completed, each parish will comprize an area of about 25 Square Miles. A valuation will be made of the Lands throughout the Colony, and an average price will be struck for each parish.

2. All the Lands in the Colony, not hitherto granted and not appropriated for public purposes, will be put up to sale at the average price thus fixed.

3. All persons proposing to purchase Lands must transmit a written application to the Governor in a certain prescribed form,

which will be delivered at the Surveyor General's Office to all Parties applying on payment of a fee of two Shillings and Sixpence.

4. All correspondence with the Local Government, respecting Grants of Land, must take place through the same Office.

5. The purchase money is to be paid by four quarterly Installments. A discount of ten per Cent. will be allowed for ready money payments.

6. On payment of the money, a Grant will be made in fee simple to the purchaser at the nominal Quit-rent of a pepper Corn.

7. The largest quantity of Land, which will be sold to any Individual is 9,600 Acres. The Lands will generally be put up to Sale in Lots of three square Mile or 1,920 Acres. Persons wishing to make more extensive purchases must apply to the Secretary of State in writing, with full explanations of their objects and means.

8. Any Purchaser, who, within ten years after his purchase, shall by the employment and maintenance of Convicts have relieved the public from a Charge equal to ten times the Amount of purchase money, will have the purchase Money returned but without interest. It will be computed that, for each Convict employed and wholly maintained by the Purchaser for twelve months, £16 has been saved by the Public.

9. Lands may also be obtained without purchase, but upon different conditions.

10. Persons desirous to become Grantees without purchase will make their application to the Governor in writing in a prescribed form, Copies of which are to be obtained at the Surveyor General's Office on payment of 2s. 6d.

11. The largest grant, that will be made without purchase, is 2,560 Acres, The smallest 320 Acres.

12. No grant is to be made to any person, unless the Governor is satisfied that the Grantee has both the power and the intention of expending in the cultivation of the Lands a Capital equal to half of the estimated value of it.

13. A quit rent of 5 per Cent. per annum upon the estimated value will be fixed upon the Land granted without purchase.

14. The quit rent will be redeemable within the first 25 years next following the Grant, on payment of a sum equal to twenty times the annual amount of it.

15. In the redemption of his Quit Rent, the Grantee will have credit for one fifth part of the sums, which he may have saved to His Majesty's Government by the employment and maintenance of Convicts; and, for the purpose of making this allowance,

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1 Jan.

Regulations re
land grants
supplied to
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proceeding to
N.S.W. and
Tasmania.

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1 Jan.

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land grants
supplied to
immigrants
proceeding to
N.S.W. and
Tasmania.

it will be calculated that the Government has saved £16 for each Convict, employed by the Grantee and wholly maintained at his Expence on his Land for one whole year.

16. Until the expiration of the first seven years next succeeding each Grant without purchase, no Quit Rent will become due upon the Lands comprized in it.

17. Every Grantee without purchase must, at the Expiration of the before mentioned term of seven years, prove, to the satisfaction of the Surveyor General, that he has expended in the Cultivation and improvement of his Land a Capital equal to half of its value as that value was estimated at the time of his Grant. On failure of such proof, the Land will be forfeited to the Crown.

18. No additional Grant of Land will be made to any person, who has not proved, as last mentioned, the necessary Expenditure of Capital on the Lands already Granted to him.

19. Persons, receiving a second Grant of Land without purchase, will become liable to pay a Quit rent upon the Lands comprized within such Grant immediately from the date of it.

20. Persons, desirous to receive Grants of Land without purchase on terms different from those above stated, must lay before the Secretary of State a full explanation in writing of the Circumstances, which they may conceive to exempt them from the fair operation of these General Rules.

Colonial Office, Downing Street.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 19, per ship Mangles.)

Government House, New South Wales,

1st January, 1825.

My Lord,

I have the honor to send by the Mangles, to be placed at your Lordship's disposal, a Specimen of the Newly discovered Pine, which I brought down with me in my late visit to Morton Bay, and I am anxious that Your Lordship should be pleased to take steps to ascertain its Value for Naval purposes, or its use in regard to others, as it is an undescribed Species of Pine and only bears a strong relation to the Norfolk Island Pine in the Shape and disposition of its leaves; it is nevertheless distinct as regards its Timber and in its general habit of growth. The length of fibre, disposition and appearance of its branches therefore justify it being considered very distinct as a timber, although technically it appears sufficiently distinct as a species from the Norfolk Island Pine.

The Botanical name is, therefore, *Araucaria excelsa* Var. of Aiton's *Hortus Kewensis*, and I trust will prove a most valuable acquisition for Naval purposes; and I am a good deal strengthened

Specimen
of pine from
Moreton bay
transmitted per
ship Mangles.

in this opinion from having had a Topmast of this Pine in the Colonial Brig Amity, in which I proceeded to Morton Bay, and, although we experienced Some very severe weather during the Voyage, this Spar seemed admirably adapted for the purpose.

I shall only further add that, if they are proved Valuable for our Marine, there are endless quantities of these most beautiful Trees, many of which I measured from nine to ten feet in circumference, and from eighty to one hundred feet in height, perfectly straight without Knot or branch; and some individuals stated to me their having seen them of nearly double the above dimensions. As the river is navigable for moderate sized vessels, where these Pines are growing, they can be most readily rafted away or embarked with the assistance of the Prisoners from the new Settlement I am about to establish up the River.

I have, &c.,

THOS. BRISBANE.

1825.
1 Jan.

Testing of pine
as topmast.

Quantity
of timber
available.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 2, per ship Hercules.)

Sir, Downning Street, 2 January, 1825.

2 Jan.

With reference to my Dispatch of the 1st Instant relating to the general Division of the Territory of New South Wales into Counties, etc., I have deemed it expedient to appoint an additional Surveyor to be placed upon the same footing with the two Assistants, mentioned in my Dispatch of the 21st Ult.; and with this view I have selected Mr. Ralfe, who will have the honor of delivering this Dispatch to you, and, as I have every reason to be satisfied with the testimonials he has produced in the line of his profession, I trust he will prove a useful acquisition to the Surveyor General's Department.

Appointment
of Ralfe as
assistant
surveyor.

I am, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 3, per ship Hercules.)

Sir, Downning Street, 2 January, 1825.

With reference to my Dispatch No. 26 dated 23rd July last, wherein I informed you that I had selected two respectable young men to proceed to New South Wales for the purpose of acting as Constables under the Superintendent of Police, I now do myself the honor of acquainting you that I have appointed Capt. Rossi to fill the Situation of Superintendent of Police with a Salary of £600 per annum, to be provided for out of the Colonial Revenues. I have not thought it adviseable to furnish Captain Rossi with any specific instructions on the subject of the duties, which he will have to perform; but I have to desire that, so soon

Appointment of
F. Rossi as
superintendent
of police.

1825.
2 Jan.
Police
regulations.

as Capt. Rossi has had opportunities of local examination, you will direct him to frame a system of Police Regulations, embracing the several objects recommended in Mr. Bigge's Report,* and you will submit the same to the consideration of the Council for their approbation.

I am, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 4, per ship Hercules.)

Sir, Downing Street, 2 January, 1825.

Request of
J. Bowman for
land grant.

I have the honor to transmit to you the Copy of a Memorial received from Mr. James Bowman, the principal Surgeon of New South Wales, stating his Services, and Soliciting a Grant of Land in consequence of his being possessed by Marriage† of valuable flocks and herds of Sheep and Cattle, for which he is desirous of obtaining a permanent Establishment.

Exception to be
made in land
grant to
J. Bowman.

Although, in my Dispatch of the ‡, the Officers of Government in New South Wales are restricted from holding Grants of Land, upon the principle that the attention required for the Cultivation of it might interfere with the proper discharge of their Professional Duties; yet, as Mr. Bowman has been for upwards of 18 years in the Service of His Majesty (the latter part of which period he has been actively engaged in the Service of the Colony), and is also possessed of Capital and Stock to enable him to consideration as a Settler of the first Class, I feel disposed to view favourably his present application; and I have therefore to acquaint you that you will feel yourself authorized to make a Grant to Mr. Bowman under the Regulations established by my Dispatch of the 1st Inst., and in proportion therein specified according to the value of his property.

I have, &c.,
BATHURST.

[Enclosure.]

Memorial of
J. Bowman
soliciting a
land grant.

THE MEMORIAL of James Bowman, Principal Surgeon of the Territory of New South Wales, to the Right Honble. The Earl Bathurst, one of His Majesty's Principal Secretaries of State, etc., etc., etc.,

Humbly Sheweth,

That your Lordship's Memorialist entered His Majesty's Naval Service as an Assistant Surgeon in the year 1806. That he was promoted to the Rank of Surgeon in the year 1807, and served from that period until the year 1814, when in consequence of the general peace he was placed on half Pay. That, in the year 1817, he received the appointment of Surgeon at Hobart Town in Van Diemen's Land; that, on his arrival here, his

* Note 105. † Note 106. ‡ Blank in original.

appointment was not recognised by His Excellency the then Governor on the ground that no notification of such appointment had been transmitted to the Colony. Having then no other alternative, your Lordship's Memorialist returned by the route of India to England, where he arrived early in the year 1819. That, having submitted a representation of his case, your Lordship was pleased to appoint him Principal Surgeon of this Territory, to which he arrived in the autumn of the same year (1819). That your Lordship's Memorialist has served in the capacity of Principal Surgeon from that until the present period, without deriving any other emoluments from his situation than his pay and allowances amounting to Four Hundred and Ten Pounds (£410) per annum. That, having brought with him a small fortune and having in early life acquired a taste for Agricultural pursuits, your Lordship's Memorialist is solicitous to participate in those advantages, which the liberal spirit of the British government had bestowed on all his predecessors on a very extensive scale. That the Officer,* to whose situation your Lordship's Memorialist succeeded, is the greatest proprietor of Land in the Colony. That every Assistant Surgeon on the establishment (with the exception of two who have now applied for that indulgence) has received grants of Land, or what is here called Tickets of Location with the promise of a grant (at a future period) of the Land he is now allowed to occupy. That your Lordship's Memorialist has by marriage become possessed of upwards of Two Thousand (2,000) fine woollen merino sheep and more than Two Hundred (200) head of highly improved cattle with other valuable stock from the Flocks and Herds of Mr. MacArthur, for which he is desirous to obtain a permanent establishment with a view of ultimately resigning his present situation and settling in the Colony. That, as these Flocks and Herds must rapidly increase, and as your Lordship's Memorialist is possessed of capital sufficient to promote their progressive improvement and to provide employment and support for a considerable number of Convicts, he is induced to encourage hopes that your Lordship will be pleased to take into consideration his long, and he would feign hope not unmeritorious services, and direct that a grant of Land may be given to him sufficient to support his present stock and their probable increase, to an extent that may enable him to support in retirement that independent and honorable character, which it has hitherto been his pride and good fortune to enjoy in public life. And your Lordship's Memorialist will ever pray,

J. BOWMAN,

Principal Surgeon of the Territory of New South Wales.
Sydney, 30th Jany., 1824.

1825.
2 Jan.

Memorial of
J. Bowman
soliciting a
land grant.

* Note 107.

1825.
2 Jan.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 5, per ship Hercules.)

Sir,

Downing Street, 2 Jany., 1825.

Land to be
granted to
Lethbridge
for services
rendered.

An application has been made in favour of Mr. Lethbridge, who is already a Settler in New South Wales, soliciting an extension of his present Grant of Land in compensation for losses from having, at great personal risk, saved the dispatches,* committed by Governor Macquarrie to his charge, when he returned from New South Wales in Command of the Ship Grace, which vessel was unfortunately destroyed by fire off the coast of Africa. As it appears that, from the great exertions made by Mr. Lethbridge to save the dispatches in question, he lost the opportunity of saving any part of his own property, which was entirely lost, I cannot but consider that he has a strong claim for favorable consideration, and I have therefore to desire that an additional Grant of 1,000 Acres of Land should be forthwith assigned to Mr. Lethbridge.

I have, &c.,

BATHURST.

 UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Hercules.)

Sir,

Downing Street, 2 January, 1825.

Salary advanced
to T. H. Scott.

With reference to Earl Bathurst's Dispatch of the 21st Ultimo, respecting the appointment of the Revd. T. H. Scott as Archdeacon of New South Wales, I am directed by his Lordship to acquaint you that Mr. Scott has received two Quarters of a year's Salary up to the 5th January next; you will therefore cause the payments to be made to him from that period as directed in the Dispatch above alluded to.

Residence to
be provided.

I am also to acquaint you that Mr. Archdeacon Scott is to be provided with a suitable place of residence at the Expence of the Colonial Government, for the first year after his arrival in New South Wales, from which period he will select one at his own Expence.

I have, &c.,

R. W. HORTON.

 EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 6, per ship Hercules.)

Sir,

Downing Street, 3 Jany., 1825.

3 Jan.
Compensation
granted to
R. Campbell.

The Copy of a Letter from Mr. Harrison to Mr. Goulburn, dated the 24th January, 1821, which I have herewith the honor to transmit, will explain to you the circumstances under which the Lords Commissioners of His Majesty's Treasury thought proper

to direct that the sum of £2,000 should be issued to Mr. Robert Campbell Senior, and under which their Lordships have recommended that a Grant of Land and Cattle, to an amount of £2,000 more, should be given to him.

1825.
3 Jan.

Compensation
granted to
R. Campbell.

At the same time when the Lords of the Treasury directed the above communication to be made to me, I deferred the decision upon Mr. Campbell's claim until I could avail myself of the information which Mr. Commissioner Bigge might be able to afford me on the merits of the case; and I have now to direct that a grant of Land and Cattle from the Government Herds be forthwith made, either to Mr. Campbell himself, or in trust for his wife and children, to the amount recommended by the Lords of the Treasury; and that, under the circumstances of its being granted as a compensation for losses sustained above twenty years since, the Land should be free from the proposed charge of Quit-Rent.

I have, &c.,

BATHURST.

[Enclosure.]

SECRETARY HARRISON TO UNDER SECRETARY GOULBURN.

Sir, Treasury Chambers, 24th January, 1821.

Having laid before the Lords Commissioners of His Majesty's Treasury a letter from Mr. Robert Campbell, dated New So. Wales, 20 Feb., 1819, further praying relief in regard to the loss* of the Ship "Sydney," and their Lordships having at the same time resumed the consideration of your letters (dated as per Margin†) and also of other Papers on this subject, I have it in command to acquaint you, for the information of Earl Bathurst, that, on the best decision which from the Documents produced their Lordships are able to form on this case, it appears to them that the Party has an equitable claim to compensation for the loss of this Vessel, altho' not to the extent recommended by the late Transport Board; and, adverting to the peculiar circumstances, under which She was engaged by the Government of New So. Wales at a period of great distress to proceed to Calcutta and to return immediately with a supply of grain, whereby the insurance, which had been effected upon the Vessel, was rendered unavailing, and when no other Ship could be procured for the purpose, They cannot but consider that a Sum of £2,000, with a Grant in Land and Cattle in New South Wales, will be by no means more than an adequate compensation for the losses sustained by the Memorialist; and My Lords have been therefore pleased to direct Mr. Brooksbank of this Office to pay the said Sum to Mr. Campbell, or his Agent, out of monies impressed to him for payment of Bills drawn from New South Wales; and

Allowance
of claim of
R. Campbell.

Monetary
compensation.

* Note 109.

† 5 April, 1812; 16 June, 1813; 10th May, 1814; 6th Feb., 1816.

1825.
3 Jan.

Compensation
in lands and
cattle.

I am at the same time to request that you will move Earl Bathurst to direct the Governor of New South Wales to grant Mr. Campbell an Allowance in Land and Cattle to as large an extent as he may under all the circumstances consider expedient, so that the value thereof taken together shall not exceed Two Thousand Pounds.

I am, &c.,

GEO. HARRISON.

EARL BATHURST TO GOVERNOR OF NEW SOUTH WALES.

(Despatch No. 7, per ship Hercules; acknowledged by Sir Thomas Brisbane, Chief Justice Forbes, and Archdeacon Scott, 11th August, 1825.)

Sir,

Downing Street, 3 January, 1825.

Inquiry to
be held by
governor, chief
justice, and
archdeacon *re*
charges against
H. G. Douglass.

In my Dispatch of the 2nd of September, I directed you, in conjunction with the Chief Justice and the Archdeacon, to enquire into and report upon certain points in the case of the prosecution directed by Dr. Douglass against Mr. Marsden. I have now to direct you, in conjunction with the same Gentlemen, to report to me on three points of accusation, which have been made against Dr. Douglass; and, upon the confirmation or refutation of which, I shall form my decision as to the propriety of retaining him in an Official situation in the Colony of New South Wales.

Allegations of
drunkenness.

1st. It has been stated to me, on authority which is entitled to credit, that, during the residence of Dr. Douglass in the Colony, it was a notorious and admitted fact that he was addicted to habitual drunkenness, and that the evidence of that fact was such, both in quantity and quality, as, if examined, to leave no doubt of the justice of the accusation. Upon the fact therefore of notorious and habitual Drunkenness alledged against Dr. Douglass, I have to direct you, in conjunction with the Chief Justice and the Archdeacon, to report to me at the earliest period.

Deposition of
J. Bradley.

2nd. I herewith enclose you the Deposition of a Man of the name of Bradley, upon which and with reference to all the detailed facts to which he adverts in confirmation of his otherwise improbable statement, I have also to direct you to report.

Flogging of
convicts to
extort
confession.

And, lastly, I have to direct you to apply to Mr. Marsden to bring before you the statement, which he has transmitted to England, with respect to the alleged fact of Dr. Douglass having directed a Convict to be flogged with a view of extorting Confession from him.

Appointment of
H. G. Douglass
as clerk of
council.

I have, in my Dispatch of this day,* appointed Dr. Douglass to the situation of Clerk of the Council with a Salary of £800 per Annum. I have to direct you to inform Dr. Douglass that, during the process of this Inquiry, he will not be called upon to exercise the important and confidential duties of that situation.

* Note 110.

If the result of your Reports to me, on the various subjects of enquiry I have mentioned, be unequivocally favorable to the Character of Dr. Douglass, I authorize you to direct him to assume the duties of his situation after the transmission of your Reports to me. If, on the contrary, those Reports should be of an unfavorable character, I have to direct you to continue the suspension of Dr. Douglass from the Duties of the Office, until my answer be received; in which case Dr. Douglass will only be entitled to half salary from the period of such transmission and continued suspension.

I have, &c.,

BATHURST.

[Enclosure.]

THE DECLARATION of Joseph Bradley, late Principal Clerk to the Magistrate at Parramatta, respecting the Conduct of Henry Grattan Douglass, Esq., M.D., late Police Magistrate of that Town.

1825.
3 Jan.
H. G. Douglass
to await
decisions of
inquiry.

Deposition of
J. Bradley re
conduct of
H. G. Douglass.

ONE EVENING, Doctor Douglass Sent for me to his residence at Parramatta. I was introduced into his private Parlour; after partaking of a Glass of Brandy and Water, he addressed me thus, "can I trust you with a Secret?" I told him, "he might." He then said, "I shall swear you to Secrecy," which he did. He then Shewed me a Communication he had recently received from The Revd. Samuel Marsden, respecting the Management of the new female Factory, to which he was then about to make a reply. He said, "*I must be well acquainted with Mr. Marsden's general Conduct, and it was in my power to give him some information on the Subject.*" I told him, "I knew nothing that could impeach the Character of Mr. Marsden." I then sat down at his desire and wrote, while the Dr. walked about the Parlour dictating the Subject to me, and would every now and then (the Liquor Stand being on the Table) help himself to Most Copious draughts of Brandy and desired me "to do the same and not to be afraid of it." I continued writing until about Twelve o'Clock at Night, and, the Spirits I had taken having rather overcome me, he directed his orderly Constable Samuel Powell, a Convict, to See me safe to my own habitation, which he did, the Doctor wishing me at the time "Good Night." He would frequently during the Evening ask my opinion of the Matter he had suggested to me. I have frequently been at his House and drank Spirits with him, particularly during the Proceedings of the Magistrates respecting his Conduct with Ann Rumsby; and he made this remark to me that, if he had Committed a Rape on her Person, there could not have been more fuss about it. One Evening whilst I was at his House, saw him kiss the said Ann Rumsby in the Hall of the House he then resided in. He would

1825.
3 Jan.

Deposition of
J. Bradley re
conduct of
H. G. Douglass.

frequently, during the Proceedings of the Magistrates in the Case before alluded to, observe to me, "that he was not so much afraid of the influence of Mr. Marsden as he was of Mr. H. McArthur, whom he Considered to be inflexible."

Another Instance: on the Quarterly return of Punishments being sent to the Doctor for his inspection and Signature, a certain Convict was Sentenced to receive 100 Lashes and work 12 Months in the Gaol Gang on Bread and Water, for absence from his Employ without Leave. He sent for me to his House, and said, "Bradley you have made a Mistake, I never could have ordered a Man such a Punishment for such an Offence." I produced him the Record of Conviction, and the Order Signed by Himself for the Sentence to be Carried into Effect, and also called upon Mr. Thorn, the Chief Constable, to prove that he was present and Saw the Corporal Punishment inflicted. He then ordered me to put it, "*mitigated to fifty Lashes*"; that Quarterly return was not enclosed by me to the proper Office as usual, but left with himself. There are other instances of similar Acts, but I cannot at present call the particular Subject to recollection; but, if I had a perusal of the Records of the Court, I have no doubt but that I should be able to find them.

Another instance: John Whalan, a landholder at Toongabbee, was Summoned before the Court for employing Government Servants of the Crown reaping for him in Government time, and the Said Whalan was Convicted in the Penalty of Ten Pounds; but which Fine was never enforced, altho' the Subject had been repeatedly mentioned by me to the Doctor. There appeared to have been some misunderstanding in this, as the Doctor had, only a few days prior to the Conviction, purchased several fat pigs of the Said Whalan; and from what I have heard Whalan say the Dr. was indebted to him a Considerable Sum of Money for Loans, lent by him to the Doctor. I have myself seen Whalan at the Doctor's House with the Doctor, and drinking a Glass of Wine very familiarly with him, and anything that Whalan wanted as a Favor was generally given him by the Doctor.

Another instance: One Evening near sun down I was standing by Mr. Marsden's old residence in George Street, in Company with Mrs. Dent (the Person who then kept my House); Dr. Douglass was at the Opposite Corner questioning almost every individual that passed; he was much in Liquor; two Females passed him at the time, one named Ann Faulkner (a free Born Subject of the Colony). The Doctor followed them down George Street as far as Ellison's House. Thorn accompanied him. On Thorn's return, he came up to where we stood and addressed me thus, "do you observe the Doctor, he is quite Drunk and don't

know what he is about; his Conduct is disgraceful and I am ashamed of him." He abused the Constables very much that Evening. Wells (the Deputy) was there at the time and saw some part of the Doctor's Actions that Evening.

1825.
3 Jan.

Deposition of
J. Bradley re
conduct of
H. G. Douglass.

Another instance: I was informed by Benj'n Ratty, a Constable, that one Evening he was at the Doctor's House, and the Doctor came Home very late; he was so far in Liquor as not to be able to see Ratty, who was walking on the Veranda, but ran against him and fell.

The Doctor was particularly inquisitive as to the Individual, Mrs. Dent, who resided with me; and on one occasion, in January, 1823, I went on a Visit to the residence of Mr. James Squires at Kissing Point. The next day in my absence, the Doctor called a Court and enquired for me and was informed where I had gone. He then came into My Private Apartment (as I was informed on my return by Mrs. Dent) and began to question her about Domestic affairs; told her he had dismissed me from my Situation, and persuaded her by every Act he was Master of to leave me, and he would find her an Asylum, and would provide for her two Children, Stating I was a Rake and a Worthless Fellow, and She could expect no good from me. He continued his persuasion for about half an Hour, sometimes using the most insinuating expressions towards her, and at other times Menaces but without Effect. On my return from Kissing Point, this was Communicated to me by Mrs. Dent, who observed that she would not tell me One half of the Language the Doctor used towards her.

I must observe from my own knowledge that Fines have been levied by the Magistrate at Parramatta; and, when I left the Office, there must have been a considerable Sum in hand, part in the Doctor's possession and part in Mr. Thörn's; but no official account has been kept in the Court of the Fines received, nor what has been expended out of the same, The Original Fine Book having been handed over to the Doctor by me at the time I settled the accounts with him.

JOS' H BRADLEY.

Parramatta, 27th March, 1824.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 8, per ship Hercules; acknowledged by Sir Thomas Brisbane, 22nd June, 1825.)

Sir, Downing Street, 6th Jany., 1825.

6 Jan.

With reference to my Dispatch of the 28th Ultimo, I do myself the honor of transmitting to you the Accompanying Instructions under the Royal Sign Manual signifying His

1825.
6 Jan.

Administration
of colony after
departure of
Sir T. Brisbane.

Majesty's pleasure respecting the temporary Administration of the Government of New South Wales, in case of your availing yourself of His Majesty's permission to depart from the Colony previously to the arrival of your Successor; and you will take care, in the event before alluded to, that these instructions be delivered over, with the other necessary documents, to the Officer upon whom the administration of the Government may devolve for his guidance.

I am, &c.,

BATHURST.

[Enclosure.]

G.R.

Instructions for
administration
of colony by
lieut.-governor
or acting
governor
assisted by
two members
of council.

ADDITIONAL INSTRUCTIONS to our Trusty and Wellbeloved Sir Thomas Brisbane, Knight Commander of the most Honorable Military Order of the Bath, Major General of Our Forces, Captain General and Governor in Chief in and Over Our Territory of New South Wales and its Dependencies, or to the Lieutenant Governor or Commander in Chief of the said Territory for the time being. Given at Our Court at Windsor, the first Day of January in the fifth year of Our Reign.

WHEREAS, by Our Commission under Our Great Seal, bearing date at Carlton House on the 24th day of January in the first year of Our Reign, constituting and appointing You to be Our Captain General and Governor in Chief of Our Territory, called New South Wales and its Dependencies, all and singular the powers and authorities in and by Our said Commission Granted to you are in case of your death or absence out of Our said Territory given and Granted to Our Lieutenant Governor or Commander in Chief of Our said Territory, to be by him executed and enjoyed during Our pleasure, or until your arrival within Our said Territory and its Dependencies; and if, upon your death or absence out of Our said Territory and its dependencies, there may be no person upon the place, Commissioned or appointed by Us to be Our Lieutenant Governor or Commander in Chief of Our said Territory and its Dependencies, We did by Our said Commission declare it to be Our Will and pleasure that the Officer highest in Rank, who should be at the same time of your death or absence upon service within the same, and who should take the Oaths and subscribe the declarations therein mentioned, should take upon himself the Administration of the Government and execute Our said Commission and Our Instructions and the several powers and Authorities therein contained. And we did, by the said Commission, require and Command you to do and execute all things that should belong to your said

Command and the trust We had reposed in you accordingly to the several Powers and Directions Granted and appointed you by the said Commission, Instructions and Authorities, therewith given to you, or by such further powers Instructions and Authorities as should at any time thereafter be granted or appointed you under Our Signet and Sign Manual, or by Our Order in Our privy Council, Or by Us through One of Our Principal Secretaries of State. And whereas, in pursuance of a certain Act of Parliament, passed in the fourth year of Our Reign, entitled "An Act to provide until the first day of July, 1827, and until the end of the next Session of Parliament, for the better Administration of Justice in New South Wales and Van Diemen's Land, and for the more effectual Government thereof and for other purposes relating thereto," We have, by Warrant under Our Signet and Sign Manual bearing Date the 16th November, 1824, constituted and appointed certain Persons named to be the Members of Our Council in Our Territory of New South Wales and its Dependencies. Now it is Our Will and pleasure that, in case of Your Death or absence out of Our said Territory, Our Lieutenant Governor or Our Commander in Chief of Our said Territory and its Dependencies, or the Officer who, in pursuance of Our Commission, shall take upon him the Administration of the Government thereof, shall execute the several powers and Authorities in Our said Commission contained, with the concurrence and advice of the two Senior Members for the time being of Our Said Council, and shall not, in pursuance or by virtue of Our said Commission or otherwise, do, execute or perform any of the powers or Authorities given and Granted in and by any such Commission, except with the advice and consent of the said two Senior Members of Our said Council for the time being. And in case the said two Senior Members for the time being of Our said Council should not concur in opinion respecting any Act to be done in the execution of the Said powers and Authorities, then and in that case it is Our Will and pleasure that Our said Lieutenant Governor, or Commissioner in Chief, or any other person upon whom the Government of Our said Territory and its Dependencies may devolve, shall execute the powers and authorities aforesaid upon any such occasion as aforesaid according to the advice of such one of Our said two Senior Members of Council, in whose opinion he may concur. Provided nevertheless that nothing herein contained shall extent to prevent the said Lieutenant Governor, or Commissioner in Chief, or other person administering the Government of Our said Colony and its Dependencies, from executing any of the powers and authorities aforesaid without the advice and consent of the

1825.
6 Jan.

Instructions for
administration
of colony by
lieut.-governor
or acting
governor
assisted by
two members
of council.

1825.
6 Jan.

Instructions for
administration
of colony by
lieut.-governor
or acting
governor
assisted by
two members
of council.

said two Senior Members of Our said Council, in any Case of peculiar Urgency wherein the public service will be materially prejudiced by the suspension or delay of any Act, which it may be necessary to do, it being nevertheless Our pleasure that upon any such occasion as aforesaid Our said Lieutenant Governor or Commander in Chief, or other person administering the Government as aforesaid, shall, at the first convenient opportunity bring any such Act or measure of Government as aforesaid under the consideration of the said Two Senior Members of Our said Council for their sanction and Concurrence.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Per ship Hercules.)

Transmission
of warrants
appointing Revs.
H. R. Robinson
and T. Hassall.

MR. WILMOT HORTON presents his compliments to Sir Thomas Brisbane, and is directed by Earl Bathurst to transmit to his Excellency the accompanying Warrants for the Revd. H. R. Robinson and the Revd. Thos. Hassall, whom His Majesty has appointed to be Assistant Chaplains in New South Wales. Mr. Robinson having left Ireland without his Warrant of appointment, and Mr. Hassall being already in New South Wales, Earl Bathurst requests Sir Thomas Brisbane will receive from them the usual Fee of Two pounds seven shillings and sixpence each, to be remitted to the Colonial Agent in this Country and paid by him to the Chief Clerk of the Colonial Office.

Downing Street, 6th Jany., 1825.

[Enclosure No. 1.]

WARRANT OF APPOINTMENT TO REVD. H. R. ROBINSON.

G.R.

Warrant of
appointment
to Rev.
H. R. Robinson.

GEORGE the Fourth, by the Grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, and so forth: To Our Trusty and Well beloved Sir Thomas Brisbane, Knight Commander of Our Civil and Military Order of the Bath, Governor and Commander in Chief in and over Our Colony of New South Wales, Greeting. Know ye that we have nominated and appointed, and do hereby nominate and appoint Our Trusty and well beloved Hugh Richard Robinson, Clerk, Batchelor of Arts, to be one of Our Chaplains within Our said Colony, he, the said Hugh Richard Robinson, being a Priest in Holy Orders of the Established Church of England and Ireland. And it is Our Will that the said Hugh Richard Robinson shall hold such his Office during Our Will and Pleasure, and no longer. And We do further direct and Command that the said

Hugh Richard Robinson, so long as he shall retain his said Office, shall Officiate as a Minister of the Established Church aforesaid, at such places or place within the said Colony, as the Venerable the Archdeacon for the time being of the said Colony shall from time to time appoint; it being Our Will and Pleasure that the said Archdeacon shall commit to the said Hugh Richard Robinson such spiritual charge within Our said Colony, as the said Hugh Richard Robinson shall appear to him best qualified to Execute, and as may most effectually tend to the advancement of religion and Virtue within Our said Colony. Given at Our Court at Carlton House, this Tenth day of October, One thousand, eight hundred and twenty four in the Fifth Year of Our Reign.

1825.
6 Jan.

Warrant of
appointment
to Rev.
H. R. Robinson.

By His Majesty's Command,

BATHURST.

[Enclosure No. 2.]

[*This was a similar warrant of appointment to the Reverend Thomas Hassall, dated 1st November, 1824.*]

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 9, per ship Hercules.)

Sir,

Downing Street, 7th Jany., 1825.

7 Jan.

I have to acknowledge the receipt of your Dispatch of the 8th July last, representing the Inconvenience, which is felt at New South Wales, and the great injury, which results to the public Service from the want of the necessary means of communication by Water with the different settlements of the Colony, and recommending that two or three small description of Vessels may be sent out to remedy the evil, as well as to assist in the prevention of smuggling. I regret the impossibility of your finding any Vessel to purchase in the Colony capable of being appropriated to this service; but I should conceive it would be infinitely more economical to construct them at New South Wales, than to adopt the mode which you have suggested of providing them in this Country, the expence of which in the first purchase, added to the charge of repairs and other contingencies, would most probably exceed the cost of building them new upon the Spot. Should the means however not be found of building such Vessels at Sydney (which will be barely possible to suppose), I should recommend their construction at Hobart Town where I am given to understand it may easily be accomplished.

Vessels
required for
colonial service.

Vessels
to be built in
N.S.W. or
Tasmania.

I have, &c.,

BATHURST.

1825.
7 Jan.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 10, per ship Hercules.)

Sir, Downing Street, 7 Jany., 1825.

Instructions
re payment
of salary to
H. G. Douglass.

With reference to my Dispatch of the 3rd instant directing the confirmation or continual suspension of Dr. Douglass as Clerk of the Council according to the result of the charges against him, and also the payment of Half Salary to Dr. Douglass, in the case of such suspension, I have now to direct that, if the result of your Reports to me on the various subjects of accusation, which have been made against Dr. Douglass, should make you at once decide that he is unfit to assume the Duties of Clerk of the Council, you will not issue to Dr. Douglass any portion of the Emoluments of that office from the time you shall have come to that decision.

Alternative
results of
inquiry.

You will therefore observe that this enquiry may have either of these three results: First, one so satisfactory as may justify you in confirming Dr. Douglass in the Office of Clerk of the Council, in which case he will be entitled to his full salary; secondly, so unsatisfactory as may require you to dismiss Dr. Douglass altogether, in which case he will be no longer entitled to any portion of the salary from the date of such decision; Thirdly, the Result may be one of so doubtful a nature as may make you think it advisable to refer the question for my consideration; and this may proceed from either of these two causes, from the conflicting evidence which may have been adduced, or from a doubt which may be entertained whether under all the circumstances of the case it may be expedient to place him in so prominent a situation, as that of Clerk of the Council, altho' there should be no evidence of such misconduct as would require his dismissal from the service altogether. In the event therefore of your referring the question home, you will not fail to signify the reason of this reference, and will direct that the payment of half-salary to Dr. Douglass may be continued during his suspension until His Majesty's pleasure shall be notified.

I have, &c.,
BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 21, per ship Mangles; acknowledged by Earl Bathurst to Governor Darling, 12th July, 1825.)

Government House, New South Wales,

12 Jan.

My Lord, 12th January, 1825.

Publication of
the *Australian*
newspaper.

Shortly after the promulgation of the new Charter of Justice for the Colony, a Newspaper was published here, called "The Australian," Edited by Doctor Wardle,* a gentleman educated to the Law and who had filled a similar situation in London

* Note 111.

in the Office of one of the Daily Papers, I believe the "Statesman," together with Mr. Wentworth, son of the Principal Superintendent of Police. These gentlemen never solicited my permission to publish their Paper, and, as the opinion of the Law Officers of the Crown coincided with my own that there existed no power to interpose to prevent it without going to Council, I considered it most expedient to try the experiment of the full latitude of the freedom of the Press, and, in order to enable Your Lordship to judge how far this Newspaper is conducted with moderation, I have ordered a Copy to be regularly transmitted to you.

The Government Printer, Mr. Howe, finding a Paper published without a censorship,* soon applied for the removal of that restraint from His Paper, "The Sydney Gazette"; and, as I considered the same opinion alike applied to both, the censorship was removed; and several months enjoyment of this privilege to the Editor has impressed me with the opinion that the measure has been productive of more benefit than disadvantage to the Public; With this single difference that all printer's work, done for the Government, has now to be paid for, Whereas, formerly by the exclusive privilege of publishing "The Sydney Gazette" to the Editor, He was enabled to remunerate himself for such work, the expence of which I regret to find will soon amount to a considerable Sum.

Respecting "The Australian," I shall beg to decline for the present my opinion in regard to its effects.

I have, &c.,
THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 20, per ship Mangles; acknowledged by Earl Bathurst, 2nd July, 1825.)

Government House, New South Wales,

My Lord,

17th January, 1825.

On my arrival here I found the System of paying Overseers was to assign them a Mechanic or Convict, who paid a certain weekly Sum to His Master, and worked for himself, earning as much more as he could. There were also others assigned to Magistrates and Government Officials, as detailed in Mr. Commissioner Bigge's 3d Report, page 20. As I considered this arrangement would admit of improvement, and as the demand for Mechanics was considerable, and as the plan might bear the construction of partiality or favoritism towards Individuals, I have thrown the whole Mechanics open to a fair competition

1825.
12 Jan.

Freedom
of press
permitted by
Sir T. Brisbane.

Application
of R. Howe for
removal of
censorship from
Sydney Gazette.

Printing work
for government.

17 Jan.

Former system
of mechanics
assigned to
officials and
overseers.

* Note 112.

1825.
17 Jan.
Mechanics hired
to settlers.

amongst the Settlers, except those absolutely required for Government purposes on Public Works, on the Settler paying three shillings and sixpence, 3s. 6d., a week for each Mechanic obtained from Government, besides feeding and clothing Him, whilst so employed. The sum arising from this arrangement enables me to give money payments to overseers, besides rendering a vast number of Mechanics available to the Settlers, will I trust be considered by your Lordship as an equitable and legitimate mode of proceeding, and as such I trust will be approved of by you.

Returns relating
to new system.

Accompanying I do myself the honor to transmit to your Lordship a Return of the Numbers and description of Mechanics, thus rendered available to the Settler, with an account of the money accruing to the Colonial Government from the measure; and shall only add my belief that it is very generally approved of, and that the amount so raised is more than adequate to meet the payment to such Individuals, as had them formerly assigned in lieu of money payment; as, independent of the general public convenience, it has removed into various parts of the interior of the Country many of these Mechanics away from the temptations of Sydney.

Advantages
derived.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

Return of
moneys received
for hire
of convict
mechanics.

RETURN of the amount derivable by the Crown from each class of Mechanics.

Trades.	Number of Tradesmen.	Weekly Amount.			Annual Amount.		
		s.	d.	Per Man	£	s.	d.
Sawyers	41	3	6	.....	373	2	0
Carpenters	66	.....	.....	.....	600	12	0
Cabinet Makers	3	.....	.....	.....	27	6	0
Joiners	3	.....	.....	.....	27	6	0
Wheelers	13	.....	.....	.....	118	6	0
Coopers	7	.....	.....	.....	63	14	0
Ship Wrights	2	.....	.....	.....	18	4	0
Turners	2	.....	.....	.....	18	4	0
Bricklayers	7	.....	.....	.....	63	14	0
Brickmakers	10	.....	.....	.....	91	0	0
Quarrymen	1	.....	.....	.....	9	2	0
Masons	12	.....	.....	.....	109	4	0
Plasterers	12	.....	.....	.....	109	4	0
Shoemakers	61	.....	.....	.....	555	2	0
Saddlers	6	.....	.....	.....	54	12	0
Tailors	41	.....	.....	.....	373	2	0
Millers	4	.....	.....	.....	36	8	0
Bakers	14	.....	.....	.....	127	8	0
Hatters	4	.....	.....	.....	36	8	0
Potters	2	.....	.....	.....	18	4	0
Ropemakers	2	.....	.....	.....	18	4	0

Trades.	Number of Tradesmen.	Weekly Amount.		Annual Amount.		Return of moneys received for hire of convict mechanics.
		s.	d.	£	s. d.	
		3	6	Per Man		
Whitesmiths	1	3	6	9	2	0
Blacksmiths	38	..	..	345	16	0
Gunsmiths	4	..	..	36	8	0
Coppersmiths	1	..	..	9	2	0
File-cutters	1	..	..	9	2	0
Iron-founders	1	..	..	9	2	0
Nailors	3	..	..	27	6	0
Jewellers and Silver-smiths	4	..	..	36	8	0
Pipe Maker	1	..	..	9	2	0
Tinmen	1	..	..	9	2	0
Mechanics assigned whose trades are not stated	40	..	..	364	0	0
	408			£3,712	16	0

November 1st, 1824.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 23, per ship Mangles.)

Government House, N.S.W.,

20 January, 1825.

My Lord,

20 Jan.

Agreeably to the 30th Clause* of the New South Wales Act, I have the honor to transmit to your Lordship Copies of Laws passed by the Colonial Council during the period of the last Six Months.

Transmission of copies of acts of council.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

[This enclosure contained copies of the first three statutes as published in the "Public General Statutes of New South Wales."]

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 11, per ship Norfolk.)

Sir,

Downing Street, 24 January, 1825.

24 Jan.

A Prisoner named John Pynner, who was transported to Van Diemen's Land for a second offence, having been found at large in this Country, the late Lieut. Governor has been called upon for an explanation of the circumstances, under which a free pardon had been granted to the Individual in question; and it appears by his answer that, on the occasion of his quitting the Colony to return to Europe, you had placed at his disposal a

Circumstances of pardon granted to J. Pynner.

* Note 113.

1825.
24 Jan.

Prohibition
of issue of
blank pardons.

certain number of Pardons to be disposed of amongst such of the Convicts, as he deemed most deserving of this favour, and that John Pyner was one of the persons whom he had so selected. As much inconvenience may arise from this indiscriminate system of granting pardons, I have to convey to you His Majesty's commands that, on no future occasion of a similar kind, should this practice be repeated.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 12, per ship Norfolk; acknowledged by Sir Thomas Brisbane, 13th September, 1825.)

27 Jan.

Sir,

Downing Street, 27 January, 1825.

Inconsistencies
in papers re
C. McIntosh.

In answer to your letter of 31 May, 1824, without number, forwarding a Memorial of Mr. Charles MacIntosh, Barrack Master of New South Wales, I have to express my regret that you did not explain an inconsistency which appears in the face of your letter and the enclosures.

Decision
to depend on
explanation.

You state that you heard Mr. McIntosh lectured in your presence by Governor Macquarie for his irregular and unbecoming conduct. On the other hand, Mr. McIntosh states, in his letter to the Colonial Secretary without date, that his conduct has never met with the slightest apparent dissatisfaction or called upon him either reproach, reproof or remark of any kind. Now you must be aware that my decision on this case must mainly rest on the fact whether Mr. McIntosh's misconduct had been made the subject of previous animadversions and caution, notwithstanding which he replunged into his former irregularities, or whether the proposal of removing him was the first intimation that he received on the subject. In the first case, Mr. McIntosh appears in no degree to deserve a *handsome recompense*; and it would be impossible for me to sanction the issuing a Salary from the Public Funds to an individual who, after due warning, had been guilty of such gross misconduct, as well as giving him a beneficial grant of Land with rations for himself and family.

Alleged illegal
proposition
made by
E. King.

With respect to your appointment of Ensign King, subject to the approbation of His Majesty, I have to call your attention to a Statement made in the commencement of Mr. McIntosh's Memorial (without date) on which you have supplied me with no sort of information. It is there stated specifically that, two years previous to the presentation of that Memorial, Ensign King made an illegal offer to Mr. McIntosh for this appointment, which he refused on account of its illegality; that this proposition was

repeated to him by Ensign King in the month of January, 1824, and that he again declined, referring Ensign King to the Act of Parliament on the subject. If these circumstances are not capable of contradiction, I should be unwilling to confirm the appointment of any Officer who had knowingly made an Illegal proposition of that nature.

1825.
27 Jan.

Alleged illegal proposition made by E. King.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 13, per ship Norfolk; acknowledged by Sir Thomas Brisbane, 29th August, 1825.)

Sir,

Downing Street, 27 January, 1825.

I do myself the Honor to acquaint you that I consider it to be essential for reasons, which will readily occur to your Excellency, that, at the several Out Settlements in the Colony where a free Population is established, the Military Commandants and Magistrates should, if possible, be married men; and you will therefore be pleased, so far as you may be enabled to carry this arrangement into effect, to be guided in the selection of Officers to fill the above situations with reference to that circumstance.

Necessity for married men as commandants and magistrates at out-settlements.

I have, &c.,

BATHURST.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship William Shand.)

Sir,

Downing Street, 27th January, 1825.

I beg to introduce to your notice Mr. Charles Driver, Son in Law to Mrs. Marr of Sydney, who will have the Honor of delivering this letter to you; and, having received strong Testimonials in favor of this Gentleman from the Earl of Winchelsea, I am directed by Earl Bathurst to recommend Mr. Driver to your favor and protection.

Recommendation of C. Driver.

I have, &c.,

R. W. HORTON.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 24, per ship Mangles; acknowledged by Earl Bathurst, 10th September, 1825.)

Govt. House, New South Wales,

My Lord,

27 January, 1825.

In reply to your Lordship's Dispatch No. 18 of the 25th June last, and which was received by the "Mangles," directing a free pardon to Mathew Exley, who was convicted of felony at the Salford Sessions in the County of Lancashire in the month of January, 1818, and sentenced to Transportation for Life, I have

Dispatch acknowledged.

1825.
27 Jan.
Pardon to be
withheld owing
to misconduct of
M. Exley.

the honor to acquaint your Lordship that, as Mathew Exley appears in the Sydney Gazettes of this date advertised as a Run-away for the thirtieth time, I shall in consequence pause in carrying your Lordship's benevolent intentions into execution respecting him, in case he should be hereafter apprehended, until I have the honor of a further communication from your Lordship and your further orders respecting him.

I have, &c.,
THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 14, per ship Norfolk.)

28 Jan.
Increased salary
for governor.

Sir, Downing Street, 28 Jan., 1825.

In consequence of the Representations, contained in your Dispatch of the 1st May last, as to the inadequacy of your Salary as Governor of New South Wales to meet the heavy expences, to which that situation exposes you, His Majesty has been graciously pleased to direct that the Salary of the Governor should be raised from its present amount of £2,500 per Annum to £4,200, exclusive of his Military allowances, at which rate it will be placed on the Estimate of the Civil Establishment of the present year. His Majesty having further directed that a retrospective salary at the above rate should be issued to you from the 1st of January, 1824, you are hereby authorized to pay yourself out of the Public Fund a sufficient sum to make up that deficiency; and you will draw for your salary at the increased rate in the way you have usually done from the 1st of this month, until the period of your departure from the Colony or the arrival of your Successor.

Retrospective
payment to
Sir T. Brisbane.

You will understand that this addition to the Governor's Salary will supersede every other allowance or advantage; and this Regulation of course extends to the discontinuance of the use of the Government Horses or other Cattle, belonging to the Public, for the continuance of which privilege you have required my permission.

Governor
to receive no
allowances.

I have, &c.,
BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 22, per ship Mangles; acknowledged by Earl Bathurst to Governor Darling, 11th September, 1825.)

Government House, New South Wales,

My Lord, 28th January, 1825.

Accompanying I have the honor to transmit to Your Lordship a return of the State of Crime in these Colonies for the last six years, as extracted from the Criminal Records of the Supreme

Return of
state of crime
in colony.

Court, and I have to hope it will be alike a subject of gratifying reflection to your Lordship, as it has been one of much consolation for me, to perceive that the increase of crime has been inversely with that of the population. The cause of the great increase in 1822 arose from the late Judge Advocate having, during that year, proceeded to Van Dieman's Land to hold a circuit in consequence of a great accumulation of Prisoners.

1825.
28 Jan.

Return of
state of crime
in colony.

Independent of the importance of ascertaining the march of Crime for a given length of time, this arrangement has the advantage of having laid the foundation for such material being furnished with much accuracy at any future time it may be required.

There is no doubt but there are more Prisoners at large than at any former period. This I can readily account for by stating that more work is required from men than formerly; and what has tended greatly to augment this number has been the opinion that the Attorney General has given that one Magistrate could not punish an offender under the new Charter of Justice. The difficulty of always commanding two Magistrates in this Colony is not unknown to your Lordship. I have remedied the evil, at a very considerable expence to the Crown, by appointing a great number of additional Names; amongst whom there are several who decline the usual advantages.

Causes of
increased
number of
prisoners at
large.

As the population of these Colonies encrease, I consider it will be absolutely requisite in each of the Townships, such as Parramatta, Windsor, Liverpool, etc., to have a Stipendiary Magistrate, whose whole time could be devoted to the duties of an Office, such as those of the Police Offices in London.

Necessity for
stipendiary
magistrates.

When grave cases occur, these Gentlemen could bind over, commit or remand, according to circumstances, culprits to the Sessions, as it is impossible that the ordinary Magistrates here can, from their other avocations, devote so much of their time, as is required in this Colony, to that one object; and daily experience confirms me more and more in this opinion, in which I feel much justified from a meeting, which I lately convened of all the Magistrates of the Colony merely in order to take into consideration amongst other objects the State of the Police, in which they all concur in the necessity of these Stipendiary Magistrates; and, as Parramatta is becoming very populous, is situated on the junction of three main Roads, is therefore the situation where I should be desirous of first commencing the experiment, in order that according to the Success there, I might be guided as to my subsequent proceedings in this important Measure.

First
appointment
proposed at
Parramatta.

I have, &c.,

THOS. BRISBANE.

1825.
28 Jan.Comparative
returns showing
state of crime
in colony.

[Enclosure.]

ABSTRACT of Returns as to Trials before the Court of Criminal Jurisdiction established within the Territory of New South Wales and before the Supreme Court of the Colony, from the Year 1819 to 1824, inclusive.

In respect to Offences.

For the Years	Number of Charges exhibited by the Judge Advocate and Attorney General.													Sentence of Guilty.																				
	Capital Offences.						Larceny.			Misdemeanor.																								
	Cases.	Prisoners for.	Murder.	Burglary.	Highway robbery, or putting in fear and steal, in a Dwelling, House, and steal, in daytime therefrom.	Break, & entering Dwelling, House & steal, in daytime therefrom.	Stealing and killing Cattle or Sheep.	Horse stealing.	Rape.	Arson	Stab, Cut, shooting, at and wounding, presenting gun with intent, &c.	Forgery.	Piracy.	Writing & sending threat, letter, Stabbing & killing a colt.	Of Goods.	Of Pigs.	Of Wearing Apparel.	Of Tools.	Assault, &c., with intent, &c.	Reg. Goods knowg. them to be stolen.	Embez. of Goods, &c.	Obtaing. money, &c., under false pretences.	Libel.	Perjury.	Breakg. Prison.	Indecency.	Pissuadg. witness to give evidence in a case of felony.	Rescuing Cattle, &c., distrained on.	Harbour'g Prisoners, know'g them to have commit'd felonies.	Having forged Bank of England notes in possession.	Reg. £100 to prevent the course of Justice.	Manslaughter.	Cases.	Prisoners.
1819	65	98	13	9	18	5	10	2	1	1	2	2	3	2	19	1	7	5	9	5	1	2	1	1	1	1	1	1	1	1	1	1	52	76
1820	102	174	9	23	22	15	29	2	1	1	3	3	4	3	29	4	7	5	7	17	1	1	1	1	1	1	1	1	1	1	1	1	92	146
1821	138	212	6	17	42	15	35	1	2	3	4	4	5	4	40	5	7	18	7	28	3	4	4	3	1	1	1	1	1	1	1	1	106	160
1822	186	288	10	36	46	27	29	9	1	2	1	1	2	1	48	8	9	5	17	40	3	4	4	3	1	1	1	1	1	1	1	1	145	208
1823	153	228	8	20	24	24	46	3	1	1	2	2	2	2	34	2	8	1	14	40	2	2	2	1	1	1	1	1	1	1	1	1	122	175
1824	107	147	17	22	9	29	12	1	1	1	3	3	2	2	20	2	8	1	3	8	3	4	4	1	1	1	1	1	1	1	1	1	87	100
Total	741	1,147	63	127	161	115	161	13	8	1	21	17	4	2	190	20	36	12	59	116	9	13	3	7	1	1	1	1	1	1	1	1	604	865

[Enclosure]—continued.

ABSTRACT of Returns as to Trials before the Court of Criminal Jurisdiction established within the Territory of New South Wales and before the Supreme Court of the Colony, &c.—continued.

In respect to Punishments.

For the Year	No. of charges exhibited by the Judge Advocate and Attorney General.		Sentence of Guilty.		Transported to, &c.				Judgment.			Executed.					Total Executed.
	Cases.	Prisoners.	Cases.	Prisoners.	Life.	14 years.	7 years or less.	Imprisoned, or otherwise Punished.	Cases.	Capitally Convicted.	Murder.	Burglary.	Highway robbery, or putting in fear and stealing in a Dwelling House.	Stealing and Killing Cattle or Sheep.	Horse Stealing.	Forgery.	
1819	65	98	52	76	9	3	22	16	12	26	7	..	8	..	..	.....	15
1820	102	174	92	146	20	21	41	23	23	41	1	6	1	7	..	1	16
1821	128	212	106	160	14	14	50	17	32	65	2	2	23	4	1	3	35
1822	186	288	145	208	13	13	80	27	34	75	1	7	10	1	..	..	19
1823	153	228	122	175	20	9	66	32	25	48	1	..	....	5	..	5 Judgt. arrested and prisoners discharged; 6 sentenced on former charges.	6
1824	107	147	87	100	9	8	32	11	20	29	4	..	....	..	..	..	4
Total....	741	1,147	604	865	85	68	291	126	146	284	16	15	42	17	1	4	95

1825.
28 Jan.

Comparative returns showing state of crime in colony.

1825.
28 Jan.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 25, per ship Mangles.)

Government House, New South Wales,

My Lord, 28th January, 1825.

In reply to Your Lordship's Despatch No. 19 of the 12th July, received by the Grenada on the 23rd Inst., on the subject of Mr. Rumker's Grant, I have the honor to acquaint your Lordship that, independent of any personal consideration respecting Mr. Rumker, He was entitled from my Regulations, which I had the honor to submit to your Lordship's approbation Viz. those of the Convict for every Hundred Acres, on which principle Mr. Rumker obtained His Grant by regularly subscribing the Bonds for Ten Convicts, who were assigned to Him, were placed on His farm and maintained by Him.

Legitimate
claim of
C. Rumker to
land grant.

Mr. Rumker also was not without pecuniary resources, as I believe He possessed a few Hundred Pounds, independent of £200 a year which I paid Him for His assistance.

Re-discovery of
Encke's comet.

In order further to show Your Lordship that Mr. Rumker was not an unfit Person, as regarded Science, for the situation in which I had placed Him, the Council of the Royal Society remitted Him a further Sum of £100 for His re-discovery of Encke's Comet.* He was also honored with a Gold Medal from the Institute of France, as a token of their opinion of the greatest triumph Modern Astronomy has to boast of.

I have been thus anxious to remove from your Lordship's mind the impression, under which the Dispatch was written, that the Grant to Mr. Rumker was as a reward for personal services, without the due qualification agreeably to the existing regulations, which have never been intentionally infringed upon; although I am perfectly aware that I have been frequently deceived by Individuals as to the extent of their Capital, an evil which it would be impossible for the Governor of this Colony to guard against, whilst the system of free Grants prevail, but which would be effectually prevented by the Sale of Lands by the Crown in every case.

I have, &c.,

THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 15, per ship Norfolk; acknowledged by Sir Thomas Brisbane, 7th September, 1825.)

30 Jan.

Convicts
transferred
from N.S.W.
to Macquarie
harbour.

Sir, Downing Street, 30 Jan., 1825.

It having been represented to me by Colonel Sorrell, late Lieut. Governor of Van Diemen's Land, that the small penal settlement formed at Macquarie Harbour, which is scarcely more than adequate for the accommodation of two Hundred Convicts,

* Note 114.

had been appropriated as a place of punishment for a considerable number of Offenders from New South Wales (and those of the very worst description); and that very serious evils were to be apprehended from the inadequacy of Macquarie Harbour, with its present means of productive labor and Military security, to receive so large a number of Criminals as are now sent there, I have to call your attention to the impolicy of this measure which ought, in the opinion of His Majesty's Government, to be immediately discontinued. And I have farther to impress upon your Excellency the importance of Van Diemen's Land participating in the benefits of the larger Penal Settlement, which it may be in contemplation to establish in New South Wales, to which Criminals, sentenced to Colonial Punishments for very heavy offences and long periods, might be sent, thus rendering Macquarie Harbour, as a Local Penal Settlement of limited extent, adequate for the Offenders of short sentences from Van Diemen's Land.

1825.
30 Jan.

Inadequacy of settlement at Macquarie harbour.

Macquarie harbour to be reserved for convicts from Tasmania.

I have, &c.,
BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 32, per ship Mangles; acknowledged by Earl Bathurst, 22nd July, 1825.)

Government House, Sydney, New South Wales,

My Lord,

30th January, 1825.

In consequence of depositions, attesting that two Casks of Spirits had been landed without a Permit from the Convict Ship Mangles between three and four o'clock in the afternoon of the 9th November, the Sydney Bench of Magistrates adjudged that they should be forfeited for the use of the Crown, and that her Master should be fined for a Breach of the 19th Article of the Port Regulations;* and, in compliance with another Article* of those Rules, that the Boat, in which the Spirits had been brought from the Ship, should be seized. From this decision, the Master having appealed to the Supreme Court of this Colony, the Magistrates were advised by the Attorney General to quash their conviction of Captain Cogill. It is my duty, nevertheless, to withhold from the Master of the Mangles the usual certificate of proper conduct, and to submit, through your Lordship, to the consideration of the Commissioners of the Navy, the expediency of exercising the power, that her Charter Party lodges in the hands of any three or more of them, to make such abatement out of the hire of that Vessel, as they shall adjudge fit, for this Breach of two Covenants made on behalf of her owners; the one that the Master, Officers and his Ship's crew shall strictly conform to the printed rules annexed to her Charter Party, and the

Spirits landed from ship Mangles.

Master fined by magistrates.

Conviction quashed.

Action proposed under charter party.

1825.
30 Jan.

other that neither the Master nor any of the Ship's Company shall land Spirits, or any other Commodities in New South Wales, that are forbidden by the Port Orders, without a regular permit being first obtained.

I have, &c.,
THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 16, per ship Norfolk.)

31 Jan.

Sir,

Downing Street, 31 Jany., 1825.

Conviction of
A. O'Reilly for
forging dies.

A Person, named Anthony O'Reilly,* who was prosecuted by the Commissioners of Stamps in Dublin for forging dies to resemble those used for Stamps, and who pleaded "Guilty," has been sentenced to be transported for life to the Colony of New South Wales.

Confession made
by A. O'Reilly.

In consequence of very peculiar circumstances attending the case of this Person, and in consideration of his having come forward and exhibited the art, by which he had committed the forgery in question, whereby useful information has been obtained, and a repetition of the crime prevented, and the Prisoner having also manifested much contrition for his offence, His Majesty's Government are anxious that he should have the countenance of the Local Authorities at New South Wales, as long as his conduct appears deserving of it. You will therefore be pleased to direct that the Prisoner, on his arrival in the Colony, should receive every indulgence of which the nature of his case will admit. And, although it is contrary to the Regulations,† which have been established, to allow a Convict to receive a Ticket of leave before he has been resident a given time in the Colony, yet under the Special circumstances of the case you will consider yourself authorized to grant to the Prisoner this Privilege.

Ticket of leave
to be granted
on arrival.

I have also to direct that, on the Prisoner's landing in the Colony, you authorize the sum of £50 to be paid to him as a temporary subsistence.

Money payment
to be made.

A. O'Reilly
to be detained
in colony.

But, from the nature of the Prisoner's Crime and the danger of the Art of which he is possessed, it is of the utmost importance that he should be detained in the Colony. And I have therefore to signify to you His Majesty's Commands that on no account should the Prisoner receive the benefit of that discretionary power, with which you are vested as Governor, of granting permission to a Convict to return home previous to the expiration of his Sentence.

I have, &c.,
BATHURST.

* Note 116. † Note 117.

SIR THOMAS BRISBANE TO EARL BATHURST.

1825.
31 Jan.

(Despatch No. 26, per ship Mangles.)

Government House, New South Wales,

My Lord,

31st January, 1825.

Referring to Your Lordship's Dispatch No. 31 of 26 August, 1823, received by the "Hibernia," on the subject of the Complaint Major Druitt had thought proper to make as to the proceedings, which had been instituted against Him in this Colony, I consider it incumbent on me briefly to state to Your Lordship that, on my arrival here, I found Major Druitt filling the Situation of Chief Engineer. Statements from various quarters were made of his defrauding the public to a large amount. Finding the whole of His Regiment, the 48th, exceedingly hostile to Him, no other Corps being here, I was left no other alternative for the sake of Justice but to assemble a Court of Enquiry, which I considered free from prejudice or above partiality. This Court* consisted of the late Judge of the Supreme Court and Judge Advocate, with Mr. Wemyss, Chief Commissary. They had not proceeded many days in their investigations, when to my surprize, in place of a fair and impartial examination, it became a most complete party question. Mr. Field thought proper to withdraw in a pet; from necessity I was compelled to appoint another member when the investigation was spun out to a very considerable length. It might easily have been proved that there was no Book of Entry of any transactions between Major Druitt and the Public, altho' thousands of pounds of Public money passed annually thro' his hands; and of this part I satisfied myself. Mr. Wemyss stated to me that, when there was a large arrival from England of any particular article, Major Druitt was in the constant habit of making a requisition for it. Did He not require the whole of such article, He went to a person of the name of Levi,† a Shopkeeper in Sydney, and proposed a barter of some other Article, which He stood in need of. But what I have to complain of was not against the principle but against the Application, as there were no Entries to satisfy the public as to these dealings.

Had there been a second Regiment here, I should have had no difficulty in the course I should have pursued, but have at once decided to bring Major Druitt to a General Court Martial, which the situation I have the honor to explain to Your Lordship alone prevented. The opinion the 48th Regt. entertained of Major Druitt was so unfavourable, that He was avoided by His Brother Officers, and I may add by the Garrison generally, as He never dined with one of the Messes after the investigation commenced.

Despatch
acknowledged.Charges
made against
G. Druitt.Court of inquiry
assembled.Administration
of engineer
department by
G. Druitt.Objections
against
court martial.Military opinion
of G. Druitt.

* Note 32. † Note 118.

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31 Jan.
Colonial opinion
of G. Druiitt.

Personal
expenditure.

Suggested
comparison of
requisitions.

Treatment of
G. Druiitt by
Sir T. Brisbane.

I must confess I feel the less surprized at his unblushing Statement of His complaint to Your Lordship, so that, when I acquaint you that the Colony resounded with the epithet of a Peculator, you will cease I am persuaded to be surprized at the Steps I have pursued respecting him. Mr. Murray, Paymaster of His Regiment, stated that Major Druiitt was so poor on his arrival in the Colony He was unable to pay His Mess Bill on Board of Ship during the passage, and yet shortly after He builds Himself a fine House, lived in the most extravagant way to the outrage of all decency and decorum.

I should take the liberty of suggesting to your Lordship that you would do me the honor to obtain, from the Books of His Majesty's Treasury, a statement of the Requisitions made from this Colony for the three years preceding my arrival, in order that you might have an opportunity to compare it with a corresponding period subsequent to it, as nothing can remove from my mind the impression of his dishonorable peculation.

In conclusion, I beg solemnly to assure your Lordship that, from Major Druiitt's Rank, the way He was recommended to me, joined to the high opinion entertained of Him by M. Gen. Macquarie, all conspired to impress me not unfavorably with Him, and nothing but a deep sense of public Duty compelled me to adopt the course then pursued as paramount to all other considerations.

I have, &c.,

THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 17, per ship Norfolk; acknowledged by Sir Thomas Brisbane, 11th October, 1825.)

1 Feb.

Sir,

Downing Street, 1 Feby., 1825.

Application of
T. H. James for
storehouse site
at Sydney.

I transmit to you the Copy of a letter, which has been addressed to my Under Secretary from New South Wales by a person of the name of Thomas Horton James, in which it is stated that, an application having been made to you for a Plot of ground at Sydney to build a Store upon, he was informed by Major Goulburn in reply that all the Crown Lands in Sydney had been already granted.

Land available
in town of
Sydney.

As Mr. James in his letter further states that not one tenth part of the Town of Sydney is built upon, and that the whole of the East shore* of Sydney Cove remains still as Government Reserve, I must suppose that a mistake has either occurred on the part of Mr. James in the Statement which he has made, or that the reply which was given to him by the Colonial Secretary was founded on some misconception. As it apparently must be for the interest of the Government, with a view to present Revenue as well as to the future prosperity of the Colony, to encourage

* Note 119.

Persons of Capital to establish themselves at Sydney, when engaged in Mercantile Transactions of the nature of those undertaken by Mr. James, if Mr. James be of that class of Persons as he represents himself to be, I cannot understand the motive upon which your refusal to accede to his application was founded. It is by no means necessary that an allotment of Land, which is applied for under similar circumstances, should be granted absolutely. It may be leased with arrangements whereby an improved Rent may be gained to the Crown, proportioned to the improved value of the Property, by a renewal to the Lessee at certain periods of time; such increase of the Rent to be assessed by Arbitration or through the medium of a Jury summoned for that purpose, or the property may be ultimately resumed by the Crown, if required for Public purposes and therefore inconvenient to be renewed for a longer term. With this view of the case and under the conviction that the whole of the Crown Reserves at Sydney cannot have been already appropriated, I have to desire that you will make an allotment of Land to Mr. James, under the sort of conditions to which I have referred, unless there shall appear to you any substantial reasons to the contrary, of which in that case you will not fail duly to inform me.

I have, &c.,

BATHURST.

[Enclosure.]

MR. T. H. JAMES TO UNDER SECRETARY HORTON.

Sir, Sydney, New So. Wales, 10 July, 1824.

After having arrived out here p. Adrian, bringing with me a large Capital in Money and Goods, which I intend bona fide to employ in pursuits of Agriculture and Seal Fisheries about Bass' Straits and the Coasts of New Zealand, it is some disappointment to understand from the inclosed official Letter, in answer to my application for a Plot of Ground to build a Store upon, "that all the Crown Land in Sydney is already granted."

I therefore beg leave most respectfully to solicit that an order from you may be sent in my favour for a water side Grant, as it is my intention immediately to build, thereby fulfilling the intentions of His Majesty's Government that people having the means should if possible be accommodated.

The Town of Sydney is not one tenth part built upon, and the whole of the East Shore of Sydney Cove, where vessels of One Thousand Tons may lay close to the Wharf, in many places as in a Dock, remains still as a Government reserve.

I am sorry to trouble you, Sir, upon matters apparently interesting only to myself; but being anxious for the beauty and prosperity of Sydney, where I have now been nearly four weeks doing nothing for want of a Town allotment, which I was assured

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1 Feb.

Leasing of
town allotments
at Sydney.

Lease
recommended
for T. H. James.

Application of
T. H. James
for storehouse
site at Sydney.

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1 Feb.

Application of
T. H. James
for storehouse
site at Sydney.

I should find no difficulty in obtaining, and, knowing the Interest which His Majesty's Principal Secretary of State for the Colonies together with yourself take in the Interests of New South Wales, I have ventured to make this application.

There is a Gentleman just arrived in London, owner of the fine Ship "Midas," and who is well acquainted with the Colony, to whom I beg leave to refer for the amount of my property viz. Thomas Iceley, Esqr., 17 Great Trinity Lane.

I have, &c.,

THOS. HORTON JAMES.

[Sub-enclosure.]

SECRETARY GOULBURN TO MR. T. H. JAMES.

Sir,

Colonial Secretaries Office, 6 July, 1824.

Refusal of
application of
T. H. James.

Your Letter of the 29th Ult. applying for a town allotment, having been submitted to the Governor, I have been honored with this instruction that all the Crown Lands in Sydney has been already granted.

I am, &c.,

F. GOULBURN.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 18, per ship Norfolk.)

Sir,

Downing Street, 1 February, 1825.

Allowance for
expenses to
J. Stephen.

With reference to my Dispatch of the 20th January, 1824, in which I informed your Excellency that I had appointed Mr. Stephen to act as Commissioner in each of His Majesty's Courts of Request at New South Wales, at a Salary of £600 per Annum, I do myself the honor to acquaint you that, in consideration of the expense, which that Gentleman must necessarily incur during his Circuits to the different places at which his Court is appointed to be held, I am induced to sanction an addition to his Salary to the amount of £200 per annum, which increased allowance you will be pleased to issue to him out of the Revenues of the Colony commencing the same from the date of this Dispatch.

I have, &c.,

BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 27, per ship Mangles.)

Government House, N. S. Wales,

1 February, 1825.

My Lord,

Requisition of
instruments
for survey
department.

Accompanying I have the honor to transmit to Your Lordship a requisition from the Surveyor General for Instruments for His Department, together with his representation of the necessity

of speedily obtaining them, to which I beg leave to subjoin my earnest request that they may be forwarded with the least possible delay.

I have, &c.,

THOS. BRISBANE.

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1 Feb.

Requisition of
instruments
for survey
department.

[Enclosure.]

SURVEYOR-GENERAL OXLEY TO SIR THOMAS BRISBANE.

Sir, Surveyor-General's Office, 26th January, 1825.

With reference to the letters, dated 29th Jany., 1822, and 4th of August, 1824, which I had the honor to address to Your Excellency relative to the supply of the requisite Surveying Instruments and Stores for the use of the Department, I respectfully beg leave to enclose a Quadruple Copy of the requisition I then made; and I am sorry to be obliged to represent to Your Excellency that the great delay, which has attended the Supply of the Instruments, etc., has been attended with very serious inconvenience to the Public Service.

Your Excellency is well aware that no instruments can be obtained here; and I regret to State that the casual purchases, I have been compelled to make at greatly advanced prices, has been a cause of great expence to the Government, which the arrival of the Supply required in January, 1822, would certainly have prevented.

I have, &c.,

J. OXLEY, Surveyor-General.

[Sub-enclosure.]

[This was a copy of the enclosure to Sir Thomas Brisbane's despatch, dated 13th August, 1824. The copy was dated — January, 1822.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 28, per ship Mangles.)

Government House, New South Wales,

My Lord,

4th February, 1825.

4 Feb.

From the accompanying Data as the best information which I could possibly procure, I have the honor to transmit to your Lordship copy of my Proclamation of the 14th Ult. fixing the new duties on Spirits, in which my primary object was the encouragement to hold out for the growth of Grain by the Settler for the purposes of Colonial Distillation, and consequently it appears lowest in the Scale of these Duties.

Reasons in
fixing duties
on spirits.

My next consideration was the Revenue by an equitable imposition on the imported Spirits compared with that, the production

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4 Feb.
Reasons in
fixing duties
on spirits.

of the Colony, as I feel persuaded that your Lordship will coincide in my opinion of not attempting to raise the Revenue at so grievous a sacrifice as that of our health, as well as our morals, which the distillation from Sugar or fruit would have introduced, had I not put rather a discouraging duty on it; as I am strongly impressed with the belief that it is far from a wholesome spirit. The greatest proportional reduction is in the Bengal Spirit, which I have been induced to try, in the hope that such reduction would renew our former relation with India, which I deem of importance to the Colony. My reason for imposing the rate fixed on West Indian Rum is to give a fair advantage to the Importer to come in competition with the Colonial made Spirit. These duties I propose shall continue in operation until experience either justifies their adoption, or points out the necessity of a new modification. I confess I have yet to discern the general benefit to these Settlements arising from Colonial Distillation, but, as such opinion proceeds from high authority, I shall not, for the present, venture to enlarge upon the Subject.

I have, &c.,
THOS. BRISBANE.

[Enclosure No. 1.]

Memorandum
relative to
current and
proposed new
duties on spirits.

MEMORANDUM relative to the present Duties on Spirits, and on the proposed modification of the rates of the Same.

THE Duties at present levied on Spirits (which are not allowed to be imported at a greater Strength than 7 per cent. above Hydrometer proof in this Colony) are the following, vizt.

On all Spirits, the produce and manufacture of the United Kingdom, or Rum of the British Plantations, imported directly from the United Kingdom, The Gallon 10s. Sterling, or about 11s. 6½d. Currency.

On all other Spirits imported, the Gallon 15s. Sterling, or 17s. 3d. Currency.

On Spirits distilled from grain in the Colony and from Sugar, on the condition of exporting grain, 2s. 6d. Sterling, say, 2s. 10½d. Currency.

The Cost of distilling Spirits within the Colony may be estimated from the following data, which it's believed are tolerably Correct.

One Bushel of Wheat will make about 6½ quarts of Proof Spirits.

One Bushel of Barley will make as much, if properly backed, that is, to a Hogshead of Wort, it will take about 4 lbs. of meal additional.

One Bushel of Oats will make the Same.

One Bushel of Indian Corn will make a Gallon if backed.

The Wash from the Grain ought to pay all the expences.

112 lbs. Mauritius Sugar will yield 9 gallons of Proof Spirits.

Mr. Underwood has a 200 and a 1,700 Gallon Still, and could make from 3 to 400 Gallons of Spirits a day.

To distil from Grain 10 men, and from Sugar Six men will be necessary.

On these data, the cost of the Wheat and Sugar, respectively required to make a Gallon of Proof Spirits, leaving out of Consideration Profit and Expences of Manufacture, will be according to the prices of these Articles, as follows:—

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4 Feb.

Memorandum relative to current and proposed new duties on spirits.

Wheat.

Cost p. Bushel.	s. 4/-	s.d. 4/6	s. 5/-	s.d. 5/6	s. 6/-	s.d. 6/6	s. 7/-	s.d. 7/6	s. 8/-	s.d. 8 6	s. 9/-	s.d. 9/6	s. 10/-
Cost of the quantity to make one Gallon of Proof Spirits	2/5 ⁷ / ₁₃	2/9 ⁷ / ₁₃	3/0 ¹ / ₃	3/4 ⁸ / ₁₃	3/8 ⁷ / ₁₃	4/-	4/3 ⁹ / ₁₃	4/7 ⁷ / ₁₃	4/11 ¹ / ₁₃	5/2 ¹ / ₃	5/6 ⁶ / ₁₃	5/10 ⁷ / ₁₃	6/1 ¹ / ₃

Sugar.

Cost per Cwt.	s. 20/-	s. 21/-	s. 22/-	s. 23/-	s. 24/-	s. 25/-	s. 26/-	s. 27/-	s. 28/-	s. 29/-	s. 30/-
Cost of the quantity required to make one Gallon of Proof Spirits..	2/2 ² / ₃	2/4	2/5 ¹ / ₃	2/6 ² / ₃	2/8	2/9 ¹ / ₃	2/10 ² / ₃	3/-	3/1 ¹ / ₃	3/2 ² / ₃	3/4

The Rate per gallon, which ought to be added to the Cost of the Grain or Sugar for expences and profit, cannot be exactly estimated, as it must depend on the quantity of Spirits Sold and the extent of the Capital employed, but of which the following may Serve to convey some idea.

RATE per gallon of Spirits to be added to the Cost of material for Interest of Capital, Charges and Profit, so as to make up the amount annually to the following Sums, viz.

Gallons.	£1,500	£2,000	£2,500	£3,000	£3,500	£4,000	
If there be sold. { To be added per gallon.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	
	10,000	3 0	4 0	5 0	6 0	7 0	8 0
	15,000	2 0	2 8	3 4	4 0	4 8	5 4
	20,000	1 6	2 0	2 8	3 0	3 6	4 0
	25,000	1 2 ² / ₇	1 7 ¹ / ₇	2 0	2 4 ¹ / ₇	2 9 ³ / ₇	3 2 ² / ₇
	30,000	1 0	1 4	1 8	2 0	2 4	2 8
	35,000	0 10 ² / ₇	1 1 ¹ / ₇	1 5 ¹ / ₇	1 8 ⁴ / ₇	2 0	2 3 ³ / ₇
	40,000	0 9	1 0	1 3	1 6	1 9	2 0
	45,000	0 8	0 10 ² / ₇	1 1 ¹ / ₇	1 4	1 6 ³ / ₇	1 9 ³ / ₇
	50,000	0 7 ¹ / ₇	0 9 ³ / ₇	1 0	1 2 ² / ₇	1 4 ¹ / ₇	1 7 ¹ / ₇
	55,000	0 6 ¹ / ₇	0 8 ⁴ / ₇	0 10 ¹ / ₇	1 1 ¹ / ₇	1 3 ¹ / ₇	1 5 ¹ / ₇
60,000	0 6	0 8	0 10	1 0	1 2	1 4	

Reckoning the Capital at £10,000

And 20 per Cent. a fair annual return on the Same	£2,000
and the annual expences of the Distillery	£1,500
	£3,500

the Sale of 35,000 Gallons of Spirits, about half the consumption, at an advance of 2s. per gallon on the cost of the material, would cover the amount. Allowed the Distiller, say 2s. 3d. to cover expences and Profit, and take the average cost of the Bushel of Wheat

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at 6s. 6d., and of the Cost of Sugar at 27s., the price at which the Distiller could Sell the gallon of Spirits, distilled from Wheat with a fair profit, would in such case be 6s. 3d., and from Sugar 5s. 5d., exclusively of duties, and the present duty of 2s. 6d. per gallon included, 8s. 9d. and 7s. 9d. respectively.

As however the present Distiller has to compete with the Merchant Importer only, who must pay a Duty of 10s. Sterling or 11s. 6½d. Currency, besides the cost of the Spirits imported, say at 3s. 6d. Currency, making the price at which the latter can afford to Sell 15s. pr. gallon, the former has been enabled to sell his home made Spirits at about this rate, or at a price almost double that, which would yield him a fair profit.

The great difference of the Duty, therefore, payable on Imported and Home made Spirits, by giving the Home Distiller the Command of the Spirit Market, and consequently of a monopoly price, enables him to appropriate to himself the greater part of such difference of Duty, in addition to a fair profit on his manufacture, which must continue to be the Case, under the present rates of Duties, till the Distilleries are in operation, and even perhaps for a much longer period, as the Proprietors of such Distilleries would most probably find it for their interest to coalesce to keep up the price to nearly that at which the importing merchant could afford to Sell, whilst, by disguising their Home made as Foreign Spirits, and by the Superiority of their profits, they would have it in their power to force the Imported Spirits out of the Market, so that, in fact, under the operation of the present Scale of Duties, the Government loses a great portion of the difference of Duty between Home and Imported Spirits, whilst the consumer is not at all benefited or enabled to procure the Spirits at a lower rate, than if a duty of 10s. had been paid on every gallon consumed.

The obvious check to this monopoly price and for improving, under these circumstances, the Public Revenue, is by lowering the duties on imported Spirits to enable the Importer to lower his prices also, and thus to compete with the Home Distiller on less unequal terms, due regard being paid to continuing proper encouragement to Home Distillation.

The present duty on Home made Spirits, 2s. 6d. Sterling per gallon, equal at the average Exchange to about 2s. 10½d. Currency, may, it is proposed, be fixed, with advantage to the Revenue and not unreasonably for the consumer, at 3s. Currency.

Assuming this to be the Duty on Spirits, Distilled from Grain within the Colony, the opening a market for which, in years of plenty, is the great object of Home Distillation, it is the next to be considered what duty on Spirits imported would sufficiently protect Home Distillation from Grain, and, at the same time, enable the consumer to obtain them at a reasonable price.

The average cost of Spirits, Distilled from Grain within the Colony, has already been estimated at 6s. 3d. Currency, expences and a fair profit included, to which adding the proposed duty 3s. the Selling price would amount to 9s. 5d. Currency per Gallon.

The price of imported Spirits in Bond may be taken on an average at 3s. 6d. including a fair profit to the Importer; on which, if a Duty of 7s. 6d. Currency is laid, the Selling price to the consumer would be 11s. per gallon.

The difference of 4s. 6d. between this and the duty of 3s. on Spirits, distilled from Grain in the Colony, is perhaps, therefore, higher than will ultimately be found necessary to protect the Home

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Distiller with due regard to the interests of the Revenue and the Consumer; but, as it is perhaps safer to err on the side of giving more than due encouragement to the Success of an object, which the Inhabitants of the Colony have long anxiously looked forward to than the contrary, it may be proper to impose the said rate of 7s. 6d. on all Spirits of the legal Strength, the produce of the United Kingdom, or Rum of the British Plantations imported direct from England.

On all other Imported Spirits of the same proof, a higher proportionate Duty, as pointed out by Act 3rd Geo. 4, cap. 96, may be imposed say 10s. or 2 dollars Currency.

By existing Regulations, Distillation from Wheat is to cease whenever the price of Wheat shall have been for two Successive Market days so high as 10s. per bushel in the Sydney Market; and during Such prohibition, distillation from fruit is to be permitted.

Perhaps it would be preferable to subject the Spirits distilled from Fruit to so much higher a duty than Spirits distilled from Grain, as to render it disadvantageous to distil from the former unless Wheat is at, or nearly at, the price mentioned, leaving it otherwise unrestricted, excepting so far as may be necessary for securing the Duty.

Distillation from Sugar has, for Some time, been permitted under the condition of the Distiller exporting a certain quantity of Wheat in proportion to the quantity of Sugar he is to be permitted to use in distillation.

The policy of allowing Distillation from Sugar is by some questioned; but, in so far as it tends to encourage the exportation of Grain, as from the nature of the relative productions of this, and the Colonies whence our Sugars are brought, must ultimately be its effect, it must have a similar tendency as the distillation from Grain, that of opening a market for and encouraging the production of a Surplus quantity of the latter, thus creating a resource available for internal consumption in years of Scarcity.

By providing at the same time for the consumption of any over supply of Sugar that may be imported, the permission to distil from it would render the price of this indispensable Article more equable and steady in the market, and, by enabling the Home Distiller in Years of Scarcity to continue his operations, which must otherwise have been suspended, it should have a similar effect in regulating and rendering steady the price at which he could afford to Sell his Spirits to the consumer. Besides distillation from Sugar being much simpler and better known here than that from Grain, if prohibited by positive regulation, it is most likely that it will be distilled from clandestinely.

It is, therefore, submitted whether, from these reasons, as well as others of a Commercial nature which will readily occur, it would not be expedient to allow distillation from Sugar under proper regulations, levying such a Duty on the Spirits thence produced, as would still afford a decided preference to the distiller from Grain unless when, from the scarcity and price of the latter, it becomes desirable that distillation from Grain should be discontinued.

Such an arrangement appears preferable to that of binding the Distiller to export a certain quantity of Wheat, which must have the effect of either obliging him to become a merchant exporter as well as distiller, to which his capital may be inadequate, or to pay the merchant a Bounty to export Wheat under his name; whereas,

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4 Feb.

Memorandum
relative to
current and
proposed new
duties on spirits.

by charging a higher Duty on Sugar Spirits, a similar result would most probably be obtained, with advantage to the Revenue and with fewer restrictions on the Distiller or on the Commerce of the Colony.

It is true distillation from Sugar exclusively could never have been contemplated as at all desirable in this Colony; but, the branch of Industry "Distillation" having been introduced, it appears reasonable that those, who have embarked Capital in its prosecution, should not be cramped by restrictions unless of undoubted expediency.

From the data already given, it is estimated that, at average prices, Spirits can be distilled here from Sugar, one Shilling per gallon cheaper than from Grain. If, therefore, a Duty of 2s. per gallon is imposed on Spirits, distilled here from Sugar, above the Duty on Spirits from grain, or 5s. per gallon, the permission to distil from Sugar might add to the Colonial Revenue, and be productive of other advantages without unduly diminishing the preference due to distillation from Grain.

If the foregoing observations are well founded, the Scale of Duties on Spirits, of which they would recommend the adoption, would be as follows:—

1. On all Spirits distilled from Grain, the growth of the Colony, three Shillings or $\frac{3}{5}$ th of a Dollar per gallon.

2. On all Spirits distilled from Fruit, the growth of the Colony, such a duty as might be considered to render it disadvantageous to distil from Fruit, when Grain is under say from 8s. to 10s. per Bushel. No estimate of the expence of distilling from Fruit having been procured, this duty cannot be specified; perhaps 5s. per gallon would be sufficient.

3. On all Spirits distilled from Molasses or Sugar 5s. or one Dollar per gallon.

4. On all Spirits, the produce and manufacture of the United Kingdom, or Rum of the British Plantations, imported directly from the United Kingdom, 7s. 6d. or $1\frac{1}{2}$ dollar per gallon.

5. On all other Spirits imported 10s. or 2 Dollars per gallon.

The Strength of all Spirits referred to not to exceed 7 per cent. above Hydrometer Proof.

Sydney, 15th January, 1825.

N.B.—The Maximum of Duties No. 4 and 5 is limited in the Act to 10s. and 15s. according to which proportion, if No. 4 is reduced to 7s. 6d., No. 5 should be $11\frac{1}{4}$ instead of 10s.; however, the temptation to Smuggling is Still so great, that were it not to deviate too far from the proportions of the Act, even a lower rate than 10s. might perhaps be preferable.

[Enclosure No. 2.]

NEW SOUTH WALES.

PROCLAMATION.

BY His Excellency Sir Thomas Brisbane, K.C.B., Captain General and Governor in Chief in and over the Territory of New South Wales and its Dependencies, etc., etc., etc.

WHEREAS by a Proclamation given under my hand at Government House, Sydney, on the fourth day of March, One thousand eight hundred and twenty three, it was ordered and directed that certain Rates and Duties, therein enumerated, should attach

Proclamation of
duties imposed
on spirits.

forthwith; And whereas an Act of Parliament,* passed in the Third year of His Present Majesty, at the same time that it rendered the Imposition of those Duties lawful, did further enact that "it shall be for the Governor or other person administering the Government of New South Wales, by any Proclamation, or Order, or Orders, to be by him for that purpose issued, to discontinue or reduce any Such Duties from time to time as occasion may require."

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4 Feb.

Proclamation of
duties imposed
on spirits.

Now, therefore, Experience proving that the Revenue is Sunk by the Burthen of those Impositions, by Virtue of the Authority thereby in me Vested, it is hereby ordered and directed that, upon Spirits, seven per cent. above Hydrometer Proof, the following Duties only shall be imposed and levied; that is to say, Three Shillings, or three fifths of a Spanish Dollar on Spirits distilled from Grain in the Colony; Five Shillings or one Spanish Dollar on Spirits Distilled in the Colony from Sugar or Molasses; Seven Shillings and Sixpence or one and one half Spanish Dollar on all Spirits the produce and manufacture of the United Kingdom, or Rum the produce of His Majesty's Plantations in the West Indies, imported directly from the United Kingdom; and Ten Shillings or Two Spanish Dollars on all other Spirits.

Given under my hand, at Government House, Parramatta,
this fourteenth day of January One thousand eight
hundred and twenty five.

THOMAS BRISBANE.

By His Excellency's Command,

F. GOULBURN, Colonial Secretary.

God Save the King.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 19, per ship Norfolk.)

Sir, Downing Street, 6th Feby., 1825.

6 Feb.

I have to acknowledge the Receipt of your Dispatch of the 8th of June last, stating that you had fixed the amount of Mr. Balcombe's salary as Colonial Treasurer at one thousand two Hundred Pounds per annum.

Salary of
colonial
treasurer.

As I was unacquainted with the full extent of the Duties and responsibility which would devolve upon the Treasurer, when I appointed Mr. Balcombe to that Office, I deemed it advisable to defer fixing the amount of his Salary, until I had heard from you on the subject, when I should be better enabled to form an opinion as to what would be a proper remuneration. But I regret to find that your Excellency, without furnishing me with those particulars which would have assisted His Majesty's Government in determining at what rate the Treasurer should be paid,

Criticism of
rate fixed by
Sir T. Brisbane.

* Note 120.

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6 Feb.

has fixed Mr. Balcombe's Emoluments at an amount, which the circumstances of the case do not appear to authorize, whether the question be considered with reference to the especial duties and responsibility of the Treasurer's Office or to the Analogy afforded by other situations of equal Trust and Importance in the Colony.

In my Dispatch of the 25th of October last, I authorized you to provide the Colonial Treasurer with a suitable Residence, not conceiving for one moment that you would have fixed his Salary at a rate so much above my intentions. I consider that a Salary of one Thousand Pounds per annum, without any other advantages, will be a remuneration fully adequate to the Rank and Station of that Officer; and you will therefore, on the receipt of this Dispatch, direct Mr. Balcombe to provide himself with a Residence at his own expense, should you already have allotted one to him. But as the requiring Mr. Balcombe to pay *all* the differences, which he may have received between the above mentioned allowance of one thousand Pounds authorized, may, after so long an interval as has necessarily intervened, be in his situation inconvenient, you will date his reduced Salary from the date of this Dispatch.

Amount of
salary to be
paid to
W. Balcombe.

Securities to
be lodged by
W. Balcombe.

I take this opportunity of acquainting you that the Information, with which you were requested to favor me as to the amount of the Securities which Mr. Balcombe should be required to enter into with the Board of Treasury, has not yet been received.

I have, &c.,
BATHURST.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Norfolk.)

7 Feb.

Certificate
of death of
Mrs. Cummings
required.

Sir,

Downing Street, 7 February, 1825.

I am directed by Earl Bathurst to transmit to you the enclosed Copy of a Letter from a Gentleman of the name of Christian, applying for an official Certificate of the Death of a Person, the Wife of Lieut. Cummings of the New South Wales Corps, whom he states to have proceeded to that Settlement with her husband in 1789 or 1790, and whose Death is supposed to have taken place about 10 or 12 years ago. As this Enquiry appears to involve a question of property, the claim to which cannot be established without an official Certificate of that Lady's Death, I am desired by Lord Bathurst to request that you will endeavour to obtain authentic Particulars in the Colony upon that subject, communicating the result of your Enquiries to me for the Information of the Parties concerned.

I have, &c.,
R. W. HORTON.

[Enclosure.]

1825.
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MR. JOHN CHRISTIAN TO UNDER SECRETARY HORTON.

Sir, Ramsay, Isle of Man, 1 Feby., 1825.

Situated in this remote and isolated part of the Empire, and utterly unacquainted with Colonial Regulations, I have taken the liberty of addressing you for information how I may procure an *Official Certificate* of the death of a friend in New South Wales, the wife of a Lieut. Cummings of the N. S. Wales Corps, who proceeded with her Husband to that Settlement in 1789 or 1790. We have no doubt of her death above ten or twelve years ago, after surviving her Husband some years; has left no Family behind her; a considerable property in this Island devolves to my Wife, her only Sister; yet for want of an *Official Certificate* of her death, she cannot procure Letters of Administration to her Effects.

Request for
certificate
of death of
Mrs. Cummings.

I trust you will excuse the liberty I have taken; but having no other resource, I will esteem it a great favor to instruct me how I may proceed, as no doubt similar cases have occurred within your Department.

I am, &c.,

JOHN CHRISTIAN.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 29, per ship Mangles; acknowledged by Earl Bathurst to Governor Darling, 24th August, 1825.)

Government House, Sydney,

My Lord, 8th February, 1825.

8 Feb.

I have the honor to transmit to Your Lordship certain queries submitted to me by the Attorney General, which I have to request your Lordship will be pleased to cause to be answered by His Majesty's Crown Lawyers, if you deem it necessary.

Queries
submitted for
legal decision.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

POINTS which have appeared to the Attorney General deserving of reference to Earl Bathurst.

1st. At what time the Statute Law of Great Britain ceased to apply to New South Wales, unless the Colony were named in the Acts?

Application of
statute law
to colony.

Two opinions are held on this Point. Some Lawyers think the introduction of a Legislature in 1823 was the date of the rule; others that the foundation of the Colony by Governor Phillip in January, 1788, was that date.

2nd. The effect of the second and nineteenth clauses of the New South Wales Act* in giving jurisdiction to the Supreme Courts and the Courts of Sessions; whether those Clauses operate

Effect of
N.S.W. act on
incidence of
English statutes.

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Effect of
N.S.W. act on
incidence of
English statutes.

to extend Acts of Parliament to New South Wales by express enactment, which, without those Clauses, would clearly not extend to the Colony?

An example is in Lord Ellenborough's Act,* if the Colony was founded in 1788, so as to make the mention of it in English Statutes necessary for their extension hither.

Status of
felon under
sentence of
transportation.

3rd. The condition of the Transported Felon before the Service of his term. It being clear that his labor belongs to the Crown and the Crown's Assignees, doubts exist as to his liabilities. Most Lawyers consider that, in regard to new crimes, he is subject to the same Law both of evidence and punishments, as when originally free, except where special enactments establish special rules for his coercion. The impression however is very general that he is subject to a kind of Criminal Equity.

Effects of an
infamous
judgment ;

4th. The effects of an infamous judgment on the several Classes of Transported and Felons?

1st. on those now under Sentence.

2nd on those who have Col'l Pardons.

3rd. on those who have served their time, whether they have been transported under the general Transportation Act* of George the First or under special Acts?

and of a
pardon by
the governor.

5th. The effect of the Governor's Pardon, under the Great Seal of the Colony under His Excellency's Commission, upon the attainder under infamous judgments for crimes committed in New South Wales?

Whether it restores the competency of the pardoned Felon to be a Witness? This point involves the case of Cheshire's four murderers, and of the five men who committed the Burglary at Canterbury in 1824.

Licenses for
shipping.

6th. Whether it may not be prudent to allow Foreign built Vessels of a certain limit and Tonnage, and having been repaired to a certain amount, to be licensed by the Governor of New South Wales for the trade of the Colony and the South and Eastern Seas?

This point embraces the case of the Alligator.

Application of
registry act.

7th. Whether until a Collector is appointed in Port Jackson the last Registry Act* applies here?

Jurisdiction
of governor.

8th. Whether the Commission of the Governor of this Colony gives any jurisdiction over the Islands of the South Seas, and what is the extent of the terms "the Islands adjacent" † in that Commission?

Distinct powers of Negotiation, both with New Zealand and the Islanders of the South Seas, are important to be

had by the Governor of New South Wales. Stronger powers are wanted by Him to compel the return of Runaway Convicts, now in the South Sea Islands, who cannot be taken up under General Warrants as the Law stands, but who are doing great mischief there.

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9th. Whether the practice of England with regard to escheated property is to be adopted here; and what are the exact rules of the Treasury as to the terms made with the different Classes of informants or relatives where property, either real or personal, has escheated or become forfeited.

Practice with regard to escheated property.

The practice here seems to have been loose, but favourable to the subject.

10th. Whether, in the absence of Courts of Ecclesiastical jurisdiction against immorality,* the Supreme Court acquires Jurisdiction under the ancient principle of Law that Justice shall not fail by the failure of one of many Courts, or whether the decision of Parliament must not be waited for?

Divorce and allied jurisdictions.

The necessity of a Court for the relief of Wives is very great. Perhaps Legislation will do but little to remedy an evil, which is caused by a physical fact, the disproportion of the Sexes.† Individual misery would however sometimes be assuaged by a Court of Almonry, and individual depravity be exposed by a Court of Coercion upon gross incontinencies. The subject is not an easy one. I have been applied to very frequently to prefer informations in cases of extreme Villainy, and could only find a doubtful jurisdiction for a Common Law Misdemeanor.

11th. What rules should be followed in regard to resumptions of Land improved and occupied without regular Grants?‡

Resumption of lands held under irregular tenure.

Instances frequently arise, where, if the party had been stopped in the first year's possession, no question of right could have arisen; but an opinion of hard-dealing will be universal, if the King's strict Right be now acted upon without regard to the equity or perhaps only quasi-equity which has been regarded in other Colonies.

12th. What limits shall be imposed to the Titles to be confirmed by a quieting Act,§ and what course is just with regard to the Quit Rents and fees on lands formerly occupied by consent of the Governor, but either by Felons or without regular Leases or Grants?

Land titles and quit rents.

13th. What sort of action shall be pursued for sustaining the rights of the Crown in real Property?

Rights of crown in real property.

I have adopted the Writ of Intrusion where practicable.

* Note 125. † Note 126. ‡ Note 127. § Note 128.

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SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 30, per ship *Mangles*; acknowledged by Earl Bathurst,
1st July, 1825.)

Government House, N. S. Wales,

My Lord,

8th February, 1825.

Financial status
and duties of
S. Bannister.

I have the honor to apprise Your Lordship that Mr. Bannister, having submitted to me a Statement* of his Case as relating to his pecuniary situation and his Duties, I have given my assent to his laying the same before your Lordship, as I am aware it proceeds from no peevish feeling but a just representation; and, as his duties are numerous with much responsibility attached to them, I take the liberty of recommending the same for your Lordship's most favourable consideration.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 31, per ship *Mangles*.)

Government House, Sydney, New South Wales,

My Lord,

8th February, 1825.

Report by
board of inquiry
on rations of
convicts.

I have the honor of inclosing in this letter the proceedings of a Board appointed for the purpose of reporting upon certain points, to which I directed their attention, and whose suggestions I am carrying into effect.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

BOARD OF INQUIRY *re* RATIONS OF CONVICTS.

"THE Board, appointed by direction of His Excellency the Governor to take into consideration and report on certain points submitted in Deputy Commissary General Wemyss's Letter, dated the 24th of July last, having further deliberated on such part of the Subjects contained in the said letter, which they had deferred giving an opinion upon in their first report, dated 14th August, and which was more Specially brought under their notice by His Excellency's letter to Major Goulburn, dated 7th of September last, beg leave, after mature consideration, to propose the Establishment of the following regulations, as, being in their opinion (consistent with the actual state of the Superintendence under which the Convicts are now placed, and with the advantages of Such rules being accommodated, as nearly as expedient, to the present practice of victualling them). the best adapted for the attainment of the objects proposed in His Excellency's letter; and, at the Same time, for introducing uniformity, distinctness and accuracy into the accounts of the expenditure of provisions supplied to such persons."

Regulations for
issue of rations
to convicts.

Proposed Regulations.

Section I.

Preparation
of returns
for numbers
victualled.

Responsibility for the correctness of Returns of Numbers, and means to be taken for checking the same.

1. The Commissariat Officers and Storekeepers, in charge at the Several Stations, are to use their best endeavours to ascertain the correct number of the persons entitled to be victualled from the Stores

* Note 129.

under their charge, and to prevent the issue of a greater number of Rations than is warranted by the number of such persons; but, as it is the duty of the Overseers of Gangs and the immediate Superintendents of Barracks and other distinct Establishments to certify, in the first instance to the Commissariat, the numbers of Convicts in Government employ entitled to rations, it is more peculiarly incumbent on them to take every means in their power to ascertain, and ensure, the correctness of the numbers for whom Rations are required and to check any irregularity in regard thereto.

2. To enable them to do this effectually, they will not fail regularly to muster the Convicts under their immediate charge respectively.

3. The Overseers will continue to take these Musters at least daily.

4. The Superintendants of Barracks will regularly muster the Convicts in the Establishments under their charge at least once in every week, and carefully enter on their Registers the date of each Muster and the number actually mustered.

5. They will also continue to keep correct Registers of the variations each day in the numbers under their Charge; and the particulars of the transfers and changes, by which they are occasioned; so as to be able duly to account for the arrival and discharge of every Convict who has been placed under their Superintendence.

6. At Sydney and Hobart Town, at each of which a Principal Superintendant of Convicts is Stationed, it is to be the duty of these Officers still further to control the Lists and Rations of the Superintendants of the Establishments, and the Overseers of Gangs, who are Victualled from the Stores at the Stations mentioned; and at Bathurst, Newcastle, Port Macquarie and Moreton Bay in New South Wales, and Launceston, George Town and Macquarie Harbour in Van Diemen's Land, the Same duty is to be performed by the Superintendants of Convicts having Superior authority at each of such Stations.

7. With a view to the effectually discharging this most important part of their duty, the Principal or Chief Superintendant, at each of these Stations, will not fail to enforce the taking of the prescribed musters, as well as the transmission to him, by the Subordinate Superintendants and Overseers, of the periodical nominal lists of the Number, and of the increase and decrease of the several establishments and detached parties, under their control respectively; and will also carefully examine and check these Lists by every means of information which they can command, more particularly by personally taking, from time to time, minute and careful musters of the Convicts in Such Establishments and Parties.

8. These Musters are to be made as frequently as may be convenient, but, where practicable, at least twice in each month; and a minute of each Muster, stating the date and the number then mustered, is to be regularly entered by them in Books Kept for the purpose.

9. At Bathurst, Newcastle, Port Macquarie and Moreton Bay in New South Wales, and George Town and Macquarie Harbour in Van Diemen's Land, the several Commandants are to take such means, as to them seem proper, for still further ensuring the correctness of the periodical Lists and Returns of Convicts for whom Rations are drawn at those Stations respectively, and for enabling them to comptrol the numbers borne on such Lists, as well as punctually to enforce the due execution of the duties above presented to the Superintendants under them.

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Preparation
of returns
for numbers
victualled.

10. As a further check on the due issue of Rations, whenever the Commissariat Officer, or the person superintending such issues, shall have reason to suspect that the numbers borne on such Returns are incorrect, he shall have power to call the Superintendent and Overseers, Signing Such Returns, to cause the party or parties, therein included, to be mustered in his presence, and to afford every information, in order that any such suspected irregularity may be cleared up, or detected and exposed; and all Superintendents to give every facility for the due execution of this duty by the Commissariat Officer.

11. It is expected that the Power, thus vested in the Commissariat Officer, or Person in charge, will be considerably exercised by him, and that he will in all cases be prepared to assign Satisfactory grounds for his proceeding in pursuance thereof.

12. The Overseers of Detached Parties are to report, to the Commissariat Officer or other person in charge, all casualties by absconding or otherwise as soon as possible after they occur.

Section II.

Classification of Convicts in the Ration Returns.

Classification
of convicts in
ration returns.

The Classification of the Convicts in the Ration Returns of the Several Stations to be the following, vizt.

1st. All those in Barracks or Separate Establishments, whose Rations are Served out daily by the respective Superintendents.

This division will comprise the Convicts in the following Establishments vizt.

Prisoners in Barracks or Penitentiaries at all the Stations, where Rations are drawn in mess to be distributed daily by the immediate Superintendents of each, respectively,

Grose Farm Establishment
Longbottom do
Female Factory, Parramatta
Male do do
Rooty Hill Farm
Agricultural Establishment, Emu Plains
Female Factory, Hobart Town

2nd. All those in detached Stationary Parties at each Post, whose Rations are issued weekly by the Commissariat in messes, with the exception of Clearing Gangs.

3rd. Clearing Gangs in each District.

Section III.

Method of
accounting for
rations issued.

Mode of accounting the Rations issued to Convicts in Establishments victualled daily.

Rations to Convicts comprised under the first Class to be issued by the Commissariat on such fixed days as may be most convenient. The authority for the Issue, stating the period for which Rations are required and the number of the same, after deducting any Surplus Rations arising from Casualties since last Return, signed by the Superintendent of each Establishment and countersigned as correct at Sydney and Hobart Town by the Principal Superintendent.

At Stations where there are Commandants, both by such Commandants and the Chief Superintendents under them,
and,
at Launceston, by the Chief Superintendent of Convicts.

A temporary receipt for each Issue to be taken by the Commissariat Officer or Storekeeper from the Superintendent who draws the Rations.

At the Stations of Parramatta, Windsor, Liverpool, and Emu Plains, or any other Station where there is no other Commandant or Principal Superintendent to control the returns of the immediate Superintendants of Establishments of Convicts, the immediate Superintendants of such Establishments are to furnish the Commissariat Officer or Storekeeper, at such Stations, with a complete nominal List of the Convicts in Such Establishments respectively on the first issuing day of each month; and on applying for provisions on each subsequent issuing day of the month, a nominal list of Persons who have joined and quitted the Establishment since last day of issuing.

The Commissariat Officer is to take care to regulate his Issues by such Lists, and to examine and ascertain that all variations in the number are correctly accounted for.

These Lists are to be preserved, and furnished as subsidiary documents for reference, in support of his periodical accounts.

The immediate Superintendent, or Person in charge of such Establishment, will keep an exact account or register of the number of Rations expended daily, and of the daily Increase and Decrease in the number of Persons victualled under his superintendance; as well as of the number of Rations in Possession of those joining, or issued in advance to those quitting the Establishment.

This account or Register is to be at all times liable to the inspection of the Commissariat Officer or Storekeeper of the Station, who is to see that it is duly kept up; and, whenever called for by him, is to be produced by the immediate Superintendent, previously to the next issue from the Magazine.

At the end of each month, the said Superintendent will make up, and Sign, a correct Return of the exact number of Convicts, and of the Rations issued by him to the Establishment under his charge on each day of the past month, according to the Increase or Decrease of the number victualled, as well as for all Rations received, with Convicts joined in the same month, agreeably to a prescribed form (No. 1 herewith).

At Sydney and Hobart Town, the immediate Superintendent will then submit such monthly Return for the examination and Signature of the Principal Superintendent at these Stations respectively.

The latter Officer will carefully examine and compare this Return with his Register of Musters, and the nominal Lists and Registers of Changes in the Establishment received or kept by him; as well as with the Returns of any other Establishment under his controul or Inspection.

If he finds it correct, he will sign the Certificate, or Return, to that effect, which certificate is invariably to Specify the dates at which, within the period of the Return, the Establishment was last mustered by such Superior Inspecting Officer, and that, from such Musters and the nominal Lists and Registers in his possession, he is satisfied of its correctness.

The Superintendants, or Persons immediately in charge of such Establishments, at the Stations of Bathurst, Newcastle, Port Macquarie, Moreton Bay, George Town and Macquarie Harbour, will, in similar manner, make up and Submit the Monthly Return of the Establishments under their charge respectively for the examination and certificate of the Chief Superintendants; and, when signed

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by the latter, they will further Submit it for the approval of the respective Commandants of each Station, who, if they are Satisfied of its being correct, will countersign it as such.

At the Stations where there is an Engineer Officer, such monthly Return will also be Submitted for his inspection and signature. Where there is both a Commandant and an Engineer Officer, the Signature of the latter is to be obtained, previously to the Return being laid before the Commandant for final approval.

The Return thus signed is to be delivered by the immediate Superintendent of each Establishment to the Commissary Officer before any issue of Rations in the ensuing month takes place.

The Commissariat Officer, having ascertained that the Same is completed as prescribed, will take the Receipt of the immediate Superintendent for the amount of the Rations, which the Return will show to have been expended during the month as the final Voucher in his accounts, including in the next monthly Return any Surplus on the Rations issued in, or on account of, the previous month, but not accounted for by the Return of the Same.

In case of the removal of either the immediate Superintendent of such Establishment, or the Officer in Charge of the Commissariat on the Station at any intermediate period of the month, Separate Returns from the Commencement of the month to the date of the removal, and from the latter date to the end of the month, are to be completed and closed, in the Same manner as for the whole month.

IV.

Mode of accounting for Rations issued to Convicts in Detached Parties.

The Convicts in the employ of Government in Detached Parties, whose Rations are issued weekly by the Commissariat in separate messes, with the exception of Clearing Gangs, will continue to receive their Rations every Saturday on the production of a Nominal List of the persons composing the Party on that day, Stating also the alterations Since last Return, signed by the Overseers, or person in immediate charge of each Party, and further Signed as correct, at all Stations where Such Officers are employed, by the Principal or other Superintendent of Convicts having superior Authority.

It will be the duty of Such Principal, or other Superintendent on these Stations, to muster such Parties in his District, where practicable, at least twice in every month, and to enter the date and particulars of each muster on his Registers.

The Commandants, at Stations where there are such Officers, will be careful to enforce the due fulfilment of this duty by the chief Superintendents under their Orders.

On the nominal Lists for Rations being submitted to the said Principal or other Superintendent, having Superior authority, previous to the Issues on each Saturday, he is carefully to compare them with his Register of Musters, and with the previous Lists and Reports of the Same Parties, which may have been furnished him, and to see that the Changes since the last week have been duly noted.

The Commissariat Officer, to whom such Lists are presented for Rations, will take care that they are signed and completed, as above described, before he admits them as his authority for the Issue.

At Parramatta, Windsor, Liverpool, Emu Plains and Launceston, where there are no Commandants or Principal Superintendents, the duty above assigned to these Officers is to be discharged,

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At Parramatta, by the Superintendent of Public Works;

At Windsor, by the Chief Constables, and at Emu Plains by the Superintendent of the Agricultural Establishment.

On the issue for the week being completed, the Commissary Officer, or person in charge of the Issues on each Station, will enter in a monthly Voucher of the form herewith (No. 2) a correct abstract of the Several Nominal Lists, on which Rations have been issued for that week: distinguishing the description, designation, or Station, as also the name of the Overseer of each Party, and inserting opposite each Party, in the appropriate Column, the number composing it on the day of Issue for the said week.

He will submit this Abstract for the inspection of the Principal Superintendent or comptrolling Officer; who, if he finds it to correspond with the nominal Lists originally Signed by him, will verify the same by his Signature at the foot of the Column for the said week; which, with the signature in the proper place of the Officer, or Person appointed to certify to the quantities of Provisions issued, will form the Voucher for the weekly Issue to the parties described. On all the weekly issues in each month being entered, as above stated, the column for the dates when the several Parties were mustered, within the Month, by the Principal Superintendent or Comptrolling Officer, as marked on the nominal Lists, is to be completed, and the Monthly Abstract summed up and closed.

If there is an Engineer Officer on the Station, such Monthly Abstract is further to be submitted for verification of his Signature; and at Stations where there is a Commandant, it is also to be laid before him, in order that, if he finds it correct, he may countersign as such.

The Abstract thus completed, with the Receipts or Certificates for the total amount of the Rations issued, at each Station, upon the Several Nominal Lists, Signed each Week by the Party appointed to certify the issue of the same, will form the final Voucher to the Commissariat Officer or Storekeeper for the expenditure.

The Commissariat Officer or Storekeeper will, however, carefully preserve the several nominal Lists referred to, and will forward the same, Separately arranged, with his Provision Accounts, in order that the correspondence of the said Lists, with such Abstract, may be further ascertained and certified in the Office of Accounts: after which such Lists will be put aside as no longer necessary to accompany the final Voucher.

Should the Commissariat Officer or Chief Superintendent on any Station be removed at an intermediate period of the month, the Abstract of the weekly Issues must be closed and completed up to the date of such Removal; and a Separate Abstract made up for the remaining period of the month, in a similar manner as is pointed out in the last paragraph of the third Section.

V.

Mode of accounting for Rations Issued to Clearing Parties.

The Issues to Clearing Parties are to be included in distinct Vouchers for each Commissariat Station, and to be made weekly on the nominal Lists of the Respective Overseers of each. In precisely the same manner as is pointed out for the Detached Parties above described, with the exception that, in the Districts where the Clearing

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Method of
accounting for
rations issued.

Parties are placed under the immediate superintendence of Sub-Inspectors, these Officers will perform the Duties, devolved on the Principal or Superior Superintendents, in regard to taking Musters and examining and certifying the Separate Lists of other Detached Parties, and of the Abstracts of the same.

On Stations where there are no Sub-Inspectors, a distinct Voucher for the Issues to Clearing Parties on such Stations will be made up, Signed and completed, in precisely the Same manner as for the Issues to Convicts comprised under the Second Section.

The circumstance of Clearing or other Detached Parties receiving their Rations from Contractors, and not directly from the Commissariat Stores, is not to dispense the Overseers of the different Parties from furnishing to the Commissariat Officer on each Saturday with the Nominal Lists of their Parties, made up as described.

The same Returns must be furnished, in the former as in the latter case, with this difference only that the Commissariat Officer, instead of issuing the Provisions directly from the Stores, will furnish a check or Order on the Contractor for the amount, in the presence of the person appointed to certify the Issue on each Saturday.

VI.

Mode in which Receipts for Rations are to be issued.

System of
receipts for
rations issued.

As, owing to the numerous detached parties into which the Convicts are divided, it would Swell the Vouchers for Issues to a most unmanageable extent, were it made requisite to take separate Receipts from the Overseers of each, several of whom are not able to sign their names, proper persons at each Station will be directed to satisfy themselves of the distribution, each week, of Rations to all the Parties comprised under the Second and third Divisions, and to sign the Receipts or Certificates for the total Amount of the Parties included in each of the Abstracts of Nominal Lists above prescribed, which Receipts or Certificates are of course to be considered (unless the contrary is made to appear) sufficient evidence of the Issues having been made.

It is particularly enjoined to the Persons, who will hereafter be named for this duty, to pay the Strictest attention to its regular and effectual execution, by scrupulously satisfying themselves, before they sign the Receipts or Certificates, that the quantities therein stated have been actually issued.

The Persons, whose duty it is to notify the distribution of the Provisions to the said Detached Parties comprised under the Second and Third Class, and to sign the Receipts or Certificates for the Same, are the following, Vizt:

At Sydney	The Deputy Superintendent of Convicts.
At Parramatta	The Superintendent of Public Works.
At Windsor	The Chief Constable.
At Liverpool	The Superintendent of Prisoners' Barracks.
At Emu Plains	The Assistant Superintendent.
At Bathurst	The Head Superintendent.
At Newcastle	The Head Superintendent of Convicts.
At Port Macquarie ...	Do. Do.
At Moreton Bay	Do. Do.
At Hobart Town	The Deputy Superintendent.
At George Town	The Head Superintendent of Convicts.
At Launceston	Do. Do.
At Macquarie Harbour	Do. Do.

VII.

Miscellaneous Directions.

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directions.

At Newly formed Settlements, such as Moreton Bay and Macquarie Harbour, where the Convicts are sufficiently limited in number and concentrated in point of distribution, so as to admit of their Rations being accounted for, as in distinct Establishments, it is left to the option of the Commissariat Officer of the Station to account, if Sanctioned by the Commandant, for the Rations issued to them in the mode directed, by the foregoing regulations, to be followed in supplying Establishments victualled daily; even though part of such Convicts may be distributed in detached Parties, and it is recommended that this mode be adopted on all such Stations as admit of being conveniently and accurately carried into effect.

As the immediate Superintendents of Barracks and Establishments are required to specify, in their Monthly Returns, from or to what Station or Party, the Convicts joining or quitting each Establishment are removed, the Chief Engineer, Commandant, Principal or Head Superintendent, or other Officer ordering such removal, are to be careful to Specify in their Orders to the former, the Station or Party, from or to which, the convicts are removed by their direction, or otherwise, and to afford, on the application of the immediate Superintendent, every information which may be necessary to enable him Satisfactorily to account for all Such changes.

As Convicts in Detached Parties draw their rations for a week in advance, when removed from one Detached Station to another, they are not to be permitted to draw Rations with the latter, excepting from the Saturday of the week in which they join; if removed to Barracks, or to an Establishment in which Rations are issued daily, the Superintendent of such Establishment will account for the rations in their possession, which they must have drawn up to the Friday inclusive of the Week in which they join. When such Rations are not forthcoming, explanation of the cause must be required and assigned in a monthly return; and if it should appear that the Same have been made away with through wilful and wanton neglect or irregularity, the party should be taken before a magistrate for conviction and punishment.

All changes in the distribution of Convicts are to be confined, as far as circumstances will admit, to the Friday in each week, in order that they may commence receiving Rations with the Party to which they are removed from the Saturday morning, the day of the Weekly Issue.

It being particularly desirable that the Issues of the Commissariat to Convicts on Detached Parties should be confined, as much as possible, to the Saturday in each week, Convicts returned from the Service of Individuals, or from Hospital, or arriving from England on intermediate days of the Week, should, if in Government employ, be attached to the Prisoners' Barracks at the Station where they are, and be Victualled by the Superintendent of the Same up to the Friday inclusive of the Week in which they join, unless under special circumstances, which must be fully explained in the Vouchers for Rations issued by the Commissariat on a different principle.

When convicts, victualled up to any other day than the Saturday Subsequent to their removal, are ordered from one Government Establishment to another, the Superintendent of the Party or Station, which they leave, is to be careful to furnish them with a

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certificate of the day to which they have drawn Rations; and no demand for Rations to detached Parties of Convicts is to be complied with on any other day than Saturday, without the production of Such Certificate unless under special circumstances, of which explanation must be given on the voucher for the Issue thereof.

Convicts proceeding as Messengers, or for other purposes, to distant Stations are to be furnished by the Officer, dispatching them, with a certificate of the date to which they have been victualled on proceeding on their journies; and in case they should have occasion to draw Rations at any intermediate Station, they are to produce such certificates to the Head Superintendent of such intermediary Station, who will procure for them such additional daily Rations as may be necessary, furnishing them with a fresh certificate of the date to which they have been victualled. Such additional Rations to be supplied, whenever it can be done, by the immediate Superintendent of an Establishment victualled Daily, and accounted for by him.

Parties of Convicts proceeding on journies into the Interior, in charge of Government Flocks or for the purpose of procuring Timber, or any other duty, requiring longer than one Week's absence, may of course receive Rations in advance, where necessary, for a longer period than one week; but distinct vouchers, signed as prescribed or by the Overseers of the Parties, should in such cases be taken and the cause of the Issue for a longer period than one Week Specifically Stated on the Voucher for the Same.

Under these regulations, the Commissariat Officer or Storekeeper at the several Stations will rarely have occasion to issue Rations to Convicts with the Exception as to those in distinct Establishments victualled daily, except on the Saturday of each Week; but in case it should occasionally be necessary to Supply small Detached Parties on other days of the week, they are, in such case, to keep a regular journal of such Issues, specifying the number, the period for which Supplied, the Service in which employed, and the quantities of provisions issued to each, closing such journal on the 24th of each month, and taking the receipt or certificate of the Head Superintendent, or duly authorized person of the Station, at whose instance the Provisions may have been issued for the same, as the voucher to his accounts.

The Commissariat Officer is distinctly to understand that no voucher for the Issue of Rations, whether for broken or other periods, will be considered satisfactory, without a Specification of the essential particulars mentioned in last paragraph.

VIII.

Mode of accounting for Rations issued to Prisoners in Gaol and Gaol Gangs.

The Provisions supplied to Prisoners in Gaol and Gaol Gangs are to be drawn and accounted for, in a similar manner to those issued daily to Convicts in Barracks and Separate Establishments.

The respective Gaolers will draw the regulated quantities of Provisions, and make up a Return at the end of each month, in the Same manner as is directed to be done by the immediate Superintendents of Convicts victualled Daily in Barracks.

At Sydney, Hobart Town, and Launceston, such monthly return is to be submitted by the respective Gaolers to the Police Magistrates.

Method of
accounting for
rations issued
to prisoners
in gaol and
gaol gangs.

At Windsor, Liverpool and Parramatta, to the Chairman of the Bench of Magistrates, and, at other Stations, to the Commandants in order that, if found correct, it may be verified by the Signatures of such Officers respectively.

The Return thus signed, with the Gaoler's receipt for the Provisions actually received and expended in each month, will form the final voucher in the Commissariat accounts for the Issue.

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Regulations for
issue of rations
to convicts.

IX.

Mode of accounting for the Issue of extra allowances of Provisions.

The Issue of all extra Allowances to Overseers, Constables and others beyond the established Ration, with the exception of the Penal Settlements and clearing Gangs, is to be accounted for by a monthly nominal Abstract of the persons receiving such extra allowance, with their respective receipts for the Same.

Method of
accounting for
extra issues
of rations.

The issue of the Extra allowance earned by Clearing Gangs is to be Supported by a monthly Abstract for each District, specifying the Station, the No., and the name of the Overseer of the Party, the number of Acres cleared and in what manner, for which the allowance is granted, and a Satisfactory certificate from the Proprietor or Chief Assistant Engineer, as to the correctness of the quantity of labor stated to have been employed; as well as by a receipt from each Overseer of the regulated allowances issued thereupon.

F. GOULBURN.

WM. LITHGOW, As. Cy. Genl.

WILLIAM CORDEAUX, D.A.C.G.

FRANCIS ALLMAN, Capt. 48 Regt.

J. OXLEY.

JAS. TOD. GOODSIR, D.A.C.G.

P. ROBERTS, D.A.C.G.

Sydney, 27th December, 1824.

[Sub-enclosure No. 1.]

RETURN of Male Convicts in Hyde Park Barracks, Sydney, entitled to and supplied with Rations from the Commissariat Stores from the 25th September to the 24th October, 1824, inclusively, accounting for the Numbers and the amount of Rations issued on each day of that period.

Return
of convicts
victualled.

Date.	Day of the Week.	Increase.		Decrease.			No. of Rations issued daily.	
		Received from	No. of Rations received with men joined.	No. of Men discharged.	Discharged to	No of daily rations issued in advance to men discharged.		No. of Men on each day.
1824. Sept. 25	Saturday.	None.	..		None.	..	439	439
24	Sunday.	None.	..		None.	..	439	439

[Sub-enclosure No. 1]—*continued.*1825.
8 Feb.Regulations for
issue of rations
to convicts.Return
of convicts
victualled.RETURN of Male Convicts in Hyde Park Barracks, &c.—*contd.*

Date.	Day of the Week.	Increase.		Decrease.		No. of Men on each day.	No. of Rations issued daily.	
		Received from	No. of Rations received with men joined.	Discharged to	No. of daily rations issued in advance to men discharged.			
Sept. 27	Monday.	5	Hospital.	..	1	Hospital	1	
		1	Carters' Barracks.	..	4	Gaol	4	
		3	Private Service.	..	5	Private Service....	5	
		1	Clearing Party (Mr. Chandlers)	5	1	Grose Farm	5	
		1	Runaway Mr. Cox's (C.J., Pr.).	..	1	Emu Plains	2	
		2	Pennant Hills	10				
		1	Emu Plains.	..			441	442
28	Tuesday.	3	Hospital.	..	1	Hospital.	..	
		1	Carters' Barracks.	..	1	Carters' Barracks..	1	
		1	Private Service.	..	9	Private Service....	9	
		2	Clearing Party (Mr. Brown's).	2	2	Clearing Party (Mr. Blaxland).	2	
		1	Runaway (Emu Plains).	..				
		1	Pennant Hills	1				
							437	449
					Carried forward	1,769	

[Sub-enclosure No. 2.]

RETURN of Male Convicts in Hyde Park Barracks, Sydney, from 25th September to 24th Octr., 1824, continued.

Date.	Day of the Week.	Increase		Decrease		No. of Men on each day.	No. of Rations issued Daily.
		Received from	No. of Rations recd. with Men joined.	Discharged to	No. of Daily Rations issued in advance to Men discharged.		
Sept. 29	..	1	Hospital.	..	1	Brought for'd.....	1,769
		3	Private Service ...	3	1	Hospital.	..
		1	Out of Barrack (Boats).	..	2	Carters' Barracks. P. Tickets of Leave.	2
						437	436
And so on, to the 24th of the Month inclusively.							
Total Amount of Rations issued from to .							

[Sub-enclosure No. 5.]

1825.
8 Feb.

ABSTRACT of the Nominal Lists of Male Convicts on Government Employ in the several Clearing Parties in the District ofentitled to and supplied with Rations Weekly from His Majesty's Magazines at..... from the 25th of.....to the 24th of.....182 , inclusively.

Regulations for issue of rations to convicts. Form for nominal lists of convicts in clearing parties.

No. of the Party.	Name of the Overseer of each Party.	Where employed		Actual number on the Saturday or I-suing day of each Week, being the first day of the following Weekly periods.					Amount of Weekly Rations.	Dates on which each Party was mustered in the above Monthly Period by the Sub-Inspector or Superior Inspecting Officer.	Remarks
		Name of the Estate.	Name of the Proprietor.	From To	From To	From To	From To	From To			
Total Amount of Weekly Rations.....											
				Signature of the Inspector or Superintendent.	Do.	Do.	Do.	Do.	Do.		

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Mangles.)

Government House, Sydney, New South Wales,

My Lord,

8th February, 1825.

I do myself the honor to forward for your Lordship's information the General Monthly Returns of the Troops serving in this Territory from 25th October to 24th December, 1824, inclusive.

Transmission of monthly returns of troops.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

[Copies of these returns are not available.]

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8 Feb.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 33, per ship Mangles; acknowledged by Earl Bathurst to Governor Darling, 31st July, 1825.)

Government House, N. S. Wales,

My Lord,

8th Feby., 1825.

Appropriation
of land for
benefit of
aborigines.

The enclosed Copy of a Deed of Trust, which I have the honor to transmit, has been executed, subject to your Lordship's approval, in furtherance of the endeavours of the London Missionary Society to improve the condition of the Aborigines of New South Wales.

The success of the Members of the Society in the South Seas has induced me to accede to the application, which has led to this appropriation of so large a Tract of Land.

I understand that a condition will be proposed to your Lordship, in London, securing the reversion to the Crown in case of the failure of the present project.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

DEED OF TRUST TO ABORIGINAL MISSION.

By His Excellency Sir Thomas Brisbane.

KNOW ALL MEN by these presents that, Whereas the Revd. Daniel Tyerman and Geo. Bennet, Esquire, the Members of a Deputation sent by the London Missionary Society to visit and establish Missionaries in the South Seas and in the East, have undertaken on behalf of their Society to provide for the maintenance of one Missionary or more to be settled in New South Wales for the improvement of the religious and civil condition of the Aborigines thereof. And Whereas, in furtherance of their benevolent design, I have ordered that ten thousand acres of Land, suitably situated in the said Colony, be reserved for the use of the Aborigines, and be subject to such appropriation and appointment, as hereinafter expressed: Now therefore, by virtue of my Authority as Governor of the said Colony, and in order that the interests of the Crown and the aforesaid objects may be duly protected, I do nominate the Revd. Samuel Marsden, being a Life Director of the said London Missionary Society, John Oxley, Esq., Surveyor General of New South Wales, Wm. Wemyss, Esq., Deputy Commissary General, Edward Riley, Esq., Alex. Berry, Esq., Robert Campbell, Esq., all of Sydney, and Francis Allman, Esq., Commandant of New Castle, to be Trustees of the Land to be hereafter granted, and now reserved for the purposes aforesaid, that is to say, Ten thousand Acres, more or less, to be marked out as soon as it can be conveniently surveyed; and the same Land shall be selected by the said Surveyor-General, and the said George Bennet and Daniel Tyerman at or near an

Deed of trust
re land
appropriated
to mission to
aborigines.

Inlet, called Yawanba or Reid's Mistake*; and it shall be settled in such a manner, by Act of Council or otherwise, as may be approved by Earl Bathurst or His Majesty's Secretary of State for the Colonies; and the said Trustees shall hold the same upon the Trusts following: not to alienate the said Land or any part thereof; to make any sale, gift, settlement or demise thereof, or any part thereof at will for years, or for any other Estate, except as hereafter mentioned; that is to say, that they shall permit such person or persons to establish him, her or themselves on any part of the said Lands, as may now or shall hereafter be appointed by the said Daniel Tyerman and George Bennet, or by the said London Missionary Society, with his, her or their attendants or servants; and that, at the request of the Chief Appointee or Appointees aforesaid, they shall convey, and they are hereby empowered to convey, for terms of years, or in tail, or in fee simple, any portion of the said Lands, not exceeding thirty acres, in such situation as the said Appointee or Appointees may select, to any Aboriginal Native or to any Offspring of Black and White parents, subject to this condition that the same shall not be sold, let or given to any White person. That, at the request of the Chief Appointee or Appointees as aforesaid of the said Daniel Tyerman, Geo. Bennet, or of the London Missionary Society, the said Trustees shall give due notice to any intruders or trespassers, and take proper legal steps to remove them from the Land; and that the expence of the said Trusts shall be defrayed by cutting Timber on any part of the said Land, except what is actually under cultivation, or reserved by the said Chief Appointee or Appointees' directions, for shelter or ornament; and no other Timber shall be cut except by the Aborigines or their descendants, always subject to the directions and approbation of the resident Missionary or Missionaries, and except any Timber to be hereafter cut for use on the said Land or for the Boats for the Establishment thereon. That the said Trustees shall not in any manner interfere with the Missionary or Missionaries, appointed or to be appointed as aforesaid in the management of the said Lands, or his, her or their appropriation of any part thereof; and if any dissatisfaction shall arise between the said Trustees and the said Appointee or appointees, the same shall be referred to the London Missionary Society; but if pressing danger shall arise to the objects of the said Charity, requiring, in the judgment of the said Trustees, immediate check, they shall apply to the Supreme Court of New South Wales for a remedy for the same. And the said Trustees shall in all respects, so far as their duty as Trustees of the said Lands require, be guided by the following principle on which the London Missionary Society is founded,

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Deed of trust
re land
appropriated
to mission to
aborigines.

1825.
8 Feb.

Deed of trust
re land
appropriated
to mission to
aborigines.

which is as follows:—"It is declared to be a fundamental principle of the London Missionary Society that our design is not to send Presbyterianism, Independency, Episcopacy, or any other form of Church Order and Government" (about which there may be difference of opinion among serious persons) but "that it shall be left (as it ought to be left) to the minds of the persons, whom God may call to the fellowship of His Son from among them, to assume for themselves such form of Church Government as to them shall appear most agreeable to the Word of God."

And from time to time, when any of the said Trustees cease to be resident in New South Wales, they or the survivors of them, or their successors and any survivors of their successors, with the approbation of the Governor of New South Wales for the time being, shall appoint new Trustees in three months after a vacancy.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 34, per ship Mangles.)

Government House, N. S. Wales,

My Lord,

8th February, 1825.

Personal
bond given by
W. Balcombe
for security.

Accompanying I have the honor to transmit to Your Lordship Mr. Balcomb's personal Bond for Thirty Thousand Pounds Sterling, agreeably to the instructions conveyed in your Lordship's Dispatch of the 2nd of October, 1823, announcing Mr. Balcomb's appointment.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

BOND GIVEN BY MR. WILLIAM BALCOMBE.*

KNOW all men, by these Presents, that I, William Balcombe, Treasurer of the Colony of New South Wales, am bound to Our Sovereign Lord the King in the Penalty of Thirty Thousand Pounds Sterling to be paid to Our Sovereign Lord the King, His Heirs, Successors or Executors, or to His or their Attorney, for which payment is to be well and truly made, I bind myself, my heirs, Executors and Administrators, and each and every of them, by these Presents Sealed with my Seal this seventh day of February in the year of Our Lord One Thousand Eight Hundred and twenty five.

Now the condition of this obligation is such that, if the said William Balcombe shall at all times, during his continuance in the said service, faithfully and diligently execute and perform the duties of the Office of Treasurer of New South Wales, and, as soon as he shall be thereunto required, shall give a just and true

* Note 131.

account of all monies, coins, notes, Commissariat Bills and Store Receipts, that, in the execution of the duties of the said Office, shall come into the hands of the said W. Balcombe, and pay the balance of such account to the said Governor of New South Wales for the time being, or to such person or persons as such Governor shall appoint, and shall deliver all Papers, Books, Writings and other things, pertaining to the said Office, as the said Governor shall direct, then the said Obligation shall be void; otherwise to remain in full force.

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Personal
bond given by
W. Balcombe
for security.

W. BALCOMBE.

Signed and delivered in the presence of

ROBERT STIRLING, Lieut. 3d Regt.
J. S. HARRISON.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 35, per ship Mangles.)

Government House, N. S. Wales,

My Lord,

8th Feby., 1825.

Accompanying I have the honor to transmit to you certain Documents relating to the late Governor Bligh's Grant of Land,* in order that your Lordship may order legal steps against Admiral Bligh's Heirs in England, who are understood to have possession of the Deeds in Question. I have, &c.,

Papers relating
to land grant to
W. Bligh.

THOS. BRISBANE.

[Enclosure No. 1.]

SURVEYOR-GENERAL OXLEY TO SIR THOMAS BRISBANE.

Sir, Surveyor-General's Office, 2nd Feby., 1825.

With reference to the Attorney General's Letter to your Excellency of yesterday's date, and in obedience to your directions to state the circumstances connected with the Grant of one hundred and five acres of Land at Parramatta, made by the late Governor King to the late Governor Bligh, I beg leave to submit the following detail.

Report by
J. Oxley re
land grant to
W. Bligh.

It appears from the books in my Office that a Grant of One hundred and five acres was made by the late Governor King to the late Governor Bligh, bearing date the 10th of August, 1806, and the situation selected embraced a large portion of the Township of Parramatta. The Land was measured many months after the Government of the Colony was vested in Governor Bligh, and the Grant, purporting to have been made by Governor King, was made out, sealed and registered between five and six months after the resignation of the Government of the Colony by Governor King, when the seal of the Colony was no longer in his custody. The Grant bears date four days after the arrival of Governor

* Note 132.

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Report by
J. Oxley re
land grant to
W. Bligh.

Bligh in the Colony, during which time it was impossible that Governor Bligh could have had the Land measured or known anything respecting its situation.

In the knowledge of these facts, and in consequence of the necessity (no other land being available) of erecting on the ground a valuable and important public building, together with the extension of the Town of Parramatta in that quarter, rendered it incumbent on the late Governor Macquarie to represent* the circumstances of the case to His Majesty's Ministers, and received special Instructions* from His Majesty's Principal Secretary of State for the Colonies to hold the same null and void, and the Land to be resumed for the use of H.M. Government. A general Order to this effect was published in the Sydney Gazette, dated 5 Augt., 1819, a copy of which I beg leave to enclose. In obedience to this Order, the Registry of the Grant aforesaid was cancelled in my Books, but the Heirs and Assigns of the late Governor Bligh have not yet surrendered the original Deed.

It being considered that the mere publication of the General Order of the 5th August, 1819, did not amount to a *Legal* resumption, that it would be necessary to show that the Grant was illegal and irregular on the face of it, in consequence of Your Lordship's Instructions I wrote a Statement of the case to the Attorney General, pointing out the necessity of perpetuating the Testimony of Mr. James Meehan, the sole surviving Witness to the Deed, Mr. Meehan being at that time Acting Deputy Surveyor and having complete knowledge of the execution of the Deed by Governor King having been made long after the Government was vested in Governor Bligh, as, in the event of Mr. Meehan's Death, there would be no legal proof of the facts stated in that report, and the consequences of repossession of the Ground being taken by the Heirs of Governor Bligh would involve the loss of immense public and private property, as the greater part of the Land is now built over and occupied by the Government and private Individuals holding of the Crown.

I have, &c.,

J. OXLEY, Surveyor-General.

[Enclosure No. 2.]

GOVERNMENT AND GENERAL ORDERS.

Govt. House, Sydney, 5th August, 1819.

Civil Department.

His Excellency the late Philip Gidley King, Esquire, formerly Captain General, Governor and Commander in and over His Majesty's Territory of New South Wales and its Dependencies, having, by a certain Deed under his hand and the Seal

* Note 133.

Proclamation by
L. Macquarie of
resumption of
land granted to
W. Bligh.

of the Territory, bearing date the 10th day of August in the year of Our Lord, 1806, given and granted unto William Bligh, Esquire, his heirs and Assigns, to have and to hold for ever, one hundred and five acres of land lying and situate in the District of Parramatta (for a private residence near Parramatta), commencing six chains to the Westward of the present Bridge, and running from the river north 30 chains, thence N.W. to Smith's Farm, along the S.E. line of said Farm to the River, which was then to be the Boundary on the West and South sides, except as therein mentioned; the said 105 acres of Land to be known by the name of Mount Betham. And the Grant of Land, so made by the said Governor King, having been in direct contravention of his instructions as Governor, and without any special authority from His Majesty's Ministers; and His Excellency the Governor, having in consequence thereof received Instructions from His Majesty's Principal Secretary of State for the Colonies to hold the said Grant as null and void, is hereby pleased to order and direct that the said Grant of Land be resumed for the use of His Majesty's Government, and the Surveyor General of the Colony is hereby commanded to cancel the Registry of said Grant, and the Heirs and assigns of the said William Bligh are hereby required to bring the aforesaid Deed of Grant into the Office of the said Surveyor General for cancellation, and the said Deed is hereby declared to be absolutely void and is of no effect in Law or Equity.

By His Excellency's Command,

J. T. CAMPBELL, Secretary.

A true copy of the Proclamation of the 5th of August, 1819.

J. OXLEY, J.P.

[Enclosure No. 3.]

ATTORNEY-GENERAL BANNISTER TO SIR THOMAS BRISBANE.

Sir, Sydney, 1st Feby., 1825.

The Surveyor General has placed in my hands a Proclamation, issued by His Excellency Governor Macquarie declaring the ground upon a certain Deed granted by Governor King to Admiral Bligh was invalid, and calling on the Heirs of Admiral Bligh to produce the said Deed for cancellation. As the Heirs are, I understand, in England, I have to submit to your Excellency that it will be proper that a copy of this Proclamation be sent thither in order to enable Earl Bathurst to cause proceedings to be instituted against them. The Deed is also said to be in their personal possession, so that the utmost, that can be accomplished here in this matter, is to take steps for the perpetuation of the evidence of Mr. Mehan, whom the Surveyor-General states to be the only surviving witness to the Deed.

1825.
8 Feb.

Proclamation by
L. Macquarie of
resumption of
land granted to
W. Bligh.

Legal advice re
cancellation
of grant.

1825.
8 Feb.

If Mr. Oxley be directed to state the case for transmission to England, the proper proceedings can in the mean time be had here.

I have, &c.,
S. BANNISTER.

[Enclosure No. 4.]

ATTORNEY-GENERAL BANNISTER TO SIR THOMAS BRISBANE.

Sir, Sydney, 5th Feby., 1825.

Approval
of papers for
transmission.

I have read the Papers, returned herewith, relating to the Grant of Mount Betham, and I have the honor to report to Your Excellency that they appear to me to be sufficient to enable Earl Bathurst to direct the proper measures to be taken in England for the cancellation of the Deed referred to, if it be illegal.

The Heirs of Governor Bligh are in Europe, and no effectual Suit can be commenced I think here, except for the purpose, mentioned by the Surveyor General, of perpetuating the testimony of the single surviving Witness.

I have, &c.,
S. BANNISTER.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 36, per ship Mangles; acknowledged by Earl Bathurst, 23rd July, 1825.)

Government House, N. S. Wales,

9 Feb.

My Lord, 9th Feby., 1825.

Coinage in
the colony.

I have long delayed taking any further steps in regard to the coin in the Colony, as I saw by the Debates in Parliament that the subject was under the consideration of the Chancellor of the Exchequer. I was, therefore, unwilling to trouble your Lordship with any arrangement of mine by fixing the rate of the Spanish Dollar with reference to English Sterling, as it must cause its nominal value to be always fluctuating, because we have no Sterling Metallic money in the Colony, and the Value of Bills of Exchange, the only remaining criterion, must depend on the rate of Exchange itself, and upon the accidental state of the Trade between this Colony and Great Britain.

Payment
of salaries
in dollars.

It appears, therefore, the better way to fall in with a system, which is becoming general, to stipulate that the payment of all Taxes, as well as the Salaries of Public Servants and other engagements, shall be made on the part of Government in Dollars *eo nomine* without reference to any value; and in those cases where it may be necessary to express Sterling money to specify that the Dollar shall be taken nominally at five shillings.

Fixation of
sterling value
for dollar.

Should His Majesty's Government deem it expedient to mint a coin for the use of the Colony, I should humbly beg to suggest that it might be advisable to divide such Coin, with reference to

the Dollar, into halves, quarters and eighths of Dollars, and that the Copper medium should be calculated upon the same basis. The intrinsic value of the Spanish Dollar at present is estimated at $4\frac{1}{3}\frac{1}{5}$ ths.

1825.
9 Feb.

Current value
of dollar.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 37, per ship Mangles.)

Government House, New South Wales,

My Lord,

9th February, 1825.

It is with feelings of a most grievous Sensation that I have the honor to transmit to your Lordship some hasty replies to many of the foulest, most unjust, illtimed and most unprovoked attacks on my character, which hitherto had been the pride of my life, as well as my most cheering consolation in reflection that, through a life time devoted to my Country's Service, it had remained even unsuspected until villified in the Morning Chronicle of last August, but more particularly in that Paper of the 19th of that Month, in which it proclaims to the World that "the Governor's word alone is not to be believed." Did the wide Gulf not separate me from the author of these falsehoods, who I am persuaded to be Mr. Field, late Judge of the Supreme Court, I should not fly to your Lordship for protection; did not this Weighty consideration impel me to intrude myself for that redress, which I trust I may in the mean time be enabled to receive through Your Lordship's interference in my behalf from the peculiarity of my Situation.

Reply by
Sir T. Brisbane
to accusations
made in the
*Morning
Chronicle*
newspaper.

I have written to private friends on the same subject and trust by the next ship to send Your Lordship further details of Proof to contradict the wanton accusations made against my reputation, which has been dealt with so freely by the same anonymous Author, whose pen I have no doubt was dipped in gall whilst here, and whose actions bespoke the Same offensive ingredient, but which the immediate sailing of the Mangles precludes me from accomplishing.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

SIR THOMAS BRISBANE'S REPLY* TO ARTICLE IN THE "MORNING CHRONICLE."

As to Mr. Lang's case and the Presbyterian Address, upon which the imputation of the Governor's Word is founded.

Relations with
J. D. Lang and
Presbyterians.

MR. LANG, a Minister of the Scotch Church, did not come here by the express or by any invitation of Sir Thomas Brisbane, or of any part of his family to his knowledge, then or now, for any purpose.

* Note 134.

1825.
9 Feb.

Until his arrival, Sir Thomas Brisbane did not hear of his intentions; he never gave Mr. Lang liberal promises of personal patronage; but public Support he has always been willing to give to the Scottish Church in common with any other religious denomination.

Sir Thomas Brisbane did not correct the Address nor shew to Mr. Lang the answer he proposed making. In fact, he never wrote an answer but gave general and Sincere assurances of Support.

Reply to
address from
Presbyterians.

As to the answer to the Address.

Sir Thomas Brisbane gave orders to the Colonial Secretary to prepare an answer to the Address,* and did not see it till a few minutes before the Meeting.

Police
regulations.

As to the inquisitional Police Regulations.

It is not true that a Stranger cannot enter the Town of Parramatta on business or pleasure without being asked by the Convict constable on duty the questions mentioned in the letter. But it is true that the Police of the Colony has been thought to be necessary in a Convict country upon a different principle from that which governs the Mother Country. A System of requiring Passes to be carried by persons, who at Home would not be objects of suspicion nor under restraint, was till lately held to be lawful under the orders of the Governors from the foundation of the Colony. Whether this System is necessary now under the new Act of Parliament and Charter is a Subject of considerable importance and has been much thought of. The legislative power, now existing in the Governor with the advice of the Council, enables him to meet the question satisfactorily. Hitherto he assumed that to be Law which all his predecessors had done under the eye of Parliament for more than thirty years without control.

Magistracy at
Parramatta.

It is not true that the Magistracy of Parramatta consisted at the writing of this Letter of the persons only mentioned in it. It is the regular Bench of the neighbourhood, and although a change was recently thought necessary, yet, during that change, Dr. Harris the oldest Magistrate of New South Wales belonged to it.

Payment
of salaries
in dollars.

It is not true that the Government Officials gain 20 per cent. on their incomes by the Dollar change. They gain something, but the imputation here cast on them is wilfully unjust; but this Subject has long been referred to His Majesty's Ministers.

Address from
agricultural
society.

As to the exercise of the Censorship of the Press.

The Agricultural Society has a distinct Article against extending its proceedings to Political questions, and the manner in which this Address† was got up proved that a party purpose was the sole object of the few members concerned. The passage in question was not only an exception to this rule, but on a subject much in dispute in the Colony; the impartiality of Judge Field was the last topic his friends should have praised. But the motive, which influenced Sir Thomas Brisbane in expunging the passage, was that he considered animadversions on the conduct of Judges on the Bench indecent, and the more particularly as coming from a Body in which general subjects were specially rejected.

Leases.

As to the Condition in the Leases.

True as to Parramatta, &c.

* Note 135. † Note 136.

As to Mr. Rumker.

I never pass even fifteen minutes in the day in my Observatory*; the only hours I go there are after eight o'clock at night when the Public have no further claim on my Services.

My recreations of Shooting, &c., have never interfered with my public duties, in proof of which the business of the Colony has never suffered from my neglect of it.

The above is an accurate Statement of facts.

THOS. BRISBANE.

Government House, New South Wales, 9th February, 1825.

1825.
9 Feb.

Private
recreations of
Sir T. Brisbane.

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.

(Despatch per ship Mangles.)

Government House, Sydney, New South Wales,

Sir, 9th February, 1825.

The explanation which your letter of the 30th of August, 1823, requires from Mr. John Macqueen, a Merchant in Sydney, I have the honor to enclose in this Despatch; and, as he intimates in that Communication his intention to be in England shortly, by the Vessel in which he may embark I propose notifying to Mr. Boddy the departure from this Colony of Mr. Macqueen.

Administration
of estate of
J. Y. Boddy.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

SECRETARY GOULBURN TO MR. JOHN MCQUEEN.

Sir, Colonial Secretary's Office, 21st April, 1824.

By the direction of Lord Bathurst, I request an explanation of the circumstances that have prevented your transmitting to Mr. Boddy of His Majesty's Yard at Woolwich the funds, which came into your Hands in the year 1820 on the death of his Son Joseph.

I am, &c.,

F. GOULBURN.

[Enclosure No. 2.]

MR. JOHN MCQUEEN TO SECRETARY GOULBURN.

Sir, Sydney, 31st May, 1824.

In reply to your letter of the 21st Ult., I beg leave to recapitulate what I have already stated verbally, vizt. that Joseph Boddy died without leaving a Will. Joseph Boddy, the deceased, particularly desired me to share what funds I might have belonging to him (in case of his death) between his sisters. I have not had an opportunity of safely settling this matter to my satisfaction, but, as I expect during the present year to be in England, I shall fulfil my duty as near as I can to the wishes of the deceased.

I have, &c.,

JNO. MCQUEEN.

1825.
9 Feb.

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.

(Per ship Mangles.)

Letter of
introduction for
E. Macarthur.

SIR THOMAS BRISBANE presents his Comp'ts to Mr. Wilmot Horton, and takes the liberty of presenting Captain MacArthur, the bearer of this, who will be happy to afford Mr. Wilmot Horton any information respecting the Colony of New South Wales, in which he has resided for some months.

Government House, New South Wales, 9th February, 1825.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Norfolk.)

10 Feb.

Sir, Downing Street, 10 February, 1825.

Recommendation of
T. Walker for
land grant.

I am directed by Earl Bathurst to transmit to you the accompanying copy of a letter from a Mr. Walker, who is desirous of obtaining a Grant of Land for his Son, who is at present at New South Wales; and I have the honor to request that you will further his views in this respect upon being satisfied that Mr. Thos. Walker possesses the Capital stated by his Father.

I have, &c.,

R. W. HORTON.

[Enclosure.]

MR. J. T. WALKER TO EARL BATHURST.

My Lord, No. 8 Billiter Square, London, 7 Febr., 1825.

I take the liberty of soliciting a Grant of Land in New South Wales for my son Thomas Walker, who has proceeded to Sydney without being furnished with an order for it from His Majesty's Government.

Capital
possessed by
T. Walker.

He has the means of bringing into cultivation the allotment usually made to Settlers, possessing £2,000 of capital; as he is a Native of, and was Educated in Scotland, my friends here are not acquainted with him. I am, therefore, prevented furnishing the usual testimonials as to respectability of Character, but beg to annex a Certificate of my own pledging myself for that of my Son's justifying Yr. Lordship's favoring him with a Grant of Land, etc.

I am, &c.,

JAS. THOS. WALKER.

[Sub-enclosure.]

Certificate re
J. T. Walker.

WE hereby certify that Mr. J. T. Walker is known to us as a person of honor and respectability.

WM. THOMPSON.

ROBT. FARRANDS.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.
(Despatch per ship Norfolk.)

1825.
13 Feb.

Sir, Downing Street, 13 Feby., 1825.

I am directed by Earl Bathurst to transmit to your Excellency the enclosed Copy of a letter, which Dr. Douglass addressed to me previously to his departure for New South Wales, recommending the appointment of a proper person to superintend the Male and Female Orphan Schools in that Colony. Lord Bathurst has not deemed it advisable to acquiesce in Dr. Douglass's suggestion that a Clergyman should be sent out from this Country for this particular object. But his Lordship has directed me to acquaint your Excellency that he has no objection to sanction an appointment of the nature of that recommended by Dr. Douglass, should you be able, in concert with Archdeacon Scott, to select a proper person in the Colony to fill that situation.

Proposed appointment of clergyman to superintend orphan schools.

I have, &c.,
R. W. HORTON.

[Enclosure.]

DR. DOUGLASS TO UNDER SECRETARY HORTON.

Dear Sir, London, 10th Feby., 1825.

I had the honor, in obedience to the directions of the Colonial Government, to address two letters to you stating the absolute necessity for a person of fit and proper acquirements being sent to New South Wales to Superintend the Male and Female Orphan Schools. I assure you, Lord Bathurst could not confer a greater boon upon the rising generation of the Colony than in acquiescing with, not only the wishes of Sir Thomas Brisbane, but the earnest desire of the Colonists in this respect, So much depends upon proper principles and usefull knowledge being instilled into the Minds of the Children of these Schools.

Proposal by H. G. Douglass.

It is, therefore, with Sincere pleasure I have the honor to enclose, according to your Commands, a letter directed to me by The Revd. E. Groves, A Clergyman whose Talents are acknowledged and whose practical value in the different departments of Education, as well as his Philanthropic character, have been and will be borne ample Testimony to by some of the most valuable Men of the day. I do not think you could render the Colony a more essential Service than by sending out this Gentleman to Superintend the Schools under the Control of Archdeacon Scott. Mr. Groves at present holds an Office under The Irish Government with £250 per Annum, which he is ready to relinquish for an appointment, Connected with general Education in New South Wales; he is Married and his Lady is a highly Accomplished Person, the daughter of a worthy Clergyman.

Recommendation of Rev. E. Groves for appointment.

I remain, &c.,
HENRY G. DOUGLASS.

1825.
20 Feb.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 38, per ship Hope; acknowledged by Earl Bathurst to Governor Darling, 16th August, 1825.)

Government House, Sydney, New South Wales,

My Lord,

20th February, 1825.

Death of
J. Mileham.

It is with grief that I announce the decease of Mr. James Mileham, Senior Assistant Surgeon on the Medical Staff of New South Wales. In full practice as a Physician, the French Revolution obliged him to emigrate from his country; when the British Government, commiserating his misfortunes and appreciating his talent, allowed him to bear to this Colony, in the year 1796, His Majesty's Commission as an Assistant Surgeon. Devoted incessantly to the duties of his appointment, he saw his companions hourly improving their opportunities of enriching themselves, which he allowed to pass by unheeded himself; and he remained a solitary instance of one who had continually resided in this Colony nearly thirty years, and yet was in want. His latter years were pinched by penury; his declining health was alleviated by no comforts; and he terminated his mortal career after a lingering and distressing illness, leaving behind him a widow, whose prayer is offered to your Lordship in the enclosed Memorial, dependant for her existence on your favorable consideration.

I have, &c.,

THOS. BRISBANE.

His colonial
career.

[Enclosure.]

THE MEMORIAL OF MRS. MILEHAM.

Memorial of
S. Mileham
soliciting a
pension.

To His Excellency Major General Sir Thomas Brisbane, K.C.B., Governor and Commander in Chief of the Territory of New South Wales and its Dependencies, etc., etc.

THE Memorial of Susanah Mileham, relict of the late James Mileham, Senior Assistant Surgeon on the Colonial Establishment and one of His Majesty's Justices of the Peace of this Colony, Esqr., most respectfully sheweth,

That Memorialist's late Husband arrived in this Colony, with His Majesty's Commission as an Assistant Surgeon, in the year 1796 (only eight years after its first Establishment); when he became immediately attached to the Colonial Medical Staff, an appointment which he continued to hold without one intermission from that to the time of his death, the 28th Ultimo, a period attended the greater part of it with unavoidable but considerable difficulties and painful privations, both such as affected him in general with others, as a mere member of this community in its then early stage, and such more especially as related to him in his medical capacity.

That, in the year 1808, he was put in Commission of the Peace, which, as a mark of the approval of Government of his invariably useful and faithful conduct, was confirmed by His Excellency Govr. Macquarie in the year 1811, and which he continued to hold up to the hour of his demise, having executed the duties of this Office also with the full approbation of the Government, both for his steady upright and humane discharge of those duties.

1825.
20 Feb.

Memorial of
S. Mileham
soliciting a
pension.

That, in the year 1818, in consequence of the retirement of D'Arey Wentworth, Esqre., the then Principal Surgeon, he had every reason to expect that, in due course from the date of his standing and the established usage of the Department, he had become eligible to be appointed, and, more especially with his claims as above cited, would be appointed Principal Surgeon of the Colony, when he was induced to waive such his claims to advancement from the considerations that his age and his then state of very reduced bodily health would render him incompetent to an efficient and conscientious discharge of its duties.

Further, that Memorialist's late Husband, fully occupied in his official functions in the various Districts to which he became successively appointed to act, and that with a salary barely adequate to that mere respectability, which his official situations made it incumbent on him to maintain, was utterly precluded from providing means for the future support of his family; and that Memorialist is in consequence now left without the means of subsistence.

That Memorialist, therefore, from the consideration of the very long useful and approved services of her deceased Husband, and in addition his though unavoidably yet painfully frustrated expectations as to advancement, is induced to solicit that Your Excellency will be pleased to give to her peculiar circumstances your favorable attention, and to cause that she may be allowed, as his widow, such means of subsistence as to your Excellency may seem most fit, and your Excellency's Memorialist as in duty bound will ever pray.

S. MILEHAM.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 20, per ship Norfolk.)

Sir,

Downing Street, 23 Febr., 1825.

23 Feb.

It being deemed advisable that His Majesty's Gover't should be furnished with returns on the plan of the annexed Copies, one of which will shew the State of Crime and Punishment in New South Wales, the other the number of Grants of Land which have been made and the state of the Grant attaching

Returns relating
to crime and
land grants to
be transmitted.

1825.
23 Feb.

Returns relating
to crime and
land grants to
be transmitted.

system, I have to signify to you His Majesty's Commands that you do take immediate measures with a view to the transmission of such Returns, commencing from the 1 January, 1821, up to the latest period that the same can be made up; and you will continue to forward these Returns to me annually for the Information of His Majesty's Government.

I have, &c.,
BATHURST.

[Enclosure No. 1.]

Form for
return relating
to crime.

A RETURN of all commitments to the Court of Criminal Session from the 1 Jany., 1821, to the latest period the same can be made up and to be continued annually according to the following form:—

Date of Committal.	Prisoner's Name.	When tried or bill ignor'd.	Verdict.	Sentence.	If remitted and why.	Name of Comm'g Magistrate and District.

[Enclosure No. 2.]

Form for
return of
land grants.

A RETURN of all grants of Land made in N. S. Wales from the 1 Jany., 1821, until the latest period to which the same can be made up according to the following form and to be continued annually.

Date.	No. of acres	County or District.	Name to whom granted.	When taken up	No. of Conv. assigned.	If Vict'd, for how long.	Capital stated.	Nature of improvement.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 21, per ship Norfolk.)

24 Feb.

Sir,

Downing Street, 24 Feby., 1825.

Instructions re
land grants to
unauthorised
immigrants.

Frequent applications having been made of late to His Majesty's Government for Grants of Land by Persons, who, having proceeded to New South Wales without any intention permanently of residing in that Colony, have after their arrival been anxious to become Residents, and who in such cases have

experienced a difficulty of obtaining Land in consequence of not being provided with the usual authority from me, I have to convey to you the King's Commands in all instances of Individuals wishing to occupy Land in New South Wales, who have proceeded to the Colony under similar circumstances, that they should receive a Grant, in the same proportion and under the same conditions with respect to Capital, as persons who have previously obtained my sanction for the same; provided always that they shall satisfactorily shew, on making such applications to you, that they possess adequate means for bringing the Land into a sufficient State of Cultivation, and that there has been nothing in their general conduct or repute, which would make them unfit for receiving such a Mark of Favor; and in all such instances the case to be sent home for confirmation.

1825.
24 Feb.

Instructions re
land grants to
unauthorised
immigrants.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 22, per ship Norfolk.)

Sir,

Col'l Office, 25 February, 1825.

25 Feb.

As it appears to His Majesty's Government to be highly expedient that some portion of the attention and labor of Mr. Busby, who proceeded to New South Wales as Mineral Surveyor and Civil Engineer in the year 1823, should be appropriated to the Colony of Van Diemen's Land, where the want of professional Research has rendered unavailable many of its natural productions, I have to instruct your Excellency to put yourself in Communication with Mr. Busby upon this subject, and if you should find that he does not consider Van Diemen's Land as included in the agreement,* which was entered into between him and His Majesty's Government, you will consider yourself authorized to make some arrangement with Mr. Busby, by which his professional assistance may be rendered in exploring that settlement, so far as Minerals and Geology are concerned, more especially with respect to Coals and Iron, of the existence of which strong indications have appeared in the Southern part of the Island.

Proposed
employment of
J. Busby in
Tasmania.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 23, per ship Norfolk.)

Sir,

Downing Street, 26 February, 1825.

26 Feb.

His Majesty's Government having had under their Consideration a Memorial from Mr. Gregory Blaxland, in which he submits the propriety of allowing a Drawback or remission of the

Memorial from
G. Blaxland.

* Note 133.

1825.
26 Feb.

Remission of
duty on brandy
used in wine
for export.

duty of 15s. per Gallon imposed by the Colonial Regulations on French Brandy, imported into New South Wales, such drawbacks to be limited to the Brandy which may be required for the manufacture of Wine, the produce of that Colony, the proportion of Brandy used not exceeding 12 Gallons to 100 Gallons of Wine, I have to instruct your Excellency to allow a Drawback of the whole Duty on the Brandy, so consumed, provided that the most satisfactory evidence can be obtained of the actual mixture of the Brandy with the Wine in the proportion above stated, as well as of the Export of the Wine so prepared; such Drawback however not to be paid, until satisfactory proof shall have been given of the actual export of the Wine for which any such Drawback shall be claimed.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 24, per ship Norfolk.)

27 Feb.

Funds ordered
for erection of
Presbyterian
church.

Sir,

Downing Street, 27 Febry., 1825.

With reference to my Dispatch of the 16 August last, in which I directed you to assign out of the Police Fund a Sum equal to one Third of what, upon an estimate first approved by yourself, might appear to be sufficient for the erection of a Church at Sydney, in which the Ordinances of Religion might be dispensed according to the institution of the Church of Scotland; I do myself the honor to acquaint you that, the Revd. Mr. Lang having represented that it would be more satisfactory to the Presbyterians in the Colony of New South Wales that a Salary should be allowed to a Clergyman in connection with the Church of Scotland than that they should receive the assistance above specified, His Majesty has signified His pleasure that the sum of £300 should be applied annually, out of the unappropriated Revenues of the Colony, for the support of the Minister of the Scot's Church at Sydney; but you will observe that this allowance to the Minister is to be in lieu of the assistance, which it was proposed to afford to the Presbyterians of New South Wales for the erection of their Church.

I have, &c.,

BATHURST.

[Enclosure.]

UNDER SECRETARY HORTON TO REVd. JOHN DUNMORE LANG.

Sir,

Downing Street, 10th February, 1825.

Having laid before Earl Bathurst your letter of the 28th Ultimo, in which you inform me (in answer to a question which I had been directed by Earl Bathurst to propose to you) "that it would be much more satisfactory to the Presbyterians of New

Stipend for
clergyman
in lieu of
assistance in
erection of
church.

South Wales to have a salary allowed by His Majesty's Government to a Clergyman, in connection with the Church of Scotland, than to receive assistance in the Erection of the Church," I have received Lord Bathurst's commands to acquaint you that, upon this representation, his Lordship will instruct Sir Thomas Brisbane to apply the sum of £300 annually, out of the unappointed Revenue of the Settlement, for the support of the Minister of the Scots Church at Sydney; and Sir Thomas Brisbane will also be informed that this allowance is to be granted to the Minister in lieu of the assistance, which he was directed to assign to the Presbyterians of New South Wales for the erection of their Church.

I am, &c.,

R. W. HORTON.

1825.
27 Feb.

Stipend for clergyman in lieu of assistance in erection of church.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 39, per ship Hope; acknowledged by Earl Bathurst to Governor Darling, 12th November, 1826.)

Government House, New South Wales,

My Lord,

4th March, 1825.

4 March.

As the circumstances connected with the Merchant Ship "Almorah" have caused a great sensation here,* and as I have no doubt every attempt will be made in England to excite misrepresentation, I deem it my Duty to give your Lordship a detail of the whole.

Report re ship Almorah.

In the end of August last, finding that the wheat had risen to 30s. per bushel, Mr. Wentworth, Superintendent of Police having subsequently stated to me it had advanced to 50s., as it was then four months from the Harvest, combined with a long continued drought, and as there were other contingencies from physical causes over which there was no human control, as these might operate to impair the crop when it did arrive, I considered it expedient to instruct Mr. Wemyss, Deputy Commissary General, to charter a Vessel to bring a cargo of rice and flour from Batavia, our nearest port for supplies; in which measure I considered myself fully justified, not only in guarding against the pressure of want, or in diminishing the expence to the Crown of the number to be fed, but guided by the precedent of the Ports in England being thrown open to the importation of grain, when it exceeds a certain price; I considered these as legitimate motives for the step, and a copy of this letter, No. 1, I have the honor to transmit to your Lordship.

Scarcity of grain.

Ship chartered to obtain cargo from Batavia.

The Ship "Almorah," being considered by me as having tendered for this Service most advantageously of those that were in the Harbour, and disposable as stated by Mr. Wemyss, was consequently engaged, and Sailed the 10th of September, and arrived here the 17th of last month. On the day following, I

Acceptance of tender of ship Almorah. Her departure and return.

1825.
4 March.

Seizure of ship
Almorah by
captain of
H.M.S. Slaney.

Cargo on
ship Almorah.

Qualified
approval of
actions of
W. Wemyss.

Criticism of
importation
of dollars.

Negotiations
with
C. Mitchell.

Attempts to
recover
government
property.

learnt with Surprize of her having been seized in the harbour by Captn. Mitchell, commanding H.M. Ship "Slaney." On a communication with the Attorney General as to the cause of the seizure, I learnt with surprise that it arose from there being 300 quarter chests of Tea on board; And, on receiving a Report from the Naval Officer, I discovered with much astonishment that there were 53 Chests more, 106,000 Dollars, 288 Bags of Sugar, and 480 Bushels or Bags of wheat. As none of these articles were even contemplated by me, or any others beyond those expressed in my letter above alluded to, I could not but consider that Mr. Wemyss had assumed to himself a latitude he was by no means authorized to exercise; and, on my expressing myself to that effect, in the presence of the Attorney General, he said he considered himself fully borne out by his Instructions, producing them at the same time, and adding that he would relieve me from all responsibility; I therefore only felt it necessary for me to sanction the transaction on the part of Government here, so far as to protect the interests of the Crown; and as I viewed it as a *bona-fide* transaction between the Commissary and the Crown, I stated to the Attorney General that, under that impression solely, I should Sanction the transaction, in order to enable him to sue for it as Crown property, as having been paid for by Treasury Bills, reserving to myself the exoneration to your Lordship as to the items of the Cargo at a future period.

Touching these, I must view Mr. Wemyss having sent for so large a quantity of Dollars as a most inexpedient measure, as one of the many obnoxious proceedings he had resorted to, and which excited increased confiction between him and the Inhabitants; and I am fully borne out in this opinion as the premium on Treasury Bills here, at the time they were negociated at Batavia, did not differ one per cent., which would not justify the responsibility or warrant such a risk under any circumstances connected with it. Negotiations were going on for several days between the Attorney General and the Law Officers of the Crown, and Captain Mitchell and his legal advisors, and I must lament to report the issue. After I had agreed to give Treasury Bills to the amount of the Cargo, as my letter (No. 2) to the Attorney General on the subject will acquaint Your Lordship, which the Captors would not accede to, unless I consented to lodge the money in the New South Wales Bank, which proposal I declined from many reasons; I then directed the Attorney General to obtain a Warrant and to proceed with Mr. Clements the Commissariat Officer, who had gone to Batavia for the Cargo, and to identify the Crown property, in order that he might recover it under the sanction of the Attorney General's presence, which

seemed the best means of preventing personal violence; I however wrote myself a letter to Captain Mitchell (No. 3) directing him to issue his orders that no violence should be used by his Officers or men on board the "Almorah" in charge of her, whilst Mr. Bannister was in the discharge of his duty going on board her; and I particularly instructed the Attorney General to give this letter to Capt. Mitchell before he went. Your Lordship will learn with no less surprize than regret that after all these precautions that many loaded muskets were fired at his boat as he approached the Almorah, then in charge of Lieut. Mathews of H.M. Ship "Slaney," and was told by that Officer that he would sink her; Mr. Bannister, not being allowed to come near the Ship, deemed it prudent to return. Lieut. Mathews and his lawless crew on this gave three cheers. The Attorney General saw Capt. Mitchell after this had happened, and prepared to proceed a second time to see if he could be more Successful, when Capt. Mitchell told him from his boat "He had better not go on board" (the Almorah), thus identifying himself with the transaction and the felonious orders he had given to fire on all boats which should approach the "Almorah"; and which reception the Attorney General experienced a second time, as he was repeatedly fired at with ball, which struck the water so near the boat, that nobody could mistake them. I was anxious from the beginning to get so large an amount of Crown Property into my possession from various considerations; and one of my most cogent reasons was the impression that, in the event of a condemnation on behalf of the Captors, the value might be lost before an appeal home could be obtained to direct a restitution to the King. This was a chief ground of that anxiety to possess the cargo. Throughout the whole transaction I had shown the utmost forbearance to Capt. Mitchel after Seizing the "Almorah"; although in my opinion, and confirmed by the Law Officers of the Crown, that the Seizure was illegal, still I was unwilling to recover the Almorah at so grievous a rate, as the expence of human life or shedding of blood, which I was fully aware would be the effect of proceeding to lay hold of the Crown property, and which assertion is fully justified by the unwarrantable, illegal and unjustifiable proceedings of Capt. Mitchel with the Officers and men of H.M.S. Slaney, who came here to protect the King's property, but have been the first to violate it, to outrage the Law in the grossest manner, and to set my authority at defiance. Had I been as little regardless of life or the Shedding of blood as Capt. Mitchell or his First Lieutenant, is it to be for a moment supposed that, by manning all the boats in the Harbour with troops, I could not have obtained possession of the Almorah? But I was actuated by very different feelings, both of a moral and political

1825.
4 March.

Attempts to
recover
government
property.

Diffidence in
recovering
property at
cost of life.

1825.
4 March.
Diffidence in
recovering
property at
cost of life.

Evil effects of
conduct of
C. Mitchell.

Illegal
departure of
ship Almorah
from harbour.

Refusal of
passage for
J. Clements.

Report sent to
governor-
general
of India.

Proposed
trial of
B. Matthews.

Punishment of
C. Mitchell.

nature; and, as regards the former, could I have acquitted myself to my own mind in time of profound peace, to sacrifice many lives, whilst the bounty of Providence had happily placed us beyond the immediate want of the Cargo of the Almorah, so as to justify such a measure? In the next place, how could I reconcile establishing a conflict between the two Services? These grave considerations outweighed every other possible bearing of the case. Although Capt. Mitchel has no plea to justify his conduct, and seems to have been actuated by no motives beyond personal advantages which were at issue; and I should presume never once reflected on the baneful tendency of establishing here, above all countries in the world, the evil example of so dangerous a proceeding as a pre-eminence to the Law of the Land, as also an utter contempt of my authority; and I have no hesitation in pronouncing that the danger arising from this example is incalculable; and if the Law, as it now Stands, does not place a Naval Officer under the controul of the Governor, I should humbly beg to Submit to your Lordship the propriety of an alteration being made on this head. I am induced to believe that your Lordship will hardly credit that, after all the precautionary measures with Capt. Mitchel and the amicable negotiations still pending, he should, in the course of the following night, have removed the Almorah, and had her unlawfully sent to Sea without any Sanction, and without a Port Clearance, as also in defiance of all remonstrance; and his First Lieutenant with a body of Marines are gone in her in order to defend her against any attempt to take her. I have to add another act of equal violence and injustice on the part of Capt. Mitchel, in refusing to allow Mr. Clements, the Officer of the Commissariat, to proceed in the Almorah to the Port he proposed to send her, I presume lest he might claim the property of the Crown, and Substantiate all the facts connected with this extraordinary transaction.

I have availed myself of a Ship going to India to transmit a Statement of this Case to the Governor General, and I have pressed the necessity of Sending Lieutenant Mathews down here to be tried for the offence he has committed against the Law of the Country; and I deem it of much importance that he should be tried here for the Sake of example, where he has so grossly outraged the Law; and I trust your Lordship will concur in the opinion of the propriety of this measure. I shall only further press in the Strongest manner upon your Lordship the urgent necessity of visiting Capt. Mitchel with all the responsibility his conduct merits; as however lawful and fair the seizure of the Ship Almorah and her cargo might be, nothing in my mind can

justify the unlawful and outrageous conduct of Capt. Mitchel in the gross violation of the Law as connected with the whole proceedings, or in personal disrespect to myself; and I fear he has allowed himself to be misled by his legal Advisers Dr. Wardle and Mr. W. Wentworth, who, unfortunately, are not responsible for any opinion they give, or act arising from it, and whose report* of it in the "Australian," of which they are the Editors, is stated to me by the Attorney General to be grossly inaccurate.

1825.
4 March.

Legal advisers
of C. Mitchell.

I have the honor to send your Lordship a copy of the letter which I have transmitted to the Governor General in India, accompanying notarial copies of all Papers connected with the case of the Almorah. I have also the honor to transmit to your Lordship the Attorney General's Report of the case, and I have only to hope that they will view these proceedings in England as well as in India in their just Light. I have, &c.,

Papers
transmitted.

THOS. BRISBANE.

[Enclosure No. 1.]

[A] SIR THOMAS BRISBANE TO DEPUTY COMMISSARY-GENERAL WEMYSS.

Sir, Government House, Parramatta, 2nd September, 1824.

I have just been favoured with your different communications respecting the chartering of a Vessel to proceed to Batavia for Rice, Flour, &c. and the Almorah appearing to me the most advantageous terms to the Public, I hereby authorize you to engage her for that purpose, and the utmost dispatch should be used in sending her.

Ship Almorah
to be chartered.

I have, &c.,

THOS. BRISBANE.

[B] SIR THOMAS BRISBANE TO DEPUTY COMMISSARY-GENERAL WEMYSS.

Sir, Government House, Sydney, 1st March, 1825.

I hereby direct you to order Mr. Clements to proceed to the Almorah for the Crown property in her; and, in performance of that service, he will attend to the Instructions he will receive from the Attorney General, who I have ordered to be present.

Crown property
to be recovered.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 2.]

[A] SIR THOMAS BRISBANE TO ATTORNEY-GENERAL BANNISTER.

Sir, Government House, Parramatta, 19th February, 1825.

In consequence of the accompanying intimation from Captain Mitchel, of H.M. Ship "Slaney," of his having seized the Ship "Almorah" for having on board contraband Goods, I beg leave to acquaint you with the circumstances connected with this

Attorney-general to
report on
legality of
seizure of
ship Almorah.

1825.
4 March.

Attorney-
general to
report on
legality of
seizure of
ship Almorah.

transaction, with the view to enable you to defend the interests of the Crown. I have to request you will call in the aid of the Solicitor General, should you find it necessary.

In the end of August, finding Wheat had risen to 30s. per Bushel, and Mr. Wentworth, Superintendent of Police, having subsequently stated to me that it had advanced to 50s., as it was then four months from the harvest, and as physical causes might occur to injure the Crop, when it did arrive, over which there was no human controul, I considered it expedient to instruct Mr. Wemyss to Charter a Vessel to bring a Cargo of Rice from Batavia, which ship consequently sailed the 10th September and arrived the 17th Instant; as I am not aware on what grounds the Vessel has been seized, I beg to receive a communication from you as to the legality of the seizure.

Referring to the Naval Officer's report, it seems Sugar, Wheat and Tea forms a large proportion of the cargo; all of which articles were not even contemplated by me, nor was I made acquainted with the intention of importing them; exclusive of which, I have six Cases of Wine for myself with a few Spices, Seeds, Plants, etc.

I have, &c.,

THOMAS BRISBANE.

[B] SIR THOMAS BRISBANE TO ATTORNEY-GENERAL BANNISTER.

Sir, Government House, Sydney, 28th February, 1825.

On reflection since you left me, I think it might expedite matters and prevent ultimate loss, if you could meet the legal advisers of the seizing Officers and arrange some course of proceeding on the following basis: That in the event of the seizers agreeing to put the Government in possession of the Almorah's cargo belonging to the Crown, that the Government should stipulate to make good the value to the seizing Officers upon condemnation, or in other words that the Government would abide by any decision ultimately pronounced by a Court of competent Jurisdiction.

I have, &c.,

THOS. BRISBANE.

[C] MEMORANDUM FROM THE GOVERNOR TO THE ATTORNEY-GENERAL.

THE Governor has no objection to the Tea being reserved, nor to giving Treasury Bills for the value of the rest of the Crown Property, to be deposited in the hands of the Colonial Treasurer to abide the result of a legal decision in any competent Court of Law, in whatever form the questions involving this case may arise.

If this proposal is not acceded to, the Attorney General is hereby ordered to accompany Mr. Clements, the Officer of the

Compromise
proposed by
Sir T. Brisbane.

Treasury bills
offered by
Sir T. Brisbane.

Commissariat, in demanding, in the name of the King, the re-possession of the Crown Property now in the Almorah. The Attorney General will merely take legal processes in this case not extending to personal violence.

1825.
4 March.

Demand to be made for crown property.

THOS. BRISBANE, Governor.

Government House, Sydney, 1st March, 1825.

[Enclosure No. 3.]

SIR THOMAS BRISBANE TO CAPTAIN MITCHELL.

Sir, Government House, Sydney, 1st March, 1825.

Understanding that the Almorah has been removed pending negociations, I have to express my regret that such steps should have been taken, and to inform you that I have given orders to the Attorney General to proceed with proper authority on board the Almorah to claim the Crown Property in her; and I have to desire that you will issue your orders that no violence be used upon the occasion by the Officers and men of H.M. Ship Slaney, in charge of her.

Request for prevention of violence.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 4.]

ATTORNEY-GENERAL BANNISTER TO SIR THOMAS BRISBANE.

Sir, Sydney, 5th March, 1825.

Reserving for another report the details of the whole case of the "Almorah," I have the honor of stating to Your Excellency at present such circumstances only, as appear to be necessary to be considered in framing a dispatch to the Governor-General in India, both with regard to the Property of the King on board that Ship, and with regard to the criminal proceedings proper to be had there against Lieutenant Matthews, if he be found within the Jurisdiction of the East India Company. Your Excellency will, also perhaps, deem it to be right to transmit a Dispatch on the latter subject to the Naval Commander in Chief on the Indian Station.

Attorney-general's report re case of ship Almorah.

I trust it is quite clear from the manner, in which the purchases of the Commodities claimed on behalf of the Crown were conducted by the Commissariat Officer in Batavia, from the instructions given to that Officer, from his report when at Batavia to the Lords of the Treasury, from the Bills of lading, and from Your Excellency's ultimate adoption of the Commodities so purchased with Treasury Bills, that the whole of them, including the Tea and Dollars, belonged to the Crown from the time of the purchases being made until the arrival of the "Almorah" in Port Jackson.

Crown rights in cargo imported.

1825.
4 March.

Illegality of
the seizure.

In such a case, the sole question worthy Your Excellency's attention is, I think, whether forfeiture of these commodities was at any time incurred?

I have never ceased to consider that this question must be answered in the negative, on the great principle that the King is not bound by the acts of Parliament, securing certain privileges to the East India Company against "the King's subjects." In the procuring of these commodities, there was not the slightest approach to trading; the measure was purely one of supply; and the various points of policy, with the various facts of the matter upon which Your Excellency may have occasion to make representations in England, do not in the slightest degree, I apprehend, affect the question of the legal ownership of the things supplied.

The legal learning, which supports these opinions, is very simple; and I do not consider it necessary that the arguments should be stated by me. They will be perfectly familiar to the advocates, who will be instructed to defend the rights of the Crown in Calcutta, or elsewhere; and directions will, I presume, be given to the Commissariat Officer proceeding thither to appeal to the King in Council, if the decision in the minor Court happens to be in favour of the seizing party.

Independantly of the question of the property being liable to be condemned by a competent Tribunal, I have to recommend that instructions be given to the advocates in Calcutta to prosecute the parties for the damage, which may have occurred from the seizure itself. It by no means follows that the seizure was legal, even if the commodities ought not to have been imported; a right of action only might have arisen.

Proposed
prosecution
in Calcutta.

Documents
transmitted
to be certified
by notary.

It will also be proper, I think, that every Document, connected with the proofs of these commodities belonging to the Crown, be formally certified by a public notary. Inaccuracy in this respect will, however, be the less important, as the course pursued by Captain Mitchell has been in defiance of all arrangements due to the Crown; and no judgment can be obtained by him in any Court without full opportunity being granted for the procuring whatever evidence may be necessary to understanding the rights of the Crown. But as the first step, to be taken in Calcutta by the Officer now to be sent thither, should be to follow the Crown Property so illegally carried off, and to commence proceedings for it, he should be prepared with the best proofs of the ownership; and upon them his legal advisers in Calcutta will have no difficulty in directing the proper course.

Criminal
prosecution of
B. Matthews.

With regard to the criminal proceedings against Lieutenant Matthews, I have to report to Your Excellency that, on the calmest consideration, I find myself bound to press the prosecution. I

have commenced by filing an information against him under Lord Ellenboro's act.* There may be doubts about the extension of that act to New South Wales, but the best law opinion in the Colony is that it does bind us; and, having no doubt of clear legal evidence being producible of some Muskets loaded with Ball having been wilfully discharged directly at the boat by Mr. Matthews's orders, there is, I apprehend, no discretion left to me.

I have, therefore, humbly to recommend, that a copy of the process of the Supreme Court against this Officer being transmitted to the Governor General of India with Your Excellency's request, that the usual mode of proceeding shall be had for sending him hither to be tried. I have, &c.,

SAXE BANNISTER, Atty.-General.

1825.
4 March.

Criminal
prosecution of
B. Matthews.

[Enclosure No. 5.]

SIR THOMAS BRISBANE TO THE NAVAL COMMANDER ON THE INDIAN STATION.

Government House, New South Wales,

Sir, 21st March, 1825.

It is with much regret that I have the honor to acquaint you that Charles Mitchel, Esqr., Commanding H.M. Ship Slaney, is under prosecution criminally for an unlawful Act, committed in the Harbour of Port Jackson, in breach of the Peace and against the law of the Country. I have further the painful communication to make to you that Lieut. Matthews, first of the same ship, is more deeply implicated in the same transaction, so as to render it necessary for me to apply to His Excellency the Governor General that he should be ordered from Calcutta to stand his trial under so heavy a charge as that of Felony. But, if it rests entirely with you, I have to solicit that you will be pleased to order this Officer down here in order to stand his trial for the above outrage.

Report made
to naval
commander on
Indian station.

Enclosed are certain documents, which enable you to form an opinion upon this case; and I have to acquaint you that I have solicited that His Excellency the Governor General do make you acquainted with the whole of the particulars of this case.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 6.]

MAJOR OVENS TO THE SECRETARIES OF HIS EXCELLENCY THE GOVERNOR-GENERAL OF INDIA.

Government House, Sydney, New South Wales,

Sir, 7th March, 1825.

I am directed by His Excellency Sir Thomas Brisbane to address you upon an occurrence, which has recently taken place within His Government, in which the Rights of the Crown are

and to governor-general of India.

* Note 121.

1825.
4 March.

importantly concerned, and to request that you will lay the following statement, together with the accompanying documents, before His Excellency the Governor General of India.

Charter of
ship Almorah
to procure grain
from Batavia.

In consequence of apprehensions entertained by the Government that the crops of wheat and other grain would prove insufficient for the consumption of His Majesty's Forces and other public Departments within the Colony, His Excellency Sir Thomas Brisbane was induced to order the Chief Commissary to charter a British ship, called the "Almorah," for Batavia, the nearest place at which it was hoped to obtain a seasonable supply of grain and other Articles for the public service.

Cargo obtained
for government.

The "Almorah" was accordingly dispatched to Batavia under the charge of an Assistant Commissary, and received on board a Cargo, consisting of Rice, Wheat and three hundred quarter Chests of common black Tea, together with one hundred and six thousand Spanish Dollars, all of which were intended for the sole use of Government and were paid for by Bills drawn by the Assistant Commissary at Batavia upon His Majesty's Treasury in London.

Seizure of
ship and cargo
by C. Mitchell.

The "Almorah" arrived at Port Jackson on the 17th day of February, and on the following day the Ship and all the Articles on board were seized by order of Charles Mitchell, Esqr., commander of His Majesty's Ship "Slaney," for an alledged infraction of His Majesty's Charter and a violation of the Statutes passed for the protection of the privileged trade of the Honorable East India Company.

Compromise
proposed by
Sir T. Brisbane.

As doubts appear to have been entertained whether there was any Court of competent Jurisdiction within the Colony to try the case, whatever the legal merits might be, and many days had elapsed without any measures being taken to bring the question to adjudication, His Excellency the Governor, with a view to secure the property of the Crown as well as to relieve the seizing Officer from the heavy responsibility which he had drawn upon himself, proposed to Capt. Mitchell that he should give up the cargo of the "Almorah" and the Dollars on board to the Government, and that His Excellency would enter into any proper stipulation, that might be required, on the part of Government to abide the ultimate decision of the case, and in the meantime to secure to Capt. Mitchell every advantage he could have by retaining possession of the property under seizure.

Removal of
ship Almorah
from moorings.

Negotiations were accordingly entered into; but, while they were pending, the "Almorah" was removed from the Harbour to the entrance of Port Jackson, apparently with an intention of being carried to sea; and, intimation being received by the Governor that such in fact was the intention of Captain Mitchell, the

Commissariat Officer, who knew the commodities belonging to the Crown, was sent to the ship to recover them, and the Attorney General of the Colony was sent in the Boat with the Chief Constable and a Warrant in order to prevent personal violence; when within a considerable distance of the "Almorah," they were beckoned to keep off, and, on going nearer, were fired at with musketry. It was known to Lieut. Matthews who they were, and by making signs they intimated having no intention of committing violence, which they had no means of doing.

1825.
4 March.

Attempts to recover government property.

Notwithstanding which information, Lieut. Matthews persisted in ordering the King's Officers to keep off at their peril; and, on the boat continuing to approach the "Almorah," it was repeatedly fired at with loaded muskets and compelled to return to the shore. A second attempt was afterwards made to go to the "Almorah," and was attended with a similar result, the ship lying all the time at anchor within the limits of Port Jackson. In the course of the night, the "Almorah" got under weigh and was carried to sea with the intention of proceeding to Calcutta, as His Excellency has learnt from common report, for He has not yet been informed by Captain Mitchell to what Port he has sent the "Almorah," although an Official letter has been sent to that Officer some days since requiring such information, as might enable His Excellency to forward the necessary documents to defend the property of the Crown against the seizure.

Sailing of ship Almorah from Port Jackson.

The outrage, which has thus been offered to the Government and the Peace of the Colony by officers of His Majesty's Navy, His Excellency considers will require no comment on his part to induce His Excellency the Governor General of India to take such measures, as His Excellency may deem expedient, to compel Lieutenant Matthews to return to this Country and take his trial for a capital felony, with which he stands charged in the Supreme Court for firing upon the Officers of the King while in the execution of their duty.

B. Matthews to stand his trial.

Neither can His Excellency feel it necessary, after the statement of the above transactions, to move His Excellency the Governor General of India to cause legal steps to be taken either to obtain restitution of the ship "Almorah" and the cargo, or to defend the interests of the Crown in the event of legal proceedings being instituted against them. His Excellency Sir Thomas Brisbane does not feel himself called upon, even if he were qualified, to pronounce any opinion upon the legal merits of the case; but he feels it necessary in his own justification to state that nothing short of most extreme necessity should have induced him to sanction any importation into this Colony, which could be deemed in any manner to derogate from the chartered rights

Legal steps for protection of government property.

Reasons of Sir T. Brisbane for authorising importations.

1825.
4 March.
Reasons of
Sir T. Brisbane
for authorising
importations.

Papers
transmitted.

Probable
evil effects of
conduct of
C. Mitchell.

Commissariat
officer sent to
India.

Instructions to
J. T. Goodsir.

and privileges of the Honorable East India Company. He had been advised that a supply of necessary articles, intended merely for the public service, paid for by the public money, and imported solely on the Public account, could not be deemed a trading within the meaning of the Charter of any Act of Parliament; and he was confirmed in this opinion by referring to the practice which had before been adopted in this Colony, whenever the exigencies of the public service required an importation of Grain or any other articles from places within the limits of the Charter.

Together with this Dispatch, His Excellency has caused official copies of all documents and proceedings, connected with the case of the "Almorah," to be transmitted for the information and guidance of the Government of India; and His Excellency feels fully assured that effectual measures will be adopted to secure the property of the Crown from the spoliation, to which it has been wantonly exposed by the conduct of Captain Mitchell and his first Lieutenant, and to rescue the Government of this Colony from those consequences which, composed as it is of a population who are only kept in subjection by the strong arm of Authority, must inevitably ensue, if the flagrant violation of the Laws and the gross contempt of the Executive, which have been perpetrated by gentlemen bearing the Commission of His Majesty, should be allowed to pass with impunity.

I have further received His Excellency the Governor's Commands to request that the bearer of these Dispatches, Mr. Goodsir, the Officer of the Commissariat Department, may be presented to His Excellency the Governor General, and that there may be communicated to the Naval Commander of the Indian Station any parts of the documents which relate to Lieutenant Matthews.

Mr. Goodsir is instructed to place, subject to His Excellency the Governor General's Orders, the state of this case, as shown by the documents he brings with him, in proper legal hands for the best interests of the Crown.

I have, &c.,

J. OVENS, Private Secretary.

EARL BATHURST TO SIR THOMAS BRISBANE.

(A circular despatch per ship Norfolk.)

5 March.
Uniform to be
worn by chief
justice and
members of
council.

Sir,

Downing Street, 5 March, 1825.

With reference to my Circular Letter, dated the 20th November last, wherein you were directed to notify to me the Names of those superior Officers within your Government whom you might consider most deserving of the Honor of wearing the particular Uniform, which His Majesty had been pleased to

appoint for the use of the Civil Officers in the Colonies, I have now to signify to you His Majesty's pleasure that the privilege of wearing this Uniform should be confined to the Chief Justice and the other Members of His Majesty's Council.

1825.
5 March.

I have, &c.,
BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 40, per ship Hope.)

Government House, New South Wales,

My Lord,

7th March, 1825.

7 March.

I had the honour to receive your Lordship's Dispatch, No. 21 of the 18th July, by the Henry last week on the subject of a Letter addressed by the Rev. Samuel Marsden, Principal Chaplain, to the Secretary of State in behalf of a Convict named James Ring, who has been in the service of the Revd. Gentleman, and who has made his escape from the Colony while under sentence of transportation. Mr. Marsden states that he did read a letter to me, addressed as above, in favor of James Ring. But I must be permitted distinctly to disclaim ever adding either my sanction or approbation as to the correctness of the statements or assertions, contained in Mr. Marsden's letter, further than giving assent to his interfering in behalf of the man with the Secretary of State in as far as to spare his life, should the Convict find his way to England.

Despatch
acknowledged.

Denial of
approbation of
statements by
Rev. S.
Marsden.

In the first place, I was unwilling to trouble Your Lordship in this affair, being uncertain that James Ring had then done more than betake himself to the Woods; and, in the next place, the transaction was never brought under my notice; but the whole merits of the case being before the legal tribunals of the Colony, I should have felt a delicacy in interfering in it, nor should I venture to have hazarded any opinion in a matter of such grave importance, to which I had never given the slightest investigation, and consequently totally unprepared to have complied with Mr. Marsden's request, beyond the bare permission of addressing the Secretary of State in the case, without in the most remote degree exercising any judgement as to the correctness or incorrectness of Mr. Marsden's assertions, as I presumed he would be aware that he must be held responsible for any deviation.

Reasons for
non-interference
in case of
J. Ring.

Had I considered myself as in any shape pledged for the accuracy of the contents of his letter, I should naturally have requested the Revd. Samuel Marsden to have left it for me to transmit officially; but, as I considered it a mere request of privilege to address the Secretary of State, I was induced to give my assent

Transmission
of letter by
Rev. S.
Marsden.

1825.
7 March.

to prevent delay, and from motives of humanity; and I have to express a hope that this explanation may be deemed satisfactory to your Lordship, while I have the honor to remain,

My Lord, &c.,
THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 41, per ship Hope.)

Government House, New South Wales,

13 March, 1825.

13 March.

My Lord,

Instructions *re*
land grant to
P. P. King.

I have the honor to acknowledge Your Lordship's Dispatch, No. 22 of the 20th day of July, 1824, conveying His most gracious Majesty's Commands that I should forthwith confirm to Capt. King, or his Agent in the Colony, the Grant of 1,500 acres of land, which had been promised by me to him, and described in Major Goulburn's letter of the 23rd day of Sept., 1823, and calling on me to explain why the promise of the Grant of Land made to Capt. King had been revoked.

Promise to
P. P. King to
be fulfilled.

In explanation, I have to observe that it never was my intention to recede from the promise I had made to Capt. King; and I have to regret he should have found it necessary to trespass upon your Lordship's valuable time with the complaint of a grievance, which has only been apprehended, and which, by representation to me, would have proved to have been without foundation. The facts are shortly these.

Statement *re*
land occupied
by J. MacHenry.

After Captain King's departure from this Colony, Mr. McHenry, a respectable Settler contiguous to Capt. King, represented the great inconvenience that would be sustained by him in being deprived of about three hundred acres of that land, which had been reserved for Capt. King. As it was possible that Capt. King might be willing to give up the three hundred acres and take an equivalent elsewhere, Notice was given to Capt. King's Overseer not to fall any timber on the 300 acres in question. It was determined by me that things should remain in that state, until Captain King's pleasure should be known. An application was shortly after made to me by Capt. King's Overseer for a grazing station at Bathurst, which he now holds, and which I consented to give on his agreeing to allow Mr. McHenry to occupy the 300 acres, subject however to Capt. King's ratification or an arbitration on the claim set forth by the former. The Overseer, on behalf of Capt. King, not only consented to these terms, but assured me he was perfectly satisfied with the arrangement, and accordingly took possession of the land at

Bathurst, which he still retains together with the original land promised to Capt. King, with the exception of the 300 acres so conditionally given up to Mr. McHenry. From this state of the case, I trust Your Lordship will feel satisfied that Capt. King has had no just cause of complaint, but would rather seem to have been a gainer by the transaction to which he has alluded. I have further to add that Mr. McHenry, a short time before the receipt of Your Lordship's Dispatch, applied for a Grant of the land in question, but was refused until Capt. King should give his consent to the terms entered into by Capt. King's Overseer.

1825.
13 March.

Statement *re*
land occupied
by J. MacHenry.

In reference to that part of Capt. King's letter in which, after assuming what your Lordship will have observed was never my intention, he is pleased to ascribe my want of good faith towards him to personal pique at his having given a passage to Doctor Hall, and to certain rumours of his having misled me to the course he meant to take in going to England, I beg leave distinctly to disclaim any personal feeling whatever against Capt. King on account of his carrying home Doctor Hall, and in respect of the rumours, by which my feelings were supposed to be influenced, I not only disbelieved but have, more than on one occasion, openly contradicted them.

Misrepresentations made by
P. P. King.

Before I conclude this Dispatch, I beg leave to state to Your Lordship that the case, above referred to, is one of several in which the propriety of a suggestion, which I have now the honor to lay before Your Lordship, has pressed itself upon me, and which I now humbly submit to Your Lordship's consideration with the hope that, in the event of its meeting your approval, it may save your Lordship a great deal of unnecessary trouble and myself the painful reflection of lying under imputations for so long a period, as must necessarily elapse between complaints submitted to your Lordship and the opportunity afforded of making my explanations upon them. I have, therefore, to submit to your Lordship whether it might not be expedient to require that all persons, who may have causes of complaint against the Colonial Government, should make their representations through the local authorities in order that an opportunity might be afforded me of redressing any complaint, which might appear to be well founded, or of transmitting, at the same time with the complaint itself, such explanations as may enable your Lordship to take a view of the whole case in the substance, and to determine at once upon the merits of the charge and of the justification.

Proposal for
transmission of
all complaints
through colonial
government.

I feel the less diffidence in submitting this proposition to Your Lordship, as I understand it to be the practice of the Indian Government, a practice which has probably been rendered necessary from the similar circumstance of great distance, and which

Precedent
established
by Indian
government.

1825.
13 March.

must frequently render both redress and explanation alike ineffectual from the time which must necessarily be consumed in communication with this remote part of the Empire.

I have, &c.,

THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 25, per ship Norfolk.)

14 March.

Commutation
of sentence
passed on
J. Cahill.

Sir,

Downing Street, 14 March, 1825.

I have had the Honor to receive your Dispatch of the 27 Novr., 1823, accompanied by a report of the proceedings in the case of John Cahill, capitally convicted before the Court of Criminal Judicature at New South Wales of a Burglary and Assault, but whose sentence was commuted to that of banishment for life to Port Macquarie; in respect to the commutation of punishment granted to the Prisoner, this case forms one of that Class, respecting which I have had already occasion to intimate the opinion* of His Majesty's Government. I have deemed it right however under all the circumstances to recommend to the Secretary of State for the Home Depar't that the Prisoner's name should be submitted for a pardon on condition of banishment for life to Port Macquarie. But in transmitting the enclosed Warrant, which His Majesty has been graciously pleased to grant to that effect, I deem it necessary to call particular attention to the observations of the Secretary of State for the Home Depar't, to which this reference has given rise; and I have at the same time to signify to you His Majesty's Commands that especial care be taken to prevent a recurrence of irregularities, similar to those which occurred in the particular cases to which Mr. Secretary Peel's observations apply.

I have, &c.,

BATHURST.

[Enclosure.]

UNDER SECRETARY HOBHOUSE TO UNDER SECRETARY HORTON.

Sir,

Whitehall, 10 March, 1825.

Having laid before Mr. Secretary Peel the several Papers, transmitted in your letter to me of the 14 ultimo, relative to the case of John Cahill capitally convicted before the Court of Criminal Judicature at New South Wales, for whom Lord Bathurst recommends a Pardon on condition of his Banishment for Life to Port Macquarie, I am directed to transmit to you the enclosed Warrant, which His Majesty has been graciously pleased to grant confirming the sentence passed upon the Prisoner and commuting such sentence to Imprisonment and hard labor for his natural life, as recommended; and I am to desire you to

* Note 140.

lay such Warrant before Lord Bathurst, and order his Lordship to be pleased to forward the same to the Governor of New South Wales in order that the Prisoner may receive the benefit thereof.

1825.
14 March.

I am, at the same time, to request that his Lordship will take such notice, as he may deem proper, of the great irregularities exhibited in the course of the present case. It appears that the criminal was convicted so long ago as the 16th of October, 1822, when, as four Members only of the Court concurred in the Judgment, it became impossible to execute the sentence without a signification of the King's pleasure. The Governor grants him a Respite upon certain conditions, with a stipulation (as he states) that, if those conditions were broken, execution should be immediately done upon him. Yet he does not take the means of enabling himself to carry his purpose into effect, nor does he report the case, until after Cahill breaks the condition, and the Governor is under the necessity of remanding him with a Threat only to the place of Banishment assigned to him. In this state of things, the Governor requests the King's confirmation of the sentence, so that his original intention of keeping him at a penal Settlement with the sentence of Death impending on his Escape may be effected. With this request, Mr. Peel, under all the circumstances, has not thought it fit to comply; and His Majesty has been advised to extend His most gracious Pardon to the Prisoner on the Terms recommended by Lord Bathurst.

Irregularities of
administration
in case of
J. Cahill.

I am, &c.,

H. HOBHOUSE.

[Sub-enclosure.]

[A copy of the warrant for pardon is not available.]

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 26, per ship Norfolk; acknowledged by Sir Thomas Brisbane, 30th September, 1825.)

Sir,

Downing Street, 18 March, 1825.

18 March.

I have considered it my duty, in addition to the directions conveyed to you in my Dispatch of the 14th inst. on the subject of Free Pardons, to call your attention to the observations on this head contained in the latter part of the Report of the Select Committee of the House of Commons on Transportation in the year 1812, and to the Instructions, which were issued by His Majesty's Commands at that period in conformity with such Report; and I regret that a renewal of those Instructions should have been rendered necessary in consequence of the improvidence, with which pardons have frequently of late been granted in New South Wales and Van Diemen's Land without the least attention to the nature of the Offences for which the Convicts have been transported.

Instructions
for granting
of pardons.

1825.
18 March.

For the greater facility of reference I transmit to you an extract of the Report of the Committee, together with an extract of the Instructions to which I have adverted. I have, &c.,

BATHURST.

[Enclosure No. 1.]

EXTRACT from a Report of the Select Committee appointed to inquire into the manner, in which Sentences of Transportation were executed.

“10th July, 1812.

Criticism by
select committee
on system of
granting
pardons.

“THE same advantages, as are allowed to Convicts having served their time, are given to those who have been pardoned or emancipated by the Governor; and your Committee do not wish to dismiss the subject without making some observations upon the power possessed by him of granting to Convicts either the entire or partial remission of their sentence, or tickets of leave, by which they are altogether relieved from its severity. They do not see any necessity for the Governor’s possessing a power to grant these absolute or conditional pardons; it is a power liable to great abuse, and which appears to have been at times very much abused. It is in evidence that, in some years, 150 pardons have been granted; that pardons have been granted to Convicts immediately upon their arrival, without reference to their characters or merits; and it appears rather to have at times been made an instrument to gain popularity, than the means of rewarding exemplary conduct by a well deserved extension of His Majesty’s Mercy.

Recommendations
re
granting of
pardons.

“Your Committee, therefore, suggest that no pardon whatever, real or conditional, be granted but through the Secretary of State. This may create a delay, perhaps of a year, in obtaining the pardon of any Convict; but that inconvenience will not be great, for, by granting to him a ticket of leave, the Convict will in the mean time be entirely relieved from the pressure of his Sentence. Upon the subject of Tickets of leave, Your Committee feel that the power of granting them ought to remain in full force with the Governor; but it is a power, which they would wish to see sparingly and cautiously made use of, and with this view they recommend that an annual return be made to the Secretary of State’s Office of the number of Tickets of leave issued in the year with a statement of the grounds, upon which each was granted.”

[Enclosure No. 2.]

AN EXTRACT of a Dispatch from Earl Bathurst to Governor Macquarie, bearing date 23d November, 1812.

[*This extract comprised the paragraph beginning “The attention of His Majesty’s Government”; see page 674, volume VII.*]

SIR THOMAS BRISBANE TO EARL BATHURST.

1825.
18 March.

(Despatch No. 42, per ship Hope.)

Government House, New South Wales,

My Lord,

18th March, 1825.

In conformity to the 34th section of the Act* of Parliament of His present Majesty, I do myself the honor to transmit to Your Lordship a list of the Names of persons, who have received from me Absolute and Conditional Pardons from the commencement of last year down to the present period, in order that the names of those who have received Absolute Pardons should be inserted in the next General "Pardon which should pass under the Great Seal of Great Britain after the receipt of such duplicate."

Return of
absolute and
conditional
pardons granted.

I have to express a hope that your Lordship will not deem the numbers, who have received remission of sentence, too numerous, as I beg to assure your Lordship I am most particular in giving the most attentive consideration to these claims, and that nothing short of perfect good conduct in any Individual can obtain for Him such merciful mitigation of Punishment.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

LIST of Absolute Pardons Granted by His Excellency Sir Thomas Brisbane, K.C.B., between the 23rd day of January, 1824, and the 8th day of February, 1825, inclusive.

List of
absolute
pardons granted.

[This enclosure contained the names of fifteen convicts pardoned, together with the place and date of trial, the sentence, the ship by which transported, and date of arrival in the colony, and the reasons for granting the pardons. There were also six blank spaces:]

"These were Blank Absolute Pardons sent to Lieutenant Governor Sorell for distribution on his delivering up the Administration of the Government of Van Diemen's Land."]

[Enclosure No. 2.]

LIST of Conditional Pardons Granted by His Excellency Sir Thomas Brisbane, K.C.B., between the 23rd day of January, 1824, and the 1st day February, 1825, inclusive.

List of
conditional
pardons granted.

[This enclosure contained the names of five recipients of conditional pardons, together with particulars similar to those given in enclosure No. 1. There were also ten blank spaces:]

"These were Blank Conditional Pardons Sent to Lt. Govr. Sorell for distribution on his delivering up the Administration of the Govt. of Van Diemen's Land."]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 43, per ship Hope.)

Government House, New South Wales,

My Lord,

18 March, 1825.

Transmission
of returns
from principal
surgeon.

I have the honor to transmit to Your Lordship the Returns of the number treated and of the expenditure of Medicines in the Colonial Hospitals of New South Wales and Van Diemen's Land during the year 1823, furnished by the Principal Surgeon of the Territory agreeable to the forms enclosed in your Lordship's Dispatch of 13th March, 1824; and I have to express my regret at the delay, which has originated with the Principal Surgeon, as I have only just received the Returns.

I have, &c.,

THOS. BRISBANE.

[Enclosures.]

[Copies of these returns are not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 46, per ship Hope.)

Government House, N. S. Wales,

My Lord,

18th March, 1825.

Comparative
returns of
convicts
employed by
government.

I consider I cannot more effectually convey, to the satisfaction of your Lordship's mind, the attention I have bestowed on the Instructions, conveyed in your Lordship's different dispatches, on the subject of diminishing as much as possible the number of Mechanics and Convict Labourers in the hands of the Government, than by transmitting the accompanying statement of the number of Prisoners in the hands of the Crown to supply its wants now, compared with what I found on my arrival. When I called for the Return in question from which the accompanying is extracted. To account for the increase in the Botanical Garden,* I have only to state that I have added five acres to the Old Garden; that nearly 3,000 varieties of Grapes, Trees, Fruits and other valuable productions of the Vegetable Kingdom have been introduced and cultivated with success in that Establishment in the above period, which I consider of inestimable value to this Colony, and Mr. Fraser, Botanist, highly qualified to do every justice to his appointment from zeal, talent and enthusiasm which has brought him in correspondence with all quarters of the Globe, from which he is constantly deriving benefit to the public Service by importations of new, valuable and varied productions.

I have, &c.,

THOS. BRISBANE.

Development
of botanical
garden.

* Note 142.

[Enclosure.]

1825.
18 March.

COMPARATIVE STATEMENT of the Number of Convict Mechanics and Labourers under the Orders of the Chief Engineer, or in the employ of Government, in the Year 1821 and the Year 1825, specifying each class.

Comparative statement of labourers and mechanics employed by government.

Stations.	Establishments.	December, 1821.	March, 1825.
Sydney	His Majesty's Dock Yard	112	72
"	" Lumber Yard	316	179
"	Town Gang	34	3
"	Miscellaneous employ	65	49
"	Boats Crews	138	....
"	Stone-masons, Quarrymen, and Labourers	472	109
"	Bricklayers, Plasterers, Brickmakers, etc.	189	186
"	Street Gang	125	....
"	Labourers, Woodcutters and Lightworkers	154	....
"	Gaol Gang	8	....
"	Shell Gang	40	....
"	Stationary Servants	77	32
"	New Lumber Yard	105	....
"	Botanical Garden	11	14
"	His Majesty's Stores	58	25
"	Boys	48	....
Botany Heads	Various employments	14	....
Grose Farm	do.	141	26
Longbottom Farm ..	do.	168	38
Barren Hills	do.	90	69
Rooty Hill Farm ...	do.	9	103
Parramatta	Lumber Yard, Public Works, etc.	354	179
Liverpool	Various employments	193	114
Windsor	do.	89	18
Emu Plains Farm ..	do.	306	204
	Road Parties	685	433
	Total	4,031	1,851

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.
(Despatch per ship Norfolk.)

Sir, Colonial Office, 20 March, 1825.

20 March.

I am directed by Earl Bathurst to transmit to you here-with for your Information the Copy of a Letter, addressed to me by Sir Herbert Taylor relative to the arrangements, which have been adopted by His Royal Highness The Commander in Chief, for keeping up the Military Force at New South Wales to a sufficient number.

Maintenance of numbers of military in N.S.W.

I have, &c.,

R. W. HORTON.

[Enclosure.]

MAJOR-GENERAL SIR HERBERT TAYLOR TO UNDER SECRETARY HORTON.

Sir, Horse Guards, 15 March, 1825.

I am directed by the Commander in Chief to request that you will acquaint Earl Bathurst that, as by the new arrange-ment the Rank and file in New South Wales and its Depen-dencies will be reduced from 1,152 to 1,032, which, supposing

1825.
20 March.
Maintenance of numbers of military in N.S.W.

both Establishments Effective, would cause a diminution of 120 upon a station, where the Numbers are even now stated to be too small, it is His Royal Highness's intention that, whenever a Regiment is ordered to that Station (its ulterior destination being India), the Depot Companies shall accompany it; by which arrangement the Forces there will be kept up to a sufficient number.

I have, &c.,
H. TAYLOR.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch per ship Hope.)

Government House, Sydney, New South Wales,

22nd March, 1825.

22 March.
Transmission of monthly returns of troops.

My Lord,

I do myself the honor to forward for Your Lordship's information the General Monthly Returns of the Troops serving in this Territory from 25th December, 1824, to 24th February, 1825, inclusive.

I have, &c.,
THOS. BRISBANE, M.-Gen'l.

[Enclosure.]

[Copies of these returns are not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 44, per ship Hope; acknowledged by Earl Bathurst to Governor Darling, 1st October, 1825.)

Government House, New South Wales,

24th March, 1825.

24 March.
Personal attack made in the *Morning Chronicle* newspaper.

My Lord,

I had the honor to send to Your Lordship by the "Mangles," which sailed the 12th Ultimo, a refutation of the offensive matters, which were purely personal and which appeared in the *Morning Chronicle* of the 19th of last August; these were of too gross a nature to do more than contradict them that it did not appear to me to be becoming for me to collect proofs in my own Government of the extreme falsity of these imputations. As Mr. Lang, the Minister of the Scots Church, is now in Great Britain, I trust He will have contradicted the statement of His having been invited to this Colony by me; therefore, there could be no pretence for its being said that any disappointment, felt by him, should be occasioned by my unkindness, that I am utterly unacquainted with His being disappointed at all.

Expected refutation by J. D. Lang.

Relations with members of Presbyterian church.

On the Subject of Your Lordship's Dispatch* as to the answer given to the Petition of the Members of the Scots Church, I have the honor to transmit the statement of the Colonial Secretary to that transaction; and I have further the pleasure to send Your Lordship a copy of the reply of the Committee of the Members of that Church on my communicating His Majesty's

most gracious donation; and I trust these will impress upon Your Lordship's mind that a very different feeling exists from that respectable body towards me than that which is ascribed to them by the anonymous writer in the Morning Chronicle.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

SECRETARY GOULBURN TO SIR THOMAS BRISBANE.

Colonial Secretary's Office, Sydney,

9th February, 1825.

Sir,

Having received your Commands to report on the circumstances that preceded the Presbyterian Address, presented to Your Excellency in September, 1823, I take the liberty of submitting that the upper room of the new School House* was appropriated, by your Orders, about the beginning of June in that year to the performance of Divine Service according to the Institutions of the Church of Scotland.

This building was then in progress towards completion; and, when it had arrived at that stage at which it became necessary to plaster the place, the Presbyterians were using, their meetings were removed into the room underneath.

When that operation was ended, I myself went to see their benches replaced in proper order upstairs, and caused a civil note to be written by my Chief Clerk (himself a member of the Church of Scotland), acquainting his Brethren that everything was in readiness for their re-occupation of their former Assembly room.

It happened unfortunately that the Room, which the Presbyterians were leaving, was required at this very juncture to supply the place of a part of the main Body of the General Hospital, which had been used for three years as a Court House during week days, and upon Sundays as a Place of Worship for the Roman Catholics.

When this circumstance became known to the Members of the Church of Scotland, they declined attending service under the same roof with the Catholics, and their meetings from thenceforth were adjourned, I believe, to a Chapel of the Wesleyans.

I have, &c.,

F. GOULBURN.

[Enclosure No. 2.]

MESSRS. PIPER, MCVITIE AND WALKER TO SIR THOMAS BRISBANE.

Sir,

Sydney, 15th March, 1825.

We have the honor to acknowledge the receipt of Your Excellency's Warrant to the Colonial Treasurer for the payment of the sum of Two thousand four hundred Spanish Dollars, being

1825.
24 March.

Accommodation provided for members of Presbyterian church.

Acknowledgment of payment for erection of church.

1825.
24 March.

Acknowledg-
ment of payment
for erection
of church.

an amount which the Right Honble. the Earl Bathurst has directed to be paid to us, as Committee of Management, for the erection of a Scots Presbyterian Church in this place; and we gladly take advantage of the opportunity, now offered us, to return the united thanks of the Body of Presbyterians in the Colony and our own for the very handsome sum, contributed by His Majesty's Government for the accomplishment of so desirable an object. And we further beg to express our sense of the kind interest and trouble, which your Excellency has manifested for the furtherance of this important undertaking.

We have, &c.,

JOHN PIPER.

THOMAS McVITIE.

WILLIAM WALKER.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 45, per ship Hope.)

Government House, New South Wales,

My Lord,

24th March, 1825.

Annual return
of revenue and
expenditure.

Accompanying I have the honor to transmit to your Lordship the annual return* of the Revenue and Expenditure, Civil Establishment, etc. of the Colony of New South Wales, required by your Lordship's Dispatch, which I believe to be as accurate as the time and the nature of so complicated an undertaking will admit of, for a first attempt; and I have to hope that if the information therein contained be not sufficiently extensive, or explicit, that these deficiencies may be remedied in the subsequent years, which are now in progress.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

[A copy of this return is not available.]

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.

(Despatch per ship Hope.)

My dear Sir,

Gt. House, N. S. Wales, 24th March, 1825.

Preparations for
re-occupation of
Norfolk Island.

I am preparing, as fast as possible, to give effect to Earl Bathurst's Orders to resume possession of Norfolk Island; but the unfortunate affair of the "Almorah," which you will see fully detailed in my official communication, has presented a great obstacle; I have, however, called for Tenders from the Ships here to see if I cannot engage one on reasonable terms, which I propose shall call at Port Macquarie to carry from thence all the Capital respites as well as desperate and dangerous characters,

* Note 145.

who are not safe there, and commence the Settlement of Norfolk Island. I have purchased a large ship, the Phœnix,* for £1,000, of near 700 tons which met with an accident here in getting opened and breaking her back, altho' she will serve some purposes for these 20 years, and, in consequence of being hove down and thoroughly repaired, is worth three times what I paid for Her. As our new Goal will not be completed for four years, at least, this Vessel I propose to Serve as a hulk in the Harbour of Port Jackson to give employment to Bushrangers, against whom I propose to proceed against in the most vigorous way, the Law will admit, in order to root them out altogether. Finding they did not avail themselves of my late Proclamation,† which expired on the 20th inst., I have ordered an increased number of constables for the present, with Soldiers and aborigines to accompany them, with a reward of £5 for every Bushranger; these, as they are brought in, shall be sent on board the Hulk, and removed as necessary to Morton Bay, which I should recommend as the Second place of punishment, viz. Port Macquarie for first grave offences; Moreton Bay, for runaways from the former, and Norfolk Island, as the *ne plus ultra* of Convict degradation. The Subject of hunting down Bushrangers, or, in other terms, public Robbers, has long pressed itself upon my mind, and the more I reflect upon it, the more I see the necessity of eradicating it out of the Colony, as one which gives great insecurity to property, is the nucleus of a dangerous System which, if not put an end to, might be productive of the worst of consequences, to say nothing of the evil example to the better disposed convicts of such proceedings before their eyes. However extensive the numbers may be who are sent to penal Settlements, I consider, I am fully persuaded, that, by a judicious application of their labors, they can, in some employment or other, be made to earn their own livelihood, and, if it were not too repugnant to the Laws of England, I should consider it very fitting to have Norfolk Island completely under Martial Law, which would not only form part of the punishment in itself, but save the complicated machinery of Civil Courts, or of Sending people for trial here, reserving, however, capital cases for reference here. I shall only send a Captain in the first instance to command there; but, as the numbers augment, I propose a prudent Field Officer to regulate the whole; I cannot see myself that Felons, who have forfeited all claim to protection from the Law, should complain of being in a worse state than our Soldiers are in a Campaign. My experience convinces me that there is nothing so effectual with Convicts as Summary Proceedings, and they have taken advantage of the temporary deficiency of Magistrates to hold Sessions, to commit crime, since the promulgation of the New Charter.

1825.
24 March.

Purchase of
ship Phœnix.

To be used
as a hulk.

Active measures
to be taken
against
bushrangers.

Classification
of penal
settlements.

Necessity for
suppression of
bushrangers.

Martial law
proposed at
Norfolk island.

* Note 146. † Note 147.

1825.
24 March.

Regulations
for sale of
crown lands.

Frauds
practised to
obtain land
grants.

Effect of
misconduct of
F. Goulburn.

Sample of
colonial cotton.

Discovery of
stone for
millstones.

Anticipated
discoveries in
mineral and
vegetable
kingdoms.

I send you the Sydney Gazette of this day in order that you may see the arrangement,* which I have made for the Sale of Land, which I trust will meet with Lord Bathurst's approbation; I have delayed the publication for a long period in the hope of receiving some decision on a dispatch† which I wrote 15 Months ago on the Subject; but as His Lordship has decided that Captain King's grant should come under the new system of quit rent, it decided me on giving publicity to the whole. I am sorry to repeat great frauds are practised here, as to obtaining extent of land agreeably to Capital. A new Settler comes out for instance; He brings a certain quantity of goods on board the Ship with him; He goes to a Merchant and obtains a certificate of the amount to the utmost Supposed value here of the articles purchased in England, whether it Sells well or ill; and I believe the Merchants often lend their names to very improper certificates of this nature, and which will ever be the case, as long as the Crown grants Land in any shape, unless the Grant is withheld for a certain time, Say two years, in order to see what the person does in the way of improvement of it, and not until then to obtain the Grant.

I regret much to state to you that the whole business of the Colony is retarded by the conduct of the Colonial Secretary, against whom every one seems to complain; and it is impossible for me to represent, to what extent the unfavourable feeling seems to exist against him, so as to paralyze the exertions of all who are brought in Communication with Him: I have already officially brought his name‡ before Lord Bathurst for unbecoming conduct towards myself; and I am sincere in expressing my firm conviction that nothing beneficial to the public Service, advantageous to the Colony, or creditable to myself, can result while he holds his present Office; and it is most lamentable that a gentleman of his honorable feelings and extensive information should have no controul over his tongue.

I am happy to enclose you a sample of our Sydney Cotton, which I flatter myself, in point of either colour or staple, is not to be exceeded. It is real Georgian; the Seed was sent me by a Mr. Pinsent of the City, who, I believe, is well known at the Colonial Office. I have further the pleasure to inform you that an excellent substitute has been discovered, about 70 miles in the interior at Coxes River, of a compact bed of Millstone, equal perhaps to the French burr; I am trying a pair at Emu Plains the result I shall shortly, therefore, communicate to be favourable. I rest assured that there are endless varieties of useful materials, both in the mineral and vegetable Kingdoms, yet to discover, as many of those of the former, which I have sent home to Professors of Mineralogy, are not at all known. I give instructions to all travellers and public Officers to pick up

* Note 148. † Note 149. ‡ Note 150.

specimens of all minerals, merely labelling them to say where found, and whether in masses or only fragments. This simple mode brings us acquainted with many varieties. I had understood that some of the French circumnavigators had seen the burr Stone in the Colony, but would not say where.

1825.
24 March.

I have also to announce to you the discovery of a new and Valuable Country of great extent, extending from Lake George towards Western Port, in Bass's Straights, by two young Men, Messrs. Hovell and Hume,* the latter Colonial; they are directed by me to try and reach Spencer's Gulf, in the hope of intercepting any Rivers that might run South to that parallel of longitude, and discharge themselves into these Straights. They were absent near 3 months, but only got to the former place. It is my intention, as soon as I have the means, to send a Colonial Vessel to Western Port, to have that explored, as it seems to have escaped Flinders and others†; the above persons seem to have performed their duty well.

Discoveries made by Hume and Hovell.

You perceive if the Australian Agricultural Company Selected their Lands in the neighbourhood of the Hastings, there is an end of Port Macquarie as a penal Settlement. I have always considered it would be necessary to abandon that for such purpose, as soon as the tide of free Settlers extended that far, in the Same way I acted in regard to Newcastle; and I consider it always the preferable mode to form a penal Settlement, in the first instance, in order to pave the way for the free Settler, who could never venture so far amongst savage Tribes, until Government had preceded them; and as there were various shades of crime, so there ought to be graduations of Punishment. While we are on this Subject, I should strongly recommend that Government should send out 2 small craft here, to increase our Marine, as we cannot keep up a sufficient communication with these Settlements without it; Schooners I should consider best calculated from their rig for these Seas, as they are easily worked, whereas a Cutter, from their boom, is very unhandy. Two Bermuda built Schooners for Sydney, and one for the Derwent, would be all we should require. I have many Months ago officially represented this.‡

Probable necessity for abolishing penal settlement at Port Macquarie.

Value of penal settlements.

Necessity for shipping for colonial service.

I am proceeding to carry into effect the recommendations of the Commissioner of Enquiry, as fast as circumstances will admit; but there are various points which require legalizing by Council, and I cannot but view the establishing of Distilleries as the worst step that ever was adopted, and that the Colony will not be ripe for such proceeding for at least 10 years to come. It will have the effect of enriching a few Individuals at the public expence, impairing to a great extent our Revenue as well as our health and Morals; and this is not my opinion only, but that of the

Adoption of recommendations of J. T. Bigge.

Criticism of distilleries.

* Note 151.

† Note 152.

‡ Note 153.

1825.
24 March.
Reasons for
delay in reports.

Chief Justice and others, who are Competent to decide on such points. I wrote you, in my last letter, that many important points are in progress, altho' I have transmitted no official details from the peculiarity of my Situation and from the total disinclination of Major Goulburn to co-operate cordially in any measure, which does not originate with himself, and that a Rheumatic affection of my right arm, of old Standing, renders writing rather troublesome; but that you might rest assured, everything was in a wholesome and sound state of progress, although the detail of the case might be tardy. It is his conduct and that of the Chief Commissary, Mr. Wemyss, which have brought me in conflict with Individuals, which never could have occurred but for them. I think there is a sufficient case to establish with the Lords of the Treasury to induce them to remove Him. Indeed, I have given him leave to go home to explain Himself to them for his transactions in the affair of the Almorah; and I have written to Mr. Moodie to take charge of the Department. Altho' I believe Mr. Wemyss to be an honest Man, He is full of weakness, caprice and malevolence, and his sending near £30,000 of Treasury Bills for negociation to Batavia, when the premium was nearly the same here, establishes these allegations pretty strongly. Add to this He never deigned to consult me, or even acquaint me of his intentions; this has justly incurred Him the odium of all the merchants here, where there is plenty of money to be had on a premium of 14 per cent. on Treasury Bills, without risk and without giving Offence. Had Mr. Wemyss consulted me, I should have refused it point blank.

Proposed recall
of W. Wemyss.

Character
and conduct of
W. Wemyss.

Market value of
treasury bill.

Returns
transmitted.

I am unwilling to tell you that, by my System of throwing the Colony a little upon its own resources, it has discovered to individuals various objects of exportation, independent of internal industry, which has raised the value of money, and has produced that premium upon Bills; but examine the history of the Colony from its foundation, you will never discover a Treasury Bill above par before this introduction, which now forms a very prominent feature in the reduction of expenditure. I send you also a comparative Statement of prisoners now employed by the local Government, compared with what I found it on my arrival, as the first thing I did was to call for the Return in question; I also send you a duplicate copy of the return exhibiting the march of crime for the last six years, which is gratifying; and shall conclude by assuring you that the best interests of the Crown have never been lost sight of by me, during which my personal interests have suffered materially; and that no earthly reward could induce me to undergo the Sacrifice of feeling, which I have suffered since my arrival in this Colony; and I have waited patiently to see if my representations are likely to be productive

of relief, which I now alone find in that peace of conscience, on which I repose with confidence, to enable me to account for every act of mine; and I trust that relief is not remote in one shape or other.

1825.
24 March.

I have to press a thousand apologies on you for this long intrusion and more particularly so for those of a personal nature, coming from a Stranger; and I have to include the same consideration for a Letter of equal length, also a private one, sent by the Mangles, by which conveyance I wrote Lord Bathurst, also a private Letter, satisfactorily I trust accounting for all the transactions contained in his Letter.

Apologies
for private
correspondence.

I have, &c.,

THOS. BRISBANE.

There is one subject still I feel I ought to touch upon viz. the Female Factory at Parramatta. Experience has convinced me of the absolute necessity of Classification, which the old building would not admit of. I have therefore begun an addition, the stone wall of which is nearly complete, capable of containing 60 Females under Sentence, who will be separated from the convict women sent here. I also had a building of Logs made at Port Macquarie for the Same purpose, plaistered within, capable of holding 50 Women, which is now ready; and I now begin to give effect to the Sentences of the Courts, and Women ordered there are Securely placed and employment of a useful nature found. Both men and women are easily managed as long as you can keep Drink from them; but, if that was not carefully prevented, all the Soldiers here would not keep them in Order. I have written to Lt. Governor Arthur to acquaint Him that those Subjects, he cannot manage in V.D. Land, to send me to be conveyed to Norfolk Island.

Classification of
female convicts.

T.B.

[Enclosures Nos. 1 and 2.]

[These returns were also forwarded as enclosures to despatches numbered 46 and 22, and dated 18th March and 28th January, 1825, respectively.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 47, per ship Hope.)

Government House, New South Wales,

My Lord,

5th April, 1825.

5 April.

I have the honor to acknowledge Your Lordship's Dispatch No. 36, dated 21st September last, and which arrived by the "Hugh Crawford" Private Ship, accompanied by copies of certain declarations transmitted to Your Lordship from this Colony, and requiring my explanations thereon. I already had the honor, in my dispatch of the 6th September, 1822, to lay before Your

Despatch
acknowledged.

1825.
5 April.

Interview of
H. Macarthur
with governor.

Denial of
statement by
H. Macarthur.

Statement re
dismissal of
magistrates
in case of
Ann Rumsby.

Lordship the Proceedings of the Magistrates in the case of Anne Rumsby, Prisoner of the Crown, and the necessity I felt myself under of requiring their resignation. In Your Lordship's Dispatch of the 1st April, 1823, I had the satisfaction to find that my Conduct on that occasion had met with Your Lordship's approbation. In the report which I made to Your Lordship, no mention was made certainly of the conversation with Mr. Han. Macarthur, which is stated by that Gentleman to have taken place on the 24th August. As this interview and the conversation said to have taken place between myself and Mr. Hannibal McArthur, appears to have given a different turn to the case in the opinion of Your Lordship, and as the four points of enquiry, contained in Your Lordship's Dispatch, are directed to that particular communication, I beg leave distinctly to state that Mr. Hannibal Macarthur did not on the 24th of August, nor at any other time, assure me on the part of the Magistrates that they would make any concessions which I could wish, or desire, and that I did not on that occasion express my Satisfaction in the conduct of the Magistrates in the whole affair.

In order to put Your Lordship in possession of the object of Mr. Macarthur's interview with me, and of the tenor of what conversation did take place at it, I will briefly recall to Your Lordship's recollection the state of the question as it stood between the Magistrates and myself.

The Magistrates at the instance of Dr. Hall had commenced an enquiry into the conduct of Dr. Douglass, who it appears did not think proper to attend to the investigation at the mere verbal requisition of one of the Magistrates. This act of Dr. Douglass was construed by the Magistrates into contempt of their authority, and they entered into Resolutions* which are already before Your Lordship. As the resolutions left me no alternative but that of abruptly dismissing Dr. Douglass from the Magistracy, of whose guilt of the charge imputed to him I was by no means satisfied, or of accepting of their Worships' resignation, I thought I was bound by every fair principle not to condemn a person unheard, merely on account of the number and weight of his accusers, and in thus acting I felt fully Confident of Your Lordship's approbation and support. Under this impression, the letter, 21st August, giving the Magistrates their choice of rescinding the resolution or of sending in their resignation, was written by the Colonial Secretary. In answer to which, I received the Magistrates' Letter, 23rd August, professing every respect for myself, but insisting on the dismissal of Dr. Douglass as the only terms on which they would consent to remain in the commission of the Peace. A Second meeting was held by certain other Magistrates of the Colony, at which the two Judges were present, approving

* Note 154.

of the conduct of their brethren in the case of Ann Rumsby; but I firmly believe it to have been the opinion of every liberal and disinterested person in the Colony, and even of the Magistrates themselves in their cooler moments, that their conduct was ill-judged and improper. In this state of feeling, Mr. Hannibal Macarthur called on me and stated that his brother Magistrates had been actuated by no motive of personal hostility towards myself, but from a sense of what they owed to their private Station and Public Character. In courtesy, I gave him and his Brother Magistrates credit for their professions, and disclaimed on my part any feelings of hostility towards them. I cannot remember the exact expressions, which were used upon either side, after such a lapse of time; but of this I am confident that no offer was made to concede the point at issue between us, and nothing fell from me, which could be construed into a waver of that point. Indeed it was not probable, as it is by no means usual, that I should have adjusted this affair in a private conversation as the whole had hitherto been conducted by written communications.

1825.
5 April.

Interview of
H. Macarthur
with governor.

Before I had the honor to receive Your Lordship's dispatch upon the Subject of the dismissed Magistrates, I had it in contemplation to have restored them gradually to the Bench; but I was unwilling to do so, while a representation from them was pending before Your Lordship, as such a step on my part might have been construed into an apprehension of Your Lordship's disapproval of my conduct. As I now find the only ground upon which they have raised any case is (to apply no stronger term) a great misrepresentation of what took place at a personal interview with one of their Members, I cannot but feel relieved from any doubt as to Your Lordship's ultimate decision; and, acting under that impression, I shall hold out such terms to those Gentlemen, who I think it would be Your Lordship's pleasure I should restore to the Magistracy, which I trust may be accepted without any compromise of principle or feeling on either side.

Proposed
restoration
of dismissed
magistrates
to bench.

I have, &c.,

THOS. BRISBANE.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.
(Despatch per ship Norfolk.)

Sir,

Downing Street, 7 April, 1825.

*7 April.

The House of Commons having voted the sum of £23,934 0s. 0d. for the Civil Establishment of New South Wales and Van Diemen's Land, from the 1st January to the 31 December, 1825, I am directed by Earl Bathurst to enclose for your information a copy of the Estimates upon which the Grant is founded. A few alterations have taken place from the Estimate

Parliamentary
vote for civil
establishment.

1825.
7 April.
Alterations in
the estimates.

of the preceding year. The Salary of the Governor of New South Wales has been increased from £2,500 to £4,200, and an additional salary of £1,000 per annum has been added to the Emoluments of the Lieut. Governor of Van Diemen's Land. Provision has also been made on the Estimate for the Salary of an Archdeacon. The Frequent Representations, which have been submitted to Lord Bathurst of the insufficiency of the former Clerical Establishments in consequence of the rapidly encreasing and wide-spreading Population of New South Wales, have led to the appointment of an additional number of Chaplains for the Service of that Colony, and a proportionate augmentation has also been made to the Clerical Establishment of Van Diemen's Land.

I have, &c.,

R. W. HORTON.

[Enclosure.]

[A copy of the estimates is not available.]

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.

(Despatch per ship Deveron.)

Government House, New South Wales,

15 April.

Sir,

15th April, 1825.

Arrival of flax-
seed in colony.

Destruction of
seed by heating
on voyage.

Seed available
for settlers.

Cultivation
of flax at
Emu plains.

In reply to your different communications, as also those of Messrs. Garry and Curtis, on the subject of the experiment of cultivating flax seed in the Colony, I am sorry to report unfavourably of it, in consequence of its arrival at the worst season, viz. January, when the crops are all reaping, and during which season, it is almost impossible to break up ground by plough or otherwise, and its being also completely destructive to vegetation to sow here during the summer months; the moment the autumn came, I was anxious to commence the experiment, and directed the casks to be opened for the purpose, when it was discovered that the flax-seed had suffered most severely during the voyage from having been heated. In consequence of which, Mr. Berry, a respectable merchant, and the Colonial Botanist were directed by me to hold a survey on it; by which it appears that only one grain out of 150 retains its germinating principle; and as there was no known land in a state to give the experiment its full benefit, I availed myself for that purpose of giving public notice that Settlers might be supplied with a small quantity, who were desirous of entering on the Cultivation of Flax, which seems to succeed here very well, as I had previously to the receipt of your communications, or those of Messrs. Garry and Curtis, had it tried on Emu Plains on a considerable scale, where I have the pleasure to state it succeeded perfectly, and has been subsequently spun into fine linen at the Female Factory.

I beg to add that I have given directions, in conformity to Lord Bathurst's instructions, to remit to the Agent for the Colony, in Payment of Messrs. Garry and Curtis, the sum charged for the flax-seed amounting to £856 16s. 5d. I have, &c.,

1825.
15 April.
Payment for
flax-seed.

THOS. BRISBANE.

[Enclosure.]

MESSRS. FRASER AND BERRY TO DEP. COMMISSARY-GEN. WEMYSS.

Sir, Sydney, 11th April, 1825.

In answer to the request of His Excellency the Governor calling upon us to survey the flax seed imported in "The Ann and Amelia," and report thereon, we had the honor of stating that its appearance indicated a considerable degree of damp, which naturally destroys to a certain degree its vegetative powers; and, since that period, we have tried it in various situations and find that its germinating powers average only one out of one hundred and fifty seeds.

Report of survey
on flax-seed.

We have, &c.,
C. FRASER.
A. BERRY.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 27, per ship Brothers.)

Sir, Downing Street, 16 April, 1825. 16 April.

I do myself the honor of transmitting to you the Copy of a Letter (with its enclosures), which has been addressed to my Under Secretary of State by direction of Mr. Secretary Peel, whereby it appears that John Quin, who was transported in the Minerva in December, 1817, was only sentenced to seven years Transportation, not for life as erroneously stated in the assignment of the Convicts. I have therefore to desire that the Man in question may receive the benefit of this information as early as possible.

Error in record
of sentence on
J. Quin.

I have, &c.,
BATHURST.

[Enclosure.]

MR. G. R. DAWSON TO UNDER SECRETARY HORTON.

Sir, Whitehall, 11 April, 1825.

I am directed by Mr. Secretary Peel to transmit to you the accompanying Copy of a letter, with its enclosure, which has been received from Mr. Gregory; and I am to desire that you will be pleased to move Lord Bathurst to make an early communication of the same to the Governor of New South Wales in order that the person therein named (John Quin) may receive the benefit thereof.

I am, &c.,
GEO. R. DAWSON.

1825.
16 April.

[Sub-enclosure No. 1.]

MR. GREGORY TO UNDER SECRETARY HOBHOUSE.

Sir,

Dublin Castle, 7 April, 1825.

Error in
assignment
of services of
J. Quin.

It appearing that John Quin, who was tried at Armagh Summer Assizes, 1817, and who was returned to this Office as sentenced to Transportation for Life, and so entered in the List annexed to the Warrant transferring the services of the Convicts in the "Minerva" to the Governor of New South Wales, and dated 30th December, 1817, was really sentenced to transportation for seven years, as is substantiated by the enclosed certificate of the Clerk of the Crown of the County of Armagh, I am commanded by the Lord Lieutenant to desire you will signify to Mr. Secretary Peel His Excellency's request that he will give the necessary directions, in order that the Governor of New South Wales may be informed, with as little delay as possible, of the true sentence passed on the convict in question and have the error corrected.

I have, &c.,

W. GREGORY.

[Sub-enclosure No. 2.]

CERTIFICATE OF SENTENCE ON JOHN QUIN.

Certificate of
sentence on
J. Quin.

County of Armagh } SEARCH being made amongst the pleas of
to Wit } the Crown for the County of Armagh, I find
that, at a General Assizes and General Gaol
delivery held at Armagh in and for said County, on Monday the
twenty eighth day of July, one thousand eight hundred and
seventeen, John Quin was in due form of law indicted, tried and
convicted of wilful and corrupt perjury, and thereupon Judgment
was given by the Court that he the said John Quin should
be transported for seven years. All which I certify, this four-
teenth day of March, 1825.

WALTER BOURNE, Clk. Crown.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 28, per ship Brothers.)

17 April.

Sir,

Downing Street, 17 April, 1825.

Formation of
A.A. company.

My Dispatch No. 20 of the 13 July last will already have informed you of the formation of the Australian Agricultural Company, and of the terms upon which it has been considered expedient to give encouragement to this Association.

Charter of
incorporation
for company.

I have now the Honor to inform you that His Majesty has been graciously pleased to grant a Charter of Incorporation to the said Company, dated the 1st November last, for the purpose of enabling them to hold Lands, etc., in New South Wales, and for

other purposes therein stated; and I herewith enclose to you a Copy of the same, duly verified upon oath before one of the Masters in Ordinary of the High Court of Chancery, in order that it may be enrolled in the Supreme Court of New South Wales according to the provisions required by the act of the 5th Geo. 4th, Cap. 86, sec. 3. As the Charter itself specifies the terms, under which the Grant is to be made, and the conditions respecting the levy or redemption of Quit-Rents, the employment of Convicts, and the alienation of any of the Land on the part of the Company at any future period, it will be unnecessary for me to detail them in this Dispatch. I have only therefore to direct your attention to the concluding declaration, and to desire that you will take especial care that in all Grants, which may be made to the Company in pursuance of a Warrant under His Majesty's Sign Manual, the Company be expressly bound to observe and perform the several conditions, Provisions and Restrictions enforced upon them by the terms of the Charter. Mr. Robert Dawson has been appointed the Agent of the Company, to whom you will afford every reasonable facility in prosecuting the objects with which he is proceeding to the Colony.

He will lose no time, after his arrival, in examining the tract of Country, which may be considered most eligible for the proposed undertaking; and I have to desire that as soon as the situation has been fixed upon for the proposed Establishment, that you will make the same known to me, in order that I may take the necessary measures for carrying into immediate effect the Gracious Intentions of His Majesty by submitting a Warrant for the Royal Signature, in pursuance of which a Grant of Land may be made to the Company upon the conditions specified in the Charter.

I have, &c.,

BATHURST.

[Enclosure.]

CHARTER OF INCORPORATION FOR AUSTRALIAN AGRICULTURAL COMPANY.*

GEORGE the Fourth, by the Grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, and so forth, to all to whom these Presents shall come, Greeting:

Whereas in and by a certain Act of Parliament, made and passed in the fifth year of Our Reign, entitled "An Act for granting certain powers and authorities to a Company, to be incorporated by Charter, to be called 'The Australian Agricultural Company' for the Cultivation and improvement of Waste Lands in the Colony of New South Wales, and for other purposes relating thereto"; After reciting that there are in the Colony of

1825.
17 April.

Copy transmitted to be enrolled in supreme court.

Instructions re land grants to company.

Appointment of agent for company.

Locality for grant to be selected by R. Dawson.

Charter of incorporation for Australian agricultural company.

Recitation of statute 5 Geo. IV cap. lxxxvi.

1825.
17 April.

Charter of
incorporation
for Australian
agricultural
company.

Recitation of
statute 5 Geo. IV
cap. lxxxvi.

New South Wales divers waste lands, which might be cultivated to advantage, if sufficient Capital were raised and advanced for that purpose, and that there are in the said Colony a large number of Convicts, who are at present maintained at the public Expence, but who might be advantageously employed in the Cultivation of such waste Lands as aforesaid, and thereby a considerable annual saving would accrue to the public, and that divers persons are willing to contribute and raise by subscription among themselves such a Capital sum as will be necessary for bringing into cultivation such of the Waste Lands, as We may be pleased to grant to them, and for the employment thereon of a large number of Convicts; and further reciting that the beneficial Objects aforesaid cannot be effectually attained, unless we should be pleased by our Charter to constitute and declare the Persons aforesaid one body Politic and Corporate; It is enacted that in case we shall, within three years after the passing of the said Act, be pleased, by Charter under the Great Seal of Great Britain, to declare and Grant that such and so many persons, as should be named thereon, and all and every such other person, as from time to time shall be duly admitted Members into their Corporation, shall be a Body Politic and Corporate, by the name of the Australian Agricultural Company, and to declare that the said Corporation, so to be made and created, shall be established for the purpose of Cultivating Waste Lands in the Colony of New South Wales; then and in that case it shall and may be lawful for the said Corporation to hold to them and their Successors such Lands, Tenements and Hereditaments, within the said Colony of New South Wales as shall or may be granted by Us to them and their Successors within the said Colony, or as shall be contracted for and purchased, or acquired by them therein, and to hold, alienate, sell and dispose of all such Lands, Tenements and Hereditaments, upon, under and subject to such Conditions, Provisos, Limitations and restrictions, as we by Our Charter may impose, direct or prescribe; and, in and by the said Act, provision is made for the Government, and for the due management and regulation of the affairs of the said Company, Now Know ye that we, of Our Especial Grace, mere motion, and certain knowledge, have granted and declared, and by these presents Do grant and Declare, that John Smith, William Manning, Cornelius Buller, John Baker Richards, William Astell and Campbell Marjoribanks, Esquires, and all and every such other person or persons as from time to time shall be duly admitted Members into their Corporation, shall be a Body Politic and Corporate by the name of "The Australian Agricultural Company"; and by that name shall have perpetual succession and a

Incorporation
of company.

Common Seal; and by that name shall and may sue, and be sued, plead and be impleaded at Law or in equity; and we do hereby declare that the said Corporation shall be and is established for the purpose of Cultivating Waste lands in the said Colony of New South Wales; and that the business and affairs of the said Corporation shall be managed and conducted and the Officers thereof elected and appointed in the manner and form in and by the said Act of Parliament provided in that behalf, and in none other; and we do hereby further declare that all such Lands, Tenements and Hereditaments within the said Colony, as shall or may be granted by Us to the said Corporation and their Successors within the said Colony, or as shall be contracted for and purchased or acquired by them therein, shall be held, alienated, sold and disposed of upon under and subject to the Conditions, Provisions, limitations and restrictions following, that is to say:—

1825.
17 April.

Charter of
incorporation
for Australian
agricultural
company.

Objects and
management
of corporation.

Firstly. That all Grants of Land in the said Colony, which may be made to the said Company by Us, Our Heirs and Successors, shall be passed under the Great Seal of the said Colony, in pursuance of such Warrants under our Royal Sign Manual as may for that purpose be issued by Us through one of Our principal Secretaries of State.

Method of
granting lands
to company.

Secondly. That, for and in respect of all such Lands within the said Colony as may be granted by Us, Our Heirs and Successors, to the said Company in fee simple, to be holden by them in Free and common Soccage, there shall be reserved and paid and payable to Us, Our Heirs and Successors, an annual Quit-rent, which shall amount to the sum of Thirty Shillings and no more for each and every parcel of the said Lands of the value of one hundred Pounds Sterling; and that each and every acre of the said Lands shall for the purpose of calculating the amount of such Quit-rent be taken and estimated as of the value of one Shilling and sixpence Sterling and no more.

Quit rent
to be paid
by company.

Thirdly. That no quit-rents shall accrue due or be payable by the said Company, for or in respect of any such Lands as aforesaid, during the term of Five years to be computed from the date and execution of any Grant and in which such Lands may be so granted.

Exemption
from quit
rent for
five years.

Fourthly. That, upon giving one Month's notice in writing under Common Seal to the Governor of the said Colony, it shall be lawful for the said Company to redeem the said Quit-rent or any part thereof upon payment into Our Treasury, in British Sterling Money, of a Capital sum, equal to twenty times the amount of the Rent so to be redeemed; Provided always that the redemption of any portion of the said Quit-rents shall not

Redemption
of quit rents.

1825.
17 April.

Charter of
incorporation
for Australian
agricultural
company.

Convicts to be
employed by
company.

Superintendents
of convicts.

Prohibition of
dealing in
lands for
five years.

Tenure of land.

Conditions to be
fulfilled before
alienation of
lands.

exonerate or discharge any part of the Lands to be Granted to the said Company from the payment of the whole or any part of the Quit-rents remaining unredeemed.

Fifthly. That the said Company shall employ upon the Lands, so to be granted to them, such a number of Convicts as shall at the least be equal to the number of free Labourers employed, if the Governor for the time being of the said Colony shall be able and willing to supply a sufficient number of Convicts for that purpose.

Sixthly. That the said Company shall at their own expence employ fit and proper persons, not being or having been Convicts, to act as Superintendents of the Convicts, so to be employed by them, in the proportion at the least of one such superintendent to every fifty Convicts.

Seventhly. That no land granted to the said Company by Us, Our Heirs and Successors, shall by the said Company be granted, bargained, sold, conveyed, demised or alienated, for and during a period of five years to be computed from the date of the Grant in which any such Lands may be comprized, and if any such Grant, bargain, Sale, Conveyance, Demise or alienation shall, during any such period as aforesaid, be made or executed the Lands therein comprized shall be and become absolutely forfeited to and vested in Us, Our Heirs and Successors.

Eighthly. That the Lands to be granted to the Said Company by Us, Our Heirs and Successors, shall be held by them in Mortmain, and be absolutely inalienable by them, except upon the terms and conditions following:—that is to say, that it shall be Lawful for the Governor and Legislative Council of the said Colony and they are hereby required, upon application to them for that purpose made by the said Company, to direct the Surveyor General for the time being of the said Colony to enquire and report whether the sum of Ten thousand Pounds Sterling hath been laid out and expended by the said Company in the formation of roads, the erection of buildings, the Cultivation, clearing, fencing, draining or other improvements of any such Lands, and, if the said Surveyor General shall report to the said Governor and Council that the sum of Ten thousand pounds Sterling hath been so expended, it shall be and become competent to the said Company without licence from Us, Our Heirs and Successors, to alienate and convey in fee simple, but subject to the Quit-rents aforesaid, any part or parts of the Lands granted to them not exceeding Fifty thousand acres in the whole, and such and the same proceedings shall from time to time take place upon each successive application of the said Company for the purpose aforesaid to the said Governor and Council; and.

upon each successive report, so made as aforesaid, of the further expenditure upon any such Lands of any further sum of Ten thousand Pounds, the said Company shall be and become competent to alienate Fifty thousand Acres, or any smaller quantity of the Lands to be granted to them, until one moiety or equal half part of such Lands shall in manner aforesaid become alienable; Provided always that such Report as aforesaid shall be enrolled in the Supreme Court of Justice of New South Wales; Provided also that it shall be lawful for the said Company to alienate any of the Lands to be granted to them upon obtaining a special Licence for that purpose through one of Our principal Secretaries of State.

1825.
17 April.

Charter of incorporation for Australian agricultural company.

Conditions to be fulfilled before alienation of lands.

Provided further that every Grant or Conveyance of Lands to be made by the said Company shall be absolutely null and void, unless the same shall expressly refer to and peculiarize the Surveyor General's Report or the Licence from Us (as the Case may be), under the authority of which the same may be so granted or conveyed. Provided, Nevertheless, that nothing herein contained shall extend to or prevent any demise of any such Lands, made by the said Company for any term not exceeding Twenty one years without any Covenant of renewal, so as that not more than one moiety of the Lands, so to be granted as aforesaid, be demised within twenty years next succeeding the date of any such Grant.

Power to lease for twenty-one years.

Ninthly. That the quit-rents to accrue due upon any lands to be granted to the said company by Us, Our Heirs and Successors, for and during the term of five years to commence and be computed from and after the expiration of the first five years next following the date of any such Grant, shall not be actually collected and received until the expiration of such second term of five years; and that at that time all Quit-rents then due and in arrear by the said Company shall be remitted, if six hundred Convicts shall have been regularly employed and maintained by the said Company for and during the greater part of such second term of five years.

Collection of quit rents at end of ten years.

Conditional remission of quit rents.

Tenthly. That the said Quit-rents, to accrue due for and during the further term of five years to commence and be computed from and after the expiration of the second term of five years next following the date of any such Grant, shall not be actually collected and received until the expiration of the second term of five years next following the date of any such Grant, shall not be actually collected and received until the expiration of such third term of five years, and that at that time all quit-rents, accrued, due and then in arrear by the said Company in respect of such third term of five years, shall be remitted if one thousand

Collection of quit rents at end of fifteen years.

Conditional remission of quit rents.

1825.
17 April.

Charter of
incorporation
for Australian
agricultural
company.

Collection of
quit rents
at end of
twenty years.

Convicts shall have been regularly employed and maintained by the said Company for and during the greater part of such third term of five years.

Eleventhly. That the said Quit-rents, to accrue due from and during the further term of five years to commence and be computed from and during the expiration of the third term of five years, next following the date of any such Grant, shall not be actually collected until the expiration of the said term of five years, and that at that time all Quit-rents, accrued, due and then in arrear by the said Company in respect of the said term of five years, shall be remitted if one thousand four hundred Convicts shall have been regularly employed and maintained by the said Company for and during the greater part of such term of five years.

Remission of all
future quit rents
by expenditure
of £100,000
on convicts.

Twelfthly. That, if at any time within twenty years next after the date of any such Grant, it shall be made to appear to the satisfaction of Us, or of Our Governor for the time being of the said Colony, that the said Company hath by the employment of Convicts exonerated Our Treasury from a charge equal in the whole to the sum of one hundred thousand pounds Sterling, then the Lands which may, by Us, Our Heirs and Successors, have been granted to the said Company, shall be for ever discharged of and from the Quit-rents originally charged thereupon; and in calculating the amount of the sums from which Our said Treasury has been so exonerated, it shall be assumed and taken that the said Treasury has saved the sum of twenty pounds Sterling for each and every Convict, who shall appear to have been maintained during one whole year by the said Company. And We do further Declare that, in any Grants to be made to the said Company of any Lands situate in the said Colony, all necessary Covenants shall be made and entered into by the said Company for insuring the due observance and performance on their part of the several Conditions, provisoes and restrictions aforesaid.

In Witness whereof we have caused these Our Letters to be made patent.

Witness Ourselves, at Our Palace at Westminster, this first day of November in the fifth year of Our Reign.

By immediate Warrant,

SCOTT.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 29, per ship Brothers.)

5 May.

Sir,

Downing Street, 5 May, 1825.

Nomination of
H. G. Douglass
for military
duty.

In consequence of the announcement in the London Gazette of the 5th March last that Mr. Henry Grattan Douglass had been nominated to the 12 Regt. of Foot, and not being aware, at the time I appointed him conditionally to the situation of

Clerk of the Council at New South Wales, of the circumstances which rendered him liable to be called to attend to the duties of another Service, I deemed it right to refer to the department of the Secretary at War for information on that point. The enclosed letters, which are transmitted for your Excellency's Information, have been received in answer from that office and the Army Medical Board by my Under Secretary of State.

As the gross breach of Military Discipline, of which Mr. Douglass has been guilty, has been already visited by as strong a mark of His Majesty's Displeasure as is usually applied upon such occasion, I shall not adopt any severer measures with respect to him; but I request that you will intimate to Mr. Douglass that I expect he will explain his conduct in neglecting to take notice of the frequent notifications, which appear to have been addressed to him by Sir James Macgregor, some of which must necessarily have reached him, and that I cannot but feel greatly surprised that, notwithstanding the frequent Interviews which were held with him at my Department previously to his embarkation for the Colony, he should not have thought it necessary to mention the situation, in which he stood in relation to his professional duties and his liability to be recalled to the Military Service.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

MR. W. MERRY TO UNDER SECRETARY HORTON.

Sir, War Office, 26 April, 1825.

Your letter of the 31st Ult. relative to Assistant Surgeon Douglass having been referred to the Army Medical Department, and an answer, of which the enclosed is a copy, having been received stating that, when gazetted to full pay in the 12th Foot, he had left London without any apology or explanation, and had repeatedly neglected to reply to the official letters apprizing him of his recal to the Service, I am directed to acquaint you, for the information of Earl Bathurst, that under these circumstances it was deemed proper that Mr. Douglass should take the consequences, which attach to the neglect or refusal to serve again in the Army when called upon, and that he has accordingly been superseded with the forfeiture of his half pay.

I have, &c.,

W. MERRY.

[Enclosure No. 2.]

SIR JAMES MCGREGOR TO MR. WILLIAM MERRY.

Sir, Army Medical Department, 15 April, 1825.

I have the honour to acknowledge the receipt of your Letter of the 13th Instant, with the accompanying copy of a Letter from the Office of the Secretary of State for the Colonial

1825.
5 May.

Censure of
H. G. Douglass
for breach of
military
discipline.

H. G. Douglass
superseded,
and half-pay
forfeited.

1825.
5 May.

Department, respecting the appointment of Assistant Surgeon Henry G. Douglass to full pay on the 18th Inst., and requesting to be furnished with a report thereupon.

Report re
H. G. Douglass
from army
medical
department.

In reply, I beg leave to state, for the Secretary at War's information, that in the first place Dr. Douglass went abroad without regular permission, and a considerable period elapsed before his place of residence could be ascertained, notwithstanding repeated notices that his Services would be required were sent to his Agent and to his former address in Ireland. As soon as it was known that he was in New South Wales, letters were addressed to him there. When he was lately in London, he was again warned for Service, and told that he would be immediately Gazetted, and that, if he did not then join, he would be superseded. He was also seen by me and personally informed that I had no power to excuse him; after all when Gazetted, this Gentleman left London without sending any letter in explanation.

I have, &c.,

J. MCGREGOR, Director General.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch marked "Private," per ship Brothers.)

Sir,

Downing Street, 5 May, 1825.

Land to be
granted to
J. Robson.

I have received the directions of Earl Bathurst to transmit to you the enclosed application from Mr. Waithman in behalf of Mr. Robson of Sydney, who is desirous of being confirmed in a grant of 1,360 acres, which appears to have been reserved by your Excellency for him, until orders from home; and I am to request that you will cause the Land in question to be permanently allotted to that Gentleman, should the improvement, which he has made in his previous Grant, give him a claim to this indulgence.

I remain, &c.,

R. W. HORTON.

[Enclosure.]

MR. R. WATHMAN TO UNDER SECRETARY HORTON.

Dear Sir,

Winchmore Hill, 3rd May, 1825.

Application for
land grant to
J. Robson.

I should not deem it necessary to remind you of my application for a grant of land to Mr. Jno. Robson at Sydney, as I have no doubt, from your known correctness and attention, you would not suffer it to escape you; but I hope you will not consider me troublesome in stating that I have just received letters from him, giving a most flattering account of his success and prospects, and also inclosing a remittance for his sister, which is a practical proof of his success; this, as well as what I hear from other quarters, convinces me that he is deserving of your attention, and I hope will induce you to comply with his wishes. I beg to

give you the following extract from one of his letters. "In my last, I made a request to you to endeavour to procure me an order for land; since writing, the Government have given me 640 acres, and ordered a further portion of 1,360 Acres to be reserved for me, until I can obtain an order from home. I have therefore selected 2,000 Acres, and I have no doubt, being established in business, the full will be granted to me; but to provide against mischances, I should feel obliged by your applying to the Colonial office for a special order for 1,360 acres, which I at present hold during pleasure."

Mr. Robson is highly respected in the Colony, and has been noticed by the Governor, with whom he has dined. Mr. Icely, who is now here, speaks very highly of him, and would satisfy you in every particular; under these circumstances, I trust you will feel no difficulty in complying with my request.

I have, &c.,

ROBT. WAITHMAN.

1825.
5 May.

Application for
land grant to
J. Robson.

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.

(Despatch per ship Deveron; acknowledged by under secretary Hay to Governor Darling, 5th November, 1825.)

Government House, New South Wales,

Sir,

13th May, 1825.

13 May.

In reply to your Letter of the 18th July, 1824, enquiring, by desire of Lord Bathurst, after a Person named George Wesson, I have the honor to transmit to you for the information of His Lordship the copy of a communication from the Colonial Secretary on the subject.

Report re
G. Wesson.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

SECRETARY GOULBURN TO SIR THOMAS BRISBANE.*

Sir, Colonial Secretary's Office, 9th April, 1825.

The George Wesson, Ship *Lord Eldon*, to whom the enclosed letter from Mr. Wilmot Horton refers, was Sentenced on the 26th of last February by the Quarter Sessions at Parramatta to transportation for three years, and at the present moment is at Port Macquarie.

Trial and
conviction of
G. Wesson.

I have, &c.,

F. GOULBURN.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 53. per ship Deveron.)

Government House, New South Wales,

My Lord,

14th May, 1825.

14 May.

In pursuance to the instructions contained in your Lordship's Dispatch No. 24 of the 22nd July, 1824, received by the Granada, 23rd January, 1825, directing me to report upon the

* Note 155.

1825.
14 May.

Measures
adopted
pursuant
to report of
J. T. Bigge.

Delay caused
by want of
legislative
authority.

measures, which had been acted upon, or in progress of being carried into effect in the Colony, pursuant to your Lordship's Dispatch,* founded on the recommendation of the Commissioner of Enquiry in his investigation on New South Wales, I have the honor to transmit the same for your Lordship's information. I beg to observe that there are several points recommended by the Commissioner requiring Legislative Authority, which had been retarded from a peculiar circumstance. Until the arrival of Colonel Stewart, the Lieutenant Governor, an opinion prevailed that, according to the Council Clause of the Act of Parliament, four members *only* having notice, could not legally be held,† and therefore under this impression I felt a delicacy in pressing upon the Council any subjects which were not of daily business, or matters of emergency did not require. This will therefore account to your Lordship for the delay in carrying into effect many of these measures, and at the same time explain why a greater number of Acts have not passed the Council, since the promulgation of the names of the Members in September down to the present period. In the meantime, enquiries have been always proceeding upon many important subjects, which will soon come before the Council; And I must be permitted to say that the delay in my opinion has not been without advantage, in the opportunity it has given to the Officers employed by me in canvassing and gaining information on the subjects of some new Laws.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

ABSTRACT

Comments by
Sir T. Brisbane
on measures
recommended
by J. T. Bigge.

Of the heads of the three Reports on New South Wales, submitted to Parliament by Mr. Commissioner Bigge, and the comments on each by His Excellency Sir Thomas Brisbane, K.C.B. &c. &c. &c.

THE mark (No. 7) denotes that the Subject was alluded to in a former Dispatch, No. 7 of 1823, to Earl Bathurst, dated 28th April, 1823.

(Pages 13 and 156).—The Anchorage of Convict Ships between Dawes' Battery and the New Fort, and that communication between the Inhabitants and Convicts on board be not allowed?

Strictly complied with in every instance (No. 7).

(14 and 157).—Enquiries of the Secretary into the Conduct of the Master and Surgeon during the passage?

Acted upon as already reported (No. 7).

That the Muster of the Convicts and its accuracy are of the first importance?

Duly attended to as reported (No. 7).

Management
of convicts
on arrival.

* Note 156.

† Note 157.

(15).—That the Governor has been in the habit of addressing the Convicts at their inspection, on arrival, and assuring them that no retrospect will be had to crimes?

Duly attended to as reported, except that, in regard to a retrospect, no reference has been made to its not being had (No. 7).

(16 and 17).—That Convicts' clothes and Bedding be taken care of on their landing, and that money belonging to individuals be deposited for the ultimate use of the Party?

Complied with as far as practicable (No. 7).

(17 and 19).—Objections to the Monopoly of Mechanics and useful persons on the part of the Crown?

These objections no longer exist (No. 7).

(18).—Objections as to the mode of remuneration of Convict Clerks and Overseers by the Assignment to them of working Convicts?

Objections totally removed (No. 7).

(18).—As to applications being made to the Principal Superintendent instead of the Colonial Secretary?

These no longer apply in the new System of Regulations.

The propriety of a different treatment of those transported a second or third time?

Invariably removed on a second or third Offence to a penal settlement; but, perhaps the Sentence in England might direct this with many advantages (No. 7).

(29, 30, 31, 39).—The Difficulties and Danger of the System of taskwork in the different Gangs?

Entirely removed as appears by the new Arrangements of the Chief Engineer (No. 7).

(32).—The necessity of the Chief Engineer, Superintendent of Convicts, and Colonial Architect visiting all working Parties?

Regularly attended to as far as is practicable, with regard to the Chief Engineer, in the distant districts; and effectually as far as regards other Officers (No. 7).

(33).—That the classification with reference to crime be carried into effect with the Men as well as Boys?

Attended to as far as practicable.

(34, 35).—That Corporal Punishment should not be inflicted when milder means can be resorted to with due effect?

System of Corporal punishment much abridged by milder means and with advantage.

(36).—The Superintendent to have a view of the Convicts at Church?

Pew of the Superintendent in the new Church placed for that purpose.

1825.
14 May.

Comments by Sir T. Brisbane on measures recommended by J. T. Bigge.

Management of convicts on arrival.

Management of convicts after arrival.

1825.
14 May.
Comments by Sir T. Brisbane on measures recommended by J. T. Bigge.
Agricultural establishments.
Duties of R. Fitzgerald.
Treatment of educated convicts.
Payments in Tasmania.
Separation of convicts.
Lodging of convicts on arrival.
Decoration of public buildings.
Registration of convicts.
Incompetence of W. Hutchinon.
Passes for convicts.
Cash payments to superintendents.
- The depositing of their Clothes and Books in Hyde Park Barrack?
Duly attended to.
Expenditure and Employment of Stores to be accounted for by Overseers?
Duly attended to
(37).—That Agricultural Establishments should be encouraged.
Refer to report on clearing gangs and on the effect of these establishments; and an experiment has been begun by a competent person, Mr. Busby, the author of a treatise printed in Sydney, which will be transmitted to Your Lordship (No. 7).*
(39, 41).—Comments on the Incompatibility of the duties performed by Mr. Fitzgerald at Emu Plains with those at Windsor?
This office renewed in 1822.
(41).—Recommending light manual labour for Convicts of Education, in preference to their being employed as Clerks or Compositors?
Generally sent to Bathurst far removed from temptation.
(46 and 47).—The evils arising from the System of paying extra wages, or Services, in Rum or Sugar, at Van-dieman's Land?
Never done here, now no longer at Van Dieman's Land.
(48).—How far the opinion is correct, that it is more desirable to separate Convicts than to Confine them indiscriminately?
The less Convicts are congregated together the better their moral State of improvement.
The necessity of providing them a lodging on their landing?
The diminution of numbers of Convicts generally in Sydney has left the Prisoners' Barracks capable of holding such Men as are not forthwith distributed among the Settlers.
(50).—Comments on the propriety of discontinuing any ornamental work in the Public Buildings,† until those of more immediate utility are completed?
Objections totally removed (No. 7).
(128).—The great defect in the present mode of registering Convicts, with the difficulty of identifying them?
The Suggestion adhered to, and the Prisoners can now be more easily traced than formerly.
(53 and 54).—The incompetence of Mr. Hutchison to execute the duties of all his Offices?
Mr. Hutchison removed; objections no longer exist.
(54).—A change recommended in the System of granting passes to Convicts on Sundays?
This System new modelled.
(58, 59, 60).—Recommending money payment to Superintendants instead of remuneration by rations?
In full operation.

* Note 158.

† Note 159.

- (61).—Remarking the impropriety of taking the spare Clothing from the Convicts on their arrival?
The course no longer exists.
 (63, 64, 65, 66).—The Commissioner's general remarks upon the Subject of rations?
*Rations have been recently newly arranged by boards assembled for that purpose, as appears by the accompanying regulations.**
 (65).—The necessity of preventing the supply of Vegetables to the Convicts' Barracks, from Major Druitt's and the Military Garden?
Entirely removed.
 (67).—Suggestions on the propriety of concentrating the working parties, in as much as it facilitates Superintendance?
Duly attended to.
 Detection of Overseers conniving at the absence of Convicts from work?
Every possible steps taken to prevent the evil.
 (76).—The expediency of not entrusting Convicts as Servants to any but opulent Settlers?
The general principle followed as far as circumstances of expediency will admit.
 (78, 79).—Objections to the Sunday Musters when entrusted to the District Constables?
The Country Sunday Musters done away with, and only the Convicts in Government employment mustered at all. They are always mustered by their Sup'ts previous to going to Church or chapel.
 (85).—Remarking that the Medical Stores in the General Hospital are applied to the use of Persons, who can afford to pay for them?
Discontinued.
 (98).—The necessity of Alphabetical references, to the names of Convicts, in the annual record Books of the proceedings before the Magistrates?
Duly attended to and a better System exists.
 (100).—Inconvenience of not sending Certificates of the period of transportation fixed by their Sentences in Great Britain, with the Convicts sentenced to the Coal River.
Now duly attended to, and no irregularities exist on this head.
 (106, 107).—Comments on the inefficiency of District Constables, and the importance of paying them with regularity?
Duly attended to, and general System of Police under arrangement.
 (117).—The impropriety of the Convicts at the Coal River becoming Agricultural Settlers?
Objection totally removed.

1825.
 14 May.

Comments by
 Sir T. Brisbane
 on measures
 recommended
 by J. T. Bigge.
 Rations
 for convicts.

Concentration of
 working parties.

Misconduct
 of overseers.

Assignment of
 convict servants.

Musters of
 convicts.

Medical stores.

Alphabetical
 references to
 convicts.

Certificates
 of sentence
 on convicts.

District
 constables.

Convicts at
 Newcastle
 as settlers.

* Note 160.

1825.
14 May.
Comments by Sir T. Brisbane on measures recommended by J. T. Bigge.
- (119).—The allotment of one Day in each Year for preferring applications for remissions of Punishment?
Applications received at all times (No. 7).
- (120, 121).—That the terms of Certificates, specified in the orders of 1813, are not strictly complied with in consequence of the inattention of the Magistrates?
Now regularly adhered to.
- Pardons and tickets of leave.
- (122).—The system pursued in granting Conditional Pardons, Emancipations and Tickets of Leave, with the necessity of careful reference to the records of Criminal Proceedings, previous to the issue of such Pardons or Remissions of Punishment?
Attention to moral Character and Certificates most rigidly adhered to, before any indulgence or remission can be given; except in rare instances in which, in my judgment the general conduct of the Individual weighed sufficiently against an occasional Observation.
- Remission of sentences to convicts on Bathurst road.
- (124).—Remissions of Sentence to the Convicts employed on the Bathurst road, where the motives of recommendation appear suspicious?
No longer exists.
- L. Halloran and his school.
- (127).—Recommending that no further indulgence be given to Lawrence Halloran, and that the Local authorities institute occasional enquiries into the management of his School?
No additional indulgence has been granted to Lawrence Halloran, and his School is managed with much credit to himself; little visitation can be made.
- Ticket of leave given by W. Cox.
- (128).—The fact stated of Mr. Cox having bartered a Ticket of Leave for work?
Circumstance alluded to, previous to my arrival in the Colony, and never brought before me.
- Tickets of leave.
- (131).—The necessity of regulating the mode of granting Tickets of Leave.
A Regular System pursued (No. 7).
- Surgeon's report on convicts.
- (156).—Concerning the report of the Surgeon Superintendent as to the Conduct of Convicts during the passage?
Always regularly required and examined into (No. 7).
- Assignment of convicts.
- (157, 158).—That no Settler having less than 50 Acres of Land should have a Convict assigned to him?
Attended to as far as expediency will admit.
- Custody of money of convicts.
- (158).—That the funds of Convicts should be placed in the Sydney Savings Bank?
Regularly attended to as much as possible, but little is deposited (No. 7).
- Assignment of mechanics.
- That a proportion of Mechanics be assigned to each Settler, and that such Settler be obliged to take inferior Convicts?

New System of Bonds for Mechanics by Settlers submitted for Your Lordship's approval in former dispatches. Copy herewith transmitted.*

1825.
14 May.

Comments by Sir T. Brisbane on measures recommended by J. T. Bigge. Manufactures.

(158).—The inexpediency of encouraging Manufactures in the Towns?

My opinion is quite in unison with Your Lordship's and Mr. Commissioner Bigge's, and has been acted upon accordingly.

(159).—Process for clearing the ground of Stumps and Roots, and the description of Convicts for that work?

Clearing of land.

System of clearing stumps &c. perfectly understood in this Country, and duly enforced.

(161).—That Settlers, having Stations for feeding Sheep in the interior, should have a free and unconvicted person as a resident Overseer?

Overseers on sheep stations.

System has a tendency to correct the evil complained of, but some of the large Stock holders will trust a Convict in preference to the freemen they get here.

(163).—The expediency of withdrawing the worst classes of Servants from Agricultural Settlers?

Servants to settlers.

The administration of the Law provides for this evil in some respects, and perhaps more of the better class of Men are in the hands of the Settlers than at any former period.

That Buildings should be erected to employ Mechanics at Sydney and Parramatta; and that a number of Mechanics be retained in the Service of Government in each Town?

Employment of mechanics.

Duly attended to, and for the proportion of those now in the employ of Government compared with those of 1821, See accompanying Return (No. 7).*

That the best conducted Convicts be selected for the Hospital and Commissariat?

Treatment of well-conducted convicts;

Duly attended to.

That the Old Men and Boys remain in Sydney, the latter to be confined to the Carters' Barracks and instructed in trades, and afterwards assigned to Settlers?

and of aged and youthful convicts.

Uniformly adhered to.

(166).—The necessity of an entire change in the System of Superintendance of Convicts, and that local Superint's should have a proportion of the profit of the produce sold for the benefit of Government?

Commission to superintendents.

Duly attended to, in reference to Regulations on that head.

(163).—Suggestions on the expediency of Convicts being separated (where it is practicable) from the general mass of Population?

Segregation of convicts.

Duly attended to as far as the nature of their employ will admit.

1825.
14 May.

Comments by
Sir T. Brisbane
on measures
recommended
by J. T. Bigge.

Management of
female convicts.

(165).—Suggestions on the arrival, inspection, distribution and management of the Female Convicts, with the impropriety of giving them Tickets of Leave on their arrival, and the necessity of their landing in the dresses provided by the Navy Board; that all applications for Servants be addressed to the Colonial Secretary, and that, on their removal from Sydney to Parramatta, The Superintendent of the Factory be instructed to accompany them?

All these suggestions are minutely attended to; and, with the view of perfect classification, an addition to the Factory to contain Sixty Women will be completed in two months, in which building will be confined those Sentenced by Magistrates for crimes committed after their arrival, and whose situation will be more of restraint than the other Women, and all indulgences of Tea, Sugar &c. withheld (No. 7).

(168).—The absolute necessity of establishing a classification of Female Prisoners at Parramatta, and that the future assignment of Servants to Settlers be regulated by the joint discretion of the Magistrates at Parramatta and the Female Superintendent there?

Necessity fully apparent and means are in progress to enable me to accomplish it (No. 7).

Assignment of
well-behaved
convicts.

That Convicts be not retained in the Service of Government, whenever their good Conduct should partly entitle them to the advantage of a favourable location with individual Settlers, or to any remission of Punishment?

All Convicts prefer their claim on the principle of the Regulations laid down respecting indulgencies.

Issue of
tickets of leave.

(169).—That the lapse of a certain period be necessary to entitle the Convict to prefer his claim for a Ticket of Leave, and that, upon being refused, he be informed of the general nature of the objection.

Uniformly adhered to as adopted in the accompanying regulation, published for general information, and acted upon, to show the Convict the grounds of refusal.

Wages for
convicts.

(168).—Suggestions for consideration whether the System of Annual Wages is compatible with the Penal Services demandable from a Convict in a State of Punishment?

An equivalent given to Convicts in Govt. employ in provisions, and is paid to them by Overseers, and is found to be attended with good effect; and, it is now under consideration how far Govr. Macquarie's order, referred to in the report on this Subject, can be best qualified.*

Issue of
tickets of leave
to convicts
on arrival.

(170).—That no Ticket of Leave be granted on arrival, except on the recommendation of the Secretary of State?

None has ever been granted.

That the practice of assigning Convicts to Magistrates, Clerks, and Overseers be limited to the former?

New regulations forbid this System.

That the names of Convicts having Tickets of Leave and Pardons be published in the Sydney Gazette?

Regularly published (No. 7).

That detailed accounts of all remissions should be sent home periodically?

Has been done in conformity to Act of Parliament.

(171).—That no other claim for a Ticket of Leave should exist than good Behaviour; and that Convicts merely holding them be not permitted to acquire property?

No other claim ever recognized, but gallant conduct in apprehending Robbers and giving information of great crimes has sometimes obtained this and even Emancipation, when strongly recommended by Magistrates.

(172).—That Convicts be made to understand that conviction before the Magistrates will form an impediment to a remission of Sentence, and that no personal Services will ever again be permitted to form a ground for such indulgence?

New regulations prescribe this as an indispensable requisition, with rare exceptions.

(173).—Stating that the grants of Land given to emancipated Convicts has been abused, and that no Grants, beyond 10 Acres, be in future given unless to those possessed of Property?

Attended to as far as considered expedient to due encouragement to that class of Inhabitants, combined with the means they possess of doing Justice to a Grant of Land.

That the period of affording Rations to Convict Settlers be extended from Six to twelve Months?

Six Months being considered a fair period has consequently been acted upon.

That the Certificate of a Magistrate or Chaplain as to the good Conduct of a Convict, on which some remission be founded, might be dispensed with.

Such Certificates have always been required previous to obtaining any indulgence.

(2d. Rt. P. 13).—That the Schedule of Fees of the Provost Marshall be referred to the Judge for revisal, for proportionate augmentation in certain cases there stated.

Office of Provost Marshall no longer exists, and the Sheriff's fees have been fixed by the Chief Justice.

(59).—That the Schedule of fees, by which the charges of Solicitors are now regulated, be reduced?

Referred to the Chief Justice.

1825.
14 May.

Comments by Sir T. Brisbane on measures recommended by J. T. Bigge.

Returns of pardons and tickets of leave issued to convicts.

Tickets of leave.

Effect of convictions by magistrates.

Land grants to emancipists.

Rations for convict settlers.

Certificates of good conduct.

Fees for provost-marshall;

and for solicitors.

1825.
14 May.

Comments by
Sir T. Brisbane
on measures
recommended
by J. T. Bigge.
Returns of
persons dying
intestate.

That the fees, now payable to the Registrar, be accounted for upon oath to the Treasurer of the Police Fund, from whence a competent and fixed annual Salary be assigned to the registrar not exceeding £400?

New appointment.

(60).—That the Registrar of the Ecclesiastical Courts be required to transmit to the Agent of the Colony a list of all persons dying intestate in the two Colonies, together with an inventory of their effects and that to him be addressed all enquiries of relations concerning the same?

This will be attended to.

Allowances
and wages for
constables.

(61, 62).—That the remuneration of District petty Constables be reduced to a Single Ration, 7 lbs. of Meat and 7 lbs. of Flour weekly, with an annual allowance of £20 paid quarterly to the District Constables, and £10 and certain Clothing to the petty Constables?

Has been acted upon for some time past, and the remuneration of Constables again under consideration.

Removal
of convicts.

(63, 64).—That the regulations respecting the removal of Convicts from one Master to another, or from one district to another, be more exactly and carefully enforced?

Due attention is uniformly paid to this.

Regulation of
liquor traffic.

(65 to 71).—On the System of granting licenses to Publicans and the necessity of every restraint on the immoderate use of Spirits that can be effected?

Restraint imposed by an act of Council, of which a Copy will be transmitted with the other acts.*

Registration of
carts and houses.

(71).—That the names of the owners of Carts and boats be exhibited upon them; and the numbers of each House in the Towns?

Duly attended to and fines levied for non-compliance, and the old orders about to be perpetuated by an act of the Governor in Council.

Observance of
the Sabbath.

That Regulations be enforced for the due observation of the Sabbath?

The Sabbath reverently observed in all the different Townships, and suitable guards about to be laid before the Council.

Issue
of copies of
information.

(74).—The impropriety of allowing parties under prosecution to obtain copies of the informations taken by the Magistrates, from the office of their Clerk?

Abuse no longer prevails, from the improvement of the Character of the new free Clerks.

Departure of
passengers and
ships' crews.

(79).—The Muster of Ships' Crews by the Colonial Secretary, and that the Passengers repair to his Office to have their names inserted in the clearance before the Vessel weighs Anchor.

*Legalized totally by an act of Council.**

(Vide 3 rt., P. 55).—That the advertisements in the Gazette and Certificates of no detainers be dispensed with, as to Captains, Mates, and Sailors of Colonial Vessels?

1825.
14 May.

Comments by
Sir T. Brisbane
on measures
recommended
by J. T. Bigge.

Subject considered in the act of Council.

(82).—The necessity of increasing the number of Magistrates?
Number greatly augmented.

(83).—That the evidence upon which Sentences are founded be entered in the record Book?

Records
of bench of
magistrates.

Regularly entered in Books provided for that purpose.

(83).—That Returns be made out Quarterly of all Punishments inflicted, Fines or penalties levied, by order of one or more Magistrates?

Returns
of fines and
punishments.

Has been acted upon in some degree and will be more rigidly required under the new act of Parliament.

The Commissioner suggests that the Office of Asst. Superintendent of Police in Sydney might be discontinued, and his remarks as to the number of Clerks required in the Offices of the Superintendent of Police?

Abolition
of assistant
superintendent
of police.

No longer exists; but with the new Apartment new measures will be introduced.

(84).—Comments on the duty of Police Clerks and of the Clerks of the Magistrates and on their remuneration both as to Salary and Fees?

Police and
magistrates'
clerks.

Has been considered, and has been acted upon.

The impropriety of allowing Clerks to give any copies of Informations or Proceedings, without the order of the Magistrates?

Never, now, permitted.

That the Magistrates be allowed to apply the funds, arising from fines or penalties, in the reward of Constables for activity in the pursuit and apprehension of Offenders?

Application
of fines and
penalties.

Regular accounts of all these fines kept by the Magistrates, in Books for that purpose, and an increased activity has been attempted to be given to the Police of the Colony by entrusting the Magistrates with the power of drawing on the Col. Treasurer in any exigency, in form of Checks, such herewith will explain the System, which is as yet only temporary.

That copies of their accounts be annually laid before the Chief Justice, and then transmitted to the Governor?

Accounts of
magistrates.

Shall be duly complied with if on further consideration found compatible with the office of the Chief Justice.

That the allowances to all functionaries be equalized with a view to the simplification of the Com's't accounts, and the transference of a portion of the charges of the police from the Treasury at home to the Colonial Funds?

Object has been uniformly borne in mind as far as the Colonial Revenue would admit.

1825.
14 May.
- Comments by Sir T. Brisbane on measures recommended by J. T. Bigge.
Chief constables.
- The importance of great attention in selecting Chief Constables, and the necessity of allowing a horse for each of these Officers at Parramatta and Windsor?
Much attention has been paid to the selection of Chief Constables and an occasional Horse always allowed, when the public Service required it: and it has been for some time under consideration, whether the state of the Colony now renders a permanent allowance of a horse proper.
- Police patrols.
- (Vide also 1 Rt., P. 107).—The establishment of Patrols on the roads from Parramatta to Sydney, to Windsor, and from thence to Liverpool?
A proposal, transmitted to Your Lordship in my Dispatch of last June, to be permitted to raise a Colonial Troop of Cavalry of 25 Men, being considered the most efficient force, and the Subject now under careful consideration.
- Duties of chief constables.
- (85).—Specifying the duties of the Chief Constables, and the necessity of printed forms for the Returns of the Musters of Convicts &c.
Duly attended to and with the greatest care.
- Erection and management of gaols.
- (87, 88, 89).—That new Gaols be erected at Sydney and Parramatta, and that the regulations of the Gaol at Hobart Town be introduced into Gaols in New South Wales?
New Gaol in Sydney in progress, and one is about to be built at Parramatta, as also one Building at Hobart Town; and a Hulk fitted up for prisoners at Sydney.
That the Magistrates be enjoined to visit them in rotation and make a report once in every month to the Chief Justice, and that they also enter in a book, to be kept in the Gaols, minutes of their observations?
The Grand Jury presentments always embrace this point; That the special charge of the Gaol is entrusted to the Sheriff as in England; Magistrates have a general duty of visiting the Gaol, and of entering the remarks in a Book.
- Suppression of drunkenness.
- (90, also p. 3).—Recommendatory of the vigilance of the Police Officers, in the Suppression of Drunkenness, being stimulated by high rewards?
Attended to as much as possible.
- Reduction of licensed houses.
- That the number of licensed houses be gradually reduced to that granted in 1820, that good securities be given for good Behavior, and that no Magistrate having an interest in the sale of Spirits, or who is the owner of any house, shall be continued in Commission of the Peace?
The Subject has lately been legalized by an Act of Council, and any Magistrate owning a Public House disqualified from being a licenser, but not struck off the list.*

* Note 163.

(3d Rt., P. 17).—Suggestions on the necessity of improvement in the communication between Bathurst and other Districts by roads and the Sea Coast, and the establishment of a Stock Yard and a Military Station at the foot of Mount York?

1825.
14 May.

Comments by Sir T. Brisbane on measures recommended by J. T. Bigge. Construction of roads.

Already carried into execution, a new road has been cut down the ascent of Mount York much more practicable, and a new road* quite level is making from Richmond to Collit's Inn, which avoids Mount York altogether, and shortens considerably the distance. An Inn* and the natural pasture seems to render a Stock Yard by Government unnecessary.*

Recommending an examination of the Coast with a view of discovering the existence of Harbours and Rivers, with the nature of their communication with the interior; also land surveys to ascertain the capacity of the Country for Colonization?

Examination of coast and interior.

The Coast, North and South of Port Jackson for 500 Miles, has been most minutely examined and Your Lordship has already been made acquainted with the highly favourable results.

(31).—Recommending a communication between the Sea Coast and the Plains of York and Westmoreland in Van-dieman's Land?

Construction of roads in Tasmania.

Carrying on in Van-dieman's Land by that Governor.

(32).—Regulations by which the Contracts for the supply of Government may be kept free from Monopoly?

Government contracts.

Attended as much as circumstances will admit.

(33).—The necessity of Building additional Granaries at Windsor, Parramatta, Liverpool, Hobart Town, and Port Dalrymple?

Erection of granaries.

Granaries have been built or hired, equal to contain Nine Months consumption for the whole of the Individuals victualled by the Crown.

(36).—Requiring an alteration in the Surveyor General's Department, as to arrears of Business?

Surveyor-general's department.

Arrears have been greatly brought up, and the System of expedition in Grants much improved; but it will be necessary to extend the office, which is in arrear from the great press of increased business.

Plans to be permanently adopted as to Grants and Quit Rents?

Regulations for land grants.

Orders from His Majesty's Ministers have been duly acted upon on this head.

(37).—Observations on the condition of Cultivation?

See a Circular Letter to the Superintendants and of the Agricultural establishments, with the answers to the conditions of Government farms.

The Danger of a literal, or some times a partial enforcement of conditions, as have hitherto been prescribed, as to Capital possessed by emigrants.

1825.
14 May.
Comments by Sir T. Brisbane on measures recommended by J. T. Bigge. Regulations for land grants.
- Most difficult to ascertain the real extent of property possessed by Individuals emigrating here; on this head I should recommend only one half of the Grant to be given to a Stranger on first coming, but on his fulfilment of the conditions required then to obtain the remainder.*
- (38).—The expediency of withdrawing the reservation of Timber fit for Government purposes?
New form of Grant transmitted by me has effected this.
- Commons for Richmond and Nelson districts.
- (39).—Recommending new Grants of Richmond and Nelson's Commons to be made out, reserving Glebe for the Clergymen of Windsor and Richmond?
Not done, and recommended to be postponed till the arrival of the Archdeacon, who is supposed to have instructions on this head.
- Regulation of roads and streets.
- (40).—Regulations to be adopted for the formation of Public roads and plan for keeping them in repair?
Very good regulations exist, and the roads are in very good order.
- (44).—The necessity of paying attention to the direction of Streets and Positions of Houses?
Duly attended to, according to previous plans approved by me.
- Compensation to E. Lord.
- That any equitable interest, which Mr. Lord may have in a piece of ground at Hobart Town fronting the Harbour, be purchased for the improvement or defence of the Town, at the expiration of his lease?
Has been referred to the Lieutenant Governor.
- Launceston.
- (45, 46).—That the Settlement at Launceston* be continued there?
Has been attended to.
- Separation of survey department of Tasmania.
- (47).—The expediency of an entire separation of the Offices of Surveyor General in New South Wales and Van dieman's Land?
Has been attended to in conformity to a recent Dispatch.†
- Collection of quit rents.
- The abolition of the Office of Surveyor of Roads and Bridges, and collector of Quit Rents, the latter to become part of the duty of the Colonial Treasurer?
No such office now exists; the Treasurer collects all Quit Rents.
- Allowance for horses to surveyors.
- That an allowance be made to two Asst. Surveyors of £25 Per Annum each, for a Horse?
Has been ordered.
- Clergy and school reserves.
- (48).—The reservation of Lands for the Clergy and Schoolmasters in the several districts?
Has been uniformly attended to by me.
- Subdivision of lands of colony.
- (49).—Recommending that a Survey division and Sub-division of each County be made with a view to facilitate the location of land to Settlers, and that access be given to Settlers to inspect the Chart of such Survey?
Plan Proposed acted upon, and every facility given to new Settlers to inspect all Charts and Surveys.

* Note 165. † Note 166.

- That a Registry be kept of all transfers of land held of the Crown, and that no conveyance of any such land be legal unless so registered? 1825.
14 May.
Comments by Sir T. Brisbane on measures recommended by J. T. Bigge. Indulgences to settlers.
- Has always been duly registered; but a general registry Bill of circumstances on land and real estate is now preparing.*
- (50).—Remarking that it is no longer necessary to issue Cattle to Settlers from the Government Herds, nor that Convicts allotted them as Labourers be subsisted by the Crown, with the exception of loans of Cattle to the Sons of Persons, who have been Convicts and are alive and settled in the Country?
- System totally abandoned by former orders from Home.*
- The course as to the account of Quit Rents to be furnished by Mr. Meehan? Accounts of quit rents by J. Meehan.
- Has been duly rendered by Mr. Meehan.*
- That a license for Tanning be required, with the measures necessary for the protection of the hides from Injury? Licenses for tanning.
- Will require to be legalized by an Act of Council.*
- (51).—The inexpediency of continuing Convicts at the Pottery except in the coarser branches of the trade? Employment of convicts at the pottery.
- Pottery now on a much limited Scale and entirely a Private Concern.*
- (53).—Desiring the Plantation of Phormium Tenax? Cultivation of flax.
- Has been much attended to, several Cargoes have arrived from New Zealand.*
- (60, 87).—Relative to Drawbacks on Reshipment of articles from the South Seas, and ordering the repeal of Colonial Duties on Sandal Wood, Seal Skins, Bechelamer, Pearl Shells, Oil, Wood and Coals? Remission of duties.
- Has recently been included in an act of Council* under the Head of Port regulations. The duties repealed in the Government of Major General Macquarie.*
- (61).—The state of the water tanks, and the charge to Vessels stated to be unjustifiable, also the adoption of measures for securing a better supply of water for the Town of Sydney? Water supply.
- System going on with the view of bringing water into Sydney by means of pipes† from a distance.*
- (61).—That the fee for permission to trade be abolished? Fees for trading.
- No longer exists.*
- That the Wharf at Sydney should be either enlarged or the tax repealed? Wharf and wharfage dues at Sydney.
- A plan for the improvement of the wharf has been submitted to me, and will be soon begun upon.*
- That attention be paid to the State of Sydney Cove? Improvement of Sydney cove.
- Any improvement on a useful Scale will be attended with a very heavy expence.*

* Note 163. † Note 167.

1825.
14 May.
Comments by
Sir T. Brisbane
on measures
recommended
by J. T. Bigge.
Imports on
convict ships.
- (62).—That an alteration should take place in the mode of levying the Wharfinger's fees?
A new System has been adopted on this head.
- (63).—Relating to Goods being landed from Convict Ships not specified in the lists transmitted by the Commissioners of the Navy?
Nothing permitted to be landed but what is authorized by the Charter Party of the Commissioners of the Navy, where all articles are included.
- Bank of N.S.W.
- Relative to renewing the Charter of Incorporation to the Sydney Bank after its expiring in the Year 1824?
Charter renewed in 1824.
- Church and chaplain wanted in Tasmania.
- (69).—That a place of Worship and interment is wanted at Pitt Water, in Van-dieman's Land, and also another Chaplain?
The Lieutenant Governor has completed this Suggestion.
- Educational system.
- (74).—That the System of Education, in Districts and Towns, should be extended?
Has recently undergone many favourable changes, and reports have been received, from all the Districts, on the present state of Education, and measures will be adopted accordingly. An infant School has been recently established at Sydney, with fair prospects of Success.
- Farm for teaching agriculture.
- (75).—That a Farm be established at Parramatta for instruction in Agriculture?
The Crown has no land in the neighbourhood of Parramatta fit for this purpose; but near Liverpool, it has been attended to; a copy of the contracts entered into with Mr. Bushby for the management of the vine at Liverpool will be sent to Your Lordship.
- Schools in Tasmania.
- (78).—That two more Schools be formed in Van dieman's Land.
Recommendation attended to by the Lieutenant Governor.
- Musters.
- (79, 80).—Proposing an alteration in the manner of taking Musters, and that returns of them be made on regular printed forms?
An alteration has been made, and the Muster now taken Alphabetically, which simplifies the proceedings very much.
- Brewing licenses.
- (88).—Proposing a reduction on the licenses to Brew from £25 to £5?
*Has been done by act of Council.**
- Duty on tea and sugar.
- That the duty on Tea and Sugar be levied according to weight?
Has been done.
- Turnpike tolls.
- That no augmentation take place on the Tolls at the different Turnpikes?
None has taken place.

* Note 163.

- (89).—Recommending the internal Revenue to be entrusted to a Person to be named by the Colonial Treasurer, and that to him the Post Master be accountable for the receipts of his Office, after deducting £100 for his annual Salary?
1825.
14 May.
- Comments by Sir T. Brisbane on measures recommended by J. T. Bigge.
Colonial treasurer.
- Colonial Treasurer lately appointed, who collects all Revenues; a bill on the Post Office has been laid by me before the Council; but some difficulties have arisen connected with the English Post Office department, upon which communications will be made to Your Lordship.*
- That a Post on horse-back be established from Sydney to Parramatta, and from thence to Windsor?
- Carriage of mails.
- Mail Coaches* convey Letters to the different Townships under new regulations.*
- Desiring that the leases of the Coal mines for a term of Years be granted, reserving an annual rent and a portion of the Coals raised?
- Lease of coal mines.
- Has been hitherto kept in the hands of the Government as there is no fit person to lease them on the usual principles of a Lordship, and, if let to unskilful Individual, might inundate and destroy the mine: Coals are very productive revenue.*
- That attention be paid to the Botanical Gardens†?
- Botanical garden.
- Due attention has been paid to this; the original Garden has been nearly doubled, and 3,000 varieties of exotic plants, Grasses, bulbs, fruits and vegetables have been introduced within the last Year.*
- (94).—Arrangement for augmenting the Salary of the Colonial Secretary?
- Salary of colonial secretary.
- Has been attended to.*
- (95).—That the Natives of the Colony be employed as Clerks in preference to Persons who have been convicted?
- Employment of native-born clerks.
- Due attention has been paid to this as far as circumstances will admit.*
- (96).—That all rations to that class of functionaries at Sydney denominated Superintendants, Pilots, Gaolers, Schoolmasters, &c., be done away with, and that a proportionate money payment be made to them out of the Police Fund?
- Money payments in lieu of rations.
- Has been acted upon for the last twelve Months.*
- (97).—On the reduction of the Public Herds at the Cow-pasture and the continuance of them at Bathurst and Rooty Hill?
- Government live stock.
- Has been attended to.*
- The necessity of purchasing Horses, instead of the exchange of them for Cattle?
- Has been invariably attended to as recommended.*

* Note 168. † Note 142.

1825.
14 May.

Comments by
Sir T. Brisbane
on measures
recommended
by J. T. Bigge.
Administration
of hospital
department.

The expediency of receiving Wheat from the Settlers by weight instead of by measure?

Due attention has been paid by the Commissary in his contracts, in specifying the weight of Wheat per Bushel, vizt. 56 lbs.

(104).—Recommending that a Storekeeper of Medicines and an apothecary be provided?

Such persons to fill these situations much wanted.

Regulations as to the Supply of Medicines to Government Officers &c.

System has been duly regulated.

Horses for
surgeons.

Recommending that allowances of Horses be made to the Principal Surgeon and his Ass'ts at Parramatta, Liverpool, Hobart Town and Launceston?

Attended to.

Pay and
allowances for
assist. surgeons.

That the pay of Assistant Surgeons be 7s. per diem, with the allowance of Rations, &c.

This recommendation has not yet been universally acted upon.

THOS. BRISBANE.

[Enclosure No. 2.]

[This return was similar to the enclosure to the despatch numbered 46 and dated 18th March, 1825; see page 549.]

[Enclosure No. 3.]

FORM OF ORDER FOR PAYMENT.

.....Day of.....182 .

PLEASE to pay.....or Bearer for Services rendered the Government Viz.

.....
the Sum of.....

and place the Same to the Account of the Police Expences of the Colony.

.....

Magistrate or Magistrates for the Colony
of New South Wales.

To W. Balcombe, Esq., Colonial Treasurer.

(printed on back of preceding Order)

THE within named.....was sent by.....
to.....a distance of.....miles, and
was absent from his Home on this Service.....days
.....

N.B.—The nature of the Service is either to be mentioned briefly, or, if Disclosure be improper, it is to be Stated that the Party (or Parties) performed certain Services detailed in a Report to His Excellency the Governor.

SIR THOMAS BRISBANE TO EARL BATHURST.

1825.
15 May.

(Despatch marked "Private," per ship Deveron.)

Government House, New South Wales,

My Lord,

15th May, 1825.

I embrace the first opportunity, which has been presented, to have the honor to reply to your Lordship's private letter of the 29th December last, which arrived in the "Hercules" on the 7th Inst., acquainting me of the measures your Lordship had considered it expedient to recommend in consequence of the misunderstanding between me and the Colonial Secretary, without attaching blame to either; and I do most solemnly assure you that, if in your Lordship's opinion the recalling me* from the Government of this Colony the public interest should thereby be benefited, I cordially submit to your Lordship's decision, having much at heart the interests of the Colony. Many years acquaintance with Colonel Stewart has convinced me how incompetent he is to have the reins of so difficult, so delicate and so arduous a Government entrusted to his care. I have, in consequence of this and from a letter which I have received from M. General Darling, wherein he states his intention of not quitting England before June, and consequently may not arrive here until October or November, I have made preparations to quit this about that period; and I beg to assure Your Lordship that I feel much fortified in the necessity of adopting this course, as Lieut. Colonel Thornton, who would become second in command, can scarcely be considered responsible for his actions arising from the severity of the fits, with which he is repeatedly attacked, and it was my intention to have brought this subject under your Lordship's consideration to enable you to guard against accident. I had already written privately to M. General Sir Herbert Taylor on it, for the information of His Royal Highness the Commander in Chief, as also publicly in my Half Yearly Reports. I trust my arrangement will meet your Lordship's approbation.

Recall of
Sir T. Brisbane.Incompetency of
W. Stewart.Arrangements
for departure.Ill-health of
Thornton.Request
for retiring
allowance.

I beg to return my grateful acknowledgements to your Lordship for the expression of your consideration of me on a future occasion; and in consequence I take the liberty of soliciting your Lordship to recommend me to His Majesty for a humble retirement from the active scenes of Life; in doing which I trust I do not prefer an unreasonable claim, after 36 years of constant service in every variety of Climate, but for which I do not consider twenty five Shillings per day as the adequate reward.

I have, &c.,

THOS. BRISBANE.

* Note 99.

1825.
17 May.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.*

Sir, Downing Street, 17 May, 1825.

Recommend-
ation in favour
of W. Shairp;

Mr. William Shairp will have the honor of delivering this letter to you; and, having been strongly recommended to Earl Bathurst by Sir Alexander Hope, I am to desire that you will make to Mr. Shairp, on his arrival in New South Wales, a Grant of Land in proportion to his means of cultivating it, with any facilities which you may have it in your power to afford him in the selection of the same.

I am, &c.,

R. W. HORTON.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.*

Sir, Downing Street, 17 May, 1825.

and of Eager.

I am directed by Earl Bathurst to bring to your notice the Bearer of this letter, Mr. Eager, in whom the Bishop of Norwich takes some interest.

Mr. Eager is about to proceed to New South Wales, where his relations are understood to be now residing, and his Lordship requests that you will give to Mr. Eager your countenance and protection.

I am, &c.,

R. W. HORTON.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 30, per ship Brothers.)

18 May.

Sir, Downing Street, 18 May, 1825.

Instructions for
appointment of
R. Dawson as
magistrate.

The distance, at which the Establishments of the Australian Company will be formed from the more populous parts of the Country, where a local Magistracy is fixed, renders it very desirable that Mr. R. Dawson should be invested with greater controul over the Convicts employed in the Service of the Company, than will probably attach to him in the Capacity of their Agent, or than would have been necessary under other circumstances; and, as I have received the most satisfactory assurances of Mr. Dawson's respectability, I am of opinion it would contribute to the General Interests were he to be appointed a Magistrate over the particular Districts, in which the Company's Establishments will be erected; and I have to request that Mr. Dawson's name may be added to the Commission of the Peace, and that he may be invested with the customary authority.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

1825.
18 May.

(Despatch No. 31, per ship Brothers.)

Sir, Downing Street, 18 May, 1825.

In reference to my letters of the 13th July, 1824, and the 17th Ultimo, I have the honor to transmit to you a Copy of the written proposals, which were laid before me on the 22nd of May, 1824, by the persons,* who had then associated themselves together to form the Australian Agricultural Company. These proposals were subsequently approved by me on His Majesty's behalf.

Proposals for
formation of
A.A. company.

I have, on the present occasion, to direct your particular attention to the 8th and 9th Articles of these proposals; from which you will perceive that the Company is to receive a Grant of 1,000,000 Acres of Land; and that, within the limits defined in the 9th Article, the Agents of the Company are to select the Lands to be comprised in that Grant, provided that the whole be taken in one distinct and continuous location.

Land to be
granted to
company.

Mr. Dawson, the general Agent of the Company (the Gentleman whom I have introduced in my Dispatch† of the 17th April), will, at the earliest practicable period, transmit to you a written notice, signed by himself and attested by two creditable witnesses, in which he will point out with all convenient precision what are the particular Lands which the Company proposes to accept. Upon receiving this notice, you will instruct the Surveyor General to repair to the place thus selected, and, in concurrence with Mr. Dawson, to make as full and accurate a Survey of this Tract of Country as may be possible. In carrying this Instruction into effect, it will be the duty of the Surveyor General to avail himself of all natural Land Marks, which may best contribute to define permanently, and with precision, the limits of the Company's territory; considering the importance of preventing all uncertainty upon the subject, the Surveyor General will not be precluded from making a small addition to the District selected by the Company, if it be necessary for preserving a well defined natural boundary. In the absence of conspicuous natural objects, such artificial Land marks must be substituted as may be best adapted to answer the same purpose.

Locality for
grant to be
selected by
R. Dawson.Survey and
delineation of
lands selected.

The Surveyor General and the general Agent of the Company will then concur in drawing up a Report, addressed to yourself, in which they will describe with the utmost exactness the tract of Country to be granted to the Company, especially enumerating all Land Marks, whether natural or artificial, by which the limits of the Grant can be most clearly ascertained. This report, being signed in duplicate by the Surveyor General and the Company's Agent and attested by two Witnesses, you will lose no time in

Report on
survey of lands
selected.

* Note 68. † Note 169.

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transmitting one copy of the Instrument to me, in order that I may submit to the King a Warrant for his Signature, authorizing you to pass the Grant under the Great Seal of the Colony.

Possession of lands to be given to company's agent.

Immediately upon receiving the report from the Surveyor General and the Company's Agent, you will grant to the Company a written license for the occupation of the Lands described in it; and you will take care that possession of those Lands be delivered to the Company's General Agent in the most public manner and with such solemnities, as may most conveniently be adopted for perpetuating the memory of that transaction. If, instead of receiving a Grant of the whole of these lands in one continuous and unbroken Tract, the Company's General Agent should make a written Application for receiving two distinct Tracts of Land, you will be at liberty to carry these Instructions into effect with that variation, unless you should be of opinion that any serious inconvenience is to be apprehended from such a deviation from the original plan.

Selection of two separate tracts.

Purchase of land by company on banks of Hunter river.

The Company having requested to be allowed to purchase a small tract of Land on the Banks of the Coal River for the erection of Quays and other Buildings, where Cattle and other Articles may be shipped or landed, or receive a temporary Shelter, you will permit the General Agent to purchase on the Company's behalf any tract of Land on the Banks of the Coal River, not exceeding 2,000 Acres in the whole, provided that the purchase be made upon the same terms in every respect as if a private person were the purchaser. In conclusion, I have to direct your attention to the circumstance that, in carrying the written proposals into effect by the Act of Parliament and subsequent Charter, some modifications were introduced by the desire or with the consent of the Company; upon all such points, therefore, you will consider the written proposals as superseded by the Charter.

Modifications introduced into charter.

I have, &c.,
BATHURST.

[Enclosure.]

PROPOSALS.

Proposals for formation of A.A. company.

1st. The Company to be incorporated by Letters Patent or Act of Parliament, according to the usual form.

2nd. The Charter or Act to be obtained, if possible, in the present Session of Parliament, and to regulate, according to customary forms, the proceedings of the Company at home.

3rd. The Capital of the Comp'y to be £1,000,000 sterling, divided into 10,000 shares of £100 each.

4th. The present Committee of Management to form the first Court of Directors and Auditors, but at the expiration of the 5th year, one sixth of the number to go out by rotation.

5th. The Directors going out by rotation to be re-eligible.

6th. The qualification of a Director to be fifty shares.

7th. That no Rival Incorporated or Joint Stock Company, with similar Objects, shall be established in New South Wales for 20 years, it being however expressly understood that no other exclusive privileges and no peculiar jurisdiction in the Colony are desired.

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Proposals for
formation of
A.A. company.

8th. That a Grant of Land to the extent of 1,000,000 acres shall be made to the Company, subject to such Conditions as shall be hereafter determined.

9th. That the Agents of the Company shall be permitted (subject to the public convenience and not interfering with private rights) to select the situation of the proposed Grant, either between the Blue Mountains and the River Hastings, with means of access to the Coal River, or in the Country recently explored between Lakes George and Bathurst, or in the Interior westward of the Blue Mountains.

10th. But the primary object of the Company being the production of fine Merino Wool as an article of Export to Great Britain, they propose to purchase in the Colony such flocks of Sheep, as can be procured, of good quality, and to increase and improve them by importations of the purest race from Spain and the Electoral Dominions of the King of Saxony.

The Company engage 11th. To erect suitable houses and other buildings upon the Lands granted to them.

12th. To send out free and experienced persons as Agents and Overseers, and to employ the Convicts under their superintendence and direction.

13th. That the Shepherds and Labouring Men shall consist principally of Convicts; and, in this manner, it is calculated that about 1,400 may be eventually employed, which will diminish the Government expenditure to the extent of £30,800 annually.

14th. To employ those Men under such discipline and regulations, as may best conduce to the great object of Government in establishing and continuing the punishment of Transportation.

15th. To send from Europe persons skilled in the management of Merino Sheep, and in the mode of assorting and preparing the Fleeces for the London Market. To afford also facilities to the diffusion of this useful knowledge throughout the Colony.

16th. To promote (subordinate to the raising of fine Wool) the cultivation of the Olive, Vine, and such productions as may appear best adapted to the climate and soil; and with this view to send from France, Italy or Germany, some families skilled in the management of Olive Grounds and Vineyards.

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Proposals for
formation of
A.A. company.

17th. To encourage and assist (as far as may be found practicable) the emigration of useful Settlers and of Female Servants.

18th. To promote, to the utmost of their power, the system of rural industry directed by His Majesty's Government (on the recommendation of the Commissioner of Inquiry) as being best adapted to the state and circumstances of the Colony, and to diffuse the knowledge and practice of it amongst all Classes of the Inhabitants.

Quit Rents.

A Quit Rent, being 30s. per cent. on the estimated value of 1,000,000 acres at 2s. per acre, would amount to £1,500. The sum necessary to redeem that quit rent at 20 years' purchase would be £30,000.

But, as this Grant will be in one continuous location, it is probable that one fourth of it will consist of Land, which would be rejected in the case of a Grant to a private Individual, and therefore the Quit rent to be demanded in this Case shall not be raised on more than 750,000 acres.

The quit rent to be paid by the Company will thus be reduced to £1,125 per annum, which (at 20 years purchase) may be redeemed for £22,500.

But, as it is calculated that the operations of this Company will ultimately require the services of 1,400 Convicts, there will be no objection to provide that, at the termination of the first 5 years, the quit rents (which under the Regulations affecting Grants of Land will then first become due) shall not be demandable, provided that 600 Convicts are at that time maintained by the Company; nor at the end of ten years, provided 1,000 Convicts; nor at the end of 14 years, provided 1,400 Convicts are then maintained by the Company. And whenever £100,000 shall be actually saved to the public by the maintenance of Convicts (calculating the expense of each Convict to Government at £20 p. annum), the Quit rent of £1,125 shall be considered to be redeemed by the Company and shall not be again demanded.

Approved by the General Committee:—

London, 22nd May, 1824.

JOHN SMITH, Chairman.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.*
(Despatch per ship Brothers.)

Sir,

Colonial Office, 18th May, 1825.

My Dispatch* of the 17 ultimo informed you that Mr. Robt. Dawson had been selected by the Australian Company to proceed to New South Wales to superintend the Agricultural concerns of the Company in that Colony. The object of this

Letter of
introduction for
R. Dawson.

* Note 169.

Letter is to request your protection to Mr. Dawson, and your favorable attention to any wishes that he may make known to you, connected with the new Establishment which he is instructed to form, previously to the commencement of more extensive operations; and you will afford to him, in the execution of that Service, every reasonable facility which may not be inconsistent with Established Regulations and with what may be due to the Rights of other persons.

I remain, &c.,

R. W. HORTON.

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Letter of
introduction for
R. Dawson.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 48, per ship Deveron.)

Government House, New South Wales,

My Lord,

21 May, 1825.

21 May.

I have the honour to acknowledge Your Lordship's Dispatch No. 35, dated 20 Sept., 1824, and received in the Colony in April, calling my attention to certain affidavits, which had been lodged in the Privy Council in the case of Campbell versus Macarthur and desiring some explanation thereon. As the matter contained in the Affidavits related entirely to the business of the Registrar of the Court of Appeals in this Colony, I desired him to furnish me with the means of making a satisfactory explanation to your Lordship. I have since received a communication from the Registrar, from which it appears that the same steps were adopted in the case of Campbell v. Macarthur as were usually adopted in cases of Appeal. But, as the Registrar is desirous of giving the fullest explanation and with a view of enabling him to do so, I have caused him to be furnished with copies of the affidavits transmitted to me. I have not deemed it necessary to trouble your Lordship with the above statement of the Registrar, until I shall have received his final explanations upon all the points set forth in the affidavits. I have only to add that, as far as relates to my own conduct in the transaction, I was guided by no views of affection or favor towards either party, and that, if I have erred of which I am not yet conscious, it is at the most but an error in judgement.

I have, &c.,

THOS. BRISBANE.

Explanation of
F. Goulburn.
in the case of
Campbell v.
Macarthur.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 49, per ship Deveron.)

Government House, New South Wales,

My Lord,

21 May, 1825.

In my former communications of last month, I replied to your Lordship's Dispatch No. 47,* and, as I trust, satisfactorily convinced Your Lordship that the statement, respecting the

* Note 170.

1825.
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Statement re
resolutions of
magistrates
in case of
H. G. Douglass.

Magistrates having offered to rescind their resolutions not to sit on the same Board with Dr. Douglass, was unfounded in fact. In order to remove every possible doubt, I have since written to Mr. Marsden requiring from him a definite answer whether such was the fact. His answer I now lay before your Lordship without any comment. They will speak abundantly for themselves.

False
statements
circulated in
colony.

I cannot close this Dispatch, however, without reminding your Lordship that this has been the third time,* in which I have lately been called upon to answer false statements proceeding from this Colony; and I am myself reminded of another report, which has reached this country from England, where it was unknown before, that I had improperly sent convict women to the penal Settlement at Emu Plains for impure purposes. I am confident that your Lordship will entirely discredit *this report*; and I only allude to it as an illustration of the prevailing practice of setting up stories, thro' private channels of information, to the dishonor of the Government of this Colony.

Allegations
of improper
treatment
of women at
Emu plains.

Should your Lordship have heard of the Report, I feel that I could not place in your hands a better refutation than is to be found in the Australian,† a Newspaper of this Country rather opposed to the Government. The advantage, which this refutation has, is this, that it was made in the face of that public, who had the best means of knowing the truth, and no one has stepped forward to contradict it. I can only assure your Lordship that, except to the few individuals‡ from whence it proceeded, such a report was entirely unheard of in this Colony; and your Lordship must feel that it would not have been got up without some malicious motive or sinister purpose. The simple state of the case is this: there were a great number more women in the Factory at Parramatta than it could accommodate. I deemed it expedient to send some of them to Emu Plains, provided they were willing to go; 32 volunteered for that purpose, when they were separated by nearly the space of a mile from the male convicts, and placed under a guard, which was deemed sufficient to prevent any improper intercourse with the male Prisoners. They were there employed under proper Superintendents in useful pursuits. They conducted themselves creditably; 24 of the number are since married and settled. The residue were afterwards sent back to the Factory, and not a word of imputation was ever cast upon the transaction until it reached us from England. I do solemnly pledge myself to your Lordship that nothing immoral was contemplated, nor to my knowledge has ever taken place in the above transaction.

Transfer of
female convicts
from
Parramatta to
Emu plains.

I have, &c.,

THOS. BRISBANE.

* Note 171. † Note 111. ‡ Note 172.

[Enclosure No. 1.]

1825.
21 May.THE BENCH OF MAGISTRATES AT PARRAMATTA TO SIR THOMAS
BRISBANE.

Sir, Parramatta, 9th May, 1825.

The letter, with which you have been pleased to honor the Revd. Samuel Marsden, has been by that Gentleman communicated to us; and in reply to Your Excellency's question whether we had expressed a willingness to rescind our Resolution* entered into on the 16th August, 1822,

Explanation by
Magistrates
of resolutions
in case of
H. G. Douglass.

We beg most respectfully to assure your Excellency that no such representation has been made by us, individually or collectively, to Earl Bathurst.

In giving this answer, we would wish to assure your Excellency that we were actuated, throughout the discussion of that affair, by no feeling of disrespect towards your authority. Had we understood at that time that our Resolution was objectionable, and had Doctor Douglass been brought to acknowledge the just interference of the Bench, and to submit himself to Their Official Jurisdiction, We certainly could not have hesitated to rescind our Resolution, which was only intended to convey an honest expression of our view of Doctor Douglass's conduct.

So far from changing our opinion of the measures, to which we were driven by the unprecedented and insulting conduct of Doctor Douglass, we have been confirmed in the justice of them by Facts which have subsequently come to our knowledge.

Most respectfully offering to Your Excellency every Tribute of our sense of your consideration towards Us, In thus referring to the subject, we lament that we can only meet it by again declaiming that such association with Doctor Douglass renders us unworthy the confidence and consideration, with which you have been pleased to honor us.

With the greatest deference, we have, &c.,

SAMUEL MARSDEN.	JOHN PALMER.
J. BLAXLAND.	GEO. THO. PALMER.
H. MACARTHUR.	

[Enclosure No. 2.]

EXTRACT from the issue of the "Australian" newspaper dated 7th April, 1825.

Criticism in the
Australian
newspaper on
the problem
of women
in the colony.

"We have this week refrained from giving insertion to any part of the Debates in the Committee on the New South Wales Bill, in order to afford our Readers a greater diversity of Articles from the recent English Newspapers, and also to give ourselves the opportunity of introducing some remarks, which want of space last week compelled us to postpone.

* Note 154.

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Criticism in the
Australian
newspaper on
the problem
of women
in the colony.

“On reading the Debates, which have appeared, we could not help experiencing a degree of surprize at the slight attention, shown by the whole House to one of the worst features in the colonization of New South Wales, the comparative amount of males and females.* Possessing as this Country does every advantage arising from climate and facilities for support, and considering the aggregate number of persons of all descriptions, who have annually resorted or have been sent hither, every statistical Enquirer must be struck with the paucity of inhabitants and the slowness of their increase. When the principal cause of these circumstances was glanced at by Mr. Bennet, it was unattended to; and the mention of that monstrous disproportion of the men to the women in the Colony, a disproportion which was stated to be, three or four years ago, fifteen to one, elicited no comment, and by consequence gave no hopes of remedy. All that we can do then is to point out the cause and the evils of it, in the expectation that, when the subject is again brought under the consideration of Parliament, it may meet with more serious attention. The cause of this disproportion, which has been going on in an accumulating ratio for some years, may be easily traced. It is principally owing to the impolitic plans pursued with regard to the sending out of prisoners. The thinness of the population is attributable partly to the same cause, and partly to the treatment of the female prisoners when they arrive here; though it may in some measure be ascribed to the elementary materials of which the Society is formed, especially the female part of it. The ships annually arriving with male prisoners have at all times exceeded those which contained females; but, during late years, this inequality has been much increased. In the treatment of women too on their arrival, changes have been introduced, which, so far from correcting the general morals of the people, have had a tendency quite opposite to, an effect the very reverse of, melioration. If, according to Mr. Bennet, it is necessary to legislate on the civil and political rights of a people according to their necessities, and adapt their institutions to their condition, it is equally, if not more necessary, to establish a system of moral and religious instruction and guidance, best calculated for their peculiar habits, sentiments and principles, and the most likely to induce them to approximate to a virtuous course of life. And when the supreme power in the State can from circumstances exercise a control over the domestic economy of families, can prescribe rules of conduct to them in their homes, as is the case with the prisoners here, it is fit that they should exercise this power; but it is also fit that, in so doing, they should consider the suitability of their rules to the parties for

* Note 126.

whom they are made, so that, when they have to deal with a class of people like those in question, they may gradually recover them from loose and irregular habits of life, and induce them to adopt such as may lead to and be as an earnest of future improvement. At some periods of the history of this colony, when a ship arrived in the Cove with females, every man, whose industry and labour enabled him to provide for a housekeeper, was allowed to select, from amongst them, one that met his approbation and was likely to make his home comfortable. This, no doubt, reasoning with the feelings which every moral mind possesses, was an immoral connexion; abstractedly considered it was indefensible. But compare this with the life and course of conduct of most of those, who formed these connexions; compare it with the total dissoluteness, which might ensue on being turned loose, as must have been the case; compare it with what has ensued since that practice was abolished, and the women shut up in the Factory; and the apologies for the system are obvious. Its total discontinuance (when we might have seen an improvement on it) has been followed by the commission of immoralities to an unknown extent, and a lamentable check has been given to the growth of the Colony. Even the philosophic, the moral Paley, though he condemns, not less than we condemn, any obligation between men and women which is not sanctioned by an irrevocable tie, distinguishes between that intercourse which the voluntary and precarious undertaking of the parties alone renders durable, and that which is erratic and casual. "*There is,*" says he, "*a species of cohabitation distinguishable no doubt from vagrant concubinage, and which, by reason of its resemblance to marriage, may be thought to participate of the sanctity and innocence of that estate. I mean the case of kept mistresses under the favourable circumstances of mutual fidelity.*" A contract, even of this kind, is preferable to the dissoluteness and crime which is prevented. How many parties are living to this day together by virtue of no other bond? How many at this day are there who, after conducting themselves in an exemplary manner in that state of "resemblance to marriage," have been made *honest women*, and who, but for the forming of this species of obligation, would have been vagrants in the streets? How many have been irrevocably bound by the marriage ceremony after living together under no pledge but that of "mutual fidelity"? And where the men "*had it in their power to dismiss the women at their pleasure, or to retain them in a state of humiliation and dependence, inconsistent with the rights which marriage would have conferred upon them!*" How many by mutual industry have rendered miserable hovels comfortable homes? How many families have sprung

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up where nothing but a wilderness would have been seen? Had this order of things continued, even in this objectionable shape, many a vagabond, who has been lost to Society, might have been reclaimed; might have become a decent Settler; and have been rendered serviceable to the Country. But by improving on this plan, by amending instead of totally destroying a system so highly faulty, as we have before stated, morality might have revived, and the prosperity of the Country would have been accelerated instead of retarded. Had the importation of women been increased twofold in place of being diminished almost fourfold; had there been offered to those, who might have been allowed to take helpmeets to themselves, an additional few acres as an inducement to intermarry, for each who took a *Mistress* would as readily have taken a *wife* if temporal interests were thereby promoted, we should hardly have heard of crimes, which are an indelible blot on the name and character of a nation; we should not have witnessed the depravity and pollution, which prevails throughout the Colony, and had to lament the infertility which keeps the population almost stationary. But we live in an age, when it is fashionable to assume a demureness of manner, an extraordinary degree of godliness, and lay claim to an uncommon share of holy endowment. In this Colony, as well as in England, there are persons who adopt the outward forms only of that religion, they profess to venerate; who affect a purity which does not belong to them; who, while the genuine precepts of Christianity are foreign to their hearts, make a show of austerity and humiliation for temporal purposes and laugh at the credulity of their dupes. It is the counsels of these people, aided by a few deluded zealots, that have been listened to. It is their crude notions that have been acted on in the injurious changes that have been made in some parts of the policy adopted towards this Country. All, that had been done in reference to the discontinuance of sending to the Colony the usual number of females, has been the work of those Saints, or pretended Saints, for we wish not to be misunderstood. We know how, and we mean to discriminate between the true worshipper and the worse than idolater, between those who in public pray, in private sin, who decry the errors of others while they overlook their own offences. The *philanthropy* and *purity* of these *benevolent* enthusiasts have inflicted a deeper injury on the morals of the people, have occasioned more detriment to the Colony, and have tended more to neutralize the industry of all classes, than the most indiscriminate intercourse among the sexes could have accomplished, or the best efforts of sound policy will for years be able to repair. As correctives to vice, they got Penitentiaries built in England for the reception of women, and a Factory filled with them in New

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South Wales, rendering thereby the lives of these unfortunate creatures useless, their vices in no degree the less. A few only of female prisoners are now allowed to quit England; and those who are sent hither, as soon as they arrive, are marched to this Factory, and there pent up without the chance of moral improvement, and become useless to themselves and a burden to the Public. Instead of encouraging marriages, instead of adopting wise measures for promoting legal and moral compacts, so essentially important to the accumulating necessities of the Colony, the whining hypocrites of the day set up the howlings of an impure faith, the ravings of fanaticism, and the frenzied mockery of religion. The cry was raised against existing abominations; the bad system was abolished; but a worse order of things ensued; and demoralization and crime increased; the sacred rites of the Church were nominally upheld, but offences against God and man were committed with tenfold enormity. So that with their Penitentiaries and their factory here, mischievous intermeddlers have occasioned the commission of sins we cannot mention, mischiefs we need not detail. They were fully resolved "Not to do evil that good may come," but in the affected ardor of their immoderate zeal "Of two evils they forgot to choose the lesser."

[Enclosure No. 3.]

LEADER from the issue of the "Australian" newspaper, dated 21st April, 1825.

Criticism in
the *Australian*
newspaper on
removal of
women to
Emu plains.

"WE request our Readers to notice a useful document, which will be found in another place, shewing

"The number of female convicts received on and discharged from the Establishment of Emu Plains from the 1st of May, 1822, to the 31st Decr., 1824.

"It will be found highly interesting, as connected with the observations which appeared in the *Australian* of the 7th Inst., and receive great attention from all who have considered the subject which gave rise to them. It would have appeared last week, but the confined limits of our Paper would not admit of its insertion. Documentary illustration is at all times desirable, seldom fails to render arguments conclusive, and in the present instance this, we now furnish, will amply repay every one, who will take the trouble to compare it with the previously mentioned Article of the 7th Inst. A short time before May, 1822, the condition of the above Establishment was such as to attract the notice of Government and call for active interference. The histories, that were detailed respecting it, were truly appalling, and decisive measures became immediately necessary. There was

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the *Australian*
newspaper on
removal of
women to
Emu plains.

only an alternative either to proceed upon the work of punishment and extermination, or prescribe some antidote to the extensive evil which prevailed. Scrutiny seemed out of the question. The Government therefore adopted palliatives, not caustics, sought to cure not to destroy. They knew that crimes were commonly the result of wayward and corrupt minds; but that they might be the off-spring of situation, the creature of circumstance. Nothing proves a more powerful excitement to human action, and tends more to reclaim from vice, than social communion of man and womankind. Its influence is acknowledged by all the human race, exists in every grade, differing only in degree. It was thus the Government reasoned; on this view they acted. They knew that the Prisoners, who were at Emu Plains, had forfeited their rights in Society, and were then pursuing a system of wickedness, but that it was perhaps not impossible to restore them to comparative respectability by placing, within their reach, inducements to reformation and enabling them to participate in the charities of life. Of the thirty two women, who in consequence became labourers at Emu Plains, eight were found to have been improperly selected for such occupation, inasmuch as they did not possess sufficient strength for the laborious duties of field work. They were therefore immediately returned to the Factory, and have since been discharged. Twenty four consequently may be considered as the number, by which the merits of the trial may be ascertained. Of these, *nineteen* are married! have been made *honest women!* By what jargon can these religious maniacs, who so bitterly inveighed against the provident solicitude of Government, attempt to convince us that twenty four abandoned wretches in the Factory support the Holy Gospel of God, the divine doctrines of the revealed religion of Heaven, better than nineteen Married Women, respectably and usefully settled in the Colony; or by what dismal cant will they teach others that the votaries of incontinence and crime, crowded within the walls of that receptacle of Sin, uphold and extend moral feelings better than reformed offenders dispersed over the country. The pious Christian will feel the force of this picture. When Sir Thomas Brisbane acquiesced in the policy, which was adopted at Emu Plains and which was attended with such satisfactory results, all the reproaches, hypocrisy could invent, were most bountifully ejaculated; the Church would be overturned was the cry; the world ride triumphant; the holy mandates of Heaven had been contemned and violated; and imprecations were invoked upon the authors of the profaneness. Alas! this religious impetuosity proved too successful. That Government, which strong in the consciousness that the necessities of the occasion required it, had prescribed this sanative remedy, wavered, yielded, and at

length forsook a system, fraught with good and resorted to with the best intention. A system which, when reduced to practice, showed that, according to the simple rule of Three, nineteen twenty fourths of the prison population might be brought into a steady and orderly course of life; that the people, by it being adopted generally, would have been blessed with the grateful spectacle of nineteen families brought into existence for every twenty four women in the Factory; and that they would have had to support out of the public fund only five, where they have now twenty four profligates. It is a most remarkable fact, and deserving of particular attention, that among thirty two women, taken without any rule of selection, there should be proved to be only two, so hardened in sin, so irreclaimable as to spurn the hand of kindness extended towards them and reject all inducements, 'to turn from their wickedness and live.' Only two were returned to the Factory for 'repeated misconduct.'

"In obedience, however, to the *religious* feelings of the *sin-cerest* Christians, these very wicked *violations* of the divine laws were discontinued; and the objects of the inhibition and restraint have been left to pursue the *old* and *moral* practices, thankful for being allowed to preserve the bias of their own *good taste*, and for being upheld in their pursuits by the countenance of the followers of Christ."

[In the same issue of the newspaper, returns relating to the women, who were sent to Emu Plains, were published, of which the following is a summary:—]

Married and living on the Establishment	9
Do. settled in different parts of the Colony	10
Returned to the Factory at their own request	2
Do. do. for misconduct	2
Do. do. unfit for field work	8
Free by servitude	1
<hr/>	
Total sent to Emu Plains	32

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 50, per ship Deveron; acknowledged by Earl Bathurst to Governor Darling, 19th February, 1826.)

Government House, New South Wales,

My Lord,

21 May, 1825.

In my former Dispatch No. 13, dated 2nd Dec., 1824,* I intimated to your Lordship my intention of visiting Morton Bay, and that I should on my return take occasion to address your Lordship on the comparative benefit of retaining that Settlement for the general purposes of Colonization or converting it immediately into a penal Depot.

Proposed
report on
Moreton bay.

* Note 173.

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Criticism in
the *Australian*
newspaper on
removal of
women to
Emu plains.

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Despatch
acknowledged.

Reasons for
forming penal
settlement at
Moreton bay.

Since the forwarding of that Dispatch, I have had the honor to receive a Dispatch from your Lordship, No. 25,* rather intimating it as Your Lordship's opinion that Morton Bay should be open to Colonization.

As Port Macquarie has become almost useless as a penal Settlement from the many facilities afforded to the escape of Prisoners by the extension of Settlers along Hunter's River, and as Norfolk Island would not be sufficient to contain the persons, whom it is found necessary to remove for minor offences to remote parts of the Colony, I have thought it would not be assuming an unsound discretion, if I should take measures for immediately preparing Morton Bay for the reception of Prisoners; and I have adopted this step with the less diffidence, as the Establishment of Penal Depots is the best means of paving the way for the introduction of free population as the example of Port Macquarie abundantly testifies.

Plan for penal
treatment of
convicts.

In order that your Lordship may otherwise clearly understand the views I have entertained of the subject, I shall give a brief outline of the whole plan, which appears to me best suited to the present state of exigency of the Colony.

Proposed
abolition of
penal settlement
at Port
Macquarie.

Port Macquarie, as I have already mentioned to your Lordship, is no longer tenable as a penal Settlement; it is quite ready for the reception of free Emigrants, if your Lordship should accede to the policy of giving it up for that purpose.

Necessity
for penal
settlements.

In consequence of the recent Acts of Parliament, which assign the removal of the Convict from one part of the Colony to another as the punishment of a numerous class of offenders, such removal has been very common, and consequently requires a Depot of sufficient extent and capacity to receive and maintain a great number of persons. It will readily occur to Your Lordship that there must be a necessity for classification of Offenders, which to make effectual will require different Depots of different systems of discipline.

Worst class of
convicts to be
transferred to
Norfolk island.

Norfolk Island is confined; the access to it difficult; and consequently it is not suited to receive many Prisoners or frequent transportations. I have, therefore, thought it advisable to reserve that place for Capital respites and other higher class of offences. I could wish it to be understood that the felon, who is sent there, is for ever excluded from all hope of return. For minor offenders, who are much more numerous, I have thought Morton Bay would be the fittest Depot on account of its distance and almost impossibility of escape, Its means of immediately affording employment and subsistence for the Prisoners, who may be sent there, and the facilities that a penal settlement in the first instance will afford to the free Settlers, when it may be deemed expedient to throw open that part of the Colony; as an Auxiliary

Depôt for minor
offenders at
Moreton bay.

* Note 173.

to both Norfolk Island and Morton Bay, as also to relieve the Goals of Sydney, I have caused a Vessel of about 600 Tons to be purchased and be fitted up as a Hulk; the purchase of which Vessel has been effected upon such low terms and the means of fitting her for the reception of Prisoners by the materials, which were rejected by the Prison Ships on their arrival here as useless, have been so great and of such little cost to Government, that I cannot but anticipate your Lordship's fullest approbation of this measure. I consider this Hulk, which will not have cost Government more than £1,500, equal in point of accommodation to a Goal, which would have cost as many thousands and which possesses many advantages over a Prison on shore. The Hulk will be ready to receive Prisoners by the end of the present month, when it will not only relieve the Goal, but, as I intend to work the Prisoners in Irons, by so doing I have no doubt it will have a very salutary effect in repressing crime. My reasons for purchasing the hulk were originally suggested by the length of time, which it will necessarily require to finish the New Goal; but I have been since led to anticipate so many peculiar advantages in having a Hulk in Sydney Harbour, and my opinion on the subject has been so confirmed by the sentiments of many persons here, that I feel it would under any circumstances always have been a great accession of strength and terror to the Police of the Colony.

I hope that the views, which I have taken on the subjects of this Dispatch, will meet your Lordship's approbation.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 51, per ship Deveron.)

Government House, New South Wales,

My Lord,

21st May, 1825.

I have the honor to acknowledge the receipt of your Lordship's Dispatch No. 51* on the 7th Inst't by the "Hercules," signifying that His Majesty had been pleased to relieve me from the Government of New South Wales; and I beg to inform your Lordship that I shall take the earliest opportunity of complying with His Majesty's Commands.

Orders for recall
acknowledged.

I hope I shall not be deemed insincere, if I assure your Lordship that I have received His Majesty's Commands without regret. The Government of this Colony is onerous and peculiar, and a stranger coming as I did must be indebted to more than ordinary good fortune, if He can retire from it without having fallen into many errors and incurring some discredit.

Satisfaction
at relief.

* Note 173.

1825.
21 May.

Purchase of
ship Phoenix
for a hulk.

1825.
21 May.

Want of
assistance for
Sir T. Brisbane
on arrival.

Your Lordship will do me the justice to bear in mind that, upon my assuming the functions of this Government, I had neither a Council to consult, Crown Lawyers to advise, nor even a Private Secretary to assist me, aids which are deemed indispensable in the smallest and most unimportant of the other Colonies; I assure your Lordship, therefore, that I do most willingly resign a Government, in which experience has taught me how difficult are the Duties to be performed, and how easy it may be to lose some portion of that reputation, which may have been hardly earned by a long course of zealous and approved publick Service in various other parts of the World.

I beg to reserve only the privilege of explaining those parts of my administration to your Lordship, for which I have been called upon to account.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 52, per ship Deveron.)

Government House, New South Wales,

23 May.

My Lord,

23rd May, 1825.

Anonymous
attack on
Sir T. Brisbane
in *Morning
Chronicle*
newspaper.

Having seen a letter which appeared in the *Morning Chronicle* of the 21st of last August, containing remarks prejudicial to me, I have thought it right to have the honor to transmit to your Lordship remarks on each paragraph.

The falsehoods and exaggerations of most of its Statements I think will appear to your Lordship Satisfactorily confuted, and that your Lordship will cause steps to be taken in vindication of my reputation, which has thus wantonly been attacked.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

OBSERVATIONS ON A LETTER WHICH APPEARED IN THE MORNING
CHRONICLE OF THE 21ST AUGUST, 1824.

The Letter.

Allegations re
town grants
and leases.

1. "You will be surprized to hear that the Colonial Govern't has obliged the Inhabitants of Towns to take either grants or leases of the houses and lands occupied by them; to which have been annexed such unfair and oppressive conditions that no person can possess his property in security. For instance, the lessee cannot divide, alienate, sell, let, or make any alteration to his house or garden without first having obtained permission to that effect from the Governor, or more properly speaking his Secretary Major Goulburn; so that I, who am unavoidably burdened with two houses, am not permitted to let the one I do not occupy, without asking the leave of our despotic rulers; when, even if I should

obtain Sir Thomas Brisbane's consent, I am subject to have my land resumed unless I also obtain the Secretary's, for the Governor's word alone cannot be depended on. This measure must doubtless receive the disapprobation of Government at home, for none can be more pernicious to an infant Colony than that which tends to create any doubt of a man's right to property."

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23 May.

Allegations re
town grants
and leases.

Remarks.

1. The policy of imposing restraint upon the alienation of Property in Towns without license is here reprobated as a measure essentially evil. The true question is, whether, in this peculiar Country, such a system possesses advantages superior to its acknowledged deficits. Restraints on the enjoyment of property can certainly only be justified by the goodness of the purpose for which they are imposed, and probably the strong disinclination, felt to these restraints, sufficiently proves their inexpediency. Perhaps in regard to property, the time is come when New South Wales ought not to be considered a peculiar Country. The rapidly increased numbers of Freemen by emigration has almost merged the convict character of the Colony.

Reply by
Sir T. Brisbane.

These restraints were however intended to secure to the Government, what was thought a proper influence; great facility seems to have been allowed to the mere possession of land in Towns, but very great numbers of titles exist, subject to resumption for public purposes, and, as an equivalent for the Buildings, a new Grant. In the formation of new Towns, things are done in haste, and the relative importance of situations is unavoidably over seen. The Government has always probably felt this; and whether the methods taken for repairing errors, made by such oversight, have been good, it is for your Lordship to determine. It was under a wish to preserve due authority that the restraints here complained of were recommended.

There are unbiassed persons, who think those restraints are inexpedient under all circumstances.

Letter.

2nd. "I have said above, Sir Thomas's word alone cannot be depended on. This may certainly appear a harsh thing to say of a Governor and an Officer of such high rank; but the following particulars of an event, which had occasioned no little ferment here, will convince you that the assertion has not been inconsiderately made; Mr. Lang, a Minister of the Scotch Church, and a son of a pew tenant on Sir Thomas Brisbane's estate in Scotland, came here lately by the express invitation of Sir Thomas to found a Presbyterian Church under his Sanction,

Allegation re
the word of
Sir T. Brisbane.

Treatment by
governor of
members of
Presbyterian
church.

1825.
23 May.

Treatment by
governor of
members of
Presbyterian
church.

and with liberal promises of personal patronage and public support. He preached some time, and gave such satisfaction, that the principal Presbyterians met and formed an Address* requesting the assistance and co-operation of Government to build a church. This Petition was shown privately by Mr. Lang to Sir Thomas, who kept it three or four days, corrected it, and, on returning it to Mr. Lang, shewed him the answer he proposed making as the Official reply, in which, after paying a handsome compliment to the Presbyterian religion (in which the Governor had been educated), he assured them they should receive the same liberal public support as the Roman Catholics had experienced on building their chapel. This answer was actually brought down to Sydney in his pocket; but fancy the astonishment of the Addressors when, instead of having a repetition of the assurances of support, as they expected read them in a steady tone, they saw Sir Thomas stop short at the second or third sentence, and then, after hemming and coughing, stammer to the end of the insulting reply, which had been put into his hand by the Colonial Secretary a few minutes before."

Remarks.

Reply by
Sir T. Brisbane.

2nd. A gross imputation on my word is connected with the topic of the Leases in a most loose and hasty manner; and in order to prove the imputation to be correct, circumstances are mentioned which, if true, would be infinitely more disgraceful to my character.

The circumstances, if true, must have been known by very numerous witnesses, and it was a thing so impossible to be concealed in New South Wales that the general disposition of the Letter writer will be duly estimated after a simple exposure of the utter incorrectness of a statement, which he makes the argument of public slander.

I neither invited Mr. Lang to this Country directly nor indirectly, nor did I in any way originate the founding of a Presbyterian Church.†

I did not show Mr. Lang an answer to the Petition alluded to, or even write one; although not a Presbyterian, I did not refuse such assistance as I was able to give to others; and I supported their attempt to raise a Scotch Church, and have uniformly done so.

The reply to the Address deserves explanation. In the ordinary routine of business, the Colonial Secretary in his Department prepares the detailed answers to Public Papers from short instructions; some altercation had, during the progress of this Petition, occurred at Sydney between the Presbyterians and others. The Presbyterians were generally thought to have then

* Note 80. † Note 174.

acted most unreasonably, but by no means did I consider them deserving of public rebuke. In this case the instructions were that a polite reply should be prepared for me to give their Memorial. Without having time previously to consider the document thus written by Major Goulburn, I felt, on reading it, regret that it had not been expressed in more conciliatory terms. The feuds which existed required to be checked; but I never ceased to support the general exertions of the members of the Scotch Church. The following papers* will show how unremittingly my support has been given to them, and how little the true sources of intelligence on this subject have been sought by this writer.

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23 May.

Reply by
Sir T. Brisbane.

Letter.

3rd. "Many of the new Settlers, who possess Capital, are returning to England in disgust. The Government, instead of forwarding their Views, and giving its attention to the real interests of the Colony, is occupied in the most ridiculous cabals and private intrigues. I have no doubt Ministers will see the necessity of appointing an Executive Council, and they ought certainly to give free men the privilege of Trial by Jury. Lately that unhappy man —————† had been tried by the Criminal Court, which from its Component parts, is in fact a Court Martial, and sentenced to transportation for life, having fired at a soldier of the 48th Regt., who was stealing hay or grass from one of his paddocks. The sentence is generally considered extremely severe. The wretched fate of this unhappy man, who attempted self destruction during the trial, appears to have engaged the attention and excited the indignation of all classes of the Colonists."

Allegations
of mal-
administration
of government.

Remarks.

3rd. New South Wales has been fortunate in the acquisition of some Individuals of considerable Capital, and they are now in the Country; but, like other new Colonies, it presents many difficulties to be overcome, which may alarm the most persevering; it possesses some peculiar disadvantages, and capitalists do not often go to new countries; but I am not aware of the names of the new Settlers of this description, who are returning to England. The bad character of the Masses of the Inhabitants must in itself be for many an extreme difficulty to settlers from Europe.

Reply by
Sir T. Brisbane.

Mr. Gore's case is mentioned in that paragraph. It is an unhappy one; but the wills of the Law are strongly against distinguishing the higher from the lower Classes in the application of criminal Justice. Here the mostly great majority of offenders are Labourers, and a strong sense of injustice would

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Reply by
Sir T. Brisbane.

have arisen if Mr. Gore's condition in life had been considered. The offence was his defending the grass on his lands with a violence never yet tolerated by Law. The temptation to personal violences here requires a vigilant restraint to be put by the Law upon the effects of the ebullitions of passion when they occur. There never was any intention to carry into execution the capital sentence of the Court. The difficulty of property in a thinly peopled country renders personal affrays very frequent, and perhaps, where Death does not follow the punishment, the law might be wisely lessened in favor of offenders; a sympathy is always raised against the Law in these cases that thwarts the execution of the Law.

Letter.

Allegations re
police and bench
of magistrates
at Parramatta.

4th. "The Police is in a miserable state. One of our inquisitorial local regulations is that a stranger cannot enter the town of Parramatta on business without being asked by the Convict constable on duty, his name, where he came, whither he is going, and what is his business, which particulars are to be reported to the Police Magistrate, an Assistant Surgeon on the Colonial Establishment and formerly in the army, who, with two other military men, one a young inexperienced officer of the Buffs, and the other Sir Thomas Brisbane's household Physician (a Half Pay Surgeon in the Army), administer the magisterial duties of the place. This triumvirate has sometimes called to its assistance another Son of Mars, a Lieutenant in the Army on half pay, who with the first of these worthies lately cut a sorry figure in an action, brought against them by Mr. Marsden, for having in their Magisterial capacity convicted him of a breach of the Colonial regulations, without producing any proofs, or hearing any evidence on the occasion. I would give the particulars of this filthy case, in which the Government have also dirtied their fingers by paying the expenses of the action, which cannot be less than £500 (O tempore! O Mores!) but think it must become public, when you will see the malice of Mr. Marsden's enemies, and that the Support that is held out by the Government to anyone who will vilify or traduce the character of those over whom they choose to tyrannise, more fully made known."

Remarks.

Reply by
Sir T. Brisbane.

The Magistrates alluded to in this Paragraph are Mr. Douglass, Captain Barlow, Dr. McLeod and Mr. Lawson.

Of Mr. Douglass, it is unnecessary for me to say anything, as your Lordship has seen him, and by that and other means had ample opportunity of judging whether he is fit for the Magistracy; Mr. Lawson is the gentleman called the Lieutenant on half pay; he has been a Magistrate in New South Wales about

1825.
23 May.Reply by
Sir T. Brisbane.

17 years, and is one of the most extensive Land and Stock owners in the colony; he would probably be a Magistrate in any County in England. He was successively Commandant of the new Settlements of Newcastle and Bathurst. As other Magistrates, he may have fallen into legal errors, of which, however, I know of but the instance against the Rev. Mr. Marsden,* but he is a reasonable and not illiberal man. The annexed copy of a Letter from Governor Macquarie illustrates his character. Your Lordship is acquainted with the circumstances rendering in my opinion two new Magistrates necessary; I mean the removal of others alluded to in another part of the Letter. Dr. McLeod and Capn. Barlow were the two I appointed; Of Dr. McLeod's good sense I have never had reason to doubt. The Magistracy has been a burden to him, without any equivalent benefit.

Captain Barlow of the Buffs looked young. He is a Captain of near five years standing. I have heard no instance in which his conduct gave dissatisfaction.

In a recent and arduous Command at Melville Island, I have reason to believe him to have shewn considerable talents.

Of the inquisitorial questions complained of in this Letter, I never heard before, and I have caused particular enquiry to be made, and, with an exception hereafter mentioned, no instance is known of the Police report, alluded to, having been made in the last four years. It would be impossible with a trebled establishment of Constables to carry into effect the system spoken of by this writer.

The exception, I alluded to, is one in which a very improper course was for some time pursued by Dr. Douglass. It appears, after a very careful enquiry, that he did not confine his Police examinations to the conduct of vagrant Convicts or suspicious persons, but he actually endeavoured to note, by means of intelligence from Constables, the goings and comings of every person in the Colony (however well known and respectable) to and from Parramatta, and a constable has been ascertained to have once made personally to a gentleman extremely improper enquiries as to his name and business at an Inn in the Town; this system, however, was not that of the Police at Parramatta; the other Magistrates opposed or did not know of it, and belonged exclusively to Dr. Douglass's Views; no complaint on the subject was ever brought me, nor do I think did ever occasion complaints in the Courts.

It appears that in 1811 something of this kind was attempted, but it soon fell into disuse.

In the regulations of the Police in 1810, there is an order that every housekeeper residing in Sydney should enter or cause

* Note 177.

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23 May.

Reply by
Sir T. Brisbane.

to be entered with the Superintendent of Police their respective names, places of abode, the amount of their children, and servants, and also the names of strangers or other persons resident with them, or remaining in their houses beyond 24 hours.

Many old Orders of this Kind may, without doubt, be discovered, which would be intolerable at present; they were issued by Governor Macquarie and his predecessors with a principal view to the Convict character of the population; of late years such Orders, altho' not formally cancelled, have been disregarded.

It is however a question of the utmost moment in a Country, where crimes are, in proportion to the population, six times greater than in England, whether a vagrant law of great rigor is not needed; perhaps by destroying a principle of the British Constitution, such a Law would defeat its only justifiable object, general utility.

Letter.

Spanish
dollar.

5. In respect to the Spanish Dollar.

Remarks.

Reply by
Sir T. Brisbane.

5th. Upon the question of Dollars, your Lordship has, in former dispatches and in those* which have more recently been sent by me in the case of the Almorah, the means of considering with their Lordships, the Commissioners of the Treasury, whether the Currency arrangements of this Colony are properly managed.

Letter.

Dismissal of
magistrates.

6th. "The dismissal of five Magistrates."

Remarks.

Reply by
Sir T. Brisbane.

6th. The case of the removal of the Parramatta Magistrates is also before your Lordship fully, and replies* to the late Dispatches on this subject are transmitted herewith.

Letter.

Allegation *re*
governor's
recreations and
Parramatta
observatory.

7th. "Sir Thomas spends the greater part of his time in the Observatory or shooting Parrots. Lately he has been deprived of his Principal Assistant, Mr. Rumker, who, report saith, hath retired to his Farm, either from anger or disgust; if it be so, what figure will the future astronomical correspondence from Parramatta Observatory† cut in the Journals and transactions of our Learned Societies? for it is well known that the reports, which have already appeared in them, are due to the perseverance and ability of Mr. Rumker, whose present disaffection is a loss to science and the world in general."

*Remarks.*1825.
23 May.Reply by
Sir T. Brisbane.

7th. My time has been so fully occupied that, even of a Sunday, I have been engaged all day; Consult the Chief Justice, Attorney General, every other Public Officer of the Crown, if the business of the Colony ever Stands still from my inattention to it; and so far from spending the greater part of my time in the Observatory or shooting Parrots, I am prepared to prove by my medical attendant that my health has materially suffered from constant confinement to business; I am equally prepared to prove that I have never passed one quarter of an hour for days in my Observatory from sunrise to sunset. Mr. Rumker rendered himself obnoxious to myself and family, completely failed in the fulfilment of his original engagements with me, and, when I found him devoted alone to his own objects and pursuits, consequently became of no further use to me.

Letter.

8th. "By referring to the Gazettes, of which I send you the three last (5th, 18th and 19th Feby.) you will see how satisfactorily to himself our late worthy Judge Field left us. The suppression of that part of the Address* of the Agricultural Society, which compliments the Judge on the impartiality of his Conduct on the Bench will astonish you, but it has caused no wonder with us; we are getting accustomed to those arbitrary acts; yet are we not the less indignant at them, and despise the littleness of that mind, which can bring itself to act in so unjust and unprecedented a manner."

Allegations
re address of
agricultural
society.*Remarks.*

8th. With respect to the Omission in the Gazette of part of the Address to Mr. Field, it was ordered in consequence of the serious breach of the Rules of the Agricultural Society committed in that part.

Reply by
Sir T. Brisbane.

The well understood principle, upon which I sanctioned the existence of the Society, was that political questions should be discarded from the deliberations. The passage in question utterly disregarded this principle; and I struck it out rather in order to preserve the Society from the evils of the precedent, than from any wish that Mr. Field should be deprived of any merited honors.

Letter.

9th. "The Governor directs that all Memorials, Letters, or other Papers intended to be submitted to himself shall be sent open, under cover addressed to the Colonial Secretary; failing which they will be returned unanswered to the parties from whence they came."

Orders re
communications
to governor.

1825.
23 May.

Reply by
Sir T. Brisbane.

Remarks.

9th. The reply to this was the multiplicity of Letters and Papers constantly sent in, which no one Individual could attend to, even if his whole time was exclusively directed to them. The precedent before me of a similar nature by my Predecessors in a Government and General Order of 8th April, 1820; this joined to the want of a Private Secretary required some arrangement for the dispatch of business; as soon as that appointment was made, notice was given in the Sydney Gazette of the 20th May, 1824, that the previous Order of the former year was neutralized, or done away with; and subsequently, on your Lordship's confirmation of the Appointment of my private Secretary, public notice was immediately given in the Sydney Gazette of 27th January, 1825, that the General Order of 28th May, 1823, was rescinded, and copies of these Notices are accordingly transmitted.

Letter.

Dismissal of
committees.

10th. "The sudden and insulting dismissal of the Orphan School and Native Institution Committees for venturing to remonstrate against taking convicts' children into the Orphan School, who were not orphans, and for whom the Institutions was never designed."

Remarks.

Reply by
Sir T. Brisbane.

10th. The Changes alluded to in this Article were made because the Committee was nearly about to die a natural death by the removal of the two Judges, which required the Committee in consequence to be new modelled, but there was not the shadow of personality in the measure.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 55, per ship Devoren.)

Government House, Sydney, N.S.W.,

My Lord,

23rd May, 1825.

Remissions of
sentences on
convicts.

I have the honor of transmitting herewith two lists of Offenders, whose terms of Transportation, by virtue of His Majesty's Commission under the great seal issued in pursuance of an Act* passed in the 30th Year of the reign of his late Majesty George the third, I have shortened since the 1st Day of January, 1824, and in compliance to the regulations contained in the 35th Section* of the 4th of George the 4th, Chap. 96.

I respectfully solicit, through your Lordship, His Majesty's approbation of every such remission, in order that the instruments, whereby these terms have been severally shortened, may have within New South Wales and its dependencies thereof such

* Note 179.

and the same effect in the law, to all its intents and purposes, as if General Pardons, in which the names of such offenders had been included, had passed under the Great Seal of Great Britain on the days of the dates of such instruments respectively.

1825.
23 May.
Remissions of sentences on convicts.

I have, &c.,
THOS. BRISBANE.

[Enclosure.]

[A copy of this return is not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 54, per ship Devoren.)

Government House, New South Wales,

My Lord,

24th May, 1825.

24 May.

Circumstances* of some importance, connected with the Revenue of the Colony, having recently occurred, I shall put your Lordship in possession of them by the next ship, which is expected to sail in about a fortnight. The facts are shortly that an attempt has been made to avoid the payment of Duties by a few merchants, and to recover the sums they have paid to the Revenue for the last two years. The grounds of these attempts are alleged incorrectness in the Proclamations, issued under the Act of Parliament of the 3rd year of His present Majesty, authorizing Duties to be levied in this Colony. I have no reason to believe that those parties will succeed. I have, &c.,

Attempt to avoid payment of duties.

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 56, per ship Devoren.)

Government House, N. S. Wales,

My Lord,

24th May, 1825.

There is an Act of Council,† to which I would request to draw Your Lordship's attention, namely that which enables one Magistrate to inflict punishment on prisoners of the Crown; the 19th clause of the act of Parliament† directs that two at least should be present at the pronouncing of every sentence on such men, and this departure from an act, so recently and so carefully passed in England, is to be justified only by the universal voice of the magistrates of the Colony; in order to meet the exigencies of the act of Parliament, I have greatly increased the number of magistrates; but the distance, at which gentlemen reside from each other, seems to render the meeting of two for adjudicating upon daily small offences impossible; and it is for your Lordship's consideration in the amending of this act in 1827 whether this point may not be proper to be more materially considered.

Statute authorising infliction of punishments by one magistrate.

Necessity for act of council.

* Note 180. † Note 181.

1825.
24 May.

Expense of
increase in
number of
magistrates.

The act of Council very carefully limits the power, which it was thought absolutely necessary to confer upon a single magistrate; and this necessity will account to your Lordship why the act of Council is at variance with the act of Parliament; with regard to increase of the number of magistrates, an important point upon the present system is the increased expence with which it is attended; and as some gentlemen actually decline receiving the emoluments, prefer a perfect independent feeling for those of their rank, altho' they do not resign the income; but it should appear invidious to others of different sentiments.

I beg the favor of your Lordship's instructions on the subject, as these stipends, on the present limited number of Magistrates, approach to £1,800 per annum. I, therefore, beg to be made acquainted how far your Lordship's views coincide with this principle. I beg to state to your Lordship that in my opinion that the entire independence of the Magistrates throughout the Colony would tend to increase their respectability; and as the appointment of stipendiary Magistrates for the different Townships must speedily be adopted, the diminished duty of the Magistrates will in consequence lessen their Claim to indulgence as heretofore.

I have, &c.,

THOS. BRISBANE.

Consequence of
appointment of
stipendiary
magistrates.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 57, per ship Devoren.)

Government House, New South Wales,

25th May, 1825.

25 May.

My Lord,

Problem of
government
domain at
Sydney.

I have for some time had it in contemplation to address your Lordship upon the very important subject of the Government Domain,* as it is called in Sydney, and the want of a suitable Government House and Public Offices; and I have now the honor to lay my Views before your Lordship. It will be perceived, by referring to Capt. King's Chart† of Port Jackson, that one half of Sydney Cove, in which Sydney Harbour† is situated, has been reserved by Government, and at present is of no further use than affording a pleasing prospect to the Eye; While the remaining half is crowded with the Stores and Houses of the Merchants to an inconvenient degree, from the want of sufficient space for shipping and other Commercial purposes. I am of opinion that it would be highly desirable to sell or let on building leases the whole of the water side of the Domain, as far as Fort Macquarie, and so many feet back as may be sufficient for the erection of Stores and Warehouses, so as to admit of a Street fronting the present Government House, which is in a most

Proposed sale
or lease of
water frontages.

* Note 182. † Note 183.

dilapidated state, unfit for the residence of the Governor in consequence. This arrangement may be done without any substantial loss to the Domain, as the land thus disposed of is applied to no valuable purpose at present.

The Revenue, arising from this manner of disposing of part of the Domain, will I apprehend afford ample funds for the erection of a suitable residence for the Governor in Sydney; and the present Government House,* which is very unfit for such a purpose, may with great convenience be converted into Public Offices, which are very much wanted and cannot be procured but at a very considerable expence. I would further beg to suggest that the Gothic Building* on the pleasantest Scite of the Domain, which was intended for Government Stables, is utterly useless at present from the great disproportion of the Establishment of the Government, may be easily and advantageously improved into a Government Residence.

In submitting this Measure to your Lordship, I feel an assurance that it will be attended with great gain to the Public, in convenience as well as Revenue, and a great saving of expence to the Government.

I have, &c.,

THOS. BRISBANE.

Proposals re
government
house.
1825.
25 May.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 32, per ship Brothers.)

Sir,

Downing Street, 2nd June, 1825.

2 June.

I have had the honor to receive your Dispatch No. 7 of the 30th September, transmitting an application, which had been addressed to you by Mr. Bannister His Majesty's Attorney General, to receive the portion of his salary payable from the Colonial Fund from the date of his embarkation in this country; the favorable decision of which question involves that of a similar Indulgence to the other Officers who have recently been appointed to situations in the Colony. On referring to what has been the practice in respect to judicial appointments in other Colonies, I find that some of the Salaries have commenced from the date, at which Mr. Bannister has claimed the commencement of his emoluments; but in all such instances the persons have been under the necessity of defraying the expence of their own passages out to the Colony, whilst in the case of Mr. Bannister and the other Gentlemen, who have received appointments at New South Wales, passages have been provided at the expence of the public. Upon a consideration, however, of all the circumstances, I am induced to sanction the payment of *half salary* to Mr. Bannister and the other Gentlemen, whose cases are similar,

S. Bannister's
application
re his salary.

Precedents in
other colonies.

Payment of
half salary
from date of
embarkation.

* Note 182.

1825.
2 June.
—
Payment of
half salary
from date of
embarkation.

Refusal of clerk
and residence for
S. Bannister.

from the date of their respective embarkations; and it will therefore be necessary that you should call upon the Individuals in question, to whom it appears that you have already issued *full* salary in anticipation of a favorable result to their applications, to refund, by such Instalments as will not be inconvenient to them, the amount which they have thus received over and above the Sum to which they will be entitled under the arrangement, which I have now sanctioned. With respect to Mr. Bannister's application for a house and for the assistance of a Clerk, I cannot hold out any prospect of such being allowed to him. His Salary was fixed at £1,200 per annum upon a consideration of the duties, which he would be required to perform, and without reference to any other Emoluments than those, which he might have expected to obtain by his private practice; and, if the profits of the latter have fallen short of those expectations, it affords no ground for additional Remuneration.

I have, &c.,
BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 58, per ship Harriet.)

Government House, New South Wales,

My Lord,

2nd June, 1825.

Proposed date
for departure of
Sir T. Brisbane.

Understanding from M. General Darling that he does not intend to leave England until June, which will defer his arrival in this Country until October or November, I have determined not to depart until that period. In adopting this Resolution, I have been guided by consideration of public expediency tho' at some expense to private convenience.

Reasons for
delay in
departure.

The Lieutenant Governor will of course remove with his Regiment to India; and, as he does not appear to me to have that intimate acquaintance with the views of His Majesty's Government at home, which is necessary to this very delicate and difficult Government, and Lieut. Col. Thornton unfortunately labors under a personal malady, which must render him unfit to be trusted with the reins of Government, I have deemed it to be a Duty on my own part, as well as with reference to the views of Government, to postpone my departure until the time, as nearly as may be calculated, of Genl. Darling's arrival, who will doubtless be fortified with those instructions and that confidential knowledge of the views of His Majesty's Government, which are indispensable to the administration of the affairs of this Colony, and shall only add the expression of my hope that my decision will be approved of by your Lordship.

I have, &c.,
THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

1825.
2 June.

(Despatch No. 59, per ship Harriet.)

Government House, New South Wales,

My Lord,

2nd June, 1825.

I do myself the honor to acknowledge the receipt of Your Lordship's dispatch No. 46,* which was conveyed by the "Hercules" to the Colony on the 7th ult. Immediately on the receipt of the dispatch, I addressed a letter to Dr. Macleod, who has had almost the entire charge of the female Factory at Parramatta since Dr. Douglass left the Colony fifteen months ago, to know how far the Revd. Samuel Marsden had made a faithful and well founded representation to the Bishop of London of having been refused to obtain permission for the children of the Women in the Factory to be baptized in the Church.

Despatch
acknowledged.

As I now have the honor to transmit Your Lordship copies of these letters, It is unnecessary to trouble Your Lordship further on the subject, than to express my surprise that the Revd. gentleman had never stated his objection to me until his unfortunate difference with Dr. Douglass; and, as I considered that all those Children in the Factory were illegitimate, it was becoming to baptize them in the quickest possible manner in order not to offend public decency in the least possible degree; and with this view, I have submitted Your Lordship's dispatch to the Arch-deacon, who says that the presence of the Mothers may be dispensed with; and I beg to observe that had such course been pursued in the first instance, Your Lordship would have been spared the trouble of addressing me on the subject, whilst I should have been absolved from an imputation, I do not consider the Revd. Samuel Marsden had legitimate grounds for establishing against me.

Baptism of
children of
female convicts
in factory.

I have, &c.,

THOS. BRISBANE.

[Enclosures.]

[Copies of these two papers are not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Harriet.)

Government House, New South Wales,

My Lord,

3rd June, 1825.

3 June.

Although I do not mean to trouble Your Lordship with a justification of any of the Acts of my Administration, still I am anxious to impress upon your Lordship that I had often been attacked in many points in which I was certainly not vulnerable.

Attacks on
administration
of Sir T.
Brisbane.

* Note 184.

1825.

3 June.

Defence by
Sir T. Brisbane
of his
administration.

My primary object is to remove imputation upon my character; whilst my next is to impress upon your Lordship that I have not been inattentive to the best interests of this delicate and difficult colony to govern since my arrival in it.

With this view, I take the liberty of sending your Lordship a refutation of the Calumnies, circulated in the Morning Chronicle of last August, wherein I trust I shall appear completely to have succeeded in refuting them to the satisfaction of your Lordship's mind, as also I trust in the eyes of the community at large.

Women
transferred from
Parramatta to
Emu plains.

I take the liberty, also, of sending your Lordship the Australian of the 7th and 21st of April, wherein the subject of the women sent to Emu Plains is treated; and I trust I shall appear absolved from blame in that transaction, which was imposed upon me from circumstances as almost one of necessity; and I trust it has proved not an invaluable experiment. I understand the women were represented as having been sent to a penal settlement contrary to their wish; but the fact is they all volunteered to go there. The newspaper in question would gladly have seized the opportunity of misrepresentation had there been grounds; but it appears that these misrepresentations on the subject have been confined to Great Britain, as here the measure caused no sensation.

But I have more fully explained this Affair in my Official Dispatch,* where I had made a mistake as to the number, which should have stood 19 out of 24 married and settled; whereas in that Dispatch I had stated them to be 24 out of 32, and the error did not occur to me until after it had gone. The mistake I afterwards explained and corrected in my Duplicate Dispatch. I beg most solemnly to assure your Lordship that no circumstance, either improper or unbecoming, had ever occurred from the measure; and I have since traced the whole of that misrepresentation to a few Individuals,† by whom it had been got up and amongst whom it had been solely confined. I consider I cannot give your Lordship a more unequivocal proof of the advantages resulting from the women thus having been sent there, than the fact that not one of the 19, stated to have been married, have since been returned to the Factory for misconduct.

Returns
submitted.

Decrease
of crime.

Abstract
of revenue.

I shall now quit this subject and proceed to one of more interest as combining the general prosperity of the Colony. With this intention, I take the liberty of sending your Lordship 9 different Returns being official records. No. 1 will shew your Lordship that crime is happily on the decrease, notwithstanding the great increase of population during the last six years. No. 2 will tend to show your Lordship that the resources and consequent Revenue of the Colony have gone on progressively increasing for the last four years. No. 3 will establish the beneficial

* Note 184. † Note 172.

effects of the present financial system and the amount resulting from the measure of selling Treasury Bills to the highest bidder, whereby so large an amount has been rendered available to the Public Service. No. 4 will establish how faithfully I have fulfilled your Lordship's Instructions of keeping as few Mechanics and Labourers for the wants of Government as possible.

1825.
3 June.

Mechanics
employed by
government.

I have the further gratification of reflecting that every Mechanic and Labourer now does work fully equal to his expences to the Crown, as can be fully and satisfactorily shown by the valuation of the Public Buildings and work executed since my arrival.

No. 5 shews the amount of the fund arising from hiring out Mechanics to Settlers at only 3s. 6d. per week for each, whereby their wants are supplied without favoritism; whilst a fund is thus raised to enable me to pay in money the overseers, etc., who formerly had their salaries paid by an assigned Mechanic or Labourer on the Stores.

Mechanics hired
to settlers.

No. 6 will show your Lordship the care I have taken to remove from the Stores all Individuals, who had not a fair and legitimate claim to such an indulgence, and which advantage had previously been most unsparingly misapplied.

Rations issued.

No. 7. I have already brought the subject of the Clearing Gangs under your Lordship's consideration in my Dispatch* on that measure No. 2; the important benefits resulting from which I may venture to assert has never been surpassed by the Local Government, independent of the prospective considerations resulting from it. The value in wheat of the land so cleared, Vizt. 20,031 Acres taken at six shillings per bushel (altho' the present price is nearly double), the sum will exceed £42,000.

Lands cleared
by convict
gangs.

No. 8 is in reality ingrafted from the preceding measure. Formerly all provisions consumed by Road or Clearing Gangs, however distant, were transported at the expense of the Crown, whereas Contracts are now made with the nearest Settler to supply them, The Return exhibits the diminished expense of the entered Transport for last year; by which the Settler has his produce consumed on the spot, is spared the loss and delay of sending it to market. The Government is also spared the expense of sending it to these remote stations, whilst the unfortunate Convict is ensured good wholesome provisions, which was not always the case during the very hot weather of this Country, during which meat will scarcely keep for 24 hours.

Expenditure on
land transport.

No. 9 exhibits the amount of Bills drawn by the Commissariat for the Service of the Colony during the last 6 years, and is I trust not an unsatisfactory exposition.

Bills drawn by
commissariat.

When the practical effects, resulting from these different measures, are considered in combination with those which have

* Note 184.

1825.
3 June.
Reforms
introduced.

been introduced and acted upon by me, as resulting from the recommendation of the Commissioner of Enquiry, a copy* of which has gone home officially in duplicate, I trust I may not be deemed by your Lordship as having been altogether inattentive to the best interests of the Colony during my Administration; many of which measures had been acted upon by me long before the receipt of those Reports in the Colony.

Financial loss of
Sir T. Brisbane
as governor.

I have only to claim your indulgence for having trespassed so long on your Lordship's time and patience, in conclusion to assure your Lordship that no earthly consideration could recompense me for the sacrifice of peace of mind, I have undergone during the three first years of my Government, from the incessant attacks of the wicked and ill-disposed part of the Community; whilst, in point of finance, I am largely a loser, viz. not less than £5,000. Your Lordship cannot be aware that my passage alone to this Country cost me £1,790 more than I was allowed by Government; assuming nearly a similar sum for my return to Europe, I have taken the whole at the first stated amount, as I did not draw the full salary until my arrival in the Colony. Combined with this, after 36 years of as active service as any officer of my standing, having served Eleven Campaigns of the war in the Field in most quarters of the Globe, having purchased every Commission in the army, with a constitution now much impaired, and my finances considerably reduced, I am consoled with the reflection that, in my retirement, I shall be rewarded by the Enjoyment of twenty five shillings per day for a life time of no ordinary activity and privation.

His services.

His pension.

I sincerely hope your Lordship has received my former private letter† of the 26th January, in reply to your Lordship's of the 23rd August. My letter left this in the "Mangles" the 12th February, and I trust is now near its destination and that it has proved satisfactory to your Lordship. I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

[*This return was similar to the enclosure to the despatch numbered 22 and dated 28th January, 1825; see pages 478-9.*]

[Enclosure No. 2.]

Abstract
of revenue.

ABSTRACT of the Revenue of New South Wales for the Year 1821, 1822, 1823 and 1824.

	Spa. Drs.	Cents.
1821	147,129	60
1822	161,062	46
1823	153,489	88 $\frac{9}{12}$
1824	167,900	31 $\frac{6}{12}$
	<hr/>	<hr/>
	\$692,582	26 $\frac{3}{12}$

* Note 184.

† Note 185.

[Enclosure No. 3.]

New South Wales and Van Diemen's Land.

1825.
3 June.Account of
premiums
obtained on
treasury bills.AN ACCOUNT of Premiums obtained on Treasury Bills for the
undermentioned periods, vizt.

To Amount of Premiums between			
25th June and 24th Decr., 1822	£2,869	18	0
do. do. 25th Decr., 1822, and 24th Decr., 1823 ..	18,966	8	11
do. do. 25th Decr., 1823, and 24th Decr., 1824 ..	26,260	8	11
	<hr/>		
	£48,096	15	10

Making a Total of Forty Eight Thousand and Ninety Six
Pounds fifteen shillings and ten pence in Spanish Dollars at
five Shillings each.

WM. WEMYSS, D.C.G.

Commissariat Office, Sydney, 3rd May, 1825.

[Enclosures Nos. 4 and 5.]

[These returns were similar to the enclosures to the despatches
numbered 46 and 20, and dated 18th March and 17th January,
1825, respectively; see pages 549 and 472.]

[Enclosure No. 6.]

New South Wales and its Dependencies.

STATEMENT of Rations issued from His Majesty's Magazines to
the Military, Staff, Commissariat, Settlers, Convicts, etc.,
calculated at the proportion allowed for a single Ration.

Statement of
rations issued.

24th December, 1821	12,109	Rations Daily
24th June, 1822	11,962	do.
24th December, 1822	11,196	do.
24th June, 1823	11,206	do.
24th December, 1823	11,235	do.
24th June, 1824	10,633	do.

The whole of the accounts for December have not been received.
I am, therefore, unable at present to give the number of Rations
issued at that period; but I do not apprehend it will differ
materially from that of June, 1824.

WM. WEMYSS, Dy. Cy.-Genl.

Commissariat Office, Sydney, 25th April, 1825.

[Enclosure No. 7.]

ABSTRACT of Lands cleared by the operation of the Clearing
Parties in the Periods specified Underneath.

Return of
lands cleared by
clearing gangs.

	Acres.
From the 25th March, 1822, to the 24th December following, Nine Months say	2,408
From the 25th December, 1822, to the 24th December, 1823, Twelve Months	6,241
From the 1st January, 1824, to the 30th June following, Six Months	4,355

1825.
3 June.ABSTRACT of Lands cleared, &c.—*continued.*Return of
lands cleared by
clearing gangs.

From the 1st July, 1824, to the 31st December following,	Acres.
Six Months	4,135½
From the 1st January, 1825, to 30th April, 1825, Four Months	2,892
Four clearing gangs less than preceeding 6 Months.	

Total cleared to 30th April, 1825 20,031

[Enclosure No. 8.]

Account of
expenditure on
land transport.

ACCOUNT of the Expence incurred for Land Transport of Supplies between the 25th December, 1821, and the 24th May, 1825.

Period.		Quarterly Amount.	Annual Amount.	Total.
From	To			
1821.	1822.	£ s. d.	£ s. d.	£ s. d.
25 December	24 March	105 5 11		
1822.				
25 March	24 June	213 16 10		
25 June	24 Septemr.	260 1 1		
25 Sepr.	24 Decr.	226 11 7	805 15 5	
25 Decr.	24 Mar., 1823	114 6 0		
25 March, 1823 ..	24 June, ,,	289 4 5		
25 June, ,, ..	24 Sepr., ,,	156 17 10		
25 Sepr., ,, ..	24 Decr., ,,	145 18 10	706 7 1	
25 Decr., ,, ..	24 Mar., 1824	180 9 9		
25 Mar., 1824	24 June, ,,	30 8 10		
25 June, ,,	24 Sepr., ,,	126 16 5		
25 Sepr., ,,	24 Decr., ,,	54 15 10	343 10 10	
25 Decr., ,,	24 Mar., 1825	62 7 8		1,854 13 4
25 Mar., 1825	24 May, ,,	57 6 0	.....	119 13 8
				£1,974 7 0

[Enclosure No. 9.]

Statement
of bills drawn
on the treasury.

COMPARATIVE STATEMENT of the Amount of Bills drawn on His Majesty's Treasury for the Service of New South Wales during the following Years.

1819	Amount	£129,499
1820		181,376
1821		166,315
1822		229,826
1823		95,828
1824		199,112

A second Regiment with a Ship of War included in 1824, but in no former Year, combined with a partial failure of the Crop and the consequent high price of Grain will account for the encrease during this Year.

[Additional Enclosures.]

1825.
3 June.

[Copies of the issues of the "Australian" newspaper, dated 7th and 21st April, 1825, were forwarded with this despatch. Similar copies were also forwarded with the despatch numbered 49 and dated 21st May, 1825; see page 597 et seq.]

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 33, per ship Brothers.)

Sir,

Downing Street, 4th June, 1825.

4 June.

I have had the honor to receive your Dispatch No. 14 of the 6th November last, explaining the grounds on which you were induced to impose the duties, which formed the subject of my Dispatch No. 12/1824. But although I cannot admit the explanation, which you have afforded, as a sufficient reason for enforcing the duties in question, which were evidently illegal, yet, as it appears that you acted by the advice of one of the Crown Solicitors, I am willing to allow that there is some excuse to be urged in your favor for having adopted that measure.

I have, &c.,

BATHURST.

Duties levied
on shipping to
Port Stephens.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 34, per ship Brothers.)

Sir,

Downing Street, 5 June, 1825.

5 June.

I do myself the honor of transmitting to your Excellency the copy of a petition addressed to His Majesty's Government by Mr. Thomas Icely, representing the circumstances under which he had imported into New South Wales a quantity of European Spirits, and complaining of a partiality shewn to a Mr. Jacob with respect to the remission of the duty, in consequence of which he has been subjected to very considerable loss. From the Correspondence, which has taken place between Mr. Icely and the Colonial Government, Copies of which accompany his memorial, it appears that his application was refused on the following grounds: First, his having purchased *on commission* the spirits, for which he solicited a remission of the duty, and which would not have remained on his hands but for the loss of the Invoices.

Complaint of
T. Icely *re*
remission
of duty to
V. Jacob.Reasons for
refusal of
remission to
T. Icely.

Secondly: that Mr. Icely's correspondents in this country purchased the Spirits, which they had been directed to provide, with a full knowledge of the alterations which were about to take place in the duties on their Importation into the Colony.

Lastly: that it was the opinion of the Attorney General, whom your Excellency consulted, that you were not competent to grant him redress "as an Individual."

1825.
5 June.

Purchase
of spirits on
commission.

It does not appear to me to be of any importance, with reference to the principal point at issue, whether Mr. Icely provided the Spirits on his own account or on Commission; for had the parties, by whom Mr. Icely was employed, not been enabled to take advantage of the loss of the Invoices by returning the goods upon Mr. Icely's hands, the merits of the question would have remained the same, and a similar claim to the present would in all probability have been brought forward although proceeding from a different party.

Question of
ignorance of
new duties.

Nor can I acquiesce in the second ground, urged by the Colonial Government, for refusing to admit the claim of Mr. Icely, who, having no knowledge of the new duty when he ordered the Spirits in question from England, must be considered as standing on the same footing as the Individual in whose favour the additional duties were remitted. Mr. Icely's correspondents in this country may not have been ignorant of the intended augmentation of the duties; but, in the absence of any specific authority for exercising a discretion in the execution of an order, it is not to be expected that they would volunteer such a responsibility, however satisfied they might feel that the Requisition had been forwarded to England in ignorance of the new arrangement, and that, had Mr. Icely been aware of it, he would not have wished them to execute the order.

Reference to
opinion of
attorney-
general.

In adverting to the last ground of refusal to Mr. Icely's application, His Majesty's Government cannot but lament that you should not have had recourse to legal advice at an earlier period, when the question of a remission of the duty first arose; as, had the opinion of the Attorney General been obtained and followed by you at an earlier period, the present appeal to His Majesty's Government would not have been made, or at all events the particular grievance complained of could not have been urged in its support.

Duty to be
repaid or
remitted to
T. Icely.

Since, however, Your Excellency has taken upon yourself to exempt the Importation of Spirits by Mr. Jacob from the additional duty in force at the time of their arrival, His Majesty's Government consider themselves bound in fairness to authorize the same exemption, however erroneous, which it certainly is in principle, to be extended to Mr. Icely, the reasons assigned for the distinction appearing to be insufficient to justify it. I have, therefore, to direct that the duty, which has been paid on account of the Importation in question, be returned to Mr. Icely, and that, in the event of any part of the original cargo still remaining in bonded Store, the amount may be remitted; and I cannot conclude my Dispatch without pointing out to you the injurious consequences, which must result to private Speculators, as well

as to the general Interests of the Colony, if distinctions are made between Individuals, so as to interfere with that fair competition in their mercantile transactions, to which every Inhabitant has an equal right; not to mention the absolute loss, which has accrued in the present instance to the public, and which cannot be averaged at less than from twelve to fourteen thousand Pounds, from your having rendered inoperative for more than a twelve month an Act of Parliament passed with the view of increasing the pecuniary Resources of the Colony.

1825.
5 June.

No distinctions
to be made
between
individuals.

I have, &c.,
BATHURST.

[Enclosure.]

THE MEMORIAL OF THOMAS ICELY, MERCHANT AND SETTLER OF
NEW SOUTH WALES.

To The Right Honorable The Earl Bathurst K.G. one of His
Majesty's principal Secretary's of State.

Memorial of
T. Icelly for
redress of
grievances re
his importation
of spirits.

Most Humbly Sheweth,

That, in the year 1819, your Memorialist embarked as a Merchant to Settle in New South Wales, and, foreseeing the advantages to be gained by a connection with respectable Mercantile houses in London, he came to England in the Year 1821 to make the necessary arrangements for carrying on trade with the Colony; and that he returned to New South Wales the same year: that, in the year 1822, he wrote to his Correspondents in London (Messrs. Buckles, Bagster and Buchanan) to forward to him a quantity of Spirits consisting of Brandy, Hollands, and West India Rum:—At the time of Your Memorialist transmitting the said order, the duty per gallon on Spirits was Ten Shillings Currency:—on the arrival of the said spirits, they were accordingly landed and placed in the Bonded Stores, where the Brandy and Hollands still remains, except a small quantity which Your Memorialist was induced to reship and send at a risque to try another market, in consequence of the following partial proceedings of the Government of New South Wales, which your Memorialist humbly begs to lay before your Lordship, under the full persuasion that he shall receive such redress, as in Your Lordship's wisdom and judgement may be thought due to him as a fair and honorable Trader:—In the year 1820, there came from the East Indies to the Colony a Mr. Vickers Jacob, an officer of the army, not as a Merchant or Trader but upon the score of Health: he recovered, and returned to India; and some months afterwards, he came back to Sydney* with a cargo of spirits (still holding a commission in the Army) under the same circumstances as those of your Memorialist, namely (after the

* Note 186.

1825.
5 June.

Memorial of
T. Icely for
redress of
grievances *re*
his importation
of spirits.

new duty had been laid on). The great grievance, your Memorialist has to complain of, is that this accidental speculation of Mr. Jacob has defeated the views of your Memorialist in the Sale of his Spirits by *underselling* him, which he has been well enabled to do from his being charged no more than Ten Shillings (10s.) duty per gallon on Spirits *28 and 30 P. Cent. over proof*; while your Memorialist at the same time, and under the same circumstances (except those of your Memorialist being a regular Trader and Mr. Jacob an accidental adventurer) stands chargeable with a duty of *Fifteen Shillings* (15s.) *Sterling per gallon* on Proof Spirits (Brandy and Hollands) and *Ten Shillings*, 10s., Sterling on West India Rum; Your Memorialist did not fail to point out this grievance to His Excellency Governor Brisbane and Major Goulburn, the Colonial Secretary, copies of whose replies he begs to have the honor of laying before your Lordship, together with Copies of his applications to them, wherein your Memorialist stated to them the *additional* hardship he laboured under from the loss of the Invoices, either through the Carelessness of the Master of the vessel or the Postmaster of Sydney; the Master asserting that he had regularly delivered all the packages and parcels in his possession, and the postmaster as positively declaring that he had delivered all that had been put into his office. Under this loss of Invoices, the parties, who had authorised Your Memorialist to send to England for the Spirits, refused taking them: and although your Memorialist had made every possible Search, they were not to be found.

Your Memorialist, knowing it is the object of the Government to give every encouragement to the Trade of the British West Indies by levying a less duty on such of Five Shillings per Gallon, laments that the Government of New South Wales has allowed Mr. Jacob to pay a duty of *Ten Shillings per gallon on Bengal Rum, 28 per cent. over proof*; while your Memorialist, a fair and regular Trader, has been obliged to pay a duty of *Ten Shillings* (10s.) *on West India Spirits not stronger than 6 per cent. above proof*, thereby giving Mr. Jacob an advantage of 22 per Cent. over the West India Produce, which is proved by the accompanying report of the Commissary General (No. 8). In addition to which, your Memorialist begs to state that these spirits cannot come in competition with the Spirits since allowed to be distilled in the Colony, as the latter pays a duty of only two shillings and six pence P. Gallon.

Your Memorialist sensibly feeling the great loss he had sustained by the difference of duties between himself and Mr. Jacob, amounting to upwards of Seven thousand five hundred pounds, as well as the injury done him in his connections at New South

Wales and with his Correspondents in London, and, not being able to obtain redress from the Government of New South Wales, determined to repair to England with the original letters between himself, His Excellency the Governor and the Colonial Secretary, for Your Lordship's consideration.

For the quantity and quality of the Spirits so landed, Your Memorialist begs to refer your Lordship to the accompanying reports of the Commissary General and the Storekeeper.

Under the apparent hardship to which he is subjected, your Memorialist humbly prays for that redress to which, in Your Lordship's view of all the circumstances of the Case, he may be entitled; he will have the honor to remain

With every sentiment of respect,

Your Lordship's most obedient, &c.,

THOMAS ICELY.

No. 5 Woburn Place, Russell Square,
15th March, 1825.

[Sub-enclosure No. 1.]

THE HUMBLE PETITION OF THOMAS ICELY OF SYDNEY, MERCHANT.
To His Excellency Sir Thomas Brisbane, K.C.B., General, and
Governor in Chief of the Territory of New South Wales,
&c., &c., &c.

Petition of
T. Icelly for
remission of
duty on spirits.

Sheweth,

That your petitioner, in the month of September, 1822, entered into a contract with two Merchants residing in the Colony to obtain a quantity of merchandize from England, and to deliver the same at Sydney, on or before a time fixed for that purpose; that part of the merchandize consisted of Three thousand, nine hundred and forty seven gallons of Brandy, and two thousand, six hundred and forty four gallons of Hollands.

That the duty on Brandy and Hollands was at that time ten shillings per gallon; that your petitioner ordered the said spirits without any knowledge whatever of the increased duties, now imposed by your Excellency's Proclamation* of 5th June, 1823, under act of Parliament in such case provided; and that the said goods arrived in the Colony in the Month of September, 1823, being three months after your Excellency's Proclamation had been made. That, owing to the accidental loss of the Invoices of such goods, your Petitioner was unable to compel the parties, with whom the contract was entered into, to Complete the same and was unavoidably saddled with the Goods so ordered by him.

That the whole of the Spirits were landed in H.M. Bonded Stores, where they now remain unsold, and, in consequence of the

* Note 187.

1825.
5 June.
Memorial of
T. Icelly for
redress of
grievances re
his importation
of spirits.

1825.
5 June.

Petition of
T. Icely for
remission of
duty on spirits.

duty now imposed, are wholly unsaleable, and as your petitioner finally believes will not realize the amount of the duties payable on the same. That your petitioner only acted in this business as Agent, and must sustain a most serious Loss, unless your Excellency may be pleased to remit such part of the duties as have been imposed since the order given.

And your petitioner will ever pray,
Sydney, 24th October, 1823.

THOMAS ICELY.

[Sub-enclosure No. 2.]

SECRETARY GOULBURN TO MR. THOMAS ICELY.

Sir, Colonial Secretary's Office, 13th November, 1823.

Refusal of
prayer of
petition.

Having laid before the Governor your Memorial of the 24th ulto., I am directed to have the honor to acquaint you, His Excellency regrets that, owing to an accidental loss of the Invoices of the Goods you have imported, you find yourself unable to compel the parties, with whom you had entered into a contract binding you to obtain for them a quantity of Spirits before a given time, to fulfil their part of its condition; but is of opinion that your case is one, in which he cannot interfere by a remission of the duties augmented lately by Parliament.

I have, &c.,

F. GOULBURN.

Remark in reply to (No. 2).

Effect of
remission of
duty granted
to V. Jacob.

THE parties at New South Wales, who had authorised Mr. Icely to purchase the Spirits, took advantage of the loss of the Invoices, seeing that an additional duty had been laid on, by which refusal he was thrown into the Market to take the Chance for the Sale thereof; but the partial low rate of duty allowed to be paid by Mr. Jacob enabled him to *undersell* Mr. Icely from *Eight shillings and sixpence to nine shillings per Gallon on Foreign Spirits, Brandy and Hollands, and 22 per cent. on spirits the produce of the West India Islands*:—Had the Market been fairly open alike to all, Mr. Icely would have had little cause to regret the additional duty or the loss of the Invoices, and which inconvenience was felt by him alone.

THOMAS ICELY.

[Sub-enclosure No. 3.]

MR. THOMAS ICELY TO SECRETARY GOULBURN.

Sir, Sydney, 22nd december, 1823.

Letter
acknowledged.

I have the honor to acknowledge the receipt of your letter of the 13th ulto., conveying to me His Excellency the Governor's opinion that he cannot interfere by a remission of the augmented duties on the spirits imported by me subsequently to the operation of the last parliamentary Enactment.

I cannot however contemplate the very heavy loss that must in consequence of his Excellency's determination, without entreating his Excellency's attention to the situation, in which I am placed by the Indulgence extended by his Excellency to Mr. V. Jacob, a Merchant of this place. Mr. Jacob, subsequently to the imposition of the present duty, imported from the East Indies twenty four thousand gallons of Rum, Brandy and Gin, and was accordingly subject to the payment of the present duty of 15s. P. Gallon. On the remission of this sum to the old duty of 10s. p. Gallon, I certainly conceived that His Excellency had exercised the authority given by the Act, imposing the present duty, and which provided "that it shall be lawful for the Governor, or other person administering the Government of New South Wales by any Proclamation or orders to be by him for that purpose issued, to discontinue or reduce any such duties from time to time as occasion may require." And I felt that I should have participated in the general relief that such a measure was calculated to afford to those individuals, who were suffering from the very sudden manner in which the Act has been carried into effect, and the comparatively small quantity, held by those individuals and myself imported subsequent to His Excellency's proclamation, the whole being 8,772 Gallons of Brandy and Gin out of which I am the holder of 7,050 Gallons.

1825.
5 June.

Remission of
duty payable
by V. Jacob.

Anticipated
relief by
T. Icely.

By your letter, however, I am led to conclude that His Excellency's indulgence towards Mr. Jacob was of a personal nature, and was not in exercise of the power intrusted to his Excellency for the discontinuation or reduction of the duties.

The indulgence thus offered to Mr. Jacob has been productive of the greatest hardship and injustice towards me, as it has enabled him to bring his spirits into the market, and actually become a Seller at a very large profit, after the payment of the duty imposed on him, at a less sum than the duty alone, which I am called upon to pay, amounts to.

Result of
indulgence
granted to
V. Jacob.

This circumstance, added to the State of the Market and the probability of the supply from the colonial Stills, totally precluded the possibility of a sale of my Spirits; and I must either ship them to some other place, and again incur the Freight and a chance of a bad market for the Sale, or let it remain a total loss in the Bonded stores; in neither case could any advantage be deriv'd by Government; as in the former no duty could be payable, and in the latter, as there is no chance of realizing the amount of the duty, the Spirits must be wholly condemned according to the usage of the Mother country, in order to prevent an unfair monopoly, the purchasers at a low rate would have over the fair trader who had paid the full duty. And having

Sale of spirits
by T. Icely
precluded.

1825.
5 June.

Request for
remission
of duty.

mentioned this usage, I cannot but pray his Excellency's consideration to the care that it displays to preserve a fair competition between Settlers, and *that* in a market, where the advantage of one individual could scarcely be said to operate on the general interest of the numerous persons to whom he is opposed; and I cannot help at the same time expressing a hope that his Excellency seeing the extreme hardship of making so great a distinction between Mr. Jacob and myself, and the loss that will be sustained by the Colonial Revenue, should the full amount of the duty be insisted on, will feel at once the justice and expediency of extending towards me the benefit of the remission made on behalf of Mr. Jacob.

I have, &c.,

THOMAS ICELY.

[Sub-enclosure No. 4.]

SECRETARY GOULBURN TO MR. THOMAS ICELY.

Sir, Colonial Secretary's Office, 30th December, 1823.

Refusal
of request of
T. Icelly.

In consequence of your letter of the 22nd instant, I have now the honor to repeat to you in writing the reply which has been verbally communicated to you three times.

The spirits, for which you solicit remission of duty, were purchased by you upon Commission and remain on your hands in consequence only of the loss of their invoice. This accident having arisen from culpable neglect, a legal remedy for all your loss is open to you, if the neglect do not rest with yourself. The Case of Mr. Jacob, to which you refer, can never be considered as parallel to your Situation, because his Agent purchased his spirits in entire ignorance of the new duty, yours with its fullest knowledge. If, however, at a future period, Colonial distillation, not as yet commenced, should render the price of European Spirits so low as to preclude to a certainty the profitable sale of your importation, then will it become indeed a fair question with the Government whether the remission of some part of these duties ought not to be conceded.

I have, &c.,

F. GOULBURN.

Remark in reply to (No. 4).

Criticism of
refusal by
T. Icelly.

THE order of Mr. Icelly to his Correspondents in London was to ship and send out a certain quantity of spirits; this order was given *positive*, without any *discretionary* power, and without any knowledge of a new duty; the shipments were made accordingly. Mr. Jacob stood precisely in the same situation; he brought a cargo of *Bengal Rum* under the same circumstances, and being allowed to dispose thereof at the rate of only Ten Shillings, 10s. p. Gallon, wholly precluded Mr. Icelly from selling:—Had it not been for this partiality, Mr. Icelly could have gone into the

Market as readily as Mr. Jacob: the letter of Captain Piper (No. 7), Collector of the Government duties, will at once show that it is the *only Instance* of a remission of duties on Spirits, arriving *subsequent* to the Governor's promulgation of the Act of Parliament.

1825.
5 June.

THOMAS ICELY.

[Sub-enclosure No. 5.]

THE HUMBLE PETITION OF THOMAS ICELY, OF SYDNEY, MERCHANT. To His Excellency Sir Thomas Brisbane, K.C.B., General and Governor in Chief of the Territory of New South Wales, &c., &c., &c.

Petition of
T. Icelly for
remission of
duty on spirits.

Sheweth,

That your Petitioner, in the month of September, 1822, directed his Correspondents in London to Ship to your Petitioner a quantity of Merchandize, consisting amongst other things of the articles hereafter mentioned.

That a duty of Ten Shillings p. Gallon only was then imposed on spirits of every description imported into the Colony. That your petitioner accordingly received by the Lusitania and Allies several Quantities of Brandy and Hollands, and which were deposited in His Majesty's Bonded Stores, where your Petitioner has still undisposed of nearly 8,300 gallons.

That, in the month of May, 1823, and a short time previously to the arrival of the above vessels, the act of parliament of the 3rd of George the 4th reached this Colony, by which your Excellency was authorised to impose a duty of 15s. Sterling P. Gallon on Spirits of the description imported by your Petitioner. That, by your Excellency's Proclamation* of the 5th June following, immediate and full effect and operation were given to the said act.

And your Petitioner further sheweth that Mr. V. Jacob, a Merchant of this place, having received a consignment of upwards of 24,000 gallons of Brandy, Hollands and Bengal Spirits shortly after your Excellency had given effect to the said act, Your Excellency, in exercise of the general discretion vested in your Excellency by the Act authorising the duty, was pleased, on a representation of the ruinous consequences that must ensue to Mr. Jacob, to remit the additional duty imposed by the Act, and to require payment of the old duty of Two dollars P. Gallon only. That your petitioner must, under any circumstances, have suffered to a very great loss by the unexpected imposition of the present duty of 15s. Sterling on the Spirits he had ordered, in contemplation of the old duty of 10s. only; but when Mr. Jacob was, by your Excellency's indulgence, enabled to supply the Market with so large a quantity of spirits under circumstances so advantageous to himself, your Petitioner was totally prevented from Selling, Mr. Jacob being enabled to supply the Market at

* Note 187.

1825.
5 June.

Petition of
T. Icely for
remission of
duty on spirits.

a profit with the Spirits imported by him for a less sum per Gallon than the duty your Petitioner is liable to pay would actually amount to.

That your Petitioner has not only suffered a loss of the Sale of the whole of the Spirits, under such circumstances imported by him, but has also suffered very considerably by losing the connexions he had established in consequence of his inability to continue to supply the demand; and, unless your Excellency should relieve him from the payment of the increased duty, your petitioner must sustain a total loss of the Spirits so imported by him, while the revenue will at the same time fail to derive any augmentation from the importation, and the Spirits must remain only to encumber the Bonded Stores.

Your Petitioner, therefore, humbly prays that your Excellency will take his petition into consideration, and mitigate the extreme hardship of his case, and place your Petitioner on a footing with Mr. Jacob, by making a remission of the present additional duty on the spirits imported by him, or by affording to your petitioner such a relief, as to your Excellency his case may appear to warrant.

And your Petitioner will ever pray,

THOMAS ICELY.

Sydney, 10th June, 1824.

[Sub-enclosure No. 6.]

SIR THOMAS BRISBANE TO MR. THOMAS ICELY.

Sir, Government House, Parramatta, 17th June, 1824.

Having consulted the Attorney General on the subject of affording you the redress you solicit in your Memorial respecting the exemption of the present duties of Fifteen Shillings per Gallon on the Quantity of spirits, imported by you into the Colony (Expressed in the Margin*), under the impression that the said Spirits were ordered from England, when the duty was only ten shillings per gallon, and antecedent to the Act now in force imposing the former duty: It being his opinion that I am not competent to grant you redress as an Individual, I have, therefore, to express my regret that I have not the power to comply with your request; but, as you are about to proceed to England, I should recommend you to submit your case to His Majesty's Government, where alone the power is vested of enabling you to obtain redress, and I shall, under the particular circumstances of your Case, be happy to learn that it meets with favorable consideration.

I have, &c.,

THOMAS BRISBANE.

Refusal of
prayer of
petition on
advice of
attorney-
general.

* 8,300 Gallons.

[Sub-enclosure No. 7.]

1825.
5 June.

MR. JOHN PIPER TO MR. THOMAS ICELY.

Sir, Naval Office, 7th July, 1824.

In reply to your letter of this day's date, I have to inform you that the Rum, imported per John Shore and Governor Phillips, paid a duty of ten shillings Sterling Per Gallon, the Brandy and Gin imported per said vessels paid a duty of ten shillings Currency P. Gallon, and which vessels arrived respectively, the Brig Govr. Phillips, the 16th May, and the Brig John Shore, the 8th July, 1823, this being the only instance of a remission of the duties on Spirits arriving since His Excellency the Governor's promulgation of the Act of Parliament.

Report on remission of duties subject to proclamation.

JOHN PIPER,
Naval Officer and collector of Government duties.

[Sub-enclosure No. 8.]

ACCOUNT of Spirits Imported by Mr. V. Jacob and Mr. Icely,
New South Wales.

Account of spirits imported by T. Icely and V. Jacob.

Mr. Jacob.

1823.			
May 21,	Govr. Phillips,	Casks 11	1,300 proof Brandy
" "	do.	Cases 307	690 proof do.
" "	do.	" 39	230 2 u.p. Gin
" "	do.	Casks 37	5,000 28 o.p. Rum
July 18,	John Shore	" 241	17,000 27 o.p. do.

Mr. Icely.

Sept. 22,	Allies	.....	20	2,227 27 o.p. Rum
" "	do.	.....	21	3,900 3 u.p. Brandy
" "	do.	.....	22	2,590 1 u.p. Gin
June 13,	Lusitania	.....	4	600 3 u.p. Brandy
March 5,	Wm. Shand	.....	148	16,280 6 o.p. Rum
	do.	.....	50	5,750 1 u.p. Gin

WM. ALEXANDER, S.K.

Approved:—W. WEMYSS, Dep. Com.-Genl.

8th July, 1824.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 35, per ship Brothers.)

Sir, Downing Street, 5 June, 1825.

I transmit to you enclosed an Order of His Majesty in Council, which declares that a tender or payment of British Silver money to the amount of four Shillings and four pence shall be considered as equivalent to the tender or payment of One Spanish Dollar, and so in proportion for any greater or smaller amount of debt. The order further declares that British Copper money shall be made a legal tender for its due and proper

Fixation of sterling value of dollar.

Payment in copper coin.

1825.
5 June.

proportions of British Silver money, as by Law established in Great Britain, but that no person is compelled to take more than 12d. in Copper Money at any one payment.

Instructions
re payment
of troops.

I likewise enclose for your information the Copy of a Circular Instruction, which the Lords Commissioners of His Majesty's Treasury have addressed to the Officers in charge of the duties of the Commissariat in the British Colonies, in regard to the payment of the troops; in addition to which you will receive instructions from their Lordships as commanding the Forces, in which the principle and grounds upon which 4s. 4d. of British Silver and Copper money is declared to be equivalent to the Spanish Dollar are fully explained.

Reasons for
initiating new
arrangement.

The object of His Majesty's Government in making the arrangement referred to in these papers is two fold. First, for establishing an unobjectionable and unvarying medium for the payment of the Troops; and secondly, for establishing an uniform Currency in the whole of His Majesty's Foreign Possessions, founded upon and having reference to the currency of the United Kingdom.

Negotiation of
treasury bills
for British
silver.

With a view of giving permanence to the arrangement, as well as for securing the uniform circulation of the British Silver Money, I have to signify to you His Majesty's Commands that public notice be given that the Holders of *British Silver Money* may demand, from the Officer in charge of the Commissariat department, bills upon the Lords Commissioners of the Treasury at 30 days sight in exchange for any Sums, whatever tendered by them in British Silver, not less in amount than £100, at the fixed rate of a bill for £100 for every £103 of British Silver Money so tendered; but you will not fail to observe that it is not the intention of the Lords Commissioners of the Treasury that any other coin should be received into the Military Chest, in exchange for Bills upon that board, at any other than the current rate of Exchange; so that, in negotiating bills upon England for Dollars or any other Coin excepting British Silver Coin, the same course as exists at present will be observed.

Proportion
between British
money and
"money of
account."

I am to desire that, in publishing these orders, you will declare the sum of the "Money of Account" to which the British Money is in the spirit of these Instructions equivalent; thus, in Colonies where the Spanish Dollar is current and is equivalent to 5s. of such "money of account," that 17s. 4d. of British Silver Money is equal to one Pound of such "Money of Account." In those Colonies where the Spanish Dollar is equivalent to 5s. 4d. of such money of account, that 16s. 3d. of British Silver Money is equivalent to one Pound of such money of Account; and that in those Colonies where the Spanish Dollar is current at 6s. 8d. of

money of account, that 13s. of British Money is equal to one Pound of such money of account. From these examples, the proportion between British Money and the "Money of Account" of the Colony may be easily calculated according to the actual Sum, at which the Spanish Dollar is rated in the "Money of Account" of such Colony.

1825.
5 June.

Proportion between British money and "money of account."

From the date of the promulgation of the above Orders, the Salaries of all Civil and Military appointments should be issued either in Spanish Dollars or British Silver Money, computing 4s. 4d. of the latter as equivalent to one Spanish Dollar; any other Silver Coins circulating at New South Wales should be issued at a fixed value with reference to their intrinsic worth, as compared with British Standard Silver at 5s. 2d. per oz. Troy or with the Spanish Dollar at 4s. 4d. each.

Payment of salaries to civil and military.

I have further to desire that you will take measures for preparing and issuing a new Schedule of rates, Duties, etc., payable to the Crown, in which Schedules the present rates in Spanish Dollars or other coin, in which the Duties are charged and the New Rates in British money at the proposed fixed rate of the Spanish Dollar, shall be specified; and you will instruct all Collectors and other civil Servants of your Government to render this account in British Money.

Schedule to be prepared in sterling values.

Accounts to be kept in British money.

It only remains for me to acquaint you that, with a view of carrying this measure into effect, £40,000 in Silver, with a proportionate supply of Copper, will be shipped for New South Wales as soon as a proper conveyance may offer, and to desire that you will officially promulgate the Order of His Majesty in Council and give every publicity to the Instructions of the Board of Treasury.

Proposed shipment of silver and copper.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

ORDER IN COUNCIL.

At the Court at Carlton House, 23d March, 1825.

Present:—The King's Most Excellent Majesty in Council.

WHEREAS it has been represented to His Majesty at this Board, by the Lords Commissioners of His Majesty's Treasury, that they have given directions that His Majesty's Troops serving in the several British Colonies and Possessions Abroad should in certain cases be paid in British Silver and Copper Money, and that with a view of securing the Circulation of such Money in those Colonies it would be expedient that an Order in Council should be issued, declaring that in all those Colonies, where the Spanish Dollar is now either by Law, Fact or Practice considered as a legal tender for the discharge of Debts, or where the Duties to the Government are rated or collected, or the Individuals

Order-in-council regulating values of dollars and payments in British copper.

1825.

5 June.

Order-in-council
regulating
values of dollars
and payments in
British copper.

have a right to pay in that description of Coin, that a tender and payment of British Silver Money to the amount of Four Shillings and Four Pence should be considered as equivalent to the tender or payment of One Spanish Dollar, and so in proportion for any greater or less amount of Debt.

And whereas it has been further represented by the Lords Commissioners of His Majesty's Treasury that, with respect to the Cape of Good Hope, where there are not any Spanish Dollars in Circulation, but where the Circulation consists entirely of Paper Rix Dollars and its proportions; and with respect to Ceylon, where the Circulation consists of Silver and Paper Rix Dollars as well as of a variety of other Coins, which are generally received and paid with relation to their value as compared with Rix Dollars, it would be expedient that a tender and payment of 1s. 6d. in British Silver Money should be considered as equivalent to a tender and payment of one such Rix Dollar so current at the Cape of Good Hope and Ceylon respectively, and so in proportion for any greater or less Sum; and also that British Copper Money should be made a legal tender in all the British Colonies for its due and proper proportions of British Silver Money as by Law established in Great Britain; but that no person should be compelled to take more than 12d. in Copper Money at any one payment; His Majesty, having taken the said representation into consideration, is pleased, by and with the advice of His Privy Council, to approve of what is therein proposed, and the Right Honourable the Lords Commissioners of His Majesty's Treasury and the Right Honourable Earl Bathurst, one of His Majesty's Principal Secretaries of State, are to give the necessary directions herein as to them may respectively appertain.

C. C. GREVILLE.

[Enclosure No. 2.]

[*This was the printed circular number 89, dated "Treasury Chambers, 12th February, 1825."*]

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 36, per ship Brothers.)

Sir,

Downing Street, 5 June, 1825.

With reference to my Dispatch to Governor Macquarie, dated the 24 July, 1818, in which he was directed to discontinue the practice, which at that time existed of making liberal Grants of Land and other Indulgencies to Civil and Military Officers, I have now the honor of acquainting you that, as the circumstances, under which that Regulation was adopted, are now changed, and as the present system of granting and settling the Crown Lands in New South Wales will remove the objections, which were

Land grants to
civil officers.

formerly entertained upon that subject, His Majesty's Government feel no longer any necessity of excluding Civil Officers from becoming Proprietors of Lands in the Colony upon the same terms as the other Settlers; you will therefore consider that part of my former Instructions upon this subject, as far as the prohibition relates to the Civil Officers of your Government, as annulled.

1825.
5 June.

Land grants to
civil officers.

The objections, which appear to have existed with respect to Grants being made to Officers of the Government, originated from the circumstances of the Grantees being too frequently divided between their private concerns and their Official Duties; while in many cases the Grants were made a matter of mere favor, and land obtained for no other purpose than to be disposed of to advantage at a subsequent period when the extended cultivation of the surrounding Country afforded opportunities of so doing. In any Grants, however, which you may in consequence of this Instruction be disposed to make to the Civil officers of your Government, you will take especial care that no Individual be allowed to pursue his farming Concerns at the expence of his public duties, to which his attention should be exclusively devoted; with which view you will require him, under the penalty of a forfeiture of his Grant, to employ an Agent who should continually reside on the Spot, The Grantee himself being obliged to reside at the seat of Government, or wherever the duties of his Office might immediately require his presence; and you will equally guard against any Indulgence being shewn to Officers of the Government in respect of their Grants, which may not be given to the Settlers in general. I have, &c.,

Former
objections to
land grants to
civil officers.

Agents to reside
on grants.

BATHURST.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.
(Despatch per ship Midas.)

Sir, Downing Street, 10 June, 1825.

10 June.

Lord Bathurst has directed me to transmit to you the copy of an application, which has been addressed to him by Mr. Hamilton, Surgeon and Superintendent of the Norfolk Convict Ship, now on her passage out to New South Wales, for a Grant of Land in that Colony or Van Diemen's Land; and I am to request that in the event of Mr. Hamilton being desirous of becoming a Settler and provided he shall have conducted himself in a manner to merit your approbation, that a Grant of Land may be given to him under the usual conditions, and in proportion to his means of bringing the same into cultivation, his retired allowance being considered as so much Capital available to that purpose.

Recommend-
ation of
W. Hamilton
for land grant.

I have, &c.,

R. W. HORTON.

1825.
10 June.

[Enclosure.]

SURGEON HAMILTON TO EARL BATHURST.

My Lord, Norfolk Convict Ship, Spithead, 9th Apl., 1825.

Application of
W. Hamilton
for land grant.

I have the honor to be a Surgeon in His Majesty's Royal Navy; and I am at present employed (my third Voyage in this Service) as Surgeon and Superintendant of this Ship, taking 180 Male Convicts to New South Wales, and, as I will at the end of the Voyage be entitled to a retirement of Fifteen Shillings a day, I am desirous of having a Grant of Land given to me in the Colony, or in Van Dieman's Land, which ever I may prefer; and I trust that upwards of Twenty nine years of Actual Service will give me some claim on the Indulgence of His Majesty's Government.

I have therefore to request that your Lordship will be pleased to give such Orders, or Directions, to His Excellency the Governor of New South Wales, or His Honor the Lieutenant Governor of Van Dieman's Land, as you may think fit in the business. And having had this Settlement in View before, but which my engagement with the Board, I was serving under, prevented my putting in Execution, I beg leave to Enclose for your Lordship's inspection, some Correspondence that took place on the Subject, and I trust the Testimonials of my Conduct therein will Entitle me to your Lordship's Consideration without troubling your Lordship with references for Characters from the Boards I have so long and so constantly served under; as well as to several Officers of the Highest distinction in the Navy whom I have served under.

I have, &c.,

WM. HAMILTON, Surgeon, R.N.,
and Surgeon and Superintendant of the Norfolk
Convict Ship.

[Sub-enclosure No. 1.]

EXTRACT of a letter from Lieut. Governor Sorell, dated Hobart Town, 12th Decemr., 1820, addressed to Govr. Macquarie.

MR. HAMILTON, Surgeon of the *Maria*, is I believe known to Your Excellency, having been before in New South Wales.

He has brought out his Convicts in a manner highly creditable on this occasion.

This Gentleman and Captain Walker of the *Maria* have stated to me their intention to become Settlers in this Colony; but, being necessarily obliged to return home, they have expressed their wish to have some reserve of land promised to them. From the usage in similar cases, I felt more than doubtful of the admissibility of the application; but I considered it as bearing affinity to a recent instance, vizt. that of Captain Taylor of the

Ship Caroline, who has delivered to me an order from Lord Bathurst for a Grant of Land in this Settlement subject to no conditions.

1825.
10 June.

Application of
W. Hamilton
for land grant.

I, therefore, thought it right to lay the application of Mr. Hamilton and Captain Walker before Your Excellency, under the impression that both, and particularly Mr. Hamilton, would form a real acquisition to a new Colony. I explained to them clearly that I could not take upon me to make any engagement of reserve in Land; but I assured them that I would state the matter to Your Excellency.

[Sub-enclosure No. 2.]

CERTIFICATE FROM LIEUT. GOVERNOR SORELL.

Certificate for
surgeon of
ship Maria.

Van Diemen's Land.

I do hereby certify that Two Officers, Thirty two non-commissioned officers and privates, as the Guard, with Five Women and one child and one passenger, and one Hundred and fifty Six Male Convicts were landed on the sixth Instant from the Ship Maria, Mr. Hamilton, Surgeon Superintendent; that the Convicts stated themselves to have been treated with humanity during the Voyage, and that they landed in a state of health, order and cleanliness, highly satisfactory to me and creditable to the Officer in charge.

I further certify that I have examined the Journal of the Surgeon Superintendent, and consider his management of the Convicts to demand the fullest testimonial of approbation.

Given under my hand at Government House, Hobart Town, this Twelfth day of December, 1820.

WM. SORELL, Lt.-Govt.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 37, per ship Midas.)

Sir,

Downing Street, 12 June, 1825.

12 June.

I do myself the honor of transmitting to you herewith the Copy of a letter and its Enclosures, addressed to my Under Secretary by the direction of Mr. Secretary Peel, whereby it appears that John Grady, a Convict in New South Wales, who was embarked on board the "Medina" Convict Ship, which sailed from Cork on the 5th Sept., 1823, was only sentenced to seven years Transportation, not for life as erroneously stated in the assignment of the Convicts; and I am to request that you will take measures for correcting the error, which appears to have occurred with respect to the said Convict, in order that he may receive the benefit thereof.

Error in record
of sentence on
John Grady.

I have, &c.,

BATHURST.

1825.
12 June.

[Enclosure No. 1.]

UNDER SECRETARY HOBHOUSE TO UNDER SECRETARY HORTON.

Sir, Whitehall, 7th May, 1825.

Error in record
of sentence on
John Grady.

I am directed by Mr. Secretary Peel to transmit to you the enclosed Copy of a Letter from Mr. Gregory, with its enclosure from John Grady on the subject of an error with respect to the Crime and Sentence of John Grady, a Convict in New South Wales, who was embarked on board the Medina Convict Ship, which sailed from Cork on the 5th Sept., 1823; and I am to desire that you will submit the same to Lord Bathurst, and move his Lordship to be pleased to make a communication to the Governor of New South Wales, in order that the error therein mentioned may be corrected.

I am, &c.,

H. HOBHOUSE.

[Enclosure No. 2.]

MR. W. GREGORY TO MR. G. R. DAWSON.

Sir, Dublin Castle, 4 May, 1825.

I enclose a letter from Mr. Blacker, with respect to John Grady, who was convicted under the Insurrection Act in the County of Tipperary and Sentenced to Seven years Transportation, together with the letter therein referred to; and having ascertained that the Error mentioned in John Grady's letter, with respect to the crime and Sentence of the Convict, has occurred in the Warrant transferring the Services of the Convicts embarked on board the Medina, which Sailed from Cork on the 5th of September, 1823, to the Governor of New South Wales, I am to Signify His Excellency's desire that you will Submit to Mr. Secretary Peel His Excellency's request that He will give the necessary directions in order that a Communication may be made to the Governor of New South Wales for the purpose of correcting the Error in the Warrant, with respect to the Said Convict John Grady.

I am, &c.,

W. GREGORY.

[Enclosure No. 3.]

JOHN GRADY TO MRS. JOHN GRADY.

Sydney Cove, New South Wales,

My dear Wife, 5th Jany., 1824.

Account by
J. Grady of
mistake in
his sentence.

I embrace this favourable opportunity of writing these few lines to you, hoping to find you and the Child in good health as this leaves me in at present, thanks be to God. My dear, I sailed from the Cove of Cork on Sept. 5th, 1823, and arrived here on Monday Evening, Decr. 29th, attended with the happiest voyage that could be mentioned, there had been but one Died during the

passage. My dear, I have a very greivous circumstance to mention in this letter to you, which have occurred against me after my Arrival in this Country, which is the following:—at my Inspection here by the Secretary, he asked me what was my Sentence; I told him 7 years; he told me I was for Life, which thunder struck me; I answered him that I was tried under the Insurrection Act, and that no Individual could be sentenced to more than 7 years; he thought I was scheming on him and asked the Doctor of the Ship my character, which he could not give better to his Brother, had he been in my place. My dear, I told the Secretary that there was one John Grady from Burne Leigh which is But Twelve Miles from Nenagh; that the said John Grady had been tryed at the Clonmell Assizes for House burning and received Sentence of Death, but had been respited to Transportation for Life, My dear Wife, when I was sent to the Depot of the City of Cork. In a few days after I been at the Depot, this John Grady from Burne's Leigh near Nenagh came from Clonmell Gaol to the Depot, and whether it had been a mistake of Mr. Murphy's or at the Castle of Dublin, this John Grady was sent off in the Brompton Convict Ship under my Sentence, and I remained under his. Now, my dear wife, you must do all in your power to get the Sentence Altered and my former Sentence renewed. Go to Mr. O'Hara, the Magistrate, and show him this Letter, and let him let all the other Magistrates know, that were on my trial, this unfortunate circumstance, and to make no delay but to write to Judge Blacker, and also let him know it, as no other man can decide the Business but him, and to forward the Account as soon as possible to the Govr. of New South Wales as I will suffer Death by the Laws of this Country If I am for Life. So, my Dear, I am still in hopes, as I am innocent of this laid Against me. My dear, I have sent a letter before this to Councillor Dillon concerning this affair. But the Letter to you had some delay on Account of this Ship; she was to go to the Indies for her Cargo, Before she would return to London; it is by one of the Sailors, I have sent it; he was from Cove where we sailed from; this was the Ship I came in, called the Medina. You know, my dear, this is a serious circumstance to be left undone and would have rendered me of ever seeing you Again. My dear, keep up your spirits, and if this Business can be decided, I will see you Again as, with the assistance of God, I will be able to get Home after my time being expired. I cannot give you any Particular Account this time concerning the country; But will write to you by the next opportunity; only that I see young Tom Dwyer, the Sawyer, and let his Mother know that he is very well, and Likewise let Tomas Kenny's Mother know that he is very well, and John Joice's Brother know that he is well; those

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12 June.

Account by
J. Grady of
mistake in
his sentence.

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12 June.

Account by
J. Grady of
mistake in
his sentence.

are all in Sidney Town. But I do not know where I am to stop as yet. My dear, there is a great difference between this John Grady and me, as he is not a Nailor and I am, which can be settled in the Castle, as my trade has been sent to the Castle along with my crime.

No more at present from your Dr. Husband Until Death,

JOHN GRADY.

Sidney Cove, New South Wales, 5th Jany., 1824.

I was nearly forgetting my dear Mother and Sisters; let them know that I am well and that I send my kind Love to them and to all enquiring friends.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Midas.)

Sir,

Downing Street, 12 June, 1825.

Instructions *re*
salary and
promotion of
Richards.

I am directed by Earl Bathurst to request that Mr. Richards, who proceeded to New South Wales as Assistant Surveyor under an appointment from his Lordship in the year 1823, and whose Salary appears not to have commenced until his arrival in the Colony, may be allowed to receive the same from his Embarkation in this Country. And his Lordship has further directed me to inform you that it is his wish that Mr. Richards should be promoted in his Department in rotation, as opportunity may offer.

I have, &c.,

R. W. HORTON.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 38, per ship Midas.)

Sir,

Downing Street, 14 June, 1825.

14 June.
Appointment
of additional
chaplains.

I have much pleasure in having anticipated the Representations contained in your Dispatch No. 6 of the 16 August, relative to the deficiency of Colonial Chaplains in New South Wales, by having, since that Dispatch was written, appointed five additional Chaplains in that Establishment including the Revd. Thomas Hassal, whose warrant was forwarded to him by Archdeacon Scott.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 39, per ship Midas.)

Sir,

Downing Street, 14 June, 1825.

Despatch
acknowledged.

I have had the honor to receive your Dispatch No. 8 of the 2d October, representing the advantages which were likely to result from the appointment of Mr. Lithgow as Auditor of the

Colonial Revenue of New South Wales, and recommending that a Salary should be allotted to him out of the Colonial Revenues amounting to £100 p. annum, in consideration of the additional labour, which will be imposed upon him in consequence of that arrangement; and I have much pleasure in acquainting you that the measure, which you have proposed, agrees with one which had been recommended to the Lords Commiss'rs of His Majesty's Treasury for adoption previously to my receiving your Dispatch.

I have, &c.,

BATHURST.

1825.
14 June.

Approval of
appointment
of auditor-
general.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Harriet.)

Government House, N. S. Wales,

My Lord,

16th June, 1825.

16 June.

I do myself the honor to transmit to your Lordship the Memorial of Deputy Surveyor General Evans of Van Diemen's Land, who filled that situation for twenty years, and was also previously employed for several years in other Departments under Government; and having expressed his desire to retire in consequence of a Chronic Rheumatism, which prevents his being any longer capable of undertaking the active duties of his Department, His Memorial having been transmitted to me with a recommendation from Lieut. Governor Arthur in his behalf induces me to lay it before your Lordship for favorable consideration, as I do not feel prepared by precedent to decide upon the extent of his claim of retiring consideration, without reference to your Lordship.

I have, &c.,

THOS. BRISBANE.

Recommendation in favour of memorial of G. W. Evans.

[Enclosure.]

THE MEMORIAL OF GEORGE WILLIAM EVANS,* SURVEYOR-GENERAL OF VAN DIEMEN'S LAND.

To His Excellency Sir Thomas Brisbane, K.C.B., Governor in Chief of His Majesty's Territory of New South Wales and its Dependencies, Major General and Commander of the Forces, etc., etc.

Humbly Sheweth,

That your Memorialist, having served His Majesty under Admirals Christian and Sir Roger Curtis in the Naval Store-keeper's Department at the Cape of Good Hope for upwards of four years, was induced, upon the breaking up of the Establishment in that Colony at the Peace of Amiens in 1802, to accompany Captain Kent of the Royal Navy in His Majesty's Ship Buffalo (in which ship Mr. Oxley the present Surveyor General of New South Wales was then Midshipman) to Sydney; when His

Memorial of G. W. Evans soliciting permission to retire and a pension.

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Memorial of
G. W. Evans
soliciting
permission
to retire and
a pension.

Excellency Governor King was pleased to appoint your Memorialist an Acting Deputy Commissary, there being no opening for Your Memorialist in the Surveyor General's Department, until after the departure of Surveyor General Grimes in January, 1804, for Europe, when His Excellency was pleased to appoint your Memorialist to that situation.

That, while your Memorialist filled this post, he was constantly employed in its most arduous duties, independent of constructing all the Government Plans, Drawings and Projections, and having reduced the General Territorial Map to a convenient scale for the purpose of its being transmitted to His Majesty's Ministers, having thus had the honor to construct the first geographical representation of the Colony for their information.

That, in the year 1811, your Memorialist was employed to survey the Eastern Coast to the Southward of Port Jackson, and was the first person, by whom Jervis's Bay was examined and surveyed; on which occasion, your Memorialist having volunteered to discover his way back by land through a country which no European had ever before passed, your Memorialist suffered incredible hardships and difficulties in so doing, having been without food for three days together, and nearly exhausted when he reached the inhabited parts of the country; but fortunately succeeded in completely ascertaining the value of the intermediate country, considerable part of which is now in progress of settlement, and is become of material importance.

That, in the year 1813, Mr. Oxley having been so fortunate as to obtain in England the appointment of Surveyor General of this Colony upon the retirement of Mr. Grimes, your Memorialist continued to serve in the Department upon the Government Establishment as Deputy Surveyor.

That your Memorialist was soon after employed in Van Diemen's Land in the difficult and perplexing duty of settling and arranging the disputes of the Settlers from Norfolk Island, then just abandoned, independent of surveying and charting as much of Van Diemen's Land as was accessible; on your Memorialist's return from whence, His Excellency Governor Macquarie was pleased to place your Memorialist on the permanent Establishment in the Island, in which he has ever since continued.

That, in the year 1813, your Memorialist was called upon to conduct an expedition, in order to penetrate the Range called the Blue Mountains, which with great difficulty your Memorialist effected, and succeeded in discovering the extensive and important country, now called Bathurst, Mr. Oxley remaining at Sydney in the execution of the Head Quarters duty of the Department, whereby this laborious and important service devolved upon your Memorialist.

That, in the year 1815, your Memorialist was again sent for from Van Diemen's Land to attend His Excellency Governor Macquarie to Bathurst, when it was His Excellency's pleasure to confide to your Memorialist a farther prosecution of his former discoveries in the interior of New Holland; and it was in consequence of your Memorialist's successful performance of this duty that His Excellency was pleased to set on foot the Expedition, afterwards undertaken by Mr. Surveyor General Oxley and your Memorialist, the particulars of which are sufficiently well known to Your Excellency to render it unnecessary to mention them further, than that, after a long protracted and fatiguing Expedition (the result of which is now before the Public), your Memorialist, having fully completed all the duties confided to him, was ordered to his Station in Van Diemen's Land.

That, in the year 1818, your Memorialist was a third time sent for to Sydney to accompany Mr. Oxley on the second Expedition; when it was your Memorialist's fortune always to be employed in advance, and to have penetrated further into the Interior than any other Individual; the particulars of this Expedition are also no doubt so well known to your Excellency that Memorialist will only remark that he was enabled, by passing the mouth of Port Stephens accompanied by two men only, to reach Newcastle and obtain relief for the Expedition, which, having remained behind, would otherwise in all human probability have been lost.

Your Excellency will thus perceive that Memorialist has served His Majesty altogether more than twenty four years; upwards of twenty one years of which he has been employed in the most active, arduous, fatiguing, and distressing duties in this Territory, having been for weeks together in the interior on foot, exposed to all the vicissitudes of the Weather, subjected to chance for even a Supply of Food, with no covering but a blanket, for days without being perfectly dry, thus undergoing for so long a period fatigues and difficulties, which have had at last the effect of breaking up your Memorialist's Constitution and inflicting on him a permanent chronic rheumatism, from which your Memorialist is seldom free. Finding himself, therefore, unable to continue in the performance of the active duties, which are still required of him, having a large family to support, your Memorialist is desirous of obtaining the permission of His Majesty to retire from his office of Surveyor General, and of becoming a Settler in this Island upon the footing and with the indulgence granted to those arriving from England; trusting that your Excellency will be pleased to consider that Memorialist's long services and the peculiar nature of them do not render him unworthy of your Excellency's conferring upon him the great

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Memorial of
G. W. Evans
soliciting
permission
to retire and
a pension.

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Memorial of
G. W. Evans
soliciting
permission
to retire and
a pension.

obligation of recommending him to His Gracious Sovereign, that he may be permitted to retire from his present Office of Surveyor General of Van Diemen's Land upon such pension or retirement allowance, as your Excellency may be pleased to consider your Memorialist is fairly entitled to, which he humbly submits his long services, and the arduous and exhausting nature of them, give him some reason to hope may be equal to his present pay, particularly, as in the common course of nature, such a mark of His Majesty's Royal bounty cannot be of very long duration.

And your Memorialist as in duty bound will ever pray,

G. W. EVANS, Surv'r-Gen'l, V.D.L.

Hobart Town, Van Diemen's Land, 16th November, 1824.

SIR THOMAS BRISBANE TO UNDER SECRETARY HORTON.*

(Despatch per ship Harriet.)

Government House, New South Wales,

My dear Sir,

16 June, 1825.

Inquiry re
management
of convicts.

Archdeacon Scott, having conferred privately with me and put into my hands your letter to Him of the 10th of last July, Together with "Suggestions relative to the employment, discipline and ultimate reformation of the Convicts in New South Wales," and further suggesting that a Committee of seven Gentlemen, whose names are given, should form that Committee, I beg to acquaint you that I have anticipated that object by a Circular Letter, which I caused to be written, under date 10 July, 1824, addressed to the Chief Engineer, Commandants and Superintendents of the different Government Establishments, a copy of which I have the honor to transmit.

System
proposed.

My object in this measure was to receive suggestions from these persons as to the best mode of employing each Convict on such work, as should enable Him best to earn His own maintenance to the Crown; and, in the event of that desirable object not being accomplished in the aggregate employment of all at any particular Station, I had it in contemplation to break up such Establishment; and in practical illustration of this intention, I beg to acquaint you, for Lord Bathurst's information, that I have begun to reduce the Establishment at Bathurst. In the first place, because after two years the Establishment has been unable to raise a quantity of grain sufficient for its support, the cost of sending it becomes very great; and next because I had it in contemplation to recommend to Lord Bathurst to sell all those lands, which are valuable and amount to nearly a million two hundred thousand acres, great part of which is very good and well watered. On my way viewing Bathurst, I determined to keep, for the use of the Crown Flocks and Herds, all the Land on the

Reduction of
establishment
at Bathurst.

* Not addressed in Record Office.

left bank of the Macquarie River, being an excellent natural boundary, thus enabling me completely to separate the Crown property from the Settler. However desirable it might have been, in the earlier days of the Colony, for the Government to have had Flocks and Herds, that period has now arrived when I should recommend their gradual diminution with the sale of the Lands, as it would be keeping up that Establishment at a monstrous expence, to maintain it, in addition to its own expence, when the interest of the money for which these Lands may be sold, becomes added to this.

1825.
16 June.

Proposed
abolition of
grazing by
government.

For the first three years after my arrival, the number of Prisoners of the Crown, found on it, from necessity made it a Subject of deliberate consideration the most beneficial mode of employing them; But during these twelve months, the demand for Men by the Settler is now so great that Government need keep no more than are absolutely requisite for its wants, which I have always strictly attended to. This Circular has furnished me with a body of valuable information, and, as the whole replies are pretty extensive, I shall only trouble you with the perusal of that from the Engineer Department, which embraces the most important and numerous Class of Prisoners. You are aware that those at Port Macquarie, whose numbers exceed Eleven Hundred, are there under sentence of the Law; and therefore it only remains to be considered how they can be most advantageously employed combining with the prospect of the reform the public advantage; and in regard to the latter, I have considered it highly beneficial to consider them as Pioneers to the free Settler, bearing in mind that Port Macquarie will ere long be given up to free Settlers as recommended in my Dispatch, No. 50,* to which I beg further to refer you.

Employment
of convicts.

Report from
engineer
department.

I shall only further trespass on you by acquainting you that the other Subject referred to in that communication from the Archdeacon, relating to the Rations of Prisoners, has undergone a most careful investigation, and I have printed the Regulations thereon for the future guidance of those concerned, as also for the simplification of the Commissariat issues, copy of which I could have wished to have transmitted to you had not the Printer disappointed me; but I shall not fail by the first opportunity to send, as the Regulations have been in operation for nearly Eight Months. I therefore hope in the mean time you will accept a Manuscript copy.

Regulations
re rations
for convicts.

You will be glad to learn that Gore, for whom you and Lord Palmerston interested yourselves, has been pardoned, and that Charles Nye whom you wrote about has got a Ticket of Leave.

W. Gore and
C. Nye.

I have, &c.,

THOS. BRISBANE.

* Note 189.

1825.
16 June.

[Enclosure No. 1.]

SECRETARY GOULBURN TO THE CHIEF ENGINEER, COMMANDANTS AND SUPERINTENDENTS OF THE DIFFERENT GOVERNMENT ESTABLISHMENTS.

Sir,

Sydney, 10th July, 1824.

Request for report on labour and employment of convicts;

I have to request that you will favor me, for the information of the Governor, with a report of the number of Convicts you have under your orders, accompanied with a detailed Statement of the Various employments, specifying the hours they go to work, to Breakfast and to Dinner; Also the extent of Land cleared on the Establishment, the quantity of Grain raised on it last crop and of what description, with the portion of provisions they daily receive, and whether they be of good quality.

and for suggestions for reforms.

I have at the same time to request that you will be pleased to accompany this Statement with any suggestions you may have to offer, wherein you consider the labor of these Individuals might be turned to better account for the public service, or be rendered more available in employment of a different description, so as to do away entirely their actual expence to the Crown; or that the subdivision of Labor might be so distributed as to cause no expence for their maintenance, so that each Individual might be made to earn his own livelihood; or to state the obstacles which are opposed to that important principle of Political Economy which is completely accomplished in every other Country, and the Governor can discern no good reason why that same principle should not be made applicable in this Colony, always bearing in mind that the primary object is to keep them at such work as will most likely accomplish this, at the same time coupling it with the prospect of moral amendment.

I have, &c.,

F. GOULBURN, Col'l Secretary.

[Enclosure No. 2.]

MAJOR OVENS TO SECRETARY GOULBURN.

Sir,

In reply to the Circular Letter of the 13th September last, I have the honor to forward to you for His Excellency's information a Statement of the number of Convicts at present under my orders, together with an account of their general state of discipline, the work performed by them daily, and other particulars called for in your letter of that date. In order to render the subject as clear as its nature will admit, I beg to offer a few remarks on the principles by which Convict labour has generally been guided, shewing the object, to which it has been directed, has varied according to the advancing State of the Society, and that it has frequently been modified with the operations of the

Convicts employed in engineer department.

changing systems of Political Economy that have been adapted to this Country. I shall also examine how far any improvement might result in giving greater effect to the labour of the Prisoners, with the advantages likely from them to arise to the community at large. This Colony was formed with a view prospectively of becoming in the course of years a useful appendage to Great Britain, and in the prospect of serving as a place for exercising that degree of discipline over the larger portion of its population who, forfeiting all claims to the more lenient laws of their own country, had rendered themselves fit subjects for a more coercive system of restraint. In the first case, therefore, it was only reasonable that the Colony should be indebted to the Mother Country for a large outlay of Capital in its principal Institutions; and in the Second that the labours of the Convicts should be rendered available for this purpose. Hence the numerous Works and Establishments, that became necessary in the march of the Colony's progress, were furnished from the industry and labour of that class of its Inhabitants. The time, skill and attention of each Prisoner was a fund that Government has a right to draw upon, and exercise every control over, and to devote it to all public works connected with the dignity of the Government, the support of the Military Establishments, the Courts of Law, Religious and other Institutions, Police Establishments, Care of the Sick, receiving and distributing of provisions, Facilities for the free communication by land and water, such as Roads, bridges, docks, Wharves, etc.; and in no country have such works erected for public utility been conducted with more liberality than in this, and at all times commensurate with the exigencies of its population.

1825.
16 June.

Objects in
formation
of colony.

Public works
and development
of colony
undertaken
by convicts.

Whenever the labour of the Prisoners could be spared from these purposes, and devoted to objects supernumerary to them, their services were then assigned to those who, in following out the pursuit of their own immediate interests, conferred a benefit on the Colony by encuating its natural productions, or enhancing the Value of its material by their skill and industry.

Assignment
of convicts
to settlers.

Labour is said to be the original purchase money of all Capital; and the policy, that ought to be followed in giving the greatest effect to the labour of a Country, must be sought in giving its energies a direction to the most legitimate and productive sources of its natural wealth. In New South Wales, these sources may be of an agricultural and pastoral nature; yet we apprehend that it is only very lately that these have met with the attention that their importance merits. For many years after the Establishment of the Colony, the encouragement held out to Convict labor was absorbed in the aggrandisement of the Town, so much so as to throw into shade the exertions that would otherwise have been

Labour
of convicts.

Concentration of
convict labour
in towns.

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Concentration of
convict labour
in towns.

Diversion of
convict labour
to country
pursuits.

devoted to the rural objects, thereby giving the Town an undue preference to the Country; both of which on truer grounds of policy should have been so poised and reciprocally cherished as to exert a mutual interchange of advantages. Although this order of things was not the most consonant to the principles of political economy, yet it was by far the most natural at the then existing state of society; and when the extent of the Agricultural resources of the Country came to be better known, clearer and more enlightened views on the subject were entertained, and the labour of the Prisoners applied to such pursuits as were eventually most likely to add to the Wealth, Comfort and Independence of the Community. A practical example of the happy result of such measures may be instanced in the system adopted in clearing the country by means of convict labour, and bringing into cultivation large tracts of Land which otherwise had been dormant and useless to the Colonist; by which system in its operations, not only by withdrawing a large portion of the Convict labour from the towns for the eminent benefit of the Country, but by confirming the occupations and ideas of the Prisoners in Rural pursuits, their moral condition has been improved and their habits have assimilated to those of farming men.

Annexed to this is a List of the Rules and Regulations,* which have been drawn up by me for the guidance of these parties, both as regards their discipline and general conduct.

Proposals for
concentration of
convict labour
in country
pursuits;

and for
contracts for
public works.

A commonly received notion is often entertained that, in consequence of the benefit resulting to the Colony from the extension, by the Government, of the services of the Prisoners from the Public Works to Agricultural employments and other useful purposes, that this system should so continue and be persevered in, that all those employed in the former way should be transferred to the latter, and by way of substitute that contracts should be entered into for the making, erection and repair of all Government Works and Buildings of every description. Much may be adduced in support of such an opinion, and it also might be shown that in some instances a saving might occur to the Government by such a step; at the same time we insert the following considerations against it, and which for the present must set the matter quite at rest.

Objections to
proposed
contract system.

1st. That, was such a measure entered into, all the expence incurred hitherto for the different Establishments in support of the present system must be perfectly nugatory.

2nd. That, was Government to enter into competition for the hire of skill and labour, as an individual would do, and with wants bearing no proportion to other persons, that the market might often be raised against them.

* Note 190.

3rd. That, under the present arrangement, a better and more rigid state of discipline was maintained and a Depot formed for the reception of such as merited the chastisement of their masters; if less work was performed, a diminished and coarser kind of food was given, thereby rendering this service less palatable and creating an incentive to good behaviour, in order to avoid the alternative of returning to the employ of Government.

4th. That either where Prisoner Servants were worthless and profligate, or, owing to the caprice and ignorance of the Masters or their Stewards, their services were rendered little productive or altogether lost to the State, that by turning them in to the public employment their services then could be duly enforced and appreciated. In the progress of the Colony to improvement, it became necessary to ensure the labour of the Prisoners in the employment of Government to the most suitable purposes, classifying them according to their trades, directing their skill to the proper ends, preserving their discipline, perfecting the art of those who had before acquired crafts, or instructing those who were either willing or young enough to learn. With this View was established the Engineer's Department, which has given a systematic effect to the labour and exertions, as well as to the skill and Mechanical Arts of the Prisoners.

In the Lumber Yard are assembled all the indoor tradesmen who work in the shops, such as, Blacksmiths, Carpenters, Sawyers, Shoemakers, Tailors, etc., etc. The workmen, carrying on their occupations under the immediate eye of the Chief Engineer, are probably kept in a better state of discipline than those, who working more remote, are dependant upon the good behaviour of an Overseer for any work they may perform.

Whatever is produced from the labour of these persons, which is not applied to any public work or for the supply of authorized Requisitions, is placed in a large store and kept to furnish the exigencies of future occasions; the nature of these employments, also, renders it much easier to assign a task to each, for the due performance of which they are held responsible.

In the Timber Yard adjoining is kept assorted all the timber, scaffoldings, etc., required for the execution of public buildings; and whatever materials are carried away from hence for these purposes to the different works, the same have to be returned, or the deficiency accounted for. The Storekeeper of this Yard has charge of such timber as is brought from the out Stations, or sawn and cut up in the Yard, such as flooring boards, Scantlings, Beams, etc.; and when these supplies exceed the demand for Government purposes, the excess is sold by public Auction, and the amount of the proceeds credited to Government.

1825.
16 June.

Objections to
proposed
contract system.

Reasons for
establishing
engineer's
department.

Convicts
employed in
lumber yard.

Management of
timber yard.

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16 June.

Management of
outdoor gangs.

Problem of
task work.

Of the outdoor Gangs, every overseer is answerable for the regularity and good conduct of the men composing his Gang respectively. He likewise takes care that the quantity of work executed by each man shall be commensurate with the time employed, and that none of his men quit their employment or station without his sanction for so doing. It would be desirable to be able to fix a specified task to each man respectively as to a whole gang generally; but so many reasons concur against this being done, that it is more prudent to abstain from any such measure. The quantities of work of the outdoor parties being dependant on the weather, the varying nature of the materials their labour and skill is exercised on, as well as the Implements they work with, render it difficult to assign a Stated task; and, in case that was even fixed, difficulty might often arise as to finding fault with a man who, on finishing his daily task, might think proper to indulge himself in idling about. A middle course, therefore, is probably recommendable for the Officer in visiting each Gang to determine in his own mind what the quantity of work ought to be, and in case this has not been made good, that it shall be competent for him to impose such extra work that the full and required extent of the labour to be performed shall be made up before the end of the week. In detailing the particulars of each trade, I have inserted about the average rate of work that should be done by each mechanic or Labourer daily or weekly. Should this quantity fall short of that which an individual could perform, worked for himself on his own behoof, it must be remembered that the quantity and quality of food given in the one case to that of the other. On the supposition that each Prisoner does not get more than half the food requisite, or rather what is usually consumed by a free man in his circumstances, it would not be reasonable to expect the like amount of work to be done; the difference in the one case to that of the other may fairly be estimated at from half to two thirds of what a free man could perform under ordinary circumstances. The classification of the different trades and occupations are as follows.

Comparison of
convict and
free labour.

Carpenters' Gang.

Carpenters'
gang.

In the Carpenters' Shop, the number of men exclusive of native apprentices amount to fifty generally, the greater part of these are good workmen and are classed something in this manner.

Numbers
employed.

Work
undertaken.

House Carpenters, Out door Do., Cabinet Makers, Turners, Shinglers, etc. In this shop are made roofs, floorings, doors, do. frames, windows, do. frames, in short most of the wood work of the required house; the parts of the work are then taken to pieces, and carried to the building they are intended for, and ultimately fixed. The tools are kept apart and in charge of the

Overseer, who furnishes the workmen with such as they require for the time. The average price or hire in Sydney of a Cabinet maker being about 7s. 6d., and that of a Common Carpenter being 6s., striking the average and reducing the amount to about two thirds of the quantity of what a freeman would perform, as we alluded to before, we may estimate each man fairly earns about 4s. 6d. a day or £1 2s. 6d. every week. Annexed is added a memorandum of the different sorts of Colonial woods and Timber used in the shop, and generally for all other Government purposes.

Blacksmiths' Gang.

This department consists generally of about 45 men, who are employed as firemen, Hammermen, Tinmen, Coppersmiths, Wiremen and Locksmiths, also as Farriers and in file cutting such as Sawfiles, Handsaws to 8, 9, 10, 12 inch Do.; Likewise as Nailers, in making nails of all sizes and sorts, such as Shingle, double Do., Flooring heads, 3, 4, 5, 6 inch Spike, etc. As the occupations of these people are various and complicated, much care is required on the part of the Overseer in weighing both before the receipt and issue of all the rude material in Iron, Copper or Tin in the one instance, and of the manufactured Article in the other, to prevent fraud and improper waste being made of the materials they work up; the Overseer is responsible for the proper discharge of this part of his Duty to the Storekeeper. The ordinary hire of a Blacksmith or Mechanic in this Department being about 6s. a day, or what a free man would earn when better fed to support the fatigue of his Employment, as well as the heat of the forge, we cannot reckon the work of each man of this gang at less than 4s. 6d. a day, which forms an item as a sett off against the charge of his daily or weekly maintenance.

Bricklayers' Gang.

The number of Bricklayers seldom exceed 5 or 10 and that including 4 or 5 Labourers and Mortar Men. When the buildings they are employed about are to be built of brick, their occupation must be obvious enough; and in Stone buildings they are employed in turning the arches in brickwork, in making drains, chimneys, etc. With regard to the quantity of work performed weekly by them, we consider that a Bricklayer, with his labourer, will not do less than a square Rod of solid Brickwork of standard thickness, or brick and a half, or laying 4,500 Bricks. The value of this in Town may be The mortar used by them and the masons ought to be composed of two parts sand to one of Lime; but, as the shell lime is not very pure or good, containing much Sand after being burnt, the two ingredients are generally mixed in equal quantities.

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Value of labour
in carpenters'
gang.

Blacksmiths'
gang.
Numbers
employed.

Management
of gang.

Value of labour.

Bricklayers'
gang.
Numbers
employed.

Weekly task.

Sawyers' Gang.

1825.
16 June.
Sawyers' gang.
Numbers
employed.

Weekly task.

Seasoning
of timber.

The Sawyers are generally about 25 in number, but at present do not exceed 6. In the Lumber Yard are two Sawpits of above 70 feet in length. There is also one in the Timber Yard, and one in the Dockyard. The quantities of wood sawn weekly by each pair of Sawyers may be 750 feet of planking; in the measurement of this, where the diameter of the Plank exceeds 2 feet, an allowance of a third more is made to them. In the middle of the Lumber Yard are Racks for placing the sawn planks for the purpose of being seasoned. In the original formation of these Racks, they were made horizontal, and experience has shewn that the plank suffers much from being kept in that position, instead of standing vertically on their ends, to allow the sap to run down and prevent the rain water lodging on them, by which the colour of the wood is sometimes affected.

Brickmakers' Gang.

Brickmakers'
gang.
Numbers
employed.

Manufacture and
value of bricks.

There were formerly about 15 men in this Gang, besides as many more boys from Carters' Barracks learning the trade; at present this employment is discontinued until more bricks are required than what is furnished by the present supply. When the wetness of the weather does not interfere with this work, they were able to make weekly a kiln 22 feet long, 18 ft., and 11 feet high, containing 24,000 bricks; the average price of bricks may be from 18s. to 20s.

Plasterers' Gang.

Plasterers' gang.

Numbers
employed.

Daily task.

The Lathing, Plastering and Whitewashing required for the Public Buildings fall to the province of this Gang, generally about 8 in number. Each of the following items is about what may be considered a daily task for each man.

Lathing 20 yards superficial; Undering, do. 20 yards; Floating flanking etc. 20 yds.; Laying and Setting 32 yds. of each; Rough Stuccoing 20 yards; Trowelled Do. 10 yards. Piers and Arches not included in the above.

Quarrymen.

Quarrymen.

Numbers
employed
at Sydney.
Daily task.

Value of labour.

Fifty quarrymen are about as many as are employed in the Government Quarries in Sydney. When the stone is of fair average hardness, each man should turn out daily 14 Ashlar Stones, by means of wedges and their picks and independent of gunpowder. The Labourers for loading, carrying and clearing the Quarries are ordinarily more than half as many as the Gang consists of. Three Bullock teams and 4 or 5 Horse trucks are kept efficient and ready for this service. A Quarryman, when working for himself can earn 7s. a day. We cannot estimate the

work made good to Government at a less sum than 4s. 6d. a day. The quarry in Cockle Bay being composed of horizontal layers as that of Sandstone, is well adapted for flagging, Hearths-stones, Mantelpieces, etc. The Domain quarry produces very excellent Ashlar, and Stone fit for all purposes except Flagging. The Gaol quarry has much of the same kind of materials, but is more liable to change colour, the stains being impregnations of Iron, first changing to a deep brown, and afterwards to a dark Colour on exposure to the Air. Part of the block of stone on which we are now at work is embedded below the surface 30 or 40 feet; its grain of coarser texture than that of any quarry hitherto opened with an appearance of being stained throughout by water trickling through the Ironstone from the superstratum. This block is of larger dimensions than any yet worked; its depth no where less than 12 feet in front, breadth uncertain, and length upwards of 400 or 500 feet. The Domain Quarry, supplying whatever stone is wanted in Town, leaves this block available for building the new Gaol. As the Sandstone formation prevails through this part of the Colony, it affords so little choice in selecting Quarries except in reference to the size of their blocks, local advantages, texture and grain of the stone and other such considerations. The blocks best adapted to the Quarryman's purpose are covered with incumbent stratum of soft, friable sandstone, which has to be quarried before he arrives at the more profitable part of his pursuit. The Component parts of stone generally appointed for building here consists of .*

1825.
16 June.Description of
stone quarried.

Wheelwrights' Gang

Muster about 23 persons, and are classed as Wheel, Body, Spoke makers and other subdivisions of the same Trade, from the commencement to the final completion of the construction of Carts, Drays, Trucks, Wheelbarrows, etc. Five or more Coopers are generally attached to this Gang, and carry on their employment in a place adjoining. A tolerable mechanic of this trade may generally earn about 5s. 6d. to 6s. a day, the workmen employed in this craft should well replace to Government whatever is advanced for their support and maintenance, besides having a balance in favor of Government.

Wheelwrights'
gang.Numbers
employed.

Value of labour.

Shoemakers' Gang

Consists of 8 persons. Each man makes one pair of shoes easily. The leather is tanned for this purpose by Government at their Establishment of Cawdor, and is found to answer well; each pair of shoes may be Valued fairly at 5s. a pair which sum would go well to pay the expence of supporting each of this party.

Shoemakers'
gang.Amount and
value of labour.

1825.

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Tailors' gang.
Daily task.

Value of labour.

Dockyard.

Numbers
employed.Labourers
employed.

Shipbuilding.

Stonecutters
and setters.
Daily task.Brassfounders'
gang.
Labourers
employed.*Tailors' Gang.*

Every Tailor is tasked with making two Suits of Slop clothing daily; the cloth used for this purpose is manufactured at the Female Factory, Parramatta. All the Watchmen's Great Coats are made in this shop, at the rate of one daily to each person; each of these may be valued at 5s. 6d. each Suit of Slops at 2s. 6d. for making, so that Government ought to gain about £1 5s. 0d. weekly by the labour of every man of this gang. Their Numbers vary from six to eight men.

Dockyard.

There are generally about 70 men as Mechanics and Labourers attached to this Department, besides the Town Gang consisting of about generally, who are made to be useful in loading or discharging Vessels and boats, etc.

The Mechanics are classed as follows, Shipwrights, Block-makers, Blacksmiths, Nailers, Sailmakers, Rope Do., Painters, Coopers, Sawyers and others, besides Labourers and Watchmen, who generally are employed in the repair or outfit of any of His Majesty's Ships and Vessels that may be in the Cove and of all Colonial Crafts whatsoever. A Vessel is generally on the stocks, being built in this yard, which serves to occupy many of the people when no other employment can conveniently at the time be found. In this yard are kept, in store, coals, lime, and timber in bags when first landed, and until they are carried away for use, or adapted to the purpose they may be destined for. The labourers are distributed so as to assist and attend upon the Mechanics.

Stone-Cutters and Setters.

When the stone cutters are not employed on finer work than ordinary, they are able daily to cut, each man, 15 feet of fine Ashlar Stone, or 25 feet of flagging. An allowance is always made when the work requires superior execution, such as for Coping, Ramp Hearth Stones, etc. The Setters should set daily as follows; for each man, 2 perch or 33 feet, fine Ashlar, 1 foot high, 1½ wide, or, when setting rough rough stone, they do about a third more, vizt: 3 perch or 50 feet. When the dimensions of the required stone exceed or fall short of these, a reduction has to be made, the number of solid feet the same in the one case as in the other.

Brass founders' Gang.

The general strength of this Gang may be stated at 7, besides 2 or three apprentices from the Carters' Barracks. Their work is so connected with other trades, and of so jobbing a nature, as to preclude any clear account further than this, that all the brass

work of every description, required for public Service is from the models moulded, run and finished off. They have to cast Iron for all wheels and millwork, particularly that of the Treadmills. The average wages of a Brass or Ironfounder in Town is about 7s. per diem, and we may reckon the work of each of these persons at from 4s. to 5s. every day.

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16 June.

Value of labour.

There are many other occupations exercised by the Prisoners belonging to the Engineer's Establishment in Sydney, which it would be only a waste of time to describe, particularly such as the labourers employed in digging foundations or clearing away rubbish; labourers employed in the Commissariat Store Gang for the removal and carriage of grain, provisions, and stores of all descriptions; grass cutters with the Boats, and Boats' crews that are employed in their conveyance for this Service; Gardeners employed labouring and working in the Government Garden and Domain, besides many other such occupations and employments; the nature of their tasks and result of their exertions may be gained from the detail of the foregoing Trades and Employments.

Miscellaneous labourers employed in engineer department.

There are generally about 500 in the Prisoners' Barracks at Sydney, and about 200 in the Carters' Barracks. Of the former, a great portion are permitted to sleep out of Barracks, and to get the liberty to work for themselves after 10 o'clock on each Friday. This indulgence is only granted as a reward for the most scrupulous good conduct and regularity, as well as on the assurance that a person receiving such indulgence can earn money sufficient to pay for his lodging, etc.

Convicts in barracks at Sydney.

The hours, at which the men are sent from the Barracks to their respective works, is at all times regulated by the season, sunrise being the time they ought to be on their way to it. The time for calling them home by sounding the Barrack bell is determined by the time of sunset. The Prisoners are marched to and from the Barracks with the strictest attention, on the part of their Overseers, to their order and regularity. They are called to dinner so as to reach the Barracks at 12 o'clock, at which they are allowed to sit $\frac{1}{2}$ an hour. Before one o'clock the gangs employed at the most distant stations should have resumed their work, and continue at it till the time first mentioned, when the Bell rings for their return.

Hours of labour.

Each Prisoner is allowed weekly 7 lbs. of Beef or 4 lbs. of pork, 7 lbs. of flour or wheaten meal, 3 lbs. of maize meal and $\frac{1}{2}$ lb. of Sugar.

Rations.

A suit of slops, comprising one Jacket or frock, one shirt, one pair Trowsers, and one pair of shoes issued to every man on his completing 6 months in the employ of Government.

Clothing.

A Blanket and Hammock are given for the use of each person as long as he may continue in Barracks.

Bed-bug.

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Clearing
gangs.

The annexed Memorandum of clearing Parties will represent the general system by which they are guided, as well as their competency to maintain themselves without burthening the Government for their support.

Maintenance of
convicts by their
own labour.

From a perusal of the foregoing, it will appear that the productive labour of the Prisoners, employed on the part of the Government, is not only sufficient to support the Capital advanced for their Lodging, Food, Religious Instruction, and Medical attendance, but likewise to afford an overplus to the Crown, independant of the result of the previous statement; from what I myself have reason to know, and from the representations of others, the labour, Services and talents of the Convicts are fully adequate to accomplish this desirable end in supporting their own maintenance, and producing frequently an excess in favor of the Government. To insure this, however, at its maximum, an unremitting vigilance is absolutely indispensable to remove temptations as much as possible from the Overseers and their men to do wrong, and to thwart the numerous means they may employ to evade their work. The propriety of this strict surveillance is not only obvious from ensuring the benefit of their services, but in producing a moral effect on their ideas and habits.

I have, &c.,
J. OVENS, Major.

[Sub-enclosure.]
Government.

Revenue and
expenditure of
clearing gangs.

	£	s.	d.	Dr.
To Amount of Rations issued to 1,160 Men the number in 50 Clearing Parties, allowing 23 Men to be in each Gang including the Overseer at the rate of £12 8s. 2d. each man Annually	14,269	11	8	
To Amount of Indulgencies, say 6 lbs. of Sugar at 4d. Pr. lb. 1½ Lbs. of Tea at 3s. Pr. lb. and 10⅔ of Tobacco Amounting for each Gang. annually to £76 10s. 0d.	3,825	0	0	
To Amount of Gratuity to the Overseers at 3s. 6d. Pr. Acre say good Acres	1,575	0	0	
To wear and Tear of Implements of the different Clearing Parties	900	0	0	
To Amount of Clothing allowed say Two Suits in the Year to each Man at the rate of £2 Pr. Annum .	2,300	0	0	
To Balance to the Credit of Government on this Account	80	8	4	
	£22,950	0	0	
				Cr.
By good Acres cleared in One Year by the different Gangs allowing six Bushels of Wheat to be received for each Acre cleared, each Bushel valued at 8s. 6d.	22,950	0	0	
	£22,950	0	0	

[Enclosure No. 3.]

1825.
16 June.

PROCEEDINGS OF A BOARD appointed by His Excellency Major General Sir Thomas Brisbane, Governor in Chief, K.C.B., for the purpose of reporting upon the following subjects, contained in a letter addressed to His Excellency by Deputy Commissary General Wemyss, dated 24th July, 1824.

Proceedings of board of inquiry into system for issue of rations.

"The propriety of substituting a Daily for a Weekly Ration.

"The propriety of assimilating the practice of the Issues and equalizing the Ration at all the Stations as far as circumstances will admit of.

"A Return of Individuals Rationed in New South Wales at the Public Expense. Earl Bathurst's directions on that head, and the propriety of commuting the Rations in some cases for a money payment, and to report their opinion as to the Fund from which these payments ought to be made.

"The quality of the Flour to be issued, and a proposition of receiving wheat into the Stores by Weight.

"The propriety of diminishing in a small degree one part of the Ration and increasing the other, which the present exigencies seem to require."

Major Goulburn, President.

John Oxley, Esq., Sur. Genl.; Captain Allman; Asst. Commy. Genl. Lithgow; Dep. Asst. Comy. Gl. Cordeaux; Do. Roberts; Do. Goodsir, Members.

The Board, having met, proceeded to take into consideration the several subjects proposed in Depy. Commissy. General Wemyss' letter, on the first point "The propriety of Substituting a Daily for a Weekly ration," the Board are of opinion that it is practicable, and that it will have a tendency to simplify the accounts and to facilitate calculations, as well as issues for broken periods. They are further confirmed in the propriety of the proposed change, as the Colonial Ration will thereby be assimilated to the Army Ration; and they have therefore in the sequel stated the allowances of Provisions by a specification of the daily Rations which they propose should regulate the Issues.

Substitution of daily ration.

On the second part "the propriety of assimilating the practice of the Issues, and equalizing the Ration at all the Stations," the Board are fully persuaded of the expediency of such equalization wherever it is practicable. They feel, however, that the subject, from the Various interests which it involves, is one of no small difficulty and requires serious consideration.

Uniformity of practice.

The practice, which has hitherto prevailed, of granting a remuneration to Superintendants, Overseers, Constables, Watchmen, and others, by issuing them extra allowances of Provisions under the designation of "Extra Half rations" "Double Rations," etc., opposes, unless it can be compensated or discontinued, an almost insuperable obstacle to the equalization in question. This practice in the early Stages of these Colonies was doubtless not only necessary, but in many cases unavoidable, from the difficulty and occasional impossibility of obtaining the means of remuneration, or procuring provisions from any other source than the Public Stores; but they are of opinion that in all the settled Districts, which now offer a facility to Individuals to supply themselves at almost all times by private purchase, not only a great proportion of the extra allowances of Provisions but of the whole of the rations issued to most of such persons might with advantage be committed for a

Money payments in lieu of rations.

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issue of rations.

Money payments
in lieu of
rations.

money payment. They venture this opinion with the more confidence in consequence of the result of the arrangement adopted in 1822 of commuting the Rations to Constables in Sydney, having demonstrated that the measure has not tended to increase intoxication or dissipated habits amongst these Individuals, nor been productive of any of those evil consequences which by some it was apprehended would result from its adoption.

The Board are so impressed with the advantages, in a public point of view, which would most probably in many cases result from issuing the fair and equitable value of Rations in money instead of the Rations themselves, that they feel disposed to recommend its extension, so as to comprise the commutation of most of the Rations, whether extra or single, now issued in the Settled Districts to Public Functionaries and Petty Officers, including Magistrates, Civil Officers, Schoolmasters, and inferior Parish Officers, and other persons of a similar description, as well as their families and servants who now receive Rations from the Public Stores.

This Measure they conceive would not only facilitate the equalizing of the Ration by compensating and doing away with many of the extra allowances of Provisions, but be productive of other advantages equally desirable.

The Commutation proposed, besides being attended with the saving of a proportion of the loss arising from the custody and issuing of Rations in Kind, would relieve the Commissariat of a portion of troublesome duties, the issuing of Rations in detail to a great variety of Individuals who do not admit of a general classification, and for the Issue of those Rations consequently a comparatively unusually large number of Vouchers is requisite; and be less liable to abuse than the issuing Rations in Kind, as the nominal Pay lists, on which Payments in Commutation would come to be made, could be more easily checked than the present Ration Returns, in which various descriptions of persons are sometimes unavoidably blended indiscriminately in mass; and, by bringing the expences incurred for victualling such persons into a more palpable shape and into more clear and obvious notice, and thereby facilitating the regular forming an accurate idea of its extent and bearing, would most probably still further contribute to public economy; whilst, at the same time, the parties receiving such commutation, some of whom it is understood sell or barter their Rations, would thus be enabled to purchase such provisions, and at such places, as would best accord with their interests and inclinations.

As they are aware, however, that the adoption of the arrangement, above recommended, must depend on its being made apparent that it is practicable, the Board are induced to point out generally the mode in which they conceive it could be effected. Sometime previous to the commencement of the last two monthly periods of the year, on the 25th October next, a complete nominal list of all persons of the description mentioned, specifying their designation or employment, the quarter in which they reside, the Kind of Ration, whether double, extra half, or single, which they draw, the number of their servants or persons composing their families victualled, and the authority under which they receive Rations, might be made up by the Commissariat from the Victualling Lists, and be

forwarded to the Chief Secretary to the Government, to be compared with the Authorities in his Office; which List, on being approved by His Excellency the Governor and returned to the Commissariat Officer in charge, would form the original authority for the payment of the commutation allowance, whether for double, extra half or single Ration, to such persons and their families.

The payments of the Allowance in lieu of Rations to Magistrates, Civil Officers, and their Servants, might be made quarterly; to all other classes Monthly in arrear; but as some of the latter might be in need of advances during the month, the Commissariat Officer might be authorized to make such advances, when requested, in cases where he should think them necessary and proper at any intermediate period of the month, keeping an account of such temporary payments and including the whole in the general monthly Pay Lists.

At Sydney, the quarterly and monthly Pay Lists might be verified by the signature of the Colonial Secretary, with the exception of those of Constables, which might be signed, as at present, by the Superintendent of Police. At the out stations, the resident Magistrate nearest the station where they are payable might be requested to certify such Lists, on being furnished with an extract from the original List, so far as regards persons in his District.

All Changes in the Original List should be notified by the proper authority to the Commissariat Officer in Charge; and when such changes relate to any of the out stations, also to the Magistrate of the District who certifies the Pay List.

The rate of Commutation, to which each Individual will be entitled, should be the fair estimated cost of the Articles composing the Rations which he was entitled to receive, immediately previous to their being commuted. It would be convenient, in case of broken periods, that this should be a daily rate.

At the beginning of each Quarter, the Colonial Secretary and the officers in charge of the Store and account Departments of the Commissariat might be requested to calculate and fix the average cost of the several Articles composing such Rations, during the preceding Quarter, at the several stations where commutation money is payable. The average cost of the double, extra half and single Ration and of the Women's and Children's Rations, thus estimated, on being approved by His Excellency the Governor, might be notified in the Gazette, as the rates of Commutation payable for the succeeding Quarter; by which arrangement, should the rates of one Quarter be lower than the actual cost price, they will be compensated by the higher Rates of the following three months.

The Board would recommend that Similar measures should be adopted for issuing a Commutation in lieu of Rations to persons of the same Description, as those designated, at Van Diemen's Land; and that the Authorities there should be directed to prepare an Original List of such Persons for the Rates of Commutation, and make the payments on account thereof, on as nearly the same principle in every respect as circumstances will permit, as those recommended to be adopted for the same purpose in this Settlement.

With respect to the Fund from which the money commutations for Rations should be paid, the Board, as may in part be inferred from what has been already stated, are of opinion that, with the exception of those for Constables, which are present issued from the Colonial Fund, the payments can most conveniently be made by

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rations.

System to be
extended to
Tasmania.

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board of inquiry
into system for
issue of rations.

Money payments
in lieu of
rations.

the Commissariat, by whom the Rations to be commuted have been hitherto furnished, and that they should for some time, at least, be issued by that Department.

The Board beg further to remark that many of the Commutation allowances, which they have proposed, might with advantage be consolidated with the salaries of the parties to whom they will become payable; and that it would, therefore, be very desirable to take an opportunity, when the cost of the Ration is at its most usual average of effecting such consolidation, so far as circumstances will admit, in all cases of commutation allowance to persons in the receipt of Salaries; and they would recommend, when any new civil appointment takes place in the settled Districts, either here or at Van Diemen's Land, it should be clearly understood that no Ration of any description should form any part of the emolument thereof.

By the adoption of the arrangements recommended, the number of persons entitled to extra allowances of provisions will be greatly reduced, and in so far the obstacles to equalizing the Ration will be removed; but there will still remain, at the newly formed and penal Settlements, a number of persons who now receive extra Rations, which do not admit of being compensated by a money payment.

System for issue
of extra rations
at penal
settlements;

In regard to the extra allowances of provisions issued to persons at the Penal Settlements, the Board propose that, from the 25th October next, all extra allowances to such persons should be issued at the discretion of the respective Commandants of each Settlement, and cease entirely from that date to be included in the regular Ration Returns of the Commissariat, which should comprise the fixed general Rations only for these Individuals.

To enable the Commandants at these Settlements to issue such extra allowances of provisions, as each may think proper, to any of the Civil Government Servants under his control, whom he may judge deserving of such recommendation, the Board would beg to suggest that he should be authorized to Indent, from time to time, on the Public Stores for, and cause to be distributed and applied, in remuneration of extra and meritorious services, such quantities of provisions, not exceeding in any one month one tenth part of the amount of the ordinary Rations issued at the Station in the same month; for which his receipt at the end of the month, stating that the same were drawn and applied, in remuneration of extra general services, should be considered a sufficient Voucher in the Commissariat accounts for the Station.

The Commandants might be directed to furnish quarterly confidential statements, in duplicate, of the distribution of such provisions, according to a prescribed form, for the information of His Excellency the Governor, one of which on being signed as approved by His Excellency and returned to the Commandant might be held to form his sufficient discharge for the expenditure.

and at
Bathurst,
Newcastle, and
out-stations.

At the newly formed Settlements at Bathurst, Newcastle and other Stations, where it may not be as yet practicable to extend the system of commutation to the Rations of Superintendants, Overseers and others who now draw extra allowances of Provisions, the Board recommend that all such extra allowances should, in the same manner as at the Penal Settlements, entirely cease to be included in the regular ration returns of these Stations from the 25th October next; by which arrangement none but the regular

fixed Ration, to which such Persons will be entitled in common with others, will come to be included in such returns throughout all the Settlements.

The extra allowances to be issued from the said date at these Stations ought, the Board think, to be invariably confined to uniform quantities of certain Articles hereafter to be specified; and that such Articles should be included in distinct and separate Monthly vouchers, which should contain a nominal List of the names and designations of such persons; and that all such persons, as now receive double allowances in the said new Settlements, should have the option of applying to have their present Rations commuted to a money payment, or be satisfied with the general rate of extra allowance which may be established.

The designations of the extra allowances of Provisions, by extra half, double Rations, etc. which have evidently given rise to ambiguity, will thus be entirely discontinued, and no one will be entitled to draw more than one ration daily.

The Board, having proposed these preliminary arrangements, proceed to state the Articles which they recommend should, from the 25th October next, form the ordinary and fixed daily Rations to all the Civil Classes entitled to receive the same in both Settlements, which they submit should be the following:—

Daily Ration for Men.

1 lb. of Wheat meal, or 12 oz. of wheat meal and 4 oz. maize or rye do.
1 lb. of beef or mutton, or 10 oz. of salt pork.

$\frac{1}{2}$ lb. of Maize or Oatmeal
or $\frac{1}{4}$ lb. of wheat meal.

} and 1 oz. sugar { but in lieu thereof to clearing gangs, who earn their allowance of sugar, $\frac{1}{2}$ lb. wheat meal.

Soap may be drawn if actually required, not exceeding one half ounce to each man daily, but ought not to be issued to persons receiving pay or to Settlers.

Daily Rations to Prisoners in Gaol.

1 $\frac{1}{2}$ lb. of Bread.

Daily ration for men;

for prisoners in gaol;

Daily Ration for Female Prisoners on Government Labour.

13 oz. of wheat meal, or $\frac{3}{4}$ lbs. of Bread of Wheat Meal.

8 oz. of beef or mutton, or 5 oz. of salt pork; $\frac{1}{4}$ oz. tea; 2 oz. sugar;
1 oz. soap; $\frac{1}{2}$ oz. salt.

for female prisoners;

Daily Ration for Children on Govt. Labour.

10 oz. of wheat meal, or $\frac{3}{4}$ lbs. of Bread of wheat meal.

4 oz. of Beef or Mutton, or 2 $\frac{1}{2}$ oz. of pork.

$\frac{1}{4}$ oz. salt.

and for children.

For all other Women one half, and for all other Children one fourth of the men's ration.

With regard to the fineness of the wheat and maize meal specified in the above Ration, the Board recommend that at least 90 per cent. of Meal should be taken from every Hundred pounds of marketable wheat or maize, allowing in no case, more than 10 per cent. for Bran and waste in grinding; but leaving it to the discretion of the Commissariat Officer to vary this Standard, according to the quality of the grain and the situation of the parties receiving it, from 90 to

Standard meal.

1825.
16 June.

Proceedings of board of inquiry into system for issue of rations.

1825.
16 June.

Proceedings of
board of inquiry
into system for
issue of rations.

95 per cent. of meal, and 10 to 5 per cent. of Bran and waste; so that the fineness of the meal may be never less than 90 or greater than 95 per cent.

This standard of fineness they consider the most eligible and the best adapted for combining due economy with uniformity and general fitness, particularly as a great part of the Bran, which will thence result, can be profitably employed in feeding Government horses and Cattle.

Substitution
in articles
of rations.

When it may be necessary to substitute one article for another, the Board propose that the following should be observed:—

1½ lb. of wheat	} reckoned equal to	1 lb. Wheat Meal
1½ lb. Maize		1 lb. of Maize Meal
2 lb. of Maize		1 lb. Wheat
2 lbs. of Maize Meal ..		1 lb. Wheat Meal
1 oz. of Sugar		¼ lb. Wheat Meal or ½ lb. Maize do.
¼ oz. of Tea		Do. Do.
1 lb. of Salt Beef		1 lb. Fresh Beef
1½ of Otaheite or S. Sea Pork		1 lb. Colonial Pork
1 lb. of Sugar		1 lb. Beef or 10 oz. Pork

No permanent commutation of one Article for another ought to take place without the express authority of Government; and in case of its becoming temporarily necessary at any of the Stations to substitute another article for any of those specified in the Established Rations, the Commissariat Officer should be enjoined to adhere to the above proportions, and be prepared to show cause that the necessity of such substitution did not originate from any neglect on his part in taking measures for providing the articles comprising the ordinary Ration.

Reduced rations.

The Board have not thought it necessary to add to the description of Rations by proposing a diminished Ration for Persons, if any, who may be allowed a certain portion of their working time to earn a part of their subsistence, or as a measure of Punishment to delinquents; as they consider the means of usefully employing the former in the Clearing gangs, and of substituting work in the Tread Mills for the latter, will in most cases be found preferable to placing either on a reduced Ration; but should the fixing of a reduced Ration be considered indispensable, they would propose three fourths or one half of the Established Ration, as those which might be conveniently applicable in most cases where a reduced Ration would be advisable.

Exemptions
from established
scale.

The Board propose that the Ration, which they have above submitted, should be considered the general ordinary allowance of Provisions to all Civil Classes of persons in both Settlements victualled by the Crown, with the exception of Patients in Hospital, Lunatics in the Asylum at Castle Hill, persons employed in His Majesty's Colonial Vessels, and objects of charity, to whom the Rates of Provisions heretofore issued may be continued. Clearing Parties, they conceive, should also continue to receive the luxuries which they may earn at the Established rates, viz., 6 lbs. of Sugar, 1½ lbs. of tea, and ¾ lbs. of Tobacco for each acre cleared.

In regard to the other Extra allowances of provisions now drawn, but which are not comprised in the arrangement as to the Issue of such allowances in the Penal Settlements, or which do not admit of being compensated by a Money payment, the Board would propose that such extra allowances should, from the 25th October next, be

uniformly confined to one or other of the daily quantities of Articles specified below, issuing from time to time the one or other allowance of such Articles, which the supplies in Store, or the facility of procuring them at the several Stations, may point out as the most eligible, vizt.

Either $\frac{1}{2}$ oz. Tea and 2 oz. of Sugar, or
 5 oz. Oatmeal and 2 oz. Sugar, or
 3 oz. Rice and 2 oz. of Sugar, or
 $\frac{1}{2}$ pint of Pease and 1 oz. Salt, or
 $\frac{1}{2}$ oz. Tobacco, $\frac{1}{2}$ oz. Tea and 1 oz. Sugar, or
 $\frac{1}{2}$ lb. of Wheat Flour.

The Board have already recommended that monthly Vouchers for the issue of the above extra allowance should be taken entirely distinct and separate from the regular Ration returns, which Vouchers should contain a nominal List of the Persons receiving it; The number of those persons, should the arrangements previously recommended be carried into effect, will it is believed be inconsiderable; as they will consist chiefly of the Overseers, Superintendants, and other petty functionaries in the newly settled Districts, whose Rations do not admit of being commuted by a money payment. It has been further recommended, with a view to uniformity, that the above should be the only Rates of the extra allowances of articles in kind which should be issued at any station, with the exception of the Penal Settlements, leaving such persons, as may consider them an inadequate compensation for the extra allowances they have heretofore received, to make application for a pecuniary allowance in lieu thereof.

In concluding these remarks on the proposed equalization of the Ration, and on the Articles of which it should consist, the Board beg to State that they have steadily kept in view the combining every practicable economy with adequacy of allowance. They are aware that no one Ration, that could be fixed upon, would be equally suitable and convenient for all persons and situations; but they submit that trivial inconveniences should give way to the importance of establishing uniformity in an administration which embraces a very considerable portion of Public expenditure, and that His Majesty having thought proper to establish an uniform Ration for the British Army in every part of his Dominions (Jamaica excepted), warrants them in strongly recommending that no unnecessary deviations from the Ration that may be established for these Settlements should be permitted, as such deviations never fail to produce confusion and embarrassment.

The Board beg to remark that in case of publishing the Ration, as they have proposed it should be modified, it might be advisable to declare in the same notice, in which it may be announced, that no alteration is thereby intended to be made in the existing arrangements, by which the allowance of Provisions to be issued by the settlers to their assigned servants is now regulated.

The Board proceed to consider a further point brought under their notice, the propriety of "receiving Wheat into the Store by weight." They are of opinion that, as the Article is issued and accounted for by weight, it should also be purchased and received according to this standard and that, instead of being bought at so much per bushel, the price stipulated to be given should be regulated by the weight of a specified quantity say 56 lbs., 60, or 100 pounds. This arrangement, whilst it would render the Accounts more precise and accurate, would, by more nearly apportioning price to quality, serve

1825.
16 June.

Proceedings of
board of inquiry
into system for
issue of rations.

Extra rations.

Advantage of
uniform ration.

Rations for
assigned
servants.

Reception of
wheat into store
by weight.

1825.
16 June.

Proceedings of
board of inquiry
into system for
issue of rations.

Proposed
alteration
of ration.

Returns
of persons
victualled.

as an encouragement to the production of the weightiest and best grain; maize and other grain they recommend should be purchased and received on the same principle. With reference to the last point submitted for consideration in D.C. Genl. Wemyss's letter, "the propriety of diminishing in a small degree a part of the Ration, and increasing the other, which the present emergencies seem to require," the Board beg to state that, as they are not in possession of such full and authentic information as to the present stock of Grain, either in New South Wales or Van Diemen's Land, as would warrant them in venturing a decided opinion on the subject, but considering the long continuance of the present drought they would strongly recommend that measures should be taken for ascertaining, as fully and satisfactorily as possible, the present resources of both Settlements in grain, as well as the prospect which the ensuing Harvest holds out, from the result of which enquiry the propriety of diminishing or continuing the ordinary Ration could be best determined.

The Board consider that they have now stated their opinion on all the points submitted for their consideration, with the exception of that which relates to a Return of Persons entitled to be victualled at the public expence. The establishing Returns which should regulate and fix the exact number of persons of the Civil Classes, to whom Rations ought, according to the existing regulations to be issued, and should correctly exhibit the several variations in this number, and the dates of their occurrence, so as to afford the means of ascertaining and checking the issue of Rations from the Public Stores to Individuals not entitled thereto, is, the Board think, one of the most important "desiderata" in the local administration.

The subject, however, is one of so much difficulty and importance as to require long and deliberate consideration, as well as the assistance and co-operation of the several Departments by whom Returns of such persons are kept; and the Board have therefore come to the resolution of here closing their report on the other points referred for their opinion, and of respectfully submitting that the Chief Engineer and Superintendent of Police and Convicts should be added to the Committee to assist in the consideration of the subject of establishing such Return.

F. GOULBURN, Col. Secretary.

J. OXLEY, Surveyor Genl.

F. ALLMAN, Captn., 48th Regiment.

W. LITHGOW, Ass. Commissary General.

W. CORDEAUX, D.A.C.G.

P. ROBERTS, D.A.C.G.

J. TOD GOODSIR, D.A.C.G.

Sydney, 14th August, 1824.

Commissariat Office, Sydney, 21st September, 1824.

Fixation of
sterling value
of Spanish
dollar.

THE Board of Officers instituted by the Governor, having re-assembled in consequence of his letter of the 13th Instant directing them to fix a rate upon the Spanish Dollar, at which all Public Officers should be instructed to receive it, and it should be paid to all Public Officers, find that the intrinsic value of the pure Silver contained in the Spanish Dollar is 4s. 3-79d., and they are consequently of opinion that this, allowing a deviation to save the trouble of calculating with a complicated fraction, say 4s. 4d. would be a fair Ratio for converting Sterling into Currency. But when they consider that the greater part of the Crown dues arise out of a

Duty ad valorem, they are led to observe that the trouble even of any conversion may be avoided, in many cases, by causing the Importer of Goods to depose to their value in Spanish Dollars, and not in Sterling. They conclude by remarking that whatever price it may be deemed expedient to fix upon the Spanish Dollar, it will in their opinion be highly advisable nevertheless to enact that the English Halfpenny, the English Shilling and the Colonial Fifteen penny piece and the Colonial Dollar should pass at the respective rates of one, Twenty, Twenty five and Seventy five Hundred parts of that Coin.

F. GOULBURN, Col. Secretary.

F. ALLMAN, Captn., 48th Regt.

W. LITHGOW, Asst. Commissary Genl.

J. T. GOODSIR, D.A.C.G.

W. CORDEAUX, D.A.C.G.

1825.

16 June.

Fixation of sterling value of Spanish dollar.

Sydney, 20th December, 1824.

THE Committee assembled pursuant to a letter dated the 18th Instant from the Col. Secretary, to consider upon certain points therein submitted, and being requested by Deputy Commissary General Wemyss to consider of the rate of Commutation for the value of the Rations hitherto issued to certain Magistrates, Civil Officers and other Individuals, as recommended in the Committee's report to His Excellency the Governor, dated 14th August; with respect to that part of the report relative to such commutation, the Committee do, upon the maturest deliberation, recommend that one fixed and uniform value should be fixed on each Ration throughout the Year; and further with reference to the circumstances and salaries of the major part of the Individuals at present drawing Rations, and the Value at which the Ration could be supplied by the Commissariat, and the actual cost to the Individual, supposing him to purchase it, respectfully recommend that such Commutation be fixed permanently at one Spanish Dollar per week for each single Ration, the ration and half at 6s. 8d., women being rated at one half, and children at one fourth of the single Ration; and that the allowance for Clothing and Bedding be Twenty Dollars Spanish per annum for each person entitled to draw clothing.

Fixation of value of rations for commutation.

The Committee do themselves the honor of transmitting to His Excellency the Governor a nominal list of persons, who, since the 25th of October, have ceased to draw Rations upon the recommendation of the Committee, dated the 14th August, verified under the signature of Deputy Commissary General Wemyss.

F. GOULBURN, Col. Secretary.

J. OXLEY, Surveyor General.

F. ALLMAN, Captn., 48th Regt.

WM. LITHGOW, Asst. Commissary Genl.

W. CORDEAUX, D.A.C.G.

P. ROBERTS, D.A.C.G.

J. T. GOODSIR, D.A.C.G.

[Enclosure No. 4.]

SIR THOMAS BRISBANE TO SECRETARY GOULBURN.

Sir, Government House, Sydney, September the 7th, 1824.

I do myself the honor to acknowledge the receipt of your Letter of the 26th Ultimo, forwarding the proceedings of the Board assembled for the purpose of considering and stating their

Report acknowledged.

1825.
16 June.

Approval of
conclusions.

Further points
for inquiry.

opinion on several points submitted in a letter from Deputy Commissary General Wemyss, and to request that you will convey to the Members my thanks for the attention with which they have treated a subject of such importance, and to say I fully approve of the decision they have adopted on the various heads therein introduced. I have now further to beg their attention will be given to three other points touching the same subject, and on which I will be obliged by your calling their opinion viz.

1st. The Classification of the Convicts at the several Stations in order to enable the Officer of the Commissariat to make out his returns with accuracy and uniformity.

2nd. The Officers or Overseers, to whom the duty of certifying to the Commissariat the return of the number of the Convicts requiring to be victualled, and of signing receipts for the same, could be assigned at the different stations with the greatest advantage.

3rd. The practicability of establishing, by Monthly or periodical musters and returns, the exact number of convicts to be victualled at the several Stations, the cause of the variations between such returns and the dates of their occurrence.

I have, &c.,
THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 40, per ship Midas.)

20 June.

Appointment of
Rev. T. Reddall
as director-
general of
schools.

Sir, Downing Street, 20 June, 1825.

I have had the Honor to receive your Dispatch No. 9 of the 4th October reporting that you had appointed Mr. Reddall, one of the Colonial Chaplains, Director General of the Government Schools at New South Wales with a Salary of £300 a year.

The appointment of the Archdeacon, as "Visitor of all Schools maintained throughout the Colony from His Majesty's Revenue," will render the appointment of Reddall totally unnecessary; but, in directing the discontinuance of his Services in that capacity, you will authorize payment to be made to Mr. Reddall of the salary, which you had affixed to his Situation, until the assumption by the Archdeacon of the duties.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 41, per ship Midas.)

Sir, Downing Street, 20th June, 1825.

I have received your Dispatch, No. 10 of the 28th October last, respecting the state of ignorance to which the Roman Catholic Population of New South Wales have been reduced from the

Ignorance
of Roman
Catholic
population.

want of Spiritual Instruction, and of the proper place in which Divine Worship can be performed according to the Rights of the Roman Catholic Church. In consequence of your representations, application will be made to Dr. Poynter, the Vicar Apostolic, and it will be left to him to select two Clergymen duly qualified for the purpose of dispensing proper religious Instruction amongst the Roman Catholic Residents in the Colony. I cannot however but regret that you should have allowed a Building to have been commenced, so disproportionate to the Class of Communicants, as the Roman Catholic Chapel now erected at Sydney appears to be; more especially as it would have been so easy for the Government to have interfered in consequence of its having advanced a Sum in aid of its construction and of its being liable to be called upon for still further assistance before the Building could possibly be completed. Although it will be impossible for me to sanction the advance of the Funds, which you state will be required for the completion of the Chapel upon the original plan, I have no objection to authorize such assistance being afforded by the Local Government, as may admit of Divine Worship being performed in it; but every other expence, connected with the ornamental part of the building or its internal accommodations, must be left to the Inhabitants themselves to complete by voluntary Subscriptions.

1825.
20 June.

Two priests to
be appointed.

Criticism of
erection of
R.C. chapel.

Funds to be
provided.

I have, &c.,
BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 42, per ship Midas.)

Sir, Downing Street, 20th June, 1825.

As there is reason for believing that a person, calling himself William Edwards may have recently arrived at New South Wales from the Cape under a Judicial Sentence of Transportation, I have to desire that you will take measures for releasing such person from any restraint, under which he may be placed, and for facilitating his return to England, unless it should appear upon enquiry, that William Edwards should be identified as the Convict Alexander Low Kay, who was removed to New South Wales from this Country under sentence of transportation in the year 1818, and who is reported to have made his escape from the Colony.

Instructions re
W. Edwards.

I have, &c.,
BATHURST.

1825.
20 June.

UNDER SECRETARY HORTON TO SIR THOMAS BRISBANE.

(Despatch per ship Midas.)

Downing Street, 20th June, 1825.

Speeches by
W. Huskisson
in house of
commons.

MR. WILMOT HORTON presents his Compliments to Sir Thomas Brisbane, and begs to enclose to him the substance of two Speeches,* delivered in the House of Commons by the Rt. Honble. Mr. Huskisson, respecting the Colonial Policy and Foreign Commerce of the Country, thinking that Sir Thomas Brisbane would be glad to receive a more correct account of the views of His Majesty's Government upon that subject than is probably to be found in the Public Papers.

[Enclosures.]

[Copies of these two papers are not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 60, per ship Harriet.)

Government House, New South Wales,

My Lord,

20th June, 1825.

In my Dispatch No. 2 of last August, I had the honor to bring the name of Major Ovens before your Lordship under circumstances of the most favorable consideration.

Application
from J. Ovens
for leave to
purchase land.

I again take the liberty of addressing your Lordship in his behalf, and to mention that it had been usual with my Predecessors to make Grants of Land or to give Town Allotments to the Officer holding the appointment of Civil Engineer, on his retiring from Office, and who, report states, is shortly to be relieved by an Officer from the Staff Corps. But as I do not intend to assume such responsibility, I, therefore, beg to refer the request, contained in Major Ovens's letter herewith transmitted to your Lordship, with the hope as the favor, he solicits, appears so reasonable, it may meet your Lordship's approbation; and for the purpose of enabling Major Ovens to receive your Lordship's decision therein, I have been induced to grant him a three years lease of the Land in question, at a fair valued annual rent, pending that determination.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

MAJOR OVENS TO SIR THOMAS BRISBANE.

Sir,

Sydney, 18 June, 1825.

The establishment at Longbottom, which was considered necessary for the purpose of cutting timber, having been long since removed, the buildings being now occupied by a road party,

* Note 191.

and the land waste, I beg leave to propose to your Excellency to purchase the Government lands in that vicinity, paying for such improvements and fences, as may have been executed by Government, at a valuation.

1825.
20 June.

Application
from J. Ovens
for leave to
purchase land.

The lands,* which I now tender to purchase, were originally granted to Lieutenant Lawson and others, being about six hundred acres, and sold to Mr. D'Arcy Wentworth, who, in the year 1814, conveyed them to Government for twelve hundred acres of land in the District of Bringelly; and all the useful timber being now cut down and converted to Government purposes, I venture to state that the land cannot now be beneficially retained in the actual occupation of the Crown; while to me it would afford a spot to retire on, should my health (which Your Excellency knows has not been good for a considerable time past) oblige me to give up the active duties of my profession. But as, the lands in question having been once occupied by Government, your Excellency might have some unwillingness to make an actual transfer of them, until Earl Bathurst's pleasure was received on that point, I respectfully beg leave to solicit (should your Excellency see no reason to receive my proposal to purchase) that you would be pleased to grant me a lease of the same for such a short time, as to enable your Excellency to communicate this my proposition to Earl Bathurst and receive his directions thereon.

I have, &c.,

J. OVENS.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 61, per ship Harriet.)

Government House, New South Wales,

My Lord,

21st June, 1825.

21 June.

With reference to my dispatch No. 39 of last March, on the subject of the seizure, report and cargo of the Merchant Ship "Almorah," I do myself the honor to transmit to your Lordship the copy of a Dispatch from the Lieut. Governor of Van Diemen's Land, in which he encloses documents, which have a strong tendency to show that the cargo of the Almorah would, in the present deficient state of grain in that Colony, have rendered the cargo of that ship most desirable in supplying their wants there, and have effected a considerable saving here, as I have been obliged to purchase wheat in Sydney at 14s. per bushel in order to send to Hobart Town. I am therefore induced to impress upon your Lordship's mind the propriety of the measure I had adopted in sending to the nearest port for a Cargo of Rice, as the fears I

Prospective
value of cargo of
ship Almorah
in Tasmania.

1825.
21 June.

entertained of a deficiency of Grain, and which exigency alone led me to that measure, have been fully realized by the high price of that Article, as well as from the total failure of the crop caused by drought in the Sister Colony. I have, &c.,

THOS. BRISBANE.

[Enclosure.]

[A copy of this despatch will be found in a volume in series III.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 62, per ship Harriet.)

Government House, New South Wales,

22 June.

My Lord,

22nd June, 1825.

Instructions for
administration
of government
by W. Stewart.

I do myself the honor to acknowledge the receipt by the "Hercules" on the 7th Ult. of your Lordship's Dispatch No. 8 of last January, transmitting instructions under the Royal Sign Manual for the temporary Administration of the Government of this Colony, which I shall take especial care to place in the hands of the Lieut. Governor Stewart on my Embarking, with the other necessary documents; but my Dispatch No. 51 of last month will have communicated to your Lordship that such temporary administration will be but of short duration.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 63, per ship Harriet.)

Government House, New South Wales,

25 June.

My Lord,

25th June, 1825.

Proposal for
seizure of ship
and cargo.

An application was lately made by two respectable Merchants of Sydney to me that I would cause a seizure to be made of a Ship and Cargo,* recently arrived from China. The ground was that the Navigation Laws were infringed by the great portion of the Cargo being American Tobacco, and the ship not being navigated according to the Acts of Parliament, she having on Board Lascar Seamen. I referred the question to the Attorney and Solicitor General. The latter Officer was of opinion that no breach of any Law had been committed. The former thought that the Act of the 7th and 8th of King William on the subject might be considered as binding the Trade in Foreign Produce to New South Wales. There being however a difference of sentiment between these Gentlemen, I thought it prudent to do no more than to bring the particular case under your Lordship's consideration.

* Note 193.

It seems important in regard to the interests of the East India Company, inasmuch as the growing Trade of this Colony thus receives supplies by the way of China from the United States of America, and indirectly enable the States' traders to go into that great market. The policy of the East India Company, sanctioned by Parliament, has recently been much opposed to this. Freedom of Trade, upon general principles, will probably be most advantageous for this Colony; but, as the complaint has been made to me, I have deemed it expedient to refer the case and the conflicting interests to your Lordship.

I have, &c.,

THOS. BRISBANE.

1825.
25 June.

Proposal for
seizure of ship
and cargo.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 64, per ship Harriet; acknowledged by Earl Bathurst to Governor Darling, 2nd February, 1826.)

Government House, New South Wales,

My Lord,

25th June, 1825.

Conceiving that following the recommendations of the Commissioner of Enquiry would meet your Lordship's sanction, under this impression I have the honor to acquaint your Lordship that I have been induced to add £200 a year to Mr. Crawford's Salary as first Clerk in the Colonial Secretary's Office, as recommended in 3rd Report, page 94, in consequence of the late Act of Council having done away with the fee from which a principal part of his emolument* was derived. I have therefore to solicit your Lordship's confirmation to that increase of salary, as the situation is one of considerable responsibility and labor, which Mr. Crawford is well calculated to discharge faithfully and with advantage to the public Service.

I have, &c.,

THOS. BRISBANE.

Increased salary
for first clerk
to colonial
secretary.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 65, per ship Harriet; acknowledged by Earl Bathurst to Governor Darling, 20th October, 1826.)

Government House, New South Wales,

My Lord,

25th June, 1825.

Pursuant to the late New South Wales Act, Section 30,† I do myself the honor to transmit to your Lordship two complete Sets of the Laws, I have made with the advice of the Council down to the present date. One Set‡ is interlined and accompanied with such remarks as the nature of the subject seemed to require. The other is sent simply as it is received from the Newspaper Press. The Acts are published in the Newspapers of the Colony, and, for convenience of distribution to Magistrates and others, I have caused 50 copies to be struck off separately in the manner exemplified by the Set.

Transmission
of copies of
acts of council.

* Note 194.

† Note 113.

‡ Note 196.

1825.
25 June.

Transmission
of copies of
acts of council.

I have now the honor of sending your Lordship the confirmatory Acts. No. 11* will shew your Lordship the reason why the legislature of the Colony has hitherto made such slow progress. On this subject I have made further observations in my Notes on the Commissioner's Reports transmitted by the last Ship.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

[This enclosure contained copies of the first twelve statutes, as published in the "Public General Statutes of New South Wales." To each statute there was prefixed the following:—"By His Excellency Sir Thomas Brisbane, K.C.B., Governor of the Colony of New South Wales, etc., etc., etc., with the Advice of the Council," with the exception of the first, which was passed "by the advice of the major Part of the Council." Each statute was endorsed, "Passed the Council:—Francis Stephen, Clk. col."]

[Enclosure No. 2.]

ATTORNEY-GENERAL BANNISTER TO SIR THOMAS BRISBANE.

Sir,

Sydney, 28th June, 1825.

I have drawn up short Notes of the Acts, which your Excellency has passed; with regard to two, Nos. 8 and 9, I have no accurate knowledge of the purposes for which they were passed, and Nos. 7 and 12* did not appear to require comment. I think it probable that the Chief Justice can supply the proper notice on Nos. 8 and 9.*

I have, &c.,

S. BANNISTER.

[Sub-enclosure.]

NOTES on the Laws passed by His Excellency the Governor of New South Wales with the advice of the Council.

No. 1. This Act was passed in order to supply the defect of the Act of Queen Anne, which gave mercantile negotiability to Bills payable in "money" only, whereas the Bills usually made in New South Wales are payable in Spanish Dollars. A considerable controversy existed in the Colony on this Subject at the time of the promulgation of the New South Wales Act of Parliament.

No. 2. This Act was passed as the least objectionable mode of protecting the Magistracy of the Colony from vexatious actions. It was preferred to any more extended method of giving force to the Old Colonial Orders, many of which were illegal, and some inexpedient.

No. 3. This Act was passed in order to repress Bushranging. It was part of a System, which seems to have had considerable success.

No. 4. This Act was hastily drawn in order to be ready for the usual day of Licensing Public Houses.

* Note 197.

Notes by
attorney-general
on acts of
council.

No. 5. Upon the promulgation of the 4 Geo. 4, C. 96, S. 19, rendering it necessary that two Magistrates should be present to condemn any prisoner, great inconvenience was felt in remote parts of the Colony from the difficulty of assembling a Bench. This difficulty was attempted to be removed by an increase in the number of Magistrates, which only lessened the Evil.

In order to enable the gentlemen, who were still disposed to maintain proper discipline, this Act was passed giving them singly certain limited powers.

No. 6. The Alehouse Licensing Act was first drawn without requiring the concurrence of the Minister for the certificates; and this Act relieved them from the Duty.

No. 10. A principle object in framing the Port Regulations has been to relieve the foreign and Colonial Shipping from burthens, which the improved State of the Colonial Harbours in police and the increase of Shipping generally no longer rendered necessary. This act may be considered expedient.

No. 11. The occasion of this Act was an opinion, which had become general, that unless the five Members of Council Should be in the Colony, so as the Notice of any Meeting might be given to each Member, the words of the 24th Section* of the New South Wales Act were not complied with. No advantage had ever been taken of this Doubt, but it was (as Colonel Stewart was arrived) thought prudent to remove any ground for vexatious resistance to the former Laws.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 66, per ship Harriet; acknowledged by Earl Bathurst to Governor Darling, 19th February, 1826.)

Government House, New South Wales,

My Lord,

26th June, 1825.

26 June.

Considering it requisite to give your Lordship explanation on certain points of expenditure in the Judicial Department of the Colony, in reference to the items, I do myself the honor to acquaint your Lordship that the expences of the Commissioner of the Courts of Requests, and of the Quarter Sessions Officers, and of certain assistance to the Attorney General, have been incurred under the following circumstances.

Expenditure
in judicial
department.

Early in the year 1824, I appointed Dr. Douglass Commissioner of the Court of Requests, pursuant to the power vested in me by the Act of Parliament; in his absence, I appointed Mr. Garling, one of the Crown Solicitors, on a Salary of £300. The arrival of Mr. Stephen appeared to me to supercede both appointments. Afterwards on the institution of the Quarter Sessions, it became necessary that a Chairman, with legal knowledge, and Clerk of the Peace should be provided to assist the Magistrates at least in

Arrangements
for courts of
request and
quarter sessions.

* Note 157.

1825.
25 June.

Notes by
attorney-general
on acts of
council.

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26 June.

Arrangements
for courts of
request and
quarter sessions.

the commencement of these duties. Mr. Stephen was selected to be the Chairman, not only with regard to his qualifications, but inasmuch as his circuits for his Court of Requests could be arranged to be made at the same time at which the Quarter Sessions were held. Mr. Garling was also contented to allow his intended income as Commissioner of the Court of Requests to be considered as part of his emolument as Clerk of the Peace, to which Office I had appointed him. I thus endeavoured to consult economy in these appointments, which I could consider only as experimental ones. It was also of great importance that the Sessions should be held with due means of regularity and efficiency.

Expenses of
attorney-
general.

With regard to the assistance given to the Attorney General, the cost has been £100, and the Circumstances, under which that has been allowed, will perhaps be best explained by the Official Letters, of which I have the honor to transmit Copies to your Lordship. Circumstances have rendered further expences requisite in his Department, of which the particulars are also detailed in the annexed Papers.

Reports from
chief justice and
law officers.

With the view of future legal arrangements in the Colony, I have required from the Chief Justice and the Crown Officers detailed reports on the Subject, which will be transmitted in due time to your Lordship.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

ATTORNEY-GENERAL BANNISTER TO SIR THOMAS BRISBANE.

Sir,

Sydney, 28th June, 1825.

I have procured two letters which shew the extent to which I applied for assistance in the performance of my duties in January last, and, as your Excellency purposed adding them to a Dispatch to Earl Bathurst on the Judicial Department, I take the liberty of enclosing them.

Assistance
required by
attorney-
general.

I have reflected frequently in your Excellency's reference to me on the appointment of another judge in the Colony. The difficulties are, I think, considerable on the Subject. I have no doubt that, in the present state of Mr. Forbes' health, it could not be done legally, and beg permission to postpone a further consideration of the case until he shall feel himself to be failing again under the pressure of his duties. In the mean time, Your Excellency will perhaps think it right to state to Earl Bathurst how this important matter is now left.

I have, &c.,

S. BANNISTER.

[Sub-enclosure No. 1.]

ATTORNEY-GENERAL BANNISTER TO SIR THOMAS BRISBANE.

Sir,

Sydney, 4th February, 1825.

The criminal business of the Supreme Court will commence in a Few days, and it may be necessary that the greater part of

Request from
attorney-general
for assistance.

my time may be occupied in the daily business of my Office and in preparing the new Laws of the Colony. I have therefore to request authority from your Excellency to retain the Solicitor General in so many Criminal Cases, as I may be unable to attend to without neglecting other pressing duties. I have, &c.,

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26 June.

S. BANNISTER.

[Sub-enclosure No. 2.]

MAJOR OVENS TO SOLICITOR-GENERAL STEPHEN.

Sir, Private Secretary's Office, 18th January, 1825.

The Attorney General having represented to the Governor that his time is so much occupied with the Criminal Sessions, he will be unable to proceed in legalizing the Digests of Government Orders, Proclamations, &c., He has therefore proposed to the Governor that you should be requested to discharge his duties in conducting in Court the prosecution of about 40 cases of Larceny and other Small offences, during the present Sessions, for which additional duty, I am directed to name the Sum of £100, and the Governor will be happy if you will undertake it.

Appointment
of solicitor-
general to
prosecute for
the crown.

I have, &c.,

J. OVENS, Private Secretary.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 67, per ship Harriet.)

Government House, New South Wales,

My Lord,

29 June, 1825.

29 June.

My dispatch No. 22 of last Jany. will have prepared your Lordship to expect the appointment I am about to have the honor to announce as having taken place.

Archdeacon Scott having delivered to me his proposal* to your Lordship respecting the appointment of Police Magistrates in the different townships of Parramatta, Windsor and Liverpool, accompanied by Mr. Wilmot Horton's instructions to submit the same to Council, I did so accordingly; and it is most satisfactory to me to announce to Your Lordship that the unanimous opinion of the Council coincided with the view, I had taken of the subject in the dispatch alluded to, viz. that a Police Magistrate should be appointed for Parramatta. I have in consequence named D. McLeod, Esq., M.D., Half Pay Surgeon of the Forces, to that Office, from the conviction it could not be better filled; and his having acted in that capacity for the last 16 Months has particularly qualified him to discharge its duties with advantage to the Public. I have only sanctioned £300 a year of salary to be annexed to the appointment for the present, although I take the liberty of recommending that it should be permanently fixed at £400 per Annum.

Appointment
of police
magistrates.

D. McLeod
to act at
Parramatta.

* Note 108.

1825.
29 June.
Court house
rented at
Parramatta.

I have further to state, for your Lordship's information on this subject, that, as there was no Court house at Parramatta or public building to hold Sessions fit for the reception and sittings of the Court of Requests or benches of Magistrates, and the means of the Government to construct public buildings being limited, I have been fortunate, in hiring for five years at a yearly rent of £80, a house, the lower part of which, with a few alterations and a little furniture, compleatly answer for all the above purposes; the upper part will be occupied by the Police Magistrate, who will in consequence be always ready when required.

I have to hope that these arrangements will be approved by your Lordship.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 68, per ship Harriet; acknowledged by Earl Bathurst to Governor Darling, 3rd February, 1826.)

Government House, New South Wales,

30 June.

My Lord,

30th June, 1825.

Despatch
acknowledged.

I do myself the honor to acknowledge the receipt of your Lordship's Dispatch No. 1 of last January, directing a general division of the whole Territory of New South Wales and Van Dieman's Land in Counties, Hundreds and Parishes, which I have published in the Sydney Gazette. I have also named Commissioners for this Colony,* sending a blank Commission for the Lieut. Governor of Van Dieman's Land to be filled up by him to their Commissioners. I have named £500 a year during the continuance of these Duties, which is to include all Allowances. Mr. Oxley, however, declines receiving any part of this.

Commissioners
appointed for
survey of colony.

I have only further to acquaint your Lordship that the instructions are in due progress, and I shall write more at large by the next ship, when I shall transmit the names of all the Commissioners.

I have, &c.,

THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 43, per ship Catherine Stewart Forbes.)

1 July.

Sir,

Downing Street, 1st July, 1825.

Official papers
to be made
available for
R. Darling.

I have received The King's Commands to signify to you His Pleasure that you do place at General Darling's disposal all the Dispatches and Documents, which I may have had occasion to address to you during your administration of the Government of New South Wales.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

1825.
1 July.

(Despatch No. 44, per ship Midas.)

Sir, Downing Street, 1st July, 1825.

I have received your Dispatch of the 8th February stating that Mr. Bannister the Attorney General had submitted to you a statement of his case, as relating to his pecuniary situation and duties, and you recommend his application for an increase of Salary to favorable consideration.

Refusal of request of S. Bannister for additional salary.

In the Dispatch, which I had the honor of addressing to you on 2nd June last, I acquainted your Excellency that I did not consider Mr. Bannister to have any claim to an additional allowance; to which I now beg to add that the inadequacy of his profits appears to have proceeded rather from his want of professional practice than from the disproportion of his Official Income; and the latter, having been fixed without reference to any other pecuniary advantages unconnected with his public situation, cannot now be augmented, because those professional and pecuniary advantages should happen not to be so considerable as were anticipated.

I have, &c.,

BATHURST.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 45, per ship Midas.)

Sir, Downing Street, 2nd July, 1825.

2 July.

I have received your Dispatch dated the 17th January last, in which you bring under my consideration the present system of paying Overseers by assigning to them the services of a Mechanic or a Convict, who is permitted to work for his own benefit, after paying a certain weekly allowance to his Master; and you submit that, in lieu of this arrangement, the Convict Artificers should be assigned to the Settlers on their paying 3s. 6d. a week to the Government for each Mechanic, besides feeding and clothing him whilst so employed.

Assignment of mechanics to overseers.

Hire of convict artificers.

The mode of paying Overseers, by assigning to them a Mechanic whom they might let out to hire, is decidedly objectionable. I have, therefore, to signify to you the King's Commands that the practice should be immediately discontinued, and some other way of remunerating the Overseers be resorted to.

Assignment of mechanics to overseers to be discontinued.

Whether the Government should receive the benefit of the Sum, derived by thus transferring the services of such convicts to private Settlers, is a question upon which I experience greater difficulty in conveying to you Instructions, although it would undoubtedly be highly desirable to save the Public the expence of remunerating the Overseers, by carrying the amount so raised to

Problem of hiring of mechanics to settlers.

1825.
2 July.

the Account of Government. At all events, I should not wish the new system to be universally adopted, until experience has already established the utility and convenience of the measure.

I have, &c.,
BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 69, per ship Harriet; acknowledged by Earl Bathurst to Governor Darling, 8th January, 1826.)

Government House, New South Wales,

4 July.

My Lord,

4th July, 1825.

Report by
J. Busby on
proposed
water supply
for Sydney.

Having only received the accompanying report* yesterday from Mr. Bushby, I cannot at present do more than recommend the same for your Lordship's favorable consideration, and I am at the same time unwilling to lose the opportunity of a Ship to England tomorrow to request your Lordship to give orders for the necessary quantity of Pipe, with the Steam Engine, if the undertaking meets with your Lordship's sanction and approbation.

I have, &c.,
THOS. BRISBANE.

[Enclosure.]

MR. JOHN BUSBY TO SIR THOMAS BRISBANE.

Sir,

Sydney, New South Wales, 28th June, 1825.

In conformity with the instructions of your Excellency, on my arrival in this Colony, that I would direct my attention to the improvement of the supply of water for Sydney, I have examined the sources whence the present supply is derived, and also those from which I conceive an additional supply may be obtained, and have now the Honor to lay before your Excellency the following observations and suggestions, as the result of my enquiries, both previous to my visiting Newcastle and since my return from New Zealand.

Sydney is at present dependent for water on the Tanks in the vicinity of the Lumber yard, on Private Wells, and on the Swamps and Lagoons near Town, from which last it is brought in barrels at a great expense.

The Tanks, from their low situation, collect the water which falls upon the surrounding slopes. Even in the wet season, the supply is small, and in the dry season is so inconsiderable as to be altogether unworthy of notice. The water is surface water, and therefore soft and may be employed for washing; but it is so contaminated by impurities from the streets and other sources, as to be unfit for almost every other purpose. Besides, the inhabitants of the remote parts of the Town cannot avail themselves of it without great inconvenience.

* Note 167.

The private wells are numerous, and I have examined many of them minutely and at different times, and made whatever enquiries seemed required to obtain full information respecting the quantity and quality of the water they afford. I ascertained that in some the water is sufficiently abundant and constant for the supply of those to whom they belong; that in many it is scanty; and that not a few are useless during a great part of the year. In all of them the water, from being more or less impregnated with mineral substances, is unfit for many domestic purposes, and is very generally considered prejudicial to health.

Those, who have no wells and do not choose to use the Tank water, are under the necessity of bringing it at a great expense from the neighbouring Swamps, or purchasing from those who make a trade by bringing it.

It is needless here to make any observations of the importance of an abundant supply of so necessary an article of life, or to say how indispensable it is in a hot climate to the health and comfort of the inhabitants that there should be, in every season, a superabundance for every household purpose and every imaginable convenience. That Sydney is not supplied in this way the preceding remarks and the experience of the Inhabitants amply demonstrate; while they at the same time point out the necessity of adopting measures which shall secure a permanent and regular supply of good water, and which shall not only be equal to the present, but bear some proportion to the prospective wants of the Town.

These investigations into the sources of the present supply, I thought it my duty to make with considerable minuteness, although, from the peninsular situation of Sydney and the small extent of surface, I from a very early period felt assured of the necessity of having recourse to external sources; even though the mineral impregnations, with which the water of the wells is more or less imbued, had not rendered it desirable to procure a Supply, which, from flowing in the course of the river, had given off such impurities, or had been originally free from them.

Having directed my attention to the examination of the lagoons nearest Town, I put down several boreholes in each to ascertain the nature of the strata on which they rested. I found a fine and almost impalpable quicksand, from which it would be impossible to separate the water mingled in abundance with it. I was then led to the examination of the large lagoon in the vicinity of the old paper Mill, from which the Waterloo Mills draw part of their supply. This lagoon is lower than the others, and receives water from them by drains made by the Waterloo Company. The water is perfectly transparent and colourless, free from every

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taste and smell, and so soft as to be fit for washing and every other domestic purpose. It is also so abundant that, when the population much exceeds its present amount, they will here find an adequate supply. It is likewise fortunate that it may be taken for the use of the Town without interfering with the purposes to which it is at present applied; for by an embankment of comparatively small extent, the lagoon may be formed into a reservoir, which, by collecting the surplus water that falls in the wet season, will yield to the Mills in the dry season a quantity equal to that abstracted.

Calculating on the large allowance of a hogshead or 8·5 cubic feet daily for each family (or every 5 individuals), the quantity required for Sydney, supposing 15,000 inhabitants, will amount to 9,307,500 cubic feet annually. But it is to be observed that, during at least six months of the year, there is more water than the Town and Mills require. It is, therefore, only for the water taken during the remaining months, when the supply is scanty, that any compensation should be made. The quantity will thus be $9,307,500/2$ or 4,653,750 cubic feet. To compensate for this abstraction, there will be a reservoir containing at least 100 acres, which may be laid under water to the depth, on an average, of 3 feet, giving 1,306,800 feet, a quantity much exceeding that abstracted. From the large average quantity of rain, and the great extent of surface, above the level of the reservoir, it may be fairly presumed, that a much greater portion than is here stated may be collected, so that the Mills, instead of being deprived of water at any season, will have it in their power to employ, during the dry season, a greater quantity than they could otherwise have commanded.

About 100 Yards of embankment will be required in the lagoon; and before the foundations of it can be properly laid, it will be necessary to cut a drain to carry off the water during the operations. Part of the drain will be in located ground, but it is presumed no objections will be made. I would also beg leave here to observe that, if the Old Paper Mill and the located ground towards the lagoon be procured, the embankment already made may be raised and strengthened so as to afford a fall sufficient to turn a wheel, by which the water may be sent home during the greater part or whole of the year, and the necessity for any other power probably superseded. An additional reservoir would also be thus obtained.

Hyde Park, from its elevated and commanding situation, affords the most proper site for the Reservoir, whence the water is to be distributed over the Town. The exact position of it may be left for future consideration. If it is intended that it should

be ornamental, the centre will be the fittest place, and then it may have to be raised a few feet; otherwise the most eligible situation will be within a few yards of the Toll Bar. That the water may flow freely home to this Reservoir, it must be raised considerably at the lagoon into a cistern or fountain head placed on the adjoining hill. For this purpose a force pump will be required, which may be wrought by a steam-engine, a tread-mill, or a water-wheel as above alluded to; and to this last as the least expensive, the preference is certainly due. A steam-engine of twelve-horse power would cost £1,500, and could not be supplied with fuel but at a very great expense. The treadmill is also expensive if the labour be taken into account, and it is besides doubtful whether there would always be a sufficiency of hands.

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The pipe track runs from the N.W. corner of the lagoon, for a short distance in a N.N.W. direction, and then in a straight line N.W. till it reaches the road at the New Gaol. It then follows the road to Hyde Park. In this line, there will be about half a mile of tunnelling and some deep cutting, but the greater part consists of common ground cutting.

The following is an Estimate of the expense of bringing the Water from the lagoon to Hyde Park, calculated on having a six inch pipe from the lagoon to the fountain, and a nine inch pipe from thence to the Reservoir at Hyde Park.

This Estimate includes Cost of Steam-engine, force-pump, pipes, stop-cocks, air-cocks, etc., tunnelling, deep and common cutting, laying and joining pipes, embanking, with two Water-houses and Cisterns.

500 Yards 6 inch pipe Wt.	27 tons		
2,970 " 9 inch " "	297		
	324 tons @ £10 ...	£3,240	0 0
Steam engine, 12 horse power with necessary erections		1,500	0 0
Force Pump, with brass chambers, boxes, etc.		60	0 0
Tunnelling 462 fathoms @ £4 4s.		1,940	8 0
Deep Cutting 2,300 Cub. Yds. @ 3s.		345	0 0
Common Cutting 2,030 lin. Yds. @ 1s.		101	10 0
Laying and joining pipes, including lead, etc.		142	0 0
Embankment in lagoon 100 Yds. with drain etc.		700	0 0
Two Water-houses with Cisterns		226	0 0
		£8,260	18 0

For the distribution of the Water, it is proposed to lay a main or 9 inch pipe from the Reservoir in Hyde Park to the East End of St. James's Church, and along King Street as far as Clarence Street; and from this main 3 inch pipes will run in both directions along the principal Streets of the Town. Many of the Streets are as yet only partially built and will not for some time require pipes. I have, therefore, in the subsequent calculation

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confined myself to the undermentioned Streets. Public Wells will also be required in different places; and I would at present suggest the following, vizt., the Market-place, Kent Street, the Rocks, the Public Wharf in George Street. I do not however wish to be understood as limiting the number as above; they may be increased as occasion shall require, and it is probable a much greater number may be necessary.

Main Pipe from Reservoir to Saint James' Church, and along King Street to Clarence Street.

Three Inch Pipes in the following Streets.

Elizabeth Street,	from	Liverpool Street	to	Hunter Street.
Castlereagh Street,	from	do.	to	do.
Pitt Street,	from	do.	to	do.
George Street,	from	do.	to	Argyle Street.
York Street,	from the Market Place through	Barrack Square		
	and along	Charlotte Street and Princes Street.		
Clarence Street,	from	Druitt Street	to	King Street.
Macquarie Place,	„	King Street	„	Bent Street.
Philip Street,	„	„	„	„
Liverpool Street,	„	Elizabeth Street	„	George Street
Bathurst Street,	„	„	„	„
Park Street,	„	„	„	„
Market Street,	„	„	„	Kent Street
Bent Street,				
Hunter Street.				

A branch pipe from the main pipe as it passes the New Gaol.

Estimate of the Expence of distributing in the above Streets.

1,400 Yards 9 inch Pipe Wt.	140 tons		
10,830 „ 3 „ „ „	180 „		
	320 tons @ £10 ...	£3,200	0 0
Laying pipes, including lead, etc.		122	0 0
		3,322	0 0
Above Estimate		8,260	18 0
		£11,582	18 0

It will thus appear to Your Excellency that the whole expence of bringing into Sydney of good water will not exceed £12,000; and when the great expence of making wells is considered, and the still greater expence of drawing water in Carts, the advantages which would accrue to the Public will appear in the strongest light. A small tax imposed on those who take the water into their houses, and from the Supply of the Shipping, would yield

a revenue which would pay a large interest on the money expended, and accumulate a Stock for future repairs, while the Public Wells, Market Places, etc., might be supplied without any expense whatever.

I have, &c.,

JOHN BUSBY.

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SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 70, per ship Harriet; acknowledged by Earl Bathurst to Governor Darling, 23rd February, 1826.)

Government House, Sydney, N. S. Wales,

My Lord,

5th July, 1825.

5 July.

I do myself the honor to transmit to Your Lordship the reports of two Medical Boards held on two Lunatics named in those reports, who have remained here and have been a burden to the Government for near two years in the hope of their recovery; but that proving now hopeless, I am induced, under the authority of my Commission* which especially invests me with the care and keeping of Individuals under mental derangement, to send them home to England by the present opportunity of the ship Phœnix, for which the sum of £120, one hundred and twenty pounds each, has been paid; and I have to hope that your Lordship will approve of the steps I have adopted, and sanction the amount paid.

Medical reports
on lunatics.

Patients sent
to England.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

PROCEEDINGS of a Medical Board, held at Parramatta by order of His Excellency Major General Sir Thomas Brisbane, K.C.B., to examine and report upon the case of Mr. Daniel Macdonnell, Surgeon.

Medical report
in case of
D. Macdonnell.

Parramatta, 15th January, 1825.

President: Thomas Anderson, Surgeon, 3rd Regt.

Members: Thos. B. Allen, Col'l Ass't Surgeon; Jas. Mitchell,
Col'l Ass't Surgeon.

"THE Board, having met and minutely examined into the health of Mr. Dan'l MacDonnell, who was admitted into Parramatta General Hospital in February, 1824, labouring under Mental Derangement, find that he is now in a state of Convalescence. That the only apparent remains of his complaint is some general debility and a degree of mental despondency, not amounting to disease. That they beg to submit to His Excellency the propriety of taking an early opportunity of restoring him to his family. The Board beg to recommend him to be continued under the care of some trustworthy person, until he joins his friends; and this

* Note 200.

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recommendation proceeds more from the two several attempts, which he previously made to commit suicide, than from any particular state of Mental Derangement under which he now labours."

THOMAS ANDERSON, Surgeon (Bufs).

T. B. ALLEN, Col'l Ass't Surgeon.

JAS. MITCHELL, Col'l Ass't Surgeon.

[Enclosure No. 2.]

Medical report
in case of
J. Duncan.

PROCEEDINGS of a Medical Board, held by order of His Excellency Major General Sir Thomas Brisbane, K.C.B., to examine such cases as might be brought before them, and report to His Excellency The Governor in writing the result of their survey.

Sydney, New South Wales, 4th July, 1825.

President: T. Anderson, Surgeon 3d Regt. or Bufs.

Members: M. Goodsir, Surgeon, R.N.; J. Mitchell, Colonial Assistant Surgeon.

THE Board, having met and minutely examined into the state of health of John Duncan, a Purser on the Half Pay of the Royal Navy, find that he has been labouring under Mental Derangement for upwards of Eighteen Months, nearly Eleven Months of which time he has been under Medical treatment in Sydney. That he is now in a complete state of Mental Derangement, approaching to Idiotism, and, from a mature consideration of his case, entertain little or no hope of his ultimate recovery. They would therefore recommend that he be sent to England, under the care of some proper and responsible person by the first favourable opportunity, to be disposed of as His Excellency The Governor may judge necessary.

THOS. ANDERSON, Surgeon Bufs.

MICH'L GOODSIR, R.N.

J. MITCHELL, Col. Ass't Surgeon.

EARL BATHURST TO SIR THOMAS BRISBANE.

(A circular despatch, per ship Midas.)

6 July.

Sir,

Downing Street, 6th July, 1825.

Appointment of
R. W. Hay as
under secretary.

Mr. Robert W. Hay having been placed on the Establishment of the Colonial Office as additional Under Secretary* of State, I enclose a Memorandum, stating the manner in which the division of the business between the Under Secretaries has been arranged, in order to facilitate your communications with this Office.

I have, &c.,

BATHURST.

* Note 201.

[Enclosure.]

1825.
6 July.

MEMORANDUM.

Division of
duties of under
secretaries.

MR. R. W. HORTON.

MR. R. W. HAY.

West India Islands	East Indies
Demerara	Ceylon
Berbice	Mauritius
Honduras	Cape of Good Hope
Bahamas	Malta
North American Provinces	Ionian Isles
Prince Edward's Island	Barbary States
Bermudas	Gibraltar
Newfoundland and	Sierra Leone
Cape Breton	Gold Coast
	Heligoland
	New South Wales
	Van Diemen's Land.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 46, per ship Midas.)

Sir,

Downing Street, 22nd July, 1825.

22 July.

In your Excellency's Dispatch No. 32 of the 30 January last, you state that you had been under the necessity of withholding from Mr. John Cogill, Master of the Convict Ship "Mangles," the usual certificate of proper conduct from his not having strictly conformed to the Printed Rules annexed to the charter party, and likewise from his having landed Spirits and other commodities in New South Wales without a Regular permit. I have now the honor to acquaint your Excellency that the communication above alluded to, having been referred to the Commissioners of the Navy, they have addressed a Communication to my Under Secretary, a copy of which I herewith enclose for Your Excellency's Information.

Certificate
withheld from
J. Cogill.

I have, &c.,

BATHURST.

[Enclosure.]

COMMISSIONERS OF THE NAVY TO UNDER SECRETARY HAY.

Sir,

Navy Office, 14th July, 1825.

We have received your letter of the 12th instant, transmitting by Earl Bathurst's directions the copy of a despatch from Sir Thomas Brisbane, with the inclosures referred to, stating the circumstances under which he had been induced to withhold, from the Master of the Convict Ship Mangles, the usual certificate of proper conduct, and requesting that we will take such steps as may be proper on the occasion. And in return we request that you will inform his Lordship that the freight of the Mangles

Gratuity
withheld from
J. Cogill.

1825.
22 July.
Gratuity
withheld from
J. Cogill.

has been paid by this Dep't, the Governor having granted to the Master a certificate approving of his conduct, a copy of which we inclose; but, as we have not paid to the Master the usual gratuity of fifty Pounds for good conduct, we shall withhold that sum from him in consequence of this complaint.

We are, &c.,
H. LEGGE.
D. THOMSON.
R. DUNDAS.

[Sub-enclosure.]

CERTIFICATE OF SIR THOMAS BRISBANE.

Certificate
issued by
Sir T. Brisbane.

New South Wales.

THESE are to certify the Honble. Commiss'rs for Victualling His Majesty's Navy that Mr. John Cogill, Master of the Convict Ship Mangles, has complied with his Charter Party, and landed here One Hundred and Ninety Male Convicts in a very clean and healthy state; that he has conducted himself entirely to my satisfaction, and left with me a copy of his log book in the usual form.

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 75, per ship Harriet.)

Government House, New South Wales,

My Lord,

22nd July, 1825.

Application of
T. H. Scott for
government
reserves.

The enquiry now going on in the case of Mr. Marsden and Doctor Douglass has so engaged my time as to prevent my entering into particulars; but, understanding that Mr. Archdeacon Scott has applied to your Lordship for the whole of the Government Reserves in this Country to be considered as forming part of the Church and School Lands, I request your Lordship will suspend your decision, until I can enter more in detail upon the subject, as I have the strongest reasons to oppose such a sacrifice.

I have, &c.,

THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.

(Despatch No. 47, per ship Catherine Stewart Forbes.)

Sir,

Downing Street, 23rd July, 1825.

23 July.

Acknowledg-
ment of
despatch re
currency.

In acknowledging the receipt of your Excellency's Dispatch No. 36 of the 9th February, 1825, I have to acquaint you that the measures, which have been recently taken, and which were communicated to your Excellency in my Dispatch of the 5th Ultimo, for introducing into New South Wales, as well as into all other British Colonies, British Silver Money, and the Instructions which have been given in regard to the rates at which Spanish

Dollars and other Foreign Coins should be issued, with reference to that Money, render it unnecessary to make any special communication in reply to that Dispatch.

I am, &c.,

BATHURST.

1825.
23 July.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 72, per ship Harriet.)

Government House, New South Wales,

My Lord,

28th July, 1825.

28 July.

It is with much pleasure I now have the honour to enclose to Your Lordship the Printed Regulations for the Commissariat in supplying the Civil Department of the Colony; and I have to express a hope that they may be approved of by you.

Regulations for
issue of rations
by commissariat.

I shall not trespass upon your Lordship's time in pointing out the extensive benefit arising from the deliberate arrangement and condensing all former regulations connected with this Department, and of giving them a systematic effect throughout the Colony; an advantage alike resulting to the different officers in charge of Commissariat Stations, and to the several individuals who are entitled to receive their Rations from them.

By this definitely fixing the Commissariat issues of provisions, greater facility is afforded in estimating and checking the expenditure of that Department; wherein much difficulty and intricacy, unaided by system, are too obvious to require comment and have hitherto been severely felt.

It remains for me to express to your Lordship the satisfaction I entertain of the ability and constant assiduity of the Officers, who composed the Board in framing these Regulations,* and of my high sense of the zeal and talents of the Commissary of Accounts, Mr. Lithgow, on this as on every other occasion for the furtherance of the Public Service. To him I am indebted for their appearance in their present form.

Commendation
of services of
W. Lithgow.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

[A copy of these regulations will be found in a volume in series II.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 71, per ship Harriet.)

Government House, New South Wales,

My Lord,

31st July, 1825.

31 July.

I do myself the honor to enclose to Your Lordship the Surveyor General's Report in reply to a communication addressed to him by my directions, calling upon him to state the alterations

Report by
surveyor-
general.

1825.
31 July.

that were requisite to make in the existing Regulations for the granting and Sale of Crown Lands, in consequence of Your Lordship's Dispatch* rescinding all former regulations on this head, and placing the whole System on a new and permanent footing.

Similarity
in proposed
regulations to
conditions
already in
operation.

In submitting this Report to Your Lordship's perusal, it affords me great satisfaction in calling your attention to the very prominent similarity that pervades alike the conditions for the disposal and appropriation of the waste lands in New South Wales prior to Your Lordship's Dispatch, and the Instructions more recently received from Your Lordship in regard to the future orders to be in force on this Subject. Your Lordship will observe that in both the great leading principle has been adhered to of encouraging the maintenance of Convict Servants by the Settler, and the expenditure thus saved to His Majesty's Government being returned at no very distant period to the grantee and purchaser. The minor details in both will, I trust, also appear to Your Lordship to accord with each other.

It gives me pleasure to announce that the conditions of the sale of lands adopted by me, in as far as they were in operation, seem to have given as much satisfaction to the Colonists at large as they have been beneficial to the interests of the Crown; and as such I trust your Lordship will not only approve of them, but that they may be confirmed with Your Lordship's sanction in order that they shall be considered as effectual and binding for the period that they have been acted upon. I have, &c.,

THOS. BRISBANE.

[Enclosure.]

SURVEYOR-GENERAL OXLEY TO MAJOR OVENS.

Sir, Surveyor-General's Office, 23rd May, 1825.

I have the honor to acknowledge the receipt of your letter of the 21st instant, enclosing a Copy of a Dispatch from Earl Bathurst, dated 1st January, 1825, addressed to His Excellency The Governor, communicating the decision which His Majesty's Government has formed with respect to the Granting and Settlement of Crown Lands in New South Wales, in order that I may report on those existing Rules† which it may be necessary to alter to meet the intention of Government.

In the Dispatch, which has been communicated to me, Earl Bathurst has been pleased to separate the Individuals who intend to Settle in New South Wales into two Distinct Classes, the first obtaining their Lands by purchase, the second by Grant from the Crown under certain limitations.

The repeated applications within the Colony to be permitted to purchase waste Crown Lands induced His Excellency to publish

* Note 203. † Note 204.

Report by
J. Oxley on
regulations for
grant and sale
of crown lands.

Two classes
of settlers.

the terms on which such purchases could be effected, together with the Form of the Grant* (marked A) which would hereafter be given of the Lands thus offered for Sale. The Price was fixed at five shillings per Acre, on an average; and, on a Deposit of ten per cent. on the whole purchase money being paid, a credit of three Years was given for the residue without Interest. On prompt payment, a discount of 6 Per Cent. was directed to be allowed.

1825.
31 July.
Conditions
on sale of
crown lands.

The assumed value of 5s. Per Acre, thus fixed upon Lands, I consider very much beyond the average value of those Lands which might be comprized in the Parishes or Townships situated at a distance from the seat of Government, and incapable from the general deficiency of Water communication of being brought under cultivation with any reasonable or present prospect of profitable investment of Capital, and which must therefore be considered, at least for the present purposes, as solely applicable to Grazing Sheep and Cattle. The real ready-money value of such Lands is probably not more than 3s. per Acre, and certainly that price could not, under existing circumstances (originating in a deficiency of surplus capital, and the facility of grazing without charge over the immense Tracts of Land which are wholly unoccupied), be obtained.

Average value
per acre of
land.

The natural desire to obtain a secure legal title to the Land, together with a Privilege of Selection under certain limitations, and the Term of Ultimate payment extended to a period of Three Years, doubtless had considerable influence with intended purchasers; and, as it was not possible to put unsurveyed and undescribed Lands up to Public Sale, it was necessary to resort to Sales by Private Contract, and to admit some fixed average Value for the Land, for Cash; and if this value be considered not underrated at 3s. Per Acre, the cost to the purchaser of Two Thousand Acres, allowing a Discount of 10 Per Cent., will be £270, with a probable further Return of the whole purchase Money within ten Years, provided a certain number of Convicts are maintained by the Purchaser. The difference between the assumed Public Sale Price of 3s. and the Credit Price of 5s. per Acre in private Contract Sales, supposing the money not to be paid until the expiration of three Years, will be upwards of 22 Pr. Cent. in favour of the Government, not calculating the Interest on the 10 Per Cent. paid to Government on possession being given, or the value of the small reserved Quit Rent of 2s. Per Hundred Acres.

Sales of land
by private
contract.

It may not be unimportant to show how far the measure of selling the Waste Crown Lands has been in accordance with the

* Note 205.

1825.
31 July.

Applications to
purchase land.

interests and desires of the Colonists (concurrent advantages being derived by Government); and I think this cannot be more effectually done than by stating the simple fact that, since His Excellency's intention to sell part of the Crown Lands was made known within the Colony, Applications to purchase have been accepted to the extent of 230,000 Acres, and within a Week after the Warrants were issued, 10 Per Cent. upon 40,000 Acres was paid; and so far as I am enabled to form a judgment, I have no doubt every acre will be Ultimately paid for on the Terms specified.

Reservation of
right to make
public roads.

The Reservation of a Right to make Public Roads thro' all Lands, whether Sold or Granted, must I think be esteemed an indispensable condition in the holding, as it is impossible, when unsettled countries are first laid out, to determine either the course of population, or the precise spots which may ultimately become Towns or Villages. Experience alone can determine those points; and, if no Reservation of a Right to make Public Roads is made in the Grants, practical experience has shewn that nothing is to be expected from the liberality of the proprietors; and considerable sums must be expended *in compensation* to Individuals for the Privilege of affording the best means of communication from one settled portion of Country to another. The present practice is to allow a certain extra quantity of Land within the Boundaries of Tracts either Granted or Sold, and this Quantity is usually from 5 Acres to 100 acres in proportion to the extent of the Grant.

Reservation of
the crown.

On consideration of the reasons above stated with reference to Public Roads, and as the same principle is applicable to the condition which permits The Governor to use particular descriptions of indigenous Timber for certain Public Purposes, as expressed in the Grant, it might be advisable to retain those two Conditions until the pleasure of Earl Bathurst can be received thereon.

Omission of
conditions *re*
quit rents.

On the Lands, directed to be Sold on the Principles laid down in Earl Bathurst's Dispatch, no Quit Rent whatever is reserved; it will therefore be necessary, in all Grants of Land which may hereafter be sold, to omit the Condition reserving Quit Rent; and it may probably be considered, with this exception in favour of the Purchaser, that the present Form of the Grant intended to be given to him will meet the views of His Majesty's Government, as there is no essential or important difference in the principles directed to be followed in the future disposal of Crown Lands, and those Rules by which I was instructed to govern myself, previous to the arrival of Earl Bathurst's Dispatch; the difference is wholly in the minor details of the measure, and not

in the principle; it will be impossible entirely to avoid those differences, until the Colony has been surveyed and valued according to His Lordship's instructions.

1825.
31 July.

As regards the Reservation of certain portions of Land to New Settlers on Condition of Ultimate Purchase and Payment of present rent, it does not appear that Reservations of this description are contemplated by His Majesty's Government. Still as the measure promises to be beneficial both to the Government and Settler, it may ultimately meet with Lord Bathurst's sanction, and in the Interior it is not necessary to continue it; in fact, the Indulgence having reference only to Settlers from England, and as these persons are now made acquainted with the Terms of Settlement, no disappointment can be sustained by suspending the Indulgence, until directions are received on that point. The Principle, however, upon which such Reservations may be made, has been recognised in the reservations made to Mr. Macqueen, Mr. Nowlan, Mr. Lawrence and others, in obedience to directions from Earl Bathurst.

Reservations of land for purchase by settlers.

Respecting the second class of Settlers, the present custom is, as directed by Earl Bathurst, to make to each a Grant of Land in proportion to the extent of Capital, which there is reasonable ground to believe is intended to be expended in bringing it under cultivation, and Grants of this description have never exceeded 2,000 Acres; the Conditions under which these Lands are now held, are contained in the present annexed Form of Grant* marked B. This Form affords three alternatives to the Settler in the expenditure of the Sum, which it is required should be laid out in improvements. The first is a Condition to clear and Cultivate a certain portion of Land, in proportion to the extent of the Grant, and was copied originally from the Grants made in Canada; this may be called the Primary Condition in all the Grants given in the Colony from its first Settlement to the Year 1822. Experience, however, has proved that the benefits, intended by its introduction, were rendered nugatory by the inapplicability (from situation) of many of the Tracts of Granted Land, to Agricultural Purposes; yet considerable Capital could be profitably employed in Stocking the same Lands with Sheep and Cattle; and the cost of maintaining 30 Convicts on a Grant of Two Thousand Acres in the course of Five Years (being an average of 6 Men Per Annum) was considered as equivalent to the expense of bringing the prescribed proportion of Land under Cultivation; and there can be no doubt that on a Grant of such an extent, a much greater number of Convicts will necessarily be employed by the Bona fide resident Settler; and, failing the Cultivation of any portion of his Grant, on maintaining an equivalent Number of Convicts, it was not requiring too much to condition that at

Land grants in proportion to capital possessed by settlers.

Conditions for improvement of grant.

1825.
31 July.
Conditions for
improvement
of grant.

least an equal sum should be laid out in some permanent improvements, as Buildings, Fences, etc. In the Dispatch to which my attention has been directed by His Excellency, the latter condition only seems to be required, and that to the extent of one half the average Value of the Land at the time it was granted, which, on the most extended Valuation, will fall very far short of the sum of Money required to be expended, or the cost of the alternative conditions as made Public in the Schedule Marked C. The sum required to be expended on a Grant of Two Thousand Acres will do little more than Fence it in, and Provide temporary Dwellings.

In making the new Grants to Settlers from England, it will therefore be matter of consideration to omit the first and second alternatives, and only retain the third; this is however of little consequence, as the retention of the third Condition will in all respects meet the principles laid down in the dispatch, however it may differ as to the actual amount to be expended, and which cannot be accurately ascertained for a considerable time.

Quit rents
to be imposed.

The present Grants contain a reservation of Quit Rent amounting to 15s. Per Hundred Acres, payable at the expiration of five years; this sum was inserted in obedience to Earl Bathurst's directions, and assuming, as before stated, the Cash Value of the Land to be on an average 3s. Per Acre, it is exactly five Per Cent. on that Value; and in the absence of more correct Data on which to form a valuation, I respectfully submit it to His Excellency that it will be no departure from the Principles of Earl Bathurst's Instructions to continue the Quit Rent at its present rate, extending the Period when the first payment is to commence from 5 to 7 Years, according to His Lordship's orders.

Reservations
of roads and
timber.

The other Reservations, contained in this Form of Grant, are those of Roads and Timber, which have been already observed on; and I submit that they should be retained until Earl Bathurst's Instructions can be obtained in relation to those points.

The two Forms of Grants A and B were drawn up by the Attorney General, and, with such alterations and omissions as may be necessary to embrace the principles directed to be acted upon by Earl Bathurst, may not be considered as unsuitable to the circumstances of the Colony, or at variance with His Lordship's Instructions; and in that view I beg respectfully to suggest to His Excellency the expediency of continuing them at least until further instructions are received.

Applications
for extension
of grants.

As no precise Rules have been laid down respecting the Granting of Lands in extension to original Settlers, perhaps the suggestions contained in my letter* to His Excellency, dated 4th Novr., 1824, on this subject, Marked D, may continue to be

* Note 205.

advantageously acted upon; and it may not be improper to state that, since the adoption of those principles, very few applications have been made for extended Grants, as compared with previous applications; and, should His Majesty's Government continue to consider it advisable to hold out the prospect of large reductions in the sum required for the redemption of Quit Rent, and the return of purchase Money in consequence of the employment of a Certain number of Convicts, I take the liberty of suggesting that the Settler should not receive an extension of his original Grant, on the ground of having employed an extra Number of Convicts, if he avails himself of the employment of the same Convicts to obtain the return of his Purchase Money or a diminution of the sum to be paid in the Redemption of his quit Rent, as it must be obvious that either inducement is fully sufficient to cause the maintenance of as many Men as can be usefully and profitably employed. The Quit Rents payable upon Lands given in extension is the same in amount as upon other granted Lands; but the payment commences immediately upon the Grant being made, and not at the expiration of 5 or 7 Years.

1825.
31 July.
Applications
for extension
of grants.

I have only further to observe that the Cost of maintaining Convict Labourers is nearly as stated in my Letter of the 4th of November last; but the Profit of the Labour of the Convict is not estimated or deducted; the Land given as a Bonus is also valued at the highest credit rate; but if the estimation of the Cost of the Convict be reduced to £16 Per Annum, and the value of the Land to 3s. per Acre, the result will be nearly the same, and would cause little or no variation in the present scale, by which the propriety of extending Grants is governed.

Cost of
maintenance
of convicts.

I am gratified in being able to report to His Excellency that the Principle of the new and extended Surveys, which are intended to be carried into execution, has been adopted with success in the New Settlements on Hunter's River and at Bathurst during the last three Years, and that the Progress of the important alterations contemplated in Earl Bathurst's Dispatch will in consequence be materially promoted. I have, &c.,

J. OXLEY, Surveyor-General.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 74, per ship Harriet.)

Government House, New South Wales,

My Lord,

1st August, 1825.

1 Aug.

In pursuance of Your Lordship's Commands conveyed in your Dispatch of No. 25 of July, 1824, directing possession to be resumed of Norfolk Island, I have the honor to acquaint your Lordship that I was fortunate in engaging a private ship* to fulfil that duty; which I am happy to state is completed without

Re-occupation of
Norfolk island.

* Note 206.

1825.

1 Aug.

Report on
condition of
Norfolk island.

accident, as the Mermaid Colonial Cutter returned last week bringing the intelligence that the Detachment of Troops, as well as the Convicts and Stores, were all landed in safety on the 6th of June. Captain Turton of the 40th Regiment, the Commandant at Norfolk Island, reports very favorably of its present state, as to live stock which is in great abundance; particularly pigs, which he states to be beyond all calculations; Goats are also very numerous. He reports the former Town of Buildings are in a state of perfect ruin, but from the remaining walls he will be enabled to form a temporary Gaol and Store. The Commandant also reports favorably on the facility of landing on the Island at all times, either at one side or the other; and he concludes by acknowledging in high terms the hearty co-operation of all Military and Civil Officers in promptly and cheerfully carrying into execution his orders.

Causes of delay
in re-occupation.

The delay, which has arisen in carrying your Lordship's Instructions into execution has been occasioned by the scanty state of our Marine, which rendered it impossible for me, with that alone, to fulfil your Lordship's Orders; and I did not feel justified in going to the expense of taking up a Vessel for the sole and express purpose. I, therefore, waited for the opportunity of a Vessel bound to India through Torres Straights when Norfolk Island lay but little out of the Track.

Convicts and
military sent
to island.

This Vessel had also to call at Port Macquarie for such Prisoners, as it was deemed necessary to send in the first instance to prepare for future numbers; and with that view, I only sent 57 Convicts mostly Mechanics to prepare Buildings and erect a Tread Mill which accompanied it. The Detachment of Troops consisted of but one Captain, 1 Subaltern, 3 Serjeants, 30 privates, 6 women and six children.

Importance of
re-occupation.

I cannot conclude this Despatch without expressing in high terms my opinion of the importance of resuming possession of Norfolk Island, viewed in combination with the opinions I had the honor to convey to your Lordship more at large in my Despatch No. 50 of last May on the penal Settlements generally.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 73, per ship Harriet; acknowledged by Earl Bathurst to Governor Darling, 2nd January, 1826.)

Government House, New South Wales,

4 Aug.

My Lord,

4th August, 1825.

Papers re
land grant to
J. Macarthur.

I have the honor to enclose a series of documents connected with the Grant of 10,700 Acres of Land, directed by your Lordship to be made to Mr. Macarthur, and to beg leave to

submit a detailed statement of the facts, as they have occurred, to enable your Lordship to take a connected View of the whole case, and to perceive the bearing of the several documents referred to.

1825.
4 Aug.

In compliance with your Lordship's Dispatch of the 31st of July, 1823, a copy of which is enclosed for the convenience of reference, I caused Mr. McArthur to be put into possession of the whole of the Government Reserves at the Cow Pastures, agreeably to the Coloured Chart which your Lordship enclosed for our guidance; but as I apprehended that your Lordship, in directing the cession of the above Lands to Mr. Macarthur, was not aware at the time that there had been a reservation of 600 acres for the purpose of a Church and School, I thought it proper to apprise your Lordship of that circumstance, and in the meantime to defer the execution of the Grants until your Lordship's pleasure should be known.

Possession of reserves at Cowpastures given to J. Macarthur.

Mr. Macarthur was fully apprized by me of the objections which I had to the execution of the Grants, as will appear to your Lordship by the correspondence which took place between that gentleman and the Colonial Secretary, herewith enclosed; and he engaged to abide your Lordship's ultimate decision, as will appear by reference to his letter of the 20th May, 1824. I have since received your Lordship's Dispatch of the 17th August, 1824, a copy of which is also enclosed, and in which your Lordship qualifies the possession, previously ordered to be given to Mr. Macarthur, by the express reservation of 600 acres out of the 10,700, if the Reverend Archdeacon Scott should within six months after his arrival report such reservation to be necessary.

Objections to execution of grants.

Proposed reservation.

I received your Lordship's last despatch early in April last; and on the 14th of the same month, I caused a letter to be written to Mr. Macarthur, enclosing an extract from your Lordship's Despatch, and communicating my readiness to execute the Grants upon the terms directed by your Lordship. To that letter, I have never received a reply. I also communicated the substance of your Lordship's Dispatch to the Attorney General, as the basis on which the intended grants were to be prepared. I did not require Mr. Macarthur to execute the Bond directed by your Lordship, because he was already in possession of the whole of the Land, and it appeared to me that the execution of that instrument should be deferred until the execution of the Grants, as they were properly simultaneous Acts.

Instructions transmitted to J. Macarthur.

As Mr. Macarthur had been put into possession in pursuance of your Lordship's first mentioned Dispatch, he of course became liable to pay for the Land according to the terms therein laid down; and when the first instalment became due, it was demanded as a necessary consequence of possession, still, however, leaving

Demand on J. Macarthur for payment of first instalment.

1825.
4 Aug.

the question reserved as to the Church and School lands open to Your Lordship's determination, whenever it might suit your Lordship's convenience to consider and decide upon it.

Suggestions
made by
T. H. Scott.

In this state of the transaction, the Rev. Archdeacon Scott arrived in the Colony, and soon after repaired to the Cow Pastures for the purpose of inspecting the place, and determining, as I supposed, the expediency of retaining the 600 acres. On the 7th June last, I received a letter from the Archdeacon, in which he threw out an opinion that the transaction had been closed before his arrival, and that he could not disturb the possession of Mr. Macarthur without a breach of faith on the part of Government. I afterwards received a second letter, dated the 8th Ult., to the same purport, which led to a correspondence at some length between myself and the Archdeacon, which I have the honor to enclose, and I beg to call your Lordship's particular attention to his letter of the 26th Ult., and my reply of the 30th, in which the points in difference between us are brought to issue, and from which your Lordship will already perceive that the data, upon which the Archdeacon founds his opinion, are altogether erroneous in fact.

Reserve
proposed by
T. H. Scott.

On the 2nd Ult., the Archdeacon officially reported his opinion to me that 20 acres of the reserved land would be sufficient, and intimated that the spot called Cawdor, on which Government buildings were standing, would be the fittest for the purposes required; and, as that place had no supply of water, the Archdeacon submitted a proposal from Mr. Macarthur to give up 160 acres of land formerly granted to him at the price of two acres for one in another part of the Cow Pastures.

Exchange of
land proposed
by J. Macarthur.

The Archdeacon's letter enclosing Mr. Macarthur's proposal is herewith enclosed. As I did not like the complexion of this proposition, I refused to sanction it, stating my readiness at the same time to refer it to your Lordship. I was the more anxious to adopt this course, as my own acts had been complicated, and I was desirous that your Lordship should see the spirit in which the proposal came.

Criticism of
decision of
T. H. Scott.

From this general view of the Transactions in the order they occurred, your Lordship cannot fail to observe how widely they have travelled from your Lordship's instructions. The Archdeacon was called upon to give his opinion simply upon the *eligibility of the 600 acres* for the use of a Church and School. The Archdeacon waives the question with reference to the interests of the Church, and decides that the 600 acres cannot now be claimed without compromising the faith of the Govt., and then submits from Mr. Macarthur an entirely new and distinct proposal.

Upon the whole of the Transaction, I beg leave to Submit the following points for your Lordship's consideration.

1825.
4 Aug.

Criticism of
decision of
T. H. Scott.

1st. It does not appear to me that the Archdeacon was called upon to enter into the question, and certainly not to decide whether your Lordship's Dispatch of July, and the subsequent transactions thereupon, had committed the honor of the Crown too far to demand the restitution of the 600 acres.

His Office, as I interpret it, was merely to say whether the land reserved for the Church and School was necessary or not; and if necessary, out of what part of the 10,700 acres, it should be selected. Had the Archdeacon confined himself to this Office, I certainly should not have offered any opinion upon the propriety of the decision to which he might have come; but having thought fit to enlarge the ground taken in his Official Report, and, in his letter of the 8th Ult., to assign as his principal reason for renouncing land in the Colony, that he did not think himself justified in being the instrument by which the dignity and honor of the Crown should suffer, naturally puts me on the defensive, as the Archdeacon appears to have overlooked the very serious charge he was implicitly preferring against the Government under my administration.

2nd. I conceive it would be fairly open to your Lordship to have demanded the restitution of the reserved 600 acres, even supposing Mr. Macarthur had been put into unqualified possession of the whole of the reserved Lands, in pursuance of your Lordship's Dispatch of July, 1823. Your Lordship in that Dispatch had proceeded upon the faith of a Statement made by Mr. John Macarthur, Junr., in London, in which there was no allusion whatever to the reservation which had been before made for public purposes.

Crown rights
to restitution
of reserve.

As that material fact had not been brought into View, I apprehend that your Lordship was certainly entitled upon its being discovered to demand the restitution of what had been promised under such circumstances; and moreover, I think your Lordship will be satisfied that there was an express understanding between Mr. Macarthur and the Colonial Govt. that the question should be referred to your Lordship's decision, and that nothing had been done since on the part of the Government to interfere with such express understanding. It is true that Mr. Macarthur, in his letter of the 24th September, 1824, in answer to the letter of the Colonial Secretary demanding payment of the first instalment, enclosed a draft for the amount and requested a receipt, specifying that the sum paid was in full discharge of the first instalment for 5,700 acres; but the receipt was not given, because it was considered that the terms, in which such receipt was

Payment of
first instalment.

1825.
4 Aug.

demanded, might be construed into a departure from the Agreement to refer the matter to your Lordship and therefore no reply was made. The money had not been paid, and that transaction has been left in *statu quo*.

Criticism
of action of
J. Macarthur.

As Mr. Macarthur had enjoyed the possession of the land, so he was bound to pay for it, subject however to its being repaid or deducted, if the land should afterwards be reclaimed. He had expressly agreed to receive the land upon these terms; and, after he had obtained possession, it was not open to him to recede from his engagement; supposing that the Grants had even been delivered to him, it would have been but fair to expect, after the liberality of Government towards him, and his own proposal to abide your Lordship's decision, that he would not take shelter, under any form or ceremony, to evade a compliance with your Lordship's decision or wishes.

Proposals by
J. Macarthur
for surrender
and exchange
of lands.

3rd. Mr. Macarthur proposed to avail himself of your Lordship's first dispatch so far as to get rid of the valuation of Cawdor and its buildings. With this view, he offered to give up 20 acres of land comprehending that part on which the Government buildings are situated, that is to give up the sum of £10, the rate at which he is charged for twenty acres, and relieve himself from paying for buildings which are useless to him, but which have been appraised at the sum of £644, as will appear by the appraisement made by the Superintendent of Govt. works, herewith enclosed; besides this the location of a Church and School in the centre of his Estate must necessarily create the just expectation of considerable future benefit to himself and his successors; and he further proposes to gain two acres for one by exchanging land contiguous to Cawdor, for a double quantity in another part of the Cow Pastures comprehending a stream of water, which renders a large proportion of the adjacent country of little value to any other proprietor.

Selection of
site at Cawdor
by T. H. Scott.

4th. The only reasons, stated by the Archdeacon in his Official letter of the 2nd Ult., for selecting Cawdor are the site and the buildings, which he says will answer the temporary purpose of a Church for the present population. I am not aware of any population in that immediate neighbourhood except Mr. Macarthur's own servants; and it might have been reasonably expected that he would allow the use of some place of his own for the purposes of divine worship, as other landed proprietors in the Colony are in the habit of doing, and as I am sure Mr. Macarthur, if called upon, would cheerfully do; and by the time that an independent population may be calculated to settle in that neighbourhood, the temporary buildings at Cawdor will have become useless. The Archdeacon further stated that, although the contemplated Parish at Cawdor will be principally possessed by one

proprietor, it is to be supposed that, at some more advanced period of the Colony, it will be occupied by tenants and other persons, and that the intended Church will be easy of access from all parts of the Parish; but the contrary supposition should be taken into account; and I do not think that ease of access to such places of public resort as a church should be left to depend on the will of a single proprietor, nor can I see the expediency of giving up the 580 acres of adjoining land, which in the contemplated Parish must become no less valuable to the Church than convenient to the public.

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Selection of
site at Cawdor
by T. H. Scott.

In conclusion, I have to observe that the Archdeacon has not yet definitely determined the point referred to him in your Lordship's Dispatch of August last; and therefore I shall call upon him, in the express terms of that Dispatch, to say whether the whole of the 600 acres should be reserved or given up, with reference to the interests of the Church alone, without taking into consideration any other question with which he was not authorized to determine, and I shall be guided entirely by his opinion.

Delay of
T. H. Scott
in giving
his decision.

The point immediately reserved for your Lordship's decision now is, whether the new proposal, submitted through the Archdeacon, of exchanging two acres for one, contiguous to Cawdor, should be accepted; and I have gone very much into explanations in this proposal in order that your Lordship might be enabled to see the advantageous bargain which is sought to be made at the expence of the Crown.

Proposed
exchange
of land.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

[*This was a copy of a despatch from Earl Bathurst to Sir Thomas Brisbane, dated 31st July, 1823; see page 92.*]

[Enclosure No. 2.]

[*This was a copy of the letter from Mr. John Macarthur, jr., dated 21st July, 1823; see page 93.*]

[Enclosure No. 3.]

UNDER SECRETARY HORTON TO MR. JOHN MACARTHUR, JR.

Sir, Downing Street, 19th August, 1823.

I have laid before Lord Bathurst your letter of the 21st July referring to the delay, which had occurred in making the grant of 5,000 Acres of land to your father in New South Wales, and soliciting either that the same might be allotted adjoining to his present Estate, and extending from the district called Brisbane to the River Nepean, as marked green in the Map, which you enclosed, or that his Lordship would permit him to take the

Application
for land by
J. Macarthur, jr

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whole of that district, consisting of 10,700 Acres bounded by the River Nepean, Mount Hunter Creek, Brisbane and West Camden, on his either agreeing to pay for the Surplus of 5,700 Acres at the highest price named by the Commissioner, or to yield in return any annual Quit Rent his Lordship might think fit to impose.

Land to be
granted and
sold to
J. Macarthur.

I am directed in reply to acquaint you that a copy of your letter has been in consequence forwarded by Lord Bathurst to Sir Thomas Brisbane, with instructions that the proposal made by you may be complied with, either by actual purchase on the terms stated by the Commissioner P. 48 of his 3rd Report, or by the payment of a proportionate reasonable Quit Rent, by which arrangement your father will not only receive immediately the Grant of 5,000 Acres, to which he is already entitled on account of the promise made to him by Lord Camden, but will secure to himself the possession of an additional contiguous District amounting to 5,700 Acres.

I am, &c.,

R. WILMOT HORTON.

[Enclosure No. 4.]

[*This was a copy of Earl Bathurst's despatch, dated 17th August, 1824; see page 349.*]

[Enclosure No. 5.]

CORRESPONDENCE WITH MR. JOHN MACARTHUR.

[A] *Secretary Goulburn to Mr. John Macarthur.*

Sir, Colonial Secretary's Office, 17th February, 1824.

Notification
of proposed
land grant to
J. Macarthur.

In compliance with a Dispatch received from Lord Bathurst, I am directed to have the honor to acquaint you that the Governor is ready to make to you a Grant of the whole of the district, supposed to consist of Ten thousand seven hundred (10,700) Acres, bounded on the North by the River Nepean, on the West by Mount Hunter, on the South by Brisbane, and on the East by Camden, reserving however for public purposes a Tract enclosing all the paddocks around Cawdor, and another of Six hundred Acres being the land hitherto set apart for a Church and School, on your agreeing to yield in return the quit rent of a shilling sterling the Acre, to be perpetual, or, at your option, to be redeemable at Twenty years purchase.

I have, &c.,

F. GOULBURN.

[B] *Secretary Goulburn to Mr. John Macarthur.*

Sir, Colonial Secretary's Office, 9th March, 1824.

I request a reply to the letter I had the honor of addressing to you on the 17th Ultimo.

I have, &c.,

F. GOULBURN.

[C] *Mr. John Macarthur to Secretary Goulburn.*

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Sir,

Parramatta, 10th March, 1824.

Your letter of yesterday's date is this moment delivered to me. The accompanying letter to His Excellency superseded the necessity of any further reply from me.

I have, &c.,

JOHN MACARTHUR.

[D] *Mr. John Macarthur to Sir Thomas Brisbane.*

Sir,

Parramatta, 10th March, 1824.

I should long ere this have done myself the honor to answer the letter transmitted to me from the Colonial Secretary's Office bearing date the 17th Ultimo, but that the surprize excited by its contents induced me to think it most prudent to wait until I should receive the Official reply of the Earl Bathurst to the application of my son for an extension and further confirmation of His Lordship's orders, relative to the Grant of Land at Cawdor. The expected letter I have had the satisfaction to receive by Mr. Justice Forbes, and, inferring that the Dispatch from Government to your Excellency is couched in the same liberal spirit, little more remains for me than to refer to the prominent part of Mr. Wilmot's letter of the 11th July, 1822, which stated "that the Earl Bathurst had been pleased to order me the land as near as possible to my original grant in Cawdor, that I may be enabled to accomplish the desirable object of having a tract of Country for preserving my stocks in their present state of purity and perfection, without incurring the risk of loss or interruption from the establishment of neighbouring Settlers."

Surprise at
proposed
conditions
of land grant.

Instructions
from Earl
Bathurst.

Not regarding this wise and important provision to give permanence and security to an undertaking, which all admit to be of great national importance, both as it relates to the future welfare of this Colony and the interests of the Mother Country, the Colonial Secretary proposes to reserve common land and a Township in the very centre of the intended Grant, an arrangement which would not only expose my flocks to the danger, but to the certainty of intermixture and contamination from the worst and probably the most diseased sheep in the Colony, and the reserved Township might speedily be filled with occupants, who would in a very short period leave me few sheep to improve or to preserve.

Objections
to proposed
reserve at
Cawdor.

I pass over without remark the very objectionable demand of one shilling an acre quit rent, because I cannot but feel I should be making an ungrateful return for the liberal patronage with which I have been honoured, if I were to become a party to any negotiation relative to an affair which His Majesty's Government have taken so much trouble clearly to define.

Quit rent
demanded.

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Request for
possession of
Cawdor estate.

Permit me, then, respectfully to request that you will be pleased to take into consideration the serious and heavy loss I have sustained by being kept out of possession of a valuable tract of land nearly sixteen months, and once more to solicit that Earl Bathurst's Instructions may be complied with, by putting me into immediate possession of the estate of Cawdor on the terms it has been promised to my son.

I have, &c.,

JOHN MACARTHUR.

[E] *Secretary Goulburn to Mr. John Macarthur.*

Sir, Colonial Secretary's Office, 17th March, 1824.

Conditional
possession of
Cawdor estate
proposed.

Your Letter of the 10th Inst. having been submitted to the Governor, I am directed to have the honor to acquaint you that, to avoid further discussion, His Excellency is prepared to give the largest latitude to the *letter* of Lord Bathurst's late Dispatch, and to surrender into your possession, so soon as the Cattle can be removed, the whole of the district (with the exception of the Premises of Cawdor) supposed to consist of Ten Thousand Seven Hundred (10,700) acres, bounded by the River Nepean, Mount Hunter Creek, Brisbane and West Camden, on your entering into One Security, with the Crown Solicitor, to make any reparation that His Majesty's Ministers shall award for the sacrifice, which may have been made of the Public weal through misinterpretation of the *spirit* of His Lordship's instructions.

I have, &c.,

F. GOULBURN.

[F] *Mr. John Macarthur to Sir Thomas Brisbane.*

Sir, Camden, 20th March, 1824.

Reply to
proposal by
J. Macarthur.

I do myself the honor to acknowledge the receipt of a letter from the Colonial Secretary, dated the 17th Instant, on the subject of the estate of Cawdor, and I am constrained to say that notwithstanding I have given it the most attentive consideration, I am unable to comprehend what can be meant by requiring me to give security to make any reparation that His Majesty's Ministers shall award for the sacrifice, which may have been made of the public weal through misinterpretation of the "*spirit* of his Lordship's instructions." But as I am also told that your Excellency "is prepared to give the largest latitude to the *letter* of Lord Bathurst's late Dispatch," and as I have reason to be convinced that the Dispatch, alluded to, is expressed in terms as clear and intelligible as the *spirit*, with which it was dictated, is liberal and enlightened, perhaps the most effectual mode I can adopt to relieve your Excellency from all further

trouble on a subject that I am well aware has been as little pleasing to you as it has been painful to me, will be to decline my readiness to give any reasonable security for the due performance of the conditions under which his Lordship has been pleased to direct the estate of Cawdor should be granted to me. And notwithstanding those conditions are so specified and well defined, should they still be considered ambiguous and doubtful by the Colonial Secretary, I will cheerfully further engage to abide by any future explanation from the Earl Bathurst.

Inferring that it is your Excellency's wish to retain possession for a short time of the Buildings and Tan yard at Cawdor, permit me to assure you that it does, and always will, afford me sincere pleasure to be allowed an opportunity of conforming to your arrangements.

Having repeatedly taken the liberty to submit to your Consideration the distress of my stock from want of a more extended range of pasturage, and, as it is now upwards of two months since the arrival of the Order of Earl Bathurst to put me into immediate possession of the Cawdor Estate, I trust you will pardon my freedom in once more respectfully entreating that no further delay may be permitted.

I have, &c.,

JOHN MACARTHUR.

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Reply to
proposal by
J. Macarthur.

[G] *Secretary Goulburn to Mr. John Macarthur.*

Sir, Colonial Secretary's Office, 23rd March, 1824.

In reply to your Communication received this afternoon, I am directed to have the honor to acquaint you that arrangements will be made with all practicable expedition for placing you in possession of the land specified in my letter of the 17th Instant; and the nature of the security, you will be required to give, will be detailed to the Crown Solicitor Mr. Moore in a few days.

I have, &c.,

F. GOULBURN.

Possession of
Cawdor estates
to be given to
J. Macarthur.

[H] *Secretary Goulburn to Mr. John Macarthur.*

Sir, Colonial Secretary's Office, 31st March, 1824.

I have the pleasure to acquaint you that arrangements are in active progress for removing the Government Herds from all the open land of the Cow Pastures. You can accordingly enter with your flocks, I am directed by the Governor to inform you, upon its immediate possession, reserving however to the Crown a space around the present tannery equal to double its area.

I have, &c.,

F. GOULBURN.

Arrangements
for giving
possession.

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4 Aug.

[I] *Mr. John Macarthur to Sir Thomas Brisbane.*

Sir, Parramatta, 17th April, 1824.

Possession of
the Cawdor
estates.

I have postponed acknowledging the receipt of a letter from the Colonial Secretary, bearing date the 31st Ult., until I should receive information from Camden that my representative at that place had been actually put in possession of the Estate of Cawdor, in conformity to the instructions your Excellency has received from Earl Bathurst.

I have now been apprised that possession has been given of the unenclosed part of Cawdor, but that the enclosures and the Buildings are still retained.

Tannery at
Cawdor.

In referring to the Secretary's letter of the 31st Ult., I should have considered it necessary to remark upon the following sentence, "reserving however to the Crown a space around the Tannery equal to double its area," had not your Excellency assured me, at our last interview, that you only proposed retaining the Tannery and the space required around it for a short time, and as an accommodation from me to the Government until arrangements could be made for the removal of the Establishment.

Area to be
purchased.

Having entirely considered the subject of the tenure of the surplus of five thousand seven hundred (5,700) Acres, I now beg to say that I prefer making an actual purchase of that portion of the Cawdor Estate to holding it on a Quit Rent; and I shall be ready on receiving the Grant to execute the requisite securities to pay for the same, in the manner pointed out by the Commissioner of Enquiry, that is to say, at the rate of ten shillings (10s.) per acre, ten per cent. in advance and the unpaid balance by instalments, payable every six months.

I feel assured that this arrangement will be agreeable to your Excellency, as it will relieve the Earl Bathurst and you from being further troubled on the subject. I am, &c.,

JOHN MACARTHUR.

[J] *Secretary Goulburn to Mr. John Macarthur.*

Sir, Colonial Secretary's Office, 28th May, 1824.

Acceptance of
J. Macarthur's
proposals.

Your letter of the 17th Ultimo having been submitted to the Governor, I have been honoured with this instruction, that your terms are accepted of, and that the Public Buildings with the enclosures are to be Valued. I have, &c.,

F. GOULBURN.

[K] *Secretary Goulburn to Mr. John Macarthur.*

Sir, Colonial Secretary's Office, 18 September, 1824.

Demand for
payment.

I am directed by the Governor to have the honor to call upon you to fulfil the conditions of payment for the Crown Lands, which you lately obtained by purchase. I have, &c.,

F. GOULBURN.

[L] *Mr. John Macarthur to Secretary Goulburn.*

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4 Aug.

Sir, Parramatta, 24th September, 1824.

I received your letter of the 15th Inst. this morning, requiring me to fulfil the conditions of payment for the Crown Land, which I lately obtained by purchase. By the earliest opportunity, I do myself the honor to enclose an Order on the Bank of N. S. Wales for (1,140) Eleven hundred and forty Spanish Dollars.

Payment by
J. Macarthur.

Allow me to request that you will do me the favor to return a receipt, specifying that the sum paid is in full discharge of the first instalment of ten per cent. on the purchase money for the Reserve of five thousand seven hundred acres of the Estate of Cawdor, sold to me by order of His Majesty's Secretary of State for the Colonies. By a reference to my Letter of the 17th of last April, you will perceive that I am not liable to be called upon for any payment on account of the purchase stated above until I receive the Grant or Deed of Conveyance. But being anxious to avoid the renewal of discussions, which perhaps might give trouble, I have considered it most advisable to waive the informality of the demand for payment which has thus been made upon me.

Receipt
required.

Informality
of demand.

I have, &c.,

JOHN MACARTHUR.

[Enclosure No. 6.]

CORRESPONDENCE WITH ARCHDEACON SCOTT.

[A] *Archdeacon Scott to Sir Thomas Brisbane.*

Sir, Sydney, 7th June, 1825.

1. In consequence of the Surveyor General's representation to me that delaying the decision of Mr. Macarthur's Grant in the County of Camden would stop the progress of a road now forming there, I proceeded on Saturday last, accompanied by him and Mr. Macarthur's sons, and in obedience to Lord Bathurst's Instructions of the 17th of August, 1824, I entered on the subject.

Inspection
of land by
T. H. Scott.

2. I was informed by the Surveyor General that there were originally 1,600 acres reserved in that part of Camden for Church, School and Town Lands; that afterwards the quantity being deemed too large it was reduced to 600 acres, but that the actual boundaries were never marked out. He also informed me that, about five or six weeks ago, he was directed by your Excellency to make out the Grant of the whole 10,700 acres and put Mr. Macarthur in possession upon the usual tenures, and which were acceded to by Mr. Macarthur; and that such directions from your Excellency did not make any allusion to a Reserve of 600 acres.

Report by
J. Oxley
on reserves in
Camden.

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Purchase of
land made by
J. Macarthur.

3. At the same time, Mr. Macarthur, Junr., put into my hands a copy of a correspondence between Your Excellency and his father, dated 17 Ap., 1824, in which he states that he prefers taking the 5,700 acres as a purchase, at 10s. per acre, to holding it at a Quit Rent, and which offer appears to have been accepted by a letter from the Colonial Secretary, dated the 28th May, and acted upon by a subsequent letter dated 18th September last, calling on Mr. McArthur to fulfil the conditions of payment, and with which he complied by his letter of the 24th of the same month.

Diffidence in
disturbing
agreement.

4. I should feel myself obliged if your Excellency would Communicate to me how far such a representation may be correct, inasmuch as it appears to me that it is an agreement between two parties so conclusive and binding, that, however necessary the 600 acres in question may be, I do not feel at liberty to disturb where the good faith and honor of the Crown may become a matter of question.

Approval of
Cawdor as site
for church and
school-house.

5. As far as the situation of Cawdor for a parish Church, Glebe House and School House is concerned, I am decidedly of opinion that it is to be preferred, because it is in the most central part of the proposed parish, and therefore will be acceptable to any population which may hereafter settle in the Parish. The Surveyor General is to send me a measured plan of these enclosures, which will point out the relative distance and situation of the water; and, as soon as I have been honored with an answer from Your Excellency and the receipt of this plan, I shall submit my final report as to the quantity necessary to be reserved for that distinct purpose, and which, according to the Charter His Majesty has been pleased to grant, will not occupy more than 20 or 30 acres.

I have, &c.,

T. H. SCOTT.

[B] *Archdeacon Scott to Sir Thomas Brisbane.*

Sir,

Parramatta, 2nd July, 1825.

Inspection of
land at Camden.

The Surveyor General having represented to me that any delay in the decision of Mr. Macarthur's claim to the Lands in question between the Colonial Government and himself would stop the progress of a road there, I beg to acquaint your Excellency that I proceeded to the County of Camden, accompanied by that Officer, for the purpose of investigating the situation most eligible for a church and residence for a clergyman, and which your Excellency is aware I have been directed to do by a Dispatch from Earl Bathurst bearing date 17th August, 1824.

Under the terms of that Dispatch I must take leave to state to Your Excellency that, as His Majesty has been graciously

pleased to set apart a given portion of each County for the support of the Established Church and Schools now existing or hereafter to be erected, and also that provision for the clergy be made from those resources instead of Glebe Lands, which have been heretofore granted, I am of opinion that a reservation of 20 acres, or thereabouts, will be sufficient, and in the spirit, if not according to the letter of the Charter, of which your Excellency is in possession of a draft.

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Area proposed
for reserve.

On examining the place called Cawdor, I found some buildings and fences, which appear to me would be serviceable for the present residence of a Clergyman and a School House, and might also be used as a place for Divine Worship, until one of a better construction can be erected. Those stand on the site, I think, most eligible, both as it suits the present population, and such as may extend in future over the intended Parish; for although it is principally possessed by one proprietor, and occupied by him, yet it is to be supposed that, at some more advanced period of the Colony, tenants or other occupiers might reside on this Estate, and then the intended Church will be of easy access from all parts of the Parish.

Selection of site
at Cawdor.

The only difficulty I had was the want of Water; and I could not well obtain this and the buildings together in so central a situation. By a letter from Mr. Macarthur, a copy of which I have the honor to enclose, that difficulty is obviated, as he proposes an exchange on certain conditions, and which appear to me only reasonable, and which I do not hesitate to recommend to Your Excellency to accept.

Exchange
proposed by
J. Macarthur.

I believe that since that Letter was written, some slight alteration as to quantity of land has been proposed by the Surveyor General, and acceded to by Mr. Macarthur, and to which I see no objection.

I have, &c.,

T. H. SCOTT, Archdeacon.

[Sub-enclosure.]

Mr. John Macarthur to Archdeacon Scott.

Sir,

Parramatta, 20th June, 1825.

I beg leave to say that it will afford me great pleasure to exchange for the use of the Church that portion of land contiguous to and including the Buildings at Cawdor, which you this morning pointed out upon the Chart, namely one hundred and sixty (160) acres exclusive of the twenty acres you require for the Church and Glebe, and to accept in return twice that quantity; vizt. Three hundred and sixty (360) acres in the Ranges in a situation to be described hereafter to the Surveyor General, to the southward of the line, lately traced by Messrs.

Proposal of
J. Macarthur
for exchange
of land.

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Proposal of
J. Macarthur
for exchange
of land.

Harpur and Ralph as the south boundary of a tract to be Granted in lieu of Lands purposed to be resigned to the Church by my Sons.

But as it is of the utmost importance for the preservation of the health and purity of my Flocks, that this land (situated in the centre of my Estate) should not be let to promiscuous occupants, I trust there will be no objection on the part of Government to appropriate the aforesaid one hundred and eighty acres as Glebe and school land, to be occupied by the resident Clergyman.

I have, &c.,

JOHN MACARTHUR.

[C] *Archdeacon Scott to Sir Thomas Brisbane.*

Sir,

Parramatta, 8th July, 1825.

Request for
transmission
of letters
to England.

In acknowledging the receipt of your Excellency's Letter of the 6th Inst., in which you have been pleased to say you would transmit any recommendation of mine to Earl Bathurst, on the subject of the reserve of Lands at Cawdor, sold by the Government to Mr. Macarthur, I have to request that, in the event of your Excellency's deeming it expedient to lay the same before his Lordship, you would be pleased to transmit a copy of my letter No. 12/13, and dated the 2nd Inst., with its enclosure of the Colonial Secretary's letters demanding the first Instalment, together with a copy of the present.

Payment of
instalment by
J. Macarthur.

On examining the Papers and Correspondence on this subject, placed in my hands by the Attorney General at your Excellency's desire, I found that, by the Colonial Secretary's letters to Mr. Macarthur, he had been called upon to fulfil his agreement, and that one Instalment had been demanded and paid by the latter Gentleman for the land in question; and this it appears had been done under a Dispatch from Earl Bathurst.

Negotiations
for church and
school reserve.

Although his Lordship placed the question as to the renunciation of six hundred acres of land by Mr. Macarthur on my decision, provided I saw it was necessary to be kept as a Glebe, and for the erection of a Church and school by a subsequent Dispatch, yet this appears to have been written under the idea that no engagement has been definitely concluded between the Colonial Government and Mr. Macarthur.

If it should be asked why I did not insist on the renunciation of the 600 acres or of the one hundred and sixty acres instead of the proposed exchange, I reply that I did not think myself justified in being the instrument by which the honor and dignity of the Crown should suffer by obliging a person to give up a purchase, at the time he had yielded Voluntarily twenty acres

which His Majesty had been graciously pleased to command to be sufficient, and to be secured in every Parish for the erection of a Church, Glebe House and School.

I recommended to your Excellency to obtain the twenty Acres, because I found on it buildings suitable for an immediate purpose, but which buildings are of so frail a nature, and so ill constructed, that I look upon them fit only for a temporary accommodation. I ventured also to recommend that an additional quantity of the one hundred and sixty acres, or thereabouts, should be obtained for the sake of possessing water, which was at such a distance as to oblige me to request that Quantity, in order that free access should be had to it, and from the Surveyor General's report to me that the reserved land, called the Ranges, was of inferior Quality and of a proportionate Value of two acres for one. I do not deem this exchange of that essential interest to the use of the Church which the reservation of twenty acres may be considered, but I do consider it to be an advantageous exchange.

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Recommendations made by
T. H. Scott.

Should your Excellency, however, be of a different opinion and on the subject being Submitted to Earl Bathurst, his Lordship should consider that Mr. Macarthur ought to give up the Quantity of land (160 acres), I of course have only to yield respectfully to that decision; but I must be allowed still to retain my own opinion as expressed in this and my former letter.

Since the above was written, I learn from the Surveyor General that the exact quantity to be exchanged is One hundred and fourteen acres for Two hundred and twenty eight.

Areas to be
exchanged.

I have, &c.,
T. H. Scott.

[D] *Archdeacon Scott to Sir Thomas Brisbane.*

Sir,

Parramatta, 26th July, 1825.

I have the honor to acknowledge the receipt of Your Excellency's Letter of yesterday, by which it appears, either from some incorrect expression of mine or misapprehension of my letter on the part of Your Excellency, that I have "erred in the important fact, on which I have grounded my opinion that a definite Agreement had been concluded between the Colonial Government and Mr. Macarthur with respect to the Grant of the 10,700 acres of land at the Cow Pastures, without any reservation as to the 600 acres."

Mistaken
impressions.

From the instructions conveyed by Lord Bathurst to me, and which are extracted from a Dispatch to Your Excellency, dated the 17th August, 1824, I do not conceive that I have any further

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to decide and report upon than the simple question "Whether the 600 acres are desirable for the erection of a Church and School House or for Glebe?"

Reserve
proposed by
T. H. Scott.

To so plain a question, I beg most distinctly and unequivocally to report to your Excellency the declaration I did myself the honor of submitting, in my letter of the 8th Instant, that, as the King had been pleased to recognise the ecclesiastical Establishment in these Colonies and to command that, instead of Glebes being attached to each Church, provision should be made out of the revenues arising from the reserved lands, and that no more than 20 acres or thereabouts should be reserved around the Church and Glebe House, I see no reason to reserve more than that quantity for those purposes.

Reasons for
recommending
proposed
exchange
of land;

If, in my letter to your Excellency of the 8th Inst., I proposed an arrangement by which the land might be augmented to a larger quantity by an exchange, I was induced to do so from the following considerations; first, because I found a house which, tho' but in indifferent repair would have been of great Service, into which the expected Chaplain could have been placed; and secondly, in conjunction with that convenience, an extension in the quantity of land would have given the resident Clergyman a command of good water, and these two desirable objects could not be obtained but under such an arrangement.

This is my decided opinion, and to which I must adhere; but if your Excellency thinks that the twenty acres may be taken where the water is, and abandon the House, I shall not withhold my assent, and then, when I see the necessity, I shall submit to your Excellency that a school house and residence be erected.

and for proposals
made by
T. H. Scott.

With regard to the other part of your Excellency's letter, although I do not think it essential to the Question that I should trouble you at any length upon it, yet I must be allowed to observe, first, that the Surveyor General distinctly stated to me that he had received orders from your Excellency about the beginning of May "to make the grants upon certain tenures, which were acceded to by Mr. Macarthur, and that these tenures have no reference to the six hundred acres." Secondly, that, in consequence of a letter written by your Excellency's command, demanding the first instalment founded on the above tenures, Mr. Macarthur paid that Sum into the hands of the Colonial Govt. I therefore could come to no other conclusion than that an agreement entered into, a demand being made consequent upon that agreement, and that demand having been complied with, the honor and good faith of the Government would be hazarded by disturbing it under almost any circumstances; and thirdly, the very great satisfaction, which your Excellency expressed to me on the final arrangement of this long pending

business particularly attending to the tenures agreed upon, and the fulfilment of which terms His Majesty's Attorney General saw, in conjunction with your Excellency and myself, the propriety of fulfilling.

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But, happily, such a hazard does not appear to me to be even probable. I am commanded to report on the necessity of retaining 600 acres, and I am also commanded to take care that twenty acres are retained, both of which I hope I have clearly stated to your Excellency in this letter, though I might have failed in doing so in that of the I have, &c.,

Instructions to
T. H. Scott.

T. H. SCOTT.

[E] *Sir Thomas Brisbane to Archdeacon Scott.*

Rev. Sir, Government House, Parramatta, 30th July, 1825.

I have the honor to acknowledge your letter dated 26th Instant, which I received on the 28th. I am sorry that I should have given you the trouble of writing so much at length, as my only object was to correct what I considered a misapprehension, and which I am still desirous of briefly, but I hope satisfactorily, clearing up. Your reasons for thinking the faith of Government has been committed to Mr. Macarthur, with respect to the unconditional surrender of the 10,700 Acres of Land at the Cow Pastures, appears to be founded on three considerations.

Reasons for
assumption
made by
T. H. Scott.

1st. A verbal statement made by the Surveyor General to you, that he had received my orders, about the beginning of May last, to make the Grants upon certain tenures which were acceded to by Mr. Macarthur, and that those tenures had no reference to the 600 acres.

2nd. That, in consequence of a letter written by my command demanding the first instalment, founded on the above tenures, Mr. Macarthur paid that sum into the hands of the Colonial Government.

Upon your first reason, I have to observe that the Surveyor General has nothing to do with the making of Grants. He is only required to survey the land intended to be Granted, and to point out the boundary to the Grantee, which is commonly called giving possession. The tenures, upon which the Grants are made, are exclusively in the Department of the Colonial Secretary. If nothing is said about the tenures, the Grants are prepared in the Secretary's Office in the usual form. In Mr. Macarthur's case, the terms, upon which he received possession, were the subject of a long and particular correspondence between that Gentleman and the Colonial Secretary. It is unnecessary to go into detail; but the result was that Mr. Macarthur, to use his own words in his letter of the 20th March, 1825, engaged to abide by

Duties of
surveyor-
general.

1825.

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Terms of grant
made to
J. Macarthur.

any future explanation from Earl Bathurst. Upon this understanding, Mr. Macarthur was put into possession upwards of twelve months ago. When the first instalment became due, it was demanded as in consequence of the possession so given, but still I considered subject to Earl Bathurst's future decision as to the Church and School lands. His Lordship was regularly advised of the terms, upon which Mr. Macarthur was put into possession, in pursuance of the Dispatch of the 31st July, 1823, and I consider the subsequent Dispatch of the 14th August, 1824, virtually determined the point reserved. I received his Lordship's Dispatch on the 4th April last; and, on the 14th of the same month, I enclosed an extract to Mr. Macarthur, as I have already informed you in a Communication from myself, a copy of which I now beg leave to enclose, and from which you will perceive that, in my direct communication with that Gentleman, I guided myself solely by the last Dispatch.

Demand for
payment made on
J. Macarthur.

With respect to the second point, the demanding of the first instalment, founded, as you have supposed, on the order given by me to Mr. Oxley about the beginning of May last, that is evidently a mistake, as the first instalment was demanded as far back as the 18th September, 1824, as appears by the Colonial Secretary's letter of that date.

Fulfilment
of terms.

As to the third point, the satisfaction expressed by me on the final arrangement, alluding to the terms agreed upon, and which terms both the "Attorney General and yourself saw with me the propriety of fulfilling," I must declare myself a stranger to any other arrangement, or to any other terms than those directed by Lord Bathurst in his second Dispatch.

Criticism of
irresponsible
conversations.

With a view to carry his Lordship's final intentions into effect, I not only communicated the Dispatch of the 14th August to the Attorney General, but actually placed it, together with all papers connected therewith, in his hands. The Surveyor General was also made acquainted with it. If His Majesty's Officers have entered into any arrangements with Mr. Macarthur, in derogation of His Majesty's interests, or contrary to Lord Bathurst's instructions, such arrangements have been unauthorized by me, and I must object to loose expressions in conversation, which are liable to be misunderstood, being resorted to, to explain away transactions regularly conducted and recorded in writing.

In your letter, you do me the favor to say that you will choose another site at the Cow Pastures, if I should think it preferable. I beg to decline giving any official opinion upon a matter which has been entirely left to your discretion.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 7.]

ESTIMATE of the Government Stock Establishment at Cawdor, as
per specific Survey, date 26th May last, vizt.1825.
4 Aug.

The Dwelling House and Offices, including the Stable, Dairy, Blacksmith's Shop, etc.	£425 12 4	Estimated value of buildings at Cawdor.
Fences enclosing the different Paddocks and Stockyards	218 15 6	
	£644 7 10	

WM. AIRD, Supt.,

Engineer's Office, Parramatta, 1st August, 1825.

Major Owen, Chief Engineer, &c. &c. &c.

SIR THOMAS BRISBANE, CHIEF JUSTICE FORBES AND ARCHDEACON
SCOTT TO EARL BATHURST.(Per ship Phœnix; acknowledged by Earl Bathurst to Governor
Darling, 4th August, 1826.)

Sydney, New South Wales,

My Lord,

10th Augt., 1825.

10 Aug.

In obedience to your Lordship's Instructions, conveyed to us in your Lordship's Despatch addressed to the Governor of New South Wales, dated the 2nd September, 1824, we have proceeded in the examination of the case of James Ring, and directed our enquiries specially to those points contained in the statements of the Revd. Mr. Marsden and Dr. Douglass, to which your Lordship has deemed it necessary to call our attention; and we have the Honor to lay before Your Lordship the following Report.

Report on
the case of
James Ring.

James Ring, a Native of Middlesex, and by trade a painter and glazier, was transported to New South Wales for Life, where he arrived in the Year 1816. Some time after his arrival (the exact time does not appear), he was assigned* to the Revd. Robert Cartwright, the resident Clergyman at Windsor, in whose service he remained for a few months only. Mr. Cartwright states as his reason for discharging Ring that he considered him to be a quiet inoffensive man, and, as he had no use for a painter and glazier, he thought it would benefit Ring to discharge him into the Government Service at Windsor where he might work at his trade at after hours. James Ring continued in the Government Service until the month of November, 1821, and during part of that time appears to have been employed in some way or another about the house of Fitzgerald, the Superintendent of Public Works at Windsor; when he was accused by Fitzgerald of privately stealing from his Dwelling house a considerable Sum of Money and some articles of wearing apparel. Upon this charge, James Ring was tried and convicted† before a Bench composed of J. Mileham, J. Brabyn and A. Bell, Esquires, all

His colonial
career.His trial and
conviction
for theft.

* Marginal note.—R. Cartwright. (See page 729.)

† Marginal note.—See Record of conviction in Appendix marked A. (See page 763.)

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Remission
of sentence.

Recommend-
ation of
J. Ring to
Rev. S. Marsden.

J. Ring under
suspicion of
theft at
Parramatta.

respectable Magistrates at Windsor, and adjudged to receive 100 lashes and to be removed to Port Macquarrie for the remainder of his original sentence. A part of this punishment appears to have been inflicted on Ring*; but, before the remainder was carried into effect, His Excellency Sir Thomas Brisbane, who had recently arrived in the Colony, paid his first visit to Windsor; and, under the amnesty which followed that event, the remainder of Ring's punishment was remitted.

Soon after this, Ring was recommended to The Revd. Samuel Marsden, Senior Chaplain of the Colony, by the Revd. Mr. Cartwright and also by William Cox, Esquire, a Magistrate at Windsor. Whether Mr. Cox informed Mr. Marsden of the Conviction of Ring does not expressly appear. Mr. Cox himself states,† as one of his reasons for recommending Ring to Mr. Marsden, that he wished to get him out of the Gaol Gang at Windsor, because he was under an imputation of stealing from his Master, which he did not consider to have been proved; which rather leaves the inference that something must have been said about the suspicion, at least, under which Ring had fallen, as his conviction and punishment were then circumstances of recent occurrence; and this inference would seem to be strengthened by the statement of Mr. Cartwright that he had enquired into the circumstances of Ring's case, and the impression produced upon his mind was favorable, and it was in consequence of such impression that Mr. Cartwright recommended him to Mr. Marsden as a Singer.

While in the Service of Mr. Marsden, it appears‡ that James Ring fell under the suspicions of the Police at Parramatta under the following circumstances:—a Mrs. Barrows, at whose house Ring was lodging, stated to the Chief Constable, John Thorn, that she had found a Watch Secreted in her garden and that she suspected Ring, as the handkerchief in which the watch was found was covered with paint. This circumstance was reported by the Chief Constable to the Magistrates, who ordered the Watch to be detained; and it afterwards turned out to have been stolen from a Public Inn at Parramatta on a particular day, when James Ring attended the Inn as one of the Waiters. It appears, on the statement of the Chief Constable, that he mentioned something of this circumstance to Mr. Marsden; and it further appears that Mr. Marsden, upon some occasion, desired the Chief Constable to have his eye upon Ring; but whether this desire was expressed in consequence of the disclosure about the watch is not certain. Ring, however, was not apprehended or otherwise proceeded against upon suspicion of stealing the Watch.

* *Marginal note.*—George Loader. (*See page 730.*)

† *Marginal note.*—Mr. Cox. (*See p. 728.*) ‡ *Marginal note.*—John Thorn. (*See p. 731.*)

While Ring continued in the service of Mr. Marsden, a circumstance in its character perfectly accidental occasioned his going before the Bench of Magistrates, composed of Henry Grattan Douglass and Donald Macleod, Esquires, sitting at Parramatta on the 12th day of May, 1823; there had been a dispute between James Ring and Mr. Marsden's Gardener, in which the Gardener was supposed to be in fault; the case was referred by Mrs. Marsden (Mr. Marsden being then absent) to the investigation of the Magistrates, and the Complaint was dismissed.* In the Course of the investigation, James Ring was asked if he were the person who exhibited a Sign over his door as a painter and glazier; to which he replied that he was, and that his Master allowed him to employ himself about the town for his own benefit. The Magistrates, conceiving this to be a Breach of the Government Order prohibiting a Convict from being on his own hands, ordered Ring to be Committed for further investigation, and the Revd. Mr. Marsden to be summoned before the Court on the following Saturday. James Ring was accordingly committed to Gaol, and a letter, in the nature of a Summons, was addressed by the sitting Magistrates to the Revd. Mr. Marsden, requiring his attendance on the following Saturday to answer the charge of allowing his assigned Servant to be on his own hands. In a day or two after these proceedings had been taken, Mr. Marsden returned to Parramatta and met one of the Magistrates, Dr. Macleod, in the Public Street and some conversation took place respecting Ring; the precise nature† of this conversation has not been proved, but Mr. Marsden appears, by what he says in his letter to Mr. Peel, to have considered it in the light of an application to the Magistrate for the release of Ring. Neither does it expressly appear that any similar application was made to the Governor‡ before the first day appointed for hearing the case; but such application, however, might have been made to the Governor, as His Excellency recollects generally that some reference was made to him although His Excellency cannot fix the time.

On Thursday, the 15th May, a Circular Note§ or Summons was addressed by Dr. Macleod to the several Magistrates within the District of Parramatta, requesting their attendance at the Court House on the Saturday following. On Saturday, the 17th, James Ring was brought before the Bench, and the Revd. Mr. Marsden attended to reclaim his Servant and to defend himself against the charge of violating the Government Orders. The sitting Magistrates upon this occasion|| were William Lawson,

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Case of J. Ring
v. M. Graham.

Evidence re
employment of
J. Ring.

Rev. S. Marsden
summoned for
breach of govt.
order.

Applications
for release of
J. Ring.

Magisterial
inquiry into
charge against
Rev. S. Marsden.

* *Marginal note.*—See Record of Case in Appendix marked Y. (See page 773.)

† *Marginal note.*—Dr. Macleod's last examination. (See page 751.)

‡ *Marginal note.*—The Governor. (See page 754.)

§ *Marginal note.*—See Letter in Appendix marked P. (See page 770.)

|| *Marginal note.*—See Record of Case in Appendix marked C. (See page 764.)

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Decision of
magistrates in
case against
Rev. S. Marsden.

Reference to
governor.

Order to
Rev. S. Marsden
to pay fine.

Protest
lodged by
Rev. S. Marsden.

Legal assistance
obtained by
magistrates.

Esquire, and Dr. Douglass, who heard the defence of Mr. Marsden and were of opinion that, in permitting his servant to work for his own emolument under the circumstances admitted in Mr. Marsden's defence, he was guilty of a Breach of the Orders of Government, and had incurred the penalty of 2s. 6d. for each day his servant had been permitted to be on his own hands. The Magistrates subsequently came to the resolution to refer the whole matter to His Excellency's Consideration, and to suspend all further Proceedings until His Excellency's pleasure should be known. A Report* was accordingly made to His Excellency the Governor in a letter addressed to the Colonial Secretary, and enclosing a Copy of the Proceedings, to which His Excellency replied† that he saw no cause for his interference in the case. Upon His Excellency's pleasure being communicated to the Magistrates, a letter‡ was addressed by them to the Revd. Samuel Marsden, enclosing a Copy of His Excellency's Communication, and requiring him to pay into Court, on or before the following Saturday, the Sum of £10 as the Sum awarded for the Breach of the Government Orders. On the 31st of May, there was a Second Meeting of the Magistrates, at which Mr. Marsden attended and delivered in a written paper§ dated May 30th, 1823, protesting against the legality of the fine imposed upon him, as well as against the regularity and justice of the Proceedings of the Bench, and intimating an intention of appealing to a higher tribunal. Some observations, not regularly connected with the business before the Court and of a warm character, appear to have passed between Mr. Marsden and Dr. Douglass, but the exact purport or tendency of those observations has not been satisfactorily proved.

The Magistrates, understanding|| from the tenor of Mr. Marsden's protest that their proceedings were to become the subject of investigation in another Court, applied to W. H. Moore, Esquire, then acting as Solicitor for the Crown, to advise them as to the legality of the Conviction and the form in which it should be drawn up. It was the opinion¶ of Mr. Moore that the conviction was lawful and he accordingly drew it up in regular form.** It is to be remarked, however, that the name of John Thorn was introduced as the informer in the conviction,†† which does not appear in the Minutes of the Magistrates' proceedings; this deviation was adopted at the suggestion, and was the act of

* *Marginal note.*—See Letter in Appendix marked I. (See page 767.)

† *Marginal note.*—See Letter in Appendix marked K. (See No. 3, page 358.)

‡ *Marginal note.*—See Letter in Appendix marked L. (See No. 2, page 358.)

§ *Marginal note.*—See paper in Appendix marked M. (See page 767.)

|| *Marginal note.*—Mr. Lawson. (See page 757.)

¶ *Marginal note.*—Mr. Moore. (See page 761.)

** *Marginal note.*—See Letter in Appendix marked U. (See No. 4, page 358.)

†† *Marginal note.*—See Conviction in Appendix marked W. (See page 771.)

Mr. Moore, as he considered the name of an informer necessary to a conviction. It is also to be remarked that the conviction purports to be for the sum of £10, penalty, and of 2s. 6d. for one day, and not of 2s. 6d. a day for each and every day James Ring had been employed contrary to the Government Orders. Mr. Moore states, in substance, that he considered the case sufficiently brought, by Mr. Marsden's admission, within the Government Orders which impose that specific fine. There was no other conviction than that drawn by Mr. Moore.

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Conviction of
Rev. S. Marsden.

On the 3rd June, a letter* was addressed by Mr. Marsden to the two convicting Magistrates, requesting that James Ring might be returned to him, and an answer† was written, signed by Mr. Lawson and Dr. Douglass on the 5th June, stating that Ring had been returned into Government employ on the 17th May, the Bench not feeling themselves justified in sending him back to the service of an Individual who had permitted him to be improperly at large.

Application by
Rev. S. Marsden
for return of
J. Ring.

On this application of Mr. Marsden and Answer of the Magistrates, it may be proper to observe that it appears to have been the practice of the Colony to withdraw the Servant where his Master had allowed him to be at large, and either to return him to Government service or assign him to another Master at the discretion of the Magistrates; in Sydney and Parramatta, the practice in latter years has always been to turn him into the Convict Barracks, from which he might be re-assigned to another Master upon due application being made for him.

Previous
precedents.

It appears that the Crown Solicitor drew up the Warrant of Distress,‡ which was signed on the 7th of June and executed on the 9th, and that the levy was made in the ordinary method without any other circumstances than those which usually happen in such cases. The property levied upon was redeemed immediately for the amount of the Warrant, without being removed from the Revd. Mr. Marsden's house.

Levy of fine
by distress.

Having given a particular statement of the Proceedings of the Magistrates so far as they are materially connected with the points of Enquiry, it may be proper to observe that they divide themselves under two general heads; 1st. The legality of the conviction of Mr. Marsden; 2nd. The *animus* in which the Proceedings originated and were conducted.

Points
for inquiry.

Under the first head, namely the legality of the Conviction, it will be necessary briefly to review, 1st. The Law, 2nd. The Facts, and then to apply the Law to the Facts.

Legality of
conviction.

* Marginal note.—See Letter in Appendix marked S. (See page 770.)

† Marginal note.—See Letter in Appendix marked T. (See No. 5, page 359.)

‡ Marginal note.—See Warrant in Appendix marked X. (See page 772.)

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 Law controlling
 conviction.

As to the Law.*—In June, 1801, an Order was issued by His Excellency Governor King directing, among other things, that, if any person were detected in letting out a Prisoner to hire or allowing him to be on his own hands, such person would on conviction before a Magistrate be fined a Sum of 2s. 6d. for each day such prisoner had been assigned to him. This Order has been recognized in the subsequent orders of January 23rd and April 17th, 1802, and also in the order of January 6th, 1804. By the last mentioned order, every person, who took a Convict off the Stores, was obliged to enter into an Indenture binding himself to observe all the Government Orders then in force relating thereto. Among the orders alluded to is one of October 2nd, 1800, which may require some explanation. It appears that, by the orders in force in 1800, every person to whom a prisoner was assigned was obliged to maintain and clothe such prisoner and give him a ration equal to that issued from the public Stores, and that the prisoner was bound to perform a full government task as pointed out by preceding Orders; and if (as the Order goes on to state) the Master could give such servant employment for the remainder of the time at the established rate, such servant was to do his Master's work in preference to that of another person. The latter stipulation, so far as allowing a servant his time after the task work of his Master had been performed, has been expressly repealed by an Order dated 7th December, 1816; and the first mentioned Order of 1st June, 1801, appears to be the only Order in force on the subject. By that order, it will be seen that any person allowing his assigned Servant to be on his hands is subject to a fine of 2s. 6d. for each day such prisoner has been assigned to him.

Facts
 controlling
 conviction.

The facts.—The facts of the case must be regarded as they appeared at the trial before the Magistrates. It was admitted by Mr. Marsden that James Ring was his assigned servant; that he had been in his service for eighteen months; that, not having occasion for the whole of Ring's services, Ring had with his sanction done jobs as a Painter in the Town of Parramatta for his private emolument.

Application of
 law to facts.

The application of the Law to the facts.—It is difficult to arrive at a conclusive opinion whether Ring's case came within the Letter of the Law, and we beg to be allowed to refer your Lordship to the several orders and a minute marked Z† annexed to our Report. Considering the object of transportation, and that servitude is a part of the sentence of the law, it would seem that the Policy of the Order of 1801 was, in accordance with the

* *Marginal note.*—See Copies of Orders in Appendix marked Z. (See page 773.)
 † *Marginal note.*—See Orders and minute marked Z in Appendix. (See page 773.)

spirit of the Transportation Laws, to prevent an assigned servant under the sentence of the Law from deriving profit from his labor. But on the other hand, from the frequency of the occurrence of prisoners being allowed by their Masters to derive profit to themselves from their own labor, and the paucity of Convictions in such cases, it would rather seem that the practice has not generally been considered as a Breach of the Law. The case of Hanabus,* which occurred in the year 1822, differed in circumstances from the case of Ring, but the consequences were precisely the same; the Master was fined £10 2s. 6d., and his assigned servant discharged into the Government Gang, and Mr. Marsden was one of the convicting Magistrates. This case is mentioned to shew that the Order against allowing assigned servants to be on their own hands was considered to be in force, however Magistrates might differ in their opinions as to the circumstances which might bring a case within the operation of such order. It appears the Magistrates who convicted Mr. Marsden considered his case as falling within the order; and in this opinion they were fortified by the advice of the Crown Solicitor, who formed his opinion upon the written admissions of Mr. Marsden. Supposing the Magistrates to have been in error, the caution they used in first submitting the case to the Governor, and afterwards guiding themselves by the advice of the Law Officer of the Crown for the time being, discharged them from the imputation of persevering, at least, in a wilful error.

2ndly. *The Animus.*—It appears† that Dr. Douglass was sometimes in the habit of attending Mr. Marsden's family worship, and that Ring was usually present on such occasions; but it seems also that Ring was a Singer in the Church, and attended at Mr. Marsden's house in Company with other Singers from time to time. Ring was also in the habit of going to and fro from Mr. Marsden's house to Dr. Douglass' with the children, and Dr. Douglass spoke to Ring to work for him as a painter and glazier. These circumstances would rather seem to raise a presumption that Dr. Douglass was acquainted with Ring's being the assigned servant of Mr. Marsden; but they are not conclusive, inasmuch as both Thorn and Rouse‡ the Superintendent, who state themselves to have been well acquainted with Ring, supposed that he held a ticket of leave until a short time previous to his first appearance before the Magistrates. It has, therefore, not been proved that Dr. Douglass knew Ring to be an assigned Servant to Mr. Marsden, until a short time before his first appearance before the Magistrates when, as it is stated by Thorn.§

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Application of
law to facts.

Animus alleged
on the part of
H. C. Douglass.

* *Marginal note.*—See Record in Appendix marked B. (See page 764.)

† *Marginal note.*—Priscilla Bishop. (See page 730.)

‡ *Marginal note.*—John Thorn, Mr. Rouse. (See pages 731 and 748.)

§ *Marginal note.*—John Thorn. (See page 731.)

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he mentioned to Dr. Douglass who wanted a painter that Ring was Mr. Marsden's servant, and was of that trade, and he did not think it right he should work about the town in the way he did; to which Dr. Douglass replied he could say nothing about it unless it were brought before him at Court.

Disrespect
shown by
H. G. Douglass
alleged by
Rev. S. Marsden.

To support the general charge of personal disrespect made against Dr. Douglass by Mr. Marsden in his letter to Mr. Secretary Peel, both in the investigation of the 17th and 31st May, many Witnesses have been examined on the part of Mr. Marsden; but, as there is some difference in their testimony, it will be necessary to examine the whole minutely in order to come at a correct view of the true state of the facts on this part of the case. It is stated by six of Mr. Marsden's Witnesses* that they considered the conduct of Dr. Douglass, while on the Bench, as disrespectful and in a high degree insulting to Mr. Marsden; but, in detailing more particularly the exact expressions, gestures and circumstances, from which they have deduced their opinions, it does not appear that their impressions were well founded. While, on the other hand, the charge of disrespect is expressly denied by two of Mr. Marsden's Witnesses,† Thorn, the Chief Constable, and Dr. Macleod, the Magistrate, whose station in the Court and acquaintance with its proceedings must have rendered them attentive to what was passing, and have qualified them to form a correct opinion of the proper boundaries of judicial authority. The statements of Thorn and Dr. Macleod are also corroborated by Mr. Lawson,‡ a Witness on the part of Dr. Douglass, who was one of the sitting Magistrates. On reference to the minutes of the Court, there is nothing apparent upon which the charge of disrespect can be founded; but, on the Contrary, the written communications to Mr. Marsden evince every degree of respect and delicacy, which could be considered as due to his station in the Colony. The Revd. Robert Cartwright§ states that he recollects Dr. Douglass expressing regret at being obliged to take the steps he did, and that he would rather pay the £10 out of his own pocket than put an execution in Mr. Marsden's house, and giving him a message to Mr. Marsden intimating a wish that he would pay the money to prevent the execution. It further appears that on the trial of the action, which was brought in the Supreme Court|| by Mr. Marsden to recover the Sum of £250 for his alleged damage, it was expressly put to the assessors by the Judge, whether the trespass complained

Decision of
supreme court.

* *Marginal note.*—James Elder, Samuel Larkin, James Williamson, James Smith, Patrick Farrell, Thomas Smith. (See pages 737, 739, 741, 747, 742, and 743.)

† *Marginal note.*—John Thorn, Dr. Macleod. (See pages 731 and 751.)

‡ *Marginal note.*—Mr. Lawson. (See page 757.)

§ *Marginal note.*—Mr. Cartwright. (See page 729.)

|| Note 207.

of was committed under an honest mistake of the law, or was a wanton trespass under colour of the law. If the former, they should limit their damages to the sum of £10 2s. 6d. If the latter, they might give such damages as they might consider just; and the assessors expressly negatived the charge of malice, and limited their Verdict to the Sum of £10 2s. 6d., the amount actually levied.

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Decision of
supreme court.

On the 17th May, James Ring was ordered to the Convict Barracks by the Magistrates. On his way, it appears he went to the Gaol,* not by Order of the Magistrates but for some cause, which does not appear and cannot be important, as, after receiving his ration at the Gaol, he was on the same afternoon removed to the Barracks. The Original Order† for Ring to be sent to Barracks on the 17th May, and the order for the Commitment of all the prisoners to Gaol on that day (which latter order does not include Ring) are proved‡ to have been signed on the 17th of May.

Committal of
J. Ring to
convict
barracks.

It appears§ that Ring, during the time he remained in the Convict Barracks at Parramatta, was worked *with* but not *in* the Gaol Gang. The difference between the two is important, and is stated to be this:—Working *with* the Gaol Gang is in some degree degrading, and carries with it some shade of punishment, but being *in* the Gaol Gang is to be put on half rations, to work in irons, to be clothed in the Gaol dress, and to sleep in the Gaol at night. In the latter sense, James Ring was certainly not in the Gaol Gang; and his being sent to work with the Gaol Gang was an Act of the Superintendent, in no way proceeding from Dr. Douglass. It further appears* that, while Ring was in Barracks and working with the Gaol Gang, Mr. Marsden went to Beaumont, the Gaoler at Parramatta, and was informed by him “that Ring was not sentenced to the Gaol Gang, but that he was working with the Gaol Gang at the Stores.”

Employment of
J. Ring with
gaol gang.

It appears that, whilst Ring was in the convict Barracks at Parramatta, he did not go to Church; and the reason of his not doing so is differently stated by two of Mr. Marsden's Witnesses,|| Rouse the Superintendent, and Field the assistant; but it will be unnecessary to go further into this point, as Mr. Marsden stated to the Commissioners, during the present enquiry, that he had not charged Dr. Douglass with preventing Ring from going to Church, but had merely stated as a fact that he did not go to Church. It would rather seem to have been in consequence of some arrangement among the prisoners, and that Ring

Absence of
J. Ring
from church.

* Marginal note.—John Beaumont. (See page 747.)

† Marginal note.—See papers in Appendix marked D and F. (See page 765.)

‡ Marginal note.—John Thorn. (See page 731.)

§ Marginal note.—Richard Rouse. (See page 748.)

|| Marginal note.—Richard Rouse, John Field. (See pages 748 and 762.)

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remained at the Barrack to look after the provisions. It is, however, certain that the Order for returning Ring to Barracks contains nothing, which can be construed into a prohibition of his going to Church with the other prisoners agreeably to the standing public Orders.

General
treatment of
J. Ring.

Previous to Ring's being forwarded to the Sydney Barracks, it appears* that, upon two or three occasions, he seemed very much depressed in Spirits, and wept for what he expressed to be his blighted prospects of getting his sentence mitigated, and being enabled to marry and settle in life; and that, on one occasion, he intimated† an intention of quitting the Colony (stowing away); but it does not appear that this was in consequence of any fear of Dr. Douglass, or of future punishment; neither is there any proof of persecution, or of any treatment of Ring, after he was transferred to the Convict Barracks, differing from that of other prisoners of the Crown in the same situation. It may be necessary to observe that the prisoners in the Government service are entirely under the superintendence of the proper officers, and that the Magistrates of the Colony have no power or authority‡ over them, any further than to take cognizance of such causes of complaint as may be regularly exhibited against them.

Escape of
J. Ring.

On the 9th June, 1823, James Ring was transferred from Parramatta to Sydney Convict Barracks, and made his escape about the month of August in that year. His name was published among the runaways. It appears from the evidence of John Cowell§ that James Ring escaped from Sydney in the Brig Calder, and went to New Zealand, and was there whilst Mr. Marsden was in that Island. That, from the notoriety of the fact, it must have been known to Mr. Marsden; and that he (Cowell) could have caused James Ring to be apprehended for a hatchet or a couple of blankets. It is stated that Ring afterwards quitted New Zealand in an American Whaler, called The Peruvian.

The foregoing statement we have the Honor to lay before Your Lordship as our impartial Report|| upon the facts of the case, referred to our consideration; and, in order to enable Your Lordship to judge of its correctness, we beg permission to append a minute of our Proceedings, together with the examinations taken before us, and copies of the several Documents referred to in the Course of our Investigation.

We have, &c.,

THOS. BRISBANE.
FRANCIS FORBES.
T. H. SCOTT.

* *Marginal note.*—James Martin. (See page 755.)

† *Marginal note.*—Joseph Kenyon. (See page 755.)

‡ *Marginal note.*—Major Ovens. (See page 756.)

§ *Marginal note.*—John Cowell. (See page 760.)

|| Note 208.

[Enclosures Nos. 1 and 2.]

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[*These enclosures were letters from under secretary Hobhouse to under secretary Horton, and from the Revd. Samuel Marsden to the Right Honourable Robert Peel, dated 29th June and 28th January, 1824, respectively. Copies were forwarded by Earl Bathurst with his despatch dated 18th July, 1824; see page 307 et seq.*]

[Enclosures Nos. 3 to 8.]

[*These enclosures were copies of the enclosure and five sub-enclosures to Earl Bathurst's despatch, numbered 34 and dated 2nd September, 1824; see page 353 et seq.*]

[Enclosure No. 9.]

PROCEEDINGS OF INQUIRY.

Government House, Parramatta, 14th July, 1825.

In the matter of an Investigation into certain Charges preferred by The Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales,

against

Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be enquired into, and reported upon, by

His Excellency the Governor; The Honorable The Chief Justice; and The Venerable The Archdeacon.

The Revd. Samuel Marsden, Senior Chaplain of New South Wales, and Henry Grattan Douglass, Esquire, M.D., being severally present, submitted themselves to the enquiry now about to be commenced.

Upon which the Proceedings in the Investigation, directed by the Despatches of Earl Bathurst under date of the 2nd day of September, 1824, and the 3rd day of January, 1825, were opened.

The Revd. Samuel Marsden expressed a desire that such Proceedings should be conducted publicly.

The Court was of opinion that, from the nature of the investigation, the proceedings could not be conducted publicly, but that each party should be at liberty to have the attendance of one or two friends to assist him, it being understood that such friends were not to act as professional advisers.

The Despatches of Earl Bathurst, His Majesty's Principal Secretary of State for the Colonies, were then read and laid upon the table.

The Letter from The Revd. Samuel Marsden to The Right Honourable Robert Peel, dated January 28th, 1824, was then read, and a written Statement made by Dr. Douglass in answer thereto, dated August 21st, 1824, as containing the points for investigation; and it was resolved by the Court that it should confine its present enquiries to the several matters and things set forth in Such letter of January 28th, 1824, of The Revd. Samuel Marsden, and such Statement of August 21st, 1824, of Dr. Douglass respectively.

The enquiry being now opened, Mr. Marsden laid before the Court a written Statement enlarging upon the various matters of charge contained in his aforesaid letter, which was allowed by the Court to be read as mere Statement to be confined to the matters at issue.

Proceedings of inquiry into charges preferred by Rev. S. Marsden against H. G. Douglass in case of J. Ring.

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Monday, the 18th Inst., was then appointed for proceeding in the Said matter; and it was directed that the Revd. Samuel Marsden and Dr. Douglass should attend on that day and be prepared with such proof as they might deem necessary to substantiate their respective statements.

Government House, Parramatta, 18th July, 1825.

In the matter of an Investigation into certain Charges, preferred by The Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales,

against

Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be enquired into and reported upon by

His Excellency the Governor; The Honorable The Chief Justice; and The Venerable The Archdeacon.

The Revd. Samuel Marsden being present applied to the Court for leave to introduce as his Friends, The Revd. F. Wilkinson and Hannibal MacArthur, Esqre., and Dr. Douglass applied for leave to have Mr. Fulton, Junr., in order to assist him.

The Court granted the permission requested, whereupon Mr. Wilkinson and Mr. Hannibal MacArthur were called on the part of The Revd. S. Marsden, and Mr. Fulton, Junr., on the part of Dr. Douglass.

The Proceeding was then summoned, when Dr. Douglass admitted that James Ring is a Native of Middlesex, by trade a Painter and Glazier; that he was tried at Newgate in April, 1815, and sentenced to be transported to New South Wales for Life, where he arrived in 1816 by the Ship Mariner.

WILLIAM COX, Esqre., was called in and Examined by The Revd. S. Marsden.—I knew James Ring. He was in the Government Town Gang at Windsor, two or three years before he was assigned to Mr. Marsden. He was employed at Windsor as Painter and Glazier in doing the Government work. During the time he was at work, I observed that he was a remarkably clean well-dressed man and attended the Church regularly, which first brought him to my notice. He was a regular Singer in the Church. I recommended him to Mr. Marsden as a Singer in the Church, as I thought he would be of more service at Parramatta than at Windsor, as our Choir was very bad.

I assigned him to Mr. Marsden as a Singer, for which he had applied, stating at the same time that he was a Painter and Glazier. Mr. Marsden mentioned something, I do not recollect what, of his first singer being dead. He was assigned to Mr. Marsden, as Magistrates had been in the habit of assigning Servants to other persons.

Cross Examined by Dr. Douglass. Did you recommend Ring as a good character? I had a high opinion of him myself. He was under an imputation of stealing from his master, which was not proved however. I wished to get him out of the Town Gang at Windsor, as I thought he would do better at Parramatta. Ring was never flogged to my knowledge whilst in Windsor. He was in the Gaol Gang at Windsor, or else confined by night in the Gaol for the charge of stealing which I have already mentioned. He was never convicted; but the Magistrates did not think he had acted quite

right, some money being found in his box, which money was taken from him, and he was confined as I have mentioned above. I do not recollect whether I was on the Bench at the time or not. I think that Ring was discharged from the Windsor Gaol or Gaol gang, before I assigned him to Mr. Marsden. He was not discharged under the General Amnesty Act upon the arrival of His Excellency Sir Thos. Brisbane; I think he was discharged prior to that.

Note.—A Copy of the Proceedings taken before the Bench at Windsor was ordered; for which see Paper marked A in the Appendix.

Re-Examined by The Revd. S. Marsden. I thought, as did the other Magistrates at Windsor, that Ring was an injured man by the prosecution of Mr. Fitzgerald abovementioned, and that was the reason why I wished him away.

THE REV. ROBERT CARTWRIGHT, Examined by The Revd. Samuel Marsden.—I was ten years Resident Clergyman at Windsor. I knew James Ring, I think, not less than two years. He lived in my service a few months previous to Mrs. Cartwright's leaving the Colony in May, 1818. He was a quiet inoffensive man and, as my Service did not suit him, I thought it would be for his good to release him into the Government employ under Mr. Fitzgerald, where he might work at his trade at after hours. I saw him frequently afterwards. Shortly after he left me, he brought me a letter, written to himself from a particular friend of mine, recommending him to me, in consequence of which I always took particular notice of him afterwards and served him in any way I could. At the latter end of the year 1819, Mr. Cross succeeded me at Windsor, and James Ring I believe remained in Government Service; and some charge being made against him about that time, I was induced to enquire into the circumstances, and the impression produced on my mind was that he had been persecuted.

In consequence of this impression I ventured to recommend him to Mr. Marsden, where I afterwards saw him. He was a quiet well-conducted man, and, when I saw him in Mr. Marsden's service, he thanked me for procuring him so good a place. I felt satisfied, from the confidential manner with which Mr. Marsden and his family and in particular Mrs. Marsden treated him, that he had proved himself a faithful Servant.

I believe that he acted as a Singer in Mr. Marsden's Church, as he came always to me to know the Psalms he should sing, when I have officiated for Mr. Marsden.

Cross-Examined by Dr. Douglass. I think but am not certain that Ring came to me almost immediately from the Ship.

I recollect about the period that the Bench of Magistrates at Parramatta fined Mr. Marsden. I recollect calling upon Dr. Douglass since that transaction. Dr. Douglass, in a conversation upon that occasion, expressed regret at being obliged to take the steps he did. He said he would rather pay the £10 out of his own pocket than put an execution in Mr. Marsden's house. I recollect his saying to me that he must do that which he considered his duty. Dr. Douglass did, I believe, give me some Message to Mr. Marsden purporting I believe his (Dr. Douglass's) wish that Mr. Marsden should pay the money to prevent the execution. I think Dr. Douglass did say something about having spoken to some other person to deliver a like message to Mr. Marsden.

This was in the interval being imposing and levying the tithes.

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I recollect perfectly well Dr. Douglass expressing regret that anything of the kind should have happened between himself and Mr. Marsden.

Re-Examined by Mr. Marsden. I always understood from Mr. Marsden that he considered the fine imposed by the Bench unjustly, and to expose him to degradation and the public odium, and that he never would pay it unless compelled to do so.

By the Court. I considered the communication from Dr. Douglass as made to me for the purpose of promoting a reconciliation between himself and Mr. Marsden.

MR. GEORGE LOADER, Gaoler at Windsor, Examined by The Revd. Samuel Marsden. I knew James Ring. I have been ten years Gaoler at Windsor, the 20th of last Month. I came to this Colony a private Soldier, and was discharged as a Serjeant. I have a Family, a Wife and five children. My daughter is married to the Revd. Mr. Youl. James Ring was at Windsor to the best of my recollection 3 or 4 years. I considered him, during that period, to be a sober, industrious, clean young man. I was informed that he paid his addresses to one of my daughters, but at that time without my Sanction. I recollect speaking to Mr. Marsden after Ring was employed in his Service. I said that Ring was attached to one of my daughters, and that, if he obtained his remission, I should not object to his marrying her. Mr. Marsden promised to assist Ring all he could whilst in his Service.

Cross-Examined by Dr. Douglass. I was in Windsor all the time that Ring was there. He was punished during that time. He was charged with a Robbery and found Guilty by the Magistrates. I cannot recollect who they were, nor do I remember his Sentence. He was discharged from the Gaol through the interference of Mr. Cox, I believe. I think he was discharged under the Act of Amnesty of Sir T. Brisbane. He had previously received a part of his Sentence; the remainder was remitted.

I think he was not discharged on the day His Excellency arrived in Windsor. I think it was the day after.

By the Court. He, Ring, was charged with robbing Mr. Fitzgerald, and his Conviction and the punishment he received was for that Offence.

THE REV. R. CARTWRIGHT recalled and examined by The Revd. Samuel Marsden. I was doing duty May 11th, 1823, when Mr. Marsden was absent in the interior on duty. On this morning (Sunday), Ring came into the room, where I was, to desire me as usual to point out the Psalms to be sung. His countenance had the appearance of his having been fighting; his face was much bruised. I enquired the cause; and from his statement was led to suppose that it was not correct, but found upon enquiry that what he had stated was true. I advised Mrs. Marsden not to let it pass, as Ring was ill-used; and She promised that Ring should be sent to make a Complaint before the Magistrates the following day.

MRS. SUSAN PRISCILLA BISHOP, examined by the Revd. S. Marsden.—I have been House-keeper in the family of Mr. Marsden since July, 1809. I came from England with Mr. Marsden. James Ring came to his employ in January and went away the May twelve-month following. I remember the Sunday morning that Mr. Cartwright was doing duty for Mr. Marsden; there was a riot in the

Kitchen. Ring was a quiet man and a confidential Servant. He received much injury that morning from Mr. Marsden's Gardener. Mrs. Marsden sent him down the Monday morning to make a Complaint before the Bench. He returned home afterwards, and Thorn the Constable came for him about dinner time, and said he came to fetch Ring. He took him away. We never saw Ring afterwards, until he was in the Barrack, from which he came up to see us once or twice. It was more than a fortnight from the time that Ring went away with Thorn until he came back to take his leave. Thorn used no violence.

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JOHN THORN, Chief Constable of Parramatta, Examined by The Revd. Samuel Marsden.—I remember Mr. Marsden's Servant, James Ring, coming to the Court House in company with Pritchett and the deaf man (Graham). Pritchett said he came to bring the two, at Mrs. Marsden's request, to see who was wrong, and to complain that the deaf man had struck Ring at breakfast. Graham acknowledged that he had struck Ring, but excused himself by saying that Ring was teasing him because he was deaf. Pritchett was a man generally at Mr. Marsden's. The case was dismissed for want of evidence against the deaf man.

About five o'Clock on the same evening, I went to Mr. Marsden's to take Ring into custody. I was sent by Dr. Macleod and Dr. Douglass. I had no warrant. I was ordered to take him and put him in Gaol; and I did so. He stated in the morning that he was Mr. Marsden's Servant, and that his Master allowed him to employ himself about the town for his own benefit. The Magistrates asked if he were the person who exhibited the sign over his door of a Painter and Glazier, and he said he was. I had some days previously mentioned to Dr. Douglass, who wanted a Painter, that Ring, Mr. Marsden's Servant, was of that trade; and I did not know whether it was right that he should work about the town in the way he did. Dr. Douglass said he could say nothing about it, unless it was brought before him at Court. From Ring's own statement before the Court, I was ordered, after the Court was over, to go for him and put him in Gaol. I knew of Ring having lodged at Kenyon's, and at Mrs. Barrow's, and I have heard at Mrs. Armstrong's, whom I heard complain of his not paying the Rent. I recollect Mr. Marsden's speaking to me about Ring, when he was lodging at Mrs. Barrow's. Mr. Marsden requested me to have an eye upon Ring and to tell him if he did anything wrong. I told Mr. Marsden that there was a suspicion of Ring's having stolen a Watch, and I think it was about that time that Mr. Marsden spoke to me to look after him. Ring did jobs for me twice, and for other people. I did not know who he was, until he worked for me, when I asked him; and I knew of his having worked for Mr. Eyre, I believe afterwards. It was on or about the 26th March.

He was taken to Gaol on the 12th May, and remained there until the 17th, when he was brought up before the Magistrates. I had in the meantime given no further information. Mr. Marsden was cited for that day. I was not ordered by the Magistrates to give any intimation to Mr. Marsden of Ring being in Gaol, and I know of none being given. I remember meeting Mr. Marsden and Dr. Macleod on the Wednesday or Thursday, whilst Ring was in Gaol. I heard Mr. Marsden say to Dr. Macleod that he had been at Government House; but I do not recollect what passed further, as I walked away and left Mr. Marsden and Dr. Macleod. I do not recollect

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Ring's name being mentioned. Upon recollection now, I think I heard Dr. Macleod say that he did not know what Ring was in Gaol for.

Q. Do you recollect, when the matter was before the Bench the second time, that I stated I had applied to Dr. Macleod in George Street in your presence for Ring's release? I do not. I do not recollect Mr. Marsden's repeating the words he used to Dr. Macleod, when he replied, He did not know Ring was in Gaol. There was no Court held between the 12th and the 17th.

The Court then adjourned until the 19th.

Government House, Parramatta, 19th July, 1825.

At a Continuation of an Investigation into Certain Charges preferred by The Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales,

against

Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be enquired into and reported upon by

His Excellency The Governor; The Honorable The Chief Justice; and
The Venerable The Archdeacon.

The Court being assembled and the respective parties being present.

JOHN THORN, Chief Constable, was Cross-Examined by Dr. Douglass. I was desired by Dr. Douglass and Dr. McLeod to take up James Ring. I was not desired to go to Mr. Marsden's house. I went first to Kenyon's where Ring lodged. It is the usual practice for Convicts to be sent to Gaol first to be brought before the Bench. Prisoners, Convicts, are sent either to the Watch House or Gaol, but generally to the latter. Free Persons are sent to the Watch House. In sending Ring to Gaol the usual practice was followed. I received the same instructions respecting Ring as in other cases of Convicts. I never receive a Written Warrant when I apprehend Convicts. A verbal order from the Bench is all I receive. If I heard that a Convict was improperly at large, I should take him without any Order. I have done so. I did so in the case of Stockbridge, a Convict. I had information that a man of the name of Stockbridge, an assigned Convict to a person named Hanabus, who lived at Toongabbee, was improperly at large working in the Town of Parramatta for his own benefit. I took him up and put him in Gaol, where he remained until brought before the Bench. His Master was summoned and fined. Stockbridge was at large, with a written pass from his Master allowing him to employ himself for a month for his own benefit. He was taken from his Master and placed in the Convict Barrack into Government employ, and his Pass taken from him and destroyed.

The Record of this Case was then produced and read; see Paper marked B in the Appendix.

I did not enquire where Stockbridge lodged or fed. I know that he was sent to the Barracks by the Magistrates.

The Convict Barrack Book being produced, it appears that Stockbridge was received there July 27th, 1822.

I am quite positive that on the Monday, when Pritchard brought Ring and the deaf man before the Court, he said he brought them

by direction of Mrs. Marsden to have the complaint enquired into between the two men. I was present the Saturday following, when Mr. Marsden appeared at the Court House. Dr. Douglass, upon his entering, stood up and offered him a Chair behind the Bench. In my opinion, Dr. Douglass treated Mr. Marsden with respect. Dr. Douglass told Mr. Marsden that, if he would go any where until the other Magistrates came, he would send for him. I am not certain that Dr. Douglass requested Mr. Marsden to wait until the Monday following, the Magistrates not appearing. Mr. Lawson at last came, and the Complaint was proceeded in on that day. Mr. Marsden acknowledged that he gave Ring permission to work about the town.

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The Record of the Case of James Ring was then produced and read. See Paper marked C in the Appendix.

The Magistrates said to Mr. Marsden that they thought they should have to fine him, but they would first submit the whole case to the Governor.

Mr. Marsden stated that he would pay any fine that the Magistrates imposed; but that he wished that Ring might not be punished as he had done no wrong. Ring was sent that afternoon to the Convict Barracks by order of the Magistrates.

(The Order for his being sent to the Barracks was here produced and read. See Paper marked D in the Appendix.)

It is usual to make out the Orders of the Court after the Court is over, and to take them to a Magistrate, who had sat there, for signature. The body of the Order is written by Joseph Bradley. The interlineation appearing thereon was made by Dr. Douglass in his own handwriting the same evening, when taken to him for signature at his own house and in my presence.

In pursuance of that Order, Ring went to Barracks that day. I think he remained there until June before he was discharged.

(The Book of the Convict Barrack being produced, it appears that Ring was received there May 17th and discharged June 9th to Sydney Barracks.)

I never saw Ring at Work in the Gaol gang of Parramatta. After Saturday, the 17th, I never received any Order directly or indirectly from Dr. Douglass or any other Magistrate respecting Ring. When Convicts are ordered to work in the Gaol Gang, the Order always comes from the Magistrates in writing. I never received any such Order from Dr. Douglass or any other Magistrate respecting Ring. I know nothing further of Ring but that he was sent to Sydney. I do not know by whose Order.

I never heard Dr. Douglass make use of any unbecoming language to Mr. Marsden, when he was at the Court.

When I received the Order to levy the fine on Mr. Marsden, Dr. Douglass and Mr. Lawson told me to take the steadiest Constable I could. I did so. I picked out one Brown to whom the Warrant was directed. Dr. Douglass desired me to charge the man to act with the greatest delicacy. I do not recollect being told to direct the man not to go in the house, but to levy upon some property in the yard. I ordered him to behave as delicately as possible.

I remember Ring falling under my suspicion for a robbery at Parramatta. It was whilst he was at Mrs. Barrow's. She sent for me and stated that she had found a Watch in a tin case, rolled in a

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handkerchief and secreted in the garden. She said she thought it was Ring who had put it there, as the tin case belonged to her and must have been taken from the house and the handkerchief was all over paint. She said she suspected the handkerchief to be Ring's on account of the paint. I told the Magistrates the Case, and I was ordered to keep the watch until claimed. It afterwards turned out to have been taken from Walker's Inn on an occasion when Ring waited there. There were other waiters there beside Ring. I cannot state whether it was before or after this that Mr. Marsden desired me to keep an eye upon Ring. Ring continued to lodge in town after this circumstance and lived afterwards at Kenyon's. His board continued up at Mrs. Barrow's I suppose a week after this, and again afterwards at Kenyon's. Ring was not taken up on this charge, and I do not think there were any proceedings respecting it. I think it was a Servant of Mr. Cox's to whom the Watch belonged.

Re-Examined by The Revd. Samuel Marsden. I knew Hanabus. He lived four or five miles from Parramatta within my district as Chief Constable. His father and mother had both been Convicts. He was a small Settler and rented a small piece of ground at Seven Hills. It was not a small piece of ground belonging to Government at Toongabbee. I do not know the quantity of land he occupied. I cannot say whether he was capable of maintaining a Convict. I know he was worth nothing himself except renting a small piece of land. It was a very common thing for poor settlers, when they could not maintain their Servants, to let them go upon their own hands. It was at their own risk.

I went to Kenyon's, the Parish Clerk, to apprehend Ring, because his board was over the house. I saw there an old gypsey woman, and I went to Mr. Marsden's because she said Ring was just gone there. I found him at Mr. Marsden's. I took him to Kenyon's for him to arrange his matters according to his wish, and he took about £8 to Walker's, and from thence he went to Gaol.

To a Question by the Court. It was certainly six or seven months before his Conviction that Ring's board was exhibited as a Painter and Glazier. I was Chief Constable during that period.

Re-Examination (by Mr. Marsden) Continued. I recollect Mr. Marsden's speaking to me about Ring, when he was at Mrs. Barrow's. I do not remember Mr. Marsden saying that Ring was his servant. I thought he had spoken to me because he desired me to have an eye upon Ring, he being a Singer at the Church.

I was present on the 17th May, when Mr. Marsden and Ring were before the Bench. He was brought there on account of what had transpired on the previous Monday respecting his being at large. It was stated to Mr. Marsden by the Bench that he was called upon to explain the circumstances of Ring's being at large. Mr. Marsden confessed that he allowed Ring to be at large, and it was taken down in writing. Dr. Douglass said it was their opinion that they should have to fine Mr. Marsden. Mr. Marsden expressed astonishment at such information, and said that he would pay the fine, but hoped they would not punish the Servant as he had done nothing wrong. Mr. Marsden stated that, if he had violated the laws, he would pay the fine. I do not recollect Dr. Douglass saying he would send Ring to Gaol again. Mr. Marsden offered security to any amount rather than Ring should be punished. I do not recollect Dr. Douglass saying that the Gaol was the only security for a Convict, and to

Goal he should go. I am not aware that Ring went to Gaol on the 17th. He went to Barracks. He might have gone to the Gaol with others, before the Prisoners were arranged according to their Sentences. I am sure I did not go to the Gaol to take Ring out and from thence to take him to Barracks. I took the Order to Dr. Douglass to be signed after the Court was over. It was daylight to the best of my belief. I took the Order respecting Ring to Dr. Douglass in the usual way.

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THE REVD. HENRY FULTON, Examined by The Revd. S. Marsden.—I am resident Chaplain at Castlereagh. I have resided there since the year 1814. I have a Convict allowed to lead the Psalmody in the Church. I applied to Governor Macquarie for him. He has attended four or five years. He has always been victualled and clothed by Government. He employs himself during the week as he pleases. He is not assigned to me as a Government man but to perform certain Services in the Church.

Q. Is it usual, when a Servant is withdrawn by the Magistracy from his Master without fault on his own part, to transfer his services to another Master? **A.** It is usual to transfer him to another master unless he himself is a bad character. It is considered a punishment for a man, who has behaved well, to be turned in Government employ. It would be considered an additional punishment to put a man behaving well into the Convict Barracks. The Magistrates do not confine a man who behaves well. I have allowed them at my discretion to stay out, but I never permit them to go and chuse their abodes for themselves when withdrawn from their Masters.

Cross Examined by Dr. Douglass. There is no Convict Barrack at Penrith, but there is a Gaol there. If it should transpire before the Bench that an Assigned Convict was at work upon his own hands by his master's permission, I should confine him. I should summon his master before the Bench and deal with him according to the evidence. If a Convict were assigned to me as a Government man and he should happen to be a singer, I should not consider myself justified in letting him work for his own benefit. In such a case, I think the Government Order states that his Servant should be taken from his Master's employ and be placed in Government employ. I might in particular cases allow the Servant to return to his Master's employ. I knew of an Order of Sir Thomas Brisbane's desiring that all Convicts, turned into Government employ or withdrawn from their Master's Service, should be forwarded to Sydney.

Note.—This Order was directed to be produced, for which see Paper marked E in the Appendix.

It is my custom, when I require the attendance of a Convict either to answer a Charge or as a Witness, to send a Constable for him without a written Order.

Re-Examined by The Revd. S. Marsden. If I were to allow a Convict to do a job for a neighbour and I fed and clothed him, I should consider he was on his own hands in part, that is, if it were for his own benefit.

Re-Cross-Examined by Dr. Douglass. If I saw a sign of any person as a Painter and Glazier, I should consider he was at work for his own benefit.

The Court was then adjourned until the 20th Inst.

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Rev. S. Marsden
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Government House, Parramatta, 20 July, 1825.

At a Continuation of the Investigation into Certain Charges preferred by The Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales,

against

Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be enquired into and reported upon by

His Excellency the Governor; The Honorable the Chief Justice; and The Venerable The Archdeacon.

The Court being assembled and the parties respectively being present The Revd. Samuel Marsden proceeded in the examination of Evidence.

SUSAN PRISCILLA BISHOP, Examined again by the Revd. Samuel Marsden.—Dr. Douglass attended several times at Mr. Marsden's private family Prayers, on his first coming to Parramatta, on the Sunday Evenings. Ring was always present upon these occasions. Ring was always employed by Mr. or Mrs. Marsden. Ring was at home and at his Meals regularly every day, except when away with a pass on the business of the family. He was Mrs. Marsden's confidential Servant, and he was very trustworthy. Mrs. Marsden frequently entrusted him with Money to pay Bills. It was as great a loss for Mr. Marsden to be deprived of Ring's Services as of any Servant in the family. When the Revd. Mr. Middleton's little boy broke his arm, Ring always took him to the Hospital every day to be attended to, which Dr. Douglass superintended. Ring used frequently to fetch Mr. Marsden's Children home from Dr. Douglass's. Ring came twice to Mr. Marsden's house before he went to Sydney. When he came the Second time to take leave, he expressed sorrow at leaving Mr. Marsden's Family. He said that he did not know what they were going to do with him. He was permitted to come alone. I saw no Constable with him. He remained about 5 or 10 minutes.

Cross-Examined by Dr. Douglass. Mr. Kenyon and one or two of the Singers at the Church have been in the habit of attending at Mr. Marsden's family worship. It is not, that I am aware, a common understood thing that any respectable person may attend at Mr. Marsden's Worship on a Sunday evening.

I know a person named Pritchard. He is a Ticket of Leave Man, and he was one of the Singers. I know a man named Newsome. He was a Singer. I do not recollect whether, at the time that Dr. Douglass attended at Mr. Marsden's house, Newsome was his Servant. Pritchard was in the habit of going to Mr. Marsden's house frequently. Mrs. Marsden used to send him of errands. He was trusted as a confidential person. I never recollect Pritchard going or being sent to Dr. Douglass's house upon any occasion.

Mr. Middleton's Son was under Dr. Macleod's care.

WILLIAM PRITCHARD, Examined by the Revd. S. Marsden.—I have been in the Colony very nearly ten years. I am a Goldsmith. I was a Constable from about April, 1816, and I left that situation in 1820. I came to this Colony in 1815 for life. I hold a Ticket of Leave at present. I was at Mr. Marsden's house the 11th May, 1823, when Mr. Cartwright did Mr. Marsden's duty. I heard that Mr. Marsden's Gardener had made an Assault upon Ring. On the

12th, I was sent by Mrs. Marsden to Dr. Douglass to make a complaint of Graham, the Gardener, for having the preceding day caused a disturbance in Mr. Marsden's kitchen and committed an Assault upon Ring. I stated this Complaint, and then called forward Ring to substantiate it. Dr. Douglass asked Ring who he was. Ring stated that he was a Servant of Mr. Marsden's. To the best of my recollection, Dr. Douglass asked Ring if he were not the person, who had a sign-board up in the town specifying that he was a Painter and Glazier.

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Note.—The Revd. S. Marsden having proceeded to examine William Pritchard respecting the investigation of the Complaint on the 12th May, 1823, against Graham for an assault on Ring, the Court ordered that such evidence should be struck out of the proceedings, no charge founded upon such investigation having been preferred by The Revd. S. Marsden against Dr. Douglass in his Letter to Mr. Secretary Peel.

With reference to his letter to Mr. Wilmot Horton, in answer to Mr. Marsden's Statement to Mr. Secretary Peel, Dr. Douglass states, That he finds Ring was not the person complained of, but that *he* complained of Graham, and refers to the Court Books. Dr. Douglass further states, That he spoke of the matter merely from memory in London where he had not the means of referring to the Books of the Court.

Cross-Examined by Dr. Douglass. When Dr. Douglass asked Ring whether he was the person who exhibited a Board, he said he was. He said he had Mr. Marsden's leave to do jobs for himself. I waited till the Court was over on the 12th, and then walked into the Garden with Dr. Douglass. I asked him if, seeing he was of opinion that Ring was improperly at large, it would be satisfactory if he were confined to Mr. Marsden's premises. To the best of my recollection Dr. Douglass said, "That as a Magistrate he was sworn to do his duty and that he must act by Mr. Marsden as he would by any other person." I was in the habit of frequently being at Mr. Marsden's house. I recollect Newsome's going to Mr. Marsden's on a Sunday evening. There have been several persons in the habit of going there since the period of my first attending there, nine years last Christmas.

Re-Examined by the Revd. S. Marsden. I neither boarded nor lodged at Mr. Marsden's.

MR. JAMES ELDER, Examined by The Revd. S. Marsden.—I came to the Colony as a Missionary going to Otaheite about twenty five years ago. I have resided in Parramatta since 1810. I heard the Proceedings, when Mr. Marsden appeared in Court on the 17th May, 1823, respecting Ring. The Court was very full. When I was so near as to hear what was going on, Mr. Marsden was asking the Magistrates not to degrade a respectable man by sending him to Gaol. He said he would give security to any amount. Mr. Marsden said, Punish me, but do not punish Ring, he is perfectly innocent. Dr. Douglass replied, No Convict is respectable and the Gaol is the proper security. Mr. Marsden stated that Dr. Douglass had employed Ring as a Painter and Glazier. Dr. Douglass at first flatly denied that Ring had been ever employed by him; but he afterwards distinctly admitted that Mrs. Douglass employed him, and it was only to put in a pane or two of glass, and that he, at that time, took

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Ring to be free or to have a Ticket of Leave. Mr. Marsden said, you must have known him to be my Servant because he was in the constant habit of going to Dr. Douglass's house, taking the children backward and forward from one house to the other. Dr. Douglass charged Mr. Marsden with the violation of Laws, which, as principal Chaplain, he was bound to support. Dr. Douglass said that the husband was liable for the acts of the Wife, and that himself must pay the £10 as well as other people. Mr. Marsden stated that Dr. Douglass, sometime after he came to the Colony, had a Convict Servant, and that he said to Mr. Marsden, I do not want the Services of this man; I want to draw his rations out of the Stores; Do you take him into your employment. Upon this Dr. Douglass became extremely rude and provoking. He said, whilst I sit here on this Bench, I will not allow you, Mr. Marsden, to bring charges against me. It is private spleen; and bowing himself forward he said, It's no such thing; and thereby, as I conceived both by gestures and words, giving Mr. Marsden the lie, because it was a point upon which Mr. Marsden could not be mistaken. There was something then said by Dr. Douglass about contempt of Court, and then I observed that the Revd. Thos. Hassall rose up hastily, as if to restrain Mr. Marsden. The case was then abruptly broken off, and Mr. Marsden went away. I do not recollect Mr. Marsden's saying to Dr. Douglass that he knew Ring as well as he did him, Mr. Marsden. I recollect, when Dr. Douglass charged Mr. Marsden with allowing Ring to be at large, Mr. Marsden said, "You know he is one of my Singers and I allow him to lodge at the Clerk's because he is one also." I do not recollect Mr. Marsden's asking the Bench to let him return to him, because he had not done any wrong. I considered Dr. Douglass's behaviour to Mr. Marsden very rude and insulting. There was not one mark of respect or civility shewn to Mr. Marsden. I am a Shopkeeper in Parramatta. Ring was accustomed to settle the Bills and Accounts of Mrs. Marsden with me, and I have seen him out late in the evening, from which I supposed he was considered a trusty servant. I knew Ring was Mr. Marsden's Servant, as he transacted much business with me.

Cross Examined by Dr. Douglass. I was not in the Court-House when Mr. Marsden entered it, but the conversation had commenced when I arrived.

Re-Examined by The Revd. S. Marsden. I saw no impropriety in Mr. Marsden's behaviour. On the contrary, I was astonished at his coolness.

By the Court. I founded my impression of Dr. Douglass having behaved with rudeness to Mr. Marsden upon three points:—

First, his charging Mr. Marsden with breaking a Colonial Order which, as Principal Chaplain, he was particularly bound to enforce, when I considered that Mr. Marsden had not violated the Colonial Orders.

Second, his saying, with reference to Mr. Marsden's mentioning the case of Buckingham, that it was private spleen.

Third, his saying to Mr. Marsden in reference to that case, there never was any such thing; and I knew of my own knowledge that Buckingham was living with Mr. Marsden.

The Court was then adjourned until the 21st.

Government House, Parramatta, 21st July, 1825.

At a Continuation of the Investigation into certain Charges, preferred by The Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales,

against

Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be enquired into and reported upon by

His Excellency the Governor; The Honorable The Chief Justice; and The Venerable The Archdeacon.

The Court having assembled and the parties respectively being present, The Revd. S. Marsden proceeded in the examination of Witnesses.

MR. SAMUEL LARKIN, Examined by The Revd. S. Marsden.—I was under Governor King in his Office about five or six years, during two years of which I was his Principal Clerk. I was Principal Clerk to Governor Bligh during the whole of his administration.

I was in the Court House at Parramatta on the 17th May, when the Case of Ring was investigated. I was in the habit of attending the Court, and on this day Mr. Marsden was called upon by Dr. Douglass to explain how he allowed his Servant Ring to be at large. Mr. Marsden said that he was not aware of having infringed any Colonial Order. Mr. Marsden admitted that he had permitted Ring to work in the Town as a Painter and Glazier, and of his own employ, which he thought for the benefit of Parramatta. Mr. Marsden instanced one or two facts touching Ring's having worked for Dr. Douglass himself. Dr. Douglass denied this at first for some minutes, but admitted at last that Mrs. Douglass had employed him to put in one or two panes of Glass. Mr. Marsden observed that Dr. Douglass must know this man to be his Servant from the circumstance of his taking the children to and fro from one house to the other, and that Dr. Douglass must also have known Ring to be his Servant from seeing him about his house. Mr. Marsden instanced that, if he were to be fined for a breach of Colonial Regulations, Dr. Douglass was himself in the same situation. Dr. Douglass and Mr. Lawson were the only two Magistrates present. Mr. Lawson did not take so active a part in the proceedings as Dr. Douglass. There seemed to be no informant before the Court. I saw no accuser. Mr. Marsden appeared to answer the charge.

Mr. Marsden pressed upon the Court that, if there were an infraction of the Public Orders, he would be responsible and begged that the man might not be punished. He offered to be Security for his appearance. Dr. Douglass decidedly refused Mr. Marsden's application, and made use of some expression that the Gaol was the best security for a Convict. I cannot recollect the precise words Mr. Marsden made use of. I recollect Mr. Marsden remarking that he considered it as a very severe punishment that a respectable man, who had been living in his service, should be sent to Gaol amongst the persons there. I think Dr. Douglass replied, No Convict is respectable and to Gaol he should go. The Court House was nearly full. There was a sort of buzz of disapprobation at one period, which seemed to me indicative of a distaste for what Dr. Douglass had been saying. Ring stood in the usual place for prisoners, who are brought up for examination, fronting the Bench. Mr. Marsden stood a little behind the Bench to the best of my recollection.

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I was present when Mr. Marsden again appeared before the Bench, and entered his Protest against the proceedings of the Magistrates on the former day. I recollect Mr. Marsden's objecting to pay the fine imposed upon him. I think Dr. Douglass was the only Magistrate present. The conversation at first seemed desultory. There was a little appearance of bitterness and of warmth on the part of Dr. Douglass. I think there was some recrimination of Mr. Marsden respecting Ring's being employed by Dr. Douglass, who pointedly disavowed the circumstance. I saw no informant, and there were no witnesses examined. Mr. Marsden denied Ring's being at large, for he said he fed and clothed him and found him his lodgings. I do not recollect Dr. Douglass saying that Mr. Marsden had a fair trial. Dr. Douglass said he was surprized, and that Mr. Marsden as Chaplain was bound to support the laws rather than infract them. I considered that Dr. Douglass's behaviour was not decorous, but it was his usual off-hand manner. There was something not according with my feelings upon the occasion. I thought that he might have acted towards Mr. Marsden, who was a Clergyman, with more respect without entering into the merits of the case.

The witness being called upon to explain the circumstance of Dr. Douglass's manner or gesture, on which he founded his opinion that Mr. Marsden was not treated with respect, says :—

There was an appearance of ill blood and party spirit. Dr. Douglass bit his nails, which I considered as an indication of his vexation. He did not make use of any gesture with his hands. There was some language made use of by Dr. Douglass respecting Mr. Marsden's resisting the authority of the local laws. This was in the hearing of all the Court. I thought Dr. Douglass's manner towards Mr. Marsden irritating, and I do not recollect ever to have seen Dr. Douglass so much off his guard. He appeared to give way to his feelings, whatever they were. I did not see anything, which could be interpreted into disrespect on the part of Mr. Marsden, unless it was his charging Dr. Douglass with having employed his Servant. He did not speak with any asperity. It bore the semblance on my mind of recrimination. I cannot recollect the precise observation which excited the murmur of disapprobation. It certainly was apparent for a moment at something proceeding from Dr. Douglass.

Cross Examined by Dr. Douglass. I was present on the first day Ring was brought up before the Bench. I recollect Dr. Douglass saying something to the effect that the Clerk should put down what Mr. Marsden had to say. I do not recollect any reference being made to the Governor. I recollect Dr. Douglass warning Mr. Marsden not to commit himself. I considered he did so, not to insult Mr. Marsden, but for the purpose of cautioning him against making any admission. I was present the second day. Mr. Marsden, upon entering the Court, presented a Paper purporting to be a Protest against the proceedings of the Magistrates on the former day. I do not recollect whether any other Magistrate was upon the Bench with Dr. Douglass. If there had been, I think I should recollect it. With the exception of that part of the Proceedings, in which I have already mentioned Dr. Douglass as having acted with ill blood and unnecessary warmth, I observed nothing more than Dr. Douglass's usual off-handed manner. That appeared when Mr. Marsden charged Dr. Douglass with having broken the Laws. I recollect an occasion

that I had the honor of Dr. Douglass's judgment, not very satisfactory to my feelings. Dr. Douglass did not upon that occasion treat me with as much courtesy as he did Mr. Marsden. He handed me out of Court, that is, ordered the Constable to turn me out of Court which was done. Dr. Douglass did not fine me.

I wrote a letter of complaint upon this occasion to an honorable Member of Parliament against Dr. Douglass.

Re-Examined by The Revd. S. Marsden. When Mr. Marsden mentioned to Dr. Douglass that, if he had done wrong respecting Ring, he, Dr. Douglass, had also done wrong in other cases, he did not admit that either had done wrong.

JAMES WILLIAMSON, Half Pay Deputy Commissary, Examined by The Revd. Samuel Marsden. I was in the Court House on the 31st May, when Mr. Marsden entered a Protest against the legality of the Proceedings of the Bench.

I remember Mr. Marsden objecting to pay the fine imposed, and that Dr. Douglass expressed his astonishment at Mr. Marsden doing so. As nearly as I can recollect, Dr. Douglass stood up and read a long lecture to Mr. Marsden, which seemed to throw an odium upon him as Senior Chaplain, for setting such an example, and the expressions he made use of were in my opinion indecorous and unbecoming. I believe the words made use of by Dr. Douglass were that he was surprized that Mr. Marsden as Senior Chaplain should set such an example. I felt very indignant upon the occasion, and went away shortly afterwards because my feelings were hurt. I did not observe any manifestation of public feeling in the Court or on the outside. I came away with Mr. Larkin, and he made the same remark with myself that Mr. Marsden had had a warm lecture which he did not deserve.

Cross Examined by Dr. Douglass. Mr. Lawson was on the Bench I believe. No other person was there that I recollect.

MR. SAMUEL SMITH, a Builder in Parramatta, Examined by The Revd. S. Marsden.—I know Ring, Mr. Marsden's assigned Servant. I have employed him as a Painter and Glazier in Parramatta. I have asked him to do jobs for me elsewhere. When I was superintending the building of the Orphan School for Government, I applied to Ring, when he informed me that he was Mr. Marsden's Government Servant, and, being under the necessity of shewing himself once a day at his master's house, he could not do jobs so far from home. I was present when Mr. Marsden presented his Protest against the fine imposed upon him by the Bench. When Mr. Marsden presented his Protest, Dr. Douglass was I believe the only Magistrate Sitting. Upon this, Dr. Douglass expressed himself rather strong towards Mr. Marsden, stating that he as Principal Chaplain ought to have protected the Government Orders, whereas he was himself the Agressor against one of them. I recollect the expressions were strong and pointed, but I cannot precisely remember any other expression than what I have before stated. I felt fully impressed that there was a vein of unpleasant and vindictive feeling in what passed. I was induced to go to the Court from a spirit of curiosity, as there was a report current of a dispute between Mr. Marsden and Dr. Douglass, and I went to hear what was going on. I considered Dr. Douglass's manner towards Mr. Marsden as extremely rude and insulting. The Court was crowded at the time, and it was my impression that Dr. Douglass intended to convey an unfavourable idea of Mr. Marsden by the lecture which

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he gave. I did not observe, whilst I was in Court, anything disrespectful in Mr. Marsden's manner towards Dr. Douglass. When Mr. Marsden was not permitted to reply, he retired.

Cross Examined by Dr. Douglass. I did not know Ring was a Government Servant, before I applied to him to work for me at the Orphan School. I considered he was a free man from his working for different people. He had a sign over his door, which I thought strongly corroborated his being free. He lodged at Mr. Kenyon's. I never knew of his having lodged elsewhere. I never saw his board at Mrs. Barrow's. I do not recollect any other Magistrate being there. I was not at the Court House when Mr. Marsden entered. Mr. Marsden was seated behind Dr. Douglass when I came. I considered the expressions Dr. Douglass used were rude and insulting, and I still think so. If the expressions had been used towards me, I should have considered them rude and insulting. Dr. Douglass's manner was firm and hasty, and bordering closely upon galling and insulting, if not quite so. The manner was not much beyond Dr. Douglass's usual manner. As a clever Magistrate, Dr. Douglass used to give strong lectures; but I considered, towards the Principal Chaplain, it was untimed and unfit. I think the Magistrate ought to vary his manner to the individuals accused before the Court according to their quality.

By the Court. I think Dr. Douglass ought to have paid more respect to Mr. Marsden, considering the sacred character which he held in the Colony, than to a common person under a similar charge. Dr. Douglass treated Mr. Marsden upon the present occasion with greater disrespect than he would even a common Convict, which might have been brought before him. My reason is that, while Mr. Marsden stood at the end of a table at the side of which Dr. Douglass sat, he attempted repeatedly to reply and Dr. Douglass would not let him.

By Dr. Douglass. Mr. Marsden stood about two or three feet on the right of the Magistrate; the Convicts stand in front. I think Dr. Douglass would have allowed a Convict to speak, but I do not think he would have placed him at his side. Mr. Marsden took his proper Station. There were Chairs placed for respectable persons in the Court House, and Mr. Marsden took one of them.

Re-Examined by The Revd. S. Marsden. It is common for Convict Mechanics assigned to their Wives to exhibit Signs over their doors.

By the Court. I have in Sydney allowed my own assigned Servants to exhibit signs, and I believe it is usual throughout the Colony. I did so also at Liverpool. I allowed the two in Sydney to work for their own benefit and without any compensation to myself. I neither fed, clothed nor lodged them. This was four, five and six years ago. I have been in the Colony more than ten years; and it has been the practice in the Colony, during that period, for respectable persons to allow their Government Servants to work for their own benefit and emolument. I did so because I considered them deserving characters; and, whilst they had this indulgence, they had all the benefit of Ticket of Leave men. They were both Painters and Glaziers. I have also given passes to my Servants to work for a month in various parts of the Colony.

Re-Cross-Examined by Dr. Douglass. I would not do so now, after the example that has been set in the present case.

PATRICK FARRELL, a labouring Man, Examined by The Revd. Samuel Marsden.—I am a free man. I came to this Colony in 1803

for seven years, and have been free these fourteen years. I was present on the 17th May. I heard Mr. Marsden offer security that Ring might not be sent to Gaol. Dr. Douglass said that Gaol was made for prisoners, and there they should go. Mr. Marsden said he thought it very hard for a person, who had served in his family, to be sent to Gaol; that, if there was any blame, he was in fault and not Ring. Dr. Douglass said he would send Ring to gaol. I thought Dr. Douglass was rude. He spoke sharp, and said he would not be insulted whilst he sat on the Bench. I followed Mr. Marsden after the Court, and spoke to him in Macquarie Street. I expressed my sorrow for the insult he had received. Not only I, but the whole town, felt for Mr. Marsden. I asked Mr. Marsden whether he would not prosecute Dr. Douglass for the insult. I said I had no money, but I would subscribe a bullock or two for the law to go forward in support of such a prosecution. Mr. Marsden did not shew the least disrespect towards Dr. Douglass that I could see.

Cross-Examined by Dr. Douglass. Mr. Lawson was on the Bench, I believe. I followed Mr. Marsden out of Court, and said what I have before mentioned in the course of a few minutes.

Q. Why did you think all the Town felt for Mr. Marsden? *A.* Because I heard them talking about it that Mr. Marsden's Bail would not be taken. The Bail, that Mr. Marsden offered, was that Ring should not go to Gaol. I do not know whether he went to Gaol or not. I saw him in charge. I considered the insult that Mr. Marsden received was because his bail was not taken.

Re-Examined by Mr. Marsden. I am a Roman Catholic.

THOMAS SMITH, Examined by The Revd. Samuel Marsden.—I am a Constable in Parramatta. I have been free six years, and my Sentence was for seven years. I was doing duty almost two years as Constable at Dr. Douglass's house on the hill. I knew Ring to be Mr. Marsden's Servant. He was in the habit of coming to Dr. Douglass's house with Mr. Marsden's Children. I was in Court on the 17th May. I was present when Ring was brought forward. Dr. Douglass charged Ring with being on his own hands. Ring denied it. He said he belonged to Mr. Marsden; that he was his servant; that Mr. Marsden victualled and Clothed him. Shortly afterwards Mr. Marsden came in. Mr. Marsden went to the left of the table. Somebody got up and gave a chair to Mr. Marsden. Mr. Marsden then spoke, and Dr. Douglass and Mr. Lawson produced a Book and said he had broken a Government Order and that they must fine him. Mr. Marsden said he loved the law as well as Dr. Douglass, and would not submit to pay the fine. When Mr. Marsden said he loved the Law, Dr. Douglass looked at him with a kind of laugh. He then took Mr. Lawson out of the Court, and they returned both of a mind and fined Mr. Marsden. Mr. Marsden then said, he would be bail for Ring, that he was a respectable character and had done no wrong. That he would be bail for £100 or £500 that Ring might not go to Gaol. Dr. Douglass made answer that no prisoner was creditable, and that Gaol was the properest Place for him. I have frequently seen Dr. Douglass talking with Ring, when he has brought Mr. Marsden's Children there, and he has stayed at Dr. Douglass's hours together.

By the Court. I did not see any disrespect shewn by Mr. Marsden to Dr. Douglass.

The Court was then pleased to adjourn until the 22nd Instant.

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Government House, Parramatta, 22nd July, 1825.

At a Continuation of the Investigation into certain Charges, preferred by The Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales,

against

Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be enquired into and reported upon by

His Excellency The Governor ; The Honorable The Chief Justice ; and
The Venerable The Archdeacon.

The Court having assembled and the parties being respectively present, The Revd. Samuel Marsden proceeded in the examination of Witnesses.

JOHN GROUNDS, a Tailor in Parramatta, Examined by The Revd. Samuel Marsden.—I have been eight years in the Colony. My Sentence was for life. I do not hold a Ticket of Leave. I am a Government man to my wife. I married in this Colony a native. I have resided four years in Parramatta. I was the assigned Servant of John Cheers, when I first came to Parramatta. I have been married between three and four years. I have had a Board exhibited at my lodgings as a Tailor, ever since I came to Parramatta. I have been assigned to my wife betwixt two and three years. I had my Board up when I was the Servant of Cheers before I was married. I have heard that Mr. Marsden was fined and his assigned Servant Ring taken from him. My board was exhibited at that very time. I know there were many others then in Parramatta.

By the Court. I never heard that there was any information against any other person. The Constables must have seen my board. They never said any thing to me about it.

Cross-Examined by Dr. Douglass. I lived at Mr. MacArthur's in Parramatta. Whilst I was in his service, I slept on his premises. I had no shop and no board up in Parramatta at that time. My wife's name was Mary Cheers. She was one of the Orphan School Girls. I was in Parramatta before I married. I was Cheers' assigned Servant about three months before I married. During these three months, I was living with Mary Cheers as Man and Wife. She had a child by me before Marriage. During these three months previous to my marriage, I had my Board exhibited. I know one Edwards, a Tailor, who was not assigned to his wife, and had his board up; but the other instances I know are persons assigned to their Wives. I was living on my Wife's premises. I was in Mr. MacArthur's Service three or four years. I have left his Service about four years.

Re-Examined by The Revd. Samuel Marsden. I was married about six months before I was assigned to my wife.

RICHARD EDWARDS, a Tailor at Parramatta, Examined by The Revd. Samuel Marsden.—I arrived in the Colony in 1813, sentenced for fourteen years. I am now free by servitude. I was the assigned Servant of Mr. Rouse, late Superintendent of Public Works at Parramatta. I was assigned to Mr. Rouse in March, 1820, and was with him about two and a half years until I got my Ticket of Leave. I resided during that time in my own house at Parramatta. Mr. Rouse had no accommodation for me. I exhibited a Board as a Tailor during that period and whilst I was in Government employ. I remember the time that Mr. Marsden was fined and his Servant

Ring taken from him. I have had a Ticket of Leave two years this month. I did jobs for private individuals during that time and for the Constables, as I was employed very generally.

By the Court. The Work, I did for Mr. Rouse, was for his own Government men and his family. Whilst I was in Government Service, I had the indulgence of working for myself after three o'clock every day and the Saturdays. I had a Sign exhibited at that time, and, when Mr. Rouse took me Off the Stores, I kept my board and asked his permission to live on my own premises. I had not Mr. Rouse's permission to work for other people. I never asked it. I sometimes did jobs for people unknown to Mr. Rouse.

Cross-Examined by Dr. Douglass. When I did jobs for people, the work was brought to me.

Re-Examined by The Revd. S. Marsden. I used to go out and fetch the Materials to the houses of those who employed me.

CHARLES WALKER, of the Red Cross Inn at Parramatta, Examined by The Revd. S. Marsden.—I know Fluere, late petty Constable. He was dismissed on Saturday last by the Bench. He is now on his own hands. He lives in Parramatta. I am sure he is on his own hands, for I see him constantly on horseback, and I am confident that Smith the man, who is reported to be the Master of Fluere, has no horses to break in. I saw him this morning on one of my own horses, not with my permission. He seems to be employed in various avocations about the town.

I remember an Execution being issued against Mr. Marsden's Goods and Chattels. Mr. Marsden was gone up the Country. He called at my house during the day, when he was going up the Country previous to the levy, and said that he expected an execution would be issued against him, and requested, if I heard of such a thing, I would go to his house and act as I thought proper for him, and that whatever I should do he would be satisfied with it. I had no instructions to pay any money, but merely to act as I judged best.

I was accordingly sent for and went up to Mr. Marsden's house when the execution was levied. On arriving there, I found the Constable in the hall. I asked his business there, and he said he had given Mrs. Marsden a paper. I went into the adjoining room and perused the paper. Mrs. Marsden and all the family were quite agitated. I returned to the Constable, and asked him if that was the paper he brought. He said, yes. I took him accordingly into an adjoining room and shewed him various articles of furniture; he at last seized a Piano, which I purchased of him and took a receipt. I gave him fifty dollars and a rupee. The Warrant was for £10 2s. 6d.

(Mr. Walker was here examined in reference to Earl Bathurst's 5th Point, but Mr. Marsden disclaimed any allegation in his letter that the Warrant was executed in an irregular manner; and Mr. Marsden adheres to his original statement respecting this point.)

Charles Walker's Examination Contin'd.—I knew James Ring. He told me that Dr. Douglass wished him to go to the Cow pastures, and he expressed a fear of Offending Dr. Douglass by not going. He asked my advice what he should do. I advised Ring not to go. Ring said he should get into trouble if he did not go; and I told him, he certainly would get into trouble if he did go; and he accordingly did not go.

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10 Aug.

Proceedings of inquiry into charges preferred by Rev. S. Marsden against H. G. Douglass in case of J. Ring.

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By the Court. Ring's words were, I believe, that, if he did not go, Dr. Douglass would be his bitterest enemy. Ring did not say that Dr. Douglass used any threats to him, nor on what grounds he had fears. He simply expressed himself as being afraid that Dr. Douglass would be his bitterest enemy, if he did not go; but did not state the reasons of his being afraid. This circumstance took place some months previous to Ring's being brought before the Magistrates.

I remember when Ring was taken from Mr. Marsden and sent to Gaol on the Saturday. I heard, on the Monday morning, that he was in the Convict Barrack. I saw him, on one day in the middle of that week, go and return with the Gaol gang. He had not the Gaol dress on; it is a particular dress. I did not see him with any irons. The Gaol Gang generally have irons on. I saw him marched with the Gaol Gang. I was standing in my own Verandah. I considered he was much degraded by being in the Gaol Gang.

Cross Examined by Dr. Douglass. I was a servant of Mr. Marsden's for more than three years. I left his Service in 1813. There were a number of other persons walking with the Gaol Gang, and Ring was amongst them. Ring had not on the dress of the Gaol Gang or as far as I believe of the Convict Barrack.

Re-Examined by The Revd. S. Marsden. Ring was always exceedingly well-dressed. There was a general remark made, when Ring was passing, in words to the effect how came such a well-dressed person to be in the Gaol Gang, he is surely not used to it.

THOMAS COKER, Painter and Glazier at Parramatta, Examined by The Revd. Samuel Marsden.—I have held a Ticket of Leave six years. I knew James Ring. He applied to me about a job of work. It is about two years ago. Ring stopped me and asked if I would go to Dr. Douglass's Farm and do a job. I said I would, but that I could not go immediately. Ring said he could not go himself, but had told Dr. Douglass that he would recommend a person to him. About four days after, I met Dr. Douglass on the Parramatta bridge. I spoke to him concerning going up to his Farm, but what passed I cannot call to mind. I promised Dr. Douglass I would go, but I did not go. I could not go, because I had a job on hand.

By the Court. I cannot recollect what passed with Dr. Douglass on the bridge. I addressed Dr. Douglass first. I think I said that James Ring had been speaking to me about going up to his Farm.

Cross-Examined by Dr. Douglass. It was about two years ago. It was in the Summer time, I think, that I had the conversation with Dr. Douglass. I was working at Hunt's at the time, but I cannot recollect the time nor can I recollect when James Ring spoke to me, nor what I said when I addressed Dr. Douglass. I have been here waiting to be examined four days. I have had my expences promised to be paid. No sum has been specified, and I am sure I have not mentioned to any person the particular sum I am to get. I have said nothing about receiving 10s. a day, nor do I expect it. I have been employed in Parramatta these 18 months. I have done a great deal of work for Mr. Walker, Mr. Nash, Mr. Hannibal MacArthur and many others. I cannot recollect the time that I worked for any of these gentlemen. When Ring spoke to me about the job, he did not express any fear of Dr. Douglass for not going. He did not express any fear of Dr. Douglass punishing him, then or afterwards. I was very intimate with Ring. We were both of the same trade. I did not see Ring after he was sent to Gaol. He made no particular request to me to go; he merely said that he could not go himself.

JAMES SMITH, Publican in Parramatta, Examined by The Revd. S. Marsden.—I have been here fifteen years. I came here for life. I received my emancipation about ten years.

Last Saturday afternoon, Fluere, the Constable, who was I heard dismissed, came and asked me to take him Off the Store, and I said I had no objection. He asked me if I would go with him to Mr. Fulton, the Clerk of the Bench. I said, Yes, and went. I applied for Fluere as my Government man. Mr. Fulton said I might have him, and that he would make it regular in the Books. He came to me on Monday morning. He said he had horses of his own, and his affairs would take him a fortnight to settle. He has never done anything for me. He is a Horse-breaker. I have hardly spoken to him since. I told him I had no use for a Government man.

By The Court. I was aware that I had broken the Law, and sent for Fluere ten times to tell him I was liable to be fined.

Cross-Examined by Dr. Douglass. Fluere has my permission to be absent. I gave him leave to go and settle his Affairs.

WILLIAM BEAUMONT, Gaoler at Parramatta, Examined by The Revd. S. Marsden.—I have been 23 years in the Colony, and I have been Gaoler at Parramatta nearly 4½ years. I was fourteen years a Constable before I was a Gaoler.

I knew James Ring. He was in my charge in the month of March, 1822, the first time. He came in the evening and went out in the morning. The second time, he came in the 12th May, 1823, and was taken before the Court on the 17th. He came from the Court to Gaol. I issued one day's rations for that day after he returned from Court. He did not have his rations before he went to Court. His ration was 1 lb. of Bread. He came from Court with all the Prisoners. He was removed the same day from the Gaol to the Convict Barrack. A Constable came for him with a verbal Order. It was either Mr. Thorn himself or the Order was from him. I remember Mr. Marsden coming to me sometime about a fortnight afterwards. I told Mr. Marsden that Ring was not sentenced to the Gaol Gang, but that he was working with the Gaol Gang at the Stores. I did not see him there, but I heard this from John Eggle-sham, Overseer of the Gaol Gang. Dr. Douglass has been at the Gaol, since his return to Parramatta. He first asked me to let him look at the different Warrants of Committal. After he had looked and copied what he thought proper, he told me there was one Warrant missing. I told him not to my knowledge, for I believed all the sentences I received from the Court were there. Dr. Douglass then said that, provided any Document was missing, my place would hang on hinges or be in jeopardy, or words to that effect. Mr. Thorn was there with Dr. Douglass.

Cross Examined by Dr. Douglass. I recollect when Ring came to Gaol in March, 1822.

The Book of the Gaol was here produced and it appears that, March 29th, 1822, James Ring was received:—"James Ring, Servant to Mr. Marsden, found out at late hours at night."

To the best of my belief, Bateman put Ring into Gaol. I cannot state who took him out of Gaol, nor whether he was carried to Court. He must have been liberated by order of the Chief Constable or a Magistrate.

The Court Book was here produced, and no Record found of Ring's being liberated.

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It has latterly been the practice of sending the prisoners to the Gaol for the selection to be made of those who receive the Barrack Sentence; but it was the general practice to retain those at the Court, who received Sentence to the Barracks and send them direct to the Barracks. The practice is not however invariable. In the case of Ring, he came to the Gaol.

Witness here produced the Order for those who were sentenced to the Gaol on the 17th May, 1823, and Ring's name is not amongst them.

See paper marked F in the appendix.

Ring never was in the Gaol Gang in my time. I understood from the person who came to the Gaol for Ring that he had been sent there by mistake; that he had been ordered to the Barracks. It was some Constable, and he took him away.

By the Court. Ring was never sentenced to the Gaol Gang. No person could be worked in the Gaol Gang without my knowledge, if he went from the Gaol. A man named Eggleham is the Overseer. I have nothing to do with the work of the Gaol Gang. Ring might have been sent from the Barrack, and worked with the Gaol Gang without my knowledge.

Mr. Marsden's Letter, dated May 17th, 1823, to His Excellency the Governor was here produced, admitted and read. See paper marked G in the Appendix.

Adjourned until Monday, the 25th July, 1825.

Government House, Parramatta, 25th July, 1825.

At a Continuation of the Investigation into certain charges preferred by The Revd. S. Marsden, Senior Chaplain of the Colony of New South Wales,

against

Henry Grattan Douglass, Esq., M.D., and directed by His Majesty to be enquired into and reported upon by

His Excellency The Governor; The Honorable The Chief Justice; and
The Venerable The Archdeacon.

The Court having assembled and the parties being respectively present, The Revd. Samuel Marsden proceeding in the examination of Witnesses.

RICHARD ROUSE, late Superintendent of Public Works, Parramatta, Examined by the Revd. S. Marsden.—I was nearly twenty years Superintendent of Public Works in Parramatta. Dr. Douglass asked me whether I knew if Ring was a free man or a Government man to Mr. Marsden. It was sometime before Ring was apprehended; it may be a week or ten days. I do not recollect whether Dr. Douglass asked me if Mr. Marsden could be fined. I told Dr. Douglass that I did not think from his appearance that he was a Prisoner. This conversation passed in the Street. A second time Dr. Douglass spoke to me and said that he had information that Ring was Mr. Marsden's Government man; and he asked me my opinion whether he could fine Mr. Marsden for allowing him to work at large, and said he had a great mind to have him brought up. This passed in the Private Room of the Court House, and about three or four days before Ring was brought before the Court. I told Dr. Douglass that I thought I could find twenty people at large upon their own time in the same way. I told Dr. Douglass it had been such a general practice that I thought he had better

recommend it to the Governor to renew the old Order. I do not recollect that Dr. Douglass made any reply. I had an assigned Servant at the same time in my employ, a tailor named Richard Edwards. This man, after he had done the work required by me, had my permission to work for other people. I do not remember the precise way in which he had permission, but I knew that he worked for other people, and I did not object to it. I saw his board up. When Ring was apprehended, I sent for Edwards to desire him to take his sign down. I do not recollect seeing any other sign boards hanging up of assigned Servants. There might have been more, and I not know of it.

Ring was not sentenced to the Gaol Gang by the Magistrates. He was sent to the Prisoner's Barracks by Dr. Douglass. I ordered him to work with other men in company with the Gaol Gang. It was my practice to send men from the Lumber Yard, when I had a few to spare, to work with the Gaol Gang when it was small. It was my habit every Monday morning to select my regular gangs, and make up the deficiency with such spare men as came in by chance on the Saturday before. The Gaol Gang was amongst those under my control. I always picked out the worst characters to work with the Gaol Gang, as I considered it a mark of degradation and a punishment to put men to work with that Gang; and I sometimes selected men from other Gangs and made them work with the Gaol Gang as a punishment without taking them before the Magistrates; and I sometimes put a log upon them.

By the Court. My reason for sending Ring to work with the Gaol Gang was on account of John Field, the Principal Overseer, keeping him without working him in the Gangs; and, as I perceived Field for some cause or another seemed inclined to shelter Ring, I accordingly set him to work with the Gaol Gang as I thought I might be found fault with. He was not in the Gaol Gang, but with the Gaol Gang.

By the Revd. S. Marsden. I was apprehensive that Dr. Douglass would find fault with me. The Gaol Gang was employed at that time in digging and wheeling earth at the new Stores.

By the Court. The difference between working with the Gaol Gang and in the Gaol Gang is that in the Gaol Gang a man is generally upon half rations, wears irons, and sleeps in the Gaol. With the Gaol gang, he is upon full rations, without irons, and sleeps in the Convict Barracks, but in other respects is employed in exactly the same work as a man in the Gaol Gang.

Cross-Examined by Dr. Douglass. The Clothing is also different. The Gaol Gang is obliged to wear Colonial Flannel of two colours. Ring did not wear that dress. The men in the Convict Barracks should have been entirely under my own direction; but Dr. Douglass often interfered, and my principal Overseer, John Field, frequently complained to me of his so doing.

Question by Dr. Douglass. Except the usual Commitment which came from the Court House with Ring, did you receive any further Order from me? *Answer.* After Ring was in the Barracks I met Dr. Douglass in the Streets, and asked him if he had any particular Orders respecting Ring, and he answered None Whatever.

I considered Ring to be a free man from his personal appearance and dress, and I have seen him at work about the town painting and glazing for many people. I have seen Ring's board over his door. From seeing Ring's sign, and seeing him working about, and from his appearance, I considered Ring was a free man.

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I always knew it was a breach of the Government Orders to exhibit a Sign and work about; but I knew it was done in general practice throughout the Colony. John Field applied to me to allow Ring to remain in his Service in the Barracks; and I refused, saying his name was in dispute. By dispute, I meant that Mr. Marsden and Dr. Douglass were disputing about the fine.

Ring was not to my knowledge prohibited from going to Church on the Sabbath day. He never made any complaint of that kind to me. I never heard from Field or any other person that Orders had been received to detain Ring from Church. I do not think any such orders could have been acted upon without my becoming acquainted with it. I sent Ring to Sydney of my own accord without any directions from any one. When I had any Surplus of men, I sent them to Sydney once a month or once in three weeks, just as it might happen. Ring was sent as one of the surplus men. When I had the first conversation with Dr. Douglass, he said that Thorn had told him that Ring was an assigned Servant of Mr. Marsden, and asked me whether it was the fact or not. I believe I said I would enquire.

Re-Examined by The Revd. S. Marsden. When Convicts are received into the Barrack, they are entered regularly. The date and from whom they come.

(The Convict Barrack Book of Increase and Decrease being here produced, it appears that the day, in which James Ring was received, was entered, but there is no entry from whence received; witness was asked how he explained this.)

I cannot explain this, but I suspect no regular Order came from the Court with Ring. There is also an entry on that day of one, Thomas Debitot, being received in Barracks, but the day is not entered.

(The Order for Ring's Admittance being produced to Witness, he says it is in the usual form but that he never saw it.)

If I had seen the Order by which Ring was sent to the Barracks, I should not have forwarded him to the Sydney Barracks; and if I had seen it, I should not have detained Ring from Church. My reason for sending Ring to Sydney was because I saw there was a dispute about him between Mr. Marsden and Dr. Douglass.

By the Court. It made no difference in the condition of the prisoner whether he remained in the Barrack at Parramatta or was sent to Sydney. Sometimes they wished to go and sometimes applied to remain. I do not recollect having exchanged one word with Ring.

Re-Cross-Examined by Dr. Douglass. Field always appeared prejudiced against Dr. Douglass. I found this impression from his speaking disrespectfully of Dr. Douglass several times. Field complained of Dr. Douglass coming to the Barracks, and said he came there to annoy him; and wanted to know if I could not support him and prevent Dr. Douglass coming. Dr. Douglass frequently went to the Barracks in consequence of complaints being made of Mr. Field on account of the rations, and Dr. Douglass frequently visited the Barracks at night to muster the prisoners, of which also Mr. Field complained, and said that he was in liquor; and from these circumstances I found my opinion that Field was prejudiced against Dr. Douglass.

D'ARCY WENTWORTH, Esquire, Examined by the Revd. Samuel Marsden.—I was Police Magistrate of Sydney about 14 years. I do not recollect ever to have fined any person for allowing his

Servant to do jobs for other people, such Servant being victualled and clothed by his Master. I know of many persons, who have allowed their Servants to work for their own benefit after the Government hours. I think there was an order against it in the latter part of Governor Macquarie's administration or the beginning of Sir Thos. Brisbane's. I do not know which; but there is an order against it I know. I do not recollect that this Order was ever acted upon by me. I have no doubt that the Magistrates in Sydney were guided in their decisions by the Almanacks of 1814 as to what laws were in force.

Cross-Examined by Dr. Douglass. As far as my recollection goes, the Magistrates were guided by the Almanack of 1814. I am certain that I never fined any person 2s. 6d. a day, but it was usual to fine a Sum of £10 or some particular amount. Whenever I fined the Master for allowing his Servant to be at large contrary to what I considered the Law, I fined £10 or a round sum, but not the 2s. 6d. a day. The Magistrates frequently observed that they had the power of imposing the 2s. 6d. a day also, but they did not judge it requisite.

The Book of Records for Sydney was here produced and proved by the Witness, 24 Sept., 1823; from which it appears in the Case of The King vs. Tawell the defendant was fined 2s. 6d. a day for 28 days; and it also appears that Mr. Wentworth dissented from this Judgment. See Paper marked H in the Appendix.

I have known of some cases in Sydney where Masters have been fined for allowing their Government Servants to be at large. There were also some cases at Prospect, but these were Women Servants and it happened 10 or 12 years ago.

Re-Examined by The Revd. S. Marsden. Cases have come before me, as Police Magistrate at Sydney, and it having been proved that the Government Servants, charged with being at large, were clothed and fed by their Masters and did the work required of them, I have never fined the Masters.

Re-Cross-Examined by Dr. Douglass. If a case came before me as Magistrate, where the Servant was fed and clothed by his Master and did his work but did not lodge in his house, I should not have fined him.

The Court was then adjourned to the 26th Inst.

Government House, Parramatta, 26th July, 1825.

At a Continuation of the Investigation into Certain Charges preferred by The Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales,

against

Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be enquired into and reported upon by

His Excellency the Governor; The Honorable The Chief Justice; and The Venerable The Archdeacon.

The Court having Assembled and the parties respectively being present, The Revd. Samuel Marsden proceeded in the examination of Witnesses.

DR. MACLEOD, Examined by the Revd. S. Marsden.—I was present on the 12th May at the Police Office, when James Ring preferred a complaint against Mr. Marsden's Gardener, Graham. I cannot recollect what time the Order was given to send Ring to Gaol.

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whether before or after he left the Court. I think I remember meeting Mr. Marsden at the crossing of the Street some days afterwards. There was some conversation passed between us and about Ring. What it was I cannot at this distance of time recall to my remembrance. I recollect using this expression, "I do not know that Ring will be long in Gaol." This was in the course of conversation in answer to Mr. Marsden. I do not remember Mr. Marsden requesting me to ask Dr. Douglass to release Ring. I was not present at the Court House on the 17th May, at the time Mr. Marsden appeared respecting Ring. The proceedings in the case were submitted to me the same day soon afterwards, when I took my seat on the Bench, after Mr. Marsden had quitted the Court. The proceedings expressed that there had been a breach of the public Orders in the case of Ring. I heard nothing of Mr. Marsden's defence except so far as it was taken down. I was not present at Mr. Marsden's conviction, if it took place on the 17th. I did not sign the proceedings against Mr. Marsden on that day. I never signed any of the proceedings. I signed a letter to the Colonial Secretary enclosing a Copy of the Proceedings of the 17th.

A Copy of the Letter was here produced and read, and the Proceedings enclosed therein, for which see Paper marked I in the Appendix.

The whole of the Proceedings now read to me were submitted to me, when I signed the Letter. The penalty was for 2s. 6d. a day, as there stated; but my impression was and is now that the whole was transmitted for His Excellency's decision, and no decision was come to by the Magistrates. Dr. Douglass stated to me that Thorn had given him information respecting Ring. It was given as stated to me previous to Ring's being brought before the Court. We generally proceeded upon the Almanacks, but there was none belonging to the Court; and we were obliged to borrow them where they could most easily be had. Sometimes we had the Almanack of 1813, sometimes of 1814, and sometimes of both.

Cross Examined by Dr. Douglass. When we retired to deliberate respecting Ring on the 12th, I believe I said I did not see the necessity of sending him to Gaol; upon which Dr. Douglass said it would become the subject of remark, if we did not treat Mr. Marsden's Servant like any other person's. A letter was sent in my name to the Magistrates of the Parramatta Bench desiring their attendance on the following Saturday to hear that case and others. I never was otherwise than on friendly terms with Mr. Marsden and his family. I was present on the Bench on the 31st May, when Mr. Marsden gave in his protest against the proceedings of the 17th. On that occasion, Mr. Marsden and Dr. Douglass both spoke with warmth; but there were no words used by either party which struck me as unbecoming or improper. I certainly do not recollect Dr. Douglass preventing Mr. Marsden speaking. Each of the gentlemen spoke for some time. There were not two Convictions that I know of. I saw the proceedings of the 17th. My motive for Signing the letter was that the matter might be submitted to His Excellency and be decided by him, so that nothing further unpleasant might occur in the transaction; and I believe this was also the wish of the other Magistrates who signed the letter. I thought Mr. Marsden had broken the law; but I wished to submit the Case to the Governor, in order that the fine might be remitted. It was my wish that Ring should have been sent back to Mr. Marsden, if that gentleman had not opposed the fine.

Re-Examined by The Revd. S. Marsden. I stated my opinion that it would be better that the matter should be put an end to; but I thought there was a breach of the Government Orders and, after the dispute was raised and the question became public, I was of opinion that there was no other course left but to proceed.

I saw the letter from the Colonial Secretary to the Bench dated 21st May.

This Letter was here produced and read. See Paper marked K in the appendix.

A Letter, dated 28th May, 1823, and signed by Dr. Douglass and Mr. Lawson and sent to Mr. Marsden was here produced and read. See Paper Marked L in the Appendix.

I was no party to this letter. I was not in Court when it was signed. The object I had in view in writing the letter to the Colonial Secretary having failed, as I perceived by his answer, I took no further part in the Proceedings.

I was present on the 31st when Mr. Marsden presented his Protest.

The Protest, dated May 30th, 1823, was here produced and read. See Paper marked M in the Appendix.

I recollect Dr. Douglass stating that he was surprized at Mr. Marsden's resisting the Orders of the Court, but I cannot remember the expressions used. I have a general impression of what passed, but I cannot call to mind the particulars. I do not recollect any thing being said of the fine of £10.

Re-Cross Examined by Dr. Douglass. In consequence of Mr. Marsden's Protest the case was referred to the Crown Solicitor.

By the Court. Upon the 31st, when Dr. Douglass had given his decision respecting Mr. Marsden's Protest, I took no notice of any noise expressive of public feeling more than common.

JOHN HARRIS, Esquire, Examined by the Revd. Samuel Marsden.— I have been a Magistrate upwards of thirty years.

Query. Have you in your capacity as a Magistrate ever fined any person for allowing a Government Servant to do jobs for his own benefit, that Servant being maintained and employed by his Master?

Answer. Not to my recollection. I believe that there is a Government Order prohibiting Servants from being employed in doing jobs, but it does not extend to cases where the Servants are fed and clothed by their Master and do the work which he requires. I have allowed my Servants to do jobs for others. I do not know whether it has been a common custom. I received no benefit from their labour and am not aware that they received any remuneration for their work. My blacksmith has done jobs for Mr. Marsden. When Governor Macquarie assigned him to me, he said he did so that it might be a public benefit to the neighbourhood. My smith lived at his own residence. I lent my assigned Servant, who was a Painter and Glazier, to Mr. Lawson, and also another who was a Plasterer. I have acted as a Magistrate in Sydney as well as in Parramatta for years. I have seen Boards exhibited by persons in various trades, but not assigned Servants to my knowledge. I do not recollect any person being brought before me on a charge of this kind. I never heard of any occurrence happening before me, Sitting as a Magistrate, of a person being brought up for allowing his assigned Servants to do jobs for others, and having a board over his house, such servant being victualled and clothed by his Master.

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By the Court. The cause of the Government Order, that I mentioned, was on account of the Settlers of the Hawkesbury being distressed in getting in their harvest. This was in the Year 1802 or 3. I was director of the Public Works at Sydney, and the Governor ordered me to break off as many Gangs as could be spared and send them up to the Hawkesbury. The Settlers, after they had got their harvest in, allowed these men to go on their own hands. To prevent this the Order was published, imposing the penalty of £10, and 2s. 6d. a day upon those who employed them.

These men went away anywhere they pleased and without any control over them. They did not go to work and return to their Master, nor were they fed nor clothed by him. After reaping was finished, they worked with any person who would employ them. I have never known a gentleman refuse to lend a Mechanic to another when he had no use for him. If such a thing were to occur I should think it very hard.

By Mr. Marsden. I considered the Order general for the whole Colony.

By the Court. I never thought that the Order applied to Cases where the Servant was lent by way of accommodation.

Cross-Examined by Dr. Douglass. Query. Suppose you, having a house in Parramatta, receive a Convict Servant under Assignment by trade a Painter and Glazier, would you feel yourself justified under the Government Orders in allowing him to lodge where he pleased in the Town, expose a Board over his door setting forth his trade and occupation, and permitting him to work for his own benefit and emolument for any person who required his Services, you at the same time victualling and clothing him? *Answer.* Most certainly not. When I have lent a Servant, it has always been to a particular person, not to any one who would employ him.

I am not aware that the Order of January, 1802, is repealed. It may be so, but I do not know of it. I should act under that Order.

The Almanacks of 1813 and 1814 were both used at Parramatta. I should have thought that of 1814 best as being the latest; but I should not have considered the omission of an Order in the Almanack of 1814, which had been included in that of 1813, as conclusive evidence of its having been repealed by the Governor.

The Letters of the 17th, the 22nd, and the 24th May from The Revd. S. Marsden to His Excellency The Governor were here produced and read. See Papers marked G, N, O in the Appendix.

HIS EXCELLENCY THE GOVERNOR States :

Mr. Marsden certainly called upon me respecting James Ring, and, from his Statement, the Case seemed to me to be very hard as respects Ring. On the same day I believe it was that Dr. Douglass called upon me, and, having made his Statement that the case was before a legal tribunal, I felt delicate about interfering in the matter. Mr. Marsden applied afterwards for a full Bench of Magistrates to take the case into consideration, and I was very willing that such should be the arrangement. I parted with Mr. Marsden under the full impression that a full Bench of Magistrates should be assembled. Dr. Douglass, I understand, did not accede to this; and I left the decision of the case to the ordinary legal Tribunals.

To a Question by Dr. Douglass. I ordered the expences of the Action,* brought by Mr. Marsden against Dr. Douglass and Mr. Lawson, to be paid out of the Public Funds.

Mr. Marsden waited upon me with a Letter to Mr. Peel which he read; and it was for the purpose of saving the life of Ring, Should he find his way to England. There was some particular circumstance which required dispatch in sending the Letter. I believe a Ship was about to sail at the time for England, and I was induced to sanction the letter so far as it had for its object to save the life of James Ring. I did not consider myself as confirming any charges made in the letter.

To a Question by Dr. Douglass. If I had been fully aware that there were any charges against Dr. Douglass in the letter. I should not certainly have sanctioned it without calling upon Dr. Douglass to defend himself.

JAMES MARTIN, Examined by The Revd. S. Marsden.—I have been between 28 and 29 years in the Colony. I came as a Soldier in the 102nd. I was seven years Body Guard of Governor King.

I knew James Ring and I also knew James Loader. Mrs. Loader puts up at my house, when she comes to Parramatta. Mrs. Loader stated to me that Ring was her intended Son-in-law, and she wished to see him, and I went for him.

I remember when Ring was taken from Mr. Marsden. Whilst in the Barracks he was twice at my house.

The first time that he came, he sat down upon the sofa and burst into tears. He said he was in despair, that it was all over with him now. That he should never get any mitigation of his time, and that he should not be able to marry Miss Loader. He said that he had burnt the Bills that he had to the Amount of £17 for fear that they would be brought against Mr. Marsden for allowing him to work for himself. At this time he never said a word to me about leaving the Colony. I do not think he harboured a thought then of quitting the Country. His whole dependence was upon Mr. Marsden doing something for him, and his intention was to get a house in Parramatta.

The Bills were for work done for various persons.

On the Monday morning when he was going away, the Constable, who had him in charge, came with him to my house. He wished us Good Bye, and said, Now it was all done with him. I bid him keep up his Spirits and not throw himself away; that Mr. Marsden would never forsake him; but he persisted that it was all over with him; that he never should get any mitigation of his Sentence.

JOSEPH KENYON, Parish Clerk at Parramatta, Examined by The Revd. Samuel Marsden.—Ring called upon me twice, within a fortnight or three weeks before he went to Sydney. The first time he seemed to be very much distressed. He cried severely, and he said he thought that his last hopes were for ever blighted. I remonstrated and asked him what he meant. He said he thought he should be the object of revenge, as a great coolness had taken place between Mr. Marsden and Dr. Douglass. I remonstrated strongly with him, but what I could say had no effect. He continued to sob and cry very bitterly.

I saw him again about a day or two before he went down to Sydney. He still seemed distressed and cried very much. He said, he should never be able to get his liberty and that he was a very unfortunate man; that the more he Strove, the worse he was behind.

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* Note 207.

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He said that now I must be convinced he never could go again to Windsor to see the Girl Loader. When he wished me Good-Night, he said he thought he should not see me again, and told me to take care of his Furniture and Property that I had in my house. He had purchased several Articles, Bed, Crockery, etc., in Order to be ready for his marriage.

Afterwards he came up from Sydney. He said he was an uncomfortable wretch, and cried very much as usual.

I believe he once said something respecting his leaving the Colony after he was in Barrack at Parramatta. He spoke slightly upon the subject that he had no more hopes left in the Colony. I think he said that he might stow away.

I did not see Ring in Church but he might have been there.

Cross-Examined by Dr. Douglass. Ring never told me that Dr. Douglass had made use of any threatening language towards him.

I believe Ring mentioned his intention of stowing away both before and after he went to Sydney.

I do not know how he quitted the Colony. Ring paid me for his lodgings himself. He agreed with me himself, and paid me. Mrs. Marsden was the first who spoke to me about receiving Ring. I think he paid for his lodgings out of the money which he earned. Ring never complained of his being kept from Church.

Close of Evidence in support of Complaint.

It is stated by Mr. Marsden that he does not mean to say that James Ring was prevented from coming to Church by Dr. Douglass, or his Order, but that in fact he did not come; and as he has understood, it was because he was appointed a *Delegate* to look after the *provisions and the Cooking* at the Barrack, to see that all was fair.

Dr. Douglass said he knew nothing of this, but would take it as it was stated.

Hereupon, The Revd. Samuel Marsden closed the evidence, he meant to adduce, on its being intimated by the Court that if it should appear to the Court that any point was left doubtful or unsustained, which, in the Opinion of the Court, might be cleared up or supported by other evidence, they would fairly state it, and leave Mr. Marsden at liberty to call other evidence accordingly.

Dr. Douglass then intimated that he should be prepared to enter upon his Defence the following Day, whereupon the Court was pleased to adjourn until the 27th instant.

Government House, Parramatta, 27th July, 1825.

At a Continuation of the Investigation into certain Charges, preferred by The Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales,

against

Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be inquired into and reported upon by

His Excellency The Governor; The Honorable The Chief Justice; and
The Venerable The Archdeacon.

The Court having assembled and the parties being respectively present, Dr. Douglass commenced his Defence.

MAJOR OVENS, Chief Engineer of New South Wales, Examined by Dr. Douglass.—The Men in Government employ and in the Government Gangs are under my direction. Those in Sydney are under my

immediate Superintendence. The Magistrates have no Authority or Control over the Convicts in Government employ or in Barracks, unless brought before them. I did not know particularly the Convict, James Ring. I never heard whilst he was in Sydney that he was either punished or persecuted. I do not know how Ring was employed in Sydney. I think I was absent from Sydney during part of the time, about a month, that Ring was there. If Ring had been punished whilst in Sydney, I think I should have known it. I recollect seeing Ring's name advertized in the papers as a Runaway.

By the Court. I never gave any Orders that Ring should be detained from Church. I never heard any complaint against Dr. Douglass for interfering with Ring whilst in Barracks, either at Sydney or Parramatta.

ROBERT ARMSTRONG, late a Serjeant in the 48th Regiment, now an Householder in Parramatta, Examined by Dr. Douglass.—I have seen James Ring. He rented a house of me in George Street, Parramatta. He lived in it about 7 or 8 weeks. In payment for the house, he gave me an Order on Mr. Wall, a tanner in Parramatta. I believe he had worked for Mr. Wall. He left me to go to Mrs. Barrow's.

Cross-Examined by the Revd. S. Marsden. Whilst in my house Ring's conduct was I believe good. I never heard any thing against him.

WILLIAM LAWSON, Esquire, examined by Dr. Douglass.—I am a Magistrate of the Territory. I have been in the Commission about Seven Years. I received a letter from Dr. Macleod to attend the Bench of Magistrates on the 17th May. Ring and Mr. Marsden were in Court when I arrived. I recollect Mr. Marsden confessing that he allowed Ring, at such times as he did not want him, to employ himself in the town for his own benefit. Upon that confession, Dr. Douglass requested me to retire into the Private Room to consult upon the Case. Dr. Douglass said to me, "Mr. Lawson, you are an old Magistrate, and I request you to give me candidly your opinion whether there is a breach of the Government Orders." I gave my opinion accordingly that it was a breach of the Government Orders to allow a Government man to work for his own benefit. Dr. Douglass observed that we had better send the proceedings to the Governor, and they were accordingly sent and I hoped the matter would then terminate. It was our intention that Ring should be returned, and Mr. Marsden should not be fined if he had not opposed the Government Orders. Mr. Marsden signed his confession, which was afterwards sent to the Governor. I recollect Dr. Douglass replying to Mr. Marsden that there was no other place to send Ring to but to Gaol. I did not know what was coming on that day; if I had, I probably should not have gone to Court at all. The note desiring my attendance at the Court did not specify the particular case of Ring.

(A Copy of the letter was here produced and read. See Paper marked P in the Appendix.)

I did not hear Dr. Douglass say upon the 17th that Ring should go back to Gaol. Dr. Douglass asked me what should be done with Ring, and I said under all circumstances he had better be sent to Barracks for the present. Immediately after the Court broke up, a letter enclosing the proceedings was sent to the Governor respecting the Case.

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I did not observe that Dr. Douglass treated Mr. Marsden with any disrespect. I heard no improper language made use of by Dr. Douglass. I do not think there was any thing irritating in his manner. I think I heard something said by Mr. Marsden about Ring; to which Dr. Douglass replied, he would not allow charges to be brought against him while he sat on the Bench. I did not observe any murmur of disapprobation of the proceedings of the Court on the 17th. If there had been such, I must have remarked it. It was a simple matter in which I gave my opinion conscientiously, without meaning to offend any body. Under our view of the case, it was our opinion that Mr. Marsden should be fined 2s. 6d. for every day that Ring had been lodging about the town. I consider that, if it had been a poor man instead of Mr. Marsden who came before us, that we should have levied the fine without any reference whatever to the Governor.

A Circular Letter was here produced and read, dated April 20th, 1820, from J. T. Campbell, Esqr., the Secretary at that time. See Paper marked Q in the Appendix.

I received a copy of the letter just read.

(A Copy of a Letter, dated 28th May, 1823, from Dr. Douglass and Mr. Lawson to Mr. Marsden enclosing a Letter from Major Goulburn to the Bench, dated 21st May, was then read. See Paper marked L in the Appendix.)

Upon the receipt of Major Goulburn's Letter, we consulted together and agreed to fine Mr. Marsden £10 and 2s. 6d. for one day, and not 2s. 6d. for every day Ring had been in Mr. Marsden's Service.

(An Almanack of 1813 was here produced, whereupon the Witness says that the Order printed therein, dated 12th January, 1802, was that upon which Mr. Marsden was fined. See Paper marked R in the Appendix.)

Dr. Douglass stated to me, after Mr. Marsden had protested against the fine, that he had requested two persons, The Revd. Mr. Williams and the Revd. Mr. Cartwright, to call upon Mr. Marsden for the purpose of promoting an accommodation of the matter. I was anxious myself that the business should be settled. I expressed my regret to Dr. Douglass that there was no alternative left, and that we must proceed and let the law have its course. He stated to me that Mr. Marsden wished the matter to be brought before a full Bench of Magistrates, to which I would not consent, for I thought that two Magistrates were fully competent to decide upon such a case. We determined to refer the whole matter to the Crown Solicitor, and act according to his opinion. I recollect observing to Dr. Douglass that Mr. Marsden would have fined me, were I circumstanced as he was. I have heard of many cases of persons fined under the same Order. Mr. Marsden and myself have always been on friendly terms. I never had any reason to be otherwise.

Cross-Examined by the Revd. S. Marsden. When I came into Court, Mr. Marsden was sitting on a Chair at the Rear of Dr. Douglass and the Bench, the usual place for gentlemen coming into Court.

I think the case of Ring was called on when I entered. Mr. Marsden got up when he addressed the Bench and stood in an oblique direction from the Bench, not in the usual place where witnesses stand in giving evidence. Ring stood in front of the Bench, the usual place for prisoners. Mr. Marsden was charged

with permitting Ring to work upon his own hands. We fined Mr. Marsden upon his own confession. I do not recollect Mr. Marsden requesting the Bench to shew him the informer against him. I do not think that there was any evidence brought against Mr. Marsden. I believe Mr. Marsden was called upon to explain why he allowed Ring to work at large. He made an explanation. I do not remember Dr. Douglass cautioning Mr. Marsden not to commit himself. I think I might have said to Mr. Marsden, when he persisted in saying he had broken no Law, "I say you have Mr. Marsden." I thought so then, and I think so now.

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I employed a man once, who was an assigned Servant of and had a monthly pass from Dr. Harris. He was victualled and lodged by me and paid for his labour. I thought Dr. Harris was wrong in allowing his men this liberty. My men complained of my giving them no encouragement, and applied for such passes as Dr. Harris gave his men. I refused doing so, for I knew it was contrary to the Orders. These things were not general; if they had been, they would have produced a great deal of confusion. I consider that a Master's allowing his Servant to work for his own benefit amounts to a Ticket of Leave, and that no person but the Governor has a right to grant this indulgence. I think that a Servant, allowed to work out and for whom he liked, was to put him out of his Master's control. If Mr. Marsden could do this, any body else might do it; and then what would become of the Country.

I cannot recollect any Case coming within my personal knowledge of a person fined under Similar circumstances to Mr. Marsden.

Mr. Marsden was convicted in a penalty of £10 and 2s. 6d. for one day, agreeable to the Government Order. There was no particular day mentioned or proved that I recollect. Mr. Marsden admitted that he had allowed Ring to work for his own benefit, when he had no occasion for his Services; it was upon this confession that we fined Mr. Marsden.

I do not remember that £10 was mentioned in Court to Mr. Marsden.

We considered it optional with ourselves to fine Mr. Marsden 2s. 6d. for every day he had been improperly at work on his own hands whilst in Mr. Marsden's Service, or the Sum of £10.

I think that if Mr. Marsden allowed his assigned Servant to work off his own property, but received the earnings of his work himself, still he would be liable to be fined. I think the Government Orders would be violated if Mr. Marsden allowed his Servant to receive the profit of his labours himself.

Re-Examined by Dr. Douglass. Mr. Marsden did not stand by the side of his Convict Ring.

By the Court. Dr. Douglass stated to me, that he had rather pay the fine out of his own pocket than put an execution into Mr. Marsden's house. From what I saw or heard from the demeanour and behaviour of Dr. Douglass, I did not observe nor had any reason for thinking that there was any bad feeling of Dr. Douglass towards Mr. Marsden. There were, between the 17th and the day of levying the execution, some conversations between myself and Dr. Douglass, and he seemed equally anxious with myself that the matter should be accommodated. It appeared to me that Dr. Douglass was sincere. I think he was.

I think we came to the decision of imposing the fine of £10 upon the receipt of the Colonial Secretary's Letter. I considered under the Order that we had the power of mitigating the penalty of

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2s. 6d. a day. I have heard of a fine being imposed as low as £2, and I have heard of £30. I remember the case of Mrs. Driver in Sydney, whom I heard had had a fine imposed of 2s. 6d. a day which amounted to a large sum. I think £30. Whether it was paid or not, I cannot tell. I sat with Mr. H. MacArthur when we fined a person named Sutter of Baulkham Hills the Sum of £5 for allowing his female Servant to work at large.

Re-Cross Examined by Revd. S. Marsden. I think I signed the Execution with Dr. Douglass against Mr. Marsden. I remember Mr. Marsden applied to the Bench for his Servant Ring to be returned to him. I think this was by letter after the Court, not in open Court.

(A Letter from Mr. Marsden to the Bench, dated 3rd June, 1823, and another in reply, dated June 5th, were then produced and read. See Papers marked S and T in the Appendix.)

HIS EXCELLENCY THE GOVERNOR was called upon by Dr. Douglass and Says:

When Mr. Marsden shewed me a letter which he had written to Mr. Secretary Peel to save Ring's life, he did not say that he had seen him in New Zealand.

JOHN COWELL, Rope-maker of Sydney, Examined by Dr. Douglass.—It is nearly five years since I came to the Colony. I came in the Service of the Church Missionary Society. I recollect a Convict of the name of James Ring landing in New Zealand from the Brig Calder. It was reported currently that he was a Government assigned Servant of Mr. Marsden in New South Wales. It was currently known by the Natives at Rangahor in the Bay of Islands. Mr. Marsden arrived a few days after in the Brampton. He was there at the same time with Ring. I saw Ring land. I never heard that Ring had been driven to make his escape by ill treatment from Dr. Douglass or from any other person. I never heard it was persecution or the fear of punishment, but merely to escape from being a prisoner of the Crown. Wycotto knew all about Ring. Mr. Marsden has influence over the natives of New Zealand. I think he might have had Ring apprehended. I think I could myself by means of a Couple of axes or blankets. I never heard that any of the natives had been sent after Ring. One or two days before the sailing of the Brampton, Some of the natives came on board and, addressing themselves to Mr. Marsden, Mr. Kendall, and Captain Moore, said they could not find some one whose name I do not recollect. Captain Moore said, if he had known it sooner, he could have taken him. I never had any conversation with Fairburn respecting Ring. I left the Bay of Islands, November, 1823. Some short time before, Ring left the Bay of Islands in an American Whaler, called, I think, the Peruvian, bound to America.

Cross Examined by Mr. Marsden. I do not recollect that Mr. Marsden sent two Chiefs to apprehend Ring and all the men who had escaped. I have frequently seen Ring. I saw him on the top of a high hill, where he remained whilst the others with him would come down to me for food.

Adjourned until the 28th July.

Government House, Parramatta, 28th July, 1825.

At a Continuation of the Investigation into certain Charges preferred by the Revd. Samuel Marsden, Senior Chaplain of the Colony of New South Wales

against

Henry Grattan Douglass, Esquire, M.D., and directed by His Majesty to be enquired into and reported upon by

His Excellency the Governor; The Honorable the Chief Justice; and The Venerable The Archdeacon.

The Court having assembled and the parties being respectively present, Dr. Douglass proceeded in the examination of Witnesses on his defence.

WILLIAM HENRY MOORE, Esqr., Crown Solicitor, Examined by Dr. Douglass.—I was applied to by the Magistrates at Parramatta, about the end of May, 1823, for my legal advice and opinion touching a matter between the Revd. Mr. Marsden and Dr. Douglass. I was applied to by Dr. Douglass on behalf of himself and Mr. Lawson. I considered the application Official.

The case was that the Bench had convicted Mr. Marsden in a fine for allowing his Servant to work at large, and my opinion was required respecting the mode of levying the fine.

I had several conferences with Dr. Douglass, and I never supposed, at the time from what passed between us, that Dr. Douglass was actuated by any bad feeling towards Mr. Marsden. I had given a written opinion upon the subject, and it was my conclusion, from the written protest of Mr. Marsden and the conversations I had with Dr. Douglass, that Mr. Marsden had rather defied the Magistrates. Dr. Douglass seemed to consider that Mr. Marsden was defying the decision of the Magistrates, and for that reason he was desirous of carrying that decision into effect. Dr. Douglass stated that, if the decision was right and proper, he would go on; if not, he would stop. I recommended Dr. Douglass to get some friend to intercede with Mr. Marsden to induce him to pay the fine, and he stated that he had. Dr. Douglass said that he had rather pay the fine himself than issue an execution against Mr. Marsden. I had no reason to doubt that Dr. Douglass was sincere.

(A Letter was here proved and read, dated 3rd June, 1823, from the Witness to Dr. Douglass. See Paper marked U in Appendix.)

After this I drew up the Conviction, and the Warrant of Distress, and the whole matter was placed in my hands. I recollect Dr. Douglass observing to me, when the conviction was presented for his Signature, that the Conviction was not upon Thorn's written Information, but Mr. Marsden's confession; and that no deposition had been taken from Thorn, and Dr. Douglass made some objection to signing it as Thorn's name was mentioned. I stated that this was a point of no consequence. The Warrant to levy the Fine was drawn up under the Order, dated the 21st November, 1818. I never understood from Dr. Douglass and indeed I never conceived that there were two Convictions. I did not conceive that there had been any Conviction in the proceedings of the Court. I merely considered them as Minutes from which the Conviction was to be made out.

Cross-Examined by Mr. Marsden. The Papers, that were sent to me, were the Confession of Mr. Marsden, the Almanack which contained the Order under which the fine was imposed, the letter to

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Mr. Marsden demanding payment of the fine, and other letters. From these Documents, I came to the Opinion which I wrote, and from them I drew up the Warrant of Distress, as I understood that the thing had gone so far, and that there were no other means left of procuring payment of the fine.

If it had appeared before the Magistrates that Ring had been victualled and clothed by Mr. Marsden, and had been every day at his house under his control, I should not have given so decided an opinion as I did.

I grounded the Conviction upon Mr. Marsden's Confession. That Confession appears upon the Conviction.

By the Court. In the trial before the Supreme Court, the plea was justification as Magistrates; there were no objections taken to the formality of the Records and Conviction. I considered the decision was founded upon the applicability of the Order to Mr. Marsden's Case.

The Conviction and the Warrant of Distress were here proved and read. See Papers marked W, X in Appendix.

Dr. Douglass then intimated to the Court that he should not call any further Evidence in support of his Case.

The Court adjourned until the 29th.

Government House, Sydney, 3rd August, 1825.

Upon this day, the following Examinations of William Henry Moore, Esquire, and John Field were taken by consent before the Court, and directed to form part of the Proceedings respecting the charge preferred by the Revd. Samuel Marsden against H. G. Douglass, Esqre.

WM. HENRY MOORE, Esqre.

The damages were laid at £250 in the Supreme Court by Mr. Marsden in his declaration.

The Judge recommended the Members of the Court to give the damages of the fine levied, on the ground that the Government Order on which Mr. Marsden had been fined was not then in force, and he told the Court there was no Malice proved.

By the Constitution of the Court, if the Judge had differed with the Members, he might have made a Minute or protest against their decision, which he did not do; and this protest would have enabled the parties to have appealed, even tho' the amount was under £300.

JOHN FIELD.

I was born in Parramatta and I was Serjeant in the 73rd Regiment of Foot. I was appointed Superintendent of Convict Barracks at Parramatta in 1822.

Examined by Mr. Marsden.—I was Superintendent there nearly two years. I knew James Ring and I recollect when he was in the Barrack. I also recollect Mr. Marsden asking me why Ring was not allowed to come to Church. In consequence of a written Order, which was sent with Ring to the Barracks signed by the Magistrate, Dr. Douglass, which expressed that Ring was not to be assigned to any person or suffered to leave the Barracks during his Excellency's pleasure, I communicated with Mr. Rouse, the Principal Superintendent, who told me from the Spirit of the Order Ring was to be confined in the Barracks.

By the Court. Q. Did Mr. Rouse tell you that in consequence of this Order Ring ought not to be allowed to attend Church? A. I wanted to send him to Church, but Mr. Rouse said he was to be kept a prisoner on Sundays and every day of the week.

Q. Was Ring employed in the Barracks on Sunday? A. I employed him as a Delegate to look after the Serving out of the Men's provisions.

By Mr. Marsden. Q. Was Ring working in or with the Gaol Gang till he was sent to the Sydney Barracks? A. He was working at the same work with the Gaol Gang, but he was not ironed, nor on a reduced ration.

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APPENDIX.

(A) *Trial of James Ring for stealing.*

Court House, Windsor, 24th November, 1821.

Before J. Mileham; J. Brabyn; A. Bell; Esquires, J.P.

THE KING } CHARGED by Mr. Fitzgerald with privately Stealing,
v. } from his Dwelling House at Windsor, £30 in Dollars,
JAMES RING } 1 Five Pound note, 1 Silver Watch, several Shirts,
1 horse Whip, and sundry pairs of black Cloth Gaiters.

THOMAS WALSH, Town Constable of Windsor, deposes that a Prisoner of the name of Butler, who has been recently sent to Newcastle, informed this Deponent, when taking him to Parramatta, that there was a bundle planted in a brush in Riekerby's Paddock. That, on Deponent's return, he went to the spot the 17th Instant, and, according to the information he received, he found a bundle, which on opening proved to contain 6½ pairs of black cloth Gaiters; that he accordingly reported the circum. to Mr. Howe, the Chief Constable. That Deponent shewed the same to Mrs. Fitzgerald, who immediately brought another pair, which corresponded with them found by Deponent.

Mrs. Fitzgerald also informed Deponent that she had also lost some shirts and shewed him the kind she had lost, and that she suspected the Prisoner to have taken them, as he had recourse to the room where they were deposited. Deponent then, accompanied by Charles Smith, another Town Constable, went and searched the place where the Prisoner resided. The Prisoner, on Deponent's entering, seemed anxious to get on the left, but was prevented by Deponent. That Deponent, with a light, searched the prisoner's box, wherein he found one shirt, which was recognised by Mrs. Fitzgerald as her property. Deponent also found two other shirts in the possession of John Smith, who stated that they had been left by the Prisoner for his Wife to alter; these deponent also shewed to Mrs. F—d, who identified them. That in the Till of the Prisoner's box was also 40 or 50 dollars, many of which were whole.

ANN SMITH (free), residing at Windsor, deposes, that, about last Wednesday Week, the Prisoner brought one shirt to her to be altered which she did and sent it home to him. That, about 8 or 9 days ago, he brought two other shirts to be altered and were the same taken away by Walsh, the Constable.

MR. FITZGERALD deposes, that the Whip produced he found over the Prisoner's box in the premises where he resided, which Whip is his property, and was deposited in the room where the Shirts were deposited and stolen from.

Sentenced. 100 Lashes and to Port Macquarie for the remainder of his original Sentence.

Wm. Cox, J.P.

N.B. James Ring, Ship Mariner, arrived at Windsor, 22nd October, 1816; remained there until the 11th January, 1822, when he was transferred to Mr. Marsden.

Exhibits
at inquiry.
Proceedings
at trial of
J. Ring for
stealing.

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(B) *Extract from the records of the Parramatta Bench, Saturday, 27th July, 1822.*—p. 110-111.

Sitting Magistrates:—Henry Grattan Douglass, John Palmer, John Blaxland, Esquires, and The Revd. S. Marsden.

Exhibits
at inquiry.

Minutes of
prosecution of
E. Hanabus and
J. Chelvers.

EDWARD HANABUS, Free Born, appears under a Summons to answer an Information for allowing George Stockbridge, his Government Servant, to go at large contrary to General Orders, and JAMES CHELVERS, Carpenter of Parramatta, for employing the said George Stockbridge.

It appears to the Bench that Edward Hanabus has given the said George Stockbridge a pass for one Month, Twenty one days of which are expired.

Edward Hanabus is ordered to pay a Penalty of Two Shillings and Sixpence per day for Twenty one days, amounting to the Sum of Two Pounds, twelve Shillings and Sixpence.

James Chelvers Convicted in the Penalty of Ten Pounds for harbouring and employing the said Stockbridge.

(Enters into Recognizances to pay the above Penalties in one month from the date hereof.)

Minutes of
prosecution of
Rev. S. Marsden.

(C) *Extracts from the Records of the Parramatta Bench (Book No. 4) 17th May, 1823 (Saturday).*—p. 315-318.

Sitting Magistrate:—Henry Grattan Douglass, Esquire; (In Addition) William Lawson, Esquire.

JAMES RING, An Assigned Servant to the Revd. Samuel Marsden, Parramatta, brought forward for employing himself as a Painter and Glazier for his own profit and Emolument.

THE REVD. SAMUEL MARSDEN States that James Ring is his Assigned Servant, by Trade, a Painter and Glazier. That he had not occasion for the whole of his Services the whole of the day, but that during the time he has been in his service, he has not wanted for Victuals, Lodging or Cloathing. That he has with his Sanction done Jobs as a Painter in the Town of Parramatta, for his own private Emolument and for the accommodation of the Public, at any time his Services could be spared; nor did he ever consider that he was violating the general Orders of the Colony, but on the contrary for the general Improvement of the Town; and that he has been employed by the Resident Magistrate and the Principal Inhabitants in the Town of Parramatta and others.

That Ring has been in his Service for Eighteen Months, and has always conducted himself with propriety, and he believes to the general satisfaction of the Inhabitants. States that the Government Hands are allowed to Work on the Saturdays for their own benefit and Emolument.

SAMUEL MARSDEN.

The Bench are of opinion, that in allowing James Ring, assigned Servant to the Revd. Samuel Marsden, to go and work on his own hands for his own profit and Emolument is a breach of the Government Orders, and are of Opinion that the said Samuel Marsden should be fined in the Penalty of Two Shillings and Sixpence per day, for each and every day he has been so improperly employed agreeable to the said Government Orders.

(Ring sent to the Prisoners' Barracks.)

The Resident Magistrate denies his ever having employed the said James Ring as knowing him to be the Assigned Servant of Mr. Marsden; he believed James Ring, from the fact of his having publicly exhibited his Board, to have been a Ticket of Leave Man.

HENRY G. DOUGLASS, J.P.

(D) *Order committing James Ring to Barrack.*

Court of Magistracy, Parramatta, 17th May, 1823.

Sitting Magistrates:—Henry Grattan Douglass and William Lawson, Esquires.

JAMES RING, Assigned Servant to the Reverend Samuel Marsden, ordered to be sent to the Prisoners' Barrack, and not allowed to be sent to any Service or Gang without the Sanction of the Magistrates, *until His Excellency's Pleasure shall be made known*,* having been allowed improperly to employ himself for his own benefit and emolument.

WILLIAM WATSON, a Government Grass Cutter, ordered to sleep in the Barracks for three Months for Drunken Conduct at late hours at Night.

By the Bench.

HENRY G. DOUGLASS, J.P.

To Mr. Rouse, Sup't of Prisoners' Barracks, Parramatta, or to his Assistant.

I do hereby certify that the above is a true Copy of the Original Order, together with the interlineation therein appearing.

FRANCIS STEPHEN.

1825.
10 Aug.Exhibits
at inquiry.Order for
confinement of
J. Ring and
W. Watson to
barracks.(E) *Government and General Orders.*

Colonial Secretary's Office, 25th July, 1822.

Civil Department.

CONVICTS, not Mechanics, assigned to Settlers, are to be turned over when no longer required to the charge of the Principal Superintendent at Sydney, taking his Receipt and transmitting it to the Colonial Secretary's Office. Persons residing at a Distance may turn these assigned Servants in to the nearest Bench of Magistrates, who are requested to grant the necessary Receipt, and forward the men immediately to Sydney under Charge of a Constable.

By Command of His Excellency,

F. GOULBURN, Colonial Secretary.

True Copy:—F. GOULBURN, Col'l Secret'y.

General orders
re return of
assigned
servants to
government.(F) *Sentences passed by Bench of Magistrates.*

Court of Magistracy, Parramatta, 17th May, 1823.

Sitting Magistrates:—Henry Grattan Douglass and William Lawson, Esquires.

CHARLES THORPE, Servant to Mr. G. Blaxland, Sentenced to receive One hundred and fifty Lashes and be returned to his Employ for gross neglect of his duty as a Shepherd and being incorrigible, the said Punishment having been twice Suspended over his Head for former Misconduct.

WILLIAM COOGHAN, attached to the One Tree Hill Party, sentenced to receive Fifty Lashes and be sent back to his Gang for coming into Town without Leave and telling a Falsity against his Overseer.

JAMES CALLAGHAN, Free, fully committed to take his Trial before the Criminal Court for having part of Stolen Iron Axle Tree in his possession, the property of George Aowell.

THOMAS BLAKELY—remanded.

JOHN HOPKINS—remanded.

By the Bench.

HENRY G. DOUGLASS, J.P.

To Mr. John Thorn, Chief Constable, Parramatta, and all Concerned.

Sentences passed
by bench of
magistrates.

* The words in italics were interlinear.

(G) *The Revd. Samuel Marsden to Sir Thomas Brisbane.*1825.
10 Aug.

Sir,

Parsonage, 17th May, 1823.

Exhibits
at inquiry.Appeal by
Rev. S. Marsden
to Sir T.
Brisbane on
behalf of
J. Ring.

The investigation, relative to my Servant, James Ring, being allowed by me to glaze and paint for his own emolument at such times of the day that I could spare him for the general accommodation of the Inhabitants of Parramatta, took place before the Bench this morning, when James Ring was ordered into Gaol again until Your Excellency's pleasure was known, tho' the Bench admitted he had committed no Crime.

I offered any Security to the Bench for his appearance when called upon, rather than he should be confined again, which was refused.

I sanctioned every thing that he did, and therefore I ought to be punished if the Public Orders of the Colony have been broke and not him. Ring has behaved well ever since he has been my Servant, and I regret that he should be imprisoned, without committing any Crime, with the refuse of the Colony. I do not know that he has wrought a single day for any Individual in Parramatta, or has ever been a single day out of actual Service with me, since he has lived in my house.

He has been victualled and clothed by me, and has lodged for a time with the Parish Clerk, as I have not accommodation for all my Servants in my House, having three Women Servants and ten Men Servants.

When the proceedings of the Bench are laid before Your Excellency, I am persuaded you will take into Your favourable consideration Ring's case.

I enclose a list of Persons he has done jobs for, many of whom will bear testimony to his good conduct ever since he has resided in Parramatta. If I had conceived that I was setting any bad example by the Indulgence, I granted to Ring for his good Conduct, or violating the Spirit or Intention of any General Order, I would not have allowed Ring a single hour. I considered I was rewarding Industry, and contributing to the general neatness and improvement of the Town, and doing no more than what had always been sanctioned and allowed to be done by the different Governors and Magistrates, who have ruled the Colony since the day I landed in it to the present time.

I have, &c.,

SAMUEL MARSDEN.

Minutes of
prosecution of
J. Tawell.(H) *Extract from the Records of the Sydney Bench, Wednesday, 24th September, 1823—p. 57.*

Before D. Wentworth, Esqre.; Edwd. Wollstonecraft, Esqre.;
John Oxley, Esqre.; Thos. MacVitie, Esqre.

THE KING	}	ON a Summons to answer for allowing his
v.		Government Servant, Gamaliel Farrell, to be at
MR. JOHN TAWELL	}	large on his own hands contrary to the Govt.
and Genl. Orders.		

In this Case, the Deposition of Kello, the Constable, was taken to the fact of his knowing the Prisoner Farrell to be on his own Hands, making and selling Muffins and Crumpets for two Months past. Also on Mr. Lucas's Deposition to Farrell's having been assigned to Mr. John Tawell on the 2d June last.

The 3 Magistrates, Messrs. Wollstonecraft, Oxley and MacVitie, found Mr. Tawell guilty; but, in consideration of the very candid manner he had confessed the Fact, adjudged that he be fined for

56 days in 2s. 6d. each day; but, under the peculiar circumstances of this case, took on themselves to mitigate the Penalty to 2S days at 2s. 6d. per day, being £3 10s. 0d. or 14 dollars with Costs.

Mr. Wentworth did not concur in this adjudication.

1825.
10 Aug.

Exhibits
at inquiry.

(I) *Bench of Magistrates to Secretary Goulburn.*

Sir, Court of Magistracy, Parramatta, 17th May, 1823.

We have the honor to state to you, for the Consideration of His Excellency the Governor, that a letter was written from the Bench requesting the Reverend Sam'l Marsden to attend to answer for allowing his Government Assigned Servant, James Ring, to go on his own hands and employ himself for his own profit and emolument. It appeared to the Bench, and was in fact acknowledged by the Revd. Gentleman, that James Ring had the permission of his Master to work in the Town of Parramatta for any person who would employ him; and that he moreover publicly exhibited a Board outside of the House occupied by Mrs. Barrow, where he for some time lodged, but had not dieted, and also upon the House of Joseph Kenyon, where he has lately lodged, stating his name and his occupation. Prisoner states he received money for his work as a Painter and Glazier from many individuals in the Town. Under all the circumstances of the Case, we are of opinion that there has been, on the part of the Revd. Gentleman, a flagrant breach of the Government Orders, and that the penalty awarded for such breach should be inflicted; but, prior to ordering the fine to be paid into Court, we wish to submit our opinion and the Revd. Gentleman's to His Excellency the Governor. We have thought it proper to take the Man from Mr. Marsden's Service and to turn him into Government employ.

Report by
magistrates on
conviction of
Rev. S. Marsden.

We have, &c..

W. LAWSON, J.P.

DON. MACLEOD, J.P.

HENRY G. DOUGLASS, J.P.

[The letters marked K and L will be found on page 358, numbered 3 and 2.]

(M) *Revd. Samuel Marsden to Dr. Douglass and Mr. Wm. Lawson.*

Gentlemen,

Parsonage, 30th May, 1823.

From a Conviction I have ever felt of the utility of the Government Orders, issued from time to time in this Colony, and from my public Situation, I trust I may say that I have been and am amongst the first to maintain and support them.

Protest of
Rev. S. Marsden
against
conviction.

I arrived in this Colony in the beginning of the year 1794, previous to Admiral Hunter's taking the Command, and officiated as a Magistrate until he retired from the Government in 1800, and continued to do so during the whole of the Administration of the late Captain King and of Admiral Bligh, until I obtained leave of absence for a short time.

After my return from Europe, I officiated as Magistrate a great part of the Administration of the Government by General Macquarie, until I retired from that Office at my own desire.

I have also officiated in the same capacity for a few months under the present Government of His Excellency Sir Thomas Brisbane. From having acted so long as a Magistrate under the Government Orders, if I have violated any, I cannot plead ignorance as an apology for doing so. I am yet, however, to be convinced that I have been guilty of the breach of any order; it is not, therefore, without the most mature consideration and equity that I feel

1825.
10 Aug.

Exhibits
at inquiry.

Protest of
Rev. S. Marsden
against
conviction.

myself called upon to protest against the payment of a fine of £10, which appears by your letter of the 28th instant to be awarded by you to be paid by me for a breach of Government and General Orders, of which I have been adjudged Guilty.

The Grounds, on which I do so and to which I beg to call your consideration, are, First, that the decision was made (in my judgment) without any charge which I ever heard to be made against me, and consequently without giving me the common privilege of making a defence; and in the second place, should you have acted upon the explanation I offered at your request respecting the conduct of my Servant, James Ring, on an enquiry that took place before you on the 17th Instant, that any admission of mine, I might then have made, was certainly not (as far as I am aware) calculated to expose me to the slightest imputation of having violated or infringed any Government Order; and lastly, should it be considered otherwise, I have yet to learn that such admissions under any circumstances do more than give rise to a subsequent enquiry into my conduct, and certainly could not with Justice be the foundation of any immediate decision.

As I am determined to resist the Payment of the Fine you have adjudged, and at the same time unwilling to take advantage of any misconstruction on Your part of the Orders, on which you have acted, I thought it desirable to bring the case again to your consideration, and trust that, after doing so, I shall not have occasion to appeal to a Higher Court and demand an enquiry into the legality of your proceedings and the Justice and Equity of your decision.

I have, &c.,

SAMUEL MARSDEN.

(N) *Revd. Samuel Marsden to Sir Thomas Brisbane.*

Sir,

Parsonage, 22nd May, 1823.

Appeal of
Rev. S. Marsden
to Sir T.
Brisbane.

I feel myself called upon to make a few observations and remarks on the proceedings of the Bench of Magistrates at Parramatta on Saturday last.

I was ordered before the Bench under the Charge of a breach of a Government Order. In this Case, I consider I have been treated with the greatest indignity as well as unjustice. I feel it as a great indignity, offered to me as Principal Chaplain of these Settlements, to be placed before the Bench by the side of my Convict Servant, James Ring, in a similar situation to any Common Convict. I was there examined and convicted of a breach of a General Order, and fined upon my own statement without any Evidence or any Complaint being preferred against me.

I beg to submit a Copy of the Order to Your Excellency's inspection, upon which my Conviction rests.

Your Excellency must be aware that I am a Member of this Government, and have been placed at the head of the Church as Principal Chaplain for more than twenty years. I would ask Your Excellency whether such conduct of the Magistrates towards me in my situation has a tendency to promote religion and Morality, good order, and respect for age, experience and authority, amongst such a Class of people, as I am called to exercise my Ministry, or to destroy the very essence of Social Order. In all states where religion and its Ministers sink into public contempt by whatever means that is brought about, public calamities must speedily follow.

As I am conscious I have done no wrong, I can never submit to be treated with such indignity or degradation without seeking redress.

I am bound by every principle of honor and public duty to defend the dignity of my sacred office, and not to suffer that to be held up to public Scorn in my person. I therefore most respectfully solicit Your Excellency, as Supreme Magistrate and Governor of this Colony, to do me common justice. On the Saturday, I am placed in a degraded situation in the midst of my congregation before the Bench, and the following day I have to appear in the Pulpit as the Minister of religion.

Your Excellency will judge what my feelings must be under such circumstances.

I beg also to observe that my Assigned Servant, James Ring, has been withdrawn from my Service, and put in Prison, and is still detained from me though he has committed no offence. This Act of the Magistrates tends to impress the public mind with the Opinion that I have been guilty of a breach of the public Orders, and reflects very great disgrace upon me as a Master and as an Officer, and especially as the principal Chaplain serving under Your Excellency.

I trust your Excellency will take the above into your consideration, as it is impossible that I can ever sit down at rest under such public reflections, as are cast upon me by the proceedings of the Magistrates, until I have sought by every means in my power that Justice which I feel I am entitled to.

I have, &c.,

SAMUEL MARSDEN.

(O) *Rev. Samuel Marsden to Sir Thomas Brisbane.*

Sir,

Parsonage, 24th May, 1823.

I have laid the proceedings of the Bench of Magistrates, taken on the 17th Instant at Parramatta against me and my Assigned Servant, James Ring, before my Solicitor, Mr. Norton, for his advice, and have also taken the advice of other high legal authority; and it is the Opinion of the Gentlemen, I have consulted, that there is ground of Action against the Magistrates before the Supreme Court, notice of which will immediately be given to Dr. Douglass, one of the Magistrates. Mr. Norton is also of opinion that the Case is of the utmost importance to the Colony at large, as the greatest part, if not the whole of the Magistrates, as well as the Conduct of other persons of the first respectability, are involved in the question.

My Solicitor is further of Opinion that it would be more wise and prudent to submit the Case to the consideration of a full Bench of Magistrates, than to bring it before a Court of Law. I am very willing to leave my Conduct and Character in the first instance in the hands of the Magistrates. The old Magistrates, who understand the letter and Spirit of the Colonial Regulations and Orders from long practice and their application to the wants of the Colony, will be the proper Judges, and I have every Confidence in their judgment. I have no wish to press the matter further than to wipe away the public Odium and disgrace, that have been Cast upon my Character by the decision of the Magistrates at Parramatta, who have convicted me of a breach of the Government Order without the slightest complaint or even the Shadow of Evidence against me, and sent my Servant to Gaol without having committed any Offence. If Your Excellency should be of opinion, with my Solicitor, Mr. Norton, that it would be most prudent to bring the Case under the consideration of a full Bench of Magistrates, I have not the smallest

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Exhibits
at inquiry.
Appeal of
Rev. S. Marsden
to Sir T.
Brisbane.

Legal advice
received by
Rev. S. Marsden.

1825.
10 Aug.
Exhibits
at inquiry.

Objection to this measure. All I want is for the public to know I have done no wrong. Should Your Excellency be of a different opinion to that of my Solicitor, the Case must then be decided by a Court of Law.

I have, &c.,
SAMUEL MARSDEN.

(P) *Dr. Macleod to Mr. William Lawson.*
From the Letter Book.

Sir, Court of Magistracy, Parramatta, 15th May, 1823.

Request for
attendance of
W. Lawson
at bench.

Some very urgent Business is to be brought before the Court on Saturday next, the 17th Instant, and John Hopkins, the Bush-ranger, who is now in Custody at Sydney, is expected to be brought forward on that day. I have the honor to request Your attendance at the Court House on Saturday next to form one of the Bench.

I have, &c.,
DON MACLEOD, J.P.

General orders
re employment
of assigned
servants.

(R) *Extract from the Abridgment of Established General Orders and Colonial Regulations.*

Published by Authority the 1st January, 1813, in the New South Wales Pocket Almanack.

“CONVICTS, taken off the Stores, to be employed on their Masters’ ground only, and in no Case be permitted on their own hands or let to hire; penalty, to Orphans, the Master to pay £10 and 2s. 6d. for each day the Servant has been absent from public labour.”

Jan. 12, 1802.

(S) *Rev. Samuel Marsden to Dr. Douglass and Mr. William Lawson.*

Gentlemen, Parramatta, 3rd June, 1823.

Application by
Rev. S. Marsden
for return of
J. Ring.

I have to request that James Ring, my Assigned Servant, which was withdrawn from my Service on the 12th ultimo and put into Prison, may be returned to me. He was confined for an offence which it has been alledged I had committed. On Saturday, 17th Ultimo, he was brought before your Bench again; and, after I was examined, he was remanded to Prison, tho’ the Bench admitted he had done no wrong, as I took upon myself all responsibility for the Offence for which he stood Charged. As you have attempted to disgrace and punish me for that alledged Offence, I see no justice in punishing my unoffending Servant also for the same thing.

I offered to the Bench any security for the appearance of my Servant, when called upon, rather than he should be put in Gaol again.

The Bench replied, the Gaol was the only Security for a Convict and refused my offer.

I observed, I considered it a great punishment for a man, who had lived in my service and had behaved well, to be confined in Gaol; to this the Bench answered, it was no punishment for a Convict to be put in Gaol.

As my Servant has done nothing but by my Orders or sanction, I feel it my duty as his Master to use every means in my power to free him from punishment and disgrace, under which he is now suffering.

I consider it also a personal injury to me to be deprived of his Service. If I cannot protect one of my Domestic Servants, who behaves well, what authority can I hope to maintain over my other Servants, or what respect will they pay me as their Master.

I trust the Bench will take my present application into consideration, and allow my Servant to return to his duty, and not punish him any longer for my act and deed. I have, &c.,

SAMUEL MARSDEN.

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10 Aug.

Exhibits
at inquiry.

[The letters marked T and V will be found on pages 359 and 358, numbered 5 and 4.]

(W) Record of the Conviction of the Revd. Samuel Marsden.

New South Wales
County of Cumberland
To Wit

Be it remembered that, on the Seventeenth day of May in the Year of our Lord one Thousand, eight hundred and twenty three, at Parramatta, in the County of

Record of
conviction of
Rev. S. Marsden.

Cumberland, in the Territory of New South Wales, John Thorne, of Parramatta aforesaid, Chief Constable, who prosecutes as well for His Excellency the Governor of the said Territory as for himself, in this behalf in his own proper person cometh before us, Henry Grattan Douglass, Esquire, and William Lawson, Esquire, being two of the Justices of our Sovereign Lord the King assigned to keep the Peace of our Sovereign Lord the King, in and for the Territory of New South Wales, and also to hear and determine divers felonies, trespasses, and other Misdemeanors in the said Territory committed, and, as well for his said Excellency the Governor of the said Territory as for himself, giveth us the said Justices to understand and be informed that, within three Months now last past, that is to say on the twenty sixth day of March in the Year of our Lord, One thousand eight hundred and twenty three, at Parramatta aforesaid, one, James Ring, being a Convict taken off his Majesty's Stores by the Revd. Samuel Marsden of Parramatta aforesaid, Clerk, and assigned by His said Majesty's Government for the Territory aforesaid to the said Samuel Marsden as his Servant, was not employed on the Grounds or Premises only of his Master, the said Samuel Marsden; and that he, the said Samuel Marsden, did then and there permit and suffer the said James Ring to employ himself and be on his own hands against the form, tenor and effect of the Government and General Orders of His Majesty's Government for the Territory aforesaid, in such case made and provided; whereby the said Samuel Marsden hath forfeited for his said Offence the Sum of Ten Pounds and two Shillings and Sixpence for each day the said James Ring has been absent from Government Work or Labour. And thereupon the said John Thorne humbly prays the Judgment of us, the said Justices, in the premises according to the form, tenor and effect of the said Government and General Orders in such case made and provided; and that the said Samuel Marsden may be summoned to answer the said premises and to make his defence thereto before us, the said Justices. Whereupon the said Samuel Marsden having been duly summoned in this behalf to answer and make his defence to the said Information and the said Offence thereby charged upon him before us, the said Justices, afterwards, that is to say on the seventeenth day of May in the Year aforesaid, at Parramatta aforesaid, appeareth and is present before us, the said Justices, in order to answer and make good his defence to the said Information and to the said Offence, thereby charged upon him as aforesaid; and he, the said Samuel Marsden, having heard the same, is asked by us the said Justices if he can say anything for himself why he, the said Samuel Marsden, should not be convicted of the Premises above charged upon him in manner and form aforesaid; and thereupon the said

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10 Aug.

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at inquiry.
Record of
conviction of
Rev. S. Marsden.

Samuel Marsden freely and voluntarily confessed the said Information and the said offence, and all and singular the matters and things thereby charged upon him to be true, and doth not shew any Cause before us, the said Justices, why he should not be convicted of the Said Offence so charged against him. It is therefore adjudged by us, the said Justices, upon the free and voluntary Confession of the said Samuel Marsden, that all and singular the said matters and things charged against him are true; and thereupon we, the said Justices, on the Seventeenth day of May in the Year aforesaid, at Parramatta aforesaid, in the Territory aforesaid, do convict the said Samuel Marsden of the Offence aforesaid in the said information so charged against him. And he, the said Samuel Marsden, is hereby convicted thereof by us, the said Justices, upon his own free and voluntary Confession according to the form of the said Government and General Orders in such Case made and provided. And we, the said Justices, do adjudge that the said Samuel Marsden, for his Offence aforesaid, hath forfeited the Sum of Ten Pounds of lawful Money of Great Britain; and also Two Shillings and Sixpence for one day, being the said Twenty sixth day of March aforesaid, that the said James Ring had been and was absent from Government Work or Labour as aforesaid, to be divided, distributed and paid according to the form of the said Government and General Orders.

In Witness whereof, We, the said Justices, to this Record of Conviction have put our hands and Seals at Parramatta aforesaid, the said seventeenth day of May in the Year of our Lord One thousand eight hundred and twenty three.

WILLIAM LAWSON, J.P.

HENRY G. DOUGLASS, J.P.

(X) *Warrant for Distress on the Revd. Samuel Marsden.*

To John Brown, Constable of Parramatta.

New South Wales }
County of Cumberland } WHEREAS, by a certain Conviction under
To Wit } our Hands and Seals, bearing date the
Seventeenth day of May in the Year of our
Lord, One thousand eight hundred and
twenty three. The Reverend Samuel Marsden, of Parramatta in the
County of Cumberland in the Territory of New South Wales, Clerk,
was and is duly convicted before us, Henry Grattan Douglass, Es-
quire, and William Lawson, Esquire, two of the Justices of our
Lord the King assigned to keep the peace of our said Lord the
King in and for the Territory aforesaid, and also to hear and
determine divers felonies, trespasses, and other Misdemeanors in
the Territory aforesaid, committed on his own Confession. For
that one, James Ring, within three Calendar Months last past, that
is to say on the twenty sixth day of March in the Year of our Lord,
One thousand eight hundred and twenty three, at Parramatta afore-
said, being a Convict taken off the Stores by the said Samuel Mars-
den, and assigned by his Majesty's said Government for the Terri-
tory aforesaid to the said Samuel Marsden as his Servant, was
not employed on the grounds and premises only of his Master, the
said Samuel Marsden; and that he, the said Samuel Marsden, did
then and there permit and suffer the said James Ring to employ
himself and be on his own hands against the form, tenor and effect
of the Government and General Orders of His Majesty's Govern-
ment for the Territory aforesaid, in such Cases made and provided.
Whereby the said Samuel Marsden hath forfeited for his said
Offence the sum of Ten Pounds of lawful Money of Great Britain,
and also two shillings and six pence for one day being the said

Warrant for
distress on
Rev. S. Marsden.

Twenty sixth day of March aforesaid, that the said James Ring had been and was absent from Government Work or Labour. These are, therefore, to command you to distrain the Goods and Chattels of the said Samuel Marsden, wheresoever they shall or may be found within our Jurisdiction, and, on the said Goods and Chattels of the said Samuel Marsden so distrained, to levy the said several Sums of Ten Pounds and Two Shillings and six pence. And if, within the space of five days next after such distress so by you made, the said several sums of Ten Pounds and two Shillings and Sixpence shall not be paid, that then you do sell the said Goods and Chattels, so by you distrained as aforesaid, and out of the monies arising by such sale, that you do pay One moiety of the said Penalties, fines or forfeitures of Ten Pounds and Two shillings and Six pence to John Thorne, Chief Constable of Parramatta aforesaid, who informed us of the said Offence, and the other moiety of the said penalties, fines and forfeitures to the Governor of His Majesty's Territory of New South Wales, returning to him, the said Samuel Marsden, the Overplus on demand. And you are hereby commanded to certify to us, the said Justices, on the Eighteenth day of this present month of June, what you shall have done by Virtue of this our Warrant.

1825.
10 Aug.

Exhibits
at inquiry.
Warrant for
distress on
Rev. S. Marsden.

Given under our Hands and Seals at Parramatta aforesaid, the Seventh day of June in the Year of our Lord, One thousand eight hundred and twenty three.

WILLIAM LAWSON, J.P.

HENRY G. DOUGLASS, J.P.

(Y) *Complaint of James Ring.*

Extract from the Records of the Parramatta Bench. Book No. 4.

Monday, 12th May, 1823.

Sitting Magistrates:—Henry Grattan Douglass, Esqr., and Donald McLeod, Esqr.

Complaint of
J. Ring against
M. Graham.

JAMES RING, Government Servant to Mr. Marsden, states that Yesterday morning he was at his Breakfast in his Master's Kitchen, and put some Milk out of a Tin belonging to Michael Graham (who holds a Ticket of Leave), when Graham came behind him and Struck him on the head and face which gave him a Black eye, and held a Knife in his left hand. The Blow stunned him and his Nose burst out bleeding; a fellow Servant interfered, by the name of John McClarence, who prevented him striking him any more.

This Complaint is dismissed, as it appears he gave the first Offence.

(Z) *Copy of Orders.*

[This paper contained copies of the fourth paragraph of the government and general orders, dated 1st June, 1801, and the whole of those dated 6th January, 1804; these orders will be found on page 254, volume III, and page 73, volume V.]

Minute by Archdeacon Scott.

THE Archdeacon submits that the practice of letting out Assigned Convict Servants was so general in the Colony that, as the Witnesses called differ in their opinions, yet a wider range should be taken; and therefore that other persons, herein named, should be summoned or written to requiring their answer to the following Questions.

Inquiries
proposed by
T. H. Scott.

1. With reference to the Government Orders of 1 June, 1801, and Section 4 of the 12 January, 1802, and April 17, 1802, and October 2nd, 1800, referred to in an Order of January 6, 1804, containing the Indenture under which Convicts were assigned to Masters, do you understand that an assigned Convict, being fed and clothed but

1825.
10 Aug.

Exhibits
at inquiry.

Inquiries
proposed by
T. H. Scott.

not lodged by his Master, yet subject to his Controul by not being permitted to go out of his District, and being allowed to work for others for his own benefit, when his master has not occasion for his services, is "on his own hands."

Has not a very general practice in the Colony prevailed for some years past for Masters, having assigned Convicts, to allow them to work for their own benefit, and at their own lodgings with their names and occupations oftentimes exhibited, provided they do not go out of their Districts.

Do you know of any Convictions of such cases under the above Government Orders?

You will be pleased to send your answer to me on or before the Inst't.

Mr. Cox, Windsor; Mr. Bell, do.; Mr. Brabyn, do.; Mr. Rd. Fitzgerald, do.; Mr. J. T. Campbell, Sydney; Mr. Howe, Glenlee.

Objection of
F. Forbes to
making
inquiries.

Opinion of the Chief Justice.

THE Chief Justice was of opinion that, whatever doubts might exist as to the true Construction of the Order, the Court could not of itself move an enquiry into the practice, but must leave that entirely to the discretion of the parties; and perhaps it was the less necessary to go into the point of practice, as enough was in evidence to prove that different magistrates had put different constructions upon the same Order; and then the point of enquiry would be not whether the Construction, which had been put by the Magistrates in their decision of the 17th of May, were true or false, but whether it was so repugnant to the plain sense of the Order, or to the invariable course of practice, as to raise the presumption of a wilful perversion of the Law.

(AA) *The Action, Marsden v. Lawson and Douglass.*

Action, in
supreme court,
Marsden v.
Lawson and
Douglass.

IN the Supreme Court, Between

Marsden, Clk., Plaintiff, and

Lawson and Douglass, Esqrs., Defend'ts.

Declaration.—That defendants on 9th June, 1823, broke and entered Plaintiff's dwelling house at Parramatta, made an affray therein, and continued such affray two hours, against the will of the Plaintiff, and thereby disturbed the Plaintiff in his possession, and seized and took a Piano forte of Plt., value £100, and converted same to their own use, and other wrongs, etc., to Plt.'s damage of £250.

Plea firstly General issue. Not guilty.

2ndly. as to the breaking and entering, etc., and disturbing Plt., etc., and seizing and taking his goods, Defendants say Actio non, because at the time, etc., Defendants were justices, etc., and before the time, when, etc., vizt. on 17th May, 1823, it was adjudged and determined by a certain bench of Magistrates at Parramatta that, on 26th March, one James Ring, an assigned Convict Servant to Plaintiff, was not employed on Plaintiff's premises, and Plt. permitted him to employ himself and be on his own hands contrary to the Government and General Orders; and Plaintiff was convicted thereof, and adjudged to forfeit and pay £10 and also 2s. 6d. for one day that said James Ring was absent. That afterwards, on 7th June, Defendants issued their precept or warrant under Seal, directed to John Brown Constable to levy same. That, under such warrant, Brown entered the house and took the Goods, etc., until

penalties were paid, and necessarily made a little noise, continued a short time, etc., as little as possible as the circumstances admitted, etc.; That such entry and seizing of the Constable are the same breaking, entry, affray and seizing, complained of by Plaintiff and supposed to have been done by Defendants.

3rdly. As to the Breaking, entry, affray and seizing, etc., Action, because at said time, when, etc., Defts. were justices, and that before, vizt. on *17th May, 1823*, at a certain bench of magistrates, holden at Parramatta before said Defendants, being justices, etc., one *John Thorne of Parramatta*, Chief Constable, gave the bench to understand and be informed that, on *26th March last*, one James Ring, Government assigned Servant to plt., was not employed on Plt.'s (his Master's) premises, and Plt. permitted him to employ himself and be on his own hands *Contra mandata*. That Plt. was thereupon summoned, etc., appeared and confessed, and was thereupon convicted by said Defendants, sitting in their judicial capacities as justices, composing such bench of Magistrates, on such voluntary confession, etc.; and said Defendants, in such their judicial capacities, thereupon did convict him accordingly and adjudged him to pay such penalties, etc. That afterwards Defendants on 7th June issued such their precept or warrant to levy penalties as in last plea.

Replication Joins issue on first plea.

2ndly the same.

Denies that on 26th March permitted on his own hands *contra Mandata*, but employed with lawful indulgencies.

(BB) *Judgment of Supreme Court.*

Third Term, 1823.

Marsden, Clerk, v. Lawson and Douglass.

Judgment:—*Field, J.*

THIS is an Action of Trespass brought against two Magistrates of Parramatta for seizing a Piano forte on the 9th of July last, which the Plaintiff redeemed for £10 2s. 6d.; and the Defendants Plead (first) that they were Justices of the Peace, and that on the 17th of May previously, it was adjudged by the Bench of Magistrates at Parramatta that, on the 26th of March, one James Ring, an assigned Servant to the Plaintiff, was not employed on the Plaintiff's Premises, and the Plaintiff permitted him to employ himself and be on his hands contrary to the Government and General Orders, and the Plaintiff was convicted thereof and adjudged to forfeit and pay £10, and also 2s. 6d. for one day that the said James Ring was absent; and that afterwards, on the 7th June, the Defendants issued their Warrant, and the Goods were taken by the Constable, until the Penalties were paid; and (Secondly) that one John Thorn, Chief Constable of Parramatta, informed the Bench of the Offence, and that the Plaintiff was thereupon summoned, appeared and confessed, and was thereupon convicted on such voluntary Confession. To these Pleas, the Plaintiff only replies by denying that, on the 26th of March, he permitted James Ring to be on his own hands against the Government and General Orders, but employed him himself with only lawful indulgencies, &c., without negating the Information of Thorn or the being summoned or convicted thereupon: the only Issue that we have to try therefore is whether the working abroad in question is a breach of the Government and General Orders or not: And if we should find any discrepancies between the Proceedings before the Magistrates And the Pleas of Justification, we can

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only look at them as shewing the Animus of the Defendants in their Adjudication and Warrant, i.e. whether it was a bona fide though mistaken (if mistaken) judicial and ministerial transaction, or whether it was a wanton trespass upon the property of the Plaintiff under Colour of the Government and General Orders. If it were the former, i.e. an honest mistake of the Laws (if it was a mistake of the Laws at all), Yet it was a Trespass for which the Plaintiff will be entitled to recover the £10 2s. 6d. If the Court shall be of opinion that it was the latter, i.e. A wanton trespass under colour of the Laws, the Court will say what further compensation the Plaintiff is entitled to for any malice we may imply, for none is charged or specifically proved. First for the facts and then for the Colonial Laws. It appears, by the testimony of Bradley the Clerk to the Bench and from his Minutes of Proceedings, that on the 17th of May the Plaintiff was summoned to appear, and that (without the informant Thorn's opening his mouth in the Office) the Plaintiff confess'd that he had often permitted his assigned Convict Ring to work for other People as a Painter and Glazier, when he himself had no occasion for his services in those or any other capacities, and that though Ring boarded with him he was suffered to lodge out of his house, And even to put up a sign board at his lodgings. And upon this confession the Bench convicted him under Government General Orders of the 24th July, 1813, and 6th January, 1804, in the vague Penalties of 2s. 6d. per day for every day on which he was suffered to be employed, without taking Evidence of the number of days and without saying a word about the £10. This conviction was minuted by the Bench to be expressly under the Government and General Orders of 1813. Bradley further states that the Defendants then wrote to the Solicitor for the Crown and afterwards, without resummoning the Plaintiff, privately adjudged a new Conviction which is the only one set out in the Warrant, but which is not entered in the Books of the Office; this Conviction recites an information on the 17th of May (not upon oath) of Thorn, and first condescends upon a day of Offence, vizt. the 26th March preceding, whereby the Plaintiff hath forfeited £10 and 2s. 6d. per day, and states that Thorn prayed judgment and the Plaintiff might be summoned. Whereupon (it proceeds) the Plaintiff, having been duly summoned afterwards on the 17th of May aforesaid, confess'd. &c. And did not shew any cause why he should not be convicted of the Offence so charged, &c. The Conviction then goes on to adjudge £10 2s. 6d. and is dated also 17th May. Bradley adds that, on receipt of a Copy or intimation of this second conviction a fortnight after the first, Plaintiff appeared before the Bench again and protested against it. A warrant to levy was then made out and dated the 7th June in pursuance of the second Conviction, And under this Warrant the Distress now complained of as a trespass was made.

It may be as well mentioned here that by a Letter, dated the 17th of May, the Defendant together with Dr. McLeod another magistrate (who does not appear to have been present at the hearing of the Case) signed a Letter to the Governor submitting their opinion upon the case to him together with what they now call the Plaintiff's defence, and that they received for answer that the Governor found no reason for his interference with the due Administration of the Colonial Law. Upon this Letter it has been very justly observed by the Plaintiff's Solicitor Mr. Norton that, if Dr. Macleod's signature was intended to convey to the Governor that he had heard

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the Case and joined in the Conviction, it was a very dishonest conveyance of an opinion to the Governor, as that of three Magistrates. Whereas it was only that of two, and it is impossible to say how far the additional name may have influenced His Excellency's mind. The Clerk of the Bench does not know, who gave the information; he is always present in the Office but saw no Informer, and Thorn himself now says that he gave no information on the 17th May, And therefore the Plaintiff could not examine him; but that a week before that he did tell Dr. Douglass generally that Ring was working on his own hands, and, between the times of Mr. Marsden's first and second appearing before the Bench, he told the Doctor of the specific Offence of the 26th March at the house of Mr. Eyre, but that this was not entered in the books of the Office as an information. Now this circumstance shews that these proceedings were at least slovenly and hasty, and that it was not until after the Defendant had communicated with the Government that they adjudged any other than the uncertain Conviction of 2s. 6d. per day under the Orders of January, 1804, and July, 1813; they then discovered a Government and General Order of the 12th January, 1802, containing a Penalty of £10, and the Solicitor for the Crown advises them of the necessity of tinkering the proceedings by an information and a date, and then the second conviction pretends that there never was any other, and that Mr. Marsden was duly summoned upon that information for the Offence of the 26th of March, for which the informer prayed the penalty of £10 2s. 6d. If the Court see that this was not the history of the Case, that Mr. Marsden was never summoned upon any information for any Penalty of £10 for any day, but was generally summoned without information for an uncertain number of Penalties of 2s. 6d., and was convicted only of those un-numbered and unascertained Penalties of 2s. 6d. per diem, Although from the Plaintiff's not having denied that part of the Defendant's plea, which details only the second conviction, the Court cannot hold it unproved. Yet it is a material ingredient, by which we are to judge of the good faith of this Conviction, And whether this was a trespass under a mistaken sense of the Laws, or a wanton and one under colour of them.

Now for the Colonial Laws, the Defendants, although they render their first conviction as under the Government and General Orders of 1813, now rely solely upon a Government and General Order of 12th January in a printed Book of Governor King's Orders, and which runs as follows, "The unwarrantable behaviour of the Prisoners sent to the Government harvest at the Hawkesbury and Toongabbee, who are dispersed about in consequence of their having been allowed to take their time, has been such as to render the following Orders necessary.

"Any persons applying for Prisoners off the Stores, who does not employ them on their own Grounds, suffers them to be on their own hands, or hires them out, will on conviction before two Magistrates forfeit £10 to the Orphan School, besides 2s. 6d. for every day such Prisoner has been from Government labor."

Now without saying at present that the Preamble of this Order necessarily makes it local and temporary, It must be observed that, of this of Orders, only two Copies* are known to exist in the Colony; but then in one Almanack of 1813, this Order does appear to be included in what is called an Abridgment of General Orders published by Authority. In the Almanack for 1814, containng a similar abridgment, it is omitted, and Bradley swears that is the only

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Almanac the Defendants had when they made the first Conviction, and indeed the Conviction was expressly recorded to be made under the Orders of July, 1813, which therefore could not be in the Almanac published on the first of January of that year. Under all the circumstances of uncertainty and confiction of these Government and General Orders, We listened to the opinion of the most experienced Magistrates upon the State of the Colonial Law as to lending out assigned Convict Servants, and not one of the Magistrates, called either by the Plaintiff or Defendants, considers this Order of 12th January, 1802, in operation. It is omitted in the Almanac of 1814 and, for the most obvious of all reasons, because in the very next Page of the Abridgment is a confictory Order of a later date, vizt. 6th January, 1804, saying that assigned servants are to work for their Master in their own time in preference to any other Person; And this is not only the latest but the best considered Law of the legally drawn Indenture by which Convicts were thenceforth to be assigned; And this 4th Order of the 12th January, 1802, is never after that referred to in the Colonial Laws and indeed it is only once repeated before that, namely, together with the oldest Order upon the Subject, dated 1st June, 1801, on the 23rd January, 1802, only a few days after its Enactment; Whereas that old order of the 1st June, 1801, is again repeated, without the Order of the 12th January, 1802, on the 17th April, 1802, saying that, if any master turns his servant over to another or lets him out to him, he will incur the Fine directed by what? By the Order of the 12th January, 1802, No! by the Order of June 1st, 1801, vizt. 2s. 6d. per Diem; there does therefore seem to be reason for calling the Order of 12th January, 1802, as local and temporary, as its preamble. It appears by the evidence of Mr. Cox, Mr. Wentworth, Mr. Harris, and Mr. McArthur that a case like the present happens every day without being considered illegal and that the Defendant Lawson has thus hired two of Mr. Harris's and one of Mr. Lowe's assigned servants; nay that Governor Macquarie used to assign Blacksmiths by preference to such Gentlemen as he thought would then lend them to help their neighbours. Mr. Cox, Mr. Harris and Mr. McArthur add that Governor Macquarie told them he had caused the Abridgement of 1814 to be made in order that the Magistrates might be guided by a known rule. And that the Benches never went further back than that, And indeed had nothing to go further back by, any more than the Defendants in this Case had, upon the first Conviction. Mr. Wentworth and Mr. Campbell confirm the fact of Governor Macquarie having authorized the abridgement of 1814, and the latter adds that it was made by the then Judge Advocate Bent; but they say they never considered as containing all the Orders in force, although they admit they do not know how to get at those before the Institution of the Sydney Gazette; but they say that, if there were Orders in the Almanack of 1814 contradicting or qualifying former Orders upon the same subject, they should go by the latest Almanac, so too says Mr. Reddall, the Defendant's own witness. As for Mr. Wentworth, the most experienced perhaps of all, One of the first cases that came before this Court in 1817 was that of his assigned Saddler who was, under certain Government and General Orders of the 4th October, 1798, and 8th August, 1801, exempted from Civil Arrest as a Servant of the Crown, although he kept a Shop in this Town and was sworn by two Persons to be considered as a Free man; this Order of the 12th January, 1802, was never thought of being set up

in Answer to the legality of that Excuse then, altho' Mr. Moore was the very Solicitor whose purpose it would have served to have done so; that was a strong Case, but Mr. Wentworth says stronger ones were decided by him every day; and we know till lately Superintendents and Overseers were allowed to sell the entire Services of their Convict Servants all the year round for so much a week; not a single precedent for such a Conviction as this can be produced by the Defendants; that referred to by the Clerk of the Parramatta Bench was the Case of a Carpenter assigned for 3s. 6d. by the Government under Bond, And who had been passed at large by his master for a month; that spoke to by Mr. Reddall was a Case in which the master was privy to the illegal purposes for which the Servant was let out, and even then the Penalty of £10, which Mr. Reddall understood was the Law although he did not find it in the Almanack of 1814, was mitigated by him. Mr. Cox adds that it was he that assigned Ring to Mr. Marsden, who said he wanted a Singer for the Church, and it was proved that he was always employed as such Singer on Sundays and in whatever Mr. or Mrs. Marsden had to do on Week days, And all the Witnesses know he was Mr. Marsden's Servant except one old woman.

Under these circumstances it was for the Court to say whether the Defendants' first thoughts of this Conviction was not the best, namely under the law of the Almanack of 1814, or rather whether they would not have thought better still if they had taken the spirit of that Abridgment throughout; and even they would have seen that masters are virtually permitted to lend their assigned Servants out by the latest Order, that says they shall do their Master's own work before they work for others in their spare time. Whether the object of these Orders is not merely that the Master shall be responsible for the Servant and always have him under his control, and, as long as this intention of the Orders is fulfilled by the Master, the Magistrates ought not to interfere further than to see that he employs the Servant *bona fide* in his Service and does not make a trade of him.

If the Court shall agree with all the Magistrates, who have been examined in this opinion, then they will say by their Verdict whether this was an honest mistake of the Law or a wanton trespass under Color of it.

Dr. Douglas is a young Magistrate, and, were it not for the after interpolation of the information and the alteration of the adjudication, might be supposed to have erred in judgment; but how this excuse can be pleaded for an old Magistrate like Mr. Lawson (who has himself hired other Magistrates' Convict Servants) I cannot imagine; he must have erred knowingly, and against him malice or a meaner motive must be implied.

It is certainly a pity that the Colonial Laws have not long ere this been revised and digested by skilful authority; the Commissioner of Enquiry recommends this as still to be done under the advice of the Magistracy, and expressly says that some of the Orders are obsolete and incapable of reference, and it is therefore that he objects to the Proclamation that I drew giving authority to the Magistrates to enforce the Fines in all the Orders that have been issued by the several Governors. My Proclamation leaves the question open to the Magistrates to judge whether the Orders of the 12th January, 1802, is one of these that are in force, or whether it is obsolete, incapable of reference, or virtually rescinded by the later Order, allowing Convicts to work for other Persons after they

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have served their masters, and therefore one of those to which my Proclamation, merely points out the mode of levying existing Penalties, applies or not.

To be sure if all the Orders in this unique Copy of Governor King's Code are to be resuscitated at the discretion of any young Magistrate, we live in perilous times similar to those described by Lord Bacon, when he urges the necessity of amending the English Statute law; for first (says he) there are a number of ensnaring penal Laws which lie upon the subject, And, if in bad times they should be awaked and put into execution, would grind them to powder. And there is an accumulation of statutes concerning one matter, and so cross and intricate that the certainty of the Law is lost in the heap. Wherefore in Cases of Penal Laws Judges ought to have care that that, which was meant for terror, be not turned to rigor, and that they bring not upon the People that shower whereof the Scripture speaketh pluet supereous laqueos, for Penal Laws pressed are a shower of snares upon the People; therefore let Penal Laws, if they have been sleepers of long, or if they have grown unfit for the present time, be by wise Judges confined in their Execution.

I hope I have stated this Case and the construction of the Colonial Laws fairly and impartially. I am extremely sorry to see a Gentleman of Dr. Douglass's talents, and with whose acquaintance I was once honored, involved in such an Action. Of the other Defendant, I know nothing and think there is no pity due to him; he must have sinned with his Eyes open; Dr. Douglass is not proved to have committed the same Offence of lending or hiring a Convict Servant. If it is an Offence, and the Members of this Court are equally free in their Judgment, It is well that I have never had interest with any Governor to procure an assigned Convict Mechanic. If the Court are of opinion that the occasional lending of an assigned Convict is not against the Government and General Orders, but on the contrary permitted by the latest of them, the distress is a trespass for which the Defendants are civilly answerable in damages; if they think the Defendants erred merely in judgment, still it was a trespass, but they will give no more Damages than the £10 2s. 6d. If they think they erred wilfully that they charged and at first convicted Mr. Marsden upon the Law and afterwards varied their Proceedings by a secret information upon another discovered Law, upon which Mr. Marsden had no opportunity of defending himself, and by a second Conviction, they will imply persecution if not malice, and give such damages for such a trespass as they may consider just.

The Court thought that, as the Plaintiff had neither alledged nor proved malice, the Justice of this Case would be satisfied by giving the actual damages sustained with full Costs.

(CC) *Opinion of Archdeacon Scott.*

1. I have signed these Reports because I admit the existence of the Government Order, yet I consider the practice of allowing assigned Convicts to work for themselves to have been so general that this Order had become nearly obsolete.

2. I also consider that the evidence on this subject is by no means uniform, and it certainly does appear from the evidence of two Magistrates of long Standing in the Colony, Mr. D'Arcy Wentworth and Mr. John Harris, that the practice was common; that they had never fined a Master under Similar circumstances; that

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the Order does not extend to this Case; and Mr. Wentworth declares he had dismissed several cases of the same kind which had come before him. The late Superintendent of Government Works Richard Rouse also states that he told Dr. Douglass it was a common practice and that he could find twenty cases. Mr. Wm. Henry Moore, the Crown Solicitor, also declares in his evidence that, if it had been stated to him that Ring eat and drank in Mr. Marsden's house and lived under his controul, he should not have given the opinion he did give.

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3. I think also there is a distinction to be made according to the Spirit of the Order; namely, if an assigned convict be clothed and fed by his Master, and residing near to the house of his Master, and under his controul and Subject to his constant call, it differs from one suffered to go on a pass to work all over the Colony, by which he is no longer subject either to the control of the Master or the Police of the District in which he was originally assigned.

4. It certainly did appear during the investigation under the King's Commission of Inquiry that the practice was notorious and was admitted by many persons. It was in many cases proved to be useful where only one or two of a trade were in a District; it was a mode Sanctioned by the Government of paying Magistrates for their services, and both the Commissioner and myself employed a Tailor and a Harness Maker, the former being assigned to a Magistrate, the latter to a Military Officer, and both had Shops in Sydney and one had a Sign; and it was almost the invariable mode of remunerating the Convict Clerks and Overseers in the employ of Government.

5. If it is a Crime or an offence against a Government Order to allow an assigned Convict "to be on his own hands," and a Master should be deemed guilty and punished for the breach of such an Order, the Sentence of a Magistrate for a convict to receive twenty five lashes every morning* until he tells where the stolen property is concealed is in a higher degree criminal; it is an interminable punishment and flagrant violation of the English law and is in fact torture.

6. And although from the wording of the third point in Lord Bathurst's Despatch of the 3d of January, 1825, the Court have decided that they cannot enter into Mr. Marsden's offer of proofs, he not producing the Statement which he transmitted to England, yet it does appear by a letter from that Gentleman to the Court, dated the 28th July, 1825, that if it is the case of Henry Baynes "he is prepared to prove his Statement," and it does appear by a reference to the Records of the Parramatta Bench, Page 268, March 31, 1823, that such a punishment* was sentenced to be inflicted on Bayne, and which is appended to the proceedings of this Commission.

7. It also appears from an avowal of Dr. Douglass in a letter to Robert Wilmot Horton, Esqr., and dated the 2nd of Feby., 1825, and also appended to these proceedings, that he was in the habit of inflicting the corporal punishment awarded by a Bench of Magistrates at intervals with a view to extort confession of discovery as to the stolen property; which, altho' it may be a legal mode, but of this however I beg to express my doubts, yet it is a mode I firmly believe not practised by any English Court, and is so revolting to the human feelings as to carry on the face of it such a dreadful idea, as to render Such a Magistrate unfit to sit on the Bench of an English Court of Justice, and therefore it does appear to me that the suspension of Dr. Douglass comes within the instructions of Lord Bathurst.

T. H. SCOTT.

* Note 210.

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SIR THOMAS BRISBANE, CHIEF JUSTICE FORBES AND ARCHDEACON
SCOTT TO EARL BATHURST.

(Per ship Phœnix.)

Sydney, New South Wales,

11th August, 1825.

My Lord,

Report of
inquiry into
charges of
misconduct
against
H. G. Douglass.

In obedience to your Lordship's Instructions, conveyed to us in Your Lordship's Despatch, addressed to the Governor of New South Wales, dated the 3rd January, 1825, We have proceeded in the investigation of the three points of Accusation, which have been made against Dr. Douglass, and to which Your Lordship has directed our attention, and we have the Honor to lay before Your Lordship the following Report.*

Exoneration
from charge of
drunkenness.

Upon the first Point, namely the charge against Dr. Douglass of being addicted to habitual drunkenness, we are of opinion that the fact has not been proved; but on the contrary, from the number and high respectability of persons, who were called as Witnesses on the part of Dr. Douglass, and from our own decided impressions, we are of opinion that the first mentioned charge is entirely without foundation.

Disproval of
charges made
by J. Bradley.

Upon the second Point, we caused Joseph Bradley to appear before us, and adduce such testimony, as he thought fit, to substantiate the facts detailed in his deposition, and not only has he failed altogether to prove the facts alleged by him, but the Witnesses, cited by him, have contradicted his statement in every material particular.

Dismissal of
charge of
illegal flogging
of convicts.

Upon the third point, in obedience to Your Lordship's directions, we applied to the Revd. Mr. Marsden to bring before us the statement, which he had transmitted to England, with respect to the charge of Dr. Douglass having directed a Convict to be flogged with a view of extorting confession from him. Mr. Marsden, in the first instance, stated verbally to us, that he did not consider himself as preferring such charge, or appearing against Dr. Douglass to support it; but afterwards addressed a letter to us, dated 15th July, 1825, which led to a Correspondence† between us and Mr. Marsden, from which your Lordship will perceive that Mr. Marsden was not prepared to produce the statement upon which the third point of your Lordship's Despatch appears to have been grounded, and the truth of which statement we were directed to enquire into and report upon.

Mr. Marsden, in his letter of the 28th July, 1825, mentions the case of one Henry Baynes, who, he was informed, had been flogged on suspicion of a robbery, and who, he had ascertained, had been punished six times in eight days; but as Mr. Marsden would not pledge himself to prove the material part of this

* Note 208. † See paper in Appendix marked No. 5.

charge, namely, that the punishment had been inflicted upon suspicion only, and as it appeared by a Record of the Court, that the punishment was inflicted after conviction for the purpose of compelling a discovery of the stolen goods; and as the fact of having inflicted punishment, under such circumstances, had been distinctly admitted by Dr. Douglass in his letter* to Your Lordship's Under Secretary, dated February 2nd, we were of opinion that the case of Henry Baynes did not come either within the words or spirit of your Lordship's Instructions. And therefore, we did not consider ourselves at liberty to admit Mr. Marsden to substantiate the immaterial fact which he proposed to prove, and we came to the resolution of dismissing the third point of Enquiry. At the same time, in order to enable Your Lordship to judge of the nature of Baynes' Case, we have caused a Copy of the Record,† together with the explanation of Dr. Douglass, to be appended to Our Proceedings, which we have now the Honor to lay before Your Lordship, together with the examinations and several Documents connected with this, our Report upon the three Points to which Your Lordship has directed our enquiries.

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We have, &c.,

THOS. BRISBANE. T. H. SCOTT.
FRANCIS FORBES.

[Enclosure No. 1.]

[*This was a copy of Earl Bathurst's despatch to the governor of New South Wales, dated 3rd January, 1825, with its enclosure; see page 462 et seq.*]

[Enclosure No. 2.]

PROCEEDINGS OF BOARD OF INQUIRY.

Government House, Parramatta, 14th July, 1825.

IN the matter of an Investigation directed by Earl Bathurst's Despatch, bearing Date the 3rd day of January, 1825, to be made into certain Charges against Dr. Douglass and reported upon by His Excellency the Governor; The Honorable The Chief Justice; and The Venerable The Archdeacon.

Proceedings of
board of inquiry
into charges
preferred against
H. G. Douglass.

The Despatch of Earl Bathurst, bearing date the 3rd day of January, 1825, was directed to be read, whereupon Dr. Douglass enquired of the Court who was to be considered as the Prosecutor in these Charges.

The Court informed Dr. Douglass that Certain Charges having been made against him, as appeared by Earl Bathurst's said Despatch, and an enquiry being directed to be made without any prosecutor being named, in reference to the first charge the Court would hear such evidence as he might produce to disprove the same.

In reference to the 3rd charge, The Court enquired of The Revd. Samuel Marsden (who was present) if he would be prepared to

* See same in Appendix marked No. 1. † See same in Appendix marked No. 6.

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support such charge, contained in Earl Bathurst's said Despatch, against Dr. Douglass for having caused a man to be flogged to extort a confession from him; whereunto The Revd. Samuel Marsden replied that he had never made such a Statement to any Member of His Majesty's Government, nor as far as he recollected to any private Individual, nor did he consider himself as in any manner preferring such charge, or appearing against Dr. Douglass in support of the same.

The Court was then pleased to adjourn until the 15th Instant.

Government House, Parramatta, 15th July, 1825.

In the matter of an Investigation, directed by Earl Bathurst's Despatch, bearing date the 3rd day of January, 1825, to be made into certain charges against Henry Grattan Douglass, Esquire, M.D., and reported upon by

His Excellency The Governor; The Honorable The Chief Justice; and The Venerable The Archdeacon.

Joseph Bradley, being present, was asked if he would be prepared to appear and substantiate certain matters of charge against Henry Grattan Douglass, Esquire, as contained in his Declaration mentioned as the second point of enquiry in Earl Bathurst's above mentioned despatch.

Joseph Bradley informed the Court that he should be prepared to produce evidence in support of the Statements made in such Declaration, but prayed further time to be allowed to enable him to collect his Witnesses.

The Court consented that such time should be given, and that, as some days would be occupied in the investigation of the other charges against Dr. Douglass, the enquiry into the second point should be deferred, and Joseph Bradley should receive timely notice of the day appointed for proceeding in it.

Dr. Douglass, being then present, informed the Court that he was ready to call evidence to disprove the charge contained in the first point of Earl Bathurst's aforesaid Despatch, whereupon the Court intimated that they were prepared to proceed.

HIS EXCELLENCY THE GOVERNOR, Called upon by Dr. Douglass.— Since I have been Governor it is a fact that Dr. Douglass was from time to time a visitant at my table. I invited him to accompany me to Bathurst, which occupied the space of about a month. During that particular time, I never saw or knew of his exceeding at table. Up to the period of Dr. Douglass's embarkation for England, I certainly never heard directly or indirectly that Dr. Douglass bore the character in the Colony of a notorious and habitual drunkard. I was first made acquainted with such a charge on reading Lord Bathurst's Despatch upon which Dr. Douglass is now called on for his defence. From the time of my arrival in the Colony, I have generally lived at Parramatta. During that period, Dr. Douglass has acted as Police Magistrate for Parramatta and the adjacent district. During that time I never heard that Dr. Douglass was addicted to drinking.

MAJOR GOULBURN, Colonial Secretary, Called by Dr. Douglass.— Since the time of my arriving in the Colony in May, 1821, Dr. Douglass has been on terms of friendship and confidence with me, and has been a constant visitor at my house, residing there when in Sydney. During the whole of this period, I never knew him to

be an habitual or notorious drunkard. I cannot state the time when I first heard of a charge of that nature being made against Dr. Douglass; but I recollect being told by somebody that, one evening at a late hour, The Revd. S. Marsden sent a message to Dr. Macleod residing in the Government House at Parramatta, acquainting him that Dr. Douglass had just left the Female Factory in a state of intoxication; upon which Dr. Macleod took a great deal of pains to investigate the Charge, and, as I understood, was the next morning fully convinced of the falsehood of the Accusation. I conceive that Dr. Douglass does not, in the most remote degree, deserve the charge of excess of drinking being made against him. I have known Dr. Douglass during the whole of the time that he has resided in the Colony. From the terms upon which I was with Dr. Douglass, he could not have deserved the character of a drunkard, and I remain unacquainted with it. I was on the most intimate terms with him.

DR. BOWMAN, Principal Surgeon.—Dr. Douglass held a Medical appointment in the Department under my Superintendance. During the time that he held that appointment, I never had reason to complain of his not fulfilling the duties of his situation through drunkenness. I never heard Dr. Douglass's character in the Colony to be that of a notorious and habitual drunkard. I do not think he could have had that character previously to his leaving the Colony without my having heard of it. I have heard that character of him since he left the Colony. I cannot tell from whom, but I have heard it in general conversation. I cannot recollect any one individual from whom I have heard it.

By the Court. In the course of my visits to the Hospital, of which Dr. Douglass had the Superintendance, I never found him intoxicated. I generally visited the Hospital in the early part of the day, and did not give any previous notice of my intention.

MR. WILLIAM BRAGGE, formerly Dispenser at the Hospital at Parramatta.—I was attached to the Hospital under Dr. Douglass's charge at Parramatta from August, 1821, till February, 1824. I lived in the Hospital all that time. He (Dr. Douglass) was in the habit of visiting the Hospital by day and by night, as occasion might require. During the whole of that time I never saw Dr. Douglass intoxicated in the slightest degree.

By the Court. I am now a Ticket of Leave man on my own hands, An Apothecary practising and keeping a shop in Parramatta. I have served three and a half years in the Apothecary's department in the Bristol Infirmary. Have been six years in the Colony. My Sentence is fourteen years. I was appointed to the Situation of Dispenser by Dr. Bowman, Principal Surgeon. Was sent from the Government Gang to the Situation nearly six months before Dr. Douglass's arrival.

MISS ANN SCARGILL, of Parramatta.—I arrived in this Colony with my Stepfather and Sisters. He is a Settler at Hunter's River. I resided with him at Parramatta from eleven to twelve months, I believe. Being musical, we have frequently amused ourselves in that way. Dr. Douglass and family visited at our house in the evenings. I never saw Dr. Douglass in the least degree inebriated. I most undoubtedly never heard, during my residence in Parramatta, that Dr. Douglass was a notorious and habitual drunkard.

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Dr. Douglass has frequently requested me never to introduce refreshments of any kind in the evening, alleging that, as Mr. Mudie, my step-father, was absent, it was not a thing looked for. I do not think that Dr. Douglass could have borne the character generally of a notorious and habitual drunkard in the Colony, without my having heard it.

MR. JAMES MUDIE.—I have borne the King's Commission in the Royal Marines. I resided with my family at Parramatta for one year or thereabouts. As nearly as I can recollect, during a great part of that period I was alternately about two months at my Farm at Hunter's River and at Parramatta. Whilst I was at home in Parramatta, Dr. Douglass was almost daily at our house, or we were with his family; and I understood that the same intimacy subsisted during my absence. I certainly should not have sanctioned Dr. Douglass's being at our house so often, had he borne the character of a notorious and habitual drunkard. I never heard such a character of him previously to his going to England. During his absence from the Colony, I have heard it. I think, if Dr. Douglass had deserved that character, I should have heard it. I certainly never saw Dr. Douglass in the slightest degree inebriated.

WILLIAM LAWSON, Esquire, Magistrate.—I have been in the habit of acting with Dr. Douglass as a Magistrate for some time in Parramatta. I have frequently dined at his table. I never saw him in the least degree inebriated. Whilst Dr. Douglass was in the Colony, I certainly did hear a report of his being a notorious and habitual drunkard, but I considered it as a story propagated to injure his character in the Colony. I paid no attention to it. The person, from whom I heard it, was James Blackman, Senior, who was Constable at the Factory. He came to Bathurst while I was on duty, and told me he had lately been discharged from the Factory. Dr. Douglass's name being mentioned, he stated that Dr. D. frequently had come to the Factory in a state of intoxication. I told him he must have made a mistake, and I thought that he was ill naturedly disposed towards Dr. Douglass through being discharged from the Factory. I told him that I had frequently seen Dr. Douglass early and late, and that I had never seen any Signs of liquor.

By His Excellency The Governor. During the Governor's visit to Bathurst and my being with him, I never saw Dr. Douglass in any degree inebriated. I always thought him a very temperate man.

WILLIAM TUCKWELL, native of the Colony.—I was Superintendent of the Factory from July, 1822, until May, 1824. I was Clerk of the Factory before, and lived in it all the time that Dr. Douglass attended it as Visiting Magistrate and Medical Attendant. I never saw Dr. Douglass at the Factory in a State of intoxication. He was sometimes in the habit of going to the Factory just at the close of the Evening.

By the Court. Has heard Reports of Dr. Douglass being intoxicated from Mr. Oakes, both before and after Dr. D. left the Colony. Mr. Oakes called on me at the Factory and asked me if I did not think that Dr. Douglass was intoxicated at the times when he has visited the Factory. I do not recollect making any particular answer, because I did not wish to have any difference with Mr. Oakes, who was then Superintendent of the Factory. I did not conceive Dr. Douglass to have been intoxicated.

By Dr. Douglass. I do not know the reason why Mr. Oakes left the Factory. Mr. Oakes told me he resigned his Situation. He mentioned to me that, after he had given in the written complaint against Dr. Douglass, that he thought he had better apologize to him than let it proceed, as that might be the ruin of his (Oakes') family. I understood from Mr. Oakes that Dr. Douglass had forgiven him the action, which Dr. D. had threatened to bring against him in the Supreme Court.

By the Court. Mr. Oakes did not ever express himself in terms of animosity towards Dr. Douglass further than at the time he made some charges against him. I cannot recollect what those charges were.

JOHN THORN, Chief Constable, Parramatta.—I shall have been Chief Constable at Parramatta four years next October. I have been Chief Constable nearly the whole of the time that Dr. Douglass was Police Magistrate, who was appointed I understand in August, 1821. I have frequently been in the habit of seeing him at different hours in the day and night as occasion required. I never saw him intoxicated. I have called him out of bed at night upon Magisterial duty. I have been frequently in the habit of going round the town at night with him. I never said to any person that I thought Dr. Douglass was drunk. I never heard that he bore the character in Parramatta of a notorious and habitual drunkard previous to his leaving the Colony. Within this month or six weeks, I have heard of it. I have heard it from Bradley, the former Clerk of the Bench of Magistrates at Parramatta. I never heard it from any other person. I have been told by different people that they have been enquired of respecting Dr. Douglass's habit of drunkenness. About six weeks ago near the Gaol, Mr. Hannibal MacArthur rode alongside of me and said, "Your old friend Dr. Douglass will soon be here." I answered Dr. Douglass was no friend more than another person, whilst I did my duty. He said, "I understand Dr. Douglass was in the habit of taking a drop too much of brandy." I told him that it had never come within my knowledge.

By the Court. I did not then think that the object of this conversation was to sound me, but I have thought so since I have heard that this investigation was to take place.

MR. SAMUEL POWELL.—*By the Court.* I was a Constable at Parramatta between three and four years and resigned last Saturday. I resigned of my own free will to better myself. I am a Ticket of Leave man since September last. My sentence is seven years.

By Dr. Douglass. I never saw Dr. Douglass in a State of intoxication in Parramatta at any time. I have never been asked any questions whether Dr. Douglass was in the habit of being drunk. Last Saturday, I was leaving my lodgings about half an hour after the Court was over, when I met Mr. Hannibal MacArthur in company with Mr. Marsden and another gentleman. Mr. MacArthur called to me and said he had a question to ask. The question was whether I recollected Bradley being at Dr. Douglass's sometime ago; to call it to my remembrance, he said that it was on the evening that I had conducted Joseph Bradley from Dr. Douglass's house to Bradley's own house. He asked me if Bradley was drunk then, and if he had not been drinking with Dr. Douglass. I replied that I did not know that Bradley was drunk, that I had frequently taken him from Dr. Douglass's house Outside the Gate, because his eyesight was so bad.

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By the Court. I did not perceive that Bradley was intoxicated at that time. Dr. Douglass desired me to show him the near way to his own house. It was about ten o'clock. I never at any other time saw him leave Dr. Douglass's house drunk, except when he has come there so drunk that Dr. Douglass was obliged to send him away.

The Court adjourned until the 16th Instant.

Government House, Parramatta, 16th July, 1825.

At a Continuation of the Investigation directed by Earl Bathurst's Despatch bearing date the 3rd day of January, 1825, to be made into certain charges against Henry Grattan Douglass, Esquire, M.D., and reported upon by

His Excellency The Governor; The Honorable The Chief Justice; and
The Venerable The Archdeacon.

The Archdeacon laid upon the table a letter, which he had received from Robert Wilmot Horton, Esquire, Under Secretary of State for the Colonies, dated February 2nd, 1825, and containing certain communications from Dr. Douglass. (See same in Appendix marked No. 1.)

Dr. Douglass then proceeded in the examination of his Witnesses.

JOHN PITCHERS, Examined by Dr. Douglass.—I am a householder in Parramatta. I recollect Dr. Douglass's first arrival in Parramatta. During the whole of his residence there, I never saw him drunk in the Streets. I was asked last Wednesday week or thereabouts by Mr. Hannibal MacArthur, if I had seen Dr. Douglass drunk. He sent for me to his house by Taylor, and some days elapsed before I went. He then said he wished to know how the altercation took place, at the time that Dr. Douglass struck me in the Street. He asked if Dr. Douglass was then drunk. I told him that Dr. Douglass was not drunk by any means. He intimated that perhaps I was drunk myself, and could not perceive whether Dr. Douglass was drunk or not. He said it was strange that Dr. Douglass should strike me if he were not drunk. I said I had been drinking, but not enough to be ignorant whether Dr. Douglass was drunk or not. I did not attend at the Court House the next morning, after that altercation took place. I did not consider that I acted right upon that occasion, but I did not know who Dr. Douglass was, and I apologized the next day. I cannot say whether I struck Dr. Douglass first. I was neither drunk nor sober; I had been drinking. Mr. MacArthur made some further observations to me respecting some other person. I am a Shoe-maker a free man, these two or three and twenty years.

ANDREW KELLY.—I am a Constable at Prospect and have been free six years. I was in Parramatta Hospital for a wound in the head about three months. Dr. Douglass visited the Hospital, whilst I was there day and night. Dr. Douglass then had the charge of the Hospital. I never saw or heard of Dr. Douglass being drunk. I was asked whether, during the time that I was in the Hospital, if I had not seen Dr. Douglass come there repeatedly in liquor. I was asked this about May or June last by Mr. Marsden, and I answered No. I wished Dr. Douglass well wherever he went, that he acted as a gentleman towards me.

I was asked yesterday by Joseph Bradley whether I have ever seen or heard of Dr. Douglass being drunk. I said, No. He then said, I must endeavour to prove it.

I never heard until within this fortnight of Dr. Douglass being drunk. I then heard from many people that he was going to be tried for drunkenness; that he was sent out from England to be tried by His Excellency.

BARNARD CRUMMY.—I am a Ticket of Leave man, a Constable at Parramatta. My sentence is fourteen years. I have been here nine. I have been a Constable in Parramatta nearly four years, during the greater part of which time Dr. Douglass was Police Magistrate. During the whole of that time, I never saw Dr. Douglass drunk about the Streets. I have been confined to my house Seven months with a broken leg. Six or seven weeks since, Mr. Marsden and Mr. Hannibal MacArthur called at my house and questioned me. Mr. MacArthur asked me if ever I had seen Dr. Douglass drunk at any time. I said no, but that I heard he had been upon one occasion. I heard it from a Constable. That night, I went into a house to keep out of the way of Dr. Douglass, because I heard he was in a bad temper, and I heard afterwards from Benjamin Ratty that he thought Dr. Douglass was drunk. Mr. MacArthur then said, I suppose then you wish Dr. Douglass to come and be Magistrate again at Parramatta. I said, No, I did not. It was immaterial to me who was. Dr. Douglass was no friend of mine.

He asked me if I had ever seen Bradley drunk at Dr. Douglass's house. I said I had. He asked me how often; I answered, I could not tell. He asked if I had ever known Bradley to be drunk with Dr. Douglass in his parlour. I answered no, but that Dr. Douglass had sent me several times for Bradley to make some writings, as I believe, and I went and found Bradley drunk and fetched him to Dr. Douglass. Upon one occasion, he just entered the house, but came out immediately, and I did not hear what had passed. Dr. Douglass never told me to take him away to my recollection. When I told Mr. Hannibal MacArthur that I had seen Bradley drunk at Dr. Douglass's house, Mr. MacArthur made use of the expression "Aye, that's just what I want," or something similar. Mr. Marsden was present with Mr. Hannibal MacArthur when this took place.

I never heard any Reports of Dr. Douglass being drunk except upon the occasion I mentioned before.

THOMAS WELCH, a Constable of Parramatta.—I am a Ticket of Leave Man. My Sentence is fourteen years. I came here in 1816. I have been a Constable in Parramatta three years next August, and during that period I never saw Dr. Douglass drunk.

I was asked, last Thursday week by Mr. Hannibal MacArthur, whether I had been fined for not knowing what gentleman had come to Parramatta. I answered I was not fined, but that I had been at Nash's and Walker's.

Mr. H. MacArthur asked me if I had ever seen Dr. Douglass drunk. I told him, No. He asked me if I knew of Dr. Douglass having made the Constables walk the plank to see if they were drunk. I told him, No that I never did.

I have heard, since Dr. Douglass went to England, that he used to get drunk, but I never saw him so; and I had the same opportunities as other people.

WILLIAM SMITH.—I am a free man. I have been a few weeks. I am a Master Manufacturer in the Factory. I have been attached to the Factory more than three years. I have seen Dr. Douglass on

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his visits to the Factory, morning, noon and in the evenings, and I never saw him at any time or under any circumstances drunk. I must have seen that Dr. Douglass was drunk, if he had been in the habit of being so, and I never either saw or heard of it.

Reports have been lately circulated, since Dr. Douglass returned to the Colony, that Dr. Douglass was in the habit of being drunk.

DR. MACLEOD, Police Magistrate of Parramatta and Physician attached to His Excellency's Household.—I have resided in Parramatta since December, 1821. I have been in the habit frequently of meeting Dr. Douglass as a professional man at different hours of day and night, and I have also acted with Dr. Douglass as a Magistrate. I never at any time or under any circumstances saw Dr. Douglass drunk. If Dr. Douglass had borne the character of being addicted to drinking, I think I must have heard of it. Mr. Marsden wrote me a Note early in September, 1823, stating that he wished to speak with me. I was engaged particularly at the Governor's house, and I sent him word that I would call in the morning, unless it was something very urgent. I accordingly called on the following morning. Mr. Marsden said that he had sent for me to represent to me, as a Magistrate, that he had been at the Factory on duty on the Sunday previous, when a woman, named Margaret Finlay, had complained that Dr. Douglass had come to the Factory on the Friday preceding in a state of intoxication, and treated her and her child exceeding ill by turning her and her child out of the Hospital and putting her into a cell. I went I think that day to the Factory, and enquired of Margaret Finlay what was the nature of the complaint, she had made to Mr. Marsden of Dr. Douglass. She said she had complained to Mr. Marsden that Dr. Douglass had treated her ill and turned her out of the Hospital. She said she was very much irritated, her child being sick and abused Dr. Douglass very much. She expressed contrition, and hoped I would take no notice of it. Mr. Tuckwell told me that she had abused Dr. Douglass very much. I sent to Tuckwell, who was then Superintendent, and asked him the circumstances; and he told me that Dr. Douglass had come there in the evening and found Margaret Finlay in the Hospital. That he told her that she had no business there, that she was in health and must go to her Sleeping-room. Margaret Finlay was present at this time, but had apologized before. Tuckwell told me that she had abused Dr. Douglass very much, had used very bad language, and said he was drunk and cruel. She became so outrageous that Dr. Douglass was obliged to order her to a cell, and directed the Superintendent to call upon her every hour, until she should express contrition, when he was to allow her to return to her Sleeping room. He also stated that Dr. Douglass directed him to enter in a book the particulars of her answers to him, which he had done. I then asked if Dr. Douglass was drunk, and he said, No, and I came away. I knew that Margaret Finlay was a violent woman, and I had various complaints against her for violence in the Factory.

I know that Dr. Douglass' usual dinner hour was two or three o'clock. I recollect to have met Dr. Douglass several times at midnight at the Hospital professionally. Dr. Douglass's time was very much occupied during the period he was here with his several duties.

Mr. Marsden told me, when he first spoke to me about Margaret Finlay, that he wished me to enquire into the matter, as he did not

desire to appear in it. I considered Mr. Marsden's communication as merely made in the discharge of his duties as a Chaplain to whom a complaint had been made.

Question by His Excellency. From your professional knowledge of mankind, do you consider that Dr. Douglass bears any indications of habitual drinking? A. Certainly not.

MR. TIMOTHY NOWLAN, Settler on Hunter's River.—I arrived in this Colony, November, 1822. I had many opportunities of knowing Dr. Douglass's habits whilst in this Colony. Those habits certainly do not warrant the Charge being made against Dr. Douglass of notorious drunkenness.

On my arrival in this Colony, Dr. Douglass was so kind as to invite me to his house, where I remained with my family for four or five months until I went to my farm. During that time, Dr. Douglass was actively engaged in various duties. The dinner hour was from two to three. I knew Dr. Douglass constantly proceeded in the discharge of his duties after his dinner hour. If Dr. Douglass had borne the character of a drunkard, previous to his leaving the Colony, I think I must have heard of it. I never heard any reports of the kind, until since Dr. Douglass' late return to the Colony.

Dr. Douglass then observed to the Court that he was prepared to examine further evidence upon the present head, unless the Court should be satisfied with the proof which he had already adduced.

The Court decided that, as Monday, the 18th Instant, had been appointed for the investigation of certain Charges preferred by the Revd. S. Marsden against Dr. Douglass respecting the Case of James Ring, the present point of enquiry should remain open for Dr. Douglass hereafter to bring forward further proof for the consideration of the Court, if necessary.

The Court then adjourned, until Monday, the 18th Instant.

Government House, Parramatta, 29th July, 1825.

On this day, Dr. Douglass stated that there were two Gentlemen in attendance, whom he wished to have examined respecting the first point directed to be enquired into by Earl Bathurst's despatch, dated January 3rd, 1825.

The Court having assented to the application of Dr. Douglass, WILLIAM HOWE, Esquire, of Glenlee, Magistrate, was called and states,

I have been acquainted with Dr. Douglass since his arrival in the Colony. During that period, I never heard that he was addicted to drinking, rather the reverse. I have been on habits of intimacy with Dr. Douglass, and I do not think such a character could be deserved without my knowing or hearing of it. I heard it for the first time, since Dr. Douglass's late return to the Colony.

RICHARD BROOKS, Esquire, Denham Court, Magistrate.—I have been acquainted with Dr. Douglass, since his arrival in the Colony. During that period, I never heard that Dr. Douglass was at all addicted to drinking until lately. I have been on terms of intimacy with Dr. Douglass, and I think I must have heard of it, if it were his character. I always considered Dr. Douglass abstemious in his habits.

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Government House, Parramatta, 29th July, 1825.

In the matter of an Investigation directed by Earl Bathurst's Despatch bearing date the 3d day of January, 1825, to be made against Dr. Douglass, as contained in the Declaration of Joseph Bradley and to be reported upon by

His Excellency The Governor; The Honorable The Chief Justice; and The Venerable The Archdeacon.

The Court having assembled and Dr. Douglass being present, Joseph Bradley proceeded to substantiate the Statements contained in his Declaration.

JOSEPH BRADLEY stated that he should first adduce proof in reference to that part of his Declaration, which charges Dr. Douglass with having directed the punishment of 100 lashes Ordered by the Bench of Magistrates to be inflicted upon Richard Perrings to be altered in the Quarterly Return to 50 Lashes.

The Records of the Case of Richard Perrings were produced and read. See Paper marked No. 2 in the Appendix.

(See Extract from Quarterly Returns, paper marked No. 3 in Appendix.)

WILLIAM BEAUMONT, Gaoler at Parramatta, called by Joseph Bradley.—I know that Perrings received the punishment of 100 Lashes at one time.

3rd Point.—In the Case of John Whalan, who was fined Ten Pounds by the Court and the Fine never paid.

Vide Court Record 15 Decr., 1821, p. 96, Paper marked No. 4 in Appendix.

JOHN WHALAN Examined by Joseph Bradley.—I was summoned to Court to answer to a charge of employing two Government-men. Dr. Douglass never told me that he would give up the fine in consideration for the pigs. I never heard any thing more respecting the fine from that day to this. I sold him two pigs, and Dr. Douglass sent for me to pay for them. I said, Stop until I have fattened two more and then you can pay me for the whole. I knew I could always get my money when I wanted it. I never lent Dr. Douglass any money in my life. I never drank a drop of wine with Dr. Douglass in all my life in any part of the Colony. When I went to Dr. Douglass's, I used to go into the kitchen and into the Stable. I was one day in Dr. Douglass's parlour. I believe it was about the pigs that were fattening. I now recollect upon that occasion Dr. Douglass asked me if I would take a glass of something, and I believe I had a glass of Wine. I never told Bradley that Dr. Douglass had borrowed money from me. If I had I should have told a lie.

5th point.

BENJAMIN RUTTY called by Joseph Bradley.—I was on and off Dr. Douglass's Constable.

(The Charge being read to Witness, he says he denies that the Doctor came home one night in liquor and ran against him, Ratty, whilst walking in the Verandah.)

1st Charge.

I had repeated opportunities of seeing Dr. Douglass. I have seen him once or twice within two or three months in my opinion in liquor. This was when he came home late at night. I supposed he

had come from Mr. Mudie's. When I have come off a journey, Dr. Douglass used to order me a glass of Spirits, but he did not treat me familiarly.

About a month ago, Mr. H. MacArthur told me I should be wanted here. Bradley has never spoken to me upon the subject before this morning. I don't recollect my ever having mentioned to Bradley the circumstance of Dr. Douglass having run against me in the Verandah. I told him some time ago that I have seen the Doctor in liquor several times.

I know an instance of Dr. Douglass being in liquor late at night at the Court House. I was on the second Watch, and I sat by the fire warming myself. I heard a noise in the Court House; it increased and I opened the door, when the Doctor walked in and said: "Is this the way you do your duty." "He would settle with us in the morning." I thought he was drunk at the time. He did not stagger, he did not speak thick, nor did he fall. I followed him outside of the gate and then I saw him stagger, from which I thought he was drunk. To the best of my belief, he went home. There were two other Constables with me, but I cannot recollect their names. They said they thought the Doctor must be drunk, or he would not have come in at the door which he did. We afterwards went and patrolled the Town. I was spoken to about a month ago by Mr. H. MacArthur, and he said he should want me about Dr. Douglass and several more of the old Constables. I told him this circumstance, and I have spoken to my brother Constables frequently upon the subject but cannot recollect their names.

JOHN THORN, Chief Constable, Confronted with the Witness.—I once asked the Witness if he had said that Dr. Douglass was so drunk that he fell down in his Verandah, and if it was the case. He said, No it was not. I asked him if he had ever seen the Doctor tipsey. He said he never had, but he understood people were about saying so, but they had better mind what they were doing.

THOMAS SMITH, a Constable.—I have been a Constable ten years. I was on duty one night at Dr. Douglass's, when William Bragg came for Dr. Douglass about eleven o'Clock to go to the Hospital. The Doctor spoke to him, refused and did not go, and I thought he was drunk.

The next morning I saw Ratty, the Constable, and he told me that he had led Dr. Douglass home drunk.

Several times I recollect Dr. Douglass coming home late at night, and standing at the Kitchen Window and calling his Servants up. The Servants thought he was drunk. I cannot recollect their names except White, who is gone to England. He would stand at the Kitchen Window for half an hour together making water. I have repeatedly noticed Dr. Douglass come home drunk, but I cannot recollect any particular instance except that when Bragg came. It was a common report in Parramatta that Dr. Douglass was in the habit of being intoxicated. I have often seen Dr. Douglass come home tipsey at all hours of the night, but I cannot recollect any one particular instance, except that before specified of Dr. Douglass being Drunk.

Cross Examined by Dr. Douglass. Mr. Marsden had spoken to me upon this subject, and told me I should be subpoenaed. I do not know any of the places where the Doctor used to be in the evenings, when he has come home drunk.

1825.
11 Aug.

Proceedings of
board of inquiry
into charges
preferred against
H. G. Douglass.

1825.
11 Aug.

Proceedings of
board of inquiry
into charges
preferred against
H. G. Douglass.

By the Court. Mr. Hannibal MacArthur warned me about ten days ago that I should be wanted here. I have told all that I have now spoken of some time ago to the Revd. Mr. Hassall, and to several people, and I dare say to Joseph Bradley.

ROBERT BATEMAN.—I was a Constable about 12 months, and I resigned my situation about four years ago, because I and the Chief Constable did not agree.

One night, I saw Dr. Douglass drunk; he turned the corner, and called me to go home with him. He always used to call a Constable to go with him when he was late. I never saw him drunk but that once; it was a common town-talk that he was in the habit of being tipsey. I thought he was drunk from his tumbling against me as he went up the hill.

Cross-Examined by Dr. Douglass. I was sent for by Mr. Marsden, and I did not go. I have not had any conversation with any person respecting this matter.

7th Point.

BRADLEY then stated that There is a fine of Falkiner for £30 for selling Spirits without a Licence about four years ago. £15 was paid to one of the Informants, the remaining £15 was left in the hands of the Doctor.

There was a fine of Hodges for £30 for selling Spirits without a Licence; the fine was never levied.

A person named Chelvers and Hanabus were fined.

Bradley stated that he was prepared to prove these facts, but the Court decided that as the foregoing statements were not contained in the Declaration of Bradley, the truth of which was the subject of investigation, that the Court could not permit evidence to be gone into respecting such Statements.

MR. CHARLES WALKER.—One evening about two years ago, Colonel Macleod was staying at my house, and he desired not to be disturbed. I attended to his Orders. I heard footsteps down the pathway and I went, it being a very dark night, to see who was coming. Dr. Douglass said in a very presuming tone, who is there? I replied, there was a gentleman writing who did not wish to be disturbed. The Doctor said, I was a liar. Of that I should have taken little notice, but Dr. Douglass went very improperly to the Window peeping to discover what this gentleman was doing. When there, I said, Doctor that is not the conduct of a gentleman. He replied and made use of very abusive language. I followed him to the gate and I perceived that he was drunk. If he had been more civil, I should have sent a person to see him home; as it was, I left him to himself. I am sure no gentleman would have used the language he did without being drunk. This is the only time that I ever saw Dr. Douglass drunk. Col. Macleod was staying at my house some considerable time, and I do not believe Dr. Douglass was acquainted with him. I do not know it. I have heard frequently, previous to that time, that Dr. Douglass was in the habit of continual intoxication.

Cross-Examined by Dr. Douglass. I never heard that Dr. Douglass has been rolled home drunk in a Wheel-barrow. Dr. Douglass never came to my house in the evenings for the purpose of drinking. Dr. Douglass attended me during a long illness. When he visited me, I never saw any act of intoxication nor at any other time except the one I have already mentioned.

Government House, Parramatta, 30th July, 1825.

In continuation of the Investigation directed by Earl Bathurst's Despatch, bearing date the 3rd day of January, 1825, to be made into certain charges against Dr. Douglass, as contained in the Declaration of Joseph Bradley and to be reported upon by,

His Excellency the Governor; The Honorable The Chief Justice; and
The Venerable the Archdeacon.

The Court having assembled, Joseph Bradley proceeded in the examination of Witnesses to substantiate the truth of his declaration.

MARY DENT, a Native of the Colony, *Questioned*. Whether Thorn has been tampering with her? *Answer*. Thorn has not spoken to me, nor has he been tampering with me at any time.

4th Point.

I resided with Mr. Bradley about 3 years ago at the time he was Clerk of the Bench of Magistrates at Parramatta. I might have been but I do not recollect standing or walking with Joseph Bradley near Mr. Marsden's old residence, one evening when Dr. Douglass stood at the opposite Corner. It was not a usual thing with me to walk arm in arm with Bradley in the evening. I never saw Dr. Douglass in liquor. I never was in his house in my life.

By the Court. Q. Do you recollect one evening near Sundown standing by Mr. Marsden's Old residence in George Street in company with Joseph Bradley, and Dr. Douglass being at the opposite Corner questioning almost every individual that passed, and being much in liquor? *A.* I do not; I never saw Dr. Douglass in liquor in my life.

I do not recollect seeing Anne Falkiner pass by. I never saw Dr. Douglass following any woman down George Street.

6th Point.

I recollect Joseph Bradley going to visit one James Squire at Kissing Point; after he had been absent about 3 or 4 days Dr. Douglass came to Bradley's residence.

Q. Did he come to your private Apartment? *A.* We had but one room.

Witness is desired to state what took place.

Dr. Douglass came and asked me where Joseph Bradley was. I told him I believed at Kissing Point. The Doctor then told me that he had Sealed the Box in the Court Room containing the Government Papers, and would break Bradley from holding the Situation as Clerk. That he had so often put up with his conduct that he would put up with it no longer. I then begged Dr. Douglass not to break Bradley. The Doctor then asked me if I was not ashamed to live in a State of Adultery with Joseph Bradley, and if it would not be better for me to return to my husband. The Doctor said there was nothing so happy as husband and wife, and that he would intercede to put us together. I then told him that I thought I should never live happy with him, as we had been parted a long time, and that I had a child by Joseph Bradley which would never let us come together again. The Doctor said I lived a very unhappy life with Joseph Bradley, and that I might as well lead it with my husband as he understood that he was a very quiet man. I then told the Doctor that, if he would make Bradley again, I would leave him and go to service. That I did not wish to leave him while he was out of the Situation. The Doctor replied he would make him

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H. G. Douglass.

no more, for his conduct did not merit it. I then told the Doctor I had no place to go to, if I left Bradley. He then spoke to me and said, "Mrs. Dent, I advise you as a Father having a family to return to your husband." He then again told me he would use his influence to bring me and my husband together; and until then that I and my family should be left at a married man's house, and that he would take the trouble to go to Sydney and see my husband on the case. He then, going out of the room, told me to think of it against to-morrow, as he would see my husband immediately for me. He then left the room and told me to think well on what he had said. Dr. Douglass offered to take no liberties with me. He stood no nearer than a table between us. From his manner and conversation, I never conceived that he wished to take any improper liberties with me. He did not threaten me nor did he use any insinuating expressions.

By Joseph Bradley. He never told me he would send me to the Factory.

By the Court. Bradley came home the same evening. I told him what had passed between Dr. Douglass and myself. I did not say that I could not tell him half the language that the Doctor used towards me. I told him word for word what had passed.

I do not recollect before this happened that Bradley ever told me that he had seen Dr. Douglass drunk.

Minute by Order of the Court. During this Narrative the Witness Shed tears and seemed deeply impressed with the truth of her Statement.

The Court then intimated that they were satisfied with respect to Bradley's Declaration, and did not require any more evidence.

Papers in
connection
with inquiry.

APPENDIX.

[No. 1] *Under Secretary Horton to Archdeacon Scott.*

My dear Sir, Col. Office, London, 2nd February, 1825.

Dr. Douglass having addressed to me the enclosed Letter, I think it but fair to him that you and the other Members of the Commission should be made acquainted with its Contents, and I therefore forward it to you, for your and their Information.

I am, &c.,

R. W. HORTON.

[Sub-enclosure No. 1.]

Dr. Douglass to Under Secretary Horton.

My Dear Sir, London, 2nd February, 1825.

Remission
of corporal
punishment on
disclosure of
information.

With reference to the conversation I had the honor to have with you respecting the charge forwarded by Mr. Marsden against me for having flogged a man to extort evidence from him, I beg leave to call to your recollection a letter, I addressed to you on that Subject, in which I stated to you the circumstances under which some men had been punished by Order of the Bench at Parramatta. I beg to repeat those circumstances. It often occurred, when a Convict was convicted of Robbery, and it appeared to the Bench he had disposed of the plundered property, the corporal punishment he was sentenced to receive was directed to be inflicted at intervals; and in case at any time, before the infliction of the entire punishment, he gave up the property, the remaining number of lashes were remitted, i.e. in case the Convict was adjudged 100 or 150 lashes for robbing a man of his Cloaths, twenty five lashes were ordered to be inflicted every second morning to the amount of the

100 or 150, and he was told, if he gave up the Cloaths or gave such information as would enable the Police to obtain them, he would be forgiven the remainder of the *Corporal* punishment.

In like manner with a deserter from Government or private employ, when it was known he had been harbored, he was offered a remission of punishment if he would prove, who had harboured him, knowing him to be a runaway; for we had good reason to believe those who harbored runaways were receivers of their plunder, and were of the greatest injury to the Colony.

I beg to offer these explanations of this particular charge, Mr. Marsden has thought proper to forward against me.

I also beg to forward a Statement, made by Captain Moore late commanding Ship Brampton, which bears on the case of Ring, and which I request you will have the goodness to direct to be forwarded with the duplicate dispatches on the several matters to be enquired into by the Commissioners of Enquiry into my Conduct in the Colony.

I remain, &c.,

HENRY DOUGLASS.

[Sub-enclosure No. 2.]

Deposition of Samuel Moore.

I COMMANDED the late Ship Brampton on a voyage from Port Jackson, New South Wales, from which place I sailed on the 23rd day of July, 1823, for New Zealand. On that voyage, I had the Reverend Samuel Marsden and two other Missionaries with their families as passengers, with some Stores for the Mission; at New Zealand, the Brampton was unfortunately wrecked. During my stay there, I saw several prisoners, who were deserters from the Colony of New South Wales and had mixed with my people. One of them, I was informed by Mr. Marsden was a Man by the name of Ring, who was a prisoner and by trade a painter and glazier and had been a Servant to him, Mr. Marsden. This man at that time could have been taken with great ease.

SAML. MOORE.

Witness to the Signature:—

J. H. BRADSHAW,

65 Lombard Street, 5th Feby., 1825.

[No. 2] *Extract from the Records of the Parramatta Bench.*

Book No. 3. Friday, 1st March, 1822.

Sitting Magistrate, Henry Grattan Douglass, Esquire.

John Humphris } Servants to Mr. Pye brought forward for run-
and } ning away from their employ, having been sent
Richard Perry } up from Sydney by the Police.

The Prisoners state that the reason they ran away was on account of their Master setting them to hoe some ground and began to blackguard them, and threatened to get them flogged. State that they have been a fortnight away from their employ.

Sentenced to receive Fifty Lashes each, and to be worked one Week in the Gaol Gang on Bread and Water.

Extract from the Records of the Parramatta Bench.

Book No. 4. Saturday, 16th March, 1822.

Sitting Magistrates:—Hannibal McArthur; John Palmer; William Howe, Esquires; and Revd. Saml. Marsden.

p. 4.
"RICHARD PERRINGS, ship Baring, Servant to Mr. John Pye, brought forward for neglect of his Duty.

1825.
11 Aug.

Papers in
connection
with inquiry.

Remission
of corporal
punishment on
disclosure of
information.

Deposition of
S. Moore re
J. Ring.

Minutes of
conviction of
R. Perrings.

1825.
11 Aug.

Papers in
connection
with inquiry.
Minutes of
conviction of
R. Perrings.

Mr. Pye, Junr., states, That the Prisoner has only broke up for the last week between Sixty and Seventy Rods of Stubble Ground, and what he has done is not half done. That, about Three Weeks ago, the Prisoner was punished for running away to Sydney.

The Bench do sentence the Prisoner to receive One hundred Lashes and work Twelve Months in the Gaol Gang on Bread and Water, if he does not bring up the deficiency of his Work.

Idem. Saturday, 6th April, 1822.

Sitting Magistrates:—Hannibal McArthur; Henry Grattan Douglass; John Palmer, Esquires.

In Addition, John Blaxland, Esquire, and George Thomas Palmer, Esquire.

p. 19

RICHARD PERRINGS, Servant to Mr. Pye, brought forward for running away from his Employ being the Third time.

The former Sentence of the Bench of Magistrates passed about three Weeks ago on the Prisoner which was suspended, namely One hundred Lashes and to Work Twelve Months in the Gaol Gang on Bread and Water, is ordered to be put in force, being an incorrigible Character.

Minutes of
conviction of
J. Whalan.

[No. 4] *Extract From the Records of Fines, Penalties and Summons of the Parramatta Bench.*

Saturday, 15th December, 1821.

Sitting Magistrate: Henry Grattan Douglass, Esquire.

JOHN WHALAN, a Settler of Toongabbee, appears under a Summons.

Benjamin Ruty (Constable) gives Information that, on Monday last, he went to the Seven Hills with the Gazettes, when he saw a flock of Sheep without any Stockman. He asked John Leadbeater, who they belonged to; he said to Government, and the men was reaping for John Whalan. He came in and reported the circumstance to the Magistrates, and went out with White, Constable, on the Tuesday, and there saw those men attached to the Government Dairy absent from their employ reaping Wheat for John Whalan.

his
BENJN. X RUTTY.
mark

Edward White (Constable), having heard the Testimony of Ruty read, respecting going to Whalan's Farm on the Tuesday, corroborates the same.

his
EDWD. X WHITE.
mark

John Whalan being duly convicted of harbouring and employing Government Servants is ordered to pay a penalty of Ten Pounds, agreeable to the General Orders on that head.

[No. 5A] *The Revd. S. Marsden to Sir Thomas Brisbane and the Court of Inquiry.*

Gentlemen, Parsonage House, 15th July, 1825.

I beg leave to submit to this honourable Court that, though I am not the Accuser of Dr. Douglass nor even wished to be, as stated in the Question referred to for enquiry by Earl Bathurst in his Letter of the 3rd of January, 1825, yet as I find my name and character so deeply involved in those References that I must request this Court to place on their Records that I declare, without pledging myself for the Result, it is my firm belief that, if his

Correspondence
with Rev. S.
Marsden re
investigation
of charge of
illegal flogging.

Excellency will grant an Enquiry into the facts alluded to by the ex-Magistrates, the substance of the third Charge in which my name is mentioned will be established.

It is very painful to my feelings to make this Statement: but I am compelled to do so lest the Right Honourable Earl Bathurst should be impressed with a belief that I shrank from a fair Enquiry.

I have, &c.,

SAMUEL MARSDEN.

1825.
11 Aug.

Papers in connection with inquiry.

Correspondence with Rev. S. Marsden re investigation of charge of illegal flogging.

[No. 5B] *Mr. Francis Stephen to Revd. S. Marsden.*

Sir, Government House, Parramatta, 15th July, 1825.

In answer to your letter of this day's date, stating it as your belief that, if His Excellency would grant an enquiry into the facts alluded to by the Ex-Magistrates, the substance of the 3rd Charge, contained in Lord Bathurst's Despatch in which your name is mentioned, would be established, I am directed to inform you, that such an enquiry not falling within His Lordship's Instructions the Court do not deem it expedient to advise the same.

I have, &c.,

FRANCIS STEPHEN.

[No. 5c] *The Revd. S. Marsden to Sir Thomas Brisbane and the Court of Inquiry.*

Gentlemen, Parsonage House, 16th July, 1825.

In a conversation I had with Dr. Fairfowl upon the subjects that occurred when he was here last, an observation of his brought to my Recollection the probability of my having mentioned one of the Cases of Cruel punishment inflicted by Dr. Douglass; and, on a more mature reflection, I feel satisfied that I did mention the case of Henry Bayne (now one of His Excellency's Boat's Crew) in a private letter to a friend in England.

As the punishment of this man was told me in the public Street, it made a great Impression upon my mind. Should this be the case referred to by Lord Bathurst (and I am inclined to believe it is), I can only say I am ready to prove it, as it is one of the Cases alluded to by the Ex-Magistrates.

I have, &c.,

SAMUEL MARSDEN.

[No. 5d] *Mr. Francis Stephen to Revd. S. Marsden.*

Sir, Government House, Parramatta, 16th July, 1825.

In reply to your letter of this day's date, I am directed to inform you that the Court have no further information upon the case referred to by Lord Bathurst, in which your name is mentioned, than what is contained in the 3rd charge, and which they have desired me to copy for your guidance.

"And lastly, I have to direct you to apply to Mr. Marsden to bring before you the statement, which he has transmitted to England with respect to the alleged fact of Dr. Douglass having directed a Convict to be flogged with the view of extorting confession from him."

The Court therefore cannot advise or direct you in any manner upon the subject of bringing the case of Henry Bayne alluded to before them, but leave you entirely to your own discretion.

I have, &c.,

FRANCIS STEPHEN.

1825.
11 Aug.

[No. 5E] *The Revd. S. Marsden to Sir Thomas Brisbane, Chief Justice Forbes, and Archdeacon Scott.*

Papers in
connection
with inquiry.

Correspondence
with Rev. S.
Marsden *re*
investigation
of charge of
illegal flogging.

Gentlemen,

Parsonage, 28th July, 1825.

In reference to what fell from Your Honourable Court this day at the close of your Proceedings in Ring's Case, and in obedience to the suggestion of His Honor the Chief Justice, I beg to make the following Statement.

Upwards of two years ago, I was passing along the public Street opposite the Gaol, when Walton, the Flogger, accosted me in the following manner: That he had been compelled to flog a man, named Henry Baynes, in a most cruel manner *on suspicion of a Robbery*; that he had been ordered to punish him with twenty-five lashes every morning, until he would tell where the Property he was charged with stealing was concealed; that no Surgeon attended and the man's back was so lacerated that he was afraid he would die under the punishment if continued; that he inflicted upon Baynes twenty five lashes for five mornings successively beginning on Monday; that, on the 6th morning being Saturday, he was ordered to flog him again, when he kept out of the way all day. On Monday, he was ordered by Doctor Douglass to punish him again, which he did, the man still persisting in his Innocence and that he knew nothing of the property. *I satisfied myself with respect to the correctness of Walton's Statement, that he punished Henry Baynes six times in eight days.*

I have no doubt the above Case is that which I have mentioned in my Letter to my Friend, and to which the Right Honourable Earl Bathurst has desired I may be referred.

I have no Statement to produce, because I never made it in Shape of a Charge; but I am confident it is the same case, as at the time I wrote it, it had made the deepest impression on my mind *being a case of peculiar Enormity of Torture to extort Confession.*

I beg leave to be allowed to offer proof to this Honourable Court that the above Circumstances did occur, and I leave this Statement with the utmost deference and Respect to your Consideration.

I have, &c.,

SAMUEL MARSDEN.

[No. 5F] *Mr. Francis Stephen to Revd. S. Marsden.*

Reverend Sir, Government House, Parramatta, 29th July, 1825.

By direction of His Excellency The Governor and the other Members of the Court, I am instructed to inform you that they do not consider your letter of the 28th July, 1825, as pledging you to sustain "the alleged fact of Dr. Douglass having directed a Convict to be flogged, with the view of extorting confession from him." agreeably to the 3rd point contained in Lord Bathurst's despatch, dated 3rd Jany., 1825.

You state that you were accosted by Walton, the Flogger, and were informed by him that a man named Henry Baynes had been flogged "in a most cruel manner on suspicion of a robbery"; and you afterwards go on to state that you had satisfied yourself with respect to the correctness of Walton's Statement that he had punished Henry Baynes six times in eight days; but you do not pledge yourself to the fact that it was on suspicion of a robbery. The Court consider this, namely, to punish a man on suspicion with a view of compelling him to convict himself by confession, to be the true point of enquiry; the mere fact of having been punished six times in eight days may be in pursuance of a Sentence of a Court;

and therefore, unless you are prepared to prove that Baynes was punished on suspicion only, the Court does not think your Statement of the 28th July, 1825, so far at least as you are pledged to its accuracy, is within the point of enquiry directed by Earl Bathurst.

1825.
11 Aug.

Papers in
connection
with inquiry.

I have, &c.,
FRANCIS STEPHEN, Clerk of the Court of Enquiry.

P.S.—I am directed to request that you will give an immediate reply to this letter.

Correspondence
with Rev. S.
Marsden *re*
investigation
of charge of
illegal flogging.

[No. 5G] *The Revd. S. Marsden to Sir Thomas Brisbane and the Court of Inquiry.*

Gentlemen, Parsonage, 30th July, 1825.

I have the Honor, in reply to your Letter of yesterday to state that I am ready to produce Proof of "The alledged Fact of Dr. Douglass having directed a Convict to be flogged with the view of extorting Confession from him."

With great Respect,

I have, &c.,

SAMUEL MARSDEN.

[No. 5H] *Mr. Francis Stephen to Revd. S. Marsden.*

Reverend Sir, Government House, Parramatta, 30th July, 1825.

I am directed by His Excellency The Governor and the other Members of the Court to state, in reply to your Letter of this morning, that unless you transmit a copy of the Statement you have transmitted to England "of the alleged fact of Dr. Douglass having directed a Convict to be flogged with the view of extorting confession from him," they do not feel authorized by Lord Bathurst's instructions to enter on any other subject of investigation.

I have, &c.,

FRANCIS STEPHEN, Clerk of the Court of Enquiry.

[No. 5I] *The Revd. S. Marsden to Sir Thomas Brisbane and the Court of Inquiry.*

Gentlemen, Parsonage, 30th July, 1825.

I have to request that I may be furnished with a Copy of the Correspondence between me and the Honourable Court, relative to the Case of Henry Baynes.

I have, &c.,

SAMUEL MARSDEN.

[No. 5J] *Mr. Francis Stephen to Revd. S. Marsden.*

Reverend Sir, Government House, Parramatta, 30th July, 1825.

I am directed herewith to furnish you, according to the request contained in your Letter of this day's date, with a copy of the correspondence between yourself and the Honorable Court of Enquiry relative to the Case of Henry Baynes.

I have also to acquaint you that the Case of Henry Baynes will be transmitted for Earl Bathurst's consideration, together with the other Proceedings, which have taken place before the Court of Enquiry.

And I have, &c.,

FRANCIS STEPHEN, Clerk of the Court of Enquiry.

[No. 6A] *Extract from the Records of the Parramatta Bench,*

Monday, 31 March, 1823. Book No. 4.

Sitting Magistrate: Henry Grattan Douglass, Esquire; In addition, Donald McLeod, Esqr.

Record of
punishment of
H. Bayne.

p. 268.

HENRY BAYNE, Shlp Lord Eldon, attached to the Domain Party brought forward on suspicion of a Robbery.

1825.
11 Aug.

Papers in
connection
with inquiry.

Record of
punishment of
H. Bayne.

WILLIAM JAYNES, Ticket of Leave, States on Oath, That he resides in Hunter Street, Parramatta; That, yesterday afternoon about Three o'Clock as the Bell was ringing for Church, he locked up his Place and went to Church. About half an hour afterwards, he was beckoned out of Church by the Sexton, who said his house had been robbed. He went home and found the Back Window broke open, also his Box and Cash to the amount of Five Pounds two shillings taken out, one Yard and a half of Superfine Blue Cloth, a small Tin Box, containing two Gold Brooches, One Gold Seal, and some pieces of Silver, A Wooden Box containing some Buttons, four or five Shillings in Silver, three Silk handkerchiefs, and one large Cambric Handkerchief.

WM. JAYNES.

ELEN MURPHY, states on Oath, That Yesterday afternoon she saw the Prisoner, now before the Court, come out of Jaynes' Yard Gate. She saw him put his hand over and open the Gate. She perceived something bulky about his Body. He went round the corner of Buckley's House. She saw the Prisoner, Francis Ewer, standing inside his own Gate leaning over (which is opposite to Jaynes) at the time Bayne was coming out; the Prisoner Bayne said to Ewer to come on Smart, and they went on up the Hill towards the Toll Bar. She reported the Business to the Police.

her
ELLEN X MURPHY.
mark

The Bench do sentence the Prisoner Bayne to receive Twenty five Lashes every morning until he tells where the Property is stolen from Jaynes' House.

The Prisoner Ewer is ordered to be confined in a Barrack Cell for further Examination.

[No. 6B] *Dr. Douglass to Sir Thomas Brisbane, Chief Justice Forbes and Archdeacon Scott.*

Gentlemen,

Sydney, 16th August, 1825.

The Sentence, which was passed by the Bench of Magistrates on Henry Baynes, a Convict, upon Conviction of a Capital Felony, was not unusual at the time at Parramatta, and similar punishments have been directed to be inflicted for the like offence by other Magistrates than myself. The dividing Corporal punishment into separate inflictions at separate periods was ordered in one Case by the Judge Advocate Wyld. It has obtained as a practice in the Army, and has frequently been attended in this Colony with its desired object, the restoration of stolen property.

I annex a few extracts from the official Quarterly returns to the Governor, by which you will perceive that Magistrates from various parts of the Colony have adopted the same practice when attending at Parramatta.

I have, &c.,

HENRY G. DOUGLASS.

[Sub-enclosure.]

Extracts from Returns.

28th December, 1821.

Sitting Magistrates:—The Honourable the Judge Advocate;
William Cox and William Howe, Esquires.

TIMOTHY MURPHY, John Kelly, James Nowland, James Rice, William Kitchen, James Tracey, Patrick Good, William Witling, Samuel Powell, John Quick, James Saunders, James McAnelly, John O'Brien,

Division of
sentences of
corporal
punishment
to secure
restoration
of property.

Precedents for
punishments
inflicted.

Robert Holmes, John Connor, Charles Husk, John Hewster, Samuel Pearce, John Smith, Benjamin Meanly; Attached to Longbottom Establishment,

1825.
11 Aug.

Charged with absence from their Master and with mutinous Conduct towards the Magistrate when mustered by him.

Papers in connection with inquiry.

The Prisoners, Tracey and Hewster are Sentenced to receive 200 Lashes each on their bare back, 100 lashes of such Punishment to be given in two following weeks, and afterwards to be Transported to Port Macquarie for 3 Years. James Nowland to receive 100 lashes and to be kept on bread and Water for one Week. James Macnally and Robert Holmes to receive 50 Lashes each and Work in Irons for 6 months each.

Precedents for punishments inflicted.

The other Sixteen Persons to work in Irons for Six Callendar Months at or near the Establishment of Longbottom Farm.

January 11th, 1823.

Sitting Magistrates:—Henry Grattan Douglass and John Harris, Esquires.

BENJAMIN NEWTON, Convict, Attached to Mr. Crawford's Clearing Party,

Charged with Stealing a Pair of Shoes from his fellow prisoner's bag in the Hut where it remained. Sentenced to receive Twenty-Five Lashes every Second Morning, until he produces the shoes stolen from his fellow prisoner's bag.

The Shoes being produced, his punishment is Remitted and he is ordered to Work 6 Months in the Gaol Gang.

February 7th, 1823.

Sitting Magistrates:—Henry Grattan Douglass and Donald Macleod, Esquires.

RICHARD SKINNER, Timothy Feaney,

Charged on Suspicion of Stealing two Snuffers and a Sugar Tongs from the premises of Mr. Nash.

Sentenced to receive 25 Lashes every Morning, until the property is found by either of them.

The property being found, Skinner is discharged and Feaney to receive 100 Lashes and Port Macquarie 3 Years.

March 1st, 1823.

Sitting Magistrates:—John Harris and Donald Macleod, Esquires.

WILLIAM MORLEY, Convict p. Prince of Orange, Attached to Mr. Hall's clearing Party at Coloo.

Charged on suspicion of Stealing a quantity of wearing apparel from one of his fellow prisoners' bag.

Sentenced to receive 100 Lashes if the property be not forthcoming in one Week.

The property not being produced, the prisoner did receive the 100 Lashes and was returned to his Gang.

March 10th, 1823.

Sitting Magistrate:—Donald Macleod, Esquire.

PETER ROBERTS, Thomas Rice, George Wright, Attached to Mr. Campbell's falling Gang on the Western Road.

Charged under Strong Suspicion of stealing Wearing Apparel from a Hut on the Western Road.

1825.
11 Aug.

Papers in
connection
with inquiry.
Precedents for
punishments
inflicted.

Sentenced to receive 25 Lashes every Second Morning until they produce the property Stolen.

Roberts and Wright received 75 Lashes each, and Rice and the others were returned to their Gang.

March 29th, 1823.

Sitting Magistrates:—Henry Grattan Douglass and Donald Macleod, Esquires.

HENRY BAYNES,* Convict p. Lord Eldon; Francis Ewer, Convict p. —.

Baynes attached to Hood's domain Gang, and Ewer to the Lumber Yard;

Charged with entering and Robbing the dwelling House of William Jaynes of a considerable amount of Property and Cash (Re-examination).

Baynes being sentenced to receive 25 Lashes every 2d Morning until he produced the property. Received 125 Lashes and did not tell: is Sentenced to Port Macquarie 12 months, and Ewer discharged.

April 19th, 1823.

Sitting Magistrates:—Henry Grattan Douglass, Donald Macleod, Esquires.

RICHARD JOHNSON, Convict p. Hindostan. Att'd to the Govt. Dairy on the domain.

Charged with having a pair of blue cloth Trowsers in his possession, which was Stolen from the Government Garden House.

Sentenced to receive 25 Lashes every morning until he tells where he got the blue trowsers in question.

Received 50 Lashes and told that he got the Trowsers in question from one Wright, a Bushranger.

October 2nd, 1823.

Sitting Magistrates:—Henry Grattan Douglass, Donald Macleod, and Edward Riley, Esquires.

JAMES RYAN, Convict p. Malabar, Attached to the Domain Gang, Parramatta.

Charged under strong suspicion of Robbing the premises of Mr. McLeod of a quantity of Money and Wearing apparel. Sentenced to be confined in a cell on bread and Water, and to receive 25 Lashes every 2d Morning, until he produces the property so stolen.

Admitted an Evidence against two others, who were sent with him to Port Macquarie, the 18th Instant.

(Refer to Octr. 18th.*)

October 4th, 1823.

Sitting Magistrate:—Henry Grattan Douglass, Esquire, and The Revd. H. Fulton.†

THOMAS SMITH, Convict p. Servant to Thos. Wilson. Charged on Suspicion of robbing his Master's premises of a quantity of wearing apparel.

Sentenced to receive 100 Lashes by 25 every 2d morning, until he produces the property so stolen. Received 100 Lashes and sent to Sydney to the Gaol for Port Macquarie.

* Note 211. † Magistrate at Castlereagh.

November 8th, 1823.

Sitting Magistrates:—Donald Macleod and William Lawson,
Esquires.JOHN SHAY, Convict p. Countess of Harcourt, Servant to Mattocks
of the Punch Bowl.Offence, making away with a quantity of property entrusted
to his care.Sentence 25 Lashes every 2d Morning, until he produces the
Property. Received 75 Lashes and did not produce the property,
was therefore turned into Government Employ.

November 22d, 1823.

Sitting Magistrates:—Donald Macleod, William Lawson, and
Morris Barlow, Esquires.JOHN MCKAY, William Platt, Convicts p. , Att'd to Mr.
McMahon's Road Gang.Charged with being concerned in Stealing a quantity of property
from William Moore's.Sentenced to receive 25 lashes each, every 2nd Morning until
they produce the property.McKay received 150 Lashes, and Pratt 100, and did not produce
the property, and were sentenced to Port Macquarie 3 years each.

February 24th, 1824.

Sitting Magistrates:—William Lawson, Donald Macleod, Esquires.
THOMAS LAHEY, Convict p. Earl St. Vincent. Runaway from Emu
Plains.Offence, Runaway from Employ and robbing the House of Robert
Pymble of Cash and Wearing apparel.Sentenced to receive 25 Lashes every second Morning, until he
produces the remainder of the property, and then 5 years to Port
Macquarie.

Banishment remitted, he being free.

Received 200 Lashes, and did not produce the property, and was
discharged being free pursuant to this sentence.

April 12th, 1824.

Sitting Magistrate, Donald Macleod, Esquire.

JOHN COX, Convict p. . Att'd to Mr. Palmer's clearing
Gang. Charged with having concealed in his Bed a quantity of
Linen stolen from the premises of John Palmer, Esquire.Sentenced to receive 25 Lashes every second morning, until he
produces the remainder of the property Stolen.

Received 100 Lashes and did not produce them.

Sentenced:—Gaul Gang 6 months.

July 17th, 1824.

Sitting Magistrates:—Donald Macleod, William Lawson,
John Campbell, Esquires.

CHRISTIE, LAWLER, Convict p. Medina. Attached to Rooty Hill.

Charged with having a Quart Tin in his possession stolen from
the Huts on Mr. Campbell's Farm.Sentenced to receive 25 Lashes every 2d morning, until he
produces the remainder of the property Stolen.

Received 100 Lashes and was returned to his Gang.

1825.
11 Aug.Papers in
connection
with inquiry.Precedents for
punishments
inflicted.

August 14th, 1824.

Sitting Magistrates:—Donald Macleod, John Campbell, Esquires.
 WILLIAM HANTON, Convict p. Mangles; James Hearight, Do. p. Adam't. Attached to the Clearing Gang on the Estate of Geo. Acres, Esquire.

Charged on Suspicion of Stealing Wheat from the Barn of George Acres, Esquire. The Prisoner Hanton having wheat in his possession, the same Sample.

Sentence.—William Hanton to receive 25 lashes every 2nd morning, until he produces the Wheat so stolen, and the Prisoner Hearight is admonished and discharged.

Received 100 Lashes and did not produce the Wheat; was sent to Prs' Barracks.

September 4th, 1824.

Sitting Magistrates:—Donald Macleod, John Campbell, Esquires.
 BENJAMIN GARDNER, Convict p. Hindostan, G.S. att'd to Mr. Edward Sweetman at the Fem. Orp. Institution.

Charged with having in his possession a handkerchief, Stolen from his Master.

Sentenced to receive 25 Lashes every second morning until he tells where he got it.

September 20th, 1824.

Sitting Magistrates:—Donald Macleod and John Campbell, Esquires.
 JAMES BANKS, Convict p. . Att'd to Captain Lethbridge's Cl'g Gang, Prospect.

Charged on suspicion of Robbing Mary Cleaves of Prospect.

Sentenced to receive 25 Lashes every second morning, until he informs where the property is, and who was concerned in said Robbery.

January 3rd, 1824.

Sitting Magistrates:—Henry Grattan Douglass, Donald Macleod, Esquires, and The Revd. Thos. Reddall.*

JOHN NEWING, Convict p. . Servant to John Ivory of East Creek.

Charged with running away and refusing to tell where he was employed.

Received 50 Lashes and did tell; Was therefore returned to employ.

October 18th, 1823.

Sitting Magistrates:—John Harris,† Donald Macleod, Esquires.

William Lynch }
 George Lacy } Bond, attached to Government
 James Ryan }

Charged with stealing a quantity of property from Mr. John Macleod of Parramatta.

Sentence.—Lacy and Lynch to receive 100 Lashes each, and the whole to be sent to Port Macquarie.

The foregoing are true Extracts from the Official Returns in the Colonial Secretary's Office.

FRANCIS STEPHEN, Clerk of the Court of Enquiry.

* Magistrate at Campbell Town.

† Magistrate at South Creek.

I, JOHN THORN, Chief Constable of Parramatta, declare that on all occasions of punishments directed to be inflicted by the Bench of Magistrates at Parramatta upon Convicts convicted of Robbery, where the property proved to have been stolen was known to have been in their possession, and sentenced to receive their Corporal punishment at different Periods, that is to say, Twenty five Lashes every morning or every second morning as the case might be, That I was uniformly directed to report every day to one of the convicting Magistrates the effect of such punishment, and likewise to desist any time during the infliction, when the Man said he would either give up the Property or render such information as would lead to its discovery. If the Man's back was too sore, I was directed to stop the Punishment and send him to Hospital. And in no instance, when Dr. Douglass was on the Bench, did the total amount of Lashes so divided exceed One hundred and fifty Lashes and the Dispenser of the Hospital was always directed to attend.*

1825.
11 Aug.

Papers in
connection
with inquiry.
Affidavit of
J. Thorn.

JOHN THORN.

Parramatta, 13th August, 1825.

I believe that the above is the signature of the Chief Constable at Parramatta.

ROBT. CRAWFORD.

16th Augt., 1825.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 76, per ship Phœnix; acknowledged by Earl Bathurst to Governor Darling, 13th April, 1826.)

Government House, New South Wales,

My Lord,

16th August, 1825.

16 Aug.

Having in conjunction with the Chief Justice and Archdeacon Scott investigated into the case of Dr. Douglass agreeably to your Lordship's Instructions, conveyed to me in Your Lordship's Despatch No. 34 of last year and No. 7 of last January, and the report being unequivocally favourable, I have in further obedience to Your Lordship's Instructions directed him to enter upon the duties of his Office as Clerk of the Council.

Appointment of
H. G. Douglass
as clerk of
council.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 78, per ship Phœnix; acknowledged by Earl Bathurst to Governor Darling, 13th April, 1826.)

Government House, New South Wales,

My Lord,

29th August, 1825.

29 Aug.

I had the honor to receive your Lordship's Dispatch No. 13 of last January on the 18th Instant, stating that Your Lordship considered it to be essential for reasons, which will readily occur to me, that at the several Out Settlements in the Colony, where a free Population is established, the Military Commandants and Magistrates should if possible be married men, and requiring me,

Employment of
married men as
commandants
and magistrates.

* Note 212.

so far as I may be enabled, to carry this arrangement into effect, to be guided in the selection of Officers to fill the above situations with reference to that circumstance.

It is not difficult for me to discover under what impression your Lordship's Dispatch has been framed; at the same time, I venture to express the confident hope that my late Dispatch, which I had the honor to address to your Lordship, will have put your Lordship into possession of such facts as to remove that impression; at the same time, I have the satisfaction to acquaint your Lordship that I had anticipated your Lordship's suggestion, as the several Commandants at all Out Settlements in New South Wales, vizt. Bathurst, Newcastle, Port Macquarie and Moreton Bay, are married men and have their families with them.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 79, per ship Phoenix; acknowledged by Earl Bathurst to Governor Darling, 13th April, 1826.)

Government House, New South Wales,

30th August, 1825.

My Lord,

Mr. Temple Pearson, an Hospital Assistant to the Forces, has been lately informed by Sir James McGregor, Director General of the Army Medical Department, that he will be gazetted to full pay from the 25th of January, 1825. At his instance, I have the honor of addressing your Lordship in order to acquaint you that, from the number of Crown Prisoners residing in the neighbourhood of Campbell Town in Van Diemen's Land, Lieut't Governor Arthur some time since considered it to be necessary to place Mr. Pearson in the Medical Establishment of that Island at a yearly salary of £50; and, as I judge that his absence from that duty cannot be permitted until some other practitioner has been found to undertake his charge, I deem it incumbent upon me to accede for the present to his request to retain his Colonial Appointment instead of returning to his Military duties.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 84, per ship Phoenix; acknowledged by Earl Bathurst to Governor Darling, 13th April, 1826.)

Government House, New South Wales,

1st September, 1825.

My Lord,

Referring to my Dispatch No. 73, I beg leave, in addition to the documents therein referred to, to lay before your Lordship a letter addressed by Mr. Macarthur under date 15 April, 1825, in answer to a note from my Aid-de-Camp, dated the day before;

1825.
29 Aug.

Employment of
married men as
commandants
and magistrates.

30 Aug.

Necessity for
medical services
of T. Pearson
in Tasmania.

1 Sept.

and I beg to correct a mistake in my Dispatch, in which I have stated that I never had received any answer from Mr. Macarthur to my communication upon the subject of Your Lordship's Dispatch of the 4th August, 1824.

1825.
1 Sept.

Rectification
of error in
former despatch.

In going over the voluminous papers connected with the Grants of Land at the Cow Pastures, I had overlooked Mr. Macarthur's reply to me; and I take the earliest opportunity of supplying the omission in itself; however, the letter now enclosed makes no difference in the view I have taken of the case, for Your Lordship will perceive that Mr. Macarthur alluded to the State in which the discussions were left in May, 1824, as the basis upon which he thinks the transaction should be concluded.

He is pleased to call what had then passed an agreement. Certainly, it was an agreement to abide your Lordship's further decision; that decision I also consider as conveyed in Your Lordship's Dispatch* of August; and I have called upon Mr. Macarthur to conclude the transaction in conformity with your Lordship's decision, and I have no doubt Mr. Macarthur would have concluded it cheerfully in the manner directed by your Lordship, but for the difficulties raised by Archdeacon Scott. It is probable the Archdeacon would not have started the charge of a breach of faith on the part of the local Government, if he had been aware that the acts of the Government here were purely in pursuance of your Lordship's Instructions. I affirm, without fear of contradiction, that from the time I received your Lordship's Dispatch of July, 1823, directing me to put Mr. Macarthur in possession of the lands at the Cow Pastures, agreeably to the Chart which accompanied your Lordship's dispatch, up to the time of the Archdeacon's arrival in this Colony, not a single act had been performed which was not an immediate and necessary consequence of your Lordship's Instructions. I should not have presumed, under any circumstances, to insinuate that charge against your Lordship's Instructions, which has been unscrupulously and very unnecessarily preferred against my acts. I could not but believe that, as the agreement originated with Mr. Macarthur, Junior, and your Lordship's first Dispatch was penned with reference immediately to that agreement, that the second Dispatch had also reference to ulterior arrangements with the same gentleman in London; and, therefore, I was impressed that your Lordship's last instructions were framed under a full view of the whole case and in a spirit of liberality that amply met every equitable claim of Mr. Macarthur.

Negotiations
with
J. Macarthur
re lands at
Cowpastures.

It was too much, therefore, to call on the Local Government to set aside your Lordship's Instructions, and to take upon itself the final adjustment here, upon an assumption that your

* Note 213.

1825.
1 Sept.

Negotiations
with
J. Macarthur
re lands at
Cowpastures.

Lordship's first Dispatch had concluded a bargain, which by your Lordship's second dispatch could not be acted upon without involving the dignity and honor of the Crown.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

MR. JOHN MACARTHUR TO SIR THOMAS BRISBANE.

Sir,

Parramatta, 15 April, 1825.

I do myself the honor to acknowledge the receipt of a letter from your Aid-de-Camp of Yesterday's date, containing an extract of a Dispatch from Earl Bathurst relative to the land at Camden.

That dispatch, I would respectfully entreat to suggest, has been written under a belief that His Lordship's previous instructions on the same subject had not been carried into effect; and, therefore, I humbly imagine can have no reference to, much less be intended to invalidate the agreement I had the honor to conclude with Your Excellency last May.

In consequence of that agreement, payment of the first instalment of the purchase Money has been required by your Authority, and the money so demanded was remitted by me to the Colonial Secretary; as proof of which I beg leave to enclose a copy of Major Goulburn's letter and of my reply.* Should Your Excellency be determined to annul the agreement now existing, I beg leave to say it is not my intention to make any opposition, but respectfully to conform to Your decision.

I have, &c.,

JOHN MACARTHUR.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 80, per ship Phœnix; acknowledged by Earl Bathurst to Governor Darling, 13th April, 1826.)

Government House, New South Wales,

7 Sept.

My Lord,

7th September, 1825.

Acknowledg-
ment of
despatch re penal
settlement at
Macquarie
harbour.

On the 18th Ultimo, I had the honor to receive your Lordship's Dispatch No. 15 of January last, informing me that it had been represented to your Lordship by Colonel Sorrel, late Lieut. Governor of Van Diemen's Land, that the small Penal Settlement formed at Macquarie Harbour, which was scarcely more than adequate to the accommodation of Two hundred Convicts, had been appropriated as a place of punishment for a considerable number of Offenders from New South Wales, and of the very worst descriptions; and that very serious evils were to be apprehended from the inadequacy of Macquarie Harb'r, with its present means of productive labour and military security, to receive so large a number of Criminals as are now sent there; and calling my attention to the impolicy of such a measure, which

* Note 214.

ought in the opinion of His Majesty's Government to be immediately discontinued; and further to impress upon me the importance of Van Diemen's Land participating in the benefits of the larger penal Settlement, which it may be in contemplation to establish in New South Wales, to which Criminals sentenced to Colonial Punishments for very heavy offences and long periods might be sent, thus rendering Macquarie Harbour, as a local penal Settlement of limited extent, adequate for the offenders of short sentences from Van Diemen's Land.

I cannot conceal from your Lordship my surprize at the extraordinary representation Colonel Sorrel has thought proper to make to Your Lordship on this subject; and I am at a loss to account for the reason that could induce that Officer to have withheld the most important part of the statement which, in common justice and candour, he should have coupled with that statement, but which I shall briefly detail to your Lordship.

At the period alluded to by the late Lieut. Governor of Van Diemen's Land, there were but two penal Settlements in this colony, vizt. Newcastle for the slighter offences, and Port Macquarie for those of graver character. It happened that three Approvers and ninety eight Runaways made their escape at different times from the latter Settlement. To have sent these men back would have been in my humble judgment to have furnished an equal number of guides to conduct from thence any number of the remaining prisoners to the settled Districts of the Colony, which I considered an evil of primary consideration to guard against; and as I was left no other possible alternative but that of sending them to a new Settlement, and the only one was Macquarie Harbour in Van Diemen's Land, when intimation was made to the Lieut. Governor that it was a measure of temporary expediency. I now hasten to bring the important fact before your Lordship, which Colonel Sorrel has thought proper to conceal, viz. that there are, at the present moment, one hundred and ninety eight Convicts of the very worst description, serving under Van Diemen's Land sentences, at Port Macquarie and Newcastle.

I must, therefore, take the liberty of requesting your Lordship to decide which of the two Colonies appear to have participated most in this exchange of Felons. I have further to acquaint your Lordship that, immediately on the receipt of your Lordship's commands to resume possession of Norfolk Island, I myself wrote to Colonel Arthur, Lieut. Governor of Van Diemen's Land, to acquaint him of the circumstance, and to direct him to forward here, for the purpose of being sent to that Island, such desperate characters as he considered dangerous or insecure in Van Diemen's Land.

1825.
7 Sept.

Acknowledgment of despatch re penal settlement at Macquarie harbour.

Omissions in statement of W. Sorell.

Reasons for sending convicts from N.S.W. to Macquarie harbour.

Convicts from Tasmania at Port Macquarie and Newcastle.

Proposed removal of convicts from Tasmania to Norfolk island.

1825.
7 Sept.

I trust this step, taken in conjunction with the other fact, will impress upon your Lordship's mind that it has been very far removed from my intention to exclude, from the fair participation of the advantages of Norfolk Island, the criminals of the other Colonies.

Having thus satisfactorily, I trust, rebutted the charge of the impolicy which, in the opinion of His Majesty's Government, should immediately be discontinued, and which Colonel Sorrel has thought proper to prefer against me to your Lordship, I cannot withhold from recording this, as another instance of misrepresentation from this colony, which I have lately been called upon to account for by your Lordship, which extends the number of such cases of misrepresentation now to seven instances* in referring to my different Dispatches.

I have, &c.,
THOS. BRISBANE.

EARL BATHURST TO SIR THOMAS BRISBANE.
(Despatch No. 48, per ship Prince Regent.)

10 Sept.

Sir, Downing Street, 10 September, 1825.

Full sentence to
be served by
M. Exley.

I do myself the honor of acknowledging the receipt of your Dispatch dated the 27th January last, wherein you state that, in consequence of the ill behaviour so frequently evinced by Matthew Exley, you had postponed carrying into effect the Instructions conveyed to you in my dispatch of the 25 June, 1824, until you should have received a further communication from me upon the subject; and I am to acquaint you in reply that, under the circumstances which you have stated with respect to the conduct of Matthew Exley, I deem it advisable that no mitigation of his punishment as originally intended should take place.

I have, &c.,
BATHURST.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch No. 77, per ship Phœnix; acknowledged by Earl Bathurst to Governor Darling, 10th September, 1826.)

Government House, New South Wales,

My Lord, 10th September, 1825.

After my dispatch No. 49,† which I had the honor to address your Lordship last May on the subject of the Women at Emu Plains, I little imagined I should have had occasion to bring that transaction again under Your Lordship's consideration, had not the arrival of your Lordship's dispatch No. 45† directing the Factory at Parramatta should be under the strictest observation of those who may have an opportunity of entering into the

Instructions re
supervision of
female factory.

* Note 215. † Note 216.

detail of the Establishment, and that this Institution should be for the future placed under the immediate protection of the Governor and Council.

1825.
10 Sept.

As I could no longer doubt from the tenor of your Lordship's dispatch that your Lordship had yielded to the prevalence of widely spread malignant reports in regard to this transaction, and which was further confirmed by private letters descriptive of public sensation arising from the same misrepresentation, I lost no time in sending to Van Diemen's Land for Mr. Murdock, who had the entire management of the Agricultural Establishment at Emu Plains during the period the women were there; and, on his arrival, I was induced to follow a similar course to that which your Lordship had thought proper to direct in the investigation of the affair between the Reverend Samuel Marsden and Doctor Douglass.

Reports re
treatment of
female convicts
at Emu plains.

For this purpose, I directed the Lieut. Governor, Solicitor General, and the Reverend William Cowper to form themselves into a Commission, to examine and report to me how far the report, which had been widely circulated and which was very injurious to the character of the Government under my administration, as well as affecting myself personally, in regard to sending women to Emu Plains for impure purposes, was well or ill founded; and, in order to enable them more fully to accomplish this purpose, I directed them to invite such persons, as could throw light upon the transactions of this Establishment, to come before them for examination, and, on the termination of the Investigation, to report for my information their general opinion of the accuracy or justice of these reports.

Appointment
of commission
of inquiry.

With the utmost satisfaction, I do myself the honor to transmit their report and opinion for your Lordship's perusal, from which and from a consideration of the evidence by which that report is supported throughout, your Lordship will I trust admit that the whole charge of women being improperly sent to Emu Plains has been found to be a cool, deliberate and most outrageous misstatement of facts; and I most fervently hope that the present instance, joined to the five other cases* of misrepresentation, which I have lately had the honor to lay before your Lordship, wherein false accusations proceeding from this Colony have been equally successfully rebutted by me, and I confidently hope will have placed in the proper light the system of conspiracy, which has been in operation against myself and other individuals of my Government for upwards of three years past.

Findings of
commission.

Rebuttal
of false
accusations.

As your Lordship has professed yourself the guardian of an absent Governor's honor, I have to entreat your Lordship to favor me, immediately on my arrival in England, with a statement of

* Note 215.

1825.
10 Sept.

Request for
details of all
accusations
preferred.

all the accusations against me, with the names of my accusers, and that you will also be pleased to direct your Under Secretary of State to couple his, along with those which may have reached your Lordship, as whether they be direct or indirect attacks, or even anonymously made, I am equally eager and impatient to meet them, not with fear but with triumph, in the honest conviction of being able to repel all such foul statements as have been represented to your Lordship, or even said to have arisen from conversations with myself; and though the expressions, said to be used by me in these conversations, have been transmitted to your Lordship, and supported by affidavits to add more apparent weight and give greater solemnity to the purpose, I shall establish that such unheard of proceedings have only been resorted to in order to augment the delusion, and tincture more deeply with malignity the machination of these Individuals, who have approached your Lordship through such channels in order to accomplish their object.

Defence by
Sir T. Brisbane
of his
reputation.

Neither have I at any time, or under any circumstances, condemned in private the public Acts of my Government, as has also been represented to your Lordship. In the mean time, I shall leave your Lordship to form your own conclusion of the probable result of the remaining accusations against me from the issue of those I have had as yet the fair opportunity to meet; nor can I view in any other light, but that of a Providential Dispensation, the entire development of such transactions before I quitted the Colony; as I must beg to assure your Lordship, I cannot for one moment allow myself to doubt of being able as fully to remove, not only from the mind of your Lordship, but from the Public at large, every impression but that my reputation remains still as unsullied, after thirty five years of active service, as it was the day I had first the honor to receive His Majesty's Commission, except in cases of the grossest misrepresentation, which would fully authorize the strongest terms of expression of indignant feelings arising from such attempts to injure my reputation.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

Report of
commission on
allegations *re*
prostitution of
female convicts
at Emu plains.

REPORT OF COMMISSIONERS OF ENQUIRY.

To His Excellency Major General Sir Thomas Brisbane, K.C.B.,
Govr. of New South Wales, etc.

Sydney, 7th Sept., 1825.

May it please your Excellency,

In obedience to the Instructions, contained in your Excellency's letter addressed to the Lieut. Governor on the third ultimo, and with reference to the extracts therewith transmitted, We,

Your Commissioners, now beg leave to report that we have made the most minute investigation in our power into all the circumstances connected with the employment and behaviour of 32 female Convicts, sent from the Factory at Parramatta to be employed in light Field Labour at the Government Establishment on Emu Plains in the year 1822; and we have unanimously come to the following conclusion, founded upon the evidence of no less than eleven highly respectable Gentlemen and other Individuals, who have appeared before us and whose statements signed by each of them are appended hereunto for Your Excellency's information.

Your Commissioners feel it their duty to remark that, in the course of the investigation, the gratifying fact appears that, out of 32 Females (being the total number sent to Emu Plains during the whole period they were employed there), no less than 24 have been regularly married to Constables, Overseers, and other Persons, with whom they now live in comfort, and some of them have families. Of the others returned to the Factory, no less than 5 were sent back in consequence of their being too old or otherwise unfit for Field Labour, one of whom is since dead at the age of 70, and the others are in the service of private families; two out of the three, vizt. Mary Neil and Catherine Neil, sent back to the Factory in a state of pregnancy, have since been married to the two men with whom they had formed an intimacy at Emu Plains; and, when the circumstance of the pregnancy was reported, Major Goulburn, the Colonial Secretary, gave immediate orders to Doctor Douglass, then the Superintending Magistrate at the Parramatta Factory, to discontinue altogether the removal of any more female convicts to the establishment at Emu Plains; and, from that period, it appears those Orders have been rigidly complied with, as none have since been sent.

Your Commissioners have pointedly to remark that the Authors of the Reports,* circulated about the gross treatment of these women, have asserted in their Papers on that subject, "that, in consequence of the promiscuous intercourse and prostitution existing among the females at Emu Plains, many of the men there had become diseased with the Venereal"; but, on reference to the evidence of Doctor West, the Surgeon who attended the Establishment at Emu Plains, and of Doctor Douglass, the Medical Superintendent of the Factory at Parramatta, as well as by the corroborating evidence of Messrs. Murdock, Kinghorn, and the Principal Overseer Peters, it is clear beyond contradiction that no Venereal Disease whatever appeared at any time among the Females there, a fact which of itself proves at once the fallacy of the malicious Reports put into circulation.

1825.
10 Sept.
Report of
commission on
allegations re
prostitution of
female convicts
at Emu plains.

* Note 172.

1825.
10 Sept.

Report of
commission on
allegations *re*
prostitution of
female convicts
at Emu plains.

The Authors of these Reports, in the aforesaid copy of their Paper laid before the Commissioners, also report, "that three Gentlemen, who accidentally visited the Establishment, were implored by a woman there to represent to the Magistrates the insupportable violence she was exposed to from the men, in their attempts upon her person to gratify their lust." As two of those Gentlemen, therefore, are still resident in the Colony, vizt. John Street, Esq., a respectable Settler at Bathurst Plains, and Doctor Mitchell, Assistant Colonial Surgeon at the General Hospital here, your Commissioners have felt it their duty minutely to examine both those Gentlemen as to the truth of those assertions; and, by reference to their evidence, it will at once be seen that they deny, in the most pointed and unequivocal manner, having seen, on any occasion, the authors of such Reports as those attributed to them.

It is likewise asserted by the Authors of the Reports in question, "That several of the Overseers of the Women had been severely punished by the Magistrates of the District for selling the favors of the Women to Strangers, and that many men were punished by the Penrith Bench for enticing the Women to sleep with them." In order, therefore, to ascertain the truth of these allegations, your Commissioners have examined the Records of that District Bench for the years 1822, 1823 and 1824; but they have not been able to discover a solitary instance of any individual, belonging to that Establishment, having been so punished during that period for any such offence. It appears that, on the 15th day of June, 1822, Samuel Meredith, the Constable there, brought four of the Convict men before the Penrith Bench, for having women in their huts or in bed with them, which is of itself a proof that strict vigilance was observed on the part of the Superintendents and Constables to prevent illicit intercourse instead of encouraging it; and, from the Records of that Bench, as well as by reference to the evidence of the Rev. Mr. Fulton, the Clergyman of that District and one of the Magistrates there, as also to that of his son, Mr. John Walker Fulton, then the recording Clerk of that Bench, it will be seen that the men in question were only admonished by the Magistrates and were dismissed without punishment, in consideration of that being the only instance of similar misconduct among the people at Emu Plains, at any time brought before them; and from its appearing that, altho' the women's Huts were about one mile distant from the Men's, still the women on that occasion were found at the Men's Huts, which clearly proved that they were to blame and not the men. It will also be seen, by the evidence of the Rev. Mr.

Fulton, that the publication of the Banns had actually taken place at his Church between the Woman Mary Downs and James Carroll, the man with whom she was then found in bed; that she was at the time actually betrothed to him; and that Mr. Fulton only waited for Your Excellency's signature to solemnize their marriage, which was immediately afterwards obtained, and she was regularly married to the said James Carrol, with whom she now lives at the Five Islands. It also appears, by the evidence of the Rev. Mr. Fulton, that another of those men, by name Thomas Buckley, was at the time about to be married to Mary King, the woman found in a bed with him on that occasion, and that they were afterwards married accordingly. It further appears that the woman, then found with James Woolfendean, was of so bad a character that Mr. Murdock the Superintendent would not allow him to marry her.

Your Commissioners are not called upon to give any opinion as to the eligibility of the plan of employing Female Convicts at Emu Plains in the manner stated; it is, however, very apparent from the Evidence that their occupations were particularly healthy; and, from the whole of the Statements before them, they cannot but give it as their decided opinion that the conduct of Mr. Murdock, then the Superintendent at Emu Plains, in paying every practicable attention to the morals and treatment of the women in question, was not only irreproachable, but highly praiseworthy; nor does it appear that the conduct of the other Government Officers, concerned in carrying the plan into execution, was less so. By reference to the different examinations, it will be seen that no less than 24 of the Women in question have been well and comfortably married, which, from the evidence before us, is an instance of greater good fortune than has ever occurred to any equal number of Female Convicts, who have hitherto been assigned, at any given period, as servants to private families in this Colony.

On mature and deliberate consideration, therefore, Your Commissioners cannot do otherwise than express it as their unanimous opinion that the gross and calumnious Reports, put into circulation about the treatment of the Women in question, have been altogether unfounded in truth; and it appears evident to them that the secret transmission to England of assertions of so gross a nature must have been the act of some designing Person or Persons, who were actuated by motives of Hostility to Your Excellency's Government, and with the further view of exciting an unfavourable impression against the Public Officers employed in the administration of the affairs of this Colony. Conscience, however, as they must have been of the impracticability of

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establishing the truth of their Reports by open and impartial enquiry upon the spot, they appear to have studiously avoided the disclosure of their names, as, without this precaution, they must have been fully aware of the inevitable result.

WM. STEWART, Lieut.-Governor.

JOHN STEPHEN, Assistant Judge.

WM. COWPER, Serr. Asst. Chaplain.

[Enclosure No. 2.]

PROCEEDINGS OF ENQUIRY.

Sydney, 10th August, 1825.

PROCEEDINGS of the undernamed three Commissioners, appointed by His Excellency Major General Sir Thomas Brisbane, the Governor, to enquire into the truth of certain injurious reports circulated in England, affecting the personal Honor of His Excellency and of several of the Government of N. S. Wales, as connected with the sending of Female Convicts to the Government Establishment at Emu Plains in the Year 1822.

Commissioners of Enquiry:—Col'l Stewart, 3rd Foot or Buffs, Lieutenant Govr.; John Stephen, Esqr., Solicitor Genl.; and The Revd. W. Cowper, Senior Asst. Chaplain and Officiating Chaplain of the Garrison.

THE Court having assembled, a letter from His Excellency the Governor, together with its enclosure, was read, of which the following are Copies, Viz.

Sir, Government House, Sydney, 3rd August, 1825.

A report, very injurious to the Character of the Government under my administration, as well as affecting myself personally, having got into circulation respecting the removal of Female Convicts to Emu Plains, I have thought it necessary to cause an enquiry into such report; and, with that view, I have to request that you, in conjunction with the Solicitor General and The Revd. Mr. Cowper, will invite the several Gentlemen, whose names are mentioned in the enclosed Letter as authorities for the same, to come before you at such time and place as you may appoint, and to examine them as to the truth or falsehood of the statements ascribed to them; and I have also to request you to transmit to me the examinations as soon as possible, with your general opinion upon the accuracy of the enclosed letter.

I have, &c.,

THOMAS BRISBANE.

His Honor Lieut.-Governor Stewart.

Extract of a Letter enclosed in the foregoing.

"It is said that Mr. Murdock, the superintendent, stated that he received verbal orders to permit a regulated intercourse between the Men and Women on the Plains; also that he was verbally directed by the Colonial Secretary not to allow more than seven men to have connection with one woman within the hour; it is likewise stated, on Mr. Murdock's finding fault with a man on the Plains for not doing his work, the man replied that the woman had diseased him, and, being asked how many he had connection with, he said only seven. It is further stated that Mr. Murdock knew many of the Men and women were diseased, and on that occasion

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requested the immediate attendance of the Surgeon of the Establishment, Mr. West. It has likewise been reported that the most scandalous and unblushing promiscuous intercourse was permitted between the Men and Women; and that several women were with child; further it is stated that several of the Overseers of the women had been severely punished by the Magistrates of the District for selling the favours of the women to Strangers; and that many Men were punished by the Penrith Bench for enticing the women to sleep with them. A report has also reached me that three Gentlemen, who accidentally visited the Establishment, were implored by a woman to represent to the Magistrates the insupportable violence, she was exposed to from the men, in their attempt upon her person to gratify their lust. Two of these Gentlemen are in the Colony. Viz. Mr. Street and Mr. Assist. Surgeon Mitchell, whom you will please to examine relative to these reports. It is also asserted that women were selected from the Factory for the express purpose of being prostituted at Emu Plains. It is likewise stated that it is in proof before the Bench of Magistrates at Penrith that the Overseers and Constables of the Establishment received on several occasions money from the Convicts to allow them the use of the Women; and that they (the women) would not consent to such Prostitution, unless the men would give them their rations for such favours. The consequence was that the men deserted and lived by plunder and that the women were in a dreadful state of disease, and complained of this treatment."

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HIS EXCELLENCY THE GOVERNOR then appeared and made a Statement to the following effect.

In the Month of May, 1822, The Factory at Parramatta was extremely crowded with Female Convicts, and the report of another Ship with Females being on the passage having reached me, it had occurred to me, and had also been suggested that a certain number of women might be usefully employed in light field work, such as hand-weeding, pulling of Corn, Scutching of Flax, and other occupations, as might thereafter render them more useful members of Society, if they should become Settlers' wives, and more beneficial to their health than being crowded in the Factory. From the high opinion I entertained of the moral character of Mr. Murdock, who was at that time Superintendent of that Establishment at Emu Plains, and from his fitness to do every justice to such an experiment, I was induced to assent; and twenty five women were allowed to volunteer for that service. I had given orders to separate them from the habitations of the men, as far as possible, by building huts for them at the further end of the Establishment from the Males, a distance of about three fourths of a Mile. I gave the strictest orders to the Superintendent and those acting under him to prevent all improper intercourse between the men and women, and to employ them separately under different Overseers.

As I took a great interest in the Establishment, I visited Emu Plains about once a Month after these women were sent there, in order to see that the directions, which I had given, were strictly attended to. During my visits, I frequently paraded both the men and the women separately at their respective Stations, and asked them if they had any complaints to make as to their treatment or if they had any other cause of grievance; and, neither upon these occasions nor upon any other, did I ever hear any complaint. Neither was it at any time directly, or indirectly, or even

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anonymously represented or intimated to me by any person, that there existed any improper intercourse between the Men and the Women at that Establishment.

His Excellency further states that Gentlemen and Strangers, passing to and from Bathurst and elsewhere, who had seen the Establishment at Emu Plains, have frequently spoken to me in high terms of Approbation of the state of the whole Establishment.

I always continued to have the same favorable impressions of the morality and propriety of the measure of Women being sent to Emu Plains, until I received letters from my private Friends in England acquainting me that a powerful sensation had been excited in England by the representation that I had sent women to Emu Plains for impure purposes.

The Australian Newspaper* of April last attracted my attention by the publication of a statement commending the measure of sending women to Emu Plains. That statement has hitherto remained uncontradicted, although made in the face of that public who had the best means of refuting it, if untrue; but, being determined to probe the matter to the bottom. I have assembled the various persons, connected with the Establishment, to state in the present enquiry all the circumstances relating to it. Had I been impressed with the idea of any illicit intercourse taking place between the men and the women at Emu Plains, I should immediately have withdrawn the women from Emu Plains, and would have severely and publicly animadverted upon the conduct of the persons who had charge of the Establishment.

In order to place all the circumstances connected with this Transaction in the clearest point of view, His Excellency requests that the Commissioners will call upon Major Goulburn, the Colonial Secretary; Mr. Murdock, the late Superintendent of Emu Plains; Dr. West, the Medical Attendant there; Doctor Douglass, then having direction of the Factory; his immediate Successor, Dr. McLeod; Dr. Mitchell, who occasionally visited Emu Plains at that period and is now an Ass't Surgeon at the Hospital in Sydney; Mr. Street, a Settler, together with such other persons, as the Commissioners may deem requisite, to state every thing relating to the Establishment; and further His Excellency stated that he should lay before The Commissioners such documents as were necessary to explain fully the present subject of enquiry as connected with it.

His Excellency then stated that it appeared from the private letters of his friends that Dr. Hall, who twice visited this Colony as a Surgeon Superintendent of a Female Convict Ship, was the person, who had conveyed to England and had made, whilst there, the representations respecting the Establishment at Emu Plains; and His Excellency then laid before the Commissioners two letters from the said Dr. Hall, and one from Captain Fennell, Commandant at Bathurst, which His Excellency states to be his (Capt. Fennell's) handwriting.

These Letters are appended to these Proceedings, and are marked A, B, C.

MAJOR GOULBURN, Colonial Secretary, examined.—The only mention, that I recollect respecting the women at Emu Plains (I cannot call it a Report), was made to me in the year 1822 by Sir John Jamieson, who, having called at my Office to speak to me upon a variety of Topics, told me among other things that an Irishman had lately been brought before him in his Magisterial capacity on the

* Note 217.

complaint of a woman residing on the Plains, that he had attempted to commit a rape upon her person, and that, in the course of the investigation, it had come out upon her evidence that she had had connection the same day with other men; he, Sir John Jamieson, concluded by observing that he thought it better to treat the subject lightly, and that he had done so. I recollect upon some other occasion I embraced the opportunity of enquiring of Mr. Murdock the behaviour of the women placed in his charge; and he assured me he did not believe there was a place in the Colony, where the exterior appearances of propriety and morality were better preserved than at Emu Plains. With respect to the order for sending women to Emu Plains, I believe that written directions were forwarded to Mr. Tuckwell, the Superintendent of the Factory, to send twenty five women to that destination for field labour; and that strict verbal injunctions were given to Mr. Murdock to place them under the strictest superintendance, and to keep them unremittingly employed in the lighter sort of Agricultural works.

A long time after this, having heard a casual report that some women had been returned from Emu Plains to the Female Factory in a state of Pregnancy, and afflicted with disease, I requested Dr. Douglass not to send any more.

F. GOULBURN.

DR. DOUGLASS, Resident Magistrate at Parramatta in the Years 1822 and 1823, examined.—From the Month of August, 1821, I was resident Magistrate at Parramatta and, as such, had the direction of the Factory. I was appointed to the situation of Magistrate at Parramatta a few Months before the arrival of Sir Thomas Brisbane, the present Governor, and held it until the Month of February, 1824, when I embarked for England.

In consequence of the arrival of two female Convict Ships, the John Bull and Providence, about the commencement of the Year 1822, and several women being returned to the Factory by the different Benches of Magistrates, the Factory became exceedingly full; and, another Ship with Female Convicts being expected at the latter end of April or the beginning of May in the year 1822, Official orders were received at the Factory to send 25 women to the Establishment at Emu Plains to be employed at field labour.

They were accordingly sent; several wished to go, others were indifferent, but none were compelled to go against their inclinations.

From time to time, some of the women were returned to the Factory for ill behaviour and other causes, and their place was supplied by others.

Amongst those, there were two I recollect in a state of Pregnancy; there might have been more. I reported this circumstance to the Colonial Secretary, Major Goulburn, and received orders in consequence not to send any more women to Emu Plains.

Mr. Murdock, the Superintendant at Emu Plains, enquired of me to know the reason, why I did not replace such as had been returned to the Factory, and he stated that they were getting on remarkably well. I told him that I had received orders not to do so. I declare most solemnly that neither His Excellency the Governor nor Major Goulburn ever intimated to me in any way that the women were sent to Emu Plains for the purpose of Prostitution. They were sent, as I always understood from those Gentlemen, on account of the crowded state of the Factory, and on account of another Female Convict Ship being shortly expected, as well as numbers being

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frequently returned by the Magistrates and from private service; and also that they might be employed in such light field work on the Establishment at Emu Plains, as would greatly conduce to their health and to their becoming useful members to society, thereafter; many women were returned from private service in a state of Pregnancy from time to time.

HENRY G. DOUGLASS.

PETER MURDOCK, Esqr., examined.—I was appointed the Superintendent at Emu Plains in the Month of March in the Year 1822.

His Excellency the Governor and Major Goulburn had spoken to me to know if I could employ some women at the Establishment at Emu Plains in light field labour. In the beginning of the Month of May following, 25 women were accordingly sent and received by me at the Establishment; a few of these were from time to time returned to the Factory and to private service, and their places supplied by others.

A statement* respecting the women, which appears in the Australian Newspaper, published April 21st, 1825, is a correct account of the disposal of the women on Emu Plains; it was given on paper and signed by myself.

One specified there, named Jane Wingfield, who appears to have been returned to the Factory, was sent there by her own request and was immediately married to a Free man, a Native of the Colony. He is a shoemaker, and she is now, I believe, living with her husband at the Cowpastures. With the women, I received strict orders from the Governor and Colonial Secretary not to permit any illicit intercourse between the men and women, and to employ them in light field work. I employed them consequently in hand weeding, pulling Corn, scutching Flax, etc., and they were also employed in planting Indian Corn, and in hoeing it with light hoes provided for them.

I gave strict orders to Mr. Kinghorn, my Assistant, who was a rigid disciplinarian, not to work the men and women together; they might have been employed in the same field and the same work, but I know that neither of them ever dared leave their respective Gangs, which were under different Overseers.

At night, there was a Watchman placed over the Men's huts to prevent them quitting them; and the principal Overseers visited them at uncertain hours in the night to ascertain that the men were in their huts; an Overseer also stopped in a hut close to the habitations of the women, and he had positive orders not to permit any person to approach the huts of the women after dark. Their huts were also visited by the principal Overseer during the night to ascertain that they had not quitted them. I do not recollect any instances of Men being absent from their huts going to the women. Instances of absentees from the women's huts occurred occasionally.

There was one or two, who gave me more trouble than all the rest. One in particular, who was most frequently absent, married afterwards the man whom she visited so often. He was a very well behaved man, now holds a Ticket of Leave, and is a respectable Clerk in the Commissariat Department at Emu Plains.

I have frequently expressed my surprise to the Governor and to other persons that, where so many Men and women were upon the same establishment, they had shewn so little desire to counteract my Orders, and to meet together for the purpose of illicit intercourse. I had Divine Service every Sunday at the Establishment;

* Note 217.

every fortnight a Wesleyan Missionary attended and performed service; and I never heard from him or from his Successor that they knew of anything improper respecting the women at Emu Plains, or that they considered that there was anything immoral in placing them there. Many Gentlemen, Magistrates and others, have visited the establishment from time to time, and I never heard from any of them of anything being considered wrong in the conduct of the Establishment, or of any improper intercourse taking place between the Men and the women at Emu Plains.

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On the contrary, they have commended the Establishment, and said that the women looked clean and healthy, and were much better there than at the Factory. I never understood that any of the women were diseased at Emu Plains. I knew of some of the Men having a Venereal Complaint from their being in the sick report as disordered with that complaint.

Mr. Murdock being interrogated whether any of the Overseers were ever punished by the Magistrates of the District for selling the favors of the Women to Strangers, states,

I do not recollect any occurrence of this sort; but I remember once that a woman was confined in the Prison of the Establishment, which was then contiguous to the huts of the women. An Overseer, who had charge of the Prison, permitted a Stranger, a Bullock driver, to have some conversation with the woman in confinement. For this offence, he was sent before a neighbouring Magistrate (Sir John Jamieson), who sentenced him to work a certain number of Months in the Goal Gang at Parramatta. This man has since stated to me that no connection took place between the man and woman in question upon that occasion. The women never complained to me of any bad treatment, neither as regards their being compelled to submit to the embraces of the men, nor on any other account.

Mr. Murdock being further interrogated whether, on his finding fault with a certain man on the Establishment for not doing his work, the man replied to him that the women had diseased him, and, on being asked how many he had connection with, he said only seven, states,

I recollect a conversation taking place between myself and a Man to the above effect.

I did not believe him, and considered what he said was merely to deceive me as to the individual person, he had connection with and who had diseased him. Though I was fully aware his statement was false, yet I sent for Dr. West, a Surgeon of the Establishment, to examine the women, and he reported that none of them were diseased. I believe that the man himself, with whom I had the above conversation, had the Venereal Complaint, although I was confident that he had not got it from the women of the Establishment.

PETER MURDOCK.

JAMES KINGHORN examined.—I was appointed as Assistant Superintendent at Emu Plains on the 1st June, 1822, about a Month afterwards, 25 Convict women had been sent there from the Factory at Parramatta to be employed upon the Establishment in light field work. I remained there until the 1st January, 1824.

The huts for the women were built near the river in a retired situation, nearly a Quarter of a Mile from the road, and about a mile distant from the huts of the men. There was a temporary Goal near the women's huts, which shortly after their arrival was removed to a distance of nearly two miles.

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The Goaler and Constable, who acted as Overseer over the women's huts, had strict orders not to permit any person to pass by or approach the huts of the women.

The Convict Men upon the Establishment were not encouraged or permitted to have any intercourse with the women; the principal and other Overseers had positive orders to prevent such Intercourse.

During an hour after sundown, the men and women were permitted to procure wood and water, not promiscuously but at their respective stations. After the hour was elapsed, a bell was rung and the men and women were obliged to retire to their several huts. At eight O'Clock, the Principal Overseer used to muster the men and the women to ascertain that they were all present, and used to visit the stations to see that the Constables and Watchmen were engaged upon their duty.

The Principal Overseer visited the huts of the men and women, at uncertain hours during the night, to ascertain that they were in their Beds.

I do not think it was practicable for the men and women to pass to each other's huts during the night without being discovered.

I do not recollect any instances of men being found in the women's huts after dark, or being brought forward or punished on such account; nor do I recollect of any women being found in the men's huts.

I never heard or knew of any promiscuous intercourse being permitted between the men and women, much less of any women being compelled to submit to the embraces of the men; such a thing could not have happened without its coming to my knowledge, and it would have been severely punished. I recollect a Constable, named Gallagher, being broke and dismissed from his situation by Mr. Murdock, soon after my Arrival on the establishment, but I do not recollect the cause.

No complaint was ever made to me, or to Mr. Murdock with my knowledge, of the women of their being compelled to submit to the embraces of the men. I lived in the same house with Mr. Murdock, and should have heard if any complaint of this sort had been made.

If any of the Overseers or Constables had permitted or winked at prostitution of the women, I am certain Mr. Murdock would have punished them.

I recollect upon one occasion a woman of the name of Ann Anderson being discharged for misconduct; the circumstances were these; A Soldier of the 48th Regt., who was one of the Guards at Emu Plains, was discovered by one of the Constables going to the hut of Ann Anderson; in consequence of which, the Soldier was removed by Mr. Murdock from the Plains, and sent back to his Regiment at Sydney, and she was returned to the Factory. Mr. Murdock was in the habit of communicating to me without reserve the orders he received respecting the conduct of the women at Emu Plains. He directed me to open all letters on service in his absence.

I never received or ever heard of any orders to permit any intercourse between the men and women; on the contrary, I had strict orders to use every means to prevent it.

There were frequently visitors at Emu Plains, travellers to and from Bathurst; none of them ever expressed any dissatisfaction at the manner in which the women were managed and superintended there; on the contrary, I have heard them express satisfaction at the general good order of the Establishment.

At the time that I quitted the Establishment of Emu Plains, there was only one woman remaining there unmarried of the original number.

This woman, whose name was Jane Moore, has since been married to a man, named James Tetty, now a free man, formerly an Overseer on the Establishment of Emu Plains.

The women were employed in hoeing tobacco and Indian Corn, weeding Flax, scutching flax, pulling and husking Indian Corn, and generally in such light work as I have been accustomed to employ women in England.

Witness further states:—I remember Mr. Fitz, Clerk to the Windsor Bench, drinking tea with Mr. Murdock and myself one evening at Emu Plains about the Autumn of 1822; and that, on quitting the house, Mr. Fitz took the direction of the women's huts intending to visit them. That, on his approach to the huts, the Constable in charge challenged him, begging to know his purpose and desired him to go back as Mr. Murdock did not allow any one to pass except those on duty. Mr. Fitz, finding his intention frustrated, told the Constable that he had been drinking Tea at the Government House, and that he had a right to pass, and, if prevented, that he would report the impertinence of the Constable to Mr. Murdock.

It turned out that Mr. Fitz said nothing whatever relative to the circumstance; and it was only known through the representation of the Constable on his being relieved from his post on the following morning.

JAMES KINGHORN.

JOHN STREET, Esquire, examined.—I am a Settler residing at Bathurst. I have frequently visited Mr. Murdock when he was Superintendent of the Government Establishment at Emu Plains.

I never visited the huts or establishment of the women at Emu Plains; but I recollect once seeing them at work, hoeing or weeding in a tobacco field under the direction of an Overseer, and there were no men working with or near them upon that occasion.

Witness, being interrogated whether upon any occasion he was ever implored by a Convict woman at the Establishment of Emu Plains to represent to the Magistrates the insupportable violence she was exposed to from the men there in their attempt upon her person to gratify their lust, states,

I never was. I never spoke to a woman at the Establishment of Emu Plains in my life, nor was any such representation made to me at any time.

Witness, being further interrogated whether he had ever stated to any Magistrates or other persons that such a representation had been made to him, says,

I never did. I heard it reported that I had stated such a circumstance, and I took the earliest opportunity of contradicting it in the presence of the individual, who had circulated the report of my mentioning such a fact. I had also previously contradicted it to the Governor in person.

JOHN STREET.

JOSEPH PETERS examined.—I was an Overseer on the Establishment at Emu Plains, when twenty-five women were sent there from the Factory. I believe it was in the Month of May in the Year 1822. About three Months afterwards, I was made Principal Overseer, which situation I have ever since retained.

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Huts were built for the women near the river, about a mile distant by the Road and three quarters of a mile in a direct line from the huts of the men; the women's huts were built in a retired situation. The orders, that were given to the Overseer of the women, were not to allow any intercourse between the men and the women, nor to permit the men to go near the huts of the women. The Goaler, who was stationed between the Huts and the high road, had orders not to allow Strangers to go to the Huts from the Road.

The Goal or Prison was, shortly after the Women came to Emu Plains, removed to a distance of two miles from their Station.

When I became Principal Overseer, I had the general charge of the women both in their huts and in the field; about six or seven weeks afterwards, I married one of the women, Mary Robinson, who came with the first, and is now living with me; she has had three Children. The women worked separately in the Field from the men. They were employed in light work, such as weeding, planting Indian Corn, Scutching flax.

I had strict and positive orders to prevent the men and women from leaving their respective huts. I was in the habit of visiting the huts of the men and the women by order at uncertain hours during the night, three or four times a week, to ascertain that none of them were absent; the men and the women were previously mustered at eight O'Clock, after which none of them were permitted to quit their huts.

I do not think it was possible for the men or women to go to each other's huts after dark, without my being acquainted with it, or the Watchman, or the Constables.

It very seldom occurred that the men or women transgressed the orders; whenever I discovered that they had, the persons were immediately put into Goal. Instances have occurred, but I cannot recollect the name of any man who was found in the women's huts *after* dark. I never knew or heard of any of the women being forced to have connection with the men. I have known that the women visited the huts of the men more frequently than the men visited the women. I believe almost all the women, who did visit the men contrary to orders, were afterwards married to the men whom they respectively visited.

Witness, being interrogated whether his own wife was not once punished for visiting him before their marriage, says,

Yes, she was put in Goal by the orders of Mr. Murdock. I am certain that Mr. Murdock would not have permitted the prostitution of the women; with his knowledge, on the contrary, he gave peremptory orders for the prevention of it. I believe he would instantly have dismissed myself, or any other Overseer, or Constables, from our situations, if he had known that we had connived or winked at the prostitution of the women.

There was an Overseer named Gallagher, who was broke for selling Slops; and it was also suspected that he had been in the habit of winking at the men having intercourse with the women. He was afterwards married to one of the women, named Ann Kain, and is now living with her upon the Establishment.

Witness, being interrogated whether any complaints were ever made to him by the women of their being forced to yield to the men, says,

No, there were no such complaints ever made to me, and the fact could not have occurred without my knowledge.

The statement, published in the Australian of the 21st April, being shewn to witness, he says, that is correct; and that, in addition to the Nineteen there mentioned as married, two have since been married; most of them are comfortably settled; one of them, named Terah Hewster, an old woman about 70 yrs. of age, is since dead. She has a Son in the Colony 35 Years of Age.

There was another about 60 Years old sent to Emu Plains, who was discharged not being fit for field labour. I knew of three Women being sent back to the Factory Pregnant, one of them was my wife and we have been since married. Another of them, Mary Neal, was pregnant by the Hospital Attendant, named Francis Egan; the other Catharine Neal was pregnant by a Constable, Michael Malone. There was a promise of marriage, I believe, from these men, and I am not sure whether Francis Egan is not since married. I never knew on any occasion of the men having given up their Messes to the women as the price of prostitution. It could not have taken place without my knowledge, and I never heard of such a thing.

JOSEPH PETERS.

DR. WEST was then called and states:—I recollect that, about the middle of the Year 1822, Twenty five women were removed from the Factory at Parramatta to the Establishment at Emu Plains.

I was Medical attendant during the whole time that they were there.

No complaints were made to me by the Women of any violence being used towards them by the men.

It never came within my observation that any of them were afflicted with Venereal disease, during the time they were there, in any form or degree.

I examined the women at Emu Plains once, and found they were perfectly free from disease. This was some Months after they were sent there; and it was done by the direction of Doctor Bowman, the Principal Surgeon of the Colony.

To all appearance, the women were all healthy and contented.

No complaint was ever made to me by any of the women, as to their being forced to yield to the embraces of the Men. Had there been, I should have considered it my duty to report it immediately.

Some of the men were sometimes diseased. These were very few, and were such as had come from Sydney and other Stations.

If these Men, so diseased, had been in the habit of having any intercourse with the women, the disease would have been communicated.

I never knew of any promiscuous intercourse having taken place between the women and men at Emu Plains, nor did I ever observe any indecent behaviour amongst them. There were two women, who became Pregnant and were sent by my recommendation to the Factory at Parramatta. I knew of 14 or 15 women having been regularly married, and there might have been more without my knowledge. Several of these women, who married, became mothers of Children, and from their good conduct have obtained Tickets of Leave, as I believe.

MAJOR WEST, Surgeon.

JAMES MITCHELL, Assistant Surgeon on the Colonial Medical Establishment, Examined.—I have been at Emu Plains, whilst the

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Convict Women were there three times. I was not there on duty, but merely in passing the Establishment. I have visited Mr. Murdock, the Superintendent.

The first time, I did not see any women at all; upon another occasion I saw them employed in dressing flax. The women appeared to be clean and orderly, and I was pleased with the general good order and cleanliness of the whole Establishment. When I visited the Establishment at Emu Plains, I was not employed upon the Colonial Medical Staff.

Witness, being interrogated whether upon any occasion he was ever implored by a Convict woman at the Establishment at Emu Plains to represent to the Magistrates the insupportable violence she was exposed to from the men there in their attempts upon her person to gratify their lust, says,

I never was; no such representation was ever made to me; and I had no conversation with any of the women of any kind or upon any occasion. I never saw the women, but in company with Doctor Bowman and Dr. Macleod.

Witness, being further interrogated whether he had ever stated to any Magistrate or other person that such a representation had been made to him, says,

I never did upon any occasion either to a Magistrate or to any other person.

J. MITCHELL.

DONALD McLEOD, Esquire, Justice of the Peace, resident at Parramatta, examined.—I succeeded Dr. Douglas as resident Magistrate at Parramatta, and, as such, had the direction of the Factory.

The Statement, appearing in the Australasian of the 21st April last, was made out by me in conjunction with Mr. Murdock from the books of the Establishment at Emu Plains, and, having been in charge of the Factory since, I am enabled to vouch for its accuracy.

Witness, being interrogated what has become of Mary Moore, Mary Neal and Catharine Neal, therein appearing and who were sent to the Factory from Emu Plains in a state of Pregnancy, states,

Mary Moore miscarried shortly after being returned to the Factory, and went soon afterwards into private Service. Mary Neal and Catharine Neal have since been married to the two men, with whom they had severally formed an intimacy upon the Establishment at Emu Plains.

Witness, being interrogated further as to the reason why Mary McCree, Terah Hewster, Mary Clarke, Mary Buckley and Ann Curran were returned to the Factory, states,

They were returned from Age or infirmity and from not being able to undergo field labour. None of them were afflicted with any Venereal complaint.

Susan Parker, who was returned to the Factory at her own request, was soon after married to the proprietor of a Farm at Concord, with whom she still lives.

Jane Wingfield, who was also returned to the Factory at her own request, was soon after married, and I believe is still living with her husband.

Witness states that thirty two women in all were from time to time sent from the Factory to Emu Plains; of these, twenty three are married and are living with their husbands; one has become free by servitude and is since married; Five (one of whom is since dead) were returned to the Factory for inability to perform field labour, and have since been in private service; one other is also in

service; and two only have been returned for repeated misconduct, who had been from time to time in private service and at the Factory.

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I can prove, to the satisfaction of the Court from the Records of the Factory, that no equal proportion of thirty two women, at any time sent from the Factory during the last four Years, during which time I have known the Factory, have been so comfortably settled or have turned out so creditably as those sent to Emu Plains.

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of women at
Emu plains.

No thirty two women, assigned to private service at one time, have been so fortunate as the Thirty two sent to Emu Plains.

DONALD MCLEOD.

THE REV. HENRY FULTON, the Clergyman of the Established Church at Castlereagh, being examined, states,

I am one of the Penrith Bench of Magistrates, the Court House of which is only about a mile distant from Emu Plains, and, before that Bench, all complaints from Emu Plains were lodged. The only instance, I can recollect, of complaint being brought before the Magistrates there was that, which is entered in the Records of the Bench at page 81 of the Volume of Proceedings from 31st March to 14th September, 1822, when Samuel Meredith, a Constable at Emu Plains, preferred a complaint against a Male Convict there, by name James Carroll, a Sawyer, for having a woman in bed with him, by name Mary Downs; but the Court dismissed the complaint in consequence of the man being betrothed to the woman at the time, and the Governor's signature being only wanted to have their marriage regularly solemnized; and which being always granted when recommended by the Clergyman and Mr. Murdock, the Superintendent, they were immediately afterwards married accordingly.

Three other Men, brought before the Bench by the Constable Meredith on the same day for a similar offence, viz. James Woolfendean, Thomas Buckley and James Grimes, were also dismissed without punishment, after being severely admonished, from their being Men otherwise of good character and in consequence of its being the first instance of a complaint of that sort brought before the Bench from Emu Plains.

Witness, being interrogated whether the above was the only complaint of that nature brought before the Bench at Penrith during the period the Female Convicts remained at Emu Plains, says,

I have no recollection whatever of any other, and I am sure there was no other complaint brought before them of that nature.

Witness, being further interrogated whether he recollects that several of the Constables or Overseers at Emu Plains were severely punished by the Bench of Magistrates at Penrith for selling the Convict Women to strangers, and whether any of the Men there were punished in like manner for enticing the women to sleep with them, States,

I recollect no such punishment having ever taken place. No other complaint of this nature, except that already stated, ever came before the Bench at Penrith during the period the women were at Emu Plains.

The Revd. Mr. Fulton, being further called upon to state more particularly the reasons why the three Men, who were brought before the Bench at Penrith were dismissed without punishment, says,

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Emu plains.

On reference to the Registry of my Church, I find that Thomas Buckley was also about to be married to Mary King, the woman found in bed with him on the occasion before mentioned, and that they were afterwards married accordingly.

James Grimes, another of the three men in question, had no woman in bed with him, but a woman, named Jane Moore, who is since married to James Tutty, was only seen coming out of his room.

The Woman found with James Woolfendean, the other Man who was before the Bench, was of so bad a character that Mr. Murdock the Superintend't would not allow him to marry her.

The chief cause for dismissing the Men in question with merely a reprimand was that, although the Men's and Women's huts were more than a mile asunder, still the Women on that occasion were found at the men's *huts*, which clearly shewed that they were in fault and not the men.

HENRY FULTON, J.P.

MR. JOHN WALKER FULTON, appeared before the Commissioners and on being examined, States,

I was recording Clerk to the Bench of Magistrates at Penrith from the Year 1819 down to the 14th Decr., 1822. During that period, I recollect no instance of a complaint being made against any of the Male Convicts at Emu Plains for holding illicit intercourse with the women there, with the exception of a complaint preferred by a Constable, Meredith, on the 15th June, 1822, against James Carroll, James Woolfendean, Thomas Buckley and James Grimes for having women in bed with them. I recollect the Sawyer, James Carroll was immediately afterwards married to the woman, Mary Downs, with whom he had connection. The other men were dismissed without punishment after being reprimanded, in consequence of its being the first offence of that nature brought from Emu Plains. I am sure that no other complaint of that nature was ever brought before the Bench at Penrith against any of the people at Emu Plains, during the whole period I was recording Clerk.

Witness, being interrogated whether he recollects that many of the Constables or overseers at Emu Plains were severely punished by the Bench of Magistrates at Penrith for selling the favors of the Convict Women to Strangers, and whether any of the men there were at any time punished in like manner for enticing the women to sleep with them, States,

I am positive no such punishment ever took place at any time, during the period I was recording Clerk of that Bench.

J. W. FULTON.

Papers produced
at inquiry.

J. Hall's denial
of collecting
evidence.

APPENDIX.

[A] *Surgeon Hall to Sir Thomas Brisbane.*

Sir,

Sydney, 2 August, 1824, 7 A.M.

Having only a few hours ago been informed that Reports are in circulation, stating that it has been communicated to Your Excellency that I have been collecting evidence, and taking depositions of the Females in the Factory, in order to exhibit charges against Your Excellency's administration of the Government of this Colony, I hasten to acquaint you that the above reports are malicious and untrue; and I further do myself the honor of waiting upon you to assure your Excellency of my high respect for your person and Government.

I have, &c.,

JAMES HALL, Surgeon, R.N.

[B] *Surgeon Hall to Captain Fennell.*1825.
10 Sept.

Dear Sir,

At Nash's, Monday Noon, 2nd August, 1824.

After the full and candid avowals made by me in your presence, I trust and sincerely hope that you will not fail, in the confidential situation you hold, to make manifest to all, who shall hereafter attempt to injure my character, the opinion I hope you have formed of it from what I stated this morning. You must be aware of the attention bestowed on all public occurrences by the few restless and designing persons who inhabit this Colony. These, witnessing as they fancy a marked difference between my reception and that of my brother Officers on our arrival in this Colony, avail themselves of every trifling event, and in it seem to seek for matter by which to fabricate calumnies, and hence to deduce consequences tending to gratify their evil wishes, and operating to the prejudice of myself and others. I shall not, if it please God I arrive in England, in any manner mix myself up with subjects that do not concern me; at the same time, I confess that nothing would give me greater pleasure than to communicate personally to His Majesty's Ministers my honest opinion of the worth, the integrity, and the amiable character of that distinguished Officer, who rules this Colony, whose candour and suavity of manners have this day in no small degree compensated me for the anxiety I have lately endured.

Papers produced
at inquiry.
Malicious
reports
circulated about
J. Hall.

I remain, &c.

JAMES HALL.

[C] *Captain Fennell to Sir Thomas Brisbane.*

Dear Governor,

Bathurst, 30th July, 1825.

In forwarding the accompanying Document from Dr. Hall to myself, it may be necessary for me to explain that I received it a few hours after your Excellency had given him the audience at which I was present, and consequently enabled to declare on oath, if required, that He (Dr. Hall) assured Your Excellency that the Reports concerning him were most malicious and unfounded, and he also affirmed that he never made or conveyed any statements home relative to Emu Plains or the other Establishments under your command.

Interview of
J. Hall with
Sir T. Brisbane.

In reply to this, you informed him that you would at all times feel obliged to gentlemen, on their discovering irregularities, by acquainting you therewith; and, if such communication was not attended to, they would be fully justified in representing it to Lord Bathurst. This interview ended by Dr. Hall saying that nothing could afford greater gratification than personally communicating to His Majesty's Ministers his honest opinion of your worth as the Governor of this Colony; when, it appeared, he immediately repaired to Nash's Inn, and wrote the enclosed letter, dated 2 o'clock, which I have now the pleasure of transmitting for your information, and of remaining.

My dear Governor,

Your very Faithful Servt.,

J. FENNEL.

[Enclosure No. 3.]

[An extract from the issue of the "Australian" newspaper dated 21st April, 1825, was also forwarded with this despatch. This was similar to the enclosure to the despatch dated 21st May, 1825; see page 601 et seq.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 81, per ship Phoenix; acknowledged by Earl Bathurst to Governor Darling, 10th July, 1826.)

Government House, New South Wales,

My Lord,

12th September, 1825.

Application of
J. Hankinson
for relief under
contract for
supply of bread.

Repeated representations and Memorials having been made to me on the part of Mr. James Hankinson, who entered into a contract with the Deputy Commissary General, in the month of February last, to supply bread from flour, eighty per cent. in fineness, to His Majesty's Troops and the Prisoners in Jail in Sydney, at the rate of $1\frac{7}{8}$ d. per lb., of the ruinous loss he has sustained in executing this Contract, in consequence of the great rise in the price of grain, which took place about the end of March and has since continued, I was induced from the urgent nature of his solicitations to enquire into the circumstances of his case, though I did so with reluctance, being fully impressed of the importance of insisting on the exact fulfilment of contracts with Government voluntarily entered into.

Loss alleged in
five months.

With a view to satisfy myself of the correctness of the statement of the loss of £700, stated by him to have been sustained from the 25th March to the 24th Augt. last, which, with the Memorial enclosing it, and a reiteration of his application for relief as necessary to enable him to go on with his contract, is herewith accompanying, Nos. 1, 2 and 3, I caused it to be referred to Mr. Lithgow, Commissary of Accounts, who in his report on the same, also herewith enclosed No. 4, gives it as his opinion, founded on calculations made with reference to the current prices of wheat during the said period, that a loss, nearly of the amount stated by Mr. Hankinson, must have been sustained by him, as well as that the Public must have benefited to the extent of the difference between the price of $1\frac{7}{8}$ d., as stipulated in his contract, and $2\frac{3}{4}$ d. per pound, which latter price of $2\frac{3}{4}$ d. per pound Mr. Lithgow considers to be the lowest price at which it is probable Bread of the stipulated quality could have been provided through any other Channel or means in the period in question. The amount of the saving to the Public from the lowness of the price paid to Mr. Hankinson, determined by the difference of the prices above mentioned on the quantity of Bread so furnished in this period, will amount to above £548.

Report by
W. Lithgow.

Advantage
gained by
government.

Diffidence
in creating a
precedent.

Averse as I feel to the setting a precedent for loss in cases of this nature, I cannot help, after a mature deliberation, considering Mr. Hankinson's as a case of peculiar hardship, and as the unusual circumstance of the importations of Grain this year from New South Wales to Van Diemen's Land, and of the cargo of grain on board the Almorah for the public service of the

Colony at the time the contract was concluded, are calculated in some measure to give a peculiar feature to this case and to render it, in so far, less liable to be drawn into precedent, I am induced to recommend to your Lordship that the relief, not to the extent of the actual loss sustained but of the difference above mentioned only, should be granted to Mr. Hankinson, payable either from the funds in charge of the Deputy Commissary General or of the Colonial Treasurer, as may be judged expedient; and in the mean time, I have taken upon myself, till your Lordship's pleasure can be received, with a view to enable him to go on with his contract and to avert the ruinous consequences to his affairs, which the losses by the same must otherwise have occasioned, to authorize an advance to be made to him from the Colonial Treasury, on account of the indemnification recommended, of the sum of £500, secured to be refunded by him in the event of such decision being unfavourable, provided the disallowance of the sum so advanced shall be signified to him by the Order of the Governor for the time being, on or before the first day of January, 1828.

I have, &c.,

THOS. BRISBANE.

1825.
12 Sept.

Proposal for
indemnification.

Tentative
advance made
from colonial
treasury.

[Enclosure No. 1.]

THE HUMBLE MEMORIAL OF JAMES HANKINSON.

To His Excellency Major General Sir Thomas Brisbane,
Governor in Chief, etc., etc., etc.

Sheweth,

That your Excellency's Memorialist most respectfully appoligizes for this additional intrusion, but trusts the nature of the application, as hereafter detailed, will in some degree operate as an excuse.

That Memorialist is still proceeding in the supply of Bread for the use of His Majesty's Troops at Sydney, as also prisoners confined in Jail, which supply has been, and still continues to be, a very heavy and severe loss to him.

That your Excellency's Memorialist has taken the liberty of enclosing a regular correct statement of all the circumstances attending the supply of Bread from the latter end of March, to the present period, shewing at one glance the expence attending such supply, the payment received as per contract, and lastly the loss actually sustained by Memorialist.

That Memorialist from the loss inevitably sustained by him, which has entirely bereft him of means to proceed, therefore under such circumstances your Excellency's Memorialist, with every degree of humility and respect, prays Your Excellency will be pleased to allow this unfortunate Contract to be taken into

Memorial of
J. Hankinson
soliciting relief
under his
contract for
supply of bread.

1825.
12 Sept.

Memorial of
J. Hankinson
soliciting relief
under his
contract for
supply of bread.

your Excellency's favourable consideration, to render Memorialist such relief or assistance as the circumstances of the case may to Your Excellency seem meet.

That Your Excellency's Memorialist begs leave to state that Wheat at this time is much lower in price than it has been for a considerable time back, and that Memorialist is prevented embracing this favourable circumstance for want of means, and Memorialist fears the present reduction is only a temporary one.

That Memorialist begs further to state to your Excellency that he is fearful of being compelled to relinquish his mercantile pursuits entirely in consequence of this loss sustained by him in carrying on the contract herein alluded to; and Memorialist humbly hopes your Excellency will not allow this heavy, unavoidable loss to be borne by Memorialist, as he respectfully assures Your Excellency, if such is the case, nothing but his entire ruin will be the result.

Your Excellency's Memorialist will intrude no longer on Your Excellency's time, feeling confident that his present application will not be made in vain, and your Excellency's Memorialist,

Will ever pray,

JAMES HANKINSON.

[Enclosure No. 2.]

THE MEMORIAL OF JAMES HANKINSON.

Sydney, 7th September, 1825.

To His Excellency Sir Thomas Brisbane, K.C.B., Governor in Chief, etc., etc., etc.

May it please Your Excellency,

Nothing but my extreme distressed situation in circumstances compels me again to trouble Your Excellency, regarding an answer to the statement of my losses attending my contract with Government, which I had the honor of transmitting to Your Excellency. The strength of my contract daily increases, and I beg to state to Your Excellency that I am entirely bereft of means to proceed. I have applied to the Deputy Commissary General for a loan of cash, but that gentleman does not feel disposed to act but by Your Excellency's direction. I further beg leave to state to your Excellency that, did I possess means for going into To-morrow's (Thursday's) Market, I am certain I should be able to purchase Wheat to proceed without sustaining any material additional loss, which from my present confined circumstances I am daily sustaining.

With every degree of unfeigned respect,

I have, &c.,

JAMES HANKINSON.

Memorial of
J. Hankinson
stating his
inability to
fulfil contract.

[Enclosure No. 3.]

STATEMENT of the actual loss sustained in my Contract for furnishing Bread to His Majesty's Troops and Prisoners in Gaol from 25th March to 24th August, 1825.

Period when purchased.		From whom purchased.		Bushels of Wheat.	Price paid per Bushel.	Cost of the Wheat.	Product of the Wheat.			Bread produced from the Flour.
From—	To—						Flour.	Bread.	Waste.	
23 Mar.	24 April	Faithful	200	10/6	£ 105 0 0	lbs. 9,100	lbs. 2,200	lbs. 300		
"	"	Kelly	260	12/-	136 0 0	11,830	2,860	380		
"	"	do	160	12/6	66 5 0	4,823	1,166	159		
25 Apl.	24 May	Burton	200	13/-	130 0 0	8,500	2,200	300		
"	"	Summers	216	14/-	155 4 0	9,704	2,376	324		
"	"	Parker	210	14/-	147 0 0	9,244	2,310	315		
"	"	Middleton	400	12/-	240 0 0	16,200	4,400	600		
25 May	24 June	Sundry Persons, Market	100	14/-	70 0 0	4,250	1,100	150		
"	"	Payne	150	13/6	202 10 0	12,300	3,300	450		
25 June	24 July	Burton	142	13/-	65 0 0	4,250	1,100	150		
"	"	Tomson	100	13/-	87 12 0	5,840	1,606	219		
"	"	Summers	96	12/-	31 1 0	1,840	506	69		
25 July	24 Aug.	Hannam	30	13/6	35 2 0	2,100	594	81		
"	"	Terry	46	13/-						
"	"	Tomson	54	13/-						
"	"	Greenhatch	54	13/-						
			2,338		1,456 14 0	100,041	25,718	3,507	133,388	
	4 June	Waterloo Warehouse	...	35/11	35 0 0	2,000	...	...	2,614
	11 "	Payne	...	37/6	84 7 6	4,500	...	...	6,000
	30 "	Waterloo Warehouse	...	40/-	90 0 0	4,500	...	...	6,000
	3 Aug.	Payne	...	35/-	32 19 0 1/2	1,832	...	...	2,442
			2,338	..	1,729 0 6 1/2	112,873	25,718	3,507	150,496	

1825.
12 Sept.

Statement of loss sustained by J. Hankinson in contract for supply of bread.

[Enclosure No. 3]—*continued.*

		£	s.	d.
1825. 12 Sept. Statement of loss sustained by J. Hankinson in contract for supply of bread.	Amount of Cost of the Wheat and Flour as described herein	1,729	0	6½
	Add			
	Grinding and dressing 2,338 Bushels of Wheat, 1s. 3d. per Bushel	146	2	6
	Expences of 2 Bakers during the period within men- tioned at 20s. per Week each	43	8	9
	Yeast do do 3s. per day 152 Days	22	16	0
	Fire do do 15s. per Week	15	0	0
	Salt do do 5s. per Week	5	0	0
	<hr/>			
	Total Cost and charges, not including Store Rent nor Personal attendance	1,961	7	9½
	Per Contra.			
Amount received for 150,496 lbs. of Bread, supplied agreeable to Con- tract with the Deputy Commissary General in the within mentioned period, at 1¼d. per pound	1,155	5	7½	
do. Value of 25,178 lbs. of Bran equal to 1,144½ Bl. at 1s. 6d. per Bl.	85	16	9	
<hr/>				
	1,241	2	4	
<hr/>				
Net loss actually sustained by me on the Contract for the period within mentioned	720	5	5½	

I declare that within is a just and true account of my loss in the Contract for supplying His Majesty's Troops and Gaol with Bread within Mentioned during the period; and that I am ready to declare on Oath that I have sustained a loss on the said Contract to the amount at least of Seven hundred and twenty Pounds as above specified.

JAMES HANKINSON.

We, the undersigned Merchants and dealers in grain in Sydney, do hereby certify that the prices of Wheat and Wheat Flour, specified in the foregoing Statement, were conformable to the current Rates of the same in the Month during the period specified opposite to the several prices, and that we believe the said Statement to be true and Correct.

R. CAMPBELL, JUNIOR.
JOHN DICKSON.
COOPER & LEVY.

[Enclosure No. 4.]

MR. WILLIAM LITHGOW TO MAJOR OVENS.

Commissariat of Accounts Office, Sydney,

Sir,

3rd September, 1825.

In obedience to the request of His Excellency the Governor that I should examine into the grounds of the enclosed Memorial of Mr. Hankinson, Contractor for supplying His Majesty's Troops

and Gaol with Bread, and state my opinion as to whether any and what compensation should be made him for the loss which he has sustained on the same, I do myself the honor of submitting that, viewing the risk of gain or loss, incident to Government Contracts in no other light than that which attaches to mercantile or other transactions between Individuals, and considering that a Contractor who enters into a contract with Government is, with equally good reason, liable to bear the Loss, as he is justly entitled to the Gain, which thence results, I am decidedly of opinion that Mr. Hankinson has no legal claim whatever to such compensation, and that, adverting to the dangerous consequences of creating a precedent, of which other Contractors would be ready to make a plea in similar cases, there appear such strong objections to granting any compensation as a matter of gratuitous indulgence or relief, that it can be only in a case of peculiar hardship arising from circumstances which no common prudence could foresee or provide against, where it could be considered at all expedient to award compensation of the nature solicited.

In examining Mr. Hankinson's case, there certainly appear to be circumstances of considerable hardship; but whether they are of such a nature as to counterbalance the objections adverted to is a point which, after stating such of these circumstances as appear to be of most weight, I must of course leave for the decision of His Excellency's better judgment.

After a careful examination of Mr. Hankinson's statement, I feel satisfied, not only from his own certificate, and that of the three principal dealers in grain attached to it, but also from calculations and references as to the price of grain during the said period, that a loss, if not exactly at least very nearly to the extent of £720, as therein specified, has actually been sustained by him, from the 25th March to the 24th August last, in his Contract for supplying Bread to His Majesty's Troops and Gaol.

At the time, Mr. Hankinson entered into the Contract in question, at the beginning of last February, the price of wheat was from 6s. to 7s. 6d. per Bushel; and, on the expectation of its remaining at these prices, he seems to have made his calculations in undertaking to furnish Bread made from Wheat, from the produce of which one fifth was to be taken as Bran, at the price of 1½d. per pound.

For reckoning, as is usual, the weight of the Bushel of Wheat 56 lbs., and its produce 44½ lbs. of flour and 11 lbs. of Bran,

1525.
12 Sept.

Report by
W. Lithgow on
compensation
proposed for
J. Hankinson.

1825.
12 Sept.

Report by
W. Lithgow on
compensation
proposed for
J. Hankinson.

allowing only $\frac{1}{2}$ lb. waste; and that $44\frac{1}{2}$ lbs. of Flour produces 60 lbs. of Bread, the value of the produce of the Bushel of Wheat, at the contract price of $1\frac{7}{8}$ d., would be as follows:—

	s.	d.	s.	d.
60 lbs. of Bread at $1\frac{7}{8}$ d. =	9	4 $\frac{1}{2}$		
11 „ Bran	0	8		
			10	0 $\frac{1}{2}$

Against which is to be placed,

	s.	d.	s.	d.
Cost of the Bushel of Wheat say	7	6		
Grinding and dressing	1	3		
Baking 60 lbs. Bread at 1s. 3d. pr. 100 lbs.	0	9		
Storeroom, distribution and other expences ...	0	6		
			10	0

it will appear that, at the price of 7s. 6d. for the Bushel of Wheat, there would be little or nothing left for profit in contracting to supply Bread of the Quality alluded to at the stipulated price of $1\frac{7}{8}$ d. per pound.

By the end of the month of March, however, the price of Wheat had risen to 9s. and 10s. per Bushel, and it has since varied from these Rates to 14s. per Bushel. Taking the average so low as 11s. 6d., the cost of the Bread may be estimated as follows:—

	s.	d.
Cost of the Bushel of Wheat	11	6
Grinding and dressing	1	3
Baking and other expences	1	3
	14	0
Deduct for Bran	0	8
Nett Cost of Bread (per bushel)	13	4

making the nett cost of 60 lbs. of Bread, the estimated produce of a Bushel of Wheat of Average Quality, without profit, $2\frac{3}{8}$ d. per pound. If to this rate is added 10 per cent. as a moderate profit to the Contractor, it will bring out the price at nearly $2\frac{7}{8}$ d. per pound, which rate of $2\frac{7}{8}$ d. I should consider as not exceeding that which might be assured as a fair and reasonable price for Bread of the quality alluded to during the period comprised in Mr. Hankinson's statement.

I found this opinion, not only on the foregoing calculations, but on the offers made by and the prices paid to other Contractors, both previous and subsequently to the commencement of the period in question.

When Tenders for the Contract for supplying Bread to the Troops and Gaol were last advertised for in December, 1824, the Tenders of the late Mr. Riley and Mr. Hankinson were the only ones received for furnishing this supply. Mr. Riley having died in the beginning of February, the contract was transferred to

Mr. Hankinson, who undertook to continue it at the same price of $1\frac{7}{8}$ d. per pound. On the same occasion, a Tender to supply the General Hospital with Bread of a somewhat superior quality at $2\frac{7}{8}$ d. per pound, for the year commencing 25th December, 1824, was accepted.

1825.
12 Sept.

Report by
W. Lithgow on
compensation
proposed for
J. Hankinson.

Tenders for supplying Hyde Park and Carters' Barracks, Sydney, with Bread made of Flour from which only 10 per cent. of Bran should be extracted, were invited to be sent in on the 18th April, and a Contract, to terminate on the 24th December, was concluded in consequence, at the price of the lowest offer received, which was $2\frac{1}{16}$ d. per pound. The price for Bread of the inferior quality, alluded to, corresponds to about $2\frac{7}{8}$ d. pr. lb. Bread of the quality stipulated to be supplied by Mr. Hankinson.

The Bread supplied to the ships of His Majesty the King of France, now in the Harbour, has been charged for at the rate of $4\frac{1}{2}$ d. per pound.

From these circumstances, I have little or no doubt that Mr. Hankinson's statement of the loss, sustained by him on his contract referred to, from 25th March to 24th August last, is not far from being correct; and I am further of opinion, with reference to the prices of wheat, that it would have been difficult if not impossible to have induced any other Contractor to supply the Bread, furnished by him during the said period, at a lower rate than one penny per pound higher than that which he received, or that, if supplied by Government by means of the Wheat in Store, the cost would have been less than the advanced price; consequently, that Mr. Hankinson must not only have sustained a loss, if not to the extent he states, at least equal to the difference between $1\frac{7}{8}$ d. and $2\frac{7}{8}$ d. per pound, but also that the Public has profited to the extent of the said difference of price.

As, however, the circumstance of loss in engagements of this nature, the risk of which ought to be calculated upon in undertaking them, does not by any means constitute a claim for compensation, it remains to be considered whether any peculiar circumstances connected with the case in question might warrant a deviation, in this instance, from what ought to be held as a general rule.

In addition to the ruinous consequence to himself and his family, which the loss, owing to his limited means, will occasion, Mr. Hankinson represents that, at the time he undertook the Contract, it was impossible to foresee that Van Diemen's Land would require supplies of Grain from New South Wales, as has been the case, instead of the latter importing, as is usual, large quantities of grain from the former, or that the Ship Almorah,

1825.
12 Sept.

Report by
W. Lithgow on
compensation
proposed for
J. Hankinson.

which was then in the Harbour, with a full cargo of rice and wheat, imported on account of the Commissariat from Batavia, would have been seized and carried off with her Cargo by the Naval Officer commanding to Calcutta, both which unforeseen occurrences tended greatly to augment the price of grain; and further that he had reason to suppose that, in the case of any unforeseen difficulty, he would have been assisted by a temporary loan of wheat from the Magazines. The latter plea is, perhaps, entitled to little or no consideration, as it is not borne out by the stipulations of the contract; but the two former, as being circumstances not anticipated at the time the contract was entered into, and which contributed no doubt to render it more disadvantageous to the holder, appeared to me of weight, and may, perhaps, be considered by His Excellency as affording grounds for according relief to the Contractor, whose case is undoubtedly one of great hardship.

To these considerations, it may be added that the system of contract has as yet been only partially introduced in the Colony, and as there can be no doubt that this system, by its effect in applying the excitement of private interest towards the discovery of the best and most economical means of procuring supplies for the Public Service, in the first instance, as well as of providing for their careful preservation till delivered out for consumption, will ultimately be found the most eligible mode of procuring supplies and attended with considerable advantage to the Public. Viewing it in this light, it may perhaps not be inexpedient, in order to encourage and extend this system, to concede a degree of indulgence in the commencement, which would be neither requisite nor judicious, when the local means of carrying contracts into effect are better known and appreciated, and when the increase of capital and population, added to the further division of employments in the Colony, shall have augmented the facility of entering into Contracts on clearer and better ascertained grounds and with less risk of disappointment. Should this remark be well founded, it may be considered as offering an additional motive for giving the prayer of Mr. Hankinson's Memorial a favorable consideration.

I have been led to state thus fully the reasons, which have occurred to me, both for and against the granting compensation to Mr. Hankinson in indemnification of the loss which he has sustained in consequence of being strongly impressed with the importance of requiring, as a general principle, the strict fulfilment of Contracts on the one hand, and of the great hardship and distress, which the denying relief, in the present case, must occasion on the other.

Should His Excellency, on weighing these reasons, be of opinion that the former preponderate over latter, and decide in favor of granting relief to Mr. Hankinson, I should beg leave respectfully to suggest that it might be proper to limit such relief to the amount which the Public appear to have actually gained by the lowness of the price, for which Mr. Hankinson has supplied the Bread furnished by him in the period referred to. This gain has already been estimated as equal to about one penny per pound for the Bread so furnished, which would amount to about £630, being £90 less than the loss according to his Statement. But, in order to keep within the sum for which the Public could have procured the Bread through any other Channel or means, it might be preferable still further to limit such relief to the difference betwixt the price paid of 1½d. and that of 2¾d. per pound for the Bread furnished in the aforesaid period, which would confine the maximum to about £550.

In case of relief being granted, I would further recommend that it should be held subject to the decision of the Right Honourable the Lords Commissioners of His Majesty's Treasury, and that security should be taken for the repayment of the Amount of such indemnification, as His Excellency might be pleased to order, in case their Lordships, after a full explanation of the circumstances of the case, should signify their dissent to its being allowed.

I have, &c.,

WM. LITHGOW, Ag. Commy. Gen'l.

1825.
12 Sept.

Report by
W. Lithgow on
compensation
proposed for
J. Hankinson.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 83, per ship Phoenix; acknowledged by Earl Bathurst to Governor Darling, 13th April, 1826.)

Government House, New South Wales,

My Lord,

12th September, 1825.

I do myself the honor to enclose a report of the Council, made to me on the necessity of appointing an additional Judge of the Supreme Court, and an Act of the same body, which was afterwards passed to carry that measure into effect. I have consequently appointed John Stephen, Esqr., late Solicitor General as an additional Judge of the Supreme Court until His Majesty's pleasure shall be made known.

Appointment of
J. Stephen as
additional
Judge.

The report of the Council will, I trust, sufficiently impress Your Lordship with the necessity of the measure. I can add from my own knowledge that the weight of business in the Supreme Court, as well as in the Council, and the undivided responsibility of the Chief Justice in the discharge of his heavy and complicated duties, had so impaired his health by successive attacks, as at last to endanger his life. Independently of his

Necessity for the
appointment.

1825.
12 Sept.

Official duties, I have had continual occasion to call upon the Chief Justice for his advice and assistance in all cases of difficulty, which lately have been numerous, and were naturally to be expected to arise out of the great changes, which have been made in the constitution and form of Government of this Colony since the passing of the New South Wales Act.

Opinion of
F. Forbes on
appointment
of judge.

The Chief Justice thought that doubts might be raised whether the Governor and Council or the Governor alone had the power to authorize the appointment of an additional Judge; and, as he considers it a matter of the greatest importance, he has suggested to me the propriety of calling your Lordship's attention to the point.

Statutory
provisions.

Your Lordship will perceive that the Act* contemplates two contingencies only, the necessity of an additional Judge, who is directed to be appointed by His Majesty's Ministers under the Sign Manual, and a temporary vacancy in the Office of Chief Justice from death, absence or illness. No provision is made for the contingency, which has actually occurred, namely the inadequacy of the Chief Justice's health to the discharge of the whole of the duties of his Office.

Legal opinion
required *re*
appointment.

Under these circumstances, I would beg leave to submit to your Lordship the expediency of taking the opinion of His Majesty's Law Officers, whether the legality of Mr. Stephen's appointment is entirely free from doubt; and, if it be not, of obtaining the sanction of Parliament upon a measure, the necessity of which has not admitted of two opinions in the whole Colony.

Limited
jurisdiction for
J. Stephen.

As a matter of precaution, it has been arranged that the additional Judge should not try felonies likely to be visited with Capital Punishment, nor civil cases of an appealable amount, nor any cases in fact of difficulty or importance.

Relief afforded
chief justice.

The relief, thus afforded the Chief Justice, enables him to give a portion of his time to the detail of the Councils, whose functions at the present moment are become of deep importance and indispensable in their exercise to the well being of the Colony.

Salary for
J. Stephen.

I have not fixed any salary to the Appointment of additional Judge, leaving that to the discretion of your Lordship. Mr. Stephen is allowed to retain his situation as Commissioner of the Court of Requests, and, as the additional duties he had to perform are neither weighty nor responsible, I should think that so much should be added to his present salary as Commissioner as to make his whole salary† equal to that of the Chief Justice of Van Diemen's Land.

I have, &c.,

THOS. BRISBANE.

* Note 218.

† Note 219.

[Enclosure No. 1.]

1825.
12 Sept.

REPORT ON NECESSITY FOR ADDITIONAL JUDGE.

To His Excellency Sir Thomas Brisbane, K.C.B., Governor of the
Colony of New South Wales, etc., etc., etc.

Report by
members of
council on
necessity for
additional
judge.

May it please Your Excellency,

We have taken into our consideration the Report on the state of the health of the Chief Justice, made by his Medical attendant, which your Excellency has been pleased to lay before Us.

The rapid augmentation of the business of the Supreme Court and the variety of jurisdictions, thrown upon its Chief Justice by the Act (4 Geo. 4, Cap. 96) for the better administration of Justice in New South Wales, together with the impossibility of any one individual, however robust his constitution, being permanently capable of discharging all the duties of that Office, having fallen within our constant observation, we, considering that the above circumstances establish a case which requires the exercise of the Executive Authority for the welfare and good Government of the Colony on an occasion, which could not have been easily foreseen, and cannot without much delay and inconvenience be otherwise provided for, beg leave most earnestly to recommend to your Excellency the appointment of some fit and proper person to act in the place and stead of the Chief Justice, in causes of minor importance and on such occasions as a necessary attention to the preservation of his health will require his absence from his professional duties, until Your Excellency has been able to correspond with the principal Secretary of State for the Colonies on the expediency of His Majesty's exercising the power, vested in him by the Act aforesaid, of augmenting the number of the Judges of the Supreme Court by Commission under the Royal Sign Manual.

Council Chamber, 17th August, 1825.

WILLIAM STEWART, Lt.-Governor.

T. H. SCOTT, Archdeacon.

FREDERICK GOULBURN, Colonial Secretary.

J. BOWMAN, Principal Surgeon.

[Enclosure No. 2.]

[This was a copy of the act 6 Geo. IV, No. 16, as published in "The Public General Statutes of New South Wales." There was prefixed the following:—"By His Excellency Sir Thomas Brisbane, K.C.B., Governor of the Colony of New South Wales, etc., with the advice of the Council"; and it was signed, "Thomas Brisbane, Governor. Passed the Council, August 17th, 1825. Francis Stephen, Clerk of the Council."]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 82. per ship Phoenix; acknowledged by Earl Bathurst to Governor Darling, 13th April, 1826.)

Government House, New South Wales,

My Lord,

13th September, 1825.

Participation
of surgeons of
convict ships in
colonial affairs.

Before my other Despatches are closed by the present conveyance, there is a subject upon which I have frequently thought it necessary to address your Lordship, and to which I beg leave to draw your Lordship's serious attention.

James Hall.

It is the active part taken by many of the surgeons of the Convict ships in the political proceedings of this Colony, and their instrumentality in collecting and carrying home materials for the purpose of attacking the local Government through the medium of the opposition Papers in London. I have already had occasion to bring the name of Surgeon Hall under your Lordship's notice, and his connexion with the false and slanderous reports relative to the Women at Emu Plains, as an additional proof of the active part taken by him in misrepresenting the Government of this Colony.

I could also mention other Surgeons of Convict Ships, who have not been less active and economical in providing themselves with board and lodging in the Colony at the cheap rate of carrying home the materials for slandering the Government, and gratifying the private feelings of certain dissatisfied Individuals in the Colony.

G. Fairfowl.

Here is also present a Gentleman among us, Mr. George Fairfowl, who came out as Surgeon Superintendent of the Ship Royal Charlotte, which arrived in this Colony as far back as the end of April, and who, I can assure your Lordship from the most correct information, took a very industrious part in the late investigation against Dr. Douglass.

I think that your Lordship will agree with me in opinion that, whatever might be the merits of that case, it was very unbecoming, in a Surgeon of His Majesty's Navy coming here on a transitory service, to have taken any part whatever in the investigation directed by your Lordship.

I beg to be understood as not wishing to prefer this as a charge against Mr. Fairfowl, but merely as a statement of fact, as one among many others of the same character, which appear to me to call for your Lordship's interposition to put an end to by an Instruction conveyed through the proper quarter.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

1825.
13 Sept.

(Despatch No. 85, per ship Phoenix; acknowledged by Earl Bathurst to Governor Darling, 23rd April, 1826.)

Government House, New South Wales,

My Lord, 13th September, 1825.

I have the honor to acknowledge the receipt of your Lordship's Dispatch No. 12, and of date the 27th January this year, on the subject of Ensign King's appointment as Barrack Master in the room of Mr. McIntosh.

Despatch
acknowledged.

In recommending this appointment to your Lordship, I did so in furtherance of the Public Service, having had no private object to gain by it, and both individuals were unknown to me till my arrival in the Colony.

Appointment of
E. King as
barrack master.

Mr. McIntosh I found totally unfitted from habitual drunkenness for the due execution of the duties of his situation; and, from my knowledge of Ensign King as an Officer, I thought him as competent as any other to discharge the duties of the Office in question.

Incompetency of
C. McIntosh.

The late Major General Macquarie and Colonel Erskine of the 48th Regiment, to whom I took the liberty of referring your Lordship, would no doubt have fully confirmed the opinion I communicated of Mr. McIntosh's incompetency and unfitness for the situation.

If I omitted to remark upon the inconsistency, to which your Lordship alludes, that of my not noticing Mr. McIntosh's assertion without date that, until his removal, his conduct had never met with the slightest dissatisfaction, whilst I, at the same time, had stated that he had been seriously lectured by the late Governor, Major General Macquarie, it was solely owing to my being convinced of the notoriety of this unfortunate man's habitual indulgence in the vice of drunkenness would render such remarks a superfluous encroachment on your Lordship's time.

Reasons for
omissions by
Sir T. Brisbane;

As to a retiring pension for Mr. McIntosh, I was induced to recommend it in consequence of his advanced age, long services and large family, and what my predecessor stated to me to be the sole cause of his having retained him so long in the appointment which he held.

and for
pension for
C. McIntosh.

In consequence of what I have now and formerly stated in regard to this appointment, I still consider it for the good of the public service to continue Ensign King in office, which, if approved of by Your Lordship, I again beg your attention to the favourable consideration of an old soldier with a helpless family, and to hope that his unfortunate misconduct may not induce your Lordship to withhold from him your commiseration.

Request for
confirmation of
appointment
and pension.

1825.
13 Sept.

With respect to any negotiations between Ensign King and Mr. McIntosh, if any took place, they are unknown to me, and consequently could not influence my recommendation in favor of Mr. King.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 87, per ship Phœnix; acknowledged by Earl Bathurst to Governor Darling, 13th April, 1826.)

Government House, New South Wales,

24 Sept.

My Lord,

24th September, 1825.

Proposal by T. H. Scott for transfer of government establishments to church estates.

Referring to my Dispatch No. 75, I had the honor to inform your Lordship that I had been given to understand that the Reverend Archdeacon Scott has requested the Surveyor General to make a valuation of the Government Establishments of New South Wales, with a view to obtain from your Lordship a transfer thereof for the Church; and I have stated to your Lordship my opinion that a great sacrifice would be made of the Public interest of this Country in acceding to the proposal of the Archdeacon. I now beg leave to lay my sentiments more fully before your Lordship.

Grose farm required for use of governor.

Respecting Grose Farm in the Neighbourhood of Sydney, it will I apprehend be indispensably necessary for the use of the Governor in the event of his residing in Sydney, and especially if the present Government House should be appropriated to Public Offices and the Domain part of it let out on building leases for the accommodation of the Merchants and Inhabitants of Sydney.

Proposals re domain at Sydney;

I have already had occasion to recommend* to Your Lordship the authorizing the sale of the Waterside of the Domain in Sydney for the use of the Shipping, which are now very much pressed for room.

Whatever may be your Lordship's present pleasure, it is evident that at no distant period the whole of the Domain must be given up to the Public, as the Town of Sydney increases in wealth and population.

and establishments in county of Cumberland.

With respect to the Government Establishments in the County of Cumberland, should Government think proper to give them up to satisfy the dormant claim of the Church, I should strongly recommend them to be sold by Public Auction, and the proceeds or the value given over, as I have not much faith in any valuation affixed to real property within a given distance of Sydney, so much depending upon situation and competition, which can only be truly estimated by giving those, who wish to purchase, the

* Note 220.

opportunity of doing so. But whatever may be your Lordship's determination with reference to the other Government Establishments, I cannot refrain from expressing a very confident opinion that the surrender of Emu Plains would not only be attended with an enormous sacrifice of the Public Interests, but would sensibly affect the entire economy and Police of the Colony, as I shall be shortly able to prove to your Lordship.

1825.
24 Sept.

Importance of
the establish-
ment at
Emu plains.

For the last Two Years, there has been a decrease in the supply of Grain, owing partly to the want of a foreign market for a redundant supply, and partly to a general disposition in the growers of Grain to limit the quantity grown to the precise demands of the Colony. Those evils will no doubt correct themselves in the course of time. But I have found it to be attended with the best effects to have within the power of Government a service of its own, from which it may draw in case of necessity, and which may be increased almost at pleasure.

This, in a great measure, restrains the monopolizing spirit, which has got into the country, and lessens the evils to be apprehended from an inefficient supply of grain. It is this check, in the hand of the Government, which is the subject of so much complaint amongst the corn growers and monopolizers of flour; and I am convinced that, were Government to part with it, there would be presently such a confederacy as would compel the Commissary to purchase grain at the average price of 10s., when the fair price ought to be 5s. per bushel. Besides this advantage to the Government in retaining Emu Plains, there is another and perhaps a stronger; it is the only Establishment in the Colony in which convict labour has been found to support itself. At Emu Plains, it even yields a surplus, which has been gradually increasing and will no doubt, in a few years more, afford a considerable public revenue.

Your Lordship will not fail to bear in mind that there are always upon the hands of Government a great number of convicts, which have been turned in by the Settlers as unmanageable, or adjudged to hard labour by the Magistrates for petty offences; there is no way of disposing of such persons except upon the Roads; and the Government Establishment of Emu Plains has been found to be by far the best School of Reform in the Colony, and many an idle, disorderly vagabond has been returned from Emu Plains a regular industrious servant.

The distance of that Establishment from any town, the exact discipline observed, and the habits of industry and usefulness, acquired there, have a far better and more permanent effect than all the scourgings or lessons of morality in the world could produce.

1825.
24 Sept.
Importance of
the establish-
ment at
Emu plains.

From this short statement, I trust your Lordship will perceive the inexpediency of giving up Emu Plains to the Church; and there is certainly the less necessity for so doing as the liberal endowment,* which your Lordship has already made the Church, is amply sufficient for all their present or future wants.

I have, &c.,
THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 88, per ship Phœnix; acknowledged by Earl Bathurst to Governor Darling, 22nd April, 1826.)

Government House, New South Wales,

25 Sept.

My Lord,

25 September, 1825.

Transmission of
rules and orders
of supreme
court.

I do myself the honor to transmit to your Lordship certain rules of the Supreme Court, made by the Chief Justice in pursuance of His Majesty's Order in Council, dated at the Court at Windsor, 19th October, 1824.

I have, &c.,
THOS. BRISBANE.

[Enclosure.]

[*This enclosure comprised the rules and orders of the supreme court dated 22nd June, 1825. A copy will be found in a volume in series IV.*]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Phœnix.)

Government House, Sydney, New South Wales,

27 Sept.

My Lord,

27th Sept., 1825.

Memorial from
owners of
cutter Eclipse.

In transmitting, for Your Lordship's consideration, the enclosed Memorial of Messrs. Reiby and Atkinson and documents showing the loss of the Cutter "Eclipse,"† their joint property on or about the 11th of May last at New Castle, I have the honor to communicate my approbation of the matter, contained therein, *so far* as the loss of the Vessel.

I have not before heard of the want of discipline amongst the Convicts, which is set forth by Memorialists; it has never been brought in any shape to my notice, and I have reason to believe the Commandant, Captain Allman, would not suffer such irregularities.

Method of
loading coal
at Newcastle.

The Coals are put on board by Government Men in Government Boats; but it is my Duty to submit to Your Lordship the 8th Section of the Port Regulations at New Castle, and which should at least have the effect of placing individuals on their guard in order to be prepared to resist such daring attempts.

I have, &c.,
THOS. BRISBANE.

[Enclosure.]

[*A copy of this memorial is not available.*]

SIR THOMAS BRISBANE TO EARL BATHURST.

1825.
23 Sept.

(Despatch No. 86, per ship Phoenix; acknowledged by Earl Bathurst to Governor Darling, 13th April, 1826.)

Government House, New South Wales,

My Lord, 28th September, 1825.

I have the Honor, in my Dispatch No. 76,* to enclose two reports in the case of Dr. Douglass as a preliminary step to placing that gentleman in his Office of Clerk to the Council. Reports on charges against H. G. Douglass.

As your Lordship may require to be in possession of a more particular statement of the proceedings up to the time of signing the Report, as well as some extraordinary consequences which have followed it, I have now the honor to lay the same before your Lordship.

Upon the arrival of Dr. Douglass in New South Wales, I caused intimation to be given to all parties concerned that the enquiry should forthwith commence at the Government House, Parramatta. The Revd. Mr. Marsden and Dr. Douglass accordingly attended and were allowed each a friend or two to assist them in the investigation; the Enquiry in the case of James Ring first engaged the attention of the Court, and from the Report your Lordship will find that the accusations preferred against Dr. Douglass have entirely failed. Holding of commissions of inquiry.

Exoneraton of H. G. Douglass in case of J. Ring.

By a Paragraph in your Lordship's Dispatch,* we were directed to call upon Mr. Marsden to substantiate a letter, which he had transmitted to England, charging Dr. Douglass with having flogged a Prisoner to extort confession from him. Mr. Marsden at first denied having written any such letter to any Member of His Majesty's Government, and did not recollect having written to such effect to any private friend; but in a day or two after he addressed a letter to the Members of the Court, stating that he had some recollection of having mentioned the case of Henry Bayne, which he stated to be upon suspicion to extort proof of guilt; but the case of Henry Bayne, which your Lordship will find appended to our Report, was that of punishment after conviction to compel restitution of stolen property, and consequently did not come within the point of Enquiry directed by your Lordship; and moreover, as Dr. Douglass had admitted to your Lordship in his letter* (a copy of which was transmitted to us) the fact of punishing under similar circumstances, and your Lordship had not thought that a sufficient reason for dismissing him from his Offices in the Colony, we came to the resolution to dismiss this charge. The only remaining accusation was that preferred by Joseph Bradley, a man of low habits and of very bad character in this country. Bradley's charges Dismissal of charge preferred by Rev. S. Marsden.

Disproval of charges made by J. Bradley.

1825.
28 Sept.

were disproved by the witness he brought to establish them. Our Reports upon the various points of Enquiry were made up and transmitted to your Lordship.

Difficulties
created by
T. H. Scott.

Having thus conducted this troublesome investigation to a close, I had hoped that the matter was for ever at rest; but the unfortunate course, which the Archdeacon thought proper subsequently to pursue, has laid a train of embarrassments, which I fear will be impossible entirely to get rid of. I am sorry to be obliged to speak of the Archdeacon in a manner which would seem to convey blame; and I fear that something may be placed to the account of private feeling on my part; but I am confident that when your Lordship has gone through the two Reports in Dr. Douglass's case, and weighed the evidence upon which they are founded, your Lordship will come to the conclusion I have.

Opinion of
commissioners
on result of
reports.

After signing the Reports, neither I nor the Chief Justice had any doubt but that they amounted to an acquittal; and the Archdeacon did not disguise his opinion that he thought your Lordship must dismiss Mr. Marsden. It is true that he wished us to go into the case of Henry Bayne, but the Chief Justice's reasons* against it were unanswerable; and the Archdeacon was convinced that we had no authority to go into that case upon the cautious and self guarded manner in which Mr. Marsden was prepared to prefer it; and he came to the resolution jointly with us to dismiss it.

Objections of
T. H. Scott to
H. G. Douglass
officiating as
clerk of council.

Notwithstanding this, the Archdeacon appears to have so completely made up his mind that Dr. Douglass should not sit in Council as Clerk, that he resorted to every means in his power to prevent it. In the first place, he showed me a private communication from your Lordship's Under Secretary, by which it appeared that, at his instance, Dr. Douglass was, in case of acquittal, to be removed from the Council to the Supreme Court as Registrar. He wished me to act upon that Communication, assuring me that he had no doubt but the next ship would bring an official Dispatch to the same effect. I purposely delayed the appointment of Dr. Douglass for a short time (injurious as that delay was to his reputation) to afford an opportunity of receiving the promised intelligence. In the mean time, two Ships arrived bringing Dispatches to a date long posterior to the Archdeacon's departure, without any Dispatch to the effect signified. The Archdeacon next intimated to me his intention to resign his seat in the Council if Dr. Douglass should be permitted to officiate there, professing to ground his objections upon the repugnance which he felt at sitting at the same table with a person who was guilty of what he was pleased to term torture. It was intimated to the Archdeacon that the same thing had been done by other

* Note 224.

Magistrates in the Colony, and by Mr. Marsden himself; he, however, denied the fact, and affirmed that, up to the time of his and Mr. Commissioner Bigge's leaving the Colony, no such thing had ever been done, and that Dr. Douglass had imported the practice from Ireland. Finding me inflexible, the Archdeacon moved an address in the Council, the purport of which was to suspend Dr. Douglass until certain presentments of the Grand Jury at Parramatta should be disposed of. The other Members of the Council rejected the Address. Since these events, it has become a matter of public talk in the Colony, and even of Newspaper notice, that, although the Archdeacon has signed the Reports, he has not acceded to the acquittal, thus casting upon the Government the odium of having acted contrary to the Reports. This is a great departure from the fact, as the Reports themselves will show. By these Acts, the Archdeacon has in my opinion laid the foundation of a series of proceedings, which have called forth the worst passions of the contending parties. It is to me, my Lord, a source of great regret that the Archdeacon should not have kept himself aloof from any of the parties concerned; but, notwithstanding his declared repugnance to Dr. Douglass for the very same cause* for which Mr. Marsden and Mr. Hannibal Macarthur stand publicly charged by the Attorney General, he has felt no similar repugnance to them, but, on the contrary, has become the Mediator between them and Mr. John Macarthur. The condition of these Gentlemen at this particular juncture, after being years in hostility, is not easily misunderstood. It is evidently with the view of gaining strength by numbers, and making common cause in defence of that system of private misrepresentation, by means of which a very improper influence has been held over this Colony by a few persons, and riches and power have been acquired at the expence of the Public.

I have been given to understand that the Archdeacon has tendered his resignation unless Dr. Douglass is removed from the Council; but he has no objection to his being drafted into the Supreme Court. His objection, therefore, to Dr. Douglass is personal. It is to me quite unaccountable how the Archdeacon could reconcile to himself the propriety of sitting down to judge of the character and conduct of another man, against whom he appears to have entertained sentiments of such inveterate dislike.

An opinion† has got abroad that Dr. Douglass was forced upon your Lordship by the interest of a certain party in England, vulgarly termed the "Saints," and that your Lordship would feel no personal dissatisfaction if some charge could be substantiated against Dr. Douglass, as to deprive him of his Office.

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Objections of
T. H. Scott to
H. G. Douglass
officiating as
clerk of council.

Alleged
non-acquittal of
H. G. Douglass
by T. H. Scott.

Contradictory
actions of
T. H. Scott.

Objection of
T. H. Scott to
H. G. Douglass.

Alleged reasons
for appointment
of H. G. Douglass.

1825.
28 Sept.

I need not express to your Lordship my sentiments upon the untruth and indecency of this report. I only allude to it as affording your Lordship a clue to the measures, which have since been followed up by the same persons, who originated the first charges; finding those charges had failed altogether in this country against Dr. Douglass, they determined to try how far they could succeed in England, and a deep scheme was laid for collecting materials and giving them some popular form to attract notice at home. In this spirit, Mr. Hannibal Macarthur, who had taken an active part against Dr. Douglass during the whole enquiry, and was proved to have assisted Bradley in obtaining evidence, put himself in the way to be nominated foreman of the Grand Jury, which attended last Court of Quarter Sessions in Parramatta, and presented the Case of Henry Bayne, which, as your Lordship will bear in mind, had been brought before the Court of Enquiry by Mr. Marsden and rejected. I enclose the presentments, which your Lordship will find to contain a misstatement.

Alleged
conspiracy
against
H. G. Douglass.

Case of
H. Bayne
presented by
grand jury.

Upon comparing the terms used in the Presentment with the language used in the Court of Enquiry, in their correspondence through their Clerk with the Rev. Mr. Marsden, your Lordship will not fail to perceive that the one has a direct reference to the other, and that the Grand Jury present the case of Bayne as a case of punishment on suspicion only, because the Court of Enquiry had previously rejected it as a case of conviction and not of suspicion.

The practice,* such as it was, had been pursued by the Rev. Mr. Marsden and Mr. Hannibal Macarthur himself, before Dr. Douglass came to the Colony. Upon what principle of justice and common honesty, Mr. Hannibal Macarthur could have brought himself to present Dr. Douglass and other Magistrates for only following his example would be quite inexplicable, were it not that he wished to get up something as a counterpoise to the Report upon the Enquiry directed to Your Lordship.

At that time, it was expected that a Ship would sail immediately for England, which fortunately, however, has been detained long enough to let the whole matter be laid before the Council; and from their Report, which I have now the honor to enclose, your Lordship will find the truth of what I have stated fully borne out.

My motive for bringing the matter under the consideration of the Council was to come at the true state of the Case, and, if the practice complained of had been confined to three Magistrates, to let the Law take its course; but, if it were of long standing and had been pretty generally followed throughout the

Precedents
established by
Rev. S. Marsden
and
H. Macarthur.

Consideration
of practice
by council.

Colony, to find a Bill of Indemnity and to put an end to all discussions and recriminations. The Council, with these objects in view, required The Record Books of the different Benches of Magistrates throughout the Colony to be laid before them, and all the Members took a share in the examination, as will appear by the Minutes of the Council.

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28 Sept.

Examination
of records
by council.

At the time they commenced their enquiries, it was supposed that the practice was confined to the three objectionable Magistrates; but, when it was discovered that the practice was as old as the Records of the Parramatta Court, and had been followed by every Magistrate in succession who sat on that Bench, and that cases similar in principle were found in the Records of other Benches, there was less unanimity in the Council; the Archdeacon and the principal Surgeon differing from the Report, which was signed, however, by the majority of the Council. The Report, however, speaks for itself, and contains a mere statement of facts with the proofs appended. I understand the dissenting Members do not dispute this; but they say the Records are not always to be depended upon. These same Records, however, were depended upon as sufficient ground to support the presentment of the Grand Jury, and to sanction the dismissal of Dr. Douglass; but when they are cited to show that Mr. Hannibal Macarthur had set the example as a Magistrate, of what he afterwards resented as a juror, the Records became less entitled to credit.

Findings of
the council.

Fortunately, however, for the cause of truth and justice, the earlier cases are signed with the proper handwriting of Mr. Marsden and Mr. Hannibal Macarthur. Afterwards the Records were kept by Mr. Bradley, who was dismissed by Dr. Douglass for drunkenness and irregularity; and, if there has been any irregularity in the Records, it cannot be supposed to have been done by the procurement of Dr. Douglass. The truth of the matter is that the Records are written in a fair hand, and are for the most part correct, and the Warrants of Execution, which were made out at the time, and have been preserved at the Gaol or Convict Barracks, Parramatta, establish the fact beyond the power of human ingenuity to dispute, that the Rev. Mr. Marsden, Mr. Hannibal Macarthur, and every Magistrate who has sat upon the Parramatta Bench, have been parties to sentences in every respect parallel with the cases which have been presented to the Grand Jury.

Proofs of
precedents
established by
Rev. S. Marsden
and
H. Macarthur.

These measures, which, no doubt, will be greatly exaggerated in England, have produced no sensation in the Colony beyond the parties immediately concerned. The strength of Government and the good sense of the Community are quite sufficient to enable us here to put down any attempt to disturb the public peace.

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Motives of
opponents to
H. G. Douglass.

I have been particular in giving your Lordship full possession of the consequences, which have resulted in the late Enquiry in Dr. Douglass's case, as I anticipate a great deal will be said about it in England. Be assured, my Lord, it is the great struggle of a few particular Individuals in this country to get the better of the shock experienced from the result of the late unexpected Enquiry, and to sustain that system of misrepresentation, which has attained an unexampled height in this Colony, and has been injurious in the exact ratio of its extent.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

REPORT OF ENQUIRY BY THE COUNCIL ON ALLEGED ILLEGAL
PUNISHMENTS.

Council Chamber, 27th September, 1825.

May it please Your Excellency,

The Council have taken into their consideration your Excellency's communication relating to certain prosecutions commenced against three gentlemen in the Commission of the Peace, residing in the district of Parramatta, for passing indefinite and irregular sentences, and causing punishments to be inflicted contrary to Law.

Before the Council have ventured to recommend the propriety of Legislative interference, or to suggest any specific course to your Excellency, they have deemed it necessary to examine the Records and proceedings of the different Courts of Magistrates in the Colony, in order to ascertain whether the practices, which have been represented, have been confined to the Individual Magistrates* against whom Criminal proceedings have been instituted, or to the Magistrates of Parramatta generally, or whether similar practices have been adopted in other Courts of the Magistrates; and the Council have thought it would be a convenient form of conveying the result of their enquiries to your Excellency to report upon the origin and intent of the practice complained of, and to append the cases† with explanatory facts, upon which their report is grounded.

The Sydney Court of Magistrates.

It does not appear, from the Records of the Sydney Magistrates, that any punishments have been inflicted at intervals to compel a disclosure, either of stolen property, or of parties implicated. But cases very frequently occur in the following form:

“The Prisoner to be confined to a solitary cell in the gaol, on bread and water until further Orders.”

In explanation of this irregular form of Sentence, the Council consider it due to the Magistrates, who have successively filled the

* Note 227.

† Note 228.

Report of
inquiry by
council on
alleged illegal
punishments.

Practice of
Sydney court
of magistrates.

Bench at Sydney, to observe that no instances of indefinite punishments have ever in fact been carried into execution, and the Council have never heard, nor do they believe that any excess of punishment had ever been charged against the Sydney Court of Magistrates.

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inquiry by
council on
alleged illegal
punishments.

The Parramatta Court of Magistrates.

The Records of this Court do not appear to have been regularly kept before the year 1815. The first book, which has been laid before the Council, commences the 4th day of March in that year. On the 10th day of that month and year, they find the case of Charles Watson, who was charged with stealing three shirts, and appears to have confessed the fact; his sentence is entered in the following form:—

Practice of
Parramatta
court of
magistrates.

“The prisoner is sentenced to receive twenty five lashes, and, if he does not lead to a discovery of the shirts by Saturday next, he is to receive further punishment of fifty lashes.”

H. MACARTHUR.

It appears that, on the 29th of the same month, Charles Watson was again brought up, and his sentence is entered in the following manner:—

“Not having made the least effort to recover the shirts for the right owner, and having endeavoured to implicate an innocent man and causing him to be apprehended and brought before the Magistrate, when it appeared he was innocent, which is since corroborated by the prisoner's own confession, he, Charles Watson, is sentenced to receive fifty lashes and work in double irons till the Magistrate may think proper to release him.”

This case is signed Hannibal Macarthur at the foot of the proceedings of the day.

The next case, which the Council deemed it necessary to report to your Excellency, is that of William Parsons, who was accused of stealing the goods of John Tarleton, part of which had been found on him. The case was heard before Hannibal Macarthur, Esquire, and the Rev. Samuel Marsden, on the 5th of April, 1815, and the sentence is entered as follows:—

“The prisoner Parsons is sentenced to receive 25 lashes every Saturday, and also to do his Government work until the remainder of the property is returned.”

This case is signed by Hannibal Macarthur only; but, at the foot of the Proceedings of the following day, it appears from the sentence that was passed in another case (Geo. Suttor against

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Practice of
Parramatta
court of
magistrates.

W. Bland) and which is signed by the Rev. Samuel Marsden, that Mr. Marsden was present at the Judgment in the case of Parsons.

The Council have been particular in stating the two foregoing cases because, from the circumstances of being the first that are to be found in the Records of the Parramatta Court, they prove the adoption of the principle as early as the year 1815, and from the cases being signed by the Magistrates, who heard and determined them, they are cleared of any doubt of their authenticity.

There is another case of Bridget Rook and Margaret Murphy, which appears upon the Records of the Parramatta Bench, and falls within the same principle as the Two last, to which the Council have not deemed it necessary to do more than merely advert. They have not found any similar case between the years 1815 and 1820, except perhaps the case of Henry Smith, upon which, however, they have not sufficient data to enable them to come to any satisfactory conclusion. In 1820, the Council have found three cases, which adopt the principle of punishing at intervals after conviction, to compel a restoration of stolen property, or a disclosure of other persons implicated, to which they beg leave to refer your Excellency in the appendix* to their Report.

No similar cases have been found by the Council in the year 1821; but, in 1822, there are five cases strongly in point with the cases which have been presented, and, in their adjudication of which, different Magistrates have been present.

In 1823, the year in which the three cases occurred, which have been presented as contrary to Law,† the principle appears to have been more freely adopted and frequently acted upon. The Council have noticed as many as forty cases in that year, and perhaps some others may be found upon further enquiry. From the year 1823 to the promulgation of the Act of Parliament for creating Courts of Sessions in New South Wales, the practice appears to have been less frequently resorted to; and, since the institution of the regular Courts, it has been discontinued altogether.

In explanation, the Council consider it proper to state, that the cases they have consulted have been taken partly from the Books of Records, partly from the Warrants of Execution preserved in the Gaols or Convict Barracks. The Books of Records of latter years are not to be entirely relied on, as they appear to have been made up from the minutes of the Clerk long after the cases had occurred, that it is probable many errors may be found in them. The Warrants of executions, which were transmitted at the time, are less liable to error, and the Council have referred to them in all cases when they have the means of doing so. But,

* Note 228. † Note 227.

unfortunately, the Warrants do not appear to have been preserved in regular files before the year 1822. As a general corollary from the whole of their enquiries, the Council have no doubt whatever that the practice complained of was resorted to as early as the Records bear date, and has been followed with more or less frequency until the year 1823, when it appears to have been adopted as one of the ordinary modes of punishment awarded by the Parramatta Court; that more cases of the kind occurred when Henry Grattan Douglass was on the Bench than during the sitting of any other Magistrate, but that Dr. Douglass appears to have seldom sat alone, and almost always to have been assisted by some other Gentleman in the Commission.

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inquiry by
council on
alleged illegal
punishments.
Practice of
Parramatta
court of
magistrates.

The Council deem it necessary also to state that it was made to appear very satisfactorily to them, from the examination of the Chief Constable at Parramatta, that, although the number of lashes awarded by the Court was not expressed in the Warrant, the Chief Constable, as the person entrusted with the execution, was ordered by the presiding Magistrates in no case to inflict more than one hundred and fifty lashes in the total, and report daily after every punishment to the Sitting Magistrate. Some of the Warrants corroborate this statement, and bear upon the face of them a caution of this kind.

It is also proper to state that it appears, from the examination* of the Chief Constable, the reason for not specifying the exact amount of punishment was to hold it in suspense over the Prisoner, and thereby to induce him to make the disclosure sought to be attained.

The Windsor Court of Magistrates.

The Council have not found any case, in the Records of the Magistrates' Court at Windsor, liable to the objections which have been raised to the proceedings at Parramatta.

Practice of
Windsor court
of magistrates.

The Penrith Court of Magistrates.

The Council have examined the Books of the Penrith Bench, from the month of April, 1817, until the Month of June, 1825; and they have found no case of punishments inflicted at intervals or otherwise to compel disclosure. It appears, however, from the explanation of the Clerk of the Bench, that one, James Pharos, who was accused of robbery, which he at first confessed and afterwards denied, was sentenced to be flogged every morning until he confessed where the stolen property was, and that, in consequence of such sentence, he gave up a watch. The presiding Magistrates upon that occasion were Sir John Jamison, the Revd. Mr. Fulton and John McHenry, Esquire. This statement* of the Clerk, Mr. J. W. Fulton, is confirmed by a letter* addressed by

Practice of
Penrith court
of magistrates.

* Note 228.

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the Rev. Mr. Fulton and Mr. McHenry to the Private Secretary of your Excellency, in answer to a Circular sent to the Magistrates by your Excellency's Commands.

Report of
inquiry by
council on
alleged illegal
punishments.

The Liverpool Court of Magistrates.

The Council have not been able to examine the proceedings of the Liverpool Magistrates, except during the period of five months, commencing in February, 1824, and ending in July in the same year; it being stated to them that the Records previous to that time are in too mutilated a condition to admit of reference. They find, however, one case, which appears to come within the practice which has been objected to. It was the case of Anthony Radley and James Gogan, who were charged by the Master, one Brackfield, with being Drunk and refusing to tell where they got the Spirits. Their sentence was as follows:—

“The Prisoners were ordered into separate cells until Monday, if they will not inform the Court where they got the Spirits, they were to receive one hundred lashes each.”

On Monday, the 24th May, Radley was re-examined and stated that he procured the liquor from a fellow servant, named Benson, who stated that he got it from one Stephen Jones; on the following day, the case was again enquired into, and Benson was put to the Bar, who denied the charge of Radley; but it being confirmed by Brackfield himself, Benson was ordered to receive one hundred lashes, and put into the Gaol Gang until further orders.

Practice of
Campbelltown
court of
magistrates.

Campbell Town Court of Magistrates.

No case has presented itself upon the Records of the Court at Campbell Town, which appears to be liable to objection on the Grounds which have occasioned the present Enquiry.

WILLIAM STEWART.
FRANCIS FORBES.
FREDERICK GOULBURN.

[Enclosure No. 2.]

REPORT OF GRAND JURORS.

THE Grand Jurors of our Sovereign Lord the King present to the Court of Quarter Sessions, assembled at Parramatta, in and for that town and surrounding Districts, the 15th day of August, 1825, that, in pursuance of their important duties, they visited His Majesty's Gaol, together with the Public Buildings and Situations in the vicinity of the town.

The Grand Jurors present that, on visiting the Gaol, they found it much improved as to its internal state, since their last visitation, the number of prisoners comparatively few, and those generally awaiting their trial before the present Sessions.

Report of
grand jurors.

Condition
of gaol.

The interior of the Building has been recently whitewashed, but has received no substantial repairs since the last Sessions. On returning to the Lodge, the Grand Jury inspected the Books and records of punishment, and have to present that they found Warrants, or Orders for punishments, of a nature which called for an Enquiry as had been represented to them. These were thirty in number, the nature of these will be shewn in the following presentation.

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Report of
grand jurors.
Presentation
of illegal
punishments
ordered by
H. G. Douglass,
D. Macleod, and
W. Lawson.

The Grand Jurors found a Warrant or order, dated March 31st, 1823, thus worded:—

“Henry Bayne, attached to the Domain Party, sentenced to receive twenty five lashes every morning, until he tells where the money and property is, stolen from the house of William Jayes at Parramatta by him.”

(signed) H. G. DOUGLASS, J.P.

Upon which Warrant or Order, they find that Henry Bayne was flogged five mornings successively; when, being taken before the Magistrates on the Sixth day, he was ordered to be again flogged. On Monday, the 7th of April, 1823, the punishment was then repeated, when he received 25 lashes. That, on the 18th of May following, he (having persisted in his innocence) was brought up before the Magistrates, Dr. Douglass, Dr. McLeod, and William Lawson, Esquires, and was further punished by a sentence of Transportation to Port Macquarie for twelve months.

The Grand Jury further present that the first part of his punishment was to compel confession from the said Henry Bayne, and that it appears from the Records of the Magistrates that one witness only (Ellen Murphy) appeared against him, and her testimony merely attached suspicion, no property being traced to him.

The Grand Jurors further present that they found a warrant or Order, bearing date 20th April, 1823, in the following words:—

“Richard Johnson, attached to the Government Dairy, sentenced to receive twenty five lashes every morning, until he tells where he got a pair of blue trowsers from, being part of a robbery committed at the Garden house on the Government Domain, Parramatta.”

(signed) H. G. DOUGLASS, J.P.

W. LAWSON, J.P.

D. MACLEOD, J.P.

They further present that, in consequence of the punishment above directed every second morning, the said Johnson accused John Wright.

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Report of
grand jurors.
Presentation
of illegal
punishments
ordered by
H. G. Douglass,
D. Macleod, and
W. Lawson.

After which there appears a Warrant or Order, in words as follow, and dated the 18th May, 1823:

“John Wright, attached to Mr. Kenny’s party, sentenced to receive 25 lashes every second morning until he tells where he got a pair of blue trowsers from, stolen from the Garden house on the Government Domain, being part of an extensive robbery committed there.”

(signed) D. MACLEOD, J.P.

The Grand Jurors present that they found a Warrant or Order, dated the 5th April, 1823, to the following effect:

“John McClutchy, attached to Mr. Wentworth’s Clearing Party, sentenced to receive 25 lashes every morning until he tells who has harboured him during the 14 days he has been absent from the Gang.”

(signed) D. MACLEOD, J.P.

They further present that, in consequence of the punishment being thus ordered and on it being thus inflicted, he accused two persons, who were brought by summons from Windsor to be confronted with the prisoner, when he declared he had accused them to save his own flesh, whereupon these persons were discharged.

The Grand Jury present that four out of the thirty Warrants or Orders are limited to the infliction of 100 lashes only, at the rate of 25 lashes every second morning, and that the remainder of these Warrants are without limit; neither can the Grand Jurors find any record of the extent to which these punishments may have been carried. The dates of these Warrants or Orders run from 7th December, 1822, to 13th December, 1824, and are signed either by Dr. Douglass, William Lawson, Esqr., or Captain Barlow. The latest period to which this mode of punishment has been brought, found by the Grand Jury, is to the 20th September, 1824, few such punishments having taken place since December, 1823.

The Grand Jury present the above cases, together with those they do not particularly detail, as acts of magisterial authority beyond the Law, opposed to the principles of reformation and the interests and welfare of Society.

The Grand Jurors present that the back part of the Gaol, occupied by the Convicts attached to the Factory, remains in the same insecure and dilapidated state as when last presented.

The Grand Jurors next visited the female Factory, and here they still find some important subjects for presentment. No means have yet been taken to secure a convenient supply of water to this Establishment, now containing 253 women and many young children.

Want of
water supply at
female factory.

This the Grand Jury consider a great defect, and one which demands early consideration, both as regards the health and cleanliness of those confined within its walls.

The Grand Jurors further observed that the bread supplied to this institution is of very inferior quality, and calls for immediate attention as regards the women, but more particularly for the young children, who appear to suffer from the quality of bread and a want of sufficient comforts, especially the want of a room as a nursery, in which the mother might be indulged with a fire to keep them dry and warm. Iron bedsteads are still wanting in the dormitories; and although the Grand Jurors were informed that this Factory was a very profitable Establishment, yet they have to present that the inmates appear to suffer for a want of sufficient clothing, more particularly a want of shoes.

The Grand Jurors are much satisfied in their visit to the Government General Hospital to find but few patients, and no one case of serious illness.

On visiting the Female Orphan Institution, the Grand Jurors found much cause for satisfaction in the manifest improvement of the Children, both in health and education. A series of Rules for the management of this Institution has been established by the Venerable The Archdeacon Scott, as King's Visitor, and approved by His Excellency the Governor, from which the Grand Jury anticipate beneficial results. With external improvements, the Grand Jurors find this important Institution labouring under the inconvenience of an insufficient supply of water. At present, the effluvia from the different drains, necessarily attached to the Kitchen, washhouse, &c., are a perfect nuisance to the Establishment.

The Grand Jurors present the dangerous state of the brick arches over the windows of the main building. Many of the bricks appear ready to fall on the slightest occasion to the great danger of the children who are constantly exposed to accident from this circumstance.

The Grand Jurors, having deputed a Committee of five Jurors to visit the Lunatic Asylum* at Castle Hill, have again to present the total inadequacy of the buildings to the purpose of this Establishment.

The situation is altogether unfit from its occasional want of wholesome water and distance from that medical care, to which Institutions of this kind should be subjected; and the Grand Jurors again recommend the erection of a building adapted to this important object, and that these afflicted and unfortunate persons should be secured in a proper Hospital more directly situated in the vicinity of the Town. At present, this Establishment contains 27 male and 8 female patients. From the report

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Report of
grand jurors.
General
condition of
the factory.

General
hospital.

Female orphan
institution.

Lunatic asylum
at Castle hill.

* Note 229.

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Report of
grand jurors.

of the Committee and Statement of the Visiting Surgeon, the Grand Jurors find that there is a want of many of those comforts and supplies necessary for such patients, and that the Superintendance is equally deficient, these 35 lunatics being now under the care of one Keeper, whose various duties frequently call him away from the Establishment. The comfort and cleanliness of these unfortunate persons would be greatly promoted by the supply of a copper boiler for washing their clothes, and the means of drawing in firewood.

Slaughter-
houses at
Parramatta.

The Grand Jurors present that the Town of Parramatta is subjected to a great nuisance by the establishment of slaughter houses in situations where, from the want of sufficient supply of water, the accumulation of filth becomes so offensive as to annoy the whole neighbourhood. The Grand Jurors further present the necessity of establishing some regulations to secure the purity of the water collected by the dam across the river, and suggest that no cattle, horses, sheep or swine should be allowed to approach the water above that embankment. The Grand Jurors submit the statement of 34 settlers of the Seven Hills District, by which it is shown that the Cross Road into that District is nearly impassable and extremely dangerous.

Water supply.

Road to
Seven hills.

Proposed
abolition of
toll-gate at
Parramatta.

The Grand Jurors finally present that the Inhabitants of the Town of Parramatta still labour under the inconvenience of the Toll Gate established in the Town, by which free intercourse from one part of the town to the other is much impeded and trade injured; and the Grand Jurors close their presentment by recommending an early attention to this grievance, and that all those exemptions from toll which are established in the Mother Country, so manifestly to the benefit of Society and the encouragement of morality and industry, should forthwith be established here.

(signed) H. H. MACARTHUR, Foreman. ALLAN CUNNINGHAM.
GEORGE ACRES. GEORGE DRUITT.
JAMES MCDUGALL. ROBERT LETHBRIDGE.
THOMAS MCDUGALL. GEORGE BLACKETT.
GEORGE SUTTER. MATTHEW PEARCE.
J. BLAXLAND. JAMES WILLIAMSON.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 89, per ship Phoenix; acknowledged by Earl Bathurst to Governor Darling. 13th April, 1826.)

Government House, New South Wales,

30 Sept.

My Lord,

30th September, 1825.

Instructions
re granting
of pardons.

I have had the honor of receiving your Letter of the 18th of last March, calling my attention to certain instructions on the subject of free pardons, issued by His Majesty's Command in the year 1812, in conformity with the Report of the Select Committee

of the House of Commons on transportation, and regretting that "a renewal of those Instructions should have been rendered necessary, in consequence of the improvidence with which Pardons have frequently of late been granted in New South Wales and Van Diemen's Land without the least attention to the nature of the offenses for which the Convicts have been transported."

1825.
30 Sept.

Instructions
re granting
of pardons.

Before my departure from England, I was given to understand that the Chaplain and Superintendant of every Hulk in that country exercise jointly the privilege of obtaining absolute Pardons annually for eight out of each hundred Convicts under their charge. Until the receipt of your Lordship's late communication, I had therefore indulged the hope that the Thirty two Absolute and the Forty six Conditional Pardons, granted by my order to those convicts only, who had been the most strongly recommended to me out of the Thirteen Thousand Prisoners of the Crown, who are in this Colony, would not have excited the displeasure of your Lordship; more particularly, when I knew that, although the instructions, to which my attention has been drawn, were written at a time when you had lying before you Governor Macquarie's Return of eighty nine free and seventy Conditional Pardons, which he had distributed during the two first years of his Administration amongst a Convict Population not a tenth part of its present amount, yet his late Excellency was so fortunate upon that occasion as to receive at the hands of your Lordship the following handsome compliment:—"The manner, in which you have exercised this branch of your Authority, sufficiently evinces your opinion of the very great discretion with which it should be used."

Precedents
for granting
pardons in
England.

Pardons
granted by
Sir T. Brisbane;

and by
L. Macquarie.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 90, per ship Phoenix; acknowledged by Earl Bathurst to Governor Darling, 13th April, 1826.)

Government House, New South Wales,

My Lord,

3rd October, 1825.

3 Oct.

Mr. and Mrs. Sweetman, who arrived in the Colony towards the end of the year 1823 with an appointment from your Lordship to the Superintendence of the Female Orphan School, date from the hour of their taking charge of that Establishment the commencement of an illness, which has terminated in the decease of both of them. Justice to the interests of an important Institution, languishing under the confinement to their room of both Master and Mistress, and the vain hope of re-establishing their health by a timely change of air, induced me about the beginning of the present year to recommend to them earnestly their removal to take charge of the male orphans. A

Ill-health
and death of
superintendents
of female
orphan school.

1825.
3 Oct.

Amalgamation
of native and
orphan schools
under charge of
Revd. Walker.

Wesleyan Missionary, the Rev. Mr. Walker, and his wife had at that time been engaged a twelve months under my own eye in the instruction of the Black boys of the late Native School. Such success had attended the measures they had adopted to effect the civilization of these children, that I felt convinced they were peculiarly adapted to engage in an enlarged sphere of Tuition. I was anxious also to try the experiment of the white and black Natives of this Colony imbibing their earliest intellectual and religious ideas under a common roof. Therefore, when Mr. and Mrs. Sweetman removed to the Male Orphans, their place at the Female School was supplied by Mr. and Mrs. Walker. Every hour that has passed, since this arrangement took effect, has served to convince me of their especial fitness for that undertaking; and it is with this feeling that I submit their appointment to your Lordship praying your confirmation of it.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 92, per ship Harvey; acknowledged by Earl Bathurst to Governor Darling, 8th August, 1826.)

Government House, New South Wales,

My Lord,

10th October, 1825.

I have considered it incumbent on me to transmit to Your Lordship, for your information, statements showing the Situation in which an important Institution* here now stands in point of efficiency and means of permanent support. It is clear that the Institution must look to the Colonial Revenue for its principal future income, and the question for your Lordship's consideration, in the first instance, is, whether there is anything intrinsically wrong in the principle upon which this Charity is founded; as probably there will be no difference in opinion upon this subject, and as it may be expected to be approved by your Lordship, a most important question seems to be the future means of supporting it; with a view to this, it is desirable that Your Lordship's instructions should be sent to this Country touching the amount of money, that shall be granted annually from the Public Funds to the Benevolent Institution, and whether the Public Funds shall be appropriated to any and what degree for the enlargement and improvement of the Establishment as proposed by the Committee. It may be a question of some importance whether, as this Charity seems unavoidably to be increased in proportion to the increase of the Colony, its concerns may not best be regulated by an Act of Council.

I have, &c.,

THOS. BRISBANE.

10 Oct.

Reports of the
benevolent
society.

Proposal for
annual subsidy
from
government.

* Note 230.

[Enclosures.]

1825.
10 Oct.

[These consisted of the reports of the Benevolent Society dated 14-12-19, 6-6-20, 4-6-21, 4-6-22, 4-6-23 and 4-6-24.]

[Additional enclosure.]

REV. RICHARD HILL TO MAJOR OVENS.

Sir,

Sydney, 21st June, 1825.

I have now the honour to hand you the copy of a letter from William Bland,* Esq., relative to the Asylum, the original of which I only received this day. I much regret that it is not yet in my power to forward the particulars of the Meeting of the Magistrates, which His Excellency desired to have, as I have not yet received them from the Colonial Secretary.

Transmission
of report by
W. Bland.

I have, &c.,

RICHARD HILL, Secy.

[Sub-enclosure.]

DR. BLAND TO THE REV. RICHARD HILL.

Sir,

21st June, 1825.

Agreeable to the desire of the Committee of the Benevolent Society, I sometime since submitted to Mr. Smith, Builder, a statement of such alterations and additions to be made to the Asylum as appeared to me requisite, with respect either to the more immediate purposes of that Establishment, or those for which it may hereafter be intended. The purport of this statement of proposed alterations and additions, I now beg, on the occasion of your drawing up of your present report, to lay before you. They consist as follows; (1st.) A Hospital (that will contain about thirty or forty patients), both of male and female patients, These for the reception solely of acute or bad protracted cases, such only as require medical assistance. 2nd. Water closets, to be ventilated and lighted by a window to open in the external walls of the building to supercede as far as possible the use of night chairs on each floor for the hospital; These to be recommended also (from a consideration of the large number of bedridden patients that is received into the Institution) for the other departments of the building generally.

Report by
W. Bland on
improvements
and alterations
required at
benevolent
asylum.

3. Baths, leaded, and so constructed as to be available for the triple purpose of Warm and Cold bathing, and the shower bath. Any additional expence for the rendering of the baths fully efficient would not be ill-laid out, but would be amply repaid in the greater advantages, which they in this state would present. These baths to be distinct (the one for the Males, the other for the female patients) one on each floor.

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Report by
W. Bland on
improvements
and alterations
required at
benevolent
asylum.

(4th.) A dead room for the reception of those who die in the institution; This to be furnished with a strong plain table, about seven feet long and three broad, also with a strong plain wooden slab, attached (that it might occupy the less space) to the wall of the room, so that, when not used, it may be let down; The table and the slab for the purposes of dissection. This room should, if possible, be well lighted from the top by means of a sky light. Thus constructed and furnished, the room would be convertible when required to an operating room, for the purposes of which the table, etc., would be equally appropriate and useful.

The additions or alterations above described appear to me, after repeated reflection, highly necessary, and some of them (whether with regard to the good economy or comfort of the Establishment) to be indispensable. In addition, however, to the positive advantages which, I venture to suggest, they will afford, I beg to observe that by a little management in the carrying into effect of the general alterations and additions to the buildings, lately contemplated by the Government, they may be accomplished with very little expence additional to what would otherwise be incurred.

The hospital, which I have begged to propose, is nothing more than the conversion of a certain portion of the intended erections to that particular purpose, and add therefore nothing to the expence. The dead room is not only necessary for the deposit of the dead until they can be interred, but also for the purpose of dissection (which, whatever the case, can not, with regard to the feelings of the patients or of the Surgeon, be in any instance at present had recourse to). It is also, as I have before observed, available of as an operating room, a place almost indispensable in such an Establishment. The alterations and additions, therefore, that involve any additional or at least possibly avoidable expence, consist perhaps solely of the water closets and the baths. The former of which appearing (and have I believe of late years been generally admitted to be when well constructed) highly desirable for institutions of this description, and would not be highly expensive; while the latter (the baths), which might be constructed perhaps at little more expence, will, by the facilities to be derived from them (in the treatment of a considerable number of cases), prove eventually an economical expenditure, which in a short time will repay itself.

Workshops, etc., etc., a taylor's room, shoemaker's apartment, and a room for the picking of Oakum, have been suggested to me as useful appendages to this Institution, and in addition to these

a garden, all of which I think would be highly advantageous to the physical improvement of the patients, as well as, if I may offer an opinion on this subject, to their moral amendment also, and be at the same time conducive to the reduction of the expences of the Establishment.

I remain, &c.,

WILLIAM BLAND, Surgeon.

1825.
10 Oct.

Report by
W. Bland on
improvements
and alterations
required at
benevolent
asylum.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Harvey; acknowledged by Earl Bathurst to Governor Darling, 25th April, 1826.)

Government House, New South Wales,

My Lord,

10th Oct., 1825.

I do myself the honor to transmit for your Lordship's favourable consideration the application of His Honor Colonel Stewart, The Lieut. Governor, for some allowance to defray the expences of his passage to this Country.

Application
from W.
Stewart for
embarkation
allowance.

In support of this application to your Lordship, I beg to observe that all the Civil Officers of the Colony recently appointed have received their pay from the date of their embarkation in England, and that Colonel Stewart embarked under an impression that he would receive a similar indulgence; in this, however, he has been disappointed, for, on his arrival, he had to learn the substance of your Lordship's Dispatch, No. 28 of date the 16 Aug., 1824, received by the "Granada," relative to the salary of the Lieut. Governor, by which he could in no way claim any portion of that pay as Lieut. Governor till the date of his arrival in the Colony.

Instructions re
lieut.-governor's
salary.

Under the circumstances therefore of his not having received any Embarkation allowance as a Military Officer in charge of a guard, and his being kept ignorant that he could not claim any salary as Lieut. Governor except from the time of his landing in this country, I beg to recommend his case to Your Lordship's favourable consideration for some equivalent remuneration to defray the expences of a long voyage incident upon an Officer of his rank.

Recommend-
ation of request.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

COLONEL STEWART TO SIR THOMAS BRISBANE.

Sir,

Sydney, 23 June, 1825.

I have the honor to enclose herewith, for your Excellency's information, Copies of two official letters, which I received before leaving England, the first from the Adjutant General to the Forces directing me to take charge of the Guard of the 57th

Application of
W. Stewart for
embarkation
allowance.

1825.
10 Oct.

Application of
W. Stewart for
embarkation
allowance.

Regiment placed on board the "Asia," Convict Ship, on the passage out to this Colony, and the latter from Major General Sir Herbert Taylor refusing any embarkation allowance, as a Military Officer, on the plea that accommodation would be provided on board that ship for a part of my family to accompany me out.

In submitting this case, therefore, for your Excellency's consideration, I feel it my duty to explain that, in consequence of the accommodation allotted to me in the said ship being altogether insufficient, no relation nor any part of my family whatever accompanied me to this country, they being obliged to return to Scotland from the total inadequacy of the accommodation on board.

I further beg leave to explain for your Excellency's information that, on being refused any embarkation allowance as a Military Officer, I made no application whatever to my Lord Bathurst for such an allowance in my civil capacity, under the impression that, on my arrival in this Colony, I should receive full pay as Lieut. Governor from the date of my embarkation in England on the 26th of October last. And I never once entertained a doubt of this being the case, as I knew all the other Civil Officers of the Crown, who had embarked for this Country a short time before me, were without exception allowed the full pay of their respective appointments in this Territory and its Dependencies, from the periods when they respectively embarked in England; and no communication was ever made to me that a different arrangement has been adopted in my case.

I now learn, however, for the first time from a letter addressed to your Excellency from Lord Bathurst on the 16th of August last, that I am only to receive pay as Lieut. Governor from the period of my actual arrival here on the 28th of April last. Deprived, therefore, as I am by this arrangement of any allowance whatever to cover the heavy expences I have been subjected to in coming out to this Colony, I am induced most respectfully to solicit that your Excellency will be pleased to submit the case for the consideration of my Lord Bathurst, as I am fully impressed with the belief that a reference to His Lordship will ensure to me an embarkation allowance equivalent to the pay of my situation as Lieut. Governor from the 26th of October last, when I embarked on board of the "Asia" Transport at Portsmouth in the charge of a Military Guard, and in the execution of unusually troublesome duties on the passage out.

I have, &c.,

WILLIAM STEWART, Lieut.-Col. Buffs and Col.

[Sub-enclosure No. 1.]

1825.
10 Oct.

MAJOR-GENERAL SIR HERBERT TAYLOR TO COLONEL STEWART.

Sir, Horse Guards, 25th September, 1824.

Having laid before The Commander in Chief your letter of the 23rd Instant, I am directed to acquaint you that, upon a full consideration of what you have stated, His Royal Highness does not see that he can consistently comply with your request.

Refusal of application from W. Stewart for embarkation allowance.

You have been provided with a passage to New South Wales as a Government Passenger, upon an application from this Office to The Commissioners of the Navy, similar to what is made when an Officer is going to his Regiment at Ceylon or any other foreign station, and totally unconnected with the Convict Guard, of which, except at your own request and for your Convenience on account of accommodation necessary for part of your family, who were to accompany you on the "Asia," and for whom conveyance has also been provided by the Commissioners, you would not have been required to take charge, nor indeed, when the passage was reported as having been ordered for you, had any notice been received of a Guard being wanted for that.

If you are not furnished with the accommodation usually allotted in Government Vessels, on your making a representation to that effect, application will be made to The Commissioners of the Navy on the subject; and, if they cannot provide you with such accommodation as you are entitled to, there is no doubt but that you will be permitted to engage conveyance for yourself and family in a private ship, and that the regulated allowance for an Officer of your rank proceeding to New South Wales at his own expence will be granted to you.

I have, &c.,

H. TAYLOR.

[Sub-enclosure No. 2.]

MAJOR-GENERAL SIR HENRY TORRENS TO COLONEL STEWART.

Sir, Horse Guards, 20th Sept., 1824.

I have to acknowledge the receipt of your letter of the 17th Instant, and to acquaint you that, in compliance with your application, The Commander in Chief will approve of your having the Command of the Detachment, which will be embarked as a Guard on board the "Asia" Convict Ship during the passage to New South Wales.

W. Stewart to take command of guard on ship Asia.

The Detachment will be furnished by the 57th Regiment, and will consist of a Lieutenant and 50 men, and, with a view to the convenience of yourself and part of your family, directions have been given that an Officer *without a family* may be selected for this duty, if arrangements can be made for that purpose.

I have, &c.,

H. TORRENS, A.G.

1825.
10 Oct.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Harvey; acknowledged by Earl Bathurst to Governor Darling, 13th April, 1826.)

My Lord, Govt. House, N.S.W., 10th October, 1825.

Transmission
of papers.

I do myself the honor to lay before your Lordship a document referred to in my Dispatch No. 86* as the Minute of Council, which was omitted to be enclosed, and also the Appendix to the Report of the Council, which could not be had in time to accompany the Dispatch.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

MINUTE FROM MEMBERS OF COUNCIL.

Request from
council for
records of
benches of
magistrates.

To His Excellency Sir Thomas Brisbane, K.C.B., Governor of the Colony of New South Wales, etc., etc., etc.

May it please Your Excellency,

In compliance with your Excellency's desire, we have considered the letter of the Attorney General upon the subject of Punishment inflicted upon Prisoners in this Colony, and we beg your Excellency will be pleased to cause the Records of the different Benches of Magistrates of Sydney, Parramatta, Liverpool, Windsor, Campbell Town and Penrith to be laid before the Council, as they deem it proper to take the whole subject into consideration, preparatory to giving any specific advice upon the matter referred to them by your Excellency.

WILLIAM STEWART. F. GOULBURN.

FRANCIS FORBES. J. BOWMAN.

T. H. SCOTT.

Council Chambers, 30th August, 1825.

[Enclosure No. 2.]

APPENDIX OF CASES REFERRED TO IN THE REPORT.†

Parramatta, March 15th, 1815 (continued):—Present, Hannibal Macarthur, Esq.

“CHARLES WATSON, Prisoner and Government Stockman, East Creek, brought forward, charged by Mr. Askill, overseer, with stealing three shirts, the property of Alexander Morgan, also Stockman at East Creek.

“The Prisoner, Charles Watson, acknowledges that he stole the shirts and sold them to William Smith, Stockman in the service of Mr. Lawson.

“The Prisoner, having told a number of stories respecting the disposal of these shirts, cannot be believed.

“He is sentenced to receive twenty five lashes, and, if he does not lead to a discovery of the shirts by Saturday next, he is to receive further punishment of Fifty lashes.

Collated:—W.S.; F.F.‡ (signed) “H. Macarthur, J.P.”

Parramatta, March 29th, 1815 (continued).

“CHARLES WATSON, Government Stockman brought forward, charged with stealing three shirts, the property of Alexander Morgan, Stockman at the Eastern Creek Yards, of which he was convicted on

Records of
sentences of
indeterminate
punishments.

Saturday, the 18th Instant, and received twenty five lashes for the Theft. At the same time fifty lashes were ordered unless he led to a discovery of the property. Not having made the least effort to recover the shirts for the right owner, and having endeavoured to implicate an innocent man by charging him with having received the shirts from him, and causing him to be apprehended, and brought before the Magistrates, when it appeared he was innocent, which is since corroborated by the Prisoner's Confession.

"He, Charles Watson, is convicted as a most incorrigible Vagabond, and sentenced to receive *Fifty lashes* and work in double Irons till the Magistrate may think proper to release him.

(signed) at foot of proceedings

Collated :—W.S. ; F.F.

"H. Macarthur, J.P."

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sentences of
indeterminate
punishments.

Parramatta, April 5th (continued) :—Present, The Revd. S. Marsden.

"RICHARD PARSONS, P., Brought forward charged with robbing John Tarleton, of Prospect, of one five gallon cask, one tin saucepan, one Bucket and one brass cock and also stole a Porter Cask from James Lord, Parramatta.

"One Iron Pot is now produced, which Parsons had sold to Kitty Day, the property of John Tarleton, and the Tea Kettle at the back of the Hut, where he lives, is the property of John Tarleton, and the better half of the Keg, which was cut in two, found in Parsons' possession, is also the property of John Tarleton.

"The Prisoner, Parsons, is sentenced to receive Twenty five lashes every Saturday, and also to do his Government work until the remainder of the property is returned."

Note.—The Magistrates do not appear to have signed the Proceedings in the Books of Records after the 6th April, 1815.

Collated :—W.S. ; F.F.

Parramatta, October 11th, 1815 (continued) :—Present, Hannibal Macarthur, Esqr.

"BRIDGET ROCK, MARGARET MURPHY, Prisoners, brought forward with making away with a gown belonging to Mary Carney.

"Bridget Rock acknowledges to have had the gown from Margaret Murphy, and suspected that it was stolen, and that she gave it to Kitty White of Sydney for some spirits.

"Bridget Rock ordered to be chained to Margaret Murphy, and to remain so chained until the gown is restored to the proper owner."

Collated :—W.S. ; F.F.

Parramatta, June 29th, 1816 (continued) :—Present, The Revd. Samuel Marsden, and Hannibal Macarthur, Esqr.

"HENRY SMITH, Prisoner, Brought forward by John Palmer, Esquire, charged with making away with a valuable gold watch value Thirty pounds sterling, entrusted to him to be repaired, which he received on Saturday the 8th Instant, and was to return it on Monday, the 10th.

"On Thursday, the 13th, Mr. Palmer sent his servant to enquire for the watch, and then learnt that it was lost.

"Sarah Whalan, being duly sworn, deposed that the Prisoner was always in the habit of leaving the watches, which he had in hand to be repaired, with her, whenever he had occasion to go to Sydney or elsewhere.

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punishments.

“Deponent recollects his showing her a watch belonging to Mr. Marsden, and telling her that it was a very valuable watch, and would carry a man home well, which deponent observed to him, that no such thing should be done in her place.

her
“SARAH X WHALAN.
mark

Daniel Whalan, being duly sworn, deposes that the Prisoner told him that he had once been shipt, and on a close search he came upon deck, and gave one of the Traps eight dollars to be allowed to escape; and his friends were the Pilot and Long Henry; and that, if he could get a good Gold Watch or two, or something of value, it would take him home; and told Deponent that the first Watch, he could get, he would be off.

his
DANIEL X WHALAN.
mark

John Sunderland, Private in the Veteran Company, being duly sworn, deposes that the Prisoner Smith lodged in his house for the month previous to his being confined to Gaol, and that he, the Prisoner, was in the constant practice of leaving the Watches, which he had repairing, in the care of Deponent's wife, whenever he went out of Town; but, on going to Sydney the last time, he took all the Watches with him. The Prisoner was absent from Saturday till Wednesday Evening, when he came home about 9 o'clock, and told Deponent that he had been robbed of all he had; and that he had lost a Watch of Mr. Barrow's and a gold watch of Mr. Palmer's, and three others, stating that he was knocked down near Mr. Lord's farm, just after dark, by two men. Deponent states that the Prisoner had marks on his clothes of having been knocked down, and the roads were very dirty at the time. The Prisoner told Deponent that he had earned twenty shillings a day, whilst he had been in Sydney, and the thieves had taken 7s. 6d. in Bills and 15d. in Coppers from him.

JOHN SUNDERLAND.

The Prisoner being called upon to account for the watches, which he is suspected to have made away himself, states that he was robbed in the Sydney Road, and knows nothing more about it.

Sentenced to receive 50 lashes.

Note.—Henry Smith stated in his examination before the Council that he had been sentenced to receive 400 lashes, 50 of which he had received, and was afterwards sent to the Hospital, where he remained three weeks, and was afterwards remanded to gaol, and was taken to the Flogging Post, but that on telling where Mr. Palmer's watch was, he was not flogged but sent to Newcastle.

But see the next case, which differs from this statement of Smith's, and shows that he was sent to Newcastle for a distinct offence.

Parramatta, Wednesday, October 9th, 1816:—Present, The Rev. Samuel Marsden and Hannibal Macarthur, Esqr.

JOHN QUIGLEY, Brought up for re-examination for forming a plan to take the first Vessel they could from Broken Bay, and with a party of others to make their escape from the Colony.

HENRY SMITH, for being concerned in the same plan to leave the Colony, and various other crimes, and being a notorious infamous character, and amongst the rest, for taking and making away with

four watches, belonging to different persons to be repaired. The Prisoners fully convicted on the evidence of John Thomson, and their own confession, and sentenced to be sent to Newcastle, there to be kept at hard labour for two years.

Collated:—W.S.; F.F.

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10 Oct.

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sentences of
indeterminate
punishments.

Parramatta, June 17th, 1820 (continued):—Present, Hannibal Macarthur, John Harris, and William Lawson, Esquires.

PATRICK NEVILLE, ship Bencoolen, Servant to Mr. John Macarthur, brought forward.

Mr. Macarthur states that there has been a number of things stolen from his premises, and the Prisoner Neville was suspected, and a watch was put on him. A box belonging to a fellow servant of the Prisoner's was put in his possession, and a short time after the box disappeared. In consequence, he desired his coachman Watsford to take him to Gaol.

On his way, he told Watsford that he knew the person who had taken the various articles from the Hut, and at a proper place he would tell; Mr. Macarthur states that a saddle, a cross cut saw, and other articles have been taken from the place besides the box of clothes and wedge.

James Watsford, Coachman to Mr. McArthur, states on oath that, on Thursday last, he was aroused by his master to take the Prisoner to Gaol, on suspicion of stealing a box of clothes. On their way to the Gaol, he begged of him to tell if he knew of the person who had taken the box, and prevent his going to Gaol. He said he had never staged before in his life, but he would be damned if he would not now. Deponent endeavoured to induce him to tell who had taken the box, and he gave the deponent to understand that the things were on the premises, and were taken by people there, that he knew who they were. He further said that some things, that were stolen some time ago, he should bring forward at the Court.

Thomas Esby, servant to Mr. John Macarthur, states on oath that he has known Neville to be in the habit of sleeping away from his Master's premises for two or three nights in the week, for two or three months together, and came home by daylight in the morning.

his
TIOS. x ESBY.
mark

The Bench do order that Patrick Neville be confined in a Solitary Cell on Bread and water, until he does tell who has taken the property from his Master's premises.

Parramatta, Saturday, September 9th, 1820:—Present, John Harris, Esqr.

JOSEPH COLLY, employed in the Lumber Yard, brought forward for making away with his slop-clothing.

Hugh Taylor, Constable, states that, about a fortnight ago, the Prisoner was discharged from the Barracks to Mr. Sherwin, and, not having clothes, he let him have the use of the Barrack clothing for a few days, consisting of a Hat, a Jacket, and a pair of Trowsers, and a pair of shoes.

On Thursday last, when he was returned to the Barracks, he had made away with the whole of the articles.

The Prisoner states that he never took the Clothes out, but left them in the Barracks.

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sentences of
indeterminate
punishments.

Sentenced to receive fifty lashes, and be brought up again on Saturday next to account for where he had disposed of the clothes.

Collated:—W.S.; F.F.

Parramatta, September 16th, 1820 (continued):—Present,
John Harris, Esqr.

JOHN COLLY, brought up under re-examination, to account for making away with his Barracks Slop clothing, having been punished on Saturday last.

The Prisoner, refusing to tell who he has sold the clothes to, is sentenced to receive Twenty five lashes, and be brought up again on Saturday next.

Collated:—W.S.; F.F.

Parramatta, November 13th, 1820 (continued):—Sitting Magistrates:—John Harris and William Lawson, Esquires.

WILLIAM MURPHY, Ship Minerva, attached to the Convict Barracks, brought forward for robbing the house of John Leadbeater, Junr., at Toongabbee.

Mary Leadbeater (free) gives information on oath, that, yesterday afternoon, Sunday, the 12th Instant, between three and four o'clock, she went out of her house to visit a neighbour. She was about an hour away, when she found the house had been entered and robbed of a gown, a white petticoat, and a pair of Duck trowsers, a Shift, a Nankeen waistcoat, a looking glass, and two pounds of Sugar.

She heard no more about the business until this morning as the Court met. The Shift, duck trowsers and looking Glass she swears to; he has also the bag with Sugar. The bag is hers, and she believes the Sugar to be hers also. States that she believes the Robbers must have entered the house by the Chimney, as there was soot about the house, and the back door was open, which had been locked by two bolts.

her
MARY X LEADBEATER.
mark

Mr. Beal (Gaoler) states on oath that, yesterday afternoon between five and six o'clock, the Prisoner was sent to the Gaol by James Becket, being found in the Bush near the Windsor Road under suspicious circumstances. Deponent searched him. In his bosom, he found the bag produced containing the Sugar; in his hat, the looking glass produced; under his Barrack slop trowsers, the pair of duck trowsers produced. Deponent observed something white under his shirt and on examining the same, found it to be a woman's shift. Deponent asked him how he came by them; he stated they were his own. He asked him where he got the sugar, he said it was his comrade's sugar, and he had brought it into camp.

The shift, the prisoner stated, he picked up upon the road, and that the duck trowsers were his own.

JOHN BEAL.

The Prisoner's Jacket appears dirty. He states that the bag containing the sugar is his messmate's (Toole) made out of the bed quilt. The other things he found on the road.

The Prisoner is sentenced to receive twenty five lashes every morning, until he give up the remainder of the property, being duly convicted of the robbery.

Collated:—W.S.; F.F.

Court of Magistracy, Parramatta, March 16th, 1822.

Present: Hannibal Macarthur, Esqr., The Revd. Mr. Marsden,
William Howe, John Palmer, John Blaxland.

THOMAS FORD, attached to Rose's Gang, ordered to work in Gaol Gang for two months on half a ration, and be further confined until he produced the man who gave him a forged Pass, and running away from his employ.

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Records of
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punishments.

By the Bench: SAM'L MARSDEN, J.P.

Mr. John Thorn, Chief Constable, Parramatta.

Note.—This case is not entered in the Book of Records, but the above is a copy of the original Warrant of Execution.

Collated:—W.S.; F.F.

Parramatta, Wednesday, April 24th, 1822:—Rev. Samuel Marsden. JAMES BLACKBURN, Hindostan, attached to the Prisoners' Barrack, brought forward for Gambling with 4 others yesterday at the Barrack, having been detected by the Rev. Mr. Marsden.

The Prisoner is sentenced to receive 25 lashes every morning, and be kept on bread and water until he tells who are the four men that were with him gambling.

Note.—The above case is copied from the original minutes laid before the Council by the Clerk of the Magistrates' Court at Parramatta.

See the Warrant of Execution which follows.

Collated:—W.S.; F.F.

Court of Magistrates, Parramatta, April 24th, 1822.

Sitting Magistrates:—Henry Grattan Douglass, Esqr., and The Revd. Saml. Marsden.

JAMES BLACKBURN, attached to the Prisoners' Barracks, ordered to receive twenty five lashes every morning, and be kept on bread and water, until he tells who were the four men that were in Company with him gambling.

Limited for report every day.

By the Board:—HENRY G. DOUGLASS.

Mr. Thorn, Chief Constable, Parramatta.

Collated:—W.S.; F.F.

Parramatta, Monday, 1st July, 1822.

Sitting Magistrates:—Henry Grattan Douglass, Esqr., and the Rev. Saml. Marsden.

JOHN DOWNES and HUGH CARROLL, Attached to Patrick's Gang, brought forward for making away with six pounds, fourteen shillings, the property of Matthew Finnegan.

Ordered to be confined in a solitary cell on bread and water, and every second morning to receive twenty five lashes, until they tell where the money is concealed.

Note.—There appears to be an error in the entry of the names of the Magistrates, who sat in this case, as appears by the warrant of Execution, which follows.

Collated:—W.S.; F.F.

Court of Magistrates, Parramatta, July 1st, 1822.

Sitting Magistrates:—Henry Grattan Douglass, John Palmer, George Thos. Palmer, and John Blaxland, Esquires.

JOHN DOWNES and HUGH CARROLL, Attached to Patrick's Road Party, ordered to be confined in Barrack cells on Bread and Water,

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and every second morning to receive Twenty five lashes until they tell where the money is, amounting to the sum of Six pounds fourteen Shillings, stolen from Matthew Finnegan, and which they picked up.

By the Bench, JOHN PALMER, J.P.

To Mr. Rouse, Supdt. of Barracks, Parramatta.

W.S.; F.F.

Parramatta, Saturday, 27th July, 1822.

Sitting Magistrates:—Henry Grattan Douglass, Esqr.; In addition, The Rev. Samuel Marsden, John Palmer, and John Blaxland, Esquires; In addition, George Thomas Palmer, and John Harris, Esquires.

WILLIAM EARLES, attached to the Clearing Gang on the Estate of the Rev. Samuel Marsden, ordered to be confined in a cell on Bread and Water, until he tells where an Absolute Pardon is, given to him by John Darrah to take to Dr. Douglass.

Collated:—W.S.; F.F.

Court of Magistracy, Parramatta, July 27th, 1822.

Present:—Henry Grattan Douglass, Esqr.; In addition, The Rev. Samuel Marsden, John Palmer, George T. Palmer, John Blaxland, and John Harris, Esquires.

WILLIAM EARLES, attached to the Clearing Gang on the Estate of the Revd. Samuel Marsden, ordered to be confined in a Cell on Bread and Water, until he tells where an Absolute Pardon is, granted to John Darrah, and entrusted to his care.

By the Bench, HENRY GRATTAN DOUGLASS, J.P.

Mr. John Thorn, Chief Constable, Parramatta.

Collated:—W.S.; F.F.

Parramatta, Saturday, 10th January, 1823.

Sitting Magistrates:—Henry Grattan Douglass and John Harris, Esquires.

WILLIAM BURKE, Overseer of Mr. Crawford's Clearing Gang, states that, last night about half past nine o'clock, Samuel Turner, one of the men belonging to his Gang, reported to him that he was robbed of his shoes. He asked him whether he knew the person who took them. He said that on Thursday he went bathing, and left his shoes at the side of the Bank. Newton was with him bathing at the time, and, when Turner questioned him if he knew where the shoes were, he did not mention the person's name; but being asked whether it was William Ellison, Newton gave a nod of assent. He asked him whether he was positive to the information; he answered that he was. In consequence of which, he brought the man before the Bench. Benjamin Newton was sitting on the tree during the time, and it was impossible for any person to have taken the shoes without his observing them.

WILLIAM BURKE.

The Bench being satisfied that Newton is aware where the shoes are, He is Sentenced to receive Twenty five lashes every morning until they are returned.

Note.—The Warrant of Execution in this case has not been preserved. But it is probably among the Warrants at the Convicts' Barracks.

Collated:—W.S.; F.F.

Parramatta, Saturday, the 2nd October, 1823.

Sitting Magistrates:—Henry G. Douglass, Don. McLeod, Edwd. Riley, Esquires.

JAMES RYAN, per Malabar, attached to the Domain Party, brought forward on suspicion of robbing Mr. McLeod.

John Thorn, Chief Constable of Parramatta, states on oath that he received information about 12 o'clock last night that Mr. McLeod's Barrack had been robbed. He proceeded there, and found an iron wedge and a pair of shoes that had apparently been left by the perpetrators of the robbery.

Deponent perceived the wedge belonged to Government, and he proceeded to the Lumber Yard to know, who had taken the wedge out that day. He was informed that James Ryan, attached to the Government Domain Party, had got it. He went to the Domain Party. He was there informed that Ryan lived on the Sydney Road, splitting timber. Deponent sent a constable there, but said Ryan was out, nor had he been home all night.

Ryan was brought in the following morning by Constable Bates without his shoes. He acknowledged the pair of shoes, Deponent found, were his.

JOHN THORN, C.C.

Brighton Cotton, Lumber Yard, states on oath that he was requested by the Prisoner Ryan yesterday evening to repair a Government Wedge for him. He did so, and delivered it back to said Ryan.

Deponent swears the wedge produced is the same.

his
BRIGHTON X COTTON.
mark

The Prisoner acknowledges the fact of the iron wedge.

Mr. John Macleod, asst. Storekeeper, Parramatta, states on oath that he lives in the Commissariat Barracks. His room was broken open and robbed last night, and the following articles stolen therefrom: A writing desk, containing with other things 12 or 13 Dollars, one pair of sheets, three loose sp. Dollars, three silver tea spoons with the crest Bulls Head and the motto "Holdfast" upon them, two table spoons, two salt spoons, and one blue coat were taken therefrom.

JOHN MACLEOD.

Ordered to be confined in a solitary cell and receive Twenty five lashes every second morning, till he produces the property.

Collated:—W.S.; F.F.

Court of Magistrates, Parramatta, 3rd October, 1823.

Present:—H. G. Douglass, Edwd. Riley, Don. Macleod, Esquires. JAMES RYAN, for suspicion of robbing Mr. Macleod, ordered to receive twenty five lashes every second morning until he produces the property; and, if, on receiving 100 lashes, he does not produce the property, he is sentenced to be sent to Port Macquarie for the remainder of his sentence.

By the Bench, H. G. DOUGLASS, J.P.

To Mr. J. Thorn, Chief Constable, Parramatta.

Parramatta, Octr. 4th (continued).

Present:—H. G. Douglass, Esqr., Rev. Henry Fulton.

THOMAS SMITH, servant to Thomas Wilson, remanded from the 20th and 27th September.

Sentence 25 lashes every second morning until he produces the property.

Not exd. 100.

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10 Oct.

Records of
sentences of
indeterminate
punishments.

1825.
10 Oct.

Records of
sentences of
indeterminate
punishments.

Court of Magistracy, Parramatta, 4th Oct., 1823.

Present:—H. G. Douglass, Esquire, Rev. H. Fulton.

THOMAS SMITH, servant to Thomas Wilson, to receive 25 lashes every second morning until he produces the property, and if, after receiving 100 lashes, he does not produce the said property, to be sent to Port Macquarie for the remainder of his sentence.

H. G. DOUGLASS, J.P.

To Mr. Thorn, Chief Constable, Parramatta.

Collated:—W.S.; F.F.

Parramatta, Saturday, 13th December, 1823.

Present:—Donald Macleod, Esq., J.P., In addition Morris Barlow, Esquire.

ANDREW MCCOLL, Servant to Mr. David Johnston, called up for re-examination.

Mr. D. Johnston states that, on Sunday week last, the Prisoner absented himself from his employ; that, two days previous to his absenting himself, his house was robbed of about £20 worth of property, viz. a small Spy Glass, 2 prs. of Trowsers, 2 prs. of sheets, 2 prs. Fusten Overalls, 6 imitation silver spoons, a fowling piece, and a pistol, etc. Deponent suspects his servant to be concerned in the said robbery.

Mr. Robert Nicholls states that the braces produced, found on the prisoner, are the same stolen from him.

G. R. NICHOLLS.

The Prisoner ordered to receive 25 lashes every second morning until he produces the property. 100

Collated:—W.S.; F.F.

Court of Magistracy, Parramatta, 18th Decr., 1823.

Sitting Magistrates:—D. Macleod, Esq., Morris Barlow, Esq.

ANDREW MCCOLL, servant to David Johnston, Esqr., called up for re-examination.

Order to receive 25 lashes every second morning till he produces the property of his Master.

By the Bench, M. BARLOW, J.P.

To Mr. J. Thorn, Chief Constable, Parramatta.

Collated:—W.S.; F.F.

Parramatta, Saturday, 3rd January, 1824.

Present:—H. G. Douglass, Esqr., in addition Rev. Thomas Reddall. JOHN NEWING, servant to Charles Ivory, re-examined, refuses to tell where he was employed.

Ordered 25 lashes every Second Morning.

Collated:—W.S.; F.F.

Examination
of J. Thorn.

THE EXAMINATION of Mr. John Thorn, Chief Constable of Parramatta, taken before the Council, the 20th day of September, 1825.

HE will have been Chief Constable four years the 26th of next month. Present almost always at the infliction of Corporal punishment. Many punishments ordered to be inflicted every second day.

In some, ordered not to go beyond 100, in others 125, but never to exceed 150.

This order was always verbal, that the person who was to receive it might be kept in the dark.

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Went to a Magistrate every morning after a punishment. Never knew more than 75 lashes given to a person who told, except three Bayne, Wright, and Macdonald. Is sure that no one received more than 150 lashes. Received his orders for this sort of punishment from the Bench.

Records of sentences of indeterminate punishments.
Examination of J. Thorn.

Has received similar instructions from Mr. John Campbell.

In one instance, £100 recovered from Redmond, without a lash. In young Mr. Macleod's robbery, £20 recovered by 8 lashes.

Considers Robberies to have much decreased since the practice became common. Does not know why the case of Anne Rumsby is not entered in the records of the Parramatta Bench. Knows of no wilful omissions in the Books of their proceedings.

Does not recollect the case of Blackburn. Warrants of Execution signed by any Magistrate sitting at the trial, but all the Magistrates who had convicted are written at the head of the Warrant.

Does not think that Dr. Douglass sat in the case of Blackburn.

Collated:—W.S.; F.F.

THE EXAMINATION of Mr. John W. Fulton, late clerk to the Bench of Magistrates at Penrith, taken before the Council, the 20th day of September, 1825. Examination of J. W. Fulton.

James Pharos having confessed to a robbery before a Constable and afterwards denied it before the Court, a sentence was pronounced on him to be flogged every morning until he confessed where the property was, and he gave up a watch in consequence of that sentence.

The presiding Magistrates were Sir John Jamison, Rev. Henry Fulton and John McHenry, Esqr., on the 18th of May, 1822.

But this sentence does not appear upon the Records.

Collated:—W.S.; F.F.

REVEREND HENRY FULTON AND MR. JOHN MCHENRY TO MAJOR OVENS.

Sir, Court House, Penrith, 17th August, 1825.

In reply to your letter of the 6th Instant, inquiring whether we "were acquainted with any case, wherein a person convicted of stealing the goods of another from his dwelling house, and was sentenced to receive Twenty five lashes every day, until he should disclose how he had disposed of the same," we have the honor to state for the information of His Excellency that nearly a similar sentence was passed on an individual by the Bench of Magistrates at Penrith composed of Sir John Jamison and John Harris, Esqr., J.P., in the year 1822; but, before the said sentence was put in execution, the Prisoner disclosed where the property was concealed; therefore it was never inflicted.

Punishment ordered by magistrates at Penrith.

We have, &c.,

HENRY FULTON, J.P.

JN. MCHENRY, J.P.

Collated:—W.S.; F.F.

Liverpool:—Before Thos. Moore, Charles Throsby and H. C. Antill, Esquires, Saturday, May 22nd, 1824.

ANTHONY RADLEY, *Agamemnon*. JAMES GOGAN, *Southcark*, Govt. Serv'ts to Mr. Brackfield.

Mr. Brackfield, being duly sworn, states that the Prisoners at the Bar, about 4 o'clock of the morning of Thursday last, were inside

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10 Oct.

Records of
sentences of
indeterminate
punishments.

their Huts very drunk and riotous, breaking everything before them. Deponent, in the morning, desired to be satisfied where they got the Spirits from that they had drunk with, when they replied that they would be flogged to the backbone, first, for such conduct. Deponent sent for a constable and had them sent into Gaol.

W. BRACKFIELD.

The Prisoners were ordered into separate cells until Monday: if they will not then inform the Court where they got the Spirits, they are to receive 100 lashes.

Collated:—W.S.; F.F.

Liverpool:—Before Thomas Moore and Charles Throsby, Esq., J.P., Tuesday, May 25th, 1824.

ANTHONY RADLEY, Agamemnon, JAMES GOGAN, Southwark, Servants to Mr. Brackfield.

Martin Benson, Government servant to Mr. Brackfield, called and sworn, is questioned by the Court.

Q. Did you ever give or sell to either of the Prisoners Rum on Thursday Morning last? A. No, I never did.

Mr. Brackfield, being on his former oath, states to the Court that, since the period of his former deposition, having learned that Spirits had been brought upon his farm by one of his Government Servants, viz., Martin Benson, interrogated him on the subject; when Martin Benson said he was aware of having committed an error by leaving the Farm, and that he had got the spirits from one Stephen Jones, a fencer at the Orphan School farm; but that he had taken no pork for payment, as it was paid for previously; and that, on his arrival at the Farm about the middle of the night, he had given a bottle of rum to the two Prisoners, and that he did all in his power to keep them quiet.

Martin Benson, being placed at the Bar and questioned by the Court, positively denied that he ever told his Master that he got the Spirits from Stephen Jones, and further that he ever gave a drop of Rum to either of the Prisoners.

For such barefaced falsehood, the Prisoner is ordered to receive immediately 100 lashes on his breech, and put into the Gaol Gang until further orders.

John Attwood, Constable, being duly sworn, states to the Court that, when called by Mr. Brackfield to his farm to take the two Prisoners into custody, that he saw the Prisoner Radley speechless drunk and the Prisoner Gogan with a stick in his hand flourishing it about, being very riotous.

Upon Deponent handcuffing the Prisoner Gogan, he threatened, when he returned to the farm, he would make a shipwreck of his Master's farm; that the Prisoner drove his foot thro' a couple of boxes that were in the Hut, saying, if the old B—g—r (meaning Mr. Brackfield) came out, he would serve him the same.

his
JOHN X ATTWOOD.
mark

The Prisoner Gogan to receive 100 lashes, and Gaol Gang for Six months, 50 lashes to hang over.

Prisoner Radley 100 lashes, but, from his open confession, the punishment to be suspended.

Collated:—W.S.; F.F.

SIR THOMAS BRISBANE TO EARL BATHURST.

1825.
11 Oct.

(Despatch No. 91, per ship Harvey; acknowledged by Earl Bathurst to Governor Darling, 23rd April, 1826.)

Government House, New South Wales,

My Lord,

11th October, 1825.

I have the honor to enclose a correspondence between myself and the Attorney General, which will more clearly explain the matter and difference between us, and the point for your Lordship's determination, than any abstract view which I can convey to Your Lordship. I have only to add that it is a point of great importance, which requires a speedy determination. I cannot bring myself to doubt what your Lordship's determination will be; and I should not have hesitated to take a more decisive step if the transaction, which gave rise to the difference of opinion between the Attorney General and myself, had not suggested it to me as a more prudent course to refer it to Your Lordship as part of the cases, upon which I have already addressed your Lordship in several Dispatches. I have, &c.,

Difference of opinion between governor and attorney-general.

THOS. BRISBANE.

[Enclosure No. 1.]

ATTORNEY-GENERAL BANNISTER TO SIR THOMAS BRISBANE.

Sir,

Sydney, 28th September, 1825.

Yesterday I received your Excellency's instructions to prepare a Bill, pursuant to a paper sent therewith and signed by three members of the Council, "to stay all criminal proceedings, which may have been or shall hereafter be commenced against any Magistrate for any sentence, act, matter or thing, passed or done in execution of his office before the promulgation of the Act, 4 G. 4, C. 96, in the Colony of New South Wales." This Paper also states that a report* is made "respecting the origin and extent of the practice of inflicting punishment after conviction to compel restitution of property or disclosure of parties implicated."

Instructions to S. Bannister for preparation of act of indemnity for magistrates.

I have to submit that the recommendations extend beyond the objects of the report, and to request your Excellency will be pleased to order that document to be sent to me, inasmuch as it is necessary that I should examine it before I can venture to draw this Bill.

Request for report of council.

I have, &c.,

S. BANNISTER.

[Enclosure No. 2.]

SIR THOMAS BRISBANE TO ATTORNEY-GENERAL BANNISTER.

Sir,

Government House, Sydney, 28th September, 1825.

I have just received your note upon the subject of preparing a Bill, pursuant to a recommendation of the Council as conveyed in a letter to me of yesterday's date, and signed by a

Letter acknowledged.

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majority of the Members, in which you request that the Report of the Council should be sent to you for examination before you could venture to draw the Bill.

Duties of
attorney-general
in preparation
of bills.

It does not appear to me that I can comply with your request. In the view you seem to take of the subject, I apprehend that, when the Governor has taken the advice of the Council upon any legislative measure, the Governor, acting upon that advice, requires the Attorney General to prepare a Bill for giving effect to the recommendation of the Council, that the Attorney General's Office becomes merely Ministerial; whether a proposed law be repugnant to the Law of England, or not, is a question for the Chief Justice; the policy of the measure is exclusively with the Governor and Council. It is possible that the Attorney General may take a different view of that policy, but I conceive that would be no reason why he should not be called upon to put into regular form any Bill, which may be required by the Governor with the advice of the Council.

Viewing the matter in this light, I send you the report of facts, upon which the Council have thought proper to found the recommendation of a Bill, agreeably to the paper placed in your hands; and I must desire you will prepare a Bill strictly in conformity with that recommendation.

I have, &c.,
THOS. BRISBANE.

[Enclosure No. 3.]

ATTORNEY-GENERAL BANNISTER TO SIR THOMAS BRISBANE.

Sir, Sydney, 29th September, 1825.

Refusal of
S. Bannister
to draft act of
indemnity.

The Bill of indemnity, which your Excellency directed me to draw, is intended to stay proceedings in Criminal Cases against all Magistrates of New South Wales, who, in the execution of their Offices, may have inflicted what I find in Law held to be torture, and this not rarely but as a very general practice.

The passing of such a Law will remove many perplexities, which are now pressing on me as Attorney General; but it is with unaffected pain that I find myself compelled to decline drawing the Bill on the Instructions before me, and also to state that I cannot venture to be a party to the measure even in that minor degree, without having an opportunity of examining its merits.

The difficulty, in which these Instructions place me, is extreme. The subject matter considered, a more important Bill can hardly be contemplated. It touches directly one of the great principles of our Law; and I am not furnished with the materials out of which the indispensable preamble can be penned.

I am much relieved in the case by knowing that the ordinary objections to my refusal cannot exist here, inasmuch as the mere machinery of the Act is not complicated, and your Excellency has the means of supplying the step which I cannot take. What I now do will therefore not thwart the passing of the law.

1825.
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Refusal of
S. Bannister
to draft act of
indemnity.

That vindictive criminal prosecution may not be proper under certain circumstances cannot be doubted; and, in the matter in question, the facts have always appeared to me to demand the most careful examination. But I trust to be pardoned for being scrupulous to act myself without examination of them, and for stating the principle, which guides me, in regard to drawing the Bill and in regard to the duty, which my Office imposes on me, as I conceive, forming an opinion on the measure itself.

Reasons
for refusal.

The practice complained of is repugnant to a fundamental law, peculiar to England for ages; and I think that on such a subject an Attorney General in N. S. Wales owes it to the King, whose Commission he holds, to Your Excellency whom he is bound to advise, and to himself if he draws a Bill indemnifying parties against criminal proceedings for Breach of this law, to do so upon such a view of facts as will enable him to introduce into, as is usual, averments tending to its justification; and also to weigh the evidence of facts adduced on such a topic, that he may not become even a remote party to what may be a measure in the highest degree wrong.

On the subject itself, there are several points of extreme importance, as it appears to me, which I feel it will be my duty to lay before Your Excellency, if I am permitted to examine the facts.

If that liberty be not allowed to me, I have humbly and with great respect to submit that my view of the duties of my post in this case differs from that which your Excellency was pleased to send to me yesterday.

I have, &c.,

S. BANNISTER.

[Enclosure No. 4.]

SIR THOMAS BRISBANE TO ATTORNEY-GENERAL BANNISTER.

Government House, Parramatta,

30th September, 1825.

Sir,

I have read your letter of yesterday's date with much regret. At the present moment, and under the many embarrassments which attend my administration, I can but ill spare the co-operation of any Officer of Government; but I cannot bring myself to receive your assistance upon the terms which alone you seem to feel yourself justified in affording it.

Acknowledg-
ment of letter.

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11 Oct.

Independence
of legislative
functions from
control of
attorney-
general.

I am not deeply versed in law; but, reading the Act of Parliament creating the Governor and Council a Legislative body in New South Wales, I cannot find in what way the Attorney General can become party to any Law.

He may assist the Governor with his Counsel, but the Governor must act at his own discretion, and the advice of the Attorney General would not protect him from responsibility. I apprehend the duties of the Attorney General are to be collected from his Commission. Your Commission gives you the rights and privileges of an Attorney General, that is, I presume, as Attorney General of England so far as the circumstances of the Colony will admit.

The legislative functions of Parliament are entirely independent of the Attorney General in England. I understand it to be the practice in Government Bills to send them to the Attorney and Solicitor Generals to see that they are prepared in due form, and do not interfere with any right of the Crown; but, beyond this, the Attorney General of England has no discretion to exercise over the measures which the Government may think proper to lay before Parliament.

The policy or impolicy is entirely with the Ministry; the Attorney General may happen to be in the minority in the Cabinet, but surely that would not be a sufficient reason why he should refuse to see that the measures, which he may disapprove, should be put into due form of Law. This is the case in my Government. You addressed a letter to me on the Presentments, which appeared in the newspapers,* for my instructions on the subject. As the case was a delicate one, I laid it before the Council and requested their advice; before they gave it, they enquired fully into the subject, and at last came to the resolution to recommend a particular measure to me, in the propriety of which I, as Governor, entirely concur. From your letter, I understand that you decline drawing a Bill to give effect to this measure, until you have examined its merits and made up your mind upon its propriety.

Now this appears to me to amount to a complete *veto* upon the Governor and Council, and renders the Attorney General a third estate in the legislature of the Colony. I cannot consent to this; the Council will not consent to it; and I must therefore desire you to reconsider your letter and inform me whether you still decline to prepare a Bill according to the instructions of the Governor, unless you are permitted to examine its merits and form your judgment from its expediency.

I have, &c.,
THOS. BRISBANE.

* Note 234.

[Enclosure No. 5.]

1825.
11 Oct.

ATTORNEY-GENERAL BANNISTER TO SIR THOMAS BRISBANE.

Sir, Sydney, 2nd October, 1825.

I have this day the honor of receiving Your Excellency's Commands of Friday last, that I should reconsider my letter of Thursday and inform Your Excellency whether I still decline to prepare a Bill according to the instructions of the Governor, unless I am permitted to examine its merits and form my judgment of its expediency.

Acknowledgment of letter.

I beg permission to render my thanks for the opportunity being afforded to me of reconsidering my letter. It was extremely painful to me to write it, and I know at what possible price I take the step, should my judgment mislead me.

I trust I shall not be thought to be paying an ill-timed compliment to your Excellency in saying that, by affording me this opportunity, the same kind consideration has been shown, which I have always experienced at your Excellency's hands; under any circumstances, therefore, and more particularly now, I feel myself bound to measure my exertions, as a Crown Officer in your Excellency's Government, only by my ability with the single exception of cases involving what seems to be the ruin of my character.

As a general proposition, I cannot hesitate to reply to your Excellency's requisition that the Attorney General's judgment is by no means necessary to be deferred to on the point whether a Bill should be prepared in this Colony.

Acceptance of proposition stated by governor.

I am sure I may appeal without disrespect to my own practice in framing instruments, when the cause they promoted seemed to me to be wrong, as a proof that I admit the general proposition sincerely.

But I think that cases may arise, of which the present unfortunately appears to me to be one, which creates exceptions to the rule. It is a case touching the fundamental Law of England, of the highest importance, and perhaps a necessity does not exist for the measure; what has come before me officially tends to raise that impression; even in such a case, I would not decline the mere frame of the Bill, if I did not know that the absence of my pen can be supplied.

Exceptions to general rule.

Under these circumstances, I think it is my duty not to withdraw my letter of Thursday.

Persistence in refusal to draft bill.

If my opinion be erroneous, it will be amongst the most painful of my reflections that my error should have occasioned a discussion with your Excellency; but other principles would expose me to consequences, in such cases as the present, to which I cannot consent to be liable.

I have, &c.,

S. BANNISTER.

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11 Oct.

[Enclosure No. 6.]

SIR THOMAS BRISBANE TO ATTORNEY-GENERAL BANNISTER.

Government House, Parramatta,
3d October, 1825.

Sir,

Claim of
attorney-general
to discretion in
drafting bills.

If I am right in my apprehension of your letter of yesterday's date, you admit as a general principle that the Attorney General's judgment is not necessary to be deferred to, whether a Bill shall be prepared in the Colony; but you consider that cases may arise, which create exceptions to the rule, and that the recommendation of the Council in the pending case is one; admitting this principle as a rule of your guidance, it becomes of course discretionary with yourself whether you will prepare any Bill, of the necessity of which you may entertain doubt.

Drafting
of bills.

Under such circumstances, it will be impossible for me to call upon you to prepare any Bill without submitting to the chance of a refusal; and, therefore, until the pleasure of His Majesty's Government be made known, I must seek for professional aid in this branch of my Government elsewhere.

I am, &c.,
THOS. BRISBANE.

[Enclosure No. 7.]

ATTORNEY-GENERAL BANNISTER TO SIR THOMAS BRISBANE.

Sir, Woolloomola, 4th Octr., 1825.

Status of
attorney-
general.

I am grateful that your Excellency should have condescended to correct my impression that I was suspended in my Office, so much of doubt had I on the subject that I have continued to do what I was before occupied in; and, if I could have done it consistently with the respect due to your Excellency, I should have offered my services, even if ceasing to be a Public Officer.

I am aware that an Attorney General is not a Minister of State, but some subjects are of extreme delicacy; and on this, I think that to draw this Bill would expose me to punishment.

I took the liberty of waiting on your Excellency this afternoon, and I will call at Government House early in the morning.

I have, &c.,
S. BANNISTER.

[Enclosure No. 8.]

ATTORNEY-GENERAL BANNISTER TO SIR THOMAS BRISBANE.

Sir, Sydney, 5th Octr., 1825.

Papers to be
transmitted to
England.

In my letter of yesterday, relative to what your Excellency might think it right to state to Earl Bathurst upon the circumstances designated in my previous letters, I expressed the confidence, I then felt and still feel, that the statement will be

full. I have no other desire on the subject than that the whole matter should be known to those whose approbation I hope to continue to enjoy.

1825.
11 Oct.

The disappointment, I have met with in point of income, renders it probable that I may soon leave New South Wales; and, as I cannot be a stranger in any part of the world, moderate as my pretensions are, the welfare of many, who somewhat depend on me, is deeply concerned in my good fame. My English friends, therefore, should know exactly what occurred in a matter likely to affect their opinion of my judgment and honor.

Personal
reputation of
S. Bannister.

I am sure my feelings cannot be too chivalrously tender on this topic.

Your Excellency has rightly and kindly rejected any impressions, which unworthy conjectures of my conduct between the contending parties in recent affairs might have been made; but the same justice may not be done me at home, if I am silent under what I clearly perceive has been whispered in several quarters.

I was ready to explain my proceedings to your Excellency, as I mentioned on Monday week. To no one else in New South Wales is even explanation due from me. Because the nature of my Office renders some things obscure, I made this Offer to your Excellency, although I feel I require no defence against such very inconsiderate conjectures. I must, however, put my friends in possession of the means of denial, that, if I have an enemy here, others elsewhere may not suffer pain from my neglecting to state the truth; for these reasons I wish to send the documents to my brothers in London, leaving to your Excellency absolutely to determine what may be proper to be submitted to Earl Bathurst. The papers* I beg to have copied, my Report relative to Mr. Hannibal Macarthur's application to me about the 22nd of August;

Explanations
offered.

My letter relative to the Revd. Mr. Marsden about the 15th of Sept. with an enclosure; my Report of the 20th Sept. with documents relative to the presentment of the Parramatta and Sydney Grand Juries.

I have, &c.,

S. BANNISTER.

Transmission
of papers.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 93, per ship Harvey; acknowledged by Earl Bathurst to Governor Darling, 24th April, 1826.)

Government House, Sydney, New South Wales,

My Lord,

11th October, 1825.

I have had the honor of receiving your despatch of the first of last February inclosing a letter from Mr. Horton James, a merchant of New South Wales, expressing his disappointment

Despatch
acknowledged.

1825.
11 Oct.

that a public walk had not been cut in two, and a large portion of a small pleasure ground surrounding the House, in which I am residing, surrendered to him, in consequence of the Capital, which he professes to have brought with him to the Colony, and which he promises to employ "bona fide in agriculture, and in the whale and sea fisheries."

Prosecution and
conviction of
T. H. James
for fraud on
the revenue.

On the 24th of last November, certain depositions were taken at the Police Office of Sydney, in a case of the King against Mr. T. H. James, "For illegally and under false pretences removing from The King's Stores a quantity of skin tobacco, on which the duties had not been paid."

Upon which charge, a numerous Bench, after a prolonged discussion wherein Counsel was allowed to be employed on the behalf of the Defendant, came to the following decision:—"The Bench of Magistrates, having duly considered the depositions taken in this case, have no doubt that Mr. James has attempted to defraud the revenue by obtaining tobacco from His Majesty's Stores under false pretences, and removing the same tobacco into his own private Stores. And they are more confirmed in their opinion from the circumstance of Mr. James having, by himself or his Agents, attempted to bribe and corrupt the Chief Constable, in the execution of his duty under a search Warrant; but they decline to condemn the tobacco seized, because the Proclamation of His Excellency the Governor imposing duties on tobacco, under the authority of the Act of the Third George the 4th, hath not prescribed any forfeiture, fines or penalties in such cases."

The Magistrates have, under the opinion of His Majesty's Attorney General, determined to transmit to that Officer the depositions taken in this case, to enable him to take such measures, as he shall deem most effectual, to prosecute Mr. James and the other parties concerned in the Supreme Court.

(signed) William Carter, J.P. Thomas Macvitie, J.P.
J. T. Campbell, J.P. William Wemyss, J.P.
Edward Riley, J.P.

Here is the "Bona fide" speculation in which Mr. James's wealth has been embarked hitherto.

Advantage of
water frontage
to T. H. James.

Certainly, to an Adventurer whose capital was intended to flow in so hazardous a Channel, no spot could have been more tempting than a waterside location, standing as it were with open arms ready to receive and, embosomed in a shrubbery, calculated to hide the goods which avarice and dark nights would have encouraged him to run.

With this single observation, I would willingly have dismissed from my recollection Mr. James, his case, and his character

altogether; and merely enclosing the accompanying statement offered by the Surveyor General of the manner in which the land of the town of Sydney is occupied, I would have left without fear the judgment to your Lordship. But, since Mr. James has endeavoured to give point to his surprize at not having obtained an allotment immediately on his landing, by acquainting your Lordship that "the Town of Sydney is not one tenth part built upon," I cannot refrain from observing that it would have been as well for that Merchant to have previously learnt that that very Metropolis, out of which he has emerged so recently, standing on twelve thousand acres at least, contains nevertheless not so many as 150,000 Houses; and therefore, supposing even (which is an extreme allowance) that every habitation covers an area of thirty eight square yards, an easy arithmetical calculation would have taught him that not one tenth part has been built upon of London itself.

1825.
11 Oct.

Comparison
of buildings
erected at
Sydney and
London.

By that part of your letter, wherein you acquaint me that you "cannot understand the motive upon which my refusal to accede to this application has been founded," I feel that your Lordship formally calls upon me for further explanation. My motive then was twofold: First, I was influenced by those feelings, which I am sure would have arisen in the breast of your Lordship, had this same Mr. James applied to His Majesty's Government for a section of one of the Streets of London, and a portion of one of the Parks, laying as the foundation of his claim these only pretensions, that he had some capital and wished to beautify the Metropolis of England by building a warehouse.

Reasons for
refusal of
application of
T. H. James.

The pleasure, which I have always derived from paying an implicit obedience to the orders of your Lordship, is the only other justification which I have in my power to plead. The Public walk, which Mr. James is desirous to destroy, and the pleasure ground, which he wishes to deteriorate, have been formed each of them at considerable expense to the Crown; and I find, among the records of this Colony, a Dispatch of the 4th December, 1815, addressed to the late Governor by your Lordship, which concludes in the following language:—"I deem this the fittest occasion for repeating the orders, which have already been given on this subject to your predecessors, and conveying to you the positive commands of His Royal Highness the Prince Regent, that you should not alienate, either by Grant or otherwise, any Land which has originally been cleared at Government Expence, nor upon which Buildings or other improvements have been made, without a special and direct Authority from His Majesty's Government."

Previous
instructions re
land improved
by the crown.

I have, &c.,

THOS. BRISBANE.

1825.
11 Oct.

[Enclosure.]

SURVEYOR-GENERAL ONLEY TO MAJOR OVENS.

Sir, Surveyor-General's Office, 21st September, 1825.

J. Oxley's report
on application
of T. H. James.

I have the honor to acknowledge the receipt of your letter of the 12th Instant, conveying His Excellency the Governor's Commands to report to him on the Statement, made by Mr. Horton James to Earl Bathurst, relative to his not obtaining a Building Allotment in the Town of Sydney.

Crown lands
available at
Sydney.

At the period Mr. James made his application, there was certainly no disposable Crown Land in the Town of Sydney, the whole of the allotments, which could possibly (with the least regard to the public interests and ulterior arrangements for necessary Government Buildings) be appropriated to Individuals, being then granted or leased; the principal and in fact only Government Reserve is on the west side* of the Town of Sydney, and bound by the water of Cockle Bay; this land being peculiarly adapted for a Dockyard, it was considered indispensable to the public interests to reserve it for that purpose; but, being previously in possession of various Individuals holding without any Authority from Government, leases have been prepared, containing the requisite Clauses of resumption by the Crown, whenever the Government might require those lands for public purposes.

Appropriation
of east side of
Sydney cove.

Mr. James, in his letter to Mr. Wilmot Horton, points out the East side of Sydney Cove as possessing peculiar advantages for the erection of Buildings adapted to mercantile purposes. Mr. James ought also to have stated in what manner the east side of the Cove is appropriated; the Southern or inner extreme portion of the east side of the Cove, for the distance of 300 yards, is a public walk leading to the Government Domain, about 10 feet wide; it is bounded by the Grounds in front of Government House, and could not, with a proper regard to the comfort and privacy of the Governor, be granted to individuals, being within 100 yards of the House windows directly in its front. Should the Government House be built upon another situation, the land now described would be extremely valuable for building purposes; but, until that event takes place, I do not think there is a single individual in the Colony (Mr. James excepted), who would deem it, consistent with a proper respect to the Governor, to make an application for this portion of Sydney Cove. At the end of 300 yards, the walk turns off through the grounds appropriated for the recreation of the Inhabitants of the Town of Sydney; and the water side to the extent of 150 yards more is

* Note 119.

appropriated as a public careening wharf for all vessels which may require repair; and at the north extreme of this centre portion of the Cove is the only landing place, which leads direct to Government House. To have granted or leased this portion of the Cove to Mr. James would have been a direct sacrifice of the general interests and convenience of the Public to the promotion of the private interests of an Individual, to whom it would no doubt have been a source of great emolument. As respects the northern extreme of the Cove, continuing the line from the land place, the point itself is occupied by a fortification, and the intermediate space so steep and precipitous that it is not calculated for Building purposes, supposing that, in a military point of view, it would be prudent to suffer Buildings to be erected so close to a fortification, which is also a public powder Magazine. Should, however, buildings at any time hereafter be erected on this last portion of the Cove, it would be first necessary to remove the Government House, in order to obtain access to the inhabited parts of the Town; in which case, the first portion of the Cove, herein described, could also be built upon, and the whole laid out on an uniform plan, in which the interests of the Crown and private individuals could be equally protected and promoted.

Mr. James, in his letter, states that not one tenth of the land in the Town of Sydney is built upon. Supposing this to be the case, (which it is not, seven tenths at least being covered with Buildings, and the residue occupied as Gardens), Mr. James ought to have added that every allotment was closed, and was the private property of Individuals (holding of the Crown by Grant or lease), and therefore could not be resumed or taken away unless for public purposes, which is expressly provided for in the deeds under which the land is held.

It is much to be regretted that Mr. James did not make his application for a portion of the land on the east side of the Cove to His Excellency the Governor, previous to addressing Earl Bathurst on the subject. His Lordship would then have been saved the trouble of this reference, as Mr. James well knew the purposes to which that part of the Cove was appropriated, and that no Private Individual could be warranted in making such application in the existing situation of Government House. The application and answer might have been transmitted to His Lordship at the same time, and enabled him to decide both on the propriety of Mr. James's application, and the public reasons which might have governed His Excellency in refusing to accede thereto.

I have, &c.

JOHN OXLEY, Surveyor-General.

1825.
11 Oct.

Appropriation
of east side of
Sydney cove.

Land occupied
in town of
Sydney.

Application of
T. H. James.

1825.
24 Oct.

SIR THOMAS BRISBANE TO EARL BATHURST.
(Despatch per ship Harvey.)

Government House, New South Wales,

My Lord,

24th October, 1825.

Commendation
of services of
F. Stephen as
clerk of council.

I beg leave to recommend to your Lordship's consideration Mr. Francis Stephen,* the son of John Stephen, Esq., who was appointed by me Clerk of the Council at a small salary until your Lordship's pleasure should be known.

Mr. Stephen was induced to take the situation under the expectation of holding it permanently.

During the time that he officiated, He gave much satisfaction to the Council; and, upon his retiring, the Council addressed a letter to me recommending a remuneration to Mr. Stephen, a copy of which I have the honor to enclose.

Remuneration of
F. Stephen.

As I had previously stated* to your Lordship the appointment of Mr. Stephen and the Salary he had agreed, for the present I did not feel authorized to do more than to grant Warrant for £150 for about a year's service.

I beg leave to add that the opportunities I have had of noticing Mr. Stephen have impressed me with a favourable opinion of his capacity, as well as of His character; and, should any opportunity occur of retaining his services, I think He will be an acquisition to the Government Department of this Colony.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

[A copy of this letter is not available.]

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 94, per ship Harvey; acknowledged by Earl Bathurst to Governor Darling, 13th April, 1826.)

Government House, New South Wales,

My Lord,

25th Oct., 1825.

25 Oct.
Establishment
of courts of
sessions.

Twelve months have elapsed since the Courts of Sessions, directed by the Act of Parliament to be held in New South Wales, have been in operation. In giving effect to the 19th Section† of the Act, a difficulty presented itself, which did not appear to have been contemplated at the time it was passed, and which was as follows:—

Question of
their consti-
tution and
jurisdiction.

Whether a Court of Sessions was a Court without one of its constituent parts, a Jury, and whether it could exercise the General Jurisdiction given it except by Jury. These were legal difficulties, upon which I did not feel myself competent to form a correct opinion; and, as they were likely to come before the Chief Justice in a judicial manner, I could not claim the benefit of His opinion. I was therefore guided by the opinion of the

* Note 235. † Note 236.

Attorney General, who thought I had no alternative but to issue a Commission to the Justices in the manner prescribed by Law in England. I will add that this was the inclination of my own opinion. As I had no instructions and the Act of Parliament left me no discretion, I issued a Proclamation, adhering to the words of the Act, and directing Courts of General or Quarter Sessions to be holden once a month in Sydney, and at four stated times in the year at Parramatta, Windsor, and Liverpool, and I afterwards issued a Commission of the Peace in the form established in England. I have since been fortified in the propriety of the steps, I had taken under the advice of the Attorney General, by the decision* of the Chief Justice in the Supreme Court, after a mature consideration of the subject in October, 1824.

1825.
25 Oct.

Procedure
adopted under
advice of
S. Bannister.

As I was apprized that the subject was one upon which differences of opinion existed, and His Majesty's Government was most anxious to be informed, I had kept a watchful eye over the proceedings of the Courts and on the feelings of the Public. I could not fail to perceive that, by the Community at large, the mode of Trial by Jury was considered as a great improvement in the administration of Justice, and confident expectations were formed of its moralizing effect upon the people. Even among the few who were known to be unfavourable to the introduction of Trial by Jury, since the first shock of prejudice has been overcome, it has been silently gaining ground; and I verily believe at the present moment there are not a dozen Individuals in the whole Colony, who would openly come forward and oppose its being still further introduced.

Introduction of
trial by jury.

Upon a subject of this nature, mere abstract opinions are comparatively of little value, as they are formed upon partial views and depend upon the feelings, prepossessions, or associations of the Individual. Experience is the only test by which they can safely and conclusively be decided. It affords me the highest degree of satisfaction to inform your Lordship that Trial by Jury, in the Sessions, has been submitted to the test of experiment for one year, and that it has been found to fulfil every expectation which had been formed of it. With a view of collecting the sense of the Magistrates who had sat in the different Courts of Sessions in the Colony, I caused a Circular to be addressed to the several Benches, and I have now the honor to lay before your Lordship their respective reports. They will speak better for themselves than I can for them.

Practical
results of
trial by jury.

Were I disposed to throw a little deduction into the opposite scale, it would be the Presentment† of a Grand Jury at Parramatta. But it is but Justice to that Jury to say that the

Report on
grand jury at
Parramatta.

* Note 237. † Note 238.

1825.
25 Oct.
Report on
grand jury at
Parramatta.

Punishments they presented were irregular and illegal, and, if they thought so, they were in duty bound to notice them. Perhaps, too, some valuable experience may be drawn from the proceedings of this Jury, by showing the factious purposes to which they may be turned. The Government will be enabled to foresee the danger, and provide the remedy: I am of opinion that time, and a more practical acquaintance with the true objects of trial by Jury, will prove the surest preventive against abuse.

Right of
emancipists to
sit as jurors.

There is another point, upon which I must reserve my opinion for the present, which is, how far it would be proper to admit the Emancipist Class of the Colonists to a participation of the privilege of sitting in Juries; I rather incline to think that it would be expedient under certain limitations, and that the principle limitation should be the unincumbered possession of real property to a given annual value. But, upon this point, I must withhold my opinion until I have the honor of laying it before your Lordship, if required to do so, on my arrival in England.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

CIRCULAR LETTER TO THE MAGISTRATES.

Gentlemen,

Private Secretary's Office,

23rd September, 1825.

Reports to be
made on
operation of
trial by jury.

In obedience to Instructions from His Excellency the Governor, I have the honor to request you will be pleased to state, as soon as you can possibly do so with convenience, your opinions, individually or collectively, upon the operation of Trial by Juries, as they have been experienced by you during the preceding year, whether you consider them to have acted beneficially hitherto, and are likely gradually to produce a salutary effect upon Society in general.

I have, &c.,

J. OVENS, Private Secy.

[Enclosure No. 2.]

THE MAGISTRATES AT SYDNEY TO SIR THOMAS BRISBANE.

Sir,

Sydney, 29th Sept., 1825.

Report by
magistrates
at Sydney.

In obedience to the Commands of Your Excellency, received through a letter from Your Excellency's Private Secretary, dated the 22nd of this month, requesting the opinion of the Magistrates of Sydney as to the effects of the Trial by Jury, as experienced during the past year, and its influence upon Society in general in this Colony: We beg leave to state that it is our unanimous opinion that the Juries have conducted themselves

with great propriety, and that the Establishment of the Trial by Jury, even upon its present limited scale, has given a general feeling of security in the enjoyment of our Civil Rights; and we beg leave further to submit to Your Excellency that we consider the Colony is now in a state to allow of the Trial by Jury being extended with public advantage to the Supreme Court.

1825.
25 Oct.

Report by
magistrates
at Sydney.

We have, &c.,

WM. CARTER, Chairman.	JOHN OXLEY, J.P.
J. T. CAMPBELL, J.P.	ALEXR. BERRY, J.P.
THOS. McVITIE, J.P.	F. ROSSI, J.P. and Superd. of Police.
WM. WEMYSS, J.P.	WM. BALCOMBE, J.P.

[Enclosure No. 3.]

MR. F. ROSSI TO SIR THOMAS BRISBANE.

Sir, Police Office, Sydney, 3rd Octr., 1825.

In reference to the letter addressed to Your Excellency of the 29th ultimo by the Bench of Magistrates, to which I had the honor of affixing my signature, I am induced to remark, from the short period of my residence in the Colony, I should not have presumed to give any opinion on the subject of that letter; but, in deference to the unanimous sentiments of my brother Magistrates, whose long experience and habits gave them more opportunity of judging of the importance of the subject than myself, at the same time considering the measure, alluded to, likely to become of infinite advantage to the interests of the Colony, I beg leave individually to recommend it.

Report by
F. Rossi.

I have, &c.,

F. ROSSI, Super't Police.

[Enclosure No. 4.]

THE MAGISTRATES AT LIVERPOOL TO MAJOR OVENS.

Sir, Court House, Liverpool, 2nd October, 1825.

In answer to your letter of the 23rd September, requesting, by His Excellency's Commands, our opinion upon the operation of Trials by Juries, We beg leave to state that we consider that Establishment to have given general satisfaction, and feeling of security in our Civil Rights, also, one of the greatest privileges His Majesty could grant to our Colony; and we further beg leave most respectfully to submit to His Excellency that, if Trials by Juries were further extended, it would, in our opinion, be of still more public advantage.

Report by
magistrates at
Liverpool.

We have, &c.,

THOS. MOORE, J.P.
CHAS. THROSBY, J.P.

1825.
25 Oct.

[Enclosure No. 5.]

THE MAGISTRATES AT WINDSOR TO MAJOR OVENS.

Report by
magistrates at
Windsor.

Sir,

Windsor Court House, 8th October, 1825.

We have the honor to acknowledge the receipt of your letter of the 25th Ultimo, requiring us to give our opinion on the beneficial results, which have accrued from the Trial by Jury, as derived from our experience during the last year.

In reply to which, we beg leave to say that the expectations, we always entertained as to its beneficial effects, are now fully confirmed in our opinion, by the observations we have been enabled to derive from our experience; and, whilst it has afforded a general feeling of satisfaction, it has been, we are fully persuaded, no less favorable in its moral influence and consequences than it has been salutary in its legal operation.

Preparing for and taking the Muster has prevented our being able to reply to your letter so early as we could have wished.

We have, &c.,

WILLIAM COX, J.P.

J. BRABYN, J.P.

ARCH. BELL, J.P.

[Enclosure No. 6.]

JUDGE STEPHEN TO MAJOR OVENS.

Sir,

Sydney, 3rd October, 1825.

Report by
J. Stephen.

In obedience to His Excellency's Commands, communicated to me by your letter of the 23rd Ultimo, wherein he requests me to state my opinion upon the operation of Trial by Juries, as they have been experienced by me during the pending year, and whether I have considered them to have acted beneficially hitherto, and are likely gradually to produce a salutary effect upon Society in general, I beg leave to state that, during the whole time I had the honor of acting as Chairman of the Courts of Sessions for Sydney, Liverpool, Parramatta and Windsor, which was from their commencement, until I had the honor of being promoted to the Bench of the Supreme Court on the 7th day of August last, including the four Sessions of the year, I have found in the Juries of this territory as much attention to regularity and regard to their duty, as in any Juries in England or in any part of His Majesty's Dominions.

I am persuaded that the Institution of Juries in this Colony in all cases would be highly beneficial, and have a tendency to enlighten the minds of the rising generation, and to promote the general satisfaction and happiness of the Community.

In some instances, there has occurred a want of a desirable number of *Grand Jurors*; at the last Sessions at Parramatta, there were only thirteen in attendance, and their Presentment,

which was delivered in at an adjourned Court, at which I was obliged to be absent attending my duty at Windsor, was found, I was told, by twelve only.

The petty Jurors have been more numerous at Windsor. We have had two Juries sitting at the same time. They consisted, I was informed, chiefly of Native Youths, and, like the other Jurors of the Territory, did themselves great honor by their punctuality in attendance and respect to the Charges, which it was my province to give them.

I have, &c.,

JOHN STEPHEN.

1825.
25 Oct.

Report by
J. Stephen.

[Enclosure No. 7.]

THE MAGISTRATES AT PARRAMATTA TO MAJOR OVENS.

Sir,

Parramatta, 10th October, 1825.

Report by
magistrates at
Parramatta.

In obedience to the commands of His Excellency the Governor, which we had the honor to receive through you, dated the 23rd Ultimo, we beg leave to state that, in our own judgment, so far as the Jury question has come under our observation at this place, it has generally produced beneficial effects, and more particularly as regards Petty Juries. It is equally clear to us that some of the privileges of Jurors have been used as a Medium for private and improper purposes. We are moreover of opinion that, if the respectable Emancipists were added to the list of Jurors, many evils, that have arisen here, would be effectually counteracted, if not altogether prevented.

We have, &c.,

D. MACLEOD, J.P.

W. LAWSON, J.P.

D. WENTWORTH, J.P.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 95, per ship Mary Hope; acknowledged by Earl Bathurst to Governor Darling, 4th June, 1826.)

Government House, New South Wales,

My Lord,

8th November, 1825.

8 Nov.

I have the honor to enclose a letter from the Council, recommending the equipment of forty mounted Horsemen for the purpose of checking the system of Bushranging in this Country, which in Van Diemen's Land has attained a height and has been attended with alarming consequences. It was a measure which, in consequence of your Lordship's Dispatch of No. 48 of December, 1824, I did not feel justified in carrying into effect upon my own responsibility, although strongly impressed with its absolute necessity. In a country like this, where a thin population is scattered over a large tract of Country, the temptations to plunder are increased by the facilities of escape; and, once Bushranging has become sufficiently concocted to have its ramifications and connexions in different parts of the Colony, nothing

Recommendation of council
for equipment
of mounted
police.

Causes of
bushranging.

1825.
8 Nov.

Necessity for
mounted police.

short of regular Military Movements will be sufficient to put it down; in its inception, however, it is easily suppressed; and, with this view, I brought the subject under the consideration of the Council that I might fortify myself with their admission of the fact of the necessity for some steps to be taken, and their opinion as to the propriety of a Mounted Police.

In the present state of the Population of the Colony, it would not be expedient to trust Arms generally into the hands of the people. It has been suggested that the youths of the Colony might be trained to the horse exercise, and thereby form an effectual force against the depredations of runaway convicts, as well as the Aborigines. In the policy of the suggestion, as a prospective measure, I entirely concur; but something was wanted to meet the present exigency. The Mounted Soldiers may be made subservient to the plan of a Mounted Militia by forming a School of Cavalry Discipline, and may be discontinued at any time.

I beg to subjoin an Estimate of the probable expenditure.

I have, &c.,

THOS. BRISBANE.

[Enclosure No. 1.]

MEMBERS OF THE COUNCIL TO SIR THOMAS BRISBANE.

Council Chamber, 6th September, 1825.

Recommend-
ation by council
for measures
for suppression
of bushranging.

THE Council having taken into their serious consideration the Statement* laid before them this morning, contained in a Dispatch addressed by the Commandant at Bathurst to the Private Secretary of His Excellency the Governor under date the 22nd Ultimo, and setting forth an extensive confederation among certain runaway Convicts, commonly called Bushrangers, for the purposes of Robbery and Murder; and the Council have come to the unanimous resolution that it is necessary to adopt the most prompt and decisive measures to repress an evil, which has gradually increased for some time past and has reached an alarming height in this Colony. Repugnant as the Council feel to recommend a resort to the use of a Military force to repress Civil outrages, Yet they are convinced that, under the peculiar circumstances of the Colony at present, it offers the only means, which are likely to remedy the Evil complained of. As a prospective measure, they would recommend the training a Body of Native Youth to Cavalry exercise; but, for immediate service, the Council are of opinion that a Corps of mounted Soldiers should be formed to proceed without delay to Bathurst and Hunter's River, and to

* Note 239.

co-operate with the Civil powers in pursuing and bringing to punishment the daring Robbers who have formed themselves into Bandittis in those Parts of the Colony.

The Council are aware that difficulties may arise in providing Horses fit for the service of Cavalry; but as they consider the repressing of the increased and alarming state, to which the crime of Bushranging has risen, of paramount importance, they would suggest that all the Horses in Government Service be employed, and that Bullocks be substituted or Carts hired for the Public works, or even that such works be suspended for a time.

As an Auxiliary Measure, the Council suggest that a pecuniary reward of Fifty Dollars be offered for the apprehension of every Bushranger having actually committed some Robbery or Outrage, to be increased to one Hundred Dollars in cases of Ringleaders apprehended in either of the said Districts or places; and in cases the person or persons apprehending such offenders be a prisoner or prisoners, he or they shall have his or their election, either to receive the above reward or a full pardon.

The Council have further to recommend that small parties, composed of three or four Soldiers and one or two Natives under the direction of one Constable for each party, should be employed on the roads between Sydney, Liverpool and Windsor, and other roads of frequent resort, to be ready on the first alarm of Highway Robberies to track and secure the offenders. And the Council beg leave humbly to submit their resolutions to the consideration of His Excellency the Governor.

WILLIAM STEWART. F. GOULBURN.
FRANCIS FORBES. J. BOWMAN.
T. H. SCOTT.

[Enclosure No. 2.]

ESTIMATE of the Pay and expences of the Mounted Police for One Year.

Estimated annual expenditure on mounted police.

Numbers.	Rank.	Rate per diem.	Total Amount of Pay per Annum.	Primary Expenditure.				Remarks.
				Numbers.	Horses.	Numbers.	Sets of Equipment.	
			£ s. d.		£ s. d.		£ s. d.	
2	Lieutenants	4s.						
2	Non Com'd Officers	1s.	450 5 0	24	1,200 0 0	24	144 0 0	
20	Privates	9d.						

1825.
18 Nov.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 96, per ship *Mary Hope*; acknowledged by Earl Bathurst to Governor Darling, 27th June, 1826.)

Government House, New South Wales,

My Lord, 18th November, 1825.

Reasons for
submission
of case of
H. Carline.

In reference to Your Lordship's Dispatch,* enclosing a direction from the Secretary of State from the Home Department that no case should be transmitted except upon extraordinary occasions, I should not have referred to Your Lordship in the enclosed case, but that, by the express tenor of my Commission, I am restrained from granting a pardon in cases of conviction for murder, and directed only to reprieve until the royal pleasure should be made known. And that entertaining the same impression of Hugh Carline's case as the Chief Justice, and as appeared to be entertained generally in Sydney, I beg to recommend the unhappy man to the mercy of the Crown.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

REPORT BY CHIEF JUSTICE FORBES ON CASE OF HUGH CARLINE.

To His Excellency, Sir Thomas Brisbane, Governor of
New South Wales.

Report by
F. Forbes
on trial and
conviction of
J. Webb and
H. Carline
for murder.

I HEREBY certify to Your Excellency that James Webb and Hugh Carline, at the late Criminal Sessions of the Supreme Court, were convicted before me of the Wilful murder of Robert Collett, and that the following circumstances appeared at the Trial.

Robert Collett was residing on his farm at Toongabbee in the month of May last. He was seen at the hour of twelve o'clock on the morning of the 29th of May at his own house and in his usual health. No other person was left at the house with him but the prisoner Webb. Between the hours of four and five o'clock on the same day, he was found lying outside of his door in a state of insensibility, his head bleeding and fractured; he lingered until the 31st of May, and then died. Suspicion fell upon his Servant Webb. It appeared that he had gone to the neighbouring house for Spirits, which he said were for the deceased Collett; that he received the Spirits and went away in a direction leading to his master's house; that, about the hour of six in the evening, he went to another neighbour, and sat down and took Tea, and conversed without mentioning anything relating to his master, and went away at Seven; that shortly after he returned to the same neighbour's and gave the alarm of his master being dead. It appeared from the evidence of another witness (who had gone to Collett's house about four o'clock, and remained there until Webb came in Company with the neighbours in the evening,

* Note 240.

and after he had spread the alarm of his being wounded) that Webb had not been at Collett's house between four o'clock and seven in the evening; that he, knowing of the wounded state of his Master Collett, must have acquired his knowledge *before* he went to the neighbour's with whom he had taken Tea, and, possessing such knowledge, and not communicating it at the time, but sitting down and conversing as if nothing had happened, must have concealed his knowledge of what had happened to his master.

Hugh Carline lived in the neighbourhood, and was possessed of a Tomahawk or Hatchet; the deceased Collett had inarticulately uttered the word or sound "Tommy," in answer to the questions which were put to him on the following day; from which it was conjectured that he meant to say "Tomahawk," and to indicate the instrument by which he had been murdered. Carline's hut was searched; in the hut were found a Tomahawk, and a jacket apparently stained with blood, and put away. No concealment, however, was proved; and it was further proved that Carline had come in at Collett's with the other neighbours, and helped to convey the deceased into his house, he having hold of his body and supporting his head. This circumstance accounted for the blood on his jacket; but, on being apprehended, he was overheard to say to his fellow prisoner, Webb, that "the Tomahawk after all would do for him or hang him." It was proved by two witnesses that Carline was in Company with other persons, and not near the scene of Collett's Murder from 12 o'clock till near Sundown (about half past five) on the same day.

In my charge to the Jury, who tried the case, I intimated it as my opinion that there was not sufficient weight of proof to convict Carline; the jury, however, returned a Verdict of Guilty against both the prisoners. They appear to have been chiefly impressed with the fact of blood being discovered on the sleeve of his jacket, without duly adverting to the circumstance of his assisting to remove Collett while his head was bleeding from his wounds.

I passed sentence of Death on both Prisoners, and afterwards respited the execution of Hugh Carline, until your Excellency's pleasure shall be communicated. I have since had placed in my hands the written confession of James Webb, made Voluntarily in the presence of the two officiating clergymen of the Established Church in Sydney and the Sheriff, in which the Prisoner Webb states all the particulars of his having struck the fatal blow, soon after four o'clock, with a hoe (a garden Implement)

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Report by
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on trial and
conviction of
J. Webb and
H. Carline
for murder.

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conviction of
J. Webb and
H. Carline
for murder.

in a sudden quarrel with his master, after both had been drinking to excess. The particulars stated by Webb exactly accord with the Accounts of the several witnesses.

In my opinion, Sir, Hugh Carline is innocent of the murder of Robert Collett. On a careful examination of my notes and reconsideration of the whole of the Evidence, I am decidedly of this Opinion; and under this impression I humbly recommend him to your Excellency's careful consideration.

Given under my hand, this 13th day of August, 1825, at
Sydney, New South Wales,

FRANCIS FORBES, Chief Justice,
New South Wales.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 97, per ship Mary Hope.)

Government House, New South Wales,

My Lord, 18th November, 1825.

This will probably be the last Dispatch I shall ever have the honor of addressing your Lordship from New South Wales, as I embark in a day or two on my return to Europe.

I am happy to inform your Lordship that I leave the Colony in a state of tranquility and prosperity, which I have every reason to hope will meet with no interruption until the arrival of His Excellency Lieutenant General Darling.

Before I take my official leave of your Lordship, there are one or two points which I wish to bring under your Lordship's notice. I have already intimated to Your Lordship that it was my intention gradually to restore* certain gentlemen to the Magistracy, and, in fulfilment of that intention, I have issued a New Commission, in which I have caused the names of John Palmer, George T. Palmer, Esquires, to be inserted.

The Reverend Mr. Marsden is, as your Lordship is aware, ineligible by the arrangement communicated through the Archdeacon, and, independently of his clerical Office, I should have felt a difficulty in restoring him, until I should receive your Lordship's final decision upon the report in the case of Doctor Douglass.

Mr. Hannibal Macarthur and Mr. Blaxland have intermixed themselves in transactions which, but for the wise policy of the Council, might have occasioned a great deal of disturbance in the Colony. I do not feel that it would be right to restore two

General
condition
of colony.

Restoration
of J. and
G. T. Palmer
to magistracy.

Rev. S. Marsden.

H. Macarthur
and
J. Blaxland.

* Note 241.

gentlemen to the Magistracy, who have lately thought fit to pervert the office and taint the administration of Justice with party feeling.

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Doctor Douglass has retired from the Magistracy, and, if he had not done so, I should have thought it proper to omit his name in the Commission, because I think it is improper to allow any man to fill the Judgment Seat who is opposed in hostility (whether right or wrong) with any considerable portion of the Community.

Retirement of
H. G. Douglass.

In the List,* which, by Your Lordship's desire, I transmitted of Persons, whom I should recommend as fitted to fill a seat in Council, is the name of Sir John Jamison. The Wealth, Landed possessions and consequent influence of this Person were my chief inducements to recommend him; Recent circumstances† compel me to change my opinion; and I now beg leave to recall my previous recommendation of Sir John Jamison.

Adverse
report on
Sir J. Jamison.

The report of the late Enquiry into the Emu Plains business has been followed up by the exposure of statements proceeding from the same Individual, in attacking the private reputation and peace of respectable families, with whom he has been in habits of intimacy; and his character is so fallen in this Country that he is no longer respected nor in fact associated with by the better class of Colonists.

I am happy to inform Your Lordship that the affair of Mr. Macarthur's Grant has been concluded, so far as anything remains to be done on the part of the Government, he having signed the Bond and received the Grants. It remains, therefore, for the Archdeacon to select or to abandon the 600 acres, in pursuance of the condition of the Bond.

Land granted to
J. Macarthur.

I have, &c.,

THOS. BRISBANE.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch per ship Mary Hope.)

Government House, Sydney, New South Wales,

My Lord,

19th November, 1825.

19 Nov.

I do myself the honor to forward, for your Lordship's information, the General Monthly Returns of the Troops serving in this Territory from the 25th of August to the 24th September, 1825, inclusively.

Transmission
of monthly
returns of
troops.

I have, &c.,

THOS. BRISBANE.

[Enclosures.]

[Copies of these returns are not available.]

1825.
21 Nov.

SIR THOMAS BRISBANE TO EARL BATHURST.

(Despatch No. 98, per ship *Mary Hope*; acknowledged by Earl Bathurst to Governor Darling, 11th July, 1826.)

Government House, New South Wales,

My Lord, 21st November, 1825.

Memorial of
F. Rossi.

In submitting to Your Lordship the enclosed Memorial of Mr. Rossi for an augmentation of his salary as Superintendent of Police, I beg to recommend it strongly to Your Lordship's attention.

Commendation
of his services.

The zeal, discretion and activity, evinced by him in discharging the important and arduous duties of his Office, have tended greatly to improve the Police under his direction; and, whilst his services merit my best recommendation, I trust they will be viewed, by your Lordship, as adding very considerable weight to the other circumstances, urged by him as grounds for the prayer of his Memorial being favourably considered and decided upon by your Lordship.

I have, &c.,

THOS. BRISBANE.

[Enclosure.]

THE MEMORIAL OF FRANCIS NICHOLAS ROSSI, ESQR.

To His Excellency Sir Thomas Brisbane, K.C.B., Governor of New South Wales and its Dependencies, etc., etc., etc.

Respectfully sets forth,

That Memorialist arrived in the Colony on the 7th of May last with the Appointment of Superintendent of Police at New South Wales.

That Memorialist entered on the duties of that Department on the 19th of the same month, and ventures to hope that he has fulfilled them to the perfect satisfaction of your Excellency.

That those duties, since Memorialist took charge thereof, have been extremely arduous and considerably disproportioned to what they had ever previously been, owing to the increase of the population of the Colony, and to other adventitious circumstances connected therewith, and which are daily and hourly augmenting, and occupy the whole of Memorialist's attention, leaving him no time whatever to devote to any other purpose.

That Memorialist has found, in common with other Gentlemen who have arrived in this Colony, that the expences of a domestic Establishment, even conducted with the greatest economy, are considerably beyond what have been calculated upon in the Mother Country; and therefore that the Salary of Six hundred pounds per annum, attached to Memorialist's appointment, is altogether inadequate to the support of himself and family with that degree of respectability and comfort which,

Memorial of
F. N. Rossi
soliciting
increase of
salary.

at his advanced stage of life after a period of Thirty years Service in Military and Civil Capacities, and the accumulation of the duties of the Department he has now the charge of, seem to require, with a view to enable Memorialist to make provision for his family.

That Memorialist has found the Salaries of the Police Magistrates in London have had an increase of £200 per annum; and, considering that in those Offices there are three Magistrates, who by taking the duties alternatively may relieve each other, whilst in this remote part of the Globe the whole of the duty devolves on Memorialist, he indulges the hope that your Excellency will be pleased to make such representations thereof, as may be the means of obtaining him such an addition to his salary as His Majesty's Ministers may deem proportioned to the high Responsibility and very laborious duties of the Department he has the honor of holding;

and Memorialist shall ever Pray,
F. Rossi,

Superintendent of Police at New South Wales.
Sydney, New South Wales, 17th November, 1825.

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21 Nov.

Memorial of
F. N. Rossi
soliciting
increase of
salary.

COMMENTARY

ON

DESPATCHES

TO AND FROM SIR THOMAS BRISBANE,

JANUARY, 1823—NOVEMBER, 1825.

Note 1, pages 1, 190, and 432.

Recommendations of Settlers.—Assignments of Convicts.—Orders for Land Grants.

These were contained in letters which were a repetition of one another, subject to the necessary alterations in names or figures. The usual type of a settler's letter is exemplified in the despatch from under secretary Goulburn to Governor Macquarie, dated 24th February, 1816 (*see* page 30, volume IX), and of a letter covering an assignment of convicts in the despatch from Sir H. E. Bunbury to Governor Macquarie, dated 16th January, 1816 (*see* page 1, volume IX). All similar letters have been omitted from the text of this volume, and have been merely summarised in a list at the beginning of the despatches for each year. When any additional matter has been added to the usual form, the despatch has been printed *in toto*.

Note 2, page 4.

Also pages 173 and 865.

Dr. Bland.

William Bland had arrived in the colony under a sentence passed in India for killing his opponent in a duel. At the beginning of the year 1813, Bland was surgeon on H.M. sloop *Hesper*, and, in consequence of some remarks, he was challenged by the purser of the same vessel, Robert K. Case. The duel was fought on the 7th of April, 1813, and Case was shot in the abdomen and died shortly afterwards. In consequence, Bland, his second, William Randall, and Case's second, Robert Fulton, lieutenant and master respectively on H.M. sloop *Hesper*, were placed on their trial for murder. Fulton, being second to the murdered man, was acquitted by direction of the recorder, whilst the jury returned a verdict of guilty against Bland and Randall, with a strong recommendation to mercy.

Note 3, page 5.

James Mitchell.

James Mitchell was surgeon of the 48th regiment, which arrived in the colony on the transports *Matilda*, *Lloyds*, and *Dick* in August and September, 1817. Subsequently he joined the colonial medical establishment and was assistant surgeon at the Sydney hospital in 1824, and resident surgeon from 1825 to 1837. He was the father of David Scott Mitchell, the donor of the splendid collection of Australiana, now known as the Mitchell library.

Note 4, page 19.

Mr. Thomas Wilde.

Thomas Wilde, the brother of judge-advocate Wylde, adopted the spelling of his name with an "i" and not a "y," and this practice is still followed by his descendants. He was born in 1782, and died in 1855. On the 15th of July, 1850, he became lord chancellor of England, and was created Baron Truro.

Note 6, page 22.

A Schooner called the Prince Regent.

The orders for the building of this schooner were contained in Earl Bathurst's despatch to Governor Macquarie dated 27th July, 1815 (*see* page 624 *et seq.*, volume VIII). The vessel was launched by Governor Macquarie on the 7th of April, 1819, and was of 40 tons burthen. For some time she was used for the general services of the colony. On the 2nd of October, 1821, instructions were given to R. Kent, commander of the cutter *Mermaid*, to proceed to the Sandwich islands and to give delivery of the schooner. The two vessels, *Mermaid* and *Prince Regent*, sailed in company from Port Jackson on the 16th of October.

Note 7, page 51.

Bathurst and Lakes George.

It is probable that the reference was to Lakes Bathurst and George. The country in this neighbourhood was opened up by Charles Throsby (*see* note 60, volume X).

Note 8, page 53.

The regulations.

Sir Thomas Brisbane reported in his despatch, dated 10th April, 1822, that he had considered it necessary to insert in each grant "an express stipulation that for every hundred acres, so to be granted, the Grantee shall maintain free of expence to the Crown one convict labourer." The form for land grants containing this stipulation will be found on pages 631 and 632, volume X.

Note 9, page 60.

An Act.

This was the English statute 3 Geo. IV, cap. xcvi, which was transmitted by Earl Bathurst with his despatch dated 9th September, 1822 (*see* page 792, volume X).

Note 10, page 60.

Also pages 143, 225, 244, 264, 337, 380, and 590.

Under Secretary Wilmot to Sir Thomas Brisbane.

Copies of these despatches are preserved in the record office, London, but there is no evidence of their delivery to the governor in the colony.

Note 11, page 62.

Resident in the Colony.

The following memorandum by Earl Bathurst is attached to the copy of this despatch preserved in the record office, London:—

"After the decided opinion expressed by His M. Govt. upon the transactions which led to the arrest of Governor Bligh, and the length of time that has since elapsed, Lord Bathurst is desirous to discourage the revival of any discussion upon that subject; and as Mr. Bigge has expressed his approbation

of the conduct and pursuits of Mr. Macarthur and his family, Lord Bathurst is of opinion that no objection exists to that Gentleman's appointment to the Magistracy:—But as his Lordship has been informed that Mr. Macarthur is not desirous to undertake the duties of the Office, he wishes you to offer it him for one of his Sons now resident in the Colony."

Note 12, page 62.

Despatch No. 11 or 12.

There is no despatch numbered 11 or 12 preserved in the office of the state governor at Sydney, and in a contemporary list of despatches there is also no record made of the receipt of such a despatch.

Note 13, page 64.

Also pages 65, 68, and 102.

The Offices of Judge Advocate and Judge of the Supreme Court have been abolished.

The offices of judge-advocate and judge were abolished in consequence of the reconstitution of the law courts. The new charter of justice was promulgated in Sydney on the 17th of May, 1824. This charter was prepared under the English statute, 4 Geo. IV, cap. xevi, which received the royal assent on the 19th of July, 1823. It is evident that in the preparation of the estimates for the year 1823, which were transmitted to Sir Thomas Brisbane on the 29th of March, the consummation of the proposed reforms was anticipated by more than a year.

Note 14, page 66.

Provided for in the Bill.

By section xxiv of the English statute 4 Geo. IV, cap. xevi, a council was created (*see* note 44) for the colony of New South Wales. This council was empowered to make laws and ordinances for good government, and the governor was thereby relieved of the responsibility of issuing proclamations and general orders except at times of "actual or apprehended Rebellion or Insurrection."

Note 15, page 66.

The two Gentlemen.

Judge-advocate Wylde objected to the members appointed to the governor's court to sit on the 3rd of May, 1822, in a letter to Sir Thomas Brisbane dated 30th April, 1822 (*see* page 648, volume X). These two members were clerks in the offices of Frederick Goulburn and William Wemyss respectively.

Note 16, page 67.

Upon a former occasion.

On page 50 of his report on the judicial establishments of New South Wales, J. T. Bigge stated that "Mr. Judge Advocate Wylde has declared that the orders of the governors of the colony were equally obligatory as acts of the British Parliament."

Note 17, page 69.

Also page 72.

The Royal Commission.

This commission formed the letters patent constituting the courts of law (*see* volume I, series IV).

Note 18, page 71.

I conceive he is mistaken.

By the letters patent (*see* volume in series IV) which established the supreme court, appeals were allowed from the decision of that court in any case where the amount involved exceeded the sum of £300 sterling, or in any other case where the opinion of the judge differed from those of the two magistrates on the bench, and the judge had protested and recorded his protest. Such appeals were to be made (using the words of the patent) "to Our said Governor, or, in case of his Death or absence to the Lieutenant Governor for the time being, which Governor or Lieutenant Governor, as the case may be, shall be assisted by the Judge Advocate. And we do hereby authorise and empower him, with the assistance of the Judge Advocate, to hear and determine the same," etc.

Note 19, page 73.

An action.

An action was brought in the supreme court by H. G. Douglass against James Hall for libel, alleged to be contained in the defendant's letter to the Reverend Samuel Marsden, dated 14th August, 1822 (*see* page 764, volume X). The damages claimed were £5,000. The suit was tried by default on the 2nd of December, 1822, owing to Hall's solicitor, Frederick Garling, neglecting to file a defence. The Reverend Samuel Marsden was examined; he proved the receipt of the letter from Hall, but at the same time stated that he did not think it libellous. Ann Rumsby was also examined. Judgment was then given against the defendant with damages of forty shillings and costs.

Note 20, page 74.

A memorandum.—Ann Rumsby states.

These two references will be found on pages 770 and 757, volume X.

Note 21, page 74.

The first part of the Report.

This was the *Report of the Commissioner of Inquiry into the State of the Colony of New South Wales*, which was dated 6th May, 1822, by J. T. Bigge, and ordered by the House of Commons to be printed on the 19th of June, 1822. The numbers in brackets inserted in the text of Sir Thomas Brisbane's despatch dated 28th April, 1823, refer to the pages in this report. In the original despatch these numbers were written in the margin.

Note 22, page 75.

The instance of Mr. Queade.

The treatment of the convicts on the ship *Minerva* by Charles Queade was reported by Sir Thomas Brisbane in his despatch dated 4th February, 1822 (*see* page 612 *et seq.*, volume X).

Note 23, page 76.

The new church.

This church is known as St. James. The gallery for convicts was at the western end, and access to it was gained by a stone staircase around three walls beneath the steeple. This staircase, which was much worn by constant use, was removed during the renovation of the church in the incumbency of the Reverend Carr Smith.

Note 24, page 78.

The order.

This order will be found on page 782 *et seq.*, volume VII.

Note 25, page 83.

Under Secretary Horton.

R. Wilmot married Anne Beatrix, eldest daughter and co-heiress of Eusebius Horton, of Derbyshire, on the 1st of September, 1806. On the 8th of May, 1823, he assumed the name of Horton by royal license in consequence of the will of his father-in-law.

Note 26, page 84.

The form of a grant of land.

This draft will be found on pages 631 and 632, volume X.

Note 27, page 85.

My despatch of ———.

In the original the date is left blank. The reference was probably to the despatch dated 9th September, 1822 (*see* page 784, volume X).

Note 28, page 93.

The terms stated by the Commissioner.

The terms referred to were:—"The proposal therefore for the sale of land, contiguous to grants made upon real capital, is one which will be very beneficial to settlers and will also be productive of revenue to the crown. In favourable situations, I should recommend that the additional quantity of land should be sold for ten shillings an acre; in those less favorable and more remote, for five shillings. . . . With a view to afford encouragement to the purchasers of contiguous lands, I concur in the suggestion made by Mr. Oxley that a deposit of 10 per cent. should be paid upon the purchase being agreed upon, and that the remainder should be paid by instalments every six months, until the whole was paid. A failure in the payment of one or more instalments should not deprive the purchaser of his right, provided the whole arrears were made good with interest at the period the last payment became due; but a failure in the ultimate payment should subject the purchaser to the loss of antecedent deposits, and of all right to the land."

Note 29, page 95.

The second.—The Third.

The second report was "on the Judicial Establishments of New South Wales and Van Diemen's Land," and the third "on the state of Agriculture and Trade in the Colony of New South Wales." Both were ordered by the House of Commons to be printed on the 4th of July, 1823. The second was undated, and the third dated 10th January, 1823, by J. T. Bigge. The numbers in brackets inserted in the text of Earl Bathurst's despatch dated 31st July, 1823, refer to the pages in these reports. In the original despatch these numbers were written in the margin.

Note 30, page 102.

Francis Forbes, Esqre.

Francis Forbes was born in the island of Bermuda in the year 1784. He was the eldest son of the Hon. Francis Forbes, a member of the council in that island. He was admitted to Lincoln's Inn on the 26th of May, 1806,

and was called to the bar during the Easter term of the year 1812. In 1813 he married Amelia Sophia, a daughter of David Grant, M.D., of Jamaica; and in the same year he was appointed attorney and advocate-general in the island of Bermuda. In 1816 he was made chief justice in Newfoundland. On the 1st of June, 1823, he was nominated chief justice of New South Wales, and his appointment was dated 13th October following. He arrived in the colony on the 5th of March, 1824. He became involved in bitter disputes with Governor Darling. In 1836 he obtained leave of absence and visited England on account of ill-health. On the 6th of April, 1837, he was knighted, and in July of the same year he resigned his office as chief justice. He returned to the colony, and died at Sydney on the 9th of November, 1841.

Note 31, page 107.

Mr. John Busby.

John Busby was a mineral surveyor and civil engineer in Scotland. He had completed a mineral survey of the crown lands in Caithness, had provided a water supply for Leith fort, and had been engaged on various public works in connection with the Caledonian canal, Stirling castle, Loch Ryan, and the new botanical gardens at Edinburgh. He also had undertaken different works for the magistrates of several Scottish towns. On the 20th of December, 1821, he made application to the colonial office for employment in New South Wales, and in consequence was engaged according to the terms of under secretary Wilmot's letter of the 29th of March, 1823.

Note 32, pages 109 and 483.

The Charges.—This Court.

Sir Thomas Brisbane transmitted general charges of maladministration of the engineer department by George Druitt to major-general Sir Herbert Taylor in his despatch dated 4th March, 1822 (*see* page 626, volume X). The charges on which he was tried were made principally by Charles Ellis, a convict, and consisted of conversion of public property to his own use.

The court of inquiry was constituted at first by judge-advocate Wylde, judge Field, and commissary Wemyss. Field resigned during the course of the inquiry, and H. G. Douglass was appointed in his place. Owing to the necessity of Wylde presiding in the criminal court, the protracted investigation was concluded by Wemyss and Douglass alone.

Note 33, page 109.

Also pages 197 and 495.

The clause of the act.

This was the 44th clause of the statute, 4 Geo. IV, cap. xcvi. It was as follows:—

“ Provided always, and be it further enacted, That in case it shall at any Time seem fit to His Majesty, His Heirs and Successors, to constitute and erect the Island of *Van Diemen's Land*, and any Islands, Territories or Places thereto adjacent, into a separate Colony, independent of the Government of *New South Wales*, it shall and may be lawful for His Majesty, His Heirs and Successors, so to do, any thing hereinbefore to the contrary contained in any-wise notwithstanding; and in that Case, it shall and may be lawful for His Majesty, His Heirs and Successors, by any Order to be by Him or Them issued, by and with the Advice of His or Their Privy Council, to commit to any Persons or Person within the said Island of *Van Diemen's Land*, and such Islands, Territories or Places as aforesaid, such and the like Powers, Authorities and Jurisdictions, as by virtue of this present Act or of any other

Act of Parliament are or may lawfully be committed to any Person or Persons within the Colony of *New South Wales* and its Dependencies, subject nevertheless to all such and the like Restrictions, Provisoes and Declarations as are hereinbefore made and contained, and thereupon the Appeal hereinbefore granted to the Governor of *New South Wales* and its Dependencies, from the Judgments, Decrees, Orders and Sentences of the Supreme Court of *Van Diemen's Land* shall cease and determine; and from and after the making of any such Order, all Instruments in Writing whereby any Governor or Acting Governor of *Van Diemen's Land*, and its Dependencies, shall remit or shorten the Term or Time of Transportation of any Felons or other Offenders, shall have such and the like force, effect and virtue in the Law, as any such Instruments in Writing to be made by any Governor or Acting Governor of *New South Wales* and its Dependencies can or may lawfully have by virtue of the before mentioned Act passed in the Thirtieth Year of the Reign of His late Majesty King *George the Third*, or by virtue of this present Act."

Clauses i to xxiii provided for the institution of the law courts, their jurisdiction and procedure (*see* volume in series IV). Clause xx authorised the governor or acting governor to institute courts of requests from time to time. Clause ii granted the courts of civil and criminal jurisdiction similar jurisdictions to those of the courts of King's Bench, Common Pleas and Exchequer and of Oyer and Terminer and general gaol delivery in England. Clause xix granted the courts of sessions similar jurisdiction to those of courts of general or quarter sessions in England.

Note 34, page 114.

Mrs. Fry.

Mrs. Elizabeth Fry was the great advocate for reforms in the prisons. She was the eldest daughter of John Gurney, a banker at Norwich, and was born in 1780. She died in the year 1845.

Note 35, page 121.

The lands in the towns.

The systems of land tenure in Sydney prior to the year 1810 have been discussed in note 38, volume VI, and note 3, volume VII. During the administration of Governor Macquarie, the practice of granting permissive occupancies of land became common (*see* note 136, volume X), and James Meehan stated to J. T. Bigge that four-fifths of the houses in Sydney and Parramatta were held under such title. This practice was continued under the government of Sir Thomas Brisbane. The system adopted in Sydney was extended to the other towns of the colony. The confusion in titles, which resulted after several transfers, is evident. Governor Darling attempted to introduce regulations for their control, but order was not established until the sittings of the court of claims (*see* subsequent volumes).

Note 36, page 138.

Mr. W. Balcombe.

Prior to the appointment of William Balcombe, the finances of the colony had been administered by the commissary, the treasurer of the police fund, the naval officer, and the treasurer of the orphan fund. The commissary was responsible for all drafts on the English treasury. The colonial revenue was raised by import duties, royalties on timber and coal, wharf taxes, fees on shipping, an auction duty, tolls on public roads and bridges, market and fair dues, and fees paid on the slaughtering of cattle at the public slaughter-house. Moneys derived from the first five sources of revenue were collected

by the naval officer; collections under the last three headings were paid direct to the treasurer of the police fund. At the end of every quarter, seven-eighths of the revenue received by the naval officer was paid to the treasurer of the police fund, one-eighth to the treasurer of the orphan fund. The police fund was devoted to defraying the expenditure on gaols and police, on public works generally, and on grants in aid of salaries and as rewards for services rendered. The orphan fund, apart from the maintenance of the orphan institution, was utilised to defray "the expense of extensive purchases of tools and implements required in the public works, . . . and the expense of the lodgings of military officers, of their passage from one colony to the other, and even those of their equipment on voyages from New South Wales to India."

Note 37, page 140.

An University.

This is the first official reference by Earl Bathurst to a suggested university, but in private and unofficial correspondence the question had been mentioned several times. It is indicative of the advanced ideas which were under consideration for the future development of the colony.

Note 38, page 141.

Captain McArthur.

Edward Macarthur was the eldest son of John Macarthur. He was born in the year 1789. In 1808 he entered the army. In the following year he achieved the rank of lieutenant, and in 1820 that of captain. Subsequently (1856) he was lieutenant-governor of the colony of Victoria.

Note 39, pages 154, 258, and 304.

Mr. Rumker.—Mr. James Dunlop.

There is some confusion in the christian names of Rumker. In Barron Field's *Geographical Memoirs* there is a paper read by Charles Stargard Rumker before the philosophical society of Australia. In the proceedings of the royal astronomical society, England, there are thirty-eight papers communicated by Charles Rumker, but the president of the same society presented to him a medal for his work on Encke's comet in the name of P. Karl Rumker. The land granted on the 9th of July, 1822, by Sir Thomas Brisbane, was to Charles Luis Rumker, to be known by the name of "Stargard."

The land grant of 1,000 acres was situated on the south bank of Stone-quarry creek, and on the west side of the Nepean river.

James Dunlop was the second astronomical assistant engaged personally by Sir Thomas Brisbane (*see* volume in series VI).

Note 40, page 169.

His Commission.

The clause relating to the power of the governor to pardon and reprieve will be found on page 591, volume X.

Note 41, page 181.

The picture which Mr. Bigge has drawn.

This reference will be found on page 120 of the first report by J. T. Bigge. He stated, "I was present at the government house on the 5th January, 1820, the day to which the petitions, that were to have been presented in November, 1819, had been deferred in consequence of the governor's illness. The crowd

upon this occasion was very great; and observing their impatience, the governor addressed them, and informed them that he would grant no tickets of leave to those who had not been three years in the country, nor any other indulgence, except in conformity to the terms of his proclamation of the year 1813. This address produced no effect. There was great difficulty in preserving order in the presentation of the petitions that were delivered to the governor; who, on perusing the statements, and looking at the certificates, either wrote in pencil, on the margin, the initial letters of the indulgence that was to be given, or rejected the petitions altogether. The petitions presented upon this occasion exceeded 700; they were collected by the major of brigade and two clerks, who, with the superintendent of convicts, were the only persons present."

Note 42, page 182.

The case of Mr. Macarthur.

The negotiations with John Macarthur relating to his land grants have been summarised in note 147, volume X, and correspondence in connection therewith was forwarded by Sir Thomas Brisbane shortly before his departure (see page 698 *et seq.* and page 809). Many of the delays and difficulties appear to have been due to the intrusion of outside issues, and to the interference of Frederick Goulburn.

Note 43, pages 186 and 192.

Sheriff.—Registrar.

When the law courts were reconstituted under the English statute, 4 Geo. IV, cap. xvi, the duties were divided and new offices were created. Under the previous charter of justice, the officers were judge-advocate, judge, and provost-marshal. The judge-advocate, apart from his purely judicial functions, acted as legal adviser to the government; prepared informations, indictments and bails; was virtually crown prosecutor; and was charged with the custody of documents. Under the new charter of justice, the offices of judge-advocate and judge were combined in that of the chief justice. This officer exercised purely judicial functions in the court, and also acted as legal adviser only with regard to the bills submitted to council, after they were prepared by the attorney-general. The extra judicial duties of the judge-advocate were divided. An attorney-general was appointed to act as general legal adviser and prosecutor for the crown, with a solicitor-general to assist him. The immediate duties of the court were entrusted to the registrar and master of the supreme court, whilst the duties of the provost-marshal were undertaken by the sheriff.

Note 44, page 195.

A Council.

The constitution and appointment of a council were provided for by clauses xxiv to xxxiii of the English statute 4 Geo. IV, cap. xvi. Clause xxiv was as follows:—

"XXIV. 'And Whereas it may be necessary to make Laws and Ordinances for the Welfare and good Government of the said Colony of *New South Wales*, and the Dependencies thereof, the Occasions of which cannot be foreseen, nor without much Delay and Inconvenience be provided for, without entrusting that Authority for a certain Time, and under proper Restrictions, to Persons resident there: And Whereas it is not expedient to enll a Legislative Assembly in the said Colony; Be it therefore enacted, That it shall and may be lawful for His Majesty, His Heirs and Successors, by Warrant under His or Their Sign Manual, to constitute and appoint a Council, to consist of such Persons resident in the said Colony, not exceeding Seven nor

less than Five, as His Majesty, His Heirs and Successors, shall be pleased to appoint; and upon the Death, Removal or Absence of any of the Members of the said Council, in like Manner to constitute and appoint such and so many other Person or Persons as shall be necessary to supply the Vacancy or Vacancies; and the Governor or Acting Governor for the Time being of the said Colony, with the Advice of the Council to be appointed as aforesaid, or the major Part of them, shall have Power and Authority to make Laws and Ordinances for the Peace, Welfare and good Government of the said Colony, such Laws and Ordinances not being repugnant to this Act, or to any Charter or Letters Patent or Order in Council which may be passed in pursuance hereof, or to the Laws of *England*, but consistent with such Laws, so far as the Circumstances of the said Colony will admit: Provided always, that no Law or Ordinance shall be passed or made, unless the same shall first by the said Governor or Acting Governor be laid before the said Council, at a Meeting to be for that Purpose convened by a written Summons under the Hand of such Governor or Acting Governor, to be delivered to or left at the usual Place of Abode of the Members of such Council respectively; provided also, that in case all or the major Part of the Members of the said Council shall dissent from any Law or Ordinance proposed by such Governor or Acting Governor at any such Meeting as aforesaid, the Members of the said Council so dissenting shall enter upon the Minutes of such Council the Grounds and Reasons of such their Dissent, and in every such Case such proposed Law or Ordinance shall not pass into a Law; provided nevertheless, that if it shall appear to the Governor or Acting Governor for the Time being of the said Colony, that such proposed Law or Ordinance is essential to the Peace and Safety thereof, and cannot without extreme Injury to the Welfare and good Government of the said Colony be rejected, then and in every such Case, if any one or more Member or Members of the said Council shall assent to such proposed Law, the said Governor shall enter upon the Minutes of the Council the Grounds and Reasons of such his Opinion; and in every such Case, and until the Pleasure of His Majesty, His Heirs and Successors, shall be made known in the said Colony respecting the same, such Law or Ordinance shall be of full Force and Effect in the said Colony, and the Dependencies thereof, any such Dissent as aforesaid of the Majority of the Members of the said Council notwithstanding."

Clause xxv empowered the governor or acting governor to make laws for the suppression of actual or apprehended rebellious or insurrections notwithstanding the dissent of every member of the council.

Clause xxvi provided that His Majesty in Council might establish any law dissented from by the council.

Clause xxvii limited the imposition of taxation by the governor and council to local purposes.

Clause xxviii made perpetual the operation of the statute, 59 Geo. III, cap. cxiv, which related to the imposition and levying of duties.

Clause xxix provided that no law should be passed by council, until a copy had been laid before the chief justice and his certificate obtained that it was not repugnant to the laws of England.

Clause xxx enacted that all acts of council should be transmitted for the approbation of His Majesty within six months of the date of passing (*see* note 113).

Clause xxxi provided that all acts and orders of council should be laid before both houses of parliament in England.

Clause xxxii provided that all members of council should be *ipso facto* magistrates; established the precedency of members; and specified the oath of office to be taken.

Clause xxxiii provided for vacancies amongst the members of council.

Note 45, page 198.

John Stephen, Esqre.

John Stephen was the son of James Stephen, a Scotchman, and was born in the year 1771. He was the youngest brother of James Stephen, who became master in chancery in England, and was an active participant in the agitation for the abolition of slavery. Before coming to the colony, John Stephen had held official legal appointments in the West Indies. He was appointed a judge of the colony in 1825 (*see* page 841 *et seq.*). He resigned on the 1st of January, 1833, and died at Sydney on the 21st of December, 1834. He was the father of Sir Alfred Stephen, afterwards chief justice and lieutenant-governor of the colony.

Note 46, page 201.

An Admeasurement of an Arc of the Meridian.

Some instruments were sent out for the purpose of undertaking this work, but nothing was attempted until after the departure of Sir Thomas Brisbane. On the 4th of July, 1826, the matter was brought before the executive council in consequence of a letter from Alexander Macleay. A plan for carrying out the work was submitted by Charles Rumker at the same time. The proposal was then adopted and authorised by the council (*see* volume in series VI).

Note 47, page 213.

The decision.

The "decision" was given by Sir Thomas Brisbane, and not by the board of inquiry (*see* note 32). It was contained in a letter from Frederick Goulburn to George Druitt. After reciting the evidence that had been elicited of the malversation of government property, Goulburn stated that the governor had decided to withhold the grant to Druitt in the words quoted on page 213.

Note 48, page 213.

A Letter.

The particulars relating to the land reserved for George Druitt were detailed by Governor Macquarie in his despatch dated 13th August, 1821 (*see* page 542 and also note 120, volume X).

Note 49, page 215.

To examine Port Bowen, Port Curtis and Moreton Bay.

Port Bowen had been discovered by Matthew Flinders on the 21st of August, 1802. He named it after James Bowen. Port Curtis was discovered by Flinders fourteen days earlier, and named after Sir Roger Curtis, admiral at the Cape of Good Hope. Both these harbours were unnoticed by James Cook in H.M.S. *Endeavour*. An indent in the coastline was discovered by James Cook on the 17th of May, 1770, and he named it Morton bay, probably after the 16th Earl of Morton, president of the Royal Society from 1764 to 1768. Flinders visited Moreton bay in July and August, 1799, remaining there fifteen days in the brig *Norfolk*.

Note 50, pages 217 and 224.

Marked A.—Correct map.

This map will be found in the volume of charts and plans.

Note 51, pages 223 and 224.

Journal.

This journal will be found in a volume in series V.

Note 52, page 224.

The Echo Whaler, which ship was cast away on Wreck Reef.

The *Echo*, whaler, had sailed from England on the 18th of October, 1819, on a whaling voyage to New Zealand. On the 21st of April, 1820, she was lost on the reef, which had caused disaster to the ships *Porpoise* and *Cato* in 1803 (see note 140, volume IV). The crew were successful in saving two boats, and in them they set sail for Port Jackson on the 13th of June. One boat, under the chief officer, Lowe, reached Sydney on the 5th of July, whilst the other, under the captain, Spence, was picked up by the ship *Cumberland* off Moreton island. It is possible that the articles discovered by John Oxley had been carried in the last-mentioned boat.

Note 53, page 226.

Under Secretary.

By this request, Sir Thomas Brisbane intended the appointment of an assistant secretary to Frederick Goulburn, the colonial secretary. Such an office was never created. A second under secretary in the colonial office, England, was appointed in 1825 (see page 688).

Note 54, page 227.

A proposition.

Philip Parker King returned to England at the beginning of the year 1823, after completing his survey of the northern coasts of Australia. At that time, considerable attention was given to the problem of the development of British trade in the East Indies. The island of Java had been restored to the Dutch after the conclusion of the war, and a new settlement had been formed at Singapore; but it was felt that further expansion was necessary. When King reported favourably on the possibilities of settling in north Australia, the opportunity was taken, and the expedition under James John Gordon Bremer was despatched to found a settlement.

Note 55, page 230.

At the 58th page . . . of the Report of Mr. Commissioner Bigge.

At the 60th (not the 58th) page of his second report, J. T. Bigge recommended that courts of conscience should be established under a commissioner. He further proposed that the jurisdiction of magistrates under Governor Macquarie's proclamation of the 21st of November, 1818, should be continued, and "that an appeal from their decision should be given to the commissioner of the Court of Conscience."

Note 56, page 235.

The charge preferred against him by Mr. Moody.

The particulars relating to this charge will be found on page 661 *et seq.*, volume X.

Note 57, page 235.

The general instructions.

These instructions were contained in Earl Bathurst's despatch dated 31st May, 1823 (see page 87).

Note 58, page 236.

One of the earliest.

Edward Lord had been a lieutenant of the marines who formed the guard in the expedition under lieutenant-governor Collins for the formation of a settlement at Port Phillip in 1803. When the establishment was removed from Port Phillip to Hobart, in 1804, Lord accompanied it. Subsequently he occupied several important positions in the infant Tasmanian settlement, and, after the sudden death of Collins in March, 1810, the command at Hobart devolved on him as senior officer on the establishment.

Note 59, page 243.

The prepared tables.

Copies of these tables are not available. Returns in a modified form were forwarded by Sir Thomas Brisbane with his despatch dated 28th January, 1824 (*see* page 206 *et seq.*).

A despatch similar to the one printed is preserved in the chief secretary's office at Sydney, and is signed by Earl Bathurst.

Note 60, page 251.

Widow of Sir Jno. Jamison.

This is a mistake in the original. The pension was granted, from the 27th of January, 1811, to the widow of Thomas Jamison, who had arrived in the colony as surgeon's first mate on H.M.S. *Sirius* in 1788, and had held subsequently the appointments of assistant and principal surgeon on the colonial establishment. Sir John was the son of Thomas Jamison (*see* note 58, volume VIII).

Note 61, page 254.

The Dispatch.—Your Lordship's first order.

The references were to Earl Bathurst's despatches dated 31st July, 1823 (*see* page 92), and 10th July, 1822 (*see* page 655, volume X).

Note 62, page 256.

Represented to Your Lordship.

The representations were contained in the despatch dated 11th February, 1824 (*see* page 226).

Note 63, page 257.

A Copy of which is herewith transmitted.

This letter does not appear amongst the enclosures to this despatch. A copy of it, marked I, will be found on page 708.

Note 64, page 257.

Also page 258.

His Commission.

The commission of Frederick Goulburn as colonial secretary will be found on page 664, volume X.

Note 65, page 263.

The retiring Allowances to former Governors.

These allowances were as follows:—Arthur Phillip, £500 *per annum*; John Hunter, £300 *per annum*; widow of Philip Gidley King, £200 *per annum*; William Bligh, £200 *per annum*.

Note 66, page 284.

A challenge to the Colonial Secretary.

On the 27th of January, 1825, James Hall wrote to under secretary Horton, and denied that the letter he sent to secretary Goulburn was intended for a challenge. He stated that he had embarked on a Friday evening for his return to England on a ship expected to sail on the following Sunday. At that time he was distracted by news he had received of his wife's serious illness in England, and, when he found his name was not in the list of passengers to sail on the ship, he wrote in haste to Goulburn.

Note 67, page 302.

The new Charter of Justice.

This was the third charter which had been promulgated in the colony. A copy of it will be found in a volume in series IV. By this charter, the offices of judge-advocate and judge were abolished, and a chief justice was appointed.

Note 68, page 305.

Also pages 306, 563, and 591.

A Company.

A proposal had been made to Governor Macquarie for the formation of a joint stock company to follow agricultural and pastoral pursuits. J. T. Bigge had discussed this proposal, and strongly recommended any similar corporation for the development of the country. In April, 1824, a meeting was held in the chambers of John Macarthur, jr., in Lincoln's inn, London, to consider the formation of a company. There were present John Smith, M.P., Sir Robert Farquhar, Bart., James Brogden, M.P., Stewart Marjoribanks, M.P., William Ward, Richard Mee Raikes, J. H. Palmer, G. G. de Hochepeid Larpent, Thomas Tooke, George Brown, and Donald Maclean, besides John Macarthur. It was then decided to form the company. As the result of this meeting, the proposals dated 22nd May, 1824 (*see page 592 et seq.*), were submitted to and accepted by the government.

Note 69, page 305.

The recommendation.

In his report on the state of agriculture and trade (page 18), J. T. Bigge criticised the proposal that had been made to Governor Macquarie in the year 1820 "for the establishment of a joint stock company in New South Wales for the growth and production of fine wool." He concluded by stating, "upon the expediency of promoting in the colony of New South Wales the growth of fine wool, and creating a valuable export from thence to Great Britain, no doubt can be entertained, as it appears to be the principal, if not the only source of productive industry within the colony, from which the settlers can derive the means of repaying the advances made to them from the mother country, or supplying their own demands for articles of foreign manufacture."

Note 70, page 311.

Also pages 314 and 318.

A Grant of Land.

The particulars relating to the grants of land to his children by Governor King have been noted in the introduction to volume V (*see page x*). As the grant of six hundred and sixty acres to P. P. King bears the same date and

is registered adjacent to a grant to Mrs. Mary Putland, and as the latter was clearly as irregular as the three grants to William Bligh (*see* page xv, volume IV), it is probable that the grant to P. P. King was also irregular. The grantee was only fourteen years of age when he received the grant.

Note 71, page 321.

I directed your attention.—Any of those Places.

Earl Bathurst suggested the formation of a penal settlement at Moreton bay in his despatch dated 9th September, 1822 (*see* page 791, volume X). J. T. Bigge, in his first report (page 164 *et seq.*), recommended that settlements for convicts should be formed at Moreton bay, at Port Curtis, and at Port Bowen.

Note 72, page 330.

Also page 335.

The suggestion of The Commissioner.

J. T. Bigge reported that "it was proposed that for persons, who brought out real capitals amounting to £500, there should be granted 500 acres; £750, 640; £1,000, 800; £1,500, 1,000; £1,700, 1,280; £2,000, 1,500; £2,500, 1,760; and £3,000, 2,000 acres." He then made the recommendations which are contained in note 28.

Note 73, page 333.

Instructions from Lord Bathurst.

Instructions were given by Earl Bathurst on the valuation of lands in three grades in his despatch dated 31st May, 1823 (*see* page 87).

Note 74, page 336.

The correspondence.

The official correspondence of the early governors was regarded by them as their private property. Governor Bligh complained that he possessed extracts only from the despatches to Governor King (*see* note 50, volume VI). The practice adopted by the governors of New South Wales was common to the administrators of colonies and foreign settlements. In consequence, Earl Bathurst issued a circular despatch, dated 30th April, 1822 (*see* page 800, volume X), directing that all public despatches and documents were to be delivered to his successor by a governor on retiring from the administration.

Note 75, page 338.

The Ship of War.

The next vessel to be stationed in colonial waters was H.M.S. *Slaney*, commanded by Charles Mitchell. She arrived in Port Jackson on the 16th of December, 1824.

Note 76, page 339.

The state of Crime.

A return giving particulars of trials before the court of criminal jurisdiction from the year 1819 to 1824, both inclusive, was forwarded by Sir Thomas Brisbane with his despatch dated 28th January, 1825 (*see* pages 478-479).

Note 77, page 339.

A Vessel.

This was the ship *King George*, of 185 tons, which was launched on the 30th of April, 1805 (*see* note 234, volume V).

Note 78, page 341.

Revd. John D. Lang.

John Dunmore Lang, D.D., A.M., arrived in the colony in May, 1823. In the same year his younger brother arrived and obtained a land grant of 1,000 acres, and in January, 1824, his father, W. Lang, landed and subsequently obtained a land grant of 2,000 acres. His forefathers had resided for upwards of a hundred and fifty years on a small property, which had formed part of the family estates of Sir Thomas Brisbane, and which was sold in order to emigrate to New South Wales. This fact was used by the opponents of Sir Thomas Brisbane in an attack on his administration in relation to the Presbyterian church.

Note 79, page 342.

The building.

This is the Scots church, which stands at the corner of Jamison and York streets. The foundation-stone was laid by Sir Thomas Brisbane on the 1st of July, 1824.

Note 80, page 346.

Also page 608.

The Memorial.

The memorial was dated 4th August, 1823, and the reply 24th September following. Both were published in the *Sydney Gazette*, dated 25th September, 1823. In the memorial assistance was requested for the erection of the Scots church, one reason advanced being the grant already given to the Roman Catholic chapel. Sir Thomas Brisbane somewhat curtly refused the request, stating that the Roman Catholics received no assistance until three priests had been resident in the colony more than three years, and by their exertions had proved their value to the community, and until the erection of the chapel had been proceeding for eighteen months with funds raised by their own congregation.

Note 81, page 348.

The directions.

Directions for the employment of convicts were contained in Earl Bathurst's despatch dated 30th May, 1823 (*see* page 85).

Note 82, page 350.

The persons.

One of these assistant surveyors was James Byrn Richards, who was recommended by Earl Bathurst in a despatch dated 1st October, 1823 (*see* page 138).

Note 83, page 351.

In his Report.

J. T. Bigge stated (3rd report, page 36) that "the business of the surveying department had fallen into arrear, either on account of the disproportion of the establishment to the increase of business in it, or the frequent interruptions occasioned by the long absences of Mr. Oxley, Mr. Meehan, and Mr. Evans, on tours of discovery; and by the distances at which the operations of admeasurement were to be executed." As a result, intending settlers experienced many disadvantages. He recommended that there should be an

entire separation of the departments of the surveyor-general in New South Wales and Tasmania, and that there should be a surveyor-general in each colony, with three assistant surveyors in the former and one in the latter.

Note 84, pages 351 and 353.

A Letter.

This letter was dated 28th January, 1824 (*see* page 307).

Note 85, page 357.

A respectable situation.

In his despatch dated 21st February, 1824 (*see* page 230), Sir Thomas Brisbane reported that he had nominated H. G. Douglass to the position of commissioner of the courts of request.

Note 86, page 359.

The said Cause.

This suit was an action for the recovery of £20,226 5s. 2d. brought in the supreme court.

Note 87, page 360.

Also page 367.

The time limited.

In the second charter of justice, it was enacted that an appeal from the decision of the governor, sitting in court of appeal, to the privy council must be interposed within fourteen days after delivery of the judgment.

Note 88, page 367.

Copies of declarations.

The declaration of Hannibal Macarthur is the only one available. Of the documents referred to in the despatch, the resolution of the Parramatta bench of magistrates, Frederick Goulburn's letter of the 21st of August, the magistrates' reply of the 22nd August, and the statement by the magistrates of the colony will be found on pages 751, 773, 774, and 763 respectively in volume X.

Note 89, page 371.

The annual Stipends of those Gentlemen.

The stipend of the Revd. Samuel Marsden had been £350; of the Revd. William Cowper, £260; of the Revd. Robert Cartwright, £240; and of the Revd. Henry Fulton, £182 10s. 0d. *per annum*.

Note 90, page 375.

A Memorial.

A copy of this memorial will be found in a volume in series VII.

Note 91, page 380.

The Revd. Thomas Reddall.

The Revd. Thomas Reddall was appointed an assistant chaplain to the colony in the year 1820. At the same time, he was appointed schoolmaster for a limited period, with the object of introducing Dr. Bell's system of

education into the schools of the colony (*see* page 304, volume X). He submitted a report to Governor Macquarie on his progress on the 15th of March, 1821 (*see* page 441, volume X). He himself maintained a school at Macquarie fields, which was attended by the son of Governor Macquarie.

Note 92, page 383.

The Chapel.

The foundation-stone of this church was laid by Governor Macquarie on the 29th of October, 1821. It was erected near the corner of College and Cathedral streets, and formed the first St. Mary's cathedral. This building was totally destroyed by fire on the 29th of June, 1865. The extensions to the present cathedral are now (1917) being erected on the site it formerly occupied.

Note 93, page 385.

Your Lordship's instructions.

These instructions were contained in a despatch dated 30th May, 1823 (*see* page 86).

Note 94, page 386.

I had the honor of representing.

This representation was contained in a despatch to Sir Herbert Taylor, dated 4th March, 1822 (*see* page 628, volume X).

Note 95, page 406.

A Colonial Council.

The creation of a council had been under consideration before the arrival of Governor Macquarie in the colony. T. W. Plummer, in a semi-official letter to Macquarie, dated 4th May, 1809 (*see* page 198 *et seq.*, volume VII), had recommended the formation of a council to act in an advisory capacity to the governor. This council was to consist of five official members and two elected by and from the magistrates. The select committee of the House of Commons on transportation, which sat in 1812 under the chairmanship of the Hon. George Eden, made a similar recommendation. This proposal was strongly opposed by Earl Bathurst and Governor Macquarie (*see* pages 675 and 780, volume VII). For some years after, the subject gained no official recognition; but it was frequently the subject of discussion amongst people interested in the colony, and was mentioned several times in official addresses. In the meantime, the old method of making laws for the colony by the issue of general orders and proclamations by the governor was continued. With the advent of educated lawyers in the colony after the promulgation of the second charter of justice, in the year 1814, this system became frequently the subject of challenge. Some amendment became necessary, and by the passing of the statute 4 Geo. IV, cap. xcvi, a council was established (*see* note 44). The governor still remained the supreme power, but much responsibility was shared by the council, and the former system of general orders was discontinued.

Note 96, page 414.

The eighth article of the instructions.

The article relating to the restriction of the traffic in spirits was numbered six (*see* page 598, volume X).

Note 97, page 419.

The first Archdeacon.

The first chaplains had been appointed, like all other officers then in the colony, by commission from the King, and were subject to orders and directions "according to the rules and discipline of war." In the first instance, therefore, the chaplains were under the immediate control of the governor. As the colony developed, more chaplains were sent out, who, on their arrival, received their nominations to the different chaplaincies from the governor. The military disciplinary clause was then omitted from their commissions, and by an order of Governor Macquarie, dated 15th September, 1810, they were placed "under the immediate control and superintendence of the principal chaplain." In the year 1819, an English statute, 59 Geo. III, cap. lx, was passed, providing for the ordination of clergy for the colonial service (see page 198, volume X).

Note 98, page 424.

His Majesty's Warrant.

This warrant will be found on page 195.

Note 99, page 429.

Also pages 444 and 589.

To relieve you from the exercise of the Government of New South Wales.

The decision to recall Sir Thomas Brisbane and secretary Goulburn was acted on promptly. Lieutenant-general Darling and Alexander Macleay were selected as their successors before the dates of Earl Bathurst's despatches (28th and 29th December, 1824) notifying their recall. Darling immediately commenced the study of the problems of administration, and, as early as the 18th of January, 1825, wrote requesting the employment of a company of the staff corps in the colony. The King's instructions to Darling were not dated until the 17th of July, and his commission until the 16th of August, 1825 (see volume XII).

Note 100, pages 430 and 431.

My Despatch No. 13.—A Proclamation.

This despatch and proclamation will be found on page 409 *et seq.*

Note 101, page 434.

The decisions.

In the record office, London, a draft of a letter, dated 3rd November, 1824, intended to be written by Earl Bathurst to Sir Thomas Brisbane, is preserved. It is of interest as showing the development of the idea for the settlement of the crown lands in the colony. The draft is as follows:—

"Sir,

"In my Dispatch of this date enclosing a Warrant, under His Majesty's Sign Manual, for the erection of a Corporation for the management of the Clergy and School Estates in New South Wales, I have pointed out to you that a general Survey and Division of the Colony into Counties, Hundreds and Parishes, is a measure intimately connected with the effectual Administration of Justice, and with the Settlement of the Uncultivated Lands. I have therefore drawn your attention to those introductory parts of the

Warrant by which provision is made for the erection of Counties, and for their Subdivision into Hundreds and Parishes. I now propose to communicate to you the final decision of His Majesty's Government upon the System, which it is proper to pursue in the Granting of Waste Lands, a subject second in importance to none relating to the Government of the Colony, and closely connected with that territorial Division, which it is one of the objects of His Majesty's Warrant to establish.

"2nd. Much discussion has already taken place between yourself and this Department on the Subject of the Conditions, upon which Waste Lands ought to be granted. From your Dispatch of ———, and from the Proclamation which appeared in the *Sydney Gazette* of ———, it appears that you misunderstood the Instructions, which I communicated to you on this Subject in my Dispatch of ———. To prevent any further misconception, I now transmit to you the Draft of a Proclamation, which expresses in detail the various regulations, which I conceive it will be right to lay down for the guidance of the Colonial Government, and for the information of the Colonists and future Settlers.

"3rd. After a full and careful consideration of every document which you have transmitted, and after weighing attentively Such information as I have been able to collect, it has appeared to me that, under the peculiar circumstances of New South Wales, the following are the principles upon which it is most wise to act in the granting and Settlement of uncultivated Lands."

[Paragraphs 4 and 5 were the same as paragraph 24 on page 439 with slight textual variations.]

"6th. For the reasons assigned in the Preceding Paragraphs, I have deemed it right, throughout the Proclamation which I now enclose, to bear constantly in View the principle, that the possession or at least the Command of Capital are essential qualifications of every agricultural Settler in New South Wales. I have anxiously considered what was the best criterion for deciding whether individual Settlers possessed this qualification to the requisite extent. The result of my deliberations on this Subject is embodied in the Proclamation itself; but as it is unavoidably drawn up in the technical and formal Style appropriate to Instruments of that nature, I proceed to explain more distinctly in this place the principles, by which I have been governed in framing it."

[The beginning of paragraph 7 was the same as paragraph 26 on page 440 with slight textual variations.]

"The Proclamation therefore provides that the Surveyor General of the Colony, either in his own person, or acting, when necessary, by Deputy, shall make a valuation of all the Lands throughout that part of the Colony which has hitherto been in any degree occupied; and as future extensions of the Colony shall be made, similar valuations will take place. The result of these Valuations will be made publicly known, and the price ultimately fixed by the Surveyor General will be what may be termed the *Upset* price. In each Parish, into which the Colony is to be divided in pursuance of His Majesty's Warrant, an average price of Land is to be formed. This Average will be fixed at such a rate as to encourage purchasers, who will have the further benefit of a reduction of 10 per cent. as a discount for prompt payment. It is further provided that the whole of the purchase money should be returned without Interest, if, within ten years, the purchaser shall make out that he has relieved the public from a charge equal to ten times its amount by the employment of Convict Labourers. In stating this account, he will have credit to the amount of £16 for every Convict he may have employed and wholly maintained for 12 months. As a general rule, the highest offer will, of course, be accepted. I have not, however, deemed it right to lay down this rule in the Proclamation itself, because I am unwilling absolutely to fetter

your discretion as to rejecting the offer of any person whom you may deem, on public grounds, unfit to become a considerable proprietor of Land in the Colony. Offers to purchase, however, will not be rejected except on clear and weighty reasons, for, upon a large and general view of the Subject, the interest of the Colony will generally be promoted in proportion as men of real capital become the purchasers and proprietors of the Soil.

“8th. There is, however, a limitation to the power of purchasing which I have thought it right to make. My object is to encourage the real Settlement of Capitalists proposing to embark their fortunes in Agriculture. I am not less desirous to discourage the Speculations of mere jobbers in Land. It is therefore directed that no person shall be at liberty to purchase more than 10,000 acres of land, except under a Special Order from this Department.

“9th. The Lots of Land to be put up for sale will generally be to the extent of 1,920 acres, Subject of course to Variations under particular and accidental circumstances. To prevent uncertainty and confusion respecting the Lots thus offered for Sale, and indeed with a view to other and not less important objects, the Surveyor General is required by the Proclamation to prepare Charts of each County, with division lines, by which the whole Territory will be divided into Lots of 640 Acres each. He is also required to prepare Schedules in which the natural or artificial Land marks corresponding with the Division Lines will be defined. The Biddings for Land, therefore, will be made and all the Sales of Land effected in reference to the descriptions and divisions contained in the Schedules and public Charts.

“10th. A considerable degree of importance is to be attached to the preservation of an uniform System in the mode of applying for Lands and of granting them. As the Grants, now to be issued, will form the basis of the Titles of all Estates in the Colony in future generations, it is very material that they should be at once as simple and as efficient as possible. For this reason, there are subjoined to the Proclamation two Schedules, the first containing the form of an Application to become the purchaser of Lands, the Second, the form of Conveyance which is to be made to such Purchaser.

“11th. The Second Class of Settlers are those who are unable to purchase Land which they propose to cultivate, and who therefore desire to receive a grant of it from the Crown Subject to a certain and moderate Quit rent. The Regulations, which it has been thought proper to adopt with respect to this Class of persons, are as follows:—

“12th. It being peculiarly necessary that you should receive precise information respecting the character and circumstances of this Class of Persons, a distinct form is prescribed in the Third Schedule, annexed to the Proclamation, in which alone every application of this Kind is to be made. You will observe that this form imposes on the Applicant the necessity of Stating every material circumstance relative to the place of his Birth, Family, Trade and Property, the persons to whom he is known, and the general mode in which he proposes to cultivate the Land for which he Solicits.

“13th. The largest quantity of Land to be granted to Settlers of this Class is 2,560 Acres, and the Smallest quantity 320 Acres. The latter regulation is intended to prevent the System of cultivation in very small farms, a System which experience demonstrated to be equally unfavorable to the welfare of the individual cultivator and to the general interest of Society.

“14th. As it is of the utmost importance to maintain the principle that Lands are to be granted only to persons able and willing to cultivate them with effect, I have caused provisions to the following effect to be introduced into the Proclamation. As a general rule, it is required that (in case of persons applying for Grants of Land without purchase) you should be satisfied of the ability and intention of the Applicant to expend a sum equal to one

fourth of the price at which the Lands for which he may apply have been Valued. I am aware that there may be considerable difficulty in obtaining any precise and positive proof of a fact of this nature. You will, however, understand that the Evidence is not to be such as would be required if the question were in dispute before a Court of Justice. The intention of the Proclamation is merely that you should receive Such a degree of proof as may induce a reasonable conviction that the Applicant possesses such property, and is disposed so to employ it. As a further criterion of his real resources and intentions, it is provided that every Grantee of this Class shall be bound at the expiration of seven years to prove to the Satisfaction of the Surveyor General that he has actually expended the necessary Capital, equal to one fourth of the estimated Value, in the cultivation or improvement of the Land, under pain of forfeiting his Grant if he fails to establish that fact. Particular cases may of course arise, in which it might be unjust or inexpedient to enforce this forfeiture. Respecting Such cases, the Proclamation is silent, the object of it being merely to lay down the general rule. You will, however, be at liberty to exercise a discretion as to enforcing forfeitures when they may occur, or granting any reasonable indulgence or delay to unfortunate persons whose non-compliance with the rule may be reasonably attributed to circumstances beyond his own control.

“15th. Whenever Grants are made without purchase, the Proclamation requires that a Quit rent should be reserved. The Amount of this Quit Rent will be estimated in reference to the average valuations of Land throughout the Parish. It is fixed in the Proclamation at 1/20th part of, or £5 per cent. upon, that average value. It is proposed that this Quit Rent should be made redeemable at any time within twenty five years, upon payment into the Colonial Treasury of a Sum equal to twenty times the annual amount of it; or, in other words at twenty years purchase. As an encouragement to this Class of Settlers to relieve the public revenue from the charge of maintaining convicts, it has also been decided that, in estimating the money to be paid for the redemption of the Quit rent, the Grantee should have credit for the sum of £16 for every convict, whom he may appear to have maintained for one year at his own expence in the cultivation of his Lands. The Quit rent will not be payable during the Seven Years immediately following the execution of the Grant. This indulgence has appeared to me necessary in order to enable the Grantee to devote, during that period, the whole of his resources to the improvement of the Land, nor could it indeed be reasonably expected that, during his early struggle with the difficulties of his new situation, he should be able to pay any rent for his Land to the Crown. The reason of this indulgence however does not apply to the case of Grantees, who having been previously Settled in the Colony may receive, without purchase, augmentations of their former Grants; and in those cases, therefore, the Proclamation does not authorize You to forego the claim for an immediate Quit-rent.

“16th. The conditions of Grants, made without purchase and therefore Subject to a Quit rent, differ so essentially from those of Grants which may be made to persons purchasing their Lands, that it has appeared necessary to prescribe a separate form in which all Grants without purchase are to be effected.

“17th. In reference to the Proclamation, it only remains for me to observe that I have deemed it proper to require that all official correspondence on the Subject of Grants of Land should pass through the Surveyor General's Office, and be there recorded, a precaution peculiarly necessary to prevent these mischiefs, which have already arisen in the Colony, from persons advancing Claims to Grants of Land under colour of promises said to have been made to them by the Local Government. Too much precision cannot be observed in every transmission which may form the foundation of a claim of this nature.

“ 18th. Although His Majesty is, beyond all question in right of His Crown, the proprietor of all Waste Lands in the Colony, and is therefore competent, in the exercise of His Royal Prerogative, to make Grants of that Land under such conditions as he may see fit to impose, yet there are some highly important Regulations which cannot be made effectually except in the form of a positive Law or Statute. I refer especially to those Rules, by which the Grantees of Land throughout the Colony may be compelled at their own expence to make and keep up outward Fences for dividing distinct Grants from each other, Roads, Bridges and other necessary internal communications, Drains, Common Sewers, and other Works, necessary for the convenient and profitable occupation of any particular district. I need scarcely point out to you the necessity of effectually providing for these objects, or the difficulty of making provision for them except by a Legislative Act, or Acts, carefully prepared for that purpose. You will therefore direct the Attorney General of the Colony to prepare the Drafts of Such Laws, as it may be necessary to lay before the Legislative Council for securing the effectual, punctual and economical performance of Public Works of this Nature, upon such principles as a fair and impartial consideration of the Interests of the various parties concerned may Suggest.

“ 19th. Though the conditions of forfeiture are imposed by the Grants of the Crown, yet they cannot be enforced in practice except through the medium of a legal process, of a character so elaborate and difficult, as to afford to the Grantee very numerous chances of escaping the penalty. In Some of His Majesty's North American Colonies, the necessity of providing a more simple and summary method of proceeding to enforce forfeitures to the Crown has been acknowledged, and Legislative provision has been made for this purpose. The enactment of a similar Law in New South Wales seems for many reasons peculiarly necessary. You will therefore direct the Attorney General of the Colony to prepare the Draft of an Act for this purpose. The details of such a measure must be left to the professional and local Knowledge of those, who will be consulted respecting them. They must, however, be such as greatly to abridge and simplify the method of proceeding in parallel Cases in this Country, which is plainly inapplicable to the condition of the Colony under Your Government.

“ 20th. In the preceding Paragraphs of this Despatch, I have entered thus fully into this important and difficult Subject, from a conviction of the necessity of terminating the discussions to which it has given occasion and of providing some uniform, plain and permanent rules for the guidance of the local Government and of persons Settling in the Colony. You will therefore understand that the present Dispatch, and the Proclamation which it encloses, contain the final decision of His Majesty's Government upon such various questions connected with the Settlement of the Colony which has been brought under my notice. I am, however, aware at this distance from the Country to which these rules are to apply, it is barely possible to avoid some inaccuracy or error in the Subordinate details of a general plan of this nature. Before you make the Proclamation public you will therefore convene your Council, and call upon them to furnish you with their opinion respecting the necessity of modifying any of its details, the better to adapt it to local circumstances. You are authorized to make any correction in it, in which the Council shall concur, and which shall not infringe any of the general principles upon which it proceeds. The more clearly to assist you in distinguishing to what extent these corrections may take place, I inclose a copy of a Paper, which will henceforward be communicated to all persons proceeding to the Colony, as explanatory of the conditions upon which grants will be made. You are not authorized to make any correction, inconsistent with the statement contained in this Paper, since otherwise the utmost confusion and the most painful

disappointments must arise. You will understand it to be your duty to publish the Proclamation in at least four Successive *Gazettes* of the Colony with all convenient speed, after you have taken the opinion of the Council upon the questions of detail which are to be submitted to them.

"This is a measure of the highest importance to the prosperity of the Colony, and which therefore must on no account be omitted or needlessly delayed. You will, therefore, transmit to me by the first opportunity the result of the deliberations of the Council, with duplicate Copies of the *Gazettes* containing the Proclamation.

"I have, &c.,

"BATHURST."

Note 102, page 434.

In his Agricultural report.

In his third report, page 49, J. T. Bigge strongly recommended, in order "to facilitate the location of land to settlers on their arrival from England, . . . that the country intended to be settled should be previously surveyed and laid out in districts, subdivided into farms of such sizes as are usually granted; and that with reference to the locality of the country, and its natural boundaries, each district should not contain more than thirty-six square miles."

Note 103, page 435.

*That part of the territory which has already been divided into Counties.
A survey of the whole Colony.*

Five counties had been formed in the colony, and were named Cumberland, Westmoreland, Camden, Argyle, and Northumberland. These names are still retained, but the boundaries of the last four have been altered. Cumberland, as at present, was bounded on the north by the Hawkesbury river, on the west by the Nepean river, on the south by the Cataract river, and on the east by the sea coast. Westmoreland was bounded on the east by the Blue mountains, and on the west it extended to include the country around Bathurst; the modern county is limited on the north by the Fish river, and on the west by Campbell river. Camden was bounded on the north by Cumberland, on the east by the sea coast, on the south by the Wingecarribee river, on the south-east by the Shoalhaven river, and on the west by the Warragamba river, which was supposed to follow the course now called the Wollondilly river; the modern county is extended towards the south-west. Argyle lay to the south-west of Camden, was bounded on the north by the Wingecarribee, Cookbundoon and Wollondilly rivers, and on the east by the Shoalhaven river. Northumberland lay to the north of Cumberland, and included the Hunter river valley.

The first reduced map of the colony had been prepared by G. W. Evans.

Note 104, page 444.

Charter of Incorporation.

As a result of this charter, on the third of February, 1829, the following grants were made to the clergy and school estates:—85,388 acres at Beaufort, Belubula, Calvert, Errol, and Lindesay; 17,600 acres at Oakley, Bathurst; 15,464 acres at Queen Charlotte's Vale; 17,640 acres at Ponsonby, Bathurst; 9,063 acres in Camden; seven grants in the following parishes in the county of Cumberland—60 acres in Gordon, 100 and 1,000 acres in St. Peters, 661 and 1,284 acres in Saint Luke, 8,138 acres at Rooty hill, and 4,175 acres at

Botany; 42,467 acres in St. Vincent; 168,000 acres at Port Stephens; 2,810, 2,256, 1,908, 2,230, 1,560, and 2,429 acres in the county of Durham; and 2,322, 2,128, 2,040, and 2,560 acres in the county of Northumberland. On the 26th of August, 1829, further grants were made, viz.:—830 acres at Prospect; 200 acres at Castle Hill and South Colah; 4,250, 4,298, 2,600, 2,552, and 2,560 acres in the county of Durham; 3,840, 2,472, and 2,314 acres in the county of Northumberland. On the 24th of November, 1829, a grant of 435 acres was made in the district of Petersham; this area included Glebe point, Sydney. On the 12th of May, 1830, the last grant of 400 acres at Castlereagh was made.

Note 105, page 458.

Recommended in Mr. Bigge's Report.

J. T. Bigge's criticism and recommendations for the reform of the police department will be found on page 62 *et seq.* of his second report, which was ordered by the House of Commons to be printed on the 4th of July, 1823.

Note 106, page 458.

Marriage.

In 1823 James Bowman married Mary, the second daughter of John Macarthur, of Camden.

Note 107, page 459.

The Officer.

On the 5th of May, 1818, D'Arcy Wentworth tendered his resignation as principal surgeon of the colony, and James Bowman was appointed to the vacancy. He arrived in the colony to take up the duties of his office on the 26th of September, 1819.

Note 108, page 460.

The despatches.

Mr. Lethbridge had charge of one set of the despatches numbered from 31 to 36 of the year 1821 (*see* page 566 *et seq.*, volume X). The other set were carried by Governor Macquarie himself in the ship *Surrey*. He carried also the duplicates of the despatches sent *per* ship *Duchess of York* (*see* page 549 *et seq.*, volume X).

Note 109, page 461.

The loss of the Ship "Sydney."

The ship *Sydney* was chartered (*see* page 699 *et seq.*, volume V) by Governor King to procure a cargo of provisions for the colony. She cleared for Calcutta on the 14th of April, 1806, and during the outward voyage was wrecked on a reef off the coast of New Guinea. All her crew were saved and arrived at Calcutta, *viâ* Penang, on the 9th of October, 1806.

Note 110, page 462.

My Dispatch of this day.

There is no record available of a despatch by Earl Bathurst to Sir Thomas Brisbane specially relating to the appointment of H. G. Douglass as clerk of the council. The reference may be to an official notification to Douglass himself.

Note 111, page 470.

Also page 596.

“*The Australian*” Edited by Doctor Wardle.

“*The Australian*” was a newspaper of four pages, published weekly, price one shilling. Subsequently it was published twice a week. The first number was dated Thursday, 14th October, 1824. In a memoir, published in 1843, William Charles Wentworth stated:—“Being shortly after this (1819) called to the Bar, Mr. Wentworth became acquainted with the late Dr. Wardell, who was the editor of a London evening newspaper called the *Statesman*. This gentleman accompanied Mr. Wentworth to Sydney, in the year 1824, bringing with them materials for the purpose of starting a newspaper in Sydney. This was the origin of the *Australian*, a publication which rendered the State some service; and after many hazardous changes, still (1843) continues to flourish. Mr. Wentworth, however, soon relinquished his share of the publication, and devoted himself with success to the more lucrative practice of his profession.”

Note 112, page 471.

A censorship.

Since the first publication of the *Sydney Gazette and New South Wales Advertiser*, on the 5th of March, 1803, all matter appearing in the paper had been subjected to the censorship, in the early years, of the secretary to the governor, and, subsequently, of the colonial secretary. It was the practice of George Howe, and after his death of Robert Howe, to submit all proofs to be passed and initialled by this officer before publication. The censorship on the *Gazette* was removed on the 15th of October, 1824, and announced in an issue of that paper six days later.

Note 113, page 473.

Also page 675.

The 30th Clause.

This clause of the statute 4 Geo. IV, cap. xcvi, was as follows:—

“And be it further enacted, That every Law or Ordinance so to be made as aforesaid shall, within Six Months from the Date thereof, be transmitted by the Governor or Acting Governor for the Time being of the said Colony to One of His Majesty’s Principal Secretaries of State for the Time being; and that it shall be lawful for His Majesty, His Heirs and Successors, from time to time as He or They shall think necessary, to signify, through One of His or Their Principal Secretaries of State, His or Their Approbation or Disallowance of all such Laws and Ordinances; and that from and immediately after the Time when such Disallowance shall be published in the said Colony, by a Proclamation to be for that Purpose issued by the said Governor or Acting Governor, all such Laws and Ordinances shall be null and void; but in case His Majesty, His Heirs and Successors, shall not, within the Space of Three Years from the making of such Laws and Ordinances, signify His or Their Disapprobation or Disallowance thereof as aforesaid, then and in that Case all such Laws and Ordinances shall be valid and effectual, and have full Force.”

Note 114, page 480.

Enke’s Comet.

Charles Rumker re-discovered Enke’s comet on its appearance on the 2nd of June, 1822. This was the first occasion of its predicted return since it was first described by Enke in the year 1786. Rumker also discovered another comet on the 4th of September, 1826.

Note 115, page 481.

The 19th Article of the Port Regulations.—Another Article.

The nineteenth and twenty-third articles of the port regulations will be found on pages 74 and 75, volume X.

Note 116, page 482.

Anthony O'Reilly.

The particulars relating to the remarkable case of this prisoner were detailed in the following letter, which is preserved in the record office, London:—

“THE STAMP COMMISSIONERS TO THE LORDS COMM’RS OF THE TREASURY.

“Stamp Office, Dublin, 18th Decr., 1824.

“The King against Anthony O'Reilly.

“My Lords,

“With reference to the prosecution of Anthony O'Reilly at the commission of Oyer and Terminer held in Sept. last for the County of the City and for the City of Dublin for forging Dies to resemble Dies kept in this Office, we beg leave herewith to transmit to your Lordships a copy of the conditions entered into by us with the Prisoner through Our Solicitor, with the advice and concurrence of the Attorney Gen'l, upon the Prisoner's agreeing to plead Guilty to the Indictment (as from the circumstance of the Prisoner having been tampered with by the late Board, and the Exposure that would be made of the process by which the Dies were forged, it was considered advisable not to proceed to Trial); and pursuant to which conditions the Prisoner, on being arraigned, pleaded 'Guilty' and was sentenced to be transported for life; and, as the period stipulated with the Prisoner for his going out will expire next Month, we now bring the matter under your Lordship's notice in order that the necessary steps may be taken for his removal as near to that time as may suit the convenience of Government. By the 2d Article, it is stipulated 'That the Prisoner (O'Reilly), his Wife and two Children, shall be sent out at the Expence of Government to either Sidney in New Holland or to Van Dieman's Land at the option of the Prisoner; and that on his landing he shall receive from the Agent of the Government there such a sum as the Comm'rs of Stamps may deem fit as a temporary subsistence.'

“By the 3d Article, it is stipulated 'that a letter shall be written by an Officer of competent authority of the Colonial Department to the Governor of such Colony, stating that the Prisoner had come forward to the Government and exhibited the Art, by which he had committed the forgery in question, in the hope that a repetition of the crime might be prevented; by which disclosure the Government felt useful information had been obtained; and that the Prisoner had manifested such contrition for the crime as induced a wish on the part of Government that he should have the countenance of the Governor as long as his Conduct should merit it.'

“With regard to the sum to be given to the Prisoner on his landing in the Colony, we beg to state that we have already paid at his instance a sum of £50 to his Agent, who had prepared for his defence on the intended prosecution; as from the Prisoner's inability to discharge the expences thereof, the day before the opening of the commission we had reason to apprehend he would recede from the conditions. And we submit that a payment to him on his landing of a further sum of £50 would be a sufficient allowance, and with the sum already paid be a liberal fulfilment of that condition.

“The Prisoner has made his Election as to the place of transportation, namely Sidney in New Holland; and, as we apprehend the local authorities

in the Province are vested with discretionary powers to grant permission to any convict to return Home previous to the expiration of his sentence, We submit, from the nature of the Prisoner's crime and the danger of the Art he is in possession of, that the necessary communication should be made to the said authorities that such favor should not be exercised in favor of the Prisoner.

“ We have, &c.,
 “ W. CAMPBELL.
 “ J. S. COOPER.
 “ D. MAHON.”

Note 117, page 482.

The Regulations.

The regulation was that no ticket of leave should be granted to any convict until he had been employed in the colony for “ the full space of three years ” (see No. 7, page 784, volume VII).

Note 118, page 483.

Levi.

This man's name was usually spelt Levy or Levey.

Note 119, pages 484 and 890.

East shore.—West side.

The east shore was occupied by the grounds of government house and domain, except for a public walk reserved on the water frontage and a small reserve for heaving down. The west side of Sydney cove proper was devoted principally to wharves and dockyards. The foreshores from Dawes point to the modern western termination of Margaret-street were unoccupied, and there was a reserve at Miller's point.

Note 120, page 493.

An Act of Parliament.

This was the English statute 3 Geo. IV, cap. xevi.

Note 121, page 496.

Also page 537.

Lord Ellenborough's Act.—Transportation Act.—Registry Act.

These statutes were 43 Geo. III, cap. lviii; 4 Geo. I, cap. ii; and 4 Geo. IV, cap. xli.

Note 124, page 496.

The Islands adjacent.

The eastern limits of the jurisdiction of the governor of New South Wales over the islands of the Pacific ocean had always been a matter of doubt (see note 1, volume I). In Sir Thomas Brisbane's commission, the wording was the same as in that of Governor Phillip, his jurisdiction being defined (see page 590, volume X) as “ including all the Islands adjacent in the Pacific Ocean within the Latitudes aforesaid of ten degrees, thirty seven Minutes South, and forty three degrees, thirty nine Minutes South.” These were the assumed latitudes of Cape York in the north, and the southern extremity of Tasmania in the south. The interpretation of this clause by Governors King and

Macquarie has been noted in previous volumes. The jurisdiction of Governor Darling was altered, by his commission, from that of his predecessors (*see* volume XII), and the ambiguity was eliminated.

Note 125, page 497.

Ecclesiastical jurisdiction against immorality.

Under the first two charters of justice, no provision was made for a matrimonial jurisdiction in the colony. Judge Field advocated that such a jurisdiction should be established, "not for the purpose of pronouncing divorces, but for enabling the judge to decree alimony to ill treated and discarded wives." J. T. Bigge reported that the necessity for this power had "been felt by some of the magistrates upon applications made to them for relief; but they have only been able to interfere in cases where, from the condition of the husband, their authority over him as a convict could be exercised by returning him to the labour of government, or by an application of the wages earned in his master's service."

Note 126, page 497.

Also page 598.

The disproportion of the Sexes.

The masculinity of the settlements in New South Wales was always high. The number of males to every hundred females was as follows in successive periods:—in the year 1788, 347·27; 1795, 370·07; 1800, 313·49; 1805, 294·45; 1810, 248·24; 1815, 238·00; 1820, 321·70; and in the year 1825 there was a further increase for the quinquennial period. These figures are calculated from the returns transmitted to England in the different years. In these returns the sexes of the children are not stated, and they have been, therefore, excluded from the totals. The increase for the ten years subsequent to the year 1815 was due to the large influx of male convicts.

Note 127, page 497.

Without regular Grants.

Sir Thomas Brisbane reported the irregularity in the system of land tenures in a despatch dated 10th April, 1822 (*see* page 630 and note 136, volume X).

Note 128, page 497.

A quieting Act.

The acts of council passed for the purpose of adjusting claims to grants of land were 4 W. IV, No. ix; 5 W. IV, Nos. vi and xxi; 4 Vic., No. vii; 6 Vic., No. xi; and 18 Vic., No. xi. The first received formal assent on the 28th of August, 1833.

Note 129, page 498.

A Statement.

This statement was contained in a letter from Saxe Bannister to Earl Bathurst, dated 8th February, 1825 (*see* volume in series II).

Note 130, page 513.

Yawanba or Reid's Mistake.

The land for the use of the natives was situated in the neighbourhood of Tuggerah Leach lake.

Note 131, page 514.

Bond given by Mr. William Balcombe.

In the duplicate copy of this despatch, which is preserved in the Mitchell library at Sydney, this enclosure is replaced by the following bond:—

“NEW SOUTH WALES.

“Know all men by these presents that I, W. Balcombe, Colonial Treasurer of the territory of New South Wales, am held and firmly bound to His Excellency The Governor of the said territory in the sum, or Penalty of Fifty Thousand Spanish Dollars, to be paid to the said Governor, His Successors or assigns, for which payment to be well and truly made, I bind myself, my heirs, Executors and administrators, firmly by these presents.

“Whereas, the above named, W. Balcombe, is hereby bound unto His Excellency The Governor of this territory for the sum or penalty of Fifty Thousand Spanish Dollars: Now the Condition of the present is such, the said W. Balcombe having been chosen into the Service of His Majesty as Colonial Treasurer for the territory of New South Wales, that if the said W. Balcombe shall at all times, during his continuance in the said Service, faithfully and diligently execute and perform the duties of the same, and as soon as he shall be thereunto required from time to time give a just and true account of all monies, notes, bills, bonds, orders, papers, writings, Books and other things that, within the said service, shall come into the hands of the said W. Balcombe, or which he shall be entrusted with, and make answer for and pay the balance of such amount to the said Governor, or his Successors, or to such Person or Persons as He or they shall be pleased to appoint.

“Then the said obligation to be null and void: otherwise to remain in full force.

“Sealed with my seal in the presence of G. G. Mills, Esqr., dated in Sydney, this fourth day of October in the Year of our Lord One thousand, Eight hundred and twenty four.

“(Signed) W. BALCOMBE.

“Witness:—G. MILLS.”

Note 132, page 515.

Governor Bligh's Grant of Land.

The particulars relating to the grants of land by Governor King to Governor Bligh have been detailed on page xiii, volume VI. The grant known as Mount Betham at Parramatta was situated on the northern and eastern banks of the Parramatta river to the west of Lennox bridge. The deed of this grant included also the reversionary title to two leases made to Eccles and Caley.

Note 133, page 516.

To represent.—Special Instructions.

Governor Macquarie reported the circumstances of Governor Bligh's grant at Parramatta in a despatch dated 7th October, 1814, and was instructed by Earl Bathurst to revoke the same in a despatch dated 4th December, 1815 (see page 338 *et seq.* and page 645, volume VIII).

Note 134, page 519.

Reply.

In the original the sentences in italics and romans were placed in two separate columns side by side. Most of the text of the letter in the *Morning Chronicle* newspaper was enclosed by Sir Thomas Brisbane with his despatch dated 23rd May, 1825 (see page 606 *et seq.*).

Note 135, page 520.

An answer to the Address.

Sir Thomas Brisbane detailed the preparation of this answer in the enclosure to his despatch dated 23rd May, 1825 (*see* page 608).

Note 136, page 520.

Also page 613.

This Address.

The Revd. Samuel Marsden addressed the agricultural society on the 15th of July, 1824. This address was printed by Robert Howe in 1824. In this, the first paragraph, relating to judge Field, was as follows:—

“At our last Anniversary Meeting, we received an able Address from our late active and zealous President, the Honorable Mr. Justice Field, under whose direction our Society made rapid advances towards the accomplishment of our immediate objects of pursuit. Had he remained amongst us, we might this day have received a still more interesting Report. The loss of such an able Leader (to whom as yet no Successor has been appointed) has been most sensibly felt by your more active Members and Officers, and will we trust be received as an excuse for the delays which have arisen out of the difficulties thus unfortunately encountered in the infancy of our Establishment. We may still, however, congratulate ourselves on the accession of Members to our Association, so that, while we wait the appointment of a new Director, we are acquiring that strength and stability which must ensure our prosperity as a public Body. We hope by the nomination of a President to see the Society placed again in active operation for the completion of all its plans by the introduction of every thing, that can be conducive to our interest as Agriculturists, and by a steady perseverance in maintaining the Rules laid down for our governance on the first formation of our Society.”

Note 137, page 521.

Also page 612.

My Observatory.

When Sir Thomas Brisbane was appointed governor of the colony, his natural inclinations led him to make preparations for the establishment of an observatory. He engaged Charles Rumker and James Dunlop (*see* note 39) to act as his assistants, and purchased books and instruments at his own expense. Shortly after his arrival in the colony, he selected a site in the domain about one hundred yards at the back of the government house at Parramatta. A building was erected and made ready for occupation at the end of April, 1822, five months after Brisbane's arrival. This building was quite plain, twenty-eight feet on each side and eleven feet high, with a flat roof, from which projected two domes, eleven feet six inches in diameter. One dome was at the north, and the second at the south end of the roof. On the north and south sides were five windows, three of which were in a circular projection of the wall forming part of the base of each dome. Transit openings were provided in the domes, and extended to one of the windows to permit of observations on the horizon. The principal instruments were a repeating circle, 16-inch, by Reichenbach, placed under the north dome, a 46-inch equatorial telescope by Banks, under the south dome, a mural circle by Troughton, and a transit instrument, 5½ feet, also by Troughton. There were also a clock by Hardy, showing sidereal time, and a second by Brequet, showing mean time. All these instruments were mounted on piers of solid masonry. A pendulum apparatus by Fortin, of Paris, and two instruments

for observing the dip and variation of the magnetic needle, were also brought out by Sir Thomas Brisbane. Some of the results of the work carried out at this observatory will be found in a volume in series VI.

Note 138, page 527.

The agreement.

The conditions for the employment of John Busby were detailed in a letter from under secretary Wilmot, dated 29th March, 1823 (*see* page 107).

Note 139, page 533.

Also page 529.

The report of it in the Australian.

The following notice appeared in the *Australian* newspaper, dated 24th February, 1825:—

“SERIO-COMIC EVENT.

“THE dull monotony of Sydney events has been a little broken in upon by a comical incident, which occurred last week. It is undoubtedly in the recollection of our Readers that THE ALMORAH was chartered by Government, or by the Commissary, in the early part of September last, to make a voyage to Batavia to fetch a cargo of sundries—consisting of rice, of dollars, of sugar, of wheat and of TEA, to meet and provide against the horrors of an apprehended (by whom we know not) famine. Now, it so happens that Batavia is in those limits within which the East India Company have and possess the *exclusive* right of trading—more particularly in the article of *tea*. The privileges of the Company have in some respects been narrowed by recent enactments. Still, however, they are in the full enjoyment of this branch of trade, as formerly. It also further happens that although the Almorah, under certain conditions and with a proper license, might have brought hither a general cargo exclusive of tea—that her three hundred chests, or rather we believe *quarter* chests of tea, were considered as subjecting her to all the pains and penalties of an illicit trader; so at least were the officers advised of H.M. ship the Slaney. Accordingly on the day after her arrival, and when it was known where she had been, and what she had got, a boat's crew, accompanied by the first Lieutenant of the Slaney, proceeded on board, clapped a lock on the hatches, sealed up the ship's papers, tiger and all, and declared the Almorah a lawful prize. The *bonne mouche*, which a certain personage had anticipated in his *Rhenish*, was not even allowed to quit the *hold*. Despatches, telegraphic and post, were immediately set a going between Parramatta and Sydney. The Captain of the man of war declared it to be his duty to seize the ship on behalf of the East India Company. The Governor, it is generally rumoured, has disclaimed participation in the greater part of this mercantile speculation. His Excellency, it is understood, gave his sanction to so much of the project, and only so much of it, as extended to a cargo of rice. The Government, therefore, are completely exonerated from the consequences; and the conflict, if any there be, will be between the East India Company on the one hand, and the charterers on the other. Nothing it is said can prevent a total condemnation; and should it appear that the Courts of the Colony can take cognizance of the business, it will not be necessary to take the Almorah to Calcutta to obtain a judgment. All the parties concerned will in that case avoid both unnecessary delay and expense. The cargo is very valuable—it has been variously estimated. The dollars, it has been asserted, amount to twenty five thousand pounds; there being, according to many accounts, fifty boxes, each containing two thousand dollars. We have heard, indeed, that one

hundred thousand are actually entered in the manifest. The wheat cost at Batavia about twenty shillings a bushel; and we have been assured that this article will at any time fetch in the Batavian market full twelve shillings a bushel; if this be true, it is well worthy of the attention of the Australian farmer, who may be sure of a remunerating price; and in this respect has a very great encouragement given him for the cultivation of his land. Treasury Bills obtained a premium of seventeen and eighteen per Cent., which amply pays for the whole expense of sending for them, including commission, freight, etc., the rate of exchange, here, averaging between fourteen and fifteen per cent. The tea was bought tolerably cheap, it having cost only one shilling a pound; it is black tea. The rice is supposed to be worth about fifteen shillings per bag. There are some private investments on board. The Captain had a small venture of dollars. All these small matters share the fate of the rest, and are liable to fall a sacrifice to the prize takers, along with the ship and the TEA! The capture seems to have pleased most people. It is a joke which every body enjoys; but the most satisfactory part of the affair is, that the government are supposed not to have dirtied their fingers with it; and we see no reason why they should gratuitously take upon themselves the odium of a measure which did not emanate from them; which was opposed by public opinion at the time, and which has terminated as all such *trading follies* ought. Some steps it is expected will immediately be taken to determine whether the Supreme Court has jurisdiction, and if it be found to possess it, then the validity of the seizure will be tried."

In the same issue of the paper there was a leading article extending through two columns on the subject of the seizure.

Note 140, page 544.

The opinion.

Instructions on the submission to England of trials in criminal cases were contained in Earl Bathurst's despatch dated 26th September, 1824 (*see* page 377), and in a circular despatch dated 30th October, 1824 (*see* page 389).

Note 141, page 547.

34th section of the Act.

Section xxxiv of the statute, 4 Geo. IV, cap. xvi, began by reciting the statute 30 Geo. III, cap. xlvi, whereby the governor had been empowered to grant pardons, and then continued as follows:—

"Be it further enacted, That all Instruments in Writing, made in conformity with the said Act, or which shall be so made before the First Day of *January* next, whereby any Governor or Lieutenant Governor of *New South Wales*, for the Time being, hath remitted or shortened, or may remit or shorten the Time or Term of Transportation of any Felons or Offenders as aforesaid, shall have and shall be deemed and taken to have had, within *New South Wales* and its Dependencies, from the Days of the respective Dates of such several Instruments, such and the like Force and Effect in the Law, to all Intents and Purposes, as any general Pardon, if passed under the Great Seal aforesaid, and including the Names of such Felons or other Offenders respectively, could or would have had; and the same Instruments, whenever they shall be ratified by His Majesty, if His Majesty shall be pleased to ratify the same, and such Ratification shall be notified in Writing by One of His Majesty's Principal Secretaries of State, shall have the same Force and Effect within this Realm, and all other His Majesty's Dominions, from the Days of the respective Dates of such several Instruments, or from such other Days as shall be expressed in such Ratifications respectively."

Note 142, page 548.

Also page 587.

The Botanical Garden.

The botanical garden marked out by Governor Macquarie at Double bay was not utilised for that purpose (*see* note 152, volume X). Sir Thomas Brisbane's reference was to the garden on the east side of the stream flowing into Farm cove, which formed the nucleus of the modern gardens.

Note 143, page 550.

Your Lordship's Dispatch.

This despatch was dated 16th August, 1824 (*see* page 346).

Note 144, page 551.

The new School House.

This is the building that is still used as a school, which is situated between Market and King streets, having frontages to Castlereagh and Elizabeth streets.

Note 145, page 552.

The annual return.

This return was prepared according to the new system ordered in under secretary Horton's despatch, dated 19th May, 1823 (*see* page 83). The first annual return was made for the year 1822 (*see* page 206 *et seq.*).

Note 146, page 553.

A large ship, the Phœnix.

This ship was damaged in harbour. She was condemned and ordered to be broken up by a vice-admiralty court, and her stores, rigging, etc., were ordered to be sold. She was purchased by government for £1,000, with a *proviso* that, if the underwriters did not approve, rent at the rate of £120 *per annum* was to be paid.

Note 147, page 553.

My late Proclamation.

This proclamation was dated the 9th of February, 1825. By it a pardon was offered for all offences, with the exception of murder, highway or house robbery, committed by any runaway convict who surrendered himself to any magistrate before the 20th of March, provided he was not a runaway from any penal settlement or gaol. If any such convict failed to surrender, he was to be pursued, taken up, and transported to Port Macquarie or Macquarie harbour for life.

Note 148, page 554.

The arrangement.

This arrangement was contained in a general order, dated 29th December, 1824. It published the forms for grants of land subject to quit rents, and for lands obtained by purchase. The former was subject to certain conditions, which varied with the size of the grant. Beginning with a grant of thirty acres, it was provided that the settler should clear and cultivate ten acres thereof; or maintain three convicts for one year; or erect buildings, fences, or other permanent improvements to the value of £50, such value to be ascertained by two persons, one to be appointed by the crown and the other by

the grantee. Failing the fulfilment of conditions, the grant was to revert to the crown. The conditions were specified for different acreages up to two thousand.

The general order terminated by quoting paragraphs two to seven of Sir Thomas Brisbane's instructions to John Oxley relating to the sale of crown lands (*see* page 332 *et seq.*).

Note 149, page 554.

A despatch.

The despatch was dated 29th November, 1823 (*see* page 179 *et seq.*).

Note 150, page 554.

I have already officially brought his name.

Sir Thomas Brisbane reported the misconduct of Frederick Goulburn in his despatch dated 1st May, 1824 (*see* page 253 *et seq.*).

Note 151, page 555.

Messrs. Hovell and Hume.

It is a remarkable fact that, just as Governor Macquarie, in his official despatches, neglected to give due credit to G. Blaxland, W. Lawson, and W. C. Wentworth for their discovery of a passage across the Blue mountains in the year 1813 (*see* note 131, volume VIII), Sir Thomas Brisbane also neglected officially to report to Earl Bathurst the discovery of the overland route to Port Phillip by Hamilton Hume and William Hilton Hovell. These two journeys probably take the premier place in geographical discoveries in Australia, as judged from the results.

Hamilton Hume was born at Parramatta on the 18th of June, 1797, and was the son of Andrew Hamilton Hume, an officer of the commissariat. W. H. Hovell had been the captain of a merchantman, and had arrived in the colony as a free settler in the year 1813.

On the 3rd of October, 1824, they took their departure from Appin and proceeded to Hume's station on Lake George. They were accompanied by six servants, and carried a supply of provisions for sixteen weeks. On the 17th they proceeded south-west from the lake, and crossed the Murrumbidgee river on the 22nd. From the 24th, for twelve days they travelled through mountainous country. On the 6th of November they descended into broken country, and, travelling west and south-west, they discovered the Murray river near Albury ten days later. This river they named the Hume. On the 20th they succeeded in crossing the river by means of a boat built of a few sticks and a tarpaulin. Proceeding south-west, four days later they discovered the Ovens river. They then crossed the range of mountains, and, on the 3rd of December, discovered the Goulburn river. On the 8th they rounded Mount Disappointment. Six days later they ascended a hill, which they named Wentworth, but is now known as Mount Macedon, from which they discovered the plains. Travelling on the plains, they crossed the Arndell (now the Werribee) river, and on the 16th of December they encamped at what the natives called Geelong. From here the return journey was commenced, and the satisfactory conclusion of the tour was announced in the issue of the *Australian* newspaper, dated 27th January, 1825.

Note 152, page 555.

It seems to have escaped Flinders and others.

Western port was discovered by George Bass on the 5th of January, 1798, during his voyage in a whale boat. He remained in the harbour for twelve days, and examined and made a sketch of it. On the 22nd of March, 1801,

it was visited by James Grant and Francis Barallier in the brig *Lady Nelson*. Acting under orders of Governor King, they remained there until the 29th of April, examining and surveying the port and neighbourhood. In 1802 it was visited and surveyed by Hamelin in the French corvette *Le Naturaliste*. Matthew Flinders prepared a map of Port Phillip and Western port after his visit to the former in 1802.

Note 153, page 555.

I have . . . officially represented this.

The representation was contained in a despatch dated 8th July, 1824 (*see* page 303).

Note 154, page 558.

Also page 597.

Resolutions.

These resolutions will be found on pages 751 and 763, volume X.

Note 155, page 571.

Secretary Goulburn to Sir Thomas Brisbane.

In a despatch to Governor Darling, dated 5th November, 1825 (*see* volume XII), under secretary Hay stated that this enclosure had been omitted from Sir Thomas Brisbane's despatch. It has been printed from the duplicate.

Note 156, page 572.

Your Lordship's Dispatch.

Earl Bathurst wrote two despatches on J. T. Bigge's reports, one dated 9th September, 1822 (*see* page 784, volume X), the other dated 31st July, 1823 (*see* page 95).

Note 157, page 572.

Also page 677.

Could not legally be held.

By clause xxiv of the statute 4 Geo. IV, cap. xcvi (*see* note 44), it was provided that no law or ordinance could be passed or made unless it had been laid before the council at a meeting, convened for that purpose by a written summons, signed by the governor or acting governor, and delivered to or left at the usual place of abode of each member of the council. Lieutenant-governor William Stewart was appointed a member of council by the warrant, dated 1st December, 1823 (*see* page 195); but he did not arrive in the colony until the 28th of April, 1825. At the first meeting of the council, on the 25th of August, 1824 (*see* page 407), Sir Thomas Brisbane submitted for consideration the difficulty created by Stewart's absence; but the four members present were unanimously of opinion that such absence did not preclude the council from proceeding to business. Subsequently an act of council, 6 Geo. IV, No. xi, was passed on the 15th of June, 1825, which confirmed the passing of the acts 5 Geo. IV, Nos. i to iii, and 6 Geo. IV, Nos. iv to x, and indemnified any person against any proceedings for having advised, executed or acted under any of the said laws.

Note 158, page 574.

Mr. Busby, the author of a treatise.

This work was entitled "A Treatise on the Culture of the Vine and the Art of making Wine, compiled from the works of Chaptal and other French

writers, and from the notes of the compiler during a residence in some of the wine provinces of France. By James Busby. *Tot vina, quot agri.*—Pliny. Australia, Printed by R. Howe, Government Printer, 1825." The book was dedicated to Sir Thomas Brisbane.

Note 159, page 574.

Any ornamental work in the Public Buildings.

This criticism had reference to the elaborate and ornate buildings which were erected by Governor Macquarie (*see* pages xv and xvi, volume VIII), some of which were out of all proportion to the requirements of their locality at any time.

Note 160, page 575.

The accompanying regulations.

These regulations will be found on page 498 *et seq.*

Note 161, page 577.

Former despatches.—Return.

The despatches will be found on pages 385 and 548, the return on page 549.

Note 162, page 578.

Govr. Macquarie's order.

By this order, the wages paid to a convict were fixed at an annual rate. This had the disadvantage of making the labourer indifferent, as the amount of the work performed did not correspond with his reward. Some settlers, in consequence, had introduced a system of task work.

Note 163, pages 580, 582, 585, and 586.

An Act of council.

The acts referred to were 6 Geo. IV, Nos. iv, vi, vii, and x.

Note 164, page 583.

A new road.—A new road.—An Inn.

The first western road was cut down the steep declivity of Mount York. The "new road" turned to the left from the old road less than a mile from the pass at Mount York, descended through a gully, and rejoined the old road at Collit's inn. The "new road" from Richmond was constructed *via* Mount Tomah, passing to the north of Mount King George, and is known as Bell's line of road. Collit's inn was erected on the level ground at the foot of Mount York, where the western road turned to follow the valley.

Note 165, page 584.

Launceston.

Governor Macquarie had decided that the headquarters at Port Dalrymple should be established at George town. Against this decision J. T. Bigge had strongly protested (*see* page 388 *et seq.*, volume X), and made a recommendation in favour of Launceston (*see* also note 98, volume X).

Note 166, page 584.

A recent Dispatch.

This despatch was dated 28th August, 1823 (*see* page 109 *et seq.*).

Note 167, page 585.

Also page 682.

System of bringing water into Sydney by means of pipes.

The supply of water for the town of Sydney was commenced under the superintendence of John Busby in September, 1827, but it was not completed until June, 1837. A tunnel was excavated about 12,000 feet in length, the labour being performed by convicts. It averaged six feet wide and five feet high, and possessed a slight gradient towards the terminal point in Hyde park near Park-street, in order that the water might flow by gravitation. Its course was somewhat tortuous. It necessitated the removal of 255,930 cubic yards of material; and, to facilitate this, twenty-eight vertical shafts were sunk in its course. Its terminal point was one hundred and four feet above high-water mark, and here the flow was regulated and conducted into a pipe, which was carried a short distance on trestles to enable the filling of water-carts. The proposals for a reservoir at Hyde park and the reticulation of the streets with pipes were not carried out.

Note 168, page 587.

Mail Coaches.

In the year 1825 a mail-coach service was run between Parramatta and Sydney, morning and evening in both directions. For Liverpool, a coach left Sydney on Sunday, Tuesday, and Friday of each week, and returned on Monday, Wednesday, and Saturday.

Note 169, pages 591 and 594.

My Dispatch of the 17th April.

Under Secretary Horton to Sir Thomas Brisbane.

The despatch dated 17th April (*see* page 562) was signed by Earl Bathurst. The letter of introduction dated 18th May was also signed by Earl Bathurst in the copy preserved in the record office, London, but the original, filed in the office of the state governor, Sydney, was signed by R. W. Horton.

Note 170, page 595.

Your Lordship's Dispatch No. 47.

Sir Thomas Brisbane's answer was numbered 47 (*see* page 557). Earl Bathurst's despatch was numbered 36 (*see* page 367).

Note 171, page 596.

The third time.

The references were probably to the replies to accusations made in the *Morning Chronicle* newspaper (*see* page 519 *et seq.*), to statements made by Revd. Samuel Marsden (*see* page 541), and to charges of maladministration in the dismissal of magistrates (*see* page 557 *et seq.*).

Note 172, page 596.

Also pages 620 and 815.

The few individuals.

The two principals in making the charges about the treatment of women at Emu plains were Sir John Jamison and James Hall. On the 15th of September, 1822, Hall wrote to Jamison asking him for evidence of the alleged mismanagement, and Jamison replied five days later, making a lengthy statement containing serious charges against the administration.

Copies of these letters are extant, and are a direct contradiction of Hall's statements to Sir Thomas Brisbane in 1824 (*see* pages 830-831). The evidence collected was taken by Hall to England.

Note 173, pages 603, 604, and 605.

Despatch No. 13, dated 2nd Dec., 1824.—No. 25.—No. 51.

The copy of despatch No. 13, which was sent to England, was dated 3rd November (*see* page 409). Despatches numbered 25 and 51 will be found on pages 321 and 429 respectively.

Note 174, page 608.

The founding of a Presbyterian Church.

The foundation of the Presbyterian church in Australia is generally regarded to have been accomplished by the erection of the chapel at Ebenezer, Portland, on the Hawkesbury river. Four acres of land were donated, and £200 was subscribed for the erection of the building, which was completed in the year 1809, and is still standing. Much of the work was fulfilled by voluntary labour. The institution, under the leadership of James Mein, was called "The Portland Head Society for the Propagation of Christian Knowledge and the Instruction of Youth." R. Hassall and John Youl, who had been formerly missionaries at Otaheite, assisted by laymen, conducted the services. These services were held with the use of the bible and Watts' psalms and hymn books, and without a recognised prayer book. In this way they conformed to the doctrine of the Presbyterian church. There was no recognised clergyman of the church in the colony until the arrival of the Revd. J. D. Lang.

Note 175, page 609.

The following papers.

These papers were an extract from the conclusion of Dr. Lang's inaugural sermon, preached at Sydney on the 28th of October, 1823 [A], and a letter from Dr. Lang to Sir Thomas Brisbane, applying for assistance in the collection of subscriptions [B].

[A]

"Finally, in regard to myself, Brethren, a subject on which it would ill become me to dilate, I am conscious of not having left my Native Shores a disappointed adventurer. I confess I had always little to expect from the smiles of Patrons or the friendship of Right Honourable men, and I trust I should always have scorned to tread in those paths of crooked policy by which the heights of Church preferment are so often and so dishonourably gained. The good providence of God and my own unaided exertions were my sole dependence in my native land. But with this dependence, Brethren, I was not given to despond. You are aware, moreover, that I have not studied to anticipate your favor by letters of recommendation. I have come to minister among you, determined to be my own Epistle of Commendation; and it is my earnest prayer, that by the faithful and the zealous discharge of the duties of my Office, I may be read and approved as such of you all," &c., &c.

[B]

"Sir,
"As several Settlers in different parts of the Country have promised to subscribe to the Scots' Church provided their subscriptions should be received in wheat and beef, I should feel exceedingly obliged if your Excellency would authorize the Deputy Commissary General to receive the same at the current prices of the day.

"Sydney, 2nd Augt., 1824.

"I have, &c.,

"J. D. LANG."

Note 176, page 609.

That unhappy man ———.

The record of the conviction and sentence of William Gore will be found on page 415. Gore had been provost-marshal of the territory, had become insolvent, and was suspended from his office in March, 1819 (*see* page 39 *et seq.*, volume X).

Note 177, page 611.

The instance against the Rev. Mr. Marsden.

The reference was to the conviction of the Revd. Samuel Marsden by H. G. Douglass for allowing his convict servant to employ himself for his own benefit (*see* page 719 *et seq.*).

Note 178, page 612.

Those in the case of the Almorah.

Replies to the late Dispatches.

The despatch relating to the *Almorah* will be found on page 529 *et seq.* The "replies" were numbered 47 and 49 (*see* pages 557 and 595).

Note 179, page 614.

An Act.—35th Section.

The act 30 Geo. III, cap. xlvii is recited in the commission, which empowered the governors to pardon (*see* page 208, volume I).

Section xxxv of the statute 4 Geo. IV, cap. xvi was as follows:—

"And be it further enacted, That all Instruments in Writing whereby any Governor or Acting Governor of *New South Wales* shall hereafter remit or shorten the Time or Term of Transportation of any Felons or other Offenders, in pursuance of the said Act passed in the Thirtieth Year of the Reign of His said late Majesty King *George* the Third, shall by such Governor or Acting Governor be transmitted to His Majesty, His Heirs and Successors, for His and Their Approbation or Allowance; and in case His Majesty, His Heirs and Successors, shall, through One of His or Their Principal Secretaries of State, signify His or Their Approbation or Allowance of any such Remission of shortening of any such Time or Term of Transportation as aforesaid, then and in such Case only, every such Instrument so transmitted as aforesaid shall have, and shall be deemed and taken from the Date thereof to have had, within *New South Wales* and the Dependencies thereof, but not elsewhere, such and the same Effect in the Law, to all Intents and Purposes, as if a General Pardon had passed under the Great Seal aforesaid, on the Days of the Dates of such Instruments respectively, in which the Names of such Felons or Offenders as aforesaid had been included."

Note 180, page 615.

Circumstances.

The statute, 3 Geo. IV, cap. xvi, had been passed regulating the duties on spirits and other articles. In this statute no mention was made of a duty on tobacco, and a claim was set up that, by this omission, no duties could be claimed. Importers who had tobacco in bond obtained delivery, and then refused to pay the duty. An agitation was also commenced to obtain the refund of duties already paid, on the ground that they were illegally charged. The prosecution of T. H. James, mentioned in Sir Thomas Brisbane's despatch dated 11th October, 1825 (*see* page 888), was in connection with these claims. The conviction of James was quashed by the criminal court on the 13th of May, 1825.

Note 181, page 615.

Act of Council.

19th clause of the act of Parliament.

The act of council was 6 Geo. IV, No. v, passed on the 8th of February, 1825. The 19th clause of the English statute, 4 Geo. IV, cap. xevi, provided for the establishment of courts of general and quarter sessions, with the same jurisdiction as possessed by similar courts in England.

Note 182, pages 616 and 617.

Government Domain.—Government House.—Gothic Building.

The domain comprised all that land which is now included in the inner and outer domains, the botanic gardens and the gardens of government house. North of the modern Bent-street, the domain extended across the present alignment of Macquarie-street as far as Young-street. It was bounded by the waters of Port Jackson except in Sydney Cove, where a narrow footpath was set apart for public use, and a small area was reserved as a public careening place.

The government house, the building of which had been commenced by Governor Phillip, was situated at the corner of Phillip and Bridge streets.

The gothic building now forms a part of the conservatorium of music.

Note 183, page 616.

Capt. King's Chart.

In which Sydney Harbour is situated.

This chart will be found in the volume of charts and plans.

In the phrase quoted it is possible that there has been a transposition of words in the original despatch, viz., "which is situated in Sydney Harbour"; or the word harbour may have been used to apply simply to the wharfage accommodation and anchorage in Sydney cove.

Note 184, pages 619, 620, 621, and 622.

No. 46.—Despatch.—Despatch.—Copy.

These despatches will be found on pages 388, 595 *et seq.*, and 323 *et seq.*, and the copy on page 572 *et seq.*

Note 185, page 622.

My former private letter.

A copy of this letter is not available. The preservation of correspondence marked private was very irregular, and it is difficult to define the system that was followed.

Note 186, page 627.

He came back to Sydney.

The arrival of Vickers Jacob in Sydney was the subject of a lengthy despatch by Sir Thomas Brisbane, dated 3rd September, 1825 (*see* page 119 *et seq.*).

Note 187, page 629.

Also page 633.

Your Excellency's Proclamation.

In the issue of the *Sydney Gazette* dated 5th June, 1823, the statute 3 Geo. IV, cap. xevi, was published for general information. By this bill the duties were imposed on spirits.

Note 188, page 645.

The Memorial of George William Evans.

The journals of G. W. Evans on his expedition to Bathurst plains in the years 1813–1814, and on his expedition to the Lachlan river in the year 1815, will be found on pages 165 *et seq.* and 611 *et seq.* in volume VIII. Notes on the two expeditions of John Oxley in the years 1817 and 1818, in which G. W. Evans acted as second in command, will be found numbered 85 and 168 in volume IX.

Note 189, page 649.

My Dispatch No. 50.

This despatch was dated 21st May, 1825 (*see* page 603).

Note 190, page 652.

Rules and Regulations.

These regulations will be found on page 324 *et seq.*

Note 191, page 672.

Speeches by the Rt. Honble. Mr. Huskisson.

The right honourable William Huskisson was appointed under secretary for war and the colonies in 1795; secretary to the treasury in 1804; president of the board of trade in 1827; and secretary for the colonies in 1827. He was killed on the railway in 1830 at the age of 60 years.

Note 192, page 673.

The lands.

These lands are situated near Homebush, with frontage to Hen and Chickens bay, and lay between the seventh and eighth mile-posts on the road from Sydney to Parramatta.

Note 193, page 674.

A Ship and Cargo.

This proposal was to seize the ship *Valetta* and her cargo, which had arrived in Port Jackson under the command of T. W. Phillips from Canton, *via* Hobart, on the 15th of April, 1825.

Note 194, page 675.

A principal part of his emolument.

The reference was to the fees received on the musters of crews of vessels prior to their departure from the colony. These were abolished by the passing of the act of council, 6 Geo. IV, No. x.

Note 196, page 675.

One Set.

A complete copy of this set of the statutes is not available. Remarks by the attorney-general will be found on pages 676 and 677.

Note 197, page 676.

No. 11.—Nos. 7 and 12.—Nos. 8 and 9.

These acts of council were as follow:—

No. XI. An Act to confirm certain Acts of His Excellency Sir Thomas Brisbane passed with the advice of the Council before the residence of William Stewart Esquire in the Colony of New South Wales. (15th June, 1825.)

No. VII. An Act to enlarge the time for the granting of Licences in pursuance of an Act intituled "*An Act to regulate the granting of Licenses for the Sale of Spirits Ale Beer and other Liquors in New South Wales and Van Diemen's Land respectively.*" (22nd February, 1825.)

No. XII. An Act to confirm certain Licenses granted under the authority of an Act to regulate the granting of Licenses for the Sale of Spirits Ale Beer and other Liquors in New South Wales and Van Diemen's Land respectively and two others amending the same. (15th June, 1825.)

No. VIII. An Act for the Relief of Persons imprisoned for Debt. (30th March, 1825.)

No. IX. An Act to facilitate the Proceedings of Justices of the Peace in the exercise of their summary Jurisdiction. (30th March, 1825.)

Note 198, page 679.

His proposal.

Archdeacon Scott's proposal will be found on page 412.

Note 199, page 680.

Commissioners for this Colony.

The commissioners were John Oxley, John Campbell, and William Cordeaux.

Note 200, page 687.

My Commission.

By his commission, Sir Thomas Brisbane was empowered to pass grants for the custody of lunatics and their estates (*see* page 592, volume X).

Note 201, page 688.

Additional Under Secretary.

In the division of duties, R. W. Horton was given the charge of the British possessions in the western hemisphere, and R. W. Hay those in the eastern, with the exception of India.

Note 202, page 691.

The Board in framing these Regulations.

The proceedings of this board will be found on page 661 *et seq.*

Note 203, page 692.

Your Lordship's Dispatch.

This despatch was dated 1st January, 1825 (*see* page 434 *et seq.*).

Note 204, page 692.

Existing Rules.

The instructions to the surveyor-general relating to the sale of crown lands will be found on page 332 *et seq.*

Note 205, page 693.

Also pages 695 and 696.

Form of the Grant.

A note on the original of this despatch stated that Sir Thomas Brisbane forwarded none of the enclosures to John Oxley's letter. Copies of the papers will be found in a volume in series 11.

Note 206, page 697.

A private ship.

This was the brig *Brutus*, which sailed from Port Jackson in company with the cutter *Mermaid* on the 28th of May, 1825.

Note 207, page 724.

Also page 755.

The action, which was brought in the Supreme Court.

The declarations, pleas, and judgment in this suit will be found on page 774 *et seq.* The court awarded damages of ten pounds, two shillings and sixpence, with costs.

Note 208, page 726.

Also page 782.

Our impartial report.

These two reports were forwarded with the despatch dated 16th August, 1825 (*see* page 807), but have been printed separately for convenience of reference. Archdeacon Scott qualified both reports by a separate statement (*see* page 780). Chief justice Forbes wrote the following important letter relating to the inquiries:—

“CHIEF JUSTICE FORBES TO UNDER SECRETARY HORTON.

“My dear Sir,

“Sydney, 30th Octr., 1825.

“In obedience to Lord Bathurst’s instructions, the Governor, the Archdeacon and myself entered upon our Commission, and proceeded to investigate the Charges set forth in his Lordship’s dispatch against Dr. Douglass. The enquiry was conducted in the presence of the parties only and their assistants. Our report has been transmitted to you: it contains a faithful narrative of facts, and I think you will pronounce it to be an impartial decision upon the several points of the case. It will be unnecessary to recapitulate here what you will find set out in the report; but it may save you some trouble if I briefly touch upon the most prominent parts and bring to your view some things which might otherwise escape your notice. The charges, preferred by Mr. Marsden, resolve themselves under two general heads, namely, *disrespect* towards Mr. Marsden, and *persecution* of his Convict Servant James Ring. The first is not proved; and even if it had been, Mr. Marsden had already sought redress in the Supreme Court, and had received the full measure of compensation to which, in the opinion of the Judge and Assessors, he was considered to be entitled. The second charge also was not proved, and even if it had appeared that Ring had been harshly dealt with, it could not have been imputed to Dr. Douglass; for, after he was re-assigned to Government, he came under the direction of a department quite independent of the Magistracy, and remarkable for its jealousy in resisting encroachment; the superintendency of the Convicts in the service of the Crown is as free from the control or influence of the Magistrates of Paramatta, as are the military or any other distinct department in the Colony. In your letter to me, you assume that whatever might be the local order of Government and however amenable Mr. Marsden might be, supposing him to have infringed such order, his assigned Servant Ring at least was innocent and was consequently not an object of punishment. Ring was not, in fact, punished; for you will observe he was merely returned to the Convict Barrack, that is, in effect, returned to Government service; and it appears in those days that it was thought more advantageous to be in the service of Government than in that of a Settler,

and Ring himself had been so re-assigned, soon after his coming to the Colony by the Revd. Mr. Cartwright in order to serve him; but I think you have assumed, what will not bear the interpretation you have given it; if the Master break an order of Government by permitting his Assigned Servant to be at large contrary to the provisions of such order, I cannot consider the Servant as entirely exempt from responsibility upon general principles; but there was a particular order, which formed part of the law of the Case, by which it was declared that any Servant who should be at large should receive one hundred lashes and be sent to the Jail gang (see Appendix to report Z, order* April 17th, 1802); this you will observe is a distinct order from that under which Mr. Marsden was fined; but it formed part of the Convict Code; the Magistrates might therefore, under the view they took of the law in considering that Mr. Marsden had incurred a fine for allowing James Ring to be at large, have proceeded to enforce the order of the 17th of April against Ring. This they did not do, and what they did is a thing of every day's occurrence in the Colony; they withdrew the Convict Servant from the Master to whom he had been assigned for an infraction of the Government orders (the observance of which was one of the implied conditions in the Assignment of such Servant) and returned him to the Government. My own opinion was that Mr. Marsden had broken the law, not in the letter only (for in the construction of that he might have been mistaken) but in its plain and palpable policy; in which, error was less probable and far less excusable; and if there were one man less excusable than another, that man was Mr. Marsden. You must well recollect that many and grave charges were preferred by Mr. Bennett against the late Governor Macquarie; that among the severest of such charges was that of destroying the penal terrors of transportation by unmerited favors bestowed upon the Convicts in this Colony; that Mr. Marsden was cited as one of the principal witnesses against the governor. Now what was the conduct of Mr. Marsden himself in the case of Ring? this person came to the colony a prisoner for life; while in the service of one FitzGerald at Windsor, he robbed his master of Money and clothes, part of which were found in his possession; he was tried, convicted, and sentenced to receive one hundred lashes and to be sent to Port Macquarie for life; part of his sentence was carried into effect and the remainder hanging over him, when the Governor, visiting Windsor, as an Act of Grace was pleased to pardon all the prisoners then in Jail; shortly after, he was in Mr. Marsden's service; he was allowed to take lodgings, employ himself in his trade, with whom and at what wages he liked; he had acquired riches, stocked his apartment with furniture, &c., when he fell under the cognizance of Dr. Douglass and his brother Magistrates at Paramatta. Now I ask what more did General Macquarie than this; give pardons and encouragement to those, who, by a long course of service and propriety, had not deserved them? It was known to Mr. Marsden that Ring had committed a *felony* in this Colony; that he had fallen under strong suspicion of robbing a Man of his watch, while in the service of Mr. Marsden, yet Mr. Marsden gives him substantially a pardon by allowing him all the advantages of an emancipated Man; and in his letter to Mr. Peel speaks of his *good conduct* in four distinct places; and in one, of his good conduct during the whole of the time he had been in the Colony. Another point of view, in which I regard Mr. Marsden's letter with an unfavourable eye, is in this, that it states facts in a way to create an impression contrary to truth, and yet to admit of a second reading in another way. This to my mind carries an impression of caution and premeditation, like a tampering with one's own conscience. About a fact, he might have been misinformed; his memory might have failed him, or many other causes

* This order does not appear in the papers marked Z (see page 773) which were forwarded in the copy of the report printed. It will be found on page 621, volume III.

might suggest an excuse for error; but where the facts stated betray a minute acquaintance with every part of the subject, and certain things are prominently stated which create one impression, while others are suppressed which might have created another, it cannot be the effect of accident or ignorance; it must have been wilful and could have had but one object; it is unnecessary to recur to the situation of Mr. Marsden as a teacher of religion, or to the ostensible motive with which he addressed himself to the Secretary of State. These matters were not referred to us, but doubtless they will be taken into estimation in the proper quarter.

“The Archdeacon thought we ought to have gone into a case in which Mr. Marsden was stated to have written a letter to England accusing Dr. Douglass of inflicting punishments to extort confession. I thought differently, and you will find my reasons in the report. We had *no jurisdiction*, and I saw that Mr. Marsden would not come up to the gist of the enquiry, the *Punctum Delicti* alledged to be contained in his letter. He wished to go into the case of one Henry Bayne, without pledging himself to prove that he had been flogged upon *suspicion only*, or to extort *proof of guilt*, but merely, that he *had been flogged*; but I had seen enough in the preceding enquiry to be a little wary of admitting charges with two versions, and therefore I would not consent to go into it, unless Mr. Marsden would tye himself down to the specific charge contained in Lord Bathurst’s letter; which he refused to do, or rather evaded doing, as the correspondence appended to our report will shew.

“Our refusal to investigate new charges against Dr. Douglass appears to have driven the complaining parties to seek redress before another tribunal; and, if they had done so in candour and sincerity, I should have had no objection to the course they have thought fit to pursue; but as I know that the series of proceedings, which have since taken place, have originated and been pursued under every thing but a view to the pure attainment of Justice, I shall lay them before you in that nakedness, in which my means of observation enable me to expose them, and with that freedom of animadversion, which truth and justice alike require.

“Shortly after the enquiry was closed, the Quarter Sessions was convened at Paramatta, at which Mr. Hannibal McArthur attended as one of the grand Jury. This gentleman had assisted Mr. Marsden during the investigation, by taking notes and, as appeared by the witnesses, in collecting and arranging the evidence. Indeed it was pretty clear to me that he was effectually as much the prosecutor of Dr. Douglass as Mr. Marsden was himself. I have heard one of the charges proceeded from him; with such prepossessions Mr. Hannibal McArthur should not have allowed himself to sit on the grand Jury, in any case in which Dr. Douglass was accused, but assuredly not in any case connected with the investigation in which he had taken so active a part. He did, however, sit on the *Jury*, and did *present* the case of Henry Bayne together with two others of a similar nature, as charges against Dr. Douglass; and what makes it still more inexcusable is that the offence of which the Dr. was accused was one of which Mr. Hannibal McArthur himself had set the example. The practice appears to have been this. When a Convict was adjudged guilty of theft, and would not give up his plunder or disclose his accomplices, a certain number of stripes were inflicted at divided times, so as to effect one or other of these objects; it does not appear that the punishment so ordered was ever carried to excess, and in far the greater number of instances it had the desired effect; the practice appears to have sprung out of the peculiar state of society in this Colony, and to have been adopted as early as the records bear date. In Collins’s History of New South Wales (pages 265–269 Gray’s case) *first edition*, there is an instance of the kind, and the records of the Colony shew that the practice was continued by every successive Magistrate in the Paramatta Court, until your Act of Parliament put

an end to it by new modelling the Courts of Sessions and specifying the punishments to be inflicted on the Convict Class. However irregular therefore the practice might be, it had in fact been abolished; it was not necessary therefore to present it because it had been *abolished*, and because it had been suffered to *exist without notice* from the foundation of the Colony. And even supposing that the case had been brought before the grand Jury in a way that they could not avoid noticing, they should either have prevented the practice without coupling it with the names of two or three Junior Magistrates in the Colony, or else they should have presented every Magistrate who had been concerned in it. But they did neither the one nor the other, they did precisely what they should not have done. You will say this is one of the first fruits of a Jury in New South Wales. I say it is so, and it is a proof too that Institutions may be so long withheld that their moral force may cease to be felt, and that even the sacred calling of a Juror may come to be mistaken for a mere engine of private or party purpose; but to return to the presentment itself, I have no hesitation in declaring to you as my opinion that it was got up for the purpose of a *set off* against the report of our Commission of Enquiry; the time, the persons, the manner are all conclusive upon this point. The foreman of the grand Jury in person carried the presentments to the printer of the *Sydney Gazette*, and had them published; the very language, in which the case of Bayne is mentioned, carries internal proof of reference to the proceedings before the enquiry; we refused to enquire into it because it was not a case of suspicion only; the presentment states it as a case of suspicion only. The object was to give the imposing form of presentment by a Grand Jury to the rejected case of Bayne, in order to counteract what had been done by the Commission, and with this singleness of view every consideration of private friendship, good faith and public propriety were sacrificed, as I shall proceed to shew.

“The presented Magistrates were Dr. Douglass, and two gentlemen whose *testimony* had been favorable to him in the Enquiry, namely Mr. Lawson, and Dr. Macleod. These gentlemen feeling injured by the course, that had been adopted towards them, wrote through Dr. McLeod to the Attorney General, and stated that what was now charged against them as crime had been done with impunity by the oldest magistrates in the Colony; and they inclosed a copy of the cases upon the Parinatta records, by which their own proceedings had been guided. The Attorney General wrote officially to the different Magistrates who were implicated, and among others to the Revd. Mr. Marsden and Mr. Hannibal McArthur. I mention these two gentlemen, because they had taken distinguished parts in impugning the practice of which they themselves are now accused. Mr. H. McArthur thought proper to publish his reply to the Attorney General, in which he states that the cases in which he was concerned, ‘had almost escaped his recollection.’ Mr. Marsden in his letter, published in the same way, passes over one case of which he was accused in silence, and triumphantly gets over the other by proving an *alibi*, and then declares the records to be a *fabrication*; those very records, upon which he had founded the charge against Dr. Douglass, upon which his coadjutor, Mr. Hannibal McArthur, had founded his presentments, it was now convenient to discredit, and therefore they were declared to be fabrications! In his zeal to establish this point in his own favor, Mr. Marsden admits another which is conclusive, as far as admission goes, against his friend, namely that although he was not one of the *Convicting Magistrates*, four other Magistrates were present, *three of whom were not presented and one of whom was on the grand Jury*. I am particular in mentioning these things, not because they are necessary as proofs, for there are abundance without them, but because they furnish involuntary evidence of the truth of what the parties themselves would deny *habes reum confitentem*; the impeached records are in the fair

handwriting of no less a personage than *Joseph Bradley*, who, you will recollect, was one of Douglass's accusers, who was dismissed by him for drunkenness, who was recommended to me, soon after my arrival, by Mr. Marsden, and who was assisted by Mr. H. McArthur in collecting evidence to sustain his infamous charges in the late enquiry. It is plain that Mr. Marsden would insinuate that the records of the Paramatta bench had been altered to injure him; and it is plain that they could only have been altered by Bradley. It served its purpose, and that was all that was sought; the truth is, that the records were neither fabricated nor altered; they are contained in good thick volumes, commencing and continued in regular succession from the year 1815 (the first year after General Macquarie's Proclamation requiring the Magistrates to keep records) until the present year; the pages and cases and the warrants founded on them, and which were preserved by the Officers to whom they were addressed, all prove the records to be *authentic*. Sometimes there were omissions and unimportant errors, such as a mistake in the name of one of the several magistrates; but substantially they are correct and complete in most cases. I have enclosed the Newspapers which contain the presentments of the Jury and letters of the parties, and from them you will see the bearings of the above remarks.

"In this state of the transaction, the Attorney General wrote a letter to the Governor, suggesting an enquiry into the origin and extent of the practice complained of as illegal; the Governor, from the relation in which he stood to two of the accused parties, felt a very proper delicacy in moving the inquiry, and laid the Attorney's letter before the Council for their advice. The Council addressed a letter to the Governor pledging themselves, *as I read it*, to advise some specific Measure; but, preparatory thereto, they requested to be furnished with the records of the several Courts throughout the Colony, that they might possess the means of making an authentic report upon the rise and extent of the practice which had been presented as contrary to law. The Members *each* took the books of a *particular Court*, and made their several reports to the Council before they went together into the examination of such Cases as were found to come within the principle of the cases objected to. Here I must stop, for all this was known to the Governor and others as well as to us; but that absurd oath, which we take, binds us not to disclose any thing which comes within our knowledge in Council. The report of the Council to the Governor you will see; and as the cases upon which it is founded are all annexed to the report, you will find that it is a plain, temperate, and unanswerable statement of the truth; that the practice, such as it was and whatever may be its irregularity, had been in force as early as the records of the Magistrates' Courts bear date; the twenty magistrates (sixteen of whom are now in the commission of the peace) had been engaged in it; that Mr. Marsden and Mr. Hannibal McArthur had both used it, and that repeatedly; and that there could be no doubt of this fact, because their signatures were affixed to instruments, which either adjudged the punishment complained of, or ordered its being carried into execution. Yet with this volume of evidence against them, these gentlemen and their friends are endeavouring to make it appear that they are injured and calumniated individuals, and that they were anxious to prove themselves to be so in our Courts, the Council having wisely passed a law to stay proceedings against the Magistrates. From the view I have taken of the whole of this matter, I need not apprise you of the reasons which induced me to vote for the law; they were briefly that I did not consider the prosecutions to originate in *pure motives*; that I considered them vindictive and entirely to satisfy *private hostility*; that the discussions, which must take place upon the Acts of so many magistrates, would embitter the feelings of themselves and their friends, and sow dissension among all the higher classes in the Colony; while

it would shake the foundations of civil order, by impressing the Convict population with a belief that they had been oppressed by their superiors and punished contrary to law and Justice; the consequence of such a feeling would have endangered the security of the Colony.

"I am aware there are those who profess to see, in the Act of our Council, an invasion of private right and constitutional principle; but these opinions I do not believe to be sincere, and they evidently spring out of what it was supposed *would be* the law, rather than what is the law; the Act of Council touches no private right; it leaves the remedy by *action* where it was; it only goes to publick *prosecutions*, in which the Crown might have interposed without the sanction of the legislature; the Attorney General might have entered a *noli prosequi* upon every indictment or information formed upon the presentment of a Jury; and the Council have merely enabled the parties to accomplish the same end; the motive for communicating this power to the parties was to relieve the government from the odium and misrepresentation, which would have been heaped upon it, had the Attorney General been required, *ex officio*, to put a stop to proceedings originating with the grand Jury, and situated as the government was with reference to the presented Magistrates. The *Australian* Newspaper, which became the organ of Mr. Marsden and his friends in that business, has put forth two or three inflamed articles, and talked of the Act as being contrary to the opinion of nineteen twentieths, or Ninety nine hundredths (I forget which) of the Colonists; all this, however, was calculated for the meridian of London; here it was known to be untrue, and of course it could have no effect. It may be proper to inform you that the present editor of the *Australian*, Dr. Wardell, was retained by Mr. McArthur to conduct the prosecutions against the Magistrates, and to defend the prosecutions about to be commenced against himself; hence the Dr.'s columns were rather warm in the cause of his client; but, excepting the petition of Mr. Hannibal McArthur himself, *not one application was made to the Council* against the bill of indemnity, although it was well known to be pending for many weeks before it was passed; the recourse that was had to Newspaper misrepresentation is part of the system; the learned Doctor's forces, with his client's letters in front, and his soi-disant ninety nine hundredths of the people in his rear, might make a very respectable shew in England; here they amount to nothing more than a lawyer, his client, and an editorial paper.

"I am rather inclined to believe that a great stand will be made in England, because the Assailants have been beaten in this Country, and they will endeavour to change the seat of war. You will doubtless be besieged in Downing Street with files of statements and vollics of oaths. I have been therefore anxious in this Country to fortify you with the evidence of documents which cannot be disputed; the report of the Commission of Enquiry is accompanied with every document to which it refers; the report of the Council is, in like manner, accompanied by the cases upon which it is founded. There is no disputing documents, and I think the evidence, with which they will furnish you, will enable you to detect and expose that shameless system of getting up a case, which is openly resorted to in this Colony, at this moment; the principal agents are utterly careless of opinion in this Country; they avowedly declare that the matter will put on a different appearance in England; and, calculating upon the effect of mistatement and the force of influence at home, they anticipate the triumph of falsehood, malevolence, and injustice; for such, I have no scruple in declaring to you, to be the tissue of proceedings, from the private accusations which were sent home against Dr. Douglass to the Presentments at Paramatta; I could hardly have believed it possible that gentlemen, affecting to have any value for character, could have combined themselves together for such wicked purposes as that of the coalition

at Paramatta with its minor ramifications. I conceived, when I entered upon the enquiry, that truth was the single object; and I believe that, as the parties had submitted to the commission, they would bow to their decision; but I presently found that we had touched upon enchanted ground; that we were dissolving a charm of wonderworking power, like the spell of conjurers and enchanters in the days of darkness and imposture; to drop the language of metaphor, I must inform you that, for some time past, many individuals of wealth and connection in this Country have carried on a close correspondence with their friends in England, through whose means their representations have reached the ear of members of Parliament and other persons of influence in England. Mr. Marsden appears to have been engaged in this course of communication; and of the calculations that were made of its consequences, a short anecdote will satisfy you. Soon after my arrival in this Colony, I was informed by a person, at this time high in its Councils, that Dr. Douglass would not be allowed to return to this country; Mr. Marsden had settled him; the event has proved that it was merely by accident that he was not settled. I am aware of the blame that would, in that case, have exclusively attached to the Governor of New South Wales for sanctioning the transmission of such a letter as he did to the Secretary of State to the Home Department. You could not otherwise than feel satisfied that such a sanction bore upon it the stamp of truth; but still had ruin fallen unrighteously upon Dr. Douglass, so far as he was concerned, the blow would have come from the hand of a secret and false accuser; that exposing of this system has been the consequence of the late enquiry; it is therefore not to be wondered at that the greatest struggle should be made to oppose it; that hands should be shaken and tongues should take sweet council together, that had not addressed each other of late but in the language of reproach and recrimination. I have given you a *clue* to these mysterious transactions in this Colony; with it in your hand, you will find no difficulty in going through all the labyrinth of colored statements, half suppressed facts, and palpable falsehoods, which you will have to deal with in the different statements which are preparing here for transmission to England.

“I have thus, my dear Sir, put you in possession of the leading circumstances in the ‘Douglass cause’; it is *the cause*, and not *the Douglass*, which has made so much noise and excited such a powerful interest in this Colony; had the individual only been concerned, I should long ago have suggested the expediency of his retiring from the Colony; but his cause became the cause of every publick Servant, and his sacrifice would have shaken the stability of every independent man in the public departments; it would too have been the sacrifice of truth and justice, for although I am no friend of Dr. Douglass, and I may appeal to my own letters to you to prove the sincerity of my wishes that he should not return to the Colony, yet it is due to common fairness to state that few men would have stood such an ordeal and have come out so little touched and tarnished as he has. I have since recommended him to retire from the Magistracy, conceiving that, from the number and connections of the individuals opposed to him, he would be exposed to many awkward situations upon the bench; and also that the administration of Justice might be exposed, in his person, to the imputation of partiality or malice. There were other reasons which it is unnecessary to mention, since he is no longer a Magistrate, further than to intimate that certain cases had been industriously brought to light by his friend Mr. H. McArthur, and laid before the Attorney General, which went to charge him with inflicting punishment without the formality of trial; these, if there were such cases, were not brought under the cognizance of the Council, as they were not recorded;

having now closed the history of the case with all its consequences, I will venture to state to you what I think it would be expedient to do in it. I have been free in my animadversions upon the conduct of Mr. Marsden and Mr. Hannibal McArthur, because their actions, which have come within my cognizance, have been improper, not to use a much harsher term; but, at the same time, I can find an excuse which, if it be not sufficient to justify, does very much palliate their offences. In days happily gone by, Dr. Douglass had usurped and exercised a galling supremacy over those, who, by their standing property and connections in the Colony, were his superiors; a few men endure their honors meekly, still fewer can bear the assumption of power where it is not held by a legal tenure; it is not to be wondered at, therefore, that Mr. Marsden and Mr. Hannibal McArthur, who are two of the patriarchs of the Colony, should be jealous of the authority of Dr. Douglass and of the influence which he really or affectedly possessed over the measures of government; feelings of animosity succeeded, and, being habitually indulged, at last I believe them to have sincerely impressed Mr. Marsden and Mr. McArthur with an opinion that Dr. Douglass was unworthy to fill the situation that he held. They appear to have lent a willing ear to every story that was circulated to his discredit; and, with such predispositions, and in a country like this, there were not wanting persons to represent him in the most odious and detestable colors; hence the charges, cruelty, drunkenness, and debauchery found a ready credence and no want of witnesses. I repeat, therefore, that I think some allowance must be made for the conduct of these two gentlemen. One is entirely independent of government, the other holds an office but is independent in his circumstances; to degrade him would be to make him a Martyr, and would counteract the beneficial effect which I think another line of policy might be attended with. The subject will doubtless be fully investigated in England, and a censure passed upon the conduct of both gentlemen, one for having, under cover of his sacred Office and in the pretended cause of humanity, sought to gratify a vindictive feeling, and the other for having forgotten the oath of a Juror and presented a Man with whom he was in avowed hostility, for doing that, which he had set the example, would in my opinion be quite sufficient for every purpose; it is the opinion of government simply expressed upon the subject which will be all powerful in this Country. Your decisions are those of the Oracle, the more distant and obscure, the more decisive and unquestioned. Things are at a crisis in this Country, and call for the support of Government. The compact, wealthy, and influential body here calculate upon their ascendancy in England, by means of numerous correspondents and points of contact with Members of Parliament; they have been driven into union by the defeat consequent upon a bad cause here; and if they succeed at home, their Victory will be the forerunner of an attack upon every member of the government, who happens to give offence, or whose duty is opposed to the views or interests of any one of the party. We anxiously look for your decision; I foresee the difficulties you will have to contend with in forming it, and therefore I have written to you freely and fully.

“My communication, however, is not what I could wish it to be, for I have so many avocations in the course of the day, that I can only write to you in the Evening, when my mind is exhausted and my subject enfeebled by my manner of treating it.

“I shall send you a duplicate of this for fear of accident; there are various other matters of importance, upon which I have much to say, but I must defer my communications until the sailing of the Governor which will take place in about a fortnight or three weeks.

“I beg to remain, &c.,

“FRANCIS FORBES.”

Note 209, page 777.

Two Copies.

Two copies of this book are preserved in the Mitchell library at Sydney (*see* note 185, volume III).

Note 210, page 781.

The Sentence every morning.

Such a punishment.

Records of such punishments ordered by the bench of magistrates will be found on page 870 *et seq.*, and the warrant for the sentence on Henry Bayne on page 859.

Note 211, page 804.

Henry Baynes.—Oct. 18th.

The continuation of the prosecution of Henry Bayne or Baynes will be found on page 801, and the proceedings for the 18th of October on page 806.

Note 212, page 807.

To attend.

Many interesting sidelights on the controversy which centred around H. G. Douglass are found in various issues of the two colonial newspapers, *Sydney Gazette* and *Australian*. The first of these papers usually supported the government, and, at the time of the inquiries in 1825, it championed the cause of H. G. Douglass; whereas the second, which opposed the government, made several caustic criticisms of his case. When H. G. Douglass was granted six months' leave of absence on half-pay in 1828, preliminary to his retirement, the *Australian* (*see* issue dated 23rd May, 1828) thought such action was manifestly unfair, and generally supported his cause; whereas the *Sydney Gazette* (*see* issue dated 21st May, 1828) condemned the man it had previously supported, and stated that "justice, though slow, is certain."

Note 213, page 809.

Your Lordship's Dispatch.

This despatch was dated 17th August, 1824 (*see* page 349). The despatch of July, 1823, was dated the 31st (*see* page 92).

Note 214, page 810.

Major Goulburn's letter and my reply.

These letters will be found on pages 708 and 709, marked K and L.

Note 215, pages 812 and 813.

Seven instances.—Five other cases.

Sir Thomas Brisbane probably referred to the three instances quoted in note 171, to the inquiry into the conduct of H. G. Douglass (*see* page 782 *et seq.*), to the negotiations about land grants to John Macarthur (*see* page 698 *et seq.* and 808 *et seq.*), to the allegations *re* the transfer of convicts to Macquarie harbour (*see* page 810 *et seq.*), and to the alleged prostitution of women at Emu plains (*see* page 812 *et seq.*).

Note 216, page 812.

No. 49.—No. 45.

These despatches will be found on pages 595 and 418.

Note 217, page 820.

Also page 822.

The Australian Newspaper.

Sir Thomas Brisbane forwarded the extract from the *Australian* newspaper with his despatch dated 21st May, 1825 (*see* page 601 *et seq.*).

Note 218, page 842.

The Act.

Sect. i of the statute 4 Geo. 1V, cap. xevi, after providing for the appointment of one judge or chief justice, continued as follows:—

“Provided nevertheless, that if it shall at any Time hereafter appear to His Majesty, His Heirs and Successors, expedient to augment the Number of the Judges of either of the Courts of Judicature aforesaid, then and in that Case it shall and may be lawful for His Majesty, His Heirs and Successors, from time to time as Occasion may require, by Commission under His or their Royal Sign Manual, to augment the Number of Judges of both or either of the said Courts to Three, and to grant to such additional Judges such reasonable Salary or Salaries as to His Majesty, His Heirs and Successors shall seem meet, and which shall be in lieu of all Fees and Emoluments whatever; provided also, that in case of the Absence or Death of any or either of the Judges of the said Courts in *New South Wales* or *Van Diemen's Land* respectively, or in case of any such Disease or Infirmary as shall render any such Judge permanently incapable of discharging the Duties of his Office, it shall be lawful for the Governor or acting Governor of *New South Wales* to appoint some fit and proper Person to act in the Place and Stead of any Judge so being absent, dying or becoming permanently incapable, until such Judge shall return to the Execution of his Office, or until a Successor shall be appointed by His Majesty, as the Case may require; and in the mean time until such Judge shall return as aforesaid, or a Successor shall be appointed, and shall actually enter on the Discharge of his Office in the said Courts respectively, the Person so to be appointed by the Governor or Acting Governor as aforesaid shall have and exercise all the Jurisdiction, Powers and Authorities belonging to or vested in the Judges of the said Courts respectively.”

Note 219, page 842.

His whole salary.

The salary of John Stephen as commissioner of the court of requests was £800 *per annum*. That of the chief justice of Tasmania was £1,200 *per annum*.

Note 220, page 846.

Occasion to recommend.

The recommendation was contained in the despatch dated 25th May, 1825 (*see* page 616).

Note 221, page 848.

The liberal endowment.

For the support of the clergy, five-fourteenths of the net revenue derived from the clergy and school estates were set apart. One half of the revenue was devoted to the erection and repair of churches, parsonages, and school-houses, and to the making of roads, drains, and fences on the estates. One-seventh of the revenue was allocated to the maintenance of schools and school-masters. The estates consisted of “one-seventh part in extent and value of all the lands in each County” (*see* page 438 *et seq.*).

Note 222, page 848.

The loss of the Cutter "Eclipse."

The cutter *Eclipse* was lying at the government wharf at Newcastle. Her sails were loosened to dry, and only the captain was on deck. Thirteen convicts, of whom three were seamen, were engaged loading her with coals at 10 o'clock in the morning. An armed sentry was stationed on the wharf. Without warning, the convicts seized the captain, slipped the moorings, and escaped to sea. The captain and crew were placed in a boat outside Nobby's head and allowed to return to land, but the convicts made good their escape.

Note 223, page 849.

*My Dispatch No. 76.—A Paragraph in your Lordship's Dispatch.—
His Letter.*

The despatch numbered 76 will be found on page 807 (*see also note 208*); the paragraph was the fourth of the despatch dated 3rd January, 1825 (*see page 462*); the letter of H. G. Douglass was dated 21st August, 1824 (*see page 353 et seq.*).

Note 224, page 850.

The Chief Justice's reasons.

The reasons of Francis Forbes will be found in his letter, dated 30th October, 1825 (*see note 208*).

Note 225, pages 851 and 852.

The very same cause.—The practice.

The precedents for the practice of flogging prisoners to extort confession which were collected by the council will be found on page 870 *et seq.* The earliest precedents noted were established by Hannibal Macarthur and the Revd. Samuel Marsden in the year 1815.

Note 226, page 851.

An opinion.

H. G. Douglass arrived in the colony in the year 1821, carrying a private letter of recommendation from Earl Bathurst to Governor Macquarie, dated 23rd September, 1820. Macquarie immediately appointed him to the charge of the hospital at Parramatta and as a magistrate in that town. On the arrival of Sir Thomas Brisbane, he became a confidential friend of the governor, who, in February, 1824, nominated him as commissioner of the court of requests (*see page 230*). On his visit to England in 1824, he was frequently consulted by the colonial office on the affairs of the colony, and returned to Sydney with the tentative appointment of clerk of the council, at a salary of £800 *per annum* (*see page 462*). His treatment by the two governors and Earl Bathurst indicate that he possessed considerable influence.

Note 227, page 854.

Also page 856.

The Individual Magistrates.

The three magistrates charged by the grand jurors were H. G. Douglass, D. Macleod, and W. Lawson (*see page 859 et seq.*).

Note 228, page 854.

Also pages 856 and 857.

To append the cases.

The appendix of cases and other papers were omitted from the despatch dated 28th September, and were enclosed with that dated 10th October, 1825 (*see page 870 et seq.*).

Note 229, page 861.

The Lunatic Asylum.

The lunatic asylum, to which patients were committed by the order of a magistrate, was established at Castle hill in May, 1811. Prior to this date, all persons who were mentally afflicted and under restraint were confined in the gaol at Parramatta. The asylum was located in the old government barn, which was fitted up for the accommodation of thirty patients, and provided with a court-yard surrounded by a strong stockade, within which the patients were allowed to take exercise.

Note 230, page 864.

An important Institution.

The benevolent society had been established in the month of June, 1818, for the relief of the aged and infirm.

Note 231, page 870.

Dispatch No. 86.

This was the despatch dated 28th September, 1825 (*see page 849*).

Note 232, pages 870 and 881.

Report.

This was the report by members of council on alleged illegal punishments (*see page 854 et seq.*).

Note 233, page 870.

W.S.; F.F.

The initials stand for William Stewart and Francis Forbes, who collated the records of the bench of magistrates.

Note 234, page 884.

Also page 887.

A letter which appeared in the newspapers.

The official correspondence of the attorney-general will be found in volumes in series IV.

Note 235, page 892.

I had previously stated.

The appointment of Francis Stephen as clerk of the council was reported by Sir Thomas Brisbane in his despatch dated 3rd November, 1824 (*see page 407*). He was entrusted with the charge of the government despatches on the ship *Harvey*.

Note 236, page 892.

The 19th Section.

By the 19th section of the statute 4 Geo. IV, cap. xvi, courts of general and quarter sessions were established with the same jurisdiction as possessed by similar courts in England, "so far as the Circumstances and Condition of

the said Colony shall require and admit." These courts were granted also a summary jurisdiction over all persons under sentence of transportation for all crimes and misdemeanors not punishable by death.

Note 237, page 893.

The decision.

On the 10th of October, 1824, the attorney-general moved in the supreme court for a *rule nisi* calling on the magistrates to show cause why a writ of mandamus should not be issued, commanding them to proceed to hold sessions and summon a jury according to the English practice. This motion was brought on, as an impression had gained currency in the colony that the magistrates intended to hold sessions without the assistance of jurors. The case was tried on the 14th of October, and, after lengthy argument by the attorney and solicitor general, the chief justice decided that magistrates should proceed in like manner as courts of sessions did in England.

Note 238, page 893.

The Presentment.

This presentment will be found on page 858 *et seq.*

Note 239, page 898.

The Statement.

A copy of the letter of J. T. Morrissett, dated 22nd August, 1825, will be found in a volume in series II.

Note 240, page 900.

Your Lordship's Dispatch.

There were two despatches from Earl Bathurst relating to the reference of criminal cases to England. These were dated 26th September and 30th October, 1824 (*see* pages 377 and 389).

Note 241, page 902.

To restore certain gentlemen.

In the year 1822 Sir Thomas Brisbane removed the Revd. Samuel Marsden, Hannibal Macarthur, John Blaxland, John Palmer, and George T. Palmer from the magistracy in consequence of their refusal to associate with H. G. Douglass as a magistrate (*see* page 748, volume X).

Note 242, page 903.

The List.

This list will be found on page 406.

Note 243, page 903.

Recent circumstances.

The reference was probably to the disclosure of the fact that Sir John Jamison had made serious charges against the administration of the establishment at Emu plains in a letter to James Hall, dated 20th September, 1822, and these charges were used by the latter in England.

SYNOPSIS.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Taylor, Sir Herbert	Brisbane, Sir Thomas	1823. 22 May	No. 21	Ship Mary	83	Brisbane, Sir Thomas	1823. 19 Dec.
Bathurst, Earl	do	30 May	No. 22	do	83	do	29 Nov.
Do	do	30 May	No. 23	do	86	do	29 Nov.
Do	do	31 May	No. 24	do	87	do	29 Nov.
Do	do	2 June	No. 25	do	88	Brisbane, Sir Thomas	10 Nov.
Do	do	4 June	.....	do	89	.....	.....
Do	do	5 June	.....	do	89	.....	.....
Horton, Under Secretary	do	31 June	.....	Ship Asia	90	.....	.....
Do	do	29 July	No. 26	do	91	.....	.....
Do	do	31 July	No. 27	do	92	Brisbane, Sir Thomas	1825. 4 Aug.
Do	do	1 July	No. 28	do	95	.....	.....
Brisbane, Sir Thomas	Bathurst, Earl	1 Aug.	No. 8	Ship Surrey	102	.....	.....
Bathurst, Earl	Brisbane, Sir Thomas	4 Aug.	No. 29	Ship Guildford	102	Brisbane, Sir Thomas	1824. 21 Feb.
Brisbane, Sir Thomas	Bathurst, Earl	4 Aug.	.....	Ship Surrey	103	.....	.....
Horton, Under Secretary	Brisbane, Sir Thomas	5 Aug.	.....	Ship Guildford	103	.....	.....
Brisbane, Sir Thomas	Wilnot, Under Secretary	7 Aug.	.....	Ship Surrey	103	.....	.....
Do	Bathurst, Earl	9 Aug.	No. 9	do	104	Bathurst, Earl	28 Feb.
Horton, Under Secretary	Brisbane, Sir Thomas	13 Aug.	.....	Ship Guildford	106	.....	.....
Do	do	19 Aug.	.....	do	107	.....	.....
Bathurst, Earl	do	21 Aug.	No. 30	do	108	.....	.....
Do	do	26 Aug.	No. 31	Ship Hibernia	108	Brisbane, Sir Thomas	1825. 31 Jan.
Do	do	28 Aug.	No. 32	Ship Guildford	109	.....	.....
Do	do	30 Aug.	No. 33	do	114	.....	.....
Horton, Under Secretary	do	30 Aug.	.....	do	116	Brisbane, Sir Thomas	9 Feb.
Do	do	30 Aug.	.....	Ship Castle Forbes	119	.....	.....
Brisbane, Sir Thomas	Bathurst, Earl	3 Sept.	No. 10	Ship John Bull	119	.....	.....
Bathurst, Earl	Brisbane, Sir Thomas	5 Sept.	No. 34	Ship Hibernia	134	.....	.....
Do	do	5 Sept.	No. 35	do	135	.....	.....
Horton, Under Secretary	do	11 Sept.	.....	do	137	.....	.....
Bathurst, Earl	do	18 Sept.	Circular	do	137	.....	.....
Do	do	30 Sept.	.....	do	138	Brisbane, Sir Thomas	1824. 30 July.
Do	do	1 Oct.	No. 36	do	138	.....	.....
Do	do	2 Oct.	No. 37	do	138	Brisbane, Sir Thomas	8 June.
Brisbane, Sir Thomas	Bathurst, Earl	2 Oct.	.....	Ship John Bull	139	.....	.....
Bathurst, Earl	Brisbane, Sir Thomas	3 Oct.	No. 38	Ship Hibernia	139	.....	.....

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment
Bathurst, Earl	Brisbane, Sir Thomas	1823. 20 Oct.	No. 39	Ship Hibernia	140	Brisbane, Sir Thomas	1824. 30 Sept
Horton, Under Secretary	do	20 Oct.		do	141		
Do	do	20 Oct.		do	143		
Do	do	24 Oct.		Ship Hibernia	144	Brisbane, Sir Thomas	6 Nov.
Do	do	24 Oct.		do	144		
Do	do	24 Oct.		do	146		
Brisbane, Sir Thomas	Wilmut, Under Secretary	4 Nov.		Ship John Bull	146		
Bathurst, Earl	Brisbane, Sir Thomas	5 Nov.	No. 40	Ship brothers	147		
Horton, Under Secretary	do	5 Nov.		do	148		
Brisbane, Sir Thomas	Bathurst, Earl	6 Nov.	No. 11	Ship John Bull	149		
Do	dc	10 Nov.	No. 12	do	152		
Do	Lushington, Secretary	11 Nov.	No. 13	do	153		
Do	Bathurst, Earl	15 Nov.	No. 14	do	154	Bathurst, Earl	12 July.
Do	do	17 Nov.	No. 14	do	154		
Bathurst, Earl	Brisbane, Sir Thomas	22 Nov.	No. 41	Ship Brothers	155		
Brisbane, Sir Thomas	Bathurst, Earl	23 Nov.		Ship John Bull	156		
Do	do	24 Nov.	No. 15	do	156		
Do	do	27 Nov.	No. 16	do	174	Bathurst, Earl	1825. 14 Mar.
Do	do	28 Nov.	No. 17	do	178		
Do	do	29 Nov.	No. 18	do	179	Bathurst, Earl	1824. 17 Aug.
Harrison, Secretary	Brisbane, Sir Thomas	13 Dec.		H.M.S. Tamar	186		
Horton, Under Secretary	do	22 Dec.		Ship Alfred	186		
Bathurst, Earl	do	24 Dec.		H.M.S. Tamar	187		
Horton, Under Secretary	do	24 Dec.		do	187		
Brisbane, Sir Thomas	Taylor, Sir Herbert	29 Dec.		Ship Competitor	187	Brisbane, Sir Thomas	8 Nov.
Bathurst, Earl	Brisbane, Sir Thomas	31 Dec.	Circular	H.M.S. Tamar	187		
Do	do	1824. 5 Jan.	No. 1	do	192		
Do	do	5 Jan.	No. 2	do	192		
Do	do	15 Jan.		do	194		
Do	do	19 Jan.	No. 3	do	195	Brisbane, Sir Thomas	1 Nov.
Do	do	20 Jan.	No. 4	do	197		
Do	do	21 Jan.	No. 5	do	198		
Brisbane, Sir Thomas	Bathurst, Earl	21 Jan.	No. 1	Ship Competitor	199		
Bathurst, Earl	Brisbane, Sir Thomas	22 Jan.	No. 6	H.M.S. Tamar	200		
Horton, Under Secretary	do	23 Jan.		do	201		
Do	do	23 Jan.		do	202		

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Horton, Under Secretary.	Brisbane, Sir Thomas	1824.	.....	Ship Prince Regent	204	.....	1824.
Brisbane, Sir Thomas	Bathurst, Earl	24 Jan.	No. 2	Ship Elizabeth	204	.....	.....
Do	Horton, Under Secretary	27 Jan.	.....	do	206	.....	.....
Do	Bathurst, Earl	30 Jan.	.....	do	212	.....	21 July.
Do	do	31 Jan.	No. 3	do	213	.....	.....
Do	do	2 Feb.	No. 4	Ship Ocean	214	.....	.....
Do	do	3 Feb.	No. 5	Ship Elizabeth	215	.....	22 July.
Horton, Under Secretary.	Brisbane, Sir Thomas	9 Feb.	.....	H.M.S. Tamar	225	.....	.....
Do	do	9 Feb.	.....	do	225	.....	.....
Brisbane, Sir Thomas	Taylor, Sir Herbert	9 Feb.	Private	Ship Ocean	225	.....	.....
Do	Bathurst, Earl	11 Feb.	No. 6	do	226	.....	18 Aug.
Do	do	14 Feb.	No. 7	do	226	.....	19 Aug.
Do	do	14 Feb.	No. 8	do	227	.....	.....
Bathurst, Earl	Brisbane, Sir Thomas	17 Feb.	No. 7	H.M.S. Tamar	227	.....	12 Aug.
Brisbane, Sir Thomas	Bathurst, Earl	19 Feb.	No. 9	Ship Ocean	229	.....	16 Aug.
Do	do	21 Feb.	No. 10	do	230	.....	.....
Do	Horton, Under Secretary	21 Feb.	.....	do	231	.....	.....
Do	Bathurst, Earl	23 Feb.	No. 11	Ship Ocean	231	.....	.....
Do	Brisbane, Sir Thomas	23 Feb.	No. 8	Ship Mangles	234	.....	.....
Bathurst, Earl	do	28 Feb.	.....	do	234	.....	.....
Horton, Under Secretary	Taylor, Sir Herbert	— Feb.	.....	Ship Mangles	235	.....	.....
Brisbane, Sir Thomas	Brisbane, Sir Thomas	4 Mar.	.....	Ship Countess of Harcourt	237	.....	.....
Do	do	10 Mar.	Private	do	242	.....	.....
Do	do	12 Mar.	.....	do	242	.....	.....
Bathurst, Earl	do	13 Mar.	No. 9	Ship Mangles	242	.....	1825.
Horton, Under Secretary	do	13 Mar.	.....	do	243	.....	18 Mar.
Do	do	17 Mar.	.....	do	244	.....	.....
Bathurst, Earl	do	8 April	No. 11	Ship Mangles	244	.....	1824.
Do	do	.....	.....	do	247	.....	6 Nov.
Horton, Under Secretary	do	13 April	No. 12	do	247	.....	.....
Do	do	17 April	.....	Ship Grenada	250	.....	.....
Do	do	17 April	.....	do	250	.....	.....
Brisbane, Sir Thomas	Bathurst, Earl	18 April	.....	Ship Courier	251	.....	.....
Do	do	18 April	.....	do	252	.....	25 Oct.
Bathurst, Earl	Brisbane, Sir Thomas	30 April	No. 13	Ship Mangles	252	.....	.....
Do	do	30 April	No. 14	do	252	.....	.....
Brisbane, Sir Thomas	Bathurst, Earl	1 May	.....	Ship Countess Dalhousie	253	.....	.....

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Brisbane, Sir Thomas	Bathurst, Earl	1824. 1 May	.....	Ship Countess Dalhousie	262	Bathurst, Earl	1825. 28 Jan.
Do	do	12 May	.....	do	262	.....	.....
Bathurst, Earl	Brisbane, Sir Thomas	14 May	No. 15	Ship Mangles	263	.....	.....
Do	do	16 May	No. 16	do	263	.....	.....
Do	do	31 May	No. 17	do	264	.....	.....
Do	do	31 May	.....	.....	264	.....	.....
Brisbane, Sir Thomas	Bathurst, Earl	31 May	.....	Ship Countess Dalhousie	264	Bathurst, Earl	27 Jan.
Do	do	8 June	No. 12	do	282	do	6 Feb.
Do	Taylor, Sir Herbert	10 June	.....	do	282	.....	1824. 22 Dec.
Do	Bathurst, Earl	18 June	No. 13	do	283	Bathurst, Earl	.....
Do	do	24 June	No. 14	do	283	.....	.....
Bathurst, Earl	Brisbane, Sir Thomas	25 June	No. 18	Ship Mangles	301	Brisbane, Sir Thomas	1825. 27 Jan.
Horton, Under Secretary	do	26 June	Private	do	301	.....	.....
Brisbane, Sir Thomas	Bathurst, Earl	1 July	No. 15	Ship Countess Dalhousie	302	.....	.....
Do	Horton, Under Secretary	1 July	Private	do	302	.....	.....
Do	Bathurst, Earl	8 July	.....	Ship Lang	303	Bathurst, Earl	7 Jan.
Do	Bathurst, Earl	12 July	No. 19	Ship Grenada	304	Brisbane, Sir Thomas	28 Jan.
Do	Brisbane, Sir Thomas	13 July	No. 20	do	305	.....	.....
Do	do	18 July	No. 21	Ship Henry	307	Brisbane, Sir Thomas	7 Mar. 13 May.
Do	do	18 July	.....	do	310	do	.....
Horton, Under Secretary	do	19 July	.....	do	311	.....	.....
Gordon, Mr. Adam	do	20 July	No. 22	do	311	Brisbane, Sir Thomas	13 Mar.
Bathurst, Earl	do	21 July	No. 23	do	319	.....	.....
Do	do	21 July	.....	do	319	.....	.....
Horton, Under Secretary	do	22 July	No. 24	Ship Grenada	321	Brisbane, Sir Thomas	14 May.
Bathurst, Earl	do	22 July	No. 25	do	321	do	21 May.
Do	do	23 July	No. 26	do	322	.....	.....
Do	do	23 July	No. 2	Ship Lang	323	.....	.....
Brisbane, Sir Thomas	Bathurst, Earl	23 July	.....	do	327	.....	.....
Do	do	23 July	.....	do	327	.....	.....
Do	do	24 July	No. 3	do	330	.....	.....
Do	do	30 July	No. 1	do	336	.....	.....
Do	do	30 July	.....	do	337	.....	.....
Do	do	30 July	.....	do	337	.....	.....
Bathurst, Earl	Brisbane, Sir Thomas	— Aug.	.....	Ship Lang	337	.....	.....
Brisbane, Sir Thomas	Bathurst, Earl	— Aug.	.....	do	337	.....	.....
Do	do	12 Aug.	No. 4	do	338	.....	.....
Do	Horton, Under Secretary	12 Aug.	Private	do	339
Do	Bathurst, Earl	13 Aug.	do	340

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Brisbane, Sir Thomas	Bathurst, Earl	1824.	No. 5	Ship Lang	341	1825
Bathurst, Earl	Brisbane, Sir Thomas	14 Aug.	No. 27	Ship Grenada	346	Brisbane, Sir Thomas	24 Mar.
Do	do	16 Aug.	No. 28	do	347	do	10 Oct.
Brisbane, Sir Thomas	Bathurst, Earl	17 Aug.	No. 6	Ship Lang	348	Bathurst, Earl	14 June.
Bathurst, Earl	Brisbane, Sir Thomas	16 Aug.	No. 29	Ship Grenada	347	.....	.....
Do	do	17 Aug.	No. 30	do	349	Brisbane, Sir Thomas	3 Aug.
Do	do	18 Aug.	No. 31	do	350	.....	.....
Do	do	19 Aug.	No. 32	do	350	.....	.....
Do	do	21 Aug.	No. 33	do	350	.....	.....
Do	Governor of N.S.W.	2 Sept.	No. 34	do	351	.....	.....
Do	Brisbane, Sir Thomas	20 Sept.	No. 35	Ship Hugh Crawford	359	Brisbane, Sir Thomas	10 Aug.
Do	do	21 Sept.	No. 36	do	367	and others.	21 May.
Do	do	22 Sept.	No. 37	do	369	Brisbane, Sir Thomas	5 April.
Do	do	23 Sept.	No. 38	Ship Hercules	370	.....	.....
Do	do	24 Sept.	No. 39	Ship Hugh Crawford	370	.....	.....
Do	do	25 Sept.	No. 40	do	371	.....	.....
Do	do	25 Sept.	.....	do	376	.....	.....
Do	do	25 Sept.	.....	Ship Hercules	376	.....	.....
Do	do	26 Sept.	No. 41	do	377	.....	.....
Do	do	30 Sept.	No. 7	Ship Prince Regent	378	Bathurst, Earl	2 June.
Do	Bathurst, Earl	2 Oct.	No. 8	do	379	do	14 June.
Do	do	4 Oct.	.....	do	380	.....	20 June.
Horton, Under Secretary	Brisbane, Sir Thomas	4 Oct.	No. 9	Ship Prince Regent	380	Bathurst, Earl	.....
Brisbane, Sir Thomas	Bathurst, Earl	25 Oct.	No. 42	Ship Hugh Crawford	381	.....	.....
Bathurst, Earl	Brisbane, Sir Thomas	25 Oct.	.....	do	382	.....	.....
Horton, Under Secretary	do	28 Oct.	No. 10	Ship Prince Regent	382	Bathurst, Earl	20 June.
Brisbane, Sir Thomas	Bathurst, Earl	29 Oct.	.....	do	385	.....	.....
Do	do	30 Oct.	No. 46	Ship Hercules	388	Brisbane, Sir Thomas	2 June.
Bathurst, Earl	Brisbane, Sir Thomas	30 Oct.	Circular	do	389	do	18 Nov.
Do	do	30 Oct.	.....	Ship Hugh Crawford	390	do	15 April.
Horton, Under Secretary	Bathurst, Earl	30 Oct.	No. 11	Ship Prince Regent	406	.....	.....
Brisbane, Sir Thomas	do	1 Nov.	No. 12	do	406	.....	.....
Do	do	3 Nov.	No. 13	do	409	.....	.....
Do	do	5 Nov.	No. 43	do	411	Brisbane, Sir Thomas	29 June.
Bathurst, Earl	Brisbane, Sir Thomas	6 Nov.	No. 44	Ship Hercules	413	.....	.....
Do	do	6 Nov.	No. 14	do	413	.....	.....
Brisbane, Sir Thomas	Bathurst, Earl	6 Nov.	Ship Prince Regent	414	Bathurst, Earl	4 June.
Do	Horton, Under Secretary	6 Nov.	do	414
Do	do	6 Nov.	do	415

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Brisbane, Sir Thomas	Horton, Under Secretary	1824.	No. 15	Ship Prince Regent	415	1825.
Do	Bathurst, Earl	6 Nov.	.....	do	416	.....	.....
Do	do	8 Nov.	.....	do	416	.....	.....
Do	do	8 Nov.	.....	do	417	.....	.....
Do	do	9 Nov.	.....	do	417	.....	.....
Bathurst, Earl	do	— Nov.	.....	do	417	.....	.....
Do	Brisbane, Sir Thomas	20 Nov.	Circular	Ship Hercules	417	.....	.....
Do	do	21 Nov.	No. 45	do	418	Brisbane, Sir Thomas	10 Sept.
Do	do	26 Nov.	.....	do	418	do	15 April.
Do	do	20 Dec.	.....	do	419	.....	.....
Do	do	21 Dec.	.....	do	419	.....	.....
Bathurst, Earl	do	21 Dec.	.....	do	423	.....	.....
Horton, Under Secretary	do	22 Dec.	No. 48	do	423	.....	.....
Bathurst, Earl	do	23 Dec.	No. 49	do	424	.....	.....
Do	do	24 Dec.	No. 50	do	426	.....	.....
Do	do	25 Dec.	No. 51	do	429	.....	.....
Do	do	28 Dec.	No. 52	do	429	Brisbane, Sir Thomas	21 May.
Do	do	29 Dec.	No. 52	do	430	.....	.....
Brisbane, Sir Thomas	Bathurst, Earl	31 Dec.	No. 17	Ship Mangles	430	.....	.....
Do	do	31 Dec.	No. 18	do	430	.....	.....
Bathurst, Earl	Brisbane, Sir Thomas	1825.	No. 1	Ship Hercules	434	Brisbane, Sir Thomas	30 June.
Brisbane, Sir Thomas	Bathurst, Earl	1 Jan.	No. 19	Ship Mangles	436	.....	.....
Bathurst, Earl	Brisbane, Sir Thomas	2 Jan.	No. 2	Ship Hercules	437	.....	.....
Do	do	2 Jan.	No. 3	do	457	.....	.....
Do	do	2 Jan.	No. 4	do	458	.....	.....
Do	do	2 Jan.	No. 4	do	458	.....	.....
Do	do	2 Jan.	No. 5	do	460	.....	.....
Horton, Under Secretary	do	2 Jan.	No. 5	do	460	.....	.....
Bathurst, Earl	do	3 Jan.	No. 6	do	460	.....	.....
Do	Governor of N.S.W.	3 Jan.	No. 7	do	462	Brisbane, Sir Thomas	11 Aug.
Do	do	.....	.....	do	462	and others.	.....
Do	Brisbane, Sir Thomas	6 Jan.	No. 8	do	465	Brisbane, Sir Thomas	22 June.
Horton, Under Secretary	do	6 Jan.	No. 9	do	468	.....	.....
Bathurst, Earl	do	7 Jan.	No. 10	do	469	.....	.....
Do	do	7 Jan.	No. 10	do	470	.....	.....
Brisbane, Sir Thomas	Bathurst, Earl	12 Jan.	No. 21	Ship Mangles	470	Bathurst, Earl	12 July.
Do	do	17 Jan.	No. 20	do	471	do	2 July.
Do	do	20 Jan.	No. 23	do	473	.....	.....
Bathurst, Earl	do	20 Jan.	No. 23	do	473	.....	.....
Do	Brisbane, Sir Thomas	24 Jan.	No. 11	Ship Norfolk	473	.....	.....
Do	do	27 Jan.	No. 12	do	474	Brisbane, Sir Thomas	13 Sept.
Do	do	27 Jan.	No. 13	do	475	do	29 Aug.
Horton, Under Secretary	do	27 Jan.	No. 13	Ship William Shand	475

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Brisbane, Sir Thomas	Bathurst, Earl	1825. 27 Jan.	No. 24	Ship Mangles	475	Bathurst, Earl	1825. 10 Sept.
Bathurst, Earl	Brisbane, Sir Thomas	28 Jan.	No. 14	Ship Norfolk	476	Bathurst, Earl	11 Sept.
Brisbane, Sir Thomas	Bathurst, Earl	28 Jan.	No. 22	Ship Mangles	478	Bathurst, Earl	7 Sept.
Do	do	30 Jan.	No. 25	do	480	Bathurst, Earl	22 July.
Bathurst, Earl	Brisbane, Sir Thomas	30 Jan.	No. 15	Ship Norfolk	480	Brisbane, Sir Thomas	11 Oct.
Brisbane, Sir Thomas	Bathurst, Earl	30 Jan.	No. 32	Ship Mangles	481	Bathurst, Earl	.....
Bathurst, Earl	Brisbane, Sir Thomas	31 Jan.	No. 16	Ship Norfolk	482	Bathurst, Earl	.....
Brisbane, Sir Thomas	Bathurst, Earl	31 Jan.	No. 26	Ship Mangles	483	Bathurst, Earl	.....
Bathurst, Earl	Brisbane, Sir Thomas	1 Feb.	No. 17	Ship Norfolk	484	Bathurst, Earl	.....
Do	do	1 Feb.	No. 18	do	484	Bathurst, Earl	.....
Brisbane, Sir Thomas	Bathurst, Earl	1 Feb.	No. 27	Ship Mangles	486	Bathurst, Earl	.....
Do	do	4 Feb.	No. 28	do	487	Bathurst, Earl	.....
Bathurst, Earl	Brisbane, Sir Thomas	6 Feb.	No. 19	Ship Norfolk	493	Bathurst, Earl	.....
Horton, Under Secretary	do	7 Feb.	No. 29	do	494	Bathurst, Earl	.....
Brisbane, Sir Thomas	Bathurst, Earl	8 Feb.	No. 30	Ship Mangles	495	Bathurst, Earl	24 Aug.
Do	do	8 Feb.	No. 31	do	498	do	1 July.
Do	do	8 Feb.	No. 32	do	498	Bathurst, Earl	.....
Do	do	8 Feb.	No. 33	do	511	Bathurst, Earl	.....
Do	do	8 Feb.	No. 34	do	512	Bathurst, Earl	31 July.
Do	do	8 Feb.	No. 35	do	514	Bathurst, Earl	.....
Do	do	9 Feb.	No. 36	do	515	Bathurst, Earl	.....
Do	do	9 Feb.	No. 37	do	518	Bathurst, Earl	23 July.
Do	Horton, Under Secretary	9 Feb.	No. 38	do	519	Bathurst, Earl	.....
Do	do	9 Feb.	No. 39	do	521	Bathurst, Earl	.....
Do	Brisbane, Sir Thomas	10 Feb.	No. 40	do	522	Bathurst, Earl	.....
Do	do	13 Feb.	No. 41	do	522	Bathurst, Earl	.....
Brisbane, Sir Thomas	Bathurst, Earl	20 Feb.	No. 38	Ship Norfolk	523	Bathurst, Earl	.....
Bathurst, Earl	Brisbane, Sir Thomas	23 Feb.	No. 20	Ship Hope	524	Bathurst, Earl	16 Aug.
Do	do	24 Feb.	No. 21	Ship Norfolk	525	Bathurst, Earl	.....
Do	do	25 Feb.	No. 22	do	526	Bathurst, Earl	.....
Do	do	26 Feb.	No. 23	do	527	Bathurst, Earl	.....
Do	do	27 Feb.	No. 24	do	528	Bathurst, Earl	.....
Brisbane, Sir Thomas	Bathurst, Earl	4 Mar.	No. 39	Ship Hope	529	Bathurst, Earl	1826. 12 Nov.
Bathurst, Earl	Brisbane, Sir Thomas	5 Mar.	Circular	Ship Norfolk	540	Bathurst, Earl	.....
Brisbane, Sir Thomas	Bathurst, Earl	7 Mar.	No. 40	Ship Hope	541	Bathurst, Earl	.....
Do	do	13 Mar.	No. 41	do	542	Bathurst, Earl	.....
Bathurst, Earl	Brisbane, Sir Thomas	14 Mar.	No. 25	Ship Norfolk	544	Bathurst, Earl

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Bathurst, Earl	Brisbane, Sir Thomas	1825. 18 Mar.	No. 26	Ship Norfolk	545	Brisbane, Sir Thomas	1825.
Erisbane, Sir Thomas	Bathurst, Earl	18 Mar.	No. 42	Ship Hope	547	.....	30 Sept.
Do	do	18 Mar.	No. 43	do	548	.....	.....
Do	do	18 Mar.	No. 46	do	548	.....	.....
Horton, Under Secretary	Brisbane, Sir Thomas	20 Mar.	.....	Ship Norfolk	549	.....	.....
Erisbane, Sir Thomas	Bathurst, Earl	22 Mar.	.....	Ship Hope	550	.....	.....
Do	do	24 Mar.	No. 44	do	550	Bathurst, Earl	1 Oct.
Do	do	24 Mar.	No. 45	do	552	.....	.....
Do	do	24 Mar.	.....	do	552	.....	.....
Do	Horton, Under Secretary	5 April	No. 47	do	557	.....	.....
Horton, Under Secretary	Bathurst, Earl	7 April	.....	Ship Norfolk	559	.....	.....
Erisbane, Sir Thomas	Brisbane, Sir Thomas	15 April	.....	Ship Devon	560	.....	.....
Bathurst, Earl	Horton, Under Secretary	16 April	.....	Ship Brothers	561	.....	.....
Do	Brisbane, Sir Thomas	17 April	No. 27	do	562	.....	.....
Do	do	5 May	No. 28	do	568	.....	.....
Horton, Under Secretary	do	5 May	No. 29	do	570	.....	.....
Erisbane, Sir Thomas	Horton, Under Secretary	13 May	Private	do	571	.....	.....
Do	Bathurst, Earl	14 May	No. 53	Ship Devon	571	Hay, Under Secretary	5 Nov.
Do	do	15 May	.....	do	589	.....	.....
Horton, Under Secretary	Brisbane, Sir Thomas	17 May	Private	do	590	.....	.....
Do	do	17 May	.....	.....	590	.....	.....
Bathurst, Earl	do	18 May	No. 30	Ship Brothers	590	.....	.....
Do	do	18 May	No. 31	do	591	.....	.....
Horton, Under Secretary	do	18 May	.....	do	594	.....	.....
Erisbane, Sir Thomas	do	21 May	No. 48	Ship Devon	595	.....	.....
Do	Bathurst, Earl	21 May	No. 49	do	595	.....	.....
Do	do	21 May	.....	.....	.....	Bathurst, Earl	1826.
Do	do	21 May	No. 50	do	603	.....	19 Feb.
Do	do	21 May	No. 51	do	605	.....	.....
Do	do	23 May	No. 52	do	606	.....	.....
Do	do	23 May	No. 55	do	614	.....	.....
Do	do	24 May	No. 54	do	615	.....	.....
Do	do	24 May	No. 56	do	615	.....	.....
Do	do	24 May	No. 57	do	616	.....	.....
Bathurst, Earl	Brisbane, Sir Thomas	25 May	.....	do	617	.....	.....
Erisbane, Sir Thomas	Bathurst, Earl	2 June	No. 32	Ship Brothers	617	.....	.....
Do	do	2 June	No. 58	Ship Harriet	618	.....	.....
Do	do	2 June	No. 59	do	619	.....	.....
Eathurst, Earl	do	3 June	.....	do	619	.....	.....
Do	Brisbane, Sir Thomas	4 June	No. 33	Ship Brothers	625
Do	do	5 June	No. 34	do	625

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Bathurst, Earl	Brisbane, Sir Thomas	1825.	No. 35	Ship Brothers	635		1826.
Do	do	5 June	No. 36	do	638		
Horton, Under Secretary	do	10 June	No. 37	Ship Midas	639		
Bathurst, Earl	do	12 June	No. 38	do	644		
Horton, Under Secretary	do	12 June	No. 39	do	644		
Bathurst, Earl	do	14 June	No. 40	Ship Harriet	645		
Do	Bathurst, Earl	16 June	No. 41	do	648		
Brisbane, Sir Thomas	Horton, Under Secretary	16 June	No. 42	Ship Midas	670		
Do	Brisbane, Sir Thomas	20 June	No. 43	do	670		
Bathurst, Earl	do	20 June	No. 44	do	671		
Do	do	20 June	No. 45	do	672		
Horton, Under Secretary	Bathurst, Earl	20 June	No. 46	Ship Harriet	672		
Brisbane, Sir Thomas	do	20 June	No. 47	do	673		
Do	do	21 June	No. 48	do	674		
Do	do	22 June	No. 49	do	674		
Do	do	25 June	No. 50	do	675	Bathurst, Earl	2 Feb.
Do	do	25 June	No. 51	do	675	do	20 Oct.
Do	do	25 June	No. 52	do	677	do	19 Feb.
Do	do	26 June	No. 53	do	679		
Do	do	29 June	No. 54	do	680	Bathurst, Earl	3 Feb.
Do	do	30 June	No. 55	do	680		
Bathurst, Earl	Brisbane, Sir Thomas	1 July	No. 43	Ship Catherine Stewart	681		
Do	do	1 July	No. 44	Forbes	681		
Do	do	2 July	No. 45	Ship Midas	682		
Brisbane, Sir Thomas	Bathurst, Earl	4 July	No. 46	do	682	Bathurst, Earl	8 Jan.
do	do	5 July	No. 47	Ship Harriet	687	do	23 Feb.
Bathurst, Earl	Brisbane, Sir Thomas	6 July	No. 70	do	688		
Do	do	6 July	Circular	Ship Midas	688		
Brisbane, Sir Thomas	Bathurst, Earl	22 July	No. 46	do	689		
Bathurst, Earl	Brisbane, Sir Thomas	22 July	No. 75	Ship Harriet	690		
Bathurst, Earl	Brisbane, Sir Thomas	23 July	No. 47	Ship Catherine Stewart	690		
Brisbane, Sir Thomas	Bathurst, Earl	28 July	No. 72	Forbes	691		
Do	do	31 July	No. 71	Ship Harriet	691		
Do	do	1 Aug.	No. 74	do	697		
Do	do	4 Aug.	No. 73	do	698	Bathurst, Earl	2 Jan.
Brisbane, Sir Thomas and others.	do	10 Aug.	No. 73	Ship Phoenix	717	do	4 Aug.
Do	do	11 Aug.	No. 73	do	782		

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Brisbane, Sir Thomas	Bathurst, Earl	1825. 16 Aug.	No. 76	Ship Phœnix	807	Bathurst, Earl	1826. 13 April
Do	do	29 Aug.	No. 78	do	807	do	13 April
Do	do	30 Aug.	No. 79	do	808	do	13 April
Do	do	1 Sept.	No. 84	do	808	do	13 April
Do	do	7 Sept.	No. 80	do	810	do	.....
Bathurst, Earl	Brisbane, Sir Thomas	10 Sept.	No. 48	Ship Prince Regent	812	Bathurst, Earl	10 Sept.
Brisbane, Sir Thomas	Bathurst, Earl	10 Sept.	No. 77	Ship Phœnix	812	do	10 July
Do	do	12 Sept.	No. 81	do	832	do	13 April
Do	do	12 Sept.	No. 83	do	841	do	13 April
Do	do	13 Sept.	No. 82	do	844	do	23 April
Do	do	13 Sept.	No. 85	do	845	do	13 April
Do	do	24 Sept.	No. 87	do	846	do	13 April
Do	do	25 Sept.	No. 88	do	848	do	22 April
Do	do	27 Sept.	No. 88	do	848	do	.....
Do	do	28 Sept.	No. 86	do	849	Bathurst, Earl	13 April
Do	do	30 Sept.	No. 89	do	862	do	13 April
Do	do	3 Oct.	No. 90	do	863	do	13 April
Do	do	10 Oct.	No. 92	Ship Harvey	864	do	8 Aug.
Do	do	10 Oct.	.....	do	867	do	25 April
Do	do	10 Oct.	.....	do	870	do	13 April
Do	do	11 Oct.	No. 91	do	881	do	23 April
Do	do	11 Oct.	No. 93	do	887	do	24 April
Do	do	24 Oct.	No. 94	do	892	do	.....
Do	do	25 Oct.	No. 94	do	892	Bathurst, Earl	13 April
Do	do	8 Nov.	No. 95	Ship Mary Hope	897	do	4 June
Do	do	18 Nov.	No. 96	do	900	do	27 June
Do	do	18 Nov.	No. 97	do	902	do
Do	do	19 Nov.	do	903	do
Do	do	21 Nov.	No. 98	do	904	Bathurst, Earl	11 July

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